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# Voices of Indian Freedom Movement



J. C. JOHARI

















# VOICES OF INDIAN FREEDOM MOVEMENT

**VOLUME V**

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## **PREFACE**

The Madras Congress of 1927, for the first time, took a resolve in favour of India's complete independence that was loudly reiterated at the Lahore Congress two years after. It also resolved to meet the challenge of racial arrogance posed by the then Secretary of State for India (Lord Birkenhead) who could go to the length of saying that even Indian leaders themselves could not frame a model constitution for their country acceptable to all sections of the Indian public opinion. With a mind to add insult to injury, he announced the appointment of a commission under the chairmanship of Sir John Simon having all English MPs to visit India and report on the working of the reforms introduced under the Government of India Act, 1919. The Madras Congress, therefore, resolved to boycott this statutory commission and go ahead with the task of framing a model constitution for the country with the support and cooperation of all shades of public opinion.

In 1928 the Simon Commission came to India and went back. It visited again in 1929 and submitted its Report in 1930. But its labours went unwept, unhonoured and unsung. The Nehru Committee was set up as a result of the decision of the All-Parties Conference held at Delhi in May, 1928 to do its job in the face of numerous odds. Unfortunately, the whole effort failed to yield results owing to the hostile attitude of the Muslim League that played the role of a pampered child of the British imperial genius. The communal tangle could not be solved. The atmosphere of the previous year created as a result of the realisation of good sense on the part of the Muslim leaders after the tragic murder of Swami Shraddhanand could no longer prevail. The clock turned back and the beneficiaries of the system of 'separate electorates' and 'weightage' came forward with greater obstinacy to demand more than what they

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had already secured as a prize bestowed on them by the followers of the 'divide and rule' policy.

The matter relating to the story of India's freedom movement covers the glorious role of the Indian National Congress ; it also covers important pronouncements and interpretations of the British statesmen, leaders and publicists. As such, I have put it in two parts. Part I has all necessary information relating to the role of the Indian National Congress, Part II has important readings representing the British point of view. I hope that my scheme would receive the appreciation of my readers who would find here much for the purpose of their advanced study or research in this important field of modern Indian history and politics. I have drawn material from numerous sources, Indian and foreign, according to my scheme and I offer my sincere gratitude to all of them. I am thankful to a large number of my friends for the help they extended to me in the completion of this project. In particular, I am thankful to my Publishers who appreciated this project and took pains to bring out the volumes in a record time.

—J.C. Johari



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# INTRODUCTION

The framing of a model constitution by the nationalist leaders for the country in 1928, known as the Nehru Report,<sup>1</sup> should be lauded as a befitting reply given by them to the challenge of Lord Birkenhead's racial arrogance.<sup>2</sup> Apart from this, one more point should be taken into account. The Congress session held at Gauhati in December, 1926 was characterised by a feeling of consternation and dismay on account of the murder of great Arya Samajist leader (Swami Shraddhanand) by a Muslim fanatic (Abdul Rashid) in his sick bed in Delhi. In the sequel, a resolution was adopted on this occasion which called upon the Congress Working Committee to take immediate steps in consultation with Hindu and Muslim leaders to devise measures for the removal of the existing differences between the two communities and to submit their report by the end of March next year.

1. It is known as the Nehru Report in view of the fact that Pandit Motilal Nehru was the chairman of the committee that prepared it. It included Ali Imam and Shuab Qureshi (who represented the Muslim point of view), M.S. Aney and M.R. Jayakar (who represented the Hindu Maha Sabha), G.R. Pradhan (who represented the Depressed Classes), Sardar Mangal Singh (who represented the Sikhs), N.M. Joshi (who represented the Labour), Sir Tej Bahadur Sapru (who represented the Liberals), and Jawaharlal Nehru and Subhas Chandra Bose (who represented the Congress). Jawaharlal Nehru was the General Secretary of the Congress at that time and he was nominated as the Secretary of this Committee. At the Lucknow session of the All-Parties Conference, it was resolved to enlarge this committee. Consequently, in consultation with the Congress Working Committee, some more members were added to it, namely, Mrs. Annie Besant, Dr. M.A. Ansari, Maulana Abul Kalam Azad, M.A. Jinnah, Lala Lajpat Rai, Pandit Madan Mohan Malaviya, C. Vijayaraghavachari and Maulana Abdul Kadir Kasuri.

2. The Secretary of State for India (Lord Birkenhead) had said some highly provocative and humiliating things about Indian leaders in his speech delivered in the House of Lords in July, 1925. As a diehard conservative leader, he had boldly questioned : How could India with its communal differences, its many languages and religions, its Indian States and British Indian Provinces, and last but not the least, its liability to defend itself, ever become a Dominion after the manner of Canada, Australia, and South Africa ?

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Consequently, the Congress Working Committee held informal consultations with the leaders of the two communities. This effort proved successful in that the prominent Muslim leaders extended a set of proposals highlighting their preparedness to accept joint electorate system for the Central and Provincial legislatures on these conditions :

1. That Sind should be made into a separate province.
2. That the North-West Frontier and Baluchistan should be treated on the same footing as other provinces of India.
3. That in the Punjab and Bengal the proportion of representation should be in accordance with the population of different communities.
4. That in the Central legislature Muslim representation should not be less than one-third.

The Congress Working Committee and the All-India Congress Committee accepted these terms at their Bombay meet and then the Indian National Congress called upon the Working Committee to frame, what it called, a Swaraj Constitution of India. This move was enthusiastically endorsed at the annual session of the Congress held at Madras in December, 1927 under the presidentship of Dr. M.A. Ansari. Contrasted with the Congress session of the previous year, the whole atmosphere was so encouraging that Gandhiji regarded the Hindu-Muslim unity as the "most dignified answer to Birkenhead's insolent flaunting on the British might."<sup>3</sup>

The decision of the Madras Congress was carried out with great zeal. It was whole-heartedly endorsed at the meeting of the All-Parties Conference held in Delhi from 12 to 22 February, 1928. It was resolved that the model constitution should provide for the establishment of 'full responsible government' and also for the redistribution of provinces, the electorates and the reservation of seats in the legislatures. But a change in the stand of the Muslim League came as a big impediment. When the All-Parties Conference had its another round at Delhi on 8 March, the Council of the Muslim League

3. *The Indian Quarterly Register*, January-June, 1928.

reverted to its traditional stand in favour of separate electorates for the Muslims. It, therefore, disapproved what the All-Parties Conference had already decided and it had committed to it just a few weeks back.<sup>4</sup> Now the League Council insisted upon its representatives to press all other organisations to take into their account its stand as contained in the Calcutta resolution of 1927 and present to it the final result before proceeding with the making of the model constitution.<sup>5</sup>

This astounding stand of the Muslim League rendered it impossible for the representatives to take any decision without either getting all their proposals accepted by the All-Parties Conference or without making any reference to the League Council at all for securing necessary directions or instructions from it. Under these circumstances, the All-Parties Conference "was largely characterised by discussion on communal issues and by serious disagreement between the Hindu Maha Sabha and the Muslim League over the questions of the separation of Sindh from the Bombay presidency and on reservation of seats for majorities."<sup>6</sup> The Conference was, therefore, adjourned with the hope that tempers would cool down after some time. But nothing of the sort happened. The communal organisations of the Hindus and the Muslims had taken different paths; their attitudes had hardened and it could easily be gauged that nothing fruitful would be accruable in the near future. And yet, hoping against hope, the next round of the All-Parties Conference was held on 19 May, 1928 and it was resolved to set up

4. It should be pointed out here that the Muslim League had constituted a sub-committee in consequence of the Calcutta session of the League to confer with the Congress Working Committee and such other organisations as the Council might deem proper for the purpose of drafting the model constitution.

5. This part of the resolution of the League Council is worth quoting: "That in the present circumstances the representation of the Muslims in different legislature of the country through separate Muslim electorates is inevitable and the Muslims will not accept any other scheme involving the surrender of this valued right unless and until Sindh is actually made a separate province and reforms... are actually introduced in the N.W.F. and Baluchistan provinces."

6. Lal Bahadur; *Struggle for Pakistan*, p. 151.



a committee under the chairmanship of Pandit Motilal Nehru and the representatives of all shades of opinion to frame the model constitution before 1 July, 1928.

In view of the enormously difficult task assigned to it, the Nehru Committee could not function as a united body from the very beginning.<sup>7</sup> It could not keep the time schedule also. But due to the untiring efforts of its chairman, the scheme could be submitted on 10 August, 1928. The All-Parties Conference had its next round at Lucknow from 20 to 31 August. Now the provisions of the Report became a matter of heated discussion. Jawaharlal Nehru and Subhas Chandra Bose adhered to the decision of the Madras Congress in favour of 'complete independence' for India and on that ground they did not appreciate India's demand for Dominion Status as recommended in the Report.<sup>8</sup> The Hindu Maha Sabhaites did not appreciate the charter of fundamental rights which indirectly safeguarded the rights of the Muslims in the name of 'minorities.' While the Hindu leaders appreciated that the case of separate electorates for the Muslims was not recognised, the Muslims took strong exception to reservations made in favour of the 'majorities' in the provinces of the Punjab and Bengal. Though reservation of seats for the minorities in other provinces was recommended, the principle of weightage was wholly condemned as unworthy of adoption. M.A. Jinnah moved

7 It is a fact that the members of this committee had differences. M.R. Jayakar expressed his inability to attend its meetings. N.M. Joshi could attend just a few meetings and took the plea of ill-health. Sir Ali Imam attended only one sitting, though he could be available to the Committee from time to time. Pradhan attended the meetings till 12 June.

8. Jawaharlal Nehru and his friends like Subhas Chandra Bose "did not wish to come in the way of a communal settlement, if that was possible, and yet they were not prepared to yield on the question of independence." *An Autobiography*, p. 172. Jawaharlal Nehru was also critical of the protection given to the rights of the princely rulers of native states. There was some agitation over a remark let fall by Jawaharlal saying that some gentlemen on the platform (referring to the Taluqdars like the Maharaja of Mahumdabad and Raja Rampal Singh) were "unnecessary men in society." B.P. Sitaramayya : *The History of the Indian National Congress*, Vol. I, p. 325.



three amendments—that the Muslims should be given one-third representation in the Central Legislature ; that the Punjab and Bengal should have Muslim representation on the population basis for 10 years subject to revision of this principle after that period ; and vesting of the residuary powers in the provinces, not in the Centre.<sup>9</sup> But none of his amendments could be accepted. As such, he felt like a wounded serpent and sought to wreak vengeance by uniting all the contending factions of the Muslim League. His efforts yielded dividends and at the All-Parties Muslim Conference held at Delhi under the presidency of the Agha Khan, a resolution was adopted on 1 January, 1929 aiming at securing all the advantages the community had been able to procure under the existing law.

The Nehru Committee made changes in the model constitution in the light of the deliberations of its Lucknow session and the revised report was discussed at its Calcutta session held from 23 December, 1928 to 1 January, 1929 under the presidentship of Dr. M.A. Ansari. But all came to a naught in the face of the hostile attitude of the League which now revived the old device of the three-fourths majority rule in the legislatures, conceded 'weightage' to the Hindu majority in the Sindh, the N.W.F.P. and Baluchistan, insisted on due proportion of the Muslims in the Civil Services and on all statutory self-governing bodies, and, above all, demanded safeguards for the protection and promotion of Muslim education, language, religion, personal law and charitable institutions.<sup>10</sup> Gandhiji regretted that the Nehru constitution having lapsed, the communal solution had naturally lapsed."<sup>11</sup> It certainly lapsed due to the sustained and concerted action of a volatile section of the Muslim community led by the Agha Khan, Shafi and Jinnah whose appetite had increased "with each attempt to satisfy it on the part of the votaries of Indian nationhood."<sup>12</sup>

9 Syed Matlub Hasan : *Mohammed Ali Jinnah (A Political Study)*, p 418.

10. See R. Coupland : *The Indian Problem, 1833-1935*, p. 96.

11. See Bharatan Kumarappa : *Communal Unity*, p. 164.

12. Lal Bahadur, *op. cit.*, p. 155.

One more factor that accidentally came into the way was the visit of the Simon Commission in 1928.<sup>13</sup> The Indian National Congress had already taken a firm resolve at its Madras session to boycott it, but the Muslim League took the stand of extending cooperation to it. It added to the divergence between the two organisations. The viewpoint of this 'all-white commission' was not appreciated by the nationalist leaders and so its labours went unwept, unhonoured and unsung. An Indian historian described its whole offer "not as a constitutional scheme but as a jigsaw puzzle and few Indians were capable of appreciating its Chinese mysteries."<sup>14</sup> It failed to satisfy the aspirations of the Indian nationalists and only a Sophist could say that it had been written 'in a spirit of genuine sympathy' as claimed by its authors.<sup>15</sup>

Not the boycott of the white commission but something more was needed to express the solidarity and competence of the Indian leaders. And this was the presentation of a model constitution having the sanction of all political parties in the country so as to meet the challenge of Lord Birkenhead who had won for himself the nickname of 'Lord Brokenhead'. Unfortunately, the labours of the Nehru Committee were lost due to the intransigent attitude of the Muslim League whose spokesman (Jinnah), in the words of Sir Tej Bahadur Sapru, came forward with 'illogical and unreasonable demands' and hence described him as 'a spoilt child'.

—J.C. Johari

13. Lord Birkenhead made another expression of his insincere mind when he announced the setting up of the Simon Commission to go to India to report on the working of the constitutional reforms. With a view to assuage the feelings of the Indian leaders, he repeated his eagerness to hold talks with them on the constitutional issue—an offer which in his view had been hanging for the last three years. This was really a reflection on the competence of the Indian leaders. The Nehru Report was a reply to his "arrogant challenge." D.G. Tendulka : *Mahatma*, Vol. II, pp. 434-35. Also see Rajendra Prasad : *Atmakatha* (Hindi), p. 299.

14. Sir Shafaat Ahmad Khan : *The Indian Federation*, p. 11.

15. For instance, an English historian P.E. Roberts comments that the Report of the Simon Commission "will always stand out as one of the greatest of Indian State papers." *British India*, p. 598.

## **PART I**

# **STRUGGLE FOR A SWARAJ CONSTITUTION**

I have, therefore, responded on the very first opportunity that offered itself, but I have meant every word of the Joint Manifesto, as I have of the now famous Calcutta Resolution of the Congress. The two are in no sense contradictory. The letter of a document is nothing, if the spirit of it is preserved in effect. I can wait for a Dominion Constitution if I can get real Dominion Status in action. That is to say, if there is a real change of heart, a real desire on the part of the British people to see India a free and self-respecting Nation, and on the part of the officials in India a true spirit of service. But this means substitution of the steel bayonet by the goodwill of the people... My conception of Dominion Status implies present ability to sever the British connection if I wish to. Therefore, there can be no such thing as compulsion in the regulation of relations between Britain and India. If I choose to remain in the Empire, it is to make a partnership of power for promoting peace and goodwill in the world, never to promote exploitation or what is known as Britain's imperialistic creed.

—Mahatma Gandhi

## **PATEL'S MEMORANDUM**

### **ON THE FAILURE OF MONTFORD REFORMS\***

Everyone who has got any experience of the working of the Legislative Councils in India knows that the Morley-Minto Reform Scheme, under which they were constituted, has failed in its purpose. The first object of that Scheme was to give the representatives of the people ample opportunities of criticising the policy of the Government in its various departments in order that suitable modifications might be made in that policy in the light of the non-official view. In order that this end might be achieved, the Scheme gave non-official members of the Councils the right to move resolutions on matters of general public interest. Unfortunately, however, it was left to the Executive in India to make rules regulating the exercise of that right. The rules so made and the interpretation put upon them by the Executive have rendered the exercise of the right altogether nugatory. These rules empower the President of the Council to disallow any resolution on the ground that it is not of general public interest, on that it cannot be moved consistently with public interest, or that it does not otherwise comply with certain conditions named in the rules. The number of resolutions of which notices were given in the year 1916 was 68. Of these, 24 were disallowed under these powers. From January to October, 1917, the number, of which notices were given was 72. Of these 31 were so disallowed. A large number of these

\*Memorandum submitted by V.J. Patel to the Joint Select Committee of the Legislative Council of Bombay in 1920 objecting to the draft rules and regulations framed under the Government of India Act of 1919 which caused the failure of the new constitutional reforms. It was signed by Mrs. Sarojini Naidu as well.

were disallowed on the ground that they could not be moved consistently with public interest. I beg to leave to cite a few of them here in order to enable the Committee to understand what inconsistency with "public interest" means from the Government point of view. Resolutions recommending the Governor-in-Council (1) to cancel the order passed by the Government under the Defence of India Act preventing Mrs. Besant from entering the limits of the Bombay Presidency, (2) create District Councils to enable the people to have opportunities of associating themselves in the work of District Administration, (3) to make steps to improve indigenous systems of Medicine, (4) to appoint a Committee to draw up a comprehensive scheme for the provision of better sanitation and more widespread medical relief in rural areas, (5) to discontinue the Government move to Mahabaleshwar, (6) to declare that the order of the District Magistrate of Ahmedabad directing the Executive Committee of the 16th Bombay Provincial Conference to admit the C.I.D. reporters and other police officers to the Conference pandal and offer no obstruction in the execution of their duties was illegal and should not have been made, and (7) to recognise that at least one secretary to Government shall be an Indian—these were regarded such as could not be moved consistently with public interest. It is to be remembered that these are only a few of the many resolutions that have been disallowed in the past on the same ground.

#### *Public Interest or Other Interests*

Now I ask the Committee to judge for themselves whether the discussion of the subject-matter of any of these resolutions in the Legislative Council would be against "public interest" or against any other interest. If an elected non-official member gives notice of a resolution which Government regard as against "public interest," it is, I think, due to the public that they should know of his misdeed, so that they may not return him again. One would, under the circumstances, naturally expect the Government to immediately publish for

the information of the public all such undesirable resolutions. Strange to say, however, that not only the Government themselves do not publish such resolutions but they do not allow the non-official members to do so. There is, of course, no rule in the Legislative Council Manual empowering the Government or the President to require a non-official member not to publish disallowed questions and resolutions. The President, however, following the lead given in this respect by the President of the Punjab Council has ruled that the publication of disallowed questions and resolutions would be regarded by him as "Breach of Etiquette," and when he was asked by way of a supplementary question whether one non-official member was at liberty to pass on to other members questions and resolutions not admitted, the reply was that he was not prepared to answer the question any further. Later a non-official member gave notice of a question asking Government to move the President to reconsider his ruling. The question was not even admitted. The same member thereupon gave notice of a resolution on the subject, but that, too, was disallowed. Similarly, an interpellation asking Government to publish disallowed questions and resolutions was also disallowed. The result of this ruling is that every non-official member remains ignorant of the disallowed questions and resolutions of all the other members, and some of them give notice of resolutions and questions once disallowed by the President. To remedy this, a non-official member gave notice of a motion for the amendment of Council Rules so as to provide that the Secretary of the Legislative Council should maintain a register of disallowed questions and resolutions and keep a copy of it in the "Members' Room." That motion was admitted for discussion but ruled out by the President on a point of order raised by one of the members of the Executive Council. Thereupon the same member gave notice of a resolution on the subject under the rules for discussion of matters of General Public Interest, but it was disallowed, as being "not of public interest."



It may be asked why no attempts have so long been made by any non-official member to get the rules made by the authorities amended. My reply is that attempts were made but the public cannot know of them. The ruling regarding "etiquette" referred to above comes in the way of non-official members in acquainting the public with them. It is sufficient in this connexion to say that resolutions asking 'Government to take steps to have the rules amended' were also disallowed.

The Committee perhaps would like to know whether any, and, if so, how many, resolutions were passed by the Council in spite of the opposition of Government since 1910, when the reformed council came into existence and whether Government had given effect to the recommendations contained in any of them. I know a question was asked requesting Government to publish the information on this point and the member in reply was referred to the Council Proceedings, on the ground that, in the opinion of the Government, preparation of the answer would involve trouble to the Secretariat incommensurate with the gain. I am not, therefore, responsible if the information I give you is not quite correct. So far as I know, only five resolutions were so passed during the course of the first nine years of the Reform Council; one, moved by the Hon. Mr. Rafiuddin Ahmed; two by my friend the Hon. Mr. Paranjpye and two by myself. I am not prepared to say how far the recommendations of Mr. Ahmed and Mr. Paranjpye's resolutions have been given effect to. I know about mine. One of them recommended the Governor-in-Council to grant two-thirds elective majority to those Municipalities which have the privilege of electing a President by a two-thirds majority. The resolution was carried by 23 against 18 in March, 1917, but the Government refused to give effect to it. The other was passed in March, 1918, recommending that select Municipalities should be given power to determine the number and location of liquor shops within their areas. This recommendation, too, was vetoed by the Government.

While on this subject, I should like to say a few words on the delay in obtaining the decision of the President on the



question of the admissibility of resolutions. According to the Council rules, the Secretary of the Legislative Council, on receipt of notice of a resolution from a member, has to submit it to the President, whose function it is to determine the question of admissibility. For the first four or five years, these rules, according to my information, were adhered to and, consequently, a member giving notice of a resolution used to get the decision of the President regarding its admissibility in sufficient time to enable him to be prepared with the necessary facts and figures to support it. Latterly, however, the Secretary, on receipt of notice, is required to send the resolution to the Department concerned for notes. This procedure naturally leads to a good deal of delay. I have known instances where such delay extended to over three or four weeks. At times the member giving notice comes to know of the decision of the President from the agenda paper which he reads in the Council Hall on the day of the meeting. To remedy this state of things, a non-official member gave notice of a resolution recommending that the decision of the President should be communicated to the member giving notice of a resolution within seven days from its receipt by the Secretary. The resolution was postponed from time to time for nearly a year for want of time and ultimately dropped. This novel procedure, I believe, is to some extent also responsible for a large number of resolutions being disallowed. The Secretary of the Department concerned probably puts up his notes after carefully considering whether Government have sufficient materials to meet the question raised by the resolution or not. The decision of the President on the question of admissibility would naturally be influenced by the notes. A resolution may be of sufficient importance, but if the Government have no case, is it not likely that the President would refuse to admit it ?

#### *More Meetings or Longer Sitzings*

Before I finish my observations on this subject, I should like to say a few words on the irreconcilable attitude of the Government in regard to the non-official demand for having

longer sittings or more meetings of the Council so as to enable it to put the business on the agenda paper through. Power to disallow questions and resolutions is freely exercised and yet the Government finds it difficult to allot a sufficient number of days for each council meeting to get through the resolutions admitted for discussion. If you compare the agenda papers of the meetings in 1917 you will read on every one of them a number of resolutions of the previous meeting carried forward. At the March meeting in 1918 there were on its list as many as about 20 resolutions pending since July, 1917. The Council on an average meets 13 days annually and the number of meetings is 3 to 4. The Council has to enact laws for the whole Presidency. It has to get through a number of the interpellations, it has also to discuss and decide on resolutions on matters of general public interest affecting the whole Presidency. It is bound to consider resolutions on the revised financial statement and have discussion on the Budget. Is it possible for the Council to discharge all those varied functions satisfactorily without more meetings or longer sittings? It is no wonder that the business of each meeting remains unfinished. And yet what is the attitude of the Government when they are asked to hold more meetings? Some time back a non-official member gave notice of motion to so amend the Council rules as to provide that the Council shall meet at least six times in a year. The motion was disallowed on the ground that it was the prerogative of the Governor to say how often the Council should meet. The same member thereupon gave notice of a resolution recommending that the Governor-in-Council may be pleased to advise the Governor to summon the Council to meet at least six times in a year. The resolution was fortunately admitted but unfortunately had to be postponed for want of time. As a matter of fact, the Hon. Mr. Paranjpye at the very first opportunity requested the President to allow priority to that resolution. The President not only rejected the request but, in doing so, expressed himself strongly against the merits of the resolution.

*The Finance Committee*

I now proceed to consider another object of the Morley-Minto Reform Scheme, and show how owing to the attitude of the Government all non-official attempts have failed in securing it. The authors of the Scheme intended that, without in any way affecting the ultimate control over the financial policy of the Government, the Legislative Council should be allowed full and free discussion of the annual Financial proposals and to make recommendations thereon to the Government. A Finance Committee is annually appointed to discuss the proposals and any member of the Council may move resolutions at the time when the Revised Financial Statement is presented. Here, too, it was left to the Government to make rules regarding the constitution of the Committee and other matters. Under the rules so made, the Committee consists of half the number of members nominated by the Government and half elected by the non-official members of the Council and the Finance Member of the Government is the chairman. I will confine my observations to my own experience of the working of this Committee. I feel strongly that the administration of the Presidency is top-heavy, and ways and means must be found to remedy the evil. Therefore, when I was elected by the non-official members to the Finance Committee of 1916, I prepared several proposals after a good deal of thought, care and labour for the consideration of the Committee. They were, however, ruled out by the Chairman on the ground that it was not within the competence of the Finance Committee to consider proposals to reduce expenditure on existing schemes and establishments. I knew the Chairman was wrong in his ruling. Under Rule 5 read with Rule 6 of the Financial Rules, the Finance Committee is not only entitled but is bound to consider such proposals. I then, in my capacity as a member of the Committee, asked for copies of the minutes recording the ruling. They were denied to me. Under the circumstances, when the revised Financial statement was presented to the Council, I moved under Rule 7 of the Rules for the Conduct of Council Business that the business be adjourned. His

Excellency the President ruled my motion out on the ground that the rules of the conduct of business did not apply to the business of the presentation of the Budget. I then gave notice of a resolution recommending the Government-in-Council to direct that the Chairman of the Finance Committee shall, in future, allow the Committee to discuss all proposals under Rules 5 and 6 of the Financial Rules. The resolution, I need hardly say, was disallowed.

### *Two Days in a Year*

I now turn to the procedure followed in the Finance Committee. Cut and dried printed proposals are placed before the Committee which never sits more than two days in a year. The members have no opportunity of examining all the proposals received by the Government from time to time from heads of departments or other officers during the course of the year. They are asked to say whether the selection of items made by the Government is agreed upon or whether they have to make any new suggestions. There can be no doubt that it is not possible for them to do either of these two things without, in the first instance, looking into all the proposals from which Government have made the selection. A non-official member, therefore, gave notice of a resolution recommending that the members of the Finance Committee should be supplied with copies of all such proposals. The resolution was disallowed. It is to be noted again that the Finance Committee is not allowed an opportunity to discuss proposals on schemes under correspondence with the higher authorities and the resolution asking for such an opportunity, of which due notice was given by one of the non-official members, was also disallowed. I may be permitted to add further that proposals for reappropriation of items sanctioned in the Budget are never placed for the consideration of the Finance Committee and a resolution recommending that Government should take steps to enable this to be done was not admitted.

Then, again, the Chairman asks the Committee to meet on such day as suits his convenience without consulting the non-

official members. For instance, in 1918 the Finance Committee was asked to meet on January 25, but as the day was subsequently found to be inconvenient to the Chairman, intimation was sent round that the Committee would meet on the 28th following, with the result that three non-official members could not attend it. According to one of the Financial rules, the Finance Committee is bound to complete its proceedings on or before the 27th January every year. A non-official member therefore took objection to the Committee meeting on the 28th January and contended that the proceedings, if held, would be *ultra vires*. The Chairman at once overruled the objection. The members respectfully asked the Chairman to state the reasons for the ruling. The reply of the Chairman was that he was not bound to give reasons. The member withdrew and the Committee commenced its business. The member thereupon at once gave notice of a resolution recommending the Governor-in-Council to rule that the Finance Committee shall in future complete its proceedings on or before the 27th January every year. The resolution, I regret to say, was disallowed and the member was informed that the 27th January, 1918, was a Sunday and the proceedings held on the following day were good under the General Clauses Act.

### *Budget Resolutions*

I now turn to the question of Budget resolutions. From the enquiries I made I gathered in 1918 that the non-official members had given notice of about—I cannot be exact, as disallowed resolutions are, as I have stated, not allowed to be published—40 resolutions of which only 26 were admitted. Suffice it to say that out of these 26, some were rejected, some withdrawn but none accepted. To give the Committee an idea of the nature of disallowed resolutions, I quote three of them below :—

- “1. This Council recommends that the provision made in the Budget under the head 18, General Administration, be reduced by at least Rs. 1,00,000.

2. This Council recommends that a sum of Rs. 20,000 be provided in the Budget for starting travelling dispensaries in this Presidency and that a corresponding reduction be made in the provision for General Administration or civil works.
3. This Council recommends that a provision of Rs 50,000 be made in the Budget for revision of pay of village officers and village servants in the Presidency Proper and that a corresponding reduction be made in the provision made for General Administration or civil works."

In this connexion I may be permitted to refer to the non-official attempts to improve the miserable lot of the unfortunate village officers and village servants whose remuneration, in some cases in the Deccan & Kanara of the Bombay Presidency is Rs. 10 and Rs. 6 per annum, respectively. In 1917, a non-official member sent up an interpellation to the Government requesting them to publish the actual pay of the various grades of revenue patils and inferior village servants in this Presidency, but the reply was that the trouble involved in collecting the information would be out of all proportion to any purpose the information was likely to serve. Subsequently the same member gave notice of a general resolution recommending that the pay of these officers and servants be increased so as to provide them with at least a living wage. The resolution was disallowed on the ground that it was vague. On the one hand, the Government would not supply statistics to enable non-official members to prepare and present a definite concrete scheme for their consideration, on the other, a resolution on the subject is disallowed on the ground of vagueness. The same member then gave notice of a Budget resolution recommending that Rs. 50,000 be provided to increase the pay of village officers and servants with the result, as I have just mentioned, that too was disallowed.

#### *Interpellations*

The right of interpellation was conceded in 1892. For over 20 years the number of questions disallowed were very few and



the members always exercised the privilege of publishing disallowed questions without any hitch or hindrance. Latterly the extent to which the Government have been exercising the power of disallowing, clipping and mutilating questions has become intolerable and cannot be justified. No wonder, then, that the Government fights shy of their publication. The evasive character of replies, the reluctance to lay papers on the Council Table, the futility of asking supplementary questions are all matters about which the less said the better.

#### *Secretariat Attitude*

Now a word about the Secretariat attitude. So far as the Secretariat record office and library are concerned, a non-official member is hardly treated better than the man in the street by the Secretariat Officers. He has naturally to be exact in his statement of facts and figures regarding his resolutions and questions. He, therefore, stands in need of books and records to verify his statements. He writes to the Secretary of the Government concerned and after several days he gets a reply to say "that it is not the practice to furnish private individuals or bodies with copies of Government Orders which are not intended for general publication and that Government regret that they are unable to make an exception in your case," or to say that "Government regret that they are unable to comply with your request, but that if you indicate the precise points on which you desire information, they will consider whether any information, in addition to that already published and supplied to you, can be furnished," or to say that the "rules of this Department do not permit of a Government Resolution being furnished to you," or to say that "it is contrary to practice to furnish copies of Government Orders except to their own officers," or to say that "the volume in question is not intended for the use of the public but as the question is only of historical interest, I enclose extracts which will give you the information you wish. Non official members dare not and do not claim to see "Confidential" papers or records, but surely any other papers or records cannot and ought not, in fairness be denied to them.

These are some of the reasons which have contributed to the failure of the Minto-Morley Reforms.

It is to be remembered that this note deals entirely with the working of the Bombay Legislative Council during the Governorship of Lord Willingdon, who has the reputation in some quarters of being a Liberal. It goes without saying that the working of the other Provincial Legislative Councils must be worse. I need hardly tell the Committee that my experience of the working of the Indian Legislative Council under Lord Chelmsford is not at all pleasant.

I submit this note to the Committee in the hope that care might be taken in settling the draft rules so that the Executive Authorities in India may not be invested with unlimited and unrestricted powers to enable them to wreck the New Reform Scheme.

#### *Suggestions on Draft Rules, Part I*

(1) There should be no residential qualification either for candidates or for votes. In any case the residential qualification should be construed to mean that a candidate or a voter must have a place of residence. A person having a place of residence in one constituency should be allowed to stand as a candidate for any constituency in the province.

(2) Wage-earners should be adequately represented on all the legislative bodies. This object can to some extent be achieved if the original proposals of the Government of India submitted to the Franchise Committee were accepted. They suggested the inclusion in the electoral roll of all persons earning Rs. 250 annually, and for that purpose they had collected figures and submitted them for the consideration of the Franchise Committee.

(3) The depressed classes in the Bombay Presidency should be given at least three seats.



(4) In the light of the discussion that had taken place in the House of Commons during the debate on the Government of India Bill, all ex-Sepoy should be given a vote.

(5) A voter should be able to give all his votes to one candidate if he wishes. This is a desirable system in the interests of minorities if the proportional representation system is not to be introduced.

(6) Instead of Sirdars' Constituency in the Bombay presidency I would prefer Sirdars and Landholders—Landholders to mean persons holding land assessed or assessable at Rs. 1,000 and over.

(7) In the University Constituency graduates of seven years' standing need not be actually residing in the province, but should have a place of residence in any part of British India.

(8) There is no reason why women graduates of seven years' standing should not be voters in the University Constituency. The recommendation of the Joint Committee in this behalf can with advantage be liberally construed.

(9) A person actually a member of one Council or of either Chamber of the Indian Legislature should be allowed to stand for another Council or Chamber.

(10) Seats given to Europeans on the Bengal Council are out of all proportion to their population or the voting strength.

(11) Revising officers should be either judicial officers or barristers.

(12) The nomination of depressed classes should be restricted to the members of those classes.

(13) Provision should be made enabling an Indian Christian in the Madras Presidency to be placed either on the communal electoral roll or on the general territorial electoral roll at his option.

(14) A person should not be ineligible for election as a Member of the Council because he has been dismissed or suspended from legal practice.

It may be noted in this connexion that persons dismissed from Government service are eligible to stand as candidates.

(15) A person should not be disqualified by reason of his conviction for an offence for a period of more than six months, unless the imprisonment is rigorous, and the offence involves moral turpitude.

(16) A person should be entitled to have his name registered on the electoral roll of more than one general constituency if he is so qualified, with the safeguard that he shall not vote in more than one general constituency.

(17) If any person is elected by a constituency of the Council and by a constituency of either Chamber of the Indian Legislature, he should have the right to choose for which of these bodies he shall remain a member.

(18) If property is held or payments are made jointly by the members of a joint family, and if the requisite qualification for a vote exists, the person qualified should in all provinces be the member authorised by the majority of the family.

The question whether the joint family should not be entitled to more than one vote if the property held by them or payments made jointly justify such a course requires consideration.

(19) The above remarks apply in the case of persons who are registered as joint holders of land.

### *Draft Rules, Part II*

(1) Age disqualification should apply to voters and candidates who are under 21 years.

(2) Sex disqualification regarding candidature for Legislative bodies should be removed on the resolution passed by the body concerned.

(3) Nominations of communities or interests should be made on the recommendation of the people concerned in accordance with rules to be made by Government.

(4) The question of prohibiting persons entitled to a special vote to exercise a general vote also needs consideration.

(5) Graduates of seven years' standing residing in Assam should have a right to return one Member on the Assam Council.

(6) Natives of British Colonies which have denied the vote to Indians in their Colonies should be debarred by a special disqualification clause in the General Rules from being candidates or voters.

(7) It is difficult to understand why for the Punjab University Constituency twelve months' residence is considered necessary in the case of voters.

(8) *Delhi and Ajmere Merwera* together should have two elective seats on the Legislative Assembly. The Southborough Committee recommended one elective seat for Delhi when the total elective seats on the Legislative Assembly were not so many as are now proposed. The Montagu-Chelmsford Report had also proposed one. The argument that is a special permanent representation were given to Delhi by means of fixed electoral seats it would be difficult to refuse similar treatment to the North-West Frontier Province or Baluchistan is not worthy of consideration. Delhi, by reason of its being the capital of India, is entitled to have special representation both on the Legislative Assembly as well as the Council of State. It is difficult to understand why the Government of India have, in spite of the recommendation of Lord Southborough's Committee—recommendation which has been in no way altered by the Joint Select Committee—refused representation to Delhi.

(9) Conviction for a political offence should not operate as a disqualification for being a voter or a candidate for any Legislative body.

(10) In the interests of the representation of minorities, it is necessary that the system of proportional representation by a single transferable vote should be introduced in India. No doubt the recommendation of the Joint Committee does not admit of the introduction of this system all at once, but there is no reason why on the resolution in favour of the introduction of the system passed by the Council concerned the local Government should not introduce it for any plural member constituencies, and make all the necessary regulations for the purpose. It is also desirable in the event of such a resolution by the Council to empower the local Government to group together single member constituencies so as to make new plural member constituencies.

(11) The Anglo-Indians in Bengal number 18,902, while the Indian Christians number 78,984. It is proposed to give three elective seats to Anglo-Indians, and one nomination seat to Indian Christians, though the latter are more than four times numerically superior to the former. This is obviously unjust.

(12) The total strength, of the Punjab Council should be increased. The cities of Lahore and Amritsar should each have representation on that Council.

(13) If my proposal for the adoption of the Provincial Electoral roll for the election of the Legislative Assembly as well as the Council of State be not accepted, I propose :

(a) That the proposed voting qualification should be reduced.

(b) All the elected members, past and present, of local bodies should be voters. All graduates of a University constituted by law in British India should be given the vote.

- (c) A person should not be qualified to be a voter on the ground that he is, or has been, the non-official Chairman, or is the non-official Vice-Chairman of any local body, unless he has been elected non-official Chairman or non-official Vice-Chairman.
- (d) A person shall not be qualified to be a voter on the ground that he is, or has been, a member of the Senate, or a Fellow or an Honorary Fellow of a University, unless he is or has been an elected member of the Senate or a Fellow or an Honorary Fellow.
- (e) A person shall not be entitled to be a voter on the ground that he is the holder of any title.
- (f) A person shall not be entitled to be a voter on the ground that he is, or has been, a non-official member of any Legislative Body, unless he is or has been an elected member of that body. Every person entitled to vote for the Council of State should also be entitled to vote for the Legislative Assembly.

(14) In view of the fact that the power vested in the Presidents of Provincial Legislative Councils under the existing regulations to dispense with the "leave stage" of Bills has been freely exercised in the past in favour of Government Bills, and rarely, if at all, in favour of non-official Bills, it is necessary to provide that there shall be a motion for *leave to introduce* every Bill, whether official or non-official.

(15) A provision should be made in the Rules enabling the new Legislative bodies to fix for themselves the time when they are to sit, or at any rate to require the Governor-General or the Governor as the case may be, to convene a meeting on a requisition duly signed by a certain proportion of the members.

(16) The Rules should provide that the member in charge of a Bill, whether he be official or non-official, shall invariably be a member as well as the Chairman of the Select Committee on that Bill.

(17) In view of the fact that *Presidents* of some Legislative Councils in India have ruled that publication of a disallowed question or resolution is a breach of etiquette, and as that ruling has caused much dissatisfaction among the non-official members of the Councils concerned, it is necessary to clear up the matter in the rules to be made.

(18) As there is widespread complaint in India that one of the causes of the failure of the Morley-Minto Reforms is the misuse of the power of the Presidents of the Provincial Legislative Council to disallow questions and resolutions under the "public interest" formula, it is necessary in the Rules to be made to limit or curtail the power of the Presidents in this behalf.

(19) In view of the fact that the Government of India have under the Reform Act power to make changes at any time in the *franchise now settled*, it is necessary to include in the Rules to be framed definite principles governing such changes.

(20) In view of the fact that under the Reform Act the Government of India can at any time recommend a further transfer of subjects in any Province, it is necessary for the information and guidance of the new Legislative bodies and public generally to lay down in the Rules definite principles governing the revision of the list of transferred subjects from time to time within ten years.

(21) A person who is already a member of any Legislative body should not be disqualified from standing as a candidate for any other body. All that is required is that he should resign his seat on one of the bodies within a prescribed time after his election to the second body.

(22) The clause providing for disqualification for a certain number of years following automatically on convictions for certain offences, or on the report of the Commission regarding corrupt practices, should be modified. Such qualification should only take place if the Court of the Commissioners in their finding make a recommendation to that effect.

(23) In all plural member constituencies in all the Provinces every elector should have the right to give all his votes to any one candidate.

(24) There should be no power either in the Governor or the President to disallow questions. The member of Government may decline to answer a question if it is considered detrimental to public interest to do so. If the mere putting of the question is detrimental to public interest, the attention of the member proposing to put the question may be invited by the member of Government concerned and the position explained. I have no doubt that the member proposing to put the question will not insist on doing so if the putting of it is really detrimental to public interests.

(25) No harm will be done by repeating a question already asked in another Council. It is hardly necessary to point out the undesirability of carrying any further than is absolutely necessary the principle of restricting the freedom of members.

(26) Any member should by leave of the President be allowed to put any question sent in another member's name when the latter is absent or unwilling to do so.

(27) I think the provision insisting on a dissenting member signing the Majority Report of the Select Committee is unreasonable. In the existing regulations in most of the Provincial Councils there is express provision that a member of a Select Committee may either sign the Majority Report subject to a minute of dissent or submit a separate report. This is also the practice in regard to Commissions appointed from time to time. It is not known that any difficulty or inconvenience has been caused by this rule or practice.

As regards the Imperial Council there is no express rule on the subject ; but there is a precedent in the case of the Select Committee Report on the Indian Press Act in 1911 where a dissenting member did not sign the Majority Report but submitted a separate report.



(28) There should be no residential qualification whatsoever for a candidate for the Legislative Assembly or the Council of State. If the candidate has a place of residence in the Province concerned in the case of the Legislative Assembly, or in any part of British India in the case of the Council of State, he should be allowed to stand provided he is otherwise qualified.

(29) The proposal of the Government of India for the constitution of the Indian Commerce Constituency in Bengal for the Legislative Assembly is very unsatisfactory. All persons in the Province paying income tax on incomes of Rs. 5,000 and over should form a constituency.

(30) The three Presidencies and the United Provinces should all be treated on a footing of equality as to the number of seats to be allotted to them on the Legislative Assembly. There is no reason why Bengal should have preferential treatment in this respect.

(31) In view of the fact that the Government of India does not accept the interpretation put by Lord Selborne and Lord Sinha on the recommendation of the Joint Committee that there may be four Indian gentlemen on the Viceroy's Executive Council if the law member is also an Indian, it is necessary to provide in the Rules regarding the appointment of the members of the Viceroy's Executive Council to clear up the point.

(32) Provision should be made for the representation of wage-earning classes of British India both on the Legislative Assembly and the Council of State.

(33) In view of the fact that the President of the Imperial Legislative Council has recently disallowed questions on the ground that the "quotation" referred to in them contained arguments, it is necessary to provide in the Rules that in future questions shall not be disallowed on that ground.



(34) The depressed classes should have adequate representation on the Legislative Assembly and the Council of State,

(35) In view of the fact that under the Reform Act it will not be open to the Legislative Assembly to discuss as of right, as the Legislative Council now does, at the time when the Annual Statement is under consideration, the proposals of the Governor-General in Council for the appropriation of revenue for military, ecclesiastical and political purposes, it is necessary to provide in the Rules or in the instrument of instructions that the Viceroy shall allow the discussion of such proposals.

(36) One elective seat should be allotted to the Benares University on the Legislative Assembly.

(37) In the original proposals of the Government of India two seats were allotted to the European Community on the Council of State. It is now proposed to give three. Indian commerce is not at all represented. The representation of the European community proposed is excessive and should be cut down.

(38) The franchise qualifications prescribed for the Legislative Assembly and the Council of State are so high that they will virtually prevent the representation of the masses in India. The Government of India admit that it is not possible under the franchise proposed by them for both these bodies to include wage-earners in the electoral rolls, and they propose that protection to the interests of this class would be provided for so far as may be necessary by nomination. The Congress is of opinion that for all Legislative bodies the franchise should be as wide as possible. To my mind the question admits no easy solution. There is no reason why the electors for the Provincial Councils should not be allowed to elect members to the Legislative Assembly as well as to the Council of State. All elections will take place on the same day and a voter voting for a candidate for the Provincial Council may as well record his vote for a candidate for the Legislative Assembly or the Council of State. There is no question of creating any new electoral machinery, nor of

preparing a new electoral roll. I therefore think that the proposals of the Government of India regarding the franchise for the Legislative Assembly and the Council of State should be dropped and the electoral rolls prepared for the Provincial Councils should with advantage be made use of for the election of members of the Legislative Assembly and the Council of State. The Congress holds very strong views on this question.

*Draft Rules, Part III*

(1) The Government of India should have no power in cases of emergency to call upon any Province to pay contribution in excess of the amount fixed. At the most, power may be given to take loan from a Province.

(2) There should be no power in the Government of India to require local Government so to regulate its programme of expenditure as not to reduce the balance at its credit on a specified date below a stated figure except in so far as it is necessary for the purpose of securing its contribution.

(3) The rule that capital sums spent by the Government of India on protective and productive works, etc., should be treated as advances made to local government from the revenue of India should be so modified as to apply to sums spent *hereafter*.

(4) All proposals for raising taxation, or for the borrowing of money, should be decided upon by the Government as a whole and not by each part of Government as proposed in the Rules. If this view be not accepted I would leave the proposal for raising taxation which requires legislative sanction to the determination of each part of Government concerned, and all other proposals for raising taxation, as well as all proposals for the borrowing of money, to the decision of the Government as a whole. I may mention here that the objections to the rules as proposed would lose much of their force if all proposals for the raising of taxation or the borrowing of money are made subject to legislative sanction.

(5) The proposed procedure in the event of the failure of the two halves of Government to agree on the question of the framing of Budget proposals, namely that the Governor may allocate by an order in writing the revenue and the balances by specified fractional proportion, is too sweeping and arbitrary. In any case such allocation should hold good for a year only. If this view be not accepted I would suggest that the Governor should be under an obligation to refer the matter to the authorities appointed by the Government of India before making his order if allocation is to hold good for a period exceeding one year.

(6) Finance Department must be under the control of the Minister. If this be not accepted I would suggest that the Department should be under the joint control of one Member of the Executive Council and one Minister with the proviso that in case of difference the Governor's word should be conclusive. If this alternative be not accepted, I would suggest that the Finance Department should be directly and entirely under the control of the Governor.

(7) Powers of the Finance Department with reference to re-appropriation after grants have been voted by the Legislative Council are too wide and require reconsideration and modification.

(8) The power proposed to be given to the Finance Department to decide what cadre a proposed temporary or permanent post shall form an addition is too wide. The Finance Department should be bound in this matter to accept the decision of the part of the Government concerned.

(9) The Governor-General in Council should not be given power to revoke or suspend the transfer of a subject, even with the sanction of the Secretary of State. In any case he should be under an obligation to give the Legislative Council concerned an opportunity to state reasons for the order of revocation or suspension.

(10) Order of formal censure may be passed on an officer of the All-India or Provincial service by the Minister without the concurrence of the Governor if the officer concerned is serving in the Department dealing with the transferred subject.

(11) An officer of an All-India service serving in a Department dealing with one transferred subject may be transferred to a department dealing with another transferred subject without the concurrence of the Governor.

(12) If the contribution to the Government of India fixed by Meston's Committee is based on forty million pounds military expenditure, I strongly object to it. It ought to be fixed on the basis of twenty million pounds, the pre-War military expenditure. I propose to deal with the report of the Meston Committee separately. Suffice it to say here that it has been condemned all over India.

(13) Rules should provide that the final stage of the Budget procedure should be to put the Budget as a whole to the vote of the Council.

(14) The power of the Legislative Council over the Budget in respect of transferred subjects given by the Reform Act should in no way be interfered with or impaired by rules. Neither the Secretary of State nor the Government of India should be given any power to alter or modify the decisions of the Legislative in respect of the Budget on transferred subjects.

(15) Provision should be made for effecting a settlement by some process of arbitration when central and provincial Governments fail to agree in regard to distribution of cost of joint establishment.

(16) The rules should provide that the amount allotted by the Governor in respect of transferred subjects in the event of the failure of the two halves of Government to agree on the question of Budget proposals should not be less than the amount provided in the previous year for such subjects.

(17) Provision should be made to prevent the Secretary of State from borrowing on the security of monies allocated to Provincial Governments.

(18) Necessity for previous sanction to the repeal or alteration by Provincial Legislature of laws enacted prior to the passing of the Indian Councils Act, 1911, should not extend to laws made by the then local authority of the Province concerned.

(19) Transfer of Property Act, and Religious Endowments Act should be removed from the Schedule. Conditions regarding the transfer of property vary from Province to Province. The retention of the Religious Endowments Act in the Schedule might prove an obstacle to much beneficent legislation.

(20) Readers in law classes and Government Pleaders, as well as Public Prosecutors should be regarded as officials.

(21) Botanical Survey should be a Provincial subject.

(22) All District border lines independently of their gauge or construction in continuation of existing lines should be treated as Provincial.

*Note on the Draft Rules of Business and Procedure in  
Local Legislative Councils*

9(1). If any person is elected by a constituency of the Council and also by a constituency of either chamber of the Indian legislature, he should be allowed to choose for which of these constituencies he will serve.

10. In order that the resignation may be operative, the acceptance of it by the Governor should not be required. The Governor on the receipt of the resignation should be bound to declare the seat vacant.

14(4). The proviso should be deleted. It may be that the Governor when he finds that the Council has confidence in the member once disapproved by him might change his view.

15. I would not introduce the agency of the Governor for the selection of Chairmen. In fact there is no necessity for the appointment of any Chairman. The Council will have the President and also the Deputy President. In any case the Council should be at liberty to elect its own Chairman without any outside intervention.

17. The Secretary and Assistant Secretaries should be appointed by the Council itself.

20. I would substitute "President" for "Government." If this be not accepted I would suggest that the President in consultation with the Governor should make the allotment. It is hardly fair to rely upon English precedent on an isolated matter when we do not adopt the practice of the British Parliament in other matters.

21(4). I would extend this provision also to non-official Bills *proposed* to be introduced.

27. I would omit this rule altogether. The existing rules do not empower the Governor to disallow any question on the ground that it cannot be put, as it relates to a matter which is not primarily a concern of the local Government. There may be matters on which it may be desirable to elicit information, though such matters may not directly concern the local Government.

28. Questions are allowed for the purpose of obtaining information only. No discussion is permitted regarding them. There is, therefore, no reason why questions on matters referred to in the proviso to this rule should not be allowed. I would, therefore, suggest the deletion of the proviso as well as sub-rule 2, and if this be not accepted I would suggest the addition of the following qualifying words to the proviso, "except as to matters of fact and answers shall be confined to a statement of facts."

38. I see no reason why the Governor should be troubled in this matter. I would delete the words "with the sanction of



the Governor, etc.” Every number should have a right to move an adjournment of the business of the Council subject to certain restrictions.

39. (ii) A motion need not necessarily be restricted to a matter of recent occurrence. There may be cases where the matter may have occurred long ago, but it may have come to light only recently. There is no reason why motion for the adjournment of the Council should not be permitted in such cases.

39. (iii) I would add the following words at the end, “by way of a specific resolution.” As a matter of fact, at the time of the annual Budget, various matters of public importance are discussed, and if the words are not altered as I suggest, no motion for the adjournment of the Council in reference to any of the matters so discussed can be allowed.

(iv) I would delete this altogether. It would be easy to imagine how the purpose for which the right to move the adjournment has been conceded can be defeated under this sub-clause.

49. Members should be at liberty to address the Council in any recognised vernacular of the province. There should be no restriction whatever on the exercise of such right.

61. There should be a motion for leave to introduce every Bill whether official or non-official. I have no objection to the Governor ordering the publication of any Bill although no motion has been made for leave to introduce it, but I strongly object to the latter part of the rule which gives power to the Governor to dispense with the “leave stage” of a Bill. It is for the legislature to say whether leave should be given to introduce any Bill or not, and the effect of the rule is to deprive the legislature of that function and vest it in the Governor. There is another reason why I object to this rule. In my experience of the working of the Legislative Councils in India I have found that the Governors have invariably exercised



this power to dispense with the "leave stage" of a Bill in favour of official Bills and never in favour of non-official Bills.

62. (1) Under the existing rules, every member, whether official or not, desiring to move for leave to introduce a Bill is bound to give notice of his intention. I do not understand why it is now proposed that a member of the Government desiring to do so need not give any notice. I therefore suggest the deletion of the words "other than a member of the Government."

62. (2) Under the Government of India Act certain Bills require sanction of the Governor before their *introduction*. The first stage of every Bill is "a motion for leave to introduce it," the second stage is "a motion to introduce it." It is necessary to bear this distinction in mind. The Act does not provide that the member moving for leave to introduce a Bill, for the introduction of which sanction is required, should obtain such sanction before making his motion. All that is required is that once the Council accepts the motion for leave to introduce the Bill, the member must have the sanction of the Governor before he moves for its introduction. I think the Governor would be in a better position to decide whether he should give sanction to the introduction of the particular Bill, if he has with him the proceedings of the Council on a motion for leave to introduce it. The rule, in fact, requires more than the Act itself requires. I would, therefore, suggest the deletion of this rule.

62. (v) The period of notice in both cases should be the same.

87. I would delete this clause altogether. I would not give power to the Governor to disallow any resolution on the ground that it cannot be moved without detriment to the public interest. With regard to the latter part of the rule, see my observations on rule 27 above.

108. (1) I would substitute the word "less" for the word

108 (2). I would substitute the word "less" for the word "more."

112 (2). The election of two-thirds should be by the elected non-official members of the Council.

The above observations on the draft rules of business and procedure in local Legislative Councils apply equally to corresponding rules of the Legislative Assembly and the Council of State.

*A Special Note on Draft Rule Regarding Power to Transfer  
Further Subjects, or to Revoke Subjects Already  
Transferred, Within Ten Years*

The Joint Select Committee are of opinion that no changes of substance in the Constitution, whether in the franchise or in the lists of reserved or transferred subjects, should be made before the appointment of a Statutory Commission at the expiration of ten years.

The Government of India Act (1919), however, gives power to the Governor-General in Council to make Rules regulating the extent and conditions of transferring further subjects at any time, but the Act further provides that such Rules shall not authorise the revocation or suspension of the transfer of any subject except with the sanction of the Secretary of State in Council. It follows, therefore, that Rules can be made for transferring further subjects in any Province without any restrictions.

This view is supported by the statements made by the Secretary of State and Mr. Fisher on behalf of Government during the debate on the Bill which became the Government of India Act.

Major Barnes on the 3rd December, 1919, during the debate put a direct question asking Mr. Montagu to say whether there was anything in the Bill to tie the Government down to a particular list of transferred subjects, and whether it was not

possible within the ten years before the Statutory Commission sits to extend the list of transferred subjects. He said that he himself saw no obstacle in the way. Mr. Montagu replied : "Certainly."

Mr. Fisher on the same day in reply to the amendment of Lieut.-Commander Kenworthy with reference to the addition of subjects to the transferred list, is reported to have said : "May I point out that there is nothing in the Bill which prevents revision taking place before ten years, but that there must be a revision at the expiration of ten years. If it be true that great progress will be made and if it becomes obvious that the transferred subjects are being handled wisely and effectively to the satisfaction of the Indian population by the Indian Ministers, then there is no obstacle to a revision at an earlier period than ten years. The hon. and gallant Member wishes all transferred subjects to be dealt with automatically at the end of six years, and I cannot agree to that proposal."

It is thus clear that the Secretary of State or the House of Commons do not accept any limitation of ten years as was suggested by the Joint Select Committee. In fact, the section of the Act which gives power to make rules in favour of the transfer of further subjects is quite clear. In making the Rules, therefore, we must proceed on the footing that additional subjects can be transferred within ten years. The Government of India, however, proceed on a different footing. They make no Rules regarding further transfer of subjects, but on the contrary make Rules regarding revocation or suspension of subjects already transferred.

The above observations hold good in respect of the Franchise Rules. The act gives power to the Governor General in Council to make provision from time to time by means of Rules regarding the qualification of electors, as well as for being elected a member of any Legislative body. It was thought that the words "at the expiration of ten years" in Clause 41 of the Government of India Bill would make it impossible for the

Government to make the necessary provision for a change in the Franchise system from time to time within ten years, and therefore Mr. Spoor moved an amendment that the word "within" be substituted for the words "at the expiration of ten years." Whilst he was making his speech in support of his amendment, Sir J.D. Rees said: "The Government of India can make changes in the franchise." It is thus clear that the opinion expressed by the Joint Select Committee in their report was not understood to mean that no changes could be made within ten years in the Rules regarding the franchise or the transferred subjects, and it is equally clear that the Parliament did not accept the view that no such changes could be made within ten years. This view, if allowed to prevail, would work great hardship on certain classes, to whom it has been thought proper not to give representation on Legislative bodies at present. Take, for instance, the case of wage-earners. Under the Draft Rules wage-earners are not qualified to be electors in spite of the fact that at least one local Government had prepared statistics showing the number of persons earning Rs. 250 annually. No one can contend that these wage-earners are to be excluded from the franchise for ten years to come, and yet, if the view prevails, they will be so excluded. I hope, therefore, that the Joint Committee will re-examine the question in the light of these observations, and recommended Rules facilitating further transfer of subjects, as well as necessary changes in the franchise from time to time within ten years.

*Special Note on the Draft Rules Regarding Women's Franchise*

The Indian National Congress has been passing Resolutions from time to time urging the removal of sex disqualification in any scheme of Constitutional Reforms. The women of India presented their case on this question to the Secretary of State and the Viceroy when the Secretary of State visited India for the purpose of making enquiry regarding post-War reforms. Later on, the case for the removal of sex disqualification was fully presented before the Franchise Committee. The Committee

however, in spite of the almost unanimous demand of the men and the women of India in favour of the removal of this disqualification at the outset of the introduction of responsible Government in India, recommended that it was premature in their opinion to extend the franchise to Indian women at this juncture. The question was fully considered by the Joint Select Committee, who came to the conclusion that the question of enfranchising women should be left to be determined by the new Legislative Councils. When the Government of India Bill was discussed in the House of Commons the question was again raised. The Secretary of State for India in his speech in the House in connection with an amendment on the question is reported to have stated : "I quite agree with everything that my honourable and gallant friend said about the folly of excluding women from the franchise, and about the valuable contribution which they can make to the political questions of the country, *both as electors and as elected*, and if I were in India, and were a member of the Legislative Council, I should agree with my hon. and gallant friend and vote for the proposition ; but I do not think that we are entitled to do it here and now. I think we should leave it to those who are Indians."

In spite of all this, the Government of India now propose by their Draft Rules to remove sex disqualification on a resolution passed by the Council concerned *only in respect of women electors*. They seem to hold that the phraseology used by the Joint Committee in their recommendations on this question do not justify the enfranchisement of women for membership. This view, we submit, is wrong. The Joint Committee recommend that on a resolution passed by the Legislative Council concerned, women of the Province otherwise qualified shall be placed on the Register of Voters. Once they are on the list of voters, they are entitled to be candidates ; for every person whose name is entered on the voters' list is also entitled to be a candidate. In the case of women voters, however, the Government of India by their draft rules propose to introduce a general disqualification by providing that women voters shall not be eligible as candidates. We enter our most emphatic

protest against the introduction of this disqualification in the rules. The question enfranchising the women of India has been all along presented, discussed and dealt with as one entire question, and the women of India have never suggested in any of their representations submitted from time to time that the question may be dealt with partially, as proposed in the draft rules, even as an alternative. We have always understood the recommendations of the Joint Committee in the sense that the question whether sex disqualification should be removed or not has been left to be determined by the men of India as represented in the new Legislative Councils. It cannot be that the Joint Committee were of opinion that the men of India can be trusted to decide whether women should be voters, but cannot be trusted to decide whether the women should also be candidates. We trust, therefore, that the Joint Committee will refuse to accept the draft rules on this question as proposed by the Government of India, and leave the whole question of the removal of sex disqualification to the decision of the new Legislative Councils.

There is one other point to which we desire to invite the attention of the Joint Committee. According to the recommendation of the Committee, all graduates of seven years' standing are entitled to vote in a University Constituency. We expected that the Government of India in making the draft rules would liberally interpret at any rate this recommendation, and give franchise to all women of seven years' standing in University Constituencies. We are disappointed, and now look to the Joint Committee to say that their recommendation on this question was general and therefore all graduates of seven years' standing shall be entitled to vote, irrespective of sex, in any University Constituency.

(Signed) V.J. Patel,  
Sarojini Naidu.



*Instrument of Instructions*

1. The new Reform Act gives power to the Governor-General to certify that any Bill introduced or proposed to be introduced in either Chamber of the Indian Legislature affects the safety or tranquility of British India or any part thereof and to direct that no further proceedings shall be taken by the Chamber in relation to that Bill. Hitherto Legislative Councils in India were at liberty to discuss such a Bill in its stages and pass it into law. Of course, the Governor-General has the power of veto, which he could exercise only after the Bill passes through all its stages in the Council. The Act thus deprives the non-official member of his right to introduce and have such a Bill discussed in the Council. The power vested by the Act in the Governor-General will enable him to effectively check the attempt of non-official Members to bring in measures for the repeal of the Rowlatt Act, the Press Act, and other similar repressive measures now on the Statute Book. I therefore submit that in the instrument of instructions it should be provided that the Governor-General shall not exercise his power in relation to any Bill except so far as he had such power before the passing of the Act.

These observations apply equally to the instrument of instructions for the Governor, who has also been similarly empowered by the new Act.

2. The proposals of the Governor-General in Council for the appropriation of revenue or money relating to all the heads of expenditure are, under existing Regulations, open to discussion by the members of the Indian Legislative Council. This right has been freely exercised by the non-official Members for years past. The new Act, however, lays down that, unless the Governor-General otherwise directs, proposals regarding certain heads of expenditure, *e.g.*, those classified by the order of the Governor-General in Council as ecclesiastical, political and defence shall not be open to discussion by either Chamber at the time when the Annual Statement is under consideration. I therefore submit that it should be provided in the instrument



of instructions that the Governor-General shall permit full and free discussion of the proposals on all heads of expenditure at the time when the Annual Statement is under consideration.

3. The new Act provides by Section 13 that where the Legislature refuses leave to introduce or pass in the form recommended by the Governor any essential Bill relating to a reserved subject, the Governor may himself enact the measure on his own individual responsibility, but in that case he should reserve the same for the signification of His Majesty's pleasure.

Similar provision is made in Section 26 of the Act to enable the Governor-General to enact measures refused by the Indian Legislature, and for reserving the same for the signification of His Majesty's pleasure.

In both cases, however, the Governor-General is empowered where in his opinion a state of emergency exists, to enact a law without reserving it for the Royal pleasure.

It is quite clear that the the provisions of the Act enable the Governor-General to put permanently on the Statute Book any measure enacted by him under the provisions referred to for the particular emergency. This is a very dangerous and retrograde produce. It is obvious that the scrutiny of the Joint Committee is much more necessary in respect of a proposal to make permanent a law passed at the time of excitement to meet the particular emergency, that in respect of a proposal passed in ordinary times, when the necessity for over-riding the elected Legislature will have been more carefully considered both by the Governor-General as well as by the Secretary of State and the Joint Committee. It is therefore necessary that when legislation enacted to meet the particular emergency is sought to be made permanent it should at least undergo that scrutiny which is provided for measures enacted by the Executive in ordinary times. I therefore suggest that the instrument of instructions should contain a clause that the Governor, or the Governor-General, as the case may be, shall not enact such

laws except for the purpose and period absolutely necessary to meet the emergency that may be deemed to have arisen.

It may be noted that the provision requiring the Governor, or the Governor-General as the case may be, to reserve any Act for the Royal pleasure is not a mere formal matter. This is what the Joint Committee say on this question : "Acts passed on his own responsibility should be reserved by the Governor-General for His Majesty's pleasure, and to be laid before Parliament. His Majesty will necessarily be advised by the Secretary of State for India, and the responsibility for the advice to be given to His Majesty can only rest with the Secretary of State. But the Committee suggest that the Standing Committee of Parliament, whose appointment they have advised, should be specially consulted about acts of this character."

The course suggested by the Joint Committee is possible if, and only if, the instrument of instructions contains some such clause as I have suggested, otherwise the Governor-General as the Act stands will have the power to put on the Statute Book permanently a measure enacted merely to meet a particular emergency.

(1) "Customs" is made a central subject, whilst "Excise" is both provincial and transferred. Excise is stated to include the levying of Excise-duties in relation to alcoholic liquor. It is not clear, however, whether the provincial legislature is to have the power to levy Excise duties on foreign liquors. It is well known that Indian Ministers with the support of their provincial legislature will gradually adopt a policy of total prohibition. If by the transfer to Excise it is intended to allow representatives of the people to have a free hand in formulating and effectively carrying out this policy, it must be made quite clear from the outset that the Government of India shall no longer enjoy the power of levying Excise duties on foreign liquor. No provincial legislature or Minister can successfully inaugurate a policy of prohibition if they have no power to control the use of foreign liquor. Under these circumstances,

transfer of Excise will have very little meaning, unless it is accompanied with power to check by means of levying Excise duties the use of foreign liquor.

(2) "Development of industries," including industrial research and technical education, is made both a provincial and a transferred subject. The idea seems to be to allow each province full freedom in developing its industries. I notice, however, that in the list of central subjects "development of industries" in cases where such development by a central authority is declared by the order of the Governor-General in Council expedient in the public interest, is included. This will enable the Government of India to take out of the hands of a provincial government at any time any scheme of development. It will thus discourage provincial governments from initiating new schemes for they can never be sure at what stage the Government of India would intervene and exercise their power. I submit, therefore, that the central government should have no such power.

(3) Where any doubt arises as to whether (a) a particular matter does or does not relate to a provincial subject, or (b) a matter relates to a reserved or a transferred subject, the Governor-General or the Governor as the case may be should decide the question *after* allowing the Legislative Council concerned to state their views.

(4) Since the passing of the Government of India Act, 1919, most shocking disclosures of the horrible treatment to which the people of the Punjab were subjected during the administration of Martial Law, and even before its promulgation, have come to light. This makes it imperative that "Law and Order" should be a transferred subject in all provinces if it is intended to provide against a repetition of similar occurrences in future. The draft rules settling the list of reserved and transferred subjects are now under consideration by the Joint Committee, and the people of India hope that the Committee will give due weight to this aspect of the question.

(5) It should be open to the Local Government *with the sanction of its legislature* to raise loans on the security of the revenues allocated to it for any of the purposes mentioned in the draft rules in that behalf. The Local Government need not be required to obtain the sanction of the Governor-General in Council.

(6) Provisions requiring the Governor of a Province to reserve for the consideration of the Governor-General in Council Bills containing provisions affecting the Land Revenue of the Province in the manner described in the rules relating thereto should be omitted. It should be open to the Provincial Legislature to pass any Bill affecting the Land Revenue of the Province, subject to the Governor's right of veto.

(7) Industrial matters relating to the settlement of Labour disputes and the welfare of Labour should be among the transferred subjects.

(8) Previous sanction of the Secretary of State in Council or the Governor-General in Council should not be necessary to the creation of any temporary or permanent appointment for the administration of any transferred subject, unless such appointment necessitates an increase in the cadre of an All-India Service.

(9) The object of making "Light and Feeder Railways, etc.," a transferred subject is to encourage Provincial Governments and local bodies to construct and extend such railways and tramways within their areas as much as possible. Such railways and tramways must be connected with an adjacent main line if they are to serve the public in the best way possible. It is, however, provided that matters relating to "any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line shall be subject to legislation by the Indian Legislature." This provision will seriously affect the development and extension of such railways and tramways by the provincial governments and local bodies concerned.

(10) The Mining Federation of Central Provinces has protested strongly against the creation of a constituency of sixteen voters and urges its extension, and in this demand the Federation has the support of the Provincial Advisory Reform Committee.

(11) The claim of the Marwari Association for a seat on the Bengal Provincial Council deserves consideration at the hands of the Joint Committee, so also the claim of the Kolaba people in the Bombay Presidency for two seats on the Bombay Council.

(12) The Central Provinces and Berar Provincial Conference complains of the inadequate allotment of seats to their Province on the Legislative Assembly and the Council of State. There is no reason why the Province should not be placed on an equal footing with Behar and Orissa in this respect.

(13) Sir Ashutosh Chaudheri cables as follows :

“Calcutta Employees Association numerous attended meeting Sir Ashutosh Chaudheri presiding urge only Indian wage earners including mercantile clerks earning twenty rupees upwards made eligible for voting reform council.”

I have more than once pointed out that if it is proposed to give some representation to wage earners, all persons earning Rs. 250 a year should be enfranchised. The Bombay Government had collected statistics on that basis for the guidance of the Franchise Committee but the suggestion was not carried further. The Franchise Committee or the Joint Committee gave no reasons for rejecting the suggestion which at least one Local Government considered feasible.

(14) Conviction involving a sentence of transportation or imprisonment for a period of more than six months in order to operate as a disqualification for being a voter or a candidate must be by an ordinary criminal court and not by any special tribunal or court. A number of such tribunals were set up last

year in several parts of British India to deal with cases connected with the Rowlatt disturbances and hundreds of persons were convicted by those tribunals to long terms of imprisonment, and in several cases of transportation for life. Many of these unfortunate convicts have since been released under the Royal Amnesty. As the draft rule stands, all these persons, some of whom are well-known leaders, are disqualified. I submit, therefore, that the rule should be modified as I have suggested in this note.

—V.J. PATEL.

## 2

### **SWARAJISTS' OUTLINE SCHEME OF SWARAJ\***

#### *Note*

In some public statements made by me in October and November, 1922, and again in my Presidential Address at the Gaya Congress, on 26th December, 1922, I drew the attention of the public to the need for stating the fundamental principles and formulating the broad outlines of a Scheme of Self-government which should form the basis of Indian Swaraj.

Subsequently, the new party (known as the Congress-Khilafat Swaraj Party) which has been formed within the Congress, in consequence of division of opinion over the question of contesting elections for the official Councils, desired me to outline such a scheme, in conjunction with other friends, who also had been pressing the matter on the attention of the Indian people for some time past, and were co-opted for the Drafting Committee.

The Outline now placed before the public is the result. It was placed before a meeting of leading members of the new party, at Bombay, on 29th January, 1923. There was no time to discuss it properly. Many of the members present (from almost all the larger Congress Provinces) expressed a general approval others reserved opinion. But it was unanimously agreed that the draft should be placed before the Indian people, through the Press, and suggestions and criticisms invited.

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\* Prepared by Deshbandhu C.R. Das in 1923.



It was also unanimously agreed that the Outline represents the Ideal which should be kept in view, as one to be gradually worked up to, and that a certain number of intermediate and progressive steps have to intervene, but which must all definitely, unmistakeably, steadily and progressively help to change the present regime so as to realise that ideal at no distant date.

CHITTA RANJAN DAS

Bombay,

*30th January 1923.*

Note—It is requested that all suggestions and criticisms may be sent, in envelopes marked on the face with the words, “Swaraj Scheme”, to the address of Pandit Motilal Nehru, Anand Bhawan, Allahabad.

## OUTLINE SCHEME OF SWARAJ CHAPTER I—ESSENTIAL PRINCIPLES

The Principles which guide this outline are those which have been honoured in India from time immemorial, and have been reiterated in the Presidential Address of the Gaya Congress in December, 1922, thus ;

“To form a scheme of government, regard must be had

- (1) to the formation of local centres more or less on the lines of the ancient village system of India ;
- (2) the growth of larger and larger groups out of the integration of these village centres ;
- (3) the unifying state should be the result of similar growth ;
- (4) the village centres and the larger groups must be practically autonomous ;
- (5) the residuary power of control must remain in the Central Government, but the exercise of such power

should be exceptional, and for that purpose, proper safeguards should be provided, so that the practical autonomy of the local centres may be maintained, and at the same time the growth of the central government into a really unifying state may be possible. The ordinary work of such Central Government should be mainly advisory."

Briefly, *a maximum of local autonomy*, carried on mainly with advice and co-ordination from, and only *a minimum of control by, higher centres* which will have some special functions besides.

To this should be added that *every possible care should be taken to ensure that the people's elected representatives*, who will constitute the Chief Authority for each grade of centre, local and higher, with power to make laws and rules, *shall be*, not self-seekers, but *seekers of the public welfare*.

## CHAPTER II—ADMINISTRATIVE DIVISIONS

### (a) Local Centres

1. The foundation of the whole administration should be in Local Centres (*grama*), small but practically autonomous.

2. A local Centre should ordinarily consist of a number of villages of which the population should total about ten thousand souls.

### (b) Town Centres

3. Towns (*nagar*) should form separate entities, and might, as necessary, be sub-divided into wards or quarters, of about the same population limits as the rural Local Centres.

### (c) District Centres

4. Rural and urban Local Centres should be integrated into larger groups or District Centres (*zila*) with populations of from five to twenty lakhs.

*(d) Provinces*

5. District Centres should be integrated into Provincial Organisations.

6. Provinces (*sooba*) should be demarcated on the linguistic basis. Any which are considered too large may be divided into smaller ones.

*(e) All-India Organization*

7. The Provincial Organisations should be integrated into and be co-ordinated by an All-India (Bharata-varsha or Hindustan) Organisation according to population.

8. Subject to these general principles, each Province should draw up its own scheme of administrative divisions to suit provincial variations.

**CHAPTER III—ADMINISTRATIVE FUNCTIONS**

Functions should be as below :

A. (i) Provision for appropriate *Education* of all educable children and youth of both sexes (*Shiksha* or *Talim*).

(ii) *Provision for Recreation* (*vinoda* or *dil-bastagi*) e.g., Public Gardens, Parks, Museums, Playing-grounds, Libraries, Reading Rooms, Art-galleries, Popular Lectures, Recitations, Processions, Pageants, Religious Festivals (Katha, Yatra, Kala-kshepam Kirtan Ram-lila, Krishna-lila, Maulud, Christmas and Easter celebrations. *etc.*) refining elevating and instructive Dramas, Cinema and Magic Lantern Shows, Games and Sports, *etc.*

B. Provision for *Protection* (*Raksha* or *Hifazat*), by means of

(i) Police and Local Militia and Regular Military Forces ;

(ii) Justice and Settlement of Disputes, through Arbitration Courts or Panchayats in the narrower sense, and Registration of Deeds ;

**(iii) Appropriate Medical Help and Sanitation.**

**C. Provision for *Economic and Industrial Welfare* (*Jivika* or *Maash*), by promotion of**

**(i) Agriculture (*Krishi* or *Zira-at*) ;**

**(ii) Cattle-breeding (*Go-raksha* or *Taraqqi-maweshi*), i.e., increase and preservation of domestic animals of all kinds, for purposes of milk, wool, plough, transport, etc. ;**

**(iii) Other Productive Industries relating to Mines, Forests, Fisheries, Salt, Sericulture, Arboriculture, etc., (*Akara-karma* or *Madaniyat*, etc.) ;**

**(iv) Arts and Crafts and Manufactures of all kinds (*Shilpa* or *Saanat-hirfat*) ;**

**(v) Trade and Commerce (*Vinijya* or *Tijarat*) ; and**

**(vi) By promotion and regulation of the various means which subserve the above, e.g., Railways, Post and Telegraph, Shipping, Roads, Waterways, Canals, Bridges, Ferries, Presses, Public Buildings Monuments, Rest-Houses, Currency, Measures of Flood and Famine Relief, Rates and Taxes, Tariff and Customs, Surveys of various kinds (Geographical, Geological, Botanical, Meteorological, Statistical, Archaeological, etc.), Friendly Relations with other States, etc.**

**D. The above provisions would be made**

**(i) by means of laws and rules which would be framed by the different grades of Panchayats, and would have force within the domains of their respective makers, the enactments of the lower grades of Councils being made with advice from and co-ordination by the higher when needed ;**

**(ii) by appointment of executive officials (who would be wholly responsible to the Councils appointing them) to carry out the laws and rules ; and**

**(iii) by supervision of their work.**

## CHAPTER IV—PANCHAYATS AND ALLOCATION OF FUNCTIONS

### *A. Local Centres or Communes and Local Panchayats*

(a) For each rural or urban Local Centre or Commune there should be one Local Panchayat of twenty-one periodically elected members.

(b) This Panchayat should be in charge of the different functional departments mentioned above, so far as the Commune affords scope for them, and should carry on the work by means of sub-committees.

(c) Under *Education*,

(i) they would maintain local Schools, giving elementary cultural and vocational-technical instruction, and

(ii) would provide for suitable Recreation.

(d) Under *Protection*,

(i) they would appoint their own *Chaukidars* (Watchman and would form Local Militia out of such chaukidars and other able-bodied men, and would provide for their proper training ;

(ii) they would arrange for Arbitration Courts (the members of which would be separately elected), which would deal with simple civil (including what are now known as rent and revenue, *divani* and *mal* or *artha-vivada*) and criminal (*faujdari* or *parushya-vivada*) cases ;

(iii) they would also maintain an adequate Hospital (*chikitsalaya*, *shafakhana*) and Medical Staff which would provide treatment free and be responsible for the proper Sanitation of the Commune.

(e) Under *Economical and Industrial Ministration*, the Local Panchayat would be responsible to its Electorate primarily, on the one hand, and to the higher Panchayats, on the other, secondarily,

(i) to see that arable lands are properly tilled, and village commons, playing grounds, pasture-lands, groves, orchards, *etc.*, are properly maintained, and a sufficiency of necessities, specially corn, cotton, and cattle, (or other forms of food, clothing, and accessories, in specially circumstanced tracts), for the use of the Commune, is always available within their jurisdiction ;

(ii) that co-operative organisations, in the shape of Stores, Banks, *etc.*, are maintained in the needed numbers ;

(iii) that wells, tanks, *tals*, canals, and all means of supply of good water for drinking and other domestic purposes, and for irrigation, and all roads, *etc.*, within their Commune, are properly maintained ;

(iv) that production of surplus corn, cotton, cattle, and other necessities as well as comforts, and of mineral and other products and means of increasing the wealth of the locality is encouraged, cottage-industries promoted, and arrangements made for commercial dealing with this produce in such a manner as to avoid competitive waste.

#### *B. Intermediate Centres or District Panchayats*

(a) The District Panchayat should be constituted by each Local Panchayat (or group of Local Panchayats) periodically choosing one member, who may or may not be one of them ; provided that the total number of members should not exceed one hundred ; and provided also that at least two-fifths of them should be residents of towns.

(b) They would form sub-committees among themselves on the lines before mentioned.

(c) The District Panchayat would generally *advise* and *not control* the Local Panchayat, in respect of all functions. Special provision would be made for such control as may be occasionally or absolutely necessary.

(d)—(i) Under *Education*, the District Panchayat should maintain one or more higher educational institutions (like

colleges and high schools) as may be necessary, which will give cultural as well as technical instruction.

(ii) They would also provide *Recreation*, arranging for the more expensive items which may not be within the means of the Local Panchayats.

(e) Under *Protection*, they would

(i) co-ordinate, the Local Police ;

(ii) arrange to maintain some special Reserve or District Police ;

(iii) organise and co-ordinate the Local Militia, so that they might discharge the functions of a disciplined Army ; and

(iv) maintain one or more larger Hospitals and supply medical and sanitary advice to their Communes.

(f) Under *Economic and Industrial Ministration*, the District Panchayat would

(i) co-ordinate the Local Banks and Stores and other local economic and industrial and commercial enterprises ; and

(ii) organise or promote such independent enterprises.

### *C. Town Centres and Town Panchayats*

(a) Aggregations of dwellings containing ten thousand or more inhabitants should be regarded as towns.

(b) Towns should be organised in the same way, generally, as the rural Local Centres ; and the same general principles should be applied to their functioning as to the rural Local Centres, as far as practicable, but regard must be had to the special variations, the economic and other circumstances.

(c) For the purposes of the integration of the District Centres and the election of the District Panchayats, the rural and the urban Local Centres should be counted side by side as component units ; and the headquarters or the seat of the District Panchayats would ordinarily be the largest town of the district.



(d) For the purpose of unifying the administration of each town as a single whole, the Town Members of the District Councils, together with such other members as may be specially elected by the Ward-Panchayats, in the proportion of two per ward, should form a Town Panchayat (like the present Municipal Boards), which would be intermediate between the urban Local (*i.e.*, Ward) Panchayats and the District Panchayat, and would discharge as many of the functions of the District Council, towards the whole Town, as may be conveniently possible.

#### *D. Provinces and Provincial Panchayats*

(a) The Provincial Panchayats should consist of members elected by the District Panchayats in the proportion of one for every to lakhs of the population ; provided that the total number shall not fall below twenty-one, nor exceed one hundred ; and provided also that at least half the number should be urban residents. They may or may not be members of the District Panchayats.

(b) The Provincial Panchayats would advise the District Panchayats and co-ordinate them and their work, using residuary powers of control under proper safeguards.

(c) Its special work would be :

(i) to maintain advanced Educational Institutions (in the nature of Vidyapithas, Dar-ul-ilums, "Seats of Learning," "Centres of Knowledge," Universities) which would give expert cultural and technical training and promote research ;

(ii) to maintain special Police and Military Forces, for the guarding of Frontiers, Sea-boards, *etc.* ;

(iii) to make provision for Justice in special cases ;

(iv) to administer Provincial Railways, Water-works, Canals, Roads, *etc.*

#### *E. The India Panchayat*

(a) The All-India Panchayat should consist of members elected by the Provincial Panchayats in the proportion of one

for every thirty lakhs of population, but Provinces which may have a total population of less than thirty lakhs would send one representative. At least three-fifths of the members should be urban.

(b) The functions of the India Panchayat would be similar to those of the Provincial Panchayat, *mutatis mutandis*; a special one would be to deal with neighbouring States (including Indian States) and Foreign Countries.

(c) The India Panchayat should create a Consulting Senate, consisting of eminent men and women of thought and special knowledge, belonging to all parts of India, who would be elected by the India Panchayat, from time to time, without restriction of members, and who would be asked for advice on any subject, as needed, by the India Panchayat or the Provincial Panchayats.

(d) The language of the India Panchayat should be Hindustani, while the Provinces would use their mother-tongues.

#### *F. Special Provision for Filling up Vacancies*

Generally, if a member of a lower Council is elected to a higher, his place may be filled up by a new election by the same electorate.

### **CHAPTER V—THE QUALIFICATIONS OF THE CHOOSERS AND THE CHOSEN**

1. Every individual of either sex, who has resided in India for at least seven years, and is at least twenty-five years of age if a man, and twenty-one years if a woman, should be entitled to elect to the Local Panchayat.

2. The members of the Local Panchayats should elect to the District Panchayat.

3. The members of the District Panchayat should elect to the Provincial Panchayat.

4. The members of the Provincial Panchayats should elect to the Indian Panchayat.

5. The members of all four grades of Panchayats should be permanent residents of the country, preferably of the particular centre, and should be chosen irrespective of their creed, caste, class, color, race, or sex, but subject to adjustment, where unavoidably necessary, for purposes of creedal or communal representation.

6. Such representatives should ordinarily be not less than forty years of age ; should have done some good work in any walk of life ; should, if rural, be at least literate, and, if urban, should possess higher educational qualifications, and, in the case of rural and urban members of the Provincial and India Councils, should have corresponding higher and superior educational qualifications or equivalent expert experience ; should have retired from competitive business or other professional life of bread-winning or money-making, and be able to support themselves on their own savings, or be assured of all necessities and personal requirements by their families or friends ; should give practically all their time to national work, and should do so without any cash remuneration. But their travelling and other *ex-officio* expenses, which might be necessary to enable them to discharge their public duties, should be met from State funds, and their status as Members of Panchayat should be regarded as having greater honour attached to it than any salaried office, so that they would receive precedence at public functions.

7. The members of each Panchayat should possess, between them, experience of all the main departments of the communal life which they have to administer.

8. No one should offer himself, or canvass for himself, as a candidate for election ; but if requested by electors, he might publicly signify his consent to accept the burden of office, if elected.

## CHAPTER VI—SEPARATION OF FUNCTIONS

1. Throughout the whole administration, Legislative, Judicial, and Executive functions shall be kept separate from one another.

**CHAPTER VII—FINANCE**

1. The revenues needed to meet necessary expenditure should be raised by the Local Panchayats by means of taxation, with advice from the upper Panchayats.

2. State factories might be opened as necessary, with a view to prevent waste by individual competition, over-production, bad production, etc., to cheapen commodities, and to reduce taxation, but not so as to create monopolies and stifle private enterprise.

3. Where practicable, Local and District Councils should make such improvements in the locality as might result in addition to the communal income, *e.g.*, public wells, tanks, canals, roads, groves of timber and fruit trees, etc., and thereby leads to reduction of taxation.

4. Contributions would be made by the Local Panchayats to make up the revenues of the District Panchayats ; by them to the Provincial ; and by the Provincial to the India Panchayat.

5. Special taxation might be imposed by the Provincial and India Panchayats.

**CHAPTER VIII—PROPRIETORSHIP**

1. Private property would be recognised and maintained and the growth of individual wealth, both movable and immovable, would be permitted, but so as not to encroach on or make impossible or impracticable the growth of public possessions as well ; and the owner of individual wealth, who spends it on pious works, *i.e.*, works of public utility, as requested by a Panchayat, would receive special marks of honor.

**APPENDIX****NOTE TO CHAPTER I***Fundamental Principles*

(a) Excessive centralization, and the concentration of all power in the hands of a bureaucratic clique, mindful of its own

prestige and emoluments, careless of the public weal, walling itself off more and more thickly from touch with public opinion, in fact arrogant and disdainful towards the public, regarding itself as public-*master* rather than public-*servant*—this is the bane, in consequence of which the public servant waxes and the public wanes, more and more, every day in India. Genuine decentralization of administration, substantial distribution of power, and real responsibility of the public servants to the People's trusted representatives—this is the only remedy. Hence, the formulation of practical local autonomy as a fundamental principle.

(b) The failure to secure *ethical* fitness, the philanthropic and humanitarian out-look upon life, in the elected legislators,— in consequence of which failure, the laws made by them are not wise and just, but partial to special class interests, and promote an excessive inequality and therefore widespread discontent and conflicts of all kinds and degrees—this is the disastrous and all vitiating defect of western system of Swaraj, the cause of all their internal ferment and their external wars, of the enslavement of Labour by Capital, of the many by the few, within each State, and of the ruthless exploitation of weaker nations without. This failure must be strenuously guarded against in our scheme. Hence the formulation of the second fundamental principle.

## NOTE TO CHAPTER II

### *Administrative Decisions*

This scheme of administrative divisions is in accord with the time-honoured traditions of the country. The agricultural village and the village community were, are, and ought to continue to be, the natural basis of our special type of culture and civilisation, and of all wise administration in a country ninety per cent of the population of which is rural. Most writers and thinkers about India are agreed in this. In the most ancient days, of which accounts are available, the socio-politico-economical divisions were the village, the group of ten villages, the

group of ten tens or a hundred, the group of ten such or a thousand—grama, janapada, pranta, vishya, mandala, and so on. In medieval times and the days of the Moghals, the arrangement was much the same—mauza, tappa, pargana, zila, sooba, etc. It is the same to-day in the Indian States and in the territories under British occupation. The names of the divisions and subdivisions differ in the different provinces. No radical change can be made in this principle of groupings and integration. But for the purposes of the electoral principle, which worked sub-consciously in the old days of the panchayat and the village community, and has to work consciously and deliberately now, a population basis is suggested for the initial groups, and also for the next intermediate groups, though with greater elasticity. For the third grade, linguistic basis is the most natural and has been already recognized by the Congress. The fourth and the final grade is governed by many considerations, geographical, political, economical, cultural, etc. ; for fixing the outermost boundaries of this whole, no single-principle suffices.

The single village cannot well be accepted to-day as the initial unit of administration. The population of the five hundred thousand villages of British occupied India varies from a few dozens to a few thousands. Therefore, in the interests of a convenient uniformity, a population basis of approximately ten thousand is suggested. This will give about three to four thousand electors for the Local Panchayat (dealt with in a subsequent chapter)—not too large a number for such common consciousness and general acquaintance, by reputation or directly, as is needed for electoral purposes. For the whole of India, the proportion of women over twenty-one is, roundly, about sixty-five millions out of one hundred and fifty ; and of men over twenty-five, also about sixty-five millions.

The treatment of towns as separate entities is suggested for obvious reasons. The difference between the conditions of the two, town and country-village, *pura* and *juna-pada*, *shahar* and *dehat*, has been recognized in all times and climes. The one represents (by no means exclusively, but one by predominant



feature) the *intellectual power* (*budhi, aql*) of the People ; the other, their *vital power* (*purna, jan*). They are *inter-dependent*. Both are necessary for a full civilized life for the People as a whole. But the modern western plutocratic and bureaucratic centralizing tendency causes the town to grow *excessively* and absorb the vitality of the country inordinately. This excess needs to be checked, and a *just balance between the two* to be restored, in order to prevent disastrous devitalization of the soul and the body of the vast agricultural population, and the consequent crashing down, before long, of the whole much too top-heavy organism.

This balance will be restored by emphasizing the *separate autonomy* of the village groups and the towns—the needed co-ordination and mutual support being secured by the advice, and, where absolutely necessary, the control, of the Provincial Authority. The need of this separateness is recognized even under the British regime by the distinction between Municipal Boards and District Boards, though, of course, in that regime, the local '*self-government*' of the Boards is carried on under the strict '*other-government*' of the district officials.

The reason for fixing more elastic population-limits for the District and Town Groups in this. In the Punjab, the population of the existing twenty-nine districts varies from five lakhs to ten lakhs, and gives an average of about seven lakhs. The twenty-six districts of Bombay vary between three and twelve lakhs, and give an average of eight. The average for Bengal is sixteen ; the largest population, not only in Bengal, but the whole of India, being that of Mymensingh, *i.e.*, forty-five lakhs. The average for Madras is also sixteen. Also for Behar. That for the U.P., ten. Some of the larger districts, *i.e.*, Mymensingh with forty-five lakhs, Vizagapatam and Gorakpur with thirty-two each, Dacca and Darbhanga with thirty each, Muzaffarpur and Midnapore with twenty-eight each, are too bulky for convenience of autonomous administration. Even the men of the British regime have been thinking of dividing some of them into two or three districts each. The



capital towns have eleven or twelve lakhs. The lower limit for towns may be regarded as ten thousand. The Census officials of the present regime have defined the town as every continuous collection of houses inhabited by not less than five thousand persons. Ten thousand is suggested in the text, later on, in view of the fact that, that figure has been suggested for the rural Local Centre also. In British-occupied India, there are about twelve hundred 'towns' or villages, with a population between five and ten thousand, or a total of about eighty lakhs. In view of such facts, elastic limits, of five to twenty lakhs, have been suggested for the District. For purposes of symmetry, the figure might have been fixed at ten lakhs uniformly. It is the actual average for the two hundred and seventy-five districts of British-occupied India. But the centre of a district has, ordinarily, to be a fair-sized town. And in tracts where towns are few and far between, large agricultural areas and populations have to be grouped around and with them. Natural boundaries, rivers, forests, ranges of hills etc., also make for variation of area and population.

### NOTE TO CHAPTER III

#### *Functions*

Western writers divide the functions of government into (i) Constituent or Protective, and (ii) Ministrant or Promotive. The former are what may be called negative mainly, (a) the prevention of crimes and breaches of peace, and (b) adjustment of wrongs ; in other words, preventive and curative, or police-military and judicial. The others are positive and constructive, the active promotion of the welfare of the community.

The *laissez faire* school of socio-political thought, looking at the mischievous consequences of over-interference by the State, *i.e.*, the Bureaucracy, would confine the duties of government to the former only ; and would give to the individuals, regarded as units, who compose the Public or People, full liberty to work out their own destiny in their own ways, in competition with each other, so far as positive welfare or

'success in life'—whatever that might mean—is concerned. This is the school of Individualism. Another school, looking at the immense waste of energy and life, which results from unregulated competition, and at the exploitation of the less cunning and less able 'many' by the more cunning and strong 'few', (so that the evils of the bureaucracy re-appear as the evils of plutocracy) and also realising that widespread and substantial and lasting 'success in life'; depends more upon 'mutual aid' and co-operation and communal organization, than upon individual enterprise, recommend State-regulation and the free exercise of promotive functions by the State in new ways which will obviate the evils resulting from bureaucracy. This school of thought is generally known as that of Socialism; but by differences of views as to the ways, become divided into many, known as Collectivism. Communism, Anarchism, State-socialism, Guild-socialism, etc.

As usual, the truth is in the golden mean, and error in the extremes. The best course is the middle course. Our Swaraj must maintain a balance between Individualism and Socialism (*swartha*, and *parartha*); must reconcile the two. For *both* are *necessary* to full civilized life, even as the pronouns 'I' and 'We'. The needed reconciliation will be effected by maximizing local elective autonomy and minimizing centralization.

As to the preventive and curative functions, Police-Military and Justice, there is no dispute. Also so regards Medicative and Sanitative, which may be regarded partly as protective and partly as promotive. Sanitation being preventive of disease and promotive of health, and Medication being curative of ills.

But a certain amount of "promotive" work must also be done by the various grades of Centres. This work may be grouped under two main heads, the promotion (*i*) of right Education, the very foundation, of all communal welfare, (and therefore placed here before even Protection) and (*ii*) of economic and industrial well being. Education will include

Recreation also, as being indirect education in a popular and elastic and almost more effective form.

It is the duty of the elders of the family (i) to protect the younger generation, (ii) to amuse and educate them, (iii) to settle them in life, to put them in the way of earning a livelihood. The duty, the right, the function, of the elders of the villages, of the districts, of the provinces of the country as a great whole, is *none other*. All the functions of government are either these, or subsidiary to these.

A word may be specially added here on the subject of Recreation. The object of measures under this head would be two-fold ; (i) to provide such *refined entertainment*, for young and old alike as will give healthy *relaxation*, as well as healthy *tone*, and also *indirect* yet very useful education, to the mind and body of all sections of the public, in leisure hours ; and (ii) at the same time to *displace the evil recreations* of drink and drugs and other social vices and harmful indulgences. It should be borne in mind that *some* recreations human beings will have ; and where healthy ones are not easily available, evil ones *will* be resorted to.

The desirability should be considered here, of putting provision for "Places of public worship for the various creed" among the duties of the Panchayat, under the head of Education and Recreation, and putting it even in the forefront. The Worship of the Infinite, (a more indubitable fact than the Finite, is Recreation, creation anew of the soul and the finer elements of the body, nourishment for the inmost Heart, in a very real sense). That the Elders of the Commune should have the duty of making this provision duly (and separately only to the extent unavoidably necessary, and with at least one place where members of *all* and *any* creed might join occasionally in a Common Prayer worded so as to be acceptable to all)—this would conduce to the liberalisation of all the creeds concerned and thence to the Religious Peace which is indispensable for India's and the world's progress.

## NOTE TO CHAPTER IV

### *Panchayats and Allocation of Functions*

The placing of the head-quarters of the District Panchayat in the largest town of the district will make the co-ordination of the administration of the town and the country easy. And it is in accordance with natural tendency. The danger that the town may begin to dominate the country, is guarded against by the provision that the country members of the District Panchayat should be in the majority.

The proportion of the two classes of members is made equal in the Provincial Panchayat, and reversed in the India Panchayat, because the upper bodies have to deal more and more with technical and non-agricultural affairs.

### *The Essential Change*

“*Advisory* and not *mandatory*—excepting in rare cases”—this is the essence of the change needed in the administration. The change is one of *spirit*. The details of the official executive machinery may remain much as they are now ; but if the executive, the judicial, and the legislative powers are separated, and the ‘legislators’ (in the broad sense) who compose the Panchayats, of all grades, are elected, and the higher Panchayats ordinarily *advise* and not *command* the lower Panchayats and the executive officials are really responsible to the Panchayats, then, it is expected, the evils of the present regime will be cured. For the autocracy and the Bureaucracy will be replaced by what may be called an aristo-democracy. Aristocracy, because the panchayats will be composed of the *best* and most trusted and honoured of the people ; democracy because the people will *choose them*. The members of the Panchayats would not exercise any executive powers directly, either in their individual or their corporate capacity, but would only make laws or rules or pass resolutions. These would be carried out by the Executive. And the Executive, or at least the chief officials thereof, would be appointed and, if necessary, dismissed otherwise punished, by the Panchayats. In some cases the

executive official may be an elected one. He too would be subject to the supervision of the Panchayats. The control of the Panchayat-Legislative would thus be exercised over the Executive by means of this power of appointment, dismissal, or advancement. The Judiciary would be mostly elective also, subject to approval by the Panchayat-Legislative.

This separation of powers would minimise the temptations to, and opportunities of, corruption for all, would make Executive (and also the Judiciary) *responsible* to the People, in the persons of their Elect, which responsibility is the one great desideratum to-day.

It will be remembered that Mr. Gokhale suggested and endeavoured that Advisory Committees should be formed in each district, to advise the district officer in all important matters. Of course, the Bureacracy declined, on the ground that it would interfere with the individual responsibility of the district officer. When they said 'responsibility', they, of course, mean ir-responsibility ; for when was the district officer responsible, and to whom ? If he was or is responsible at all, it was and is only to the Bureaucratic Clique. If Mr. Gokhale could have agreed, as was suggested in some quarters, that the Advisory Committee should be nominated by the district officer himself, then, indeed, there would have been no difficulty in the acceptance of his suggestion. Only, then, each district officer would have had a standing Darbar of so many courtiers, the nawabic arrangement would have been completed, and the People would have been worse off than before.

What is needed is that the Advisory Committee should be a Panchayat made up of the Elders of the People, which will not *interfere* with the pretended and non-existent responsibility of the executive official, but will make it *real* and *enforce* it.

Measures are outlined later on, for further safeguarding and ensuring, as far as is humanly possible, the uprightness of the members of the Panchayats themselves ; for such safeguarding is the very heart of the whole scheme.

It should be noted that, though option is given, the presumption is that the majority of the members of the higher Panchayats will be chosen from among the members of the lower, who will be all directly elected by the People. Constant and sympathetic touch and unity of spirit and of work will thus be maintained throughout, and the People will, for all practical purposes, directly elect to the Panchayats, Local, Intermediate, and Central, even though, technically, the election to the latter will be by a process of distillation through electoral colleges. The latter process has some advantages, which too will be secured by this method. The immense worry and trouble and expense of holding huge elections, by millions upon millions of voters over and over again, for a handful of seats, would be all saved. And in the Local Panchayats, with their small area and population, and through them, in the upper ones, the elected and the electors will be in constant touch with each other, public opinion will carry its full weight and receive its full due, influencing the members of the Local Panchayats and through them those of the upper ones effectively.

It is very desirable that there should be a certain number of persons who should belong to the grades of Panchayats. They will serve as the personal linking medium and would bind together all parts of India continuously and effectively, and at the same time keep all the centres in real touch with each other. And this would be one important measure for guarding against the possibility (which is always present in federations of practically autonomous areas and communities) of their falling apart, under the influence of false provincialisms and insularities and other such causes, (which are very liable to be fostered by the linguistic demarcation), and so weakening the whole. Another measure is connected with finance, in the shape of some special All-India taxation ; and a third, with the use of a common language by the All-India Panchayat. Both are mentioned in their proper places.



In this way, the virtuous (and not the vicious) circle of (not to use the harsh word government', but) administration of the affairs of the People, for the People, by the People (Trusted and Chosen Elders) will be wholesomely completed. Human affairs should be administered by those who know human nature in mind and body ; a People's affairs should be administered by those who are its Elect and are in constant and sympathetic touch with, and therefore know, the People and their requirements of body and mind.

It will be seen that, under the scheme, the District Councils will be fairly large in point of numbers. A district of the maximum population of twenty lakhs, will have a Panchayat of one hundred members ; whereas the provinces which are largest in population (at present) will have no more in their Provincial Panchayats. As the bulk of the administrative work will be disposed of by the Local and the District Councils, when they are really autonomous very large numbers for the upper Councils are unnecessary from the standpoint of disposal and distribution of work between and by sub-committees. Very large numbers are also otherwise undesirable in deliberative bodies. The personnel may be changed at short intervals, by framing rules in that behalf. It may be observed here that these sub-committees properly framed and used, would correspond to heads of guilds, and would secure to the communal administration, the advantages, on a higher level, of the village-community as well as the city-guilds-system.

## NOTE TO CHAPTER V

### *Qualifications of Choosers and Chosen*

With regard to the ages suggested for Electors, the idea is that only those who are mature in body and mind, and have had some experience of life, and specially of family responsibility, should be entrusted with the duty of choosing those who would rule their affairs. The ages suggested would ordinarily give these requisites in India. It seems that in England the difference is reversed, twenty-one is fixed for men and thirty



for women. Perhaps it was thought that at the earlier age, women would be too busy with family cares and work inside the home, to be able to take much interest in the work outside. In India women are as mature in body and mind at twenty-one as men at twenty-five ; and these different ages, if fixed as suggested, would generally enable husband and wife to go to the poll together.

As regards the qualifications of the elected it has been said at the outset that the conditions for election should be such as would make it humanly probable that the electors may be seekers of public weal and not self-seekers. The qualifications mentioned in the Outline Scheme are as "the outward symbols of the inward grace." They are such as ordinarily go with the wise and self-denying and philanthropic nature. The reasons for suggesting them may be mentioned in greater detail as below.

(a) Legislators should be permanent residents of the country for which they are to legislate ; but their creed, caste, class, colour, race, or sex should not, as such, be regarded either as a qualification or as a disqualification. Without permanent residence in the country, sympathetic understanding is not possible ; while taking account of creed, caste, *etc.*, in the elections, imports into the resulting legislature the vicious spirit of conflicting interests and party-politics in place of the virtuous spirit of each caring for all. But if, because, at present, there is much creed and caste and class jealousy existent in the country, it should seem necessary that some exceptions should be made, there is provision for communal representation. It is to be trusted, however, that once the scheme begins to work, the whole atmosphere will change so that these jealousies will disappear, and it will be realised by all that civic well-being is independent of creeds and sectarian beliefs, as has been realised in Japan.

(b) At forty, persons have well passed middle age and usually have children of their own and thus experience of the

household life. This will make reasonably probable that the legislator possesses intimate knowledge of human nature in its more common and important aspects, knows what responsibility for the well-being of others means, and has sober and mature judgment. But he should have also retired from all competitive bread-winning or money-making and should be living on his past earnings or on a 'pension'. So, he would feel financially independent; his outlook upon life, his attitude towards his fellow-beings, would have changed from that of selfish taking to that of unselfish giving; and he would have all the leisure needed for his public duties.

It may be that many persons are not able to retire from their business or profession at forty. But we did not want many. Exceptions will be there to. And we want exceptionally selfless men for this essential and highest kind of public work. Twenty-one persons in thousand are not too many to expect. If the country cannot provide even so much self-denial, it may as well give up all attempts at Swaraj. But the country *has* been showing capacity for self-denial; and there is no need to be doubtful. Moreover, if few people are in a position to give up business or profession at forty, many *can*, and *ought to*, at forty-five or fifty, with considerable benefit to the whole moral tone of themselves and their community. And if the Panchayat members are fifty years or more, there is no harm done, but rather more mature wisdom and experience secured. After all, even under the current managements, the deliberative and legislative and guiding assemblies of most nations and communities are composed of grey-haired persons. A younger and physically more vigorous and active age is wanted in the executive offices, where action is required more than thought. It has to be remembered that the old *have been young*, and *know* what the young know; but the young *have not* been old, and *do not know* what the old know; though it is devoutly to be prayed that they may all become very very old and learn all that the old know, except the pains of old age! It may be that

many persons tend to become mentally inactive also, after fifty-five or sixty. But between forty-five and fifty-five is, ordinarily, a very good age for the kind of deliberative and legislative work we have in view here. And there are cases, though rare, in which the mind is thoroughly capable and active, and the body healthy, right up to seventy or more. But it may be worthwhile to fix a maximum age-limit also, say sixty or sixty-five as the minimum is forty.

Provision may also be made for exceptions. It may be that these high age-limits will sometimes exclude really brilliant younger men. Our conception of the legislator requires not *brilliance* but *wisdom*. Brilliance comes and goes, and plays false, and proves tinsel, and makes messes, but wisdom lingers. Wisdom is matured knowledge *plus* philanthropy, patriarchal benevolence. Brilliance may well wait and mature into a softer, steadier, soberer light and do its duty so much the better *after* attaining the forty years. If it is substantial, it will not get extinguished by waiting a few years. Yet, for cases in which the work of the Panchayat concerned is likely to suffer if any particular person is shut out because of the age-limit, provision may be made for exceptions, as said.

(c) We want another qualification in our Panchayat member. He should have done outstandingly good work in *some* walk of life—whether literary, scientific, educational, priestly, medical, artistic, etc., or administrative, official, military, etc., or commercial, agricultural, industrial, financial, etc., or as a labourer and manual worker; and he should have done this and at the same time acquired a reputation for uprightness and honest dealing and sympathy for fellow-creatures. An aged agriculturist who has tilled his few acres successfully, has raised up a good family, is respected and trusted in his own and neighbouring village, and can express his views clearly, is a wise village-elder, in short, may be a more useful member of a legislature which has to deal with vast agricultural interests like those of India, even though

he may be only just able to sign his name, than many brilliant speakers or writer with only a college education that has little touch of reality.

(d) Another desirable condition is that the legislator should not receive any cash remuneration for his work from the public funds. Such cash payment, while perfectly right and even necessary in other fields of work, taints the peculiar fiduciary status of the *legislator*, who should stand in the position of Trustee and Elder to the people. He should therefore meet all his *personal* expenses himself. But, of course, all his *ex-officio* expenses must be met out of public funds. This would invest the legislator with the venerable dignity which naturally belongs to such an Elder. Trust, honour, reverence—these are the proper, the only, and the natural price of patriarchal benevolence and caring; and they usually *are* paid, where the generous instincts and traditions of the community have not been perverted. Also, the giving and receiving of such honour—a reward greater than power and wealth and amusements, for it can be enjoyed not only in life, but also after the death of the physical body, which the others cannot be—is a great nourishment to the heart of both giver and receiver, and is a continuous inducement to benevolent work on the part of the latter (*when it is not mixed up with and corrupted by power and wealth*), and a powerful check against temptations to corruption. The natural corollary of this is that in all public functions, the unsalaried legislator should have rank and precedence above all salaried office-bearers as well as persons engaged in competitive money-earnings professions.

It will be readily seen that the idea underlying this condition is that which has been discussed and emphasised before, the idea of spiritualising politics by changing the whole culture and civilization of society from its present *mercenary* to a *missionary* basis, even as the work of the elders in a family is done for the youngers, not for mercenary motives, but of ‘missionary’ benevolence. The right instinct is already there;

it has only to be revived. Many western countries do not, or until recently did not, give any salary to their legislators. Aldermen are not paid. Nor are justices of the peace. The theory about the *honorarium* of the barrister is the same. But the prevailing mammonism of western civilization has corrupted the whole moral atmosphere of human life and penetrated into and vitiated even the most sacred domestic and fiduciary relations. If this atmosphere cannot be purified by the introduction of the missionary and patriarchal spirit in the Panchayats, the Legislators and the Courts of Arbitration, then there is no hope of true Swaraj.

(e) It goes without saying that, grade after grade, each Panchayat should have, in its personnel, members possessing between, them all the knowledge and experience needed for dealing with all the different kind of work which the panchayat as a whole has to attend to. For making rules for, and dealing with, each main department of work, the Panchayat will have to form a sub-committee out of its own members ; and it is obvious that these should have special knowledge of that kind of work.

(f) Another important point is thus : there should be no 'standing' offering of, or canvassing for himself by any one, as a candidate for election. The idea of self-display and *seeking* election is wholly incongruous with the spirit of philanthropic public service. Favours are sought, not burdens. The conception here should be, not that electors confer a favour or honor on the elected, but that they place a heavy burden of public work on him ; and it is, therefore, they who are to be placed under obligation, and should request the electee, instead of being requested by him. *Seeking* election for oneself has an inevitable savour of selfishness of some sort or other, about it, which is quite inconsistent with our ideal of the legislator. Of course, there will always be possibilities of abuse. But the point to be considered is whether they will be *less* or *greater* than under the current systems, under which the gross abuses of "electioneering", are as much a by-word as commercial

and financial “profiteering” and bureaucratic “domineering.” And it has also to be remembered that the mere *public acceptance and declaration of the principles* and ideas here suggested will change for the better, the whole tone and atmosphere of politics.

It may be objected that we may make a rule that there must be no canvassing, *etc.*, but—will not persons surreptitiously get others to nominate and canvass for them ? The reply is that obviously we do not profess to be able to abolish all evil. Whoever or Whatever made the Universe has not succeeded in doing so. Human beings can obviously not do better. Indeed, some people think and believe that if evil *were* abolished, *good* would disappear automatically also. But what human beings ought to and can do is, to try to minimise the evil and maximise the good, in a given time, place and circumstance. We profess only to make suggestions towards this. No doubt, there will be room for underhand doings. But the *other* conditions which we propose must not be overlooked. They will blunt the edge of the temptations to such doings. Thus, legislators will not be entrusted with executive powers, as they are to-day, in the capacity of Ministers or Executive Councillors, *etc.*, Judicial powers will also be separated off from the other two. And the re-formed public opinion will make a different atmosphere altogether. The general recognition of the non-mercenary principle ; and of the principle of the division of the rewards of extra honor, and special official powers, and extra wealth, and more amusements, *etc.*, in correspondence with the division of labour and functions and the difference of the main kinds of temperaments and capacities, the condition that legislators should not be engaged in any money-making business, which will naturally keep the public eye alertly and wakefully upon his purity—all this will make the election some thing to be accepted only from a sense of duty, as a burden for which the only (but great) recompense is honor, rather than to be eagerly sought for as a means of easy selfish joys.



**NOTE TO CHAPEER VI*****Separation of Functions***

The Judicial functions should be separated off from Executive functions is admitted even by the Bureaucracy in profession ; though they are avoiding, might and main, the carrying out of their profession into practice. But it is not equally generally recognised that the Legislative function should also be separated off from the other two. Even more radically dangerous than the combination of Judicial and Executive, is the combination of Legislative and Executive. If the Executive-Judge will always *decide* in favour of himself, or of his class or clique, the Executive-Legislator will *make laws* in favour of himself or of his class or clique—a far more radical danger, mischief at the very root.

In the ancient Indian scheme, the man of thought was the Legislator : and the man of action was the Executor of his law. Such a pioneer of reform in India as Raja Ram Mohan Roy has expressed an opinion that the downfall of India began when the Rajas usurped the power of making laws from the Pandits. The ancient *Smritis* are all composed by Rishis, not by Rajas. The Islamic tradition is similar, too. Therefore no legislator should have direct executive power ; but the Legislature should supervise and control the Executive which should be responsible in every way to the Legislature. This is the very essence of responsible government and self-government as conceived here. Where the chief Executive and the chief Legislative are practically identical, and the members of the former are substantially or heavily salaried as in England, true responsibility ceases, manoeuvres and intrigues of party politics become rampant, and legislation cannot be disinterested. In other places the opposite error is observable, viz., that if the Legislative is separated from the Executive, the latter is free of control by the former.

**NOTE TO CHAPTER VII*****Finance***

These provisions will reverse the present order of things, secure financial autonomy, and provide a safeguard against the



disastrous extravagance and top-heaviness which are the consequences of excessive centralisation have plunged western countries in hopeless indebtedness and bankruptcy, and are ruining India also.

## NOTE TO CHAPTER VIII

### *Proprietorship*

Two opposite tendencies are patent in politics and economics, as throughout human and other nature, in all the aspects and manifestations thereof. The current names for them are Individualism and Socialism. Other names for them are egoism and altruism, the separative 'I' and the communal 'We', mutual struggle or struggle for existence and mutual aid or alliance for existence, competition and co-operation. To endeavour to suppress either, and retain the other only, is a fatal error, due to ignorance of the very elements of human nature, or to blinding arrogance and greed for power and wealth. Bureaucracy and all other 'cracies', as also the many current schemes of collectivism—one of which is being tried in Russia under the name of Bolshevism—are always committing this disastrous error of one-sided and lop-sided excess and exaggeration, and therefore are always committing suicide while causing grievous disturbance and injury to the People. Russian Bolshevism, after a vain endeavour to abolish private property, in the course of which widespread misery of the most awful character has been caused, seems now to have decided to recognise private property, as was inevitable. Safety lies in recognising both these indefeasible and unabolishable aspects of human nature, and in trying to reconcile them wisely. The growth of the sense of separate *Individuality*, the growth of egoistic intelligence, of the institution of monogamous marriage and the sentiments connected with it, of the definition of the family life, of the sense of private property, of the customs of inheritance, of the incentive to productive efforts of an ever more complicated order—all these are inter-connected, inter-dependent, flourish or decay together. All the same time, by that paradox of antinomial duality or ambivalence which is the very nature of the

universe, their flourishing is possible only in the setting of a Society. Society and Individual, "We" and "I", are interdependent yet opposed. The reconciliation must be found in a National Organisation of Society, such as will give due play to the instincts, or forces of individualistic competition, (*droh-atmakavibhuti*) as well as socialist co-operation (*sambhuya-samutthana, sangh-atmaka sambhuti*). Refinement of life is not possible without accumulation of wealth ; and that is not possible without some play of Individualism (*vyashti-buddhi, bheda-buddhi, swartha, khud-gharazi, khudi*) the sense of private, exclusive, separate possession. But the excess of individualism leads to class-wars and disruption of communities and (when the spirit of Individualism puts on the mask and the larger form of Nationalism) to world-running wars, like the recent or indeed still continuing European War ; and so it defeats its own ends and commits suicide. To guard against this excess to set due limits to private accumulations, to ensure even the refinement against degenerating into vulgar loudness, to bring about an equitable distribution of necessities and comforts—this is the work of the spirit of Socialism (*Samashiti-buddhi, abheda buddhi, parartha aql-i-jamaati*). The reconciliation is to be found in making the private life simpler and the public possessions richer, by putting 'private' individuals in charge of 'public' properties of common use and enjoyment (like public parks, museums, zoos, childrens' and youths' playgrounds, reading-rooms, libraries, roads, tanks, wells, places of worship, rest-houses, dharmashalas, sarais, almshouses, bathing ghats, hospitals, etc., and inducing them, by the incentives of public honour (and public censure in the opposite case) to lay out their individually accumulated wealth on these. In this connection the principle of the separation of the four main prizes of life should be very carefully borne in mind. The preservation of the integrity of the central authority (in other words, of the purity of the Legislature), and the inducing of all the individuals composing the community to put forth the best work that there is in them—these are the main problems of government and social organisation. Modern governments and modern

collectivist schemes and experiments are all failing to find a solution for them. As said before, that Lenin, in Russia, after extraordinary efforts to abolish private property, has realised that capitalism has to be restored (though, no doubt, with limitations). He is reported to have found out that the peasants avoid working more than will produce enough for their necessary wants, and are not interested in supporting the 'intellectuals', *etc.*, who are necessary for the 'State', unless special inducement is applied. Now the simple old traditional solution, in India, of these problems is the separation of the four main prizes, of life, *viz.*, honor, power, wealth, and amusements, which constitute the main ambitious inducements of strenuous work of correspondingly different kinds. The possibility of combining them, of securing them all, is the one prime cause of all kinds of social and political corruption. Separate them, and you at once minimise the temptations of the central authority, and at the same time provide an adequate (if not excessive) inducement to every worker to put forth his best. Socio-political reform of the affairs of human beings, if it is to be successfully carried out, must not ignore these facts and laws of the Science of Psychology, *i.e.*, of Human Nature.

By taking due account of these laws and facts, it is possible to minimise the disadvantages and pick out the advantages of all the many forms of socio-political organisation, man has tried the village community, the city-guild system, the city-state, the country-state, theocracy or sacerdotalism, autocracy, and monarchy and despotism, aristocracy and feudalism and militarism, plutocracy and commercialism bureaucracy and oligarchy of many kinds, and finally democracy and collectivism of many shapes and forms—each one only a lop-sided and excessive exaggeration of one constituent and necessary element in the corporate life of humanity—and synthesise them all anew in a truly beneficial form of Self-government or Swaraj.

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# 3

## THE NEHRU REPORT

### INTRODUCTORY\*

In submitting this report to the All—Parties Conference which appointed this Committee, we consider it necessary at the very outset to draw attention to the fact that our instructions were to frame a constitution providing for the establishment of full responsible government. The reasons which have led us to interpret these instructions as a direction to follow the model of self-governing dominions are explained in Chapter I. It will be observed that in the body of the report we have made no distinction between “responsible government” and the “dominion form of government” and have throughout presumed that they mean one and the same thing. Our terms of reference do not call upon us to make out a case for responsible government for the obvious reason that so far as the Conference was concerned there was no necessity for doing so. There certainly are those among the parties represented in the Conference who put their case on the higher plane of complete independence but we are not aware of any who would be satisfied with anything lower than full dominion status. On the assumption that India is to have the status of a member of the British Commonwealth of Nations there is scarcely any difference of opinion between one section or another of political India. It may be safely premised that the greatest common factor of agreement among the well recognised political parties in India is that the status and position of India should in no case be lower than that of the self-governing dominions such as

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\*Note by the General Secretaries of the Indian National Congress, namely, Shuaib Qureshi, Jawaharlal Nehru and Subhas Chandra Bose.

Canada, Australia, South Africa or the Irish Free State. In one word the attainment of dominion status is not viewed as a remote stage of our evolution but as the next immediate step. That being so it would in ordinary circumstances be unnecessary for us to justify the basis of our recommendations.

But certain false issues have recently been raised in official circles with a view to defeating or delaying the establishment of any form of responsible government in India. It is quite likely that the arguments of these critics will be repeated in different forms from different quarters. We have therefore considered it desirable to dispel the clouds that have gathered round the main issue in this introduction to our report. These arguments may be summarised as follows :—

1. That responsible government does not necessarily mean dominion status and may fall short of it.
2. That Parliament does not stand pledged to dominion status.
3. That the problem of minorities and the absence of the necessary social conditions are obstacles in the working of a system of full responsible government.
4. That we are incapable of defending ourselves.
5. That the problem of Indian States has not been solved.
6. That there is a feeling of uneasiness prevailing in European commercial circles and the services.

‘Dominion status’ is a well understood phrase in constitutional law and though the task of defining it with precision may be difficult, yet every one acquainted with the history and growth of the political institutions prevailing in the dominions, understands what is meant by it. At the Imperial Conference of 1926 the position of the group of self-governing communities composed of Great Britain and the dominions was defined as follows : ‘They are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though

united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations'. (Keith, *Responsible Government*, Volume II, page 1224). The learned author from whom we have quoted says that 'the definition may be admired for its intention rather than for its accuracy as a description of fact as opposed to ideal'. We are content to look to its intention, and we feel that such difficulties as may arise in the actual working of a constitution, the basis of which is dominion status, in relation to the other members of the British Commonwealth of Nations may well be left to be solved in the case of the 'Dominion of India' as in that of any other 'dominion', by those wholesome moral and political influences which regulate and must regulate the relations of a composite commonwealth of nations.

The common characteristic of the constitutions of all the dominions is that they all have the responsible form of government everywhere, in other words a form of government in which the executive is responsible to the popularly elected legislature. That is how the 'autonomy' and the political power of each dominion has found expression, and we are not aware of the phrase 'responsible government' having received any other interpretation anywhere, nor, excepting where the form of government is professedly autocratic, do we find that the legislature has been assigned a position of subordination, or that fetters or restrictions have been imposed upon its powers.

Our critics, however, urge that the pronouncement of August, 1917, spoke of 'gradual development of self-governing institution, with a view to the progressive realisation of responsible government in India,' and that, that is the phrase used in the preamble to the Government of India Act. Now in the first place it is scarcely necessary to point out that those of us who are members of the Indian National Congress never acquiesced in the said phraseology, and in the second those of us who accepted the preamble cannot believe that in 1917-1919



Parliament or British statesmen deliberately spoke with mental reservation, and chose language which might be used to repel the claim of India to dominion status. In his speech delivered in the Legislative Assembly on February 8, 1924, Sir Malcolm Hailey, the then Home Member of the government, observed, "If you analyse the term 'full dominion self-government' you will see that it is of somewhat wider extent, conveying that not only will the executive be responsible to the legislature, but the legislature will in itself have the full powers which are typical of the modern dominion. I say there is some difference of substance because responsible government is not necessarily incompatible with a legislature with limited or restricted powers. It may be that full dominion self-government is the logical outcome of responsible government ; nay it may be the inevitable and historical development of responsible government, but it is a further and a final step". This speech may be taken to be the beginning of a new current of thought in official circles in India, and we find that it has ever since been re-echoed in the speeches of some British statesmen and the writings of publicists in the British Press, and in books that have been brought out by retired English members of the bureaucracy in India. Sir Malcolm Hailey's arguments and the implications of his arguments were at once repudiated by the members of the Legislative Assembly and by Indian public opinion outside the Assembly.

Now we desire to point out that the distinction drawn between 'dominion status' and 'responsible government' is a distinction which was never sought to be made in 1917, or 1919, nor was India invited to accept the declaration of August 20, 1917, in the sense that what His Majesty's government intended to promise to India was something less than the dominion status, viz., a responsible government comprising a 'legislature with limited or restricted powers'. To hold that this is what British statesmen really meant would be to attribute to them a deliberate equivocation which, if true, must tend to shatter the faith of even those Indian political parties in the plighted word of British Parliament, which have hitherto acted



upon the assumption that dominion status was India's allotted goal. Sir Malcolm Hailey knew well enough that in the Instrument of Instructions, issued by the King to the Governor-General, 'reference is made' "to the end that British India may attain its due place among our dominions" and he referred to it assuming, but not proving, that it would reinforce his argument. We think that the quotation we have made from the Instrument of Instructions so far from supporting the view he was urging, supports our view that neither Parliament nor any British statesmen made the subtle distinction between 'responsible government' and 'dominion status' in 1917 or 1919 which it was left to Sir Malcolm Hailey to make in 1924. It is entirely out of the question that India can agree to have responsible government in the sense in which Sir Malcolm Hailey used that expression, that is to say, a system of government in which the powers of the legislature are limited or restricted.

We should have thought that statesmanship required that the promise of responsible government would be interpreted in a broad minded spirit and that there would be no room for an interpretation which, if true, cannot but react on the honour of those who made it, and is bound to be repudiated in India. Is the atmosphere in which the declaration was made by Parliament, and the demand in response to which it was made, are borne in mind ; if, further, it is borne in mind that India was just like the dominions a signatory to the peace treaties, and is and has been an original member of the League of Nations, there should be no room for doubt that England is pledged to India that her place in the British Commonwealth of Nations is to be exactly the same as that of any other self-governing 'dominion'. The claim of India cannot be our opinion be disposed of by such distinctions as were made in 1924 by the Home Member of the Government of India. If Sir Malcolm Hailey is right in saying that in a system of responsible government the legislature may be one with limited or restricted powers, then full dominion self-government cannot for obvious reasons be the logical outcome of responsible

government, it can only come as 'a further and a final step' when restrictions or limitations placed on the power of the legislature have been removed. This is merely trifling with India and perpetuating that sense of struggle which, until it is over, must on the one hand be an ever widening source of friction between England and India, and on the other prevent the application of our energies to the practical task of self-government and social and economic reconstruction. As against Sir Malcolm Hailey's interpretation, we refer to the royal proclamation of December 23, 1919, in which His Majesty spoke of the Act of 1919 as pointing the way to "*full responsible government hereafter*", and "*the right of her (India's) people to direct her affairs and safeguard her interests*". Professor Keith speaking of the elections to Indian legislative bodies at the end of 1920 said that "they herald the time when India will possess full autonomy and will rank as an equal with the dominions and the United Kingdom itself as a member of the British Commonwealth". Our interpretation is no other than this, and we cannot acquiesce in an interpretation put by a member of the Government of India which virtually negatives the solemn declaration of Parliament.

We have therefore made our recommendations on the basis (1) that we are agreed that nothing short of dominion status will satisfy India and (2) that the form of government to be established in India will be the same and not lower than that of the other self-governing dominions.

We are aware of the various objections that have been taken to the suitability of that form of government to India. For instance, it has been said that the ballot-box is not suited to the genius of India and that India may have self-government without necessarily having responsible government. Indeed our critics go to the length of maintaining that parliamentary institutions have failed in Europe in practically every country other than England. It is somewhat remarkable that notwithstanding this sort of criticism, every country in Europe, which has turned its back on autocracy has adopted some

form or other of parliamentary institutions. Italy or Russia, which represent extreme types of political experiment can scarcely be held out to us by our critics as examples to follow. Not only is this true of Europe, but even oriental nations like Japan, Turkey and Persia have adopted constitutions of a parliamentary character. But assuming that the ballot-box is not suited to the genius of India, we ask, 'what is the alternative?' Some fanciful theories have been suggested. It has, for instance, been said that India may be parcelled out into compact states upon the model of the indigenous system prevailing in the Indian States. 'The ardent builders of the new Jerusalem', says Sir Walter Lawrence, 'must come down to some safe and sound foundation. Surely it would be better to adopt and improve the indigenous institution of Indian States, than to travesty and emasculate a system which is only tolerable in the vigorous hands of British officials, detached, impartial, and, to the Indians, inscrutable as the Sphinx'. ("The India That We Served", (page 289). What exactly can be the meaning of this sort of confused suggestion, it is difficult to understand. Surely, it is not intended to suggest that the provinces of India, or parts of those provinces, should be handed over to Indian princes or that a new order of princes is to be created from among the favoured classes in British India. That will be not evolving a constitution for India, in accordance with the wishes of the people of India and the plighted word of Parliament, but writing an epitaph on British rule in India from which the future historian will draw his own moral. A yet more grotesque suggestion was made a few months ago in a reputed organ of Tory opinion in England that the government should rescue from oblivion some surviving descendant of the great Moghal and install him as King at Delhi. We can scarcely believe this to be serious politics.

Again the idea of Indo-British partnership has been seriously mooted in England by some retired governors who believe that the entire problem of India will be solved if Indians can agree to a perpetual maintenance of a certain number—

not less than fifty per cent, it may well be more—of British officials to man the services of India. We have reasons to believe that in some high quarters the belief is seriously maintained that all that need be done at present is (1) to establish a modified form of government which shall consist of ministers appointed from among the elected members of the legislature and officials appointed by the Crown and owning responsibility not to the legislature but to the Crown, (2) to establish second chambers in the provinces so as to stimulate the conservative element and thus to provide an equipoise against the hasty, ill-conceived activities of an irresponsible lower house, (3) to leave the structure and composition of the central government absolutely untouched, and (4) if possible to make the Legislative Assembly less harmful than it is supposed to be by restricting the legislative activities of the all-India politicians who are imagined to be less 'representative' than their more compromising brethren in the provincial councils. Now, all this may pass with a certain class of people, both in England and in India, as a constitutional advance. In our opinion it will be very far removed from the problem of responsible government or dominion status.

The fact is that whatever difficulties may be said to exist in the way of establishing full responsible government in India, that is to say, in giving India the status of a dominion, there is no half-way house between the present hybrid system and genuine responsible government. As we visualise the problem, it is not to our mind so much a question of the colour of the administrative and governmental machinery, as of the basic principle on which the future government shall be based. If all the members of the Governor-General's executive council were Indians and if all the members of the bureaucracy in the provinces were Indians it would only mean the substitution of a brown for a white bureaucracy. We use these expressions in no offensive sense. The real problem, to our mind, consists in the transference of political power and responsibility *from the people of England to the people of India.*

How do the people of England discharge their responsibility towards India at present? The average British voter knows little of India and has no time for India. He sends a certain number of representatives to Parliament, who are divided into parties or groups. Most of them are supremely ignorant about India, and they have an abiding faith that the Secretary of State for India, on whom they have by status conferred certain powers, is there to look after the interests of India. The Secretary of State in his turn is generally a politician who has no first hand knowledge of India and who must perforce derive his knowledge of Indian affairs either from the Government of India, or from the members of his permanent staff, or from the members of the India Council. In other words, in actual practice the sovereignty of Parliament is translated into the rule of the India Office. The first need, therefore, of India is the abolition of the rule of this coterie, which in recent years has been found in several respects to be disastrous to the best interests of India and opposed to the freedom of the Government of India itself. The freedom of the Government of India, however, from the leading strings of the Secretary of State necessarily postulates the transfer of the political power from the British voter to the Indian voter. Never before in the history of India has India been ruled by a distant sovereign body which cannot exercise its powers directly, and which must, therefore, delegate its authority and power to its agents. Unnatural as the system would be in the case of any country, it cannot be endured indefinitely in a country like India, with its varied problems, social and economic, and more particularly when a new consciousness of its capacity, a new self-respect, and a new spirit of patriotism have given her a new motive power. Constitutionally, and as matter of principle, therefore, we think that nothing short of full responsible government based on a transference of political power to the people of India can meet the situation.

The practical objections to our demand for dominion self-government were formulated by Sir Malcolm Hailey, in the



form of certain questions in the speech to which we have already referred. They may be taken as typical of the criticism that is usually made by our critics. 'Is dominion self-government', asks Sir Malcolm Hailey, 'to be confined to British India only, or is it to be extended to the Indian States ?' We have attempted to answer this question in a separate chapter to which we invite attention.

The second question which was put by Sir Malcolm Hailey, and which is usually put by our critics, is as to the position of minority communities. Like Sir Malcolm Hailey, we do not desire to "exaggerate it", and like him we feel that "it has to be faced". We have attempted to face this problem in our report. We have provided for the protection of the rights of the minorities, not only in the declaration of rights, which in the peculiar circumstances of India we consider to be necessary, but we have dealt with the question at length in relation to the problem of the representation of the minorities in the legislatures. We would, however, point out that the problem of minorities is not peculiar to India. The existence of that problem in other countries has had to be faced in the framing of their constitutions after the war, but has never been treated as an argument or reason for withholding from them self-government in the fullest measure. We would earnestly recommend to the Conference that if, in addition to, or in substitution of, our recommendations, the settlement of the problem of minorities is possible by agreement on any other basis, such basis should be accepted in the larger and more abiding interests of the country.

Another question which was put by Sir Malcolm Hailey, and which is also usually put by others, is, whether we have satisfied ourselves that "there exist those social and political foundations on which alone such constitutional structure can safely exist". Sir Malcolm has in a way answered this question himself in the speech. "Now I do not wish," said he, "to exaggerate this point. I do not claim that a country must wait for constitutional advance until it has a huge preponderance of

educated voters. We did not wait for this in England. Again, I do not wish to deny that the intelligentsia of this country has a great—perhaps a preponderating—influence over the mass of public opinion, certainly an influence out of proportion to its numerical strength. But I do claim that for the moment political advance in India has already outrun social advance”. We would like to point out that a national government based on democratic lines could not have more grievously neglected the claims of social advance than has the bureaucratic government, partly because of its foreign character, partly because of its natural reluctance to court unpopularity, and partly because a socially strong India would also be a much stronger political India. We do not deny that there is much need for social advance. Indeed, the need seems to us to be urgent and imperative. We feel, however, that that is an argument for, rather than against, the establishment of responsible government; for we believe that without real political power coming into our hands, a real programme of social reconstruction is out of the question. At the same time we desire to point out that there are a number of agencies in the country, manned, supported and financed by the intelligentsia of this country, which have been for years past working in the field of social reform with appreciable results which are ignored by our foreign critics, who rather lay stress upon the darker side of our life than upon the brighter. We cannot believe that a future responsible government can ignore the claims of mass education, or the uplift of the submerged classes or the social or economic reconstruction of village life in India. At any rate, the record of even the present councils with their limited financial resources and limited power, shows that primary education has in several provinces received far greater attention and support from the members of the council than it used to in what are called the pre-reform days.

We are next confronted with questions relating to European commerce, and are told that “men who have put great sums of money in India and are daily increasing the sphere of their operation, have a right to know if we contemplate an early



change of government". Similarly, we are told that "men entering the services, whether civil or military, whether European or Indian, have a right to know if we intend a radical change of government at an early date". As regards European commerce we cannot see why men who have put great sums of money into India should at all be nervous. It is inconceivable that there can be any discriminating legislation against any community doing business lawfully in India. European commerce, like Indian commerce, has had to bear in the past, and will have to bear in the future the vicissitudes inseparable from commercial undertakings on a large scale and no government in the west or anywhere else has been able effectively to provide a permanent and stable solution for conflicts between capital and labour. If, however, there are any special interests of European commerce which require special treatment in future, it is only fair that in regard to the protection of those interests, Europeans should formulate their proposals and we have no doubt that they will receive proper consideration from those who are anxious for a peaceful solution of the political problem. As regards the services, we would draw attention to the provisions that we have suggested in our report. In respect of the emoluments, allowances and pensions they would be entitled to on the establishment of the Commonwealth we have provided a statutory guarantee. It is however our duty to point out that the Lee Commission was appointed in the teeth of Indian opposition; that its recommendations were adopted over the head of the Indian legislature; and we feel that the entire question of the source and method of recruitment of the services, their salaries, emoluments, allowances and pensions in the future, will require re-examination in the light of the new political conditions created under the new constitution. This, however cannot mean that the permanent services, whether European or Indian, will under a responsible government, occupy a less important or influential or safe position than they do in the self-governing dominions.

The last question to which we would refer is the question of defence. "Full dominion status", said Sir Malcolm Hailey,]

“means a dominion army under full control of the dominion government, and I have not yet seen any serious thinker who had pretended that India is yet in a position or will, in the immediate future, be in a position to create a dominion army in the proper sense of the word”. Professor Keith, writing on the subject, says “that the Indian Army could be officered by the Indians, and brought up to the standard of securing internal order, and even perhaps frontier defence, may be admitted, but the process has been so far extremely slow. It is probably true, that the Indianisation of the Army has not been popular in British Army circles, but there has been a disappointing lack of readiness of the necessary candidates for the commissions available, no doubt for the reason that men who desire to secure careers for their sons find more remunerative opportunities for them in the Indian Civil Service, in which moreover, an Indian has not to face the prejudice against him which he may find in the British Army. But the fact remains that self-government without an effective Indian Army is an impossibility and no amount of protests or demonstrations, or denunciations of the Imperial Government can avail to alter that fact”.

This is true, but we do not accept the constitutional position that without an Indian or dominion army India cannot attain dominion status. In the first place, the Indian army has not to be created ; it exists there already. In the next place, historically the position taken by our critics is not correct.

We venture to quote on this subject from the speech of Sir Sivaswamy Iyer in the Legislative Assembly, delivered on February 18, 1924. Sir Sivaswamy Iyer is a gentleman who has made a special study of the problem of the army in India and we have no hesitation in quoting him. “But with regard to the problem of the army, I have only to observe this, that so far as my reading of colonial history goes, none of the colonies was in a position to assume its defence at the time when a self-governing status was granted to it. For many years, the colonies were not even able to pay for their defence. It was the home government that had to contribute towards

the military expenditure of the colonies. We, on the other hand, have from the beginning paid for our army. We have not merely paid for our army, but we have raised our troops. We have raised and maintained our Indian troops and we have also maintained the British troops and paid for them. We have gone further than the colonies have done in the matter of undertaking our defence. No doubt, Sir Malcolm Hailey is right in saying that full dominion self-government implies the capacity to undertake the defence, not merely by paying for it but also by undertaking its officering and administration. But that was not a condition which was insisted upon in the case of any of the colonies. So far as defence against internal disturbances was concerned, that no doubt was condition which was pointed out to the colonies as essential some years after they were granted their self-governing status. But so far as defence against external aggression was concerned, I am not aware that the duty has been laid upon them even now. As regards naval defence, the obligation has not been laid upon them”.

We have recommended in our report the transfer of the control over the Indian army with the necessary guarantees for the pay, emoluments, allowances and pensions of the officers. We believe that the representation of the army in the legislature by a responsible minister, who will, in actual administration, no doubt be guided by expert advice, is bound to lead to the establishment of more intimate relations between the army and the legislature, and thus secure a continuous supply of funds for the army. As matters stand at present, the army budget is sacrosanct. Under the statute it is not open to discussion “unless the Governor-General otherwise directs”, but in any case it is not subject to the vote of the legislature. The position, at the present moment, is that the eight-unit scheme is the only serious attempt, that has hitherto been made at Indianising the army, and even if it is accelerated it should take at least a century before the army will be really Indianised. The fate of the Skeen Committee’s report which condemned the eight-unit scheme is well known, and the proposal to increase the number of candidates for Sandhurst is scarcely

calculated to lead to the Indianisation of the army within a reasonable distance of time. We do not agree with the view that the supply of candidates for Sandhurst could not have been larger than what it has been. We feel that the method of selection hitherto followed has left much to be desired. But we do not believe that an adequate degree of efficiency in the training of officers cannot be achieved in India if measures necessary to that end are adopted. It should be the first care of the responsible government of India to make her self-contained in military as in other matters. We have, accordingly, made provision in our report for a statutory obligation on the government to establish military training schools and colleges. As a matter of further precaution, we have provided for the establishment of a Committee of Defence, based more or less on well known models.

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To

Dr. M.A. Ansari,

President, All-Parties Conference.

Dear Mr. President,

I have the honour to present to you the report of the Committee appointed by the All-Parties Conference in Bombay on May 19th, 1928 to consider and determine the principles of the Constitution for India. I regret the delay in presenting this report. You have already been informed of the reasons for this delay and you were good enough to extend the time for the presentation of this report.

Allahabad

August 10, 1928

Yours sincerely,

Motilal Nehru,

Chairman.

### **THE REPORT\***

*The Committee* : The Committee, whose report we have the honour to present, was appointed by the All-Parties Conference

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\*Report of the Committee appointed by the All-Parties Conference to determine the principles of the Constitution of India.

as its meeting held in Bombay on May 19th, 1928 in terms of the following resolution :

“This meeting resolves that a Committee consisting of Pandit Moti Lal Nehru (as Chairman) Sir Tej Bahadur Sapru, Sir Ali Imam, Syt. Pradhan, Syt. Suaib Qureshi, Syt. Subhas Chandra Bose, Syt. Madhaorao Aney, Syt. M.R. Jayakar, Syt. N.M. Joshi and Sardar Mangal Singh be appointed to consider and determine the principles of the Constitution for India before 1st July next ; the Committee to circulate the draft among various organisations in the country. This Committee shall give the fullest consideration to the resolution of the Madras Congress on Communal Unity in conjunction with those passed by the Hindu Mahasabha, the Muslim League, the Sikh League and the other political organisations represented at the All-Parties Conference at Delhi and the suggestions that may hereafter be received by it ; the Committee will give due weight to the recommendations made by the various sub-committees of the All-Parties Conference at Delhi.

The All-Parties Conference will meet again early in August, 1928 to consider the Committee's report”.

*Brief History :* Before dealing with the work of this Committee it may be desirable to refer to some of the events leading up to the appointment of the Committee.

*Gauhati :* The Gauhati Session of the National Congress met in December, 1926 in the shadow of a great tragedy and when differences and conflicts between Hindus and Muslims were at their height. The Congress passed a resolution calling upon “the Working Committee to take immediate steps in consultation with Hindu and Musalman leaders to devise measures for the removal of the present deplorable differences between Hindus and Musalmans and submit their report to the All-India Congress Committee not later than March, 1927”.

In compliance with those directions the Working Committee and the Congress President for the year held several informal Conferences with Hindu and Muslim leaders and Members of the central legislature.

*The Muslim Proposals* : On the 20th March, 1927 some prominent Muslim leaders met together in Delhi and put forward certain proposals on the Hindu-Muslim problem for the acceptance of the Hindus and the country. These proposals, which have come to be known as the "Muslim proposals", laid down that Musalmans were prepared to agree to joint electorates in all provinces and in the central legislature provided :

- (i) Sind was made into a separate province,
- (ii) The N.W.F. Province and Baluchistan were treated on the same footing as the other provinces.
- (iii) In the Punjab and Bengal the proportion of representation was in accordance with the population.
- (iv) In the central legislature Muslim representation was not to be less than one-third.

These proposals were communicated to the Congress and the Congress Working Committee the very next day passed a resolution appreciating the decision of the Muslim Conference to accept joint electorates and trusting that a satisfactory settlement would be arrived at on the basis of these proposals. A sub-committee was appointed to confer with Hindu and Muslim leaders.

*Working Committee* : The Congress Working Committee met again in Bombay from the 15th to the 18th May, 1927 and passed a lengthy resolution on the Hindu-Muslim question. This resolution proceeded on the basis of the Muslim proposals but was more detailed and dealt with some other matters also.

*A.I.C.C.* : The All-India Congress Committee which met in Bombay on the same dates unanimously adopted the same resolution with minor alterations. The principal change suggested on behalf of the Hindu leaders present was that Sind should



not be separated on communal grounds but on general grounds applicable to all provinces. A change in the wording of the resolution removed this objection and it was passed unanimously.

*Swaraj Constitution* : This meeting of the All-India Congress Committee also passed resolution calling upon "the Working Committee to frame a Swaraj Constitution, based on a declaration of rights, for India in consultation with the elected members of the central and provincial legislatures and other leaders of political parties".

In October, 1927 the A.I.C.C. again passed a resolution on Hindu-Muslim Unity but this dealt with the religious and social aspect of the question.

*Madras Congress* : Madras Congress considered the Hindu-Muslim question in its entirety and passed a lengthy resolution, dealing with both political and religious and other rights, on the general lines laid down earlier in the year by the A.I.C.C.

*Swaraj Constitution* : The Congress further passed the following resolution on the Swaraj Constitution :

"Having regard to the general desire of all political parties in the country to unite together in settling a Swaraj Constitution, and having considered the various drafts submitted to it and the various suggestions received in reply to the Working Committee's circular, this Congress authorises the Working Committee, which shall have power to co-opt, to confer with similar Committees to be appointed by other organisations—political, labour, commercial and communal—in the country and to draft a Swaraj Constitution for India on the basis of a Declaration of Rights, and to place the same for consideration and approval before a special convention to be convened in Delhi not later than March next, consisting of the All-India Congress Committee and the leaders and representatives of the other organisations above-mentioned and the elected members of the central and provincial legislatures."



Immediately after this the annual session of the Liberal Federation held in Bombay passed resolutions “cordially appreciating the earnestness of the distinguished Muslim members who have put forward the scheme for the settlement of outstanding differences between the Hindu and Muslim Communities”, and suggesting that “the various items of the proposed settlement should be discussed at an early date by the duly elected representatives of the communities in a spirit of genuine co-operation as well lead to complete agreement”.

A few days later the Muslim League met in Calcutta and passed a resolution authorising the Council of the League to appoint a sub-committee “to confer with the Working Committee of the Indian National Congress and such other organisations as the Council may think proper for the purpose of drafting a constitution for India in which the interest of the Muslim community will be safeguarded” in the manner stated in the Delhi proposals of 1927 referred to above.

*Organisations Invited* : In compliance with the directions contained in this resolution the Working Committee of the Congress issued invitations to a large number of organisations. Among these we might mention :

1. National Liberal Federation, 2. Hindu Maha Sabha,
3. All-India Muslim League, 4. Central Khalifat Committee,
5. Central Sikh League, 6. South Indian Liberal Federation,
7. All-India Trade Union Congress, 8. General Council of all Burmese Associations, 9. Home Rule League, 10. Republican League, 11. Independent Party in the Assembly,
12. Nationalist Party in the Assembly, 13. Indian States Subjects Association, 14. Indian States Subjects Conference,
15. Indian States Peoples' Conference, 16. Anglo-Indian Association, 17. Indian Association of Calcutta, 18. Parsi Central Association, 19. Zoroastrian Association Parsi Rajkeya Sabha, 20. Parsi Panchayat, 21. All—India Conference of Indian Christians, 22. Southern India Chamber of Commerce, 23. Dravida Mahajana Sabha, 24. Landholders' Associations of Oudh, Agra, Behar, Bengal and Madras.

Subsequently at Bombay invitations were also issued to the Bombay Non-Brahmin Party, the Nationalist Non-Brahmin Party, the Communist Party of Bombay and the Bombay Workers' and Peasants' Party.

*All-Parties Conference-Delhi* : Many of these organisations sent representatives to the Conference which held its first meeting on February, 12th 1928 at Delhi, The Conference continued its meetings from day to day till the 22nd February.

The first question discussed by the Conference was the objective to be aimed at in the Constitution. It was proposed that the Constitution should aim at establishing what is called a dominion form of Government in India. Objection was taken by some members to this on the ground that the Congress had decided in favour of independence as the goal and no lesser goal should be aimed at. It was evident however that all the parties represented in the Conference were not prepared to go so far. Thereupon it was suggested that a formula might be agreed to which would include both the viewpoints. "Dominion Status" has come to mean something indistinguishable from independence, except for the link with the Crown. The real difference between the two is a difference in the executive. It was possible to lay down general principles governing the entire constitution without deciding at that stage the question of the executive. The proposal to adopt the formula of "full responsible government" was therefore accepted, with the clear understanding that those who believed in independence would have the fullest liberty to carry on propaganda and otherwise work for it. The first resolution of the Conference ran thus :

"The constitution to be framed providing for the establishment of full responsible government."

*First Committee* : The Conference also passed resolutions dealing with the redistribution of provinces, the electorates and reservation of seats. On the 22nd February, 1928 the Conference appointed a Committee with instructions to report on the following subjects : whether the constitution should be

bi-cameral or uni-cameral ; franchise ; declaration of rights ; rights of labour and peasantry and Indian States. Having appointed the Committee the Conference adjourned. The Committee presented their report within the period fixed for it and the Conference met again at Delhi on March 8th, 1928. Meanwhile the Council of the Muslim League had met and expressed its disapproval of the resolutions of the All-Parties Conference. The Council further laid down that its representatives "should press the representatives of various organisations to accept the proposals embodied in the resolution of the League Sessions of 1927 at Calcutta and report the final result to the Council for such action as they consider proper before proceeding with the framing of the Constitution".

This resolution of the Muslim League Council placed a difficulty before the Conference. In accordance with its provisions the report of the Committee could not be considered by the representatives of the Muslim League so long as their other proposals had not been accepted in their totality or the League Council was not consulted again for directions.

*March 8th 1928 :* The Conference met under this handicap. There was considerable discussion on the communal issues and it was found that there was no agreement between the representatives of the Muslim League and the Hindu Maha Sabha on the separation of Sind and on reservation of seats for majorities. The Sikhs were also strongly opposed to the latter claim. Thereupon on March 11th, 1928 the Conference appointed two sub-committees. One of these was to enquire into the financial aspect of the separation of Sind, and the other was to consider the feasibility of the system of proportional representation.

The report of the committee appointed on February 22nd could not be considered owing to the decision of the Muslim League representatives not to take part in the discussion. The Conference ordered the report to be published and circulated, and stood adjourned till the 19th May, 1928.

Early in April the Hindu Maha Sabha met in Conference in Jubbulpore and adopted resolutions of strong disagreement with some of the Muslim proposals.

*Bombay Meeting :* Thus when the All-Parties Conference met again on the 19th May, 1928 in Bombay the situation was not a promising one. The communal organisations had drifted further apart and each of them had hardened in its attitude and was not prepared to change or modify it. The two sub-committees appointed at Delhi on Sind and Proportional Representation had presented no report.

There being no likelihood of an agreed and satisfactory solution at that stage, it was thought that a small committee viewing the communal problem as a whole and in its relation to the constitution might succeed in finding a way out. The resolution quoted at the beginning of this report was thereupon passed.

*The Present Committee :* The Committee had to be a small one if it was to work properly. It was not possible to represent all interests on it, but an endeavour was made to have spokesmen of some important viewpoints. Sir Ali Imam and Mr. Shuaib Qureshi were to express the Muslim point of view ; Mr. M.S. Aney and Mr. M.R. Jayakar, the Hindu Maha Sabha's attitude ; Mr. C.R. Pradhan the non-Brahmin view ; Sardar Mangal Singh represented the Sikh League ; Sir Tej Bahadur Sapru the Liberal viewpoint and Mr. N.M. Joshi the interest of labour.

Of the ten members of the Committee elected by the Conference, Mr. M.R. Jayakar expressed his inability to act on it. Mr. N.M. Joshi stated that he could only take part when the rights of labour were being considered. As a matter of fact, he was unable to be present at any sitting of the Committee. Owing to ill-health Sir Ali Imam could only attend one sitting at great personal inconvenience and his presence at that sitting was most helpful. He has also been available to us for consultations from time to time. Mr. Pradhan attended the meetings of the Committee upto the 12th June.

*Delay in Report :* The Committee was called upon to report before the 1st July but in spite of every effort to complete the work in time the Committee was unable to adhere to the time table laid down. From June 5th onwards the Committee met almost daily for several hours at a time. It held 25 sittings besides informal conferences.

*Maximum Agreement :* The Committee although a small one consists of members belonging to different political schools and to different communal groups. Under the terms to its appointment it was called to give the fullest consideration to a number of resolutions passed by various organisations, some of them being opposed to each other. There were two formidable difficulties in the way of complete or even substantial unanimity. The first arose from the difference in the general outlook of the Congress and that of the other organisations, the former having at its last session adopted a resolution declaring independence as its goal and the latter aiming at dominion status ; the second from the widely differing angles of vision from which the various communal organisations viewed their political rights.

*Independence and Dominion Status :* The Committee had to face the first difficulty right at the beginning. At Delhi a phrase capable of a double interpretation—"full responsible government"—was used to avoid a decision on the question of dominion status or independence. The Committee felt however that it would be difficult to draw up even the principles of the constitution unless this question was decided at least so far as draft constitution was concerned. Some members of the Committee desired to adhere to the position taken up at Delhi but a majority was of opinion that a choice had to be made. This choice, in view of the circumstances mentioned above with so many different parties co-operating, could only be one—dominion status. On any higher ground a general agreement was not obtainable. "The majority of the Committee" were therefore "of opinion that the terms of reference to them require the Committee to consider and determine the principles of a constitution for full responsible government on the model of

the constitutions of the self-governing dominions". The principles of the Constitution which we have suggested are therefore meant for a dominion constitution but most of them of course can be applied in their entirety to a constitution of independence. Our deciding, as a Committee, in favour of such a constitution simply means that the maximum degree of agreement was only obtainable on this basis. It does not mean that any individual Congressman, much less the Congress itself, has given up or toned down the goal of complete independence. Those who believe in this goal retain the fullest right to work for it. But the maximum agreement thus reached will, we trust, serve as a satisfactory basis for a constitution which all parties can unite to work without prejudice to the right of any party or individual to go further ahead.

*Communal Aspect:* As to the second difficulty, from the constitutional point of view the communal controversies are of no very great importance. But, whatever their relative importance might be, they occupy men's mind's much more than matters of greater import and cast their shadow over all political work. We thus find ourselves face to face with a number of conflicting resolutions and recommendations all of which are equally entitled to our respect. But when we find that the view of the Madras Congress and the Muslim League is diametrically opposed to that of the Hindu Maha Sabha and the Sikh League, we must respectfully express our inability to accept either in its entirety. Indeed the very fact that we are called upon to determine the principles of the constitution after considering these divergent views shows that we are expected to exercise our own judgment in the matter and make such recommendations as are in our opinion most conducive to the political advancement of the country. We realise that our recommendations, however sound and expedient they may be, can have weight and effect only to the extent that they are acceptable to all the principal parties concerned. The only hope for an agreed constitution lies in finding the basis for a just and equitable compromise between all the parties after a full and fair consideration of all the circumstances. The Com-



mittee has spent a great deal of time and labour in the endeavour to find out such a basis, and has had the benefit of the advice of a number of prominent Hindu and Muslim leaders who, on the invitation of the chairman, attended some meetings of the Committee and rendered most valuable assistance. The result of that endeavour is presented in the following pages in the hope that it will be received by all the parties concerned in a generous spirit and with the single view of helping each other to lift up the nation from the depths to which it has sunk by mutual distrust and dissension.

*Acknowledgments :* Among those who responded to the chairman's invitation were Dr. Ansari, Pandit Madan Mohan Malaviya, Maulana Abul Kalam Azad, Mr. C.Y. Chintamani, Dr. S.D. Kitchlew, Moulvi Shafee Daudi, Mr. Sachchidanand Sinha, Munshi Iswar Saran, Dr. S. Mahmud, Chaudhri Khaliquz Zaman, and Mr. T.A.K. Sherwani. We are beholden to them for their valued help and co-operation. We feel specially grateful to the president of the Congress, Dr. Ansari, who came to us three times and was ever generous with his help whenever we were in difficulties. Our thanks are particularly due to Pandit Jawaharlal Nehru, the General Secretary of the Congress, who, but for a brief unavoidable absence, was in constant attendance at the meetings of the Committee. Besides undertaking the arduous task of compiling the figures printed in the appendixes to this report he rendered most valuable assistance at every stage of the Committee's work.

## CHAPTER II

### THE COMMUNAL ASPECT

*The Problem :* The communal problem of India is primarily the Hindu-Muslim problem. Other communities have however latterly taken up an aggressive attitude and have demanded special rights and privileges. The Sikhs in the Punjab are an important and well-knit minority which cannot be ignored. Amongst the Hindus themselves there is occasional friction, specially in the south, between non-Brahmans and Brahmans.

But essentially the problem is how to adjust the differences between the Hindus and Muslims.

*Population Ratios :* These two communities indeed form 90 per cent of the total population of India and Burma. The proportions at the 1921 census were :

Hindus	65.9 per cent
Muslims	24.1 „
Buddhists (chiefly in Burma)	4.6 „
Tribal religions (in hill tracts)	2.8 „
Christians	1.2 „
Sikhs	1.0 „
Jains	.2 „
Others	.2 „
	100.0 „

A study of the figures of previous census reports shows that whilst Hindus and Jains have been gradually decreasing, all the others have increased their numbers from census to census. The increase in the case of Muslims has not been great but it has been continuous. The following percentages since 1881 will show the relative numbers of the Hindus and Muslims at different periods :

	1881	1891	1901	1911	1921
Hindus	72.0	70.1	68.3	66.9	65.9 = - 6.1
Muslims	22.6	22.4	22.2	23.5	24.1 = + 1.5

These are the percentages in relation to the whole of India. Taking the Muslims separately we find that they have increased by 3.1 per cent during the last decade. The Hindus have slightly decreased during this period.

The distribution of the Muslim population is such that except in the frontier provinces in the north-west, and in Bengal and Punjab, they form a small minority everywhere. Their highest minority is in the United Provinces but even here it is less than 15 per cent. This 15 per cent in the United Provinces is

not spread out all over the province, but is largely concentrated in urban areas, specially in the northern part of the province.

In the Punjab, the Muslims are 55.3 per cent and in Bengal 54.0 per cent. In Sind they are 73.4 per cent and in Baluchistan and the N.-W.F. Provinces they are overwhelmingly strong.

*Communal Protection* : A new comer to India looking at these figures and at the strength of the Muslim community, would probably imagine that it was strong enough to look after and required no special protection or spoon feeding. If communal protection was necessary for any group in India it was not for the two major communities—the Hindus and the Muslims. It might have been necessary for the small communities which together form 10 per cent of the total.

*Live and Let Live* : But logic or sense have little to do with communal feeling, and today the whole problem resolves itself in the removal from the minds of each of a baseless fear of the other and of giving a feeling of security to all communities. In looking for this security each party wants to make for itself or to retain, a dominating position. We note with regret that the spirit animating some of the communal spokesmen, is not one of live and let live. The only methods of giving a feeling of security are safeguards and guarantees and the grant, as far as possible, of cultural autonomy. The clumsy and objectionable methods of separate electorates and reservation of seats do not give this security. They only keep up an armed truce.

The Muslims being in a minority in India as a whole fear that the majority may harass them, and to meet this difficulty they have made a novel suggestion—that they should at least dominate in some parts of India. We do not here criticise their demand. It may have some justification in the present communal atmosphere but we do feel that it has little to do with the premises we started from, unless indeed the best safeguard that one can have is to occupy a position of domination oneself. The Hindus on the other hand although in a great majority all over India are in a minority in Bengal and the

Punjab and in Sind, Baluchistan and the N.-W.F. Province. In spite of their all-India majority they are afraid of Muslims in these provinces.

We cannot have one community domineering over another. We may not be able to prevent this entirely but the object we should aim at is not to give dominion to one over another but to prevent the harassment and exploitation of any individual or group by another. If the fullest religious liberty is given, and cultural autonomy provided for, the communal problem is in effect solved, although people may not realise it.

*Communal Councils* : With this viewpoint before us we have provided several articles in the Declaration of Rights giving the fullest liberty of conscience and religion to each individual. We considered also a proposal to create communal councils to protect the cultural interests of each considerable community. This proposal was that any community being ten lakhs or more in number in any province shall have the right to have a council representing the members of the community for certain purposes which were mentioned. The manner of election of the members of these councils by their respective communities was to be determined by the Provincial Council. Each council was to consist of not more than 25 members. The functions of the communal council were laid down as :

- (1) Supervision of primary education, schools, orphanages, dharamshalas, sarais, widows homes, and rescue homes.
- (2) Encouragement of scripts and languages.

The communal council could recommend that grants be given to institutions or for scholarships, such grants being made either by the provincial or central government after being submitted to the vote of the House.

These were the main provisions in regard to the communal councils. The idea appealed to us as affording some kind of a substitute for other and worse forms of communalism. But some of our colleagues and several friends whom we consulted

were strongly opposed to the creation of these councils, both on communal and administrative grounds. They felt that these councils would help to keep communalism alive. We have therefore rejected the proposal.

The communal problem, so far as its political aspect is concerned, resolves itself now into the question of electorates, the reservation of seats, the separation of Sind, and the form of government in the N.W.F. Province and Baluchistan.

*Separate Electorates.* It is admitted by most people now that separate electorates are thoroughly bad and must be done away with. We find however that there has been a tendency amongst the Muslims to consider them as a "valued privilege", although a considerable sections are prepared to give them up in consideration for some other things. Everybody knows that separate electorates are bad for the growth of a national spirit, but everybody perhaps does not realise equally well that separate electorates are still worse for a minority community. They make the majority wholly independent of the minority and its votes and usually hostile to it. Under separate electorates therefore the chances are that the minority will always have to face a hostile majority, which can always, by sheer force of numbers, override the wishes of the minority. This effect of having separate electorates has already become obvious, although the presence of the third party confuses the issues. Separate electorates thus benefit the majority community. Extreme communalists flourish thereunder and the majority community, far from suffering, actually benefits by them. Separate electorates must therefore be discarded completely as a condition precedent to any rational system of representation. We can only have joint or mixed electorates.

We find that the Ceylon Reform Enquiry Committee, who have recently made their report, have recommended the abolition of communal electorates throughout the island.

*N.W.F.P. and Baluchistan.* Regarding the form of government in the N.-W.F. province and in Baluchistan, we are of

opinion that the status of these areas must be made the same as that of other provinces. We cannot in justice or in logic deny the right of any part of India to participate in responsible government. The All-Parties Conference has already agreed to this and we gather that no considerable group oppose this reasonable demand.

The questions that remain are the separation of Sind from the Bombay presidency and the reservation of seats in the legislatures. These are mixed questions of communal and general importance. We have reserved the question of reservation of seats to be considered both in its communal and general aspects in a subsequent chapter. The communal aspect of the question of the separation of Sind may conveniently be dealt with here and we proceed to consider it.

*Sind.* Sind has, by a strange succession of events, become a major problem in our politics. It is strange that those who were in favour of its separation from Bombay only a few years ago are now opposed to it, and those who were against separation then now vehemently desire it. All-India is exercised about this comparatively trivial matter. This sudden and somewhat inexplicable change of opinion demonstrates how communal considerations warp and twist our better judgement. For the last eight years, since the National Congress made Sind into a separate province, no voice was raised in protest. We feel that in the conflict of communal allegations and counter allegations the only safe course is to try to ignore them and consider the problem as dispassionately as possible. But unhappily it has become a part of the sentiment of the people and sentiment cannot be ignored.

It is stated on behalf of the Hindus in Sind and elsewhere that they are strongly opposed to the creation of "communal" provinces. We agree that the Muslim demand for the separation of Sind was not put forward in the happiest way. It was based on communalism and it was talked on irrelevantly to certain other matters with which it had no concern whatever. We can understand the Hindu reaction to this. But the manner



of putting it forward does not necessarily weaken the merits of a proposal. There is no question of creating a "communal" province. We have merely to recognise facts as they are. A long succession of events in history is responsible for the distribution of the population of India as it is to-day—Sind happens to contain a large majority of Muslims. Whether a new province is created or not Sind must remain a predominantly Muslim area. And if the wishes of this large majority are not acceded to, it would not only be doing violence to the principle of self-determination, but would necessarily result in antagonising that majority population. No Indian desiring a free India, progressing peacefully and harmoniously, can view this result with equanimity. To say from the larger viewpoint of nationalism that no "communal" provinces should be created is, in a way, equivalent to saying from the still wider international viewpoint that there should be no separate nations. Both these statements have a measure of truth in them. But the staunchest internationalist recognises that without the fullest national autonomy it is extraordinarily difficult to create the international state. So also without the fullest cultural autonomy, and communalism in its better aspect is culture, it will be difficult to create a harmonious nation.

We suspect that the real opposition to separation is not due to any high national considerations but to grosser economic considerations ; to the fear of the Hindus that their economic position might suffer if Muslims had the charge of affairs in a separated area. We are sure that this fear is baseless. Among all the people of India the Hindus of Sind are perhaps the most enterprising and adventurous. The traveller meets them in the four quarters of the world, carrying on prosperous businesses and enriching their people at home by their earnings abroad. No one can take away this spirit of adventure and enterprise from the Hindus of Sind and so long as they have it their future is assured. It must be remembered also that the powers of a provincial government are limited and there is the central government which has power in all important departments. If

however there is still some ground for fear that is a matter for safeguards, not of opposing a just demand.

We are therefore of opinion that even communal grounds justify the separation of Sind. If the Hindus stand to lose thereby and the Muslims stand to gain, of which we see no chance, such risk of loss by the one and the chance of gain by the other community will not, we hope and trust, be allowed by either to endanger the larger cause. We shall deal with the general aspect of the question later. We would note here that our colleague Mr. Aney does not agree with all the above views but agrees with our conclusion.

### CHAPTER III

#### COMMUNAL ASPECTS (RESERVATION OF SEATS)

Coming now to the question of reservation of seats, it was found that each party held strongly to its own opinion and was not prepared to give in. Muslims were insistent on the reservation of seats for the Muslim majorities in the Punjab and Bengal, and the Hindu Maha Sabha and the Sikh League were equally strongly opposed to this. The Committee considered various proposals, among them being :

1. Reservation of seats on population basis for majorities as well as minorities.
2. Part reservation for majorities with freedom to contest other seats.
3. Proportional representation.
4. Amalgamation of the Punjab and N. W. F. Province, with no reservation of seats.
5. No reservation, but special safeguards in the constitution for educational and economic advancement of backward communities.

Before considering these proposals, some of which were new, the Committee was of opinion that representatives of the principal organisations concerned might be consulted. An invitation was therefore sent on June 11th to the Hindu Maha Sabha, the All-India Muslim League and the Sikh League to

send one or two representatives to meet the Committee on June 21st. The response to these invitations was not very encouraging. The secretary of the Hindu Maha Sabha wrote to express his inability to send any representative on that date, and the secretary of the Muslim League did not send any answer at all. The Sikh League was prepared to send representatives but as the Maha Sabha and Muslim League were not sending any one, our colleague Sardar Mangal Singh did not think it necessary to trouble the Sikh representative to come. Some others who had been personally invited could not come. We had the privilege however of conferring with Dr. M.A. Ansari, who took the trouble to come and assist us with his advice.

The proposals set out above were discussed at two consecutive sittings at which Dr. Ansari was also present. No agreement could be reached on the first proposal, but decisions were taken on the remaining four. It will be convenient to deal with these latter before taking up the main proposal.

*Part Reservation.* The suggestion was to have part reservation of the majority community in the Punjab and in Bengal with freedom to contest the other seats. This part reservation was granted to the non-Brahmins in the south and is still continuing. But even in the case of the non-Brahmins it has been found to be wholly unnecessary as they have always, so far as we are aware, captured a far larger number of seats on the strength of their votes and have had no need to invoke the aid of the reservation clause. It is not the case of any one in the Punjab and Bengal that the Muslim majority will not succeed in capturing a large number of seats. What is feared by the Muslims, unreasonably most of us think, is that they may not capture the majority of seats. In any event they will capture enough seats to make them if not a clear majority at least a strong minority just short of a majority. If they are sure of capturing, let us say, 45 per cent of seats the need for part reservation disappears. We are not opposed to part reservation for majorities or minorities, with freedom to contest the remain-

ing seats, but we feel that in the case of Bengal and the Punjab it is unnecessary and does not materially affect the situation either way.

*Proportional Representation.* The next proposal is that of proportional representation. The sub-committee appointed by the All-Parties Conference to consider this method of election and representation has presented no report but some individual members have sent their separate notes. Sardar Mangal Singh has supported the proposal, but the others, while favouring the system, are of opinion that under present circumstances in India it will not work. We feel strongly attracted to this method and are of opinion that it offers the only rational and just way of meeting the fears and claims of various communities. There is a place in it for every minority and an automatic adjustment takes place of rival interests. We have no doubt that proportional representation will in future be the solution of our problem.

How far is it immediately practicable? Great stress is laid on its intricacy and of the general illiteracy of the electorate in India. We are told that it is impossible to work this system, desirable as it may be, so long as the electorate is not educated up to understanding its significance. We recognise this difficulty. It is considerable. And yet we feel that it is a little exaggerated. Proportional Representation requires not so much a high standard intelligence in the voters, as expert knowledge in the returning officers and the people who count and transfer votes from one head to another. There can be no doubt that there is a sufficiency of Indians who are competent enough to do this work of counting of votes satisfactorily. As for the general electorate it is very true that a standard of intelligence is necessary for a proper choice to be made in order of merit. But a certain standard is also necessary to exercise the right of vote even in a single-member constituency. It is notorious that even in highly democratic England that standard is lacking and votes are given not for high matters of policy or considerations that are really important, but for trivial matters or even some-

times most objectionable considerations which the exigencies of election times force to the front. A general election has turned in the past on the cry of hanging the ex-Kaiser or on a forged letter, and the men, who were to govern an empire and influence largely world events, have been elected for reasons which make every intelligent person despair of democracy. In India the standard of intelligence of the voter will, to begin with at least, be lower than that of the English voter. But these are reasons against democracy, not so much against Proportional Representation.

We are told that another strong argument against Proportional Representation is that for the illiterate voter it would do away with the secrecy of the ballot. We think that the device of three boxes of the same colour for each candidate with different symbols painted on each box to indicate the first, second and third choice, would remove this objection. But it applies in equal measure to the illiterate over at most of the ordinary elections to-day. In Malta, where there is a large majority of illiterate voters, Proportional Representation has been tried with success, but of course we cannot compare the little Island of Malta to our enormous country with its millions.

Most of us feel that there are no insuperable difficulties in the way of giving a trial to Proportional Representation in India. There are drawbacks and risks, but no proposal which we have considered is free from objection, and some of these involve a departure from principle which may bring greater difficulties in its train. Some of our colleagues however are not satisfied that Proportional Representation can be introduced at this stage in India. We therefore refrain from recommending it.

*Amalgamation of Punjab and N.W.F. Province* : It was suggested that the N.W.F. Province be amalgamated with the Punjab and that there should then be no reservation of seats in this province. We have no objection to this proposal but we

do not know how far this will meet the different viewpoints of the parties concerned. If it does meet with their approval, we would gladly recommend it. There is no special principle involved in it. Its acceptance or otherwise depends entirely on whether it is approved or not. Our colleague Sardar Mangal Singh does not approve of the proposal and we understand that some other people also are of his opinion. We therefore make no recommendation in regard to it.

*Amalgamation of Punjab, N.W.F.P., Sind and Baluchistan :* A similar but more far reaching proposal was made to us, namely, that the Punjab, the N.W.F. Province, Baluchistan and Sind should all be amalgamated together, and that there should be no reservation of seats, unless the minority desires it, in this area. We were unable to entertain this proposal. It would mean the creation of an unwieldy province sprawling all over the north and north-west.

*No Reservation in the Punjab :* Another proposal in regard to the Punjab was that there should be no reservation whatever but that special safeguards in the constitution for educational and economic advance of backward communities may be provided. We would cordially welcome such a solution if it was agreed to. But we have to recognise that a unanimous acceptance of this proposal is at present unlikely, otherwise there would have been no communal friction. In our draft constitution we have included many safeguards for minorities and provisions for the educational and economic advance of backward communities. We would gladly add to these safeguards and provisions if thereby we could remove feelings of insecurity in any community and do away with reservation of seats and other communal expedients. It seems unnecessary to pursue the subject any further in the present atmosphere.

*Reservation of Seats on Population Basis :* We now come to the main question, the reservation of seats on the basis of population, both for majorities and minorities.



**General :** It was never seriously denied that reservation of seats for communities was as bad in principle as communal electorates, but, for various reasons of expediency, such reservation was recommended for a time to serve as a transitional stage between communal electorates and general mixed electorates without any restrictions. The idea was that during the interval the distrust of one community of the other would be very much lessened if not altogether removed. Similar arguments were used when the Lucknow Pact was arranged, but the actual experience of the last 12 years has belied the expectations then formed. Communal electorates might or might not be responsible for the increasing communal tension for recent years but they have certainly failed to pave the way to a better understanding between the communities as was hoped. General reservation of seats for any community whether found in a minority or a majority is a full recognition of communalism and differs little from communal electorate.

**Reservation for Majorities :** Reservation of seats for majorities has been fiercely opposed—both on grounds of theory and fact. The question arises only in the provinces of the Punjab and Bengal where the Muslims are in a slight majority over all others. It has not been claimed for any other majority in any other province. We have therefore to consider the Punjab and Bengal only in this connection.

We should have thought that of all the provinces of India the Punjab and Bengal were the most fortunate in that the distribution of population was such that there was little change of one community or group dominating over another or harassing it and preventing its growth in any way. Although one community is in an absolute majority in both of these provinces the others are strong enough to protect their own interests and prevent any oppression.

Reservation for a majority is indefensible in theory. It is an artificial restriction on the growth both of the majority and the minority and must necessarily retard national progress. It

is, we feel, specially injurious to the majority itself for it makes it rely on legislative provision to keep up its position and not on its own inherent strength. After a period of reservation such a community is bound to lose in self-reliance and all the qualities that contribute towards building up a people and adding to their creative energy. Ordinarily a majority captures seats in excess of its population strength unless the method of election is by proportional representation. This is evident as the majority may be so spread out as to be in a commanding position in each or at any rate most constituencies. It is this danger of the majority capturing far more seats than its population strength entitles it to, and thereby encroaching on the limited preserves of the minority, that leads to the protection of minority interests.

A majority reservation or other fixation of seats is incompatible with real representative and responsible government. It obviously interferes with the right of the electors to choose whom they like. Further, it is bound to come in the way of other and more natural groupings in and outside the legislature and it will give a longer lease of life to communalism. Everybody regrets the communal spirit and desires to exercise it from the body public. But it is clear that it cannot go merely by talking about unity and indulging in pious platitudes which take us nowhere. Communalism can only go when the attention of the people is directed to other channels, when they begin to take interest in questions which really affect their daily lives rather than in fancied fears based on an artificial division of society. We must therefore try to create this new interest in the people and we must put no barrier in the way of the development of this interest. There can be no doubt that a majority reservation and fixation of seats is such a barrier.

*Methods of Reservation :* An examination of the methods by which reservation for a majority can be secured will show that it is not only a negation of representative government but is in direct conflict with the principle on which responsible government rests.

*The Montagu-Chelmsford Method* : One of these methods has been applied in the Madras and parts of the Bombay presidency to secure a partial reservation for the overwhelming majorities of non-Brahmins in those presidencies. This large community which forms over 96 per cent of the population of the Madras presidency succeeded in inducing the government, on the recommendation of the Southborough Committee, to reserve for them 28 seats out of a total of 98 to protect them from the small minority of Brahmins who did not exceed 2.5 per cent of the whole population. The manner in which this reservation was secured was that two purely non-Brahmin constituencies, each returning a single member, were created and, of the remaining constituencies, 25 were made plural, each returning three or more members, two of whom non-Brahmins in Madras city, and one must be a non-Brahmin in each of the remaining 24. The rule on the subject is thus stated :

“When the counting of the votes has been completed the Returning Officer shall forthwith declare the candidate or candidates as the case may be, to whom the largest number of votes has been given, to be elected : provided that if one or more seats are reserved the Returning Officer shall first declare to be elected the non-Brahmin candidate or candidates, as the case may be, to whom the largest number of votes has been given”.

To illustrate this rule take the case of Madras city where out of six seats in a mixed electorate two are reserved for non-Brahmins. Assume that no non-Brahmin candidate has secured enough votes to be placed among the first six who have polled the largest number of votes and that the only non-Brahmin candidates who have secured any votes are to be found somewhere near the bottom of the list. Under the rule just quoted two of these non-Brahmins would be at once declared to be duly elected and the 5th and 6th candidates on the list who are not non-Brahmins would have to give place to them. Thus in the case of non-Brahmins the choice of the electorate is

wholly set aside even though a majority of their own community voted against them. The question is whom would these two non-Brahmans represent. It is clear that they do not represent the majority of the electorate nor possibly even a majority of non-Brahmans. They have come in by an artificial rule based on no principle whatever. Happily the fears of the non-Brahmans in Madras turned out to be unfounded and we are informed that there never was a single occasion to put the rule into practice.

It is bad enough to have 28 members of this kind in a representative house of 98 members, but when the majority of members are elected in this manner and the ministry is formed from out of them, representative government becomes a farce.

*“Sind Pact” Method :* Another method of reservation of seats both for the majority and the minority has been suggested by the promoters of what is called the “Sind Pact”. This method is thus described in clause 5 of the “Pact” :

“In order to make the system of joint electorates truly effective, there shall be one common electoral roll for each constituency and the election of Muslim and non-Muslim representatives should be held separately but on the same day, so that the whole electorate, Muslim and non-Muslim, shall have the right and opportunity to vote at both these elections separately, whereby the members so elected shall have been returned by the entire constituency and not only by the voters of their own communities”.

The only merit claimed for this method is that the “members so elected shall have been returned by the entire constituency and not only by the voters of their own communities”. For this purpose it would not be necessary to hold the elections separately as in a single election also the whole electorate—Muslim and non-Muslim—would have the right and opportunity to vote. The real object of the clause seems to be to avoid competition between the Hindu and Muslim candidates and thus

secure to them reservation of seats according to their numbers. Apart from the fact that such competition is essential for the exercise by the elector of his free choice, the method proposed entirely shuts out all opportunity for a Hindu elector to vote for a Muslim candidate in preference to a candidate of his own community and *vice versa*.

It is obvious that the result of two separate ballots for each group of candidates can never be the same as that of a single ballot for both and that there will always be much greater chance at separate elections for the majority community to secure the return of their mandatories from among the minority community by concentrating their votes on them.

*Both Methods Unsatisfactory* : It will thus be seen that neither of the two methods discussed above is likely to give satisfactory results. The third and the only remaining method of which we are aware is that of separate communal electorates which we have already discussed. The doing away of communal electorates is intended to promote communal unity by making each community more or less dependent on the other at the time of the elections. But reservation for a majority community in a mixed electorate will take away much of the incentive for communal unity, as the majority community as a whole would under all circumstances be assured of its full quota without the help of the other communities. There is no doubt some advantage to be gained by individual candidates of either community having to canvass the other community as against their rivals of the same community but this small advantage will probably not be availed of in times of acute communal tension.

It is absurd to insist on reservation of seats for the majority and claim full responsible government at the same time. Responsible government is understood to mean a government in which the executive is responsible to the legislature and the legislature to the electorate. If the members of the executive with the majority behind them have all got in by reservation and not by the free choice of the electorate there is neither

representation of the electorate nor any foundation for responsible government. Reservation of seats for a majority community gives to that community the statutory right to govern the country independently of the wishes of the electorate and is foreign to all conceptions of popular government. It will confine minorities within a ringfence and leave them no scope for expansion.

*Defects of Elections :* We have based the foregoing observations on the principles generally applied to representative government. We are aware that those principles have in practice been found far from perfect and that serious objections have been raised in certain quarters against democratic government itself. We can hardly enter into these considerations in this Committee and must at this stage of our evolution accept the principles governing elections in most of the advanced countries of the world. We are also aware that the system of election we have recommended has sometimes failed to establish the rule of the majority, as in the case of the last British elections, which resulted in the return of an overwhelming majority of members who had only the support of a minority of electors. This we believe was mainly due to inequalities in voting strength and the wastage of votes on candidates who did not need them. The only remedy is proportional representation which for the reasons already mentioned we have refrained from recommending at present.

*Facts and Figures :* We have so far considered the question of reservation for majority on principle but the strongest argument against such reservation is furnished by the facts as they are. We are indebted to Pandit Jawaharlal Nehru for the figures given in appendixes A and B which he has compiled with great industry from the reports of the last census relating to Bengal and the Punjab—the only two provinces in which the Muslims are in a majority. These figures conclusively show that there is no foundation in fact for the fears entertained by the Muslims in these two provinces, and indeed no occasion for any adventitious aid to secure to them the full benefit of their



natural majority. The argument is that Musalmans will not obtain adequate representation and the slight majority they have will be more than counter-balanced by their educational and economic backwardness in the provinces. The whole force of this argument, which is based on the total population of the two provinces, disappears when we examine in detail the figures relating to the administrative divisions and the districts composing them.

It appears from an analysis of the population figures of the Punjab and Bengal that Muslims can certainly have nothing to fear from a free electorate, without any reservation of seats, in these two provinces. It will be clear from the figures given in the appendixes that in both the Punjab and Bengal the distribution of population is such that the Muslim majority in most of the geographical and administrative areas comprising these provinces is much greater than it appears when the whole province is taken as a unit. We find that there are natural areas of reservation for the different communities which ensure the representation of each community far more effectively than any artificial reservation can do.

*The Punjab* : Thus in the Punjab, we have a Muslim zone in the north and north-west of the province, where the Muslims are overwhelmingly strong and where no other community can encroach on their preserve. We find also a smaller area in the south, the Hindu zone, where the Hindus and Sikhs are equally strong. Between the two there is a third area where the Muslims are predominant, but not overwhelmingly so. This analysis leads us to the conclusion that Muslims are bound to capture over 47 per cent of the total seats in the Punjab from their special zone alone, whilst the Hindus and Sikhs will jointly capture nearly 30 per cent. The remaining 23 per cent of seats will lie in either a predominantly Muslim area or in districts where the Muslims are the strongest single community. Allowing for every contingency we can not conceive of Muslims not capturing enough seats in this area to give them a clear majority in the provincial legislature.

We have discussed these population figures for each Punjab district in detail in our note attached. (Appendix A). We may here however refer to some of these figures.

The population of the Punjab (British territory) at the last 1921 census was as follows :

Muslims	11,444,321	55.3%
Hindus	6,579,260	31.8%
Sikhs	2,294,207	11.1%
Others (mainly)		
Christians	367,236	1.8%
<hr/>		
Total Punjab population	20,685,024	100%

There are 29 districts in all. We have divided these into four zones :

- I. Fifteen districts in the overwhelmingly Muslim zone. The percentage of Muslims in one district is nearly 91 ; in nine districts it is between 80 and 90 ; in two districts it is 71 or over ; and in three it is 63.3, 61.9 and 60.7. We have included the last three districts in this zone as, although the Muslim percentage is not so high as in the adjoining districts, it is very high compared to the Hindus and Sikhs combined. Thus in one (Sheikhupura) Muslims are 63.3 per cent, Hindus 16.0 per cent ; Sikhs are 15.9 per cent in Sialkot, Muslims are 61.9 per cent, Hindus are 19.5 per cent and Sikhs are 8.0 per cent ; in Lyallpur Muslims are 60.7% Hindus are 18.1 per cent and Sikhs are 16.4 per cent.

It should be remembered that the non-Muslim minority in all these districts consists not of one group but of several communities Hindus, Sikhs, Christians and others.

If we give one member of the legislatures to every 1,00,000 population as we have suggested elsewhere, we

find that 98 members will be returned from this Muslim zone alone. This amounts to 47.3 per cent of the total membership of the legislature.

II. There are two districts (Lahore and Gurdaspur) which might be called the predominantly Muslim zone. Here the Muslims are greater than Hindus and Sikhs combined—in Lahore they are 57.3 per cent of the total—but they are not so many as in zone I. The number of members of the legislature for these two districts are 19.5 or 9.4 per cent of the total membership.

III. There are three districts where no community is predominant but even here the Muslims are the strongest single community. The number of members of the legislature for these districts is 27.5 that is 13.3 per cent of the total.

IV. There are nine districts which might be called the overwhelmingly Hindu-Sikh zone. The number of members for this zone is 61.5 or 29.7 per cent of the total.

We thus see that Muslims are certain of 47.3 per cent seats ; have a good chance of capturing the majority at least 9.4 seats ; and a fair chance of some seats out of the 13.3 per cent of group III. They are thus, humanly speaking, assured of a clear majority in the legislature.

*Bengal* : In Bengal the figures are even more illuminating. These are discussed in full detail in the separate note attached (see Appendix B). We give here only a brief summary. The population figures are—

Muslims	25,210,802	54.0%
Hindus	20,203,527	43.3%
Others (chiefly tribal religions and Christians)	1,281,207	2.7%
Total Bengal population (British territory)	46,995,536	100.0%

Here also we find definite zones as in the Punjab.

- I. Overwhelmingly Muslim zone. There are 13 districts with 282 members of the legislature or over 60 per cent of the total.
- II. Predominantly Muslim zone—two districts with 23 members or 5 per cent of the total.
- III. Neutral or predominantly Hindu zone. Four districts with 42 members or 9 per cent of the total.
- IV. Overwhelmingly Hindu zone. Nine districts with 118 members or 25 per cent of the total.

Thus in Bengal from the overwhelmingly Muslim zone alone, not taking into consideration the predominantly Muslim zone, Muslims are assured of over 60 per cent seats in the legislature. The Hindu minority, although it is very big minority, is highly likely to suffer in numbers in an open general election without reservation.

*Bengal District Board Elections* : This has recently been demonstrated in a remarkable manner by the figures of the last District Board elections in Bengal, printed in Appendix C. The electorates for these boards as mixed Hindu and Muslim, but the electoral roll being based on a property or tax paying franchise does not maintain the population proportions of the two communities. We expect that the voting strength of the Muslims, who are economically weaker than Hindus, is much less than it would be with adult suffrage and yet we find that they made a clean sweep of the Hindu minority in three districts—Mymensingh, Chittagong and Jessore. In the first two of these not a single Hindu was elected though the Hindus are about 24 per cent of the population, and in the third only one Hindu managed to get in though the community forms 38.2 per cent of the population. As against this we find that Muslims, where they are in insignificant minorities of 3 and 4 per cent, have managed to send one to three representatives to the District Board. We have also very interesting examples of what happens when the two communities are found in about equal strength. The cases of Khulna and Dinajpur are in

point. In the former the non-Muslims being 50 per cent of the population carried 11 seats as against 5 taken by Muslims who were 49.8 per cent. In the latter the Muslims being 49 per cent of the population carried 14 seats as against 4 of the Hindus who were over 44 per cent. Actual population is not a safe guide in the absence of exact figures showing the voting strength of the two communities, but we think it can safely be inferred that the Muslims in Bengal need no protection from all the non-Muslims put together. The case of Jessore is particularly interesting. As long as the Muslim majority did not take much interest in the local affairs of the district the Hindu minority had it all its own way. Once roused to action the Muslims not only swept the polls but for the first time in the history of their District Board gave it a Muslim chairman and a Muslim vice-chairman, both members of the Bengal Council. We are informed that the last elections for the District Board in Bengal have opened the eyes of both communities and that Muslim opinion is now veering round to mixed electorates. It is one of the tragedies of communal hostility that men shut their eyes to facts and fight against their own best interests. We commend a careful study of the figures we have given in Appendices A, B and C to those who are flooding the country with elaborate manifestoes and memoranda in support of communal electorates for the Punjab and Bengal.

*Economic and Educational Standards :* We find therefore from an analysis of the actual figures that Muslim fears in the Punjab and Bengal are largely imaginary. These fears are based on the superior economic and educational standards of the Hindus and Sikhs. We have seen that this superiority has not helped the Hindus of Bengal at the District Board elections and we are sure that the result of council elections will be even more strikingly in favour of Muslims. But there is no doubt that Muslims are backward both in education and in wealth, specially in Bengal, as compared to the other communities. There is also no doubt that the power of wealth is great in the modern state. It is so great indeed that it seldom troubles to

contest seats in the legislature as it can pull the strings from behind the scenes. Reservation of seats or separate electorates or any other device of this kind cannot materially reduce this power. So long as people think and act in terms of communalism, so long will they not face the real problem. And if they will not face it, they will not solve it.

We are not here called upon to advise on a new structure of society where the economic power is not concentrated in the hands of a few. We take it that the communal organisations which aggressively demand special rights and privileges for their respective communities are not desirous of attacking the basis of the existing structure. If this is admitted then all we can do is to provide safeguards and guarantees for education and economic advancement' specially for all backward groups and communities.

*Parties in Free India :* We are certain that as soon as India is free and can face her problems unhampered by alien authority and intervention, the minds of her people will turn to the vital problems of the day. How many questions that are likely to be considered by our future legislatures can be of a communal nature ? There may possibly be a few now and then but there can be no doubt that the vast majority of the questions before us will not be communal in the narrow sense. The result will be that parties will be formed in the country and in the legislature on entirely other grounds, chiefly economic we presume. We shall then find Hindus and Muslims and Sikhs in one party acting together and opposing another party which also consists of Hindus and Muslims and Sikhs. This is bound to happen if we once get going.

*Hindu and Sikh Minorities :* Looking at it purely from the Hindu point of view, however, we can well imagine that a reservation of seats for the Muslim majorities in the Punjab and Bengal, may actually benefit the Hindus, and may be Sikhs also, more than no reservation. The facts and figures we have stated demonstrate that the Muslim position in the Punjab and Bengal is so strong that in all likelihood they will gain in a



joint electorate with no reservation more seats than their population warrants. Thus the Hindu and Sikh minorities may find their representation even reduced below their population ratio. This is a possible and indeed a likely contingency. But it is impossible to provide for such contingencies. The safest and most obvious course is to have an open election with such safeguards as we can devise.

*Informal Conference* : The considerations set out above were fully discussed at the informal conference to which reference has already been made and the following resolution was unanimously adopted, subject to note by our colleague Sardar Mangal Singh on the second part of the resolution ;

“We are unanimously opposed to the reservation of seats in the legislatures either for majorities and minorities and we recommend that no such reservation should be provided for in the constitution. But if this recommendation is not accepted and an agreement can be arrived at only on a reservation of seats on the population basis we recommend that such reservation be made for majorities or minorities without any weightage and with a clear provision that it shall automatically cease at the expiry of ten years or earlier by the consent of the parties concerned.”

The note of Sardar Mangal Singh runs as follows :

“I agree with the first part of the above proposition, namely that there shall be no reservation of seats either for majorities or minorities in the legislatures of the country. But I am very strongly opposed to the creation of statutory communal majorities by reservation of seats for majorities on population basis under all circumstances and for any time howsoever short it may be. If the agreement can only be reached by reservation of seats I will recommend that the case of the Sikhs be considered as that of an important minority and adequate and effective representation, far in excess of their numerical strength, be given to them in the Punjab on the basis adopted for Muslim minorities under

the Lucknow Pact in Behar and other provinces. And I further suggest that special weightage be given to Sikhs for representation in the central legislature”.

It will be seen that the first part of the resolution contains the actual recommendation of the informal conference and the second part deals with a contingency which can happen, if at all, only when that recommendation is rejected in favour of an agreement by all the parties concerned on reservation of seats on the population basis. There has not only been no such agreement among the members of this Committee but they have definitely expressed themselves in the first part of the resolution to be unanimously opposed to reservation. It is highly unlikely that the agreement referred to in the second part of the resolution will be reached in the All-Parties Conference. But if by any chance such an agreement is arrived at, it would be binding on all those who join it and in that case all that the second part provides is that it should not be given effect to for more than ten years. We cannot be taken to have recommended what we have expressly opposed. But we recognise the value of a compromise between parties and communities however wrong it may be in principle, and if such a compromise is arrived at in spite of ourselves, we can do no more than try to limit its operation. This is exactly what we have done. As regards the special claim of the Muslims and Sikhs for greater representation than their population would justify, it is enough to say that in the view we have expressed above, no such claim is admissible on the part of any community however important it may consider itself to be.

We shall have to revert to the resolution of the informal conference is considering the question of reservation for minorities to which we now address ourselves.

*Reservation for Minorities* : Muslims in provinces other than the Punjab and Bengal are in small minorities and in some parts of India almost negligible, though in the total population of India the proportion is over 24 per cent.

*Reservation for Muslim Minorities in Proportion to Population* : After the resolution of the informal conference referred to above was passed it was pointed out to us that it would work great hardship on the Muslim minority who would in all probability be able to elect no more than 30 or 40 Muslims from the Punjab and Bengal, and perhaps one or two from the U.P. and Behar, to the central legislature of 500 members, and that there was little chance of any of the other provinces with less than 7 per cent of the population returning a single Muslim. The result, it was argued, would be that Muslims, who form nearly one-fourth of the total population of British India, would have no more than one-tenth of representation in the central legislature. The same reasoning, it was urged, applied to the legislatures of provinces where the Muslims are in small minorities. We recognise the force of this argument and it is here that we feel compelled by force of circumstances to introduce a temporary element of communalism in the electoral system of the country. We are therefore unable to adopt the resolution of the informal conference of the 7th July in its entirety as our recommendation. In provinces other than the Punjab and Bengal we must make an exception in favour of Muslim minorities by permitting reservation of seats, if so desired by them, in proportion to their population both in the central and the provincial legislatures. The retention of communal representation to this extent for some time to come is in our opinion a necessary evil. It will be seen that by making this concession in favour of Muslim minorities we are not introducing the anomalies arising out of reservation for majorities. A minority must remain a minority whether any seats are reserved for it or not and cannot dominate the majority.

*Weightage Not Permissible* : Representation in excess of their proportion in the population fixed for Muslims in a number of provinces under the Lucknow pact, as well as the Montagu-Chelmsford reforms, will disappear under our scheme. Such representation is only possible in separate electorates and has no place in joint or mixed electorates. It is of course not physically impossible to reserve a larger proportion of seats for

Muslim minorities that their population would justify but, apart from the obvious injustice of such a course not only to the majorities but to the other minorities as well, it will in our opinion be harmful to the development of Muslims themselves on national lines. We have allowed them their full share on the population basis by reservation and anything over and above that share they must win by their own effort. We do not propose to impose any restrictions on their right to contest a larger number of seats than those reserved for them. The main consideration which has guided us in accepting reservation for their minority is that we are not thereby putting it in a ring-fence beyond which it cannot advance however competent it may be to do so. It is in our opinion more important to secure a free and open field for the expansion of the political activities of all communities large or small than to reserve a maximum number of seats for them even in excess of their numbers. Such reservation will never bring them in open competition with any community other than their own and the inevitable result will be stagnation. It is true that a Muslim candidate will have to canvass non-Muslim votes to defeat his Muslim rival but this is not calculated to advance the Muslim on national lines. It will always be a question of whether Muslim A is better than Muslim B without regard to the fact that non-Muslim C is better or worse than both.

Muslims cannot reasonably claim reservation of seats beyond their strict proportion to population along with the right to contest additional seats, and the question for them to consider is which of the two is likely to be of greater advantage to them. We have no doubt that when they carefully weigh the pros and cons of the reservation of a larger number of seats than they are entitled to on the population basis *without* the right to exceed that number, against the pros and cons of reservation in proportion to their population *with* the right to contest as many more seats as they like, they will find that the latter is by far the better choice. As we have already pointed out, reservation to the fullest extent deprives mixed electorates

in a considerable measure of their utility in promoting national unity. Whatever inducement a Muslim candidate may have to approach the non-Muslim voter to defeat his Muslim rival, so far as his community as a whole is concerned, it will have its full quota assured to it with or without the help of the non-Muslim voters, and at times of extreme communal tension it will be easy both for Muslims and non-Muslims to run their elections quite independently of each other without either losing a single seat. It is only by maintaining the independence of the two communities that we can hope to minimise their differences.

*Muslims in U.P. :* Having regard to the actual conditions prevailing in the U.P., where the Muslim minority is the largest, we are convinced that the Muslims stand to gain more seats under our scheme than the number fixed for them under the present system. In several urban areas in the U.P. they are in majorities and in others they have strong and influential minorities. They may perhaps lose a few seats in some other provinces but the net result of a general election in the country as a whole is likely to be fairly satisfactory to all.

*Reservation for Muslims in the Central Legislature :* So far as the Muslim demand is concerned it only remains for us to deal with that part of it which relates to reservation of one third of the total number of seats in the central legislature for Muslims. This point was not directly raised or discussed at the informal conference, but we think that it is concluded by the general recommendations we have made in regards to reservation of seats. The principle we have adopted is that wherever such reservation has to be made for the Muslim minority it must be in strict proportion to its population. The Muslims are a little less than one fourth of the total population of British India and they cannot be allowed reservation over and above that proportion in the central legislature. It must be remembered that they have the right to contest additional seats both for the central and provincial legislatures in provinces other than the Punjab and Bengal, and that in the

two last mentioned provinces their right is unfettered to contest any number of seats they like for both legislatures. In the case of provincial legislatures we have substituted this right for the present weightage they enjoy. In the central legislature the Muslims do not at present enjoy any definite weightage and their numbers to be returned by the provinces are fixed on a more or less arbitrary basis. The actual number of the Muslim members falls short of one third of the total strength of the Assembly. There is thus no foundation for the demand even in existing conditions. A little reflection will show that it is far better to have a free hand than to be tied down to the difference between  $1/3$  and  $1/4$ . But as we have already observed we cannot depart from the principle we have accepted for the Muslim minorities in the provincial legislature. Besides the question of principle there are practical difficulties in the way. How are we to secure this one third reservation in the central legislature without restricting the Punjab and Bengal majorities to definite numbers of members and allowing weightage in the other provinces all round? And on what principle is the excess in the numbers of members in the provinces to be allotted to each province? We have given our best consideration to the matter but we regret we are unable to recommend reservation of one third of the total number of seats for Muslims in the central legislature.

*Recommendation* : For these reasons we recommend reservation of seats, when demanded, for Muslim minorities both in the Central and Provincial legislatures in strict proportion to their population, with the right to contest additional seats for a fixed period of ten years. We would add, however, that our colleague Mr. Shuaib Qureshi does not agree with some of the arguments and conclusions given above. He is of opinion that the resolution of the informal conference, referred to above, should be adopted in its entirety. He further desires that one third of the seats in the Central legislature should be reserved for Muslims.

*Non-Muslim Minorities in N.W.F.P. and Baluchistan* : As regards non-Muslim minorities the only provinces which



deserve consideration are the N.W.F. and Baluchistan where they are in much the same position as the Muslim minorities in Madras and the C.P. We recommend that the same concession be made to them as to the Muslims in provinces other than the Punjab and Bengal.

*Other Non-Muslim Minorities :* Turning to the other non-Muslim minorities we find that there is no such sharp cleavage between them and the majorities among whom they live as there unfortunately is between Hindus and Muslims. We do not think that any protection by way of reservation is either necessary or desirable in their case. They will realize that we are recommending such protection to Muslim minorities under very special circumstances and for a limited period only. The latter have sooner or later to stand on their own legs. We shall indeed be glad if they will make up their minds to do without reservation from the beginning.

There is no analogy between the Muslim and non-Muslim minorities in India. The latter are nowhere when the total population of India is considered. Leaving out the case of Buddhists, who are to be found chiefly in Burma and are in a majority there, the percentage of the population of other non-Muslim minorities to the total population of India is as follows :

Christians	1.2%
Sikhs	1.0%
Jains	2.%
Others (besides tribal religions in hill tracts)	.2%

It will thus appear that so far as the central legislature is concerned the reservation of seats for non-Muslims minorities on a population basis will hardly help them to any appreciable extent and that there is no occasion to reserve seats for minorities, other than those in the N.W.F. Province and Baluchistan, even in the provincial legislature. Any attempt to do so will

only cause confusion and will in our opinion be a very doubtful advantage to the communities concerned.

We have not mentioned the Hindu minorities in the Punjab and Bengal as by no stretch of the imagination 32 and 45 per cent of the population can be regarded as small minorities.

*Sikhs* : Among the non-Muslim minorities the Sikhs deserve special consideration. They are concentrated in the Punjab and the position they occupy in that province is very similar to that of the Muslims in the U.P. The latter being about 15% of the population are in fact more numerous in the U.P. than the Sikhs in the Punjab where they are only 11%. Under the existing system they have their separate electorate and are given considerable weightage. We recognise that Sikhs are a distinct and important minority which cannot be ignored and we have, all along, been giving our best consideration to the point of view of the Sikhs as expressed by our colleague Sardar Mangal Singh. It must be said to their credit that they have shown an admirable spirit of self-sacrifice by their decision to give up these communal advantages in the general interest of the country. Throughout the communal controversies that have raged round the question of representation in the legislature during recent years they have taken their stand on joint electorates with no reservation for any community. Our colleague Sardar Mangal Singh has drawn attention to the fact that the Sikhs do not form the majority of the total population of any district in the Punjab, and that the strongest position they occupy is in Ludhiana district where they are the strongest single community. Even in this district they are only 41.% and are not in a majority. In every other district they are outnumbered either by Muslims or Hindus, and usually by both. It is obvious that situated as the Sikhs are in the Punjab they are subject to all the disadvantages of a minority in a joint mixed electorate based on the wide adult suffrage we have recommended. In these circumstances they have in the Punjab at least as strong a case for reservation both

in the provincial and central legislatures as the Muslims have in the U.P. There is however a third and a very potent factor to be taken into account and that is the presence of the strong Hindu minority side by side with the Muslim majority and the Sikh minority. It is this circumstance in the Punjab which, apart from general considerations has so far defied all attempts at a satisfactory adjustment on the basis of reservation for any community. The Punjab problem has assumed an all India importance and we cannot look at it as an isolated case arising in a single province. The only effective way of avoiding complications and giving full play to the forces of nationalism is to eradicate the virus of communalism from the body politic of the Punjab. Our colleague, Sardar Mangal Singh, who has discussed the matter very fully and frankly with us shares our difficulty. We believe that nothing is farther from the wishes of the Sikh League than to introduce any complications directly or indirectly in the solution of the communal problem. They could, if they had insisted on any special advantage, have caused endless difficulties in the adoption of a uniform rule of representation. They fully realised this and voluntarily gave up all their claims with the sole object, we are assured, of preventing an impasse. We appreciate this spirit and congratulate them on their patriotic resolve.

*The only Alternative :* The only alternative to the proposal we have made is to adopt the recommendation of the informal conference and have no reservation for any minorities, including Muslims, in any legislature. But this will cause considerable dissatisfaction to Muslims without conferring any special benefit on non-Muslims. It must be remembered that besides reservation by means of communal electorates the Muslims at present enjoy considerable weightage in every province. We are offering them the right to contest additional seats in lieu of this weightage and we cannot very well do away with reservation in their case. We see no hardship in this to non-Muslim majorities or minorities. Endless complications will arise if we recommend reservation for all minorities. Besides the existing well defined minorities such as Christians, Parsis,

Jews, fresh groups from among the Hindu castes and sub-castes will claim the right and it will be a perpetual source of trouble.

The communal question is essentially a Hindu-Muslim question and must be settled on that basis. We shall indeed be doing poor service if in our attempt to settle it we let communalism loose on the country to swallow up communities and sub-communities most of whom have not even dreamt of it.

*Non-Brahmans* : There remain two important communities included in the Hindu majority—the non-Brahmans and the depressed classes. The sharp division between Brahman and non-Brahman is to be met with only in the south and is unknown in other parts of India. Where the non-Brahmans as such are found, they are either an overwhelming majority as in Madras or a very strong minority as in parts of Bombay. They need no protection in the matter of representation in the legislatures as has been established by the elections held in recent times. Their grievances against Brahmans are all traceable to the ascendancy gained by the latter in the political and social life of the country. This is the natural result of their intellectual ascendancy which is now seriously threatened by the rapid advance of non-Brahmans.

*“Depressed Classes”* : The problem of the “depressed” or “suppressed” classes has come to the front in recent years and their present condition is put forward as an argument against the political advancement of India. We are certainly of opinion that the Hindus are chiefly responsible for this suppression of a large class, but we are equally clear that the solicitude for this class which the British government has endeavoured to show has its basis on reasons other than humanity or love for this class. This solicitude is of very recent growth. As the national movement has grown in the country, so has the political value of the “depressed” classes grown in the eyes of the government. It is only since 1917 that their numbers

have been separately given in the official reports on education and reference has been made to the educational facilities offered to them. The solicitude of government has so far brought little relief to these classes. It has resulted in giving them some nominated seats in the legislatures and some minor contributions for special schools.

Far more serious and effective attempts have been made by non-official Indian agencies to raise these classes. The Christian missions have also helped in this task. The Congress made the abolition of untouchability one of its principal planks in 1920 and, as is well known, Mahatma Gandhi has thrown himself with all his great powers and energy into the movement. Other political organisations, and we are glad to find even communal organisations, have with equal emphasis declared against untouchability. The practical work done and the considerable results achieved already make it quite clear that these declarations were not mere pious wishes. We realise that there are still conservative elements in the country which are strong enough to put obstacles in the way and retard the progress of the movement. But we are convinced that untouchability is doomed.

In our suggestions for the constitution we have not made any special provision for the representation of the "depressed" classes in the legislatures. This could only be done by way of special electorates or by nomination. We have dealt fully in another place with the question of special electorates and reservation of seats. We are not prepared to extend this unsound and harmful principle if we can help it, nor do we think that we will do any good to these classes by ensuring some seats for them in this way. We are still more opposed to nomination. This can only result, as it has resulted, in the government of the day nominating some one who will support it through thick and thin, and will not represent anybody.

We feel strongly however that the "depressed" classes must be abolished or rather that they should be raised socially and

economically so that they may take their proper place in the community. The only effective way to do this is to give them educational and other facilities for this advance and to remove all obstacles in the way of this advance. Some of the articles in the Declaration of Rights, which we have recommended, will go a long way to remove the disabilities from which these classes suffer and will give them an opportunity to go ahead. The proposal that we should have adult suffrage will also automatically raise their level and increase their political power. Finally, we have strongly recommended that the education of all backward classes should be a special concern of the state. If all these recommendations are acted upon we are convinced that the "depressed" classes will rapidly disappear and will be replaced by a self-reliant and progressive group, co-operating with other groups in the welfare of the entire community.

#### CHAPTER IV REDISTRIBUTION OF PROVINCES

We are glad to take leave of communal problems and enter upon matters more germane to the constitution. The question of redistribution of provinces as a part of the constitution should ordinarily be disposed of by a few general rules governing all cases. But, as we have seen, the simplest problems have a tendency to become difficult and almost insoluble if approached in the wrong spirit and considered not on their own merits but as parts of an entirely different problem. We have already dealt with the communal aspect of the separation of Sind from Bombay and shown how a very simple matter has become a major issue in our politics. We shall now consider the general question on the merits apart from its communal bearings.

*Present distribution irrational :* Everyone knows that the present distribution of provinces in India has no rational basis. It is merely due to accident and the circumstances attending the growth of the British power in India. As a whole it has little to do with geographical or historical or economic or linguistic reasons. Even from the purely administrative point



of view it is not a success. It is clear that there must be a redistribution of provinces. Some of us favour small provinces, others prefer large provinces. But small or large the question of redistribution has to be tackled.

*Principles of redistribution* : What principles should govern this redistribution ? Partly geographical and partly economic and financial, but the main considerations must necessarily be the wishes of the people and the linguistic unit of the area concerned. It is well recognised that rapid progress in education as well as in general culture and in most departments of life depends on language. If a foreign language is the medium of instruction, business and affairs, the life of the country must necessarily be stunted. No democracy can exist where a foreign language is used for these purposes. A democracy must be well informed and must be able to understand and follow public affairs in order to take an effective part in them. It is inconceivable that a democracy can do this if a foreign language is largely used. It becomes essential therefore to conduct the business and politics of a country in a language which is understood by the masses. So far as the provinces are concerned this must be the provincial language.

*Language* : We are certainly not against the use of English, Indeed from the necessities of the situation we feel that English must, as at present, continue for some time to come to be the most convenient medium for debate in the central legislature. We also believe that a foreign language, and this is likely to be English, is essential for us to develop contacts with the thought and science and life of other countries. We are however strongly of opinion that every effort should be made to make Hindustani the common language of the whole of India, as it is to-day of half of it. But, granting all this, provincial languages will have to be encouraged and, if we wish the province to make rapid progress, we shall have to get it to do work in its own language.

If a province has to educate itself and do its daily work through the medium of its own language it must necessarily be

a linguistic area. If it happens to be a polyglot area difficulties will continually arise and the media of instruction and work will be two or even more languages. Hence it becomes most desirable for provinces to be regrouped on a linguistic basis. Language as a rule corresponds with a special variety of culture, of traditions and literature. In a linguistic area all these factors will help in the general progress of the province.

The National Congress recognised this linguistic principle 8 years ago and since then, so far as the Congress machinery is concerned, India has been divided into linguistic provinces.

*Wishes of the People :* Another principle which must govern a redistribution of provinces is the wishes of the people concerned. We who talk of self-determination on a larger scale cannot in reason deny it to a smaller area, provided of course this does conflict with any other important principle or vital question. The mere fact that the people living in a particular area feel that they are a unit and desire to develop their culture is an important consideration even though there may be no sufficient historical or cultural justification for their demand. Sentiment in such matters is often more important than fact.

Thus we see that the two most important considerations in rearranging provinces are the linguistic principle and the wishes of the majority of the people. A third consideration, though not of the same importance, is administrative convenience, which would include the geographical position, the economic resources and the financial stability of the area concerned. But administrative convenience is often a matter of arrangement and must as a rule bow to the wishes of the people.

*Linguistic Areas :* In looking at the map of India to-day we see definite linguistic areas. There is the huge Hindustani block all over northern India, with its slight variation into Punjabi in the Punjab. Then there is the Bengali area, the Assamese, the Oriya, the Telugu, Tamil, Malayalam, Canarese, Marathi,

Gujarathi and Sindhi. Across the Bay of Bengal there is the Burmese area. Demands have been made from time to time for the separation of Andhra, the Telugu area, of Utkal (Oriya) of Karnatak (Canarese), Kerala (Malayalam) Sind (Sindhi) Central Provinces (Hindi speaking area) and other parts, and all these will have to be enquired into and carefully considered when a general redistribution is taken in hand. We have no material before us to give any opinion about most of these areas. We have received no representations except in regard to the Karnataka and Sind.

*Utkal* : We have also received a small book giving the case for Utkal but we regret we have been unable to consider it in the absence of any special memorandum or representation. Our colleague, Mr. Subhas Chandra Bose, is however satisfied that the Oriya-speaking areas should be amalgamated and constituted into a separate province, if this is financially possible. He is further of opinion that the demand for the amalgamation of the Bengali-speaking tracts in Assam and Bihar and Orissa is a reasonable and legitimate one.

*Kerala* : As regards Kerala we have received a resolution of their Provincial Conference urging unification and separation. *Prima facie* Kerala offers a great many difficulties as a great part of it consists of the States of Travancore and Cochin. Leaving out these States, as we must under present circumstances, we have a small area. We are thus at present not prepared to make any recommendation, in the absence of any material, in regard to Kerala.

*Karnataka* : The case for the Karnataka was placed before us by a representative of the Karnataka Unification Sangh and the Karnataka Provincial Congress Committee. It had been ably prepared with a wealth of information, historical, cultural and statistical. All our questions were answered satisfactorily and in our opinion a strong *prima facie* case for unification and the formation of Karnataka as a separate province was made.

Parts of the Karnataka lie in Indian States, notably Mysore, and there are obvious practical difficulties in the way of uniting

these with the rest. It might also not be convenient to unite the small islands of the Karnataka on the other side of Mysore territory as these would be cut off from the Karnataka proper by Mysore. But even so a sufficiently large area remains.

We were informed that the demand for unification came from the vast majority of the population, if not practically all. There was no Hindu-Muslim problem but there was a Brahman non-Brahman problem although this did not effect the question of unification much. There was no organised opposition although a small number of Brahmans were opposed. On behalf of the Maharashtrians in some of the border districts a fear was expressed that their language might suffer, but safeguards for this might be provided for.

Financially the position of the Karnataka was very strong and even at present there was a considerable surplus in the British part of the Karnataka.

Our colleague, Mr. M.S. Aney, does not wholly agree with our view point regarding the Karnataka. He was unfortunately not present at the sitting of the Committee when this question was considered with the help of the representative from Karnataka. Mr. Aney is of opinion that the opposition may be greater than we imagine and they may not have approached us as they did not know that we were considering the question. This is hardly likely as the press of the Karnataka has been full of this question and considerable publicity has been given to the Karnataka representation to our Committee. If any body of men felt keenly enough in opposition to this demand we think that they would certainly have informed us of their views.

We cannot of course decide this question finally but we feel that the advocates of unification have *prima facie* established their right to it. We cannot suggest the exact limits of the new province. It may be that some of the border tracts are bilingual and an enquiry will have to be made on the spot. This

work will have to be done by an expert committee. Messrs. Aney and Pradhan refrain from expressing any opinion on this subject.

*Sind*: It is unfortunate that although the separation of Sind has given rise to a great deal of heated argument, we are yet not in possession of all the relevant facts, such as were placed before us by the representative from the Karnataka. We would commend the way the Karnataka case was prepared, with patient thoroughness and maps and statistics, to those who have demanded the separation of Sind. As we have already pointed out, the All-Parties Conference appointed a sub-committee in Delhi to investigate the financial aspect of the question, but unfortunately no facilities were placed before this Committee by the supporters of separation, and it has not yet reported. We do not know if it is likely to submit any report in the near future. For the present, however, we have to proceed on general principles and without the help which actual authenticated figures might have given us.

We laid down two important general considerations in regard to the distribution of provinces—linguistic and the wishes of the majority. Sind certainly satisfies both these tests. It is a definite linguistic area and the great majority of its people may be taken to demand separation. We have of course no definite data about the number of people desiring separation. But we have yet to know that even a single Musalman opposes it, and Musalmans are 74% of the population. We also know that some at least of the members of other communities in Sind—Hindus and Parsis—support separation. We may therefore safely presume that the great majority of the population desire separation. We are aware that there is a section amongst the Hindus, comprising it may be most of the Hindus in Sind, which is strongly opposed to separation. It has been urged that before a province is separated a section—one third has been suggested—of the minority community must also agree to such separation. This, it seems to us is an utterly wrong principle, cutting at the roots not only of self-

determination but of the very principle of decision by majority and is likely to lead to extraordinary results. For instance, it may be, that 10% or 15% of the population may effectively prevent the 90% or 85% from having their way. This is not democracy.

Then again what is the minority community in such a case ? Ordinarily a redistribution of provinces is not likely to be a Hindu-Muslim or communal question. The minority which opposes will oppose on the merits and not on communal grounds. How is a single person belonging to this minority to be made to change his opinion ? And if some people are converted, another minority remains and it may be urged again that one-third of these should be won over.

Sind undoubtedly satisfies the two main tests. Further it is clearly a geographical unit and its connection with Bombay is a most unnatural one. It is not even easily accessible from Bombay and thus from an administrative point of view a separation is desirable.

It is stated, however, that economically, and even more so financially, Sind cannot shoulder the burden of a separate provincial existence. It is further stated that there is a large deficit in Sind every year which is met from the revenues of other parts of the Bombay presidency. We are of opinion that ordinarily a province should be self-sufficient in regard to finances and must not look to the central government for doles. We can imagine exceptional cases when the central government might reasonably help the development of a province for a short period in order to make it self-sufficient in the future. There may also be other special cases when such help may be necessary. But an area which desires separation must not live in hopes of money flowing in from outside to enable it to run its administrative machine. It must feel and declare that it will shoulder its own burden.

We shall presume that Sind is at present carrying on its government with the help of outside money. But this does not



carry us very far. It may be that a retrenchment in the scale of expenditure will make both ends meet. It may also be, and this is likely, that additional sources of revenue from fresh cultivation or otherwise will increase its income considerably. This problem will have to be faced all over India as soon as we are free. Our first thought then will be to spend money on the development of the country and specially in the nation-building departments. This money can only come by applying the axe to provincial expenditure and by tapping fresh sources of revenue.

*Prima facie* Sind is capable of great development. Karachi is likely to become a great harbour and there are large tracts which are either uncultivated or not sufficiently developed. It is not an unlikely presumption therefore that Sind will become in the course of time a self-sufficient and prosperous province.

A denial of the right to self-determination on purely financial grounds, and there are no other that we think valid, is bound to lead to great dissatisfaction and is bound to impede the progress of Sind. All the energy that should go to building up the life and work of the province would be spent in profitless agitation. If however this right is granted, subject to the people of Sind shouldering their own financial burden, a strong impetus will be given to the new province to work hard and compete with the more advanced provinces.

We feel therefore that the argument for the separation of Sind is very strong. In the absence of sufficient data regarding the financial position we are unable to give a definite opinion on it. But it is unlikely, to say the least of it, that financial considerations will be such as to override all the other important factors which we have discussed. We would say therefore that unless some insurmountable difficulties supervene, and we are for the present unable to imagine any such insuperable difficulties, Sind should be separated.

We would add that our colleague Messrs Aney and Pradhan are not wholly at one with us in the arguments we have advanced.

ed. They agree that Sind is a linguistic area and that there is a strong demand from the majority of the population for separation. But before giving a final opinion they wish that an enquiry be made into the financial and administrative aspects. We ourselves are of opinion that some investigation into the financial aspect will be necessary before separation can be effected.

We might add that the separation of an area and the formation of a new province does not necessarily imply a separate economic life. Nor does it mean a duplication of all the organs of government. For instance, it is quite possible for one High Court to serve more than one province.

Before leaving the subject of Sind we must notice a document called the "Sind Pact" received from the Sind National League. It consists of ten clauses covering a wide field and bears 31 signatures of Hindu, Muslim and Parsi gentlemen. We have also received representations from the Sind Aryan Sammelan and the Sind Provincial Hindu Sabha and a number of telegrams from individual Hindu Sindhis repudiating this pact and challenging the representative character of its authors. We have no materials before us to judge between these rival claims to represent, Sind nor do we think it is any part of our business to do so. It is clear that there is no such general agreement among Sindhis as would impose an obligation on this Committee to adopt the "pact" as such. As a representation from a number of responsible gentlemen it has had our very careful consideration. We have already noticed the clause relating to the reservation of seats and expressed our inability to agree to it. As regards the desirability of the separation of Sind from Bombay we are at one with them, but we regret we cannot take their declaration to "cut their coat according to their cloth" as a final solution of the financial problem. This matter must for the present rest where we have left it. It is not necessary to notice the other clauses of "pact".

## CHAPTER V

### THE INDIAN STATES AND FOREIGN POLICY

#### *Attitude of Public Men and Organisations toward Indian States.*

We now come to the all important problems of the Indian States. At the commencement of our treatment of the subject we desire to enter a caveat against the general criticism (which it has become the fashion in certain quarters at present to make against public men in British India) that they ignore in their discussions or their schemes the very existence of the Indian States and the problem of their relations to the Government of India of the present or of the future. It is not, we maintain emphatically, the fact that the Indian States or their problems, or the readjustment of their relations to the Government of India, have been ignored in the past on public platforms, or in political conferences, or in the utterances of our public men. If the grievance is that the affairs of the Indian States, or the nature and character of their relations with the Government of India, have not been discussed on the floor of the Legislative Assembly, the answer is plain and it is that such discussion is barred by the standing orders and in practice is never allowed. It is obvious that for this the responsibility cannot be fixed on Indian public men. On the other hand, there is scarcely a political organisation of influence in the country which has not had in recent years to say something or other on the problem of the Indian States. The Congress and the Liberal League and the Hindu Sabha and lastly the All-Parties Conference, to which this Committee owes its existence, have so far from ignoring the problem, laid considerable stress on it. The subjects of the Indian States also have been showing a lively interest in the internal affairs of their respective States and urging for a definite recognition of popular rights and liberties. They have held two representative conferences and a committee appointed by the second held at Madras has approved and recommended to us a scheme of Swaraj embracing British India and the Indian States. We shall deal with this scheme later on. We are aware that the sensitiveness of some Indian princes has in recent years been touched

by what they consider to be a somewhat obtrusive interest taken in them by public opinion in British India, which they have condemned as either lacking in knowledge, or political sagacity, or sympathy. We, therefore, very strongly repudiate the ill-founded charge that intelligent public opinion in British India has been too self-centred to look beyond the confines of British India or has shown any unwillingness to understand the view point of the Indian princes or their subjects, or even to sympathise with it wherever and whenever it has been possible to extend sympathy. If it has at times been critical of some of the "claims" of the Indian princes, or if it has at times approached their internal problems or tried to envisage the development of the constitutional relations between them and the future self-governing India from a different angle of vision, it is no more than what it is clearly entitled to do. We are afraid that the present tendency to stress the problem of Indian States as presenting insurmountable obstacles in the way of British India achieving dominion status is full of incalculable mischief for both and instead of helping to bring the "two Indias" closer to each other is likely to give rise to serious misunderstandings.

*Affinities between British India and Indian States :* While the fact that there is an "Indian India" consisting of these States—some almost as big as, if not bigger than, some of the countries of Europe—enjoying, in a way 'internal sovereignty', 'autonomy' and 'independence', dignities and status—may be and has to be freely admitted, we think it would be very poor statemanship and short-sighted policy to ignore those obvious historical, religious, sociological and economic affinities which exist between the people of British India and the people of these States. Nor do we think that it is possible to erect artificial geographical barriers between the two. Ideas and opinions travel from one part of India to another much more rapidly than was the case 60 or 70 years ago, and it would be absurd to deal with the problem of Indian States on the assumption that the dynamic forces now in operation in British India can for a very long period of time be expected to spend themselves

on the borders of British India. It is inconceivable that the people of the States, who are fired by the same ambitions and aspirations as the people of British India, will quietly submit to existing conditions for ever, or that the people of British India, bound by the closest ties of family, race and religion to their brethren on the other side of an imaginary line, will never make common cause with them. In dealing with the problem, therefore, we would much rather base our conclusions upon the community of interests than upon differences of form. This community of interest would clearly point to joint action by the parties concerned as the most natural course to adopt with a view to mutual protection and advancement. Indeed if there ever was a case for a round table conference at which a perfect understanding could easily be reached it was this. With the representatives of the princes, of their people, of the British government, and of the people of British India assembled at such a conference all difficulties could have been solved with mutual goodwill. But most of the princes have unfortunately chosen to ignore the two most important parties—their own people and the people of British India—and have asked for or acquiesced in the appointment of the Butler Committee which, apart from the absence of necessary parties, is precluded by its very terms of reference, as we read them, from dealing with the constitutional issue. This committee is sitting *in camera* but such information as is available from published statements leaves no doubt in our minds that an attempt is being made to convert the Indian States into an Indian Ulster by pressing constitutional theories into service.

We have referred in our introduction to the constitutional question raised by Sir Malcolm Hailey in his speech in the Legislative Assembly in February, 1924. The same or similar questions have since been raised in other quarters and we now proceed to deal with them.

***The Constitutional Position*** : The constitutional position at the present moment, notwithstanding some vagueness that may surround it, is by no means difficult to understand. It is claimed

that according to true constitutional theory the Indian States are and have been in relation with the Crown, whether their treaties were with the East India Company, or the British Crown, or whether they have been entered into since 1858 with the Government of India. Now it is obvious that the Crown under the constitution does not mean the King alone. It is a convenient constitutional phrase used to indicate the King-in-Parliament. Before 1858, the East India Company exercised sovereign rights under powers delegated by the 'Crown' and since 1858 those powers have been exercised under delegated authority by the Government of India and the Secretary of State, who is an integral part of the machinery established by Parliament of the Government of India. Section 67 of the Act of 1858 provided that "all treaties made by the said Company shall be binding on Her Majesty" and similarly section 152 of the Act now in force provides that "all treaties made by the East India Company so far as they are in force at the commencement of this Act are binding on His Majesty". In point of fact, the enforcement of those treaties, the fulfilment of the obligations created by those treaties, and the interpretation of those treaties, have hitherto been among the normal functions and duties of the Government of India, subject to a so-called 'appellate' or supervisory jurisdiction of the Secretary of State for India. It is inconceivable that any Indian prince could, under the present constitution, ignore the Government of India or the Secretary of State and take up any matter relating to such obligations to the King or to his Majesty's Government. Again, the fact is that the Government of India have acquired certain powers by mere practice, usage or convention which are outside the scope of the written treaties. The Foreign Jurisdiction Act of 1890, and the Indian Foreign Jurisdiction Act XXI of 1879 have not unoften been resorted to by the Government of India for the extension of their jurisdiction.

*Resolution of Government of India :* By the resolution dated the 29th of October, 1920, the Government of India have given effect to the recommendations contained in paragraph



309 of the report on Indian Constitutional Reforms which prescribed a procedure for dealing with cases in which "the question arises of depriving a ruler of an important State, temporarily or permanently, of any of the rights, dignities, powers or privileges to which he, as a ruler, is entitled, or debarring from succession the heir apparent or any other member of the family of such ruler who according to the law and custom of his State is entitled to succeed."

*Lord Reading on the Constitutional Position* : In his letter dated the 27th March, 1926, Lord Reading emphasised the constitutional position as follows : (i) The sovereignty of the British Crown is supreme in India, and therefore no ruler of an Indian State can justifiably claim to negotiate with the British Government on an equal footing. Its supremacy is not based only upon treaties and engagements, but exists independently of them and, quite apart from its prerogative in matters relating to foreign powers and policies, it is the right and duty of the British government while scrupulously respecting all treaties and engagements, to preserve peace and good order throughout India. (b) The right of the British government to intervene in the internal affairs of the Indian States is another instance of the consequences necessarily involved in the supremacy of the British Crown. (c) The varying degrees of internal sovereignty which the rulers enjoy are all subject to the exercise by the paramount power of this responsibility.

It is a matter of common knowledge that the exercise of these large powers, or to be more accurate, the decision of the Government of India to exercise these powers in the case of some princes in recent years, has been the subject of much comment and dissatisfaction and the exposition of the constitutional position in Lord Reading's letter to his Exalted Highness the Nizam, from which we have quoted, has led since to much searching of heart. It is not our intention or purpose to discuss the merits of the claim put forward in that letter. We simply desire to draw attention to it to show that even these

large powers can only be exercised at the discretion, upon the initiative, and by the machinery of the Government of India.

By usage or convention, or as a necessary corollary to the paramountcy of British power, the Government of India have claimed and exercised the right of (a) "installing" princes on the *gaddis*, (b) administering the States during the minority of the ruler, (c) setting disputes between rulers and their *jagirdars* and (d) interfering in cases of gross misrule. With any legitimate desire on the part of the Indian princes to get their grievances in these respected, it is possible, even for democratic India to sympathise; and we feel that it is by no means impossible or impracticable to define the limits within which the Government of India, as it is constituted at present, or as it may be in future, may seek to interfere. We think however that the plain fact ought not to be overlooked that the Government of India as a dominion will be as much the King's government as the present Government of India is, and that there is no constitutional objection to the dominion government of India stepping into the shoes of the present Government of India.

If there are personal ties of allegiance or devotion which bind the Indian princes to the throne, person or dynasty of the King, they cannot, and ought not, to suffer in strength by a change or modification in the composition of the King's government in India, when India attains dominion status. There will always be plenty of room for the discharge of those duties to the Crown and for the exercise on the part of the Crown of those prerogatives which may be inseparable from the personal relation that might have subsisted between the Crown and the Indian rulers.

We shall now turn to the latest contribution on the subjects.

*Sir Leslie Scott's Views* : It comes from no less distinguished an authority than Sir Leslie Scott, the learned counsel engaged by the princes, who has expressed his views in a letter

which has been printed in the July number of the "Law Quarterly Review". We recognise his eminence as a lawyer, but we cannot help feeling that his views as counsel for the Indian princes have yet to be tested by an independent judicial or legal authority after having both sides of the question presented to it. So far as we are concerned we venture to differ from him entirely. After laying down that the relationship between the Crown and the Indian States cannot be governed either by international or municipal law, Sir Leslie Scott asks 'To what system of legal principles then are the relations of an Indian State to Crown referable? There is no legal decision to serve as precedent, no complete analogy to guide. Resort must be had to first principles of law. We must think things out for ourselves. It is almost a virgin field for the lawyer'. Even if it is a virgin field for the lawyer, and we venture to say this is not quite correct, we think it is more a case for the constructive statesman than for the analytical lawyer. Sir Leslie Scott has in this letter stated five definite propositions, some of which may be admitted to be correct, others of which strike us as being too broadly put. In any case the conclusion which is sought to be drawn from these propositions is of such far-reaching consequence that it may be taken as definitely certain that if the Indian princes decide to take their stand upon the position so ingeniously argued out for them, British India must substantially discount their profession of sympathy with its aspirations to dominion status, and treat their reference to the federation of India as no more than a vision, the realisation of which must be left to a remote and uncertain future. The first proposition of Sir Leslie Scott is that 'the fundamental tie is consent and its recognition by Britain is unequivocal'. This may be assumed to be true. It implies nothing more than what can be said of any two states bound together by treaties or mutual understandings.

The second proposition formulated by him is that "those contracts are between sovereigns—The Prince and the Crown—not the Company or the Government of British India". This proposition to our mind is untenable historically and legally.

and in any case, whatever may be true legal theory, actual practice shows that the Indian princes and States have dealt with the Government of India, and submitted to its rulings and decisions and intervention, and have never dealt with 'the Crown' or His Majesty's Government. The fact that there may be personal relationship between His Majesty and an Indian prince does not in our opinion alter or affect the real legal position or the interpretation of that legal position in actual practice.

The third proposition is "that the relationship is wholly legal—a nexus of mutual rights and obligations. It is no sense arbitrary". We should have thought that one of the main grievances of the Indian princes was that the Government of India had in actual practice extended their jurisdiction over them by going beyond the legal relationship in an 'arbitrary' manner. If they are protesting against 'the arbitrary' extension of such jurisdiction, it is in our opinion an understandable position, but it is somewhat remarkable that the importance of this proposition in the setting in which it is stated lies not so much in its practical application in the present, as in relation to possible constitutional developments in British India.

The fourth proposition is that the princes in making these contracts gave their confidence to the British Crown and nation; and the Crown cannot assign the contracts to any third party. "The British Government as paramount power has undertaken the defence of all the States, and *therefore to remain in India wish whatever military and naval forces may be requisite to enable it to discharge that obligation.* It cannot hand over these forces to any other Government—to a foreign power such as France or Japan; to a dominion Government such as Canada or Australia; nor even to British India".

The necessary corollary to this is stated in the fifth proposition *viz.*, that "The Crown can normally choose its agents. But an agent cannot act when his interest may conflict

with his duty. In all matters of common concern with the States—customs, railways, ports, the salt monopoly, etc.—there is always the possibility that the interest of British India may not be identical with the interest of a particular State. The Crown's duty is, or may be, to safeguard the interest of the State—particularly in case of a minority administration. Should the interest of the agent be given the chance of conflicting with the duty of the principal? This, if true, is putting up an effective barrier against the progress of British India towards dominion status, now and for ever, for it is obvious that if these 'contracts' between the Indian princes and the British Crown and nation are of a personal character India must always continue to be divided between what is British India and Indian States, and the British nation must always maintain adequate military and naval forces to discharge its obligations to Indian States. The argument we venture to say does not appear to us as anything more than ingenious. It starts on a false analogy and in applying that analogy ignores the "hard facts" of the case. There is no ground for the assumption that contracts between the princes and the Crown are on the same footing as contracts between private individuals. Sir Leslie Scott has himself pointed out in an earlier part of his letter that the princes continued to retain the attributes of sovereignty even after parting with some of its functions to the Crown. It is such sovereigns that they must be taken to have dealt with another sovereign whether we take the latter to be the East India Company or the King-in-Parliament.

Again, it is not true to say that every contract between private individuals is of such a personal character as to be incapable of being performed by any one else. There is no question of one of the contracting parties having any special confidence in the other. The so-called contracts were made under stress of circumstances and would have been of the same or similar character with any other power if it occupied the same position as the British. The argument ignores the settled practice of the Government of India and by invoking so-

called first principles in determining the "legal relationship" it overlooks the hard and challengeable fact that from the early days of the Company it has been the Government of India and the Government of India alone which has dealt with Indian princes and Indian States. It introduces an element of "personal confidence" between them and the British nation which is not easy to understand. It suggests that the past and present Governments of India which have so far exercised the power, said to be delegated from the Crown, were and are acceptable to the Indian princes and Indian States; but that the future Government of India, if it is to be of the dominion type, will not be so acceptable. This in plain English means that the past and present governments of India were acceptable because they were essentially foreign in their composition and not responsible to the Indian electorate and that the future responsible Government of India would not be acceptable to the Indian princes because it will consist of their own countrymen and because it will be responsible to an electorate of their own countrymen. But supposing that this is so, is there any authority for the proposition that when a "contract" may be performed by an agent the choice of that agent does not rest with the principal but with the other party to the "contract". We have shown that so far the "contract" has been performed, by white agents to the apparent satisfaction of the brown princes. On what principle of law, we ask, may that "contract" not be performed by brown agent to the equal if not greater satisfaction of brown princes ?

Let us now consider the argument that the principal cannot delegate to the agent the discharge of obligations where the agent's interest conflicts with his duty. Here again we find that the hard facts have been entirely ignored. The argument overlooks the fact that the agent of the Crown viz., the present Government of India, has been regularly acting when its interest has conflicted with its duty, without any qualms of conscience on the part either of the principal or of the agent and without any public protest on the part of the Indian States. Sir Leslie Scott then says that when "the legal relationship"



has been "made clear"—that is to say according to his own conception of that relationship—"suitable constitutional machinery for harmonious working between the two sides of India can be devised, and the States have already made it clear that they are ready and willing to follow such a plan on reasonable lines". In other words, if Sir Leslie Scott's theory of personal relationship and personal confidence, and the consequent duty of the paramount power remaining in India to discharge its obligations, is accepted, the princes would be ready and willing to fall in with British India on reasonable lines. Once this argument is accepted as sound, it is obvious that whatever be the machinery devised for harmonious working between the Indian States and British India, dominion status for India must be ruled out for all times to come. We have shown that this argument is wholly unsound, and we sincerely hope that legal ingenuity will not be allowed to prevail against the larger interests of the country, and that the patriotism and statesmanship of the Indian princes, aided by the growing patriotism and love of freedom among their subjects, will be concentrated more upon the establishment of practical machinery for the settlement of issues between them and a responsible Commonwealth of India than upon a determination of the theoretical question of legal relationship, which can do them no good and is fraught with mischievous possibilities which can only lead to disaster. Mutual relations can only be satisfactorily determined with mutual consent and we believe that there is still plenty of room for it. But we must sound a note of warning that the natural and the legitimate aspirations of India cannot and will not be allowed to be defeated or checkmated by ingenious arguments which have no application to facts as they are.

We take special note of the following passage in Sir Leslie Scott's letter :

"The political issues are of first-class importance to the future of India as a whole. Their wise solution will affect directly the successful accomplishment by Sir John Simon and

his colleagues of the task imposed by Parliament upon the Statutory Commission for British India. From an Imperial standpoint a statesman-like treatment of the Princes now may well prove a vital factor in the future attitude of India towards the British Empire”.

So that the findings of Butler Committee arrived at *in camera* are to decide the fate of the people of British India without the latter being given a chance to be heard, and Sir John Simon and his colleagues, who are themselves not seized of these “political issues of first-class importance”, and to be guided by their “wise solution” by the Butler Committee if they are to accomplish successfully the task imposed by Parliament upon them. This was foreseen in India and openly declared from various platforms. We know now exactly what the Statutory Commission is going to accomplish. The only wise solution of these issues suggested by Sir Leslie Scott is that the British Government must “remain in India with whatever military and naval forces may be requisite to enable it to discharge its obligations”. We thank Sir Leslie Scott for this authoritative forecast of the recommendations of the Statutory Commission which fully justifies the attitude taken in regard to it by all the well-known parties in India.

Leaving aside the theory of the relationship between the Crown and the Indian princes and coming to the position as it is, we maintain that we are right in saying that as a matter of fact and actual practice, it is with the Government of India that the Indian princes come into direct contact in regard to everything that concerns them or their States. It is well-known that the political secretary of the Government of India exercises vast powers over the Indian States. Without being a member of the Government of India, he practically discharges all the functions of a member, for there is no separate member in charge of the political portfolio, the political department being supposed to be in the direct charge of the Governor-General. The present position is that if the political department gives any decision against an Indian State or an Indian

ruler, the only remedy available against it is 'an appeal, under certain conditions and subject to certain limitations, to the Secretary of State'. We are aware that in the present circumstances this is supposed to be a valued right, but this is probably due to the very unsatisfactory procedure followed in the first instance in India. It is obvious that a right of appeal in a case which is not fairly tried is of little value and we think that it is possible to replace it by adequate constitutional provisions for the future.

In ordinary experience, the matters in regard to which the Indian States come into contact or conflict with the Government of India are those relating to customs, excise, extradition, railways, post offices, and ports or harbours. In addition to this, there is the bigger common interest of self-defence. It is not necessary for us to examine what are understood to be the grievances of the Indian States in regard to these matters. We simply note the fact that responsible Indian rulers and ministers of Indian States have, at times, raised their voice against what they have described to be the inequitable treatment which they received at the hands of the Government of India. How far those grievances are capable of being remedied, and how best they can be remedied, are matters for investigation and joint consultation, but we venture to think that their solution is not inextricably mixed up with the continuance of the present constitution of the Government of India, or the establishment of the Government of India, or the establishment of an entirely separate and independent machinery for the exclusive treatment of these subjects. If we refrain from going into this question at greater length, it is only because the public have not hitherto been permitted to know enough of the scheme which has been in the course of incubation during the last few months. But if it is permissible to us to draw our own inferences from such statements as have been made in this connection by Sir Leslie Scott, the counsel for the Indian princes, before his departure for England, we shall sound a note of warning against the attempt that is being made to duplicate the machinery, by bringing into existence a separate Council

for the Indian States to work with the Governor-General. Apart from the fact that it will be a cumbersome thing, its separate existence cannot secure the solution of matters of conflict with British India or with the future Commonwealth government. It strikes us as being a vicious extension of the system of diarchy with all its attendant incongruities, inconveniences, and constitutional difficulties.

A federation of some sort was foreshadowed by Sir Malcolm Hailey, in the speech to which we have already referred, and there is no doubt that some such idea is also present to the mind of Sir Leslie Scott. But if the constitution of India is to be a federal one, as we think it might well be, the position of the Indian States in relation to that federation appears to us to call for a definite determination and the ideas, on the subject, require to be cleared up. Are the Indian States willing and ready to join a real federation? We put this question as we believe that the lines on which the princes and Sir Leslie Scott are working cannot lead to any kind of federation in its well understood sense. 'A federal state', says professor Newton, is a perpetual union of several sovereign states, based first upon a treaty between those states, or upon some historical status common to them all, and secondly, upon a federal constitution accepted by their citizens. The central government acts not only upon the associated states but also directly upon their citizens. Both the internal and external sovereignty of the states is impaired and the federal union in most cases alone enters into international relations.' It would be, in our opinion, a most one-sided arrangement if the Indian States desire to join the federation, so as to influence by their votes and otherwise, the policy and legislation of the Indian Legislature, without submitting themselves to common legislation passed by it. It would be a travesty of the federal idea. If the Indian States would be willing to join such a federation, after realizing the full implications of the federal idea, we shall heartily welcome their decision and do all that lies in our power to secure to them the full enjoyment of their rights and privileges. But it

must be clearly borne in mind that it would necessitate, perhaps in varying degrees, a modification of the system of government and administration prevailing within their territories. We hope and trust that in the light of experience gained, the Indian States may make up their mind to join formally the federation. Meanwhile, we think that it is by no means impracticable to provide suitable machinery for the settlement of mutual differences on administrative and other matters. The practical question of the preservation of their treaty rights and such independence as they have enjoyed or as they claim, is, in our opinion, far more important than the arid and academic discussion of the question, whether in theory their relations are with the Government of India or with the Crown.

*Our Recommendations :* Accordingly, we have provided (a) 'all treaties made between the East India Company and the Indian States and all such subsequent treaties, so far as they are in force at the commencement of this Act, shall be binding on the Commonwealth. (b) The Commonwealth shall exercise the same rights in relation to, and discharge the same obligations towards, the Indian States as the Government of India exercised and discharged previous to the passing of this act'. We have made these suggestions in no spirit of vanity or idealism. We fully realise their implications and the obligations that such provisions will impose upon the future Government of India. We do believe that the Government of India of the future will discharge their obligations in their integrity and with every desire to promote harmonious relations and no desire to override cherished privileges, or sentiments. Similarly, in regard to matters of a justiciable character, we have suggested that 'in case of difference between the Commonwealth and an Indian State on any matter arising out of treaties, engagements, *sanads* or similar other documents, the Governor-General in Council may, with the consent of the State concerned, refer the said matter to the Supreme Court for its decision'. We think that this will be a far better method of settling such matters than the present arrangement under with the Government of India is.

both a party and a judge in a controversy between itself and an Indian State. We need scarcely point out that we anticipate that the judges of the Supreme Court will be men of the highest legal training, character, and judicial independence.

In regard to non-justiciable matters involving financial and administrative relations, it should not be difficult to come to a settlement by mutual conferences and understandings. The position, in the future, will not to our mind, be worse than it is. Indeed it is likely to be better, where, between different States, there are honest differences and an independent effort is made to arrive at just and equitable settlements. Practical goodwill and larger common interest are of far greater value than any meticulous considerations of ultimate sanctions. It is obvious to our mind, that the question of common defence is one which is bound to be in future the rallying centre of the Government of India and the Indian States, and if it has been possible in the past to sustain common obligations and to keep alive a common sense of duty to the country at large, we do not despair of the future.

In making these observations we feel that we have not had the advantage of discussion with the representatives of the Indian princes, and we are alive to the possibility of much greater light being thrown on some dark corners of the entire problem by such discussions. Meanwhile, we content ourselves by saying that while we recognise that an Indian federation, compatible as it will be with the maximum degree of autonomy in the local units, whether provinces or States, can be the only solid foundation for responsible government, we are not prepared to concede that until Indian States have made up their minds to join this federation in the most formal manner, British India must be denied full responsible government or dominion status, merely because it is supposed that the obligations which the Crown or the present Government of India owe to the Indian States, can be discharged only by a central government which is, and must for that reason continue to be undemocratic. Such an argument can only mean that the Indian States, while



professing their sympathy with progress in British India, must effectually defeat our aims and aspirations by an attitude based not on enlightened self-interest, but on practical hostility to our aims and aspirations.

While however the Indian princes have not given us the benefit of mutual consultations and discussions, their subjects have been represented before the All-Parties Conference and have put forward their case with ability. The recommendations made by the first committee of the Conference in regard to the Indian States have been severely criticised by Mr. Hosakoppa Krishna Rao, member of the Mysore Representative Assembly, who has also prepared a "Swaraj Constitution" which has been approved by a committee appointed by the All-India States Subjects Conference, Madras. We have carefully considered these criticisms and the draft Swaraj Constitution of Mr. Krishna Rao. But we regret in view of the constitutional position we have discussed above we are unable at present to recommend a detailed constitution which would embrace both British India and the Indian States.

It is well-known that the expression "Indian States" does not connote any particular form of government. The authors of the report on Constitutional Reforms have thus described these States :

"They are in all stages of development, patriarchal, feudal or more advanced while in a few States are found the beginnings of representative institutions. The characteristic features of all of them however including the most advanced are the personal rule of the prince and his control over legislation and the administration of justice".

So long as this characteristic feature of personal rule does not undergo a material change, the expression "Indian State" must be taken to mean "the individual ruling prince of the State concerned" and has no reference to the nature of the administration. This material change cannot be effected constitutionally without the consent of the rulers of the States who

alone represent their governments. Mr. Rao says that "tradition, convention, sentiment and above all an intense feeling of loyalty too deep to be rooted out and finally, a keen desire to preserve the individuality of their respective States firmly bind them (the people of the States) to the Ruling Houses. Consequently they do not hanker after unity but desire only union with British India." With all this tradition, convention, sentiment and intense loyalty to the rulers, Mr. Rao completely ignores their wishes, abolishes all treaties and arrangements between them and "His Majesty or the Parliament of the United Kingdom or the King in Council or the Secretary of State for India or the Governor-General in Council or all the said authorities" and declares by one sweep of the pen that such treaties or arrangements shall become null and void at the date of the commencement of the constitution. He then guarantees to the States "territorial integrity, internal autonomy and stability of constitutions and the fundamental rights of their people," subject to conditions which have never been accepted by them. He provides for the withdrawal of the guarantee in case the States fail to fulfil the conditions laid down by him. We are not told what is to happen if the rulers of the States do not accept either the guarantee or the conditions attached to it and what are the "necessary measures" which Mr. Rao proposes to take against them if they fail to fulfil his conditions. As regards the form of government it is to be "hereditary monarchy, *i.e.*, a government in which the head of the State shall be the hereditary governor or administrator with a popular Assembly and an executive responsible to that Assembly." He ends with a reservation of the "right of the people of the Confederation to claim the fullest national independence (that is, an unqualified divorce of her political, economic and social relationship from Great Britain and the British Commonwealth of Nations) and evolve her future constitution on a full-fledged federal republican basis, in case no settlement is agreed to by the British and the Indian Governments on the basis of this Constitution."

It is hardly necessary to point out the inconsistencies of these provisions or to criticise them on constitutional grounds beyond which we have not permitted ourselves to go for reasons already stated.

*Foreign Policy :* We have hitherto dealt with the relations of the Government of India with the Indian States. We now propose briefly to advert to the relations of the Government of India with foreign states. In one sense we are aware that the position of India as compared to some of the dominions is peculiar. India has got a vast land frontier on the North-West and the North-East, and it has to come into contact with foreign powers and semi-independent tribes. The foreign department of the Government of India is practically in charge of the foreign secretary who works directly under the Governor-General. His duties are multifarious ; he has to look after the North-West Frontier Provinces ; he is in control of the affairs of the tribes in the 'Agency-Tracts' ; he has to deal with semi-independent chief in the North-West Province and elsewhere. His jurisdiction extends in some matters to the Persian Gulf and Aden. Some matter—not all—falling within his jurisdiction occasionally come up for discussion in the legislature and then he has to defend or explain the policy of the Government of India. The bigger questions of policy, having an imperial aspect, are settled not in India, but in England, and we realise that in a well-knit Commonwealth of Nations it is inevitable that, consistently with the independence of the dominions, there must be to some extent at least uniformity of foreign policy, but this is in the case of the dominions achieved more by mutual discussion and understandings than by any imperial mandates. Indeed the measure of freedom in regard to questions of foreign policy which in recent years has been claimed and enjoyed by Canada, South Africa and Australia has been steadily increasing, though this has not tended to weaken the safety of the empire, or to affect the possibility of a unity of policy in larger questions of relations with foreign countries or states.

In point of the fact Government of India discharge and enforce those obligation which mutually exist between His Majesty's government and some neighbouring foreign Asiatic powers we donot see any reason why the self-governing dominion of India should do anything less.

We are aware of delicate nature of questions of foreign policy and the inexpediency of discussing them at times on the floor of the legislature. We cannot see why the legislature of the dominion of India should not observe those rules of prudence and discretion which are observed in other legislatures.

## CHAPTER VI

### OTHER PROPOSALS

We shall now consider the main provisions of the constitution, as suggested by us. These are framed, as has already been stated, on the model of the dominions.

*Declaration of Rights :* The resolution of the Madras Congress lays down that the basis of the constitution must be a Declaration of Fundamental Rights. Considerable stress has been laid on this and all the draft constitutions we have considered have formulated such a declaration. Canada, Australia, and South Africa have no declaration of rights in their constitutions but there are various articles to be found in the constitution of the Irish Free State which may properly be grouped under the general head "fundamental rights". The reason for this is not far to seek. Ireland is the only country where the conditions obtaining before the treaty were the nearest approach to those we have in India. The first concern of the people of Ireland was, as indeed it is of the people of India to-day, to secure fundamental rights that have been denied to them. The other dominions had their rise from earlier British settlements which were supposed to have carried the law of England with them. Ireland was taken and kept under the rule of England against her own will and the acquisition of dominion status by her became a matter of treaty between the two nations. We

conceive that the constitutional position in India is very much the same. That India is a dependency of Great Britain cannot be denied. That position can only be altered in one of two ways—force or mutual consent. It is the latter in furtherance of which we are called upon to recommend the principles of a constitution for India. In doing so it is obvious that our first care should be to have our fundamental rights guaranteed in a manner which will not permit their withdrawal under any circumstances. With perhaps less reason than we have most of the more modern constitutions of Europe have specific provisions to secure such right to the people.

Another reason why great importance attaches to a declaration of rights is the unfortunate existence of communal differences in the country. Certain safeguards and guarantees are necessary to create and establish a sense of security among those who look upon each other with distrust and suspicion. We could not better secure the full enjoyment of religious and communal rights to all communities than by including them among the basic principles of the constitution.

A reference to the various clauses of the declaration of fundamental rights as adopted by us will show that we have kept both these aspects in view.

*Fixity of Tenure* : The first committee of the All-Parties Conference went into this question carefully and we have adopted most of their articles. We have added to the declaration an independent recommendation regarding the rights of labour and peasantry, made by the first committee, with the exception that "Parliament shall make laws to ensure fair rent and fixity of tenure to agricultural tenants." We have left this out not because we do not approve of fixity of tenure but because we felt that if this was made a fundamental right it might become more of hindrance and obstruction in the way of the tenantry, preventing future progress, than a safeguard. The present system of land tenure in large parts of India is anything but desirable and requires radical change. We recognise

that the present condition of the tenantry is very deplorable and even some fixity of tenure would bring great relief. But it would be a shortsighted policy indeed if to gain some relief now we were to barter away the future rights of the peasantry. So long as the present system endures the rights of the tenants might be safeguarded by the article in the Declaration of Rights requiring Parliament, *i.e.*, the Parliament of India, to make suitable laws for securing a living wage for every worker.

*Right to use of Roads etc.* : We have added an article to the Declaration dealing with the right of all citizens to access to, and use of, public roads, public wells and all other places of public resort. This may be considered obvious enough but in view of the peculiar circumstances and the customs prevailing in some parts of the country we feel that it is desirable to lay emphasis on it.

*No Distinctions of Caste in Schools* : Certain changes and additions have also been made in some other articles, in the article dealing with the right to free elementary education we have added that there will be no "distinction of caste or creed in the matter of admission into any educational institutions maintained or aided by the state."

*Habeas Corpus* : To the right to a writ of habeas corpus we have added that in case the central legislature is not sitting during a war or rebellion the executive authority of the Commonwealth will be entitled to spend the right for the time being but the central legislature must be informed at the earliest opportunity for such action as it may deem fit.

*Kripans* : At the request of our colleague Sardar Mangal Singh we have added a note to the Declaration acknowledging the right of the Sikhs to carry kripans on the occasion.

*The Legislature* : We are of opinion that the central legislature should be bicameral, consisting of a Senate and a House of Representatives. The provincial legislatures should, in our opinion, be uni-cameral.



*Number of Members* : For the Senate we recommend 200 members ; for the House of Representatives 500 members with provision to increase the number, if necessary, on a uniform population basis. In the provinces, as a general rule, there should be one member for every 100,000 population. But in a province with a population of less than 10 millions there may be a maximum of 100 members.

*Franchise* : For the House of Representatives and the provincial councils we are of opinion that the largest possible franchise should be granted. Some of us were strongly in favour of adult suffrage, but others, while favouring adult suffrage as the objective to be aimed at, were of opinion that there would be too many practical difficulties in the way at the beginning. Various proposals were considered among them being, besides adult suffrage, the following :

- (i) Adult suffrage subject to registration by intending voters.
- (ii) The extension of the franchise from the present six millions to about 60 millions leaving it to a committee to determine the franchise which would give this result.
- (iii) Any of the following :
  - (a) All persons who pay any revenue, rent or land or house rates, cesses and taxes.
  - (b) All literates.
  - (c) All persons who earn their livelihood by manual or intellectual labour.
  - (d) All such unemployed as are on the state register of the unemployed.
  - (e) Members of joint families.
  - (f) Wives of male electors.

The third proposal given above would in practice amount to something very near adult suffrage. Some of us were inclined to favour the second proposal, which increased the votes to 60 millions, as a stepping stone to adult suffrage. Adult suffrage

would probably give us about 120 millions of voters in British India, and the second proposal would thus enfranchise half of these and would be a great step in advance. There were difficulties however in the way of this proposal. At present the 'voting ratio between different communities is not the same as the population ratio. Thus in the Punjab although the Muslims outnumber the Hindus and Sikhs combined the number of their votes is far less than the Hindu and Sikh voters. This is due to the superior economic position of the latter. We are strongly of opinion that this anomaly should be ended and the voting ratio should be made to correspond with the population ratio. With adult suffrage this happens automatically, but with any other restricted franchise the only possible way to do it is to have different electoral qualifications for different groups and communities. Thus the basis of representation of different communities cannot be uniform and this may be considered a grievance by some groups. We were thus driven to the conclusion that the only solution is adult suffrage and we have recommended accordingly. We find that the Ceylon Reform Commission has come to the same conclusion. It has recommended a universal manhood suffrage with a restricted franchise for women over 30 years of age. The restriction has been imposed "in view of the necessity for keeping the number of votes within reasonable bounds". We see no such necessity. Any artificial restriction on the right to vote in a democratic constitution is an unwarranted restriction on democracy itself. It is quite a different thing to say that a system of universal adult suffrage is difficult to work. But the difficulty howsoever great has to be faced if what is contemplated is full responsible government in its true sense and with all its implications. The Ceylon Reform Commission have created a novel form of government which has no parallel in the constitutions of the world. But whatever else it may be, it certainly is not responsible government in any sense, and it is responsible government alone with which we are concerned. We do not therefore propose to put any restriction on the right of women to vote which does not equally apply to men.

Universal adult suffrage is at present being successfully worked on a small scale in the elections to the Shromani Gurdwara Parbandhak Committee (Central Sikh Shrines Committee), which are held all over the Punjab. Its introduction on a larger scale only means a multiplication of the machinery employed. We do not see why such multiplication with all the trouble and expense it involves should be considered unreasonable when it is necessary for the purpose of laying the foundation upon which responsible government rests.

We attach no weight to the objections based on the prevailing illiteracy of the masses and their lack of political experience. The proportion of literacy being very small the same objections will apply to the great majority of voters howsoever much the franchise may be restricted. There is no reason or justice in undertaking the political education of a person earning a certain income and refusing the same education to another person earning a little less. Political experience can only be acquired by an active participation in political institutions and does not entirely depend upon literacy. There should be equal opportunities available to all to acquire this experience. The most advanced countries in the world did not wait to achieve a hundred per cent of literacy before introducing adult suffrage. Why should India ?

*Senate* : In regard to the Senate we recommend that the electorates should be the legislatures of the provinces, a specific number of seats being allotted to each province, the basis being population, subject to a minimum.

A majority of the first All-Parties Committee recommended a restricted franchise for the Senate, although a majority was in favour of our present suggestion. An upper house, if directly elected, can either be based on a narrow and restricted franchise or on as wide a franchise as applies to the lower house. In the latter case, it becomes merely a duplicate of the lower chamber and is totally unnecessary ; in the former it represents only a small section of the community and there is always a tendency

to create deadlocks and friction. There is no justification whatever for a second chamber consisting of obscurantists and people belonging to special classes whose chief aim is to protect their own interests and obstruct all liberal measures. The only justification for it is that it ensures the reconsiderations of all measures emanating from the lower house in a somewhat calmer atmosphere and more dispassionately than is likely to be the case in the lower house when controversial matters are discussed. This is specially necessary in India owing to the existence of communal feelings. Direct election to the Senate can thus only result in either a replica of the lower house or in producing a reactionary body representing some vested interests only. The method of indirect election we have suggested gets over this difficulty. The electorate consisting of people presumably of a fairly high degree of intelligence, there is some chance that the right kind of men may be chosen, men who may not care to face the shouting and the tub-thumping which a modern democratic election with a wide electorate involves. Their electorate although restricted will not be based on status or vested interests or class. It will presumably reflect the temper of the mass electorates in the country. There will be a greater chance of minority and other special interests to be represented, specially, as we recommended, if the election for the Senate takes place by the system of proportional representation.

There will be another advantage in the adoption of this proposal. Provinces as such will be directly represented in the central legislature and provincial viewpoints will be expressed in the Senate. This is specially desirable to co-ordinate the provincial legislatures with the central legislature and to promote the harmonious working of the constitution.

We have suggested that a specific number of seats should be allotted to each province, the basis being population, subject to a minimum. We have not fixed a minimum. Our idea is that although the rough population test should be applied in the allotment of seats, it should not be adhered to in its entirety, so

that even the smaller provinces may have adequate representation. In some countries, like the United States of America, the constituent states of the Union send the same number of members to the Senate, regardless of population. In view of the great difference in size and population of our provinces this principle of equal representation of all provinces may not be desirable but the differences between the representation of one province and another in the Senate should not be wholly disproportionate.

*Term of Legislatures* : We have suggested that the House of Representatives should continue for five years and the Senate for seven years.

*Decision of Functions* : We have adopted many of the recommendations of the first committee but we have added to them and made several changes. We have not provided for concurrent powers in any subject of both the central and provincial legislature. This is likely to lead to friction, and so we have endeavoured to place the functions of the two in entirely separate compartments with no overlapping.

The other provisions relating to legislatures are on the lines of the dominion acts. In the case of the central legislature, the House of Representatives has been given sole power to deal with money bills.

*The Executive* : We have recommended that the executive council of the Commonwealth should consist of a Prime Minister and not more than six ministers. There will probably be a tendency to increase the number of ministers so as to give representation to various communities. We do not approve of this, and in view of the provincial autonomy we are providing for, we feel that seven ministers ought to suffice in the central executive. The executive council will of course be collectively responsible to the legislature.

For the provincial executive we have suggested five ministers – a Chief Minister and four others.

The powers of the central and provincial executives are similar to those found in the dominion constitutions.

*The Judiciary* : We have provided for a Supreme Court, besides the High Courts, and we suggest that ordinarily no appeals should go to the King in Council except under certain conditions, which we have specified.

*Supreme Court* : We draw particular attention to the cases falling under the original jurisdiction of the Supreme Court. The most important of these are matters arising out of treaties, engagements, sanads, and similar other documents between the Commonwealth and Indian States which may be referred by the Governor-General in Council with the consent of the State concerned to the Supreme Court for its decision.

*Finance* : The division of the revenues of the country between the central and provincial governments, and the assignment of money for defence, education and other essential matters, will be difficult and will require the greatest care.

*Commission of Enquiry* : We have recommended that immediately after the establishment of the Commonwealth a Commission be appointed to institute an enquiry into

1. The sources of revenue which may be assigned to the Commonwealth and to the provinces, and
2. The financial relations between the central and the provincial governments.

In making the recommendation we have followed the constitution of the Union of South Africa, section 118, as the most suitable.

We have laid an additional duty on this commission to appoint :

*Training of Officers* : (i) A special committee to examine the whole question of the training of officers for the land, naval



and air forces, and the establishment of schools and colleges to give this training.

*Primary Education and Backward Classes : (ii)* Another committee to investigate and report on the introduction of general primary education, and the grant of special educational facilities to backward classes.

*(iii)* Such other committees as it may consider necessary.

We feel that the commission we have recommended will not be in a position to make a comprehensive report without the help of these committees which will be composed mostly of experts.

*The Civil Services :* We have recommended that on the establishment of the Commonwealth a permanent Public Services Commission should also be appointed.

One of the first duties of the Commonwealth on its establishment will be the reorganisation and readjustment of the departments of public services. It is notorious that the Indian administration to-day is top heavy and the services are paid at a higher rate than anywhere else in the world in spite of the grinding poverty of the country. The first problem before the dominion of India will be how to find money for defence, education, industry, sanitation and a host of other purposes. We cannot possibly afford to keep extravagantly paid civil or military services and we must try to reduce the overhead charges of administration to find money for developing the country. The people, or rather the articulate sections of them, have all along protested against the heavy salaries of our officials. But the only answer to these protests came in the shape of the Lee Commission. This commission, as is well-known, was appointed in the teeth of unanimous Indian opposition and its recommendations were adopted over the head of the Indian legislature. We feel therefore that the entire question of the sources and methods of recruitment of the services, their salaries, emoluments, pensions and allowances in the future will require re-examination in the light of the new political conditions which will be created under the new constitution.

For thus we have provided for the appointment of a special Public Service Commission which will cease to function after the reorganisation and readjustment of the services have been effected. But we have provided adequate guarantees for persons holding offices at the establishment of the Commonwealth both in case of their electing to require and to remain in the service of the Commonwealth. We have given three years for the exercise of the option to retire on the same term and conditions which may be applicable to those officers at the commencement of the Commonwealth.

*Army Services :* We have made similar provisions for all officers serving in the army, the navy, the Royal Indian Marine and in the Air Force of India serving in India at the commencement of the new constitution.

*Defence :* We have suggested the appointment of a Committee of Defence consisting of :

- (1) Prime Minister,
- (2) Minister of Defence,
- (3) Minister of Foreign Affairs,
- (4) The Commander-in-Chief,
- (5) The Commander of Air Forces,
- (6) The Commander of Naval Forces,
- (7) The Chief of the General Staff, and
- (8-9) Two other experts.

The functions of this committee will be advise the government upon questions of general policy and as to the practicality and means of effecting retrenchments in the expenditure on defence compatibly with the safety of India. We have also suggested that the annual estimates should be framed according to the recommendations of the committee. These provisions will, we believe, ensure the efficiency and general administration of the army.

For other recommendations we refer to Chapter VII, where they are set out in detail.

## CHAPTER VII

### THE RECOMMENDATIONS

We have made no attempt to draft the constitution as a whole, with the precision necessary in the case of a bill intended to be introduced in the legislature. Our recommendations have by their very nature taken a form similar to that of clauses of a draft bill but they are not intended to be treated as such or understood as anything more than an indication of the principles involved, which was all we were called upon to do by our terms of reference. It will be for the Parliamentary draftsmen to put them into shape, add formal and consequential provisions, and such details as we have omitted. It may be mentioned that some of the drafts placed before us provide for transfer orders and orders in Council to give effect to the constitution. These are very important, but more for the draftsmen than for us. On some points we have gone into greater detail than on others. But this is more or less accidental. We have drawn freely on the constitutions of the dominions as well as on Dr. Besant's Commonwealth of India Bill and the drafts prepared by Messrs. Vijiaraghavachariar, Srinivasa Iyengar and Ranga-swami Iyengar, and the committee of the Independent Labour Party, and also on the Government of India Act, but have found necessary in most cases to make some verbal and at times more important alterations. We have also omitted the preamble and the definitions excepting the definition of "citizen" which was settled by the first committee appointed by the All-Parties Conference. We now give these recommendations under suitable headings :

*Constitutional Status of India.* 1. India shall have the same constitutional status in the comity of nations known as the British Empire, as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa and the Irish Free State, with a Parliament having powers to make laws for the peace, order and good government of India, and an executive responsible to that Parliament, and shall be styled and known as the Commonwealth of India.

*Operation of the Constitution and Laws.* 2. This Act and all laws made by the Parliament of the Commonwealth thereunder shall be binding on the courts and people of every province, and of every part of the Commonwealth, notwithstanding anything in the laws of the Indian Legislature or of any province or in any Act of the United Kingdom extending to British India ; and the laws of the Commonwealth shall be enforced in all Indian territorial waters.

*Definition of Citizen.* 3. The word "citizen" whatever it occurs in this constitution means every person

- (a) who was born, or whose father was either born or naturalised, within the territorial limits of the Commonwealth and has not been naturalised as a citizen of any other country ;
- (b) who is naturalised in the Commonwealth under the law in force for the time being.

*Explanation :—*No person who is a citizen of a foreign country can be a citizen of the Commonwealth unless he renounces the citizenship of such foreign country in the manner prescribed by law.

*Fundamental Rights.* 4. (i) All powers of government and all authority, legislative, executive and judicial, are derived from the people and the same shall be exercised in the Commonwealth of India through the organisations established by or under, and in accord with, this constitution.

(ii) No person shall be deprived of his liberty nor shall his dwelling or property be entered, sequestered or confiscated, save in accordance with law.

(iii) Freedom of conscience and the free profession and practice of religion are, subject to public order or morality, hereby guaranteed to every person.

(iv) The right of free expression of opinion, as well as the right to assemble peaceably and without arms, and to form

associations or unions, is hereby guaranteed for purposes not opposed to public order or morality.

(v) All citizens in the Commonwealth of India have the right to free elementary education without any distinction of caste or creed in the matter of admission into any educational institutions, maintained or aided by the state, and such right shall be enforceable as soon as due arrangements shall have been made by competent authority.

(vi) All citizens are equal before the law and possess equal civic rights.

(vii) There shall be no penal law whether substantive or procedural of a discriminative nature.

(viii) No person shall be punished for any act which was not punishable under the law at the time it was committed.

(ix) No corporal punishment or other punishment involving torture of any kind shall be lawful.

(x) Every citizen shall have the right to a writ of habeas corpus. Such right may be suspended in case of war or rebellion by an Act of the central legislature or, if the legislature is not in session, by the Governor-General in Council, and in such case he shall report the suspension to the legislature at the earliest possible opportunity for such action as it may deem fit.

(xi) There shall be no state religion for the Commonwealth of India or for any province in the Commonwealth, nor shall the state either directly or indirectly endow any religion or give any preference or impose any disability on account of religious belief or religious status.

(xii) No person attending any school, receiving state aid or other public money shall be compelled to attend the religious instruction that may be given in the school.

(xiii) No person shall by reason of his religion, caste or creed be prejudiced in any way in regard to public employment, office of power or honour and the exercise of any trade or calling.

(xiv) All citizens have an equal right of access to, and use of, public roads, public wells and all other places of public resort.

(xv) Freedom of combination and association for the maintenance and improvement of labour and economic conditions is guaranteed to everyone and of all occupations. All agreements and measures tending to restrict or obstruct such freedom are illegal.

(xvi) No breach of contract of service or abetment thereof shall be made a criminal offence.

(xvii) Parliament shall make suitable laws for the maintenance of health and fitness for work of all citizens, securing of a living wages for every worker, the protection of motherhood, welfare of children, and the economic consequences of old age, infirmity and unemployment.

(xviii) Every citizen shall have the right to keep and bear arms in accordance with regulations made in that behalf.

(xix) Men and women shall have equal rights as citizens.

*Note :* Notwithstanding anything to the contrary in article IV the Sikhs are entitled to carry kirpans.

*Parliament.* 5. The legislative power of the Commonwealth shall be vested in a Parliament which shall consist of the King, a Senate and a House of Representatives herein called the Parliament.

6. The Governor-General shall be appointed by the King and shall have, and may exercise in the Commonwealth, during the King's pleasure, but subject to this constitution, such powers and functions of the King as His Majesty may assign to him,

7. (a) There shall be payable to the King out of the revenues of India for the salary of the Governor-General an annual sum...which, until the Parliament of the Commonwealth otherwise provides, shall be as in the schedule hereof provided.



(b) The salary of the Governor-General shall not be altered during his continuance in office.

8. The Senate shall consist of 200 members to be elected by the Provincial Councils, a specific number of seats being allotted to each province on the basis of population, subject to a minimum. The election shall be held by the method of proportional representation with the single transferable vote (The Hare system).

9. The House of Representatives shall consist of 500 members to be elected by constituencies determined by law. Every person of either sex who has attained the age of 21, and is not disqualified by law, shall be entitled to vote.

Provided that Parliament shall have the power to increase the number of members from time to time if, necessary.

10. (1) Every House of Representatives shall continue for five years from its first meeting and every Senate shall continue for seven years.

Provided that—

- (a) either chamber of the legislature may be sooner dissolved by the Governor-General ;
- (b) any such period may be extended by the Governor-General if in special circumstances he so thinks fit ; and
- (c) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months after the date of dissolution for the next session of that chamber.

(2) The Governor-General may appoint such times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(3) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding.

(4) All questions in either chamber shall be determined by a majority of votes of members present, other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

(5) The powers of either chamber of the Indian legislature may be exercised notwithstanding any vacancy in the chamber.

11. There shall be a president of each House of Parliament who shall be a member of the House and shall be elected by the House. There shall also be a deputy president of each House who shall also be a member of the House and be similarly elected.

12. The privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Representatives and by the members thereof respectively shall be such as are from time to time defined by Act of Parliament of the Commonwealth.

13. Parliament shall, subject to the provisions of this constitution, have power to make laws :

- (a) for the peace, order and good government of the Commonwealth in relation to all matters not coming in the classes of subjects by this Act assigned to the legislatures of provinces ;
- (b) for the nationals and servants of the Commonwealth within other parts of India as well as those without and beyond India ;
- (c) for the government officers, soldiers, airmen and followers in His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act or the Air Force Act; and
- (d) for all persons employed or serving in or belonging to the Royal Indian Marine Service or the Indian Navy.

For greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that notwithstanding anything in this Act the legislative authority of the Parliament of the Commonwealth extends to all matters coming within the classes of subjects hereinafter enumerated and specified in Schedule I, attached hereto.

14. The powers of Parliament with respect to foreign affairs, not including the Indian States, shall be the same as exercised by the self-governing dominions.

15. Provisions may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian legislature, and as to the persons to preside at the meetings of the House of Representatives in the absence of the president and the deputy president ; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.

16 (i) Any bill which appropriates revenue or monies for the ordinary annual services of the Commonwealth government shall deal only with such appropriations.

(ii) Bills imposing taxation shall deal only with the imposition of taxes, and any provision therein dealing with any other matter shall be of no effect.

(iii) Bills affecting the public debt or for the appropriation of revenues or monies or for imposing taxation shall be introduced only by a member of the executive council and can only originate in the House of Representatives.

17. A money bill means a bill which contains only provisions dealing with all or any of the following subjects, namely the imposition, repeal, remission, alteration or regulation of taxation ; the imposition for the payment of debt or other financial purposes of charges on public revenues or monies, or the variation or repeal of any such charges ; supply, the appro-

priation, receipt, custody, issue or audit of accounts of public money ; the raising of any loan or the repayment thereof ; or subordinate matters incidental to those subjects or any of them. In this definition the expression "taxation", "public money" and "loan" respectively do not include any taxation, money or loan raised by local authorities or bodies for local purpose.

18. The question whether a bill is or is not a money bill will be decided by the president of the House of Representatives.

19. A money bill passed by the House of Representatives shall be sent to the Senate for its recommendations and it shall be returned not later than...days therefrom to the House of Representatives, which may pass it, accepting or rejecting all or any of the recommendations of the Senate ; and the bill so passed shall be deemed to have been passed by both chambers.

20. (i) Subject to the provisions of this Act, a bill may be initiated in either House of Parliament and, if passed by the originating House, shall be introduced in the other House for being passed.

(ii) Except as otherwise provided under this Act, a bill shall not be deemed to have been passed by Parliament unless it has been agreed to by both Houses, either without amendments or with such amendments only as may be agreed to by both Houses.

(iii) If any bill which has been passed by the House of Representatives is not, within six months after the passage of the bill by that House, passed by the Senate, either without amendments or with such amendments as may be agreed to by both Houses, the Governor-General shall, on resolution passed by either House to that effect, refer the matter for decision to a joint sitting of both Houses. The members present at any such joint sitting may deliberate and shall vote together upon the bill as last proposed by the House of Representatives and upon amendments if any, which have been made therein by one

House of Parliament and not agreed to by the other ; and any such amendments which are affirmed by a majority of the total number of members of the Senate and the House of Representatives present at such sitting, shall be taken to have been duly passed by both Houses of Parliament.

21. (i) So soon as any bill shall have been passed, or deemed to have been passed by both Houses, it shall be presented to the Governor-General for the signification by him, in the King's name, of the King's assent, and the Governor-General may signify such assent or withhold the same, or he may reserve the bill of the signification of the King's pleasure.

(ii) A bill passed by both Houses of Parliament shall not become an Act until the Governor-General signifies his assent thereto in the King's name, or in the case of a bill reserved for the signification of the King's pleasure, until he signifies by speech or message to each House of Parliament, or by proclamation that it has received the assent of the King-in-Council.

Provided that the Governor-General may, where a bill has been passed by both Houses of Parliament and presented to him for the signification by him of the King's assent, or has been reserved by him for the signification of the King's pleasure, return the bill for reconsideration by Parliament with a recommendation that Parliament shall consider amendments thereto.

(iii) Any bill so returned shall be further considered by Parliament together with the amendments, recommended by the Governor-General, and if re-affirmed with or without amendments, may be again presented to the Governor-General for the signification in the King's name of the King's assent.

*The Commonwealth Executive* : 22. The executive power of the Commonwealth is vested in the King and is exercisable by the Governor-General as the King's representative, acting on the advice of the executive council, subject to the provisions of this Act and of the laws of the Commonwealth.

23. (a) There shall be an executive council consisting of the Prime Minister and, until Parliament otherwise provides, not more than six Ministers of the Commonwealth.

(b) The Prime Minister shall be appointed by the Governor-General and the ministers shall also be appointed by him on the advice of the Prime Minister.

(c) The executive council shall be collectively responsible to the legislature for all matters concerning the departments of the Commonwealth administered by members of the executive council.

24. Until Parliament otherwise provides, the appointment and removal of all other officers of the executive government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council, or by a law of the Commonwealth to some other authority.

25. The Command-in-chief of the military, naval and air forces of the Commonwealth is vested in the Governor-General as the King's representative.

*High Commissioner and Foreign Representatives :* 26. The Commonwealth shall have the power to appoint High Commissioners and other foreign representatives similar to that exercised by Canada and other dominions. Such appointment shall be made by the Governor-General in Council who shall also make provision by rules for his pay, powers, duties and conditions of employment.

*Financial Control.* 27. (1) The Auditor General in India shall be appointed by the Governor-General in Council who shall by rules make provision for his pay, powers, duties and conditions of employment, or for the discharge of his duties in the case of a temporary vacancy or absence from duty.

(2) Subject to any rules made by the Governor-General in Council no office may be added to or withdrawn from the public service and the emoluments of no posts may be varied except after consultation with such finance authority as may be



designated in the rules, being an authority of the province or of the Commonwealth according as it is or is not under the control of a local government.

*The Provincial Legislature.* 28. The legislative power of a province shall be vested in the King and the local legislative council.

29. There shall be a Governor of every province who shall be appointed by the King and represent His Majesty in the province.

30. There shall be payable to the King out of the revenues of the province for the salary of the Governor an annual sum of...which, until Parliament of the Commonwealth otherwise provides shall be as in schedule...hereof provided.

31. (i) There shall be one member of the Provincial Legislative Council for every 100,000 of the population of the said province, provided that in provinces with a population of less than ten millions there may be a maximum of 100 members.

(ii) Every member shall be elected by a constituency determined by law. Every person of either sex who has attained the age of 21 and is not disqualified by law shall be entitled to vote.

32. (i) Every Provincial Council shall continue for 5 years from its first sitting provided that :

- (a) it may be sooner dissolved by the Governor ;
- (b) the term of 5 years may be extended by the Governor if in special circumstances he so thinks fit ;
- (c) after the dissolution of the Council the Governor shall appoint a date not more than 6 months after the date of the dissolution for the next session of the Council.

(ii) The Governor may appoint such times and places for holding the sessions of the Council as he thinks fit and may also from time to time, by notification or otherwise, prorogue such sessions.

- (iii) Any meeting of the Council may be adjourned by the person presiding.
- (iv) All questions in the Council shall be determined by the majority of votes of the members present, other than the presiding member, who shall however have and exercise a casting vote in the case of an equality of votes.
- (v) The powers of the Council may be exercised notwithstanding any vacancy.

33. There shall be a president of every Council who shall be a member of the House and shall be elected by the House. There shall also be a deputy president who shall also be a member of the House and be similarly elected.

34. The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province. The legislative authority of every provincial council extends to all matters coming within the classes of subjects hereinafter enumerated and specified in Schedule 11, attached hereto.

35. The local legislature of any province may repeal or alter, as to that province, any law relating to a provincial subject made either before or after the commencement of this Act by any authority in British India.

36. Any measure affecting the public revenues of a province, or imposing any charge on the revenue, shall be introduced only by a member of the executive council of the Governor.

37. When a bill has been passed by a local legislative council, the Governor may declare that he assents to or withholds his assent from the bill.

38. If the Governor withholds his assent from any such bill, the bill shall not become an Act.

39. If the Governor assents to any such bill, he shall forthwith send an authentic copy of the Act to the Governor-General, and the Act shall not have validity until the Governor-General has assented thereto and that assent has been signified by the Governor-General to, and published by the Governor.

40. Where the Governor-General withholds his assent from any such Act, he shall signify to the Governor in writing his reason for so withholding his assent.

41. When an Act has been assented to by the Governor-General it shall be lawful for His Majesty in Council to signify his disallowance of the Act.

42. Where the disallowance of an Act has been so signified, the Governor shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

*The Provincial Executive :* 43. The executive power of the province shall be vested in the Governor acting on the advice of the provincial executive council.

44. There shall be an executive council for every province consisting of not more than five ministers appointed by the Governor.

45. In appointing the executive council the Governor shall select the Chief Minister and appoint others only on his advice.

*The Judiciary :* 46. There shall be a Supreme Court which shall exercise such jurisdiction as Parliament shall determine. The Supreme Court shall consist of a Lord President, and so many other Justices, as Parliament may fix.

47. The Lord President of the Commonwealth, and all other Judges of the Supreme Court of the Commonwealth to be appointed after the establishment of the Commonwealth, shall be appointed by the Governor-General in Council, and shall receive such remuneration as Parliament shall prescribe, and other remuneration shall not be diminished during their continuance in office.

48. The Lord President of the Commonwealth and other judges of the Supreme Court of the Commonwealth shall not be removed from office except by the Governor-General in Council on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

49. The Supreme Court shall have original jurisdiction in all matters :

- (i) referred to the Supreme Court by the Governor-General in Council under section 85 ;
- (ii) in which the Commonwealth, or person suing or being sued on behalf of the Commonwealth ; is a party ;
- (iii) affecting consuls or other representatives of other countries ;
- (iv) between provinces ;
- (v) arising under this constitution or involving its interpretation.

50. The Supreme Court shall have jurisdiction, with such exceptions and subject to such regulations as Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders and sentences—

- (a) of any Justice or Justices exercising the original jurisdiction of the Supreme Court ;
- (b) of the High Court of any province, or of any other court of any province from which at the establishment of the Commonwealth an appeal lies to the King in Council.

51. The judgment of the Supreme Court in all such cases shall be final and conclusive and shall not be reviewed, or be capable of being reviewed by any other court, tribunal authority whatsoever.

*Appeals to the King in Council :* 52. (i) No appeal shall be permitted to the King in Council from a decision of the Supreme Court upon any question however arising, as to

limits *inter se* of the constitutional powers of the Commonwealth and those of any province or provinces, or as to the limits *inter se* of the constitutional power of any two or more provinces, unless the Supreme Court shall certify that the question is one which ought to be determined by the King in Council.

(ii) The Supreme Court may so certify if satisfied that for any special reason the certificates should be granted, and thereafter an appeal shall lie to the King in Council on the question without further leave.

(iii) Parliament may make laws limiting the matters in which such leave may be asked, provided that such laws do not impair any right which the King may be pleased to exercise by virtue of his royal prerogative to grant special leave of appeal from the Supreme Court to the King in Council.

*High Courts—Constitution* : 53. The high courts referred to in this Act are the high courts of judicature for the time being established in British India.

54. Each high court shall consist of a chief justice and as many other judges as the Governor-General in Council may think fit to appoint. Provided as follows :

(i) The Governor-General in Council may appoint persons to act as additional judges of any high court, for such period, not exceeding two years, as may be required ; and the judges so appointed shall, whilst so acting, have all the powers of a judge of the high court appointed by the Governor-General in Council ;

(ii) the maximum number of judges of a high court including the chief justice and additional judges shall be 20.

55. A judge of a high court must be an advocate on the rolls of a high court of not less than ten years' standing pro-

provided that nothing herein contained shall affect the continuance of the tenure of office of the judges who may be holding appointments at the commencement of this act.

56. (i) Every judge of a high court shall hold office during his good behaviour.

(ii) Any such judge may resign his office to the local government.

57. The chief justice and other judges of the high court shall not be removed from office except by the Governor-General in Council on an address by the Provincial Legislature.

58. (i) The Governor-General in Council may fix the salaries, allowances, furloughs, retiring pensions, and may alter them, but any such alteration shall not affect the salary of any judge appointed before the date thereof.

(ii) The remuneration fixed for a judge under this section shall commence upon taking upon himself the execution of his office.

59. (i) On the occurrence of a vacancy in the office of chief justice of a high court, and during any absence of such a chief justice the local government shall appoint one of the other judges of the same high court to perform the duties of chief justice of the court, until some person has been appointed by the Governor-General to the office of chief justice of the court, and has entered on the discharge of his duties of that office, or until the chief justice has returned from his absence, as the case requires.

(ii) On the occurrence of a vacancy in the office of any other judge of a high court, and during any absence of any such judge, or on the appointment of any such judge to act as chief justice, the local government may appoint a person, with such qualifications as are required in persons to be appointed to the high court ; and the person so appointed may sit and perform the duties of a judge of the court, until some person



has been appointed by the Governor-General in Council to the office of judge of the court, and has entered on the discharge of the duties of the office, or until the absent judge has returned from his absence, or until the local government sees cause to cancel the appointment of the acting judge.

*Jurisdiction* : 60. (i) The several high courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction in respect of offences committed on the high seas, and all such powers and authority over or in relation to the administration of justice, including power to appoint clerks and other ministerial officers of the court, and power to make rules for regulating the practice of the court as are vested in them by letters patent, and subject to the provisions of any such letters patent, all such jurisdiction, powers and authority as are vested in those courts respectively at the commencement of this Act.

(ii) The letters patent establishing, or vesting jurisdiction, powers or authority, in a high court may be amended from time to time by a further letters patent.

61. Each of the high courts has superintendence over all courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say,—

- (a) call for returns ;
- (b) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction ;
- (c) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts ;
- (d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts ;  
and

- (e) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts ;

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any law for the time being in force, and shall require the previous approval of the local government.

62. (i) Each high court may, by its own rules, provide as it thinks fit for the exercise, by one or more judges of the high court of the original and appellate jurisdiction vested in the court.

(ii) The chief justice of each high court shall determine what judge in each case is to sit alone, and what judges of the court, whether with or without the chief judge, are to constitute the several division courts.

63. The Governor-General in Council may, by order, transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts, and authorise any high court to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the high court was established, and also to exercise any such jurisdiction in respect of any British subject for the time being within any part of India outside the Commonwealth.

64. (a) The Governor-General, each Governor, each of the members of the executive council, whether in the Commonwealth or in the provinces, shall not be subject to the original, appellate or revisional jurisdiction of any high court, by reason of anything counselled, ordered or done, by any of them, in his public capacity only.

(b) The exemption shall extend also to the chief justices and other judges of the several high courts.

65. The Governor-General in Council may, if he sees fit, by letters patent, establish a high court of judicature in any

territory in the Commonwealth, whether or not included within the limits of the local jurisdiction of another high court, and confer on any high court so established, any such jurisdiction, powers and authority as are vested in, or may be conferred on, any high court existing at the commencement of this Act ; and, where a high court is so established in any area included within the limits of the local jurisdiction of another high court, the Governor-General may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

*Advocate General* : 56. The local government may appoint an advocate general for each of the provinces and may, on the occurrence of a vacancy in the office of advocate general, or during any absence or deputation of an advocate general, appoint a person to act as advocate general ; and the person so appointed may exercise the powers of an advocate general until some person has been appointed by the Governor-General in Council and has entered on the discharge of his duties or until the advocate general has returned from his absence or deputation, as the case may be, or until the local government cancels the local appointment.

*Property, Revenue and Finance* : 67. All property vested in, or arising or accruing from property or rights vested in His Majesty or the Secretary of State in Council under the Government of India Acts, 1858, 1915 and 1919 shall vest in the Governor-General in Council.

68. The revenues of India shall vest in the Governor-General in Council and shall, subject to the provisions of this Act, be applied for the purposes of the Commonwealth alone.

69. The expression "the revenue of India" in this Act shall include all the territorial and other revenues of or arising in British-India, and in particular,—

- (i) all tributes and other payments in respect of any territories which would have been receivable by or in the name of the East India Company if the Government of India Act, 1858, had not been passed ; and
- (ii) all fines and penalties incurred by the sentence or order of any court of justice in British India, and all forfeitures for crimes of any movable or immovable property in British India ; and
- (iii) all movable or immovable property in British India escheating or lapsing for want of an heir or successor and all property in British India devolving as *bona vacantia* for want of a rightful owner.

70. Parliament shall establish a Railway and Harbour Fund into which shall be paid all revenues raised or received by the Governor-General in Council from the administration of railways, ports and harbours, and such fund shall be appropriated by Parliament to the purposes of railways, ports and harbours on such conditions and in such manner as it may prescribe. There shall also be formed a consolidated revenue fund into which shall be paid all other revenues raised or received by the Governor-General in Council and such fund shall be appropriated by Parliament for the purpose of the Commonwealth in the manner prescribed by this Act or by rules made in that behalf and subject to the charges imposed thereby.

71. There shall be charged on the revenues of India alone—

- (a) all the debts of the East India Company ; and
- (b) all sums of money, costs, charges and expenses which, if the Government of India Act, 1858, the Government of India Act, 1915, as amended by the Government of India Act 1919 or this Act, had not been passed, would have been paid by the East India Company out of the revenues of India in respect of any treaties, covenants, contracts, grants or liabilities existing at the commencement of this Act ; and

- (c) all expenses, debts and liabilities lawfully contracted and incurred on account of the Government of India ; and
- (d) all other charges and payments under this Act (except so far as is otherwise provided under this Act).

72. (i) As soon as may be after the establishment of the Commonwealth the Governor-General in Council shall appoint a Commission consisting of one representative from each province and...representatives of the government of the Commonwealth, and presided over by an officer of the Commonwealth, to institute an enquiry into (a) the sources of revenue which may be assigned to the government of the Commonwealth and to the governments of the provinces respectively with due regard to the efficient administration and development of the services or subjects under the respective control of either, and (b) the financial relations which should exist between the government of the Commonwealth and the governments of the provinces, and (c) for the means to be adopted for giving effect to such relations.

(ii) The said Commission shall appoint a committee to examine the whole question of the training of officers for the land, naval and air forces of the Commonwealth and the establishment of the requisite number of schools and colleges for military instruction.

(iii) The committee so appointed shall report to the Commission about the requisite number of such schools and colleges and their staffs, the places where they are to be established, and the standard of instruction to be imparted in each, and an estimate of the initial and maintenance cost of the said schools and colleges.

(iv) The said Commission shall also appoint a committee to investigate and report on the steps to be taken for the introduction of general primary education in the Commonwealth and the affording of special educational facilities for backward classes.

(v) The said Commission shall have the power to appoint such other committees as it may consider necessary, for the purposes of its inquiry.

(vi) The said Commission shall report to the Governor-General in Council on matters recommended in clause 1, and shall make special recommendations fixing minimum charges on the revenues of the Commonwealth and the provinces for the purposes mentioned in 2, 3 and 4.

73. The Governor-General in Council shall lay the entire report of the Commission together with his recommendations before Parliament for such legislative or other action as it may deem fit.

74. Pending the completion of the said enquiry, and until Parliament has taken action under clause 68, the existing sources of revenue and the financial relations shall continue to be in force.

*Defence* : 75. (a) The Governor-General in Council shall appoint a Committee of Defence consisting of (1) the Prime Minister, (2) the Minister of Defence, (3) the Minister of Foreign Affairs, (4) the Commander-in-Chief, (5) the Commander of the Air Forces, (6) the Commander of the Naval Forces, (7) the Chief of the General Staff, and two other experts.

(b) The Prime Minister shall be the chairman of the committee ; and there shall be a permanent staff including a secretary attached to this committee.

(c) The functions of this committee shall be to advise the government and the various departments concerned with questions of defence and upon general questions of policy.

(d) As soon as the committee is appointed the Governor-General in Council may take the advice of the Committee of Defence as to the practicability and means of effecting a retrenchment in the expenditure on defence compatibly with the



safety of India. The estimates shall be framed according to the recommendations of the committee.

76. The proposals of the Governor-General in Council for the appropriation of revenues or monies classified as "Defence" shall be submitted to the vote of the House of the Representatives.

77. Notwithstanding anything to the contrary in the foregoing provisions, the Governor-General in Council may, in the event of any foreign aggression on India by land, air or sea, or upon his being satisfied that there is a reasonable apprehension of such aggression, authorise such expenditure as may be necessary for the safety of British India or any part thereof. Such action taken by the Governor-General shall be reported by him immediately to the legislature, if in session, or if the legislature is not in session, to a special session to be summoned as soon as possible thereafter.

78. No measure affecting the discipline or maintenance of any part of the military, naval and air forces of the Commonwealth shall be introduced in Parliament except on the recommendation of the Committee of Defence appointed under this constitution.

*The Civil Services* : 79. Subject to the provisions of the next succeeding section, all officers of the public services shall, at the establishment of the Commonwealth, become officers of the Commonwealth.

80. As soon as possible after the establishment of the Commonwealth, the Governor-General in Council shall appoint a Public Service Commission to make recommendations for such reorganisation and readjustment of the departments of the public services as may be necessary.

81. Parliament may make laws for regulating the classification of the civil services in India, the sources and methods of their recruitment, their conditions of service, pay and

allowances, and discipline and conduct. Parliament may also, to such extent and in respect of such matters as it may prescribe, delegate the power of making rules under the said laws to the Governor-General in Council or to local governments.

82. (i) After the establishment of the Commonwealth the Governor-General in Council shall appoint a permanent Public Service Commission which such powers and duties relating to the recruitment, appointment, discipline, retirement and superannuation of public officers as Parliament shall determine.

(ii) Members of the permanent Public Service Commission shall hold office for five years from the date of appointment.

83. Any officer of the public services who desire to retire within three years of the establishment of the Commonwealth, or is not retained in the service of the Commonwealth, shall be entitled to receive such pension, gratuity or other compensation as they would have received in like circumstances if the Commonwealth had not been established.

*The Army Services :* 84. All officers, British and Indian, serving in the army, the navy, the Royal Indian Marine, or the Air Force of India, serving in India at the commencement of the new constitution, shall retain all their existing rights as to salaries, allowances or pensions or shall receive such compensation for the loss of any of them, as the Governor-General in Council may consider just and equitable, or as they would have received in like circumstances if the Commonwealth had not been established.

Further all such officers, British or Indian, who were in receipt of pensions at the date of the commencement of the new constitution, shall continue to receive the same pension from the revenues of India.

*Indian States :* 85. The Commonwealth shall exercise the same rights in relation to, and discharge the same obligations

towards, the Indian States, arising out of treaties or otherwise, as the Government of India has hitherto exercised and discharged.

In case of any difference between the Commonwealth and any Indian State on any matter arising out of treaties, engagements, sanads or similar other documents, the Governor-General in Council, may with the consent of the State concerned, refer the said matter to the Supreme Court for its decision.

*New Provinces* : 86. The redistribution of province should take place on a linguistic basis on the demand of the majority of the population of the area concerned, subject to financial and administrative considerations.

*Amendment of the constitution* ; 87. Parliament may, by law, repeal or alter any of the provisions of the constitution. Provided that the bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together and at the third reading shall be agreed to by not less than two-thirds of the total number of the members of both Houses. A bill so passed at such a joint sitting shall be taken to have been duly passed by both Houses of Parliament.

Note. The following are the recommendations on Communal and other controversial matters.

*Communal Representation* : I. There shall be joint mixed electorates throughout India for the House of Representatives and the provincial legislatures.

II. There shall be no reservation of seats for the House of Representatives except for Muslims in provinces where they are in a minority and non-Muslims in the N.-W.F. Province. Such reservation will be in strict proportion to the Muslim population in every province where they are in a minority and in proportion to the non-Muslim population in N.-W.F. Province. The Muslims or non-Muslims, where reservation is allowed to them, shall have the right to contest additional seats.

III. In the provinces

(a) there shall be no reservation of seats for any community in the Punjab and Bengal.

(b) in provinces other than the Punjab and Bengal there will be reservation of seats for Muslim minorities on population basis with the right to contest additional seats.

(c) in the N.-W.F. Province there shall be similar reservation of seats for non-Muslim with the right to contest other seats.

IV. Reservation of seats where allowed shall be for a fixed period of ten years.

*Redistribution and Status of Provinces* : V. Sind should be separated from Bombay and constituted into a separate province after such enquiry about the financial position as may be considered necessary.

VI. Parts of Karnataka, except the small islands on the other side of the Mysore territory, should similarly be separated from the provinces in which they are at present included and formed into a single separate province.

VII. The N.-W.F. Province, and all newly formed provinces by separation from other provinces, shall have the same form of government as the other provinces in India.

Motilal Nebru

Ali Imam

Tej Bahadur Sapru

M.S. Aney

Mangal Singh

Shuaib Qureshi\*

Subhas Chandra Bose

G.R. Pradhan

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\*Mr. Shuaib Qureshi was unfortunately unable to be present at the last meeting of the Committee when the draft report was considered. The draft however was sent to him and he has informed us that in regard to the recommendations contained in chapter III he is of opinion that one third seats in the central legislature should be reserved for Muslims. Further, he says : "I agree with the resolution adopted at the informal conference of July 7th but do not subscribe to all the figures and arguments produced in its support".

Sir Ali Imam, Mr. Subhas Chandra Bose and Mr. G.K. Pradhan were also unable to be present at the final meeting of the Committee but they signified their concurrence with the report after reading the draft.

The resolution of the informal conference, given on page 50 of the report, was passed on July, 7th 1928. It was signed by Dr. M.A. Ansari, Pandit Motilal Nehru, Pandit Madan Mohan Malviya, Sir Ali Imam, Sir Tej Bahadur Sapru and Messrs. Abul Kalam Azad, Sachchidananda Sinha, C.Y. Chintamani, T.A.K. Sherwani, Mangal Singh, Mohammad Shafee Daudi, M.S. Aney, S.D. Kitchlew, Subhas Chandra Bose, Shuaib, Qureshi, Khaliquz Zaman, D.R. Ranjit Singh, Syed Mahmud, A.M. Khwaja and Jawaharlal Nehru. Some others, who were present, agreed with this resolution but had left when signatures were taken.

This resolution was later considered by All-Parties committee together with some non-members who had been invited. Extracts from the proceedings of the Committee are given below.

*Extract from the Proceedings of the Committee  
Meeting dated 8th July*

**MORNING SESSION**

*Present :*

Pandit Motilal Nehru  
Mr. M.S. Aney.  
Mr. Shuaib Qureshi.  
Sardar Mangal Singh.  
Mr. Subhas Chandra Bose.

The following non-members were also present by invitation:

Dr. M.A. Ansari.  
Maulana Abul Kalam Azad.  
Mr. T.A.K. Sherwani.  
Mr. Mohammad Shafi Daudi.  
Dr. S.D. Kitchlew.  
Mr. Khaliq-uz-Zaman.  
Dr. Syed Mahmud, and  
Mr. Jawaharlal Nehru.

The question of reservation of seats for the Muslim minority in the central legislature was considered. It was stated however that under yesterday's agreement (first part) there could be no such reservation even for minorities. On the other hand, it was pointed out that without reservation it was probable that only about 30 or 40 Muslims may be returned to a central legislature of 500 members. This same result would be arrived at, it was shown, in the provinces where Muslims were in a small minority. A suggestion was made that this difficulty could be got over by a reservation of seats for small minorities in both central and provincial legislatures but not for majorities. This would mean a revision of yesterday's agreement. No decision was arrived at and the matter was postponed to the evening session.

July 8th

### **EVENING SESSION**

Present as in morning session with the exception of Dr. S.D Kitchlew and Dr. Syed Mahmud.

Also present Sir Bahadur Sapru.

The question of minority representation left over at the morning session was then taken up. It was unanimously agreed to modify the first part of the resolution of the informal conference held on the 7th July so as to permit reservation of seats in the central legislature for minorities on population basis.

The question of reservation of seats for small minorities in the Provincial Council was then considered. The Committee, with the exception of Mr. Shuaib Qureshi, was of opinion that the reasons favouring such reservation in the central legislature apply with equal force to the provincial legislature also. This opinion was supported by non-members present. It was therefore agreed to report to the All-Parties Conference that reservation of seats for small minorities in proportion to their population, with the right to contest additional seats, should be permitted in provincial legislatures.



**SCHEDULE I  
CENTRAL SUBJECTS**

1. Trade and commerce with other countries and in India and the incorporation of trading, financial or foreign corporations in India.

2. Taxation, excluding the taxation assigned under this constitution to the provinces or parts of them ; but including customs, revenue, excise, income-tax, super-tax, corporation profits tax, opium, including control of its cultivation, manufacture, and sale, export duties.

3. Bounties on the production of export of goods.

4. Borrowing money on the credit, the assets and the property of the Commonwealth; the public debt of the Government of the Commonwealth.

5. Currency, coinage and legal tender.

6. Banking and insurance and savings banks ; the incorporation of banks and the issue of paper money and stock exchanges.

7. Bills of exchange, cheques, hundies and promissory notes.

8. Shipping and navigation, including shipping and navigation on such inland waterways as may be declared to be of national importance; harbours, major ports, lighthouses, beacons, lightships, buoys.

9. Railways, and roads of all India and military importance.

10. Aircraft and all matters connected therewith.

11. Posts, telegraphs and telephones including wireless communications and installations.

12. The defence of India and all matters connected with the naval, military and air forces of the Commonwealth, including militia, Indian Marine Service and any other force raised in India other than military and armed police wholly maintained by the provincial government ; naval and military works and

cantonments ; schools and colleges for military, naval and air training.

13. Foreign and external relations including relations with States in India and political charges ; domicile, naturalization and aliens ; passports ; and pilgrimages beyond India.

14. Emigration and immigration.

15. Port quarantine and marine hospitals.

16. The commonwealth Public Services and the Commonwealth Public Service Commission.

17. The Adult department of the Commonwealth.

18. The Supreme Court of India, and legislation relating to High Courts.

19. Civil Law including laws regarding status, contract, property, civil rights and liabilities and civil procedure.

20. Criminal Law including criminal procedure and extradition laws.

21. Bankruptcy and insolvency.

22. Legislation regarding marriage, divorce and matrimonial matters, parental rights, the custody and guardianship of infants ; their status and age of majority.

23. Copyright ; newspapers and books ; patents of inventions and designs and trade marks.

24. Land acquisition by or for the purposes of the Government of the Commonwealth.

25. Laws relating to registration of deeds and documents.

26. Laws relating to registration of births, deaths and marriages.

27. Census and statistics.

28. Control of arms and ammunition.

29. a) Control of petroleum and explosives.

(b) Control of poisons.

30. The standards of weights and measures.

31. Fisheries in Indian waters beyond the three miles limit.

32. Survey of India ; geological survey and astronomical and meteorological observations.

33. Parliamentary elections.

34. The seat of the Government of the Commonwealth.

35. Inter-provincial matters.
36. Factory legislation.
37. Industrial matters ;
  - (a) Welfare of labour.
  - (b) Provident fund.
  - (c) Industrial Insurance—General health and accident.
38. Control of mines.
39. Medical qualifications and standards.
40. Stores and stationery for the Commonwealth.
41. Central publicity and intelligence department.
42. Zoological survey ; botanical survey ; archaeology.
43. Central agencies and institutions for research (including observatories) and for professional and technical training or promotion of special studies.
44. Territorial changes, other than intra-provincial, and declaration of laws in connection therewith.
45. All property of the Commonwealth.
46. Legislation regarding forests.
47. Legislation relating to non-judicial stamps.

## SCHEDULE II

### PROVINCIAL SUBJECTS

1. Land revenue including assigned land revenue ; any other tax that may be imposed on land or agricultural income ; charges for water ; survey and settlement ; disposal and colonisation of public land and management of government estates.

2. Excise, that is to say, the control of manufacture, transport, possession, purchase and sale of alcoholic liquor and intoxicating drugs (except opium), and the levying of excise duties and license fees on, or in relation to, such articles and other restrictive excises.

3. All local taxation, such as tolls ; cesses on land or land values ; tax on buildings ; tax on vehicles or boats ; tax on animals ; octroi and a terminal tax on goods imported into or

exported from a local area ; tax on trades, profession and callings ; tax on private market ; tax on advertisement ; tax on amusements or entertainment ; tax on gambling ; taxes imposed in return for services rendered by the local authority.

4. Land acquisition by and within the province.
5. Administration of forests and preservation of game.
6. Agriculture, including research institutes, experimental and demonstration farms, protection against destruction by insects and pests.
7. Fisheries, excluding Commonwealth fisheries.
8. Water supplies, irrigation canals, drainage and embankment, water storage and water power except where they involve a matter of inter-provincial concern or affect the relations of a province with an Indian State or any other territory.
9. Public works and undertakings within the province including buildings, roads, bridges, ferries, tunnels, ropeways, causeways, tramways, light and feeder railways, inland waterways and other means of communications except :
  - (a) such railways, roads and inland waterways as are central subjects.
  - (b) all such works as extend beyond the borders of the province.
  - (c) such works (although wholly situated within the province) as may be declared by Parliament to be of all India importance.
10. Co-operative societies.
11. Development of mineral resources.
12. Famine relief.
13. Pilgrimages within India.
14. Local self-government including constitution and powers of Municipal Corporations, Local Boards, Village Panchayats Improvement Trusts, Town Planning Boards and other local authorities in the province, and local fund audit.
15. Medical administration including hospitals, dispensaries, asylums, and provision for medical education.

16. Public health and sanitation and vital statistics.
17. Education, including universities and technical institutes, provincial institutions for professional or technical training and for promotion of technical studies.
18. Court of Wards and encumbered and attached estates.
19. Land improvement and agricultural loans.
20. Land tenures and landlord and tenant, rent law.
21. Administrator-General and Official Trustees subject to legislation by central legislature.
22. Development of industries, including industrial research.
23. Police, including military and armed police maintained by the province and Railway Police, subject in the case of Railway Police to such rules as may be prescribed by Parliament as to limits of jurisdiction and railway contribution to cost of maintenance.
24. Adulteration of foodstuffs and other articles.
25. (a) Control of vehicles, subject in the case of motor vehicles to legislation by the central legislature as regards licenses valid throughout India.  
(b) Control of dramatic performances and cinematographs.
26. Prisons, prisoners and reformatories and vagrancy.
27. Backward tribes and their settlements.
28. Treasure trove.
29. Administration of justice in the province including the constitution, maintenance and organisation of courts of civil and criminal jurisdiction.
30. Election for the legislature of the province.
31. Legislation imposing punishments by fine, penalty or imprisonment for breach of any law of the province in relation to any provincial matter.
32. The borrowing of money on the sole credit of the province, subject to sanction of central government ; assets and property of the province.
33. Administration of the law relating to the registration of births, deaths and marriages.
34. Provincial law reports.

35. Minor ports.

36. Public libraries, except the Imperial Library at Calcutta ; museums, except the Indian Museum, the Imperial War Museum and the Victoria Memorial in Calcutta ; zoological and botanical gardens and registration of societies.

37. Pounds and prevention of cattle trespass.

38. Civil Veterinary Department, including provisions for veterinary training, improvement of stock and prevention of animal diseases.

39. Factories, subject to legislation by central legislature.

40. Settlement of labour disputes.

41. Gas and electricity.

42. Boilers.

43. Smoke nuisances.

44. Housing of labour.

45. Coroners.

46. Provincial stores and stationery.

47. Provincial government press.

48. Provincial Services and Provincial Service Commission.

49. The seat of the provincial government.

50. Control of elections, subject to regulation by central government.

51. Fees, including court fees ; probate duties ; succession or estate duties.

52. Control of production, supply and distribution, subject to rules made by the central legislature.

53. Development of industries, subject to rules made by the central legislature.

54. Religious and charitable endowments, subject to legislation by central legislature.

55. Regulation of betting and gambling, subject to legislation by the central legislature.

56. Prevention of cruelty to animals and protection of wild birds and animals subject to legislation by the central legislature.



57. Non-judicial stamps, subject to legislation by the central legislature ; and judicial stamps, subject to legislation by the central legislature as regards amount of court-fees levied in relation to suits and proceedings in the high courts under their original jurisdiction.

58. Registration of deeds and documents subject to legislation by the central legislature.

59. Weights and measures subject to legislation by the central legislature as regards standards.

60. Control of poisons ; arms and ammunition ; petroleum and explosives ; subject to legislation by the central legislature.

61. Control of newspapers, subject to legislation by the central legislature.

62. Regulation of medical and other professional qualifications and standards subject to legislation by the central legislature.

63. Local Fund Audit.

## APPENDIX A

### AN ANALYSIS OF THE POPULATION FIGURES OF THE PUNJAB ACCORDING TO RELIGION

*Being a Note on the Population figure of the Punjab with special reference to the probable extent of the representation of various religious groups in the Legislature.*

This note is based on the following assumptions :

1. That there is ordinary territorial representation with what are called joint or mixed electorates and without any reservation of seats.
2. That there is adult franchise, or at any rate some franchise which ensures that the numbers of electors of the various communities bear the same ratio to each other as the population figures of those communities.

The figures and calculations in these notes are based entirely on the 1921 census. It may be mentioned however that the ratio

of increase of Muslims in the Punjab is slightly greater than that of Hindus. This according to the census report is not due now to conversions but to certain social causes—widow remarriage and a higher marriage age amongst the Muslims. Infantile mortality is greater amongst the Hindus owing to early marriages. Hence it is probable that the Muslim population in the Punjab today is slightly greater proportionately than is evidenced by the 1921 census figures. The next census may show this increase. This means that the calculations in these notes are conservative figures so far as the Muslims are concerned, and the actuality is more favourable to them.

It is not possible to arrive at any accurate conclusion regarding representation in legislatures on population figures from a census report. A great deal must depend on the grouping of constituencies. It is also by no means certain, and it certainly is most undesirable, that in a joint electorate a Hindu should always vote for a Hindu, and a Muslim for a Muslim. But it is not possible to make allowances for this in these calculations. As the question is being considered in its communal aspect we must presume that as a general rule votes will be cast on communal lines. The constituencies not having been formed the only alternative is to examine the figures for the individual districts. It is likely that either a whole district or a part of it will form a single constituency.

The population of the Punjab (excluding Indian States) in 1921 was 20,685,024. This was made up as follows :

Muslims	11,444,321	55.3%
Hindus	6,579,260	31.8%
Sikhs	2,294,207	11.1%
Others (mainly Christians)	367,236	1.8%
	20,658,024	100.0%

Thus the Muslims are in a clear but not a great majority over all others combined. If the distribution of population is

more closely examined it will be seen that the Muslims are in an even stronger position than the all Punjab figures might indicate. This is due to the fact that the Hindus and Sikhs are present in large numbers in the southern part of the province—Ambala and Jullundur divisions. Muslims are in a minority in these two divisions but they make up for it by increasing their majorities elsewhere.

The Punjab can be divided roughly into three neutral belts or areas (1) the predominantly Muslim area, (2) the neutral area but with Muslim majority, and (3) the Hindu-Sikh area. If we take the existing divisions as corresponding approximately to these areas we have the following three belts.

- I. Rawalpindi and Multan divisions forming the Muslim zone with Muslims in very great majorities (86.9% and 76.9% respectively).
- II. Lahore division forming the neutral zone, but Muslims in a majority (56.0%) over all other combined.
- III. Ambala and Jullundur divisions forming the Hindu-Sikh zone. Muslims are in a minority (26.3% and 32.8% respectively).

We can form some rough idea of the representation in the legislature on the basis of these communal zones. Allowing one member for every hundred thousand of population we have :

	<i>Population in thousands</i>	<i>Members of legislatures</i>	
Punjab	20,685	207	
I. Rawalpindi division	3461	35	
Multan division	4218	42	77
II. Lahore division	4997	50	50
III. Ambala division	3827	38	
Jullundur division	4182	42	80
		— —	
		207	
		— —	

We may presume that the Muslims will capture all the seats in the Muslim zone and Hindu-Sikhs all the seats in the Hindu-Sikh zone. In the Lahore division there may be a division of the spoils. This of course cannot and should not happen in its entirety. It is not desirable that each division should be represented by one community only. But in making a rough calculation one may presume this much—the seats gained by the Muslims in the Hindu-Sikh area will probably be counter-balanced by the seats gained by the Hindu Sikhs in the Muslim area. As a matter of fact, there is more chance of the Muslims gaining a seat in the Hindu-Sikh area than the reverse, as the Muslim majorities in Rawalpindi and Multan divisions are tremendous (86.0% and 76.9%).

Thus we arrive at the conclusion that the Muslims are bound to get 77 seats in their zone and the Hindu-Sikhs combined, 80 seats in their zone. The third zone—Lahore division—will probably be divided between the two, but the division is likely to be very much in favour of the Muslims. They are 57.0% of the population, the Hindus being 20.7% and the Sikhs 16.2%. Christians etc. amount to 6.1% but they may be left out of consideration here as presumably they have no special affiliations to the major communities and can certainly not be considered as being anti-Muslim or as belonging to the Hindu-Sikh *bloc*. Hindus and Sikhs together amount to 36.9% as against the 57.0% of the Muslims. The Muslims are thus more than one and a half times stronger than the Hindu-Sikh group. The difference is considerable and the Muslim strength must make itself felt in an election. The Muslim majority in this division should ordinarily gain more seats than it is entitled to on the basis of population. But even if it got seats exactly in proportion to its population in the division, it would have 29 seats. This added to the 77 seats in the Muslim belt gives the figure 106 which gives a small but clear majority in the legislature of 207, over all other communities and groups combined. The majority will really be much greater over the Hindu-Sikh *bloc* as the “others” may also be in the minority.

All this proceeds on the basis that Hindu and Sikh interests are identical and the two groups hang together on all occasions. This of course is not a justifiable presumption and it is more than likely that they may not always act together. In such a contingency each community's hopeless minority in the face of the solid Muslim majority will become even more obvious.

As the Lahore division is likely to be the critical one, it may be examined in greater detail. Out of the 6 districts in this division, three districts—Sialkot, Gujranwala and Sheikhupura—have very substantial Muslim majorities. And as “others” (Christians etc.) are present in appreciable numbers in these districts the Muslim majorities *vis-a-vis* the Hindu-Sikh *bloc* become even greater and are really overwhelming.

The figures are :

**Sialkot district**

Muslims	61.9%	
Hindus	19.5%	
Sikhs	8.0%	9.5 seats
Others	10.5%	

The Hindu-Sikh *bloc* totals 27.5% as against the 61.9% of the Muslims. The latter thus are considerably more than double the number of the Hindus and Sikhs combined.

**Gujranwala district**

Muslims	71.0%	
Hindus	15.8%	6.25 seats
Sikhs	8.2%	
Others	5.1%	

The Hindu-Sikh *bloc* totals 24.0% as against the 71.0% of the Muslims. The latter are thus nearly three times the number of Hindus and Sikhs combined.

**Sheikhupura district**

Muslims	63.3%	
Hindus	16.0%	5.25 seats
Sikhs	15.9%	
Others	4.8%	

The Hindu-Sikh *bloc* totals 31.9% as against the 63.3% of the Muslims. The latter are thus just double the number of the Hindus and Sikhs combined.

In these three districts the Muslims are in an impregnable position. Indeed they really form part of the Muslim zone and should be considered along with it. These districts will be entitled to send 21 members to the legislature. These can be added to 77 members from the Muslim zone giving the total 98.

In the other districts of Lahore division the position is as follows :

**Lahore district**

Muslims	57.3%	
Hindus	21.5%	11 seats
Sikhs	15.9%	
Others	5.3%	

Here the Hindu-Sikh *bloc* totals 37.4% as against the 57.3% of the Muslims. The Muslim majority is not so great as in the northern districts but it is substantial. The Muslims greatly outnumber the Hindus and Sikhs, being over one and a half times their number.

**Amritsar district**

Muslims	45.6%	
Hindus	21.6%	9 seats
Sikhs	30.9%	
Others	1.8%	

In this district the Hindus and Sikhs combined amount to 52.5% and are in a fair majority over the 45.6% Muslims.

**Gurdaspur district**

Muslims	49.6%	
Hindus	26.0%	8.5 seats
Sikhs	16.2%	
Others	8.2%	



Here the Muslims outnumber the Hindus and Sikhs combined—49.6% against 42.2%—but the majority is not great. The position in Amritsar district is reversed. There are a fair number of “others” here.

Thus in these three districts, the Muslim position is strong in Lahore, fair in Gurdaspur and weak in Amritsar. But even in the last mentioned place the Muslims are by far the stronger single community.

It is highly likely that Muslims will capture some seats in these districts, specially in Lahore.

The Lahore division will thus be largely represented by Muslims and this representation added to that from the Muslim zone in the north and west ought to give them a clear majority.

This question can be considered from another point of view. Instead of looking at the divisions as a whole the individual districts may be taken. This will probably give a more accurate idea of the result.

There are 29 districts in the Punjab. These may be divided into four groups (1) overwhelmingly Muslim districts where the Muslim position is impregnable ; (2) predominantly Muslim districts, where there is a Muslim majority but not so great as in (1) ; (3) districts where there is no special predominance of any community ; and (4) overwhelmingly or predominantly Hindu-Sikh districts.

#### **I. Overwhelmingly Muslim districts**

	<i>Percentage of Muslims given after districts</i>	<i>No. of members in legislatures</i>
1. Gujarat	86.2	8
2. Shahpur	82.8	7
3. Jhelum	88.7	5
4. Rawalpindi	82.6	6
5. Attock	90.9	5
6. Mianwali	86.3	4
7. Montgomery	71.8	7

8. Lyallpur	60.7	•10
9. Jhang	83.3	6
10. Multan	82.2	9
11. Muzaffargarh	86.8	5.5
12. Dera Ghazi Khan	88.3	5
13. Sialkot	61.9	9.5
14. Gujranwala	71.0	6
15. Sheikupura	63.3	5

98

**II. Predominantly Muslim districts**

1. Lahore	H.	21.5	
	M.	57.3	
	S.	15.9	11
	O.	5.3	
2. Gurdaspur	H.	26.0	
	M.	49.6	
	S.	16.2	8.5
	O.	8.2	

19.5

**III. Districts with no special predominance of any comr**

1. Jullundur	H.	29.4	
	S.	25.1	
	M.	44.5	8
	O.	1.0	
2. Ferozepur	H.	27.6	
	S.	26.6	
	M.	40.9	11
	O.	.9	
3. Amritsar	H.	21.6	
	S.	30.9	
	M.	45.6	9
	O.	1.8	

28

Even in these three districts the strongest single community is the Muslim.

**IV. Overwhelmingly or predominantly Hindu-Sikh districts**

1. Hissar	H. 66.1	8
2. Rohtak	H. 78.0	8
3. Gurgaon	H. 66.7	7
4. Karnal	H. 67.5	8
5. Ambala	H. 53.8	7
6. Simla	H. 71.2	.5
7. Kangra	H. 94.0	8
8. Hoshiarpur	H. 53.3	9
9. Ludhiana	H. 23.6	
	S. 41.5	6
	M. 34.0	
	O. .9	

61.5

According to this the Muslims get from their special zone of 15 districts where they are impregnable

98

The Hindus similarly get from their zone..

61.5

Two districts predominantly Muslim return

19.5

Three districts more or less neutral, but

Muslims strongest single community in each

28

207

104 seats give an absolute majority in the legislature.

The result of the analysis of the figures for the districts leads us to the following conclusions :—

1. From the Muslim zone alone, where the Muslim position is unassailable, the Muslims get 98 seats or

47.3

of the  
total  
seats

2. From the Hindu-Sikh belt where the Hindu-Sikh position is very strong the Hindus and Sikhs get 61.5 seats or 29.8 Do
3. In two districts where Muslims are predominant there are 19.5 seats or 9.5 Do
4. In 3 districts the strength of the various communities is more or less evenly balanced but Muslims are the strongest single community in each, total 28 seats or 13.5 of the total  

——— seats  
 100.0

It is exceedingly likely that from group II above, which is predominantly Muslim, the Muslims will get at least 10 out of 19.5 seats. This added to their seats from their particular zone gives them 108 seats which is a clear majority in the legislature. In group III above the Muslims should also get some seats as they are the strongest single community. They might safely count on 12 out of the 28. This raises the Muslim number in the legislature to 120 out of 207 or 58% of the total. Thus on a conservative estimate Muslims are highly likely to have 58% of the seats in the legislature.

### PUNJAB (BRITISH TERRITORY)

#### Detailed population figures

#### Punjab

Total population	20,685,024	100.0 per cent
Muslims	11,444,321	55.3 „
Hindus	6,579,260	31.8 „
Sikhs	2,294,207	11.1 „
Others (mainly Christians)	367,236	1.8 „

**PUNJAB DIVISIONS**  
(Population figures in thousands)

<i>Ambala Division</i>	<i>Populations</i>	<i>Percentage</i>	<i>No. of members in legislature I for 100,000</i>
Total	3827	100	
H	2556	66.6	
M	1006	26.3	38
S	158	4.2	
O	106	2.8	
<b>Jullundur Division</b>			
Total	4128	100	
H	1893	45	
M	1370	32.8	42
S	880	21.0	
O	40	.9	
<b>Lahore Division</b>			
Total	4997	100	
H	1033	20.7	
M	2849	57.0	50
S	813	16.2	
O	303	6.1	
<b>Rawalpindi Division</b>			
Total	3461	100	
H	296	8.5	
M	2973	8.0	35
S	153	4.4	
O	38	1.1	
<b>Multan Division</b>			
Total	4218	100	
H	602	14.3	
M	3246	76.9	42
S	290	6.9	
O	80	1.9	
<b>Note :—H—Hindu    M—Muslim    S—Sikh    O—Others</b>			

**PUNJAB DISTRICTS****1. Overwhelmingly Muslim Districts**

<i>Districts</i>		<i>Population in Thousands</i>	<i>Percentage</i>	<i>No of members in legislature</i>
1. Gujarat	T.	824	100	
	H.	59	7.2	
	M.	710	86.2	8.2
	S.	49	6.0	
	O.	6	.7	
2. Shahpur	T.	720	100	
	H.	79	11	
	M.	596	82.8	7.2
	S.	30	4.2	
	O.	15	2.1	
3. Jhelum	T.	477	100	
	H.	33	6.9	
	M.	423	88.7	4.8
	S.	19	4.0	
	O.	2	.4	
4. Rawalpindi	T.	569	100	
	H.	55	9.7	
	M.	470	82.6	5.7
	S.	32	5.6	
	O.	12	2.1	
5. Attock	T.	512	100	
	H.	25.5	5.0	
	M.	465.5	90.9	5.1
	S.	20	3.9	
	O.	1	.2	
6. Mainwali	T.	358	100	
	H.	45	12.6	
	M.	309	86.3	3.6
	S.	3	.8	
	O.	1	.3	



7. Montgo- mery	T.	714	100	7.1
	H.	92	12.9	
	M.	513	71.8	
	S.	96	13.4	
	O.	13	1.8	
8. Lyallpur	T.	980	100	9.8
	H.	117	18.1	
	M.	595	60.7	
	S.	161	16.4	
	O.	47	4.8	
9. Jhang	T.	570	100	5.7
	H.	84	14.7	
	M.	475	83.3	
	S.	9	1.6	
	O.	2	.4	
10. Multan	T.	890	100	8.9
	H.	129	14.5	
	M.	732	82.2	
	S.	18	2.0	
	O.	11	1.2	
11. Muzaffar- garh	T.	568	100	5.7
	H.	66	11.6	
	M.	493	86.8	
	S.	5	.9	
	O.	4	.7	
12. Dera Ghazi Khan (inclgding Biloch tract).	T.	496	100	5.0
	H.	54	10.9	
	M.	438	88.3	
	S.	1	.2	
	O.	3	.6	
13. Sialkot	T.	938	100	9.4
	H.	183	19.5	
	M.	581	61.9	
	S.	75	8.0	
	O.	99	10.5	

14. Gujara- wala	T.	624	100	•
	H.	98	15.8	
	M.	443	71	6.2
	S.	51	8.2	
	O.	31	5.1	
15. Seikhupura	T.	523	100	
	H.	54	16.0	
	M.	331	63.3	
	S.	83	15.9	
	O.	25	4.8	
<hr/> 15 Districts <hr/>				<hr/> 97.6 members <hr/>

## II.—Predominantly Muslim Districts

(Where Muslims are greater than Hindu and Sikhs combined but are not so many as in I above).

1. Lahore	T.	1131	100	
	H.	243	21.5	
	M.	648	57.3	11.3
	S.	180	15.9	
	O.	60	5.3	
2. Gurdaspur	T.	852	100	
	H.	222	26.0	
	M.	423	49.6	8.5
	S.	138	16.2	
	O.	70	8.2	

2 Districts

19.8 members

## III.—Districts in which there is no special predominance of any community but Muslim community strongest single group.

1. Jullundur	T.	822.5	100	
	H.	242	29.4	
	M.	366.5	44.5	8.2
	S.	206	25.1	
	O.	8	1.0	

2. Ferozepur	T.	1098	100	
	H.	303	27.6	
	M.	482	43.9	11
	S.	303	27.6	
	O.	10	.9	
3. Amritsar	T.	929	100	
	H.	201	21.6	
	M.	424	45.6	9.3
	S.	287	30.9	
	O.	17	1.8	
<hr/>				
3 Districts				28.5 members
<hr/>				

IV.—Overwhelmingly or predominantly Hindu Sikh  
Districts.

1. Hissar	T.	817	100	
	H.	540	66.1	
	M.	216	26.4	8.2
	S.	46	5.6	
	O.	15	1.8	
2. Rohtak	T.	772	100	
	H.	602	78.0	
	M.	125	16.2	
	S.	1	.1	
	O.	44	5.7	
3. Gurgaon	T.	682	100	
	H.	455	66.7	
	M.	217	31.8	6.8
	S.	1	.1	
	O.	9	1.3	
4. Karnal	T.	829	100	
	H.	560	67.5	
	M.	236	28.5	8.3
	S.	12	1.4	
	O.	21	2.6	

5. Ambala	T.	682	100	•
	H.	367	53.8	
	M.	206	30.2	6.8
	S.	98	14.4	
	O.	11	1.6	
6. Simla	T.	45	100	
	H.	32	71.2	
	M.	7	15.5	0.4
	S.	1	2.2	
	O.	5	11.1	
7. Kangra	T.	766	100	
	H.	722.3	94.0	
	M.	38.3	5.0	7.7
	S.	2	3	
	O.	3.4	.7	
8. Hoshiarpur	T.	927	100	
	H.	494	53.3	
	M.	289	31.2	9.3
	S.	133	14.3	
	O.	11	1.2	
9. Ludhiana	T.	568	100	
	H.	134	23.6	
	M.	193	34.0	5.7
	S.	235	41.5	
	O.	5	.9	
<hr/> 9 Districts <hr/>				<hr/> 60.9 members <hr/>

These figures demonstrate that quite apart from any artificial reservation of seats there is a natural reservation in more than three-fourths of the Punjab. In less than one-fourth there is some chance of free play. The distribution of population favours the majority community, Muslims, considerably.

## APPENDIX B

*A note on the population figures of Bengal by religion*

The population of the British territory in Bengal at the 1921 census was 46,695,536. This was divided up by religion as follows :—

Muslims	35,210,802	54.0 per cent
Hindus	20,203,527	43.3 „
Others	1,281,207	2.7 „

“Others” are chiefly tribal religions and Christians, the former being found largely in the hill tracts. They also include Jains and Buddhists etc., but there are not many of these.

The Muslims thus have a slight majority of 4% over all the others put together. This majority however is not evenly distributed over the province. The Hindus are as a matter of fact largely concentrated in one part of Bengal—the Burdwan division and part of the Presidency division—with the result the the Muslim majority elsewhere is far more than 4% Bengal like the Punjab, presents definite zones of Hindu or Muslim population. Examining these zones roughly by divisions we find that these divisions are overwhelmingly Muslim, one is overwhelmingly Hindu, and one is more or less evenly balanced but with a 4% Hindu majority.

*No. of members of legislature  
1 per 100,000 population*

## A. Muslim Zone

1. Chittagong division		60
Muslims	72.6 per cent	
Hindus	23.8 „	
2. Dacca division		128
Muslims	69.7 „	
Hindus	29.7 „	
3. Rajshahi division		103
Muslims	61.4 „	
Hindus	33.7 „	

**B. Overwhelmingly Hindu Zone**

4. Burdwan division			80
Muslims	13.4	„	
Hindus	82.4	„	

**C. Moderately Hindu Zone**

4. Presidency division			
Muslims	47.5	„	
Hindus	51.4	„	

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Total seats for Bengal on this ratio      466

We see that the Muslim zone has 291 seats in it ; the strong Hindu zone 80 seats and the moderately Hindu zone 95 seats. The total number of seats if one member is to be given for every 1,00,000 population comes to 466. Thus 234 gives a clear majority. In the Muslim zone alone there are 291 seats, that is 57 more than are necessary for a majority. In the Presidency division however Muslims are 47.5% and it is not conceivable that they can be ignored. They are to get a number of seats there. The distribution of population is such that they are bound to get more seats than these numbers warrant. They may suffer from economic causes or educational backwardness but the loss from this cannot outbalance the gains from solid majorities in the Muslim zone.

The population figures can be examined in greater detail by districts. The actual figures by religions are given at the end of this note. These figures can be classified as follows :

	<i>No. of members in legislature</i>
<b>A. Overwhelmingly Muslim Districts</b>	
Chittagong	16
Noakhali	15
Tippera	27
Mymensing	48
Bakarganj	26



Faridpur	23
Dacca	31
Pabna	14
Bogra	10
Rangpur	25
Rajshahi	15
Jessore	17
Nadia	15
	<hr/>
	282
	<hr/>
<b>B. Predominantly Muslim Districts</b>	
Murshidabad	13
Malda	10
	<hr/>
	23
	<hr/>
<b>C. Predominantly Hindu District</b>	
Jalpaiguri	9
	<hr/>
<b>D. Neutral Districts</b>	
Khulna	14
Dinajpur	17
Chittagong Hill Tribes	2
	<hr/>
	33
	<hr/>
<b>E. Overwhelmingly Hindu Districts</b>	
Burdwan	14
Birbhum	8
Bankura	10
Midnapur	27
Hooghly	11
Howrah	10
24-Parganas	26
Calcutta	9
Darjeeling	3

This analysis of district figures leads us to the same conclusion as the analysis of the division figures. The Muslim and Hindu zones are solid blocks which are natural areas of reservation if voting is to take place on religious lines. The Muslim zone including both groups A and B gives us as many as 305 seats. Even leaving out group B we have 282 seats which is far more than the number required to give a majority.

### ANALYSIS OF POPULATION OF BENGAL BY RELIGION

#### A. Bengal Divisions

	<i>Population in thousands</i>	<i>Percentage</i>	<i>No. of members in Legislature 1 per 100,000</i>
<b>Burdwan Division</b>			
Total	8050	100	
Hindus	6607	82.1	
Mohammedans	1082	13.4	80
Others	361	4.5	
<b>Presidency Division</b>			
Total	9461	100	
Hindus	4164	51.4	
Mohammedans	4476	47.5	95
Others	120	1.2	
<b>Rajshahi Division</b>			
Total	10345	100	
Hindus	3487	33.71	
Mohammedans	6349	61.4	103
Others	508	4.9	
<b>Decca Division</b>			
Total	12837	100	
Hindus	3813	29.7	
Mohammedans	8946	69.7	128
Others	78	.6	

**Chittagong Division**

Total	6000	100	
Hindus	1432	23.8	
Mohammedans	4356	72.6	60
Others	212	3.5	
<b>All Bengal British Territory</b>			
Total	46695	100	
Hindus	20203	43.3	
Mohammedans	25211	54.0	467
Others	1281	2.7	

**B. Bengal Districts**

<i>Districts</i>		<i>Population in thousands</i>	<i>Percentage</i>	<i>No. of members in legislature per 100,000</i>
<b>Burdwan Division</b>				
1. Burdwan	T.	1439	100	
	H.	1122	78.0	
	M.	266	18.5	15
	O.	50	3.5	
2. Birbhum	T.	848	100	
	H.	577	68.1	
	M.	213	25.1	8
	O.	58	6.8	
3. Bankura	T.	1020	100	
	H.	880	86.3	
	M.	47	4.6	10
	O.	93	9.9	
4. Midnapur	T.	2667	100	
	H.	2352	88.3	
	M.	181	6.8	27
	O.	134	5.0	
5. Hooghly	T.	1080	100	
	H.	885	81.9	
	M.	173	16.0	11
	O.	22	2.1	

6. Howrah	T.	997	100	10
	H.	791	79.3	
	M.	202	20.3	
	O.	4	.4	

**Presidency Division**

7. 24-Parganas	T.	2628	100	26
	H.	1687	64.2	
	M.	910	34.6	
	O.	31	1.2	
8. Calcutta	T.	908	100	9
	H.	643	70.8	
	M.	209	23.0	
	O.	56	6.2	
9. Nadia	T.	1487	100	15
	H.	582	89.1	
	M.	895	60.2	
	O.	10	.7	
10. Murshidabad	T.	1262	100	13
	H.	569	45.1	
	M.	676	53.6	
	O.	17	1.3	
11. Jessore	T.	1722	100	17
	H.	656	38.2	
	M.	1063	61.7	
	O.	2	.1	
12. Khulna	T.	1453	100	14
	H.	727	50.0	
	M.	723	49.8	
	O.	3	.2	

**Rajshahi Division**

13. Rajshahi	T.	1489	100	15
	H.	318	21.3	
	M.	1140	76.6	
	O.	31	2.1	

14. Dinajpur	T.	1705	100	17
	H.	452	44.1	
	M.	837	49.1	
	O.	116	6.8	
15. Jalpaiguri	T.	936	100	9
	H.	515	55.0	
	M.	232	24.8	
	O.	189	20.2	
16. Rangpur	T.	2507	100	25
	H.	791	31.5	
	M.	1706	68.1	
	O.	10	.4	
17. Bogra	T.	1048	100	10
	H.	174	16.6	
	M.	865	82.5	
	O.	9	.9	
18. Darjeeling	T.	283	100	3
	H.	201	71.0	
	M.	9	3.2	
	O.	73	25.8	
19. Pabna	T.	1389	100	14
	H.	334	24.1	
	M.	1055	75.8	
	O.	1	.1	
20. Malda	T.	985	100	10
	H.	400	40.6	
	M.	508	51.6	
	O.	77	7.8	
Dacca Division				
21. Dacca	T.	3125	100	31
	H.	1069	34.2	
	M.	2043	65.4	
	O.	13	.4	
22. Faridpur	T.	2250	100	23
	H.	816	36.3	
	M.	1428	63.5	
	O.	6	.3	

23. Bakarganj	T.	2623	100	
	H.	754	28.7	
	M.	851	70.6	26
	O.	18	.7	
24. Mymensing	T.	4838	100	
	H.	1174	24.3	
	M.	3624	74.9	48
	O.	40	.8	
Chittagong Division				
25. Tippera	T.	2743	100	
	H.	708	25.8	
	M.	2033	74.1	27
	O.	2	.1	
26. Noakhali	T.	1472	100	
	H.	329	22.3	
	M.	1142	77.6	15
	O.	1	.1	
27. Chittagong	T.	1611	100	
	H.	364	22.6	
	M.	1172	72.8	16
	O.	74	4.6	
28. Chittagong Hill tracts	T.	173	100	
	H.	32	18.5	
	M.	7	4.1	2
	O.	134	77.4	
Total				465

\*T.—Total  
 H.—Hindus  
 M.—Mohammedans  
 O.—Others



**APPENDIX C**  
**STATEMENT ABOUT ELECTED MEMBERS OF**  
**THE DISTRICT BOARD IN BENGAL**  
**(1927-1928)**

<i>Name of Districts</i>	<i>Total no. of seats</i>	<i>No. of Hindu members</i>	<i>No. of Moham- medan members</i>
1. 24-Parganas	20	16 (64.2)	4 (34.6)
2. Bogra	15	4 (16.6)	11 (82.5)
3. Bakargunj	20	5 (1 Chris- tian) (28.7)	15 (70.6)
4. Midnapore	22	21 (88.2)	1 (6.8)
5. Rajshahi	18	7 (21.3)	11 (76.6)
6. Rangpore	18	7 (31.5)	11 (68.1)
7. Khulna	16	11 (50.0)	5 (49.8)
8. Hooghly	20	17 (81.9)	3 (16.0)
9. Darjeeling	20	18 Non- Mohammedan) (71.0) Others 25.8	2 (3.2)
10. Mymensingh	22	Nil (24.3)	22 (74.9)
11. Pabna	10	3 (24.1)	13 (75.8)
12. Naokhali	16	6 (22.3)	10 (77.6)
13. Jalpaiguri	16	14 (55.0) Others 20.2	2 (24.8)
14. Tipera	19	13 (25.8) (3 nominated, elec- tion having failed in Chandpur Sub- Division).	6 (74.1) (2 nominated)
15. Nadia	20	15 (39.1)	5 (60.2)
16. Burdwan	16	14 (78.0)	2 (18.5)
17. Murshidabad	15	7 (45.1)	8 (53.6)
18. Faridpur	20	8 (36.3)	12 (63.5)
19. Malda	15	8 (40.6)	7 (51.6)
<b>(Election failed all nominated)</b>			

20. Howrah	12	10 (79.3)	2 (20.3)
21. Beerbhum	16	15 (68.1)	1 (?) (25.1)
22. Bankura	10	9 (86.3)	1 (4.6)
23. Jessore	16	1 (38.2)	15 (61.7)
24. Dacca	22	16 (34.2)	6 (65.4)
25. Chittagong	20	Nil (22.6)	20 (72.8)
26. Dinajpur	18	4 (44.1)	14 (49.1)

*N.B.*—The figures given in brackets are ratios to the total population.

# 4

## **ALL-PARTIES CONFERENCE (SUPPLEMENTARY REPORT)**

### **INTRODUCTORY\***

Our task now is to carry out the instructions given to us by the Lucknow Conference. That task we have endeavoured to perform. We venture however to make some observations in the hope and belief that they may remove some of the misapprehensions which have arisen in certain quarters in regard to the scope and effect of our recommendations.

We did not expect complete unanimity about our recommendations. There is nothing more controversial in human affairs than the evolution of a constitution. Whenever such an attempt has been made, whatever the circumstances have been, peaceful

\*The report opened with a reference to the untimely and tragic death of Lala Lajpat Rai. It said : "It is painful to us to have to issue this Supplementary Report without the signature of our late distinguished colleague Lala Lajpat Rai who passed away suddenly after the last meeting of the Committee and before this report was ready. Irreparable as the loss of this great man is to the whole country, it falls with special severity on us who had the honour and privilege of being associated with him in his life's last great work. It is to his deep earnestness and untiring labours that the main Report and the Lucknow Resolutions owe their wide acceptance throughout the country and poor consultation as it is we still have the melancholy satisfaction of being able to say that the conclusions embodied in the report had his full approval. He was a great force making for unity and, if he had been spared, was certain to contribute materially to the success of the Convention as he did at Lucknow in August. He is not with us here any more but the work of the Convention is of the nature of a sacred trust left by the departed patriot and the inspiration of his own lofty example will, we are confident, lead us to success."

or disturbed, opinion has been sharply divided. We expected, therefore, a sharp division of opinion in India. It has been an agreeable surprise to us, however, that these differences of opinion have not been very substantial or fundamental. Such differences as have arisen are, in our opinion, indicative of a healthy growth of public interest in constitutional questions. The issue of the constitution has become a live issue and one is bound to note that the various opinions are based on the strength and seriousness of conviction. The public mind has been impressed and stirred to an extent not experienced before.

Our critics belong to two large groups—those, chiefly English, who describe our recommendations as fantastic or impractical, and those in India who think that we do not go far enough or who criticise details. We have little to say to our foreign critics. Reason seldom, if ever, makes a strong appeal when self-interest is concerned. “The convictions of the mass of mankind,” said John Stuart Mill, “run hand in hand with their interests and class feelings. We have a strong faith, stronger than either politicians or philosophers generally have, in the influence of reason and virtue over men’s minds, but it is in that of the reason and virtue of their own side of the question. We expect few conversions by the mere force of reason from one creed to the other.”

We are not sanguine enough, therefore, to expect to convince or convert those who have made it their business in the past to carry on an active propaganda in the English press and elsewhere against India. But even those who are habitually hostile to us have found it impossible to ignore the Report. The real conflict lies between two sets of ideas—the democratic and the autocratic. We seek to establish a democratic form of government. Our English critics, long used to unfettered autocracy in India, cannot swallow this democratic pill, in spite of their loudly expressed enthusiasm for democracy nearer home. This enthusiasm for democracy resolves itself in India into the perpetuation of autocracy under the hollow shell of democratic

forms. A false affinity to democratic ideals and methods without its essence is even more undesirable than naked autocracy ; for it misleads the superficial.

A charge brought against us by our critics in England is that we have followed European and particularly British models and have betrayed an utter lack of originality. We frankly confess that we have not been original. We have been content to follow models which have been tried and tested in other parts of the world and which even the framers of the Montagu-Chelmsford constitution professed to follow. There is no patent in constitutions, and we were not aware of the fact that it is a special virtue in a constitution that it should be unique and unlike all others.

Those who imagine that democracy is the special prerogative of the West know little of history. But whatever the past may have been, we should like to know from our critics what their alternative is to democracy. The only alternative, so far as we can see, is some form of autocracy.

The seat of autocracy, as far as we are concerned, has been Whitehall, and we are inclined to think that this excessive desire for an "oriental" constitution for India means a desire to perpetuate the autocracy of Whitehall in some shape or form. But it is time that our critics realised that whatever else may happen it is clear that no kind of autocracy is going to be tolerated in India. In his speech at Albert Hall on October 27, Prime Minister Baldwin said : "Absolutism in monarchies is dead and absolutism in States is going."

It is said sometimes that although autocracy has to go, ultimately there must be several steps leading up to its total abolition. Caution and expediency are sometimes necessary for the politician or statesman but there are occasions when half measures are dangerous. That time has come in India to-day.

There can be no question now of provincial autonomy with the Government of India or the Secretary of State retaining.

their powers. Only if the fullest responsibility is cast on the shoulders of the legislatures can they be expected to discharge their duties fearlessly and efficiently. Absence of such responsibility or divided responsibility leads to all manner of anomalies and monstrosities and woefully affects the morale both of public life and public administration.

We have had an example of this in the communal tension that has prevailed in the country during the last three or four years. The ardent communalist feels that his strength lies in feeding and supporting the communal feeling. The administration finds it difficult to control the enthusiasm or fanaticism of the communalist except by compromises which are seldom successful. The position could not have been worse under responsible government where law and order rest with a popular legislature.

The ranks of our critics have been joined recently, we regret to say, by the Aga Khan. He tells us that "the British people could never honourably agree to leave an armed force, or even civil administrators, in a country for the good government of which it was no longer responsible.....If the British did this in a fit of madness, of which there has been no parallel in history, they would go down, not only in the estimation of the whole world, but in history for all time, for supplying armed force to a country wherein their responsibility had come to an end to be administered at the beck and call of other people," The Aga Khan is very solicitous about the honour and prestige of the British people. We wish we were equally concerned with the honour of his own country and people. There are some things to which the Indian people also will never agree and one of these is the perpetuation or continuation of British autocracy in India. The Indian people, we believe, are still prepared to welcome honourable co-operation with the British in many fields but that co-operation cannot be domination of any kind. We are prepared to welcome British experts, civil or military, on terms honourable to both parties. If, however, they only wish to come here to dominate and not on any other conditions,

then they are welcome to stay away. We shall take the risk and make other arrangements.

The Aga Khan's argument is creditable neither to the British nor to the people of this country, and if it represents any responsible opinion in England, we can only say that there was little of genuineness about the declarations that have so frequently been made about the establishment of responsible government in India. The internal position in India is not and cannot be worse than it was in Canada when Lord Durham wrote his famous report, or even when responsible government was actually established in Canada. He describes the French and the British "not as two parties holding different opinions and speaking different objects in respect to government but as different races, engaged in a national contest." "The mutual dislike of the two classes", says Lord Durham, "extends beyond politics into social life, where, with some trifling exceptions again, all intercourse is confined to persons of the same origin. Grown up persons of a different origin seldom or never meet in private societies and even the children, when they quarrel, divide themselves into French and English like their parents. In the schools and the streets of Montreal, the real capital of the Province, this is commonly the case.....Such a sentiment is naturally evinced rather by trifles than by acts of intrinsic importance. There has been no solemn or formal declaration of national hostility, but not a day nor scarcely an hour passes without some petty insult, some provoking language, or even some series of mutual affront, occurring between persons of French and British descent."

A similar argument about India's incapacity to defend her frontiers and the consequent impossibility of India achieving responsible government was advanced in 1919. In dealing with it, Mr. Montague said : "Parliament, I think must see that you do not at one and the same moment withhold things for a particular reason, and then refuse the opportunity of procuring them. Do not at one and the same time say it is only a minority that wants them, when that minority tries hard to convert



the majority. You must expect to see political life developed throughout India. Do not deny to India self-government, because she cannot take her proper share in her own defence and then deny to her people the opportunity of learning to defend themselves. These are problems of which Parliament takes upon itself the responsibility by the passage of this Bill”.

The Aga Khan advocates independence for each Indian province and says that the position of each province must be “akin to that of Bavaria in the former German confederation, rather than that of an American State or a Swiss Canton.” Some Indian princes and some Indian politicians, particularly of the Muslim community, have also laid stress on the future constitution being of a federal and not of a unitary type.

The Aga Khan’s reference to Bavaria is, we think, particularly unfortunate. “The North German confederation,” says Gooch in his book on Germany, “was transformed into the German Empire by the adhesion of the Southern States, and the *amour propre* of Bavaria was flattered by some innocent constitutional privileges. The Reich consisted of twenty two States, and the three Hanse towns. The Imperial dignity was conferred on the kings of Prussia in perpetuity, but Bismarck took care not to ruffle the feathers of the German Princes. King William became German Emperor, not Emperor of Germany, and the juridical sovereignty of the Reich was held to reside in the totality of the federated governments. The constitution, indeed, represented a skilful compromise between conflicting claims and principles..... Little enthusiasm for Prussian hegemony could be expected in the south, and the achievement of German unity under Prussian headship caused as little satisfaction to Gervinus Constantin Frantz as the consummation of Italian unity under the House of Savoy brought to the republican soul of Mazzini.” Again, Emil Ludwig in his “Life of Bismarck” says, as a liegeman of the king of Prussia, as a Knight of Brandenburg, his only concern was with the expansion of Prussia, and he would much rather, after the manner of

earlier centuries have conquered German princes in order to enlarge Prussia, than have troubled himself about the problems of the Germanic federation. 'Primus' was what he wanted to be and only perforce 'inter pares.' We sincerely hope and trust that the analogy of Bavaria will not be passed as a model for an Indian federation.

There has been a great deal of argument in the country on the respective merits of a federal or unitary type of government. We would like to point out however that political experience in other parts of the world has shown how impracticable it is to establish a new constitution on either an exclusively federal or an exclusively unitary model. The tendency in recent times has been towards a compromise. In some constitutions one type dominates, in others the other type. On this question we should like to quote a passage from Brand, a writer who played a considerable part in the evolution of the constitution of the Union of South Africa. In his book on South Africa he says : "Federalism is after all a *pis aller*, a concession to human weakness. Alexander Hamilton saw its dangers, and only acquiesced because by no other means was union possible. In Canada, Sir John Macdonald strongly favoured a legislative union, but was obliged to bow to the intense provincialism of Quebec. In Australia the narrow patriotism of the different states has imposed upon the Federal Government limitations which are generally admitted to be checking that country's advance. Federalism must be accepted where nothing better can be got, but its disadvantages are patent. It means division of power and consequent irritation and weakness of the organs of government, and it tends to stereotype and limit the development of a new country. South African statesmen have been wise to take advantage of the general sentiment in favour of a closer form of union."

In drawing up our proposals we have deliberately declined to be overborne by one type or the other. We have borne in mind the peculiar position of India and have provided for the development of the fullest possible provincial life compatibly

with national interests. We have kept before us the peculiar problem of minorities in various provinces, which, in our opinion, necessitates the reservation of a certain measure of interference, in cases of grave emergency, on the part of the central government. The limits we have provided for provincial activities and functions are very wide, and within these limits provincial governments will be masters within their own houses, free from the control of the central government. It is obvious, however, that there is a very large field of state activity which, in any system of stable administration, must be covered exclusively by the central government which alone can safeguard national interests and reconcile conflicting claims between province and province. It is from this point of view that we have approached our task and we are happy to be able to say that the vast majority of those of our countrymen who have thought over the matter have expressed their approval of the line adopted by us. We trust that in examining our proposals more heed will be paid to the substance and less to academic theories.

Our proposal to have adult franchise has also been subjected to some criticism though we are glad to note that it has met with a large measure of support. This proposal was part of the communal recommendations and cannot be separated from them. We are fully aware of the difficulties of adult franchise, but both theory and practice strongly support it. Professor Laski has pointed out that "neither sex, nor property, nor race, nor creed, ought to prevent a citizen from aiding in the choice of his rulers. This choice may often be wrong, but then democracy lives by the method of trial and error. If the citizen has rarely the knowledge necessary to give a reasoned choice, it is the duty of the State to organise on his behalf easy access to such knowledge. For, whenever the body of voters is limited, the welfare realised usually excludes that of the persons excluded. No test has been devised which enables us to limit the franchise in such a fashion as to equate civic virtue with the possession of the franchise. Its limitation to those property owners was disastrous who did not their own property. Its limita-

tion to a creed or caste means always special privilege to that creed or caste. Even Mill's test of education beyond simple literacy is unrelated to the virtues we require." Another recent writer on the new democratic institutions of Europe, observes. "The new constitutions have with one accord adopted equal universal suffrage. It is the inalienable right of every citizen to vote, and people insist on expressing their sovereignty directly, and not through the medium of the more intelligent or wealthy classes in society."

Theory thus is entirely in its favour. In this connection the recommendations of the Ceylon Commission are of same interest. They have advocated a wide franchise because this would expedite the passing of progressive social and industrial legislation, and would lessen corruption and the manipulation of the electorate. A wide franchise they felt would also automatically raise the position of the depressed classes. Dealing with this question, they say : "We have here to consider whether or not it was desirable that they should be given some form of special representation. It seems to us, however, apart from the general considerations we have advanced, that the enfranchisement of these people and the provision of equal and adequate educational facilities are true remedies for their condition."

It has been stated that adult franchise involves two dangers. The first is that the electorates are very largely uneducated and cannot be expected to exercise the franchise intelligently or to control their representatives. The second is the vastness of the country and the inadequacy of the means of transport which will make it difficult to evolve a satisfactory machinery for the functioning of the system. As regards the first we think that the repeated exercise of the right to vote is in itself a powerful educative factor. Literacy or some education has not been the test of the franchise in other countries when adult franchise was adopted and we see no reason why it should be so in India. We maintain that the average Indian voter understands his business and that he can form an opinion on matters that affect him directly. He will be no more liable to wire-pulling than the

average voter in other countries. A Parliament elected on a narrow franchise is more of a menace to stability than a Parliament elected on a wide franchise. A comparatively small class dominating over Parliament necessarily looks after itself and largely ignores the interests of others and thus gives rise to disaffection and discontent which may become a great menace to stability of government and society.

The second objection to adult franchise is the difficulty of devising machinery for the working of the system. We appreciate the difficulties but we certainly do not think that it is impossible to advise the machinery or to work it. It will no doubt involve heavier public expenditure but the principle involved is well worth paying for.

A few of our critics have presumed to say that our proposals are ment to ensure the supremacy of the Brahmans in the government of the country. If there was the slightest chance of this or of any class becoming supreme or dominant adult franchise would do away with it. But to those who know anything of the texture of Indian politics it is apparent that political leadership during the last fifty years has not been the monopoly of Brahmans. Such Brahmans as have come to the fore in the political life of the country—men like Mr. Tilak, Mr. Gokhale and Mr. Shastri—have acquired their position and influence by the possession of the very same qualities of leadership which have enabled non-Brahmans like Mr. Gandhi, Mr. C.R. Das, Lala Lajpat Rai and Mr. Jinnah to lead and influence public opinion in India. We might also refer to the great leaders of the past such as Dadabhai Naoroji, Pherozeshah Mehta, Badrud-din Tyabji, Bhupendra Nath Basu, Kalicharan Banerji (a Christian) and R.C. Dutt.

We have discussed at length in the main Report the problem of the Indian States and their relation to the future commonwealth Government. Our position however seems to have been misunderstood in certain quarters and we shall try to remove this misconception and meet some of the criticisms made.

In the Report we quoted extensively from Lord Reading's letter dated 27th March, 1926. We did so to give the latest official and authoritative exposition of the theory of relationship between the British Government and the Indian States. We did not discuss the merits of the claim put forward in that letter. Indeed we pointed out the letter had been criticised and had caused much dissatisfaction and searching of heart. We should not therefore be understood to endorse this letter.

We have been led to believe from all that has appeared in the press in India and England and from Sir Leslie Scott's letter which appeared in the Law Quarterly Review that the Indian princes were anxious to urge and establish the theory that their relations were directly with the Crown and that the Government of India were acting as the agents of the Crown. Further, that the Government of India would always continue to be of one particular pattern and any change in its character and composition would necessarily affect the continuance of these relations. We question the soundness of this theory and we have pointed out and emphasised the dangerous implications that follow from it.

Since our Report was published, it has been announced that the Princes are not going to raise this question before the Butler Committee. We are glad of this decision although the Princes have not so far authoritatively repudiated Sir Leslie Scott's views on the matter.

In our Report we expressed our sympathy with the desire of the Indian Princes to have their grievances remedied. How far and how best these grievances can be remedied, we stated, were matters for investigation and joint consultation. The Maharaja of Patiala has dealt with the present position of the Princes in an article in the November number of the Contemporary Review. Referring to a scheme put forward by the Princes before Mr. Montagu, he says : "We wanted three things : a Chamber of Princes, which would enable the States to speak with a common voice, and thus take their share along with British India



in framing policies and taking decisions which affected the whole of India in common ; an advisory board..... to be associated with the Political Department,...and lastly a system of arbitration...between the States and the Government of India."

So far as the demand for arbitration is concerned we have ourselves made a recommendation to that effect in our Report. In regard to the Chamber of Princes, politicians in British India are surely not responsible for its defects and failings. Nor has the Indian Legislature been in any way responsible in framing policies for the Indian States. That responsibility has rested entirely on the Government of India or the Secretary of State. The Maharaja of Patiala complains that British India dictates the policy for the whole of India and the States are given no share in framing it. This is true but by British India here is only meant the Government of India and the Secretary of State, and not the Indian Legislature.

We have not suggested nor do we desire to withhold from the States what belongs to them or should belong to them legitimately. Clause 85 our draft has been subjected to some criticism on the ground that it seeks to perpetuate the very evils against which the States are now protesting. We should like to make it clear that we do not desire any encroachment upon the rights of the States. We stand for just and equitable treatment and indeed in the main Report we stated that "the Government of India of the future will discharge their obligations in their integrity and with every desire to promote harmonious relations and no desire to override cherished privileges or sentiments."

It has also been urged that clause 85 arrogates to the Commonwealth a position of superiority over the States. We would point out however that if the Government of the Commonwealth must discharge obligations towards the States, it is only fair that it must also exercise those rights which under the constitution will belong to it. There is no question of superiority or inferiority.



It has also been urged by the Maharaja of Bikaner that the words "arising out of treaties, engagements, sanads, or similar other documents" in the second part of clause 85 may exclude certain fiscal and other justiciable matters. We would point out that it is a question of policy whether fiscal matters should be referred to a judicial tribunal or determined by some other machinery which may be established with common consent. Other justiciable matters may be brought before the Supreme Court if it is found that they can be dealt with in this way. We have no objection to this. If they cannot be so dealt with we would be willing to co-operate in exploring other avenues of settlement.

Lastly, we would recall that we have referred in our original Report to the possibility of a Federation between British India and the States. We stated then that "if the Indian States would be willing to join such a Federation, after realising the full implications of the federal idea, we shall heartily welcome their decision and do all that lies in our power to secure to them the full enjoyment of their rights and privileges." We stand by that opinion. We note that the Maharaja of Patiala says, in the article referred to above, that the Indian Princes "are perfectly prepared to entertain the idea of a Federation such as has been proposed in the memorandum presented to the Simon Commission by the European Association of India." If the idea of a Federation is being entertained seriously we would suggest that the Indian Princes might give some consideration to the proposals put forward by Indian politicians also. An Indian Federation, if it is to be a reality, must not only define and regulate the relations between the Commonwealth and the States on a just and equitable footing, but must also lay the foundations of a strong central authority and at the same time should give the fullest measure of freedom to each constituent unit to work out its own evolution.

The telegraphic summary of the debate in the House of Lords instead on Lord Olivier's motion on the 5th December was received when these pages were in proof. We can only take a very brief notice of it. There should be no doubt now that

the position we have taken in the main Report and in the preceding pages is thoroughly justified. Three main points emerge clearly from the debate. The first and the most important is that "the rights and duties of the Paramount power set forth in the famous letter to the Nizam of Hyderabad" have received the approval of the British Cabinet. The result is that the Princes have not at all advanced their case by their recent activities in India and in England and remain exactly where they were when the "famous letter" was published. We offer them our sincere sympathy. The next point is that it is not the intention of the British Government "to compel or in any way force upon the States a different constitution than the one they at present enjoy." There is of course no question of any compulsion and we never suggested any, but it is for the Princes to consider whether they are content with the 'constitution they at present enjoy' which is none other than that laid down in the "famous letter." It is a mischievous suggestion which we entirely repudiate that there is any scheme in contemplation by which the Princes are to be "placed in a position of subservience to the legislatures of the central or provincial governments." The idea of a democratic legislature holding in subservience any class of persons who agree to participate in its proceedings is wholly inconceivable to us. The third point arises from the significant remark of Lord Reading. The author of the "famous letter" has said that the Princes were never slow to fall in with any view that might be put forward by the Government of India which was founded upon a desire to protect India or strengthen India in any way." The plain English of this in our opinion is that the Princes are to be used to strengthen the present autocratic government of India. We trust the Princes will seriously consider their position in the light of this debate and choose between the continuance of their rights and duties as set forth in the "famous letter" and the honourable membership of the Commonwealth of India. We hope they will choose wisely.

### **THE ENLARGED COMMITTEE**

After making certain amendments to the recommendations of the Committee, the Lucknow Conference by its resolution

number 13 adopted in principle the constitution outlined in the main Report. The same resolution continues :

“This Conference resolves to re-appoint the Nehru Committee with power to co-opt and authorises it to select and instruct a Parliamentary draftsman to put the constitution outlined and recommended by it as accepted by this Conference with all necessary ancillary and consequential provisions, in the shape of a bill to be placed before a convention of the representatives of all political, commercial, labour and other organisations in the country present at this Conference and others of not less than two years’ standing, provided that nothing will be aided or altered which is inconsistent with the agreements and decisions arrived at by this Conference. The Committee shall take all necessary steps for the holding of the said convention on such date as may be fixed by it.

In drafting the bill the Committee shall take into consideration Schedule I and Schedule II to the Report and the Committee is authorised to make such alterations in the said schedules as it may think necessary.”

Immediately after the conclusion of the Conference some members of the Committee present in Lucknow met and in consultation with the members of the Working Committee of the Congress selected Dr. Besant and the following gentlemen to be co-opted as members of the Committee : Dr. M.A. Ansari, Pandit Madan Mohan Malaviya, Lala Lajpat Rai, Maulana Abul Kalam Azad, Mr. Jinnah, Mr. C. Vijayaraghavachariar and Maulana Abdul Kadir Kasuri. This selection was circularised to the members of the Committee who were not present at this informal meeting and their approval was subsequently received. With the exception of Mr. Jinnah who was not in the country the co-opted members signified their assent to serve on the Committee. On his return from Europe Mr. Jinnah declined to act. Our colleagues Messrs J.R. Pradhan and M.N. Joshi were

unable to attend any of the meetings of the committee. We are sorry that the time at our disposal did not permit of our obtaining their approval of the draft report before it was sent to the press. We are therefore compelled to issue it without their signatures.

As a meeting of the enlarged Committee held at Simla on the 26th September it was decided to hold the Convention in Calcutta on the 17th December in order to enable the Indian National Congress and the other organisations to consider the decisions of the Convention at their annual sessions which are usually held during the Christmas week. Having regard to this decision it was pointed out that the interval was not sufficient to enable the Committee to carry out the directions of the Conference and have its recommendations put in the form of a bill by a Parliamentary draftsman. It was also considered premature to have such a bill drafted before it was known what the decisions of the Convention would be. The idea of the bill was therefore dropped and the publication of this supplementary report by the Committee on the points referred to it by the Lucknow Conference was considered more desirable.

The question of the date of the Convention was reconsidered at the meeting of the Committee held at Delhi on the 5th November. It was agreed that the date should be fixed with due regard to the convenience of all the organisations and so far as possible before the open sessions of the Congress. The 19th December was therefore provisionally fixed and in view of a press statement issued by Mr. Jinnah that the Convention should follow the annual sessions of the various organisations a sub-committee consisting of the Chairman, Dr. Ansari and Maulana Adul Kalam Azad was appointed to confer with Mr. Jinnah and to communicate with the other members of the Committee if there appeared "grave reasons for not holding the Convention before the Congress." The sub-committee accordingly met Mr. Jinnah at Lucknow but unfortunately no agreement could be reached. Mr. Jinnah was in favour of holding the Convention after the annual sessions of the various organisations for the reason that it would only then be possible

for the representatives of the Muslim League to attend the Convention with full authority to take a responsible part in its deliberations. This opinion was not shared by many members of the Council of the League which was meeting at the time as it was thought that the Council itself could give the requisite authority but Mr. Jinnah adhered to his view. The reason given did not apply to other organisations whose executives, with the exception, perhaps, of one or two, had duly elected their representatives to attend the Lucknow Conference where important decisions were arrived at. This they did in compliance with an appeal made by Dr. Ansari to send duly elected representatives to the Convention.

We were of opinion that any authority given to representatives could not obviate the necessity of formal ratification by the parent institutions and that the result of holding the Convention after the annual sessions of the various organisations would be to leave the decisions of the Convention unconfirmed for a whole year which was highly undesirable. The Committee therefore decided to meet the objection of Mr. Jinnah by so arranging the dates of the Convention as to enable the Muslim League to appoint duly authorised representatives as its annual sessions and at the same time to afford the fullest opportunity to all organisations to consider the decisions of the Convention at their annual sessions and pronounce their final opinions on them. The 26th, 27th and 28th December were fixed by the Council of the Muslim League at Lucknow for the annual sessions of the League. The Convention will open on the 22nd December which will probably be taken up with the inaugural speech of the President and other formal proceedings. The next two days will be given to more or less non-controversial matters. It is expected that in the course of these discussions occasion will arise for informal consultations between the various parties and meetings of any committees which may be appointed by the Convention to report to it on matters arising out of the discussions. There will therefore be no session of the open convention on the 25th and 26th December and the various



parties will be at liberty either to hold their separate meetings or joint conferences with other parties on those days. The Subjects Committee of the Indian National Congress will also meet on the 25th and the 26th to discuss the resolutions to be brought up before the Congress. The Convention will meet again on the 27th and will continue its sittings on the 28th and if necessary also on the morning of the 29th to discuss the communal and such other questions as may be reserved at the previous session. The Muslim League will have ample opportunity on the 26th and the 27th to authorise or instruct its representatives who will be able to attend the final sessions of the Convention with the necessary authority to deal with the communal and any other questions which they may like to raise. The Congress will meet on the 29th, 30th and 31st December with all the materials necessary to enable it to give its final verdict. This arrangement ought to meet the wishes of all parties. We have given the matter our most anxious consideration and have come to the conclusion that the course adopted is in the circumstances most desirable as it makes it possible and convenient to all organisations to be properly represented at the Convention and also gives them the opportunity of considering the decisions of the Convention in their full sessions.

We desire to take this opportunity to record our sense of gratefulness to the numerous bodies and associations which have passed resolutions expressing their approval of the scheme outlined by us. The general appreciation of our humble effort has been very encouraging to us and we treat it as a clear indication of the strength of will of the nation to be satisfied with nothing less than full responsible government.

## **AMENDMENTS OF THE RECOMMENDATIONS**

### ***(A) The Communal Aspect***

1. The most important question which engaged the attention of the original Committee and was discussed at length in the main Report was the question of reservation of seats for Muslim majorities in the Punjab and Bengal. It is gratifying to

note that the recommendations of the Report were accepted by the Hindus and Muslims of the Punjab at the Lucknow Conference and the clauses relating to Bengal were formally accepted on behalf of Bengal Muslims and Hindus by Messrs. Akram Khan and J.M. Sen Gupta. The Punjab agreement is embodied in resolution No. 6 of the Lucknow Conference set out at p. 164 of the 3rd edition of the Report. All that is necessary for us is to add a proviso to Clause III (a) (p. 123). The proviso will run as follows :

“Provided that the question of communal representation will be open for reconsideration if so desired by any community after working the recommended system for 10 years.”

It is a matter of great satisfaction that the Punjab and Bengal Provincial Muslim Leagues as well as the Punjab Provincial Khilafat Committee have at their open sessions fully accepted this agreement. The question of reservation of seats for Muslim majorities must therefore be taken as finally settled, the Muslims of the only two provinces concerned having accepted the Lucknow agreement. We are aware that the seceders from the old Muslim League in the Punjab and certain sections of Muslim in the minority provinces are still dissatisfied with the Punjab Hindu Muslim agreement. As against the former we have the fact that numerous public meetings held in almost all the important towns of the Punjab and attended by thousands of Muslims have passed resolutions approving the recommendations and that not a single public meeting has been called to support the point of view of the seceders. We should have been glad to notice some of the points they have tried to make against our recommendations if we were only sure that they themselves believed in those points. When we find these gentlemen approaching the Statutory Commission with the most reactionary proposals insisting on communal electorates, no transfer of power to the popular representatives in the Central legislature and continuation of law and order as a reserved subject in the Provinces as may be excused if we refuse to treat



them seriously when they take us to take for not recommending proportional representation, a complete federal system of Government from top to bottom, and full provincial autonomy. As regards Muslims in Provinces other than the Punjab and Bengal, we are of opinion that they are entirely out of court as they are not in the least personally affected and have not been briefed by their brethren of the Punjab and Bengal who, as pointed out above, have accepted our recommendations. Bengal Muslims generally must be taken to have accepted the resolution of the Provincial League approving the Lucknow decisions as no other Muslim meetings have been held in that province either for or against that resolution. We therefore submit that the controversy about reservation of seats for majorities must now be taken as closed.

2. The connected question of reservation of seats for minorities was considered by us at our meeting held at Delhi on the 5th November and in compliance with the general Muslim desire expressed in the press and at various meetings we have added the following proviso to clause IV.

“Provided that the question will be open for reconsideration after the expiration of that period if so desired by any community.”

A great grievance has been made by certain sections of the Muslims against the main Report for not allowing the continuance of the weightage at present enjoyed by the community in provinces where it is in a minority. The reasons for that recommendation are fully set out at pages 51 to 53 of the main Report. We desire to point here that the Madras Congress resolution which is accepted by most of these critics allows no weightage to minorities except as a result of reciprocal concessions by mutual agreement. No question of such concessions arises on our recommendations as we have not allowed any weightage to Hindu or any other minorities. Under the Madras resolution the Muslim minorities would be not only not entitled to claim any weightage but would be precluded from contesting addi-

tional seats beyond those warranted by their strict proportion to the population. So far from depriving them of any advantages they would have had under that resolution we have actually given them a valuable additional right which on reconsideration we hope they will appreciate.

3. The question of the separation of Sind from the Bombay Presidency has been settled by mutual agreement which was adopted by the Lucknow Conference in resolution No. 4 vide page 162. It is one of the tragedies of communal controversy that the two bitterest opponents of the Lucknow agreement Maulana Shaukat Ali and Maulvi Shafi Daudi are the signatories to the Sind agreement and have not yet explained how they came to sign it if, as they now say, it puts "Islam in danger."

We therefore unhesitatingly recommend that the Lucknow resolution be substituted for Clause V of the main Report vide page 124.

4. The word "Baluchistan" was by an oversight omitted from Clause VII (p. 124). By resolution 12 of the Lucknow Conference (p. 166) this omission was rectified and the clause will now read as follows :

"The N.W.F. Province, Baluchistan and all newly formed provinces by separation from other provinces, shall have the same form of government as the other provinces in India."

5. The question of language was referred by the Lucknow Conference to us for report (resolution No. 9 p. 165). We have adopted the suggestions of the Conference and recommend that Clause 2 (v) of the original recommendations (p. 102) dealing with fundamental rights be amended by the addition of the following proviso :

"Provided that adequate provision shall be made by the State for imparting public instruction in primary schools to the children of members of minorities of considerable strength in the population through the medium of their own language and in such script as is in vogue among them.

**Explanation**—This provision will not prevent the State from making the teaching of the language of the Commonwealth obligatory in the said schools.”

In accordance with the same resolution of the Lucknow Conference we also recommend that the following new clause be added to the original recommendations after clause 4 under the new heading “Language” (p. 103) :

“4A. (i) The language of the Commonwealth shall be Hindustani which may be written either in Nagri or in Urdu character. The use of the English language shall be permitted.

(ii) In provinces the principal language of a province shall be the official language of that province. The use of Hindustani and English shall be permitted.”

6. The last question having a communal aspect referred to us was the amendment of clause 87 (p. 123). We were directed to amend that clause “so as to safeguard the interests and rights of the various minorities in the central legislature with regard to the amendment of the constitution.” (Resolution 7, p. 165). A sub-committee consisting of Mr. Chagla, Sir T.B. Saprú and Pandit Hriday Nath Kunzru went into the question and reported that the needs of the situation would be met by substituting the words “4/6ths of those present” for the words 2/3rds of the total number of members.” We entirely agree and recommend that the said amendment be made.

It will be seen from the above that we have gone a very long way to meet the Muslim demand. The only point upon which we are sorry we cannot see eye to eye with them is the question of reservation for them of 1/3rd of the total number of seats in the Central legislature. This point has been fully dealt with in the main Report (p. 53 last paragraph and p. 54). We have not heard anything since to induce us to alter our opinion. On the contrary, we are convinced that the fears of the Muslims are more imaginary than real. We may point out that

our recommendations in this respect are more favourable to Muslims than the Madras Resolution which provides that the proportion agreed upon for the provinces shall be maintained in the Central Legislature. We have fixed no proportions for the Punjab and Bengal. With the unfettered rights we have recommended for Muslims in those provinces to contest any number of seats they like, the chances are that they will capture more seats for the Central legislature than they are entitled to in strict proportion to their population.

We dealt with the last District Board elections in Bengal at p. 47 and 48 of the main Report and gave interesting figures relating to it in Appendix C. (p. 154). The figures for the Punjab were not then available to us but we anticipated similar results in that province also. We are now in possession of full particulars and find that our expectation was justified. The figures now available are given in Appendix "A" to this report. They will appear at a glance to be even more illuminating than those of Bengal. In spite of the fact that the non-Muslim voters for the Punjab District Boards number about 3,00,000 and the Muslim voters about 2,68,000 only Muslims have captured 408 seats out of a total of 815 which is just over 50 per cent. In 15 out of 28 districts the Muslim members exceed Hindus and Sikhs combined. While there are 9 districts where no Sikhs have been elected and 4 where no Hindu has been elected there is only one district where the Muslims failed to capture a single seat. In two districts all the elected members are Muslims.

As we have shown in the main Report any attempt at the reservation demanded will upset the whole of our scheme. We are therefore strongly opposed to it. We appeal to the Muslims in the minority provinces to accept our recommendations in a generous spirit. The question does not arise in Bengal and the Punjab.

We cannot close this chapter without expressing our deep regret at the attitude taken by the Sikhs on the main Report

and the Lucknow resolutions. Their case is fully considered in that Report at pages 56 and 57 and we have again given our most anxious consideration to it. The complaint so far as we can understand it is against reservation of seats for Muslim minorities for a fixed period. The Sikhs do not stand to gain if this reservation is removed but have chosen to champion the cause of true nationalism and democracy by insisting on total abolition of reservation from every part of the country. We have not claimed that our recommendations can be justified by abstract principles. Indeed no constitution in the world can be supported by a strict application of those principles. All we claim is to have suggested a constitution which in all the circumstances of our country appeared to us to be just and reasonable. We regret we cannot remove the temporary reservation we have proposed on practical considerations simply to vindicate the highest principles of democracy.

There is one matter, however, in which the Sikhs have our entire sympathy and that is their proposal to introduce proportional representation in the Punjab. Our colleague Sardar Mangal Singh is strongly in favour of this system—we have discussed the question at length in the main Report (pp. 35 to 37) where we have expressed our own approval of the principle but have refrained from recommending it on practical grounds. We shall be glad if a way out of those practical difficulties is found by the Convention.

## AMENDMENTS OF THE RECOMMENDATIONS

### *B. General*

We shall now deal with matters other than communal. Some of the amendments to the original recommendations have been made by the Lucknow Conference and suggestions for other amendments have been referred to us. We shall first take the former.

1. *Cl. 3 Definition of Citizen.* In accordance with resolution No. 8 of the Lucknow Conference we have amended cl. 3

of the original recommendations by adding a fresh sub-clause as follows : “who being a subject of an Indian State ordinarily carries on business or resides in the territories of the Commonwealth.”

At the time of writing this report our attention was called to the criticism of sub-clauses (a) and (b) of the original clause (3) that those sub-clauses exclude British subjects coming from the United Kingdom or the Dominions from acquiring rights of citizenship, while subjects of foreign countries naturalised in the Commonwealth of India are given that privilege. The criticism appears to us to be well-founded. The matter however was not discussed at any of the meetings of the Committee and we must therefore leave it to the Convention to consider the advisability of adding another sub-clause as follows : “or who being a subject of the Crown carries on business or resides in the territories of the Commonwealth.” If these amendments are carried out the sub-clauses will have to be re-arranged and clause (3) will read as printed in chapter IV.

2. We have carried out the amendment to clause 4 (ii) as decided by the Lucknow Conference by adding the words “all titles to private and personal property lawfully acquired and enjoyed at the establishment of the Commonwealth are hereby guaranteed.”

3. *Sub-Clause 4 (xvii)*. In accordance with resolution 11 we have added to his sub-clause the words “and Parliament shall also make laws to ensure fair rent and fixity and permanence of tenure to agricultural tenants.”

4. By resolution 13 the Lucknow Conference directed us to take schedules I and II of the Report into consideration and make such alterations therein as may appear necessary. This direction was given in view of certain amendments proposed by Chowdhari Afzal Haq. Our colleague Maulana Abdul Kadir Kasuri informed us that the object of the amendments proposed by Chowdhari Afzal Haq was to make it clear that legislation for the control of the subjects mentions in items 28, 29(a),



29(b), 37(a) (b) (c) and 38 of schedule I properly falls within that schedule but that the actual administration of those subjects must be left to the provincial governments. We have therefore added the words "Laws relating to the" before the word "control" in items 28, 29(a) and 29(b), and the same words before the word "welfare" in item 37(a), before the word "provident" in item 37(b), and before the word "industrial" in item 37(c).

These were all the amendments which our colleague Maulana Abdul Kadir Kasuri considered necessary to schedule I and we have adopted his suggestion. No amendment of schedule II was proposed either at the Lucknow Conference or suggested to us at our meetings.

We now turn to the amendments upon which there is no resolution of the Lucknow Conference and fall within the matters referred to us for consideration and report.

5. We propose the following new clause to be added immediately after clause 13 and to number it as clause 13A :

- (a) "In cases of grave emergency and in matters of serious controversy between provinces or a province and an Indian State, the Central Government and Parliament shall have all the powers necessary, and ancillary, including the powers to suspend, and annul the Acts, executive and legislative, of a provincial government.
- (b) The Supreme Court shall have no jurisdiction in cases where the Commonwealth Government or Parliament has acted in exercise of the powers under the preceding sub-clause."

The necessity for the clause will be quite evident. We find something similar to it in almost every written constitution. The clause no doubt confers extraordinary powers but no Central Government can be carried on without those powers. What is important for the safety and security of the people is that such

powers should be under the control of Parliament and not merely in the hands of the Executive Government. We have taken care to establish such control.

6. Under clause 29 of the original recommendations the Governor of every province was to be appointed by the King. This has been the subject of some controversy. We are agreed that the appointment of a Governor should be made by the Governor-General-in-Council and therefore recommend that in clause 29 for the words "by the King and representative of His Majesty in the Province" the words "by the Governor-General-in-Council" be substituted. There was some discussion at our meeting as to whether the power should rest with the Governor-General or Governor-General-in-Council. The majority favoured the latter view.

7. Having regard to the amendment made in clause 29, clause 30 would now read as follows : "The salaries of Governors shall be fixed and provided by Parliament and until so provided shall be as in schedule..."

8. Clause 57 of the original recommendations provided for the removal of the Chief Justice and other Judges of the High Court by the Governor-General-in-Council on an address by the Provincial Legislature. It was the general opinion at the Lucknow Conference that the powers should be exercised by the Governor-General-in-Council on an address from both Houses of Parliament. Apart from the fact that members of the Provincial Legislature cannot be expected to be entirely uninfluenced by local controversies, difficulties will arise if there is one High Court for two or more provinces. We therefore recommend that for the words "by the Provincial Legislature" the following words be substituted : "from both the Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity."

9. It is not necessary to explain verbal amendments which we have recommended in certain clauses. For the convenience of the Convention all the recommendations made in chapter VII of the main Report are reprinted in the Appendix to this report and the amendments now recommended appear in italics.

These are all the amendments that we feel called upon to recommend.

We have considered resolution 14 of the Lucknow Conference which runs as follows :

“This Conference declares that the agreements contained in the foregoing resolutions and decisions are based upon the assumption that the general scheme sketched out in the Nehru Report adopted by this Conference shall be given effect to as a whole inasmuch as the various provisions thereof are interdependent upon each other, and all the parties assembled in this conference hereby agree that every one of them will stand by it as a whole and will refuse to accept any single part of it without giving full force and effect to all other parts.

Provided that any modification of this scheme may be accepted by the consent and agreement of all the parties.”

This resolution embodies a most important agreement between the parties but we are of opinion that there is no place for it in the constitution itself. It is useful and operative only during the period preceding the passing and adoption of the constitution and forms no part of it. We think it will serve its purpose if the resolution is confirmed by the Convention.

Our colleague, Mr. Shuaib Qureshi resigned from the Committee on his departure for Europe.

Motilal Nehru  
Tej Bahadur Supru  
S. Ali Imam  
Madan Mohan Malaviya  
Annie Besant  
M.A. Ansari  
M.R. Jayakar  
Abul Kalam Azad  
Mangal Singh  
M.S. Aney  
Subhas Chandra Bose  
Vijayaraghavachariar  
Abdul Kadir Kasuri

**APPENDIX**

**THE RECOMMENDATIONS**

*(as amended)*

*Constitutional Status of India*

1. India shall have the same constitutional status in the *community*<sup>1</sup> of nations, known as the British Empire, as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa and the Irish Free State, with a Parliament having powers to make laws for the peace, order and good government of India, and an executive responsible to that Parliament ; and shall be styled and known as the Commonwealth of India.

*Operation of the Constitution and Laws*

2. This Act and all laws made by the Parliament of the Commonwealth thereunder shall be binding on the courts and people of every province, and of every part of the Commonwealth, notwithstanding anything in the laws of the Indian legislature or of any province or in any Act of the United Kingdom extending to British India ; and the laws of the Commonwealth shall be enforced in all Indian territorial waters.

*Definition of Citizen*

3. The word "citizen" wherever it occurs in this constitution means every person :

- (a) who was born, or whose father was either born or naturalised, within the territorial limits of the Commonwealth and has not been naturalised as a citizen of any other country ;

1. The word in the Report was "comity."

- (b) <sup>2</sup>who being a subject of an Indian State ordinarily carries on business or resides in the territories of the Commonwealth ;
- (c) <sup>3</sup>or who, being a subject of the Crown carries on business or resides in the territories of the Commonwealth ;
- (d) who is naturalised in the Commonwealth under the law in force for the time being.

*Explanation*—No person who is a citizen of a foreign country can be a citizen of the Commonwealth unless he renounces the citizenship of such foreign country in the manner prescribed by law.

#### *Fundamental Rights*

4. (i) All powers of government and all authority, legislative, executive and judicial, are derived from the people and the same shall be exercised in the Commonwealth of India through the organisations established by or under, and in<sup>4</sup> *due process of* the constitution.

(ii) No person shall be deprived of his liberty, nor shall his dwelling or property be entered, sequestered or confiscated, save in accordance with law.<sup>5</sup> All titles to private and personal property lawfully acquired and enjoyed at the establishment of the Commonwealth are hereby guaranteed.

(iii) Freedom of conscience and the free profession and practice of religion are, subject to public order or morality, hereby guaranteed to every person.

(iv) The right of free expression of opinion, as well as the right to assemble peaceably and without arms, and to form associations or unions, is hereby guaranteed for purposes not opposed to public order or morality.

2. This clause was added by the Lucknow conference.

3. This clause has been recommended by the enlarged committee to be added by convention.

4. The words in the report were "accord with".

5. Added by the Lucknow Conference.

(v) All citizens in the Commonwealth of India have the right to free elementary education without any distinction of caste or creed in the matter of admission into any educational institutions, maintained or aided by the state, and such right shall be enforceable as soon as due arrangements shall have been made by competent authority.<sup>6</sup> Provided that adequate provision shall be made by the State for imparting public instruction in primary schools to the children of members of minorities of considerable strength in the population through the medium of their own language and in such script as is in vogue among them.

*Explanation*—This provision will not prevent the State from making the teaching of the language of the Commonwealth obligatory in the said schools.

(vi) All citizens are equal before the law and possess equal civic rights.

(vii) There shall be no penal law whether substantive or procedural of a discriminative nature.

(viii) No person shall be punished for any act which was not punishable under the law at the time it was committed.

(ix) No corporal punishment or other punishment involving torture of any kind shall be lawful.

(x) Every citizen shall have the right to a writ of *habeas corpus*. Such right may be suspended in case of war or rebellion by an Act of the central legislature, or, if the legislature is not in session, by the Governor-General-in-Council, and in such case he shall report the suspension to the legislature, at the earliest possible opportunity for such action as it may deem fit.

(xi) There shall be no state religion for the Commonwealth of India or for any province in the Commonwealth, nor shall

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6. This provisions was added by the enlarged committee in compliance with resolution 9 of the Lucknow conference.



the state either directly or indirectly endow any religion or give any preference or impose any disability on account of religious belief or religious status.

(xii) No person attending any school receiving state aid or other public money shall be compelled to attend the religious instruction that may be given in the school.

(xiii) No person shall by reason of his religion, caste or creed be prejudiced in any way in regard to public employment, office of power or honour and the exercise of any trade or calling.

(xiv) All citizens have an equal right of access to, and use of public roads, public wells and all other places of public resort.

(xv) Freedom of combination and association for the maintenance and improvement of labour and economic conditions is guaranteed to everyone and of all occupations. All agreements and measures tending to restrict or obstruct such freedom are illegal.

(xvi) No breach of contract of service or abetment thereof shall be made a criminal offence.

(xvii) Parliament shall make suitable laws for the maintenance of health and fitness for work of all citizens, securing of a living wage for every worker, the protection of motherhood, welfare of children, and the economic consequences of old age, infirmity and unemployment<sup>7</sup> and Parliament shall also make laws to ensure fair rent and fixity and permanence of tenure to agricultural tenants.

(xviii) Every citizen shall have the right to keep and bear arms in accordance with regulations made in that behalf.

(xix) Men and women shall have equal rights as citizens.

*Note :* Notwithstanding anything to the contrary in article (iv) the Sikhs are entitled to carry kirpans.

7. This clause was added by the Lucknow conference.

*Language*

4. A.<sup>8</sup> (i) The language of the Commonwealth shall be Hindustani which may be written either in *Nagri* or in *Urdu* character. The use of the English language shall be permitted.

(ii) In provinces, the principal language of a province shall be the official language of that province. The use of Hindustani and English shall be permitted.

*Parliament*

5. The legislative power of the Commonwealth shall be vested in a Parliament which shall consist of the King, a Senate and a House of Representatives herein called the Parliament.

6. The Governor-General shall be appointed by the King and shall have, and may exercise in the Commonwealth, during the King's pleasure, but subject to this constitution, such powers and functions of the King as His Majesty may assign to him.

7. (a) There shall be payable to the King out of the revenues of India for the salary of the Governor-General an annual sum.....which, until the Parliament of the Commonwealth otherwise provides, shall be as in the schedule hereof provided.

(b) The salary of a Governor-General shall not be altered during his continuance in office.

8. The Senate shall consist of 200 members to be elected by the Provincial Councils, a specific number of seats being allotted to each province on the basis of population, subject to a minimum. The election shall be held by the method of proportional representation with the single transferable vote. (The Hare system).

9. The House of Representatives shall consist of 500 members to be elected by constituencies determined by law.

8. This section has been added by the enlarged committee on the recommendation of the Lucknow conference.

Every person of either sex who has attained the age of 21, and is not disqualified by law, shall be entitled to vote.

Provided that Parliament shall have the power to increase the number of members from time to time if necessary.

10. (1) Every House of Representatives shall continue for five years from its first meeting and every Senate shall continue for seven years.

Provided that—

- (a) either chamber of the legislature may be sooner dissolved by Governor-General ; and
- (b) any such period may be extended by the Governor-General if in special circumstances he so thinks fit : and
- (c) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months after the date of dissolution for the next session of that chamber.

(2)<sup>9</sup> A session of the Parliament shall be held at least once a year.

(3) The Governor-General may appoint such times and places for holding the sessions of either chamber of the Indian Legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(4) Any meeting of either chamber of the Indian Legislature may be adjourned by the person presiding.

(5) All questions in either chamber shall be determined by a majority of votes of members present, other than the presiding member who shall, however, have and exercise a casting vote in the case of an equality of votes.

(6) The powers of either chamber of the Indian Legislature may be exercised notwithstanding any vacancy in the chamber.

9. This clause has been added by the enlarged committee.

11. There shall be a president of each House of Parliament who shall be a member of the House and shall be elected by the House. There shall also be a deputy president of each House who shall also be a member of the House and be similarly elected.

12. The privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Representatives and by the members thereof respectively shall be such as are from time to time defined by Act of Parliament of the Commonwealth.

13. Parliament shall, subject to <sup>10</sup>and under the provisions of this Constitution, have power to make laws :

- (a) for the peace, order and good government of the Commonwealth in relation to the matters not coming in the classes of subjects by this Act assigned to the legislatures ;
- (b) for the nationals and servants of the Commonwealth within other parts of India as well as those without and beyond India ;
- (c) for the government officers, soldiers airmen and followers in His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act or the Air Force Act, and
- (d) for the persons employed or serving in or belonging to the Royal Indian Marine Service or the Indian Navy.

For greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that notwithstanding anything in this Act the legislative authority of the Parliament of the Commonwealth extends to all matters coming within the classes of subjects hereinafter enumerated and specified in Schedule I attached hereto.

10. These words were added by the enlarged committee.

13. A<sup>11</sup> (a) In cases of great emergency and in matters of controversies between province or the a province and an Indian State the Central Government and the Parliament have all the powers necessary and ancillary including the power to suspend or annul the acts, executive and legislative, of a Provincial Government.

(b) The Supreme Court shall have no jurisdiction in cases where the Commonwealth Government or Parliament has acted in exercise of the powers under the preding sub-clause.

14. The powers of Parliament with respect to foreign affairs, not including the Indian States, shall be the same as exercised by the self-governing dominions.

15. Provision may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian Legislature, and as to the persons to preside at the meetings of the House of Representatives in the absence of the president and the deputy president ; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.

16. (i) Any will which appropriates revenue or monies for the ordinary annual services of the Commonwealth government shall deal only with such appropriations.

(ii) Bills imposing taxation shall deal only with the imposition of taxes, and any provision therein dealing with any other matters shall be of no effect.

(iii) Bills affecting the public debt or for appropriation of revenues or monies or for imposing taxation shall be introduced only by a member of the executive council and can only originate in the House of Representatives.

11. This section was added by the enlarged committee.

17. A money bill means a bill which contains only provisions dealing with all or any of the following subjects, namely the imposition, repeal, remission, alteration or regulation of taxation ; the imposition, for the payment of debt or other financial purposes, of charges on public revenues or or monies, or the variation or repeal of any such charges ; the supply, appropriation, receipt, custody, issue or audit or accounts of public money ; the raising of any loan or the repayment thereof ; or subordinate matters incidental to those subjects or any of them. In this definition the expression "taxation," "public money," and "loan" respectively do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

18. The question whether a bill is or is not a money bill will be decided by the president of the House of Representatives.

19. A money bill passed by the House of Representatives shall be sent to the Senate for its recommendations and it shall be returned not later than .....days therefrom to the House of Representatives, which may pass it, accepting or rejecting all or any of the recommendations of the Senate ; and the bill so passed shall be deemed to have been passed by both chambers.

20. (i) Subject to the provisions of this Act, a bill may be initiated in either House of Parliament and, if passed by the originating House, shall be introduced in the other House for being passed.

(ii) Except as otherwise provided under this Act, a bill shall not be deemed to have been passed by Parliament unless it has been agreed to by both Houses, either without amendments or with such amendments only as may be agreed to by both Houses.

(iii) If any bill which has been passed by the House of Representatives is not, within six months after the passage of



the bill by that House, passed by the Senate, either without amendments or with such amendments as may be agreed to by both Houses, the Governor-General shall, on resolution passed by either House to that effect refer the matter for decision to a joint sitting of both Houses. The members present at any such joint sitting may deliberate and shall vote together upon the bill as last proposed by the House of Representatives and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other ; and any such amendments which are affirmed by a majority of the total number of members of the Senate and the House of Representatives present at such sitting, shall be taken to have been duly passed by both Houses of Parliament.

21. (i) So soon as any bill shall have been passed, or deemed to have been passed by both Houses, it shall be presented to the Governor-General for the signification by him, in the King's name, of the King's assent, and the Governor-General may signify such assent or withhold the same or he may reserve the bill for the signification of the King's pleasure.

(ii) A bill passed by both Houses of Parliament shall not become an Act until the Governor-General signifies his assent thereto in the King's name, or in the case of a bill reserved for the signification of the King's pleasure, until he signifies by speech or message to each House of Parliament, or by proclamation that it has received the assent of the King in Council.

Provided that the Governor-General may, where a bill has been passed by both Houses of Parliament and presented to him for the signification by him of the King's assent, or has been reserved by him for the signification of the King's pleasure, return the bill for reconsideration by Parliament with a recommendation that Parliament shall consider amendment thereto.

(iii) Any bill so returned shall be further considered by Parliament together with the amendments, recommended by the Governor-General, and if re-affirmed with or without

amendments, may be again presented to the Governor-General for the signification in the King's name of the King's assent.

*The Commonwealth Executive*

22. The executive power of the Commonwealth is vested in the King and is exercisable by the Governor-General as the King's representative, acting on the advice of the Executive Council subject to the provisions of this Act and of the laws of the Commonwealth.

23. (a) There shall be an Executive Council consisting of the Prime Minister and, until Parliament otherwise provides, not more than six ministers of the Commonwealth.

(b) The Prime Minister shall be appointed by the Governor-General and the ministers shall also be appointed by him on the advice of the Prime Minister.

(c) The Executive Council shall be collectively responsible to the <sup>12</sup>*House of Representatives* for all matters concerning the departments of the Commonwealth administered by members of the Executive Council <sup>13</sup>and generally for all advice tendered by it to the Governor-General.

24. Until Parliament otherwise provides, the appointment and removal of all other officers of the executive government of the Commonwealth shall be vested in the Governor-General-in-Council, unless the appointment is delegated by the Governor-General-in-Council, or by a law of the Commonwealth, to some other authority.

25. The Command-in-chief of the military, naval and air forces of the Commonwealth is vested in the Governor-General as the King's representative.

*High Commissioner and Foreign Representative*

26. The Commonwealth shall have the power to appoint High Commissioners and other foreign representatives similar

12. The word in the Report was "Legislature "

13. These words have been added by the enlarged committee.

to that exercised by Canada and other dominions. Such appointments shall be made by the Governor-General in Council who shall also make provision by rules for their pay, powers and duties, and the conditions of employment.

### *Financial Control*

27. (1) The Auditor-General in India shall be appointed by the Governor-General-in-Council who shall by rules make provision for his pay, powers and duties, and the conditions of employment, and for the discharge of his duties in the case of a temporary vacancy or absence from duty.

(2) Subject to any rules made by the Governor-General-in-Council, no office may be added to or withdrawn from the public service and the emoluments of no posts may be varied except after consultation with such finance authority as may be designated in the rules, being an authority of the province or of the Commonwealth according as it is or is not under the control of a local government.

### *The Provincial Legislature*

28. The legislative power of a province shall be vested in the King and the local Legislative Council.

29. There shall be a Governor of every province who shall be appointed by the <sup>14</sup>*Governor-General-in-Council*.

30. <sup>15</sup>The salaries of the Governor shall be fixed and provided by Parliament, and until so provided, shall be as in schedule....

31. (i) There shall be one member of the Provincial Legislative Council for every 100,000 of the population of the said province, provided that in provinces with a population of

14. The words in the Report were "King and representative of His Majesty in the Province."

15. The original clause was "There shall be payable to the King out of revenues of the province for the salary of the Governor an annual sum of ... which, until Parliament of the Commonwealth otherwise provides, shall be as in Schedule....hereof provided,"

less than ten millions there may be a maximum of 100 members.

(ii) Every member shall be elected by a constituency determined by law. Every person of either sex who has attained the age of 21 and is not disqualified by law shall be entitled to vote.

32. (i) Every Provincial Council shall continue for 5 years from its first sitting provided that—

- (a) it may be sooner dissolved by the Governor ;
- (b) the term of 5 years may be extended by the Governor if in special circumstances he so thinks fit ;
- (c) after the dissolution of the Council the Governor shall appoint a date not more than 6 months after the date of the dissolution, for the next session of the Council.
- (ii) The Governor may appoint such times and places for holding the sessions of the Council as he thinks fit and may also from time to time, by notification or otherwise, prorogue such sessions.
- (iii) Any meeting of the Council may be adjourned by the person presiding.
- (iv) All questions in the Council shall be determined by the majority of votes of the members present, other than the presiding member, who shall however have and exercise a casting vote in the case of an equality of votes.
- (v) The powers of the Council may be exercised notwithstanding any vacancy.
- (vi) <sup>1</sup>A session of the Council is held at least once a year.

33. There shall be a president of every Council who shall be a member of the House and shall be elected by the House. There shall also be a deputy president who shall also be a member of the House and be similarly elected.

1. This has been added by the enlarged committee.

34. The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province. The legislative authority of every provincial council extends to all matters coming within the classes of subjects hereinafter enumerated and specified in Schedule II, attached hereto.

35. The local legislature of any province may repeal or alter, as to that province, any law relating to a provincial subject made<sup>2</sup> before<sup>3</sup> the commencement of this Act by any authority in British India.

36. Any measure affecting the public revenues of a province, or imposing any charge on the revenue, shall be introduced only by a member of the executive council of the Governor.

37. When a bill has been passed by a local Legislative Council, the Governor may declare that he assents to or withholds his assent from the bill.

38. If the Governor withholds his assent from any such bill, the bill shall not become an Act.

39. If the Governor assents to any such bill, he shall forthwith send an authentic copy of the Act to the Governor-General, and the Act shall not have validity until the Governor-General has assented thereto and that assent has been signified by the Governor-General to, and published by the Governor.

40. Where the Governor-General withholds his assent from any such Act, he shall signify to the Governor in writing his reason for so withholding his assent.

41. When an Act has been assented to by the Governor-General it shall be lawful for His Majesty in Council to signify his allowance of the Act.

42. Where the disallowance of an Act has been so signified,

2. Word "either" has been omitted by the enlarged committee.

3. Words "or after" have been omitted by the committee.

the Governor shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification shall become void accordingly.

*The Provincial Executive*

43. The executive power of the province shall be vested in the Governor acting on the advice of the provincial Executive Council.

44. There shall be an Executive Council for every province consisting of not more than five ministers appointed by the Governor.

45. In appointing the executive council the Governor shall select the Chief Minister and appoint others only on his advice.

*The Judiciary*

46. There shall be a Supreme Court which shall exercise such jurisdiction as Parliament shall determine. The Supreme Court shall consist of a Lord President, and as many other Justices, as Parliament may fix.

47. The Lord President of the Commonwealth and all other Judges of the Supreme Court of the Commonwealth to be appointed after the establishment of the Commonwealth shall be appointed by the Governor-General-in-Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be<sup>1</sup> *altered* during their continuance in office.

48. The Lord President of the Commonwealth and other judges of the Supreme Court of the Commonwealth shall not be removed from office except by the Governor-General-in-Council on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

1. The word in the Report was "diminished".



49. The Supreme Court shall have original jurisdiction in all matters—

- (i) referred to the Supreme Court by the Governor-General-in-Council under section 85 ;
- (ii) in which the Commonwealth, or person suing or being sued on behalf of the Commonwealth, is a party ;
- (iii) affecting consuls or other representatives of other countries ;
- (iv) between provinces ;
- (v) arising under this Constitution or involving its interpretation.

50. The Supreme Court shall have jurisdiction, with such exceptions and subject to such regulations as Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders and sentences—

- (a) of any justice or justices exercising the original jurisdiction of the Supreme Court ;
- (b) of the High Court, <sup>1</sup>or of any other court from which at the establishment of the Commonwealth an appeal lies to the King in Council.

51. The judgment of the Supreme Court in all such cases shall be final and conclusive and shall not be reviewed, or be capable of being reviewed by any other court, tribunal or authority whatsoever.

#### *Appeals to the King-in-Council*

52. (i) No appeal shall be permitted to the King in Council from a decision of the Supreme Court upon any question howsoever arising, as to the limits *inter se* of the constitutional powers of the Commonwealth and those of any province or

1. The words "of any province" have been omitted by the enlarged committee.

provinces, or as to the limits *inter se* of the constitutional powers of any two or more provinces, unless the Supreme Court shall certify that the question is one which ought to be determined by the King in Council.

(ii) The Supreme Court may so certify if satisfied that for any special reason the certificates should be granted, and thereafter an appeal shall lie to the King in Council on the question without further leave.

(iii) Parliament may make laws limiting the matters in which such leave may be asked, provided that such laws do not impair any right which the King may be pleased to exercise by virtue of his royal prerogative to grant special leave of appeal from the Supreme Court to the King in Council.

#### *High Courts—Constitution*

53. The high courts referred to in this Act are the high courts of judicature for the time being established in British India.

54. Each high court shall consist of a chief justice and as many other judges as the Governor-General-in-Council may think fit, to appoint. Provided as follows :

- (i) The Governor-General-in-Council may appoint persons to act as additional judges of any high court, for such period, not exceeding two years, as may be required ; and the judges so appointed shall, while so acting, have all the powers of a judge of the high court appointed by the Governor-General-in-Council ;
- (ii) the maximum number of judges of a high court including the chief justice and additional judges shall be twenty.

55. A judge of a high court must be an advocate on the rolls of a high court of not less than ten years' standing, provided that nothing herein contained shall affect the continuance of the tenure of office of the judges who may be holding appointments at the commencement of this Act.

56. (i) Every judge of a high court shall hold office during his good behaviour.

(ii) Any such judge may resign his office to the local government.

57. The chief justice and other judges of the high court shall not be removed from office except by the Governor-General-in-Council on an address<sup>1</sup> from both the Houses on Parliament in the same session, praying for such removal on the ground of misbehaviour or incapacity.

58. (i) The Governor-General-in-Council may fix the salaries, allowances, furloughs and retiring pensions, and may alter them, by any such alteration shall not affect the salary of any judge appointed before the date thereof.

(ii) The remuneration fixed for a judge under this section shall commence upon his taking upon himself the execution of his office.

59. (i) On the occurrence of a vacancy in the office of chief justice of a high court, and during any absence of such a chief justice, the local government shall appoint one of the other judges of the same high court to perform the duties of chief justice of the court, until some person has been appointed by the Governor-General to the office of chief justice of the court, and has entered on the discharge of his duties of that office, or until the chief justice has returned from his absence, as the case requires.

(ii) On the occurrence of a vacancy in the office of any other judge of a high court, and during any absence of any judge, or on the appointment of any such judge to act as chief justice, the local government may appoint a person with such qualifications as are required in persons to be appointed to the high court; and the person so appointed may sit and perform the duties of a judge of the court, until some person has been appointed by the Governor-General-in-Council to the office of

1. The words in the Report were "by the provincial legislature."

judge of the court and has entered on the discharge of the duties of the office, or until the absent judge has returned from his absence, or until the local government sees cause to cancel the appointment of the acting judge.

*Jurisdiction*

60. (i) The several high courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction in respect of offences committed on the high seas, and all such powers and authority over or in relation to the administration of justice, including power to appoint clerks and other ministerial officers of the court, and power to make rules for regulating the practice of the court, as are vested in them by letters patent, and subject to the provisions of any such letters patent, all such jurisdiction, powers and authority as are vested in those courts respectively at the commencement of this Act.

(ii) The letters patent establishing, or vesting jurisdiction, power, or authority, in a high court may be amended from time to time by a further letters patent.

61. Each of the high courts has superintendence over all courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say :

- (a) call for returns ;
- (b) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction ;
- (c) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts ;
- (d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts ; and
- (e) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts.

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any law for the time being in force, and shall require the previous approval of the local government.

62. (i) Each high court may, by its own rules, provide as it thinks fit for the exercise, by one or more judges of the high court, of the original and appellate jurisdiction vested in the court.

(ii) The chief justice of each high court shall determine what judge in each case is to sit alone, and what judges of the court, whether with or without the chief judge, are to constitute the several division courts.

63. The Governor-General in Council may, by order, transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts, and authorise any high court to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the high court was established, and also to exercise any such jurisdiction in respect of any British subject for the time being within any part of India outside the Commonwealth.

64. (a) The Governor-General, each Governor, each of the members of the Executive Council, whether in the Commonwealth or in the provinces, shall not be subject to the original, appellate or revisional jurisdiction of any high court, by reason of anything counselled, ordered or done by any of them, in his public capacity only.

(b) The exemption shall extend also to the chief justices and other judges of the several high courts.

65. The Governor-General-in-Council may, if he sees fit, by letters patent, establish a high court of judicature in any territory in the Commonwealth, whether or not included within the limits of the local jurisdiction of another high court, and confer on any high court so established, any such jurisdiction, powers and authority as are vested in, or may be conferred on,

any high court existing at the commencement of this Act ; and where a high court is so established in any area included within the limits of the local jurisdiction of another high court, the Governor-General may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

*Advocate General*

66. The local government may appoint an advocate general for each of the provinces and may, on the occurrence of a vacancy in the office of advocate general, or during any absence or deputation of an advocate general, appoint a person to act as advocate general ; and the person so appointed may exercise the powers of an advocate general until some person has been appointed by the Governor-General-in-Council and has entered on the discharge of his duties or until the advocate general has returned from his absence or deputation, as the case may be, or until the local government cancels the local appointment.

*Property, Revenue and Finance*

67. All property vested in, or arising or accruing from property or rights vested in His Majesty or the Secretary of State in Council under the Government of India Act, 1858, 1915 and 1919 shall vest in the Governor-General-in-Council.

68. The revenues of India shall vest in the Governor-General-in-Council and shall, subject to the provisions of this Act, be applied for the purposes of the Commonwealth alone.

69. The expression "the revenues of India" in this Act shall include all the territorial and other revenues of or arising in British India, and in particular :

- (i) all tributes and other payments in respect of any territories which would have been receivable by or in the name of the East India Company if the Government of India Act, 1858, had not been passed ; and



- (ii) all fines and penalties incurred by the sentence or order of any court of justice in British India, and all forfeitures for crimes of any movable or immovable property in British India ; and
- (iii) all movable or immovable property in British India escheating or lapsing for want of an heir or successor and all property in British India developing as bona vacantia for want of a rightful owner.

70. Parliament shall establish a Railway and Harbour Fund into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of railways, post and harbours, and such fund shall be appropriated by Parliament to the purpose of railways, posts and harbours, on such conditions and in such manner as it may prescribe. There shall also be formed a consolidated revenue fund into which shall be paid all other revenues raised or received by the Governor-General-in-Council and such fund shall be appropriated by Parliament for the purpose of the Commonwealth in a manner prescribed by this Act or by rules made in that behalf and subject to the charge imposed thereby.

71. There shall be charged on the revenues of India alone :

- (a) all the debts of the East India Company ; and
- (b) all sums of money, costs, charges and expenses which, if the Government of India Act, 1858, the Government of India Act, 1915, as amended by the Government of India Act, 1919 or this Act had not been passed, would have been paid by the East India Company out of the revenues of India in respect of any treaties, covenants, grants or liabilities existing at the commencement of this Act ; and
- (c) all expenses, debts and liabilities lawfully contracted and incurred on account of the Government of India ; and

- (d) all other charges and payments under this Act (except so far as is otherwise provided under this Act).

72. (j) As soon as may be after the establishment of the Commonwealth the Governor-General-in-Council shall appoint a Commission consisting of one representative from each province and...representatives of the government of the Commonwealth, and presided over by an officer of the Commonwealth, to institute an enquiry into (a) the sources of revenue which may be assigned to the government of the Commonwealth and to the governments of the provinces respectively with due regard to the efficient administration and development of the services or subjects under the respective control of either, and (b) the financial relations which should exist between the governments of the Commonwealth and the governments of the provinces, and (c) for the means to be adopted for giving effect to such relations.

(ii) The said Commission shall appoint a committee to examine the whole question of the training of officers for the land, naval and air forces of the Commonwealth and the establishment of the requisite number of schools and colleges for military instruction.

(iii) The committee so appointed shall report to the Commission about the requisite number of such schools and colleges and their staffs, the places where they are to be established, and the standard of instruction to be imparted in each, and an estimate of the initial and maintenance cost of the said schools and colleges.

(iv) The said Commission shall also appoint a committee to investigate and report on the steps to be taken for the introduction of general primary education in the Commonwealth and the affording of special educational facilities for backward classes.

(v) The said Commission shall have the power to appoint such other committees as it may consider necessary for the purposes of its inquiry.

(vi) <sup>1</sup>The said Commission shall, in conformity with the principles of this Constitution and with the assistance of such committee or committees, as it may consider desirable, to appoint :

- (a) take all necessary steps to constitute Karnataka and Andhra into separate provinces ;
- (b) take steps to amalgamate the Oriya-speaking tracts in the different provinces and constitute this amalgamated area into a separate province if the people of that area are able or are prepared to bear the financial burden which is incidental to separation ;
- (c) report on the cases of C.P. Hindustani, Kerala and any other linguistic areas which may desire to be constituted into separate provinces ;
- (d) re-settle the boundaries of Assam and Bengal, Behar and Orissa and C.P. Hindustani, Kerala and Karnataka in accordance with the principles recommended by the Committee.

(vii) The said commission shall report to the Governor-General-in-Council on matters recommended in clause (i), and shall make special recommendations fixing minimum charges on the revenues of the Commonwealth and the provinces for the purposes mentioned in (ii), (iii) and (iv).

73. The Governor-General-in-Council shall lay the entire report of the Commission together with his recommendations before Parliament for such legislative or other action as it may deem fit.

74. Pending the completion of the said enquiry, and until Parliament has taken action under clause 68, the existing sources of revenue and the financial relations shall continue to be in force.

1. This clause has been added by the Lucknow conference.

*Defence*

75. (a) The Governor-General-in-Council shall appoint a Committee of Defence consisting of (1) the Prime Minister, (2) the Minister of Defence, (3) the Minister of Foreign Affairs, (4) the Commander-in-Chief, (5) the Commander of the Air Forces, (6) the Commander of the Naval Forces, (7) the Chief of the General Staff, and two other experts.

(b) The Prime Minister shall be the chairman of the committee: and there shall be a permanent staff including a secretary attached to this committee.

(c) The functions of this committee shall be to advise the government and the various departments concerned with questions of Defence and upon general questions of policy.

(d) As soon as the committee is appointed the Governor-General-in-Council may take the advice of the Committee of Defence as to the practicability and means of effecting a retrenchment in the expenditure on defence compatibly with the safety of India. The estimates shall be framed according to the recommendations of the committee.

76. The proposals of the Governor-General-in-Council for the appropriation of revenues or monies classified as "Defence" shall be submitted to the vote of the House of Representatives.

77. Notwithstanding anything to the contrary in the foregoing provisions, the Governor-General-in Council may, in the event of any foreign aggression on India by land, air or sea, or upon his being satisfied that there is a reasonable apprehension of such aggression, authorise such expenditure as may be necessary for the safety of British India or any part thereof. Such action taken by the Governor-General shall be reported by him immediately to the Legislature, if in session, or if the Legislature is not in session, to a special session to be summoned as soon as possible thereafter.

78. No measure affecting the discipline or maintenance or any part of the military, naval and air forces of the Commonwealth, shall be introduced in Parliament except on the recommendation of the Committee of Defence appointed under this constitution.

### *The Civil Services*

79. Subject to the provisions of the next succeeding section, all officers of the public services shall, at the establishment of the Commonwealth, become officers of the Commonwealth.

80. As soon as possible after the establishment of the Commonwealth, the Governor-General-in-Council shall appoint a Public Service Commission to make recommendations for such reorganisation and re-adjustment of the departments of the public services as may be necessary.

88. Parliament may make laws for regulating the classification of the civil services in India, the sources and methods of their recruitment, the conditions of service, pay and allowances, and discipline and conduct. Parliament may also, to such extent and in respect of such matters as it may prescribe, delegate the power of making rules under the said laws to the Governor-General-in-Council or to local governments.

82. (i) After the establishment of the Commonwealth the Governor-General-in-Council shall appoint a Permanent Public Service Commission with such powers and duties relating to the recruitment, appointment, discipline, retirement and superannuation of public officers as Parliament shall determine.

(ii) Members of the permanent Public Service Commission shall hold office for five years from the date of appointment.

83. Any officer of the public services who desires to retire within three years of the establishment of the Commonwealth, or is not retained in the service of the Commonwealth, shall be entitled to receive such pension, gratuity or other compensation

as he would have received in like circumstances if the Commonwealth had not been established.

*The Army Services*

84. All officers, British and Indian, serving in the army, the navy, the Royal Indian Marine, or the Air Force of India, serving in India at the commencement of the new constitution, shall retain all their existing rights as to salaries, allowances or pensions or shall receive such compensation for the loss of any of them, as the Governor-General-in-Council may consider just and equitable, or as they would have received in like circumstances if the Commonwealth had not been established.

Further all such officers, British or Indian, who were in receipt of pensions at the date of the commencement of the new constitution, shall continue to receive the same pension from the revenues of India.

*Indian States*

85. The Commonwealth shall exercise the same rights in relation to, and discharge the same obligations towards, the Indian States, arising out of treaties or otherwise, as the Government of India has hitherto exercised and discharged.

In case of any difference between the Commonwealth and any Indian State on any matter arising out of treaties, engagements, sanads or <sup>1</sup>any other documents, the Governor-General-in-Council may, with the consent of the State concerned, refer the said matter to the Supreme Court for its decision.

*New Provinces*

86. The re-distribution of provinces should take place on a linguistic basis on the demand of the majority of the population of the area concerned, subject to financial and administrative considerations.

1. The enlarged committee has substituted "any" for "similar."



*Amendment of the Constitution.*

87. Parliament may, by law, repeal or alter any of the provisions of the constitution. Provided that the bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together and at the third reading shall be agreed to by not less than <sup>1</sup>four-fifths of those present. A bill so passed at such a joint sitting shall be taken to have been duly passed by both Houses of Parliament.

Note : The following are the recommendations on communal and other controversial matters.

*Communal Representation*

I. There shall be joint mixed electorates throughout India for the House of Representatives and the provincial legislatures.

II. There shall be no reservation of seats for the House of Representatives except for Muslims in provinces where they are in a minority and non-Muslims in the N.-W.F. Province. Such reservation will be in strict proportion to the Muslim population in every province where they are in a minority and in proportion to the non-Muslim population in N.-W.F. Province. The Muslims or non-Muslims where reservation is allowed to them shall have the right to contest additional seats.

III. In the provinces.

- (a) there shall be no reservation of seats for any community in the Punjab and Bengal <sup>2</sup>provided that the question of communal representation will be open for consideration if so desired by any community after working the recommended system for 10 years ;
- (b) in provinces other than the Punjab and Bengal there will be reservation of seats for Muslim minorities on population basis with the right to contest additional seats ; and

1. The words in the Report, were "two-thirds of the total member of the members of both Houses."
2. This was added by the Lucknow Conference.

- (c) in the N.-W.F. Province there shall be similar reservation of seats for non-Muslims with the right to contest other seats.

IV. Reservation of seats, where allowed, shall be for a fixed period of ten years. <sup>1</sup>Provided that the question will be open for reconsideration after the expiration of that period if so desired by any community.

*Redistribution and Status of Provinces*

V. <sup>2</sup>Simultaneously with the establishment of Government under this constitution Sind shall be separated from Bombay and constituted into a separate province.

Provided

(1) after an enquiry it is found

- (a) that Sind is financially self-supporting, or  
(b) in the event of its being found that it is not financially self-supporting, on the scheme of separation being laid before the people of Sind with the financial and administrative aspects, the majority of the inhabitants favour the scheme and express their readiness to bear the financial responsibility of the new arrangement.

(2) that the form of Government in Sind shall be the same as in the other provinces under the constitution.

(3) that the non-Muslim minority in Sind shall be given the same privileges in the matter of representation in the Provincial and Central Legislatures as the Muslim minorities are given under this constitution in areas where they are in a minority.

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<sup>1</sup> This has been added by the enlarged committee.

<sup>2</sup> This has been substituted by the Lucknow Conference for the following :

“Sind should be separated from Bombay and constituted into a separate province after such enquiry about the financial position as may be considered necessary.”

VI. <sup>1</sup>The N.-W. F. Province, Baluchistan, <sup>2</sup>and all newly formed provinces by separation from other provinces, shall have the same form of government as the other provinces in India.

## SCHEDULE I

### CENTRAL SUBJECTS

1. Trade and commerce with other countries and in India and the incorporation of trading, financial or foreign corporations in India.

2. Taxation, including the taxation assigned under this constitution to the provinces or parts of them ; but including customs, revenue, excise, income-tax, super-tax, corporation profits tax, opium, including control of its cultivation, manufacture, and sale, export duties.

3. Bounties on the production of export of goods.

4. Borrowing money on the credit, the assets and the property of the Commonwealth ; the public debt or the Government of the Commonwealth.

5. Currency, coinage and legal tender.

6. Banking and insurance and savings banks the incorporation of banks and the issue of paper money and stocks exchanges.

7. Bills of exchange, cheques, *hundies* and promissory notes.

8. Shipping and navigation, including shipping and navigation on such inland waterways as may be declared to be of national importance ; harbours, major ports, lighthouses, beacons, lightships, buoys.

1. Original clause VI about Karnataka has been omitted as a provision about the same has been made in clause VI of section 72, and clause VII has been renumbered as clause VI.

2. This was added by the Lucknow Conference.

9. Railways, and roads of all India and military importance.
10. Aircraft and all matters connected therewith.
11. Posts, telegraphs and telephones including wireless communications and installations.
12. The defence of India and all matters connected with the naval, military and air forces of the Commonwealth, including militia. Indian Marine Service and any other force raised in India other than military and armed police wholly maintained by the provincial government ; naval and military works and cantonments ; schools and colleges for military, naval and air training.
13. Foreign and external relations including relations with States in India and political charges ; domicile, naturalization and aliens ; passports ; and pilgrimages beyond India.
14. Emigration and immigration.
15. Port quarantine and marine hospitals.
16. The Commonwealth Public Services and the Commonwealth Public Service Commission.
17. The Audit department of the Commonwealth.
18. The Supreme Court of India, and legislation relating to High Courts.
19. Civil Law including laws regarding status, contract, property, civil rights and liabilities and civil procedure.
20. Criminal Law including criminal procedure and extradition laws.
21. Bankruptcy and insolvency.
22. Legislation regarding marriage, divorce and matrimonial matters, parental rights, the custody and guardianship of infants ; their status and age of majority.
23. Copyright ; newspapers and books ; patents of inventions and designs and trade marks.
24. Land acquisition by or for the purposes of the Government of the Commonwealth.
25. Laws relating to registration of deeds and documents.
26. Laws relating to registration of births, deaths and marriages.

27. Census and statistics.
28. Laws relating to the control of arms and ammunition.
29. (a) Laws relating to the control of petroleum and explosives.
- (b) Laws relating to the control of poisons.
30. The standards of weights and measures.
31. Fisheries in Indian waters beyond the three miles limit.
32. Survey of India ; geological survey and astronomical and meteorological observations.
33. Parliamentary elections.
34. The seat of the Government of the Commonwealth.
35. Inter-provincial matters.
36. Factory legislation.
37. Industrial matters ;
  - (a) Laws relating to the welfare of labour.
  - (b) Laws relating to the Provident fund.
  - (c) Laws relating to Industrial Insurance—General health and accident.
38. Laws relating to control of mines.
39. Medical qualifications and standards.
40. Stores and stationery for the Commonwealth.
41. Central publicity and intelligence department.
42. Zoological survey ; botanical survey ; archaeology.
43. Central agencies and institutions for research (including observatories) and for professional and technical training or promotion of special studies.
44. Territorial changes, other than intra-provincial, and declaration of laws in connection therewith.
45. All property of the Commonwealth.
46. Legislation regarding forests.
47. Legislation relating to non-judicial stamps.

## SCHEDULE II

### PROVINCIAL SUBJECTS

1. Land revenue including assigned land revenue ; any other tax that may be imposed on land or agricultural income ;

charges for water ; survey and settlement ; disposal and colonisation of public land and management of government estates.

2. Excise, that is to say, the control of manufacture, transport, possession, purchase and sale of alcoholic liquor and intoxicating drugs (except opium), and the levying of excise duties and license fees on, or in relation to, such articles and other restrictive excises.

3. All local taxation, such as tolls ; cesses on land or land values ; tax on buildings ; tax on vehicles or boats ; tax on animals ; octroi and a terminal tax on goods imported into or exported from a local area ; tax on trades, professions and callings ; tax on private markets, tax on advertisements, tax on amusements or entertainments ; tax on gambling ; taxes imposed in return for services rendered by the local authority.

4. Land acquisition by and within the province.

5. Administration of forests and preservation of game.

6. Agriculture, including research institutes, experimental and demonstration farms, protection against destruction by insects and pests.

7. Fisheries, excluding Commonwealth fisheries.

8. Water supplies, irrigation canals, drainage and embankment, water storage and water power except where they involve a matter of inter-provincial concern or affect the relations of a province with an Indian State or any other territory.

9. Public works and undertakings within the province including buildings, roads, bridges, ferries, tunnels, ropeways, causeways, tramways, light and feeder railways, inland waterways and other means of communications except :

(a) such railways, roads and inland waterways as are central subjects.

(b) all such works as extend beyond the borders of the province.

(c) such works (although wholly situated within the province) as may be declared by Parliament to be of all-India importance.



10. Co-operative societies.
11. Development of mineral resources.
12. Famine relief.
13. Pilgrimages within India.
14. Local self-government including constitution and powers of Municipal Corporations, Local Boards, Village Panchayats, Improvement Trusts, Town Planning Boards and other local authorities in the province, and local fund audit.
15. Medical administration including hospitals, dispensaries, asylums, and provision for medical education.
16. Public health and sanitation and vital statistics.
17. Education, including universities and technical institutes, provincial institutions for professional or technical training and for promotion of technical studies.
18. Court of Wards and encumbered and attached estates.
19. Land improvement and agricultural loans.
20. Land tenures and landlord and tenant rent law.
21. Administrator-General and Official Trustees subject to legislation by central legislature.
22. Development of industries, including industrial research.
23. Police, including military and armed police maintained by the province and Railway Police, subject in the case of Railway Police to such rules as may be prescribed by Parliament as to limits of jurisdiction and railway contribution to cost of maintenance.
24. Adulteration of foodstuffs and other articles.
25. (a) Control of vehicles, subject in the case of motor vehicles to legislation by the central legislature as regards licenses valid throughout India.  
(b) Control of dramatic performances and cinematographs.
26. Prisons, prisoners and reformatories and vagrancy.
27. Backward tribes and their settlements.
28. Treasure trove.
29. Administration of justice in the province including the constitution, maintenance and organisation of courts of civil and criminal jurisdiction.

30. Election for the legislature of the province.
31. Legislation imposing punishments by fine, penalty or imprisonment for breach of any law of the province in relation to any provincial matter.
32. The borrowing of money on the sole credit of the province, subject to sanction of central government ; assets and property of the province.
33. Administration of the law relating to the registration of births, deaths and marriages.
34. Provincial law reports.
35. Minor ports.
36. Public libraries, except the Imperial Library at Calcutta ; museums, except the Indian Museum, the Imperial War Museum and the Victoria Memorial in Calcutta ; zoological and botanical gardens and registration of societies.
37. Pounds and prevention of cattle trespass.
38. Civil Veterinary Department, including provisions for veterinary training, improvement of stock and prevention of animal diseases.
39. Factories, subject to legislation by central legislature.
40. Settlement of labour disputes.
41. Gas and electricity.
42. Boilers.
43. Smoke nuisances.
44. Housing of labour.
45. Coroners.
46. Provincial stores and stationery.
47. Provincial government press.
48. Provincial Services and Provincial Services Commission.
49. The seat of the provincial government.
50. Control of elections, subject to regulation by central government.
51. Fees, including court fees ; probate duties ; succession or estate duties.
52. Control of production, supply and distribution, subject to rules made by the central legislature.
53. Development of industries, subject to rules made by the central legislature.

54. Religious and charitable endowments, subject to legislation by central legislature.

55. Regulation of betting and gambling, subject to legislation by the central legislature.

56. Prevention of cruelty to animals and protection of wild birds and animals subject to legislation by the central legislature.

57. Non-judicial stamps, subject to legislation by the central legislature ; and judicial stamps, subject to legislation by the central legislature as regards amount of court-fees levied in relation to suits and proceedings in the high courts under their original jurisdiction.

58. Registration of deeds and documents subject to legislation by the central legislature.

59. Weights and measures subject to legislation by the central legislature as regards standards.

60. Control of poisons ; arms and ammunition : petroleum and explosives ; subject to legislation by the central legislature.

61. Control of newspapers, subject to legislation by the central legislature.

62. Regulation of medical and other professional qualifications and standards, subject to legislation by the central legislature.

63. Local Fund Audit.

## **ALL-PARTIES CONVENTION**

### **OPENING DAY**

*Calcutta, December 22, 1928*

It was in an atmosphere of serenity and solemnity that the All-Parties Convention met on Saturday the 22nd December 1928 in the afternoon at the Convention Pandal in the Congress Nagar, Calcutta. It was a representative gathering. Congressmen and Liberals, Hindu Mahasabhaites and Muslim Leaguers, representatives of Labour and the Press— all met together on a common platform. It is impossible to conceive at the present day in India a more representative and distinguished gathering

of the leaders and intelligentsia of the country than that which assembled at the Convention pavilion. From the most advanced wing of the Congress to the most moderate groups of politicians that have ever taken part in the public affairs of the country during the past forty years, there were representatives who had mustered in strong numbers. All political and communal parties that have taken part in the public life of the country were represented by men both in their individual and collective capacities. The three speeches delivered on the opening day were conceived in the best spirit and were well received by the House which appeared to be alive to the responsibilities of the great and critical situation that confronted it.

The seating arrangements too, unlike in the Congress pandal, eliminated squatting and provided chairs for the delegates. The visitors were all provided seats on benches, and the entire seating accommodation was for 3,000, half being for delegates.

### **THE NEHRU-AZAD MANIFESTO**

(31-7-1926)

A letter with the signatures of Maulana Azad and Pandit Motilal Nehru was circulated. The delay in its publication was partly due to the fact that Pandit Motilal Nehru took his holiday soon after the draft was prepared and partly to the time taken to reply by the gentlemen who were approached. The following expressed their entire agreement with the objects and principles stated in the manifesto and also agreed to join the movement initiated thereby : Pandit Nehru, Right Hon'ble V.S. Srinivasa Sastri, Sir Tej Bahadur Sapru, Hakim Ajmal Khan, Mrs. Sarojini Naidu, Sir Zulfikar Ali Khan, Sir P.C. Ray, Dr. M.A. Ansari, Messrs. Sen Gupta, Tassaduq Ahmed Sherwani, S. Srinivasa Iyengar, Chowdhuri Khaliquzaman, Lala Dunichand and Dr. S. Mahomud and Maharaja Sir Mahomud Khan of Mahmudabad. The manifesto runs as follows :

Dear Sir,—You have no doubt realised the evident danger of the new phase into which the communal movements in India are now entering. The situation is going daily from bad to

worse and we feel that if no immediate organised effort is made, this rising tide will soon overwhelm the whole field of our political and civic life. You will perhaps agree with us that in the main, our present troubles are due to the fact that by an indiscriminate mixing up of the political and religious issues, we have initiated a revivalist section which, because of the existence of heterogenous elements in our country, makes a cultural and social conflict inevitable, and it is clear that the only real remedy which can save us from disaster is the deliberate establishment in our midst of a national consciousness and a national atmosphere in which religious and communal conflicts and passions will be relegated to a subordinate and a lower plane.

#### *A Non-Communal Association Essential*

But the question which is troubling the best Indian minds to-day is how to achieve this object effectively. The attitude of general inaction and of passive disapproval which has so far been maintained, is an index not so much of our indifference to the dangers of the situation as of the complex and delicate nature of the problems involved and of the tremendous difficulties which have to be faced before reaching the resolution. Further inaction will, however, only multiply these difficulties and make it impossible to grapple with them even with such chance of success as we have at present. The new trends of the Hindu Maha Sabha movement on the one side and of the Muslim communal movements on the other threaten a crisis which makes some positive action imperative on the part of those who yet happen to retain their balance. Accordingly, we have decided to start a movement to rally to a centre and organise those sections of enlightened Indians who agree with us that communalism is a negation of nationalism and that continued communal conflicts will inevitably lead to our utter political, economic and social ruin. It is evident that a complete elimination of communal conflict from our national life must be preceded by suitable steps to organise our civic life in such a way as to make violent communal outbursts difficult, if

not impossible, and to establish points of contact between the two communities to prepare a way for the adjustment of mutual differences.

You will agree that by far the largest sections of the Hindus and the Musalmans in India want to live together in peace, if not in unity. The peasants, the industrial classes and the wealthy are sure to welcome any movement for peace and unity and be ready to co-operate in the materialisation of its aims. Among the educated classes, the major portion would willingly help freeing civic life from the constant dread and evident dangers of violent communal outbursts. If, therefore, a movement for unity and peace is launched, it is bound to receive a ready and generous response from the people. On the contrary, if even at this stage, organised effort is not made in this direction, all these various sections would gradually drift towards communalism and ultimately get involved in struggle. It is time that we should make a determined effort to rally and organise these sections and, in this way isolate, weaken and discredit these mischievous elements in our society which are really responsible for the present crisis. A movement of this nature can be effectively carried on only by an highly organised body of men of all communities who are themselves absolutely free from communal bias of any kind, and are united together by a common bond of fellowship in the struggle against communalism. For the purpose of bringing together such a body of men, it is necessary to arrive at a clear understanding of certain principles which are to guide them in their relations to each other and the public at large.

We are thus inevitably led to think of organising a new association or party. Our proposal may, at first sight, appear to be only an attempt to add one more to the numerous parties that came into being with the avowed object of evolving order out of chaos but only succeeded in making confusion worse confounded. But a little reflection will show that we are scrupulously eliminating the one element which, as experience has shown, was solely responsible for the failure of those parties,



*viz.*, their purely communal basis. We claim no originality that ours is the first serious endeavour to carry out the idea in practice. We are, therefore, approaching friends whom we believe to be above all communal prejudice to invite their help and co-operation in this important undertaking. Generally speaking, the following may be taken as the guiding principles we have referred to above : (a) full liberty of religious view and practices ; (b) absolute tolerance of the views and practices of others ; (c) adjustment of communal relations on the basis of strict legal rights of communities and individuals.

#### *Proposed Indian National Union*

We propose that the new organisation be called the Indian National Union. The immediate object will be to avoid communal conflicts in their present forms. The end ultimately in view will be to bring about a thorough understanding between the different communities on a solid and permanent basis. All Indians of whatever community who subscribe to the above principles, will be welcomed as members of the Union, provided they do not belong to any communal organisation. It is evident that the rights of only one community against another, would defeat our whole purpose. We fully expect that the success of the national movement we are trying to start will, in due course, attract many members of the existing communal organisations and that they will find no difficulty in joining us by retiring from the latter. It is highly desirable that the proposed organisation should be truly national and wholly non-political, and that, except for the bar on members of communal organisations, no party shall be excluded so as to make it possible for all shades of political thought to join. It will be noticed that all of those who have agreed to join the proposed union, do not hold identical views on political questions. We have considered it necessary to make this point quite clear at the very start. The general attitude of such a party towards the various communities or towards those that may arise hereafter, will have to be determined exclusively by reason and justice, as our main object will be a persistent propaganda against all



forms of communalism. The details of those and other cognate matters can only be settled at the preliminary meeting of the Union and it is unnecessary to deal with them at this stage.

### *Mixed Boards to Settle Disputes*

It may, however, be noted that the old idea of establishing mixed boards for the settlement of mutual disputes has never so far been given a fair trial and it is time that serious effort was made to try this experiment on an extensive basis. We can gradually train *panchayats* to act equitably in the discharge of their duties and it may be possible to take the principles incorporated in the resolutions of the Unity Conference at Delhi as a basis.

### *A Proposed Preliminary Meeting*

We are fully alive to the difficulties of carrying out the programme which we are putting before you, but we are doing so with the conviction that there is no lack of men and women in the country entirely free from communal bias who will only be too glad to help in overcoming all obstacles. We hope you will give to the matter the attention it deserves and will send your considered opinion at your early convenience. We propose to call a meeting of those who intimate their approval of our suggestions on an early date at some convenient centre, with the object of formally inaugurating the movement, the framing of the necessary rules and the election of office-bearers. Meanwhile, the undersigned will act as a provisional committee and appoint a provisional Secretary. It is requested that all replies be addressed to the latter at Anand Bhavan, Allahabad.

A preliminary meeting of those who expressed their agreement with the objects and principles stated in the manifesto was held at Delhi on the 10th September 1926. The following is a summary of the informal talk and decisions reached at the meeting and was issued by the Secretary after a week :

“It was resolved unanimously that the Indian National Union was not intended to interfere with the work of internal reform,

undertaken by different communities or to require any community to suspend its social or other reforming activities. The Union was intended to be a meeting place for all who regarded as undesirable the aggressive spirit fostered by mistaken activities directed by one community against another which were calculated to obstruct and retard the real progress and ultimate welfare of the country as a whole. It should further be a meeting place for those who believe that India's lasting salvation was to be achieved by united efforts and not by inter-communal struggle. It was not possible for a communal organisation to organise different communities along lines of self-help and by fitting them mentally and physically to contribute their best to the attainment of a united nation. But, unfortunately, with the best of intentions and the purest of motives, indiscriminate activities of certain communal organisations, originally meant for the right kind of activities, had, in the hands of shortsighted followers, brought about a mentality which even the authors of the movement could not approve and were, therefore, proving detrimental to the cause of the country. It was, therefore, essential to bring together all those who had not become too inseparably identified, rightly or wrongly, with such activities to act as peace-makers between the contending parties and to establish points of contact between the fissiparous elements, who should exert themselves on behalf of tolerance, peace and unity.

There was a general agreement among all present that, in deciding the question whether certain existing organisations were objectionable from this point of view, their present activities alone should be the data for judgment. Some members brought before the meeting the names of certain organisations, it was resolved that the declaration of the names considered objectionable from the Union's point of view should be left to the central board.

#### *A Sub-Committee Appointed*

A sub-committee consisting of Mrs. Naidu, Maulana Abul Kalam Azad, Messrs. Girdharilal, K. Santhnam, Asaf Ali and

Shankerlal, was formed to draft the rules and regulations of the Union and to circulate a report of the informal meetings of the sub-committee for inviting criticisms. The present office of the Union was decided to remain at Delhi and Lala Shankerlal is to act as Provisional Secretary. The sub-committee met on the 11th and 12th, most of the members attending, and drafted certain rules and regulations.

### *Draft Rules*

The following are the draft rules and regulations of the Indian National Union—*Objects* : To promote and foster the growth of a united Indian nation and to remove all causes of inter-communal discord and separatist tendencies. To achieve these objects, the Union shall undertake a vigorous propaganda through the press and the platform and to foster a spirit of true nationalism and genuine patriotism among the people of India, it will try to create gradually such atmosphere in the country as would facilitate a settlement of all communal questions in a noble spirit of compromise and mutual good-will. Regarding the differences not settled within a reasonable time by common understanding, the Union will, with due regard to the equities of the situation, give its own finding and take steps to secure for it the approbation of the country.

*Membership* : Every Indian, not under 18 years of age who subscribes to the aims and objects of the Union, shall be eligible to become a member of the Union on signing a declaration form and pledge and every member shall pay Re. 1 as annual subscription. None who continues to be a member of any organisation on declared communal by the Central Board of the Union, shall be eligible to become a member of the Union. (A communal organisation is one whose present activities are calculated to retard or obstruct the growth of a common Indian nationhood).



*Objects of the Conference*

Hakim Ajmal Khan's welcome address as Chairman of the Reception Committee.

On behalf of the conveners of the conference I desire to welcome you, members of the Central and Provincial Legislatures, accredited representatives of the important political organisations and elected delegates of the various provinces in India, and to express my deep gratitude for responding to our invitation. In view of the criticisms that have been levelled against the holding of the Conference, the conveners consider it desirable to explain briefly the reasons which led them to summon this representative conference. It will be recollected that towards the end of last year, soon after the appointment of the Statutory Commission under the Government of India Act had been announced, serious difference of opinion arose amongst the leading men of our community as to the attitude to be adopted by us towards the Commission. The controversy assumed serious proportions, and threatened to destroy Muslim solidarity. It actually culminated in the disruption and disintegration of an important political organisation. I meant the All-India Muslim League, which resulted in the formation of two distinct bodies. They both claimed to speak on behalf of the Muslims of India and passed conflicting resolutions both as regards the Commission and the Muslim political requirements.

It was thus clear that neither of the two was in a position to deliver the goods on behalf of the Muslim community, and their verdicts only amounted to expression of views of different schools of political thought in the Muslim community. The Congress convened the All-Parties' Conference with a view to frame a constitution for India, perhaps to meet the challenge of Lord Birkenhead. This Conference was first held at Delhi and the Calcutta League and the Central Khilafat Committee were represented at it. The League meeting held in Calcutta in 1927 accepted the resolution passed by the Madras Congress in that year with certain modifications.

An effort was made at the All-Parties' Conference held in Bombay to arrive at some useful solution. A committee was appointed under the chairmanship of Pandit Motilal Nehru. The Committee drew up a constitution for India and placed it before a conference held at Lucknow. The only Muslim organisation which was officially represented at the Lucknow Conference was the Central Khilafat Committee, and that body too did not approve of the recommendations of the Nehru Committee on the communal question.

The endorsement of the Nehru Report by the Conference at Lucknow created a feeling of apprehension in the minds of Muslims as they felt their rights were jeopardised, and that unless they did something their claims would be lost by default. The Muslim members of the Central Legislature met in Simla in September last, and realising the situation convened an informal conference of all members of the Central Legislature as to what steps should be taken in order to place their views before the Convention which was to be held in December. It was resolved that in order to ascertain the real Muslim opinion on the important constitutional problem, a conference be convened of people belonging to all shades of Muslim opinion. This step was decided upon because of the unfortunate division in the All-India Muslim League.

The conveners of the conference decided to invite about 600 representatives belonging to all schools of thought, the composition of conference to be as follows : (1) All non-official Muslim members of all Provincial Councils and the Central Legislature, (2) 20 Muslim representatives of each of the following organisations : The All-India Muslim League, Calcutta, the All-India Muslim League, Lahore, the All-India Khilafat Conference, the All-India Jamiatul Ulema Conference, and (3) 20 Muslim representatives from each province in India. In addition to these other leading Muslims, such as : Dr. Ansari, Sir Ali Imam, Mr. Hasan Imam, Mr. Yakub Hassan and Maulana Abul Kalam Azad have also been invited. I am glad to inform you that all those whom they invited have kindly

responded to our invitation except the Jinnah League, who not only refused our invitation but has questioned its representative character. I have it for you to judge their claim in the light of their recent discussion at Calcutta.

The conveners of the conference deliberately decided not to frame definite proposals with regard to the Nehru Report to be placed before the conference for consideration. As you are aware, widely different views are held by important sections of the Muslim community in regard to this Report. The conveners did not desire to take any partisan view by committing themselves to any definite line of action. Their earnest desire is that All-Muslim representatives should meet to examine the problem from all its aspects, and by a free and frank exchange of views, declare in clear terms the opinions held by the Muslim community as regards the future constitution of this country. Some 38 out of a total of 49 members of the Central Legislature joined in convening this conference, and decided to invite His Highness the Aga Khan to grace it as its President. The conveners cannot but be deeply grateful to His Highness for having accepted their invitation, and having agreed to give his experienced guidance to the community.

The Nehru Report has received wide publicity, and many political organizations have discussed it at many conferences, which have been and are being held at Calcutta with the result well-known to you through the elaborate report in the press. The idea of holding this conference has appealed to an overwhelming body of Muslims in India. But it has not escaped criticism. It is difficult to understand why so much opposition has been raised against the holding of this conference which has been based on an unreliable principle as I have already stated. The conveners are 38 members of the Central Legislature and their representative character is unquestioned. All the Muslim members of the Provincial Legislative Councils in India have been invited as a matter of right, and many of them have responded by their presence at this gathering. Other representative Muslims have also been invited, and many of



them are here. I claim that this is a thoroughly representative gathering which can legitimately claim to speak authoritatively for the Muslims of India. Surely, it is far more representative than an individual association having a small number of members on its roll.

I am unable to understand why there should be any opposition to a conference of Muslims. It is claimed that Nehru Report has been prepared to meet the challenge of Lord Birkenhead, the then Secretary of State for India. The challenge was for an agreed constitution. In view of the recent happenings at Calcutta, I should like to ask whether the Nehru Constitution can by any stretch of imagination be called an agreed constitution. If Lord Birkenhead's challenge is to be effectively met, the framers of the Nehru Constitution ought to welcome criticism from all important sections of the Indian population and receive it in the right spirit. The Muslim community in India is not an unimportant part of the population, and if representative Muslims call such a conference as thus, it will result in knowing the real mind of Muslims so that it may contribute towards securing what is required, viz. an agreed constitution.

Let me assure my Hindu friends that the Muslims are not a whit less keen for self-government for their common motherland than the former. The Muslims only desire and rightly desire, that in the future Government of India their legitimate interests shall be adequately and unequivocally safeguarded. That is the object of holding this conference and it is for you, gentlemen, to come to mature decisions as regards the all-absorbing question of the political future of our motherland.

Moulvi Mahomed Yakub, Deputy President of the Assembly, and President of the last year's All-India Muslim League, Calcutta, stated that the promoters of the conference had been called toadies and Government agents. He would like to know whether greater proof was needed of the genuinely representative character of the conference than that Mr. Shafi Daudi, for five years the trusted lieutenant of Pandit Motilal



and one who had suffered so much during Non-cooperation had joined the conference. He recalled that the deputation which waited on Lord Minto and brought about separate electorates was headed by the Aga Khan, and it was most fortunate that now that the question of separate electorate was being re-examined, they should have the services of the same gardener who first sowed the seed. There was no other person in India except H.H. the Aga Khan who could make all the parties unite over one platform.

Sir Zulfikar Ali Khan, Mr. Mahmud Subrawardy and Mr. Abdullah Haroon supported, and the Aga Khan was garlanded and took the chair amidst tumultuous applause, the whole audience rising to a man.

#### **PRESIDENTIAL ADDRESS BY THE AGHA KHAN**

The Aga Khan was cheered as he came up to deliver his presidential address. The following is the text :

Gentlemen, I thank you for the great honour you have done me in asking me to preside over your deliberations. Before proceeding with the business I am sure the Muslim community will join me unanimously in wishing His Majesty the King-Emperor complete restoration of health and strength. The deep anxiety which the world has shown for His Majesty's health, which had been undermined by overwork in the zealous discharge of his multifarious and onerous duties, shows that they all appreciate his solicitude for the welfare of humanity at large. It has been an anxious time not only for His Majesty's subjects but for the whole world who have watched with keen anxiety one who has been regarded as a great pillar on which depends the progress of the world. Happily our anxiety is nearly, if not wholly, over. The illness drew sympathy for the Queen Empress, the Prince of Wales and the Royal family and it must have been some comfort to them that their trouble was shared not only by every individual in the Empire but by the people of other countries. May His Majesty live long to continue to shower the blessings on his subjects.

*Muslims and the Body Politic*

Now, I will at once come to the immediate business before us which is to consider the position of our co-religionists and their interests in the body politic of India. The views and opinions I express are based on long experience of public affairs as well as the study of the past and present history of other nations. The lessons of the Great War have further strengthened those conclusions which I have arrived at after mature consideration.

The great lesson of modern history, to my mind, is that only those nations succeed and only those policies lead to national greatness, which are based not on ideas or ideals, but on the general consensus of views and opinions of the people. I will give one or two examples in support of this argument. The policy of Imperial Germany was shaped by the leaders of that nation as a class. The pre-war policy of Russia, as men like Tolstoy, Witte and Rosen kept on explaining to the world, was not that of the Russian people, but inspired by the Pan Slavists, Kat Kof and his disciples. The policies of England and France were indeed based on the desires of the English and the French people. Similar examples are to be found on every page of recent history. When in my manifesto last year I appealed to the Muslims of India to replace the old self-constituted political bodies that had served their day and purpose by an organisation of all Muslim members in touch with their electorates, I wished to place the guidance of our people in their own hands. The time has come when the leaders should keep their ears to the ground and ascertain the views and wishes of the masses. Gentlemen, make no mistake. The charges that must come over India profoundly affecting our future, will not come in a day. They will not come as in Russia like a thief in the night. Had the result of the war been different we might have suddenly found ourselves in that position but the attitude of the overwhelming mass of the Indian public during the war showed to the world that they were not in favour of such a hurried solution. Whatever our wishes may be this Conference is but

the first of many more that will have to evolve a truly representative body to look after and further the desire of Muslims of India. The greatest service you can render to your people would be to organise all the Muslim members of each and every assembly into a body where exchange of views and ideas and communication of the same to the electors as well as the reception of the general desires of the masses, would remain the main purpose and object. In politically successful countries, from the Premier or the President to the humblest voter, it is but one succession of nerve lines of communication. If we had such a body I for one should sleep in peace, for I would know that many political mistakes would be made by them and not by anybody else for them. From now onwards we must ever remember even in this Conference, not what are our own political preferences but what are the aspirations of the rising Muslim generation as represented by the masses.

Then there are certain obvious truisms which are necessary forms of thought for political activity just as certain mental truisms are the basis of natural science and intellectual life. In this connection I may give you several examples of those obvious facts that may be forgotten at times. Here is one. It is impossible for Muslims to live happily and peacefully in India if friction and suspicion are to prevail between them and the Hindus. Another vivid instance, India as a whole cannot be prosperous or self-governing country if such a large and important section of the community as the Muslims remain in doubt as to whether their cultural entity is safe or not. Here is a third and most important one. As long as we are dependent for protection against external aggression and internal security and for peace upon Great Britain and the British garrison occupies the land and the air and naval forces survey as from above and watch the coasts. Great Britain will naturally claim a predominant share and voice in the governance of India. It is essential that these and similar other truisms should not be lost sight of. The Muslim masses are, I am sure, sufficient realists to know and appreciate them. Gentlemen, you come

from them, you are in touch with them, you know their views.

Another point to be kept before us is that our desires must not be mere ideas and ideals. You are part of them. It is your duty to interpret as far as you can their wishes, their aspirations and their ideals, till such time as our political organisation is sufficiently advanced to let the people carry out their own wishes. Another point to be kept in view is that our wishes or ideals are not necessarily realities.

You must avoid forcing your own preferences when they clash with what we believe to be the real wishes of the mass of the people. The policy to be pursued during the immediate years, I would once more emphasise, must not be based on our personal views and predilections, but on what you know to be the general desire of the people to whom you belong. What are the desires of the Indian Muslims? I can safely say that overwhelming majority of Muslims are determined to maintain their cultural unity and remain culturally interrelated with the Muslims of the world. How that can best be accomplished it is for you to think over.

But that does not mean that the general welfare of the whole Commonwealth is to be ignored by us. It does mean that the Muslim representatives activities are to be confined to their own sectional interest. That would be wrong. The Muslim members should consider it their duty to look after the interests of India as a whole or of a province as a whole and advocate the promotion of general interests at every opportunity. I will illustrate what I mean by giving a concrete example. Now, take the question of education: primary, secondary and higher.

For more than a generation I have urged that a national educational policy for India is impossible unless financed by large educational grants raised by the States as loans and not from current revenue. Such loans should be as such a legitimate object as any public work as they will through improve-

ment in intelligence add to the economic welfare of the country. In regard to Muslim education, especially, one striking fact is that there exists a sort of break of gauge between primary and higher education in the universities and technological and other institutions. It is incumbent on us all to find a solution of this most important question. Our secondary educational institutions specially need further support from the State.

Another great difficulty which has been ineffectually tackled in the past is the question of language as medium for instruction. We must bear in mind that the acquisition of knowledge is quite a different thing from the medium of acquiring it. Our linguistic traditions are mainly based on Persian and Urdu. Urdu is one of the most important and widespread languages in the world. It serves as a medium of communication between Muslims of different parts of India as between Muslim and other communities of a district. The foundation of the Osmania University which owes its existence to the magnificent generosity of His Exalted Highness the Nizam of Hyderabad, is bound to give a great impetus to the educational activities of our people. It is adapted to higher culture. But both Urdu and Persian scripts present serious difficulties in the primary stage of education and it is a matter for deliberation how we can improve and simplify or change the script.

Now, whether in education or in politics, I would beg of you to consider the realities and not to throw away the substance or the shadow. Whether in education or in politics, build on a solid foundation. Do not be carried away by catch words; nor hanker after ideals that may not be within your grasp but concentrate your minds on what is practicable and useful under pressing economic and political needs of the country and strive after actualities promote the higher happiness of mankind by greater and greater development of the productive resources of India.

In recent times no question seems to have aroused so much controversy as the question of separate electorates for the protection of the rights of minorities.

The merits and demerits of separate or so-called communal electorates have been discussed so often that it is unnecessary to re-examine them here in detail. In regard to the implications of the term "communal" I may remark in passing that the Muslims of India are not a community but in a special sense a nation composed of many communities and population outnumbering in the aggregate the total even of the pre-war German Empire.

The vital and dominant consideration which underlies the question is the real representation of Muslims in all legislatures and self-governing bodies. How that can be secured is a problem for the Muslim population of this country to consider and solve without any prejudices.

Gentlemen, I have specially at your request come to this conference and felt it more than ever my duty to draw your attention to the urgent problems that can be dealt with rather than to discuss doubtful question of an uncertain future. If through your elected representatives you can further the practical solution of these problems a great step forward will have been taken.

I cannot allow my speech to close without making a passing reference to a subject of constant friction between the two sister communities and making a fervent appeal with all the earnestness that I command, to remove that friction as far as possible so that Muslims may live in amity with their Hindu brethren. While referring to the cause of friction I take this opportunity of expressing profound admiration and gratitude of Indians to His Excellency the Viceroy for his earnest endeavour to bring about harmonious relations between the Hindus and Mohammedans.

Cow-killing has unfortunately been a perpetual source of bitter feeling between Muslims and Hindus. It is incumbent on us all to find a remedy. It may help us to do this if we trace the origin of sacrificial rites. We are all agreed that we celebrate the historical sacrifice by Ibrahim. But it must be



remembered that Ibrahim, one of our great Prophets, did not sacrifice a cow, nor is the sacrifice of a bovine especially enjoined in our religious book. On the contrary, the camel or the sheep is more frequently mentioned in connection with sacrificial rites. How many of our Hajis have sacrificed cows in Arabia, the home of Islam, and, if they have not done so, have they disregarded any injunction of their religion? All of you, I am sure will give an emphatically negative answer to this query. Then why do we view the question from a different angle in India?

The Emperor Babar who, as Mr. Edwards has pointed out, was the greatest monarch of his age, enjoined his son Humayun to respect the religious sentiments and even the prejudices of the Hindus and he specifically mentioned the cow as an animal venerated in India. The Ameer Habibulla Khan, who was a good Muslim, discountenanced the sacrifice of cows. If other Muslim leaders share these views, they will certainly not be acting against any Islamic injunction.

The Kashmiri Muslim adheres tenaciously to the injunctions of Islam and he knows that killing is not one of the tenets of our religion. You no doubt know our religious dictum that "the flesh and blood of animals do not reach God". This is a humanitarian view entirely in accord with our conception of the Deity and His creation.

I am open to be enlightened on this point by our Ulemas, but I am certain that not one of them will countenance the parade of sacrificial rites in public places. There are many other communities who eat beef but they do not hurt the susceptibilities of their neighbours by parading the sacred and adored animals for slaughter.

In the light of these facts, which I have mentioned, it is a matter for your serious consideration whether we should re-examine our views on this particular form of sacrifice and test



its true significance. If by doing so, we can readjust our relations with our Hindu friends, we shall indirectly render a service of incalculable value and importance to the cause of peace and prosperity and even perhaps satisfactory political readjustment.

## PROCEEDINGS OF THE ALL-PARTIES CONFERENCE

### ORGANISATIONS REPRESENTED AT THE ALL- PARTIES NATIONAL CONVENTION

#### A—Political

##### *Associations*

1. Members of the Central and Provincial Legislatures
2. Members of the All-India Congress Committee
3. All-India National Liberal Federation
4. Home Rule League, Madras
5. Indian Association, Calcutta
6. Bombay Presidency Association, Bombay
7. Madras Mahajan Sabha, Madras
8. Surma Valley Conference, Sylhat

##### *Associations*

9. Assamese San Rakhini Sabha, Gauhati
10. Deccan Sabha, Poona
11. Assam Association, Gauhati
12. Sindh National League, Karachi
13. Sarvajanik Sabha, Poona
14. Yeotmal Association, Yeotmal
15. Arya Swaraj Sabha, Lahore
16. Swadhin Baharat Sangh, Karachi
17. Karnatak Unification Sabha. Belgaum

#### B—Trade Union and Peasants Organisations

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|---|--|
| <ol style="list-style-type: none"> <li>1. All-India Trade Union Congress, Bombay</li> <li>2. Communist Party, Bombay</li> </ol> | <ol style="list-style-type: none"> <li>3. Behar Provincial Kisan Sabha, Muzaffarpur</li> <li>4. U.P. Kisan Sabha, Allahabad</li> </ol> |
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#### C—Commercial Organisations

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|---|--|
| <ol style="list-style-type: none"> <li>1. Southern India Chamber of Commerce, Madras</li> </ol> | <ol style="list-style-type: none"> <li>2. Maharashtra Chamber of Commerce, Bombay</li> </ol> |
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*Associations*

3. Bengal National Chamber of Commerce, Calcutta
4. Burma Indian Chamber of Commerce, Rangoon
5. Indian Merchants Chamber, Bombay

*Associations*

6. Shri Mahajan Sabha, Bombay
7. Indian Chamber of Commerce, Calcutta

**D—Landholders Organisations**

1. Coorg Landholders Association, Macara
2. Behar Landlords Association, Patna

**E—Indian States Organisations**

1. Indian States People Conference
2. Indian States Subjects Association, Ahmedabad
3. South Indian States Subjects Conference, Madras
4. Daxni Sansthan Hitvardhak Sabha, Poona
5. Rajasthan Seva Sangha, Ajmer

**F—Women's Organisation**

1. Women's Indian Association, Madras

**G—Communal Organisations**

1. Hindu Maha Sabha, Delhi
2. All-India Muslim League, Delhi
3. The Central Khilafat Committee, Bombay
4. The Central Sikh League, Amritsar
5. All-India Conference of Indian Christians, Lahore
6. South Indian Liberal Federation, Madras
7. All-India Shia Conference, Lucknow
8. Bengal Indian Christian Association, Calcutta
9. Namdhari Durbar Bhaini Sahib (Sikh), Lahore
10. North-West Frontier Muslim Association, Peshawar

***Associations***

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| 11. Mazdyasni Mandal, Bombay                        | 14. Mahavir Dal, Punjab, Lahore              |
| 12. Sanatan Dharma Pratinidhi Sabha, Punjab, Lahore | 15. Anlgo-Indian League, Calcutta            |
| 13. Hindu League, Sukkur (Sindh)                    | 16. Hindu Samaj Hitrakshak Committee, Bombay |

***Associations*****H—Religious and Social Reform Organisations**

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| 1. All-India Aryan League, Lahore        | 5. Achut Udhar Committee, Delhi          |
| 2. Bengal Social Reform League, Calcutta | 6. Shardanand Dalit Udhar Sabha, Delhi   |
| 3. Hindu Mission, Calcutta               | 7. Bazm-e-Soofia, Patna                  |
| 4. Ahmadia Community, Qadian, (Punjab)   | 8. All-India Hindu Shudhdhi Sabha, Delhi |

**I—Backward Classes**

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| 1. Dayanand Dalitudhdhar Mandal, Lahore | 2. Bengal Namashudra Association, Calcutta |
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**J—Miscellaneous Organisations**

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| 1. Journalist Association of India, Bombay | 6. Oriya Peoples Association, Cuttack         |
| 2. Thulva Mahasabha, Udipi                 | 7. Sukkar League, Sukkar (Sindh)              |
| 3. Servants of the People Society, Lahore  | 8. Punjab Nawjavan Sabha, Lahore              |
| 4. Bengal Journalist Association, Calcutta | 9. Kutch Parja Mandal, Anjor                  |
| 5. Ganjam District Association, Ganjam     | 10. Satyagrah Assram, Ahmedabad               |
|  | 11. All-India Spinners Association, Ahmedabad |

### **INTRODUCTORY\***

The circumstances under which the All-Parties National Convention was called to meet in Calcutta on the 22nd December 1928 are set out at pages 18-19 of the Supplementary Report of the All-Parties Conference Committee. The Convention met on the appointed date at Deshbandhu Nagar under the presidentship of Dr. M.A. Ansari in a special pandal and was attended by representatives of the organisations mentioned at page i.

The first day was occupied by the address of Mr. J.M. Sen Gupta who welcomed the Convention on behalf of Bengal and the Presidential speech of Dr. M.A. Ansari. After the formal presentation of the reports of the All-Parties Committee by Pandit Motilal Nehru and an announcement by the President of the procedure he proposed to follow in conducting the proceedings the Convention adjourned to the next day.

The main object of the Convention was to ascertain the opinion of the various political and other parties in the country on the principles underlying the report of the Nehru Committee and the draft constitution prepared by them. It was not expected that a large gathering of representatives of all the parties in the country would be able to examine the details of a new constitution, but with a view to find out the general trend of opinion on the Nehru Report as a whole, the President invited all the amendments that any organisation or individual member had to propose to any part of the Report to be handed in to the Secretary before the commencement of the proceedings of the 2nd day. Accordingly a fairly large number of notices of amendments was received covering the whole ground but with the exception of those that related to the essential features of the constitution they were mostly of a verbal character. At the eighth strenuous sittings of the Convention and the overnight meetings of its committees it was

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\*Note by Rafi Ahmed Kidwai, Secretary, Indian National Congress dated 19 July, 1929.

not found possible to deal with all these amendments but the main principles of the constitution were fully discussed and met with general support.

These may be classified as under :

1. The constitutional status of India
2. Fundamental rights
3. Solution of the communal problems
4. The Indian States

### *1—The Constitutional Status of India*

The second day of the Convention was occupied with the discussion of the first clause of the recommendations of the Committee which laid down the constitutional status of India. Mr. J.M. Sen Gupta (Congress) proposed that the said clause be adopted by the Convention. It ran as follows :

“India shall have the same constitutional status in the community of nations, known as the British Empire, as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa and the Irish Free State, with a Parliament having powers to make laws for the peace, order and good government of India, and an executive responsible to that Parliament ; and shall be styled and known as the Commonwealth of India.”

The resolution was seconded by Mr. Yakub Hasan (Central Khilafat Committee and Congress).

Mr. J.L. Banerji (Bengal Hindu Sabha) proposed that for the original resolution the following be substituted :

“India shall rank as a free nation among the free nations of the world.”

The President then invited a general discussion in the course of which Dr. Besant (Home Rule League), Mr. B. C. Pal (Surma Valley Conference) Sir C. P. Ramaswami Aiyer (National Liberal Federation and Home Rule League), Mr.



C.Y. Chintamani M.L.C., (National Liberal Federation), Mr. Harisarvotam Rao M.L.C., (Congress), Sir Ali Imam (Member (Nehru Committee) Mr. Ranchhor Das Gandhi (Indian States Conference, Kathiawad State Conference and Bhavnagar State Conference) all strongly supported the resolution and opposed the amendment.

Maulana Mohamad Ali was the only member of the Convention who besides Mr. J.L. Banerji, the proposer of the amendment, opposed the resolution.

Mr. S. Srinivasa Iyengar read a statement signed by a number of members of the Convention with a view to clear their position before the Convention and the country. It was urged in this statement that the Swaraj Constitution for India should be based on complete independence and not Dominion Status but as the Subjects Committee of the Congress had not till then considered the question the signatories had decided not to take any part in the framing of the constitution in so far as it committed them to the acceptance of Dominion Status. The statement concluded as follows :

“We shall neither move amendments nor vote on it (Dominion Status). We propose to carry on in the Congress and in the country such activity as we consider proper and necessary in favour of complete independence but as we are deeply interested in the communal settlements recommended by the Nehru Committee and by the Lucknow All-Parties Conference we shall not abstain from taking part in the discussion or voting on those questions. We desire to add that the Independence of India League wholly supports that point of view.”

Swami Govindanand on behalf of the Swadhin Bharat Sangh read a similar statement recommending that the constitution be based on independence.

Mr. M. Daud then laid before the Convention a resolution passed by the Trades Union Congress advocating a constitution

on the basis of a socialistic republic and Government of the working classes.

All these statements were recorded and are printed in Appendix A.

At the conclusion of the debate the vote of the House was taken by a show of hands. Mr. J.L. Banerji's amendment was lost and Mr. Sen Gupta's resolution was declared carried with only one dissentient vote. Upon this Pandit Jawaharlal Nehru and Mr. Jamnadas Mehta called attention to the fact that those members of the A.I.C.C. who were for independence had not taken part in voting. The President declared that the vote of the A.I.C.C. would be recorded after the A.I.C.C. had met and considered the matter but so far as the Convention was concerned, the resolution had been passed with only one dissentient vote.

On the 27th December the A.I.C.C. adopted the following resolution on the Nehru Report to be laid before the Congress :

“This Congress, having considered the Constitution recommended by the All-Parties Committee Report, welcomes it as a great contribution towards the solution of India's political and communal problems and congratulates the Committee on the virtual unanimity of its recommendations and, whilst adhering to the resolution relating to complete independence passed at the Madras Congress, approves of the Constitution drawn up by the Committee as a great step in political advance, specially as it represents the largest measure of agreement attained among the important parties in the country.

Subject to the exigencies of the political situation, this Congress will adopt the Constitution if it is accepted in its entirety by the British Parliament on or before the 31st December, 1929 ; but in the event of its non-acceptance by that date or its earlier rejection, the Congress will organise a campaign of non-violent non-co-operation by advising the

country to refuse taxation and in such other manner as may be decided upon.

Consistently with the above, nothing in this resolution shall interfere with the carrying on, in the name of the Congress, of the propaganda for complete independence.”

This resolution was duly communicated by the President of the Congress to the Convention on the 28th December. It was subsequently passed in identical terms at the open session of the Congress on the 31st December 1928.

It will thus be seen that practical unanimity was reached on the question of the constitutional status of India and the same was approved as recommended by the Nehru Committee subject in the case of the Indian National Congress to the condition mentioned in the resolution quoted above.

It is to be noted that the statements read in the course of the debate advocating complete independence were signed by members of the Convention who were all Congressmen. After the passing of the Congress resolution those statements must be taken to have been replaced by the said resolution which represents the vote of the Congress as a whole. The only association outside the Congress which stressed complete independence was the Jamiat-ul-Ulema which submitted a statement at the fourth sitting of the Convention asking for various communal rights and concessions for Musalmans as against the other communities. Such a claim for independence needs no comment.

On the above facts it is clear that the united demand of all parties represented at the Convention is for immediate establishment of a constitution which will give India the same status in the community of nations known as the British Empire as the Dominions at present enjoy.

## *2. Fundamental Rights*

Citizenship is the basis of fundamental rights. The definition of “citizen” was therefore taken up first on the 3rd day of the

Convention. There was an omission in the original draft of the definition by reason of which British subjects from the United Kingdom or the Dominions were excluded from acquiring rights of citizenship while subjects of foreign countries naturalised in the Commonwealth were given those rights. This defect was removed in the Supplementary Report of the Committee by the addition of a sub-clause running as follows : "or who being a subject of the Crown carries on business or resides in the territories of the Commonwealth."

A Select Committee appointed by the Convention reported that the following be substituted for the new sub-clause recommended in the Supplementary Report : "who being the subject of the Crown

- (i) ordinarily resides or personally works for gain within the territories of the Commonwealth on the date of the commencement of this Act, or
- (ii) fulfils the qualifications prescribed by Parliament for the exercise of the rights of citizenship.

The report of the Select Committee was considered on the 7th day of the Convention when Mr. S.N. Haji, the dissentient member of the Select Committee, proposed the amendment that to the new clause as recommended in the Supplementary Report the following words be added :—"and fulfils the qualifications prescribed by Parliament for the exercise of the rights of citizenship."

This amendment was carried and brought the definition in accord with law in force in the Dominions. The full definition as it now stands is printed at the end of this chapter.

Various sub-clauses to clause 4 of the draft constitution recommended by the Nehru Committee were then taken up. There were 19 sub-clauses to this clause but amendments were proposed only to 7 and an additional sub-clause was also proposed. The amendments proposed to four of the sub-clauses

were lost by a large majority of votes of these, the only amendment which need be noticed was the one to clause 2 proposed by Mr. M.L. Madhavan Nair, M.L.C. (Congress) suggesting that the words protecting title to private and personal property be omitted. There was a full discussion in which several speakers took part and vigorous speeches were made both for and against the amendment. It was, however, lost by a large majority. On the declaration of the result dissents of the Trades Union Congress and the Behar Provincial Kisan Sabha were noted.

The only amendments accepted by the House were those proposed to sub-clauses 9, 13 and 17. The following important addition was made to sub-clause 9 : "no capital punishment shall be awarded for any offence in the Commonwealth of India.

In sub-clause 13 the words "or be given preference to" were added after the word "prejudiced" to make it clear that the profession of a particular religion, caste or creed shall neither prejudice nor give preference to any person in regard to public employments."

Besides the addition of the word "peasant" after the words "every worker" the following important provision as to prohibition was added on the motion of Mr. C. Rajgopalachariar :

"It shall be the duty of the Commonwealth to save its citizens from the evils and temptations of alcoholic and intoxicating drugs and to this end it shall as soon as possible make laws for the total prohibition of the manufacture, import, possession or sale of alcoholic liquor and intoxication drugs except for medicinal or industrial purposes."

The new sub-clause added to the motion of Mr. Gulshan Rai was

"XX. All courts of law in whichever part of the Commonwealth established shall be subject to the jurisdiction, appellate

and administrative of some High Court of judicature established by Letters Patent.”

It will thus be seen that on the vital question of fundamental rights as on the question of Constitutional Status of India there was practical unanimity in the Convention. The amended clause 4 of the draft constitution is printed at the end of this Chapter.

### *3. The Communal Problem*

The Muslim League and the Khilafat Committee had been holding their separate sessions while the Convention was meeting. On the 26th the Muslim League passed the following resolution :

“The following gentlemen be appointed as delegates to represent the League at and take part in the deliberations of the Convention. These delegates will take into consideration and attach due weight to the views on the communal question expressed in the Subjects Committee and the open session of the League, and will endeavour to bring about an adjustment of the various outstanding questions between Hindus and Musalmans arising out of the Nehru Report.

Maharaja Saheb of Mahmudabad, Mr. M. A. Jinnah, Dr. Kitchlew, Mr. M.C. Chagla, Malik Barkat Ali, Messrs. Abdul Hamid, Mujibur Rahman, Hisamuddin, Akram Khan, Zafar Ali Khan, Seth Yakub Hassan, Ghazi Adbur Rahman, Messrs. Abdulla Bareilvi, T.A.K. Sherwani, Khaliquzzaman, Mohamad Zubair, Abdul Karim, Nawab Liaqat Khan, Dr. Mahmood, Dr. Alam, Khan Bahdur Azizul Haq, Mr. Nurul Amin and Mr. Mohomad Aslam.

The Central Khilafat Committee had also met, but there was an unfortunate split among the members whereupon 45 out of a total of 72 attending the meeting resolved to send the full quota of Khilafat representatives to the Convention. The minority contented itself by sending a letter over the signature



of their Secretary Maulana Shaukat Ali to the President of the Convention which is printed in the Appendix A.

On intimation being received of these proceedings at the Convention a Sub-committee of 37 including Mahatma Gandhi, Sir Tej Bahadur Sapru, Dr. M.A. Ansari, Maulana Abulkalam Azad, Pandit Madan Mohan Malaviya and others was appointed on the 4th day of the Convention to meet the representatives of the Muslim League and the Khilafat Committee and make their report at the next session of the Convention. A full list of members of the Sub-committee appears in the proceedings of the 4th day. The Sub-committee met the said representatives the same evening and continued its deliberations overnight dispersing at about 3 o'clock the next morning.

### *Muslim Question*

The report of the Sub-committee appointed to meet the delegates from the Muslim League and the Central Khilafat Committee was discussed on the 5th day of the Convention. It is to be noted that both at the meeting of the Sub-committee appointed as above and the subsequent discussion in the open Convention the only modifications proposed to the Nehru Report on behalf of the Muslims were on 6 definite points. The Committee accepted the Muslim proposals on two of these, namely :

(1) a majority of 4/5ths of the two houses first sitting separately and then together being necessary for the amendment or alteration of the constitution by Parliament ;

(2) the incorporation of the Punjab pact regarding communal representation in the Nehru Report.

Of the remaining 4 proposals no agreement was arrived at as to 1/3rd of the elected representatives of both the Houses of the Central Legislature being Musalmans. The proposal to delete the words "simultaneously with the establishment of



government under this Constitution" from Art. V (Separation of Sind) was not accepted on the ground that that Art. was a verbatim copy of the agreement arrived at by the Hindus and Muslims of Sind. Among others that agreement was signed by Maulana Shaukat Ali, Secretary Central Khilafat Committee, and Maulvi Mohammad Shafi Daudi, Secretary of the All-Parties Muslim Conference which will be noticed later.

Of the remaining two proposals the first related to the contingency of adult suffrage not being established and provided for reservation of seats in that event. The Committee refused to contemplate any such contingency. The last proposal was related to the powers of the Provincial and Central Legislatures and suggested :

- (a) that residuary powers should vest in the Provincial and not in the Central legislatures ;
- (b) that clause 13-A be deleted ; and
- (c) that the division of subjects in Schedules I and II be revised.

The Committee saw no objection to the revision of Clause 13-A and Schedules I and II but was unable to agree that residuary powers should vest in the Provinces.

This report was read by the President on the 5th day of the Convention and discussion was invited. Mr. Jinnah on behalf of the Muslim League stressed the Muslim proposals which were not accepted by the Committee. Sir Tej Bahadur Sapru, Messrs. C. Y. Chintamani, Raliaram, J.R. Banerji and M.R. Jayakar took part in the discussion. After Mr. Jinnah's reply the six proposals were put to vote one by one with the result that the two accepted by the Sub-committee were carried and the remaining four were rejected. The proposal as to revision of Schedules I and II fell through as no member of the Muslim League offered to serve on the revising Committee.

On the same day the statements submitted by the 45 members of the Central Khilafat was read. This is printed in

extenso in the Appendix. It is important to note that this statement completely endorses the Nehru Report on the question of communal representation without demanding reservation of 1/3rd seats in the Central Legislature for Musalmans. The only point upon which it differs from the Nehru Report and the resolutions of the Convention is the vesting of residuary powers which it would leave with the Provincial legislatures.

For a correct appreciation of the precise attitude of the Muslim League as a body towards the Nehru Report it is necessary to refer here briefly to certain important events which happened before and after the Convention.

A meeting of the Council of the Muslim League was held at Lucknow in November 1928, Mr. M.A. Jinnah presiding. The three principal items on the agenda of the meeting were :

1. Consideration of the Nehru Report.
2. Fixing the date and place of the next annual session of the League.
3. The election of the President of the annual session.

On the first item there was a resolution by Maulana Zafar Ali appreciating the work done by the All-Parties Committee and recommending the adoption of their report in principle on the solution of the communal problem. The earlier part of the resolution was adopted at the meeting but the latter part was ruled out of order by reason of the previous appointment of a committee by the last annual session of the League to confer with the other parties on communal matters. The consideration of the Nehru Report was therefore held over till the meeting of the next annual session in December 1928. By this time a sharp difference of opinion as to the Nehru Report had manifested itself among the members of the Council of the League. One section headed by the Maharaja of Mahmudabad was in support of the Report while the other headed by Maulana Shaukat Ali and Maulvi Shafi Daudi

was against it. Each section nominated a president of the forthcoming annual session and the two names put to vote were those of the Maharaja of Mahmudabad and Maulana Mohammad Ali. The former was elected by a large majority, the voting being 42 to 17. This may be taken as a clear indication of the support which the Nehru Committee Report had found in the Council of the Muslim League.

Then came the annual session at which the League participated in the proceedings of the Convention as described above. It will be seen from the resolution of the League quoted at the commencement of this section that the delegates sent to the Convention were to "report the result of their labour to the League by the 28th or 29th for the League to take its decision thereon." After the discussion of the Muslim League proposals at the Convention on the 28th the subjects Committee of the League met on the 29th December when 3 resolutions were tabled to be recommended to the League for adoption. They were to the effect :

- (1) that the Nehru Committee Report be accepted subject to modifications proposed by the delegates of the Muslim League at the Convention ;
- (2) that the League cannot accept the Nehru Report until the said modifications are made ;
- (3) that the Nehru Report be accepted subject to the amendment of Clause 13-A by defining and restricting "emergency" to mean "war or rebellion."

The proposed resolutions were discussed till 3 o'clock of the morning of the 30th December without any decision being arrived at. The League met in open session at ten o'clock the same morning but there was a thin attendance at the meeting owing in part to the late sitting of the Subjects Committee and in part to the meeting of the Convention being held at the same hour. After some formal business the President (Mr. M.A. Jinnah) postponed the session *sine die*

with the addendum that a special session would be called in May.

It may be observed that there was no suggestion either at the Subjects Committee or the open session that the Nehru Report was open to any objection other than the four points which were not accepted by the Convention. Having regard to the nature of those points it may safely be said that both sections of the Muslim League, the Nehru Committee and the Convention were agreed on fundamentals.

The Special Session of the League was called at the end of March instead of May and an effort was made to induce the party led by Sir Mohammad Shafi who had seceded from the League in 1927 to rejoin. This attempt however failed. The Subjects Committee was elected on the morning of the 30th March and met the same afternoon when a section consisting of Mr. Mohammad Yakub, M.L.A., the Ali brothers and 15 or 16 other walked out. On the 31st March while the Subjects Committee was sitting Mr. Jinnah left the meeting after inducting Mr. Shah Mohamad Zubair into the chair. The following resolution moved by Mr. Abdur Rahman Ghazi (Punjab) which had been the subject of long and heated discussion was passed while Mr. Shah Mohamad Zubair was in the Chair by 77 votes against 7 :

“(1) Whereas the complete boycott of the Simon Commission by the Muslim League, as by all other political organisations in the country, necessitated the formulation of an agreed constitution by the people of India for India ;

“(2) and whereas the basic idea, with which the All-Parties Conference and Convention were summoned at Lucknow and Calcutta respectively, was that a constitution be formulated, accepted and ratified by the foremost political organisations in the country as a national pact ; and

**“(3) whereas the decisions of the All-Parties Convention of Calcutta embody in principle the majority of the demands of Moslems contained in the Delhi proposals and the resolutions of the Calcutta session of the League of 1927 and thus pave the way for political re-approachment of the various communities of India.**

**“This meeting of the All-India Muslim League accepts the decisions of the All-Parties Convention held at Calcutta in 1928 as the common national demand of India as against the British Government.**

**“In regard to the settlement of inter-communal differences it records its approval of the principles underlying the decisions of the said Convention subject to the following modifications :**

- (1) That one-third of the elected representatives of both Houses of the Central Legislature should be Moslems.**
- (2) That in the Punjab and Bengal, in the event of adult suffrage not being established, the voting ratio of Moslems should be in accordance with their population in the provinces.**
- (3) Section 13(A) of the Nehru Report should read as follows :**

**‘That in case of war or rebellion alone the Central Government and Parliament shall have the powers, necessary and ancilliary, to suspend or annul the act, executive or legislative of a Provincial Government.’**

- (4) That divisions of subjects in Schedules I and II of the Nehru Report should be revised so as to make the provinces as fully autonomous as possible.**
- (5) That Moslem law, as at present recognised by the Indian Courts, shall not be amended or interfered**

with by means of any legislation in the Central or Provincial legislatures except by a majority of Moslem members of these legislatures.”

The open session met immediately after the above resolution was adopted by the Subjects Committee and Dr. Mohammad Alam was elected to the chair in the absence of Mr. Jinnah. There was a large influx of visitors and great confusion followed. Accounts differ as to whether the resolutions was actually passed by the open session or not. But in view of the confusion described in the newspapers as a “pandemonium” it would be unsafe to rely upon either account. The fact, however, remains that the resolution was adopted by an overwhelming majority of the Subjects Committee and no open session of the Muslim League has since been held. Mr. Jinnah returned to the meeting in the midst of confusion and declared the session adjourned *sine die*. As regards the respective voting strength of the supporters and opposers of Ghazi Abdur Rahman’s resolution the following figures given by the Chairman the Hon’ble Shah Muhammad Zubair to the Free Press and published at the time in the newspapers will be found interesting :

	<i>Present</i>	<i>Supporters</i>	<i>Opposers</i>
Council of the League	69	41	28
Subject Committee of the League	144	90	54
Open Session of the League	215	127	88

These figures were first published on April 14 and have not been challenged since.

It is noteworthy that before the Convention was held in Calcutta the Provincial Committees of the Muslim League in the Punjab, Behar, Bengal and Bombay had considered the Nehru Report. The first three of these had accorded to it their full support while the fourth dominated by Maulana Shaukat Ali had declared it unacceptable.



It is only fair to note that a counter-movement was started against the Nehru Report during the Simla session of Assembly which culminated in a meeting of the so-called "All-Parties Muslim Conference" held in Delhi on January 1, 1929 with His Highness the Aga Khan as Chairman. The organisers and promoters of this meeting were certain Musalman members of the Assembly and the Provincial Councils and it was subsequently joined by those who constituted the minority at the meetings of the Central Khilafat Committee and the Muslim League held during the previous week in Calcutta, though the latter had formally dissociated itself from this "All-Parties Muslim Conference." A long resolution was passed at this Conference which among other matters more or less unobjectionable stressed the following :

- (a) the continuance of separate electorates ;
- (b) the securing to Musalmans their "due" share in the Central and Provincial Cabinets ;
- (c) the adoption of a "plan" securing the election of Musalmans in a majority in Provinces where they constitute a majority of the population ;
- (d) the continuation of the present excessive representation of Musalmans in Provinces where they constitute a minority of the population ;
- (e) securing to Musalmans their "adequate share" in all services of the State and on all Statutory and self-governing bodies.

So that the ideal of democratic Government according to this Conference is one in which not only the representative bodies but also the Cabinet and all services should be composed of definite proportions of the communities professing different religions in India. Further comment is superfluous.

The result is that the principle of the communal solution proposed by the Nehru Report and accepted by the Conven-



tion has received the support of a large majority of the two premier Muslim organisations in India viz., the Muslim League and the Central Khilafat Committee besides the numerous other organisation represented at the Convention with the solitary exception of the Sikhs. The Muslim opponents of the Nehru Report claim that they represent the true Muslim opinion in the country. The surest test of their claim was a general election on the sole issue of the Nehru Report. While the supporters of that Report have unanimously protested against the postponement of the general elections by the Viceroy and the Governors of the various Provinces the opponents of that report have received the order of the postponement with extreme satisfaction verging on gratefulness to the Government. The reason is obvious. They are afraid to go before the Electorates.

### *The Sikh Question*

The question was considered on the 6th day of the Convention. At the meeting of the Sub-committee appointed to confer with the delegates from the Muslim League the Central Sikh League was represented. A proposal was made on their behalf that 30 per cent of elective seats in the Punjab be reserved for them. It is obvious that any such reservation besides being in direct conflict with the basis of the communal settlement adopted by the Convention would have disturbed the Punjab pact incorporated in the Nehru Report by the Convention. The Committee were therefore unable to make any recommendations about it.

Another proposal to reserve 11 per cent of the seats representing the proportion of Sikhs in the population of the Punjab with the right to contest additional seats was discussed but negatived as it was not acceptable even to the Sikhs.

At the open session of the Convention Sardar Mahtab Singh moved a resolution to the effect that communalism should not be recognised in any form, direct or indirect, in the future constitution of India. The proposition was too widely stated and

having regard to the acceptance by the Convention of reservation of seats for Muslim minorities was clearly out of order. It was ruled out accordingly. The members of the Central Sikh League thereupon left the Convention.

Sardar Gurdayal Singh then read a statement according full support to Nehru Report on behalf of the Namdhari Sikhs.

After the withdrawal of the Central Sikh League a resolution was proposed by Mr. Ralia Ram (Indian Christian) suggesting that the Sikh Minority in the Punjab, North-West Frontier Province and Baluchistan be given the same privilege in matters of representation as other communities are given in the Provinces where they are in a minority. After full discussion this resolution was rejected by a large majority.

It was unfortunate that no settlement of the Sikh question with consent was possible at the Convention but there is every reason to hope that a satisfactory solution will be found in the near future.

#### *4—Indian States*

The question of the Indian States was considered on the 8th day of the Convention. There were two proposals before the Convention, one recommended by the Nehru Committee and the other moved as a resolution by Mr. Satyamurti on behalf of the South Indian States Subjects Conference. While these proposals were being discussed it was felt that no satisfactory decision could be taken without consulting the Princes and the peoples of the Indian States. Mr. Manilal Kothari moved that the Princes and the peoples of Indian States be invited on behalf of the Convention to appoint representatives to confer with the Committee of the Convention on the question of the Constitutional position and status of Indian States in the future Commonwealth of India.

Mr. Kothari also proposed that the Committee representing the Convention should consist of Pandit Motilal Nehru, Mr. M. R. Jayakar, Pandit Madan Mohan Malaviya, Sir Tej Bahadur

Sapru, Sir Ali Imam, Mr. Satyamurti, Sardar Sardul Singh, Dr. M.A. Ansari, Diwan Ramchandra Rao and the mover. This resolution found general support and was carried. The invitation contained in it stands and a favourable response is awaited.

*Convention Adjourned sine die*

During the eight days that the Convention was in session much solid work was accomplished but it was neither possible nor necessary to continue the Convention. As a result of the informal discussion between members of the Convention the following agreed resolution was proposed by Mahatma Gandhi and accepted by the Convention :

“The Convention is of opinion that the resolutions it has already passed on the recommendations of the All-Parties Committee contained in clauses 1 to 6 of their Report sufficiently indicate the will of the nation as to the nature and the main principles of the constitution acceptable to it and is further of opinion that except on points on which notes of dissent have been recorded at the instance of some of the parties present there is a general agreement on the basis of solution of communal problem recommended by the said committee. This Convention adjourns *sine die* to meet when necessary for completing its work.”

The Convention then adjourned *sine die*.

*5—The Net Result*

As against the British Government all parties of India are united in demanding the same constitutional status for India as is enjoyed by the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa and the Irish Free State with a Parliament having powers to make laws for the peace, order and good government of India and an Executive responsible to that Parliament.

As between themselves the representatives of All-Parties have broken the back of the communal problem by important

and far-reaching agreements on fundamental rights of citizenship, universal adult suffrage and abolition of communal electorates. The matters that still remain unadjusted are more or less matters of detail and will adjust themselves in no time once the Government accepts unequivocally the right of India to the immediate establishment of the Dominion form of Government.

As between the Indian Princes and the people of India there is really no difference on any question of principle. The Indian Princes have expressed their fullest sympathy with the demand of full responsible Government in British India. As regards the people of their own states they have come to realise that the present autocratic form of Government in the States cannot exist side by side with the Dominion form of Government on their borders. All that the Princes can reasonably claim are their rights and privileges as Rulers of which neither the people of the British India today nor the people of the Indian States have any intention to deprive them so far as they are consistent with the rights of free citizenship. The relations of the Princes with the people of India generally can be easily adjusted by a joint Conference to which they have been invited by the Convention.

In the presence of all these factors making for peace and goodwill between the two countries the principal parties concerned are busy making their preparation in the opposite directions—the Government to force the Report when made of the boycotted and discredited Simon Commission upon India; the Indian National Congress to start its campaign of non-violent non-co-operation after January 1, 1930. The future is on the knees of gods.

## AMENDED CLAUSES

### *Clause 3*

#### *Definition of Citizen*

3. The word “citizen” whereas it occurs in this Constitution means every person :

- (a) who was born or whose father was either born or naturalised, within the territorial limits of the Commonwealth and has not been naturalised as a citizen of any other country ;
- (b) who being subject of an Indian State ordinarily carries on business or resides in the territories of the Commonwealth ; or
- (c) who, being a subject of the Crown carries on business or resides in the territories of the Commonwealth *and fulfils the qualifications prescribed by the Parliament for the exercise of the rights of citizenship* ; or
- (d) who is naturalised in the Commonwealth under the law in force for the time being.

*Explanation*—No person who is a citizen of a foreign country can be a citizen of the Commonwealth unless he renounces the citizenship of such foreign country in the manner prescribed by the law.

#### *Clause 4*

#### *Fundamental Rights*

4. (i) All powers of government and all authority, legislative, executive and judicial, are derived from the people and the same shall be exercised in the Commonwealth of India through the organisations established by or under, and in due process of this constitution.

(ii) No person shall be deprived of his liberty, nor shall his dwelling or property be entered, sequestered or confiscated, save in accordance with law. All titles to private and personal property lawfully acquired and enjoyed at the establishment of the Commonwealth are hereby guaranteed.

(iii) Freedom of conscience and the free profession and practice of religion are, subject to public order or morality, hereby guaranteed to every person.

(iv) The right of free expression of opinion, as well as the right to assemble peaceably and without arms, and to form associations or unions, is hereby guaranteed for purposes not opposed to public order or morality.

(v) All citizens in the Commonwealth of India have the right to free elementary education without any distinction of caste or creed in the matter of admission into any educational institutions, maintained or aided by the state, and such right shall be enforceable as soon as due arrangements shall have been made by competent authority. Provided that adequate provision shall be made by the State for imparting public instruction in primary schools to the children of members of minorities of considerable strength in the population through the medium of their own language and in such script as is in vogue among them.

*Explanation*—This provision will not prevent the State from making the teaching of the language of the Commonwealth obligatory in the said schools.

(vi) All citizens are equal before the law and possess equal civic rights.

(vii) There shall be no penal law whether substantive or procedural of a discriminative nature.

(viii) No person shall be punished for any act which was not punishable under the law at the time it was committed.

(ix) No corporal punishment or other punishment involving torture of any kind shall be lawful *and no capital punishment shall be awarded for any offence in the Commonwealth of India.*

(x) Every citizen shall have the right to a writ of *habeas corpus*. Such right may be suspended in case of war or rebellion by an Act of the central legislature, or, if the legislature is not in session, by the Governor-General-in-Council, and in such case he shall report the suspension to the legislature, at the earliest possible opportunity, for such action as it may deem fit.



(xi) There shall be no state religion for the Commonwealth of India or for any province in the Commonwealth, nor shall the state either directly or indirectly endow any religion or give any preference or impose any disability on account of religious belief or religious status.

(xii) No person attending any school receiving state aid or other public money shall be compelled to attend the religious instruction that may be given in the school.

4. (viii) No person shall by reason of his religion, caste or creed be prejudiced *or be given preference to* in any way in regard to public employment, office of power or honour and the exercise of any trade or calling.

(xiv) All citizens have equality of access to, and use of, public roads, public wells and all other places of public resort.

(xv) Freedom of combination and association for the maintenance and improvement of labour and economic conditions is guaranteed to everyone and of all occupations. All agreements and measures tending to restrict or obstruct such freedom are illegal.

(xvi) No breach of contract of service or abetment thereof shall be made a criminal offence.

(xvii) Parliament shall make suitable laws for the maintenance of health and fitness for work of all citizens, securing of a living wage for every worker *and peasant*, the protection of motherhood, welfare of children, and the economic consequences of old age, infirmity and unemployment and Parliament shall also make laws to ensure fair rent and fixity and permanence of tenure to agricultural tenants. *It shall be the duty of the Commonwealth to save its citizens from the evils and temptations of alcoholic and intoxicating drugs and to this end it shall as soon as possible make laws for the total prohibition of manufactures, import, possession or sale of alcoholic liquors and intoxicating drugs except for medicinal or industrial purposes.*

(xviii) Every citizen shall have the right to keep and bear arms in accordance with regulations made in that behalf.



(xix) Men and women shall have equal rights as citizens.

(xx) *All Courts of law in whichever part of the Commonwealth established, shall be within the jurisdiction, appellate and administrative of some High Court of Judicature established by Letters Patent.*

### Clause 87

87. Parliament may by law repeal or alter any of the provisions of the Constitution. *Provided that the Bill embodying such repeal or alteration shall be passed by both the Houses of Parliament separately by a majority of 4/5 the of those present and then by both the Houses at a Joint Sitting by a majority of 4/5 ths of those present.*

### Communal Representation

I. There shall be joint mixed electorates throughout India for the House of Representatives and the provincial legislatures.

II. There shall be no reservation of seats for the House of Representatives except for Muslims in provinces where they are in a minority and non-Muslims in the N.W.F. Province. Such reservation will be in strict proportion to the Muslim population in every province where they are in a minority and in proportion to the non-Muslim population in N.W.F. Province. The Muslims or non-Muslims where reservation is allowed to them shall have the right to contest additional seats.

III. In the provinces,

(a) there shall be no reservation of seats for any community in the Punjab and Bengal. *Provided further that the question of communal representation will be open for reconsideration if so desired by any community after working the recommended system for 10 years.*

(b) in provinces other than the Punjab and Bengal there will be reservation of seats for Muslim minorities on population basis with the right to contest additional seats.

(c) in the N.W.F. Province there shall be similar reservation of seats for non-Muslims with the right to contest other seats.

IV. Reservation of seats, where allowed, shall be for a fixed period of ten years. Provided that the question will be open for reconsideration after the expiration of that period if so desired by any community.

*Redistribution and status of provinces*

V. Simultaneously with the establishment of Government under this constitution Sind shall be separated from Bombay and constituted into a separate province.

Provided

(1) after an enquiry it is found :

(a) that Sind is financially self-supporting, or

(b) in the event of its being found that it is not financially self-supporting, on the scheme of separation being laid before the people of Sind with its financial and administrative aspects, the majority of the inhabitants favour the scheme and express their readiness to bear the financial responsibility of the new arrangement ;

(2) that the form of Government in Sind shall be the same as in the other provinces under the Constitution :

(3) that the non-Muslim minority in Sind shall be given the same privileges in the matter of representation in the Provincial and Central Legislatures as the Muslim minorities are given under this Constitution in areas where they are in a minority.

(VI). The N.W.F. Province, *Baluchistan*, and all newly formed provinces by separation from other provinces, shall have the same form of government as the other provinces in India.

**THE PROCEEDINGS  
OF  
ALL-PARTIES NATIONAL CONVENTION**

*First Day—December 22, 1928*

The All-Parties National Convention opened its session in a specially erected pandal on Congress grounds, Deshbandhunagar, Calcutta, on December 22, 1928. A full list of the organisations represented is given on page one of this report.

A number of messages were received from delegates who were unable to be present expressing their inability to attend and sending their good wishes to the Convention. A very large number of telegrams and letters were also received from all parts of the country and abroad, including one from the Chinese Patriotic League, Macas, South China, wishing success to the Convention.

The President of the Convention Dr. M.A. Ansari took the chair at 3 P.M.

*Mr. J.M. Sen Gupta*

Mr. J.M. Sen Gupta, in welcoming the delegates on behalf of Bengal, said :—

*Members of the Convention :*

I wish that the duty of welcoming this Convention had fallen on shouldrs other than mine. Here in this pandal are gathered together the very finest men that our country has produced ; here are men who had fought many a battle ; who had never shirked the call of duty, and who have made their country's cause the be-all and end-all of their existence.

To welcome you to your self-imposed task, I feel almost a presumption on my part, but I am heartened by the thought that I have the whole of Bengal behind me in according to you a most cordial welcome. (applause).

The search for unity has been with us a long and strenuous process. And I may be permitted to say that Bengal has gene\_

rously contributed her share in this process. It was the late Sir Surendra Nath Banerji (cheers) who gave our political efforts an all-India character ; it was Bengal that gave to all-India Bankim Chandra's *Bande-Mataram* as her national anthem ; (hear, hear) ; lastly it was our revered leader Deshbandhu (applause), aided and inspired by Mahatma Gandhi, who for four years led the all-India struggle against the *de facto* government of this country.

Friends, in truth, if any province has risen above provincialism, above provincial interest and prejudice, Bengal may well claim to have achieved this. Bengal, therefore, feels supremely happy that her capital city has been selected as the forum for the deliberation of this All-Parties Convention. The object for which Deshbandhu worked till he laid down his life, I believe, is nearing completion. "Take care of the end, and the means will take care of themselves" ; I think this was the motto in his life, and I have no doubt that the same motive will guide us in our deliberations for unity throughout this Convention.

There is one man whom we grievously miss today and I need hardly mention his name. The Lion of the Punjab sleeps. He did his share of the work, as in life, so in death ; but he left his work unfinished. Let us mourn for him by taking up the work where he left it and in doing so show our respect to his advice and suggestion.

Friends, why have we met here today ? It has been said to prepare a memorandum for the Simon Commission. A more infamous and unfounded charge or insinuation could never have been made. We have met here today to draw up a constitution for ourselves, to settle our own differences in order that we might stand as one body against our common enemy. We are here to discover a formula which will remove our divergences and enable us to carry on the struggle against the foreign government. The Simon Commission, I firmly believe, is in the nature of an offensive launched by the British people to scatter our forces, to expose our differences and if possible

to make it difficult for us to fight them as one united nation. We must anticipate this offensive and before it is really on us we must pull ourselves together and remove what might make for friction and disunion. The Nehru Report is before you and I submit it to your consideration.

Friends, it has been said that the Constitution which is embodied in the Nehru Report is an imitation of the English or the Western Constitution. I deny the charge. It may be that in certain matters, in certain formalities, the Constitution that you are going to consider is similar to Western Constitution. There are certain formalities which have been accepted in the Constitution, but the two main principles upon which this Constitution is based are :—(1) of elective system, and (2) of the system of federal government. So far as the principle of election is concerned, I need not tell you, that from the ancient time the principle of election, government by election, has been known in India, in our village life. That is not borrowed from any Western country. So far as the constitution of a federal nature is concerned, can anyone in his senses charge us with the accumulated experience of the modern time if we apply this principle in evolving our own constitution ?

Japan and other countries have copied the American form of constitution. The real thing we have done is to apply the modern experience and the old principle to the actual realities of the Indian situation. India's problem has been faced with the modern experience and the old principle for the purpose of evolving our Constitution. Nowhere in the world had there been such an attempt at constitution-making as you are doing this afternoon and for the days to follow.

The English people charge us that we are not united. They tell us that in their country they have evolved their constitution on the will of the people. May I ask them one question ; when a few barons of their country exacted the Magna Charta from the unwilling hands of King John, was the populace behind them ? Again may I remind them that so far as the French Constitution after the Revolution is concerned, that it was also the

result of the activities of the Left Wing of the people of France. Nowhere in the world have we seen and we likely to see any future constitution which is framed by every class of people making the body politic. The Hindus and Mahommedans, the classes and the masses, the peasants' representatives, representatives of men with vested interest, every conceivable community, every conceivable party making the community is represented here this afternoon. Nowhere in the world would you see such a body which represents all strata of society. Therefore, I say that so far as constitution is concerned, it is going to be considered by the representatives of all the different classes of the people of the country and for that reason it has the sanction of the masses behind it which could not be conceived in any other constitution of any other country.

I welcome you, friends, to this city of mine and I hope your deliberations would end in a united formula which would be a national asset to our country. (applause).

### **PRESIDENTIAL ADDRESS**

Dr. M.A. Ansari then delivered the following address :

*Brother delegates of the Indian National Convention :*

The All-Parties Convention meets under the shadow of a national bereavement. Lala Lajpat Rai's life was one continuous epic of courageous self-sacrifice in the cause of the country which, fitting enough, was ultimately crowned with a glory which is the pride of every patriot. The loss to the country and specially to the All-Parties Conference which, during the closing days of his life, he was serving so efficiently through the membership of the enlarged Nehru Committee, is irreparable. Although he did not live to see the fruition of the work, let us hope that we will prove ourselves worthy of the departed patriot by completing it here, for this is the best tribute that we, who are delegates to this Convention, can pay to his memory.

We have assembled in this National Convention to take a final decision on behalf of the whole country in regard to India's



Constitution for the immediate future as drawn up by the Nehru Committee.

We have had, I am afraid, a little more than enough of discussions regarding the rights of minorities. Such instances can be multiplied to show that there is no unanimous acceptance of all individual recommendations of the Nehru Committee as separate and entirely unrelated entities. But, and this is what I want to stress as earnestly as I can, there are very few people in the country who are opposed, because they disagree with an article here or an article there, to the Constitution as a whole as the next immediate step. This is enough and the authors themselves did not expect anything more. Indeed in my humble view this is the whole justification of the draft constitution.

Looking at the matter from this point of view I am not surprised that there should have been throughout the country able criticisms and equally able defence of the goal which the Nehru Committee seeks to achieve in the name of all parties, moderate and extremist alike. At one stage there was, I confess, the danger of the controversy taking rather a serious turn. But this danger was promptly warded off, thanks to the patriotism and statesmanship of the leaders of the differing schools of thought. This was to be expected because the Nehru Committee draft, although it deals as it must have dealt by virtue of the very *raison d'etre* of the Committee, with the minimum, it has not deprived any body of persons from working for the maximum. That is why I, at any rate as a member of the Indian National Congress, owing allegiance to its goal of complete national independence, am prepared to give my support to the recommendations. I welcome the minimum in the first place because my own ideal is not thereby lowered, and secondly by doing so I am helping to secure united backing for sanctions that may be devised in order that India may win her freedom.

I appeal to Congressmen who believe in Independence to consider the question in this perspective. By accepting the draft we do not lose anything but we gain much.

The recommendations regarding the communal problem have been subjected to a keener examination which is admirable. But they have sometimes aroused in certain quarters protest, which I venture to say, is based on ignorance of the real import of the recommendations and on a confusion of rights of the minorities with the principles of representation. Nobody can deny that the minorities have their rights and that these rights have been protected in other countries of the world. The draft constitution, I will venture to say, gives to the minorities of India more real and solid safeguards than have been granted by the League of Nations to racial minorities of any of the newly constituted states of Europe. But let us not be the victim of a constitutional fetish. "True safeguard of a minority", as a Committee of the League of Nations has recently observed, "is the good will of majority." It is not on privileges that a minority has succeeded in wringing from a majority but on its patriotism, public spirit and devotion to the country that its status and welfare depend. Nor must I fail to add a word of warning. Constitutional safeguards are bounties on inefficiency. The more a minority has of them the more will it need, and protected from the bracing spirit of free competition by charitable provisions of constitution, it will sink deeper and deeper into ignorance, fanaticism and sloth to be stifled ultimately by the very cords which had appeared to offer it a partial support. I am unable to understand the mentality which is not satisfied with what the draft constitution has given but would ask for more in a manner as if any denial involved the question of life and death. Let me, however, hope that this is only an exaggerated phase of the natural anxiety which will pass off as discussions in the Convention progress.

But as I have said, earlier reception of the country to the Report as a whole is very gratifying and encourages me to appeal to you with confidence to support it. It is true that you have been delegated by your organisations to represent their views here and in some cases to suggest what modifications or changes your organisations consider necessary from

their own point of view. It is your duty to urge those views here but do not forget that there is also another aspect of your duty. If you have come to this Convention to press your own demands you have also come to accommodate the demands of others. The very fact that it is a gathering of the representatives of all parties holding different views means that the spirit of a sympathetic compromise is its first and the last postulate. Circumstances compel us to work in this spirit. For if we fail, we wreck the Constitution and the whole world which is watching us today will consider us a pack of bankrupt in statesmanship, imagination and earnestness of purpose; and we shall have rightly deserved their opinion. But the seriousness of the consequences will not be limited to the exposure of worthlessness. They are fraught with the danger to the nation itself. Rightly or wrongly Providence has put us, who have assembled here, in such a position that a false step will spell untold sufferings to the country and a right step will lay the foundation of our freedom. In our loyalty to our group or community let us not forget that we owe a higher allegiance to the country as a whole. Above all let us not forget for one moment that during the ensuing discussions our national patriotism will be on trial. I pray to God that in the interest of the motherland every one of us may be granted courage to give and determination to resist temptation to take. After all what we give here as representatives of a section will come back to us as Indians.

Brother delegates of the Convention : We will be failing in our duty to our country and to organisations that have sent us here if we do not bring to our sacred task courage and charity of heart which the occasion demands. After several years of utter darkness characterised by the utmost confusion of aims and objects—a darkness in which a spectre of communal differences oppressed us like a terrible nightmare—the work of the Nehru Committee has at last heralded the dawn of a brighter day. You have critics and opponents to the right and to the left, an alien government that attempts to prolong its power by over-emphasising and encouraging our religious differences, and a

set of communalistic groups who are inspired by the gospel of mere bread and butter and prepared to degrade themselves by pandering to the behests of our alien rulers. But let us not exaggerate the importance of their subservient and cliquish wire-pulling. It is on the decision of the National Convention alone that the future of India depends. With our hands here and now we shall plant the sacred tree. We have no reason to be afraid of communalists. Their days are numbered. Already a new generation is coming to the front to which differences between Hindus and Mussalmans are unknown and which will not and cannot think in communal terms. Our angle of vision has rapidly changed. Let us in recognition to this supremely important fact, bury our communal differences so deep beneath the earth that they may never rise again. And when this preliminary work has been done, we can proceed to lay foundations of that democratic edifice within which people of India can live and prosper for ages to come. (prolonged and loud applause).

### **REPORT FORMALLY PRESENTED**

Presenting the Report of the Committee, Pandit Motilal Nehru said :

Sir,

I beg leave to present the Report of the Committee over which I had the honour to preside. I do not propose at this stage to enter into the details of that Report or expatiate upon any particular part of it. I think it will be time for that when the various recommendations that we are placing before the Convention will come up for consideration.

The services of the Committee will then be available for any information upon any particular point or any explanation that might be necessary. Friends, after what our President has said about the spirit in which we are to consider these recommendations. I do not think I need say much. But I should like just to say one word about the position which my Committee claims for itself.

There has been considerable amount of misapprehension about that claim. The Committee claims nothing more nor less than what it deserves, namely, the position of a reporting Committee. It is not a law-giving Committee whose report must be accepted as it is as if it were an Act of Legislature. What is being put before you is no more than certain recommendations of a Committee appointed at a meeting of the All-Parties Conference—recommendations for adoption by this Convention.

We are not here to enforce these recommendations. We are not here to ask you to accept them whether you agree or not. We are here simply to put the best that is in us before you and to stand corrected by your decision. That is the position. Please do not for one moment think that we are putting this Report forward as a matter which is settled beyond dispute, or about the correctness of which there cannot be any question.

Even well settled constitutions carry no finality with them much less a mere draft whether prepared by an individual or a number of individuals collectively. It would be silly to claim that nothing better could be produced. On the contrary, we have freely admitted in our Report that this is not a counsel of perfection. We have further admitted that there are in that Report recommendations which perhaps we might not have made, if left to ourselves, but what we claim for it is that having regard to the various interests in the country, the interests of the whole community, the rights of minorities and majorities and having regard to the experience of the past, the recommendations which we have made are according to the best of our judgment likely to bring about complete unity and harmony between all parties. If we have erred in any particular it is for you to correct us and adopt the correct view ; but I ask you most earnestly not to confine yourselves to any single point here and there and argue upon the merits of that point alone without reference to the bearing it has on the whole scheme. You will find, I suppose, you have found, because I

take it you have studied the Report, that it is a complete organism. It is a complete structure and if you pull out one brick it is likely to tumble down to the earth. When you examine the various points and recommendations, please also consider what would be the effect of your modifying any one of them upon the scheme as a whole. That is the most important thing.

One thing more I beg of you to remember. Apart from the generous spirit in which the President has asked you to consider the Report as a whole, you have to see that you are not, by laying too much emphasis and insistence upon some right, real or imaginary, striking at the very foundation of this structure. When an individual right conflicts with that of the community as a whole the only thing to do is to give it up. If you think that there is anything in these recommendations which makes for disunity and not for unity, by all means scrap it. This Constitution is not a patent which we have taken out and which is not to be modified by any one else or which cannot be improved upon. You are at liberty to scrap the whole of it provided you find an alternative. But if you cannot find an alternative, if nothing better can be discovered, I beg of you to accept it.

### **PRESIDENT'S ANNOUNCEMENT OF PROCEDURE**

The President then made the following announcement regarding the procedure to be followed in conducting the proceedings of the Convention :

Recommendations of the Nehru Committee Report have been available to all parties for sometime past. I expect that they have been considered by all those who are attending the Convention either as representatives of parties or in their individual capacity. I shall expect the proposed amendments to the Reports to be handed in at the office of the Convention by 12 noon tomorrow. No amendments will be received after tomorrow's sitting has begun. All the amendments so handed in will be classified and arranged under suitable heads and taken



up in the order which I find most convenient for the dispatch of business.

The agenda for tomorrow will be prepared on the basis of the suggestions and amendments already received and will be available to members at the commencement of tomorrow's proceedings.

After an amendment has been sufficiently discussed I will take the sense of the Convention by a show of hands ; if the voting is unanimous the result will be recorded and we shall proceed to the next item on the agenda. But if the proposition before the house is either carried or defeated by a majority I will ask if any party as such is opposed to the vote of the majority thus ascertained. If any member says that the party he represents is opposed to the vote and no other member of the same party disputes that allegation I will have the dissent of the party recorded and proceed to the next item. But if two or more members of the same party differ as to what is the real opinion of their party I will ask the representatives of that party to decide the question among themselves. If they are unable to do so then and there I will allow them such time as they may desire, to enable them to meet and discuss the matter. In this case the sense of the Convention, ascertained in the manner I have described above, will be recorded and a note will be made that such party has been allowed time to consider the question further and communicate to the Convention the opinion of the majority of the representatives of that party. The opinion so communicated will be recorded.

After the above announcement by the President, the Convention was adjourned till December 23, 1928.

## **THE PROCEEDINGS OF ALL-PARTIES NATIONAL CONVENTION**

*Second Day—December 23*

The Convention met at 2 p.m. with Dr. M.A. Ansari in the chair.

*Mr. J.M. Sen Gupta*

Mr. J.M. Sen Gupta moved the following resolution :

“This Convention adopts the following recommendations of the Report of the Nehru Committee’ :

“India shall have the same constitutional status in the community of nations, known as the British Empire, as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa and the Irish Free State, with a Parliament having powers to make laws for the peace, order and good government of India, and an executive responsible to that Parliament ; and shall be styled and known as the Commonwealth of India.”

I wish that every party in the country had come under the jurisdiction of the Indian National Congress : for in that case it would not have been necessary to have this National Convention. It would not have been necessary to create a new body and give that body freedom with regard to certain objective ; but unfortunately we have to admit that there are men in this Convention who do not accept the goal of Independence as India’s goal. Because of the necessity of putting forward a united front to the new offensive of the British people who have sent out the Simon Commission, we have to see that we must find a constitution which would be acceptable to all, Liberals and Moderates, Hindus and Mahomedans, in short, to all classes of people constituting the body-politic. The object underlying the Commission is to establish more firmly the British Administration in this country and this Convention was created to put forward a united front.

I believe that the real salvation of India lies in the severance of British connection but I am a practical man. Whatever political strength we have got we must conserve it. We cannot allow the Simon Seven to go back to England triumphant. Do you want that ? Or do you want your strength to be conserved and brought together under one head ? I want a clear answer.

It has been asked why the constitution has been based on Dominion Status. Before answering it I may state that so far as I am concerned I want a constitution based on Independence. And I also believe that the adoption of Dominion Status in this Convention does not in any way interfere with the ideals of those who believe in Independence. If after calling this Convention, the Congressmen press their standpoint in the form of a constitution for Independence, may I ask you what would be the result ? That is the point I want to emphasise on you all and I have not the slightest doubt that if the Congressmen press their own point of view, there would be an end of this Convention, of the unity which this Convention represents. I wish that time might come when all parties would unite on the basis of Independence but unfortunately that is not the case. As practical men, we must take stock of the reality of the situation.

It has been further asked, can you base your constitution on Dominion Status and work for Independence ? Is that logically possible ? I say it is ? But the proper question is this. Is this constitution such a thing which would hamper you in your fight for complete Independence ? I say it would not. On the contrary, it would help you, because you will have the united nation behind your back, and further because it will show that when faced with a crisis Indians know how to unite. On the other hand, if every school of political thought press their own viewpoint the very purpose of this Convention would be defeated. Let us agree for the sake of unity in this Convention to this constitution. This resolution has been very properly placed before you for your consideration ; for on its decision depends whether this Convention is to go on or not, whether the British policy so far pursued would end, or it would be strengthened.

*Mr. Yakub Hassan*

Mr. Yakub Hassan, (Madras), in seconding Mr. J.M. Sen Gupta's resolution said :

“My non-co-operation colleagues need not be surprised at my attitude as I wish to have a real fight and not a sham fight. We have under Gandhiji’s guidance declared that we shall not use violence. I have not arms to fight for Independence, but I have got strength enough to fight constitutionally for Dominion Status. (cheers and counter cheers). I want to fight on a clear issue. We want connection with Great Britain on terms of equality alone (hear, hear). But my friends who want Independence, why should they have any constitution at all? There will be time enough for a constitution after they gain Independence. Let us, as practical men, take stock of the real facts. The Hindus who wish to fight for Independence, do they realise that they have with them Muslims who are communalists? If the Muslims are serious about Independence, why do they worry and fight about the rights of minorities in the constitution? Why cannot they trust the Hindus? On the other hand, it is they who whatever their professions really wish the British to remain here for ever, to keep peace between the Hindus and Muslims.

Similarly, those Hindus who declare that Mahomedans have extra-territorial sympathy and fear that after the British Raj goes, Muslim Raj would come, have no right to work for Independence. Then, there are the Indian States. Are they going to fight with you to drive away the British. Our ideal can only be realised if we make Dominion States our goal. I am earnest in saying that I am willing to remain a member of the British Commonwealth on terms of equality, for I know that the day India becomes an equal member of the British Empire, the Empire itself would cease to exist, and India having 300 million people would have a stronger voice in the Commonwealth than Great Britain herself. I am not with those who declare that Dominion Status should be a stepping stone to Independence (hear, hear). On a practical basis I want to make Dominion Status our immediate goal, and concentrate all our forces for attaining that object, instead of fighting the air.” (applause).

The President then invited discussion.

Mr. S. Srinivas Iyengar read out a statement<sup>7</sup> on behalf of the Independence for India League.

The full text of the statement is printed in Appendix A (1). The statement was noted and placed on record of proceedings.

The President then called upon Mr. Daud of the Trade Union Congress to address the Convention.

*Mr. M. Daud*

Mr. Daud said :

The Trade Union Congress had sent me with a mandate to place their demands before the Convention for a socialistic republican form of government and nationalisation of industry. I place the resolution passed by Jharia Congress on the subject before the convention and hope it will receive consideration.

“The All-India Trade Union Congress, in its session held at Jharia on December 18, 19 and 20, under the presidentship of Mr. M. Daud, M.A. B.L., passed the following resolution to be placed before the All-Parties Convention, Calcutta :

“This Congress formulates the following basis for the Constitution of India to be placed before the All-Parties Convention, as our demand :

(1) Socialistic Republican Government of the Working class.

(2) Abolition of Indian States and Socialistic Republican Government in those places.

(3) Nationalisation of industries and land.

(4) Universal adult franchise.

(5) Free compulsory primary education.

(6) Freedom of speech.

(7) Right to work and maintenance and provision for social and unemployment insurance including maternity benefits.

(8) Non-enactment of repressive and reactionary labour legislation should be guaranteed.

(9) Protection of general labour interests.

(10) This Congress elects the members of its Constitution Committee, one member from each affiliated Union and Mr. R.R. Bakhale—the total not exceeding 50—as its Delegation to the All-Parties Convention to be held at Calcutta and instructs it to present the above programme to the Convention and take no further part in its proceedings if that programme is not accepted.”

Mahatma Gandhi arrived at this stage and was given a great ovation by the entire audience rising as he entered the pandal and shouting ‘Mahatma Gandhi ki Jai’.

Rai Sahib Chandrika Prasad then made a statement as an ex-president of the Trade Union Congress and Railwaymen’s Federation declaring that the majority of the Trade Unionists were in favour of the Nehru Report.

A number of Labourites in the audience challenged Mr. Chandrika Prasad’s authority to speak on behalf of the Trade Unionists whereupon he replied that he was speaking in his personal capacity and was prepared to take the consequences of his action. He was, however, continuously interrupted and had to resume his seat.

*Maulana Mohamed Ali*

Maulana Mohamed Ali opposed the resolution moved by Mr. Sen Gupta. He asked when Mr. Sen Gupta said he accepted the Independence as goal of India why should he have moved this resolution and not any of those Dominion Status-wallahs who were behind him. Could they not find any solitary individual in that group with the courage of dependence to preach Dominion Status not only as a stepping stone as Mr. Yakub Hasan said but for ever and anon ? He asked could they defeat the forces of the Simon Seven by a policy of defeatism or by flying the Union Jack ?



Mangal Singh—What about your banner of communal representation ?

Mohamed Ali—I am coming to that.

Maulana Mohamed Ali criticised the psychology of those who argued that Dominion Status was only a temporary phase and that afterwards they could claim Independence. He described this is a policy of coward and not of the fighter. He praised the Nehru Committee for their excellent report but he objected to it on this and certain other essential points. Firstly, he objected to Dominion Status because that status could have application only in a country of the white people and not to this country of 320 million black people. Nowhere in the world was any Asiatic particularly Indian, more looked down upon than in Britain, the centre of British Empire.

Pandit Moti Lal at this stage explained this was contradiction in terms and that if they got Dominion Status they must be treated on a level with the people of the self-governing dominions.

Maulana Mohamed Ali denied this and speaking from his recent experience in England and other countries he said Dominion Status might be very good on paper but when it was being applied there would be a world of difference between the people of Canada or South Africa and India. He asked did not Indians in South Africa have Dominion Status and what was their position.

There were cries of 'no' when Mr. Mohamed Ali averred that South African Indians had Dominion Status.

At this stage Mr. P.K. Chakarbarti asked Maulana Mohamed Ali to withdraw the word 'coward' in respect of Mr. Sen Gupta. Maulana Mohamed Ali declined and explained that he wanted Mr. Sen Gupta with his creed of independence not to become a coward. All the same Mr. Chakarbarti and others pressed for the withdrawal of what they termed unparliamentary expression. Confusion reigned for sometime but order was soon restored.

Maulana Mohamed Ali proceeding emphasised that Dominion Status might be used differently in India and against the interests of India and reminded them of veto powers of the Viceroy. He also urged the Convention to leave Indian States out of the consideration and refused to accept Pandit Malaviya as representative of the Indian States. On the communal question also he said he was not representing anybody but himself. He was present in Convention not as a Moslem Leaguer or Trade Unionist nor even as ex-President of the Congress but only as a Member of the All-India Congress Committee. He asked for no Constitution except for one article namely that India shall be free and independent. "I don't ask for Dominion Status under British nor under Hindus nor under Mussalmans nor under Turkey or Afghanistan but I want freedom for myself and my country. (A voice what about Patna and Cawnpore).

Mr. Prakasam—Did you not petition the Viceroy ?

Maulana Mohamed Ali replied—No, I have not taken even the oath of fealty which you have done and which Mr. Srinivasa Iyengar can somehow justify (laughter). In order to get rid of the British domination over India if there is no alternative except Dominion Status under Hindus then and only then I shall accept it for myself. There will be communalism so long as there is no independence. I accept Mahatma's dictum, 'within the Empire if possible and without the Empire if necessary.'

Maulana Mohamed Ali would stick to this dictum as long as possible but he had already found that Independence was necessary. He said so from his recent experience in London.

*Dr. Alam*

Dr. Mohammad Alam of the Punjab was very much pained to see that the Maulana spoke for himself only and not for all of them. It had been said that they had gone under the influence of some Knights. But he could assure them that it were the Knights who had come under their banner. But while

the Maulana was away in England, his followers had gone under the banner of Sir Mohamad Shafi and Sir Abdur Rahim, who had been giving dinners to Simon Seven.

Proceeding he pointed out difference between the speeches of Mr. Sen Gupta and the Maulana. Both of them wanted Independence, but as a practical man Mr. Sen Gupta had joined with others in claiming Dominion Status, while the Maulana would not accept it, and why? Dr. Alam then pointed that the word "shall" in the constitution was not obligatory and did not deter others from working for independence.

This acceptance of Dominion Status, concluded Dr. Alam, was the last offer on their part to the British people to keep their connection with India. It constituted the last offer on the part of those of our countrymen who thought that the English people were sympathetic to them. If this was not granted, then they would have to work further with the Congressmen and not to go back to the banner of Sir Mohammad Shafi. This was the last word, he thought, for after this, they were not going to agree to anything like Dominion Status.

#### *Mr. Satyamurti*

Mr. Satyamurti said :—"I desire to add one more to the many statements that have already been made and to do so on behalf of the Madras Mahajan Sabha, the oldest political organisation in my province and the delegates of the All-India States' Subject Conference. On behalf of these, I wish to associate myself with the statement read out by our leader, Mr. Srinivasa Iyengar. We agree that Independence can be the only basis for any constitution for India. Maulana Yakub Hasan asked : What about Indian States in South India? I know the feelings of the people of South Indian States. Speaking on their behalf, with a full sense of my responsibility I say Dominion Status connotes for them perpetual subjection to the puppet imperialism in this country of the Rajas of India.. (a voice "why").

Mr. Satyamurti : "That is the fact. He who asks "Why" must read something of the history of India. I can say that we feel we are slaves, with this difference, that unlike British Indians we are slaves to Indians. We therefore plump for Independence.

"One thing more I want to state. Public memories are short. Let me refresh them. The distinguished authors of the Nehru Report, including distinguished Liberals and other non-Congressmen, stated in categorical terms "our agreeing to Dominion Status as the basis of the constitution does not mean that Congressmen, much less the Congress itself, have agreed to alter or tone down the goal of Complete National Independence, and they retain the fullest right to work for independence according to their methods." That was repeated at the Lucknow All-Parties Conference in the words "without restricting in any manner the freedom of those who believe in independence to work for their goal." I do not know why the liberty is taken away in the resolution now moved. I want you mark, learn, and inwardly digest that change in position. There is no more an attempt to treat Dominion Status as a step to Independence. The issue is clear before you. Are you for Dominion Status or are you for Independence ? The resolution, as it stands, and as commented on by Mr. Yakub Hasan does not recognise the liberty of those who are for it to work for full independence. He does not look upon Dominion Status as a stage of independence. Therefore our conscience is clear. Dominion Status is not made the first step to independence and we can not agree to Dominion Status. If after this, uncharitable critics said that it was a reply to the Viceroy, he thought they would not be far from wrong. We believe that time is with us, and the Indian National Congress will justify us. We do not want to be responsible for any break up of the Convention, and therefore not without much hesitation but with a sense of responsibility we have agreed at great sacrifice to this. What we have decided is to associate ourselves with the statement of Mr. S. Iyengar and to desist from taking any part in this resolution fixing Dominion Status as their constitution. But we give

the Convention and the country a fair warning that Independence is the only goal for which the people of this country should work for.

*Professor Jitendra Lal Banerji*

Professor Jitendra Lal Banerji moved the following amendment :

In the first article of the recommendations, omit all that follows the words "India shall" and substitute "take rank as a free nation among the free nations of the world"—so that the whole article will read.

"India shall take rank as a free nation among the free nations of the world."

Prof. J.L. Banerji attacked some of the arguments in favour of Dominion Status. Leaving the task of constitution-making to the Constitution Pundits of the future, he said that both Mr. Sen Gupta and Mr. Yakub had laid stress upon the practicability of Dominion Status implying that while it was a practical idea, independence was not.

Not being a practical man himself, he could not appreciate the value of such an argument. Why was Dominion Status more practicable than Independence? Was it meant that it was easier to attain than Independence, and the Independence meant fighting the British government while Dominion Status could be granted to them out of generosity? If that was the attitude no grosser delusion could have been cherished in the mind of man. They should remember that even for attaining Dominion Status they would have to use coercion, and more so, it may be, in the case of Independence, and there is no other means available. Such being the case he failed to understand how Dominion Status was more practicable than Independence.

Rising on a point of personal explanation, Mr. Sen Gupta stated : "What I said was that as practical men we should first strive for unity. I know as much as Mr. Banerji does that they

required force, coercion and strength in the country for the purpose of getting Dominion Status and perhaps greater force for independence.”

Mr. J.L. Banerji maintained that it meant the same thing and there was no need for Mr. Sen Gupta to contradict him.

Proceeding he said, great stress had been laid on the question of unity. The point could never be over-emphasised. But did they think that they would have unity even on the question of Dominion Status ? The man who said that would be a very bold man. His reading of history showed that Independence was never attained by a united people (hear, hear). Wherever the battle of freedom had been fought it had been fought by an active minority (applause), and not by a united nation. It had been fought by a minority united in itself and never by a united nation. To say that 320 millions of people would unite and then press for Independence is to say what had never been done and then they would have to wait till the Greek Calends.

Dominion Status might be a practical idea for Canadians, Australians and other people who were akin to the English in race, tradition, blood, and culture, but it could never be a practical proposition for India whose people had no common bond with the British. The only bond was the bond of servitude and inferiority. That being the case, how could they accept it from England and how could England give it to them ? Their choice was plain. Was it Independence or dependence for ever.

The Viceroy had been telling them that those who talked of Independence were leading the country into a morass, evidently implying that Dominion Status was a broad highway and they had only to wait and it would be dropped into their mouths. He hoped nobody would be misled by this kind of talk. If Independence was a morass, in the eyes of the Viceroy, Dominion Status was equally so. As soon as they gave up their demand for Independence, they would have to remain where they were.



“Therefore I call upon you to think seriously over the matter. With you the decision must be not an act of the moment, but it would be a decision which will affect you, affect your descendants, your posterity and penerations to come. For you the choice is plain and it remains to be seen what course you will adopt—the straight and narrow and short path that leads to Independence through much blood, many tears and through innumerable course of sufferings, or the broad beaten track that leads to Dominion Status, dependence and hell”. (applause, cries of hear, hear).

*Dr. Annie Besant*

Dr. Annie Besant, supporting the resolution, said that she wished to clear one point and that was, Independence and Dominion Status meant practically the same thing. Dominion Status was complete Independence within the national territory. No outside power could interfere therein. Dominion Status meant that they would have their own army and navy and that was essential to the country desirous of winning freedom from another country not willing to grant it. That was why self-governing dominions could do as they liked.

That was the factor she wanted to bring to their notice. One point seemed to be an important factor in this respect and one which had not been mentioned in the speeches and that was there was another party to it namely England. What would be her attitude ? That had not been thought of by anybody.

Proceeding she pointed out the analogy of Ireland and said that the difference between the Irish people and Indians was that while Ireland was determined to be free, they were not. If India desired to be free, she could be free. The change of attitude would be enough to bring Great Britain to her senses. They talked of independence amongst themselves but not one word had been mentioned as to how they were going to act for it.

In this connection she asked Indians to follow the Sinn Fein method. Let them set up a *parallel* Government in every village,

taluk and district. Their people had a genius for self-government. But it must be self-government on their own traditional lines, and the English "Collector" must have no power to interfere. In fact, he would be replaced by the Indian officers.

The Self-Government Dominion was on an equality with Britain, save in foreign affairs, and a claim was being made now for a share in at least some of these in which they were involved, as in a declaration of war. Canada has bluntly said that it would take no part in a future war, unless it had consented to it before it was declared. Canada has also its own representative in Washington and—the speaker thought—in Paris and Tokio.

*Mr. Bepin Chandra Pal*

Mr. Bepin Chandra Pal (Calcutta) in supporting the resolution said that if he were not absolutely convinced with what the Nehru Report called Dominion Status as the goal of India's political aspiration and that if he were not convinced that this Dominion Status meant not only practically but also in theory in the constitution of the existing British Empire independence, complete and absolute, he would have voted against it and for independence. But they should remember that independence was not the absolute negation of dependence. The word 'independence' was a foreign word and its concept was also a foreign one. Their word was not 'independence' but "Swadhinata" which meant 'self-independence and not independence. Every association limited the independence of the parties joining that association. This was the Convention of all political parties in India and the very fact that they had met together in that Convention did not take away their fundamental freedom but it limited their independence so far as common action in this Convention was concerned. The first thing that had struck him in this discussion between independence and Dominion Status was that those who talked of independence seemed to believe that there was no freedom in the association. Dominion Status was actually equality of partnership That was their own language in 1906 when Dadabhai Naoroji declared the meaning

of Swaraj as Self-Government prevailing in the colonies and in the United Kingdom. When Mr. Naoroji laid down this ideal of Swaraj before them he did not mean isolated independence but equal partnership in a larger association.

In the Nehru Committee Report they had self-governing Dominion Status. In the first place the Commonwealth of Indian Parliament would like the Parliament of Great Britain or Parliament of Canada or other dominions be responsible to its own constituency for peace and order. The present Indian legislature was excluded from responsibility for peace and order. When the Montagu Chalmersford reforms were passing under criticism, they demanded they should be placed on the same footing as the Dominions and that their legislature should be responsible for peace and order. If they had done and that if the Indian Legislative Assembly had been responsible for peace and order and the Bengal Legislative Council had been responsible for the same, Lord Reading and Lord Lytton could not have passed Ordinances which they did because in that case the Parliament of India and the Parliament of Bengal would have been completely responsible for peace and order. He therefore thought that Independence and Dominion Status practically meant the same thing (cries of 'no, no'). It was a matter of constitutional history, it was a matter of fact and not a question of opinion. The fact was that self-governing Dominion Status was the same as independence.

(Voice—Why not accept the term 'independence' if there is no difference between the two ?).

Mr. Pal then referred to the Faridpur speech of Deshbandhu Chittaranjan Das who declared that self-governing Dominion Status was not only practically better but ideally higher than isolated national independence. This was exactly what the speaker was trying to bring out.

*Mr. Tarachand J. Lalwani*

Mr. Tarachand J. Lalwani moved the following amendment : "Whereas the goal of the Indian people is full national

independence, India cannot achieve true freedom without severance of British connection, and the people cannot enjoy the fruits of freedom without socialism, this Convention resolves that the constitution of India should only be based on full independence, and recommends that the necessary alterations in that behalf be made in the Nehru Report."

He said that Dominion Status or independence could not be had merely by passing a resolution. They should never get until and unless they had taken direct action. The speaker cited Bardoli as an instance in support of his proposition and pointed out that it was the peasants and nobody else who could bring real Swaraj.

The speaker was of opinion that there was need for direct action in order to get independence which alone would dispel communalism. He was sorry that Trade Union Congress representatives without passing their claim here merely read out a statement.

Doctor Pattabhi Seetaramaya came up to the rostrum to speak in support of independence.

Mr. Harisarvotama Rao drew the attention of the Chair to the fact that Dr. P. Seetaramaya was a signatory to the statement read out by Mr. Srinivasa Iyengar on behalf of the Independence League wherein it was stated that they would take no part in the discussion as to the constitution and would confine themselves to the solution of the communal problem recommended by the Nehru Committee? The President asked Dr. Seetaramaya whether they had changed mind whereupon the Doctor retired from the rostrum.

*Sir C.P. Ramaswami Iyer*

Sir C.P. Ramaswami Iyer on behalf of the National Liberal Federation in support of Dominion Status, emphasised the need for unity. He asked : Was it not a fact that during the last twelve months the National cause had been enhanced in volume

and intensity of expression by the unity which had been secured of all parties in regard to the Simon Commission ? The attitude of men like Sir Ali Imam and Sir Tej Bahadur Sapru had profoundly modified the political situation in India. These might represent minority opinion, would it not be better to take them in the interests of national progress ? And yet they were told in regard to Dominion Status that it was easier to attain than independence and therefore, they should not bother about concentration on Dominion Status, when with perhaps the same expenditure of energy they could achieve the other. His reply was there were many classes in this country who had not accepted Independence as their goal. The case of the landlords was enough. At the same time there were the people of Indian States who would not be allowed to go with Congressmen in British India if they talked of Independence ; but might be allowed if they worked for Dominion Status. Then, there were the members of the Liberal Federation. They might be numerically weak, but they believed that Dominion Status was in itself desirable, and would give everything that a proud and self-respecting nation would care to achieve—association on equal terms with the biggest community of nations.

Proceeding, Sir C.P. Ramaswami Aiyar said that by accepting Dominion Status, India would rise to the position occupied by Canada.

Maulana Mohamed Ali asked what would be the attitude of the Liberals if the constitution fell short of the demands of the Liberals.

Sir C.P. Ramaswami Aiyar retorted—I want you to let me know what would be your attitude, if the constitution falls short of Independence.

Maulana Mohamed Ali—We won't accept it.

Sir C.P. Ramaswami Aiyar—Equally so we won't. ("here, hear" and laughter.) I object to the mentality which suspects the *bona fides* of the Liberals. Why do you think that we would accept a thing which you would not accept ? I want you to

have the same trust in us as we have in you. (hear, hear.). We believe unlike you that Dominion Status is enough for any self-respecting nation. We are willing to pool our resources, insignificant though they may be, with yours, and work together for the common cause. I am asking for a spirit of mutual tolerance. There is a fair amount of agreement with regard to the Nehru Report framed on the basis of the union of several parties.

Here there was an inaudible interruption from Maulana Mohamed Ali at this stage to which Sir C.P. Ramaswami Aiyar replied : "I know this talk of killing and getting killed a little too much. Let us be realists, and face facts. We may not be heroes, but if you are going to kill and get killed then your place is not in this Convention, but somewhere else.

Maulana Mohamed Ali asked—Will you come to jail with us in the struggle ?

Sir C.P. Ramaswami Aiyar—I treat this question as an insult. If that is the spirit in which you are going to work for Swaraj, it is not worth getting. We, the Liberals, are commonplace men, but give us a chance to work with you and enable us to give the best of us to the advancement of the national cause in a spirit of mutual trust and toleration.

Swami Govindanand on behalf of the Swadhin Bharat Sangh read out a statement.

The full text of the statement is printed in Appendix A (2).

Mr. Ranehoredas Gandhi informed the House that All-Parties Indian States Conference, the Kathiawar States Conference and the Bhavanagar States Conference had all unanimously supported the Nehru Report.

*Mr. C.Y. Chintamani*

Mr. C.Y. Chintamani on behalf on the Liberal Federation also supported the resolution. He said that he had come to the Convention because the Nehru Committee's Report as a whole



was for the good of the country. If they were believers in perpetual dependence they would not have asked for Dominion Status but would be content with *status quo*. Dominion Status denoted a political position for India equivalent in all respects to independence. It was because they are advocates of freedom for the country and did not want any longer to be dependent upon or subject to England that they were giving their wholehearted support to this resolution.

It has been argued that those who supported Dominion Status were actuated by a spirit of defeatism.

Maulana Mohamed Ali—On a point of order (cries of order, order, sit down).

Maulana Mohamed Ali—If this rabble is going on like this, I will go out.

(Voices :—You are also of the rabble).

Mr. Chintamani continuing said that he would not refer to the effect of argument on this point. As he listened to every word of Mr. Mohamed Ali with the care and attention which the word of any ex-president of the Indian National Congress deserved, he was speaking on the basis of his own understanding and not of the intention of the speaker.

Maulana Mohamed Ali—on a point of personal explanation, I did not say anything at all about the Liberal Federation or anybody else. I spoke about the psychology of Mr. J.M. Sen Gupta.

Mr. Chintamani—I submit I have not made any allegation against Mr. Mohamed Ali and I stand acquitted to having made any charge against him.

Proceeding the speaker said that Dominion Status was akin to national independence for all practical purposes for which the Nehru Report worked.

Whether national unity was desirable or was merely an expression of national weakness—upon this point he not only associated himself wholeheartedly with the arguments put

before them by Sir C.P. Ramaswamy Aiyar, but he would go further and say that if they did not strive to the best of their power to achieve the maximum amount of national unity that was possible and exert a united pressure of the entire country seeking for political progress and for freedom from bondage upon their opponents whose organisation, whose strength, whose determination and whose selfishness was only too well known to them, they would get neither independence nor Dominion Status nor make any substantial move forward. The position of the National Convention ought in his opinion to be the position which Gokhale described as the position of an ambassador of the people of India. Let those members of the Indian National Congress who had thus belittled the value of national unity remember that the All-Parties Conference was called at the instance of the National Congress itself and that it were the members of the Congress who are in the position of the hosts to the non-Congressmen in order to achieve what they were struggling for, namely, freedom from bondage.

In conclusion, Mr. Chintamani said if this Convention were to throw out the Nehru Committee's recommendations as embodied in the resolution they would be doing the most incalculable injury which anybody of public men had done within living memory. He appealed to the House with all the earnestness he could command to ratify the most statesmanlike conclusions reached in the report and show it to every opponent of Indian national progress that Indians could rise to the height of the occasion at this critical juncture.

*Mr. Harisarvottam Rao*

Mr. Harisarvottam Rao appealed to them to support Nehru Report and not make individual bids for leadership. They had failed to accept Gandhi's leadership in past, let them not fail to follow Motilal's leadership.

*Sir Ali Imam*

Sir Ali Imam rose amidst applause and said that he did not propose to enter into a discussion of the merits of Independ-

encee or Dominion Status nor would he go into the detailed examination of the report of the Nehru Committee. He did not think that there was any single individual present at the Convention who disputed the proposition that independence was a higher claim than Dominion Status. In theory they did not need to be convinced as to the obvious fact that independence was a higher ideal. Although he was theoretically convinced of the higher ideality of independence, he had gone and put his name on a paper which adopted Dominion Status, that is to say, that he had taken a lower place.

He asked them to consider one or two things in regard to their own country. People or some sections of the people who were fighting among themselves upon a question as to whether a certain minority in the central legislature should have 25 seats out of hundred or 33, people who were quarelling among themselves as to whether or not there would be reservation of seats for certain minorities and who were not united in regard to communal interests, for such people as practical politicians to say and come forward that they should have independence was simply ridiculous. One might ask if they were going to put before the country the word 'independence' or they were going to put before the country independence as it should be conceived as the basis of an accepted constitution. That word by itself had already gone before the country. The National Congress had already put it before the country. Time had come for them to realise that mere word 'independence' would not by itself bring their salvation. It should be accompanied by a definite constitution—a constitution which accepted independence as its goal.

As a nationalist he had a grave misgiving about the declaration of the Jamiyat Ulema and the Khilafat Committee as if it was only the Mussalmans who wanted independence and who understood the virtue and value of independence. He believed that he was an Indian first (prolonged and continued cheers) and a Musalman after.

In conclusion he sounded a note of warning to the audience not to be misled by theoretical ideas but to listen to practical politicians. He did not, however, claim to be himself a politician. He was a simple man and was for some time only miserable Law Member of the Government of India. He was putting before the audience his honest conviction and he hoped they would agree with him when he said that the decisions reached by the Nehru Committee were the best that could be devised for at least some time to come.

*Mr. Sen Gupta's Reply*

Mr. J.M. Sen Gupta in reply referred to what His Excellency the Viceroy had said in some place that the friends of India in England would be alienated from them by the fact that they would use this constitution based on Dominion Status for the purpose of strengthening their position for independence. He could tell His Excellency that so far as they (the Congressmen) were concerned they would use the unity produced in the country for the purpose of strengthening their national movement for freedom.

He knew that it would be as much different to wrest a constitution based on Dominion Status as it would be to wrest one based on independence and complete severance from British connection. The only object for which he supported the resolution in the All-Parties Convention that day was that he desired along with others to use this in the country. When talked about independence making independence as the basis for their constitution he understood men like Pandit Jawahar Lal Nehru and Maulana Mohamed Ali ; he was not going to make insinuation against any one but he did say that there were some who belonged to communal organisations. It was all very well to come to the Convention and to say that they would fight for independence, and in the same breath say that in the Punjab or in some other place they would claim a little more than what their population granted.

They wanted unity, they wanted strength in this Convention for the purpose of enabling the Congressmen to carry on

their work for independence. "Let us not spoil this gigantic work, this historic work in this Convention by becoming pawns in the hands of the communists and the hired politicians of the British people". (applause).

Dr. Ansari then put the various amendments to vote which were rejected practically without support. He finally put to the house Mr. Sen Gupta's resolution which was declared carried amidst acclamation only one hand being raised against.

At this stage Messrs. Jammadas Mehta and Jawaharlal Nehru called attention to the fact that those members of A.I.C.C. who were for independence had not taken part in voting.

The President observed that according to the procedure announced by him yesterday the vote of the A.I.C.C. would be recorded after they had met and considered the matter but so far as the convention was concerned the resolution had been passed with only one dissentient vote.

The Convention then adjourned till 2 P.M. on December 24, 1928.

## THE PROCEEDINGS OF ALL-PARTIES NATIONAL CONVENTION

*Third Day—December 24, 1928*

The proceedings opened at 2-35 p.m. with Dr. M.A. Ansari in the chair.

The President read the following communication received from the Secretary, Central Sikh League :—

The President, All-Parties Convention, Calcutta.

Sir,—I, on behalf of the Central Sikh League, request this fact to be placed on record that the League stands for Complete Independence and does not favour Dominion Status.

(Sd.) Harnam Singh

*Secretary, Central Sikh League, Amritsar*

Clause (3) which runs as follows, was taken up.

**"3. The word "Citizen" wherever it occurs in this constitution means every person**

- (a) who was born, or whose father was either born or naturalised, within the territorial limits of the Commonwealth and has not been naturalised as a citizen of any other country ;**
- (b) who being a subject of an Indian State ordinarily carries on business or resides in the territories of the commonwealth ;**
- (c) or who, being a subject of the Crown carries on business or resides in the territories of the commonwealth ; or**
- (d) who is naturalised in the commonwealth under the law in force for the time being.**

*Explanation*—No person who is a citizen of a foreign country can be a citizen of the commonwealth unless he renounces the citizenship of such foreign country in the manner prescribed by law."

Pandit Motilal Nehru moved that clause 3 as recommended by the enlarged Committee be adopted. In moving the resolution he said that the clause as it originally stood was printed at page 101 of the main Report. It consisted only of two sub-clauses which now appeared as (a) and (d). What appeared now as sub-clause (b) was added by the Lucknow Conference. Sub-clause (c) had been added by the enlarged Committee for the reasons set out at page 27 of the Supplementary Report. This last addition was the necessary consequence of the adoption by the Convention of the resolution on Dominion Status. Unless this clause was adopted, there would be no possible means available to the people of Great Britain or of any of her Dominions to become citizens of India. This would be an anomaly and give rise to a serious state of things. While Germans, Italians or other foreigners coming to India would have an opportunity to get naturalised and thereby become



citizens of the Commonwealth of India no such means would be available to Britishers or the people coming from the Dominions. The latter were all in law subjects of the Crown and as such the naturalisation laws of the Commonwealth would not be applicable to them. That being so they would be permanently debarred from acquiring rights of citizenship. This result would be quite inconsistent with the resolution passed by this Convention about the constitutional status of India in the community of nations known as the British Empire. While claiming to be on the same footing as the people of Great Britain and of the Dominions Indians could not in fairness deny to the latter rights and privileges which themselves claimed. This was merely a consequential amendment. Of course at present India enjoyed no such rights at all but they had passed the resolution in favour of Dominion Status and if India wanted equality in other Dominions she would have to concede the same equality to the people of those Dominions. If however they did not get the equality they claimed there would be no question of giving equality to others. But as he (the speaker) had stated such equality would come about automatically on their attaining Dominion Status and would not depend on the will or pleasure of any one. But this would not prevent India from passing special legislation restricting the franchise as other Dominions had done. If India were admitted into this family of the Commonwealth of nations she would no longer be foreign to those nations and they would not be foreign to her. There can therefore be no question of naturalisation.

A member asked why should this Convention go out of its way to make the concession. In reply Pt. Nehru pointed out that they had laid down their constitution for Dominion Status and the necessary implication and consequences would follow. The people of the Dominion could not be naturalised, because it was only foreigners who could be naturalised.

#### *Motion for Select Committee*

Mr. M.K. Munshi (Burma) opposing the resolution said that he proposed that the resolution be referred to a Select

Committee for further consideration. The ground for referring the clause to a Committee was that it was not as satisfactory as it should be. With profound deference for Pandit Motilal Nehru he said that it was not quite accurate to say that Dominion Status guaranteed every natural born subject of His Majesty equal rights. As for instance he said that the Commonwealth of Australia was quite competent to exclude any race which they thought proper from the exercise of franchise. In South Africa too there was such a statute.

He, therefore, suggested that a Committee consisting of Pandit Motilal Nehru, Sir Tej Bahadur Sapru, Dr. Naresh Sen Gupta, Mr. J. Choudhury and Mr. S.N. Haji and the speaker be formed and that they should submit their report at the next sitting of the Convention.

Pandit Motilal Nehru said that he had no objection to the appointment of a Committee but would ask the House to excuse him from serving on it.

Dr. M.A. Ansari then read out the names of the following gentlemen who would form the committee. Mr. L.R. Tarsiee, Sir Tej Bahadur Sapru, Dr. Naresh Sen Gupta, Mr. J. Choudhury, Mr. S. N. Haji, and Mr. M. Munshi. The amendment of Mr. Munshi was put to vote and carried by an overwhelming majority.

### *Fundamental Rights*

Clause (4) of the Supplementary Report of the Nehru Committee was then taken up.

No amendment was proposed to sub-clause (1) which ran as follows and was declared as passed.

(i) All powers of government and all authority, legislative, executive and judicial, are derived from the people and the same shall be exercised in the Commonwealth of India through the organisations established by or under, and in due process of this constitution.

Sub-clause (ii) was then taken up. It ran as follows :—

(ii) No person shall be deprived of his liberty, nor shall his dwelling or property be entered, sequestered or confiscated, save in accordance with law. All titles to private and personal property lawfully acquired and enjoyed at the establishment of the Commonwealth are hereby guaranteed.

*Mr. M.L. Madhavan Nair*

Mr. M.L. Madhavan Nair moved the following amendments :—

In Section 4 (ii)—Omit “all titles...hereby guaranteed.”

Mr. Nair said that the present economic arrangement in the country was certainly not the best one. There were vested rights such as capitalistic rights. He did not believe in any self-rule of 5 or 10 or 13 per cent of the population. National Self-Government meant self-government of the nation and not of any class. He did not believe that Swaraj could be acquired by India otherwise than by the tenants who had been sadly neglected. But he did not object if the report as a whole was of the Zemindars and that of Priests, which were not to the liking of the people. He therefore urged that the clause be omitted.

Baba Ramchandra (Member of the U.P. Kisan Sabha) supported Mr. Nair.

Swami Vidyanand spoke on the protection of peasants in order to save the repetition of Gorakhpore peasants revolt.

*Dr. Sen Gupta*

Dr. Naresh Chandra Sen Gupta said that he considered it unfortunate because he could not believe in the existence of self-rule in India for only five or ten years. To him national self-government meant not self-government of the classes. Those who believed that self-government could be achieved by perpetually neglecting the down-trodden masses were labouring under a fearful delusion. He believed that the retention of

the clause meant a direct challenge to the tenantry of Bengal and he was prepared to accept it for the present, for they who had already laboured under this disadvantage for so many years were prepared to suffer so for a few years more. They knew that the moment the constitution came into force and manhood suffrage was granted they could alter the whole structure of the constitution and it was in this feeling that he opposed the amendment.

*Mr. Ramdas Pantulu*

Mr. Ramdas Pantulu in opposing the amendment said that there was no danger to accepting the resolution as it stood in the report as it was perfectly a legitimate provision. They were already pledged under the Congress constitution to adjust amicably the relations between landlords and tenants and the employers and the employees and he did not want to create any impression in the mind of anybody that this relation would be destroyed under the new commonwealth.

*Prof. J.L. Banerji*

Prof. J.L. Banerji in supporting the amendment said that the first clause of the resolution that no property would be disturbed, except in accordance with law, was quite sufficient and he thought that the second clause guaranteeing rights was added with a sinister object. What titles were they going to guarantee?—titles lawfully acquired under the laws passed by the British Government which was described by Mahatma Gandhi as "Satanic". Might he understand that all other laws of the Satanic Government were liable to be assailed and attacked but the laws for safeguarding the rights of landlords were sacred and sacrosanct not even to be attacked by the Free India to be.

What were they trying to have their Dominion Status for, Mr. Banerji, asked. Was not their new commonwealth to be given ample and large power of law giving? Certainly they did not want to perpetuate the evil thing of the past? Should they

not say that their object was to shatter existing state of things and remould it nearer to the heart's desire ? If that was not their object, was there any meaning in claiming independence or Dominion Status ? If they gave the largest and amplest powers for legislation to the free states of India would that power of legislation be hampered only in respect of laws, out of deference, most probably, to the great property-holders now existing in India (applause).

“One of the first duty of the new state of Bengal, Mr. Banerji continued, created under the commonwealth will be to unsettle the permanent settlement (applause). How can it possibly do that if you guarantee under your constitutions those titles and rights of the people here ? If you cannot alter the present iniquitous state of things, your federated India will not be worth having”.

*Babu Sri Prakash*

Babu Sri Prakash moved that in Article 4 (ii) delete ‘lawfully’ and after the “guaranteed” add “provided that the same had been acquired in a manner still regarded as lawful in the commonwealth ; also provided that such a guarantee shall not be regarded as giving any immunity to any person from the confiscation of the whole or a part of his property however acquired in executing decrees of the court of the commonwealth or in fulfilment of such laws as may be passed limiting the extent of private property.”

He said that he was not there to carry on a tirade against the rich folk. The purpose of his moving the amendment was to impress upon their minds that whatever gain humanity in its march towards progress had made should be shared by all human beings. It should not be confined only to a few.

*Mr. T. Vishvanathan*

Amendments to the same effect as Mr. Nair's stood in the name of Mr. T. Vishvanathan and Mr. Nabin Chandra

Bardloi. Mr. Vishvanathan said that to support the rights and titles lawfully acquired was quite out of place. Under present conditions it was inconceivable to give guarantees of exploded rights and prevent posterity from re-organising society. Mr. Vishvanathan gave a history of the circumstances in which the addition was made at the Lucknow Conference at the headquarters of Oudh Taluqdars and pointed out that Pandit Malaviya framed it and had it carried with the support of Pandit Motilal in spite of the opposition which happened to be in the minority.

The amendments were opposed by Principal Ramdeva, Babu Deep Narain Singh, Brijendra Narain Chowdhry, Dr. Promontha Nath Banerji, Dr. Syed Muhammad and Pandit Madan Mohan Malaviya.

*Pandit Malaviya*

Pandit Madan Mohan Malaviya wanted to clear up certain misconception. In the first place he said they must not start with the idea that what had been done had been done to placate a particular group of men. They must give those who were serving them this much honesty of purpose that if they agreed to a proposal they had done so after mature consideration.

The object of an agreed constitution was to arrive at an understanding by an agreement. They could not establish Government by sword but by negotiations and agreement. He was sure that they did not want to divide the landed magnates and the tenants and use force. On the other hand they wanted to adjust differences between themselves in order to establish just and equitable relationship between zamindars and tenants. They had been doing it even under the existing administration. They were trying to frame a constitution by an agreement. Did they think that the proposals embodied in the report did not give satisfaction to reasonable men ? Did he ask them to agree to anything unreasonable ?



What was the proposal before them ? It had been suggested that it was a sinister motive that led some of them to put this forward. He, however, thought that they would think better in their calmer moment. He maintained that this was the well-known tradition to be found in every constitution. The first portion related to the procedural laws. What did the second clause mean except this that the new Parliament by a law should not say all at once that landed property would be confiscated. It was embodied to provide against the passage of such a law and it did not debar them from making a revision of the land settlement laws of Bengal and Behar. These were economic measures which were open to Government to revise at any time. If the British Government had hesitated to revise them for more than a century, they would certainly expect their Parliament not to proceed with the revision in a hurry. If, however, it was considered necessary in the interests of the country, if justice demanded that the revision should be made, then he said that this provision would not stand in their way.

Pandit Malaviya continued :—“If you want to nationalise the land, it will be open to your Parliament to appoint a committee or commission to purchase those lands after offering the owners a fair compensation and to acquire the whole of the land which they possess by process of law.

“I do not endorse the view that every title acquired under the present Government is a bad title. Property has not only come down from the British period but from the Hindu period and had been enjoyed under the present administration. Do you want to say that you wish to take away these rights ? Do you want to say that you will tolerate the idea of your Parliament passing a short law to the effect that all titles to private properties should be extinguished and authorising the executive to take possession of the property they possess (voice, no, no). I am glad that you do not.

The amendments, were then put to vote one by one and declared lost after a show of hands. The original clause was declared carried.

Trade Union Congress, Behar Provincial Kisan Sabha and Bengal Namasudra Association expressed dissent which was noted.

*Clause 4 (v)*

Mr. Tyyabullah moved that in clause 4 (v)—substitute “such strength in the population as may be determined by the Provinces themselves” in place of “considerable strength in the population.”

Babu Basanta Kumar Das and Mr. A.B. Salem opposed the amendment.

When put to vote the amendment was lost.

*Clause 4 (ix)*

Mr. Balkrishna Sarma (A.I.C.C., U.P) moved that in Section 4 (ix) after “lawful” add “and no capital punishment shall be awarded for any any offence in the Commonwealth of India”.

After being supported by Messrs. Raghubir Sahai, Govindachari and Lal Chand Jatyani, the amendment was put to vote and carried.

*Clause 4 (x)*

Mr. Balkrishna Sharma again moved that in clause 4 (x) insert “convene the Parliament within the month and” between “he shall” and “report” and delete the words “at the earliest possible opportunity.”

Pandit Motilal Nehru explained that it would not always be possible to convene Parliament within a month of the action taken as members from the remotest part of India should be given an opportunity to attend. Besides, there may be serious disturbance in the country making it physically impossible for members to attend. The amendment was withdrawn.

Sardar Sardul Singh Caveeshar moved that in section 4 (x) delete “or rebellion”.

Lala Lalchand Falak supported the amendment.

Pandit Motilal Nehru opposed the amendment.

It was lost when put to vote.

*Clause 4 (xiii)*

Mr. Balkrishna Sharma moved that in Section 4 (xiii) add “or be given preference to” after the word “prejudiced”.

On Pandit Motilal Nehru accepting the amendment subject to a change of language, it was adopted by the House.

*Clause 4 (xvii)*

Mr. C. Rajagopalachariar moved that the following be added with the consequential changes in the schedule.

“It shall be the duty of the Commonwealth to save its citizens from the evils and temptations of alcoholic and intoxicating drugs and to this end it shall as soon as possible make laws for the total prohibition of manufacture, import, possession or sale of alcoholic liquors and intoxicating drugs except for medicinal or industrial purposes.”

*Mr. C. Rajagopalachariar*

He said that the present opportunity should be availed of especially as they had provided for universal education and for public welfare work as a fundamental Article among the duties of the Government.

If they wanted India to be prosperous under adult suffrage then there must also be attempts by the State to remove the drink evil. He emphasised that the Commonwealth should save its citizens from evil temptations of alcohol and other intoxicating drinks and should make laws as soon as possible for the total prohibition of the manufacture or import or sale of liquors and drinks except for medicines or industrial purposes. That twenty crores now represented the revenue that the Government derived from taxation on liquors.

Mufti Mohamed Saddiq, delegate of the Ahmadya community, supported the motion which was carried.

Swami Vidyanand moved that in clause 4 (xvii)—substitute “to secure complete ownership of tenants to agricultural lands and to ensure fixity and permanence of rent to such tenants” in place of “to ensure.....agricultural tenants.”

Mr. Rishiklal Biswas supported the amendment while Mr. S.C. Thakkar opposed it.

After Pandit Motilal Nehru had explained the position the amendment was put to vote and lost.

On this the mover as a representative of the Behar Provincial Kisan Sabha requested that his dissent on behalf of his Association be recorded.

Sardar Mangal Singh moved that in clause 4 (xvii) after the words “securing of a living for every worker” add “peasant.”

Pandit Motilal Nehru accepted the amendment and it was carried when put to vote.

*Fresh Clause*

Mr. M.C. Bhattacharya moved that after sub-clause (xix) clause 4 the following be added—(xx). The secrecy of correspondence as well as the secrecy of the postal, telegraphic and telephonic communications is inviolable. Exceptions may be added by the Commonwealth law only.

Mr. Rishiklal Biswas supported the amendment.

Pandit Motilal Nehru again explained the position.

The amendment being put to vote was lost.

Mr. Gulshan Rai moved that the following new sub-clause be added to clause 4 “All courts of law in whichever part of the Commonwealth established shall be subject to the jurisdiction, appellate and administrative of some High Court of judicature established by letters patent.”

Pandit Motilal Nehru accepted the amendment, which was adopted.

The Convention at this stage adjourned till December 27.

**THE PROCEEDINGS OF ALL PARTIES  
NATIONAL CONVENTION**

*Fourth Day—December 27, 1928*

The Convention met at 3 P.M., after two days' recess, with Dr. M.A. Ansari in the Chair.

At the outset Mr. K.M. Munshi of Burma placed before the House the following report of the Committee appointed at the previous sitting to consider the definition of the word "citizen".—

To

*The President of the All-Parties Convention, Calcutta.*

Sir,

The Committee appointed by the Convention met this morning the members present being—

Sir. Tej Bahadur Sapru  
Mr. L.R. Tairsec  
Mr. J. Chaudhury  
Mr. S.N. Haji, and  
Mr. K.M. Munshi

The Committee are of opinion that the definition of 'citizen' given in clause 3 of the Constitution appended to the Supplementary Report should be modified as follows :

I—Clauses (a) and (b) to remain as they are.

II—For original clause (c) substitute the following :

(c) who being a subject of the Crown (1) ordinarily resides or personally works for gain, within the territories of the Commonwealth at the date of the commencement of this Act or

(2) fulfils the qualifications prescribed by the Parliament for the exercise of the rights of citizenship.

III—Clause (d) remains the same.

(Sd.) T.B. Sapru

„ L.R. Tairsee

„ J. Chaudhuri

„ K.M. Munshi

„ N.C. Sen Gupta

December 25, 1928

Mr. Haji's note of dissent.

“As I am of the opinion that the discretion of the Indian Dominion Parliament, when established, should not be fettered with particulars laid down now regarding the qualifications under which non-Indians can become Indian citizens, I regret that I cannot sign the above report. However, I realise that the non-Indians in India should be permitted to become Indian citizens under the Dominion Parliament according to conditions to be laid down there in that behalf. I, therefore, propose that the following words be added to sub-clause (c) in the definition of the word “citizen” given in the Supplementary Report :

“and fulfils the qualifications prescribed by the Parliament for the exercise of the rights of citizenship.”

(Sd.) Sarbhai N. Haji

December 27, 1928

*Parsi statement*

Mr. M.K. Patel then read a statement on behalf of Mazdayasin Mandal which is printed in Appendix A (3).

After the statement was read Mr. Sidwah came forward and stated that the Mandal was a religious body. The body that counted in the Bombay Presidency was the Panchayat and they had repudiated the idea of co-operating with the Simon Commission inspite of a certain interested section. He further informed the House that the five Parsi members in the Bombay Council had totally boycotted the Commission, (applause). The Parsis did not want any safe-guards. They had placed their part industrially, politically and socially and they would stand on their own merits. They did not like the idea of



keeping anything on record as stated by the previous speaker. He wanted to impress on them that the statement read came from a religious association and the body that counted was the Parsi Panchayat in Bombay who had boycotted the Simon Commission and adopted the Nehru report (applause).

*Position of Jamiatululema, Hind*

The following resolution of the Jamiatul Ulema of Hind adopted at its meeting held at Moradabad on December 28 and communicated to the Secretary of the Convention by the Secretary of the Jamiat was then read out :

“In view of the fact that the Nehru Report Committee was irregularly constituted and had no adequate representation of Moslems on it and that the Nehru Report has not yet been put before and adopted by the Moslem All-Parties Conference, this meeting of the Working Committee does not consider it necessary to elect its delegates to the Calcutta Convention. It only appoints Maulana Mohamed Ali to deliver the Report of the Jamiatululema to the President or Secretary of the Convention with the message that the Jamiatululema Hind is still prepared to send its representatives if the All-Parties Committee in accordance with its principles first procures the demands of different Moslem associations and then fixes a date for the Convention to consider a constitution for India on the basis of mutual understanding.”

Representatives of the Indian Christians and Sikhs wanted to make statements. Dr. Ansari regretted that this infection was spreading. He asked these representatives to take part in the debate and urge their point of view rather than make mere statements. This suggestion was accepted.

The Convention then proceeded to discuss the remaining amendments standing against the various sub-clauses of clause 4.

**Mr. Mohammad Masud Ahmad (Bazm Sufia) moved :**

In clause 4 (iv)—delete the words “for purposes not opposed to public order or morality” and add “provided this be not of itself opposed to public morality and no one or no community shall be compelled to act against the doctrine and practices of his religion nor shall any one be compelled to refrain from doing anything required by his religion or compelled to do anything because of the religious tenets of any other creed or community.”

*Mr. J.R. Banerjee*

Mr. J.R. Banerjee (Bengal) in opposing the amendment said that he wanted to oppose the amendment for more than one reason. In the first place the question of public order was of paramount importance. The All-Parties Convention meant an atmosphere of peace. Public peace and tranquility was to be preserved above all. If the amendment was carried then if any body preached against the religion of others, which he held religious on his part, public order was sure to be violated. He was sorry that the amendment was moved at all in the Convention.

*Mr. Niranjana Das*

Mr. Niranjana Das (Gujranwala), in opposing the amendment, said that they from the Punjab had come to bury communalism which the amendment wanted to revive. It was very late in the 20th century to say that religion had anything to play in politics. He was not sure whether the gentleman who had moved the amendment was the representative of any community in the Convention. The Punjab which was once the hotbed of communalism had got rid of it only for the Nehru Report. Did the gentleman, asked Mr. Das in conclusion, mean that when they attained Swaraj they would have nothing to do with public peace or morality ?

The amendment was then put to vote and lost.

Mr. Masud Ahmad next moved that the following be added as a new clause in the declaration of fundamental rights :

**“Musalmans shall be subject only to their own personal law in all matters relating to religious or semi-religious observances, Azans, laws of inheritance, guardianship, gifts, wills, legitimacy, marriage, dower, divorce, waqf, graveyards, mosques, Khankahs, Imambaras, zabihhas sacrifices, and Tazayas and no government at any time shall have the power to add, alter, amend or otherwise change the above and where the Islamic law requires that any particular matter be adjudicated upon by Muslim Judges, only Muslim Judges shall adjudicate upon such matters.”**

At this stage Pandit Motilal Nehru announced that the Moslem League and the Khilafat Committee would be represented in the Convention for the first time that day, (applause). These bodies Pandit Nehru proceeded to say had not taken part in any previous sitting of the Convention and it would not be convenient for them to discuss the subjects they had already discussed or the new subjects that would come up before the Convention for discussion. He, therefore, proposed that a Sub-committee of the House be formed to meet these delegates with a view to arriving at certain resolutions on the communal questions, or if that was not possible, they would put forward the view-points of their organisations at the next sitting of the Convention. If they put forward anything without previous knowledge of what had already been discussed at the Convention, there would be considerable waste of time. If they had to make suggestions it would be a mistake for the House either to accept or reject them on the spur of the moment without previous consideration. He, therefore, moved that a Sub-committee of the Convention be appointed to meet the representatives of the delegates from the Khilafat Committee and the Moslem League.

#### *Members of the Sub-Committee*

**Following are the members of the Sub-Committee :**

- 1. Mahatma Gandhi**
- 2. Sir Tej Bahadur Sepru**
- 3. Pandit Madan Mohan Malaviya**

4. Dr. M.A. Ansari
5. Moulana Abulkalam Azad
6. Pandit Motilal Nehru
7. Dr. B.S. Moonje
8. Mr. M.R. Jayakar
9. Mr. Jairamdas Daulatram
10. Sardar Sardul Singh Caveeshar
11. Dr. Satyapal
12. Lala Dunichand of Lahore
13. Mr. M.S. Anney
14. Master Tara Singh
15. Babu Rajendra Persad Sinha
16. Mr. C.Y. Chintamani
17. Kunwar Ganganand Sinha
18. Mr. J.M. Sen Gupta
19. Mr. S. Srinivas Iyengar
20. Babu Brijkishore (from Behar)
21. Mr. Rallia Ram
22. Sir Ali Imam
23. Dr. Annie Besant
24. Mr. Harbilas Sarda
25. Prof. Gulshan Rai
26. Mr. Ram Dev
27. Mr. C. Vijayaraghavachariar
28. Mr. J.R. Banerji
29. Mr. Harendra Nath Dat
30. Mr. Jamshe N.R. Mehta
31. Sardar Gurdayal Singh
32. Diwan Bahadur Ramchandra Rao
33. Sardar Tara Singh
34. Sardar Hira Singh
35. Gyani Sher Singh
36. Sardar Guru Datt Singh
37. Prof. Jatindralal Banerji

The President then announced that the committee would meet the delegates from the Muslim League and the Khilafat Committee at the tent of Pandit Motilal Nehru within half an

hour and the committee of the Convention would report to the open House (Friday) December 28, possible.

The House was then adjourned till December 28.

## THE PROCEEDINGS OF ALL-PARTIES NATIONAL CONVENTION

*Fifth Day—December 28, 1928*

The proceedings opened at 4-30 P.M. when Dr. M.A. Ansari requested the various movers of amendments to assist him to get business through as the delegates were getting impatient and wanted to go home. A number of minor amendments, he suggested could be dropped as the exact phraseology should be left to the Parliamentary draftsman to settle. He fixed 5 minutes for each proposer and 2 minutes for each seconder, reserving the discretion to allot more time in case of important amendments.

Dr. Ansari next read the following communication from Pandit Motilal Nehru the President of the Congress.

To,

*The President, All-Parties National Convention, Calcutta*

Dear Mr. President,

I enclose copy of the resolution passed by the the Subjects Committee of the Indian National Congress this afternoon on the constitution recommended by the All-Parties Committee Report with the request that you will kindly record the said resolution as the vote of the All-India Congress Committee. I need hardly add that this resolution will be moved in the open Congress and is to be taken subject to the Congress resolution which will be duly communicated to you.

Deshbandhunagar :  
December 27, 1928

Your Sincerely  
(Sd.) Motilal Nehru  
*President of the Committee*

*Enclosure*

“This Congress having considered the constitution recommended by the All-Parties Committee Report welcomes it as

a great contribution towards the solution of India's political and communal problems and congratulates the Committee on the virtual unanimity of its recommendations and whilst adhering to the resolution relating to complete independence passed at the Madras Congress approves of the constitution drawn up by the Committee as a great step in political advance specially as it represents the largest measure of agreement attained among the important parties in the country.

“Subject to the exigencies of political situation this Congress will adopt the constitution if it is accepted in its entirety by the British Parliament on or before the December 31, 1929, but in the event of its non-acceptance by that date or its earlier rejection, the Congress will organise a campaign of non-violent non-co-operation by advising the country to refuse taxation and in such other manner as may be decided upon.

“Consistently with the above nothing in this resolution shall interfere with the carrying on, in the name of the Congress, of the propaganda for complete independence.” (applause).

*Discussion on Communal Problem*

Dr. Ansari then read to the House the Report of the Committee appointed by them under his chairmanship regarding the communal question. It ran thus :

*Report of the Committee appointed by the All-Parties  
Convention on December 27, 1928*

Modifications to the Nehru Report moved by Mr. M.A. Jinnah on behalf of the Muslim League and Mr. T.A.K. Shervani on behalf of the Central Khilafat Committee.

(1) That one-third of the elected representatives of both the Houses of the Central Legislature should be Musalmans.

*The committee could not arrive at any agreement on this point.*



(2) That in the Punjab and Bengal, in the event of adult suffrage not being established, there should be reservation of seats for the Musalmans on the population basis for ten years subject to a re-examination after that period, but they shall have no right to contest additional seats.

*The Committee did not contemplate any such contingency.*

(3) (a) that residuary powers should be left to the Provinces and should not rest with the Central Legislature.

(b) that clause 13 A embodied in the Supplementary Report should be deleted.

(c) that the division of the Subjects in the schedules I and II be revised.

*The committee was of opinion that the residuary powers should rest with the Central Legislature but the revision of 13 A and schedules I and II was not objected to.*

(4) that the constitution shall not be amended or altered unless the amendment or alteration is passed first by both the Houses of Parliament separately by a majority of four-fifths of those present and then by both the Houses in a joint sitting by a majority of four-fifths of those present.

*The committee approved of the suggestion unanimously.*

(5) Article V—Communal Representation....Delete the words "Simultaneously with the establishment of Government under this Constitution."

*The committee regrets that it cannot accept it as this resolution records an agreement arrived at by the parties who signed it at Lucknow.*

(6) Embody the Pact regarding Communal Representation in Punjab in full in the Nehru Report.

*The committee had no objection to it. Sikhs dissenting.*

Moved by the members of the Central Sikh League that 30 per cent of seats in the Punjab be reserved for sikhs.

*The committee could not arrive at any agreement on this point.*

Another suggestion of allowing 11 per cent of seats with a right to contest additional seats to Sikhs was also not accepted, even by Sikhs themselves.

*The Bengal Hindu Sabha*

Moved by the members of the Hindu Sabha Bengal that seats for Hindus in Bengal be reserved on population basis (i.e. 48 per cent).

*The committee did not assent to it.*

(Sd.) M.A. Ansari, *Chairman*

*Khilafat Committee*

Dr. Mohammad Alam then read out a statement issued over the signatures of 42 members of the Central Khilafat Committee and a letter from Maulana Shaukat Ali, Secretary Central Khilafat Committee. They are printed as Appendix A (4 and 5).

Dr. Ansari then called upon Mr. M.A. Jinnah to place the resolutions or amendments on behalf of the All-India Muslim League.

*Mr. M.A. Jinnah*

*Mr. Chairman and Delegates :*

The Report of the Committee which you appointed has already been read out and placed before you. I am exceedingly sorry that the Report of the Committee is neither helpful nor fruitful in any way whatsoever. I am sure, gentlemen, that you all realize that the present moment is very critical and vital to the interest not only of the Musalmans, but to the whole of India. (I think it will be recognised that it is absolutely essential to our progress that Hindu Muslim Settlement should be reached, and that all communities should live in a friendly and harmonious spirit in this vast country of ours. No country has succeeded in either wresting a democratic constitution from a nomination of another nation or establishing representative institutions from within without giving

guarantees for the securities of the minorities wherever such a problem has arisen. Majorities are apt to be oppressive and tyrannical and minorities always dread and fear that their interest and rights, unless clearly and definitely safe-guarded by statutory provisions, would suffer and be prejudiced, but this apprehension is enhanced all the more when we have to deal with communal majority. I am sure, you will, therefore, consider the present situation in which we are working and struggling for freedom and record your vote in favour of modifications proposed, which, I have said before, are fair and reasonable and thus enable us to triumph in our cause.

The first point that I want to place before you is a point with regard to our proposal that there should be not less than 1/3rd of the Muslim representation in the Central Legislature. We propose that 1/3rd of the elected members of the Central Legislature should be Musalmans, and that the seats should be reserved for them to that extent in the joint electorates of the country. Now the Nehru Report has stated that according to the scheme which they have formulated, the Musalman are likely to get 1/3rd in the Central Legislature and more. It is argued there that the Punjab and Bengal will get many more seats over and above their proportion and the other minorities Provinces in India will get the representation of the Musalmans according to their population under the scheme propounded by the Nehru Report. What we feel is this. If it is conceded that Musalmans should be enabled to secure one-third of the representation in the Central Legislature, the method which is adopted is neither quite fair to the provinces where the Musalmans are in a minority, nor does it guarantee that we shall obtain 1/3rd representation in the Central Legislature. Therefore the two Musalmans' Majority Provinces—Punjab and Bengal—will get more than their population, which means you are giving more to the rich who will, under normal conditions, get the largest number of Muslim representations and you are depriving the Muslim minority Provinces of great importance, and restricting them to get not more than their

population ; whereas we wish to restrict the Punjab and Bengal according to their population and desire that the excess should be distributed amongst the minorities Muslim Provinces. In other words, we propose that let us carve out of this 1/3rd as the Musalmans wish. Take the case of Madras and Bombay – it is not always the only criterion *viz.*, counting of heads ; by the importance of those two Provinces. Take the case of the United Provinces again, it is the centre of Musalman culture and heart and it will be unfair that they should be restricted according to the number of their population in their representation in the Central Legislature. These three Provinces, Sindh being separated, will then, so far as the population goes, be in this position, the United Provinces with the 14 per cent Musalmans, Bombay about 8 per cent and Madras about 6 or 7 per cent. The method that we want to be adopted is that the excess between 1/3rd and 1/4th should be distributed amongst the other Provinces according to the relative position of their importance to the Musalmans and not according to population. I am sure indeed that besides counting our heads, there are other weighty and important considerations, which must not be lost sight of. It is not only question of getting votes in the Legislature, but it is also essential that various parts of the Provinces which are themselves vast, should be represented, so that, questions affecting the people or their grievances may be ventilated properly and thoroughly on the floor of the Legislature. Very often when proper facts and arguments are placed by one single representative which when they are convincing, sway the entire legislature. It really comes to this that the Nehru Report makes a gift of the extra seats over and above the population basis to Punjab and Bengal ; whereas, we propose that this extra 7 or 8 seats should be distributed amongst the minority Muslim Provinces.

Our next proposal is that in the event of the adult suffrage not being established, Punjab and Bengal also should have seats reserved on population basis for the Musalmans. But they should not have the right to contest for more. Of course,

subject to re-examination of the question at the end of ten years. I am not sure that establishment of adult suffrage is within the range of practical politics in the near future. You remember, originally the proposal emanated from certain Muslim Leaders in March 1927 known as the Delhi Muslim Proposals. That was dealt with by the All-India Congress Committee in Bombay and in the open session of the Madras Congress and endorsed by them. The Muslim League in its Calcutta Sessions in December, 1927 also confirmed the proposal. I am not going to enter into the pros and cons but it is an admitted fact that although the Musalmans in Punjab and Bengal are numerically in the majority, their voting strength is far below in proportion to their population and they, therefore, would not secure sufficient representation and it is feared that under these circumstances their representation will be far below their population. It is now devised to meet this undoubted fact by the Nehru proposals and the Report proposes the substitute of adult franchise and from those premises it is argued that there is no need for reservation in Punjab and Bengal ; but we wish to provide for the contingency which is most patent and probable that in the event of the adult suffrage not being established there should be reservation for Musalmans in Punjab and Bengal according to their population, but they should not be entitled to additional seats. And we therefore attach very great importance to this modification.

Our next proposal is that the form of the constitution should be federal with residuary power vesting in the Provinces and Clause 13 A in the Supplementary Nehru Report is most pernicious and should be deleted and the whole constitution should be revised on the basis of provincial Governments having the residuary power vested in them, and subject to that, there should be revision of the schedules laying down central and provincial subjects as embodied in the Nehru Report. This question is by far the most important from the constitutional point of view and the future development of India and has very little to do with the communal aspect. If this

question is examined carefully, it has much less of communal bearing and far graver of general interest of India and the future constitutional progress of the people of India.

This is hardly a place or an occasion when you would expect me to enter into a debate which might be held between two jurists. We have carefully considered the matter and we have come to the conclusion that a system which will give residuary power to the Provinces is the most suited for the Federation of India.

With regard to the question of separation of Sindh and the N.W.F. Provinces, we cannot agree that they should await until the Nehru Constitution is established with adult suffrage. Do you expect the Musalmans to oppose the reform being introduced in the N.-W.F. Province until the Nehru Constitution is an accomplished fact? Do you expect the Musalmans to refuse to accept the separation of Sindh until the Nehru Constitution is established? I am somewhat amazed that the Committee appointed by the Convention has rejected these proposals on the ground that a resolution was passed at Lucknow which recorded an agreement arrived at by certain individuals who were parties to that agreement and signed it and therefore they cannot re-open the question. The All-India Muslim League was not a party to any such resolution and was not represented at that meeting. I say with the utmost deference to the members of the Committee that this is not a valid ground or answer. There are many organisations present here in the Convention today; none of them is bound by any such agreements arrived at between individuals or groups. I venture to say that this Convention is not bound and it is wholly untenable to advance any such reason before this Convention. This Convention is entitled to make any change, or alteration, or modification in the proposals now before it and I ask the Convention whether the separation of Sindh and the introduction of reforms in the N.-W.F. Province are only to be accepted when the Nehru Constitution with adult suffrage is brought into full effect and operation in this country. The Musalmans



feel that it is shelving the issue and postponing their insistant demand till dooms-day and cannot agree to it. I therefore appeal to the Convention to take all these matters into their careful consideration and meet us.

Dr. Mohamniad Alam formally seconded Mr. Jinnah.

*Dr. Sapru*

Sir Tej Bahadur Sapru said he was leaving that night for Allahabad and would express his view on the various points raised by Mr. Jinnah. As one who was intimately associated with the preparation of the Nehru Report under the leadership of his distinguished friend Pandit Motilal Nehru he assured them that every point of view was studied. "We were actuated by one main desire, namely to bring about the maximum amount of unity. (hear, hear). Many parties, which belong to different schools of thought which have worked during last eight or ten years on different platforms were prepared to co-operate with one another in evolving a constitution not merely for our day but for posterity. (hear, hear). That was the spirit in which we approached our task. You can easily imagine how if the report had come to be written by people of one school of thought belonging to any one of the organisations, it would have been very different. It was you who were responsible for the Committee. The responsibility rests much more heavily on the Congressmen who invited members of the political parties to join in producing the scheme carrying the greatest amount of agreement. Do not therefore judge the scheme from a narrow point of view of party politicians. The report was written in a spirit of Indian nationalism to remove disunity which is disfiguring our public life and to restore harmony in certain matters, so that we may work shoulder to shoulder in regard to these matters. It was only after the most careful and fullest discussion that we settled on the ideal or objective of Dominion Status.

The next question was as to the means to be adopted for attaining that end. On that there was complete agreement.

We did not disguise from ourselves the position, which I trust will be realised by every one of you, that there can be no greater self-deception on the part of any one, be he a Congressman, Liberal, Independenceman, Hindu Sabhaite or Muslim Leaguer, that it is impossible for India to achieve Dominion Status, not to speak of Independence, if there is not complete harmony on broad principles between one community and another community. Therefore the essence of the whole problem was the communal question and, when we approached it, we had in mind the Delhi proposals and others made in other quarters. We tried to explore as many avenues as possible and came to the conclusion that the only possible way of solving it in India was by taking courage in both hands and going headlong towards what I consider to be the most democratic state, namely to adopt adult franchise, so that each community may stand on a perfect equality with the other. That being the position, it followed that the Mahomedan community should get representation in the Central Legislature in proportion to its numerical strength in the whole of India. That as a logical position and we adopted it logically. If you examine the figures you will find that, including nominated members, Muslim representation in the Central Legislature is 27 per cent and Mr. Jinnah wants 33. In making the observations that follow I am not in the slightest degree disloyal to the Chairman, nor am I departing from the Nehru Report. At the same time it seems to me that you are faced with an occasion when the first and last question should be to bring about unity. Even at the sacrifice of the reputation for being logical I would rather lose my reputation than imperil the success of this Conference. Gentlemen, remember it is not only our own countrymen but the whole world is watching you. If you leave this pandal with failure you will have done a great damage to the country from which it may not recover for a quarter of a century. The simple position is that for the sake of settlement you are invited by Mr. Jinnah, however, illogically and unreasonably, to agree to this proposition, which I consider is not inconsistent with the Nehru Report (voice "no, no" and some interruptions).

Speaking for myself I would like you to picture Mr. Jinnah, whom I have known intimately for fifteen years. 'If he is a spoilt child, a naughty child I am prepared to say, give him what he wants and be finished with it'. I am going to ask him to be reasonable but we must, as practical statesmen, try to solve the problem and not be misled by arithmetical figures.

Touching the question of reservation of seats in the Punjab and Bengal as an alternative, Sir T.B. Saprú said he would not put forward an alternative but if a better alternative could be suggested he was open to adopt it. He hoped Mr. Jinnah would reconsider his position on the point.

As regards the residuary powers many eminent Mahomedans had suggested that these should be left with the provinces. Dr. Saprú warned them against being misled by the examples of other countries, for in the case of U.S.A. the President and in the case of Switzerland, an irremovable executive, were the chief centres of gravity, while an Australian statesman already thought their forefathers had made a mistake in giving the residuary powers to the provinces. "Having regard to the peculiar position of India it would be unwise to vest these powers in the provinces. The constitution we have devised is neither federal nor unitary. It is both. As a constitutional lawyer I feel that even if Hindus are prepared to agree I would warn them on this point: 'Do not allow your mind to be misguided by the fact that in certain provinces you will have a Hindu majority and in others a Muslim majority'. (hear, hear). Personally I feel that in spite of many suspicions you may have, you will have to pool together your energies. If you have the spirit of distrust and suspicion let me tell you it is no use evolving your constitution. You have got to take certain risks and these must be taken in a spirit of abundant faith and hopefulness."

Sir Tej Bahadur Saprú agreed with Mr. Jinnah that Clause 13 A regarding the suspension of the provincial constitution

was susceptible of improvement and the two schedules regarding provincial and central subjects could also be modified.

As regards Sind, this Convention had of course full authority to upset any arrangement arrived at Lucknow, if it so wished.

Sir T.B. Sapru concluded with the appeal : "I beg of you to remember the supreme character of this occasion. For the nation's sake do not allow your mind to be affected by narrow considerations of the expediency of the hour or by bitter memories of recent conflicts, but approach it from the point of view of the future, of posterity. If you do so, whatever may be your political differences in the matter of programmes you will tell the world, that, so far as the constitution of India is concerned, the political parties stand shoulder to shoulder with each other." (applause).

#### *The Liberal Federation*

Mr. C.Y. Chintamani, with the permission of the Chair, at this stage announced the decisions of the organisation he represented, namely, the Liberal Federation. The Council of the Federation had decided that on the question of residuary powers, resting with the Central Government or the Provincial Governments every member of the Federation attending this Convention should vote for residuary powers residing in the Central Government and not in the Provincial Government. On other questions under discussion, the Federation had not issued any mandate and every member was free to take his own line of action and for doing this, he would not be liable to accusation of disloyalty. But the Liberal Party had advised members attending the Convention to act with the feeling of national well-being and bringing about harmony, to which all other considerations were to be subjected. They should therefore vote for the Nehru Committee Report. If however on any point there was any other agreed settlement, then they should vote for that agreed settlement.

*Mr. Rallia Ram*

Mr. Rallia Ram representing the All-India Christian Conference, in opposing Mr. Jinnah's demand for reservation of seats for Muslims said "I am sorry that I have to tell you that I am an 'Indian Christian' for I feel that the time has come when people should leave their religion at home and enter this Convention as Indians and Indians alone." He held that they had tried the method of communal representation, which had not only failed to bring about national unity but was eating into the very vitals of national life. If the Muslim demand for reservation was accepted then other minor communities, like the Sikhs and the depressed classes, then no national unification could take place.

*Rev. J.R. Banerjee*

Rev. J.R. Banerjee followed in same strain. He said to their bitter experience communalism had been responsible for the untold evils.

*Mr. M.R. Jayakar*

After Sardar Bahadur Mahtab Singh had spoken Mr. M.R. Jayakar, on being called upon, said :

I am not sure that in venturing to speak on this subject I would not add to my evil reputation as a communalist. The word 'Communalist' has acquired most extraordinary significance in these days. If I venture to speak on the rights and status of Hindus, I am sure to be called a Communalist, but if a Musalman advocates the rights of his own community he does not lose his place in the esteem and respect of nationalist India notwithstanding the fact of his acute advocacy of the communal rights. I have listened with great attention Mr. Jinnah's speech and he is to be congratulated on the lucidity and courage with which he has put forward the Muslim demands. Unfortunately, Sir Tej Bahadur Sapru represented Mr. Jinnah and his community, in so far as their present claim was concerned, as if they were a spoiled child.

He also supported M. Jinnah's claim on the ground of his personal acquaintance with him for the last 15 years and his own testimonial that during that time he had found Mr. Jinnah always a nationalist. He went on to say that the demands of Mr. Jinnah should be treated as if they emanated from a naughty boy. I am sorry that the representation of Mr. Jinnah and his colleagues in this manner is likely to give a wrong lead to the debate and also rest on a wrong foundation the claims advocated by Mr. Jinnah and his friends. I have also known Mr. Jinnah for the last sixteen years in close association as a colleague in nationalist life and I can assure you that he comes before us today neither as a naughty boy nor as a spoiled child but as fearless and lucid advocate of the small minority of Muhammadans whose claims he has put forward in the course of his speech. He has every right to be heard on the merits of his cause and I do hope you will not misjudge his claims by accepting the interpretation, Sir Tej Bahadur Sapru has put on them.

The main question before us is to consider how far Mr. Jinnah's claims are legitimate and necessary in the true interests of the country. How far have the Muhammadan interests, as safeguarded by the Nehru Committee's Report, been secured and how far further concessions should be made to them as demanded by Mr. Jinnah. One important fact to remember in this connection is that well-known Muhammadans like the esteemed patriots Maulana Abul Kalam Azad, Dr. Ansari, Sir Ali Imam, Raja Sahib of Mahmudabad and Dr. Kitchlew have given their full assent to the compromise embodied in the Nehru Committee's Report. It is further to be borne in mind that even in the Muslim League a large body of members have given their assent to the Nehru Committee's Report. Mr. Jinnah, therefore, represents, if I may say so without offence, a small minority of Muhammadans. It is further to be noted that the Muhammadan community is not united in making this claim. A large bulk of them are with Sir Mohamad Shafi who is entirely opposed to joint electorate. Another considerable portion of our Muhammadan friends are with Mr. Fazal



Ebrahim Rahimtoola and are holding an important session of a Conference over which no less a person than His Highness the Aga Khan presides. You will, therefore, please bear in mind that the demands, as set forth by Mr. Jinnah, do not proceed on behalf of the entire Muslim Community, nor even a large bulk of it. Those considerations, therefore, of a statesman-like or prudential character which might have weighed with you in agreeing to these concessions if there was a prospect of winning over the entire Muhammadan community by your acceptance of Mr. Jinnah's proposals are entirely absent in this case. I wish to say nothing which will prejudice the claims of Mr. Jinnah to be judged on their true merits. Another important consideration to be borne in mind is—and I wish to sound it as a warning—that this is the first attempt we are making in this unfortunate country after several decades to frame what may be described as a Constitution for the country. Such an attempt is always a thankless one and is very apt even to divide rather than unite. When Pandit Motilal first invited me to join the Nehru Committee I thought it my duty to intimate to him my own personal opinion that the time had not yet arrived in India to attempt at constitution-making because the right mentality between Hindus and Muhammadans *inter se* had not yet come and they had not each derived sufficient experience that division was ruinous and unity the only remedy for all our evils. Unfortunately my views did not prevail and later on the Nehru Committee produced a report which fortunately secured considerable amount of agreement in the country. While on this subject, may I refer to a talk I had with Mr. Jinnah in Bombay ?

Mr. Jinnah intervened “Sir, it is not usual to disclose private conversations because I think in my turn I can say certain things which may not be nice. The principle of it is wrong.”

Mr. Jayakar continued : When the Nehru Report came out notwithstanding my personal opinion I promised Pandit Motilal every support and have accordingly laboured in Bombay to find acceptance for it from amongst my friends and have also

collected a little money for its support. I remember the trouble I had with my own friends of the Hindu Sabha in Bombay. I am not however speaking here as a member of the Hindu Sabha but only as an humble worker in the nationalist cause, I leave the Hindu Sabha point of view to be expressed by my friend Dr. Moonje who has broad back and square shoulders enough to bear the burden. I was going to say that the Hindu Sabha, unlike some of our Muhammadan friends, generously and almost impulsively rushed into an acceptance of the Nehru Report.

If they had the tact of some of our Muhammadan friend, they would have hummed and hawed and sat on the fence until they could discover with exactitude what attitude some of their grudging Muhammadan friends were adopting towards the Report. They would have waited to give the Nehru Report complete acceptance until they could make a bargain with their Muhammadan friends on the terms embodied in the Report. But the Hindus very patriotically did not play this game. They rushed into an acceptance of the compromise and today they find themselves in a very peculiar predicament. It is surprising that the Muslim League, though invited at an early stage of the conferences which led to the Nehru Committee's Report, did not bestir itself, except for a short while, to give its co-operation in the preparation of the report. If they had responded to Pandit Motilal's invitation and contributed their share to the deliberations which led to this Report, things would have been otherwise. The time was then ripe when the nice considerations which Mr. Jinnah now places before the country would have been considered on their merits and the fine adjustments which are now in his opinion necessary would have been made. For some unaccountable reason they kept back. Mr. Jinnah came from England at a late stage and, if I may say so without disrespect, maintained irremovable silence on the merits of the Report. While this was being done the report was put before the country. It was gaining more and more acceptance. People like me, who did not agree with all the things which are said in the Report as for instance adult franchise, found that with

all their differences the Report embodied the greatest measure of agreement between the several important political parties in the country and as such they decided to stand by it. As Sir Tej Bahadur Sapru said the Report had behind it the greatest common measure of agreement in the country. As such, it commanded the acceptance of many men who had divergent views upon some of the details embodied in it. The Report proceeds upon four important principles which, if Mr. Jinnah's proposals are now to be accepted, would be most violently departed from. The first principle was that no other community except the Musalmans was to be allowed special representation by reservation of seats; second, that population basis was throughout to be accepted for the purpose of this special Muhammadan representation; third, that no majority was to have special protection; and, fourth, the only minority which was to secure special representation was the Musalmans and not the Hindus. You will please note that even in a province like Bengal where the Bengalees are in a minority no protection was to be given to them as it was conceded to the Muhammadans. Further adult franchise was to be accepted throughout, and lastly the separation of provinces as for instance Sind was to be adopted as a part of the new constitution if and when it came into existence, subject to certain safe-guards particularly mentioned in the Report. Now Mr. Jinnah's proposals, as you will find, are a complete departure from all these principles on which the report had proceeded. I am not here to speak on the merits of the proposals. Mr. Jinnah has not invited us to do so. Besides, to do so would require a much longer speech than I wish to inflict on you. My present contention is that the report had accepted these principles; that it is in the nature of compromise, that in arriving at it important communities like the Hindus, Sikhs, Christians, and also an important section of the Muhammadans surrendered valuable rights and privileges. If you now disturb the report, you must remember carefully that it will surely have the effect of unsettling many claims some of which as advanced by the Christians and Sikhs whose representatives you only heard a few minutes ago.

You must not, therefore, be surprised to find that if you accede to Mr. Jinnah's demand the report will be torn to pieces and will be rejected by important communities who have now accepted it as the final word in the matter. The report, in other words, is like an edifice which has been completed by careful skill and consideration by the leading men in the country. If you now take away any brick—it may three or four—out of the foundations on which it is firmly resting, it is sure to disturb the edifice, and you must not complain if later on you find that the whole structure topples down. God alone knows how some of us have been keeping in check most arrogant demands which the men behind us are making. I personally had great difficulty in restraining many of my colleagues of the Bombay Presidency Hindu Sabha from openly rebelling against this report. I kept them quite on the clear assurance that the report was accepted by leading and patriotic Muhammadans. If that report is now to be departed from, I shall have great difficulty in persuading my friends to refrain from once more urging their violent and arrogant claims. It is not so much a question of the Muhammadans getting a few more seats in the legislature. It is a question of opening the report once more so as to revive claims which have received the quietus in a spirit of give and take. I want you to consider this question from this point of view and to record your vote accordingly.

I am sure that whatever you decide here, Mr. Jinnah is far too patriotic to break away from you and he will make his best effort to bring the Muslim League with him. (Mr. Jinnah intervened, "But will the League go with me ?").

Mr. Jayakar—I am sure you will do your best for it.

Mr. Jayakar proceeded : It is no use hiding the fact that these amendments put forward by Mr. Jinnah have their origin in a feeling of communal distrust and suspicion. It will be so easy for the Hindus, the Christians and the Sikhs to reciprocate this unfortunate spirit with which the atmosphere has long been changed. Let us go on with this experiment in a spirit of mutual trust and confidence for a few years. I can assure my

Muhammadan friends that if in course of time this<sup>7</sup> wise experiment is found unsatisfactory, we will not be slow in coming to another adjustment in response to the wishes of our Muhammadan friends.

*Mr. Jinnah*

Mr. Jinnah replying to the debate, said :—

*Sir,*

The reason why no other delegate from the Muslim League was going to take part in the debate is that we have come to the Convention, which is composed of something like 1,200 delegates not with a purpose of raising controversies which would lead to bad feelings. We have already placed our proposals before the Convention and our grounds for supporting them and on the hypothesis which must be admitted on all hands that communalism exists in this country. We have not come here to apportion blame for it. The offensive remarks or insinuations served no good purpose and I will not follow the style or the manner of the speech delivered by my friend, Mr. Jayakar. Nor will I on this occasion permit myself to deal with specious arguments and pleadings which he has advanced. In short, his position is an ultimatum and with that ultimatum we were made aware from the very start on behalf of the Hindu Mahasabha. If a single word with regard to the communal settlement is changed in the report, they will withdraw their support to it. With regard to the remarks of my friend, Sir Tej Bahadur Sapru, I am afraid some of the speakers have misunderstood them. He called me a spoilt child. I know the spirit in which he meant it and others have put a childish interpretation upon it. But I think it cannot be denied and I hope that Mr. Jayakar and others will agree with me that every country struggling for freedom and desirous of establishing a democratic system of Government has had to face the problem of minorities whatever they existed and no constitution, however idealistic it may be, and however perfect from theoretical point of view it may seem, will ever receive the support of the minorities unless they can feel that they, as



an entity, are secured under the proposed constitution and government and whether a constitution will succeed or not must necessarily depend as a matter of acid test whether the minorities are in fact secure. Otherwise no proper constitution will last but result in a revolution and civil war. I must here point out that it is not correct to say that the Muslim League did not take part at all in the All Parties Conference. The Council of the League had appointed a Committee in February 1928 and it attended the All-Parties Conference till the 11th of March and the Committee had express instructions not to proceed with the framing of any constitution until the Hindu Muslim differences were adjusted and agreed upon. It is true that no settlement was reached and as the Committee felt that it was not possible to arrive at any agreement they ceased to take further part in the All-Parties Conference which is responsible for producing the Nehru Report. I am not here today to express my opinion as to whether a constitution ought to be framed or not but I would ask Mr. Jayakar to consider whether he wants what he calls the greatest common measure of agreement to be still greater or not. We are engaged today in a very serious and solemn transaction. It is not merely for the various organisations to come here and say, we agree to it, and retire. We are here, as I understand, for the purpose of entering into solemn contract and all parties who enter into it will have to work for it and fight for it together. What we want is that Hindus and Musalmans should march together until our object is obtained. Therefore it is essential that you must get not only the Muslim League but the Musalmans of India and here I am not speaking as a Musalman but as an Indian. And it is my desire to see that we get 7 crores of Musalmans to march along with us in the struggle for freedom. Would you be content with a few? Would you be content if I were to say, I am with you? Do you want or do you not want the Muslim India to go along with you? You must remember the two major communities in India—I say this without the slightest disrespect to other communities like Sikhs, Christians, and Parsis—are the Hindus and Musalmans and naturally therefore these two communities have got to be reconciled and



united and made to feel that their interests are common and they are marching together for a common goal. I want you therefore to rise to that statesmanship which Sir Tej Bahadur Sapru describes. Minorities cannot give anything to the majority. It is therefore no use asking me not to press for what you call 'these small points', I am not asking for these modifications because I am a naughty child. If they are small points why not concede ? It is up to the majority and majority alone can give. I am asking you for this adjustment because I think it is the best and fair to the Musalmans. Look at the constitutional history of Canada and Egypt. The minorities are always afraid of majorities. The majorities are apt to be tyrannical and oppressive and particularly religious majorities and the minorities therefore have a right to be absolutely secured. Was the adjustment between French Canadians and British arrived at on population basis or on the ground of pure equity ? Was the adjustment between the Copts Christians and Musalmans in Egypt regulated by such considerations. We are dealing in politics. We are not in a Court of Law and therefore it is no use resorting to hair-splitting and petty squabbles. These are big questions and they can be settled only by the exercise of the highest order of statesmanship and political wisdom. I therefore ask you once more to consider this question most carefully before you decide. Please don't think that in anything that I have said I am threatening any party and I hope that I shall not be misunderstood. If you do not settle this question today, we shall have to settle it tomorrow, but in the meantime our national interests are bound to suffer. We are all sons of this land. We have to live together. We have to work together and whatever our differences may be, let us at any rate not create more bad blood. If we cannot agree, let us at any rate agree to differ but let us part as friends. I once more repeat. Believe me there is no progress for India until the Musalmans and Hindus are united and let no logic, philosophy or squabble stand in the way of our coming to a compromise and nothing will make me more happy than to see the Hindu Muslim Union.

Mr. Jinnah's amendments were then put to vote separately.

(The Khilafat and Muslim League delegates abstained from participating in the voting on all amendments.)

The first amendment was that one-third of the elected representatives of both the houses of the Central Legislature should be Musalmans.

The amendment was declared lost by a large majority.

(Muslim League's and Ahmadiya's dissent recorded)

The second amendment was that in the Punjab and Bengal, in the event of adult suffrage not being established there should be reservation of seats for the Musalmans on the population basis for ten years subject to a re-examination after that period, but that they shall have no right to contest additional seats. It was negatived by a large majority. (Ahmadiya's dissent was recorded.)

The third amendment (1) the vesting the Provincial Governments with residuary powers, (2) deletion of clause 13 A and (3) revision of Schedules I and II was also negatived by a large majority. (Ahmadiya's dissent was recorded).

The Convention was willing to appoint a Sub-committee for the revision of schedules I and II but as no representative of the Muslim League agreed to serve on the committee the suggestion was dropped and Muslim League's amendment was put to vote and negatived by a large majority.

The fourth amendment providing that no amendment in the constitution can be made unless first it is passed in both the Houses of Parliament separately by a majority of 4/5ths and then approved by a similar majority of both the Houses in a joint session was unanimously accepted.

The fifth amendment urging deletion of the words "simultaneously with the establishment of Government under this constitution" was also negatived. (Ahmadiya's dissent recorded).

The last amendment which urged the incorporation of Punjab Pact was accepted. (Sikh League's dissent recorded).

The Convention adjourned till 30th December, 1928.

### **THE PROCEEDINGS OF THE ALL-PARTIES NATIONAL CONVENTION**

*Sixth Day—December 30, 1928*

The Convention met on December 30, with Dr. M.A. Ansari in the chair.

At the outset, the President suggested that to save time, discussion on the A.I.C.C. resolution on the Nehru Constitution be deferred, until it is adopted by the Congress.

Several members including Sardar Mahtab Singh, Balkrishna Sarma, Gaurisankar Misra and T. Prakasam, raised points of order as to whether the Nehru Report could be placed before the Congress unless it is adopted by the Convention. The A.I.C.C. has no right to discuss the Nehru Report clause by clause. It was suggested that the resolution of A.I.C.C. was not binding upon the Convention.

Pandit Gaurisankar Misra said unless the resolution is passed by the Congress itself, it is not binding upon anybody.

Dr. Ansari said that that was what he suggested. It was decided therefore to defer the discussion on the A.I.C.C. resolution until the Congress recorded an opinion on the same.

The President then invited the House to discuss the Sikh question raised in the report of the Convention Sub-committee, appointed to decide the communal question.

Sardar Mahtab Singh wanted to move the following resolution :

“That communalism in any form, direct or indirect, shall not be the basis of any future constitution and that the Report

should be modified accordingly embodying consequential changes due to this amendment."

Pandit Gaurisankar Misra suggested that Sirdar Mahtab Singh was out of order.

Dr. Ansari in consultation with Mr. C. Vijayaraghavachariar ruled Sardar Mahtab Singh out of order and also two other amendments to the effect notice of which was given by S. Devaprasad Ghose of Bengal.

The Secretary, Central Sikh League, then made a statement defining their position and regretting their inability to participate in the discussion. After the statement the members of the Sikh League withdrew from the Convention Pandal.

[The Central Sikh League Statement will be found in Appendix A (6)].

Supporting the Nehru Report, Sirdar Gurdial Singh made a statement, on behalf of the Namdhari Sikh Community, which will be found in Appendix A (7).

Mr. K.L. Ralliamram (Punjab) moved the following resolution :

"A new clause be added to the Supplementary Report to the effect that the Sikh minority in the Punjab, North-West Frontier and Baluchistan should be given the same privilege in matters of representation in the provincial and central legislatures as other communities are given in the provinces, where they are in a minority.'<sup>2</sup>

He said they gave separate representation to one community they should do the same for others. Sikhs in the Punjab are perfectly justified in asking for separate representation if it was given to other communities especially as they contributed largely to the manpower of India.

Mr. Satyamurti seconded the amendment.

Mr. Surendra Nath Biswas moved an amendment to the effect that the system of representation in the Central, and

provincial Legislatures should be by election by mixed electorates with reservation of seats to the following main divisions on the population basis :

- (1) Muslims
- (2) Sikhs
- (3) Christians
- (4) Hindus, including all non-Moslems, non-Sikhs and non-Christian people of India.

Mr. Biswas said all minority communities should be treated alike.

*Mr. Nariman*

Mr. K.F. Nariman (Bombay) speaking on behalf of Parsis whom he called the baby community of India opposed separate reserved electorates. He quoted the example of his own election to Bombay Council with the support of other communities and said "trust begets trust". The Nehru Committee had made a great blunder in agreeing to reservat'on of seats and there should be no additional blunder to it.

*Dr. Alam*

Dr. Mohamad Alam said the position of Sikhs could only be defined by a compromise between different communities in the Punjab just in the same manner as Muhammadans generally came to a pact with Hindus at Lucknow. As long as the Nehru constitution stood, Sikhs had no alternative but to ask for modification after agreement amongst communities in the Punjab.

Mr. Dharamvir Singh supporting Mr. Ralliaram's amendment asked the Convention not to punish Sikhs simply because they did not make so much noise as Muhammadans.

*Pandit Malaviya*

Pandit Malaviya generally agreed with Dr. Alam. As one who attended the Gujranwalla Conference of Sikhs he pointed

out that the Sikh demand was a just one and it would be better if as Dr. Alam had suggested the demands were settled firstly in a conference between Hindus and Musalmans and Sikhs in the Punjab. He commended the example of Sardar Mangal Singh who honestly believed that nationalism and not communalism was the way to Swaraj. He was glad the Hindus of the Punjab were willing not to raise the question of reservation of seats for themselves.

*Mr. N.C. Sen Gupta*

Mr N.C. Sen Gupta said the suggestion that economic basis should never be allowed to come to front and that they should go on fighting on the basis of communal interest was futile.

*Maulana Zafar Ali*

Maulana Zafar Ali said the question of sacrifice by the Sikhs, or any other community should not be allowed to weaken the fight for freedom. When liberty was attained, the interests of all communities would be safe. He appealed for unity among the Hindus and Mulims, Mutual distrust of the Sikhs, Muslims and Hindus was the cause of all the trouble. He supported Dr. Alam's contention and appealed to the Sikhs in the name of unity.

*Dr. Besant*

Dr. Annie Besant said that she would be ruled out of order, if she moved for the abolition of communalism. She regretted that instead of fighting poverty and famine, banes of British rule, they had to fight communalism and waste so much time in evolving a scheme. She hoped before departing the Convention would discard communalism altogether and moved that the report be referred back to the Nehru Committee.

*Pandit Motilal Nehru*

Before the amendments of Mr. Biswas and Mr. Ralliararam were put to vote, Pandit Motilal addressed the house. He said :



—“We have given reasons in the report for which we have not allowed any reservation of seats to the Sikhs.” You will no doubt recognise that the Punjab presents very peculiar features which are not present in the other provinces. The Punjab problem had defied solution because there were three main communities to deal with and not two as in the other provinces. The device of reservation was wholly impracticable in the Punjab. Sikhs have every right to ask us : “why should you in our case depart from the principle accepted for other Provinces.” It is true that the Sikhs were no party to the Punjab pact between Hindus and Musalmans at Lucknow. Although two nationalist Sikhs had signed the pact the Sikh League as a body had not associated itself with that pact. But the committee had obtained the greatest possible agreement on the communal settlement as it stood and therefore I will ask the house not to disturb this agreement. I am told that Sikhs are not present in the Convention. Therefore, acceptance or rejection of amendments without their consent will not affect them. We are not here to sit as judges but to obtain the largest common agreement of all parties. Even if we pass the amendment I doubt if the Sikhs will be prepared to accept it.” Continuing Pandit Nehru said, that they must see what effect the alteration of one provision would have on the other parts of the Report. He therefore appealed to them to think twice before disturbing the Punjab pact on which whole scheme rested.

Amendments being put to vote were lost by a majority.  
The Convention was adjourned till December, 31, 1928.

## THE PROCEEDINGS OF ALL-PARTIES' NATIONAL CONVENTION

*Seventh Day—December 31, 1928*

When the National Convention re-assembled discussion was resumed on the communal part of the Nehru Committee's Report.

*Mr. J.L. Banerji*

The Committee appointed a few days ago to discuss the question did not assent to the Bengal Hindus demand for reservation of seats in legislatures. Mr. Jitendralal Banerji, however, moved that seats for the Hindus in Bengal should be reserved on population basis. He held that according to the Nehru Committee's recommendations, the Bengal Council would consist of 465 members and on pure population basis the Mohammadans would be able to obtain 255 and Hindus 210. But as the population of districts was unevenly distributed unless seats were reserved for Hindus they would not be able to send in more than 150. Thus the Mohammadans would get sixty more than their due share and Hindus sixty less. This meant 120 seats more in favour of the Mohammadans. The Hindus of Bengal would not have cared for having seats reserved for themselves if communal representation was completely abolished and if the Mohammadans had given up asking for reservation of seats in certain provinces. But the Nehru Report had acknowledged the principle of communal representation and kept alive the feeling of bitterness and suspicion. If the Nehru Report recommended reserving seats for minorities in certain provinces more than their share then indeed the case of the Hindus for reservation became overwhelming in importance, because the Hindus were in minorities in several districts of East and North Bengal and even in certain districts of West Bengal. He mentioned as instances the districts of Mymensingh and Bogra.

*Dr. N.C. Sen Gupta*

Dr. N.C. Sen Gupta of Mymensingh opposed the amendment and agreed that the feeling among Hindus there was strong in view of the fact they had been swept by Musalmans in the elections to the District Board. But it must not be forgotten that in the same district Hindus swept the local boards. That being so it should not be regarded as a calamity that because Mohammadans at the last elections came in very huge numbers therefore they should seek reservation of seats in

the legislatures, a principle which ran counter to the progress of Nationalism.

President, Doctor Ansari put Mr. Jitendralal Banerjee's amendment to vote and found that the majority was in favour of it. Before declaring the result, Doctor Ansari appealed to the House to realise the serious consequences of carrying the motion which meant destroying the Convention itself. By passing this amendment they would be declaring to the world that it was only the people holding one set of views who predominated at the Convention and carried whatever they liked. He appealed to their sense of patriotism not to be carried away by such considerations. He was prepared to take votes again and declare the result, but he appealed to them to think over the matter again.

Mr. Jitendralal Banerjee appreciated the remarks of the President and said he fully realised the consequences, but he brought the motion as a protest against a certain gentleman posing to speak at the Lucknow Conference in the name of Bengal Hindus and giving an assurance for the Bengal Hindus. He therefore suggested that the matter be left over and no votes be taken at this stage. Doctor Ansari ordered the amendment to stand over.

At a later stage Mr. Banerjee agreed to withdraw his amendment on the assurance that the following statement would form part of the proceedings of the Convention :—

The amendment being put to the vote was carried by show of hands. But on appeal from the President that the question should be reconsidered in the public interest and upon the advice of the president of the Hindu Mahasabha, Mr. J.L. Banerjee withdrew the amendment remarking that his chief object was to record the protest of the Bengal Hindus against the light-hearted assurance given in their name at the Lucknow Conference and also to show the Bengal Hindus considered they had legitimate grievance in the matter which however they were prepared not to press at this stage in the interest of the communal harmony and reciprocal good-will.

*Clause 3*

The President then announced that the Committee which had been appointed by the Convention to go into the question of definition of citizenship had made its report—already presented—recommending that Sub-clause (a), (b) and (d) should remain as they were given in the Supplementary Report and that following be substituted for Sub-clause (c)” who being a subject of the Crown (1) ordinarily resides or personally works for gain, within the territories of the Commonwealth at the date of the commencement of the Act ; or

(2) fulfils the qualifications prescribed by the Parliament for the exercise of the rights of citizenship.”

Mr. Haji did not agree with this recommendation and in his note of dissent suggested the addition of the following words to clause (c) “and fulfils the conditions prescribed by Parliament for the exercise of rights of citizenship.”

*Mr. S.N. Haji*

Mr. Haji then moved his amendment saying that the Commonwealth Parliament when it was established should not be fettered but should be free to act as it wanted in this matter. He said in no Dominion had the rights of citizenship been guaranteed. We must reserve this right so that we may be able to retaliate if it is necessary against those parts of the Empire where discrimination was made against Indians as in South Africa. If these rights were given to foreigners, they would dominate over Indians economically and dictate the policy of India.

*Dr. N.C. Sen Gupta*

Dr. Naresh Chandra Sen Gupta, signatory of the Sub-Committee Report, opposing the amendment said that it was perfectly reasonable to define qualifications. The majority had defined the rights of British residents. As to others, the matter would depend on the discretion of future Parliament.

*Mr. C. Vijayaraghavachariar*

Mr. C. Vijayaraghavachariar said he was in entire agreement with M. Haji's motion. Law could be easily altered by legislation but it would be difficult to alter the constitution. They should not bind the hands of the future Parliament. The amendment did not injustice to the foreigners. It only said that the rights of foreigners would be determined by the future Parliament.

Mr. S.N. Haji's amendment was put to vote and carried.

*Clause 4A*

Mr. Lalchand Jagtyani moved that the language of the Commonwealth should be Hindustani, written in Roman character.

Sj. Nekiram Sarma having opposed the amendment it was put to vote and declared lost

*New Clause*

Dr. Naresh Chandra Sen Gupta moved that the following clauses be added after clause 4A.

"Notwithstanding anything hereinbefore contained, neither the Parliament nor Provincial Legislature shall consider or pass any legislation affecting religious and social laws and customs of any community, including laws relating to marriage, dower, divorce, adoption, gifts, endowments, wills and inheritance, where such laws are based on religious authority, nor any laws regulating religious institutions and establishments appertaining to that community, but legislation on all such matters shall be passed in the manner and by the authorities hereinafter provided.

"In each province a Council shall be instituted for each community or distinct social group consisting of members who shall all be elected in accordance with rules to be framed, in the first instance by the Provincial Legislature and, after the first Council is established, in accordance with rules framed by such Council, provided that such rules shall provide that each adult

member of the community, without distinction of sex shall have a vote.

“The Council for each community or social group constituted under the next foregoing section shall have full power to pass any laws consistent with this Act, affecting the religious and social customs of that community as also laws regulating religious institutions and establishments appertaining to that community, and all laws passed by such Council shall have the same force as if the laws were passed by the Provincial Legislature of the Province.

“Each of the Councils constituted as hereinbefore provided shall have the power to frame rules of procedure for that Council and shall also be competent to discharge any functions allotted and exercise any powers delegated to it by an Act of the Parliament or Provincial Legislature.”

Mr. C. Vijayaraghavachariar opposing pointed out if the amendment was accepted, it would paralyse the whole constitution.

The amendment being put to vote was lost.

Dr. Kitchlew moved an amendment to section 4A of the Supplementary Report. As amended the section would read as under : “The language of the Commonwealth shall be Hindustani which shall be written both in Nagri and in Urdu characters. The use of the English language shall be permitted”.

Lalchand Jagtyani opposed it and it was lost.

Dr. Kitchlew again moved an amendment standing in the name of Mr. Abdul Rahman Ghazi to Section III—communal for inserting the clauses of the Punjab Pact including that the adult suffrage instead of part (a) of para. III and for deletion of reference to the Punjab in part (a) of para III.

The amendment was adopted without division.

Mr. Das Ram Bagai (Dera Ghazi Khan) then moved for the deletion of the word : “N.-W.F. Province, Baluchistan and” from clause VI of the recommendation of the Nehru Report under the head communal representation.



The mover read a long speech with copious extracts from official reports with regard to the fanatical nature of Muhammadans and Pathans of that Province and the difficulties under which the Hindu minority was suffering there.

Mr. Lalchand Jagtyani, Dr. Kitchlew and Mr. B. Das opposed the amendment.

All the three speakers should not reconcile their demand for Swaraj with the denial of the right of self-determination to the people of the Frontier Province. The amendment was defeated by a large majority.

### *Clause 13A*

Mr. C. Vijayaraghavachariar moved an amendment vesting in the Central Government and Parliament power to interfere not only in cases of great emergency and in matters of controversies between provinces or between a province and Indian States but also to give protection to minorities and special classes. He emphasised that his object was not to promote communal difference but to give surer effect to what Nehru Committee itself stated in page twenty-nine when it said that the object of communal settlement was not to give domination to one community over another but to prevent harassment and exploitation of any individual or group by another.

At Dr. Ansari's suggestion further discussion was postponed in order to enable other members of the Nehru Committee to participate in it. (Most of them were not present in the Convention).

Pandit Malaviya agreed to this course.

Regarding communal solution, Mr. Daulat Ahamed Khan moved an amendment tabled by Mr. Mohamed Siddique to the effect that there should be no joint mixed electorates. He instanced the case of elections of Hindu candidates in joint mixed electorates to the disadvantage of Muhammadans and referred to Mr. Asaf Ali's defeat in Delhi.

Dr. Kitchlew opposed the motion remarking that separate electorates had been a curse to the country. The amendment was lost there being none to vote for it besides the mover.

The amendment tabled by Haji Abdullah Haroon was moved by Mr. Daulat Ahmed in absence of the former for reservation of seats in excess of their population for Muslims in provinces wherever they were in minority.

*Mr. S.A. Brelvi*

Mr. S.A. Brelvi in opposing said that past experience had shown that reservation of seats was detrimental to the national cause and did no good to Muslims either. They must not consider the questions from the communal view-point because they were out to establish Swaraj which was a means to the establishment of a new social order based on justice.

The amendment when put to vote was lost.

All other amendments tabled on the communal question were lost after a short discussion and some of them were withdrawn without discussion.

The Convention at this stage adjourned till January, 1929.

## **THE PROCEEDINGS OF THE ALL-PARTIES NATIONAL CONVENTION**

*Eighth Day—January 1, 1929*

The All-Parties Convention re-assembled on January 1, 1929 with Dr. M.A. Ansari in the chair. Most of the amendments on the agenda paper lapsed owing to the absence of the movers.

Babu Bhagwandas moved the following amendment regarding the qualification of voters : "Every candidate for election shall be possessed of qualifications as below :

"(a) he shall represent one or another of following main functions of society : (1) science and learning ; or (2) executive work ; or (3) production of wealth, that is, agriculture, manufacturing industries, trade and commerce, etc., or (4) labour ;

“(b) he shall have done good work in some walk of life and earned reputation for uprightness and public spirit ;

“(c) he shall have sufficient leisure for the work for the Legislature and preferably, but not necessarily, have retired from active bread-winning or money-making business.

“Canvassing directly or indirectly, beyond the publication of a statement of the candidate’s qualifications by his nominator, shall be regarded as a disqualification.

“No member shall receive any cash remunerations for his work as such a member, but all ex-officio expenses of travelling and housing etc. shall be paid to every member out of public funds.”

Babu Bhagwan Das was glad that after eight years the country had been able to give a meaning to word “Swaraj”. But the Nehru Committee had left out the most important portion of the meaning of that word. The welfare of the people depended on good laws, which in turn, depended on good legislators. Hence his amendment.

(Owing to the pressure of time and the length of Babu Bhagwandas’s speech, he could not read out the whole of it before the Convention—but at his special request it is printed in full as Appendix B.)

Dr. Besant without expressing a definite opinion on the amendment, she being a member of the Nehru Committee, pointed out the difficulties that might arise as the result of such a clause. She said the Commonwealth of India Bill was based on what is known as graded suffrage but it was pointed out that it was not democratic. The present amendment would also give rise to that difficulty. Politics was the one thing apparently in which one was not wanted to be wise before practising it.

Mr. Jairamdas Daulatram opposing said the amendment was impracticable. It would take away rights from the voters and transfer them to Returning Officers.

The suggestion was then made to refer the matter to the Nehru Committee in view of the thin attendance at the meeting and the momentous issues involved but it fell through.

The amendment was put to vote and lost.

### **INDIAN STATES POSITION IN FEDERATION OF INDIA**

The question of Indian States was taken up next. Mr. Satyamurthi on behalf of the All-India Indian States Subjects' Conference, which he said contained representatives from advanced and big states like Hyderabad and Mysore, moved :

(1) This Convention is of opinion that an honourable place should be found for Indian States in the Scheme of the Indian Federation either by themselves or in groups of smaller States.

(2) This Convention approves of the recommendations of the Nehru Report in regard to the settlement of disputes between the Government of Indian States.

(3) This Convention is of opinion that full responsible government should be established in Indian States before they can take their rightful place in a free federal India.

(4) This Convention is of opinion that the people of Indian States should have an effective voice in the settlement of All-India questions concerning the Indian States.

He said this was a kind of compromise between the untenable position taken by Sir Leslie Scott, constitutional lawyer on behalf of the Indian princes, and those extremists in India who regarded the Indian States as anachronism to be wiped out from the map of India. Whatever the nature of the

rule in Indian States it was the only existing specimen of Indian sovereignty and it was necessary if India as a whole was to march towards democracy that the Indian States should be given an honourable place in any scheme of the federation. According to the third clause there would be no place in that federation for any autocratic prince who was irresponsible to the people and the federation should not have autocratic princes unless they established responsible governments in their own States.

Mr. Sanjiva Rao of Mysore seconded the motion.

*Mr. Kothari*

Mr. Manilal Kothari then moved the following amendment :

“This Convention invites the princes and peoples of Indian States to appoint representatives to confer with representatives of the Convention at a Round Table Conference with a view to discuss and agree upon the constitutional position and status of Indian States in the future Commonwealth of India and relations that should subsist between Indian States and the Central and Provincial Governments of the Commonwealth.

“And this Convention appoints the following members, namely, Pt. Motilal Nehru, Mr. M.R. Jayakar, Pt. Malaviya, Sir Tej Bahadur Sapru, Sir Ali Imam, Mr. Satyamurthi, Sardar Sardul Singh, Dr. M.A. Ansari, Mr. Ramchandra Rao and Mr. Manilal Kothari, as representatives, referred to in the foregoing resolution, with power to correspond with the States and peoples’ organisations to appoint their representatives and to arrange for the conference not later than May next.

“This Convention trusts that the Government of India will place no difficulties directly or indirectly in the way of the Princes.”

Mr. Kothari said inspite of there being a number of experts in India an expert from England was indented at a huge waste of money. As one belonging to an Indian state the speaker

was opposed to the direct relation with the Crown as the Butler Committee suggested. It appeared that the Nehru Report was looked upon by the princes with suspicion. There was absolutely nothing in the Report which would prejudicially attack the interest of princes. It was the duty of the Convention to speak clearly that there was no cause for such apprehension and it was with a view to remove this distrust and understanding of mutual position he had brought the amendment proposing a Round Table Conference. The princes themselves felt the dishonourable position they held under the Union Jack and if the hand of fellowship was offered, they would be ready to accept. He, therefore, proposed the committee of the Convention to confer with princes in May next.

*Mr. S.A. Brelvi*

Mr. S.A. Brelvi in supporting the amendment said in framing the Indian constitution Indian States have not been consulted. It was proper that their point of view should be placed before the Nehru Committee if they wanted to incorporate them in the Federal Constitution of India.

Mr. Satyamurti said he was prepared to accept Mr. Kothari's amendment as an addition to the resolution as he felt the Convention should not go into matter without making its position clear.

Mr. Salam of the Cochin state supported both the amendment and the resolution and prayed for a consideration of their case at an early date.

Mr. Kothari's amendment being put to vote was carried, Mr. S. Satyamurthi dissenting on behalf of All-India States' Subject Conference.

(The statement by some of the delegates of All-India States' Subject Conference headed by Mr. Hosakappa Krishna Rao will be found in Appendix A (8).

### **BURMA AND CONSTITUTION**

Mr. Tayabji of Burma then moved that in view of the peculiar political conditions obtaining in Burma and complexi-



ties of her relation to India the Convention should appoint a committee to report after due enquiry as to what, if any, modification of the proposed constitution of the Commonwealth is necessary in respect of Burma.

Asked by the House to propose the names of the members of the committee the mover left it to be done by the President of the Convention, who would appoint the committee and settle details.

Mr. Tayabji's motion was carried :

A question was raised at this stage as to who would be the President of the Convention hereafter as the term of office of Dr. Ansari was to expire with his office of the Congress presidentship. Suggestions were made that Dr. Ansari should continue as the President of the Convention and that his position in the Convention was not dependent on his presidentship of the Congress.

Explaining Dr. Ansari said he was never formally elected as the President of the Convention but came to that position in his ex-officio capacity as President of the Congress and he must cease to be so hereafter. The reasons that he had presided over the Convention these few days even after Pandit Motilal Nehru had become President of the Congress were that Pandit Motilal was already too much preoccupied and Dr. Ansari had done it only to help his friend Pandit Nehru. The discussion on the point terminated at this stage.

As the whole agenda specially the question regarding Utkal and others was not gone through the President suggested as he was hard pressed for time that other items should be discussed at a later sitting of the Convention.

#### *Mahatma Gandhi's resolution*

Mahatma Gandhi then moved : "This Convention is of opinion that resolutions it has already passed on the recommendations of the All-Parties Committee contained in clauses one to six of their report sufficiently indicate the will of the nation as the nature and main principles of the constitution

acceptable to it and is further of opinion that except on points on which notes of dissent have been recorded at the instance of some of the parties present there is a general agreement on the basis of the solution of communal problem recommended by the said committee.

“This Convention adjourns *sine die* authorising the Working Committee of the Indian National Congress to convene it when necessary for more detailed examination of the recommendations of the Committee.”

Mahatma Gandhi apologised for his presence in the Convention. He said he came as a legal adviser to the President who had met him and Pandit Motilal and requested them to be present in the Convention and help him with their advice. To facilitate work he was going to move the present resolution and hoped there would not be much discussion nor any amendment. Mahatmaji proceeded to say : “Whilst we have very nearly exhausted the Nehru Report and accepted it without much alteration yet much still remains to be done. The situation in the country is such that we shall have to keep both the Nehru Committee and the Convention alive. As regards the Muhammadan question, he said the Convention had not been able to placate all parties. The Sikhs also required to be placated.”

Continuing Mahatmaji said : “Personally I think we have not done full justice to the Sikhs. Hence it is necessary for all of you to put your heads together and make suggestion and evolve order out of chaos. There is the Utkal question which still requires to be solved and it giving trouble. This question is a nightmare. It crops up in all my speeches. The exhibition given by Utkal delegates the other day was like an animal undergoing vivisection. The Nehru Report, he continued, can only be touched here and there and not in its entirety. Only in matters of detail we can make alterations. If anything is wanted to satisfy the Moslems then also we have to touch it but if they spring some surprise it is not for the Nehru Committee to deal with it. That is the business of some other organisation. Mahatma Gandhi concluded with the hope that the resolution will be carried without any amendment.

Mr. Pattabhai Seetaramia wanted the House to record the statement made on Utkal question by the linguistic Conference.

(The statement will be found in Appendix A (9).

*Dr. Besant*

Dr. Besant opposing Mahatma Gandhi's resolution said : "When I saw how things are going in the Congress I could not think out what members of the Nehru Committee should do. I think it is time we should all gather together." Referring to the clause in Mahatmaji's resolution that the Convention should be called by the Working Committee of the Congress, Dr. Besant made an emphatic protest against it. She was of the opinion that the Nehru Committee had not yet been able to build up a regular constitution but only a structure. The Congress resolution adopted yesterday had altogether altered the situation.

Pandit Motilal Nehru had said times out of number that the Congress was one of the bodies in the Convention but now without any kind of notice and when many of the members were absent they had sprung a surprise. The present resolution deprived them of their freedom by compelling them to work under the Working Committee of the Congress. She continued : "I believe if the Congress persists in its present policy it will lead to a violent revolution and cause bloodshed widely spread. I do not think Mahatma Gandhi would be able to hold the people to non-violence. I know he would rather be killed than kill others. Bardoli might be worked out in many other taluks but that is not all. The present resolution breaks us up. The Congress is only a party organisation—a party adhering to one particular school of political thought whereas the Convention was a body of all organisations. We strongly disagree with the Congress policy. The resolution practically proposes to break up the Convention *sine die*. Unity that had grown up after hard working for 11 months will be shattered into smithereens. At Lucknow, Bombay and Delhi it was only the maximum agreement that could be arrived at. The present resolution is very discourteous to us if not anything else. My appeal to you is to keep yourselves together and not come

under a party organisation like the Congress. We simply want to have a free field in which we do not have to believe in civil disobedience and non-payment of taxes. Do not go against your conscience and do not agree to the resolution by which you will have to work with the body which will consider you as untouchables. Here we shall have to work if the resolution is carried in a friendly attitude as they say, but that will be with the spirit of one dismissing his servant. We refuse to give up our freedom."

Continuing Dr. Besant said "the Independence talk was merely wordy. It had no force behind it. I therefore propose that all parties who had hitherto worked together should continue to work together. I deny the right of one party to dominate over all others. I move for the constitution of a permanent organisation consisting of members representing every school of thought for the working of a union now achieved which, in my opinion, should not be sacrificed. I am not attacking the Congress but want freedom to work."

*Dr. Ansari Explains*

Dr. Ansari explaining the position said the Convention came into existence according to the resolution of the Madras Congress. The specific purpose to prepare a constitution for which it was appointed has been served by the Convention. There is no disrespect to other parties and there is nothing to deter others from popularising the Nehru Report. Though he did not like to stop Dr. Besant in moving her amendment because of the respect she demands from all, the President ruled Dr. Besant's amendment was out of order.

Mr. C. Vijayaraghavachariar next asked the president to reconsider his ruling regarding Dr. Besant's amendment because he was of opinion that if Dr. Besant's amendment was out of order the other proposition also was out of order. "We have not done our work and the Convention exists. The proposition moved is a euphemism for dissolution. I do not like to leave the matter to be worked out by the Working Committee of the Congress."

Mr. Niranjan Patanai opposing Mahatmaji's motion said the delegates of Utkal were not at all satisfied with the provision

made in the resolution. It wanted *sine die* adjournment but had fixed no date and given no particulars. Representatives of Utkal were specially in an unhappy position. Under present circumstances it was proper not to defer the Utkal question any longer. In the case of a settlement of the Utkal question nothing but sentiment was standing in its way.

Mr. Aney explaining the constitutional aspect of the question agreed with the objection raised by Mr. Vijayaraghavachariar.

Mr. Shanmukham Chetty supporting Mahatmaji's resolution said the proposition placed before the house by Dr. Besant was entirely different from the one placed by Mahatmaji.

At this stage Mahatmaji announced that as a result of discussion he had come to a compromise and agreed to make some verbal alterations in the latter part of the resolution.

The amended resolution which was then carried stands as follows :

"This Convention is of opinion that the resolutions it has already passed on the recommendations of the All-Parties Committee contained in clauses 1 to 6 of their Report sufficiently indicate the will of the nation as to the nature and main principles of the constitution acceptable to it and is further of opinion that except on points on which notes of dissent have been recorded at the instance of some of the parties present there a general agreement on the basis of the solution of communal problem recommended by the said committee. This Convention adjourns *sine die* to meet when necessary for completing its work."

The Convention then adjourned *sine die*.

## APPENDIX A

### *1—Statement of Mr. Srinivas Iyengar and some other Members of the Convention*

We the undersigned delegates of the All-Parties National Convention desire to make the following statement with a view to clear our position before the Convention and the country. We are of opinion that both in the exercise of India's right to

self-determination and in consonance with the resolution of the Madras Congress declaring the goal of the people to be complete national independence, the Swaraj Constitution of India which the Madras Congress directed the Working Committee of the Indian National Congress to draft and place before this Convention, should be based on independence.

We feel that the constitution drafted by the Nehru Committee and placed before this Convention definitely commits those who support it to a constitution based on Dominion Status. We are not prepared to accept this and we therefore cannot accept or support the Dominion Status basis of this Constitution. We dissociate ourselves from this Constitution in so far as it commits us to the acceptance of Dominion Status.

We notice that both in the Nehru Report and in the resolutions of the All-Parties Conference at Lucknow the right of Congressmen and of the Congress to retain and exercise the fullest liberty to work for complete independence is amply recognised. We also know that at the Lucknow All-Parties Conference a statement on behalf of those who stood for independence was read stating their position on the above lines.

The All-India Congress Committee at its meeting at Delhi on the 3rd and 4th of November last considered the Nehru Report and the resolutions of the All-Parties Conference and exercising its liberty of action decided in the course of a resolution as follows :

“This meeting of the A.I.C.C. adheres to the decision of the Madras Congress declaring complete independence to be the goal of the Indian people and is of opinion that there can be no true freedom till the British connection is severed.”

We feel that that resolution represents the correct position to be taken by Congressmen and others who believe in independence. We consider that as this question will have to come before and be decided by the Subjects Committee and by the Indian National Congress, that is the proper time and place for those representing the independence point of view to have it reaffirmed by the Congress. In the meantime, we consider



that the view expressed by the A.I.C.C. at Delhi in the course of the following resolution regarding the Nehru Report is fully binding on the A.I.C.C. represented at this Convention, unless it is reversed or modified.

“This Committee accepts the recommendations of the Nehru Committee as agreed to by the Lucknow All-Parties Conference for the settlement of the communal differences.

“This Committee cordially congratulates the Nehru Committee for their labours, patriotism and farsightedness and without prejudice to the resolution of the Congress relating to complete independence, is of opinion that the recommendations of the Nehru Committee are a great step towards political advance and, without committing itself to every detail, generally approves of them.”

We are confident that the Subjects Committee and the Congress will fully accept the independence point of view. Having regard to the composition of this Convention and to the above-mentioned circumstances we have decided not to take any part in the framing of the constitution in so far as it commits us to the acceptance of Dominion Status. We shall neither move amendments nor vote on it. We propose to carry on in the Congress and in the country such activity as we consider proper and necessary in favour of complete independence.

But as we are deeply interested in the communal settlements recommended by the Nehru Committee and by the Lucknow All-Parties Conference we shall not abstain from taking part in the discussion or voting on those questions.

We desire to add that the Independence for India League wholly supports this point of view.

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|----------------------|------------------------|
| 1. Srinivasa Iyengar | 5. Gaurishanker Misra  |
| 2. Jawaharlal Nehru  | 6. F.H. Ansari         |
| 3. Hosakoppa         | 7. Manjeetsingh Rathor |
| Krishnanayya         | 8. Badridatt Pande     |
| 4. Balkrishna Sharma | 9. Nardeva Shastri     |

- |                                   |                             |
|-----------------------------------|-----------------------------|
| 10. Mukundilal                    | 47. Indra Singh Chakravarti |
| 11. S.D. Kitchlew                 | 48. Lachman Singh           |
| 12. Girdharilal                   | 49. Ankha Singh             |
| 13. Pandit Viswanathan            | 50. S. Ramaswamy Gupta      |
| 14. Jamnadas Mehta                | 51. N.D. Varadachari        |
| 15. B. Sambamurti                 | 52. Sarat Kumar Dutt        |
| 16. S. Ganesan                    | 53. Satyaranjan Baksi       |
| 17. S. Satyamurti                 | 54. Syed Jelaluddin Hashmy  |
| 18. Sarat Chandra Bose            | 55. Shamsuddin Ahmad        |
| 19. Govindanand                   | 56. Mohammad Qasim          |
| 20. M. Bhaktavatsalam             | 57. Purushotam Das          |
| 21. C.N. Muthuranga Moodiar       | 58. Madhusudan Das          |
| 22. B. Bhaktavatsilur             | 59. Suresh Chandra Das      |
| 23. Vasudevacharya                | 60. J.M. Das Gupta          |
| 24. B. Pallabhisitaramanyya       | 61. S.C. Mita               |
| 25. Kumud Sankar Ray              | 62. N.S. Hardiker           |
| 26. C.S. Dutt                     | 63. Sriprakasa              |
| 27. Swami Kumarananda             | 64. Shankerlal              |
| 28. Bhupendra Kumar Dutta         | 65. Shivaprasad Gupta       |
| 29. Sh. Shafee Mohammad           | 66. Mahabir Tyagi           |
| 30. Abdul Hamid Khan              | 67. Nilkantha Das           |
| 31. Basheer Ahmad Sayed           | 68. Hari Kumar Chakravarti  |
| 32. Satish Chandra<br>Chakravarti | 69. Manoranjan Gupta        |
| 33. Syed Mahmud                   | 70. Amar Krishna Ghose      |
| 34. Abdulbari                     | 71. Surendra Mohan Ghose    |
| 35. Arif Haswi                    | 72. M.A. Rauf               |
| 36. Pyarelal Sharma               | 73. Mukundlal Biswas        |
| 37. Ahad Hussain                  | 74. O. Kandaswami Chetty    |
| 38. Swarajya Sewak                | 75. Satyaketu Vidyalankar   |
| 39. Chandradhar Johri             | 76. Chandragupta V.A.       |
| 40. Pratulchandra Ganguli         | 77. V. Nath Shastri         |
| 41. Dharmananda Saraswati         | 78. Sardul Singh Caveeshar  |
| 42. Prakashanand Saraswati        | 79. Lal Chand Falak         |
| 43. Shiv Ram                      | 80. Makhanlal Sen           |
| 44. Dalpati                       | 81. Pramathanath Banerji    |
| 45. S.K. Setlur                   | 82. Madhava Shukla          |
| 46. Mangal Singh                  | 83. Arjunlal Sethi          |
|                                   | 84. Keshava Chandra Gupta   |

- |                             |                         |
|-----------------------------|-------------------------|
| 85. R. Chinoswami           | 91. Vasudeorao Subhedar |
| 86. K. Madhvan Nair         | 92. R.V. Ruikar         |
| 87. K.B. Jivaraja           | 93. P.D. Dhawale        |
| 88. Belur Srinivasa Iyengar | 94. Masood Ali Nadvi    |
| 89. Raghavendrarmi Sharma   | 95. Chunilal Banerji    |
| 90. B. Raja Rao             |                         |

(There are about twenty more names on the list but their signatures are illegible.)

*2—Statement made on behalf of Swadhin Bharat Sangha*

We, the members of the Swadhin Bharat Sangha, are of opinion that the only goal for which any nation should work is independence and that India can never have true freedom until British connection is severed and, therefore, the constitution of India should be based only on Independence. We find that the constitution recommended in the Nehru Report is based on what is known as Dominion Status which means that the entire politics of India will in the last resort be controlled by Britain in the interests of British Imperialism. We are also of opinion that the salvation of India and her masses lies in the establishment of real socialistic regime. We are afraid the whole of the constitution sketched in the Nehru Report is based on capitalistic ideals of society. We are not prepared to accept this constitution and hence cannot support it.

2. We feel that real unity cannot grow and prosper in India as long as there is communal representation in whatever form in the Constitution of India. We are, therefore, emphatically of opinion that the constitution of India should be based only on national representation. We find that the constitution, sketched in the Nehru Report, is based on communal representation through reservation of seats for minorities. Consistently with our nationalism we cannot therefore accept this portion of the constitution. But since, under the circumstances, much as we deplore them, another settlement, acceptable to all the communities was not possible we feel it our imperative national duty not to complicate matters by opposing that portion of the Report in this Convention or outside in the country ; for we

do not want to fall into the clever traps of the rank communalists and reactionaries who, exploiting the idealists nationalism and patriotism, are out to wreck any honest efforts at mobilising the national forces to give a battle royal to the present tyranny and to win the nation's freedom.

Having stated our position with regard to the three most important issues in the Report (1) Dominion Status *vs.* Independence (2) Nationalism *vs.* Reservation of seats and (3) Socialism *vs.* Capitalism, we wish to assure the Convention that, much as we feel very strongly on these three questions, we do not propose to hamper the work of this Convention, but we desire to record our considered opinion on all three questions and to dissociate ourselves from resolutions on these three issues in so far as they commit us to the acceptance of British connection, Capitalism and Reservation of seats on communal basis. We shall not take any part in the resolutions by moving amendments or voting on them. We shall, however, avail ourselves of the privilege accorded in the Report and the Lucknow resolution carrying on such activity as we consider proper and necessary in favour of complete Independence and hope the parties favouring British connection will not carry on any counter-propaganda or hamper in any way our activities in that direction.

While we have stated our position on matters of principle, we have purposely refrained from considering the various details and giving our opinion on them because we believe the time for drafting a constitution for India has not yet arrived. When we shall have devised our sanctions and by enforcing them have won our national freedom, then will be the proper time to sit together to discuss and draft a suitable constitution for India. But since the aristocratic leaders of India feel that India can win her rights and liberties by producing an agreed constitution, we do not want to hamper their work lest we be charged by them as having spoiled it by pressing our resolutions which we are sure have the support of the entire Nation. But we wish to make it very clear that if within one year

the efforts of the Convention do not produce any results, we shall expect them to join with us in working for Independence.

(Sd.) Govindanand

*General Secretary, Swadhin Bharat Sangh*

**3—STATEMENT MADE BY MR. MANECKJI  
PATEL ON BEHALF OF MAZDAYASNI  
PARSEE MANDAL**

*The President of the All-Parties Convention*

Dear Sir,

At the resumed sitting of the All-Parties Convention, on Monday last, I applied to you for permission to address the meeting, being a Delegate elected by a Parsi Association of Bombay, known as Mazdayasni Mandal, but did not get an opportunity to do so, as closure was applied by you suddenly being pressed for time. I, therefore, avail myself of this means to place before the All-Parties Convention, through you, the following statement which represents the views of my Association and of the Parsi Community in general about the Constitution drafted by the Nehru Committee so far as my knowledge of the same goes.

With a view to prevent any possible misunderstanding and injustice to myself, I must say at the outset that I hold the most radical views in politics and am an Independence Leaguer and do not share the views of the majority of my Community. But having attended the Convention as a Delegate elected by the said Mazdayasni Mandal, I feel myself in duty bound not to give expression, in this statement, to my views and sentiments, but to those of the majority of the members of the said Mandal, of which I have the honour to be the President and a Delegate.

The Parsi Community appreciates the unquestioned and unquestionable patriotic motives that have inspired yourself, Pandit Motilal Nehru and others, who are responsible for the framing of a Constitution for the future governance of the country, which bears clear evidence of assiduous application,

strenuous labour and unflagging zeal. But the Community cannot help deploring the fact that its very existence has been ignored by the said leaders, from the very inception of the movement for framing the said constitution. For this reason more than any other, this business of Constitution-framing has failed to evoke the sympathy and enthusiasm of one of the smallest yet admittedly one of the most influential Communities in India. The absence of any reference to the Community in the Nehru Report, supplementary as well as original, may have been unconscious and inadvertent. It is, however, as surprising as is painful to the Community to see itself so completely ignored in the Report by the distinguished framers of the Constitution.

The Parsis complain that although, like the Sikhs, they have showed that patriotism and their desire not to stand in the way of India's freedom by foregoing their claim to special representation even at the sacrifice of their individuality as a separate political entity, yet this voluntary self-abnegation on their part has met with no recognition at the hands of the Hindu and Muhammadan leaders, inasmuch as not a single Parsi has been given a place on the Nehru Committee. They also feel that invidious distinction has been made in the treatment meted out to Muslim and Parsi minorities. While the Parsi minority is asked to be content with joint electorates, without any compensation in the shape of special rights and privileges, in the case of the Muslims, the acceptance of the principle of joint electorates is made conditional upon the reservation of seats for Muslim minorities in the Legislatures and local bodies, the separation of Sindh, the introduction of reforms in the Frontier Provinces and Baluchistan and other such special demands.

The Parsi Community desires to know what would be its position in India when the Government of the country virtually passes from the hands of the British into the hands of the people. The apprehension, frequently entertained by a large section of the Parsis in the matter of Swaraj, is that if the



Indians were granted Self-Government, the dominant race will, by the sheer force of numbers, sweep everything before them and that the interests of the minor races like the Parsis, who are numerically vastly inferior to the Hindus, would considerably suffer.

The majority of the Parsi Community have now learnt to hate communalism in every shape and form and disdain to ask for or have special communal rights and privileges. They have, as a community, with a handful of exceptions, made common cause with the Hindus and the Muhammadans and boycotted the Simon Commission. They have also exhibited sufficient moral courage to give their whole-hearted support to the Nehru Report, in spite of their aforesaid grievances. They have thrown the weight of their influence, however little it may be, on the side of righteousness and justice instead of co-operating with the Simon Commission driven by a cowardly and selfish consideration of communal interests. The Community has also adopted a courageous attitude towards the Constitution as drafted by the Nehru Committee and have resolved to trust to their own abilities and merits and the leaders' sense of justice and fair play for a share in the Government of the country to which they would naturally and legitimately aspire when India is free. And the most advanced amongst them even go the length of asserting that the Parsi Community with its glorious traditions and world-renowned charitable instincts would prefer to be wiped out of existence rather than stand for one moment in the way of the political emancipation of their adopted mother country, from any selfish and self-interested motives.

They, therefore, hope that their position as a community will be seriously considered along with the interests of other communities in any Constitution they may finally come into existence.

In conclusion, I would request you, Sir, to have this statement read before the Convention and placed on the records of the proceedings.

(Sd.) Maneckji K. Patel

**4-- STATEMENT MADE ON BEHALF OF HON'BLE  
SHAH MOHAMAD ZUBAIR AND OTHERS,  
MEMBERS OF THE CENTRAL KHILAFAT  
COMMITTEE**

We, the signatories of this statement and members of the Central Khilafat Committee consider it our painful duty to make our position clear to the public with reference to our attitude in dissociating ourselves from those who hold executive offices of the C.K.C. today and with whom many of us have worked for all these years in laying foundation of the C.K.C. and building up its edifice. It is after full deliberation that we have decided to record the following facts, inter alia, which compelled and determined our present attitude :

(1) Let it be mentioned first of all that at the meeting of the C.K.C. held on the 24th instant, we and our supporters formed the majority out of about 70 members of the C.K.C. then present. This fact was itself so obvious to the President that from the very beginning he resorted to decide controversial matters by means of wrong rulings instead of the usual course of taking votes by which our decisions should have been the decisions of the C.K.C..

(2) We have been making genuine efforts for some time, to come to any reasonable understanding on the Nehru Committee Report and several informal meetings were organised during the last few days between the two sections of the C.K.C. with the only result that all our efforts were frustrated by methods of obstruction and procrastination adopted by the representatives of the other party.

(3) The President of the C.K.C., on receiving the information that the Bengal Khilafat Committee, known to be in favour of Nehru Committee Report, was conducting its election, went to the place of election and tried to stop it. When the President, the Secretary, and a most responsible member of the C.K.C., who were there with about 100 rowdies taken inten-

tionally for the purpose, did not succeed in stopping the election, they tried to disturb the meeting. The Bengal Khilafat Committee, however, succeeded in electing 30 members for the C.K.C. Thereupon the registers of the Bengal Provincial Khilafat Committee were forcibly taken into possession. Next day these gentlemen, without any authority, held an election for the said Province from amongst members enrolled in Calcutta only. This election was neither made in presence of the members from district committees nor any names were called from them.

Besides Bengal elections, the other disputed elections were from Behar and N.W.F. These disputed elections were formally brought to the notice of the President of the C.K.C. at the very commencement of the meeting and it was demanded that rival parties of every disputed election should be treated on equal footing in being allowed or disallowed, to exercise their right of vote. The President, however, by his wrong ruling given under the influence of partisan spirit allowed all those parties to vote which supported his side and excluded rival parties from the meeting.

(4) At the meeting of the Working Committee of the C.K.C., to which disputed elections were referred, the partisan spirit of the President further became painfully clear. The election which the President and his party had organised from the Bengal Provincial Khilafat Committee was rightly invalidated by majority in the Working Committee but the President freely used his casting vote in disqualifying the election made by the Bengal Provincial Khilafat Committee which he had tried to stop in vain.

The same objectionable method was adopted in disqualifying the members duly elected for the N.W.F. by the Punjab Khilafat Committee in strict accordance with the rules of the Constitution and established practice. The disfranchisement of a body is a drastic step which is not resorted to, much less by a casting vote, but the President did not hesitate in using this method.

(5) In the second sitting of the C.K.C., which was held late at night, the President's attitude became aggressively partisan when in spite of a clear rule in the C.K.C. constitution he disallowed the right of appeal to the latter body against the decisions of the Working Committee.

(6) Later on when election of the members of the Subjects Committee was being conducted, an offensive remark passed by a most responsible member of the C.K.C. led to angry words and alterations, explanations, counter-explanations and a regular pandemonium. This had hardly subsided when at the sound of a whistle from a Khilafat volunteer a number of persons carrying lathis and knives rushed in the Pandal and were with great difficulty prevented from using their weapons. There was a man seen actually brandishing a large size hunting knife who was controlled with difficulty. We have no doubt in our mind that these rowdies were kept ready outside the Pandal and they had rushed in at the given signal. Under these circumstances we had no other alternative but to retire from the meeting and those few who remained there a little longer did not join it again.

(7) We are informed that after all of us had left the Pandal the President carried on not only the elections of the members of the Subjects Committee but, notwithstanding his assurance to the contrary given at the commencement of the meeting, carried out elections on behalf of the Bengal Provincial Khilafat Committee for the C.K.C. in our absence and elected those very thirty members whose election was invalidated by the working committee already. The Secretary of the C.K.C. and the other Executive Officers were elected then and there in our absence and against the previous announcement of the President. These proceedings altogether were ultra vires.

Having been made to retire by display of physical force and violence and in view of the unconstitutional, arbitrary and high-handed action of the Executive of the C.K.C., we found it impossible to exercise our right of free expression of opinion

and were left with no other alternative but to hold a meeting of our own which constituted the majority of the members present in the aforesaid meeting of C.K.C. and thus to give expression to our considered views.

At a meeting of the aforesaid members of the C.K.C. held under the presidentship of the Honourable Shah Mohamad Zubair the following resolutions were passed :—

1. That in pursuance of the policy of the C.K.C. followed heretofore and acted upon in Lucknow, this Committee resolves :—

(a) That participation in the All-Parties Convention be continued as before and plenipotentiaries be sent there on behalf of the C.K.C.

(b) That whilst keeping the goal of complete national independence of India as an ideal, the constitution prepared by the Nehru Committee be accepted in general and recommendations on communal representation be accepted with certain modifications.

(c) That the Punjab Pact entered into at Lucknow by the Punjab delegates sent in the All-Parties Conference by the C.K.C. be adopted in place of the demand for reservation of seats for a period of ten years.

(d) That the demand in case of Bengal be made on the lines of the Punjab Pact.

(e) That seats in legislatures be reserved for Muslim minorities on principle adopted by All-Parties Conference for as long as they so desire.

(f) That the residuary powers should rest in the Provincial legislature.

(g) That the amendments sent in by the Punjab Khilafatists in the All-Parties Convention are hereby adopted by C.K.C.

(h) That the following delegates be elected with full plenary powers to represent the C.K.C. in the All-Parties Convention.

1. Hon'ble Shah Mohamad Zubair (Behar)
2. Dr. M.A. Ansari, Delhi (Ex-President C.K.C.)
3. Maulana Abul Kalam Azad, Bengal, (Ex-President C.K.C.)
4. Seth Yakub Hassan, Madras (Vice-President of the C.K.C.)
5. Dr. Syed Mahmood, Behar (Ex-General Secretary C.K.C) Member of Subject Committee
6. Dr. Saif-uddin Kitchlew, Punjab (Ex-President C.K.C.)
7. Ch. Khaliquzzaman, U.P. (Member of the W.C. of C.K.C.)
8. Maulana Abdul Kadir Kusuri, Punjab
9. Dr. M. Alam, Barrister, Punjab
10. Mr. T.A.K. Sherwani, Barrister, U.P.
11. Maulana Muzaffar Ali Khan, Punjab
12. Moulvi M. Masud Ali Nadvi, U.P.
13. Moulvi M. Habibur Rahman, Punjab
14. Mr. Abdur Rahman Ghazi, Punjab
15. Mian Sirajuddin, Punjab
16. Moulvi Mohamad Daud Ghaznavi, Punjab
17. Sh. Hisamuddin, Punjab
18. M. Mohiuddin Ahmed, Punjab
19. Abdul Hamid Khan, Madras
20. Shafi Mohamed, Madras
21. (Master) Tajuddin, Punjab
22. Ch. Mohd. Yaqub, Punjab
23. (Hafiz) Abdul Aziz, Punjab
24. Sh. Abdul Ghani, Punjab
25. (Hakim) Nooruddin, Punjab
26. Ch. Mohammed Amin, Punjab
27. (Hakim) Abdul Aziz, Punjab
28. Sh. Umaruddin, Punjab
29. Malik Labbhu, Punjab
30. Mian Elmuddin, Punjab
31. Kh. Abdur Rahim, Punjab
32. Ch. Abdul Hamid, Punjab
33. Amir Alam Awan, Punjab
34. M. Mazhar Ali Azhar, Punjab
35. (Hakim) Mohd. Sikander, Punjab
36. (Hakim) Ahmed Hussain, Punjab
37. Sh. Bashir Ahmed Raizvani, Punjab
38. Kh. Ghulam Mohammed, Punjab



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|---------------------------|---------------------------|
| 39. M. Zafarul Mulk, U.P. | 43. Mr. Yaqub Ali Khan,   |
| 40. Abad Hussain Kidwai,  | U.P.                      |
| U.P.                      | 44. Mr. Latifuddin Ahmed, |
| 41. Mohd. Usman, Burma    | U.P.                      |
| 42. Hakim Abdus Sattar,   | 45. Imam Abdul Qadir      |
| U.P.                      | Bawazir, Bombay           |

*5. Letter From The Secretary, Central Khilafat  
Committee*

*The President,  
All Parties Convention,  
Calcutta.*

The Indian National Congress, in its session held at Madras, had authorised its Working Committee to confer with similar committees to be appointed by other organizations in the country and draft a Swaraj Constitution for India and to place the same for consideration before a special Convention consisting of the All-India Congress Committee and the leaders and representatives of the organisations mentioned above and the elected members of the Central and Provincial Legislatures.

In compliance with these directions the Working Committee of the Congress had issued invitations to a large number of organizations, including the Central Khilafat Committee, which responded by sending its representatives to meet those of other organizations in the Conference which held its first sitting on the 12th of February at Delhi. On the 22nd of February the Conference appointed a Committee, with instructions to report on a number of subjects relating to the future constitution of India, and this Committee, accordingly, met from day to day; and when it finished its labours and presented its report, the Conference met again, on the 8th of March, and after considerable discussion adjourned on the 11th of March until the 19th May, when it was to meet again at Bombay, and ordered the report of its Committee to be published and circulated.

But when the Conference met again at Bombay on the 19th May, instead of resuming the work it had left unfinished at

Delhi, which included a consideration of its Committee's report, it appointed another Committee which has since come to be called the "Nehru Committee".

Even though the Muslim representation was insufficient on this Committee, the Khilafat Committee representatives offered no objection to its appointment and awaited the result of its labour.

Unfortunately the manner in which the Nehru Committee proceeded showed that its mentality was not that of an All-Parties Committee unprejudiced by the domination of any of the constituent organizations that had responded to the Congress Working Committee's invitation. The Committee entirely ignored the work that had been done at Delhi and paid scarcely any attention to the Hindu-Muslim settlement arrived at with great difficulty and after a great deal of earnest endeavour and embodied in the resolutions passed by the Indian National Congress at Madras and the All-India Muslim League at Calcutta. The Nehru Report that was at last issued proved only too clearly the new mentality of the Nehru Committee.

Nevertheless the Central Khilafat Committee sent its representatives to the All-Parties Conference held at Lucknow. But the manner in which this Conference proceeded proved even more clearly the mentality to which reference had been made above. The President of that Conference, at the very outset, declared that the decisions of the Conference would be arrived at by counting individual votes and not by ascertaining the views of the organizations which had sent their representatives through their properly accredited spokesmen. This entirely made the All-Parties Conference a misnomer. Although the Presidents of the Jamiatul Ulama and the Central Khilafat Committee declared in the Conference that their respective organizations did not accept Dominion Status as the basis of the constitution and regard the complete independence of India as their goal, these statements were not recorded, and in the summary of the proceedings published with the Nehru Com-

mittee's Report the only mention that is made of this dissociation of these two organizations from the Nehru Committee's acceptance of Dominion Status as the basis of the constitution is in the curious form that Maulana Kifayat Ullah and Molvi Mohamed Shafee Daoodi, amongst others, who are named, "also took part in the discussions".

A still more serious matter took place when the President of the Conference placed before it an agreement arrived at by those who are called in the summary of the proceedings "the Punjab delegates". It was not an all Provinces' Conference but an All-Parties' Conference and the "Punjab delegates" had no *locus standi* in the Conference as such. When Maulana Shaukat Ali, the Secretary of the Central Khilafat Committee, read out a statement to the effect that his Committee has passed its own resolution on the matters dealt with in "the Punjab agreement", and it stood by it, the President allowed Dr. Mohamed Alam and Maulana Abdul Kadir to challenge that statement and to declare that the Central Khilafat Committee had not authorized him to make the statement he had made, and that the Committee had left the Punjab question for decision to the delegates from the Punjab, who had accordingly decided it and come to an agreement which was to be taken as the decision of the Khilafat Committee. This was wholly improper, as the Conference could not rightly countenance divergent statements being made before it by representatives of any Party or Organization. That it countenanced such action only too clearly indicated that those who were dominating the Conference did not want to hear spokesmen of any organisation announcing its decisions if they happened to be different from those of the Nehru Committee and encouraged some of the representatives of such an organisation to express views divergent from its own decisions if they favoured the views of the Nehru Committee. The manner in which amendments sought to be moved by representatives of the Central Khilafat committee, were dealt with by the President and those who were dominating him, was only too painful, and has already been commented upon in the Muslim press, and, therefore, needs no further elucidation.

Since the Lucknow Conference the Muslim community in every province, including the Punjab, had unequivocally voiced its disagreement with the so-called communal settlement in the Nehru Report, and those who dispute this can be challenged to have it tested in any Conference which is open to all adult Muslims, and not confined merely to the supporters of the Nehru Report. Nevertheless, these supporters have been trying to throw dust in the eyes of the world by using any means within their power to secure a majority of the voters of every Muslim organization in favour of the Nehru Committee's report. The Central Khilafat Committee has noted with great pain the efforts made by certain elements to secure such majority of the Central Khilafat Committee also in favour of that Report. Our labours had been constantly interrupted on the pretence of arriving at an understanding with a very large majority of members of the Khilafat Organization who did not entirely approve of the communal settlement in the Nehru Report, and although time was fixed for consultations on three or four occasions, the supporters of the Nehru Report were never punctual and kept us waiting for more than an hour and a half every time, and so on after the discussion commenced adjournment was urged by the very men that had come so late.

Worse than that, the meetings on the Central Khilafat Committee and the Subjects Committee of the All-India Khilafat Conference, now being held here, have been disturbed by highly improper and outrageous conduct, and every effort has been made to create disorder when it was clear that the majority could not be secured in favour of this element even in a snatch division and in the elections to the Subjects Committee. It was only when, time after time, their candidates were beaten by a substantial majority, even after they demanded a recount and obtained it, that they decided to leave the meeting. False statements have from time to time been sent to the press, making the gravest allegations against the Committee and its executive and its volunteers who have so nobly undertaken to do their work and have travelled all the way from the N.W.F. Province. We have already lost so much time through the

mischievous and unscrupulous interference of these people and have not been able to afford time for correcting the mis-statements published in the press by them or their agents.

To crown all this an incredibly unscrupulous effort has now been made by these people to go to the All-Parties Convention as delegates of the Central Khilafat Committee. It was published this morning in the papers that they were going to form another Central Khilafat Committee and to create branch committees throughout the country for which a Sub-committee was formed. But evidently they remembered that only such organizations as had been in existence for not less than two years before the Convention met, could claim to receive an invitation to the Conference; they suddenly changed their plans and have had the hardihood to announce today that they are the delegates of the Central Khilafat Committee, and they have taken their seats as such in the Convention which is being presided over by one of themselves.

In these circumstances it was obvious that no useful purpose could be served by the Central Khilafat Committee in sending its delegates to the Convention. This received full confirmation on the very opening day of the Convention when the President-elect of the All-India Khilafat Conference, now being held at Calcutta, attended the Convention in his capacity as ex-President of the Indian National Congress and, therefore, *ex-officio* member of the A.I.C.C. When he spoke in the Convention on the resolution adopting Dominion Status and not complete independence as the basis of India's future constitution, a question which has nothing to do with anything communal, he was being interrupted throughout his speech in the most outrageous manner and efforts were lost being made to howl him down and to compel him to withdraw statements which he had never made. In view of all this the Central Khilafat Committee has no alternative but to refuse to send any delegates to the Convention, where they are not likely to receive a patient hearing. It does not desire to follow the tactics of those who want to throw dust into eyes of the world

by making it appear that the Muslim community is in favour of the so-called communal settlement embodied in the Nehru Report and who created most disorderly scenes in the meeting of the Central Khilafat Committee and behaved outrageously even in the meeting of the Working Committee of the Khilafat Organization. It prefers the more dignified course of entirely abstaining from any participation in the Convention, and I am, therefore, forwarding this statement to you for your information. This has already been placed before the full Khilafat Conference now being held here which approves of it and calls upon me to forward it to you and to the press.

(Sd.) Shaukat Ali

*Hon. Secretary, Central Khilafat Committee of India  
(Bombay)*

*Resolution*

This Conference after listening to the draft letter submitted to it for its consideration and approval, approves of it and calls upon the Hon. Secretary to forward it to the President of the so-called All-Parties Convention and to the press. This Conference also considers that in these circumstances no useful purpose will be served by sending delegates of the Central Khilafat Committee to such a Convention.

(Sd.) Shaukat Ali

*Hon. Secretary, Central Khilafat Committee of India  
(Bombay)*

*6. Statement made by Sardar Harnam Singh on behalf  
of the Central Sikh League*

Mr. Chairman and fellow delegates :

There are three amendments standing in my name. As you will find presently they relate one and all to Sikh representation in the various legislatures of the country and are quite innocent in their character but I fear that the high-strung feelings of communalism of some may stand in the way of their recognition and acceptance at present. The Sikh League delegates also appreciate the difficulty of the leaders who on



account of a strange coincidence of circumstances and the obduracy of certain interested parties find themselves helpless at the present moment. Mr. M.A. Jinnah rightly observed the other day that the test of a good constitution is "the security of minorities" it affords. But the trouble is that this wise counsel is not adhered to in the case of the Sikhs. Permit me, Sir, if I say that all this is being done advisedly and on purpose. Be that as it may, I, on behalf of the Central Sikh League, assure the delegates that the Sikh League will ever be prepared to work shoulder to shoulder with their fellow countrymen for the emancipation of Mother India and shall do their uttermost to break the shackles and trammels of foreign yoke. My amendments read as under :—

(1) Under the head communal representation II delete the word "and" after the word "minority" in the third line, add the following after the word "province" in the same line :— and for Sikh minority in the Punjab". And add the following at the end :—"In the Punjab there shall be 30% reservation of seats for Sikh minority, and Sikh representation from N.W.F. Province, Sind and Baluchistan shall be adequate and effective".

(2) Under the head communal representation III (a) delete the words "in the Punjab" after the word "community" and add the following after the word Bengal :—"In the Punjab there shall be reservation of 30% seats for Sikh minority".

(3) Under the head communal representation III (c) after the word "province" and "and Beluchistan" and at the end of the second line add "The Sikh minority in these provinces shall have separate representation with considerable weightage."

These are the three amendments and before proceeding further it will be proper to summarise the position of the Sikhs especially in the Punjab and generally in India. They are admittedly a distinct and important minority in the Punjab and though outside that province they exist in much smaller proportion than in the Punjab, Sikh interests and services extend throughout the country. Sikh shrines and holy places are in exis-

tence throughout the length and breadth of India from beyond the North-West Frontier Province to Assam and even Burma and and southwards into the territory of the Hyderabad (Deccan) State. Historically Sikhs were the rulers of the Punjab, Frontier Province and Kashmir before the advent of the British. In the Punjab they pay 40% of the land revenue and canal charges which is the chief source of the provincial Exchequer. They have always supplied one-third man-power in the Punjab and one-fifth throughout India to the Indian Army. Besides Sikhism had its birth in the land of the Five Rivers and thousands of Sikh shrines and holy places with millions worth of charitable endowments attached thereto are scattered far and wide in this province. In a word, their political and economic importance cannot be exaggerated and they have admittedly the highest stake in the Punjab although they form 11.1% of the Punjab population.

It is, therefore, necessary not only in the interests of the success of the scheme which the Convention may eventually evolve for the governance of the country but for the harmonious development of Mother India that all these aspects are scrupulously kept in view while the Nehru Report recommendations on matters communal are still on the anvil.

### *II—Existing Representation*

A word about the existing system seems necessary for a proper appreciation of the Sikh viewpoint. Under the existing system they have their separate electorates and are given 17% of seats in the provincial council although their voting strength is 25%. Their representation in the Central Legislature is 25% of the Punjab contribution to the same. But the fact must not be lost sight of that in order to ensure adequate and effective representation for them, consistent with their position and importance, they have always claimed that a much larger share in the various legislatures of the country is their just and appropriate portion. And here it will not be out of place to add that both responsible officials and Congress leaders have conceded from time to time, that the "Sikh demand is, in subs-

tance spirit; a perfectly just and fair demand". Some time ago 25% reservation of seats in the Punjab Legislature was proposed for them by some Congress leaders but this they would not accept. Needless to add also that, throughout the communal controversies that have raged round the question of representation in the Legislature during recent years, they have always relied upon the due recognition and just appreciation of the question of Sikh representation by their Hindu and Muslim brethren, and have ever stood by the national movement doing their "uttermost" to help the national cause. And it will not be presumptuous to add here that the Sikh sorrows and sufferings in the national cause during recent years are much more than twenty times their proportional share according to population figures. But it is regrettable to add that situated as the Sikhs are in the Punjab, they under the proposed scheme are not certain of even 2% seats in the Provincial Council and it is almost certain of their going unrepresented in the Central Legislature.

### *III—Down with Communalism*

With saying all this, the Sikhs do not wish to make any proposals in a spirit of narrow-mindedness. They are fully aware of the imperative necessity of a healthy national growth in the country and are always ready to co-operate with their sister communities for the development of a united nation on lines purely nationalistic. To say the least, they are prepared to make all sacrifices in the national cause provided the virus of communalism is eradicated root and branch from the Indian body politic and communal considerations in any shape or form, direct or indirect, do not prevail in the making of the Indian polity. But it has pained the Sikh Community to find that the recommendations of the Nehru Report are all conceived in a spirit of communalism and the Sikhs apprehend that the Report tends to pave way for another communal war. How the Congress-League Lucknow Compact of 1916 ruthlessly trampled upon the rights of the Sikhs is a matter of history. The Sikhs have again received a rude shock by having had to realise:

that those alone who talk loudest and manoeuvre agitation most are listened to, however iniquitous their demand may be.

That the Report tends to keep alive communalism in various shapes and forms in the country, resulting in the inequitable divisions of power among the two major communities in India, is manifest from the following recommendations :

1. Creation of "communal" provinces and thus dividing the country into Hindu India and Muslim India (vide page 31 of the Nehru Report.)

2. The adumbration of the principle of adult suffrage with a view to ensure that the numbers of electors of the various communities may bear the same ratio to each other as the population figures of these communities (vide Nehru Report page 137) and making it a part of the communal recommendations quite inseparable from them (vide Supplementary Nehru Report page 12). That the recommendation of adult suffrage is based on communal considerations the following except from the Nehru Report page 92 will conclusively prove :

"At present the voting ratio between different communities is not the same as the population ratio. Thus in the Punjab although the Muslims outnumber the Hindus and Sikhs combined, the number of their votes is far less than the Hindu and Sikh voters. This is due to the superior economic position of the latter. We are strongly of opinion that this anomaly should be ended and the voting ratio should be made to correspond with the population ratio. With adult suffrage this happens automatically, but with any other restricted franchise the only possible way to do it is to have different electoral qualifications for different groups and communities. We are thus driven to the conclusion that the only solution is adult suffrage and we have recommended accordingly."

3. The extension of the same form of Government to the N.W.F. Province and Beluchistan as in other provinces of

India on grounds purely communal, in a spirit of bargaining, to pay the price of the Muslim acceptance of Joint Electorates.

4. To crown all, the questions of amendment of the constitution and forms of Government, whether unitary or federal, have also acquired a communal aspect and they are being approached from that point of view (vide Supplementary Nehru Report, page 23).

*IV—Recognition of Communalism by the Nehru Committee  
and the Sikh Demand*

Under the circumstances the Sikhs, in view of the prevalent communal mentality, find their interests seriously jeopardized and consequently reiterate their demand that "in view of the admitted political, historic and economic importance of the Sikhs in the Province it is absolutely necessary to provide adequate and effective representation for them in the Legislatures of the country by the reservation of at least 30 per cent seats in the Punjab Council and the same proportion of representation from the Punjab to the Central Legislature of the country on a system of joint electorates with plural constituencies so that no one community may be in a position to dominate over all others." (Resolution of Central Sikh League, 1928).

This Sir, is a tedious brief review of the question of Sikh representation and I would like to have invited the discussion of the House on these amendments, but after the lengthy discussions in the Sub-committee of the Convention appointed by this House to meet the delegates of the Muslim League and the Khilafat Committee and adoption of the Muslim statement made at Lucknow as the Punjab Pact, inspite of the Sikh dissent, it has been deemed advisable not to waste your precious time by formally proposing the same. Permit me therefore, Sir, to declare on behalf of my party, that the Central Sikh League withholds its support from the Nehru Report and feels constrained not to take any more part in the proceedings of the Convention. I would, therefore, request you, Sir, to allow this statement as read and placed on the records of the Convention.

**7. *Statement Made on Behalf of Namdhari  
Bhaini Darbar Sahib***

We, the Namdharis, after giving our careful consideration to the communal problem, have come to the conclusion that so long as the system of communal representation remains a part of our constitution, there can be no real progress towards the evolution of one Indian Nation. We are further of opinion that minority interests cannot be protected by this system, as it has already done more harm than good in this matter. It is, we presume, on that account alone that a substantial change in the system has now been agreed to by that section, which has from the very beginning been a strong advocate of this system.

Under the circumstances the best solution of the question is that representation should be purely on National lines. We are sorry to see that the Nehru Committee has not recommended the abolition of communal representation throughout the country. We are, however, glad that this system has been abolished altogether in the Punjab. There is a section of Sikhs, who want to retain it in our province. We regret to say that we cannot see our way to associate ourselves with our brethren in their demand for the continuance of communal representation.

We stand for pure Nationalism. In the end we beg to state that we accept the solution of the communal question as contained in the recommendations of the Nehru Committee, as we think under the present conditions there could be no better settlement among the various parties in the country.

**8. *Statement Made on Behalf of States Subjects Conference***

We, the undersigned delegates representing the All-India States Subjects Conference, Madras, desire to make the following statement with a view to clear our position before the Convention. Whether the political goal of India is complete Independence or Dominion Status, the relative merits of which



are not relevant to our present purpose at this stage of the debate, it is patent now that the hesitation of the distinguished authors of the Nehru Report to tackle and suggest a solution of the Indian States Problem in a manner satisfactory and acceptable to both the princes and peoples of their States, is due to the handicap which the authors of the Report would not have met with, if they had framed the constitution on the basis of Independence.

We feel that the Nehru Committee, labouring under such handicap, could not do otherwise than by ignoring the urgency of the people of the Indian States and failing to plan as earnestly and actively to secure the emancipation of the people of the States as to advance the cause of Swaraj in British India.

We notice that the aspirations of the people of the States for political freedom are so nobly expressed in the words of the Nehru Report, "it is inconceivable that the people of the States who are fired by the same ambitions and aspirations as the people of British India, bound by the closest ties of family, race and religion to their brethren on the other side of an imaginary line, will never make common cause with them."

We also know that in their report the distinguished authors have ably met the arguments that are being advanced on behalf of the Princes with regard to their alleged legal position, vis-a-vis the Paramount Power, though we look in vain for a formula as can be availed of by the people of the States in their desire for freedom from the autocratic yoke of their Rulers.

The Executive Committee of our Conference considered the terms of reference to be followed by the Nehru Committee in the drafting of the provisions relating to the Indian States and criticising them as falling far behind the actual requirements that ought to form the basis of their recommendations, expressed its opinion that anything short of federation with Swaraj India on the lines suggested in their scheme of Swaraj for India, embracing Provinces and States, which they prepared and sent to the Nehru Committee, was neither acceptable to the people nor just to the Rulers.

We feel that that scheme represents correct position to be taken by the people of the Indian States with reference to the future relationship of the Indian States with the Central Government under Swaraj Constitution. We also desire to express our considered opinion that we are not convinced of the constitutional grounds which the distinguished authors have urged against their going beyond their present recommendations. No doubt they have expressed sympathy and are still expressing sympathy with our aims and aspirations. But what we wanted was and even now what we want is a closer understanding, more tangible sympathy, coordination of work and a really equitable declaration of ideals.

We finally desire to make it known that the present recommendations do not cover the fundamental requirements of our view-points, namely (1) the introduction and development of the system of responsible government, and (2) the inclusion of the Indian States in the All-India Constitution now under contemplation by the provision of an effective position therein to their representatives ; so that the people of the States may be able to exercise their due share of power in the decision of all matters of common interest and grow in citizenship equally with their fellow countrymen in British India as members of a free Indian Nation.

Having regard to the composition and the other circumstances which we do not wish to enter into in any detail, we have decided not to take any part in moulding those recommendations ; we shall neither move amendments nor vote on them. In our opinion the whole chapter is to be recast if it can be rendered satisfactory and acceptable to us, for which there exists little or no chance for reasons above stated.

#### *9. Statement Made of Behaif of Linguistic Provinces League*

We the undersigned, representing the main linguistic units of India and members of "The Linguistic Provinces League" wish to place before this Convention the following statement as regards the formation of Linguistic Provinces simultaneously with the establishment of the Commonwealth of India.

We are glad that the authors of the Nehru Report have recognised the principle of redistribution of the country on a Leaguage basis. They have based the principle on the two considerations namely (1) linguistic principle (page 62) and (2) wishes of the people (page 63). But having done this, they have subjected to the operation of the principle for administrative convenience which according to them includes (1) geographical and economic resources and (2) financial stability.

Administrative convenience is a vicious condition which, in fact, accounts for the existing heterogeneity of provinces and which is inimical to the principles of Nationalism. While, therefore, the Report embodies a final recommendation as regards Andhra and Karnatak, it is halting as regards Utkal and Kerala and the effacement of Central Provinces by the absorption of its component parts in the surrounding Hindusthani and Maharashtra areas. Apparently the Committee have been guided by what are supposed to be financial conditions. We submit that the claims of Nationalism are paramount, that justice cannot be done as has well been recognised in the report itself either for administration or education of a Province of polyglot areas, that the repercussions of such drawbacks upon the upbuilding of nationalism will be marked and that the principle of "one language-one Province" must be enforced under the constitution irrespective of any financial considerations.

We realise the responsibility involved in so uncompromising demand, our only justification is the uncompromising claims of Indian Nationalism. Nor need we be anxious about financial stability, for the economic sources of a province newly carved receive intensive and exclusive attention from the Local Government and are not crowded out by the claims of the more influential tracts that have the ordering of things in their hand. Examples may be quoted in abundance to illustrate the point. The best proof of such accelerated development lies in Behar as pointed out by Lord Curzon himself in one of the two speeches in Parliament. Even if financial self-sufficiency may not be attained in the immediate future by such provinces, we

hold that their maintenance should be a charge on the Central Revenue for a time and trust that the sister provinces which are better off will not grudge this temporary support to their poorer neighbours in the interests of harmonious development of the National Organism.

We therefore, demand that provision should be made in the Central Government for loans or subventions to such provinces on suitable conditions during the transitional period.

There is a much smaller problem to be referred to as regards the readjustment of boundaries of Assam and Bengal, Behar and Orissa, Central Provinces, (Hindusthani), Kerala, and Karnataka, (vide Clause 72 sub-clause VI(d). If as pointed above, steps are taken immediately to constitute Orissa and Kerala as separate Provinces and the Hindusthani and Maharashtra areas are transferred to continuous, sister areas then there remains only the resettlement of the boundaries of Assam and Bengal. We should have been gratified if it had been specifically said that in respect of this matter, Sylhet and Cachar should be transferred to Bengal. This had been before the government since 1874 and yet it has not been given effect to. The Assam Council has voted in favour of their transfer and the Bengal Council has likewise voted to take the transfer. The transference undoubtedly conduces to administrative convenience and involves the question neither of economic resources nor financial stability. And so far as the Oriya problem is concerned we think that after the publication of the financial statement issued by the Utkal All-Parties Conference, the condition about financial self-sufficiency need not any longer be stressed.

## APPENDIX B

### BABU BHAGWAN DAS'S SPEECH

*(Full Text)*

*Mr. President and brother delegates :*

The Providence which guides the footsteps of the Indian people, induced them, in 1920, to adopt and put into the Congress creed, Swaraj as their goal, and all legitimate and

peaceful means as their method of reaching it. But, it did not succeed in inducing them to adopt a clear and definite meaning also with that word. The result was that the false unity seemingly created by that mere word, empty of all meaning, was equally empty of all reality and substance, and shortly began to crumble rapidly to pieces. It was drowned in the bloodshed and consumed in the incendiarism of communal riots and in the inkshed and invective of political controversies.

Then that Providence tried another plan. When the child will not drink the milk and turns a deaf ear to the good and sound reason that milk is wholesome and necessary for its health and strength, then the mother uses another reason, not so good : 'If you don't, your brother will do so and will become stronger and throw you down in wrestling.' And then the child eagerly drinks it up ; but, in its overhaste now, spills all the cream. So the Providence that watches over India got a dead-white Commission appointed in England, to proudly decide the destinies of India, without any living warmth of sympathy for the Indian people in its heart, and without any touch of Eastern colour on its surface ; and the same Providence also induced the ranting tongue of an exceedingly conceited and pugnacious State-Secretary in England to challenge the Indian leaders to agree among themselves on a constitution.

These indirect, ephemeral, adventitious reasons did in a few months what the real, permanent fundamental reasons had failed to do in nearly eight years. A fairly unanimous constitution has been drafted by the leaders of the parties amongst which the political and other uplift work of the country is divided ; and incidentally, it has been proved that the unity brought about by the intellectual investment, with a clear meaning of the word Swaraj, is much more solid, stable, and extensive than that produced by simply emotional play with the mere empty word.

But, because of the defect in the motive, there is a very serious defect in the result. The most essential part of the

meaning has been left out. There is a proverb in Hindustani about the marriage procession starting without the bridegroom. I pray this Convention not to leave out from the constitution, framed with such praiseworthy self-restraint and self-sacrifice on all sides, for the sake of the interests of all sections of the people, and with such admirable ability and comprehensive consideration of many issues and many aspects—I pray the Convention most earnestly not leave out the most essential part of the meaning of the word Swaraj.

An elected legislature, the making of laws by persons elected by the people—this is the essence of democratic self-government ; and it is the heart of the Swaraj constitution recommended by the Nehru Committee ; for the Legislature, the body which makes the laws by which the people's affairs are governed, is the central authority, the real sovereign power in the state ; and legislation by the trusted of the people is desired because so only, it is naturally and rightly believed, will good and wise laws be made which will minister to the well-being of the people as a whole.

The welfare of a people depends wholly upon the excellence of the laws which govern their life. But good and wise laws can be made only by good and experienced and wise legislators. Obviously then, and I feel sure that every member of every school of political thought and of every political party, present here, will readily agree that, the welfare of the people depends entirely upon the election of good and wise legislators.

I now invite the attention of this assembly to page 36 of the first report of the Committee. The following very noteworthy sentences occur there :—"It is notorious that even in highly democratic England...votes are given, not for matters of high policy or considerations that are really important, but for trivial matters or even sometimes most objectionable considerations which the exigencies of election time force to the front...men, who were to govern an empire, and influence largely world events, have been elected for reasons which make every intelligent person despair of democracy".



When I first read these sentences, great hopes were aroused in my heart. Surely, I thought, the Committee will provide against the visitation of India by similar despair, when they are introducing full democracy here. They will surely take a lesson from the case of England, and even more from the case of the United States of America, the overgrown daughter of England, the corruptness of whose elections and legislatures is notoriously far worse. They will see that India profits by the sad experience of those countries. They will make sure that India does not fall out of the frying pan into the fire. They will provide safeguards. So I thought. Our own experience during the last few years' elections to the various elective bodies, of lower and higher grades, such as we happen to have in this country also points in the direction of the crying need for such safeguards.

I therefore eagerly and anxiously scanned the subsequent pages of the Report and the Recommendations, to discover the safeguards. I was grievously disappointed. I have consulted friends possessed of greater experience in law and politics and constitution. They also said they had noticed those sentences and not found any safeguards.

I believe all present here will agree that the question is one of vital importance, viz., how to make sure, as far as humanly possible, that good and wise persons may be elected to the Legislature? This is the very crux of all political science and art. On the satisfactory solution of this problem of problems depends the whole future happiness of all sections of the people, of different types, different psycho-physical temperaments, different capacities, different vocations, different ages and stages and departments of life, of all creeds whatsoever.

I humbly but strongly believe that if, instead of spending the greater portion of our time, here in this Convention, in debating the sectarian designations and numerical proportions of our legislators-to-be; we had discussed, for even a tenth of that time, the head-quality and the heart-quality needed by

them, if, instead of emphasising *communal* representation, we had tried to arrange for *functional* representation, we should have done far more useful work and achieved less precarious, more solid, stable, and permanent reconciliation.

It is a very difficult problem ; all the more reason why we should grapple with it strenuously. It concerns the health of the root ; all the other details of the recommendations, as of any other constitution, deal with the branches and leaves only. It has not been solved by the West, so far ; all the more reason why the East should find the solution of it, by diving into the depths of her ancient soul and her traditions.

The spirit of Islam says, in politics,  
“Khuda-tars ra bar raaiyat gumar,  
Ke memar-i-mulk ast parhez-gar’.

*i.e.*, depute the God-fearing, conscientious, wise man to look after the affairs of the people, for the self-denying man builds up the State.”

The spirit of Dharama says, over and over again, in the ancient books, that laws should be made by the good and wise, moral, intellectual, and spiritual leaders of the people.

That which, in the phrase of the Christianity founded by the Eastern Jesus, is the kingdom of heaven on earth, is, in the plain language of politics, the legislative rule of the virtuous and the wise.

Let not India, fail, then, on this great occasion which has come to her, to lay the foundation of her Swaraj rightly, to make sure that her self-government shall be government by the wiser self of the people, her most experienced and most philanthropic sons, generation after generation. If the foundation is, laid wrongly now it will be very difficult to make corrections afterwards.

I therefore pray this Convention not to avoid this question because of its difficulty—lest out of the more haste should come the less speed—but give it the most earnest attention, and not leave it till it had been mastered and a solution found.

The Deshabandhu, who gave his life and all for the helping of India, has left behind suggestions for the solution in his Swaraj scheme. He had not only a patriotic, but also a deeply poetical and spiritual soul, which at times, had very true intuitions. His suggestions on this point are in accord with the ancient genius of the East. I believe in all of these. Yet, out of deference to the advice of senior friends who have counselled the omission of some points which, they thought, were more likely to arouse doubt and debate, I have included in the amendment which I am now going to propose only some of those suggestions. By reducing the number I hope to increase the chance of their acceptance. Even if I fail to get them accepted, I will, by placing them before this assembly, have done my particular duty to our country, and to the Deshabandhu who, unhappily, is not with us today to plead for them far more effectively than I can, when the opportunity has come at last and the country is framing its own Swaraj Constitution. If India succeeds in solving this great problem, she will be not only laying the foundation of her own future welfare, truly, deeply, strongly, but will also be making a very great contribution towards the improvement of world politics and the general happiness of mankind.

Guided by the inspiration of Mahatma Gandhi—an inspiration drawn from the elements, deeply embedded in her soul, of *ahimsa* and *tapas*, *parbez* and *zohd*, non-violence and self-denial, which create will-power and soul-force—India has latterly been making important new contributions to world politics in respect of methods of political struggle. Let her now make a similar contribution, in respect of vital political principle, in the light of the intuition of the Deshabandhu—an intuition based on other more positive elements, similarly ingrained in India's genius, of *vidya* and *loka-hita* and *bhuta-daya*, *ilm* and *hubb-ul-insani*, wisdom and philanthropy, which are to soul-force as the end is to the means.

The amendment I will propose is very simple. It consists of some additions to sections 9 and 31 of the Recommendations,

which are left utterly intact otherwise. These additions prescribe qualifications for the electees, the candidates for election.

Very much thought has been given, in the West, to the qualifications of the electors, in the history and practice of politics. But none has been given, so far as I am aware, to the special qualifications needed by the electees ; though the work of making good laws is very delicate and very difficult, and requires much looking before and after, much knowledge of causes and effects ; indeed the legislature should possess, between its members, the combined knowledge of all the best experts of the country, in all the main departments of the national life. The franchise has been extended still the qualification of the electors has been reduced to the mere possession of 21 years of age, in these Recommendations. But those specially needed by the person who is to become the law-maker, and which are of much greater import and consequence than the qualifications of the elector, have not been dealt with at all ; by the wording of the Recommendations, unless my eyes have deceived me, he need not have reached even 21 years of age. The choosing of the persons who are to make the far-reaching laws which will make or mar the happiness of the country is left to the unguided discretion of a cast mass of people, who are not only not instructed rightly whom to choose, but are often deliberately misguided, with vast abuse of power and wealth, during the election days, to choose wrongly in a manner which corrupts the moral of the electors as well as the future legislators, creates lasting and bitter personal enmities, aggravates and perpetuates class-hatreds, and promotes vicious legislation.

To obviate this evil as far as is humanly possible and provide a safeguard against the creed despair portended in the Committee's Report, I venture to propose the following amendment.

#### *The Amendment*

That the following clauses be added in sections 9 and 31 of the Recommendations, after the sentences ending with the

words 'to vote' "(clause 1) : Every candidate for election shall be possessed of qualifications as below :—

- (a) He shall represent one or another of the following main functions of society, *viz.*, (1) Science and Learning, or (2) Executive work, or (3) Production of wealth, *i.e.*, Agriculture, Manufacturing Industries, Trade and Commerce, etc., or (4) Labour ;
- (b) he shall have done good work in some walk of life and earned a reputation for uprightness and public spirit ;
- (c) he shall have sufficient leisure for the work of the Legislature, and, preferably, but not necessarily, have retired from bread-winning or money-making business.

(Clause 2)—Canvassing, directly or indirectly, beyond the putting forth of a statement of the candidate's qualifications by his nominators, shall be regarded as a disqualification.

(Clause 3)—No member shall receive any cash remuneration for his work as such member, but all ex-officio expenses of travelling, housing, etc., shall be paid to every member out of the public funds, and special marks of honour shall be given to him."

I will not take up your time by trying to explain at length the reasons for these clauses. They are self-evident, in the light of such experience of elections and legislature as the country possesses. Briefly, they are calculated to secure that all the four main natural classes and functions of society are duly represented ; that the best and most experienced persons of each class go into the Legislature ; and these who go in do so under conditions which make their work one, not of personal ambition for power or place or preference, or of profit or privilege or pastime, but of onerous and dutiful service of the public, for which the only recompense is public honour.

It may be mentioned here, for the consideration of our younger generation especially, who are naturally greatly

influenced by that latest and largest experiment in practical politics, the Russian Republic, that Republic has instinctively become "The Workers', Solidiers' and Peasants' Soviet of Russia"; and that workers naturally sub-divide into brain-workers and muscle-workers; so that here too we have the very same four natural, psycho-physical classes and functions of society, under names, too, which are scarcely new. These may, in terms of Islamic culture, be called (1) the *Alim-s* (2) the *Amil-s*, (3) the *Tajir-s*, (4) the *Madadgar-s*. The Sanskrit names are too well known, and too much misinterpreted and misused now, to deserve mention.

I may endeavour here to forestall one objection—a very natural one: How will you make sure, who will make sure, that these qualifications are or are not possessed by any given person? How will this portion of the law be enforced? What will be the sanction? How will it be applied?

I submit that at least some of the clauses of the very important section 4, relating to Fundamental Rights, are open to similar objections. A constitution which is the root and source and basis of all future law is somewhat different from those laws. We need not try to make sure that each of its provisions is enforceable in the same way as ordinary laws. Even these are seldom completely enforceable. Crime exists despite penal codes. And, in any and every case, much has always to be left to the discretion and the honesty of those who have to carry out those laws. But a constitution is created by an agency, and in a manner, different from that by and in which laws proper are created. It is not an Act of Legislation but an Act of Self-Manifestation, an Act of the initial Self-creation of a State; or, in the words of some Western writers on political science, an Act of Revolution. It initially creates the very agency by which laws will be made, and also that by which they will be executed. In the case of provisions like those of the amendment, the executive agency will be the good sense of the electorate itself, as a whole, and not any particular salaried public servants and members of the executive. After all, the sanction



of a constitution's provisions as a whole, is the intelligence and will-force of the people as whole. A constitution embodies the people's ideals of organised life. It is a great human document of moral culture even more than of legal maxims. It embodies the spiritual quality and aspirations of the people who frame and adopt and declare it. And spirituality and moral culture are far more necessary, more valuable, more directly efficient for general human happiness than even the penal code.

Let us, then, embody in our constitutions, this ideal of the ethical as well as the intellectual worthiness of the legislator, the final trustee and guardian of the people's happiness. At the very least, such embodiment will keep the ideal constantly before the electors. It will serve as a beacon light to guide them, and will most effectively give them the very quintessence of that political education which is most needed, and is also most readily assimilable, by the great bulk of the people, *viz.*, how to choose rightly.

Gradually, the ideal will infiltrate into their hearts. They will instinctively begin to choose the right kind of representatives, who will be experienced in one or another of the sets of duties and functions of the four natural and inter-dependent estates of every civilised and prosperous realm, like the four natural and inter-dependent parts of the living human body, and who will also, at the same time, be selfless, public-spirited, philanthropic, and will, therefore, frame with anxious care, laws which will promote the welfare of all sections of the people.

And as physical supply follows physical demand in the domain of economics, so psychical supply will follow psychical demand in that of politics. More and more such persons, worthy to become legislators will be produced by the nation which wants them, wishes for them, steadily, in the depths of its soul.

The honoured president of this Convention referred, in his opening speech, to the great and most hopeful and very

welcome fact, that a new generation is growing up, which is rightly, nobly, oblivious of communal differences, and is inspired by broad, liberal, humanitarian considerations only. For the bringing up of this new generation, the present older generation has waked nights and worried days; for its welfare it is still toiling, and yearning that it may be saved all unnecessary suffering. To keep off such unnecessary suffering from that beloved younger generation, the older generation may gladly suffer, from the more ardent-spirited sons of India, the charge even of cowardice, such as has been made during the second day's session of this Convention, when its conscience and understanding tell it that it is acting only with far-sighted prudence, and is refusing to be misled into error of judgment and of action by the provocations given by the common adversary of all parties. When the time for necessary suffering comes, the older generation, I have every trust, will go to meet it in advance of the younger. This younger generation, because of its admirable, noble-hearted, fresh human sympathies and aspirations, lays stress on certain ideals, now associated in economics with socialism and communism, as contrasted with proprietary individualism, and, in politics, with independence as distinguished from Dominion Status.

I venture to say, on behalf of the older generation that it also holds the same ideals. As regards the economic ideal, section 4 of the Recommendations embodies them. Who does not wish that our State should be so constituted, and our society so thoughtfully and skilfully organised, that as far as is humanly possible, every human being included in it should have enough food, enough clothing, enough education, enough family life, enough work, and enough play? If there are any differences of opinion, they pertain only to measures and to the extent of possibilities. But if the ideal is possible to achieve at all, to any extent, it is so only by good and wise legislation, and that is possible only if we have good and wise legislators.

So, in respect of the Independence or Inter-dependence as political ideal, who does not desire independence? Even

animals desire it. Why shall not Indians ? And, here, again, whatever difference there is between the older and the younger, is as regards extent of possibilities and the appropriate forms. Even in the West, writers on political science recognise that such a thing as complete and absolute independence is an absolute myth and an impossibility for even the biggest and strongest nation. The least little treaty which any such may enter into with the smallest and weakest of other nations puts limitations upon and subtracts from the independence of both, to some extent. And there is no nation, regarding itself as strong and independent and civilised, today, which has not treaty relations with others. What really makes our younger generation feel naturally and justly indignant against the very words "Dominion Status" and the very idea of retaining any connection at all with Britain, is the overbearing high-handedness of the British Government in India, its recent offensive and oppressive measures, full of gross ingratitude and disloyalty towards the Indian people, and the haughty and domineering arrogance embodied in the phrase 'The British Empire.' But once that name and that thing are changed into the friendly and benevolent Indo-British or British India Commonwealth, the provocation and the sting will disappear and the arrogance on the one side the indignation on the other will be replaced by brotherly sympathy and helpfulness on both ; and all the constituent states together—none independent, but all equally inter-dependent -- will steadily advance towards the ultimate ideal goal of mankind, and this and other Commonwealths and States will all merge into the World Federation. As the Commonwealth of States is a great advance upon the single state, so the League of Nations is a further expansion of and an advance upon the Commonwealth. And the European League of Nations, though so far working very unrighteously and malevolently towards the weaker non-European peoples, is yet a sign and a promise of the coming time, when all nations, of East and West alike, will join in one great League of all the nations of the earth for the promotion of the welfare of all good legislators.

Such considerations help to prove that complete independence is a mere empty fancy, and inter-dependence the real fact in nature; and that if we can secure equal inter-dependence, within a British-India or Indo-British Commonwealth, on equal table and honourable terms, by non-violent but determined pressure, we shall have gained all that is essentially desirable for our country, all that is most promotive of the highest and best political ideal of humanity as a whole. And, obviously, such equal inter-dependence means elective legislation within the limits of India and relations which would be actually or practically treaty relations (also sanctioned by our constitution initially or by our Legislature later on) outside India.

Now such a political ideal, we may call it what we like, Independence or Dominion Status—I personally prefer the term Equal Inter-dependence—also requires good and wise laws, and these, again in turn, require good and wise legislators.

This is the prime need, the vital requirement, the very heart and brain, of genuine self-government; considerations of relations with other peoples, nations, states, questions of whether the words, 'King', 'Governor-General', 'Governor' etc., should or should not be included in the descriptions of our legislatures in the constitution—these are, no doubt, very important, yet they come next after this prime need.

I therefore confidently appeal to all members of all parties gathered here, young as well as old, independent, self-dependent, or inter-dependent, Liberal as well as Radical, to express unanimously their approval of the ideas embodied in the amendment I have proposed, and to pass it, with such modifications of language as the experts among us may decide will express those ideas more fitly. I may also say that if any better and more practical and workable safeguards are suggested by any one I will very gladly withdraw my amendment in favour of those. But some safeguards we ought to have.

I will conclude by saying that the prominent recognition and public proclamation of such an ideal of the worthy legislators by incorporation in the constitution will have an immediate practical value also.

It is, I believe, generally recognised that the last great forward movement of this country in its political struggle, known as the non-violent non-co-operation movement, has carried the country distinctly farther than any previous effort ; and that, if it has not achieved all that it should have achieved, the reason has been mainly the lack of discipline and organisation. I cannot help thinking that the main cause of this lack has been the fact that the ideal of Swaraj—as legislation by the higher Swa of the people, their best and wisest and most philanthropic select and elect—this true significance of the word has not been clearly announced and not been kept constantly before the people's mind and therefore not been acted on in the Congress organisation. Every one has been left to believe that Swaraj means the raj of every individual person, the right of every one to do just as he himself pleases. Such a false notion is the very parent of all indiscipline and dis-organisation, and all kinds of mischief. I believe that the enunciation, in the constitution, of the true ideal, will cause it to be acted on within the Congress and other political organisations. The person of recognised worthiness and experience of public spirit and wisdom, will be put in the position of leader, and will be trusted by all alike. Petty yet disastrous personal jealousies and quarrels between co-workers will be minimised. Communal narrowness will also be abated ; for public spirit means non-sectarian spirit. And there will result trust and loyalty between colleagues, and between leaders and followers, and, as inevitable consequence, discipline and organisation.

These conditions being secured, when the time comes for the next great actively forward, yet non-violent, trust of the combined armies of the allies, viz., the various political parties of the country, which are entering into a solemn and trustful

alliance at this Convention, a forward movement which may well take the form of the establishment of a parallel Government, such as was referred to here the other day, by the venerable Dr. Annie Besant, as having been started by the Sinn Fein of what today is the Irish Free State—then the successful capture of that position of equal inter-dependence within the Indo-British Commonwealth which this Convention has decided to make its objective, will be sure.

With these words, I commend the amendment to your acceptance.



## 6

# CONVICTIONS AND COMMITMENTS

## I

### NON-CO-OPERATION INSTRUCTIONS

The All-India Congress Committee, after considering the report of the Sub-Committee appointed at Calcutta on 9th September to draft instructions to carry out the resolution of the Congress on Non-co-operation resolved to issue the following :

#### *Instructions to carry out the Resolution*

(a) *Boycott of Titles.* Workers in every town, taluka and district should compile a list of such holders of titles and honorary offices, and a small deputation of the leading non-co-operationists should wait upon such holders, and, with all respect and humility, urge upon the necessity of surrendering their titles and honorary offices for the good of the country. No undue pressure of any kind whatsoever should be exercised, violence of language should be scrupulously avoided, and lists of those who have not surrendered their titles and offices should be furnished to the provincial headquarters for publication. Those who have already surrendered their titles and honorary offices will be expected to induce others to do likewise. Those who hold such titles and offices and who have voted for non-co-operation are naturally expected immediately to surrender their titles and offices, mentioning the purpose, viz., the resolution of the Congress.

(b) *Boycott of Government Functions.* (1) Deputations and public meetings to ask Durbaris to have their names removed from the list. (2) Deputations and public meetings to be organised on the occasion of a leave. Durbar or such other

function in order to urge upon persons likely to attend them, the necessity of abandoning the idea for the good of the country. (3) When any function is being organised by Government, a local body, an association, or any private individual, in honour of an officer of Government, similar steps should be taken to induce people not to attend such a function. Deputation and public meetings should also be organised to request local bodies, associations or private individuals not to give any address to any officer of Government, or hold or organise any function in his honour.

(c) *Boycott of Schools and Colleges aided or controlled by the Government.* We advise gradual withdrawal of boys and girls from schools and colleges and earnest attempts to establish National Institutions. Meanwhile, reliance should be placed upon private education and where even that is not available or possible for want of means, boys should be apprenticed to patriotic merchants or artizans. Vigorous propaganda should be organised and carried on amongst the parents, schoolmasters and schoolboys who are over the age of 18 years. Canvassing should go on for volunteer teachers, and where parents and schools other than those under direct Government control agree, those schools should give immediate notice to the Government dispensing with all control or aid by way of inspection or otherwise. They should be conducted as national schools with such modifications in the training as local circumstances may require. If men of education take interest in this movement of truly nationalising our education, local committees of inspection and guidance may be formed ultimately resulting in provincial or district universities. Lists of parents who have withdrawn their children, or boys who have themselves withdrawn, and of schoolmasters who have resigned, and list of local schools established, as also of volunteer teachers, should be sent to the provincial headquarters and should be published.

*N.B.*—By a “National Institution” is meant any educational institution that does not receive any aid from Government, is not in any way controlled or inspected by Government and is not affiliated to any University established by Government.

*(d) Boycott of Law Courts.* Those lawyers who suspend practice and who require to be supported, should be supported by the nation, either by utilising their services for national schools, or in connection with private arbitration or for propaganda work. A deputation such as has been suggested for holders of titles, etc., should also wait upon lawyers and ascertain their wishes. Lists of lawyers in each town or district should be prepared making out those who may suspend their practice and forwarded to the provincial headquarters for publication.

Lawyers should help in inducing parties not only to refer future disputes to arbitration but also to withdraw cases now pending in the British Courts, and submit them to the National Arbitration Courts.

District Committees should make lists of lawyers and other prominent citizens commanding public confidence who are to preside over Arbitration Courts.

As there is at present no machinery to enforce the orders of Arbitration Courts, some kind of social boycott should be imposed on parties who fail to carry out such orders.

It has been pointed out that certain lawyers who are ready and willing to suspend their practice immediately, are not in a position to do so completely at a moment's notice, as they have already entered into engagements from which, as honourable men, they cannot withdraw without consent of their clients. In these cases the lawyers will be expected to attend only to such engagements and to make every endeavour to cease to practise completely at the earliest possible date.

*(e) Boycott of Councils.* The boycott of Councils being of immediate importance, it requires the greatest concentration of energy to make it as complete as possible. Candidates who have already come forward should be approached by deputations requesting them to withdraw their candidature and electors should be approached to sign the following form :

“In view and in virtue of the resolution of the Special Session of the National Congress and the All-India Moslem League we, being voters in the...electoral district of...for election to the Reformed Councils, hereby place on record our desire that we do not wish to be represented at the Provincial Legislative Council (or the Legislative Assembly or the Council of State), and hereby inform all candidates for election that if they seek election in spite of our wishes to the contrary, they will not represent us. We do hereby declare further that we do not desire to be represented on any legislative bodies until full Swaraj is established, which alone can make impossible the repetition of the Punjab atrocities and breach of solemn pledges as in the matter of the ‘Khilafat.’”

Lists of those who have withdrawn their candidature and those who persist should be forwarded to the provincial headquarters. Greatest care should be taken to put the pros and cons before the voters prior to asking to sign the abovementioned form which should be translated in the vernacular of the district concerned.

(f) *Recruiting of Labour for Mesopotamia.* Propaganda should be carried on by workers among those who are likely to offer themselves for such services placing before them the true situation, and then letting them their choice.

(g) *Boycott of Foreign Goods.* Every non-co-operator is in duty bound to simplify his or her wants and dispense with all luxuries that are depended on the use of foreign articles.

(h) *Swadeshi.* We attach great importance to Swadeshi in the form of revival of hand-spinning and hand-weaving and distribution of cloth so manufactured. Thousands of workers need special training for this work. Ladies of high station especially should be induced to take up hand-spinning and to use only such cloth as can be woven out of hand-spun yarn. Classes should be formed in every street. Spinning-wheels can

be manufactured by any ordinary carpenter. Those taking up this branch of work should communicate with the manager of Satyagrah Ashram, Sabarmati, near Ahmedabad.

(i) *Swaraj Fund*. It is very necessary that a National Fund should be established for the purpose of carrying into effect the Congress resolution. Funds will be required for propaganda work, for encouraging Swadeshi, for establishing national schools, and for supporting lawyers who have suspended their practice and are unable to support themselves. Provincial Congress Committees with the help of district and other organisations should therefore make every endeavour to collect funds and submit monthly reports of receipts and expenditure to the All-India Congress Committee.

(j) *Volunteer Corps*. Provincial District and Town organisations should form volunteer corps for the purpose of disciplining the people and maintaining order.

(k) *Finally*. We should advise that where there is a sufficient number of workers a batch should specialise in order to make one particular item successful. Where the workers are not sufficient, precedence should be given to the boycott of the Councils, because results must be shown in this item of non-co-operation before the middle of December next.

## II\*

When I was young, we were all full of admiration for Europe, with its high civilization and its vast scientific progress, and especially for England, which had brought this civilization to our own doors. We had come to know England through her glorious literature, which had brought a new inspiration into our young lives. The English authors, whose books and poems we studied, were full of love for humanity, justice, and freedom.

This great literary tradition had come down from the Revolution period. We felt its power in Wordsworth's sonnets about human liberty. We gloried in it even in the immature

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\*Rabindranath Tagore's interview given to the *Manchester Guardian*, on 17 May, 1930.

productions of Shelley, written in the enthusiasm of his own youth, when he declared against the tyranny of priestcrafts and preached the overthrow of all despotisms through the power of suffering bravely endured.

All this fired our own youthful imaginations. We believed with all our simple faith that even if we rebelled against foreign rule we should have the sympathy of the West. We felt that England was on our side in wishing us to gain our freedom.

But during the interval that followed, there came a rude awakening as to our actual relations. We found them at last to be those of force rather than freedom. This not only disturbed in a great measure our youthful dream; it also began to shatter our high idea concerning our English rulers themselves. We came to know at close quarters the Western mentality in its unscrupulous aspect of exploitation, and it revolted us more and more. During the present century, and especially since the European War, this evil seems to have grown still worse, and our bitterness of heart has increased.

Those who live in England, away from the East, have now got to recognize that Europe has completely lost her former moral prestige in Asia. She is no longer regarded as the champion throughout the world of fair dealing and the exponent of high principle, but rather as the upholder of Western race supremacy and the exploiter of those outside her own borders.

For Europe it is, in actual fact, a great moral defeat that has happened. Even though Asia is still physically weak and unable to protect herself from aggression where her vital interests are menaced, nevertheless, she can now afford to look down on Europe where before she looked up.

This new strained mental attitude carries with it tragic possibilities of long-continued conflict. The European nations, dimly realizing the danger of this growing alienation, still only think of artificial readjustments through various mechanical



means. They merely talk of possibilities of the big Powers themselves combining for united action, forgetful of the fact that these very Powers are daily destroying world peace, for in their racial pride they altogether ignore the East. They do not realize that their blindness of arrogance and insistence on their own superiority must sooner or later involve both hemispheres in ruin.

In face of all this, which has become more and more apparent to me as I have grown old, I have often been asked in England to offer my opinion about what should be done at the present juncture when things have become so critical. My answer has always been that I do not believe in any external remedy where inner relations have been so deeply affected. For this reason, I cannot truly point to any short cut to win relief, or any easy remedy to heal the deep-seated disease. What is most needed is rather a radical change of mind and will and heart.

What I really believe in is a meeting between the best minds of the East and the West in order to come to a frank and honourable understanding. If once such an open channel of communication could be cut whereby sincere thought might flow freely between us, unobstructed by mutual jealousy and suspicion and unimpeded by self-interest and racial pride, then a reconciliation might be bridged over.

Meanwhile, let it be clearly understood in the West that we who are born in the East still acknowledge in our heart of hearts the greatness of the European civilization. Even when in our weakness and humiliation we aggressively try to deny this we still inwardly accept it. The younger generation of the East, in spite of its bitterness of soul, is eager to learn from the West, and to assimilate the best that Europe has to offer. Even in our futile attempts to sever our connection with the West, while we struggle for political freedom, we are really playing the West the highest compliment we can offer. For we acknowledge in the very act of striving for liberty the noble character of the Western education which has roused us from

our slumbers. We tacitly admit that it was the literature of the West which inspired us with a courageous love of freedom and aroused us to proclaim our independence.

The comparative immunity which we enjoyed in the past, together with large powers of freedom of speech—all this quickened our courage and kept us free within. It should, therefore, be the anxious care as well as the proud privilege of Britain to maintain and foster the encouragement of that freedom. In spite of the trouble in which we are all involved at the present moment, England has to show herself broad-minded, upright, and conciliatory in her dealings with India to-day.

For it must be clearly understood in England that complications have now arisen which can never be done away with by repression and by a violent display of physical power. They can only be cured by some real greatness of heart which will attract in its turn a genuine spirit of co-operation from our side. Those who have experience of bureaucratic and irresponsible Governments can easily understand how the repressive measures which are being undertaken to-day, culminating in martial law at Sholapur, are bound to react upon our own people, for fear and panic always make a Government in power harsh and vindictive. Instances of this are well known in human history, and what is happening to-day in India is not likely to be an exception to the general rule.

The time will come when separation will have to be made. Therefore, I trust and hope that the best minds of England will feel ashamed of every form of tyrannical action, just as we ourselves have been ashamed at the violence which has broken out on our side. We must on no account, if we can help it, find ourselves involved in a vicious circle wherein one violence leads on to another. For that in the end can only lead on to further bitterness and estrangement.

### III\*

India is being ruled by a complicated machine. The mechanics who drive it have a long training in power, but no

\*Lagore's message to the Society of Friends on the occasion of annual meeting at the Friends House, London, on 24 May, 1930.

tradition of human sympathy, which is superfluous in a workshop. They are incapable of understanding the living India owing to the natural mentality of bureaucracy, which simplifies its task and manages an alien race from a distance through various switches and handles and wheels and hardly ever through human touch. It produces perfect results so long as the subject race meekly behaves like dead material yielding to the machine-made law and order, offering no resistance when exploited. The people morally responsible for this flawlessly standardized rule lives across a far-away sea, satisfied at the un murmuring silence brooding over a vast country—at a peace which is uncreative like that of a barren waste—and clings to a comfortable faith in the man on the spot and to the proud privilege of a first-class power in the West.

In the meanwhile Europe's own quickening touch has gradually awakened the dormant life of India. But the machine manufactured over a century ago, in its stolid indifference still ignores it, and in a blind insensitive efficiency tries to make mincemeat of the newly risen humanity of India ; for alas, it knows nothing better. The expert in the engine-room is indignant to find that the time-honoured system no longer produces law and order, and and he becomes more and more red in the face and dangerously furious.

What Mahatma Gandhi had tried to do was to request the expert not to identify himself completely with the machine, but to remember that he is also a man. For the sake of his human dignity he must not offer a stone to the other man who is famished for bread, and blows when he claims self-respect. This was asked not merely because it is not human, but also because it can never work.

I know at this moment there are thousands in my country who are suffering without any chance of redress, even those who do not deserve it. For the machine-government lets loose its fury of wholesale suspicion against risks which its blindness cannot define. But I hate to indulge in self-pity on an occasion

like this. Conflicts between man and the machine have often happened in various shapes in human history. It is a desperate struggle, and man defeats the machine not always by this success but by his sufferings.

I deliberately use the word machine, for it is not your great people who is behind this fight. I myself have a firm faith in what is human in your nation, and the credit is yours for this very struggle for freedom that has been made possible to-day in India. The courage that has been aroused in our country—the courage to suffer—carries an unconscious admiration for your own people in its very challenge. For it cannot be a desperately physical challenge that madly rushes to an utter suicide in fighting against odds. At heart it is a moral challenge, being sure of a moral response in your mind when our claim is made real to you by our sufferings. Such sufferings have won your admiration. You secretly feel small by the enormities that you allow to be perpetrated in a state of panic upon a people who are no match for you in their power to return your blows adequately or retaliate your insults; for you cannot belie your real nature and all that has made you great. Being sure of it, Mahatma Gandhi had the temerity to ask you to take our side and help us to gain the greatest of all human rights, freedom, and to free yourself from the one-sided relationship of exploitation, which is parasitism, surely causing gradual degeneration in your people without your knowing it.

I have been asked whether we must have complete independence. In answer I say that there can be no absolute independence for man. Interdependence is in his nature and it is his highest goal. All that is best in humanity has been achieved by mutual exchange of minds among peoples that are far apart, and is ever waiting for mutual enjoyment. This spirit must also come over man's politics, which for want of it is poisoned by envy and hatred and enveloped in a noxious atmosphere of falsehood and campaign of calumny, menacing peace at the least provocation. Lest the best minds of the East and West

join hands and establish a truly human bond of interdependence between England and India in which their interests may never clash, and they may gain an abiding strength of life through a spirit of mutual service without having to bear a perpetual burden of slavery on one side and a diseased responsibility on the other which is demoralizing.

In its relation to the eastern peoples the aspect of western character which has come uppermost is not only insulting to us but to the West itself. Nothing could have been more unfortunate in the history of man than this. For all meetings of men should reveal some great truth which is worthy of a permanent memorial, such as, for instance, had been the case of India's meeting with China in the ancient time.

At the moment when the West came to our door, the whole of Asia was asleep, the darkness of night had fallen over her life. Her light were dim, her voice mute. She had stored up in her vaults her treasure, no longer growing. She had her wisdom shut in her books. She was not producing living thoughts or fresh forms of beauty. She was not moving forward but endlessly revolving round her past. She was not ready to receive the West in all her majesty of soul. The best in us attracts the best in others : our weakness attracts violence to our neighbourhood, as thinness in the air attracts a storm. To remain in the fulness of our manifestation is our duty, not only to ourselves but for others. We have not seen the great in the West because we have failed to bring out the great that we have in ourselves, and we are deluded into thinking that we can hide this deficiency behind borrowed feathers. This is the reason why we claim freedom in order to find a real basis for interdependence. The usual form of spiritual expression that we find in the lives of the best individuals in western countries is their love of humanity, their spirit working through their character ; their keen intellect and their indomitable will leagued together for human welfare. In their individuals it reveals itself in loyalty to the cause of truth for which so many of them are ready to suffer martyrdom, often standing heroically.

cally alone against some fury of national insanity. When their wide human interest, which is intellectual, takes a moral direction, it grows into a fulness of intelligent service of man that can ignore all geographical limits and racial habits of tradition.

But what is most unfortunate for us in Asia is the fact that the advent of the West into our continent has been accompanied not only by science, which is truth and therefore welcome, but by an impious use of truth for the violent purpose of self-seeking which converts it into a disruptive force. It is producing in the countries with which it is in contact a diseased mentality that refuses moral ideals, considering them to be unworthy of those who aspire to be rulers of men, and who must furiously cultivate their fitness to survive. That such a philosophy of survival, fit for the world of tigers, cannot but bring a fatal catastrophe in the human world, they do not see. They become violently angry at those who protest against it, fearing that such a protest might weaken in them the animal that should be allowed to survive for eternity. Doctors know that infusion of animal blood into human veins does not give vigour to man but produces death, and the intrusion of the animal into humanity will never be for its survival. But faith in man is weakening even in the East ; for we have seen that science has enabled the inhuman to prosper, the lie to thrive, the machine to rule in the place of *Dharma*. Therefore in order to save us from the anarchy of weak faith we must stand up to-day and judge the West. But we must guard against antipathy that produces blindness. We must not disable ourselves from receiving truth. For the West has appeared before the present-day world not only with her dynamite of passion and cargo of things but with her gift of truth. Until we fully accept it in a right spirit we shall never even discover what is true in our own civilization and make it generously fruitful by offering it to the world. But it is difficult for us to acknowledge the best in the western civilization and accept it, when we are humiliated. This has been the reason why the West has not yet come to our heart, why we struggle to repudiate her



culture because we are under the dark shadow of a western dominance. We need freedom, we need a generous vigour of receptivity which the sense of self-respect can give to us, and then only the mission that Europe has brought to the world will find its fulfilment in our people, and India will also proudly join in the federation of minds in the present age of enlightenment.

Let us, the dreamers of the East and the West, keep our faith firm in the Life that creates and not in the Machine that constructs—in the power that hides its force and blossoms in beauty, and not in the power that bares its arms and chuckles at its capacity to make itself obnoxious. Let us know that the Machine is good when it helps, but not so when it exploits life ; that Science is great when it destroys evil, but not when the two enter into unholy alliance. I believe in the individuals in the West ; for on no account can I afford to lose my faith in Man. They also dream, they love, they intensely feel pain and shame at the unholy rites of demon worship that tax the whole world for their supply of bleeding hearts. In the life of these individuals will be wedded East and West ; their lamps of sacrifice will burn through the stormy night along the great pilgrim tract of the future, when the names of the statesmen who tighten their noose round the necks of the foreign races will be derided, and the triumphal tower of skulls heaped up in memory of war-lords will have crumbled into dust.

#### IV

### MAHATMA GANDHI'S LETTERS TO ENGLISHMEN

#### *Letter I*

Dear Friend,

I wish that every Englishman may see this appeal, and give thoughtful attention to it.

“Let me introduce myself to you. In my humble opinion no Indian has co-operated with the British Government more

than I have for an unbroken period of twenty-nine years of public life in the face of circumstances that might well have turned any other man into a rebel. I ask you to believe me when I tell you that my co-operation was not based upon the fear of the punishments provided by your laws or any other selfish motives. It was free and voluntary co-operation, based on the belief that the sum-total of the British Government was for the benefit of India. I put my life in peril four times for the sake of the Empire ; at the time of the Boer War, when I was in charge of the Ambulance Corps whose work was mentioned in General Buller's despatches ; at the time of the Zulu Revolt in Natal, when I was in charge of a similar corps ; at the time of the commencement of the late War, when I raised an ambulance corps, and as a result of the strenuous training had a severe attack of pleurisy ; and, lastly, in fulfilment of my promise to Lord Chelmsford at the War Conference in Delhi, I threw myself in such an active recruiting campaign in Khaira District, involving long and trying marches, that I had an attack of dysentery which proved almost fatal. I did all this in the full belief that acts such as mine must gain for my country an equal status in the Empire. So last December I pleaded hard for a trustful co-operation. I fully believed that Mr. Lloyd George would redeem his promise to the Musalmans, and that the revelations of the official atrocities in the Punjab would secure full reparation for the Punjabis. But the treachery of Mr. Lloyd George and its appreciation by you, and the condonation of the Punjab atrocities, have completely shattered my faith in the good intentions of the Government and the nation which is supporting it.

But, though my faith in your good intentions is gone, I recognize your bravery ; and I know that what you will not yield to justice and reason you will gladly yield to bravery.

See what the British Empire means to India :

- (1) Exploitation of India's resources for the benefit of Great Britain.

- (2) An ever-increasing military expenditure and Civil Service the most expensive in the world.
- (3) Extravagant working of every Department in utter disregard of India's poverty.
- (4) Disarmament and therefore emasculation of a whole nation lest an armed nation might imperil the lives of a handful of you in our midst.
- (5) Traffic in intoxicating drugs and liquors for the purpose of maintaining a top-heavy administration.
- (6) Progressively repressive legislation in order to suppress an ever-growing agitation seeking to express a nation's agony.
- (7) Degrading treatment of Indians residing in British Dominions.
- (8) Total disregard of our feelings by glorifying the Punjab Administration and flouting the Muhammadan sentiment.

I know you would not mind if we could fight and wrest the sceptre from your hands. You know we are powerless to do that ; for you have ensured our incapacity to fight in open and honourable battle. Bravery on the battlefield is thus impossible for us. Bravery of the soul still remains open to us.

### *Letter II*

Dear Friend,

I cannot prove my honesty to you if you do not feel it. Some of my Indian friends charge me with camouflage when I say that we need *not* hate Englishmen while we *may* hate the system that they have established. I am trying to show them that one may detest the wickedness of a brother without hating him. Jesus denounced the wickedness of the Scribes and Pharisees, but he did not hate them. He did not enunciate this law of love for the man and hate for the evil in man for himself only, but he taught the doctrines for universal practice. Indeed, I find it in all the Scriptures of the world.

I claim to be a fairly accurate student of human nature and vivisector of my own failings. I have discovered that man is superior to the system he propounds. And so I feel that you as an individual are infinitely better than the system you have evolved as a corporation. Each one of my countrymen in Amritsar on that fateful April 10th was better than the crowd of which he was a member. He as a man would have declined to kill those innocent bank-managers. But in that crowd many a man forgot himself. Hence it is that an Englishman in office is different from an Englishman outside. Similarly an Englishman in India is different from an Englishman in England. Here in India you belong to a system that is vile beyond description. It is possible, therefore, for me to condemn the system in the strongest terms, without considering you to be bad and without imputing bad motives to every Englishman. You are as much slaves of the system as we are. I want you, therefore, to reciprocate, and not to impute to me motives which you cannot read in the written word. I give you the whole of my motive when I tell you that I am impatient to mend or end a system which has made India subservient to a handful of you, and which has made Englishmen feel secure only in the shadow of the forts and the guns that obtrude themselves on one's notice in India. It is a degrading spectacle for you and for us. Our corporate life is based on mutual distrust and fear. This, you will admit, is unmanly. A system that is responsible for such a state of things is necessarily Satanic. You should be able to live in India as an integral part of its people, and not always as foreign exploiters. One thousand Indian lives against one English life is a doctrine of dark despair, and yet, believe me, it was enunciated in 1919 by the highest of you in the land.

I almost feel tempted to invite you to join me in destroying a system that has dragged both you and us down. But I feel that I cannot as yet do so. We have not shown ourselves earnest, self-sacrificing, and self-restrained enough for that consummation.

But I do ask you to help us in the boycott of foreign cloth and in the anti-drink campaign. The Lancashire cloth, as

English historians have shown, was forced upon India, and her own world-famed manufacturers were deliberately and systematically ruined. India is therefore at the mercy, not only of Lancashire, but also of Japan, France, and America. Just see what this has meant to India. We send out of India every year sixty crores (more or less) of rupees for cloth. We grow enough cotton for our own cloth. Is it not madness to send cotton outside India, and have it manufactured into cloth there and shipped to us ? Was it right to reduce India to such a helpless state ?

A hundred and fifty years ago we manufactured all our cloth. Our women spun fine yarn in their own cottages, and supplemented the earnings of their husbands. The village weavers wove that yarn. It was an indispensable part of national economy in a vast agricultural country like ours. It enabled us in a most natural manner to utilize our leisure. To day our women have left the cunning of their hands, and the enforced idleness of millions has impoverished the land. Many weavers have become sweepers. Some have taken to the profession of hired soldiers. Half the race of artistic weavers has died out, and the other half is weaving imported foreign yarn for want of finer hand-spun yarn.

You will perhaps now understand what boycott of foreign cloth means to India. It is not devised as a punishment. If the Government were to-day to redress the Khilafat and the Punjab wrongs, and consent to India attaining immediate Swaraj, the boycott movement must still continue. Swaraj means at the least the power to conserve Indian industries that are vital to the economic existence of the nation, and to prohibit such imports as may interfere with such existence. Agriculture and hand-spinning are the two lungs of the national body. They must be protected against consumption at any cost.

This matter does not admit of any waiting. The interests of the foreign manufacturers and the Indian importers cannot be considered, when the whole nation is starving for want of a large productive occupation ancillary to agriculture.

You will not mistake this for a movement of general boycott of foreign goods. India does not wish to shut herself out

of international commerce. Things other than cloth which can be made better outside India, she must gratefully receive upon terms advantageous to the contracting parties. Nothing can be forced upon her. But I do not wish to peep into the future. I am certainly hoping that before long it will be possible for England to co-operate with India on equal terms. Then will be the time for examining trade relations. For the time being I bespeak your help in bringing about a boycott of foreign cloth.

Of similar and equal importance is the campaign against drink. The liquor shops are an insufferable curse imposed on society. There was never so much awakening among the people as now upon this question. I admit that here the Indian ministers can help more than you can. But I would like you to speak out your mind clearly on that question. Under every system of Government, as far as I can see, prohibition will be insisted on by the Nation. You can assist the growth of the ever-rising agitation by throwing the weight of your influence on the side of the Nation.\*

\*Gandhi made a third appeal, through an interview, which he afterwards published "My attitude towards the English is one of utter friendliness and respect. I claim to be their friend, because it is contrary to my nature to distrust a single human being or to believe that any nation on earth is incapable of redemption. I have respect for Englishmen, because I recognize their bravery, their spirit of sacrifice for what they believe to be good for themselves, their cohesion, and their powers of vast organization. My hope about them is that they will at no distant date retrace their steps, revise their policy of exploitation of undisciplined and ill-organized races, and give tangible proof that India is an equal friend and partner in the British Commonwealth to come.

"Whether such an event will ever come to pass will largely depend upon our own conduct. That is to say, I have hope of England because I have hope of India. We shall not for ever remain disorganized and imitative. Beneath the present disorganization, demoralization, and lack of initiative I can discover organization, moral strength, and initiative forming themselves. A time is coming when England will be glad of India's friendship, and India will disdain to reject the proffered hand because it has once despoiled her. I know that I have nothing to offer in proof of my hope. It is based on an immutable faith. And it is a poor faith that is based on proof commonly so-called."



# 7

## THE SIMON FIASCO\*

### I

#### THE SHAME OF SUBJECTION

I have dwelt at some length in my opening chapter upon the hardship and suffering that are being experienced both in India and Great Britain to-day as an after-effect of the European War ; and I have pointed out how in the everyday life continually led in India among the poor this picture of human suffering has always been prominently before me. But it would be entirely wrong to treat all this as though it were an unmixed evil. On the contrary, it represents to me one of the most hopeful means whereby India and Great Britain may in the end come to understand one another. For it brings with it, in Great Britain especially, a growing capacity to look the hard facts of life in the face without flinching. It disturbs our phlegmatic British equanimity and forces us to think intelligently. It drives us away from the comfortable, conventional view that everything would go well with us if only people did not make a fuss. Thus it sends us back to our own inner resources. All this is to the good, for it tends to make us humble.

There is one other good in it all which is of no slight practical importance. In the heyday of imperial power, Great Britain had become so profoundly convinced of her own mission as the world's benefactor while making handsome profits all the while, that the Pharisaic spirit had crept in which

\*From C.F. Andrews : *India and the Simon Report*, Chapters VI, VII, VIII.

kept saying, "Lord, I thank Thee that I am not as other men are." The hypocrisy of all this had become intolerable for the rest of the world. But the realization at last that others have become far more efficient than ourselves has humbled us. The imperialist mentality is by no means in the ascendant to-day in Great Britain as it was earlier in the century.

One positive result has been reached. The Simon Commission Report has created a very deep interest about India that had never existed before. There has arisen throughout Great Britain an earnest desire to learn. Thus, through mutual suffering has come experience and humility ; and these two things are equally necessary for a right understanding. Now, to-day, India and Great Britain are standing opposite each other with a far greater sense of reality and a much deeper seriousness of purpose. It is felt on all sides that we need the truth, the whole truth, and nothing but the truth. For, whatever happens, everyone is agreed that present stained situation cannot go on indefinitely. Therefore, in what follows, I shall attempt to deal mainly with the larger issues which must frankly be faced by each one of us if we would judge aright the immediate constitutional problem with which the Simon Commission deals.

Why, then, are Indians feeling intensely to-day, as they have never felt so acutely before, that though other important and highly necessary things may be put on one side, this struggle with Great Britain to obtain their own independence cannot possibly be postponed any longer ? What is this insistent urge from within which has come into such prominence, as the one driving force behind the National Movement—so strong and insistent that it has drawn thousands of men and women, young and old alike, fearlessly to face untold hardships without striking a blow, and to offer themselves for rigorous imprisonment which may end in the ruin of themselves and their families ?

There are different answers which might be given to these questions, but here I shall give one historical explanation which

has strongly appealed to me for many years past ; for it appears to me to go down to the root of the whole matter and to show the ultimate reason for the present political unrest. Much of what I shall give to Western readers for the first time in this book has already been thoroughly discussed in India through pamphlets and articles which I have published. It has, therefore, already been put to the test in India, and has passed through a critical examination over there. It may be taken as representing a general Indian point of view.

Fifty years ago there was an important book written by Sir John Seeley concerning the relation at that time between India and Great Britain. It was called *The Expansion of England*. Seeley wrote it during a very pronounced imperialistic period in Great Britain's colonial history. It was that critical epoch when Africa was being divided up among the Western Powers—Germany, Great Britain, France, Italy, Portugal, Belgium, were all staking out their claims as if the whole earth was to be divided up between them. Seeley's famous book bears all the marks of that "expansion" period, and its very title tells the same story. India is looked upon not so much as a distinct and separate entity in herself, but rather as forming a major part of England's vast world expansion. Little is said about any benefit that has accrued to India, though that is taken for granted. But the thesis, which is all-important to the historian, is the method whereby the small, grey-clouded, northern island of Great Britain by some providential good fortune came into possession of a whole continent in the South of Asia called India, and occupied it at a most critical time, when the colonies in North America had been lost. The failure on one side of the world was compensated by this unexpected success in the East. The American losses were made up to Great Britain by the Indian gains.

Before discussing this conception of the interrelationship between Great Britain and India it is well to pause for a moment and think seriously what the thesis itself implies and how humiliating to India it is. It represents a pre-war attitude

that is almost inconceivable among students of history to-day. Whatever remains beneath the surface, as an inheritance of the race, Great Britain can hardly be so outspokenly self-confident and self-centred in her imperial ambitions as she was in Seeley's time, fifty years ago. For now it may truly be said that among thoughtful people all over the world the very word "Empire" has begun to have a sister connotation and to demand an apology for using it.

Seeley is quite frank in the picture which he draws of the early "expansion" of Great Britain in the East. He has no illusions about its actual character and conduct; and as history comes to be rewritten in a scientific manner and the truth told by incontestable documentary facts, the eighteenth century in India presents a very sordid picture on the British side. We came as freebooters, eager to make money quickly. We gambled with death in a horrible tropical climate. Some made their fortune and got away with it back to England; thousands died of typhoid or malaria, or through debauchery or drink. It was in no sense the sober, moral element of England that went out to the East. There was no possible basis of comparison between this Eastern exodus and that of the Pilgrim Fathers to the West. The two streams of colonization were poles apart. Seeley rightly points out that these British "nabobs" (as they were called) brought degradation to England on their return as well as to India during their short stay. There was a phrase invented—"shaking the pagoda tree"—which has passed into the English language. It reveals the whole sordid process. The amount of wealth that was ruthlessly looted from India by these freebooting agents of a wealthy trading company is difficult to estimate. But it must have been indescribably great, and it sowed the seeds of poverty, degradation, and ignorance by overturning the whole economic fabric of society. I have already quoted in a book called *Christ and Labour* the documentary evidence for this from the East India Company's own records; how, after the most terrible recorded famine in Indian history, when one out of three of the population had perished from starvation,

Warren Hastings, the Governor, congratulates the Company on having been able forcibly to keep up the revenue, and even to increase it.

In a book quite recently written by Lieutenant Colonel Arthur Osburn, D.S.O., under the title *Must England Lose India* ?<sup>1</sup> a picture is given of this period, similar to Sir John Seeley's. From it I quote the following :

“We raided and plundered, settled and intrigued on the rich coasts of India, much as our Danish ancestors had raided the ‘Saxon shores’ and the coast of East Anglia. Vast fortunes were brought back to England from India by unknown adventurers, some of whom had been scarcely ten years absent—and few questions were asked. So we sucked India dry, until English observers compared India to a ‘squeezed lemon’. Accounts written by Englishmen, after the first hundred years of English rule and English interference, make ghastly reading.”

The small book by Sir John Seeley is a blunt, outspoken volume, and it bears out the picture of the eighteenth century given by Lieutenant-Colonel Osburn. Many of the things that are said in Seeley's *Expansion* are neither flattering to India nor creditable to Great Britain. But they deserve to be closely studied nevertheless ; for they bring us to the heart of the whole problem. Here is one of the main points of his argument :

“If ever”, he says, “there would arise in India a nationality movement similar to that which we have witnessed in Italy, the English power could not even make the resistance that was made in Italy by Austria but must succumb at once. For what means can England have, which is not a military state, of resisting the rebellion of two hundred and fifty millions of subjects ?

1. Published by Alfred A. Knopf, London and New York. MCMXXX.

“Do you say, as we conquered them before, we could conquer them again ? But I explained that we did not conquer them. I showed you that out of the army which won our victories, four-fifths consisted of native troops. That we were able to hire these native troops for service in India was due to the fact that the feeling of nationality had no existence there.”

So far as this passage is concerned, Sir John Seeley merely emphasizes the one point, which has often been referred to since, that England did not conquer India, but only holds dominion there on account of the people's own acquiescence in her rule. It is all the more necessary, therefore, to mark carefully the sentences which follow. Sir John Seeley continues :

“Now if the feeling of a common nationality began to exist there only feebly ; if, without inspiring any active desire to drive out the foreigner, it only created a notion that it was shameful to assist him in maintaining his dominion—from that day, almost, our Empire would cease to exist. It is a condition of our Indian Empire that it should be held without any great effort. As it was acquired without much effort on the part of the English state, it must be retained in the same way. We are not prepared to bury millions and millions, or army upon army, in defending our acquisition. The moment India began to show herself what we so idly imagine her to be, a conquered nation, that moment we should recognize perforce the impossibility of retaining her.”

A very small movement often shows which way the wind is blowing. It is easy to mark the current of Indian opinion to-day by pointing out what words in this passage of Seeley's book have already become offensive. The word “native”, for instance, is bitterly resented, when it is used by British residents as the common name for Indians themselves. There is no surer way for an Englishman in India to reveal his own



mentality than this use of the word "native" instead of the word "Indian". So pronounced has this sentiment become in the last twenty years that the Government of India has forbidden the use of the term "native" in official documents.

It may be of some value at this point to tell a story about Lord Morley with regard to such an offence. He was making a speech in the House of Commons wherein he desired to be specially friendly and conciliatory. It was an appeal for good will. But no one in the India Office had corrected his terminology, and he continually spoke of Indians as "natives". The moment that I read the full report of the speech, as it was cabled out to India, this one word jarred ; and I was certain that it would give great offence. When I went over to the common room of the College, where our professors used to forgather before lectures, I came into the very thing I had feared. Our staff was almost entirely Indian and they were very kindly and friendly people. But as one of them, standing up in the midst of the circle of listeners, read to his audience the reported speech, he laid the very slightest emphasis on the word "natives" each time it occurred ; and I could see the listeners almost wince at each repetition. Half the conciliatory effect of Lord Morely's speech had been lost even on that cultured and friendly audience by this unconscious breach of good manners on Lord Morley's part. And yet it was Lord Morley himself who gave us, if I remember aright, the admirable dictum that bad manners in India were worse than a blunder : they were a crime. A few years later, Mr. Charles Roberts, whose sensitive desire to respect Indian feeling had become almost a passion, referred to this story, which I had told in an earlier volume : He was greatly disturbed : "How is it possible", he said to me, "for us at this distance to avoid such an offence against good manners, when English men and women who have come over from India habitually use this word 'native' about the Indians in our presence ?" I could only answer him that this was part of the tragedy of trying to rule a vast country like India at seven thousand miles' distance. Yet when national feeling is rising, it is at these delicately

sensitive points that the greatest injury is caused by the use of a clumsy word. "Our Empire in India" would give equal offence to-day. The revolt against any form of subjection has now sprung up from within. Every time that Mahatma Gandhi has gone through the villages, passing on from one province to another, he has stirred up wherever he has gone just that "feeling of a common nationality" which Sir John Seeley had claimed to be non-existent in India in his own day. We have seen, on every side, what Seeley calls "the notion created that it was shameful to assist the foreigner in maintaining his dominion".

## II

### THE VICIOUS CIRCLE ENTERED

In seeking to represent the atmosphere of modern India, with all its ardent hopes, longings and aspirations, I have to go forward step by step with an argument whose purport will become clear as I go on. I must ask the British reader's patience, because the whole meaning of the word "subjection" is foreign to him and he has never experienced its bad results. He little realizes how hard it is to escape from the vicious circle it creates when once this circle has been entered.

There is a further passage in Seeley's book which gives as early as the year 1882 an abstract discussion of the subject of independence that now has become a matter of life and death to modern India.

"If India", he says, "does at last begin to breathe as a single national whole—and our own rule is perhaps doing more than ever was done by former Governments to make this possible—then there would be needed no explosion of despair.... The moment that a mutiny is threatened, which shall be no mere mutiny, but the expression of a universal feeling of nationality, at that same moment all hope is at an end—as all desire ought to be at an end—of preserving our Empire. For we are not really conquerors of India and we cannot rule India as conquerors; if we undertake to do so, it is not necessary to

inquire whether we could succeed ; for we should assuredly be ruined financially by the mere attempt.” •

One thing appears to me to come out with conspicuous clearness. Indian independence is primarily a moral rather than a political factor. The harm that is being done by foreign rule is seen by Seeley to be psychological. It represents a weakening of the mental and moral constitution. Independence becomes thus a necessity, if the moral fibre of Indian manhood and Indian womanhood is to be restored.

Mahatma Gandhi has constantly called this sub-servience, which is the result of long subjection, “slave mentality”. The real problem calling for solution is the cost to character by which the protection of a foreign Government is being obtained. If it means the sacrifice of self-initiative in the governed, if it implies the inner weakening of the morale of those who are “protected”, then the price is far too heavy. For this kind of debt has a strange way of mounting up, with compound interest, until it is irretrievable. Bankruptcy of moral character follows as the inevitable result.

It is just at this point that Seeley’s two historical maxims come in, towards which this long argument has been leading. The former of these two may be quoted in Seeley’s own words as follows :

“Subjection for a long time to a foreign yoke is one of the most potent causes of national deterioration.”

This sentence must not be regarded as the irresponsible utterance of a casual thinker. On the contrary, it is the historical judgement of one of the most careful and judicial historians of the nineteenth century. It has its own definite and immediate relation to the Indian problem. Every word of this closely packed sentence needs to be very carefully noted. Not every subjection, but subjection *for a long time*, to a foreign yoke is one of the most potent causes of national deterioration.

There are times in a people's history when the shock of a foreign dominion may bring life instead of death. Personally, as one who has made a special study of Indian history, I feel certain that there is much to be said for the belief that the shock of the Western impact upon the East, which came through the British connection, has brought new life with it to a remarkable degree. The great names in Indian history since the days of Raja Ram Mohan Roy represent a gallery of portraits of which any nation in the world may be proud. Compared with the eighteenth century, there can hardly be any question that the succeeding nineteenth century in India was an age of renaissance. The religious life of Hindu India received a marvellous inspiration, a new hope, and a new fulfilment. To take one instance only, the complete recovery of the Upanishad teaching stands out as a great landmark in the higher thinking of the human race. Islam also had its own revival. It shook itself free from an enslaving illiteracy. The ancient Syrian Christian Church of Malabar emerged from the slumber of ages as a caste-ridden community and sprang forward to new life. Missionary enterprise from without shook the whole social fabric of India. Hinduism was stirred to its depths in its reaction against this invasion of new ideas and set its own house in order. The ban of untouchability for the first time began to show signs of receding. Out of this very deep religious ferment, which was stirred up by the new leaven from the West, fresh vernacular literatures came to birth. The living languages of the people of India, which are employed in every day life, blossomed into song. The genius of art peculiar to India flourished in a thousand ways. Thus the nineteenth century in India had its own true greatness; and the shock from the West, however brutal in some of its forms, produced certain remarkable results in a quickened and creative life. To admit this is by no means to condone the methods whereby the subjection of India took place, or the ruthless and unscrupulous means that were employed in its accomplishment.

But at the same time, when the first quickening effects from foreign conquest had passed away, the evils that are inherent

in such a system began to appear. The dead hand of external authority exercised from above proceeded to check and hinder the new living spiritual growth. The inevitable conflict between the inner spirit and external authority arose in an active form and has continued to increase ever since.

For the bad effect of foreign rule is this, that it can never assimilate itself to the growing needs of an awakening people. It is not immediately sensitive to new development and therefore proceeds to crush it. This it becomes repressive rather than responsive. The shock from abroad which gave life at one epoch, when prolonged beyond all endurance, brings death.

If we return to Seeley's historical maxim—that prolonged subjection to a foreign rule brings national deterioration—we can now see how true it is with regard to India. For since the British occupation began nearly two hundred years have passed and India is still ruled by foreigners. Every year that Indians still remain in subjection to Great Britain the moral and national deterioration must strike deeper. Therefore the question is being asked by every thinking Indian, "How much longer is India to continue in the world as a subject people? Is not every year that passes, while India still remains in subjection, only adding to the moral degradation?"

Here is the one hard, insoluble fact of current Indian history which has to be faced. According to Seeley's own verdict, for India to remain any longer in a state of subjection within the British Empire must lead to still further national deterioration. Something, therefore, must be done drastically before it is too late.

The second of the two historical maxims which Sir John Seeley puts forward is really the corollary of the former. It forces the Indian people into a still more intractable dilemma. For he faces frankly the ultimate question of the withdrawal of the British Government from India, and regards such a step as a well-nigh fatal calamity. In explaining his point he uses the

following sentence, which has been one of the most frequently quoted from his book. He says :

“To withdraw the British Government from a country like India, which has become dependent on it, and which we have made incapable of depending on anything else, would be the most inexcusable of all conceivable crimes and might cause the most stupendous of all conceivable calamities.”

This relative clause, “which we have made incapable of depending on anything else,” can have only one meaning. It implies that the British Government has made the Indian people so weak and defenceless that they have become unable to depend on their own resources if any occasion arose obliging them to offer their own defence against attack from outside. It implies also that no end to this weakening process is in sight. The British historian can look forward to no period wherein India will be able to depend on her own resources for her own protection.

“To withdraw the British Government from India,” he says, “would be the most inexcusable of all conceivable crimes.” Why is this ? Because, to quote once more his fatal words, “we have made India incapable of depending on anything else”. And again he writes as follows : “It is to be feared that the British rule may have diminished whatever little power of this sort India may have originally possessed”.

I have quoted these blunt, harsh, and unpalatable sentences again and again because I want to drive home to the mind of the reader in the West what that deterioration means concerning which Sir John Seeley speaks in his earlier maxim. It shows the depth of humiliation that India has reached as a people by tamely submitting to a foreign yoke without making any strong united effort to throw off the subjection. Sir John Seeley himself was looking at the whole problem from a purely detached and scientific standpoint, as a curiously interesting phenomenon in human history. At the time of writing it did



not intimately concern himself. But to Indians the question must necessarily be acutely personal. Just in proportion to the awakening of their national consciousness the humiliation of their own utterly dependent state will be felt.

Thus the necessary trend of events in India, according to this great historian, shows that she is becoming every year more and more helpless, more and more unable to evolve out of her own resources a stable form of government, more and more incapable of depending on anything else except the paramount British power. Nevertheless, this very course leads her downhill to the pit of destruction.

I can remember vividly even to-day how I went to Mr. Humphreys, the kindly Deputy Commissioner of Delhi, in the year 1907, at the time of Lala Lajpat Rai's arrest and imprisonment without trial, and protested that such an arrest without any trial was the surest way to drive Indians to despair. He used the very same argument as Seeley, and told me that it was necessary to do these harsh things, and treat Indians not as grown-up people but as wards of the British Government, because they had become so entirely helpless and defenceless that they must be protected even against themselves. The one thing that had to be observed at all cost in India was the Pax Britannica. Anything else would only result in the Pathans and Afridis and Afghans coming over the frontier and ruining the country. After all, law and order were of primary importance : all else was secondary.

This conversation with Mr. Humphreys almost drove me to despair at the time. He did not seem to realize that the very argument he was using was the greatest condemnation of British rule ; for what could be more tragic than to make a whole people, who had once been so great and noble, entirely and utterly defenceless ? Even if many blessings had been conferred, this was undoubtedly a curse. And yet in reality it was difficult at that time not to acknowledge the truth of what Mr. Humphreys had said. For Lord Morley's so-called liberal policy had brought with it very little salutary change. Even in the Civil

Services practically all the chief responsible posts were still kept for Europeans. India was still a paternal despotism of an absolute character, ruled even in small details from Whitehall, seven thousand miles distant, and with no autonomous control. How far this autocratic rule had gone can hardly even be imagined in a free country like England, where things are so entirely different ; or in Canada, where a career leading right up to the highest position of all is open to every man and every woman also. And I am afraid that an impartial historian would have to relate that national deterioration had been going on side by side with this sense of dependence. These two things have been almost interchangeable.

At last I, for one have come to believe that, owing to the crushing military burden of a foreign army and a foreign civil service, the state of the peasantry, who have to pay the land tax in order to keep up this heavy expenditure, has grown recently worse instead of better. Meanwhile the lack of initiative and the sense of helplessness produced by foreign rule in the minds of the educated classes have led here also to a steady deterioration. Even such a conservative administrator as Sir Bamfylde Fuller has just written of a recent visit of Bengal, "In material prosperity I could see no signs of advancement among the common people. Villages and bazaars were still overhung by a cloud of poverty and squalor".

The rule of the British in India has often been regarded as parallel to that of the Roman Empire in ancient times, and there are many points at which the analogy holds good. But the parallel needs to be drawn out to its conclusion. The Romans built up a costly system of roads and walls, which were chiefly for strategic purposes. But when the Roman rulers were at last obliged to leave the shores of Britain the miserable inhabitants, who had become by slow degrees soft and defenceless under Roman protection, gazed longingly after their own conquerors as the Roman ships departed, carrying the troops away ; for they had become too weakened by foreign protection to have any powers of self-defence left in them. History goes

on to show how easily they succumbed to the more hardy invaders from the mainland of Europe who had not at any time been enervated by this protectionist Roman rule.

Thus we have reached in our argument, as we have followed closely Sir John Seeley's thesis, a position utterly intolerable to anyone who has self-respect. For Seeley appears to regard the people of India as having so entirely lost their powers of self-government and self-defence that in the end it would be nothing less than a crime of the worst character for Great Britain to leave them to themselves. This standpoint is taken again and again in *The Expansion of England* and it cannot possibly be treated lightly, as though it was of no historical importance. When seriously considered, it is in no sense whatever a thing to be proud of, that Great Britain has brought India into this false position. Even if the blame must be shared with the people of India themselves who were in such a state of weakness when the British entered India by sea and seized administrative power, this does not really diminish the blame that falls to the share of Great Britain. I will quote one other tragically illuminating passage from Seeley's *Expansion* :

"India," he writes, "is of all countries that which is least capable of evolving out of itself a stable Government. *And it is to be feared that the British rule may have diminished whatever little power of this sort India may have originally possessed.*"

I have ventured to put this last sentence in italics, and surely it is a fatal confession for the English historian to make. If we think it out, it offers an altogether impossible prospect for a high-spirited people to contemplate. For it implies perpetual dependence and subjection to the yoke of Great Britain.

Thus we have really come to a complete deadlock in following out Sir John Seeley's closely reasoned argument. The situation is manifestly this, that if dependence and subjection to the foreign rule of the British Empire are to continue, then

national deterioration is certain to continue with it. Yet if India struggles to be free and independent, then any withdrawal from her present position as a subject people becomes more and more unattainable in practice because the support and protection of Great Britain has become a perpetual necessity. The British rule has diminished "whatever little power of this sort India may have originally possessed".

In order to drive home the point before I turn to its remedy and to the method of India's recovery, let me give one other incident that happened while I was at Delhi and has been branded on my memory ever since. There had been at Aligarh a dispute between the students and the European staff. This had led to extreme bitterness. Then a sudden action on the part of the European Principal and provoked a college strike. The students refused to go back until their wrongs were righted. Early one morning at Delhi, Maulvi Nazir Ahmed and Munshi Zaka Ullah, whom I revered most deeply for their singular beauty of character, came to me, with tears in their eyes, to tell me that the Muhammadan Anglo-Oriental College of Aligarh, which was the one darling treasure of their hearts in their old age, was on the point of ruin. They asked me to come with them to Aligarh itself. We went together and I could feel, without a word being said, the outraged spirit of the students—their resentment, their sense of humiliation, their feelings of injustice. During that very night, when we were present at Aligarh, it flamed forth in a literal deed. For the insulted students burnt their college furniture – their beds and mattresses, their tables and books. The flames mounted to the skies. They were a symbol of the student's own flaming indignation. After the strike was all over, and the students had gone back, and the disturbance was at an end, I asked from Maulvi Nazir Ahmed, what words of advice he had spoken to the students. He told me that he had said to them as follows : "You are slaves. What can slaves do ? Get back to your books and work. You are not free men, but slaves".

These terrible words haunted me like an evil dream. Was that all the counsel he was able to give these young men at the

very opening of their lives? Was that in very truth these students' true position? Were they slaves? The more I thought over it, the more I found that the words had truth in them. This foreign subjection was a servitude of the soul, more insidious perhaps than any outward slavery, and none the less literally true.

### III

#### THE VICIOUS CIRCLE BROKEN

Since this inescapable logic of Seeley with regard to the effect of foreign rule is not understood in the West and the sole blame for their own helpless condition is generally placed on Indians themselves, it has been necessary for me to labour the main argument of Seeley's book over and over again in order to drive home its serious implications. We can see from it that India has become by long subjection involved in a completely vicious circle. Whatever way we may turn in our argument, the fatal circle hems us in.

For many years after I had made my homes in India and had become identified with her people this problem of her destiny remained with me as a hard, insoluble fact of daily life. Its brutally cold logic gripped my mind. Every day that passed I could see further into the grim reality of it; yet morally my whole soul revolted against such an intolerably weak conclusion, and I longed to find some way of breaking through the vicious circle itself in order to obtain release.

In this same connection, during this earlier period of my life in India the picture of some gradual development had attracted me, whereby power should be handed over little by little to the Indian people themselves with the necessary safeguards. These safeguards should ensure that the new powers shall be exercised aright. I could see that this deal had been at the back of the minds of the best of my own fellow-countrymen from the very first.

Men like Elphinstone and Monro, Lawrence and Edwards, Ripon and Bright, had held it fast as an article of faith. The

Queen's Proclamation of 1858 had made it a political principle, however far practice had fallen short and stultified it. The late Mr. G.K. Gokhale, who was one of the noblest statesman India has ever produced, took up this same position of a gradual devolution of power, and he founded the "Servants of India Society" with this definite model in view. Regeneration of his country, he firmly believed, could not be attained amid a hurricane of political excitement, but only step by step. In such a gradual process it was of the essence of the solution of the problem to enlist the support of the British people by appeals to their better nature. He had no illusions as to the difficulties of the course to be pursued. He seemed to know them all before hand ; and yet his faith remained firm to the end, even after the heart-breaking experience of a Royal Commission which wasted the last years of his life by its futility.

But those who still hold this view, as I once held it in all sincerity, have to answer the problem of relativity, which is bound up with it. While time slips by, further degeneracy is always taking place, and so the whole problem begins all over again. How can we get over the fact, which Seeley points out, that any further prolongation of British rule is certain to lead to fresh dependence and fresh degeneracy ? The vicious circle is not escaped so easily as that.

Again, does not the old fatal leaning on Great Britain ruin everything ? Is not this the very thing to be got rid of, if health is to return in the body politic ? It is the old problem of "patronizing" the poor, only in another form. Anyone who has worked in a slum parish in London knows how harmful in the long run such patronizing from those who stand outside may become. My own experience in this direction at Walworth, in South-East London, stood me in good stead when I went to India. It made me profoundly distrust such paternal ways. It was easy to see that doles of Home Rule, meticulously meted out and rationed at the will of the rulers, could never create a new vital force within the soul. The "boon" theory simply did not work : it did more harm than good. Thus experience itself had already pointed out to me that this way of working out



the problem in terms of gradual progress suffered from one defect. There was no inner strength in it, no inner resource whereby India might be rescued by her own efforts out of the evil that had hemmed her in on every side.

Desperate diseases demand desperate remedies and even at times require surgical operations. There is no permanent remedy in poultices when the centre of the disease is deep down within the body. Even if the outward dependence on Great Britain became slowly attenuated year by year, and different Reform Acts gave certain privileges and responsibilities which had not been offered before, nevertheless all these things would be a gift from without, an act of patronizing condescension. They would come within the scope of what I have called the "boon theory". Therefore, in respect to India, they would be a weakness rather than a strength to those who received them. In the interval, while these doles were being distributed and fought over, true independence would all the while be fatally undermined. The old evil habit of looking to Great Britain for everything in a defenceless sort of way would still remain. The internal disease which was the root of all the mischief would continue not merely uncured, but even more active than ever before.

Thus I came to realize by the force of sheer practical experience that the process of petitioning Great Britain and passively accepting whatever gifts or boons could be extracted from that quarter could not be at all relied on. Such an evolutionary remedy had one fatal flaw in it : it did not evolve. It only wandered round and round in a maze from which there was no way out. It therefore appeared to me practically certain that the only way of recovery was through some vital upheaval from within. The explosive force needed for such an internal upheaval must be generated within the soul of India itself. It could not come through concessions and proclamations.

At one time it appeared to me to be possible that the primitive Christian way of life might represent the one explosive inner force needed ; and I still hold to this view of things,

but in a form so profoundly changed as to represent almost a new discovery of Christ and a new interpretation of His way, about which I hope to write in due course. I had gone out to India originally in and through a missionary society—the Cambridge University Mission in Delhi. But I found in missionary efforts as they were carried on in India the conventional touch of a religious imperialism which had the same blighting effect on the inner self-determination of Indian Christians as the ordinary political imperialism had upon Indians who were not Christians. For where the Christian missionary effort came from the West it carried with it an atmosphere of unintentional patronage that was directly contrary to the way of life which Christ Himself taught and practised. Christ's whole spirit was that of meekness and lowliness of heart. He was ever by the side of the oppressed, and never by any stretch of imagination on the side of the oppressor. I could not recognize therefore in a "Church and Empire" creed any representation of the lowly Man of Nazareth, who suffered crucifixion at the hand of the authorities in Church and State alike. For ten years of long inner conflict I wrestled with this problem of conscience, until at last my freedom was won. Then I became a wanderer in the world, gladly entering into living touch with all those who would receive me, of whatever class or creed or religious faith. Not without a prolonged moral struggle was such independence realized; and it was the dynamic force of a great personal character, Rabindranath Tagore, entering at a critical moment into my life, that really carried me through. But the struggle served me in good stead. For it has enabled me to understand in a peculiarly sensitive manner something of what Indians themselves have individually experienced and suffered in their own struggle to gain release from external bondage. It also pointed the way to deliverance.

During these years, the pitiable condition of India, as a subject country, without any will of her own, weighed me down. I could see that those who had come from without, the British rulers, insisted on disposing India's destiny in their own dull, dogged way, whether Indians desired it or not. They were

certain that they knew best and that Indians could not look after themselves. My whole soul revolted against this, and it seemed so utterly unfair and unjust to treat a highly intellectual people in this manner. The racial prejudice which I saw at work in conjunction with this superior air of domination shocked me even more deeply. It made confusion even worse confounded, and led to an isolation between the two races that was unnatural and inhuman. Yet at the same time it almost appeared that as an Englishman I could not avoid being a party to it all ; this became a very great burden to me.

Therefore it kept coming into my mind to try to find a way out ; and at first it was not easy to see what could be done. Then one day it was borne in upon me that I might somehow be able to help with regard to those Indians who had gone abroad into the British colonies and dominions ; and here it was, in this new experience, that I saw with my own eyes the humiliating position of inferiority wherein Indian citizens were placed, and how at every turn they were suffering from injustice and unequal treatment. It was in Fiji and South Africa that the iron entered into my soul at the time when I went among the Indian settlers, who had originally gone out under a vicious system of labour called "indentured labour" and had received treatment which made racial equality unthinkable. They were known as "coolies" and treated in a subject manner. It was there also that for the first time I met Mahatma Gandhi. That meeting was to revolutionize and upset my own thinking as it has upset the thinking of many others since. Of one thing I have become at last convinced by the hardest logic of events—that unless Indians themselves are both morally and politically independent, the subjection which has gone so deep as to injure and deform the soul will never be removed. They will be treated still as "coolies" and not as free men.

All my life through I have been a student and a thinker and a reader of books, eager indeed at every turn to put thought to the test of action, but constitutionally unwilling and unfitted to take a leading part in such action except on very rare occasions.

Wherever such occasions have arisen I have shrunk back as quickly as possible, because I have felt the political path to be something apart from my own. But I am now convinced, without any mental wavering or hesitation, that except complete independence, moral as well as political, is open for India to grasp with both hands she will never shake herself free from the subservience which has so enervated her. The vicious circle wherein she has become involved cannot otherwise be broken through.

On whichever side I look to-day, while considering the Indian future—on the side of trade and commerce ; on the side of industry and labour ; on the side of social reform and religious readjustment ; on the side of literature, art and music—I can see the creative impulse sustained and the inward energy of the soul of the people responsive only when the moral standpoint of manly and womanly independence has been reached. I can see no creative life, but rather an enervated and enfeebled existence, if this perpetual dependence goes on, and if mere hobbling along with the help crutches continues.

A Canadian, an Australian, can go wherever he pleases without asking “by your leave” from anyone. The world’s charter of freedom is his. He is independent in every sense of the word. But an Indian is made to feel, wherever he goes, that he is restricted. Even in England itself restrictions bind him on every side, while in the Dominions he is not allowed even to land except on a ticket of leave. If he seeks residence he is politely refused. He is told that Australia is “white”. In his own country itself his steps are dogged by the secret police if he has patriotic longings or if he becomes a member of a national congress organization. I have learnt by personal experience everything I have written down in this respect, and I know what this subjection means.

If this then has been my experience, bitter and deep, can it be realized with what intensity of relief I turned from this conservative process, which Mr. Gokhale stood for, to the sharp contrast of the volcanic personality of Mahatma Gandhi ?

For there had long seemed to be only one pathway which could lead out of this entangling dilemma and bring India release. If India could find, before it was too late, some God-given moral genius who could stir up, not in one province only, but throughout the whole country, the spirit of moral revolt and independence, then there might be some hope. If India could produce, out of her own store of inner resources, such an inspiring and unifying personality, then all might be well. But if no such religious and moral genius appeared then India's subjection, moral as well as physical, must go on interminably.

And surely this is just what has occurred, however disturbing the sudden event may be to our own conventional mode of thinking. For at this most critical time of all in Indian history, when subjection and dependence, outward and inward alike, were becoming no longer bearable or supportable, India has brought forth one of her own children who has uttered in his own way the words, "Be free : be slaves no longer !" and a new fearlessness has entered the heart. Men and women are ready, by their thousands, to go to prison for the sake of freedom. Instead of cringing to the dust they are holding their heads high. The Indian poet, Rabindranath Tagore, has proclaimed in an immortal poem this regenerating faith and purpose : "Where the head is held high and the mind is without fear..... Into that heaven of freedom, my Father, let my country awake". What the poet has sung and inspired, Mahatma Gandhi has put into action. The mind of India is without fear to-day and her head is held high among the nations.

It is true that with such a volcanic force as the personality of Mahatma Gandhi there is bound to be much destruction. Some pulling down will be witnessed before the building up can be seen. Prophets have always been men of strange, uncouth ways which shock our normal habits. We must expect that. But the essential factor after all is the new atmosphere, the new spirit, the new life-impulse from beneath, which has forced its way to the surface. This, in the end, will be creative instead of destructive. For this prophet of our own age, by himself living the life of fearlessness, has revealed to us all, and especially to

his own people, the hidden power of a living freedom from within. He has taught us afresh, in new prophetic ways, the old lesson of prophecy of all ages, never to depend on external resources, or even on external authority, but upon ourselves. Heart has gone out along with that appeal, and I have a great hope that by setting out upon this pathway of inner freedom the full manhood and womanhood of independence will be reached in India at last.

So then it has been with the intense joy of mental and spiritual deliverance from an intolerable burden that I have watched in India the actual outburst of such an inner explosive force as that which occurred when Mahatma Gandhi spoke to the heart of India, not once or twice only, the releasing words "Be free !" and the heart of India responded. In a sudden moment her fetters began to be loosened, her subjection to disappear, and the pathway of freedom was opened.

In the atmosphere of gradual evolution such as Mr. Gokhale had outlined, I have had not one of my fundamental doubts answered. They offer palliatives rather than incisive remedies. They fail to reach the centre of India's deep-seated disease of "slave mentality". They only prolong the dependence of India on Great Britain. Along that line of advance there has been no vision before me of final deliverance. For the tragic fact always remains that independence becomes undermined as soon as ever it is built up.

But when I turn from this doubtful method of safeguarded reforms to the more direct treatment of Mahatma Gandhi, I can see that he cuts at the very roots of the disease. He is like a skilled surgeon performing an operation rather than a physician administering soothing drugs. And as his surgeon's knife cuts deep we can see at once the recovery of the patient beginning to take place—the recovery of self-respect, the regaining of true manhood and womanhood, the new spirit of independence.

But this freedom must be entirely unfettered ; for in that lies its moral value. The independence must be unconditioned ;



for here again to impose conditions would destroy its moral content. That is the one lesson which has been taught by these continual struggles of non-co-operation. There can be no half-way house to loiter in which the struggle is going on. There can be no dallying in an intermediate stage where the great principles of freedom become confused and the swift currents of idealism run sluggish. Freedom rests ultimately in the mind. It is only by the exercise of freedom in the soul itself that new freedom can be won. The process is not unlike that of learning to walk when a child is young. The only way he learns is by constant falling and rising again from the ground. Every fall and every rise make the power of walking more perfect until the process itself becomes instinctive. So a protected India, with innumerable safeguards, can only develop weakness. But an India that launches out boldly into its own freedom under the inspiration of a moral genius like Mahatma Gandhi may fall back a hundred times, but in the long run it will stand upon its own feet with its manhood and womanhood restored to their full stature. No one but a prophet can bring to the heart of India in her present bondage the inward freedom which her soul so passionately desires.

## **PART II**

# **BRITISH COLONIAL INTERPRETATIONS AND PRONOUNCEMENTS**

As a piece of analysis, its finely meshed structure could hardly be bettered. Its argument is closely knit, its logical power superb. Everything is there save an understanding of the Indian mind. Nationalism gets a polite paragraph at the end, written as a half-dubious peroration. Gendhi, who has set half India aflame with new dreams, is dismissed as an administrative incident of which the significance is never seen. You cannot deal with the hopes of a people as though they were studies in logic.

Prof. Harold J. Laski on the Simon Report  
*Daily Herald*, July 19, 1930

## 8

# GANDHI AND NATIONALIST MOVEMENT

## I

### THE GROWTH

Towards the middle of the nineteenth century, Indian organisations began definitely to put forward demands for a share in the government of their country. The Committee of the House of Commons which reported in 1853 recorded the reception of petitions from a number of Indian associations asking in a rather timid way for representation upon Indian administrative and legislative bodies. The most emphatic came from Bombay. The time has arrived," said the Indian association of that Presidency, "when the natives of India are entitled to a much larger share than they have hitherto had in the administration of the affairs of their country," and the "Councils of the Local Governments should, in matters of general policy and legislation, be opened, so as to admit of respectable and intelligent natives taking a part in the discussion of matters of general interest to the country."

#### *The National Congress Formed*

It was not until 1885, however, that All-India organization was given to the aspirations of the Indian people towards national liberty. In that year the Indian National Congress was formed, and from that time onwards it has exerted an ever-increasing influence upon the policy of the Government. It was in response to an agitation of the Congress that the Act of 1892 was passed, reforming and expanding the powers of the Legislative Councils. Lord Morley's reforms of 1909 were also

\*From A.F. Brockway : *The Indian Crisis*, 1930, Chapters V and XI.

directly attributable to the pressure of the Congress. Still more important has been the work of the Congress in educating Indian opinion, in developing a national consciousness and self-respect, and in bringing a sense of solidarity between different sects and castes.

For many years the Congress was a very moderate assembly, but recently the growth of the demand for national freedom had been extraordinarily rapid, and, side by side with the increased strength of the movement numerically, there has developed an increased intensity of purpose and a growing impatience with compromising and, what may be termed petitioning, methods. The new spirit first found expression in the Congress of Delhi, 1918, when there was a fundamental difference of opinion on the Montagu-Chelmsford scheme which had then been recently tabled. Since that time the Indian Nationalist Movement has been divided into two broad sections, the "Moderates" meeting separately, but there can be little doubt that the Congress has continued to represent the mass of Indian political opinion.

The war accelerated the awakening of national political consciousness, as it did among all subject peoples. The phrases which were used so lightly by American and European statesmen about liberty and self-determination had a wider and deeper effect than they anticipated. The peoples of India accepted them literally, and anticipated the dawn of a new era when the war concluded.

Those anticipations were heightened by a visit to India of the Montagu mission to prepare the details of a scheme of self-government. India was told she was to become a partner with Britain and the Dominions in the Empire, and she believed that the long period of political subjection had passed.

During the war, exceptional legislation was passed in India as it was in this country, gravely restricting the liberties of the people. The most oppressive of these measures was the Defence of India Act, similar to the British D.O.R.A. The Indian people

resented these restrictions greatly, but decided to wait the coming of peace in the hope that they would then be withdrawn. When, five months after the conclusion of the Armistice, the Government introduced and carried measures known as the Rowlatt Acts, with the object of perpetuating the most tyrannical features of the Defence Act, and, indeed, or adding to them, their indignation became intense. Never before in the history of British rule, not even at the time of the Mutiny, had such manifestations of anger occurred. The Indian people saw their hopes of political liberty dashed to the ground. Had the Indian leaders at this moment done anything to encourage rebellion terrible events would undoubtedly have taken place.

*Mr. Gandhi Steps in*

At this moment, however, Mahatma Gandhi, the pacifist idealist leapt to the front as leader. He succeeded in turning the indignation of the people into the *Satyagraha* a great passive resistance movement. The *Satyagraha* was commenced by a day of cessation of work, of fasting, of prayer, and of public mourning. In all the great cities silent demonstrations, attended by thousands of people, were held. Perhaps the most significant feature of this impressive national protest was the unity expressed between the Hindus and the Mussulmans. Hindus attended the Mussulman mosques and Mussulman attended the Hindu temples.

An intense religious atmosphere dominated the demonstrations, and had not the Government intervened, it is unlikely that there would have been any disorder. In Delhi, however, two passive resisters were arrested, and because a few stones were thrown the troops fired on the crowd, with fatal results. Mr. Gandhi hurried to Delhi to calm the people but was arrested on the way and taken back to Bombay.

At Amritsar the two most popular leaders were arrested. A crowd thereupon proceeded to march to the Deputy Commissioner's bungalow to protest, but it was forced to turn back and in the process was fired upon and two men were killed



and several injured. That was the beginning of the serious disturbances which occurred in the Punjab.

No one denies that deplorable outrages occurred on the part of the angered Indians. They murdered two bank managers ; they assaulted a lady missionary ; they burnt buildings. But these outrages sink into insignificance compared with those committed by the British authorities.

At Jallianwala Bagh, General Dyer fired indiscriminately and without warning upon over ten thousand unarmed Indians, men, women, and children, killing 379 and wounding 1,200 (the official estimate ; the casualties were certainly larger). The firing was prolonged even during the flight of the crowd in order "to creat a wide impression," and the wounded were left lying on the ground unattended. For several days every Indian passing through the streets in which the English missionary had been assaulted was made to crawl on his stomach. Indians were publicly flogged in the streets, and at Kasur six school-boys were flogged, not because they had been proved guilty, but because they were the biggest, to create an example. In Lahore, students had to attend roll-call four times a day, involving a sixteen miles walk in the burning sun. Indians were bombed indiscriminately from aeroplanes and fired upon from armoured trains, resulting in the loss of many lives. This is a bare summary of the worst acts of frightfulness committed.

These events naturally aroused deep indignation in India, but if the Government had dissociated itself from them and given expression to its disapproval by appropriate action, the Indian peoples would have accepted them as crimes for which a few officials were responsible and would not have branded either the British Government or the British nation with them. But the attitude of the Government, and of a large section of influential Englishmen, towards those who committed these atrocities, convinced the most influential Indian leaders that the British administration was utterly alien in spirit, as well as race, and that further co-operation with it would be dishonouring to their nation.

This alien attitude was revealed :

- (1) In the absence of any censure upon either Lord Chelmsford, the Viceroy, who completely failed to control the situation in the Punjab, or Sir Michael O'Dwyer, Lieutenant-Governor of the Punjab, who was responsible for the policy which led to the disturbances and who endorsed the methods of the military in suppressing them ;
- (2) In the mild punishment imposed upon General Dyer, who was merely withdrawn from a position of command, a degradation suffered by thousands of officers during the war and considered by even Mr. Winston Churchill as insufficient for General Dyer ; and
- (3) In the failure to punish other officers concerned, many of whom retained their posts.

The Europeans in India, said Sir W. Joynson-Hicks (now Lord Brentford), endorsed General Dyer's action ; the vote carried in the House of Lords condemning even the mild punishment which General Dyer received, and the testimonial of £ 20,000 raised for General Dyer by English subscribers at home and in India, deepened the bad impression to which the Government's failure to dissociate itself adequately from the Punjab crimes gave rise.

Meanwhile, a development occurred which was equally serious in its effects. There are 75,000,000 Mussulmans in India. During the war their loyalty to the British Government was seriously strained, owing to their religious association with Turkey, but they received what they considered to be satisfactory pledges, and accordingly co-operated with the allied cause. But when the war was over, they found that their religious had been violated in the terms of the Turkish treaty.

#### *The Non-co-operative Movement*

The results of the disillusionment occasioned by these events were seen in the decision of the special session of the Indian National Congress in Calcutta in September 1920. A pro-

gramme of non-co-operation was adopted by an overwhelming majority. Its terms were as follows :

“(a) Surrender of titles and honorary offices, and resignation of nominated posts in local bodies ;

“(b) Refusal to attend Government levees, durbars, and other officials or in their honour ;

“(c) Gradual withdrawal of all children from schools and colleges owned, aided or controlled by Government, and in place of such schools and colleges, establishment of National schools and colleges in the various provinces ;

“(d) Gradual boycott of British courts by lawyers and litigants, and establishment of private arbitration courts by them for the settlement of private disputes ;

“(e) Refusal on the part of the military, clerical, and labouring classes to offer themselves as recruits for service in Mesopotamia ;

“(f) Withdrawal by candidates of their candidature for election to the Reformed Councils, and refusals on the part of the voters to vote for any candidate who may, despite the Congress’s advice, offer himself for election ;

(g) Boycott of foreign goods and stimulation of native industries (this last is summarised).”

The rapid development of opinion in India at this time may be judged by the fact that ten months previous to the Calcutta decision the Indian National Congress had decided to make the best of the Montagu-Chelmsford scheme. The result of the non-co-operation of the Congress was reflected in the small percentage of voters who participated in the election of the members to the Legislative Councils. The following were the figures as published by the India Office : Madras 25 per cent, Bombay 34.9 per cent, Bengal 33.4 per cent, United Provinces 33 per cent, Punjab 32.2 per cent, Bihar and Orissa 3.7 per cent, Central Provinces and Berar 22.5 per cent, and Assam 24.2 per cent.

The decision of the Indian National Congress to boycott the Indian Legislative Assembly and the Provincial Councils was subsequently modified by the adoption of the policy of nominating candidates with the declared object of obstructing British rule and utilising the platform provided by these public bodies to further the demand for full self-government. The "Moderates" decided to co-operate in the new form of Government, but the "Swarajist" Party (as the Congress nominees came to be known) secured both in the Legislative Assembly and most of the Provinces a majority of the elected members. In actual practice, the "Moderates" and "Swarajists" frequently acted together to press forward Indian demands, only to find them persistently vetoed by the British authorities.

## II

### THE SOLUTION

No one with any knowledge of India will suggest that the solution of its political, social and economic problems is easy. Indeed, India provides probably the most difficult world issue facing constructive minds at the present time.

These difficulties must not be made the excuse for delay, timidity, or inaction. The very fact that the forces are so complex and conflicting makes the postponement of a bold effort at solution more dangerous. Unless it is planned and carried out on big, imaginative, and courageous lines, the result will be chaos.

#### *The Round Table Conference*

The British Government has announced its intention of calling a Round Table Conference in the autumn. This conference is the critical point in immediate Indian policy. If it can secure the support of representative Indians, it may lead to a real era of co-operation and understanding. If it fails, subsequent co-operation and understanding will be made infinitely more difficult.

It must be stated frankly that the present indications point to failure. Two things are absolutely essential. If those Indians

who can speak for politically alert India and who represent the main body of the Nationalist Movement are to attend, they must be convinced that the conference is a sincere effort towards self-government. Up to the moment the only indication of the attitude of the British Government is a vague declaration that the Dominion status is its ultimate object. A similar statement has been made by British Governments many times previously, and the Indian people naturally fear that present intentions are not more immediate than previous intentions.

The only action which will remove this impression is a quite definite declaration that full self-government will be accepted as the basis of the conference and that the British representatives will be instructed to seek, in conjunction with the Indians, the most rapid steps, consistent with progress and peace, by which this goal can be attained.

Starting from this basis, the terms of reference of the conference should be to settle the details of a Constitution embodying full responsible government, and to work out the period and procedure of the necessary transition for the Indianisation of the Civil Service and the Forces. The principle of self-determination should be recognised by a clear declaration that, when the period of transition has passed, the National Parliament shall have the full right to decide whether India shall remain in the British Empire or become an independent State. This is not a very revolutionary suggestion. It is now recognised by all Parties in Great Britain that the Dominions possess a similar right.

#### *“Dominion Status” or Independence*

The difference between Dominion status and Independence is, in fact, small, and of decreasing importance. The Dominions already claim the right to decide for themselves whether they shall participate in any war in which Great Britain is involved, and they are separately represented at international conferences, such as the Assembly of the League of Nations, the

International Labour Office, and Disarmament conferences. The delegates of Ireland and South Africa have voted more than once against the policy supported by the British Government.

It should be recognised, however, that there is a case for the view that Independence is the natural outcome of India's claim for freedom. Whilst there is an obvious relationship between the Dominions and Britain, because the populations (except the Dutch and Negro populations of South Africa) belong to one race, there is no such tie of blood between the British and Indian peoples. There is a powerful economic link, owing to the vast investment of British capital in India, and the degree to which Englishmen have manned the Indian Civil Service and controlled the administrative machine might be urged as a reason for the continued association of Britain and India. But the unfortunate resistance which the British authorities have offered to the Indian claim for self-government has destroyed the strength of these two links, and has, indeed, made them into fetters to be broken rather than bonds of alliance to be maintained. British capital in India is regarded as an instrument of exploitation and British trade as an evil thing to be boycotted ; whilst the English personnel in the Civil Service has become the embodiment of alien rule.

If the Indian movement for national freedom continues to be resisted the Indian people will naturally be inclined to reject even the loose association of Dominion status within the British Empire. On the other hand, if the British Government would prove that it welcomes the demand of the Indian people for political freedom, if even at this late hour, it would co-operate with them in attaining it, a psychology would be created in India likely to welcome continued association within a Commonwealth of Nations.

Mr. Gandhi is demanding complete independence for India, but he has made more than one statement, even since the commencement of the Civil Disobedience campaign, which proves that he is concerned with the substance of national



freedom rather than the form. He is critical of the use of the phrase "Dominion status," because he is not convinced that it is meant in the sense that Canada, South Africa, or Australia enjoy it. If it were made clear that it was meant in that full sense, it is unlikely that he would insist on formal independence.

But it will be very difficult to get the main body of the Indian Nationalist Movement to accept Mr. Gandhi's view if repression is maintained and if a new British attitude is not unmistakably expressed. If India insists upon independence, the British Government would be wise to recognise that no power on earth can prevent her from obtaining it.

### *Amnesty for Political Offenders*

The second essential condition for the success of the Round Table Conference is an amnesty for political prisoners. India wants something more than words, and nothing could prove so well the sincerity of the British Government's aim as a willingness to open the prison doors which now confine thousands of political prisoners. The effect of this would be an immediate change in the spirit of India. If the fear exists of violence by some of the more extreme prisoners or of encouragement to violence by Nationalist extremists not in prison, the danger of releasing a few devotees of violence would be nothing compared with the danger of inviting a continued and increasing revolt in India. This step would be one of those supreme and courageous acts that alone can now change the relationship of Britain and India.

Moreover, there is a very simple reason for releasing the political prisoners if the Round Table conference is to be a success. The leaders who have the greatest following in India are now in prison and no conference can be representative without them. A conference from which Mahatma Gandhi, Motilal Nehru, and Jawaharlal Nehru were absent would be worse than useless.

These are the two most essential steps, but the Government should also take immediate action to meet the demands of the Indian Nationalist Movement for a revision of the Salt Tax, the prohibition of the liquor traffic, the reform of the currency, and the development of home-spun cloth. The careful reading of Mr. Gandhi's views suggests that he would be quite prepared to negotiate on the wider political issues, if a definite indication were given of a new spirit and of sincere intention in these matters.

The Government might also immediately announce plans for assisting the development of home-spinning and weaving as a means of providing additional employment to the peasants of India in their periods of enforced idleness. It would be easy to provide facilities for teachers of home-spinning and weaving to travel throughout India, visiting the villages and teaching the peasants how to make cloth. A big campaign on these lines, supplemented by the provision of credit for raw materials and equipment, would capture the imagination of the people and would undoubtedly have a great influence on Mr. Gandhi.

### *The Indian Representatives*

Much must depend upon the representative character of the Round Table conference. It would not be enough for the Viceroy to nominate the Indian representatives. If the declaration and amnesty which I have suggested were made, there would be every reason to hope that in this new political atmosphere all Indian parties and organisations of any representative strength would agree to attend an All-Parties conference, which might be given the responsibility of electing representatives to negotiate with the British representatives. The actual delegates might be accompanied by substitute delegates, representing communities and minorities, for the purpose of serving on committees dealing with their own particular problems. The difficulties of agreement would be great, but faced by practical realities there would be reason to hope that a Constitution could be framed commanding the support of representative political opinion in India. Steps should be taken

to see that the working classes and "untouchables" and such minorities as the Anglo-Indians and the Indian Christians should be adequately represented.

### *The Indian States*

There remains the problem of the Indian States, about which I have already written. During the transition period the relationship of the Indian States to the Indian Government would probably have to remain through the British Crown, but a definite effort should be made to secure some form of immediate co-operation between the States and the Central Indian Legislature, with a view to the treaties being transferred to the Indian Government when the transition period had concluded. The Indian Princes would probably object in most cases to representation of their people at the Round Table conference on the grounds that there are no democratic organisations in their States that could claim to be representative. Even if this view had immediately to be accepted, the advocates of democracy within the States would probably realise that, in actual practice, it would prove impossible for the Indian Princes to resist demands for democratic Constitutions, if they were developed in British India. Already, it has been pointed out, a people's movement is agitating on behalf of the populations in the Indian States, and the beginnings of representative Assemblies already in being in Mysore and Travancore would be a powerful influence towards similar movements in the other States.

The difficulties are formidable, but farseeing Nationalists in British India could be counted upon to realise that the best course would be to proceed with their own forms of self-government and depend upon the inevitable growth of democratic sentiments in the Indian States, rather than postpone their own political freedom until every one of the Indian States had been brought to recognise the supreme authority of the Indian Government and to establish democratic Constitutions within its borders.

*The Model Constitutions*

It will not attempt to state the kind of Constitution which a representative Round Table conference might prepare. There have been three model Constitutions outlined. The first was the work of a conference called in India by Mrs. Annie Besant, which embodied the principle of Dominion status (leaving a transitional period for the Indianisation of the Civil Service and the Forces and for the transference of the control of foreign affairs), establishing fully responsible Provincial and National Parliaments and placing great emphasis upon the restoration of Village Councils. This Constitution limited the basis of franchise seriously and was criticised both in England and India because of this.

A Constitution was also prepared by the Indian Committee of the British Independent Labour Party, but it was never published, since the I.L.P. held that it was the duty of Indians rather than Englishmen to work out a Constitution. The purpose was to encourage the Indian parties themselves to undertake this task by outlining a draft which might form a basis of discussion. This Constitution was based on adult suffrage and Provincial and National Parliaments, again accepting a transitional period for the Indianisation of the Civil Service and Forces. It abolished the separate communal electorate, but left an agreement regarding communal representation to a conference between Moslem and Hindu representatives.

The third Constitution was prepared by the All-Parties conference which had before it both these drafts. This Constitution followed the I.L.P. draft in its main lines, and is notable for its effort to solve the difficulty of the representation of religious communities and minorities by reserving a proportion of seats for their representatives, although providing for a common electorate. It also sought to ease communal differences by revising some of the Provincial frontiers, so that they should reflect more accurately the distribution of races and religions. The Constitution was based on adult suffrage and compulsory education.

The Moslem and the Sikh communities did not accept the final draft, but a definite contribution was made towards a settlement of this problem, and, had not political developments thrown the All-Parties Constitution into the background, it is likely that agreement would ultimately have been reached. Certainly there is hope that when the time comes for a re-consideration of this matter in a realistic way, the proposals of the All-Parties conference will, with modifications, form the basis of agreement.

It is difficult for an Englishman to be dogmatic about India's future Constitution. Where one appreciates the size of India and its vast population, one has some doubt as to whether it will be possible entirely to apply the methods of Western democracy to the Indian position. Any National Parliament elected by adult suffrage would require an electorate for each representative, running into hundreds of thousands. A very considerable autonomy would have to be allowed to the Provincial Parliaments, and it may be that a Federal solution, by which the National Assembly will be appointed by Provincial Parliaments, will prove to be the best method, despite its present unpopularity.

If, however, democracy is to be really effective, a great deal of control over ordinary social relationships must be developed upon districts and Village Councils. India already has a skeleton of district administration, and in many parts of India the Village Councils remain. These local bodies with all their defects, are in the close contact with the life of the people, whilst the Provincial Councils and the Central Legislature are distant authorities almost entirely unrelated to day by day experiences. General principles regarding education, the land system, public health, and industrial conditions may be laid down by the Provincial or National Parliaments, but their application, or modification to local circumstances, must be within the control of the authorities closer to the life of the masses of the people.

*The Social Revolution*

The chapter in which the conditions of India are described will have convinced readers, I think, that the extension of self-government for India can only be the first step towards the solution of its problems. Self-government is sometimes opposed by certain British Socialists on the ground that the illiterate people of India would be left at the mercy of educated upper classes, and that their conditions would become worse. The argument is urged that it would be better for the British Government to retain control and to use this control for the establishment of education and the improvement of the social and economic standards of the people. It is suggested that only after education has become compulsory, and the people are lifted above their conditions of semi-starvation, will it be safe to leave India to work out its own salvation without fear of further exploitation by the wealthier classes.

There are two decisive replies to this argument. The Radicals of the nineteenth century used to declare that bad self-government is better than good alien government. Without accepting this principle entirely, it must be pointed out that the demand for self-government in India is now so strong that, if it is not met, we must face a future of Nationalist agitation on the one side, and Imperial repression on the other, which will so dominate the situation that constructive measures of education and social reform will become impossible.

Secondly, whilst the argument that a self-governed India would be under the absolute control of the upper classes might have been true ten or even five years ago, it is not true now. If anything like a democratic franchise is established, there is certain to be a powerful movement representing the claims of the peasants and industrial workers in the Indian Parliament. The living forces in Indian politics are now arising from the students and the industrial workers, who are definitely Socialist in outlook. The younger leaders of the Nationalist Movement have been strongly influenced by the Socialism of Europe and the Communism of Russia, and, while the Indian Proletarian



Movement is not likely to follow exactly the lines, of either, it will have the same broad objective in view. Until the Nationalist issue is settled, the Socialist issue will be kept in the background ; but once national freedom is won there will be a great bound forward in the demand for economic freedom.

The more one considers the position of India, the more one realises that its only hope lies in a revolutionary movement awakening the people to a demand for a really full human life, lifted above their sordid struggle for existence and challenging the religious superstitions the customs, and the castes, as well as the economic system which have combined to keep India poverty-stricken, both physically and mentally. It is only such a revolutionary movement which could shake and shock India out of the traditional mental outlook of centuries.

The Indian Proletarian Movement will probably not take the same form as the Russian revolution, owing to the hold which the principle of non-violence has upon the people. In the struggle for national freedom, a new technique has been developed in the application of this principle, and it may be that, in the Indian social revolution, a technique of non-violence will also be developed. It is worth noting, incidentally, that prior to the Civil Disobedience Movement this year the philosophy of non-violence was losing its power over the more advanced elements in the Nationalist Movement but the remarkable effects of the non-violent attitude in Bombay, Peshawar, Gujarat, and other places, and the amazing fortitude and discipline with which it was maintained by thousands of Indian men and women, have again revealed its tremendous possibilities, so that new faith has been placed in it as an instrument for freedom.

#### *What a Socialist Government Could do*

If the administration of India fell into the hands of a body of men and women with the kind of revolutionary attitude I have described, there is no doubt that they could transform

India within a generation. Russia is proving the immense possibilities of mass education. By films, "talkies" and wireless, millions of Indian peasants might be reached and their whole mental horizon broadened. By wireless, daily instruction could be given, and the films could be used, not merely to teach new ideas in the abstract, but to give practical demonstrations of their effectiveness. Vivid pictures could be thrown on the screen of co-operative farming with modern equipment; the women in the villages could be taught the value and the methods of hygiene, the fuller lives of boys and girls who have enjoyed education could be shown, and all the social, recreational, and cultural possibilities of human existence, now so completely beyond the conception of the peasants, could be revealed.

Side by side with this film propaganda would proceed the rapid development of schools, fortunately of easy and light construction, in which, in the first place, the thousands of University men and women now out of work, or working in wretchedly paid clerical posts, could be employed as teachers. Meanwhile, training colleges for teachers would be steadily extended, and, year by year, by conscious and devoted effort, the shame of illiteracy would be wiped out. Special commissioners would be attached to groups of villages to develop both the technique and the spirit of co-operation, to teach the principles of sanitation, give medical aid, and to establish dramatic societies and Women's Institutes.

It would be a magnificent thing if the enthusiasm of the young men and women, now devoting their lives to the cause of Indian Nationalism, could be expressed in practical and constructive service for the re-birth of their country on these lines.

Such a Government would sweep aside the present land system and the Zemindars who have grown rich in idleness upon it. It would no doubt re-establish the Village Councils throughout India, and make them the instrument for the re-awakening of the villages and their industries. It would determine to end the slavery which industrialism is thrusting

upon the workers of the cities. Capitalism has already brought in its train in India all the horrors of the early years of the nineteenth century in Europe, but fortunately its power has not become so strong as to make impossible the construction of a new economic system on a co-operative basis.

The revolutionary Government would be fortunate in having the experience and revenue of the State railways and irrigation schemes, and it could employ the most efficient engineers to develop a vast State scheme of electrification. The mines and the tea plantations could be converted into public enterprises with comparative ease, and the cotton, jute, and steel industries could be developed on behalf of the nation by the employment of the most efficient management, utilising all the advantages of the proximity of the raw materials and of the enormous market which the improved standards of the masses of the Indian people would create.

One does not imagine that vast changes on these lines could be made immediately, but there are forces in India capable of leading the movement which would begin the great task of social emancipation. The first necessity would be the creation of a mass psychology for revolution, upon which the sustained effort of building the new India would have to depend. India has one advantage over Europe in this respect. Its people are in the habit of acting in masses. When a religious festival takes place, the whole population of a city participates. If a *hartal* is called, not a shop opens, no workers continue their employment, no students attend their classes. If there is a dispute in a mill, thousands of workers from every mill in the neighbourhood will come out on strike, even though only a few hundred may belong to the Trade Union. In the village, if one man acts, the whole village acts. Mass education in India may lead to a mass movement for revolution much earlier than now seems possible.

India's salvation must come from herself. The first step is political freedom : then, the much greater step of social freedom.

## INDIAN STATUTORY COMMISSION REPORT\*

### I

### CHAPTER 3—THE RELIGIOUS COMMUNITIES OF INDIA

#### *Hinduism*

35. India is a land of almost infinite diversity in its religious aspect. We shall make no attempt to analyse the refinements of difference which from the metaphysical, or doctrinal, or ceremonial point of view may separate those who, for the purpose in hand, are grouped together in a single category. Hinduism counts as its adherents more than two-thirds of the inhabitants of India, and within its comprehensive embrace includes much that might seem to outside observers to be contradictory. "Except perhaps to the few who understand its philosophical meaning, Hinduism has no one distinguishing central concept. Superimposed on a heterogeneous people differing widely from one another in race, language, and political and social traditions and interests, the vagueness and elasticity of its system, and the protean form of its mythology, its ceremonies, and its ordinances, have enabled it to absorb and overlap the various animistic systems which encountered."\*\* The learned and subtle Brahmin of Benares may seem to have nothing in common with the "untouchables" of Dravidian stock living in the *parcherries* of Madras City, who are nevertheless included within the fold of Hinduism while being

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\*Extracts from the Report of Indian Statutory (Simon) Commission Report, 1930, Volumes I and II.

\*\*Report on Census of India, 1921, Vol. I, p. 108.

denied access to its shrines. The sophisticated and Westernised Hindu graduate may seem a being of an entirely different order both from the contemplative devotee living in abstraction from material things, and from the mob of excited worshippers thronging the temples of Shiva or Kali. But all alike are caught up in this marvellous system, so ancient and so persistent, which is the bedrock of indigenous India. It is a religion which touches ordinary acts of daily life at nearly every point, and a philosophy of existence which provides an outlook fundamentally different from that of the creeds of the West.

Hinduism accounts for one-eighth of the population of the globe and one-half of the total inhabitants of the British Empire.

#### *Muhammadans*

36. Dispersed among the 216 millions of Hindus of India are nearly 70 million representatives of a widely different type of culture, not originally or exclusively Indian, but spread throughout India as a consequence of a series of invasions from the North and West which have taken place within historic times. The splendid monuments of Mogul architecture stand as a perpetual reminder of the vanished domination of Muhammadan rule. Yet during the centuries when the material power of Islam was at its highest in India, it was quite unable to crush the enduring influences of Hinduism. When British authority began to extend over the Indian continent it could, as a neutral, set up and endeavour to apply a canon of tolerance, but it could not alter the essential facts of Hindu-Moslem difference. It would be an utter misapprehension to suppose that Hindu-Moslem antagonism is analogous to the separation between religious denominations in contemporary Europe. Differences of race, a different system of law, and the absence of inter-marriage constitute a far more effective barrier. It is a basic opposition manifesting itself at every turn in social custom and economic competition, as well as in mutual religious antipathy. To-day, in spite of much neigh-

bourly kindness in ordinary affairs, and notwithstanding all the efforts made by men of good will in both communities to promote Hindu-Moslem concord, the rivalry and dissension between these two forces are one of the chief stumbling blocks in the way of smoother and more rapid progress. We regard it as an essential part of our task (as in due course it will be a vital concern of Parliament) to make an impartial survey of the guiding facts of this situation before approaching the question of the method of its constitutional treatment.

37. If we confine ourselves for the moment to British India, the Hindu population amounts to 163 millions and the Muhammadans to approximately 59½ millions. In two of the Governors' Provinces, Muhammadans are in an actual majority ; their total in Bengal amounts to 25,210,000 out of the 47 millions which that province contains, and in the Punjab Muhammadans are enumerated at 11,400,000 out of a total of just over 20 millions. In the other seven provinces to which the Reforms have been applied, they are everywhere in a minority. In Assam they are 28 per cent of the population ; in Bombay 19 per cent ; in the United Provinces 14 per cent ; in Bihar and Orissa 10 per cent ; and in Madras just over 6 per cent. In the Central Provinces they amount to only half a million out of a total population of nearly 14 millions ; and out of Burma's 18 millions (of which more than 11 millions are Buddhists) they mustor half a million. One of the difficulties, therefore, in adjusting representation in the provincial legislatures—unless for this purpose religious divisions are to be disregarded—is to devise a scheme which takes due account of Muhammadan predominance where it is found to occur, and at the same time provides adequate representation where Moslems are in a minority. It is an elementary reflection, but one not always borne in mind, that weightage in favour of one interest necessarily involves a reduction in the proportionate representation of the rest. In the North West Frontier Province Muhammadans are in a large majority (over 2 millions out of a total of 2½ millions in the administered territory) ; and in the administered area of Baluchistan they amount to 367,000 out of a total of 420,000.



38. Turning to the Indian States, the total Hindu population is 53½ millions, and the total Muhammadan population 9½ millions. Muhammadans are in a majority in Kashmir though the ruling house is Hindu. On the other hand, Hyderabad, with a total population of 12½ millions, of which more than 10½ millions are Hindus, has as its ruler the Nizam who is a Muhammadan.

### *Causes of Hindu-Moslem Tension*

39. It is evident, therefore, that the distribution of the population as between Hindus and Muhammadans provides one of the most serious complications for Indian statesmanship, and that this question recurs in different forms and degrees in almost every part of India. The minority community, is not concentrated in one part of the area, as Protestants in Ireland tend to be concentrated in Ulster. It is mainly represented in the North-Western parts of India and in Eastern Bengal, but its numbers elsewhere are not sufficiently small to be disregarded, and not sufficiently large to claim the mastery of numbers. These being the statistical facts, we must now proceed to give the best account we can of the nature of the antagonisms which these rival communities tend to develop, of the extent to which this tension is growing or dying away, and of the influence which these considerations are bound to exercise upon the treatment of the constitutional problem. It unfortunately happens that on Indian soil the opposition of these two faiths is sharply intensified by religious practices which are only too likely to provoke mutual ill-feeling. The devout Hindu regards the cow as an object of great veneration, while the ceremonial sacrifice of cows or other animals is a feature of the annual Muhammadan festival known as the Baqr'Id. Hindu music played through the streets on the occasion of the procession of an idol, or in connection with a marriage celebration, may take place at a time when the Muhammadans of the town are at worship in an adjoining mosque, and hence arises an outbreak of resentment which is apt to degenerate into a serious quarrel. The religious anniversaries observed by Moslems are fixed by reference to a lunar year which does not correspond with the

adjusted Hindu calendar, and consequently it occasionally happens that dates of special importance in the two religions coincide—as, for instance, when an anniversary of Moslem mourning synchronises with a day of Hindu rejoicing—and the authorities responsible for the maintenance of law and order are then faced with a time of special anxiety. In spite of the constant watchfulness of the police authorities, and of the earnest efforts of leaders in both communities to reach a *modus vivendi*, the immediate occasion of communal disorder is nearly always the religious issue. On the other hand, when communal feeling is roused on some matter of secular interest, religious zeal is always present to stimulate conflict, and partisans are not slow to exploit the opportunity.

*The Present State of Communal Feeling*

40. It is a lamentable fact that the occasions when Hindu-Muhammadan tension is carried to the point of violent outbreak have not diminished since the Reforms. In the five years 1923 to 1927 approximately 450 lives have been lost and 5,000 persons have been injured in communal riots; these figures include some disturbances in which Sikhs were involved. A statement laid on the table of the Legislative Assembly showed that from September, 1927 to June, 1928 there had been 19 serious Hindu-Muhammadan riots, which had affected every province except Madras. It would serve no useful purpose to reproduce in this Report the details with which we have been supplied; the facts are undeniable, and it is not surprising that Lord Irwin, in his striking appeal soon after he first set foot in India, to the leaders of the two communities to co-operate in a new effort to cope with the evil, should have declared that Hindu-Muhammadan antagonism was “so clearly the dominant issue in Indian life.” Every well-wisher of India’s constitutional progress must be deeply stirred by the Viceroy’s words :—

“Let the leaders and thoughtful men in each community, the Hindu among the Hindus, and Moslem among the Moslems, throw themselves with ardour into a new form of communal work and into a nobler struggle, and fight for

toleration. I do not believe that the task is beyond their powers. I see before me two ancient and highly organised societies with able and esteemed public men as their recognised leaders. I cannot conceive that a really sincere and sustained appeal by them to the rank and file of their co-religionists sustained by active propaganda of the new gospel of peace would pass unheeded. In past centuries each community has made its great contribution to the annals of history and civilisation in India. The place that she has filled in the world in past ages has been largely of their creating. I refuse to believe that they can make no contribution now to rescue the good name of India from the hurt which their present discords inflict upon it.... In the name of Indian national life, in the name of religion, I appeal to all in each of the two communities who hold position, who represent them in the press, who direct the education of the young, who possess influence, who command the esteem of their co-religionists, who lead them in politics or are honoured by them as divines. Let them begin each in their own community to work untiringly towards this end ; boldly to repudiate feelings of hatred and intolerance, actively to condemn and suppress acts of violence and aggression, earnestly to strive to exercise suspicions and misapprehensions and so create a new atmosphere of trust. I appeal in the names of national life because communal tension is eating into it as a canker. It has suspended its activities. It has ranged its component parts into opposite and hostile camps.”\*

41. Lord Irwin repeated his warning and his appeal at the opening of the Simla session of the Indian Legislature on the 29th August, 1927 :—

“I am not exaggerating when I say that, during the 17 months that I have been in India, the whole landscape has been over-shadowed by the lowering clouds of communal tension, which have repeatedly discharged their thunderbolts, spreading far throughout the land their devastating

\*At the Chelmsford Club, Simla, on July 17th, 1928.

havoc. From April to July last year Calcutta seemed to be under the mastery of some evil spirit, which so gripped the minds of men that in their insanity they held themselves absolved from the most sacred restraints of human conduct. Since then we have seen the same sinister influences at work in Pabna, Rawalpindi, Lahore and many other places, and have been forced to look upon that abyss of unchained human passions that lies too often beneath the surface of habit and of law. In less than 18 months, so far as numbers are available, the toll taken by this bloody strife has been between 250 and 300 killed, and over 2,500 injured..... United must be the effort if it is to gain success ; and on the successful issue of such work depends the building of the Indian Nation. Yet the would-be builders must approach their task sorely handicapped and with heavy heart, so long as the forces to which they would appeal are distracted and torn by present animosities. For nothing wholesome can flourish in unwholesome soil, and no one may hope to build a house to stand against the wind and the rain and the storm of life upon foundations that are rotten and unsound.”

We are far from saying that these appeals have met with no response, for the leaders of both communities are deeply conscious of the truth of the Viceroy's words, and of the injury that is being done by the continuance of communal tension. But the Report of the Bombay Riots Inquiry Committee\* published in August last, observes that since the date of the speech just quoted, at least 20 serious communal riots have occurred in various parts of India, the two Bombay riots alone accounting for the deaths of nearly 100 persons. It is noteworthy that in Bombay, where Hindu-Muhammadan tension does not normally exist to the extent to which it is often found in Calcutta, the origin of the recent riots was not communal, but was to be found in inflammatory speeches made by extremist leaders during a textile strike, followed by an outbreak

\*Mr. P.E. Percival, Mirza Muhammad Khan, and Mr. K. M. Jhaveri. Report published by Bombay Government, and obtainable through the High Commissioner for India.

of wild rumour and isolated murders, after which communal feeling was inevitably aroused.

*Influence of the Reforms on Communal Rivalry*

42. The question has been raised whether Hindu-Muhammadan tension is aggravated or assuaged by the prevailing system of communal representation, under which Muslem voters form a separate electoral roll and choose their own members (as the Sikhs also do in the Punjab), while non-Muhammadan electors are grouped in distinct constituencies and elect their own representatives. On the one hand, it is contended that this separation actually reduces the chances of conflict, as the rival communities are not fighting against one another for the same seats, but each is concerned solely with selection from inside its own body. On the other hand, it is argued that such an arrangement tends to encourage the appeal to communal sentiment, instead of developing political associations along the lines of a broader citizenship. There is a long and important history connected with the separate representation of Muhammadans\* which needs to be carefully studied before detailed proposals for the future can be discussed or put forward. But we may say at once that in our judgment communal representation cannot be justly regarded as the reason for the communal tension we have been describing, and there is no solid ground for supposing that if communal representation were abolished, communal strife would disappear. The true cause lies deeper and arises from conditions which are far more difficult to change than the mechanics of representation.

43. In so far as this tension is due to the constitutional situation, it is not to be explained by dwelling upon the operation of electoral arrangements, but is a manifestation of the anxieties and ambitions aroused in both communities by the prospect of India's political future. So long as authority was firmly established in British hands, and self-government was not thought of, Hindu-Moslem rivalry was confined within a narrower field. This was not merely because the presence of a

\*See Appendix V, pp. 183-189, "Note on the History of Separate Muhammadan Representation."



neutral bureaucracy discouraged strife. A further reason was that there was little for members of one community to fear from the predominance of the other. The comparative absence of communal strife in the Indian States today may be similarly explained. Many who are well acquainted with conditions in British India a generation ago would testify that at the epoch so much good feeling had been engendered between the two sides that communal tension as a threat to civil peace was at a minimum. But the coming of the Reforms and the anticipation of what many follow them have given new point to Hindu-Moslem competition. A great part of the evidence given before us was on communal lines, and the same cleavage appears in the Reports of the Indian Committees that sat with us. The one community naturally lays claim to the rights of a majority and relies upon its qualifications of better education and greater wealth ; the other is all the more determined on those accounts to secure effective protection for its members, and does not forget that it represents the previous conquerors of the country. It wishes to be assured of adequate representation and of a full share of official posts.

Hence has arisen a situation which it is of the most urgent importance for the influences which operate on public opinion in India to relieve. But no cure is likely to be found by ascribing false causes to the disease. The true cause, as it seems to us, is the struggle for political power and for the opportunities which political power confers. We are fully alive to the arguments against communal representation, but we cannot think that it is the effective cause of this deplorable friction. At the same time we are no less clearly convinced that separate communal electorates serve to perpetuate political divisions on purely communal lines, and we have every sympathy with those who look forward to the day when a growing sense of common citizenship and a general recognition of the rights of minorities will make such arrangements unnecessary. We shall return to this subject, and make our own observations upon it in our second volume. Here we are only concerned to call attention to the facts of a very serious situation, which every well-wisher of India should do his utmost to improve.



## COUNCIL OF STATE

Provinces	Nominated		Elected					Total
	Officials	Non-officials	Non-Muham- madan	Muham- madan	Sikh	Non-commu- nal	European commerce	
Government of India	11 (inc. President)	—	—	—	—	—	—	11
Madras ... ..	1	1	4	1	—	—	—	7
Bombay ... ..	1	1	3	2	—	—	1	8
Bengal ... ..	1	1	3	2	—	—	1	8
United Provinces ... ..	1	1	3	2	—	—	—	7
Punjab ... ..	1	3	1	2 <sup>3</sup>	1	—	—	8
Bihar and Orissa ... ..	1	—	2 <sup>2</sup>	1	—	—	—	4
Central Provinces and Berar	—	2 <sup>1</sup>	—	—	—	1	—	3
Assam ... ..	—	—	—	1	—	—	—	1
Burma ... ..	—	—	—	—	—	1	—	2
N.W. Frontier Provinces ...	—	1	—	—	—	—	—	1 <sup>*</sup>
Total ...	17	10	16	11	1	2	3	60

1. The distribution of the 27 nominated seats is not fixed, and may be varied at the discretion of the Governor-general; but the officials cannot exceed 20.

2. At alternate general elections there are three non-Muhammadan seats for Bihar and Orissa, but only one Muhammadan for the Punjab.

3. One of these is a member nominated as the result of an election held in Bihar.

LEGISLATIVE ASSEMBLY

Provinces	Nominated		Elected						
	Officials	Non-officials	Non-Moham- madan	Muham- madan	Sikh	European	Land- holders	Indian com- merce	Total
Government of India	14	5*	—	—	—	—	—	—	19
Madras ..	2	—	10	3	—	1	1	1	18
Bombay ..	2	1	7	4	—	2	1	2	19
Bengal ..	2	2	6	6	—	3	1	1	21
United Provinces ..	1	2	8	6	—	1	1	—	19
Punjab ..	1	2	3	6	2	—	1	—	15
Bihar and Orissa ..	1	1	8	3	—	—	1	—	14
Central Provinces and Bihar ..	1	1**	3	1	—	—	1	—	7
Assam ..	1	—	2	1	—	1	—	—	5
Burma ..	1	—	3*	—	—	1	—	—	5
Delhi ..	—	—	1*	—	—	—	—	—	1
Ajmer Merwara ..	—	—	1*	—	—	—	—	—	1
N.W. Frontier Province ..	—	1	—	—	—	—	—	—	1
Total ..	26	15	52	30	2	9	7	4	145

1 The five nominated non-official members here designated are not nominated as provincial representatives, but as representing the following five special interests, namely. Associated Chamber of Commerce, Indian Christians, Labour interests, the Anglo-Indian community and the Depressed Classes. But the distribution of the nominated non-official seats is not fixed—it may be varied at the discretion of the Governor-General. The official membership of 26 is a fixed number, though its distribution between the Government of India and provincial representatives can be varied by the Governor-General.

2 These five seats are filled from non-communal constituencies and the candidates need not be "non-Muhammadans."

3 See first footnote on p. 164.

## APPENDIX V •

**NOTE ON THE HISTORY OF SEPARATE  
MUHAMMADAN REPRESENTATION**

1. If the present situation is to be understood, it is essential to have some knowledge of the events which have led up to it. We, therefore, propose to give in this Appendix a short account of the history of communal representation, so far as the Muhammadan community is concerned, up to the time of the passing of the Government of India Act, 1919.

2. The Indian Councils Act of 1892, and the regulations made under it, provided that the Government should nominate to the councils persons selected by important public bodies, such as municipalities, district boards, universities and associations of merchants, etc. The object was that "each important class shall have the opportunity of making its view known in council by the mouth of some member specially acquainted with them."\* Directions were given that representation should be provided for certain classes and interests, among which the Muhammadans were named ; but the regulations did not confer the right of selection upon any community, and it was left to the Governor or Lieutenant-Governor, after the various bodies mentioned above had made their choice, to fill the nominated seats not held by officials in such a manner as would, in his opinion, secure a fair representation of the claims of the different communities.

3. It was not until the Morley-Minto reforms, which were first discussed in 1906 and were embodied in the Indian Councils Act of 1909, that the principle of separate representation for Muhammadans was first adopted. In 1906 a Committee of the Viceroy's Executive Council had been formed to consider the necessity for further reforms, and a Muhammadan deputation, led by H.H. the Aga Khan, waited on the Viceroy (Lord Minto) to put forward the views of the Muhammadan com-

\*Government of India Despatch of 26th October, 1892 quoted in the M/C Report, para 227.

munity. The deputation made a strong claim for communal representation, in the event of the principle of election being accepted. It based this claim on certain grounds which are summarised here as they became the starting point for all subsequent demands on the part of the Muhammadans.

- (1) In the whole of India the Muhammadans amounted to between a fifth and a quarter of the population—at that time 62 millions out of 264 millions.
- (2) The percentage of Muhammadans to Hindus was really larger than was usually admitted, owing to the classification of the depressed classes and animists as Hindus.
- (3) The importance of the Muhammadan population was shown by the fact that its number was greater than the population of any first class European State except Russia.
- (4) The political importance of the community and its contribution to Imperial defence entitled it to a larger representation than that based on numbers alone.
- (5) Previous representation had been inadequate and the persons nominated not always acceptable to the community.
- (6) With joint electoral bodies only Muhammadans sympathetic to the Hindus would ever be elected.

They demanded therefore :

- (i) Communal representation in accordance with their numerical strength, social position and local influence, on district and municipal boards.
- (ii) An assurance of Muhammadan representation on the governing bodies of universities.
- (iii) Communal representation on provincial councils, election being by special electoral colleges composed of Muhammadan landlords, lawyers, merchants, and representatives of other important interests, university graduates of a certain standing and members of district and municipal boards.

- (iv) The number of Muhammadan representatives in the Imperial Legislative Council should not depend on their numerical strength, and Muhammadans should never be in an ineffective minority. They should be elected as far as possible (as opposed to being nominated), election being by special Muhammadan colleges composed of landowners, lawyers, merchants, members of provincial councils, fellows of universities, etc.

Lord Minto's reply is recognised as the first official acknowledgment of the Muhammadan claim for separate representation and is still looked upon by Muhammadans as a definite pledge. The most important passage in this reply was as follows :

“The pith of your address, as I understand it, is a claim that under any system of representation, whether it affects a municipality or a district board or a legislative council, in which it is proposed to introduce or increase an electoral organisation, the Muhammadan community should be represented as a community. You point out that in many cases electoral bodies as now constituted cannot return a Muhammadan candidate, and that if by chance they did so, it could only be at the sacrifice of such a candidate's views to those of a majority opposed to his community whom he would in no way represent ; and you justly claim that your position should be estimated not only on your numerical strength, but in respect to the political importance of your community and the service it has rendered to the Empire. I am entirely in accord with you. Please do not misunderstand me. I make no attempt to indicate by what means the representation of communities can be obtained, but I am as firmly convinced as I believe you to be that any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement regardless of the beliefs and traditions of the communities composing the population of this continent.”

4. The Committee of the Viceroy's Executive Council which, as already stated, was considering the question decided that Muhammadans hitherto had not been sufficiently represented, either in quantity or quality, in the provincial councils, and proposed, in addition to seats which might be secured by Muhammadans in the course of competition with others as selected representatives of local bodies, the reservation of seats to be filled by representatives elected by separate Muhammadan electorates. The Committee suggested as electoral qualifications the payment of land revenue or income tax or the possession of a university degree. In the Imperial Legislative Council of 46 seats, the Committee proposed to allot four seats specially to Muhammadans, of which two were to be filled by nomination by the Viceroy and two by election from the provinces. The electorate was to be composed of the Muhammadan non-official provincial councillors, Muhammadan fellows of universities and Muhammadans paying income tax or land revenue above a certain figure.

These proposals were accepted by the Government of India. Before a final decision, however, was taken, the Provincial Governments were asked for their views and instructed to consult with important local bodies and representative individuals of various classes.

The provincial Governments reported favourably on the general scheme, though some of them were doubtful as to the advisability of organising separate Muhammadan electorates. The Government of India, therefore, suggested that, while such electorates should be organised where possible, in other cases representatives might be chosen by the local Muhammadan Association, and where neither of these courses was possible, recourse should be had to nomination.

5. The Secretary of State (Lord Morley), in a Despatch of 27th November, 1908, accepted the principle of securing adequate Muhammadan representation, but expressed doubts as to the suggestion for separate Muhammadan electorates, partly because of difficulties of organisation in provinces where



the community was thinly scattered, and partly because the proposal would give Muhammadans a double vote, one in the selection of representatives from local bodies, etc., and another in a communal constituency.

He proposed, therefore, for the consideration of the Government of India, a system of reservation of seats to be operated as follows. In each electoral area, an electoral college was to be established, the members of which were themselves to be elected in communal proportions (that is to say, a fixed number of Hindus and Muhammadans corresponding to the numerical strength of these communities in the area concerned) by a joint electorate composed of substantial landowners paying a certain amount of land revenue, members of rural or sub-divisional boards, members of district boards and members of municipal corporations. These electoral colleges would, in their turn, elect their representatives to the provincial councils, the members being free to vote for any candidate, but the seats having been previously allotted on a communal basis. Serious objection, however, was taken to this proposal by the Muhammadan community, and on 27th January, 1909, a deputation of the All-India Muslim League, headed by the late Mr. Ameer Ali (afterwards the Right Hon. Sir Ameer Ali), interviewed the Secretary of State to protest against it. The members of the deputation insisted that joint electorates would not select Muhammadans who would satisfactorily represent their community, and also protested against Moslem representation being fixed on a population basis, urging that this did not give due weight to the political and military importance of their community. Their aim may be given in Mr. Ameer Ali's own words : "We, therefore submit, as a standard of adequate representation, that the number of Muhammadan members on the several councils should be so fixed that, if the Muhammadans were to join a certain number of what may be called 'non-partisan' members, or to receive their support on any particular question, the issue may be decided accordingly." As a result of this opposition the proposal was subsequently dropped.

6. Accordingly, the Act of 1909, and the regulations made thereunder, embodied in substance the Government of India's scheme (which was supported by Mr. Gokhale) of giving Muhammadans separate electorates, while retaining their right to vote also in the general electorates. This applied to all provinces possessing a legislative council,\* except the Punjab (where special protection was not considered necessary) and except Burma, whose council at that time was almost entirely nominated. The non-communal general electorates were composed of certain big landlords, members of grouped municipalities and district boards, universities and Chambers of Commerce, so that election was almost entirely indirect. On the other hand, the separate Muhammadan electorates operated by way of direct election\*\* in territorial constituencies, with a franchise based in the main on certain property qualifications. This contrast—especially that of the double vote—aroused considerable resentment in India. The separate representation obtained by Muhammadans in the Imperial Council was five seats, one for each of the three Presidencies, one for the United Provinces and one for Bihar and Orissa. In the provincial councils, Madras and Assam were to have two Muhammadan members, Bombay, Bihar and Orissa, and the United Provinces four each, and Bengal five—a slight increase on the figures proposed by the Government of India.

7. In considering the Morley-Minto reforms as they affect the question of communal representation, three points must be borne in mind. Firstly, the scheme was merely a further application of the principle of representation by classes and interests, the previous arrangements not having been satisfactory. Secondly, the political importance of the community carried greater weight than its numerical strength in fixing the

\*No legislative council was constituted in the Central Provinces until 1914.

\*\*In Bengal the election of Muhammadans was, at first, indirectly by a body of delegates selected by the general Muhammadan electorate, but this was afterwards abandoned in favour of direct election as in other provinces.

extent of the representation to be granted. And, thirdly, the reconstruction of the councils was not intended as a step in the direction of the establishment of parliamentary government in India. In Lord Morley's famous phrase : "If it could be said that this chapter of reforms led directly or indirectly to the establishment of a parliamentary system in India, I for one would have nothing to do with it."

8. Political thought in India, however, did not remain stationary at this point, but, under the influence of ideas evoked by the war, advanced towards a desire for greater unity. Under this impetus 19 members of the Imperial Legislative Council presented in October, 1916, to the new Viceroy (Lord Chelmsford) a memorandum on post-war reforms, in the course of which an adjustment of representation between Hindus and Moslems was proposed. These 19 members included representatives of both Hindu and Muhammadan opinion and their memorandum was accepted with some modifications alike by the Indian Congress and by the All-India Muslim League, both of which held their annual conference in Lucknow in December of that year. The Scheme as a whole became known as the "Congress League Scheme," and the agreement it embodied between the two communities was called the "Lucknow Pact."

Eighteen months later, the Montagu-Chelmsford Report subjected the Congress League Scheme to a close and critical examination,\* and gave reasons why it offered no solution of the general constitutional problem. But the part of the scheme which dealt with Moslem representation had a significance of its own and exercised a considerable influence on the views expressed on this point in the Joint Report.\*\* It is this part of the scheme which is now commonly referred to as the Lucknow Pact. It provided for direct election to the provincial councils, as far as possible on a territorial basis, and for separate electorates for Muhammadans who would, however, cease to vote in general electorates as well. It laid down definitely the

\*M/C Report, paras. 159-177.

\*\*M/C Report, para. 231.

proportion of Muhammadan seats in all provincial councils except Assam, but including the Punjab and the Central Provinces, where separate representation had not previously existed. The number in each council was decided on an all-India basis ; that is to say, in provinces, such as Bengal and the Punjab, where the Muhammadans formed a majority of the population, they were to receive slightly less than their proportion of population might justify, while in other provinces, where Muhammadans were in a minority, they were to receive a disproportionately large number of seats, sufficient to give them a more effective position in the council. The exact figures were :—

	<i>Percentage of elected Indian members</i>
Punjab	50
United Provinces	30
Bengal	40
Bihar and Orissa	25
Central Provinces	15
Madras	15
Bombay	33½

It is useful to compare with this table the percentage, on the basis of the census of 1911, which Muhammadans bore to the total provincial population. These percentages are as follows :—

	<i>Per cent</i>
Punjab	54.8
United Provinces	14.0
Bengal	52.7
Bihar and Orissa	10.6
Central Provinces	4.1
Madras	6.6
Bombay	20.4

The Pact also proposed that “no Bill, nor any cause thereof, nor a resolution introduced by a non-official affecting one or the other community (which question is to be determined by the members of that community in the Legislative Council

concerned) shall be proceeded with, if three fourths of the members of that community in the particular Council, Imperial or Provincial, oppose the Bill or any clause thereof or the resolution.”\*

With regard to the Imperial Legislative Council, the Pact provided that one-third of the Indian elected members should be Muhammadans, elected by separate Muhammadan electorates in the several provinces, in the proportion, as nearly as might be, in which they were represented on the provincial legislative councils by separate Muhammadan electorates.

9. We have set out these details of the proposals of the Lucknow Pact with regard to communal representation because, although they have no binding force, they formed the basis of the representation assured to the Muhammadan community under the present constitution.

In Chapter 4 of Part II\*\* we discuss fully the attitude adopted by the authors of the Montagu-Chelmsford Report to the question of separate electorates. They made no comment on the allocation of seats recommended in the Lucknow Pact. The Franchise Committee, reporting two years after the Lucknow Pact, stated that “both Hindus and Muhammadans are in substantial agreement that the latter should everywhere enjoy communal electorates and we have no hesitation in recommending that effect should be given to this common desire.”\*\*\* The Committee equally thought it wise to abide by the allocation of seats proposed in the Lucknow Pact. Its recommendations, in which the Government of India had in the main concurred—though not without doubt—were accepted by the Joint Select Committee and Parliament.

10. The following table illustrates the present position and compares it with that put forward in the Lucknow Pact :—

\*See the comment on this suggestion in para 164 of the M/C Report.

\*\*p. 137.

\*\*\*Franchise Committee's Report, para. 15.

Legislative Body	Percentage of Moslems of total population of the electoral area (1921 Census)	Percentage of Moslem voters to total voters in general constituencies (1926)	Present percentage of Moslem members to total No. of members	Present percentage of Moslem elected members of total No. of elected Indian members	Present percentage of Moslem members to total members in seats filled by election from Indian general (communal) constituencies	Lucknow Pact percentage
	1	2	3	4	5	6
Punjab	55.2	43.7	40	48.5	50	50
United Provinces	14.3	14.1	25	30	32.5	30
Bengal	54.6	45.1	30	40.5	46	40
Bihar and Orissa	10.9	10.9	18.5	25	27	25
Central Provinces	4.4	8.4	9.5	13	14.5	15
Madras	6.7	4.7	10.5	14	16.5	15
Bombay	19.8	17.7	25.5	35	37	38.3
Assam	32.3	30.1	30	35.5	37.5	No provision
Legislative Assembly	24.0	16.5	26	34	38	33.3

\*Column 4 includes Indians elected by special constituencies, e.g. Commerce, whose communal proportions may of course vary slightly from time to time. Similarly, Column 3, including also officials and nominated non-officials, will show slightly different results at different periods.



## **CHAPTER 6—THE COURSE OF INDIAN POLITICS SINCE 1920 IN THE LIGHT OF THE REFORMS**

### *The Prelude to the Reforms*

270. In the earlier chapters of this Part of our Report, we have reviewed in detail the working of the various parts of the system of government established by the Act of 1919. In the present chapter, we describe in broad outline the political conditions in which the constitutional experiment was carried out, and the trend of Indian opinion in relation to it.

The year that preceded the coming into force of the Act was marked by disturbances such as India had not seen for many years, and its events profoundly influenced not only the atmosphere in which the new constitution was received, but the attitude of many towards it for long afterwards. The announcement of August 1917 had set out the conditions of the constitutional advance to which His Majesty's Government had pledged itself; but hopes that were unwarranted by the announcement alternated with equally baseless suspicions that, now that the War was over, the promises would not be kept. The masses, though little interested in the political future, were suffering from a rise in prices and a failure of the monsoon. Moreover, the Indian Muhammadans were alarmed at the attitude of the Allied Powers towards Turkey. They saw in the terms of peace that were then foreshadowed for the greatest of the Moslem powers, a danger to their religion and to the Holy Places of their Faith. These three factors combined to produce a dangerous situation.

During the War, it had been found necessary to arm the Administration against revolutionary crime by powers given to it under the Defence of India Act, which corresponded to the Defence of the Realm Act in Great Britain. The Government of India introduced two Bills into the Legislature to secure special powers for itself in relation to such crime on the expiry of the war legislation. These "Rowlatt Bills" aroused an opposition as vehement as it was unexpected. Mr. Gandhī

placed himself at the head of it and began the first of his Indian "passive resistance" campaigns. In the organised agitation that followed, the masses, already discontented and unstable, were inflamed by gross misrepresentations, and Hindus, Sikhs and Muhammadans joined hands for different reasons in common enmity to the Administration. It was part of the pledge that Mr. Gandhi's followers took that they should abstain from violence to person or property ; but as the excitement grew, this obligation was forgotten, and the movement developed in March 1919 into a widespread outburst of mob violence, principally in the Punjab and Gujarat, and culminated in the tragedy of Jalianwala Bagh in Amritsar. The racial bitterness aroused was great and lasting ; and it produced an atmosphere for the inauguration of the Reforms in the following year, which could hardly have been worse.

271. Towards the end of 1919 divisions of political opinion, which were to persist for the next few years, began to emerge. Politicians ranged themselves in accordance with the view they took of the Reforms foreshadowed in the Bill then before Parliament. On the one side were the Moderates ; they accepted the principles of the announcement of 1917 as governing the conditions of political advance, and though many of them thought that the scheme of the Montagu-Chelmsford Report did not go far enough, they were prepared to do everything in their power to make the new constitution a success and so justify a further advance. The other party, the Nationalists, denounced the Reforms as wholly inadequate and unacceptable. The first elections for the new legislatures were to take place in the autumn of 1920, and in less troubled times political interest would have centred on a struggle between these two parties at the polls. But in the period we are reviewing, electoral struggles and the proceedings of the legislatures have more than once been overshadowed in political significance by movements conducted independently of the legislatures and sometimes in contempt of them. At this juncture, one of the most notable of these, the non-cooperation movement, came into being. It not only determined the composition of the first

legislatures, but, for the first two years of their existence, it presented a question of the greatest gravity.

### *The Non-Cooperation Movement*

272. The movement arose out of the racial bitterness and the political disappointment of the previous year, and the increasing anxiety of Muhammadans over the Turkish peace terms. An organised Moslem agitation—which became known as the Khilafat movement—was set on foot in India, with the object of bringing pressure to bear on the Imperial Government to restore the Sultan of Turkey to something like his pre-war position. Though the Government of India was not responsible for the policy of the Allied Powers, the movement was directed against the Indian Administration. Once more Mr. Gandhi came upon the scene, he placed himself in the forefront and brought with him his Hindu following. The whole of the opposition to the Administration—political, religious and racial—thus became united and developed into the formidable agitation known as the Non-Cooperation Movement, of which he was to be the most prominent leader for the next two years.

The aims of the rank and file of the Khilafat section of the movement were simple—they were concerned for the political and religious future of Islam. Mr. Gandhi's objectives were less definite. He stood for the ideals and the civilisation of India as against those of Europe; for the cult of the spinning wheel and the simple economics of the village, as against the factories, the railways and the "materialism" of the West. But among his allies were many whose political and economic outlook and way of life were European. It is not surprising, therefore, that Mr. Gandhi never found it easy to define what "Swaraj" would mean in actual political practice; his accounts of it varied from time to time and were always nebulous. But the critical side of his doctrine was clear enough. Mr. Gandhi preached that British rule had impoverished India and destroyed its liberties. The existing Government and all it stood for were "Satanic", and the only cure was to end it.

As the movement was projected by Mr. Gandhi, the end was to be attained by bringing moral pressure to bear on Government. His adherents were to resign Government titles and honorary offices ; to withdraw from Government service ; to boycott schools, law courts and the legislative bodies. Looming behind all these, was the final measures of "non-cooperation" – refusal to pay government dues, and organised mass disobedience to the laws and to the orders of the Administration. When the work of Government had been paralysed by these methods, nothing would be left for it but to abdicate. There was, however, to be no compulsion upon anyone to carry out any of these steps ; and above all, there was to be no violence to person or property.

#### *Progress of Non-Cooperation*

273. Political movements in India are guided, and sometimes controlled, by certain great organisations which enunciate their policies and consolidate their forces at annual meetings, usually held at the end of the year. The most important of these are the Indian National Congress, the National Liberal Federation (the organisation of the Moderate Party), and the All-India Muslim League which represents the mass of Muhammadan opinion. The first named has a long history behind it. Beginning in 1885 as a body of moderate opinion, it gradually established its claim to be regarded as an All-India body, although throughout it has been preponderantly Hindu in composition. By the beginning of the period under review, it had received an accession of Moslems of extreme views. Its widespread organisation and financial resources made it by far the most effective political organisation in India.

Mr. Gandhi succeeded in the autumn of 1920 in securing the support of the Congress for his campaign—a matter of the greatest importance, since it placed at his disposal its organisation and eventually its resources. With its help, non-cooperation committees were set up in the villages, and Mr. Gandhi went up and down the country preaching opposi-

tion to Government. Local detachments of "Congress national volunteers" devoted themselves to the movement, and the influences they brought to bear to secure non-cooperation with Government were often quite inconsistent with the tenets of "non-violence."

The masses in India are normally law-abiding, but the inevitable result of widespread vilification of the Administration, directed by a man of Mr. Gandhi's influence and reputation, was contempt for the law. By the beginning of 1921, disorder had broken out in many provinces. Open violence brought into relief the divergencies between the religious and militant tendencies of the Khilafat side of the movement and the political and non-violent principles of Mr. Gandhi and his more consistent disciples. The Hindu community became disturbed by the growing stress laid by their allies on religious aims, and in August, 1921 the Moplah outbreak showed that there was good ground for their apprehensions. The Moplahs (or Mapillas) are a sturdy Muhammadan people of Malabar on the West Coast of the Madras Presidency. They are mainly the tenants of Hindu landowners, and from time to time their economic grievances have led them to resort to violence as a means of redress. Under the religious propaganda of the Khilafatists, and the growing belief that Government could no longer enforce its orders, the Moplahs rose in rebellion and, having destroyed the machinery of government in their area, and killed or driven off all the officials, they turned on the Hindu population in an outburst of murder, arson and outrage. There were few who did not read the lessons of the outbreak ; but Mr. Gandhi and the Congress leaders were among them. They made plans for organised civil disobedience in every province, and the intensity of the anti-Government feeling steadily grew. In Bombay, on the day the Prince of Wales landed in India, a conflict occurred between the loyal and the non-cooperating elements, and in the ensuing riot 53 persons were killed and 403 wounded. Hitherto, Government had adopted the policy of trusting to the good sense of the people to combat the

movement and had taken action only against persons guilty of specific breaches of the law, such as incitement to violence. But, in face of the preparations for organised civil disobedience, it arrested a number of agitators. Mr. Gandhi demanded their release under a threat of putting his plans into immediate effect, but a tragedy directly due to his campaign intervened. Twenty-one police constables were murdered with revolting cruelty at Chauri Chaura in the United Provinces by a mob acting under the excitement of the anti-Government movement. In his horror at the incident, for which he did not disclaim responsibility, Mr. Gandhi suspended his threat to Government. He renewed it shortly afterwards, but the country at last became alive to the dangers of the agitation. His influence waned, and his arrest in March, 1922 marked the end of the movement as a serious threat to the Administration.

*The Movement at its Height*

274. This sketch of the rise and decline of the movement does not convey the full seriousness of the situation that confronted the Administration when it was at its height. The danger varied from province to province and from district to district. In some areas, its effects were unimportant and transitory ; in others, the whole basis of ordered government seemed to be on the point of disintegration. Defiance of authority became widespread—an extraordinary development in Indian districts where the power of Government had never been questioned within living memory. Police stations were attacked, Europeans were assaulted, and every kind of intimidation and social pressure was employed to induce the general body of officials to resign. An instance will show the dangers of the movement, even where it fell short of outrage and massacre. A mob, excited by rumours that the police were organising fires in the district, attacked a constable and brought him before the District Magistrate, who ordered him to be kept in custody pending enquiry. This did not satisfy the mob, who took the constable to two leading non-cooperators to be dealt with. The effect on the morale of the



rank and file of the police was serious. The whole position turned on their loyalty, and to lose the protection of the law which they maintained, brought them almost to the breaking point. In this case, it was only the influence of the higher officers of the Force that prevented them from resigning in a body.\* The incident shows how near matters went to a complete dissolution of all law and order.

### *The First Legislatures (1920-23)*

275. The elections to the new legislatures were held at the beginning of the non-cooperation movement. The Nationalist Party had joined the movement and, consistently with its programme, its members did not stand as candidates. Every effort was made to throw contempt upon the elections, but the attempt failed. The field was left open to the Moderates, who were returned in preponderating numbers both to the Central Legislature and to the provincial councils.

It is due to these first legislative bodies to recognise the public spirit with which they entered upon their duties. In their hopes and ambitions for the future of India they had much in common with the non-cooperators, who included many of their friends. Bitterness over the Punjab disturbances of 1919, enthusiasm to push on towards full self-government, and admiration for the personality of Mr. Gandhi were shared by all parties. But the Moderates had accepted the principles of the announcement of 1917 and set themselves stoutly to do what they could to make the Act of 1919 a success. In the non-cooperating atmosphere of 1921, it required courage to follow this programme. In the first session of the Assembly a deficit of £ 18½ millions had to be provided for. The Assembly faced its unpopular task in the spirit of responsible public men and passed the measures required to restore the financial position of Government. In 1921, the Assembly and the Council of State steadily

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\*See Bihar and Orissa Government Memorandum, Vol. XII, p. 17.

supported Government in dealing with the Moplah outbreak and, in the critical days of 1922, again backed Government in its measures against the non-cooperation movement. In particular, the Assembly rejected without a division a motion urging release of the Ali brothers, who had been arrested for attempts upon the loyalty of the troops.

The first important difference between the Administration and the Assembly occurred in the summer of 1922. Government had promoted a Bill to prevent the dissemination of books and newspapers calculated to excite disaffection against Rulers of Indian States. The Assembly took the strong measure of refusing to agree to the introduction of the Bill and the Governor-General was forced, for the first time, to bring into use the special powers of securing essential legislation entrusted to him by the Government of India Act. He "certified" the Bill, which was then passed by the Council of State and thereupon received his assent.

Two debates on constitutional advance took place in the first Assembly. In September 1921, that is, within eight months of their first meeting, the Assembly passed a Resolution that the Government of India should convey to the Secretary of State for India the view of the Assembly that the progress made by India on the path of responsible self-government warranted a re-examination and revision of the constitution at an earlier date than 1929. The Secretary of State's reply, which was to the effect that so short an experience of the working of the reformed constitution did not warrant the assumption that the time was ripe for further change, was debated in February 1923. Both debates exhibited an enthusiasm for rapid political advance, which, one may hazard, was not uninfluenced by the more extreme claims of the non-cooperating parties outside the Assembly; it was readily assumed that all the lessons of self-government had already been learnt. But, though the Secretary of State's reply was a great disappointment to many members of the Assembly, they did not press the debate upon it to a division. It is probable, however, that the reply, and the approaching

elections, affected their action later in the session. • They had taken a lively interest in the post-war expenditure of Government and a retrenchment committee, under Lord Inchcape, had surveyed the whole field of expenditure. On its recommendation drastic reductions had been made; but there remained a gap between the estimated expenditure and income of the following year, which had to be bridged, and Government proposed a small increase in the salt tax to this end. The Assembly rejected the clause in the Finance Bill embodying the increase, and the Governor-General had, for the second time, to use his extraordinary powers to secure its passage.

### *Review of the First Phase*

2'6. The completion in 1923 of the three years' term of the Assembly marked the end of the first phase of post-Reform politics. The non-cooperation movement had demonstrated its dangers and had failed, and out of the Hindu-Moslem alliance upon which it rested, there was shortly to emerge a Hindu-Moslem antagonism which has ever since been a dominating factor in Indian politics. The Legislature had taken an effective and honourable part in the working of the new constitution. The Assembly, indeed, had finished its term in a mood of despondency, induced by disappointment at the rate of constitutional advance and at the use of the Governor-General's extraordinary powers. But it had behind it a record of real contribution in debate and committee to the work of government. It had secured the repeal of legislation which Indian opinion regarded as "repressive", and the abolition of racial discrimination in criminal trials; it had brought effective pressure to bear on the Indianisation of the Army and on tariff policy; and its authority had been extended by the establishment of a practice by which the Executive submits such important taxes as income tax and salt duty for the approval of the Assembly in an annual Finance Bill.

### *Communal Antagonism*

277. Just as the non-cooperation campaign formed the back-ground for the work of the first legislatures, so Hindu-

Muhammadan antagonism was by far the most significant movement during the lifetime of their successors. The bond between Hindu and Muhammadan in Mr. Gandhi's campaign was a common antagonism to Government. With the mass of Muhammadans that antagonism was founded on apprehensions for the future of their religion. These were set at rest by the Treaty of Lausanne, which gave Turkey better terms of peace than had at one time been anticipated, and the abolition of the Khilafat by Mustapha Kemal Pasha gave the movement its quietus. But non-cooperation had opened up new possibilities in the relations between Hindus and Moslems. To many of them it seemed that, if there was a possibility of political control passing before long completely out of the hands of Parliament, it became important for each community to organise and consolidate its forces in preparation for the new situation that would then arise. Movements were set on foot by both Hindus and Muhammadans for the reconversion of classes which were said to have lapsed to the other faith. Suspicion and bitterness were the inevitable result, and in the excitement of religious festivals occasions for dispute were only too easy to find. By the middle of 1923, communal riots, marked by murder, arson and looting, were of almost monthly occurrence. In 1924 fierce outbursts occurred in many of the greater cities of the North. At Kohat, in the North-West Frontier Province, the entire Hindu population fled the town in terror of their lives. The year 1925 saw a full in actual rioting, but the tone of the Press and of public speeches left no doubt about the intensity of communal feeling. In April 1926, there occurred the first of a series of dangerous riots in Calcutta, and the following twelve months saw 40 riots resulting in the death of 197 persons and injuries to nearly 1,600.

By this time, it had become clear to everyone that it was no longer a question of isolated clashes of merely local concern ; what was at issue was the All-Indian problem of the political relations of the two major communities. Communal representation in the legislatures, in the Government services, and in local bodies became the all-important question. Conferences of

leaders, not only of the two communities, but of all parties, were held to find ways of securing peace ; for it was recognised that communal antagonism stood in the way of general political advance. But such attempts failed in face of the determination of each community to secure its political future.

### *The Akali Situation*

278. Something may be said here of the Akali movement which disturbed the Punjab from 1920 to 1925. The Akalis are a reforming sect of Sikhs who, under the guidance of a committee, the Shiromani Gurdwara Prabandhak Committee, devoted themselves to bringing Sikh shrines under the control of the community. In the spirit of the non-cooperation movement, the Committee preferred to secure its ends without recourse to Government, and organised the Akalis into a militia for the purpose. Serious disorder followed, and the methods of Akalis in some areas threatened a reign of terror. Government had no hostility to religious reform, but was compelled to interfere when a section of the community endeavoured to take the law into its own hands. It was accused of hostility to the Sikh religion, and until a settlement was reached in 1925, with the help of moderate Sikh opinion, the Akali question provided a formidable problem for the Punjab Government. Here too, as with other minority communities, it is probable that the movement in one aspect was encouraged by the need for consolidation.

### *The Second Legislatures (1923-26)*

279. When the second reformed legislatures were elected in the autumn of 1923, the communal trouble was in its early stages. The political interest of the elections lay in the appearance of members of Congress as candidates. In the previous summer a split had taken place in the ranks of the party. As non-cooperators, their policy hitherto had been to boycott the legislative bodies and to pursue their ends by methods outside the constitution. But certain of the leaders, conscious of the failure of non-cooperation and, it may be, alive to its dangers, now turned to a new method of embarrassing Government. They

offered themselves as candidates for the Assembly and for the provincial councils on a pledge of "uniform, continuous and sustained obstruction with a view to making government through the Assembly and the Councils impossible." For the policy of boycott was to be substituted one of wrecking the legislatures from within.

The group which held these views was led by the late Mr. C.R. Das and Pandit Motilal Nehru. At first, they met with strong opposition in Congress from the group led by Mr. Gandhi, who adhered to the policy of boycotting the legislatures ; but at the elections, they had the help of the party machine, and formed a compact, disciplined and well-organised "Swarajist" Party. The Moderates, or Liberals, on the other hand, went to the contest dispirited with the results of the first three years of the Reforms ; their organisation was not comparable with that of their rivals, and so far from having any popular appeal, they had to carry some of the unpouularity of the Administration with which they had been associated. The Swarajist candidates had a striking success in the elections for the Assembly and secured 45 seats. These gains were made mainly at the expense of the Liberals. They had less success against the Independents, a group of candidates of various opinions, who were able to rely on local influence in the constituencies for support, rather than on acceptance of a party programme. In the provinces, the Swarajists were on the whole less successful. They obtained a clear majority in the Council of the Central Provinces ; and in the Bengal Council they were the largest party. In the other provinces, they made no great headway ; in Madras, the Punjab, and Bihar and Orissa, they were very weakly represented.

Congress laid down that members of the party in the legislatures should pursue a policy of pure obstruction. No member was to accept office or a seat on a select committee, or to take part, as an individual, in current business. When the new Assembly met in 1924, the Swarajists, numbering only 45 out of 145 members, were too few to carry out effectively the man-



date of Congress. During the session, they allied themselves with the Independents. But the latter were far from accepting a policy of obstruction, and the Swarajists were compelled to compromise with their allies, and to modify the wrecking methods to which they had pledged themselves.

### *Attitude of Second Assembly*

280. The attitude of the new Assembly towards the constitution was shown in its first session. A resolution was moved by Pandit Motilal Nehru, the leader of the Swarajists, for the convening of a Round Table Conference to recommend a scheme for establishing full responsible government in India; the scheme, after being placed before a newly-elected legislature, was to be submitted to the British Parliament "for embodiment in a Statute." This went much further than the resolution of the first Assembly, three years before, which did no more than ask that enquiry into India's fitness for a further measure of self-government should be expedited. Government opposed the resolution, but promised an enquiry into the working of the constitution, with a view to making such changes as were desirable and possible within the existing Act. This proposal received little support, except from the minority communities, and the resolution was carried against Government by a large majority. Later in the session, the Assembly rejected Government's demands for grants, not on their merits, but as a "constitutional" protest; and it refused permission to introduce the Finance Bill of the year, the passage of which was only secured by the exercise of the extraordinary powers of the Governor-General. It is noteworthy, however, that the Council of State passed the Finance Bill without division at any stage.

In 1924, there was a revival of revolutionary crime in Bengal. Special procedure for dealing with it had been established by an Ordinance which was valid for six months only. A Bill to extend it, after being rejected by the Bengal Legislative Council, had been certified by the Governor, and supplementary legislation was necessary in the Central Legislature.

The Bill was introduced in the spring of 1925. The Assembly rejected the essential clause, and the Governor-General was again compelled, in the face of violent opposition, to use his special powers. Here again, the Council of State supported the Executive by passing the Bill.

The question of constitutional advance came up again in 1925. In accordance with its undertaking in the constitutional debate of the previous year, Government set up a Committee under the chairmanship of the late Sir Alexander Muddiman to enquire into the working of the Government of India Act, and to investigate means of securing remedies (consistent with the structure and purpose of the Act) for any defects which might be found. The majority of the Committee reported that the existing constitution was working in most provinces and was affording valuable political experience ; but that the time it had been in existence was too short to make possible an estimate of its ultimate success. They made, however, certain detailed recommendations for improving the machinery of government. The minority view was that dyarchy had demonstrably failed and could not succeed ; and that nothing short of a fundamental change of the constitution would secure an improvement. A debate on the Report took place in the Assembly in September 1925. Government proposed to accept the principle underlying the majority report, and to proceed with the consideration of its recommendations. The leader of the Swarajists moved an amendment that immediate steps should be taken to move His Majesty's Government to make a declaration in Parliament embodying such fundamental changes in the constitution of India as would make government fully responsible ; and that a Round Table Conference or Convention, representative of all interests, should be held to frame a detailed scheme which should be placed before the Legislative Assembly for approval, and afterwards submitted to the British Parliament to be embodied in a Statute. The amendment was carried against Government in the Assembly. But the original resolution was accepted by the Council of State.

These debates had followed upon efforts made by the Secretary of State for India, and by the Viceroy himself, to secure a measure of cooperation from Indian public men in the interests of constitutional advance. The terms of the amendment carried in the Assembly made it clear that there was no disposition on the part of a large and influential section of Indian politicians to approach the question in a conciliatory spirit.

*The Third Legislative Assembly (1927-onwards)*

281. Political opinion in India on the eve of the elections for the third Assembly in the autumn of 1926 was concerned in the main with two questions. The first was the policy of Congress in regard to the legislatures. We have seen how, before the elections of 1923, the group led by Pandit Motilal Nehru broke away from the original policy of non-cooperation and entered the legislatures with the object of paralysing the work of government ; and how, in the Assembly, the need for allies had led the party to follow more constitutional courses. Swarajists had taken part in the ordinary work of the Chamber and had even sat on committees, but they had refused to accept ministerial office in the provincial councils, and, in two provinces, had succeeded in making dyarchy unworkable. A fresh movement in the direction of constitutional methods now appeared within Congress. The policy of entering the legislatures in order to wreck them, and still more the policy of complete non-cooperation, did not commend themselves to an influential party. This group, led by Mr Jayakar, Mr. Kelkar and Dr. Moonjee split off from the main body and formed the party of "Responsive Co-operation". The break was marked by the acceptance by Mr. Tambe, a member of the Congress Party, of the appointment of Executive Councillor in the Central Provinces. The Responsivists were prepared not only to enter the legislatures, but to take full advantage of the opportunities open to them under the constitution, by accepting any office of responsibility offered to them. This did not mean that they were any less ready than the Swarajists to carry on the struggle for their common political ends, but they were

strongly opposed to the methods that had already been tried, and in particular to civil disobedience.

Hindu-Muhammadian antagonism was the other main influence on the elections. We have described how communal differences developed into deep political cleavage. Its effect became apparent in the elections of 1926. The Swaraj Party was now almost entirely Hindu, and Muhammadans no longer offered themselves for election as members of the Party. Throughout the north, in particular, they stood as Muhammadans first, while Hindu candidates in the non-Muhammadian constituencies stood under communal descriptions, *e.g.*, as members of the Hindu Mahasabha.

282. These divisions were reflected in the composition of the Central Legislature. In the first Assembly, which consisted so largely of Moderates, no permanent party divisions were formed. In the second, the Swarajist and Independent groups did not include between them by any means the whole of the elected members of the Chamber. In the third Assembly, for the first time there developed something like a distribution of greater part of the elected members of the Chamber into organised groups. Out of 105 elected members, the Swarajists could now command the votes of only about one-third. The Independents were represented in reduced numbers. The Nationalists, a new party under an old name, included the Responsive Cooperators and the Hindu Mahasabhaitees, the latter being the party of Hindu consolidation. Most of the Muhammadans organised themselves as the Central Moslem Party, under the leadership of Sir Zulfiqar Ali Khan, while some others acted with the Independent Party, led by Mr. Jinnah. Finally, there was the European group, which, though small in numbers, always exercises a considerable influence in debate.

In the early months of 1927 it looked as if the communal question would govern political movements throughout India to the exclusion of everything else. But, though its importance has increased rather than diminished, the announcement of the

appointment of the Statutory Commission in November 1927 provided a question of more immediate concern which affected for the time being the political alignment of parties.

*Political Forces in the Provinces*

283. So far, we have been dealing with Indian politics as reflected in the Central Legislature. But a survey from the standpoint of Delhi and Simla misses a great deal of the picture, and to complete it we must turn to the provinces. The member of a provincial legislature is, of course, interested in the problems of India as a whole, and more particularly in her political future. But his preoccupation is largely with matters that lie nearer home, the problems and the conflicting interests of his own province. The point is well illustrated by the Reports of the Provincial Committees that cooperated with us.

The first legislative councils were, like the first Assembly, composed mainly of Moderates, and for the same reason, the Congress Party was committed to non-cooperation and put up on candidates at the elections. All the councils were, therefore, prepared to work the Reforms, and though the difficulties in actual working varied from province to province in kind and in degree, there was nowhere any approach to a breakdown.

At the elections for the second councils, the Swarajists stood as candidates with the object of bringing government to a standstill by obstruction, but only in two provinces had they any appreciable success—in the Central Provinces where they had a majority in the Council, and in Bengal where they were the largest party. In the third elections—in 1926—they lost ground in every province but one.

The course of political history in the different provinces is varied, and it is impossible to treat any one province as a sample of all. We have already, in our account of the working of the provincial constitution, outlined the political history during the last ten years of three widely differing provinces,

Madras, Bengal, and the Punjab.\* We, therefore, select two others, in this part of our Report, by way of illustration of the political forces at work in provincial centres. One of these provinces, namely, Bombay is a good example of the extent to which leading public men who take part in public affairs have devoted themselves to the special problems of their area, and of the success with which a provincial legislature has played its part under the Reforms. The other illustration which we have chosen, that of the Central Provinces, exhibits an opposite tendency, for the course of politics there has been greatly affected by the All-India programme of the Swarajists, and the work of the Council has been constantly impeded by the influence of those who wished to wreck dyarchy and to prove that the existing constitution was unworkable.

### *Bombay*

284. The elements in the Bombay Legislative Council may be said, throughout the last ten years, to have divided themselves into three roughly equal groups. The first consisted of the official members and the Ministers, together with the representatives of commercial bodies, both Indian and European, whose outlook on most matters tended to coincide with those of the Government. The second group consisted of three communal elements --the Sindhi Muhammadans, the Presidency Muhammadans and the non-Brahmins. These were predominantly agricultural in outlook and consistently supported what they conceived to be the interests of the communities which they represented. They have been particularly well represented in the Ministry. The third group consisted predominantly of members of the advanced Hindu communities, but in this group again there was a division between the Gujerathi and the Deccani members.

Of these groups, the one most ready to be influenced by All-India political movements was the third. In the second Council, this group was predominantly Swarajist in sympathy.

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\* See above, Part III, Ch. 2, paras 219-226.



Its Gujarathi members, coming as they did from Mr. Gandhi's country, generally accepted the full implications of the Swarajist creed, but the Deccani members inclined to a more constructive form of opposition. The latter, from the beginning of the second Council, displayed a readiness to serve upon committees and, on occasion, even to support Government. Before very long, dissensions arose among the Swarajists within the Council, and their leader, Mr. Jayakar, resigned from the Legislature.

The existence of so many groups within the Council, and the predominant occupation of each with its own interests, resulted in support being generally forthcoming from some elements for all Government measures. The ministerial groups were usually found to follow their leaders into the lobby. This, however, was by no means always the case. In 1927, when the Council rejected, on the motion of a prominent European commercial member, the proposal of the Bombay Government to proceed with a further section of the Back Bay Reclamation only seven non-officials voted with the Government, including the three Ministers.

On no occasion has a vote of no confidence in a Minister been debated in the Bombay Council. The strength of the ministerial position lay partly in the harmony with which the Ministers worked with each other. Representing, as they did, different groups they could almost invariably get substantial support from non-official members of the Council. But they placed their greatest reliance upon the official nominated members. On no occasion have the Bombay Ministers dissociated themselves from the policy of the Bombay Government.

It must not be inferred that the members of the advanced Hindu communities in the Council have shown a consistent opposition to Government. During the third Council, the members of these communities, both Gujarathis and Deccanis, combined to form a United National Party, and supported the Education Minister, then a Brahmin, in putting on the Statute Book the Bombay University Bill, against the opposition of the combined Sindhi Mohammadan, Presidency Muhammadan and non-Brahmin groups.

Sir George Lloyd, the then Governor, in addressing the first Council on its dissolution, acknowledged its steady judgment and sound political sense. During the last ten years, the Council has criticised Government, generally in a moderate and helpful spirit. It has shown a business sense and an anxiety for progress, administrative and social as well as political. It has been an effective champion of economy, but once its suggestions for retrenchment have been met, has accepted the Government's proposals for fresh taxation. It has endorsed the measures which have been taken in the enforcement of law and order, including the arrest of Mr. Gandhi and the Ali brothers in 1922. Its relations with the Administration are reflected in the fact that the Governor of Bombay has on no occasion used any of his powers of overriding the Council : but, perhaps in consequence of its moderation, its influence on the Government of the Presidency has been constant and effective.

#### *The Central Provinces*

285. The course of events in the Central Provinces was very different. When the Swarajists were returned to the Council in 1923 with a majority, they not only refused office, but systematically withheld all supply for which their consent was necessary, and reduced the salaries of Ministers to Rs. 2 per annum. The Governor was forced to take over the administration of the transferred subjects, but in face of an adverse legislature, a progressive policy was impossible. The result of the Swarajist tactics was, therefore, to cripple those branches of administration upon which Indians lay most stress ; the reserved departments went on as before. In the following year, the Swarajists modified their policy. As before, they voted salaries for Ministers so derisory that no Minister could take office ; but they did not reject wholesale the grants asked for by Government for the administration of the transferred subjects. This position was maintained until April 1926, when the Secretary of State sanctioned the suspension of the transfer of the subjects ordinarily entrusted to Ministers. This meant the end of dyarchy for the time being, and the administration of all subjects by the Governor in Council, under the conditions

applicable to the reserved field. The third Central Provinces Council met in January 1927. A Ministry was appointed, but lasted only a few days. Once more the transfer of subjects was suspended, and all departments were administered by the Governor in Council up to February 1928. Since then there have been two Ministries with an interval, during which dyarchy was again suspended.

### *The Indian Press\**

286. In the development of Indian politics and public opinion, which has taken place since 1920, the Indian Press has played a considerable part. Indian newspapers fall into two classes—those published in English and those published in one or other of the vernaculars. The first mentioned are further divided into newspapers owned and published by European interests, and those owned and published by Indians. The continental dimensions of India and the large extent of provincialisation, in political and public life, have tended to confine the circulations of Indian newspapers of all kinds—there are only a few exceptions—to the province in which they are published. Vernacular newspapers must obviously be confined to the area where their language is understood, but difficulties of time and space operate to limit the circulations, even of those printed in English, to the geographical area in which they can reach their subscribers earlier than any of their rivals.

Judged by English standards, the circulations of all but a very few Indian newspapers, whether in English or in a vernacular, are quite small, but an important difference is to be noticed between what may be described as the “sale” circulations and the “effective” circulations of the two classes. The comparatively restricted knowledge of English practically limits the reading of newspapers printed in that language to the educated and student classes, but vernacular papers can be, and are, read to illiterate hearers by their literate fellows in towns, villages, railways carriages, public meetings and so on.

\*See also Part VII below—“Public Opinion in India.”

The “effective” circulation of many vernacular newspapers is, therefore, far greater than mere figures of sales suggest.

### *Indian-Owned Newspapers*

287. A broad view of the Indian-owned and edited press, both in English and the vernaculars, since 1920, shows a continuously growing freedom of criticism of the Administration, more and more insistent demands for political reforms of a comprehensive character, and, in many newspapers, a freedom, indeed a violence, of language, which, from time to time, brings within the scope of the criminal law the person put forward as Editor. The remarks made above in connection with the “effective” circulation of vernacular newspapers make this development worthy of special notice. Another feature of the writing in the vernacular press, which has assumed considerable prominence from time to time during the past few years, has been the volume and bitterness of inter-communal polemics.

One of the first fruits of the Reforms of 1919 was the repeal of certain enactments, such as the Newspaper Incitement Act of 1908, and the better-known Press Act of 1910, which conferred extraordinary powers in the matter of Press control on the Executive. Since the repeal, the Press has been subject to no other restrictions (if the Princes Protection Bill is excepted) than those imposed by the ordinary criminal law. From what has been said already, it is clear that the Indian Press has taken full advantage of the repeal; some newspapers indeed have exhibited a licence to which it would be difficult to find a parallel.

### *Their Influence on Public Opinion*

288. Although it is nowhere easy to estimate the influence exerted on public opinion by the newspaper press, the special circumstances of India make it possible, perhaps, to speak with some confidence of the influence of Indian-owned newspapers. Where there is practically no broadcasting, a comparative paucity of political organisations, and little opportunity of political education and guidance from other sources, assertions

contained in a newspaper acquire greater power and prestige. When the Government is attacked, there is no one to defend it, and the most extravagant invention as its expense seems often to go unchallenged. It is difficult to convey how serious is the handicap to Government created by the absence of any effective exposition in the Indian-owned press of the reasons for action taken and of the facts on which it is based. It is not merely that a particular policy may be misrepresented : even more grave is the undermining of respect for authority and good order in general. The newspapers printed in English circulate among the most influential classes—lawyers, university and school teachers, business men, and so on. Some of them are produced with much technical ability and publish elaborate and well-written leading articles in support of their views. The almost complete absence of Indian-owned newspapers presenting the other side is very striking. The influence of vernacular newspapers is more extensive, and papers more important, for the less educated men who read them, and particularly the illiterates who hear them read, have still less to set against the printed word. What was said above about the effect of vernacular newspapers upon inter-communal antagonism illustrates this point.

There are very few examples in India of what we, in the West, call, "party" newspapers. The European-owned newspapers represent, on the whole, the point of view of the Administration, whilst the bulk of Indian-owned newspapers, whether in English or the vernaculars, stand for various degrees of nationalist opposition, varying from insistent demands for further reforms for India to full-blooded advocacy of complete independence of the British connection. The only examples of true party newspapers are provided by Madras, where the Congress organ "The Hindu" and the non-Brahmin newspaper "Justice" carry on, at a high level of controversy, the struggle between the Congress and the moderately progressive political programme. There are a small number of Indian-owned newspapers which give support to the Administration, or at any rate discuss government policy with reason and restraint.

**PART VII—PUBLIC OPINION IN INDIA**

458. Before closing our survey and passing in the next volume to our proposals, we must make some attempt to indicate how far any political consciousness exists among the peoples of India and to measure the strength and direction of the forces at work. The development of public opinion is one of the prime factors to be considered in estimating the results of the present system and the possibilities of future action. We recognise the need for caution in this matter, for there is no harder task than for men of one race to understand the minds of the people of others. This is especially so in India where thought does not run on Western lines, where values are so different, and where so much of the attitude towards life rests on assumptions other than those accepted in Europe. Even the man who has spent long years in the East in close contact with its inhabitants, speaking their languages and versed in their history and philosophy, will confess that many things are hidden from him. We can only give the effect on our minds of much written and oral evidence, of our own observations and inquiries, and of many friendly discussions with Indians of all communities.

*The Extent of Political Consciousness*

459. Interest in politics in India is still necessarily confined to a small minority, chiefly found in the urban and educated population. This would, in any case, be natural in a country which is predominantly inhabited by small cultivators who are for the most part illiterate. Such a result is, in itself, not a matter of race or climate, so much as of social organisation. All the world over, the peasant, except in a few small countries, is not continuously interested in politics. His horizon tends to be bounded by the village. It would, therefore, be altogether surprising if ten years of the Reforms had effected in India what many decades of representative institutions have failed to accomplish, under more favourable conditions, elsewhere.



But the small extent to which political consciousness has developed among the inhabitants of the 500,000 villages of British India is not caused solely by conditions which exist in rural communities all over the world. It is very largely due to special circumstances. The idea that the course of government should be affected or controlled by the opinion on political matters of himself and his fellows is wholly foreign to the traditions of the Indian ryot. The fatalism which accepts things as they come, and the habit of regarding Government as a power outside himself which moves in a mysterious way and issues decrees for which he is not responsible, are not easily transformed into a state of mind which takes an interest in political problems because it means to have a hand in their solution. This was the "pathetic contentment" from which Mr. Montagu wished to rouse the masses of India.\* Since the method by which this was to be done is the introduction into Indian life of political institutions borrowed from a different world, the process is bound to be slow. We have pointed out, in our chapter on the Voter and the Member,\*\* how the idea of holding an elected representative to account, and treating him as the instrument for enforcing the views of his constituents, is still very imperfectly realised. Communal and sectional feelings are nearest to the surface, and it is inevitable that they should take precedence over more general political conceptions. It is a commonplace to dwell upon the immense size of India, but a mere statement of its extent cannot convey how difficult it must be for an Indian villager to have any view on many large political questions. When the last census of India was taken, 90 per cent of the 320 millions who were then counted were found to be living in the same district in which they had been born, and of the balance, two out of three were found in a contiguous district.\*\*\* How can men with this limited range of experience appreciate the implications of overseas trade, the arguments for or against tariff policy, the importance of frontier

\*M/C Report, para 144.

\*\*Part III, Chap. 1.

\*\*\*Census of India (1921) Report, p. 83.

questions, or indeed the fact which lies at the root of all Indian questions—the variety of India itself? The growth of political consciousness is, therefore, hindered not only by the tradition which so widely prevails that policy is a matter for Government, and not for citizens, to decide, but by the practical obstacles of distance and ignorance to be overcome, even after that tradition has been broken down.

It must not be concluded from this that the Indian peasant cannot be stirred by mass movement inspired by ideas within the range of his everyday experience. When religious or communal emotions are stirred, or when his immediate economic interests are at stake (as in the case of assessment of land in Bardoli), the villager may be roused to vehement action. While abstract political ideas may leave him unaffected, the personality of a leader such as Mr. Gandhi will make a great appeal. It is always a grave mistake to ignore the possibilities latent in this situation. The politically-minded in India are only a tiny minority, but they may be able to sway masses of men in the countryside.

The same consideration applies, but in a greater degree, to the comparatively small class of urban wage-earners. Drawn mainly from the lower strata of society, uneducated and poorly organised, they are, nevertheless, a potential force in the hands of those who know how to use them. There is no doubt, of course, that the urban educated classes have become more and more politically-minded. And, while it is natural that political thought and influence should be concentrated so largely in the towns, yet it would be an error to ignore the personal influence of the leading men in the countryside, which in the almost feudal conditions of rural India is often very great. This, however, is a passive rather than an active force; it resists change and stands on the ancient ways. It is in the Presidency cities, therefore, and in the other large towns that active political forces must be looked for. The members of the professions, the journalists, most of the school teachers and, above all, the lawyers, are naturally concentrated in the towns

and here too are the universities, the students of which make themselves so prominent in Indian political movements, apparently without any anxiety as to the consequence of absenting themselves from their academic studies.

*The Peace of Advance*

460. Political thought in British India to-day is derived from Europe. The deep intelligence of the educated Indian has been stimulated by study of Western institutions. It is remarkable how the theories and phrases of political science as expounded in England and America have been adopted and absorbed. But the sudden impact of ideas drawn from the experience and conditions of other peoples in other climates is bound to have a disturbing effect. Down to thirty or forty years ago India stood entirely outside the influence of the course of political ideas which at length produced democratic self-government in some other parts of the world. But in the last generation she has been swayed, at one and the same time, by the force of several conceptions which in Europe had followed a certain sequence. Thus, the struggle for power between rival religious communities, the rise of an intense national spirit, the spread of toleration, the growth of democracy, and the controversies of socialism, mark fairly well-defined epochs in European history. But, in India, these various influences are contending side by side for the allegiance of the politically-minded. The growth of national self-consciousness is retarded by communal separatism. The movement towards Western industrialism is countered by the return to the spinning wheel. The equality of Asiatic and European is proclaimed while the clash of Brahmin and non-Brahmin, or caste and outcast, is intensified. Ultra-democratic constitutions are propounded, although the long process which was a necessary antecedent to democracy in Europe, *viz.*, the breaking down of class and communal and occupational barriers, has only just begun. Indian political thought finds it tempting to foreshorten history, and is unwilling to wait for the final stage of a prolonged evolution. It is impatient of the doctrine of gradualness.

*The Formation of Public Opinion*

461. In a country where the number of literates is very small, the formation of opinion depends far more on the spoken than on the written word. Rumour counts for more than reading ; but the most exaggerated rumour finds its way into a certain class of Indian newspaper, and the influence of the man who can read is necessarily very great. Controversial questions, in a community that is advancing to self-government, can only be satisfactorily disposed of, if there is some means of informing the public of the reasons for the policy adopted. We have pointed out, in an earlier part of this volume,\* how gravely the interests of good government are undermined, and confidence in the administration is shaken, by the distortion and misrepresentation practised with impunity by some Indian newspapers, and by the absence of adequate means of countering it. "It should be explained that the Government of India, unlike most of the regularly constituted Governments in the World, has no Press of its own on which it can rely for support. As a rule the Anglo-Indian Press gives general support, but any one or all of the Anglo-Indian newspapers might, and sometimes do, turn strongly against the Government of India in matters of the highest importance. The reason, of course, is that the Government of India is not a Government placed and kept in power by a political party whose organs are pledged to its support, and the Indian-owned and controlled Press is, on the whole, an opposition Press."\*\*

Not only has the Government of India no "Press", but it has no "platform". That is to say, the Reforms have not produced in the Assembly a Government Party among elected members, which expounds to constituents and others the case for Government policy. In the provinces, one half of the Government has been purely official and the other half, though it was intended to rest upon the support of a majority of

\* Paras 287 and 288.

\*\* India in 1927-28", page 59. In this passage the "Anglo-Indian Press."

elected members, in fact often had to rely on official aid. The result is that, in the provinces also, there has been no propaganda on the side of Government.

Except for an occasional address by the Viceroy, or by a Governor, and except for speeches made by officials in the legislatures, political advocacy is left to the critics. Apart from the personal influence of officials, British and Indian, in the districts and an occasional communique from headquarters, the Government case goes by default. It is obvious to us that this constitutes a very grave danger, not so much to any particular policy or form of Government, as to the general respect in which organised authority ought to be held. The danger is all the greater because India is a place where hearsay, however improbable, seems to gain widespread credence and to be capable of rousing fierce passion.

### *The Force of Public Opinion*

402. The effect of public opinion on the actions of Government is apt to be under-estimated by Indian politicians. They tend to consider that, unless political power is made explicit in statutory form, it is non-existent. As a fact, nothing can be clearer than that public opinion, as expressed in the Assembly and Council of State, has often resulted in action by the Central Government in accordance with it. The fact that the Executive is irremovable, or that certain budget items are non-votable, does not mean that the Executive can afford to ignore the views of elected representatives, even over subjects apparently within its sole purview. If this is true of the Centre, it is still more so of the provinces. The reserved side of Government is amendable to public opinion, almost as much as the transferred side. It may safely be said that to-day, whatever, may have been the case in the past, the effect of Indian public opinion on policy is a factor which must be taken into account in every decision that is made. As its basis becomes broader with the spread of education and political experience, it is bound to become a still more powerful force.

*Equality of Status*

463. The object of the present chapter is not so much to describe the political views which are prevalent in India as to estimate the extent to which an influence which can fairly be called public opinion exists there at all. We have indicated the strictly confined range within which the flow of political consciousness manifests itself ; within those limits there are many cross-currents. But what is the general direction of the stream ? We should say without hesitation that, with all its variations of expression and intensity, the political sentiment which is most widespread among all educated Indians is the expression of a demand for equality with European and a resentment against any suspicion of different treatment. The attitude the Indian takes up on a given matter is largely governed by considerations of his self-respect. It is a great deal more than a personal feeling ; it is the claim of the East for due recognition of status. It is usual to date the rise of this demand on the part of the Asiatic for equality with the European from the defeat of Russia by Japan. There is no doubt that that event had its repercussions throughout the Eastern world, and especially in India, where an educated minority was already claiming for Indians a greater share in the government of their country. But the events of the past two decades have much accelerated the movement. The doctrine of self-determination preached during the Great War, the successful nationalist movements in many countries, and the resistance of Turkey to the European powers, all have had their effect. While the experienced Indian member of the Services will admit the benefits of the British Raj and realise the difficulties in the way of complete self-government ; while the member of a minority community, putting the safety of his community first, will stipulate for safeguards ; and while the moderate may look askance at extremist methods which he will not openly denounce ; all alike are in sympathy with the demand for equal status with the European and proclaim their belief in self-determination for India.



*The Opportunity of the Future .*

464. The British people, so long accustomed to self-government, are bound to sympathise with this movement, even though they may deplore some of its manifestations. We are pledged to help India along her way, and constructive effort is needed. It is the general tendency of nationalist movements to attract within their orbit people of very varied aims and methods. Until the demands of nationalism have been reasonably met, enthusiasts for various reforms make common cause with every discontented element, and attribute all the evils which they attack to the absence of self-government. In our view, the most formidable of the evils from which India is suffering have their roots in social and economic customs of long standing, which can only be remedied by the action of the Indian peoples themselves. They are much less likely to be remedied if the blame for their continuance can be put, however unreasonably, on others. We desire to see the forces of public opinion which exist in India concentrated and strengthened for the practical work of reform. It is only when the difficulties of constructive policy are really faced, that the inadequacy of general phrases begins to be realised.

We have now concluded our survey, and pass to our second volume containing our suggestions and recommendations.

All of which we submit for Your Majesty's gracious consideration.

John Simon, *Chairman*.  
Burnham.  
Strathcona.  
Edward Cadogan.  
Vernon Hartshorn.  
G.R. Lane Fox.  
C.R. Attlee.

S.F. Stewart, *Secretary*.  
London, 12th May. 1930.

## II

### *Separate Representation*

69. We now come to the highly controversial and most important subject of communal representation. When we went to India, we approached this subject as it would naturally be approached by most men of British blood and tradition who take satisfaction in the widespread sense of common citizenship which prevails in our own land. Nothing is more important for a wise judgement on this matter than that all members of Parliament, whether familiar with Indian conditions or not, should appreciate and give due weight to the special considerations involved, which have no counterpart whatever within the experience of Britain. On the one hand, communal representation—the provision by law that a particular religious community shall be represented in a popular legislature solely by members of its own body, with a guarantee as to how many communal seats there shall be—is an undoubted obstacle in the way of the growth of a sense of common citizenship. It is open to all the objections formulated in the Montagu-Chelmsford Report. We have already quoted that indictment.\* Communal electorates, the authors of the Joint Report declared, perpetuate class distinction and stereotype existing relations ; and they constitute a very serious hindrance to the development of the self-governing principle. If it be a prejudice to hold these views, we admit that we share them. The conclusion which we have reached has not been arrived at without allowing fully for these considerations and studying diligently alternative courses. On the other hand, we are now faced, as the authors of the Montagu-Chelmsford Report were faced, by the indisputable fact that the Muhammadan community as a whole is not prepared to give up communal representation and would regard its abolition, without the assent of that community, not only as the withdrawal of a security which it prizes but as a cancelling of assurances upon which it had relied. Whatever view may be taken of the Muhammadan objection, the fact itself cannot be

\*Vol I, para 149.

disputed, and it is one of the greatest possible gravity for all who are engaged in considering the constitutional future of British India. Objections from this quarter, more than anything else, accentuated division over the Nehru Report, and this in spite of the very ingenious and persuasive analysis which that Report contained of the distribution of religious opinion in Bengal and the Punjab. It is this same difficulty which has time and again undermined the efforts that have been made to secure Hindu-Moslem unity, and which profoundly influences the attitude taken up by those Muhammadan leaders who have gone furthest in their effort to co-operate with Hindu opinion.

It is necessary, therefore, to review the controversy in some detail, and to examine afresh some of the main contentions on either side. We would again direct attention to the Note on the History of Separate Muhammadan Representation which we have printed as an Appendix at the end of Part II of our first volume,\* as well as to chapters in that volume on the religious communities of India\*\* and on the existing arrangements for Muhammadan representation.\*\*\* We propose in the following paragraph to summarise some expressions of opinion which have come before us on the subject.

#### *Summary of Views on Communal Representation*

70. No provincial Government has proposed the abolition of separate electorates for Muhammadans, although several agreed with the view that they are theoretically objectionable. The Bombay Government, which goes furthest in this direction and specifically states that separate communal electorates are not acceptable to it, only advocates their abolition if the consent of both parties can be obtained. In Bengal, the Hindu Member of Council dissociated himself from the views of the rest of the Government and recommended joint electorates with

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\*Vol. I, p. 183, Appendix V.

\*\*Vol. I, Part I, ch. 3.

\*\*\*Vol. I, Part II, ch. 4.

reservation of seats. In the Punjab also, the Sikh and Hindu Ministers expressed themselves against the retention of separate communal electorates.

As regards the allocation of seats between Hindus and Muhammadans, provincial Governments either do not propose to interfere with the *status quo* or only suggest minor modifications. The Bengal Government forms an exception. Its memorandum, with two dissentients (one European and one Hindu), proposes that the representation of Moslems should be on the basis of their population ratio. The Sikh Minister in the Punjab considers that, if communal representation is retained, it should be on the basis of voting strength.

All the Provincial Committees (except the Burma Committee, which is not concerned) recommend either unanimously or by a majority the retention of separate electorates for Muhammadans, though (except for the Moslem members) most of them do so with obvious reluctance, taking the view that they should be abolished as soon as the Muhammadan community is ready to agree to this course. Two Hindu members of the Bombay Committee, two of the Punjab Committee, and one of the Bihar and Orissa Committee dissent from the majority view, and recommend joint electorates with reservation of seats.

Most of the Provincial Committees do not propose any alteration of the existing proportions in which seats are allocated between Hindus and Muhammadans; but the Bengal Committee would allot seats on the population basis, the Punjab Committee would allow weightage to the Hindu and Sikh minorities to such an extent as will not convert the Muhammadan majority (if reckoned on the population basis) into a minority, and the Bihar and Orissa Committee (except the Moslem members) would only set aside Muhammadan seats, to be filled through the separate electorates, in proportion to the population ratio, though they would allow Muhammadans also to contest seats in other general electorates.

A majority of the members of the Indian Central Committee take a different view from that of the Provincial Committees and follow, in the main, the recommendations of the Nehru Report on this question. They propose that joint electorates should be introduced, with reserved seats for Muhammadans (except in the Punjab and Bengal), allocated either on the population basis or in proportion to voting strength, whichever is the more favourable, and they would give Muhammadans the right to contest seats in other general electorates. They would apply the same principle to the minority Hindus and Sikh communities in the Punjab\*. The majority of the Indian Central Committee do not think that in Bengal either community needs any special protection, and they recommend joint electorates within any reservation of seats.

One member of the Committee who puts forward very similar views, is nevertheless prepared to allow separate electorates to continue for five years.

Two of the Muhammadan members of the Committee strongly dissent from their colleagues and endorse the recommendation of the All-India Muslim Conference which met at Delhi in January, 1929, to the effect that separate electorates should everywhere be retained, seats being allocated on the present basis in provinces in which Muhammadans are in a minority, and on the population basis in those in which they are in a majority.

The European member of the Community recommends that separate electorates should be retained until the minority community is willing to see them abolished.

All the Muhammadan bodies which appeared before us agreed in demanding the retention of separate electorates.

\*It may be pointed out that the formula for fixing the proportion of seats reserved for a community on the basis of population or of voting strength "which ever is more favourable" cannot well be applied in an area, such as the Punjab, where two out of three main communities are both in a minority. One of them might choose the first alternative, and the other the second, with the result that majority community suffers a double deduction from its proportionate share.

Though a few spoke of the possibility of this system disappearing eventually, none of them were ready to set any time limit or formulate any explicit conditions under which this would become possible. There were some minor variations of opinion on the subject of the number of seats to be filled by Muhammadans, but there was general agreement with the view, endorsed at the All-India Muslim Conference of January, 1929, which we have just described. As far as we have been able to ascertain, the recommendations of the conference, which, of course, covered a wide range and were not confined to the question under consideration at the moment, have now found very wide acceptance among the Muhammadans in India. The minority of their leaders who were formerly prepared to take a less uncompromising views on the subject of communal representation have recently moved nearer to the majority. We have thought it well therefore to reproduce in an appendix at the end of this chapter the text of the resolutions of 1st January, 1929\*.

Moderate Hindus, as can be seen from the views expressed by Provincial Committees, are often ready to agree that Muhammadans must not be deprived against their will of separate electorates ; but they share (with hardly a dissentient) the view of their co-religionists (who press for the immediate disappearance of this form of representation) that the proper system to adopt is that of joint electorates, with reservation of seats, as long as the need for any such protection is insisted on. There can be no doubt that political Hinduism as a whole is strongly opposed to any separate representation of Moslem interests which goes beyond this point. Most of those who take this view would calculate on the basis of population the number of seats to be reserved.

#### *The Absence of Agreement*

71. It is evident, therefore, that communal representation is a very thorny question, and one as to which there cannot be

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\*Appendix VII, p. 84 below.



said to be anything approaching agreement in India to-day. When the Montagu-Chelmsford Report was written, its authors, in dealing with this subject, were a good deal influenced and helped by the fact that the Lucknow Pact\* had been recently arrived at and could still be regarded as embodying a compromise which carried the assent of the leading representatives of both communities. The Joint Authors referred to the Pact as a strong reason for the general view they expressed.\*\* We have no such guidance, for it is manifest from the facts and opinions which we have set out in the previous paragraph that the Lucknow compromise is no longer admitted to hold the field. Yet the subject of communal representation is pre-eminently one which the rival communities should settle amongst themselves. It may well be that the Conference which is to be held in London after the publication of our Report will furnish a new opportunity for reaching a settlement between them on this subject, and we most earnestly hope that the opportunity will not be lost. These two great communities, lying side by side in India, each of which has so important a part to play in the constitutional development of their common country, can, as it seems to us, make the biggest contribution to that end by reaching an accommodation on this issue. We must now set out, for the consideration of the problem hereafter, the result of our own reflections, and we hope they may be of some service in reaching a solution which is fair to both sides.

#### *Communal Representation to be Continued*

72. In the absence of a new agreement between Hindus and Muhammadans, we are unanimous in holding that communal representation for the Muhammadans of the province must be continued, and that Muhammadan voters could not be deprived of this special protection until a substantial majority of Muhammadan representatives in the provincial legislature declared themselves in favour of the change. We shall have some-

\*See Vol. I, p. 187, para. 8.

\*\*M/C. Report, para. 231.

thing to say in a later paragraph as to the conditions to be satisfied before the change could be made. The first and immediate point is that it cannot be made now, without doing such violence to Muhammadan sentiment as could not be justified either on grounds of policy or on grounds of equity.

It remains to be considered what form the continuance of communal representation might take, because separate communal electorates are not the only method which has been suggested or discussed. The reservation of seats in a joint electorate is, no doubt, a form of communal representation ; indeed, it is the form of protection for special interests provided in the present constitution for Mahrattas in the Bombay Presidency and for non-Brahmins in Madras, though in these instances the special protection has been secured by interests which are not in a minority. But the objection taken by Muhammadans to this variant is extremely strong. They contend (and we are bound to say that we feel there is great force in the contention) that, if the only provision for their protection is that a seat in a multiple-member constituency is reserved for a member of their community, the member who will be returned to fill it may well turn out to be a Moslem who is more concerned to keep the favour of the non-Moslem majority of voters than to represent Muhammadan interests. We well understand the claim made that communal feeling might be reduced by making both Hindu and Muhammadan members rely upon the support of a mixed electorate. The argument is that under such a system the candidate of extreme and intolerant views would not be likely to be chosen, at any rate where he was the candidate for a minority community. It does not follow that intolerance would always be a handicap to a candidate belonging to the *majority* community. But, if a Moslem candidate, in an area where Moslems are in a minority, had to solicit the support of Hindus as well as Muhammadans, he would have to consider the feelings, and allow for the reasonable claims, of the community to which he did not belong ; and by this means, it is argued, the strain of communal antipathy is relaxed and a sense of common citizenship is encouraged. We should be

entirely in favour of a practical plan which would help to bring about these desirable consequences, but it is impossible to shut one's eyes to the force of the argument that the mere reservation of seats, in order to secure a guaranteed amount of representation for the Moslem minority, is far from securing the return to the legislatures of Moslems who would be regarded by their co-religionists as authoritative and satisfactory representatives.

### *The Suggestion of "Primaries"*

73. Is there any other form of electoral arrangement which, while going some way to focus Hindu and Muhammadan opinion upon political problems common to both, yet would guarantee that Moslem legislators were regarded as satisfactory representatives by their own community? One method which has been suggested for consideration, not only for the Muhammadan case but for other communities of large size who find themselves in a minority, is that minority electors, voting by themselves in suitable groups, should first select a list of approved candidates, from amongst whom the seats reserved for that minority would be finally filled by the vote of a joint electorate. Under such a plan, the minority voters, as part of the joint electorate, would also have the opportunity of influencing the choice of members to fill non-reserved seats, with the consequences that—

- (1) majority members would depend for their return to some extent on minority votes, and
- (2) the minority community would not be strictly limited to the representation guaranteed by reserved seats, but would have an opportunity of putting forward additional candidates for open seats also. It is one of the undoubted disadvantages of separate communal electorates that, while this system is one way of securing a minimum representation for the protected community, it makes it practically certain that the minimum will also be a maximum.

There are serious arguments which might be put forward both in favour of and against this method. We think it should be further considered by both the communities chiefly concerned to see if it provides a basis of agreement, especially as such a plan was more than once mentioned during the visits of the Commission to India, although we found that it had not been very closely analysed. A possible form which such a scheme might take is therefore set out in a short appendix to this chapter\* together with a statement of some of the main considerations which would have to be weighed in further considering it.

*Another Suggestion : Proportional Representation*

74. Another suggestion for dealing with the difficulty of securing to the minority voter adequate representation of his views in the provincial councils may be briefly disposed of. The Joint Select Committee on the Bill of 1919 observed that the system of proportional representation "may be found to be particularly applicable to the circumstances of India" and recommended that the suggestion should be fully explored. We have no doubt whatever that the ordinary elector in an ordinary Indian constituency could not in present circumstances be expected to work the system or to appreciate its result. On this and other grounds we dismiss the suggestion as impracticable.

The use of the single transferable vote is well understood in the legislatures of British India, for it is frequently employed, as we have explained elsewhere, in the selection of committees and produces satisfactory results without delay or difficulty. But it is quite unknown to the Indian electorate, and would appear to be particularly difficult to apply when so large a part of the electorate cannot read or write, and could not be expect-

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\*See Appendix VIII, "Outline of a Scheme for combining Joint Electorates with the exclusion of candidates unacceptable to a minority community." page 86 below.

ed to express the order of its choice by the use of numerals. On the other hand, in the Bombay Presidency, there are two-member and three-member constituencies where a voter is at liberty either to use all his votes for one candidates, or to distribute them among more than one. This system has worked without difficulty. There is, however, another objection which seems to us overwhelming against the use of the machinery of proportional representation in provincial elections. Such a system necessarily involves the consequence that a single constituency must be represented by several members. and, having regard to the sub-divisions of Indian political opinion and interest, the number would have to be considerable. Even with single-member constituencies, the area of each seems to us often to approach an unmanageable size. The reservation of seats, without the added complication of a transferable vote, in itself implies a multiple-member constituency, and this alone means that an electoral area is inconveniently enlarged. But the case would be much worse if the principle of proportional representation, as it is ordinarily understood, were adopted in this connection. In its proper place the machinery of proportional representation will, we believe, fulfil a most important function in the working of the Indian representative system. Later on, we are going to propose the use of this method by the provincial legislatures themselves in connection with the composition of Central Legislature. But to invite the general electorate of India, in its present stage of education and experience, to use it in huge and unwieldy constituencies is an entirely different matter, and we have no hesitation in advising against such a course.

*In Absence of Agreement, Separate Muhammadan  
Electoralates to Continue*

75. We regret that an accommodation between the Moslems and the Hindus has not yet been reached. The considerations mentioned in paragraph 231 of the Montagu-Chelmsford Report still hold. If an agreed solution is not forthcoming, there remains "a very serious hindrance to the self-governing princi-

ple.” But no third party, however friendly and disinterested, can do what the two communities might co-operate in doing for themselves by mutual agreement. In the absence of such agreement, we are compelled to assume, in reference to this matter, a continuance of separate communal electorates.

### *Sikh Representation*

76. So long as Muhammadans claim and receive separate electorates in the provinces, it is impossible to deny to the Sikhs of the Punjab similar treatment, if this is what they desire. This was recognised in the Montagu-Chelmsford Report.\* The Sikh community at present holds a number of seats in the Punjab Legislature which is mid-way between the proportion that corresponds to its population and the figure which would represent its voting strength.\*\* If some lowering of the franchise now takes place, it may be that these two proportions will tend more nearly to coincide, but the figures will need to be more accurately worked out. The Sikh deputation which presented the claims of the community before us at Lahore urged an increase to 30 per cent in the proportion of seats reserved for Sikhs. Other communities, each pressing its own case, put forward contentions which would lead to the contrary result. Here again, the best solution is of course one which is reached by conference and agreement. But in the absence of such an accommodation, we must express our own view to the effect that Sikh representation certainly cannot be reduced, though it would seem to us impossible to concede so large a percentage as 30 per cent without injustice to the other communities of the province. If the Sikhs were prepared to exchange separate electorates for the reservation of seats, this would confer the advantage that Sikh candidates might have a prospect of securing additional seats, over and above those specially reserved for them. If the existing method of representation is maintained, it seems to us reasonable to give the

\*M/C Report, Para, 232.

\*\*Vol. I, Pt. II, Ch. 4, para . 149.



Sikhs some weightage in their favour, especially as the community's representation at the Centre must depend on the influence they can exert in a single province. A share of representation not less than they at present receive out of the seats filled from Indian "general" constituencies would, in all the circumstances, seem to us to be just.

We postpone to a later paragraph\* the description of the proportion of seats in the various provinces to be earmarked for the Muhammadans.

*Non-Brahmins in Madras and Mahrattas in Bombay*

77. We have in paragraph 150 of our first volume described the protection given to non-Brahmins in Madras, and to "Marathas and allied castes" in Bombay, by the reservation of a certain number of seats for them in plural non-Muhammadan constituencies, in spite of the fact that they were not minority communities. The fears of the non-Brahmins in the Madras Presidency that they would otherwise be unable to hold their own against the Brahmins proved to be groundless. Non-Brahmins were returned in large numbers, and in no single instance at any of the three elections did a non-Brahmin secure his seat only because it was "reserved." It is clear, therefore, that there is no need to continue to reserve seats for non-Brahmins in the Madras Presidency.

In the case of the Mahrattas the necessity for reservation has not been very clearly either proved or disproved. Mahrattas have often been successful without having to take advantage of the fact that the seat was reserved, but on the other hand have nearly as frequently secured their seat only because it was reserved. On the whole we incline to the opinion that the time has not yet come for the abolition of "reserved" seats for Mahrattas, but conditions vary considerably in the different constituencies in which such reserved seats now exist, and it

\*See para. 85 below.

may well be that it would be suitable to abandon reservation in some of them, though not in others.

### *Representation of Depressed Classes*

78. We now come to another exceedingly important and difficult question—the representation of the Depressed Classes. Up to the present the method adopted has been that of nomination in accordance with electoral rules made for each province. Except in the case of Madras, the nomination is intended to secure representation of “classes which in the opinion of the Governor are Depressed Classes”—four members are so nominated in the Central Provinces, two in Bombay and in Bihar and Orissa, and one each in Bengal and the United Provinces. There is no depressed class representative in the Punjab or the Assam Legislature. The Governor-General has exercised his rights of nomination to secure one representative of the depressed classes in the Legislative Assembly. In Madras there are ten members who are nominated to represent nine specified communities which are regarded as depressed. Individuals belonging to the depressed classes are not, of course, debarred from voting in a “general non-Muhammadan” constituency if they are qualified to be electors, but the minimum property qualification is enjoyed by a very small proportion of them. In Madras it is estimated that there are about 56,800 depressed class electors out of a total of 1,270,000 non-Muhammadan voters, or out of a total of 1,365,000 voters in all general constituencies, viz., 4.5 per cent or 4.1 per cent respectively. Yet the depressed classes form about 17 per cent of the non-Muhammadan population of the province, or  $15\frac{1}{2}$  per cent of the total population. In Bombay, a rough estimate of 15,600 depressed class voters has been put forward out of a total of 549,000 voters in all the general constituencies, viz., 2 per cent, whereas the total population ratio is about 8 per cent. In no other province has it been possible to get an estimate of the number of the depressed classes who are qualified to vote. It is clear that even with a considerable lowering of the franchise—which would no doubt increase the proportion of depressed

class voters—there would be no hope of the depressed classes getting their own representatives elected in general constituencies without special provision being made to secure it. In the long run the progress of the depressed classes, so far as it can be secured by the exercise by them of political influence, will depend on their getting a position of sufficient importance for other elements to seek their support and to consider their needs. Ultimately we should hope to see them maintaining their ground in joint electorates without special protection. They will make no headway, however, in this direction as long as they are represented solely by nomination, for nomination provides no opportunities for training them in politics. There are, even with the present restricted franchise, a sufficient number of depressed class voters to make methods of election possible, at all events in many areas, and, as we have already indicated, we think some extension of the franchise should take place.

*Should they have Separate Electorates ?*

79. Our object, therefore, is to make a beginning which will bring the depressed classes within the circle of elected representation. How is this to be done ? Most of the depressed class associations which appeared before us favoured separate electorates, with seats allocated on the basis of population, though one or two still wished to retain nomination. Separate electorates would no doubt be the safest method of securing the return of an adequate number of persons who enjoy the confidence of the depressed classes ; but we are averse from stereotyping the differences between the depressed classes and the remainder of the Hindus by such a step, which we consider would introduce a new and serious bar to their ultimate political amalgamation with others. Such a course would be all the more difficult to justify in those provinces where the breaking down of barriers has advanced furthest. If separate electorates have to be maintained for certain classes which have already secured them, that is no reason for bringing other cases within this mode of treatment, if it can be avoided. A separate

electorate for depressed classes means, as a preliminary, a precise definition of all who are covered by the term, and the boundary would be in some cases difficult to draw. It means stigmatising each individual voter in the list, and militates against the process which is already beginning, and which needs to be in every way encouraged—that of helping those who are depressed to rise in the social and economic scale.

### *Reserved Seats for Depressed Classes*

80. Our proposal, therefore, is that in all the eight provinces there should be some reservation of seats for the depressed classes. These seats would, of course, be reserved in non-Muhammadan constituencies. This method will entail a definition of the conditions to be fulfilled by a depressed class candidate, but there will be no differentiation between depressed class voters and other non-Muhammadan voters. In view of the possibility of a member of the depressed classes being put forward as a mere nominee of the higher castes, it will be necessary to devise some means for securing that candidates for these reserved seats are genuinely representative of their order. There are associations representing the depressed classes in, at any rate, some of the provinces, and we think that rules might be made providing that the Governor, after consultation with such associations or otherwise, as he thinks best, should certify which candidates are authorised to stand for the depressed class seats. Anxieties are expressed in some quarters that, at first, sufficient candidates may not be found in the ranks of the depressed classes themselves, qualified by education and experience to represent them in the provincial legislatures. If this difficulty does arise, we believe it will not only be temporary; and to guard against it, we would confer upon the Governor the further power, provided he is satisfied that this is really the case, of authorising persons, whether men or women, who are not themselves members of the depressed classes but who have shown special interest in their welfare, to be amongst the approved candidates, or alternatively, of nominating them for certain of the reserved seats. But, since the difficulty to be

overcome is in any case likely to pass away, this further power in the Governor should exist for only ten years and only in respect of half of the reserved seats as a maximum.

As we have already said, this method of reserving seats for depressed class representatives avoids a further difficulty which must arise if a separate electorate were constituted. For a separate electorate necessarily means that each voter, before he is put on the list, is first ascertained to be a member of the depressed classes and, in view of the vagueness of the term and the differences which exist in different places, this would involve in some cases a troublesome investigation. Moreover, we believe that it is in the interests of the depressed classes themselves to avoid so absolute a segregation.

The result of our scheme would be that spokesmen of the depressed classes would be returned as elected members in each of the provinces, and those whom they represent would no longer have to rely merely on nomination. On the other hand, the representatives would be the choice of non-Muhammadan electors as a whole, and opportunity would be given for co-operation, while at the same time a strong impetus would be afforded to the more adequate consideration of depressed class problems. As to the number of seats to be reserved, this should obviously bear some proportion to the total number of the depressed classes in the province. We have set out in paragraph 58 of our first volume an estimate of their numbers, but we have added a warning that in some of the provinces, where the problem of the depressed classes is perhaps less acute, the estimate is decidedly speculative. It will plainly be necessary, after the main principles of the new system of representation have been settled, to entrust to some specially appointed body (like the former Franchise Committee) the task of drawing up fresh electoral rules to carry these principles into effect, and one of the tasks of such a body will be to frame for each province a definition of "depressed classes" (which may well vary, sometimes even between parts of the same province), and to determine their numbers as so defined. We think it unlikely that the figures at which they arrive for Madras, Bombay, and

the Central Provinces will differ widely from the estimates we have given, but in Bengal and the United Provinces it may well be otherwise. We propose that, when the definitions are settled and the correct totals ascertained, the number of seats to be reserved for depressed class candidates in the non-Muhammadan constituencies should be settled on the following principle. The proportion of the number of such reserved seats to the total number of seats in all the Indian general constituencies should be three-quarters of the proportion of the depressed class population to the total population of the electoral area of the province.

It will be seen therefore that we do not recommend allocating seats to the depressed classes on the basis of their full population ratio. The scale of reserved representation suggested will secure a substantial increase in the number of M.L.C.s drawn from the depressed classes. The poverty and want of education which so widely prevail amongst them make it extremely doubtful whether a larger number of adequately equipped members could be at once provided, and it is far better that they should be represented by qualified spokesman rather than by a large number of ineffectives who are only too likely to be subservient to higher castes. The re-distribution of seats which is now being attempted among different kinds of representatives cannot be permanent, and provision must be made for its revision. But we think that our proposal is adequate for the present, especially as the representation of opinion by reservation of seats does not exclude the possibility of the capture of other seats not so reserved. In the case of the depressed classes, this may seem at present a rather distant prospect. But with the lowering of the franchise, and the improvement in status which better representation will help to secure, we do not regard it as impossible in times to come.

We will next deal with the representation of other minorities, viz., Europeans, Anglo-Indians, and Indian Christians ; and also with the number of Muhammadan seats.



*European Representation*

81. As to European representation, this must continue to be secured by means of separate electorates. The numbers of Europeans in India are no fair measure of the contribution they make to the country, or of the influence which they exert. One of the best features of the operation of the Reforms is the way in which European business men of high standing and experience have contributed to the public life of the country by their membership of the legislatures. At present the European representation in the provincial councils arises partly from separate European constituencies, and partly from the choice of Europeans by certain trading organisations. Broadly speaking, we think that, with the possible exception of a slight increase in Bombay, the present proportions should be maintained both as regards the ratio of the number of European general constituency seats to Indian general constituency seats and as regards the ratio of the special commerce and industry and other similar seats (not all of which are European) to the general constituency seats.\* It is clear that it will not be easy in the enlarged councils to find a sufficient number of suitable European business representatives able to devote their time to the work of the legislatures. But we attach great importance to every effort being made, not only to secure the increased number, but to maintain the high standard of representation so far achieved.

*European Element in the Present Councils*

82. Before leaving the subject of European representation,\* we will provide a table which shows how many of the total number of seats in the eight provincial councils are now held by Europeans. Some of these European members, of course, are returned by "general" European constituencies, with which we have just been dealing; a few are nominated to represent special interests, such as the cotton trade in the Bombay Council; others are returned by special constituencies, such as

\*See also para. 88 below.

## Number of Seats held by Europeans in the Provincial Legislative Councils (excluding the Burma Council)

Province	Total number of seats in the Council	Europeans returned by general European constituencies	Europeans nominated to represent special interests	Europeans returned by special constituencies (commerce, etc.)	Nominated European officials + European Executive Councillors (i.e. "official bloc" Europeans)	Total number of Europeans
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Madras	132	1	—	4	6+2	13
Bombay	114	2	1	4	13+2	22
Bengal	140	5	—	10	10+2	27
United Provinces	123	1	—	2	13+1	17
Punjab	94	—	1	1	11+1	14
Bihar and Orissa	103	1	2	2	13+1	19
Central Provinces	73	—	1	1	5+1	8
Assam	53	—	2	5	4+1	12
Total 8 provinces (excluding Burma)	832	10	7	29	75+11	132
Proportion of total seats held by European ; average for the 8 provinces	—	1.2%	8%	3.5%	9.6% + 1.3%	15.9%

Note—The figures in columns (4), (5) and (6) of this table and therefore also those in column (7) vary slightly from time to time.

those framed for European commerce, or for the planters of Assam ; and the balance represents the European element among the official members. The figures deserve careful examination since we are proposing the abolition of the official bloc. The table is given on the next page.

#### *Anglo-Indian Representation*

83, As for Anglo-Indians, we should much prefer to see the choice made by election rather than by nomination, and the general level of literacy prevailing in this community is such that even where its members are few and scattered, the use of the post should make the method of election still possible. In so far as election is the course adopted, it seems inevitable that separate electorates must be formed ; the numbers of the community are too small to make any other method feasible.

As regards the number of Anglo-Indian seats, it should be borne in mind that the object in view is to secure to the community an adequate opportunity of making its views known in the legislature through suitable representatives ; no question arises of trying to allocate seats on the basis of such factors as population and political influence. At present, there are two Anglo-Indian members in Bengal, and one in each of the other provinces, except Assam (where the community has no seat) and the Central Provinces (where a seat is filled by nomination from among Europeans and Anglo-Indians). We think that it would be not unreasonable to raise the number of seats in Madras and Bombay to two each, but that elsewhere the existing number is suitable. We consider, however, that in the Central Provinces. Anglo-Indians and Europeans should each have a separate seat instead of sharing one between them. In Assam, the number of Anglo-Indians is too small to justify their separate representation in the council of that province ; any of them residing there will vote in the non-Muhammadan constituencies as at present.

#### *Indian Christian Representation*

84. The Indian Christian community provides another instance where there is a strong desire to be represented by

election rather than by nomination, but where the numbers, at any rate in some provinces, make it difficult to suggest a practicable means. At present, Indian Christians have separate electorates in Madras, and return five members; everywhere else, any representation they have is by nomination. We were struck by the willingness expressed by a representative deputation of Indian Christians which met us in Delhi to contemplate being merged in general electorates for the sake of promoting a sense of common citizenship if others would do the like. In Madras, Indian Christian deputations asked for the retention of their separate electorates. We should in any case much prefer reservation of seats for Indian Christians to separate electorates, and we hope that when details come to be worked out this may be found to be possible. The device of reserved seats ceases to be workable in a case where the protected community would constitute an exceedingly small fraction of any manageable constituency, but it seems to us that the system would be feasible in Madras, and possibly in certain other areas where the Indian Christian population, though small, is more or less concentrated. As regards the number of seats to be filled by Indian Christians, the present proportion appears to us to be justified in the case of Madras and should be maintained. The single seat allotted elsewhere to Indian Christians might, we think, at least be doubled, in view of the increased size of the councils, and a seat added in the Central Provinces, and also in Assam, where at present there are none.

#### *Number of Muhammadan Seats*

85. We now take up the question of the proportion of seats in the various provincial councils to be set aside for Muhammadan members.

The Lucknow Pact, as we have already pointed out, included an agreement between Hindus and Moslems as to the proportion of Indian elected seats allotted in each province to the Muhammadan community, and its terms have been followed closely in the allocation of Muhammadan seats in the existing

provincial legislatures. The Pact is no longer accepted by either side as offering a fair basis of representation and the rival contentions now put forward are indicated in paragraph 70 above. It is very much to be hoped that a renewed effort will be made between the two communities themselves to arrive at a fresh accommodation ; but in the absence of agreement, a decision will have to be reached by others, on the assumption that separate electorates remain. Our own opinion is that in view of the existing position and of the weakness of the Moslem minority in six out of the eight\* provinces, the present scale of weightage in favour of Muhammadans in those provinces might properly be retained. Thus, the proportion to be allotted to them of seats filled from the "general" constituencies other than the European general constituencies) would be determined as at present. But a claim has been put forward for a guarantee of Muhammadan representation which goes further than this—see paragraph 70 above and Appendix VII at the end of this chapter. This claim goes to the length of seeking to preserve the full security for representation now provided for Moslems in these six provinces and at the same time to enlarge in Bengal and the Punjab the present proportion of seats secured to the community of separate electorates to figures proportionate to their ratio of population. This would give Muhammadans a fixed and unalterable majority of the "general constituency" seats in both provinces. We cannot go so far. The continuance of the present scale of weightage in the six provinces could not—in the absence of a new general agreement between the communities—equitably be combined with so great a departure from the existing allocation in Bengal and the Punjab.

It would be unfair that Muhammadans should retain the very considerable weightage they now enjoy in the six provinces, and that there should at the same time be imposed, in face of Hindu and Sikh opposition, a definite Moslem majority in the Punjab and in Bengal unalterable by any appeal to the electorate. On the other hand, if by agreement separate electorates in Bengal were abandoned, so that each community in that

\*Burma is not in question.

province was left to secure such seats as it could gain by appeal to a combined electorate, we should not on that account seek to deprive the Moslem community of its existing weightage in the six provinces where they are in a majority. In the same way in the Punjab, if Moslems, Sikhs, and Hindus were prepared to seek election through a joint electorate covering all three communities, here again we should still be prepared to see this combined with the preservation of the present numerical proportion secured to the Muhammadans by separate electorates in the six other provinces.

We make this last suggestion, which really involves giving the Moslem community the advantage of a choice between two courses to follow, because we sincerely desire to see all practicable means attempted for reducing the extent of separate electorates and for giving the other system a practical trial.

*Official Bloc Not to be Related*

86. Before dealing with other classes of representation, we will now discuss the official bloc. No part of the constitution\* set up by the Reforms has, in actual operation, departed so widely from the intentions expressed in the Joint Report. The expectation was that official members of the legislative councils would abstain from voting on subjects which were transferred to the control of Ministers, and that, excepts on rare occasions, they would have freedom of speech and vote.\* In fact, the official bloc has been constantly used to support both sides of the provincial Governments; Ministers have relied upon it to maintain them in office when the majority of elected members was voting against them, and it has constantly happened in some provinces that necessary supply and important legislation have been passed only with the help of these official votes. The table in paragraph 146 of our earlier volume indicates the size of the official bloc; excluding Executive Councillors, the figure is highest in Bombay and the United Provinces (15 in each);

\* M/C. Report, para 233.



it amounts to 13 in the Punjab and in Bihar and Orissa ; 12 in Bengal, and so on.

It must not, of course, be assumed that, if the official bloc is abolished, the result will be nothing more than the loss of this number of votes to support the provincial Government. On the contrary, the opinion is widely held, and was expressed to us in many quarters, that the presence of the official bloc encourages elected members to take a course which they would hesitate to adopt if it was not present to save the Ministry. However this may be, it appears to us that if real responsibility is to be fostered in the unitary provincial Governments which we propose, they must shoulder this responsibility without such aid. The argument that the official bloc destroys a sense of responsibility in the legislatures and prevents the formation of more stable parties is one which receives a good deal of support from the Memoranda of several provincial Governments, and from the Reports of most of the Provincial Committees. The Governments of Madras, Bombay, Assam, Bihar and Orissa, and the Punjab are definitely opposed to a continuance of the present system. The main ground advanced is that reliance on the vote of the official bloc weakens the tie between Ministers and the legislature, and that, though the official bloc may have afforded to the former a support without which they might often have been defeated, it is this reliance on official votes which has antagonised the legislatures. The Governments of Bengal, the United Provinces, and Burma do not take so strong a view, though none of them wishes the existing system to continue without modification. A view adverse to the present official bloc is also widely reflected in the Reports of the Provincial Committees.

We feel bound to take the same view, at any rate so far as the presence of supernumerary officials with a right to vote in the provincial councils is concerned.

But we think the new Statute should provide for the presence of a limited number of officials, or other experts, for purposes of explanation, when matters of which they have special

knowledge or experience are under discussion in any committee of the chamber. We are not in favour of special help being provided by this means on the floor of the House, for it seems to us essential, if responsible government in the provinces is ever to become a reality, that the Ministry should maintain itself in the division lobby and in debate without these extraneous aids.

The officers through whom the administration is carried on are put in a false position if they can be represented as an alien force interposed in order to nullify the views of an elected majority, and the principle which we have laid down in the preceding chapter applies here, *viz.*, that Ministers ought to face their own responsibilities and call upon the legislatures to face theirs. It is only by eliminating the official bloc as an element in the calculation of voting strength that this position can be reached.

#### *University Representation*

87. We have now dealt with the "general" constituencies, with non Muhammadans and Muhammadans (paras 69-73, 75 and 85), Sikhs (para 76), depressed classes (paras 78-80), Europeans (paras 81-2), Anglo-Indians (para 83) and Indian Christians (para 84). We will next deal with the question of the continuance of university representation.

As to this, we incline to the opinion, though with considerable hesitation, that university seats should be preserved. But, if this is done; the number of seats should not be increased. Ultimately, such a question will come to be settled by the exercise of revising powers for the provincial constitution, for which under proper safeguards we intend to provide. But in the meantime the situation should remain as it is.

#### *Provincial Self-Government*

99. These emergency provisions, as we have pointed out elsewhere, are no repudiation of the principle of self-government; they cannot come into play unless the opportunity for

self-government is itself repudiated. Apart from them, we claim that we have put forward for consideration suggestions for a provincial constitution in which the provincial Cabinet will be answerable to the legislature over the whole provincial field, and the legislature will be constituted by the choice of an enlarged electorate. There is no other means by which the next step may be taken in pursuit of the objective defined in the Preamble ; some may think that the advance we propose is more than prudent statesmanship would commend ; but we put our plan forward in the hope that, after the close examination to which it will be subjected, it may be found to be approved and justified.

## APPENDIX VII

Resolution of the All-India Muslim Conference, Delhi, 1st January, 1929.

Whereas, in view of India's vast extent and its ethnological, linguistic, administrative and geographical or territorial divisions, the only form of Government suitable to Indian conditions is a federal system with complete autonomy and residuary powers vested in the constituent States, the Central Government having control only of such matters of common interest as may be specifically entrusted to it by the Constitution ;

“And whereas it is essential that no Bill, resolution, motion or amendment regarding inter-communal matters be moved, discussed or passed by any legislature, central or provincial, if a three-fourth majority of the members of either the Hindu or the Muslim community affected thereby in that legislature oppose the introduction, discussion or passing of such Bill, resolution, motion or amendment ;

“And whereas the right of Moslems to elect their representatives on the various Indian Legislatures through separate electorates is now the law of the land and Muslims cannot be deprived of that right without their consent ;

**“And whereas in the conditions existing at present in India and so long as those conditions continue to exist, representation in various Legislatures and other statutory self-governing bodies of Muslims through their own separate electorates is essential in order to bring into existence a really representative democratic Government ;**

**“And whereas as long as Musalmans are not satisfied that their rights and interests are adequately safeguarded in the constitution, they will in no way consent to the establishment of joint electorates, whether with or without conditions ;**

**“And whereas, for the purposes aforesaid, it is essential that Musalmans should have their due share in the central and provincial cabinets ;**

**“And whereas it is essential that representation of Musalmans in the various legislatures and other statutory self-governing bodies should be based on a plan whereby the Muslim majority in those provinces where Musalmans constitute a majority of population shall in no way be affected and in the provinces in which Musalmans constitute a minority they shall have a representation in no case less than that enjoyed by them under the existing law ;**

**“And whereas representative Muslim gatherings in all provinces in India have unanimously resolved that with a view to provide adequate safeguards for the protection of Muslim interests in India as a whole, Musalmans should have the right of 33 per cent representation in the Central Legislature and this Conference entirely endorses that demand ;**

**“And whereas on ethnological, linguistic, geographical and administrative grounds the province of Sindh has no affinity whatever with the rest of the Bombay Presidency and its unconditional constitution into a separate province, possessing its own separate legislative and administrative machinery on the same lines as in other provinces of India is essential in the interests of its people, the Hindu minority in Sindh being given**

adequate and effective representation in excess of their proportion in the population, as may be given to Musalmans in provinces in which they constitute a minority of population ;

“And whereas the introduction of constitutional reforms in the N.W.F. Province and Baluchistan along such lines as may be adopted in other provinces of India is essential not only in the interests of those provinces but also of the constitutional advance of India as a whole, the Hindu minorities in those provinces being given adequate and effective representation in excess of their proportion in population, as is given to the Muslim community in provinces in which it constitutes a minority of the population ;

“And whereas it is essential in the interests of Indian administration that provision should be made in the constitution giving Muslims their adequate share along with other Indians in all services of the State and on all statutory self-governing bodies, having due regard to the requirements of efficiency ;

“And whereas, having regard to the political conditions obtaining in India it is essential that the Indian Constitution should embody adequate safeguards for protection and promotion of Muslim education, languages, religion, personal law and Muslim charitable institutions, and for their due share in grants-in-aid ;

“And whereas it is essential that the constitution should provide that no change in the Indian constitution shall, after its inauguration, be made by the Central Legislature except with the concurrence of all the States constituting the Indian federation ;

“This Conference emphatically declares that no constitution, by whomsoever proposed or devised, will be acceptable to Indian Musalmans unless it conforms with the principles embodied in this resolution”.

**APPENDIX VIII**  
**OUTLINE OF A SCHEME FOR COMBINING JOINT**  
**ELECTORATES WITH THE EXCLUSION OF**  
**CANDIDATES UNACCEPTABLE TO A**  
**MINORITY COMMUNITY**

(Note. It must be clearly understood that the Commission is not recommending this scheme for adoption, but it thinks that it should be further considered. See paragraph 73 above. Major Attlee, however, is of opinion that the scheme is practicable and meets the reasonable demands of minority communities).

The principal argument against the adoption of the method of reservation of seats instead of communal electorates is that the majority community could and would put forward candidates who although members of the minority community, were actually mere tools in the hands of the majority. The two instances where seats have been reserved in joint electorates, that of the Mahrattas in Bombay and the non-Brahmins in Madras are not strictly in point as in both cases the protected community has a majority of the electors. It may, however, be noted that although the system was adopted in deference to the plea that the higher castes, though in a minority, had such influence that the majority would fail to obtain representation, in fact there has been no suggestion that Mahratta or non-Brahmin candidates who were mere tools of the higher castes have ever been put forward.

The following suggestion has been made to remove this objection to reservation of seats.

When any community which is entitled to reserve seats demands it, multiple-member constituencies would be formed which included the seats reserved. Before the actual election takes place in the constituency, a system of primary elections would come into operation. The electoral rolls of each constituency would show to what community the voter belonged. An election would first be held at which only electors of the



particular community would vote. Any person belonging to a minority community who desired to stand for the provincial council would have to be candidate at his communal primary election. Voters would have as many votes as there were candidates, but could not give more than one vote to any one candidate. Any candidate obtaining a number of votes equal to a certain percentage, say 60, of the number of electors voting would be entitled to go before the general electorate of the constituency. The result would be that any candidate of a minority community elected by the general constituency would have previously been passed by more than half of his communal electors as satisfactory from the communal point of view. Where, as in the case of the depressed classes, the standard of education and intelligence is not sufficiently high to admit of this system, candidates of the community would have to be approved by associations of the community to be recognised by the Governor as bodies representative of the community.

In order to avoid the danger that the majority community might use their votes so as to exclude the more able representation of the minority, provision might have to be made for a proportion of the council to be elected by the council by proportional representation. For its successful working an increase in the number of seats would be needed.

The advantages claimed for the scheme are :

(1) It would make possible the inclusion in a single electorate of all considerable minorities (Muhammadan, Sikh, Indian, Christian and depressed classes), but not European and Anglo-Indian, the members of which are too few and too scattered for the system to be applicable.

(2) The tendency would be for the more violent communalists among the minority candidates to fail of election and this, though to a lesser degree, would operate in the majority community.

(3) Small minorities would be encouraged and enabled to assist each other at the polls.

(4) It would encourage the formation of party tickets composed of members of all parties on political lines and thus mitigate sectionalism.

(5) The fact of partial dependence on voters of another community should have the effect of moderating communal tendencies in the councils.

The disadvantages are :

(1) It is a novel scheme and no section of Indian opinion has advocated it.

(2) It is clumsy and expensive. The existence of two elections with different purposes and methods would confuse the elector.

(3) The abler candidates of the minority communities might be excluded, (though this argues considerable skill and great control of the voters by party managers).

(4) Reservation of seats involves multiple-member constituencies which, under Indian conditions, would be exceedingly large.

**Note.** The position in the Punjab and Bengal, where the two major communities are each predominant in one area and greatly outnumbered in the other, is difficult, but might be met by an equal number of reservations to each community in the areas where they are in a minority.

## **PART XII—GENERAL SURVEY AND CONCLUSION**

362. We have now reached the end of our task. By the terms of our Warrant of Appointment, and by the provisions of the section on which it was based, we have been required to survey the working of the existing system of government in British India and to make recommendations for its amendment. In particular, we are directed to report “as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify, or restrict the degree of

responsible government" now existing. The previous parts of this volume give our detailed and considered answer to these questions. But we realise how difficult it is, in dealing with matters so various and complicated, to present to those who may not be experts on the subject of the Indian constitution, a clear picture of the main constitutional results which would be achieved if our suggestions were incorporated into the existing system. We propose, therefore, in this final chapter to point out the more important of the changes which we recommend. What follows must not be treated as a summary of this volume, for not only is it impossible in a brief survey to cover all its contents, but a bald statement of conclusions would tend to mislead if it were not accompanied by a consideration of the arguments which have led us to reach them. We shall, therefore, add, at each point which we are going to mention, the necessary references to earlier portions of our Report.

### *The Scope of our Proposals*

363. British India at present has a constitution, based for the most part on the Government of India Act, which includes (1) a Central Executive—the Governor-General in Council : and a Central Legislature—the Council of State and Legislative Assembly ; and (2) nine Provincial Governments, each associated with a Provincial Council, and covering between them 97 per cent of the whole area. The balance is represented by the North-West Frontier Province and other minor administrations. Our proposals touch every part of this constitution. We will venture to repeat words which we used in the first paragraph of our former volume, when we wrote that we were entering upon our task "upon the basis and assumption that the goal defined by Mr. Montagu represents the accepted policy to be pursued, and that the only proposals worthy to be considered are proposals conceived in the spirit of the announcement of 20th August, 1917, and inspired with the honest purpose of giving to it its due effect." We have kept this principle steadily in mind throughout the whole of our deliberations, and our recommendations are based upon it.

*Outline of Provincial Changes*

364. In the provinces the main consequences of adopting our proposals would be as follows :

The boundary now set up between departments of which Indian Ministers may take charge and departments from which they are excluded will be removed, and thus dyarchy will terminate.<sup>1</sup>

The conduct of provincial administration as a whole will rest with a provincial Cabinet, the members of which will be chosen by the Governor. These Ministers, whether elected members of the legislature or not, will have joint responsibility for action and policy. The constitution of the provincial Cabinet will be elastic and, where and when the Governor considers it necessary, it will contain an official element.<sup>2</sup>

The powers of the Governor for certain essential purposes, such as the protection of minorities, and of the civil service, will be defined, and will be exercised within the limits and under the conditions we have described.<sup>3</sup>

Full powers of intervention in the event of a breakdown will remain in the hands of the Governor, subject to the direction of the Governor-General.<sup>4</sup>

The Provincial Legislatures will be based upon a widened franchise—the extension we propose would treble the electorate and would include the admission of a larger number of women voters.<sup>5</sup>

Certain important minorities will be adequately protected by the continuance of communal electorates unless and until agreement can be reached upon a better method.<sup>6</sup>

The Depressed Classes will get representation by reservation of seats.<sup>7</sup>

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1. Part II., Ch. 1.      2. *id.* para. 50.      3. *id.* para. 65.

4. Part II., Ch. 3.      5. Part II., Ch. 2., paras. 69-76.

6. *id.* paras. 78-80.      7. Part II., Ch. 2, paras. 68. and 94/5.

The Legislatures will be enlarged, and the constituencies reduced to a more manageable size. The Provincial Councils instead of being as at present, purely legislative bodies, will acquire certain powers of recasting their own representative system, so that each province may advance to self-government on lines which are found to be best suited for its individual needs, subject always to securing that the vote of the majority shall not introduce constitutional changes which would prejudice minority rights.

The provinces will be provided with enlarged financial resources.<sup>8</sup>

As for provincial areas, the question whether some redistribution is desirable will at once be taken up ; such cases as those of Sind and the Oriya-speaking peoples will be the first to be considered.<sup>9</sup>

Burma, which is admittedly not a natural part of British India, will be separated forthwith. Provision must be made without delay for framing its future constitution.<sup>10</sup>

The administered areas of the North-West Frontier Province will now receive an advance in constitutional status represented by the creation of a local legislature, with powers which we have described. Both it and Baluchistan will acquire the right to representation at the Centre.<sup>11</sup>

The complicated and interlacing systems of administration of the Backward Tracts will be revised, and such parts of these as remain excluded areas will come under the charge of the central administration.<sup>12</sup>

### *Modifications at the Centre*

365. We now pass to the Centre.

The Legislative Assembly, which should be called the "Federal Assembly," will be reconstituted on the basis of the

8. Paras. 158-163 and 188. 9. Part II., Ch. I., para. 38.

10. Part VI. 11. Part III., Ch. 1. 12. Part III., Ch. 2.

representation of the Provinces and other areas in British India according to population. Members representing Governors' Provinces will be elected by the Provincial Councils by the method of proportional representation, which will ensure that members belonging to minority communities will be included in sufficient numbers in the Federal Assembly. Members will be returned from the North-West Frontier Province and other areas outside the Governors' Provinces by methods appropriate to each case. The official members of the Federal Assembly will consist of such members of the Governor-General's Council as sit in the Lower House, together with twelve other nominated officials.<sup>13</sup>

The Council of State will continue with its existing functions as a body of elected and nominated members chosen in the same proportions as at present. Its members, who must have high qualifications, will, so far as they are elected, be chosen by indirect election carried out by provincial Second Chambers if such bodies are constituted, or, failing this, by the Provincial Councils.<sup>14</sup>

The existing legislative and financial powers of the two Chambers of the Central Legislature will remain as at present, but the Federal Assembly will also have the special function of voting certain indirect taxes, collected by a central agency, the net proceeds of which will fall into a Provincial Fund for the purpose of being distributed amongst the different units represented in the Federal Assembly.<sup>15</sup>

The Central Executive will continue to be the Governor-General in Council, but the Governor-General will henceforward be the authority who will select and appoint his Executive Councillors. Existing qualifications will remain, but will be laid down in statutory rules made under the new Government of India Act, so that when occasion arises to modify these conditions hereafter this may be done without passing a new Act of Parliament. But any modification in the

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13. Part IV., Ch. 1.    14. *id.* paras. 147-151,

15. Part IV., Ch. 1, paras. 159 and 163.



statutory rules made for this purpose would require to be laid before both Houses of Parliament and the approval of both Houses expressed by resolution.<sup>1</sup>

It is proposed that among the members of the Governor-General's Council should be one whose primary function it would be to lead the Federal Assembly. We have made other suggestions relating to the composition and character of the Governor-General's Council, and we propose that the Commander-in-chief should no longer be a member of it, or of the General Legislature.<sup>2</sup>

### *The Army*

366. We have suggested for consideration a method by which, if agreement could be reached, the obstacle which the composition and functions of the Army in India present to the more rapid development of responsible government might be removed through treating the defence of India as a matter which should fall within the responsibilities of the Governor-General, advised by the Commander-in-Chief as representing the Imperial authorities, instead of being part of the responsibilities of the Government of India in relation to the Central Legislature.<sup>3</sup>

### *Civil Services, High Courts, India Office*

367. As regards the Civil Services of India, the Security Services must continue to be recruited as All-India Services by the Secretary of State, and their existing rights must be maintained. These Security Services include the Indian Civil Service and the Indian Police Service. It is a matter for consideration whether the Irrigation Service and the Forest Service should not be similarly recruited. The privilege of premature retirement will be extended.<sup>4</sup>

The rates of Indianisation laid down by the Lee Commission for the Security Service will be maintained.

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1. Part IV., Ch. 2. 2. *id.* paras. 170-173. 3. Part V. 4. Part IX.

In addition to the existing Public Service Commission, we intend that there should be established by Statute similar bodies covering the provincial and subordinate services in all the Provinces.<sup>5</sup>

The High Courts will be centralised, and the expenses of the High Courts will become a central charge.<sup>6</sup>

As regards the India Office, the Governor-General in Council will remain in constitutional theory under the superintendence, direction and control of the Secretary of State, and the extent to which this control is relaxed or falls into desuetude will depend upon future practice, and cannot be laid down in the Statute.<sup>7</sup>

Apart from the Secretary of State's authority over the Governor-General in Council, he will exercise no control over Provincial Governments, save in so far as he does so in connection with the exercise of special powers vested in the Governor.

The functions and composition of the Council of India will be modified. Its size will be reduced, and the majority of its members should have the qualification of more recent Indian experience than is required at present. The Council will exist primarily as an advisory body, but independent powers will continue for (1), the control of Service conditions and (2) the control of non-votable Indian expenditure.\*

#### *Indian States*

368. Lastly, for the purpose of promoting the closer association with British India for the Indian States in matters of common concern for India as a whole, we propose that the new Act should provide that it shall be lawful for the Crown to create a Council for Greater India, containing both representatives of the States and members representing British India. This Council would have consultative and deliberative functions in regard to a scheduled list of "matters of common concern," together with such other subjects of common concern as the

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5. *id.* paras. 339-340.      6. Part X.      7. Part XI.

\*Part XI, paras. 355-357.

Viceroy from time to time certifies as suitable for consideration by the Council. We refer to Part VII of this volume for a more detailed account of the machinery and methods which we contemplate, and we put forward the proposals as designed to make a beginning in the process which may lead to the Federation of Greater India.

### *Conclusion*

369. In writing this Report we have made no allusion to the events of the last few months in India. In fact, the whole of our principal recommendations were arrived at and unanimously agreed upon before these events occurred. We have not altered a line of our Report on that account, for it is necessary to look beyond particular incidents and to take a longer view.

Our object throughout has been to bring to the notice of the British Parliament and the British people such information as we are able to supply about the general conditions of the problem which now awaits solution, together with our considered proposals. We hope, at the same time, that our Indian fellow-subjects, after doing us the courtesy of studying the Report as a whole (for isolated sentences may give to any reader a wrong impression) will find that what we have put forward has been written in a spirit of genuine sympathy.

No one of either race ought to be so foolish as to deny the greatness of the contribution which British has made to Indian progress. It is not racial prejudice, nor imperialistic ambition, nor commercial interest, which makes us say so plainly. It is a tremendous achievement to have brought to the Indian sub-continent and to have applied in practice the conceptions of impartial justice, of the rule of law, of respect for equal civic rights without reference to class or creed, and of a disinterested and incorruptible civil service. These are essential elements in any state which is advancing towards well-ordered self-government. In his heart, even the bitterest critic of British administration in India knows that India has owed these things mainly to Britain. But, when all this is said, it still leaves out

of account the condition essential to the peaceful advance of India, and Indian statesmanship has now a great part to play. Success can only be achieved by sustained goodwill and co-operation, both between the great religious communities of India which have so constantly been in conflict, and between India and Britain. For the future of India depends on the collaboration of East and West, and each has much to learn from the other.

We have grown to understand something of the ideals which are inspiring the Indian national movement, and no man who has taken part in working the representative institutions of Britain can fail to sympathise with the desire of others to secure for their own land a similar development. But a constitution is something more than a generalisation: it has to present a constructive scheme. We submit our Report in the hope that it may furnish materials and suggest a plan by means of which Indian constitutional reconstruction may be peacefully and surely promoted.

All of which we submit for Your Majesty's gracious consideration.

John Simon

*Chairman*

Burnham

Strathcona

Edward Cadogan

Vernon Hartshorn

G.R. Lane Fox

C.R. Attlee

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