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THE INDIAN  
QUARTERLY REGISTER

Jan.-June 1928.

VOL. I,



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# Chronicle of Events.

## January 1928.

- 2 Jan. '28 Opening Day of the 15th Session of the Indian Science Congress held in Calcutta—Continued till 7th January.
- 3 Jan. do. Cotton Mill Strike in Bombay—18,000 downed tools as a protest against standardisation of Wages.  
Opening Day of the Eleventh Session of the Indian Economic Conference held at Lucknow under Mr. M. H. Darling—Continued till the next two days.
- 5 Jan. do. The Mahatma's impressions on the Madras Congress in "Young India"—The Hindu Muslim Unity as the most dignified answer to Birkenhead's insolent flaunting on British might—The Independence Resolution hastily conceived and thoughtlessly passed—The Exhibition a scandalous creation in as much as it was a denial of the Congress spirit and in marked contrast to Khadi and Swadeshi Exhibitions.  
Public Meeting at Tilak Ghat, Madras under Mr. Kaleswar Rao urged the need for concerted action against the Simon Commission.
- 7 Jan. do. Fifth Session of the All-India Postmen and Lower Grade Staff Conference held in Bombay under the presidency of Mr. M. A. Jinnah and continued till the 9th.
- 8 Jan. do. 11th Provincial Adi Dravid Conference held at Gokhale Hall, Madras under the presidency of Mr. L. C. Gurusami—Co-operation with Simon Commission advocated.
- 9 Jan. do. Conference of Provincial Ministers opened in New Delhi by Sir Mahomed Habibullah.
- 11 Jan. do. The Legislative Council Presidents' Conference held in New Delhi under the Chairmanship of the Hon'ble Mr. Patel.
- 12 Jan. do. Executive Committee of the Bombay Indian Merchants' Chamber unanimously endorsed resolution passed by the Industrial Congress urging all commercial bodies to boycott the Simon Commission.
- 15 Jan. do. Fifth Convocation of Gujrat Vidyapith held at Ahmedabad amidst scenes of great oriental splendour—Revd. C. F. Andrews delivered convocation address.  
The All-Party Boycott Conference held at Benares under the presidency of Dr. Ansari unanimously decided to boycott the Statutory Commission and to observe a 'Hartal' throughout India on 3rd February, the day the Commission land in Bombay and to hold public meetings on the same day and pass resolutions condemning the Commission.
- 16 Jan. do. Opening Day of the C. P. Legislative Council and B. & O. Legislative Council.
- 17 Jan. do. Public meeting under the auspices of National Social Conference, the Servant of India Society and others held in Madras to support legislation against early marriage—Dr. Annie Besant presided.  
Monster meeting of 6,000 people of all classes held at Benares under Babu Bhagavan Das—Leaders appealed to observe hartal on 3rd February.  
Youth Week inaugurated at Ahmedabad by Revd. Andrews—Promotion of indigenous Scout movement urged.



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[FEBRUARY '28]

- 18 Jan. '28 Calcutta Corporation protested against the omission of the Government to provide for the formation of an Urban Unit of the Indian Territorial Force in Calcutta in accordance with the Shea Committee's Report and urged upon the Government to rectify the same at an early date. The Campaign to prepare the ground for organising 'hartal' on 3rd February started in Bombay, Calcutta, Poona and other places in right earnest—the Provincial Congress Committees organised tours in districts with a view to rouse public opinion and make the boycott successful.
- 20 Jan. do. The C. P. Council—Mr. Biyani's motion for the boycott of the Simon Commission carried after a heated debate.
- 21 Jan. do. 1st Session of the Bombay Presidency Youth Conference held in Bombay with Mr. K. E. Nariman in the Chair.
- 22 Jan. do. Mr. Gandhi's resolution in the Kathiawar States Conference held at Porbander to the effect that the Conference should not discuss matters concerning individual States or Princes was passed unanimously.
- 23 Jan. do. Ten thousand employees of the Lilloah workshop E. I. Railway downed tools owing, it was alleged, to some friction with the authorities—Subsequently the workers sent a petition demanding increase of wages. A deputation of the Burma People's Party waited on the Governor at Rangoon and urged abolition of illegal gambling, unrestricted sale of liquor and drugs, and the collection of Thathameda and Capitation Taxes, all of which, the deputation said, was due to the inactivity on the part of the Government to improve the condition of the people. Opening Day of the Madras Legislative Council—Supplementary demands moved and passed.
- 24 Jan. do. Madras Council—Swarajist motion for boycott of the Simon Commission carried after a heated debate.
- 27 Jan. do. Judgment delivered in the Harvey-Nariman Libel Case—Mr. K. F. Nariman acquitted on the ground of acting in good faith.
- 30 Jan. do. Judgment delivered by Calcutta High Court in the 'Statesman' Libel Case—Mr. Subhas Chandra Bose awarded Rs. 1000 damage.

February 1928.

- 1 Feb. '28 Opening Day of the Council of State—Official Bills introduced in the Assembly—President Patel refused introduction of the New Reserve Bank Bill as it violated the propriety of the house and was an abuse of its privileges, as the old Bill was not yet withdrawn.
- 2 Feb. do. Ceylon Legislative Council adopted a motion for abolishing capital punishment in Ceylon. Viceroy's inaugural address in opening the Central Legislature in New Delhi.
- 3 Feb. do. All-India Hartal observed as a mark of protest against the Simon Commission—Bombay wore a deserted appearance when the Commission landed who were greeted with black flags and "Simon, go back"—A monster meeting of 50,000 in Bombay attended by Moderate leaders solemnly resolved to boycott the Commission in any shape or at any stage—In Madras the boycott demonstration was marked by disorderly scenes in different parts of the City necessitating police to open fire,



FEBRUARY '28]

CHRONICLE OF EVENTS

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- 4 Feb. '28 Arrival of the Simon Commission in New Delhi—Sir John Simon told a Associated Press Representative that he had received about 300 telegrams of welcome.
- 6 Feb. do. Sir Basil Blackett's Statement in the Assembly introducing the old Reserve Bank Bill as amended by the Joint Committee.
- 7 Feb. do. Sir John Simon's Statement on the "Joint Conference" scheme issued in New Delhi—Party leaders of Assembly after careful consideration unanimously rejected the proposal.  
Gagging order issued in Madras prohibiting meetings, demonstrations and propaganda for hartal which were served on the members of the Boycott Propaganda Committee.  
Amidst impressive scenes the All-India Women's Conference on educational reforms opened in New Delhi by Lady Irwin.  
Opening day of the autumn session of the Bengal Legislative Council.
- 8 Feb. do. Sir Phiroz Sethna's resolution demanding publication of the Correspondence on the Statutory Commission lost in the Council of State.
- 9 Feb. do. Budget Session of the Burma Legislative Council commenced—Governor's opening address.  
Meeting of the Congress Working Committee in New Delhi—Madras gagging order condemned.  
Motion for circulation of the Age of Consent Bill agreed to in the Assembly.
- 10 Feb. do. The Reserve Bank Bill dropped in the Assembly—Sir Basil Blackett's statement setting forth the official reasons.
- 12 Feb. do. All-Parties Conference met in Delhi and continued till the 22nd February when it appointed a Committee to report on the constitution, franchise, and declaration of rights of the Commonwealth of India.
- 13 Feb. do. Sir Phiroz Sethna's resolution on the appointment of Trade Commissioner's carried in the Council of State.
- 15 Feb. do. A deputation representing the All-India Women's Conference waited on the Viceroy with a memorial urging legislative action to abolish Child-marriage throughout India.
- 16 Feb. do. The historic debate on the appointment of the Simon Commission in Assembly—Lala Lajpat Rai's censure motion carried—Leaders' denunciation of Government policy.
- 17 Feb. do. Lord Birkenhead's ranting speech at Doncaster defying the Indian legislatures and threatening the boycotters of the Simon Commission.
- 18 Feb. do. Second annual meeting of the Indian Chamber of Commerce held in Calcutta under the presidency of Mr. D. P. Khaitan.
- 19 Feb. do. The Maharaja of Nabha deprived of his title and allowance reduced owing to the alleged "disloyalty to Government" was mysteriously removed from Allahabad to Kodaikanal where he was ordered to reside.  
Arrival of the Simon Commission in Calcutta—Monster public meeting held in Shradhananda Park declared to boycott British goods as the first step for the attainment of Swaraj.
- 20 Feb. do. Budget Session of the Bombay Legislative Council—Governor's opening address.  
The Bengal Council—Finance Member's wail in presenting a deficit budget.  
Railway Budget for 1928-29 introduced in the Assembly—Surplus of ten and half crores—Reduction in fares announced.  
The Chamber of Princes opened by Viceroy in New Delhi—proceedings not open to the press.  
Opening day of the Budget session of the Punjab Legislative Council.
- 21 Feb. do. In the Assembly the Army Secretary's motion to refer the Navy Bill to a Select Committee rejected.





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[MARCH '28]

- 22 Feb. '28 Congress Working Committee in New Delhi issued instruction to the Madras Boycott Committee to postpone hartal on the 26th, the day of the arrival of Simon Commission, in view of the gagging order of the Government and to confine their activities to holding mass meetings condemning the Commission.  
Opening day of the spring session of the U. P. Legislative Council.
- 24 Feb. do. Mr. Kyaw Dun's motion of confidence in the Simon Commission passed unanimously in the Burma Council, the People's Party having walked out at the commencement of the debate.
- 25 Feb. do. Special Session of the All-India Depressed Classes Conference held in New Delhi under Rao Bahadur M. C. Rajah passed resolution advocating co-operation with Simon Commission.  
Mr. Mukandilal's motion of no-confidence in the Simon Commission passed after a heated debate in the U. P. Council.
- 29 Feb. do. Budget for 1928-29 presented in the Assembly—Surplus over two and half crores announced—provincial contributions abolished.  
British Section of League against Imperialism in London passed resolution supporting Indian attitude towards the Simon Commission and demanding withdrawal of Labour representation.

## March 1928.

- 1 Mar. '28 Campaign for boycott of British goods started in Calcutta—32 meetings were simultaneously held in 32 wards of the city where the message of boycott was preached.
- 3 Mar. do. Ten thousand ladies in a meeting in Calcutta took solemn vow to boycott British cloth.
- 4 Mar. do. Death of Baron Satyendra Prasanno Sinha of Raipur at Berhampore, Bengal.
- 5 Mar. do. Annual meeting of the Madras European Association held under Sir Alexander MacDougall.
- Mar. do. Meeting of the Executive Committee of the Federation of Indian Chamber of Commerce held in New Delhi.  
The Council of the All-India Muslim League in a meeting in New Delhi refused to accept the All-Party Conference formula on the question of Joint Electorates.
- 7 Mar. do. In the Bombay Council a non-official motion for adjournment of the house to discuss the Bardoli Satyagraha was disallowed.  
As a sequel to the No-confidence motion in the Madras Council the Ministers resigned—The resignation was accepted by the Governor the next day.  
In the Council of State the Income Tax Amending Bill as passed by the Assembly was passed.  
The Sken Recommendations whittled down—The Commander-in-Chief's Statement in the Assembly.





MARCH '28]

## CHRONICLE OF EVENTS

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- 8 Mar. '28 In the C. P. Council Government sustained a series of defeats under voting on Budget grants.  
All-Parties Conference met in Delhi and continued till 11th when it appointed two Sub-Committees, one to enquire into the financial aspect of the separation of Sind and the other to consider the feasibility of proportional representation.
- 10 Mar. do. Mr. Jinnah's adjournment motion in the Assembly to discuss the Government's turning down of the unanimous recommendations of the Skeen Committee carried by 70 against 41.
- 12 Mar. do. In the Bengal Council Government sustained a defeat in the Land Revenue grant.  
In the Punjab Council a cut motion demanding better treatment of political prisoners was carried.
- 13 Mar. do. In the Assembly Pandit Motilal Nehru's motion refusing the Simon Commission demand carried—Boycott decision reaffirmed.  
In the C. P. Council Mr. Kalikar's cut motion for amnesty to prisoners convicted in connection with communal riots carried.  
Ministers' statement on resignation in the Madras Council owing to difference of opinion with the Chief Minister re. the Statutory Commission.
- 14 Mar. do. In the Punjab Council the Government motion to elect a committee to co-operate with the Simon Commission was carried after a prolonged debate.
- 15 Mar. do. Messrs. S. M. Mudaliar and M. R. Sethuratnam Aiyar were appointed Ministers of the Government of Madras.
- 16 Mar. do. In the Bengal Council Mr. A. C. Dutta's motion for refusal of Ministers salaries lost.  
The Finance Bill introduced in the Assembly and discussed and carried on the 19th.
- 18 Mar. do. Bombay Provincial Nationalist Non-Brahmin Conference held at Nasik under Mr. M. Mazekji—Simon Commission denounced.
- 19 Mar. do. The Bombay University Bill with an amendment in the form of an additional sub-clause to the clause relating to the appointment of Visitor was passed in the Bombay Council.
- 20 Mar. do. Government defeated twice in the Bengal Council when two cuts were made in the Police Demand.
- 21 Mar. do. The No-confidence motion against the Ministers lost in the Bengal Council.
- 22 Mar. do. Madras District Congress Committee inaugurated campaign in favour of Boycott of British goods as an answer to the Simon Commission.  
The Finance Bill passed in the Council of State—The Swarajists walked out.
- 26 Mar. do. Opening day of the March Session of the Mysore Legislative Council in the New Council Hall, Bangalore.
- 28 Mar. do. Serious riot occurred near Bamongachee Loco Workshop, three miles from Howrah in connection with the Lilloah Lock-out—Police opened fire resulting, it was reported, in two men killed and five injured.  
Opening day of the Budget Session of the Assam Legislative Council.
- 29 Mar. do. In the course of a leader the "Pioneer" of Allahabad wrote the following on the Simon Commission: "Despite the optimistic generalisations of Sir John Simon the "Pioneer" does not believe the preliminary visit of the Commission to India has been a success.....the support is sectional and spasmodic and by no means representative of political India.





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## THE QUARTERLY REGISTER

[APRIL '28]

- 31 Mar. '28 Departure of the Simon Commission from Bombay after completing their preliminary visit to India,

## April 1928.

- 2 Apl. '28 In the Calcutta Corporation Mr. B. K. Basu elected Mayor in succession to Mr. J. M. Sen Gupta defeating the only Swarajist candidate Mr. Subhas Chandra Bose by 46 to 37 votes—Disorderly scenes followed the election when the electric light failed and it was reported that some of the Councillors who voted against Mr. Subhas Bose were roughly handled.
- 5 Apl. do. Dr. G. V. Deshmukh, a Swarajist, elected President of the Bombay Municipal Corporation.
- 6 Apl. do. National Week celebrations commenced with a monster public meeting in Jallianwala Bagh, Amritsar.
- 7 Apl. do. The Bengal Provincial Conference held at Basirhat under Mr. J. M. Sen Gupta demanded among others Round Table Conference and Release of Political Prisoners.
- 8 Apl. do. Eleventh Session of the All-India Hindu Mahasabha held at Jubbulpore under Mr. N. C. Kelkar—Resolution on Shudhi Movement and Conversion of Non-Hindus urged.
- 9 Apl. do. The Assam Council elected a committee to co-operate with the Simon Commission, Congress members abstaining.
- 10 Apl. do. Independent Labour Party at its annual meeting held at Norwich expressed opposition to the procedure regarding appointment of the Simon Commission and pressed for a full recognition of Indian claims.
- 11 Apl. do. The Punjab Provincial Conference held at Amritsar under the presidency of Pt. Jawaharlal Nehru.
- 13 Apl. do. A strong appeal to the British to buy Indian products and strengthen the bonds of the Empire was made by Sir Atul Chatterje, the High Commissioner for India, speaking at the Rotary Club, West London. The Punjab Youth Conference adopted resolution supporting the League against Imperialism and expressing sympathy with the Chinese in their heroic war against European Imperialism.
- 16 Apl. do. Another Mill Strike in Bombay—Strikers complained of retrenchment and the introduction of the system of work on two sides of frame—20,000 men downed tools.
- 18 Apl. do. In celebration of the National Week Congress workers including ladies hawked Khaddar in Calcutta headed by Mr. Subhas Bose, President, B. P. C. C.  
In reply to the C. P. Government's invitation to submit a statement to the Simon Commission, the Yeotmal District Association regretted its inability to co-operate with the Commission in view of the boycott programme laid down by the Congress, the Assembly and the local Council.
- 19 Apl. do. About 35 Ruling Princes from all parts of India attended a private Conference held in Bombay on the eve of the arrival of the Butler Committee—Proposal for a Federal Council and the Indian Princes' Conference laid down.
- 21 Apl. do. Fourth session of the Bengal Provincial Hindu Sabha Conference held at Mymensingh under the presidency of Mahamahopadhyaya Pt. Pramathanath Tarkabhusan.



## CHRONICLE OF EVENTS

- 23 Apl. '38 Mill strike situation in Bombay took a more serious turn leading to firing of revolver shots by a Police Officer—21 Mills closed doors involving 30,000 strikers.  
 Death of Mr. Maganlal Gandhi, the life and soul of the Khadi movement, in Patna.
- 24 Apl. do. The Bardoli Satyagraha—Confiscation notices on cultivators were the order of the day in Bardoli—Under the leadership of Mr. Vallabhai Patel people resolved to carry on Satyagraha till success was achieved.

## May 1928.

- 1 May '28 The Indian Community in Kenya rejected Government's overtures to secure their co-operation in the Legislature.
- 3 May do. Mr. Subhas Chandra Bose's appeal for unity in the Presidential address delivered at the Sixth Maharashtra Provincial Conference held at Poona.
- 4 May do. The summer session of the Punjab Legislative Council opened at Lahore.
- 5 May do. The Anglo-Indian and Domiciled European Community held a Conference in Calcutta to discuss the memoranda to be submitted to the Statutory Commission—Col. Gidney was appointed to represent the case of the community before the Commission.
- 9 May do. The Bamungachee shooting—Case against Police officials dismissed by Mr. G. S. Dutt, the District Magistrate of Howrah who passed severe strictures on the Military officer who opened the fire.  
 In the Punjab Council a non-official resolution recommending military training and use of fire-arms for drills in Government Colleges carried.
- 16 May do. No-Tax campaign in Bardoli continued—As a protest to the indiscriminate attachment of property and repression launched by the Government Gujerat members of the Bombay Council resigned in a body.
- 19 May do. Adjourned Session of the All-Parties Conference met in Bombay under Dr. M. A. Ansari—a Sub-Committee appointed to meet in June.
- 21 May do. House of Lords passed the first reading of the Indian High Courts' Bill equalising the position of Barristers, advocates and pleaders under the Government of India Act.
- 27 May do. Fifth session of the Karnatak Provincial Conference held at Dharwar under the presidency of Mr. K. F. Nariman.  
 First Kerala Youth Conference held at Payyanpur under the presidency of Dr. Varadarajulu Naidu.  
 Karachi Youth Conference held under the presidency of Prof. Vaswami.
- 28 May do. Death of H. H. The Raja of Pudukottah in Paris.  
 The Bombay Mill Strike continued—The International Workers' Congress unanimously adopted a motion promising assistance to the Indian Strikers.  
 Fourth session of the Kerala Provincial Conference held at Tellicherry under the presidency of Pt. Jawaharlal Nehru.
- 30 May do. Opening day of the eleventh session of the International Labour Conference at Geneva.—Continued till 17 June.





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## THE QUARTERLY REGISTER

[JUNE '28]

June 1928.

- June 28 The International Labour Conference in Geneva unanimously adopted a resolution moved by Dewan Chaman Lal, Indian Workers' delegate to investigate the industrial housing and general living conditions of workers with a view to placing the matter on the agenda of an early session of the Conference.
- 8 June do. Rai Rajeswar Bali and Thakur Rajendra Singh, Ministers resigned in obedience to the verdict of the U. P. Council on the question of the boycott of the Simon Commission.  
Debate on the Director's Report in the International Labour Conference at Geneva—Indian Delegates' speech.
- 11 June do. First Assam Provincial Youngmen's Conference held at Nowgong under the presidency of Mr. T. Phukan.
- 14 June do. On the motion of Lord Birkenhead the House of Lords passed the second reading of the Indian High Courts Bill.  
Raja Jagannath Baksh Singh and Maharaja Mahijit Singh appointed Ministers of the United Provinces Government.
- 16 June do. Shivaji Statue unveiled in Poona amidst scenes of oriental splendour—Governor of Bombay's tribute to the Mahratta Hero.  
Draft Convention of Minimum Wages passed in the International Labour Conference at Geneva.
- 17 June do. Death of Sir Alexander Muddiman, Governor of United Provinces.
- 18 June do. Death of Pt. Gopabandhu Das, an invaluable worker and philanthropist and a tried patriot of Orissa.
- 23 June do. The Punjab Legislative Council Committee's demand for equality of Status with the Simon Commission conceded by the Secretary of State.
- 24 June do. Publication by *Forward* of a memorandum issued by Sir Andrew Skeen setting out that India is ill-equipped in the essentials of war, that the policy of retrenchment has been definitely abandoned and that an additional sum of 8 crores has to be spent on modernisation of armaments and mechanisation of the army will cause considerable surprise and anxiety in the country.
- 28 June do. The Report of the Royal Commission on Agriculture issued in India.  
House of Lords passed the Third Reading of the Indian High Courts Bill without discussion—The Bill was then sent to the Commons.
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# INDIA IN HOME POLITY

Jan.-June 1928.



# The All-Parties Conference

The report of the Committee appointed by the All-Parties Conference to determine the principles of the constitution of India bears on it marks of anxious and careful thought and the desire to be fair to all parties and communities constituting the population of India. It may be easy enough to quarrel with some or other conclusions of the Committee but it will not be so easy to suggest alternatives. The problem is full of difficulties and the Committee had not only to consider all sides of a question but had to try their best to reconcile almost irreconcilable view-points. They have performed their task in a manner which entitles them to the gratitude of the nation.

The report is signed by Pt. Motilal Nehru, Sir Ali Imam, Sir Tej Bahadur Sapru, Mr. M. S. Aney, Sardar Mangal Singh, Mr. Suaib Qureshi, S. J. Subhas Chandra Bose and Mr. G. R. Pradhān. These gentlemen constituting the Committee represent, so far as it is possible for a small Committee like this to represent, all important parties and communities in India.

The Committee have accepted Dominion Status as the basis of the constitution for India. There is no doubt that a strong section of Indian public opinion would have nothing short of complete independence and the Congress itself at its last session accepted independence as the goal of India. But in as much as the Committee is not a Committee of the Congress, but that of the All-Parties Conference, it had to proceed upon maximum agreement. The Committee have pointed out that the communal aspect though it has overshadowed politics is not the essential problem in relation to the future constitution of India. The communal problem is primarily the Hindu-Moslem problem but if the proportions of Hindus and Moslems are taken into consideration, it would appear quite plain that neither of these communities require any special protection or spoon-feeding. But since logic or sense has little to do with communal feeling the whole problem has resolved itself in the removal from the minds of each of a baseless fear of the other and of giving the feeling of security to all communities. The only methods of giving a feeling of security, say the Committee, are safeguards and guarantees and the grant, as far as possible, of cultural autonomy. The clumsy and objectionable method of separate electorate and Reservation of seats do not give this security. They only keep up an armed truce.

The Committee have considered various alternative schemes that have been suggested to give special protection to the minority communities, including a fantastical scheme of Communal Councils. The Committee have definitely come to the conclusion that special electorates, if bad for the majority community, are worse for a minority community.

The Committee has rejected communal representation for the majority community in any province. They point out that the majority in Bengal and in the Punjab, namely, the Moslems do not require at all special communal representation. They refer to the elections to the District Boards that have taken place in some of the Bengal districts where the Hindus have simply been swept off the Boards in spite of their being a substantial minority of the population. The wealth and education of the Hindus have been of no assistance to them in these elections. In fact the result of these elections has been so striking that "Moslem opinion is now veering round the Mixed Electorate." In the Punjab also, the same thing is taking place. What has taken place in the District Board elections, is bound to take place in Council elections. On a system of joint electorate, the Moslems are likely to get not only representation on the full strength of their population, but more.

While discarding communal representation for the majority community, the Committee have, however, as a temporary measure, agreed to give communal representation in proportion to their population of the Moslems in provinces other than Bengal and the Punjab. Thus in the U. P., C. P., Behar, Bombay and Madras, the Moslem minorities will have communal representation on the basis of their respective populations in these provinces. The Committee, however, would not give the same privilege to the Hindu minorities in Bengal and the Punjab on the ground that the Hindu minorities in these provinces are strong enough to protect their own interests which is not the case with the Moslem minorities in the other provinces. The facts and figures given in the Appendices A, B and C of the Report show that the Hindu minorities in the provinces of Bengal and the Punjab, should have representation on the basis of population on the same principle as the Moslem minorities in other provinces. The Committee admit that "the





Hindu and Sikh minorities may have their representation even reduced below their population ratio." "This," in the opinion of the Committee, "is a possible and indeed likely contingency." "But it is impossible to provide for such contingencies. The safest and the most obvious course is to have an open election with such safeguards as we can devise."

The Committee have however taken into consideration these contingencies and say that proportional representation is the solution of the problem. They have ably disposed of the objections against proportional representation, but have refrained from recommending it as "some of our colleagues are not satisfied that proportional representation can be introduced at this stage in India."

While providing for communal representation for Moslem minorities in the provinces the Committee have declined to make similar provisions for non-Brahmins, Depressed Classes, Christians, Sikhs, Jains and other small communities. The Sikhs have, of their own accord, sacrificed their right to have special representation on the same principle as the Moslem minority community in the provinces. The Committee have spoken, in the highest terms of this spirit of the Sikhs. The non-Brahmins being a majority population in Madras where the problem is acute need no protection. The Depressed Classes, Christians and others require, in the opinion of the Committee, special educational and other facilities to remove all obstacles in the way of their advance than special representations in the legislature. The Committee would not extend the vicious principle of communal representation, but confine it to the Moslems; for the communal problem is primarily a Hindu-Moslem problem. This system of special representation or reservation of seats is, however, to disappear automatically at the end of ten years and earlier if the Moslem community agree.

The Committee have rejected the proposal of reserving one-third of the seats of the Assembly for the Moslem community. The Committee point out that the Moslems are a little less than one-fourth of the population of India. Consistently therefore with the principle the Committee have accepted for the provinces, the Moslems are not entitled to have representation more than their population warrants. The Committee agree to reserve for them one-fourth of the seats in the Assembly and this reservation, as in the case of provincial representation, is to exist for the maximum period of ten years. The Committee while reserving seats for Moslem minorities in the provincial legislatures and in the Assembly have however given them the liberty to contest for the remaining seats.

These concessions to Moslem prejudices may be resented by other minority communities, but the Committee had to make compromises without the sacrifice of essential principles, reconcile conflicting views and secure a maximum agreement." Vide A. B. Patrika.

The following is the report of the Committee appointed by the All-Parties Conference to determine the principles of the constitution of India :—

## CHAPTER I.

The Committee, whose report we have the honour to present, was appointed by the All Parties Conference at its meeting held in Bombay on May 19th, 1928 in terms of the following resolution :—

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

"This meeting resolves that a Committee consisting of Pandit Motilal Nehru as Chairman, Sir Tej Bahadur Sapru, Sir Ali Imam, Syt. Pradhan, Syt. Shuaib Qureshi, Syt. Subhas Chandra Bose, Syt. Madhavrao 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."





## TEXT OF THE COMMITTEE REPORT

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.

**Brief History.**

The Gauhati session of the National Congress met in December, 1926, in the shadow of a great tragedy, (murder of Swami Shraddhanand) when differences and

**Gauhati.**

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 Mussalman leaders to devise measures for the removal of the present deplorable differences between Hindus and Mussalmans and submit their report to the All-India Congress Committee not later than the 31st March, 1927."

In compliance with these 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.

On the 20th March, 1927 some prominent Muslim leaders met together in Delhi and put forward certain proposals

**The Muslim Proposals.**

on the Hindu-Muslim problem for the accep-

tance of the Hindus and the country. These proposals, which have come to be known as the "Muslim proposals," laid down that Mussalmans 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.

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.

**Working Committee.**

The All-India Congress Committee which met in Bombay on the same dates unanimously adopted the same resolution with minor alterations. The principal

**A. I. C. C.**

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.

This meeting of the All-India Congress Committee also passed a resolution calling upon "the Working Committee to

**Swaraj Constitution.**

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 others of political parties."



## THE ALL-PARTIES CONFERENCE

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.

The 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. The Congress further passed the following resolution on the Swaraj Constitution :—

### Swaraj Constitution.

“Having regard to the general desire of all political parties in the country to unite together in setting 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 will 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.

In compliance with the directions contained in the Madras Congress resolution the Working Committee of the Congress issued invitations to a large number of

### Organisations invited.

organisations. Among these we might mention :—

National Liberal Federation; Hindu Maha Sabha; All-India Muslim League; Central Khilafat Committee; Central Sikh League; South Indian Liberal Federation; All-India Trade Union Congress; General Council of all Burmese Associations; Home Rule League; Republican League; Independent Party in the Assembly; Nationalist Party in the Assembly; Indian States Subjects Association; Indian States Subjects Conference; Indian States Peoples Conference; Anglo-Indian Association; Indian Association of Calcutta; Parsi Central Association; Zoroastrian Association; Parsi Rajkeya Sabha; Parsi Panchayat; All-India Conference of Indian Christians; Southern India Chamber of Commerce; Dravida Mahajana Sabha and the Landholders Associations of Oudh, Agra, Behar, Bengal and Madras.

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



## TEXT OF THE COMMITTEE REPORT

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Many of these organisations sent representatives to the Conference which All Parties Conference—Delhi, 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 view points. "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."

The Conference also passed resolutions dealing with the re-distribution 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 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.

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 ALL-PARTIES CONFERENCE

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.

Thus when the All Parties Conference met again on the 19th May, 1928

### Bombay Meeting.

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 Committee had to be a small one if it was to work properly. It was

### The present Committee.

not possible to represent all interests on it, but an endeavour was made to have spokesmen of some important view points. 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. G. R. Pradhan, the Non-Brahman view; Sardar Mangal Singh represented the Sikh League; Sir Tej Bahadur Sapru, the Liberal view point and Mr. N. M. Joshi the interests 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 up to the 12th June.

The Committee was called upon to report before the 1st July but in spite

### Delay in Report.

of every effort to complete the work in time the Committee was unable to adhere to the timetable laid down. From June 5th onwards the Committee met almost daily for several hours at a time. It held 25 sittings besides informal conferences.

The Committee although a small one consists of members belonging to

### Maximum agreement.

different political schools and to different communal groups. Under the terms of its appointment it was called upon 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.



## TEXT OF THE COMMITTEE REPORT

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The Committee had to face the first difficulty right at the beginning. At

**Independence and Dominion Status.** 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 the 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.

As to the second difficulty, from the constitutional point of view the

**Communal aspect.** communal controversies are of no very great importance. But, whatever their relative importance might be, they occupy men's minds 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 Committee 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



## THE ALL-PARTIES CONFERENCE

endeavour is presented in the following pages in the hope that it will be received by 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.

Among those who responded to the chairman's invitation were Dr.

### Acknowledgments.

Ansari, Pandit Madan Mohan Malaviya, Maulana Abul Kalam Azad, M. C. Y. Chintamani, Moulvi Shafee Daudi, Dr. S. D. Kitchlew, 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 appendices to this report he rendered most valuable assistance at every stage of the Committee's work.

## CHAPTER II.—THE COMMUNAL ASPECT.

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

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 while 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	1912	
Hindus	...	72.0	70.1	68.3	66.9	65.9 = -6.1
Muslims	...	22.6	22.4	23.2	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 8.1 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 the 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.



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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 N.-W. F. Province they are overwhelmingly strong.

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 itself and required no special protection or spoon feeding. If communal protection was

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.

But logic or sense have little to do with communal feeling, and to-day the whole problem resolves itself into the removal from the minds of each of a baseless fear of the other and in 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 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 the 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.

With this view point before us we have provided several articles in the Declaration of

### Communal Councils.

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.

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

### Separate electorates.

section are prepared to give them up in consideration for some other things. Everybody



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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 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 Reforms Enquiry Committee, who have recently made their report, have recommended the abolition of communal electorates throughout the island.

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 ground 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 has, by a strange succession of events, become a major problem in our politics.

Sind.

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 judgment. 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 tacked 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 view point of nationalism that no "communal" provinces should be created is, in a way, equivalent to saying from the still wider international view point 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

\* Note by Secretary A.I.C.C. : Sind was constituted into a separate Congress province in 1917, eleven years ago,



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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—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

#### Alternative proposals

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 advance 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 were 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.

The suggestion was to have part reservation of the majority community in the Punjab and in Bengal with freedom to contest the other seats.

#### Part reservation.

This part reservation was granted to the non-Brahmans in the south and is still continuing. But even in the case of the non-Brahmans 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 or 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 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 remaining 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.



## THE ALL-PARTIES CONFERENCE

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. Sadar 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 on 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 of 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 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 sometimes 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 vote 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 voter at most of the ordinary elections today. 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.

It was suggested that the N. W. F. Province be amalgamated with the Panjab 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 view points 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.

A similar but more far-reaching proposal was made to us, namely, that the Panjab, 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.



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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,

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

General,

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 of 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 electorates.

Reservation of seats for majorities has been fiercely opposed—both on grounds of theory and fact. The question arises only in the provinces of

Reservation for majorities.

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 chance 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 of the 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 exorcise it from the body politic. 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 in 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 barriers 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,



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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.

### Methods of reservation.

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-Brahmans in those presidencies. This large community which forms over 96 per cent of the population of the Madras presidency succeeded in

### The Montagu-Chelmsford method.

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 and half per cent of the whole population. The manner in which this reservation was secured was that two purely non-Brahman 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 must be non-Brahmans in Madras City, and one must be a non-Brahman in each of the remaining 24. The rule on the subject in 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-Brahman 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-Brahmans. Assume that no non-Brahman 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-Brahman 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-Brahmans would be at once declared to be duly elected and the 5th and 6th candidates on the list who are not non-Brahmans would have to give place to them. Thus in the case of non-Brahmans 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.

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” method. 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



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their mandatories from among the minority community by concentrating their votes on them.

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 ring-fence and leave them no scope for expansion.

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 some times 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.

We have so far considered the question of reservation for majorities on principle but the strongest argument against such reservation is furnished by the facts as they are. We are indebted to Pandit

**Facts and figures.**  
Jawaharlal Nehru for the figures given in appendices A. & 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 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 and adventurous aid to secure to them the full benefit of their natural majority. The argument is that Mussalmans will not obtain adequate representation and the slight majority they have will be more than counter-balanced by their educational and economic backwardness in these 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 appendices 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.



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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 cannot 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 Panjab district in detail in our note attached. 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%

Total Punjab population	...	20,685,024	100%
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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 (Sheikhpura) 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 per cent, 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 and half 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 and half 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 and half 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 of at least 94 seats; and a fair chance of some seats out of the 133 per cent of group III. They are thus, humanly speaking, assured of a clear majority in the legislature.

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)	...	46,695,536	100.0%
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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 a very big minority, is highly likely to suffer in numbers in an open general election without reservation.

This has recently been demonstrated in a remarkable manner by the figures of the last

District Board elections in Bengal, printed in Appendix C.

Bengal District Board elections. The electorates for these boards are 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 parti-

cularly 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 Boards 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 manifestos and memoranda in support of communal electorates

for the Punjab and Bengal.

We find therefore from an analysis of the actual figures that Muslim fears in the

Punjab and Bengal are largely imaginary. These fears

Economic and educational

standards.

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 back-

ward both in education and in wealth, specially in Bengal, as compared to the other com-

munities. 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 organisa-

tions which aggressively demand special rights and privileges for their respective communi-

ties not desirous of attacking the basis of the existing structure. If this is admitted then all



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we can do is to provide safeguards and guarantees for education and economic advancement, specially for all backward groups and communities.

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

Parties in free India, 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.

Looking at it purely from the Hindu point of view, however, we can well imagine

Hindu and Sikh minorities, that a reservation of seats for the Muslim majorities in the Punjab and Bengal, may actually benefit the Hindus, and it 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.

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 a note by our colleague Sardar Mangal Singh on the second part of the resolution :—

### Informal Conference.

"We are unanimously opposed to the reservation of seats in the legislatures either for majorities or 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 joint 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



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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 in considering the question of reservation for minorities to which we now address ourselves.

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 minorities.

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 which 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 U. P. and Behar, to the central legislature of 500 members, and

### Reservation for Muslim minorities in proportion to population.

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 legislature 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.

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 schema. Such representation is only possible in

### Weightage not permissible.

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 than 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 large 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



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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 interdependence of the two communities that we can hope to minimise their differences.

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.

So far as the 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 regard 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 one-third and one-fourth. 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 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.

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.

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.

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 realise 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.



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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-Muslim 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.

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 per cent of the

Sikhs.

population are in fact more numerous in the U. P. than the Sikhs in the Punjab where they are only 11 per cent. 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 41.5 per cent 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 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.

The only alternative.

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



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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.

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

### Non-Brahmans.

India. Where the non-Brahman 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 Brahmins 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.

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 someone 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 the 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.



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### 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.

Every one knows that the present distribution of provinces in India has no rational basis. It is merely due to accident and the circumstances

Present distribution irrational. 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.

What principles should govern this redistribution? Partly geographical and partly

#### Principles of redistribution.

economic and financial, but the main considerations must necessarily be the wishes of the people and the linguistic unity 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 and 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 that must be the provincial 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

#### Language.

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 its 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.

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 not conflict

#### Wishes of people.

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 consideration in rearranging provinces are the linguistic principle and the wishes of the majority of the people. A third consideration, thought not of the same importance, is administrative convenience, which would include the geographical position, the economic resources and the financial



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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.

In looking at the map of India to day we see definite linguistic areas. There is the Hindustani block all over northern India, with its slight variation into Panjabi in the Punjab. Then there is the Bengali area, the Assamese, the Oriya, the

### Linguistic areas.

Telugu, Tamil, Malayalam, Canarese, Marathi, Gujarati 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. We have also received a small book giving the case for Utkal

### 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.

As regards Kerala we have received a resolution of their Provincial Conference urging unification and separation. *Prima facie* Kerala

### 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.

The case for the Karnataka was placed before us by a representative of the Karnataka

### 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.

Part 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 unify 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 affect 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 the 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 the subject.



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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

Sind.

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 sub-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 Mussalman opposes it, and Mussalmans are 74 per cent 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 per cent or 15 per cent of the population may effectively prevent the 90 per cent or 85 per cent 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



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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 that 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 colleagues Messrs. Aney and Pradhan are not wholly at one with us in the arguments we have advanced. 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 clause of the "pact."

### CHAPTER V.—THE INDIAN STATES AND FOREIGN POLICY.

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

Attitude of public men and  
organisations towards  
Indian States.

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 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



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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 Indians" closer to each other is likely to give rise to serious misunderstandings.

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 statesmanship and shortsighted 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 interests 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 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 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 constitutional 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 for 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 132 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 com-



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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.

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."

In his letter dated the 27th March, 1926, Lord Reading emphasised the constitutional position as follows:—(a) 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 above, 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) settling 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 respects remedied, 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.



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We shall now turn to the latest contribution on the subject. 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 the 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—This 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 the 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 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 in 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 with 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" (*our italics*).

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, India may not 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



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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 as 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 unchallengeable 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 agents to the equal, if not greater, satisfaction of the 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 time 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 large 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 annual 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 :—



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"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 statesmanlike 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 the 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," are 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 contract in regard to everything that concerns them or their States. It is wellknown 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 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



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put this question as we believe that the lines on which the princes and Sir Lealie 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.

Accordingly, we have provided that (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 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'. We think that this will be a far better method of settling such matters than the present arrangement under which 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 Conference 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



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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 that 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 a "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.

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

### Foreign Policy.

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 practi-



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cally 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 chiefs in the North-West Province and elsewhere. His jurisdiction extends in some matters to the Persian Gulf and Aden. Some matters—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 fact the Government of India discharge and enforce those obligations which mutually exist between His Majesty's Government and some neighbouring foreign Asiatic powers. We do not see any reason why the self-governing dominion of India should do anything less.

We are aware of the 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.

The resolution of the Madras Congress lays down that the basis of the constitution

#### Declaration of Rights.

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 rights 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 safe-guards 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.

The first committee of the All Parties Conference went into this question carefully

#### Fixity of tenure.

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



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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 a hindrance and an 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.

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.

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".

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 suspend the right for the time being but the

Habeas Corpus.

central legislature must be informed at the earliest opportunity for such action as it may deem fit.

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 any occasion.

Kripans.

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

The Legislature.

For the Senate we recommend 200 members; for the House of Representatives 500 members, with provision to increase the number if necessary, on an uniform population basis. In the provinces, as a general rule, there should be one member for every

Number of members.

100,000 population. But in a province with a population of less than 10 millions there may be a maximum of 100 members.

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

Franchise.

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 may 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



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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 Prabandhak 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 objection 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 advance countries in the world did not wait to achieve a hundred per cent of literacy before introducing adult suffrage. Why should India?

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.

Senate,

A majority of the first All-Parties Committee recommended a restricted franchise for the Senate, although a minority 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 reconsideration of all measures emanating from the lower houses 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



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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 recommend, 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 view points 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.

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 legislatures. This is likely

### Division of functions.

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.

We have recommended that the executive council of the Commonwealth should consist of a Prime Minister and not more than six ministers.

### The Executive.

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.

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

### The Judiciary.

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

### Supreme Court.

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.

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.

### Finance.

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



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(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.

(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 Service.

We have recommended that on the establishment of the Commonwealth a permanent Public Service 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 section 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 this 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 retire 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 terms 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 to advise the government upon questions of general policy and as to the practicability 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 provision will, we believe, ensure the efficiency and proper administration of the army.

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

## Recommendations.

### CHAPTER VII.

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



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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 Rangaswami 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" wherever it occurs in this constitution means every person :—

- (a) who was born, or whose father was either born or naturalised, within 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 admis-

\* The Conference has added another article to the Fundamental Rights. This deals with titles and private property. In article (XVII) an addition has also been made giving fixity of tenure. See resolutions 10 and 11 of the Conference.



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sion 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 wage 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 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

\* The Conference has added a sentence here giving fixity of tenure to agricultural tenants. See resolution 11 of the Conference.



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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; 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) 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. 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



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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; the supply, appropriation, 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 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 House 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





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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 minister 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 Commander-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 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 of 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.



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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 II, attached hereto.

35. The local legislature of any province may repeal or later, 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 as many other Justices, as Parliament may fix.



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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 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 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 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, 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, 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.



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(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 and 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 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 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, 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



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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 Acts, 1858, 1815 and 1919 shall vest in the Governor-General-in-Council.

68. The revenue of India shall vest in the Governor-General-in-Council and shall, subject to the provisions of this Act, be applied for the purpose 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 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, posts and harbours, and such fund shall be appropriated by Parliament to the purposes 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 the manner



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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 governments of the Commonwealth and the governments of the provinces, and (c) 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 (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.

### 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) Commander of the Air Forces, (6) 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





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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 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, 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.



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### 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 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.

### 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-Muslims 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 the 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.

\* The Conference has referred this clause back to the Constitution Committee for amendment. See resolution 7 of the Conference.

† Some of these clauses have been altered by the Conference. See resolutions 4 and 6 of the Conference.

‡ The Conference passed a comprehensive resolution on the redistribution of provinces. The Sind agreement deals with the separation of Sind. In clause VII Baluchistan has been added after N.-W. F. Province. See resolutions 4, 5 and 12 of the Conference.





## TEXT OF THE COMMITTEE REPORT

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 NEHRU  
S. ALI IMAM  
TEJ BAHADUR SAPRU  
M. S. ANEY

MANGAL SINGH  
SHUAIB QURESHI\*  
SUBHAS CHANDRA BOSE  
G. R. PRADHAN

\* 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. R. 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.

## 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 or 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, light-houses, 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 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.



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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 ; archæology.
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 licence 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.





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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 Trust, Town Planning Boards and other local authorities in the province.
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 licences 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.





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56. Prevention of cruelty to animals and protection of wild birds and animals, subject to legislation by the central legislature.

57. Non-judicial stamps, subjects 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.

### PROCEEDINGS OF THE FOURTH SESSION OF

## The All-Parties Conference.

*LUCKNOW—28TH TO 31ST AUGUST, 1928.*

The fourth sessions of the All-Parties Conference were held in the Kaiserbagh Baradari in Lucknow from August 28th to 31st, 1928. Among the organisations represented, apart from the Congress Working Committee, were :—

All-India Liberal Federation; All-India Muslim League; Hindu Maha Sabha; Central Khilafat Committee; Central Sikh League; Home Rule League; All-India Conference of Indian Christians; Jamiat-ul Ulema; All-India States Peoples Conference; Congress Party in the Assembly; Nationalist Party in the Assembly; British Indian Association of Oudh; Indian Association of Calcutta; Maharashtra Chamber of Commerce; Sind National League; Deccan Sabha; Swadhin Bharat Sangh and the Provincial Congress Committees of Ajmer, Andhra, Behar, Bengal, Burma, Central Provinces (Hindustani), Central Provinces (Marathi) Delhi, Gujrat, Karnatak, Kerala, Punjab, Sind, United Provinces and Utkal.

A number of messages were received from delegates who were unable to be present expressing their regret at their inability to attend and sending their good wishes to the Conference. A very large number of telegrams and letters were also received from all parts of the country wishing success to the Conference.

The proceedings began soon after midday on the 28th August with the president of the Conference, Dr. M. A. Ansari, in the chair.

The Maharaja of Mahmudabad welcomed the delegates. He reminded them of the Lucknow pact of 1916 and trusted that the same spirit would prevail in the deliberations of the Conference. He hoped that all parties would give unqualified support to the Nehru Committee's report.



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The president then addressed the House. He congratulated the Nehru Committee and testified to the noble and single-minded devotion with which the chairman and members of that committee had applied themselves to this epoch-making work. Emphasising the tremendous implications attaching to the report, he said :—

“India has gone through many and varied phases of the struggle for liberty, but never in the chequered history of this country's fight for freedom had representatives of all schools of political thought assembled together to draw up a definite scheme of our constitution. That has now been done by the committee. It is in itself a historic event, and when we see the background of the dark events of the last few years, resulting in spasmodic and ineffective attempts to introduce some light into the darkness of wilderness, of confused aims and objects in which we had lost ourselves, and of complacent challenges that were being thrown at us both from within the country and beyond the seven seas, I need hardly tell you that this report becomes a doubly historic event. Members of this Conference, the consequences of what we do to-day will not die tomorrow or the day after. They will endure. It is in our hands to make or mar our future. Let there be no mistake about the consequences that will arise out of our actions to-day.”

Proceeding, the president said that the Nehru scheme was the last hope of 300 millions of human beings suffering intolerably under the double misery of foreign domination and internal dissensions, but he did not claim infallibility for it.

He concluded with this appeal :—“If the representatives assembled here to-day have got the key to India's happiness, they have also got the key to her continued misery that will become doubly acute now. The terrible responsibility lies on you of choosing between the two, which will decide India's destiny. I earnestly hope you will choose well.”

The president then called upon Pandit Motilal Nehru to submit the Committee's report and Mr. Nehru formally placed the report before the Conference.

Lala Lajpat Rai then moved the following resolution :—

1. “This Conference places on record its grateful appreciation of the work done by Pandit Motilal Nehru, the chairman, and his colleagues, Sir Ali Imam, Sir Tej Bahadur Sapru, Mr. Aney, Sardar Mangal Singh, Mr. Shuaib Qureshi, Mr. Subhas Bose

and Mr. G. Pradhan, members of the Committee appointed by this Conference to determine the principles of a constitution for India.”

This was seconded by Maulana Abul Kalam Azad. Speeches in favour of the resolution were delivered by Pandit Madan Mohan Malaviya, Maulana Shaukat Ali, Dr. Annie Besant, Mr. J. M. Sen Gupta, Moulvi Mohammad Yakub, Mrs. Sarojini Naidu, Mr. C. Vijayaraghavachariar, Gyani Sher Singh, Raja Sir Rampal Singh, Maulana Ahmad Said, Mr. C. Y. Chintamani, Mr. M. Chagla, Choudhri Beharilal and Mr. Tufail Ahmad.

One member of the Conference, Mr. Hasrat Mohani however opposed the resolution. The resolution was passed with only one dissident.

Pandit Motilal Nehru and Sir Ali Imam thanked the Conference on behalf of the Committee.

The **SECOND RESOLUTION** was proposed by Pandit Madan Mohan Malaviya. It was as follows :—

2. Without restricting the liberty of action of those political parties whose goal is complete independence this Conference declares :—

Dominion Status.



(1) that the form of Government to be established in India should be responsible, that is to say, a Government in which the executive should be responsible to a popularly elected legislature possessing full and plenary powers;

(2) that such form of Government shall in no event be lower than that of any self-governing dominion.

Sir C. P. Ramaswamy Iyer seconded the resolution and Sir Tej Bahadur Sapru supported it. The discussion on this resolution was not concluded when the Conference was adjourned to the next day.

### SECOND DAY—29TH AUGUST 1928.

On the 29th August the discussion on Pandit Madan Mohan Malaviya's resolution on Dominion Status was continued.

Pandit Jawaharlal Nehru opposed Dominion Status and said that independence should be the goal. On behalf of those who stood for independence he read the following statement:—

"We, the signatories of this statement, are of opinion that the constitution of India should only be based on full independence. We feel that the resolution that has been placed before the All Parties Conference definitely commits those who support it to a constitution based on what is termed Dominion Status. We are not prepared to accept this, and we, therefore, cannot accept or support this resolution. We recognise that the preamble to the resolution gives us the right to carry on our activity in favour of independence, but this preamble does not in any way lessen the commitment contained in the second part of the resolution.

We have decided, however, not to obstruct or hamper the work of this Conference, but we desire to record our considered opinion on this question and to dissociate ourselves from this particular resolution in so far as it commits us to the acceptance of Dominion Status. We shall not take any part in this resolution by moving amendments or by voting on it. We propose to carry on such activity as we consider proper and necessary in favour of complete independence".

Maulana Kifayatullah, Moulvi Mohammad Shafi, Mr. Subhas Chandra Bose, Pandit Hriday Nath Kunzru, Dr. Kitchlew, Dr. Mohammad Alam, Mr. T. Viswanatham and Sardar Sardul Singh also took part in the discussion.

Mr. Hasrat Mohani moved an amendment to delete the second clause of the resolution. The amendment fell for want of a seconder.

After Pandit Malaviya had replied the original resolution was put to the vote and carried *nem con* with acclamation. The Conference then adjourned till the next day.

### THIRD DAY—30TH AUGUST 1928.

On the 30th August the *THIRD RESOLUTION* of the Conference was moved by Mr. Manilal Kothari. It related to the Indian States and ran as follows:—

Indian States.

3. This Conference approves the recommendations of the Committee in regard to the Indian States.

This was seconded by Mr. Pathik, Sir Tej Bahadur Sapru, Maulana Zafar Ali Khan and Pandit Madan Mohan Malaviya also spoke on the resolution, which was adopted unanimously.

At this stage the president announced that an agreement has been arrived at on the Sind question. This announcement was greeted with great applause.





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The president placed this agreement in the form of a resolution from the chair. It ran as follows :—

4. Simultaneously with the establishment of Government in accordance with the Nehru Committee's report Sind shall be separated from Bombay and constituted into a separate province.

Sind.

Provided—

- (1) after an enquiry it is found  
(a) that Sind is financially self-supporting,  
(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 the Nehru Committee's report in areas where they are in a minority.

The resolution was adopted unanimously with acclamation.

The *FIFTH RESOLUTION* of the Conference dealt with the redistribution of provinces and was moved by Pandit Dwarka Prasad Mishra. Moulvi Abdul Majid seconded.

Various amendments had been tabled but eventually an agreed resolution embodying some of the amendments was placed before the Conference. This ran as follows :—

5. This Conference having taking into consideration the recommendations contained in the report about the redistribution and the status of provinces, accords its approval to them, as an integral part of the agreed constitution.

And recommends that the Commission provided for in clause 72 of the draft constitution shall in conformity with the principles of the said recommendations, 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) resettle 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.

The president put this from the chair and it was carried unanimously.

Lala Lajpat Rai then moved a resolution adopting in principle the constitution outlined in the Nehru Committee's report. This was seconded by Mr. A. Rangaswami Iyengar and supported by Mr. Bepin Chandra Pal. Mr. Chagla moved an amendment relating to the amendment of the constitution. Mr. Chagla's amendment was subsequently altered and was adopted by the Conference as a substantive resolution on the 31st August. It is given in the proceedings of that day. The Conference then adjourned to the 31st August.

*FOURTH DAY—31ST, AUGUST 1928.*

On the 31st August the discussion on Lala Lajpat Rai's resolution was continued. Mr. Vijayaraghavachariar moved an amendment suggesting that instead of adopting in principle the report, it should be considered clause by clause. This was seconded by Mr. Viswanatham and opposed by Mr. Bepin Chandra Pal.



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At this stage further discussion on Lala Lajpat Rai's resolution was adjourned as news was received that the Punjab delegates had come to an agreement on the Punjab question. Lala Lajpat Rai's resolution was taken up in an amended form, at a later stage of the proceedings.

The announcement by the president about the Punjab agreement was received by the Conference with prolonged applause. The agreement was signed by Dr. S. D. Kitchlew, Maulana Zafar Ali Khan, Mr. Mohammad Alam, Mr. Abdur Rahman Ghazi, M. Daud Ghaznavi, Mr. Afzal Haq, Mr. Siraj Din Piracha, Mr. Abdul Qader, Mr. S. Husamud Din, Sardar Sardul Singh Caveeshar, Lala Lajpat Rai, Lala Duni Chand, Pandit Hara Datta Sharma, Dr. Satyapal, and Lala Girdhari Lal.

Master Tara Singh and Gyani Sher Singh added a statement to the agreement.

The president placed this agreement and statement before the Conference for its approval. The following is the text of the agreement and the statement :

6. The Punjab Muslims directly with the introduction of the scheme recommended by the Nehru Committee report accept its recommendations on communal representation including joint electorates without reservation of seats for any community in the Punjab, provided that the franchise is based on adult suffrage.

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 ten years in the province,

Statement of Master Tara Singh and Gyani Sher Singh :

"1. We the undersigned Sikhs agree to support the Nehru Committee report provided that the method of election in the Punjab is by proportional representation.

2. We agree that adult suffrage is the most democratic principle but we feel that it is not practicable under the present circumstances, and is premature.

3. If however it is decided to introduce adult suffrage immediately our expression of opinion as stated above may be noted.

We desire however to make it clear that we shall not make it a grievance if adult suffrage is introduced as we recognise that adult suffrage is based on a most democratic principle. We presume that the introduction of adult suffrage does not carry with it the recognition of any principle of communal representation directly or indirectly to which we are strongly opposed".

Maulana Shaukat Ali made a statement that the Central Khilafat Committee had not so far altered its original resolution on the matters dealt with in the Punjab agreement. This resolution supported the Delhi Muslim proposals and the Committee still stood by it. Dr. Mohammad Alam and Mr. Abdul Qader however disagreed with Maulana Shaukat Ali and stated that the Central Khilafat Committee had not authorised him to make the statement he had made. They stated that the Committee had left the Punjab for decision and these delegates having decided and come to an agreement, their decision must be taken to be the decision of the Khilafat Committee.

The Conference then expressed its approval of the Punjab agreement and adopted it with acclamation.

Dr. Annie Besant and Mrs. Sarojini Naidu then addressed the house and congratulated all parties and the country on this happy termination of an old dispute. Dr. Besant said that Indian unity and Indian freedom had triumphed over communalism and sectarianism.



Mr. Akram Khan and Mr. J. M. Sen-Gupta formally accepted on behalf of Bengal Muslims and Hindus the clauses of the report relating to Bengal.

There was some discussion on Mr. Chagla's proposal about the amendment of the constitution. Ultimately the following resolution was unanimously adopted :—

7. This Conference recommends that the Nehru Committee be authorised to re-consider clause 87 of their recommendations and to amend it so as to safeguard the interests and rights of the various minorities in the Central Legislature with regard to the amendment of the constitution.

The Conference then passed the following resolution unanimously :—

8. That every citizen of an Indian State who ordinarily carries on business or resides in the territories of the Commonwealth shall have the rights of a citizen of the Commonwealth.

Moulvi Shafi Daudi then moved that the language of the Commonwealth of India should be Hindustani written in Hindi or Urdu script.

There was some discussion on this and various amendments were suggested. Ultimately the following resolution was unanimously adopted :—

9. The Committee of the All Parties Conference to consider and report on the following points :—

(i) the protection of the right of the minorities to give instruction to their children in schools through the medium of their own language and in such script as may be in vogue among them ;

(ii) the use of Hindustani as the language of the Commonwealth with the right to use either Hindi or Urdu character as the ordinary scripts, the use of English being permitted ;

(iii) the use in every province of its provincial language as the official language with liberty to use Hindustani or English.

Pandit M. M. Malaviya then proposed that the following article be added to the Declaration of Rights :—

10. All titles to private and personal property, lawfully acquired and enjoyed at the establishment of the Commonwealth, are hereby guaranteed.

This was opposed but after some discussion was passed by a majority.

The Conference also passed by a majority that

11. In the Declaration of Rights Article "ovii" after the word "unemployment" add "and Parliament shall also make laws to ensure fair rent and fixity and permanence of tenure to agricultural tenants."

The Conference passed unanimously that

12. "Baluchistan" be added after "N. W. F. Province" in recommendation VII of the report.

Discussion was then resumed on Lala Lajpat Rai's resolution about the adoption in principle of the Nehru Committee's report. This resolution was added to considerably. Various amendments to it were lost. Ultimately this resolution was passed with one dissentient in the following form :—

13. This Conference having taken into consideration the report submitted to it by the Nehru Committee adopts in principle the constitution outlined and recommended by it in the report.

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 added or altered which is inconsistent with the agreements and decisions arrived at by this Conference.



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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.

Master Tara Singh and Gyani Sher Singh made the following statement in regard to this resolution :—

"We accept this resolution subject to our statement already submitted as a part of the Punjab settlement".

On behalf of the All India Conference of Indian Christians, Mr. E. Ahmed Shah made the following statement :—

"The All India Conference of Indian Christians emphatically places its case before the All Parties Conference and requests that inasmuch as a special case has been made for the largest majority community (the Hindus) in the N.-W. F. Province, and for the strongest minority community (the Mohameds) in all provinces of India where they are in minority, and finally even a special provision has been made for the proportionate representation of the Sikhs in the Punjab,\* we request, that in the name of fairness and justice a similar representation in the legislatures be given to the third largest community in India i.e., the Indian Christians".

The President put the following resolution from the chair :—

14. This Conference declares that the agreements contained in the foregoing resolutions and decision 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.

The resolution was passed with one member dissenting.

The next and last resolution was also put from the Chair and was passed. It ran as follows :—

15. This All Parties Conference requests and authorises Mrs. Sarojini Naidu to carry the greetings of the people of India to the people of the West, whom she is about to visit, and also to convey India's determination to win her freedom and thereby provide the necessary atmosphere for world peace.

Pt. Madan Mohan Malaviya then proposed a vote of thanks to the President. The Maharaja of Mahmudabad seconded and the Conference carried it with acclamation. The President replied to it.

Pt. Motilal Nehru proposed a vote of thanks to all those in Lucknow who had helped in making arrangements for the Conference, the workers and the volunteers. Mrs. Sarojini Naidu seconded. The house passed the vote with applause.

The President then declared the sessions of the Conference ended.

\* NOTE by Secretary A. I. C. C. : This statement is not correct. No special provision has been made for the proportionate representation of the Sikhs in the Punjab.



# The All-Parties Conference.

## The Supplementary Report.

The Supplementary Report of the Enlarged Committee appointed by the All-Parties Conference held at Lucknow in August last, of which the proceedings are given in the foregoing pages was published in December 1928 on the eve of the Congress. Below is reproduced the main portion of the Supplementary Report amending some of the recommendations of the main report and answering the prejudiced and unreasonable critics. Lala Lajpat Rai was one of the co-opted members.

### 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 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."

### British Critics.

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 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.

### Imitation Charge.

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



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critics what their alternative is to democracy. The only alternative, so far as we can see, is some form of autocracy.

### No more 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.

### Aga Khan—the Critic.

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 he 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 Case of Canada.

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 seeking 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 serious mutual affront, occurring between persons of French and British descent."



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### India's Defence.

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. Montagu 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 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 learning to defend themselves. These are problems of which Parliament takes upon itself the responsibility by this Bill".

### Analogy of Bavaria Misleading.

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 the 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 and 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 pressed as a model for an Indian federation.

### Federal and Unitary Types.

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 'pisaller,' 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



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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 need will be paid to the substance and less to academic theories.

### Adult Suffrage.

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, neither race nor creed, ought to prevent a citizen from aiding in the choice of his rulers. The 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 property owners, was disastrous to those who did not own property. Its limitation to a creed or caste meant 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 some 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 the true remedies for this condition."

### Dangers of Adult Franchise.

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 devise 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 meant to ensure the supremacy of the Brahmans in the government of the country. If there was the slightest chance of this or of any small class becoming supreme or dominant adult



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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, Budr-ud-din Tyabji, Bhupendra Nath Basu, Kalicharan Banerji (a Christian) and R. C. Dutt.

### The Indian States.

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 letters 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 that the letter had been criticid and had caused much dissatisfaction and searching of heart. We should not therefore be understood to endorse this letter or the principles it contains.

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 relation 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 those 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. Montague, 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 of 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."





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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.

The telegraphic summary of the debate in the House of Lords initiated on Lord Olivier's motion on the 6th 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 "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 person 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.

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 :—



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"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 added 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. Bessant 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. M. A. 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 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.

### Calcutta Convention.

At 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 Abulkalam 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 views. 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.

### About Dates.

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



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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 at its annual sessions and at the same time to afford the fullest opportunity to all organisations to consider the decisions 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.

### CHAPTER II.—AMENDMENTS OF THE RECOMMENDATIONS.

I. 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 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. Sengupta. The Punjab agreement is embodied in resolution No. 6 of the Lucknow Conference. All that is necessary for us is to add a proviso to Clause III (a). 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 Muslims 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 point they have tried to make against our recommendation 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, transfer of power to the popular representatives in the Central Legislatures and continuation of law and order as a reserved subject in the



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Provinces we may be excused if we refuse to treat them seriously when they take us to task 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 58 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 additional 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 4(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. 125). We were directed to amend that clause "so as to safeguard the



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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. Sapru and Pandit Hirday Nath Kunzru went into the question and reported that the needs of the situation would be met by substituting the words "4/5ths 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.

### Muslim Demand.

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. 51). 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 these 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 on 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 3,02,000 and the Muslim voters about 2,08,000 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 consideration 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.

### CHAPTER III.—AMENDMENTS OF THE RECOMMENDATIONS.

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,



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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. This 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 II we have added to this 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-ul Haq was to make it clear that legislation for the control of the subjects mentioned 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 this" 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 in 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 proposed the following new clause to be added immediately after clause 13 and to number it as clause 13 A :—

(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 power 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 subclause."

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 represent 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



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Justice and the 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 power should be exercised by the Governor-General-in-Council on an address from both Houses of Parliament. Apart from the fact that members on 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 such 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 used 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 Sapru,  
S. Ali Imam,  
Madan Mohan Malaviya,  
Annie Besant,  
M. A. Ansari,  
M. R. Jayakar,

Abul Kalam Azad,  
Mangal Singh,  
M. S. Aney,  
Subhas Chandra Boss,  
Vijayaraghavachariar,  
Abdul Ladir Kasuri.

## Recommendations?

The following are the amended recommendations made by the Enlarged Committee:—

### Constitutional Status of India.

1. India shall have the same constitutional status in the community (the word in the Report was Comity) of nation 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 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.



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(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 ; (this clause was added by the Lucknow Conference.)

(c) Or who, being a subject of the Crown carries on business or resides in the territories of the Commonwealth (Recommended by the Enlarged Committee to be added by the Convention),

(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, 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 (words in the Report were "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. All titles to private and personal property lawfully acquired and enjoyed at the establishment of the Commonwealth are hereby guaranteed. (Added by Lucknow Conference.)

(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. (Added by Enlarged Committee.)

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 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.



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(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 and Parliament shall also make laws to ensure fair rent and fixity and permanence of tenure to agricultural tenants. (Added by Lucknow Conference.)

(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.

### Language.

4. A. (This section has been added by the Enlarged Committee on the recommendation of the Lucknow Conference.) (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.

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; 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) \*A session of the Parliament shall be held at least once a year. (Added by the Enlarged Committee.)

(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,



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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 and under (Added by enlarged Committee) 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.

13A. (This section has been added by the Enlarged Committee) (a). In cases of great emergency and in matters of controversies between provinces or 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 preceding 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 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; the supply, appropriation, 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 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



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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 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 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 House of Representatives (the word in the Report was "Legislature") for all matters concerning the department of the Commonwealth administered by members of the Executive Council and generally for all advice tendered by it to the Governor-General (added by the Enlarged Committee).

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 Commander-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 Commissioner and other foreign representatives similar 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.



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### Financial Control.

27. (1) The Auditor-General in India shall be appointed by the Governor-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 Governor-General-in-Council (the words in the Report were King and represent His Majesty in the Province.)

30. "The salaries of the Governors shall be fixed and provided by Parliament, and until so provided, shall be as in schedule....."

(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 he 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 1,00,000, 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.

(vi) "A session of the Council is held at least once a year." Added by the Enlarged Committee.

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 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 ("either" omitted by the Enlarged Committee) before ("or after" omitted by the Enlarged Committee) 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.



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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 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 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 "altered" (word in the Report was "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" omitted 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 however arising, as to the limits "inter se" of the constitutional powers of Commonwealth and those of any province or 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



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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 as appointed shall, while so acting, have all 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, 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 (words in the Report were "by the provincial legislature") from both the Houses of 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 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 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 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.

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, 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 high 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;



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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 such 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 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, 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



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uch 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 debate of the East India Company; and
- (b) all sums of money, costs, charges and expenses which, if 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, convents, 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 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 staff, 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, 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.

(This clause has been added by the Lucknow Conference).

(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.

### 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



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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 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 re-adjustment 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, 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 (substituted for "similar" "any")



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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.

### 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 (The words in the Report, were "two-thirds of the total number of the members of both Houses.") "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 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 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, (added by Lucknow Conference).

(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 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. (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."

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. 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 remembered as clause VI. The N. W. F. Province, "Baluchistan," (added by Lucknow Conference) and all newly formed provinces by separation from other provinces, shall have the same form of government as the other provinces in India.





# The All-Parties Convention.

OPENING DAY—22ND DECEMBER 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 all the delegates. The visitors were all provided seats on benches, and the entire seating accommodation was for 3,000, half being for delegates.

Moulana Mahomed Ali was the first to enter the Convention pandal, but he came in his Congress capacity and not as a Khilafatist as the Central Khilafat Committee was still considering whether to take part in the Convention proceedings.

## The Hindu Mahasabha Attitude.

The Hindu Mahasabhaitees were active in distributing pamphlets and appeals against the revision of the Lucknow All-Parties Settlement. Pandit Deva Ratna Sharma, Secretary, All-India Hindu Mahasabha, was circulating extracts from the presidential address of Lala Lajpat Rai at the Etawah Hindu Conference last October with a covering letter declaring that two days before Lalaji died, he had asked Pandit Deva Ratna to send these extracts to the leading Hindus of India before the All-Parties Convention and the Congress met to consider the Nehru Report finally. Some members of the Hindu Mahasabha were organising support for the view which the Hindu Mahasabha's Working Committee had taken by its resolution to the following effect which it passed on the 21st December: "This meeting of the Working Committee while reaffirming the points as defined in the resolution of the eleventh session of the Hindu Mahasabha held at Jubbulpore for incorporation into the future Swaraj Constitution of India and the statement that was submitted to the All-Parties Conference in its meeting held at Lucknow in August last, puts on record its considered opinion that the agreements that were solemnly entered into at the Lucknow All-Parties Conference between the Hindus and the Muslims of Sind, Punjab



and Bengal for the final solution of the communal differences in respect of the drafting of the Swaraj Constitution should not be reopened for revision, but be accepted as such."

### The Khilafatists' Attitude.

The Khilafatists, on the other hand, though they kept away from the Convention on the first three days stood for the Madras Congress Resolution as modified by the proposal that no one be declared elected unless he had secured one-third of the votes of his community and one-fifth of those of others.

The Muslim Leaguers outside those committed to the Nehru Report were not yet settled about their plans.

The Liberals, headed by Sir Tej Bahadur Sapru, Dr. Besant and Mr. Chintamani, were well represented and came with a determination to throw in their weight to the solution of the difficult problems facing the Convention.

On the dais were seated in rows Pandit Madan Mohan Malaviya, Pandit Matilal Nehru, Dr. M. A. Ansari, S. J. M. Sen-Gupta, S. J. M. R. Jayakar, Maulana Abul Kalam Azad, Maulana Mahomed Ali, Dr. Annie Besant, Raja of Mahmudabad, Sir Tej Bahadur Sapru, Sir C. P. Ramaswami Iyer, S. J. Ram Chandra Rao, S. J. Srinivasa Iyengar, Dr. B. S. Moonji, Sir Ali Imam, Sir Dev Prosad Sarbadhikari, S. J. C. Vijayaraghavachariar and S. J. Bepin Chandra Pal.

### Delegates and Visitors.

Among the distinguished delegates and visitors present in the Convention pandal were :—Mrs. Matilal Nehru, Begum Mahomed Ali, Mrs. Kamini Roy, Mrs. Sarala Devi, Mrs. Jahawarlal Nehru, Sir P. C. Roy, Maulana Yakub Hossain, Dr. Kitchlew, and Sir Nilratan Sarker, Messrs. C. N. Muthuranga Mudaliar, C. Y. Chintamani, V. V. Jogiah, B. Sambamurthy, Dr. Pattabhisitaramaya, Bhagawan Das, Govinda Das, Nilkanta Das, Rev. B. A. Nag, B. Das, Pandit Jahawarlal Nehru, S. Satyamurthi, Subhas Chandra Bose, Monilal Kothare, S. N. Haji, A. Rangaswami Iyenger, Habib Abdul Bari, T. Prakasham, T. R. Phookan, Sarat Chandra Bose, J. L. Banerji, B. K. Basu, B. K. Bose, Krishnakumar Mittra, Satyaranjan Bakshi, Akhil Chandra Dutt, Rai Saheb Chandrika Prasad, Dr. J. M. Das-gupta, Dr. B. C. Roy, Kumar Rananjay Sing, K. C. Neogi, P. K. Chakrabarti, Mrinal Kanti Bose, B. Siva Rao, Shah Mahomed Zabair, Hazi Abdulla Haroon, Jamnadas Mehta, D. C. Ghosh, J. N. Bose, N. C. Chunder, Perumal Naidu, R. K. Shunmukham Chetti, Abdul Matin Chowdhury, J. Chowdhury, M. S. Aney, D. N. Roy, Devendralal Khan, K. S. Roy, Satyananda Bose, Lalit Mohan Das and Madan Mohan Burman.

The following organisations were invited to the National Convention with the number of delegates each was entitled to send :—

Political :—Members of the Central and Provincial Legislatures—(Number of delegates) —470. Members of the All-India Congress Committee—360, All-India National Liberal Federation—40, General Council of All-Burmese Association—25, Home Rule League—15, Indian Association (Calcutta)—15, Bombay Presidency Association—10, Madras Mahajan Sabha—5, Surma Valley Conference—5, Assamese Sanrakshini Sabha (Gauhati)—5, Deccan Sabha (Poona)—5, Assam Association (Gauhati)—3, Sindh National League—3, Sarva-janik Sabha (Poona)—3, Yeotmal Association—2, Arya Swaraj Sabha—2, Swadhin Bharat Sangha—2, Karnatak Unification Sabha—2, Indian Nationalist Party (Calcutta)—2, Trade Union and Peasants' Organisation :—All-India Trade Union Congress (Bombay) —50, All-India Viswakarma Liberal Federation (Vijayanagram)—5, Communist Party



(Bombay)—5, Workers' and Peasants' Party—5, Behar Provincial Kisan Sabha (Muzaffarpur)—3, U. P. Kisan Sabha—2.

Commercial Organisations :—Southern India Chamber of Commerce—4, Maharashtra Chamber of Commerce—5, Bengal National Chamber of Commerce—5, Indian Chamber of Commerce (Burma)—3, Indian Merchants Chamber (Bombay)—3, Shri Mahajan Sabha (Bombay)—2.

Landholders Organisations :—Madras Landholders Association—3, Coorg Landholders Association—3, Behar Landholders Association—3, Agra Landholders Association—3, Bengal Landholders Association—3, British Indian Association of Oudh (Lucknow)—3.

Indian States Organisations :—Indian States People Conference—10, Indian States Subjects Association (Ahmedabad)—10, Indian States Subjects Conference (Madras)—10, Daxni Sansthan Hitvardhak Sabha (Poona)—10, Rajasthan Seva Sangha (Ajmere)—5.

Women's Organisation :—Women's Indian Association (Madras)—50.

Communal Organisations :—Hindu Mahasabha—100, All-India Muslim League—50, The Central Khilafat Committee—50, The Central Sikh League—30, All-India Conference of Indian Christians—25, South Indian Liberal Federation—25, Zoroastrian Association—10, Bombay Non-Brahman Party—10, All-India Shia Conference—10, Indian Christian Association (Bengal)—5, Anglo-Indian Association—5, Parsi Rajkeya Sabha (Bombay)—5, Parsi Central Association—5, Namdhari Durbar—Bhaini Sahib—5, North-West Frontier Muslim Association—5, Mazdyasni Mandal—2, All-India Able Hadis—2, Sanatan Dharma Pratidinhi Sabha (Punjab)—2, Hindu League (Sukkur, Sindh)—2, Mahavir Dal (Punjab)—2, Anglo-Indian League—2, Hindu Samaj Hitrakshak Committee (Bombay)—1.

Religious and Social Reform Organisations :—Jamiatul Ulema—10, All-India Aryan League—10, Bengal Social Reform League—3, Hindu Mission—2, Ahmadiya community—2, Achut Udhar Committee—2, Shardhanand Dalit Udhar Sabha—2, Bazm-e-Soofia—2, All-India Hindu Shuddhi Sabha—2.

Backward Classes :—Dravida Mahajan Sabha (Madras)—15, Dayanand Dalituddhar Mandal—2, Bengal Namashudra Association—5.

Miscellaneous Organisations :—Journalist Association of India (Bombay)—10, Servants of the People Society (Lahore)—1, Thulva Mahasabha Udupi—3.

### Sj. Sen Gupta's Speech of Welcome.

Welcoming the delegates, Mr. J. M. Sen Gupta said :—  
Members of the Convention,

I wish that the duty of welcoming this Convention had fallen on shoulders other than mine. Here in this Pandal are gathered together the very finest men that our country has produced : there 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.

The search for unity has been with us a long and strenuous process ; and, if I may be permitted to say, Bengal has generously contributed her share in this process. It was late Surendra Nath Banerji (Cheers) who gave our political efforts an all-India character, it was the revolutionaries of Bengal who translated Bankim Chandra's "Bande-Mataram" into an All-India national anthem ; lastly, it was our revered leader Deshbandhu (Applause), who, aided and inspired by Mahatma Gandhi for long 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 deliberations of this All-Parties Conference. 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,



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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 to-day and I need hardly mention his name. The Lion of the Punjab sleeps. He did his share of the work, as in life, as in death, but he left his work unfinished. Let us mourn of him by taking up the work where he left it and in doing so show our respect to his advice and suggestion.

### An Infamous Hint.

Friends, why are we met here to-day? It has been said to prepare a memorandum for what has come to be known as the Simon Commission. A more infamous and unfounded charge or insinuation could never have been made. We are met here to-day 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 substitute our divergency 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.

### The Nehru Report.

Friends, it has been said that this 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 an imitation. 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?

### Case of Japan.

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 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 extracted the Magna Charta from the unwilling hand 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



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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 are we likely to see in future a constitution which is framed by every class of people making the body politic. The Hindus and Mahomedans, the classes and the masses, the peasants' representatives, representatives of men with vested interests, 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 every strata of society. Therefore I say, that so far as the constitution is concerned, it is going to be considered by the representatives of all the different classes of 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 hope your deliberations would end in a united formula which would be a national asset in our country.

### Dr. Ansari's Address.

Dr. Ansari then delivered the following Presidential speech :—

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 fittingly 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.

### To Take Final Decision.

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 all had sufficient opportunity to consider it carefully and I am glad to say that the country has on the whole used the opportunity in a manner which is gratifying to every well-wisher of India and specially to the members of the Committee. I do not suggest that the country found the draft to be perfect in every respect. It is not so and it does not claim to be the last word on Indian constitution for all time, as the distinguished authors themselves have pointed out. The proposed constitution is nothing more, but it is also nothing less, than the greatest common factor of agreement among the well recognised political parties of India and it is to be viewed not as a remote stage of our evolution but as the next immediate step.

Criticism was to be expected. We are all aware of the controversy that has raged in the country round the question of Dominion Status as recommended by the Committee. We have also had, I am afraid, a little more than enough of discussion regarding the rights of minorities. Such instances can be multiplied to show that there is no unanimous acceptance of all the 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



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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.

### The Draft.

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 the parties, moderate and extremist alike. At one stage, there was, I confess, a danger of the controversy taking a rather serious turn. But this danger was promptly warded off, thanks to the patriotism and statesmanship of the leaders of 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'être" of the Committee, with the minimum, has not deprived anybody 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 because by doing so, I am helping to secure a united backing for the 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.

### Rights of Minorities.

The recommendations regarding the communal problem have been subjected to a close examination which is admirable. But they have sometimes aroused in certain quarters a protest which I venture to say is based on ignorance of the real import of the recommendations and on a confusion of the rights of minorities with the principles of representation. Nobody can deny that minorities have their rights and 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 more solid safeguards than have been granted by the League of Nations to the racial minorities of any of the newly constituted states of Europe. But let us not be the victim of a constitutional fetish.

"The true safeguard of a minority" as a Committee of the League of Nations has recently observed, "is the goodwill of the majority". It is not on the privileges that a minority has succeeded in wringing from the 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 the charitable provisions of the Constitution, it will sink deeper and deeper into ignorance, fanaticism and sloth to be stifled ultimately by those who had adhered 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 a question of life and death. Let me however hope that this is only an exaggerated phase of a natural anxiety which will pass off as the discussions in the Convention progress.



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### Spirit of Sympathetic Compromise Needed.

But as I have said earlier, the re-action 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 modification 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 a spirit of sympathetic compromise is its first and 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 to-day will consider us a pack of bankrupt in statesmanship, imagination and earnestness of purpose, and we shall have richly deserved their opinion. But the seriousness of the consequences will not be limited to the exposure of our worthlessness. They are fraught with danger to the nation itself.

### Country's Interest.

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 one 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 the courage to give and the determination to resist, the temptation to take. After all what we give here as the representatives of a section will again come back to us Indians.

### Dawn of a Brighter day.

Brother delegate of the Convention, we will be failing in our duty to our country and to the organisations that have sent us here, if we do not bring to our sacred task the courage and the 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 the spectre of communal differences oppressed us like a terrible night-mare—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 inspired by the gospel of 'more bread and butter,' are 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 the communalists. Their days are numbered. Already a new generation is coming to the front to which the differences between the Hindus and Mussalmans are unknown and which will not, and cannot, think in communal terms. Our angle of vision has rapidly changed.



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Let us, in recognition of 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 the foundation of that democratic edifice within which the people of India can live and prosper for ages to come.

## Pt. Motilal Presents His Report.

In presenting the Main and Supplementary Reports of the Committee Pandit Motilal Nehru said :—

I 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 item. I think that time will come for consideration of the various recommendations that you are placing before the Convention, when our services will be available for information on any particular point that may be necessary.

After what the President has said about the spirit in which you are to consider those recommendations, I do not think I need say anything more. But I would say just one word about the position which the Committee claims for itself. I think there has been a considerable amount of misapprehension about that claim—a claim nothing more nor less than it deserves, namely, the position of a reporting Committee. It is not a law-giving Committee. It is the recommendation of a Committee appointed at a meeting of the All-Parties Conference—a recommendation of certain measures for adoption by this Convention. We are not here to enforce these recommendations nor I ask you to accept them whether you agree with them or not. We are simply here to put the best that we have in us to put before you and to stand corrected by your advice and abide by your decision. That is the position. Please do not for one moment think that we are putting this forward as a matter which is settled beyond dispute or about the correctness of which there can not be any question. I do not think there is any man living who can claim that for himself.

In the matter of making a constitution there is no finality. No one, neither an individual nor a number of individuals connected together can claim that nothing better could be produced than what they have done. On the contrary as we have observed in one part of our Report that this is not a council for perfection. We admit that there are in the Report recommendations which perhaps we ourselves might not have made, if left to our individual opinions. But what we claim for it, is that having regard to the various interests in the country, the interests of the communities, the rights of the minority and the majority and having profited by the experience of the past, the recommendation that we have made are recommendations which are likely to bring about the complete unity and harmony between the parties. If we have erred in certain particular points, it is for you to correct them and adopt the corrected view. But I submit more earnestly not to confine yourselves on any single point here and there and argue upon the merit of that point alone, without referring to the merits of 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 structure out of which if you take out one brick, it is likely to crumble down to the earth.

When you examine the various points and recommendations, please also consider what would be the effect of your modifying the recommenda-



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tion on that point upon the whole scheme that is being presented before you. One thing I beg of you to remember. Apart from the spirit in which you are to consider the Report as a whole, you have to see that by laying too much emphasis and insistence upon some particular right, either real or imaginary, you are damaging not only that point, but the whole of this noble structure. If you think there is anything in these recommendations which stand for disunity and not unity, by all means scrap them off.

Again I am prepared to go so far to say that this constitution is not a patent to be compiled by anyone else or which can not be improved upon. We repeat it before you that you are perfectly at liberty to scrap the whole of it, provided you find an alternative. But if you can not find any alternative then I submit, whether it is good, bad or indifferent, if nothing better can be discovered, I beg of you to accept it."

### Announcement of the President.

The President then read the following procedure which he said would be followed in conducting the proceedings of the Convention :—

The main and the supplementary Reports of the Nehru Committee have been available to all parties for sometime past. I expect that they have been considered by all those who are attending this 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 to-morrow. No amendments will be received after to-morrow'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 to-morrow will be prepared on the basis of the suggestions and amendments already received and will be available to members at the commencement of to-morrow'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 dispute 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 and 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. The sitting of the Convention was then adjourned.

### SECOND DAY—23RD DECEMBER 1928.

The Convention reassembled for the second day on the 23rd December in the afternoon under the Presidentship of Doctor Ansari, with a larger



attendance than yesterday. Since the arrival of M. Gandhi and after the discussion of the Congress Working Committee it was decided to take up as the first item on the agenda not the position of Indian States, but the question of the Constitutional status of India.

This sudden alteration in the programme rendered an emergent meeting of the Independence League necessary a few minutes before the Convention met, and it was decided that Mr. Srinivasa Iyengar should read a statement on behalf of the League,

Dr. Ansari announced that as the resolution and amendments on the question of Indian States were not yet ready the Convention would proceed with the discussion on the first section of the Nehru Committee Constitution.

Mr. Sen Gupta then moved :—

### 1.—Resolution on Dominion Status.

This Convention adopts the following recommendation of the Nehru Committee as amended by the All-Parties Constitution 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.”

Dwelling upon the resolution Mr. Sen Gupta said :—

“ 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 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. We cannot allow the Simon Seven to go back in 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 stand-point 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 a practical man, 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 view point the very purpose of this Convention would be defeated. Let us agree for the sake of unity in this Convention to this constitution. It has been very properly placed before you for your consideration; for on its decision depends whether this Convention is to go or not, whether the British policy so far pursued would end or it would be strengthened.

Mr. Yakub HASSAN (Madras) seconded the resolution. He said his non-co-operation colleagues need not be surprised at this attitude, as he wished to have a real fight and not sham fight.

"I want to fight on a clear issue," he continued. "We want connection with Great Britain on terms of equality alone. 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. Do the Hindus who wish to fight for independence realise that they have with them Muslims, who are communalists? If these Muslims are serious about independence, why do they worry and fight about the rights of minorities in this Constitution? Why cannot they trust the Hindus? On the other hand, it is they who wish the British to remain here for ever to keep the peace between the Hindus and Muslims. Similarly, those Hindus who declare that after the British go a Muslim Raj will 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 Status our issue. I am earnest in saying that I am willing to remain a member of the British Commonwealth on terms of equality and I suggest that the day when 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 that Commonwealth than Great Britain herself.

"I am not with those who declare that Dominion Status should be a stepping stone to independence (Independence Leaguers: hear hear). On a practical basis, I want you to make Dominion Status our immediate goal and concentrate all our forces for attaining that object instead of fighting the air."

The President then opened the matter for discussion.

#### The Independent League's Statement.

Mr. Srinivasa Iyengar at this stage read out a statement on behalf of the Independence Leaguers and when pressed to state the names of the signatories declared that these were still being obtained and would be announced in the press. The statement was signed among others by Mr. Srinivasa Iyengar, Pt. Jawaharlal Nehru, Mr. Subhas Chandra Bose, Mr. Kiran Shanker Roy, Mr. Sarat Chandra Bose, Mr. Satyamurti, Mr. Sambumurti and Mr. Shivaprasad Gupta and read as follows:—

"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



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country. We are of the 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 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 3rd and 4th 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 the 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 resolution passed by the A. I. C. C. at Delhi regarding the All-Parties' resolutions represents its position. "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 the opinion that there can be no true freedom till the British connection is severed. This Committee accepts the recommendations of the Nehru Committee as agreed to by the Lucknow All-Parties Conference for the settlement of the communal difference. This Committee specially 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 the opinion that the recommendations of the Nehru Committee are great steps 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 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 discussion or voting or those questions. We desire to add that the Independence of India League wholly supports this point of view."

The President next called upon Mr. Daud of the Trade Union Congress to address the Convention.

Mr. DAUD declared that the Trade Union Congress had sent him with a mandate to place their demands before the Convention for a socialistic republican form of Government and the nationalisation of industry. After reading the resolution passed by the Jharia Congress on the subject, he hoped it would receive consideration.

Rai Sahib Chandrika Prasad thereupon made a counter declaration as a former President of the Trade Union Congress and Railwaymen's Federation declaring that the majority of Trade Unions and Unionists were in favour of the Nehru Report.

A number of Labourites challenged Mr. Chandrika Prasad's authority to speak on behalf of the Trade Unionists whereupon he replied that he was



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speaking in a personal capacity and was prepared to take the consequences of his action. He was, however, continuously interrupted, but confusion ceased when he resumed his sent.

Mr. MAHOMED ALI then in the course of a much interrupted speech, often leading to confusion among the audience and accompanied by shouts of "Withdraw," strongly opposed the resolution moved by Mr. Sen Gupta.

He asked Mr. Sen Gupta why, when he accepted Independence as the goal of India, he should have moved this resolution and not any of "those Dominion Statuswallahs" who were behind him. Could they not find a solitary individual in that group with the courage to preach Dominion Status not only not as a stepping stone as Mr. Yakub Hassan had said, but forever and anon?

Mr. Mahomed 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 as the policy of a coward and not of a fighter. He praised the Nehru Committee for their excellent report but he objected to it on essential points.

He objected to Dominion Status because that status could have application only in a country of white people and not to this country of 320 millions black people. Nowhere in the world was any Asiatic, particularly an Indian, more looked down upon than in Britain, the centre of the British Empire.

Pundit Motilal Nehru at this stage explained that this was a contradiction in terms and that if they got Dominion Status they could be treated on the same level with the people of the self-governing Dominions.

Mr. Mahomed Ali denied this and speaking from his recent experience in England and other countries he said that 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 of India.

At this stage Mr. P. K. Chakrabarti indignantly asked Mr. Mahomed Ali to withdraw the word "coward" in respect of Mr. Sen Gupta.

Mr. Mahomed Ali declined and explained that he wanted Mr. Sen Gupta with his creed of independence not to become a coward.

Mr. Chakrabarti and others pressed for the withdrawal of what they termed an unparliamentary expression and some confusion reigned.

Order was eventually restored and Mr. Mahomed Ali, proceeding, emphasised that Dominion Status might be used differently in India and against the interest of India and reminded them of the veto powers of the Viceroy.

Mr. B. C. Pal—We will see that it is not so exercised in India.

The Moulana also urged the Convention to leave the Indian States out of consideration and refused to accept Pandit Malaviya as the representative of the Indian States.

He said he was present in the Convention not as a Moslem Leaguer or Trade Unionist or even as an ex-President of the Congress but only a member of the All-India Congress Committee. He asked for no Constitution but for one article namely that India shall be free and independent.

"I don't ask" he said, "for Dominion Status under the British or Hindus or Mussalmans or Turkey or Afghanistan. But I want freedom for myself and my country."

Mr. Prakasham : Did you not petition the Viceroy ?



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Mr. Mahomed Ali (indignantly): "No, I have not taken even the oath of fealty which you have done and which Mr. Srinivasa Iyengar can somehow justify".

Speaking in his personal capacity the Maulana declared that he would ask for no constitution except one article namely that "India shall be free and independent." "I ask for no constitution, I ask for no rights for myself, no fundamental rights for the Mussalmans, no rights for Hindus, no protection for minorities and majorities. I will only ask for one article, that of a free and independent India. I do not want Dominion Status under the Mussalmans or under the Turks. The one article I want is that India shall be free as other nations of the world. I say I do not want anything for myself. But I say that in order to get rid of the British there is no other alternative but to accept Dominion Status under the Hindus or the Mussalmans. In order to get rid of the British control over myself, if there is no alternative except to accept Dominion Status under the Hindus, I will accept it for myself".

It had been said, the Maulana went on, how they could ask for independence while communalism was rampant in the land. They could take it from him that there would be communalism in this country so long as there was no independence. And as long as they were under the British control that question would not be solved. That was why independence was necessary.

"I want to open the door, concluded the Maulana, "not of the Yervada Jail but the great Jail facing India, which can only be opened by absolute independence and not by dependence or Dominion Status. I do not want people to become cowards, but what I say is, if we take a false step to-day, we might be called cowards to-morrow and I appeal to my comrades to see that they do not behave like cowards".

Dr. 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 Liberal Knights. But he could assure them that it was the Liberals who had come under their banner and not the Congressmen who had gone under the banner of the Liberals. But while the Maulana was away in England his followers had gone under the banner of Sir Md. Shafi and Sir Abdur Rahim, who had been giving dinners to Simon Seven.

Proceeding, he pointed out the 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 out 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 connexion 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 Md. Shafi. This was the last word, he thought for after this, they were not going to agree to anything like Dominion Status.

Mr. S. SATYAMURTHI, on behalf of the Mahajan Shabha and the All-India States' Subjects Conference, associated himself with the statement of



Mr. Srinivasa Iyenger. He pointed out the difference in the framing of the present resolution with that passed at Lucknow. Here it did not recognise the liberty of those who desired to work for independence. If, after this, uncharitable critics said that it was a reply to the Viceroy, he thought they would not be far from wrong.

They however thought that the time was with them and that their destiny lay in the direction of independence. They were ready and willing to hold aloft the banner of independence already raised. They know that the Congress would justify them. They did not want to be responsible for the breaking upon of this Convention and therefore not without much hesitation but with a sense of responsibility that they agreed at the greatest sacrifice to this. What they had decided was to associate themselves with the statement of Mr. Srinivasa Iyengar and to desist from taking any further part in this resolution fixing Dominion Status as their constitution. But he gave the Convention and the country a fair warning that Independence was the only goal for which the people of this country should work for.

#### MR. J. L. BANERJEA'S AMENDMENT.

Moving as an amendment to the first article of the recommendations of the Nehru Committee declaring that "India shall take rank as a free nation among the free nations of the world," Mr. J. L. BANERJI attacked some of the arguments in favour of Dominion Status. Leaving the task of constitution-making to the constitution Pandits 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 it? That this goal could be reached more easily than independence, and that 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 minds of men. They should remember that even for attaining the 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 said what he said was that as a practical man they must have unity. He knew as much as Mr. Banerji did that they required force, coercion and strength in the country for the purpose of getting Dominion Status and perhaps some more amount of force for independence.

Mr. Banerji maintained that it meant the same thing and there was no need of 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 did say that would be a very bold man. His reading of history showed that independence was never attained by any 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 325 millions



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of people would unite and then press for independence—that had never been done and then they would have to wait till the Greek Calends.

Pointing out that 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, it was never a practicable 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 the road to Dominion Status was a broad highway upon which they have only to walk and it would be dropped into their mouth. 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 also come out in their true colours.

"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 generations 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.

Mrs. Annie BESANT supporting the resolution said that she wished to clear one point and that was that Independence and Dominion Status meant practically the same thing. Dominion Status meant that they would have their own army and navy and that was essentially necessary 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 which had never been mentioned in the speeches and that was that 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 in a few minutes. The change of attitude would be enough to bring Great Britain to her senses. They talked for independence amongst themselves but not one word had been mentioned as to how they were going to act for it.

In this connexion she asked Indians to follow Sein Fein method. Let them set up parallel government in every village and in every district board. Their people had a genius for self-government. They had already before them the example of Bardoli. "Make many Bardolis all over the country and I tell you that the English people are very practical people and before many Bardolis are established they will come to you for settlement. That is the kind of agitation they understand.

I tell you further that if you, older people, do not take up the burden of freedom, the younger generation will do it. They are beginning to understand the shame, degradation and the intolerable condition of millions of



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people having a splendid history behind them, a literature unrivalled, bound down to a little nation in the far off ocean. That was the feeling they must spread in the land.

What I urge upon you is not to talk much but to begin to act, to build up self-governing Swaraj and then there is some hope of your gaining Swaraj. Swaraj will be granted to you when it becomes dangerous to refuse it. I am asking you to do something practical before the year 1929 passes away."

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 called for independence. But they should remember that independence was not their 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-dependence 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 India 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. They should be placed on the same footing as the Dominions and their legislature should be responsible for peace and order. 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 and their Parliament would be responsible to the people for law and every act of the government. 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 but it was 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!).

At this Mr. Pal referred to the Faridpur speech of Deshbandhu Chitta-



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ranjan Das who declared that self-governing Dominion Status was not practically better but ideally higher than isolated national independence. This was exactly what the speaker was trying to bring out.

## MR. TARACHAND'S AMENDMENT.

Mr. Tarachand Lalwani (of Karachi) moved the following amendment :  
 "Whereas the goal of Indian people is only national independence India cannot achieve true freedom without severance of British connexion 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 alteration in that behalf be made into the Nehru report."

He said that Dominion Status or Independence could not be had merely by passing a resolution. They should never meet 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.

Sir C. P. RAMASWAMY IYER, in the course of a fighting speech on behalf on the National Liberal Federation in support of Dominion Status, emphasised the need for unity. He asked if it was 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, but when they were prepared to work with the majority 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 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 that 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. Ramaswamy Iyer said that by accepting Dominion Status India would rise to the position occupied by Canada. Mr. Mahomed Ali had asked what would be the attitude of the Liberals if the Constitution fell short of the demands of the Liberals. He wanted them to let him know what would be their attitude if the Constitution fell short of independence.

Mr. Mahomed Ali : We don't accept it.

Sir C. P. Ramaswami Iyer : Equally so, we don't.

"I object," he said, "to a mentality which suspects the bonafides of the Liberals. We believe unlike you that Dominion Status is enough for any self-respecting nation. I am asking for a spirit of mutual tolerance."

There was an inaudible interruption from Mr. Mahomed Ali at this



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stage, to which Sir C. P. Ramaswami Iyer replied :—"I know this talk of killing and getting killed a little too much. Let us be heroes, but if we are going to kill and get killed, then your place is not in this Convention but somewhere else."

Mr. Mahomed Ali asked : "Will you come to jail with us in the struggle?"

Sir C. P. Ramaswamy Iyer replied : "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 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."

### Political Sufferers' Statement.

Swami Govindanand, on behalf of the Political Sufferers' Conference, at this stage read out the following statement advocating independence :—

The members of the Swadhin Bharata 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 the 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 a real socialistic regime. We are afraid the whole of the constitution sketched in the Nehru Report is based on capitalistic construction of society. We are not prepared to accept this constitution, and hence cannot support it. 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 accept this portion of the constitution. But since under the circumstances much as we deplore them, another settlement acceptable to all communities is not possible, we feel it to be our imperative national duty not to complicate the 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 rank communalists and reactionaries who exploiting idealism, 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.* Representation 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 the three questions and to dissociate ourselves from the resolutions on these three issues in so far as they commit us to acceptance of British connection, capitalism and reservation of seats on a 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 Lucknow resolution of 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.

Mr. C. Y. CHINTAMONI on behalf of 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 connected a political position for India equivalent in all respects to independence. It was because they are advocates of freedom for the country and did



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not want any longer to be dependent upon or subject to England that they were giving their whole-hearted support to this resolution.

It had been argued that those who supported Dominion Status were actuated by a spirit of defeatism.

Moulana Mahomed Ali:—On a point of order (cries of order, order, sit down).

Moulana Mahomed 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. Mahomed Ali with the care and attention to 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.

Moulana Mahomed 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. Mahomed 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 Aiyer. 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 people 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 should remember that the All Parties Conference was called at the instance of the National Congress itself and that it was the members of the Congress who were in the position of the hosts to the non-Congress men in order to achieve what they were struggling for, namely the freedom from bondage.

In conclusion, Mr. Chintamani said that if this Convention had thrown 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 the living memory and appealed 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.

Sir ALI IMAM rose amidst applause and said that he did not propose to enter into a discussion of the value of Independence 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 one 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, he had taken a lower place.

He asked them to consider one or two things in regard to their own country. People or some section 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 quarrelling 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 the 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, the Khilafat Committee as it was only the Musalmans who wanted independence and who understood the virtue and value of independence. He believed that he was an Indian first (prolonged and continued cheers).

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 a miserable Law Member of the Government of India. He was putting before the audience his honest conviction and he hoped that 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. 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 difficult to wrest a constitution based on Dominion Status as it would be to wrest a constitution based on independence and complete severance from British connexion. 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 unity in the country. When they talked about independence making independence as the basis of their resolution he understood men like Pandit Jawaharlal Nehru and Maulana Mahomed Ali: he was not going to make insinuations 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



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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 Congress men to carry on their work for independence. "Let us not spoil this gigantic work, this historic work in this Convention by being pawns in the hands of the communists and the hired politicians of the British people."

All the amendment were put to the vote and lost while the original resolution was carried "nem con."

At this stage Pt. Jawaharlal Nehru asked the President to record a note that the All-India Congress Committee would record their vote in this matter on the 27th inst. The President agreed to the proposal of Mr. Nehru and the Convention was adjourned.

### THIRD DAY—24TH DECEMBER 1928.

#### 2.—Declaration of Rights.

Pt. Motilal Nehru started the third day's proceedings by proposing the addition of a clause describing the word "citizen" as given at page 31 of the report, to the effect that when India got Dominion Status and would enjoy equality with other members of the British Commonwealth, those members would similarly enjoy equal status in India. The following is the text of the resolution:—

"That this Convention adopts the changes proposed in the supplementary report defining a "citizen" so as to include citizens of other Dominions."

In moving the resolution he said he was only placing before the Convention a recommendation made in the report of his Committee. The suggestion was that "citizens" should be described in a certain way. As the definition of this word originally stood at page 31 of the reports, it consisted of only three clauses. It was now proposed to add a fourth, which would be numbered as clause 4.

Proceeding, Pt. Motilal said that this was necessary in compliance with the resolution that was adopted in the Convention the previous day, when the subject of the Status of India was debated and Dominion Status resolved upon. This would give them the rights of citizenship in the Commonwealth. In adding this clause they had carried out the instructions of the Lucknow Conference. Unless the new clause now proposed was adopted the people of other Commonwealths coming to this country could not be regarded as citizens here. This would create a rather curious state of things because while Germans, Italians or the subjects of any other country coming to India could be naturalised and would then become citizens here and enjoy equal rights, those coming from Great Britain or any of her Colonies would find themselves in this real difficulty that they could not be naturalised and would not enjoy equality with Indians as citizens. Such a thing would be quite inconsistent with the resolution passed by this Convention the previous day because if they had Dominion Status they become equal to the people of the British Empire and all her Commonwealths.

If Indians became the equal of the British people and the people belonging to the Commonwealths of Canada, South Africa and Australia it



would be absurd to say that though the Indian people claimed to be the equal of the people of these several Commonwealths the later should not have equal rights of citizenship in this country. While claiming to be on the same footing as the people of the other British Commonwealths the Indians could not deny the latter the same rights as they would themselves enjoy. This was nearly a consequential amendment. Of course at present India enjoyed no such right at all but they had passed the resolution in favour of Dominion Status and if India wanted equality in other Dominions they would have to concede the same rights to the people of those Dominions. If they wanted to be regarded as citizens of this country, this equality would come about automatically if India got Dominion Status. If Indians wanted equal rights in other dominions they must give them equal rights here. Of course if they did not get the one they would not give the other. As he had stated this equality would come about automatically and would not depend upon any one's will or pleasure. It would follow automatically and they would get those rights subject to any special legislation which other countries would have the right to pass, just as India would have the right to pass similar special legislations. If India was admitted into this family of the Commonwealth of Nations she would no longer be foreign to them and they would no longer be foreign to India.

A member asked why this Convention should go out of its way to make this concession, and in reply to this Pandit Motilal Nehru pointed out that they had laid down their constitution for Dominion Status and the necessary implication was that the consequence would follow. The people of this Commonwealth could not be naturalised because it was only foreigners who could be naturalised.

#### A Select Committee Formed.

Mr. K. M. MUNSHI (Bombay) 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 he said that it was not quite accurate to say that the Dominion Status guaranteed every natural-born subject of His Majesty equal rights. As, for instance, he said 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 formation of a Committee.

Dr. M. A. Ansari then moved that the following gentlemen should form the Committee—Mr. L. R. Tarshee, Sir Tej Bahadur Sapru, Dr. Naresh Sen-Gupta, Mr. J. Choudhury, and Mr. K. M. Munshi. The amendment of Mr. Munshi was put to vote and carried by an overwhelming majority.

#### Amendments Moved.

Mr. K. Madhab NAIR (Congress, Kerala) then moved that sub-Section II of Article 4 of the Nehru Report be omitted. Mr. Nair said that the present economic arrangement in the country was certainly not the best one. There



was vested rights such as capitalistic rights. He did not believe in any self-rule of 5 or 10 or 15 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.

Babu Ramchandra (Member of the U. P. Kishan Sabha) supported Mr. Nair.

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 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 minds of anybody that this relation would be destroyed under the new Commonwealth.

Mr. J. L. BANERJEE 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. Banerjee asked. Was not their new Commonwealth to be given ample and large power of law giving? Should they not desire to give that body a chance before the world? Certainly they did not want to perpetuate the evil thing of the past? Should they not say that their object was to shatter the 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.

"One of the first duty of the new state of Bengal, Mr. Banerjee con-



tinued, created under the Commonwealth will be to unsettle the permanent settlement. 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 eniquitous state of things, your federated India will not be worth having."

Babu SRIPRAKASA (of Benares) moved the deletion of the words "lawfully" with regard to the acquisition of property and suggested the addition of the following clause after the word guaranteed: "Provided that the same had been acquired in a manner still regarded as lawful in the Commonwealth and 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 courts 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. BISWANATHAM of Pamil Naidu in moving a similar amendment said that to support the rights of titles lawfully acquired was quite out of place. He suggested that under the present conditions it would be most inconceivable to give guarantee to an exploded section of society. The posterity would not be able to reorganise the society.

Mr. Syed MAHOMED opposed the amendment. While agreeing with the sentiments that were contained in the amendment he pointed out that this constitution was the beginning of India's career as a free nation. They would realise that all the amendments which they were dealing with were really useless and trivial. What they were trying by this amendment was to change the social structure of the country before it started on its political career.

Pandit Madan Mohan MALAVIYA wanted to clear up certain misconceptions. 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 judgment.

The object of an agreed constitution was to arrive at an understanding by an agreement. They could establish Government by sword and by negotiations and agreement. He was sure that they did not want that they would 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 zemindars and tenants. They had been doing it even under the existing administration. They were not trying to frame a constitution by the result but 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 procedure of 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. This was embodied against the passage of such a law and it did not debar them from making a revision of the settlement law of Bengal and Behar. It was an economic measure which was open to Government to open the question at any time, and if the British Government had hesitated to revise it for more than a century, they would certainly expect their Parliament to proceed with the revision not in a hurry. If, however, it was considered necessary in the interests of the country, if justice demanded that the revision should be taken, 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 them a fair compensation and to acquire the whole of the land which they possess by the 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 want 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? I am glad that you do not.

"Accept if you please, reject if you cannot" thus concluded Pandit Malaviya amidst applause.

The amendments were lost and Pandit Motilal Nehru's resolution was carried.

#### Leaders Leave Pandal to Meet Mr. Jinnah.

At this stage a number of prominent leaders including Doctor Ansari, the Maharaja of Muhamadabad, Sir Tej Bahadur and Pandit Matilal Nehru left the Convention one by one and the dais was practically half vacant. They all left for Grand Hotel where Mr. Jinnah had arrived from Bombay with a view to discuss with him possible solutions of the communal question and incidentally decide the presidentship of the Muslim League regarding which there were several reports in the lobbies and elsewhere. Doctor Besant therefore occupied the chair.

Half an hour later, Pandit Motilal returned to pilot and answer the criticisms levelled at several provisions of the Nehru Report. There were altogether nineteen clauses laying down fundamental rights. Owing to the absence of several leaders, the debate was very tame. Attempts were made to alter those amendments in the report which had been made at the Lucknow Conference.

#### Primary Education and the State.

One amendment related to provision by the State for imparting public instruction in primary schools to children of members of minorities of considerable strength in the population through the medium of their own language and in such script as may be in vogue among them.

Amendments to alter this were lost.

#### Abolition of Corporal Punishment.

Practically all attempts at modifying proposals were unsuccessful. But Mr. Balakrishna Sarma obtained a very large majority at voting time on



his motion that there should be no corporal punishment for any offence in the Commonwealth of India. Pandit Motilal had opposed this, but he and only a few others voted against it.

### Prohibition Question.

The question of prohibition came in for consideration by way of an amendment in sub-clause 17 the effect of which was to provide for prohibition as a fundamental right in the constitution itself.

Mr. C. Rajagopalachari was in charge of the motion and with but a brief speech from him, and another from the seconder, it was carried unanimously.

"It is hardly necessary for me," said Mr. Rajagopalachari, "to remind you that Prohibition is a fundamental part of the American Constitution, and the present opportunity is availed of by me to place before you a similar proposal that, in our constitution which we are framing, Prohibition should be provided for as a fundamental right. We have already provided for universal elementary education and for public health and welfare work. What I propose is that the removal of the drink evil must also find a place in our constitution at the very start. If we want the country to be happy and prosperous with adult suffrage, we must also have drink removed. If we want a sound democracy, we should necessarily undertake the duty of removing those causes that prevent an ordinary man from acting properly.

"It is hardly necessary for me in this Convention to argue the matter. If you want to save the money of the people under the Commonwealth, you must have Prohibition. Every year twenty crores of the poor man's money in this country is wasted over this poison, and therefore if we want to be prosperous, we must have this amendment passed and carried out. If it is not included in the constitution now, it would be impossible in the Central Legislature to adopt any Prohibition at all. It has been put in the schedule as a provincial subject, and therefore it would not be competent for the Central Legislature to deal with it. You know the difficulty with Prohibition in regard to finance. A Provincial Government may not be able to find money. To go to the Central Legislature it would be impossible, because the constitution is against it. And if we desire to amend it, four-fifths majority is a condition. If, therefore, you accept my motion, you will place the burden of making suitable laws upon all Provincial Legislatures and upon the Central Legislature also. I do not think you will find any difficulty in accepting it. The amendment is as follows:—

"It shall be the duty of the Commonwealth to save its citizens from the evil and temptations of alcoholic liquors and intoxicating drugs; and it shall, as soon as possible, after the establishment of the Commonwealth Government, make laws for total prohibition of manufacture and import or possession or sale of alcoholic liquor and intoxicating drugs, except for medicinal or industrial purposes".

Mr. Mufti Muhamad Siddiq seconded the amendment which was put and carried unanimously.

### Control of Judiciary.

The Convention also adopted the addition of a sub-clause to the effect that all courts of law should be within the jurisdiction of the appellate and administrative side of the High Court of Judicature.

The Convention then adjourned to reassemble on the 27th.



FOURTH DAY—27TH DECEMBER 1928.

The All-Parties Convention reassembled at 3 this afternoon after two days' recess, the adjournment having enabled the All-India Muslim League to meet and elect its delegates to to-day's session of the Convention. Attendance again was very large, and the dais particularly was occupied very fully.

COMMITTEE'S REPORT PRESENTED.

At the outset Mr. K. M. Munshi of Bombay read the majority report of the Committee appointed on the 24th Dec. to consider the definition of the word "citizen." The Majority report was of opinion that the definition of "citizen" as given in clause (c) should be modified in this way: Who being a subject of the Crown ordinarily resides or personally works for gain within the territories of the Commonwealth at the commencement of the Act or fulfils qualifications prescribed by the Parliament for the exercise of the rights of citizenship.

A Dissentient Note.

Mr. S. N. Haji of Bombay made a dissentient note in which he said: As I am of opinion that the discretion of the Indian Dominion Parliament when established should not be fettered by 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 non-Indians in India should be permitted to become Indian citizens under the Parliament according to the conditions laid down in that behalf....."

He would, therefore, add the words "and fulfils the qualifications prescribed by Parliament for the exercise of the right of citizenship."

Parsis and the Nehru Report.

Mr. M. V. PATEL, on behalf of the Parsi Association of Bombay known as Mazdayasni Mandal, made a statement in course of which he said: "The Parsi Community appreciate the unquestioned and unquestionable patriotic motives that have inspired Dr. Ansari, Pandit Motilal 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 moment for framing the said constitution. It is as surprising as it is painful to the community to see itself so completely ignored in the report by the distinguished framers of the constitution.

"The Parsi Community desires to know what would be its position when the Government of the country virtually passes from the hands of the British into the hands of the people. The apprehension entertained frequently by a large section of the Parsi Community 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 the interests of the minor races like the Parsis 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, made common cause with the Hindus and the Mahomedans and boycotted the Simon Commission. They have also exhibited sufficient moral courage to give whole-hearted support to the Nehru report inspite of their grievances. They have thrown the weight of their influence 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 courteous attitude towards the constitution 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 when India is free.

"In conclusion I would request you to have this statement read before the Convention and placed on the records of the proceedings".

Mr. SIDWAI then came forward and stated that the Mondal was a religious body. The body that counted in the Bombay Presidency was the Parsi Panchayet and they had repudiated the idea of co-operating with the Commission inspite of interested move in certain section. On this question he further informed the House that the five Parsi members in the Bombay Council had totally boycotted the Commission. The Parsis did not want any safeguards. They had played their part industrially, politically and socially



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and they would stand on their own merits. Even he might say that 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 Panchayet in Bombay who had boycotted the Simon Commission and adopted the Nehru report.

### Position of Jamiat-ul-Ulema Hind.

The following letter from the Secretary, Jamiat-ul-ulema of Hind, Delhi, to the Secretary, All-Parties Convention, was then read before the Convention which stated that the invitation received from the Convention was put before the Working Committee of the Jamiat-ul-ulema Hind at the meeting held at Moradabad on December 23rd. The Committee adopted the following resolution :—

"In view of the fact that the Nehru Report Committee was irregularly constituted and has no adequate representation of Moslems in 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 Mahomed Ali to deliver the report of the Jamiat-ul-ulema to the President or Secretary of the Convention with the message that the Jamiat-ul-ulema 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".

### An Amendment to Fundamental Rights.

Mr. Mohammad Masud AHMED (Bazm Sufia) then moved an amendment to article 4, sub-clauses 4 and 5 of the Supplementary Report, deleting the words "for purposes not opposed to public order or morality" and adding "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 do anything because of the religious tenets of any creed or community."

Mr. J. R. BANERJEE (Bengal) in opposing the amendment said that he wanted to oppose the amendment on 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 anybody 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 (Guzranwalla), 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. 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 of morality?

The amendment was then put to vote and lost.

### Another Amendment Negated.

An attempt was made by Mr. Mohammad Masud AHMAD to add a new clause in the declaration of fundamental rights to the effect that "Musalmans shall be subject only to their own personal law in all matters relating to religious or semi-religious observance, Azans, laws of inheritance, guardianship, gifts, wills, legitimacy, marriage, dower, divorce, Waqf, 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".

There was a brief discussion over it after which it was negated by an overwhelming majority.

### Participation of Muslim League.

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 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, pro-



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posed that a Sub-Committee of the House be formed to meet these delegates with a view to arriving at certain resolution on the communal questions, or if they could not, they would put forward the various organisations' view-points at the next sitting of the Convention. If they put forward anything without previous knowledge on the subject, there would be difficulty. It would be a mistake to put anything at the beginning and it would be a mistake for the House either to accept or reject that on the spur of the moment. He, therefore, moved that a Sub-Committee of the Convention consisting of 35 members be appointed to meet the delegates from the Khilafat Committee and the Moslem League.

## Members of the Sub-Committee.

Following were the members of the Sub-Committee:—Mahatma Gandhi, Sir Tej Bahadur, Pt. M. M. Malaviya, Dr. Ansari, Maulana Azad, Pandit Motilal, Dr. Moonje, Mr. Jayakar, Mr. Jayramdas Daulatram, Sardar Sardul Singh, Dr. Satyapal, Mr. Aney, Mr. Dunichand of Lahore, Master Tarun Singh, Babu Rajendra Prasad, Mr. Chintamani, Kumar Ganganand, Mr. J. L. Banerji, Mr. J. M. Sen-Gupta, Mr. H. N. Dutt, Mr. Padamraj Jain, Mr. J. R. Banerji, Mr. Srinivasa Iyengar, Mr. Vijayaraghavachariar, Sir Ali Inam, Mrs. Besant, Dewan Bahadur Ramchandra Rao and others.

The following were the representatives of the Moslem League: Dr. Kitchlew, Malik Barkat Ali, Dr. Alam, Mr. Zaffar Ali, Hissamuddin and Gazi A. Rahaman (Punjab); Maulvi Mujibar Rahaman, Maulvi Akram Khan, Mr. Azzizul Haq, Mr. A. Karim of Bengal; Maharaja of Muhammadabad, Messrs. Sherwani and Khaliquozumman, Yakub Ali Khan of U. P.; Mr. Jinnah, Mr. Chagla and Mr. Brelvi of Bombay; Hon. Shah Md. Zubair and Dr. Mahammad of Behar; Mr. Yakub Hossain and Mr. A. Halim of Madras; Mr. Nur Ali of Assam and a representative from the North Western Frontier Provinces.

The president then announced that these two committees would meet at the room of Pandit Motilal within half an hour and the committee of the Convention was to report to the open House next day on its work, if possible. The House was then adjourned to give facility to these bodies to discuss the questions affecting the communities.

## FIFTH DAY—28TH DECEMBER 1928.

Dr. Ansari took the chair at 4-30 and requested the various movers of the amendments to assist him to get the 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 a Parliamentary draftsman to arrange. He fixed five minutes for the seconder of amendments, reserving discretion to allot more time in the case of important amendments.

Dr. Ansari next read a communication from Pandit Motilal, which enclosed a copy of the resolution passed by the A.I.C.C. in the afternoon on the constitution recommended by the All-Parties' Committee report and requesting that that opinion be recorded subject to any changes that the Congress might make.

Dr. Ansari next read out the text of the resolution for the information of non-Congressmen.

## Statement by Khilafatists.

Dr. Ansari then said that he had received two statements, one from those members of the Khilafat Committee who claim to form the majority and who have elected their delegates to join in the Convention and another, a counter-statement by the other members of the Khilafat Committee, appointed by them under his chairmanship regarding the communal question. It was not signed by him as the Chairman of the Committee. It ran:—

"The modifications to the Nehru Report moved by Mr. Jinnah on behalf of the Muslim League and Mr. T. A. K. Sherwani on behalf of the Central Khilafat Committee,

"I. That one-third of the elected representatives of both the Houses of the Central Legislature should be Mussalmans. The Committee could not arrive at any agreement on this point.



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"2. That in the Punjab and Bengal, in the event of adult suffrage not being established, there should be reservation of seats for Mussalmans on the population basis for ten years, subject to re-examination after that period, but they shall have no right to contest additional seats. The Committee did not contemplate any such contingency.

"3. That (a) the residuary powers should be left to the provinces and should not vest in the Central Legislature, (b) that Clause 13-A embodied in the supplementary report should be deleted, (c) that the division of subjects in 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 Schedule 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 Houses of Parliament separately by a majority of four-fifths of those present and then by both the House sitting together by a majority of four-fifths. The Committee approved of the suggestion unanimously.

"5. It was moved that in article IV, about communal representation, delete the words "simultaneously with the establishment of a Government under this constitution." The Committee regrets that it cannot accept it as this resolution records an agreement arrived at by parties who signed it at Lucknow.

"6. Embody the pact regarding communal representation in the Punjab arrived at in Lucknow in the Nehru Report. The Committee had no objection to it if the Sikh members dissented.

So far about the Muslim League and Khilafat Committee members.

### THE SIKHS' DEMAND.

"The members of the Central Sikh League moved that 30 per cent of the 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 the seats with a right to additional seats to Sikhs was also not acceptable even to the Sikhs themselves."

A member asked: Who suggested it?

Dr. Ansari: Mahatma Gandhi suggested it, but it was not acceptable either to the Sikhs or the Muslims or Hindus of the Punjab. Finally, the members of the Hindu Sabha, Bengal moved that seats for Hindus in Bengal be reserved on a population basis, namely, 48 per cent. The Committee did not assent to it.

Mr. Jitendralal Banerjee asked whether it would not be more correct to say that the question was not considered.

Dr. Ansari: I put it mildly. It was really laughed out.

### Rival Khilafat Factions.

After Dr. Alam had read out the two statements, one of his section on the Central Khilafat Committee and the other signed by Moulana Shaukat Ali as Secretary, Central Khilafat Committee, the former claiming the proper 'locus standi' for the fifty delegates who were attending the Convention on the Central Khilafat Committee's behalf, the latter denying all such claims. Dr. Ansari said: "I think if we take up the communal question first and get it out of our way we shall have done a great part of our work. Therefore I will ask Mr. Jinnah to place the resolutions or amendments on behalf of the All-India Muslim League."

### Mr. Jinnah's Statement.

Mr. M. A. Jinnah then said: "The All-India Muslim League passed a resolution appointing 23 delegates and in accordance with that resolution we attended this Convention yesterday. You were pleased to appoint a committee with a view to consider what we have to place before this Convention eventually. The resolution of the League is important and I will read it to you. (For text see proceedings of Muslim League in Vol. II.) The Committee, which you appointed, met yesterday and we sat up last night, I believe, till half past one or two and I am told some remained even later,



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The result, I am sorry to say, is not very fruitful, and therefore I would like to draw your special attention to the points which were discussed and which I am going to place before you. The points are given in the report of the Committee.

Mr. Jinnah explained the reasons which he had given for the support of the points put forward on behalf of the League. He said he could not get back home last night till 3, but he was sorry the discussions were not very fruitful. He first referred to their demand about one-third elected seats being reserved for Muslim representatives in the Central Legislature. He said: "The Nehru Report has stated that according to the scheme which they propose the Muslims are likely to get one-third in the Central Legislature and perhaps more, and it is argued that the Punjab and Bengal will get much more than their population proportion. What we feel is this. If one-third is going to be obtained by Muslims then the method which you have adopted is not quite fair to the provinces where the Muslims are in a minority because the Punjab and Bengal will obtain more than their population basis in the Central Legislature. You are going to give to the rich more and keeping the poor according to the population. It may be sound reasoning but it is not wisdom. I tell you why. I know we are living in an age where we are talking of democracy and where we count heads, but besides heads there may be other considerations. I am taking, for instance, a province like Madras, which has got six per cent of the muslim population and in a total number of 500 representatives Madras will not get in the Parliament more than 2 or 3 seats. Now it is very desirable that such adjustment should be made that you give something more to the provinces like Madras, because it is not merely a question of vote, but you have to get representatives who, coming from different parts of the provinces, will be able to know the conditions in those parts. We know, in a legislature it is of great importance that a man must be able to put his facts and his arguments to persuade it if his case is fair and just.

Therefore, if the Muslims are, as the Nehru Report suggests, to get one-third, or more, they cannot give the Punjab or Bengal more, but let six or seven extra seats be distributed among provinces which are already in a very small minority, such as, Madras and Bombay, because, remember, if Sind is separated the Bombay Presidency will be reduced to something like 7 or 8 per cent. There are other provinces where we have small minorities. This is the reason why we say fix one third and let it be distributed amongst Muslims according to our own adjustment, and that is why we say that.

Mr. Jinnah next referred to their second demand that, in the event of adult suffrage not being granted, the Punjab and Bengal should have seats reserved on a population basis and no more, subject to re-examination at the end of ten years. He said, "You remember that originally proposals emanated from certain Muslim leaders in March 1927 known as the 'Delhi Proposals.' They were dealt with by the A.I.C.C. in Bombay and at the Madras Congress and the Muslim League in Calcutta last December substantially endorsed at least this part of the proposal. I am not going into the detailed arguments. It really reduces itself into one proposition, that the voting strength of Mahomedans in the Punjab and Bengal, although they are in a majority, is not in proportion to their population. That was one of the reasons. The Nehru Report has now found a substitute and



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they say that if adult franchise is established then there is no need for reservation but in the event of its not being established we want to leave no doubt that in that case there should be reservation for Muslims in the Punjab and Bengal, according to their population, but they shall not be entitled to additional seats. (There were some interruptions to which Mr. Jinnah replied: "Please do not interrupt me. I cannot argue with you all individually.")

Mr. Jinnah next dealt with the League's objection to Clause 13 empowering the Central Government to suspend the provincial constitution, with the question of residuary powers which they should grant to provincial Governments, and the revision of schedules laying down the Central and Provincial subjects.

A member asked why Mr. Jinnah was being given so much time.

Dr. Ansari: It is a very material issue and I will give Mr. Jinnah the fullest latitude to express his views (cheers).

Mr. Jinnah, resuming, said, "Gentlemen, this is purely a constitutional question and has nothing to do with the communal aspect. We strongly hold—I know Hindus will say Muslims are carried away by communal consideration and Muslims will say Hindus are carried away by communal consideration—we strongly hold the view that, if you examine this question carefully, we submit that the residuary powers should rest with the provinces. I do not say it is not possible to mind to it and we favour a system which will give the residuary power to the Provinces and not to the Central Legislature".

### Separation of Sind.

Mr. Jinnah next announced that there was unanimity that no change be made in the constitution without a four-fifths majority of either House separately and again a four-fifths majority of the two Houses. They had moved the deletion of words which stated that Sind be constituted into a separate province only on the establishment of the system of Government outlined in the report. Mr. Jinnah commented: "We feel this difficulty. We do not know when this will fructify and I think this House will agree that we shall have to go through a struggle before we see the realisation of that vision and if you want me to be a party to this agreement then I want you to understand me.

"Supposing the Government choose, within the next six months, or a year, or two years, to separate Sind before the establishment of a Government under this constitution. Are the Mahomedans to say, 'we do not want it.' If that is your intention, I agree that so long as this clause stands its meaning is that Mahomedans should oppose its separation until simultaneously a Government is established under this constitution. We say delete these words and I am supporting my argument by the fact that you do not make such a remark about the N. W. F. Province. Supposing the Government introduces reforms in the N. W. F. Province, are you to say, am I to say, no that province is to remain on the same footing as other provinces? The Committee says it cannot accept it as the resolution records an agreement arrived at by parties who signed it at Lucknow. With the utmost deference to the members of that Committee I venture to say that that is not valid ground. There may have been certain persons at Lucknow, who were present at that Conference and may have signed it, either in a personal or a representative capacity. The Muslim League was not represented. Various other organi-



sations present here to-day were not represented. Are we bound, in this Convention, bound because a particular resolution was passed by an agreement between certain persons? I venture to say that this Convention is not so bound. Are you entitled to say because A. B. C. D. came to this agreement therefore I am out of court here, which I consider the supreme court? As far as this Convention is concerned I therefore say that this is not valid reason and it is within your jurisdiction to make any modifications you think proper." Finally, Mr. Jinnah referred to what he thought was a slip, the proviso in the Punjab Hindu-Muslim agreement being omitted from the supplementary report stating that the settlement was acceptable on the basis of a scheme of adult franchise only.

Dr. Alam supporting Mr. Jinnah in a sentence, appealed to the good sense of the House.

### Dr. Sapru's Reply to the Criticisms.

Sir Tej Bahadur Sapru said he was leaving that night for Allahabad and would express his views 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, 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 the 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 other political parties to join in producing a 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, Independence man, 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





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Mahomedan community should get representation in the Central Legislature in proportion to its numerical strength in the whole of India. That was 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 unreasonable, to agree to this proposition, which I consider is not inconsistent with the Nehru Report (voices "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 Tej Bahadur said he would not put forward an alternative but if a better alternative could be suggested he was open to adopt it. He hoped that Mr. Jinnah would reconsider his position on the point.

As regards the residuary powers many eminent Mahomedans had suggested that those should be left with the provinces. Dr. Sapru 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 Sapru agreed with Mr. Jinnah that Clause 13-A regarding the suspension of a 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 at Lucknow, if it so wished.





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Sin 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 President said that there were five points which Mr. Jinnah had placed before them and he proposed to deal with these five points first.

## Mr. Chintamani Explains Liberals' Attitude.

Mr. 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 the residuary powers resting with the Central Government or Provincial Governments every member of the Federation attending this Convention should vote for the residuary powers residing in the Central Government and not in the Provincial Governments. On the 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 the accusation of disloyalty, but the Liberal Party had advised the members attending the Convention to act with a feeling of national well-being and bring 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.

## Indian Christians' Views.

Mr. Rallia Ram, representing the All-India Indian Christians' 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 minority communities, like the Sikhs, the depressed classes, and his own community, would claim separate representation. One method having failed let them try another experiment. If it did not succeed it was open to them to revise it after a fair trial. He failed to see how religion and politics could be mixed together, when in their private life and every-day dealings they never paused to think whether they were dealing with Mahomedan, Hindu or Christian businessmen but got their goods from the cheapest source without consideration of caste or creed.

Rev. J. R. Banerjee spoke in the same strain. He said, to their bitter experience, communalism had been responsible for untold evils. He failed to see how the giving of one-third of the seats in the Central Legislature would help in the building up of national life. He, therefore, appealed to the House to resist that policy which was "eating into the vitals of our national life."



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### Sardar Mahtab Singh's Warning.

Sardar Mahtab Singh, in opposing the demand for the reservation of seats, said there could be no doubt that communalism was an evil. No sane man in India believed in communalism.

Mr. Jinnah : Thank you, very much.

Sardar Mahtab continued that they had been asked to vote for expediency rather than for principle, but the speaker held that when it came to a conflict between principle and expediency it was the latter that ought to be given the go by and not the former. The Muslims wanted representation on a population basis in the provinces in which they were in a majority and in excess of their share in the Central Legislature in accordance with this principle. He could not reconcile these two. Why should one principle be applied in one place and a different one in another? If the Muslim being the younger brother, wanted generous treatment at the hands of the elder brother namely the Hindu, why should not the Sikhs, being the youngest brother, be treated still more generously? On the basis of sacrifices in the cause of freedom of the country the Sikhs were entitled to better treatment. Sir Tej Bahadur Sapru had absolutely ignored the Sikh question because he knew that his position was untenable. Even Pandit Malaviya at Gujranwala said that the objections of the Sikhs were unanswerable. (Pandit Malaviya : "And I repeat it to-day".)

The speaker continued that the Sikhs were willing to forgo their rights for the sake of doing away with this pernicious system although they were entitled to better treatment than had been accorded to them in the Nehru Report. The speaker concluded : "We are the gate-keepers of India, sitting in the Punjab and are always ready to serve you, but you should not insult us. You are kicking us out of the Congress and if you are going to divide India into a Hindu India and a Muslim India there ought to be some patch given to Sikhs also."

### Mr. Jayakar's Appeal.

Mr. JAYAKAR then made an impressive speech which was said on all hands to have had a great bearing on the voting on the amendment of Mr. Jinnah in regard to the reservation of seats for Muslims in the Central Legislature. He said he was sure that in venturing to speak on this subject, he would add to his evil reputation as a communalist. The word "communalism" had acquired a most extraordinary significance in these days. "If I venture to speak of the rights of Hindus I am a communalist, but if a Mussalman, with nationalistic tendencies, fights for the rights of Muslims he still remains a nationalist." He had listened with great attention to Mr. Jinnah and congratulated him on the lucidity and grit with which he had put the Muslim demands. Sir Tej Bahadur, the speaker believed, was not serious when he described Mr. Jinnah as a spoilt child. He had known Mr. Jinnah for over fifteen years as a colleague and his mentality was not such that if the demands of that "naughty boy" were not acceded to he would break away or run away from them. He had put forth the demands of the Muslim League and he had every right to be heard.

The question they had to consider was how far legitimately the interests of Musalmans were to be safeguarded, how far they had been safeguarded in the Nehru Constitution and how much more they required to be safeguarded. "Let me sound another warning. I am not here as a representative of the Hindu Mahasabha but as one of the signatories of the Nehru Report."



MR. JINNAH ON MUSLIM REPRESENTATION

When Pandit Motilal first invited him to join the Nehru Committee he had humbly pointed out to him that the time was not ripe for any attempt at constitution-mongering, because the right mentality in which the Hindus and Muslims could sit together had not yet come.

While on this topic he referred to a talk he 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 very nice. The principle of it is wrong".

Mr. Jayakar: "I am not disclosing any private conversations".

Mr. Jayakar continued that they had rushed into a communal settlement at Lucknow. The Muslim League, somehow or other, for some reason or other, kept out of it. There was a lot in the Nehru Report with which the speaker and many of his friends did not agree but they had decided to stand by it, because, as Sir Tej Bahadur said, behind it lay the greatest common measure of agreement in the country. The four main principles on which that communal compromise was based were, first, that no other community except Mussalmans was going to have representation by reservation of seats, second, that this representation was on the basis of adult suffrage and third that no majorities were to have reservation of seats and fourth, minorities were to be recognised only in the provinces of N. W. F. and Sind. When it was remembered that everywhere else minorities were to have no reservation of seats at all, it was not a question of logicity but they must recognise that these were the four pillars on which the evidence of the report stood. If they took away one brick the whole structure would collapse. Then again the parties to the communal pact had accepted it as a whole and if any alteration were made they were liable to back out of it. He did not object to the Muslims getting a few more seats, but he warned the House that already it was with difficulty that the speaker was keeping back the disturbers in his camp, who might break away if any violent departure from the pact was attempted.

The speaker had known Mr. Jinnah as a patriotic man and he had no doubt that even if the demand of his community were not accepted he would not break away from them but bring the Muslim League with him.

Mr. Jinnah intervened: But will the League come with me?

Mr. Jayakar: You will do your best for it.

Mr. Jayakar proceeded that there was no use in hiding the fact that all amendments put forward by Mr. Jinnah had their origin in a communal spirit. They were based on the suspicion with which the whole atmosphere was surcharged. If they wanted to go about their task they must do so in an atmosphere of mutual trust and must be prepared to take certain amount of risks.

Mr. Jayakar concluded amidst loud applause that the occasion when the Liberal Federation was joining hands with them had come after 50 years and therefore he appealed to the House not to wreck the noble edifice in the erection of which that body had joined them.

Mr. Jinnah's Reply to the Debate.

Mr. JINNAH, replying, said the reason why no other delegate from Muslim League was going to take part in this debate was that they had not come to the Convention for the purpose of arguing or debating or for giving reasons why they had come to their conclusions. It would raise a controversy.



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It would create bad blood. Some people would not like it. The point to consider was this—that communalism existed in the country, not the point who was to blame for it. They had to very carefully consider it. Nasty remarks served no purpose. Mr. Jayakar had said that if the arrogant demands of the Muslims (Mr. Jayakar: "I never said that. I referred to the arrogant section behind all parties").

Mr. Jinnah: "I am very sorry. I misunderstood you."

Mr. Jinnah continued that the remarks about his being a spoilt child made by Dr. Sapru had been misinterpreted by others. He understood Sir Tej Bahadur and therefore did not mind those remarks. It was a question whether this party or that party would run away. "I have put the proposals before you. I hope Mr. Jayakar and others will agree with me that when a nation is struggling for freedom, when people are under a foreign rule and they are struggling for freedom, you have to face the problem of minorities and any constitution you will frame will not receive the support of minorities unless they can feel that they are secure. The security of the minority was the test". Reverting to the question of the Muslim League not taking part earlier in the All Parties Conference he said: "it was not correct. The Council of the League had appointed a Committee in February last and it attended the All-Parties Conference till the 17th March."

Mr. Jinnah continued: "I am not here to-day to express my opinion as to whether the Constitution ought to have been framed or not, but we have obtained the greatest common measure of agreement and I want to ask Mr. Jayakar to consider whether he wants to make it greater or not. We are engaged to-day in a very serious and solemn transaction. It is not merely for any organisation to come and say, 'Yes, we agree to it.' We are here for the purpose of entering into a solemn contract and all parties who enter it will have to work for it and fight for it. Therefore it is essential that you must get not only the Muslim League but the Muslims of India, and here I am not speaking on this question as a Mussalman, but as an Indian, and it is my desire to see that I get the seven crores of Mussalmans to march along with me in this struggle. Would you be content with a few? Would you be content if Jinnah would say, 'I am with you?' Do you want Jinnah or do you want the Muslim community? You must remember that the two major communities in India (I say this without the slightest disrespect for other communities like the Sikhs) are Hindus and Mussalmans and naturally, therefore, these two communities have got to be reconciled, united and made to feel that their interests are common and they are marching along together. I want you, therefore, to have that statesman-ship which Sir Tej Bahadur Sapru described. He says you must not allow this to be broken up for small differences. Not that *You* are asking *Me* to give something. It is I who am asking *You* to give *Me* something. I am not asking this because I am a "naughty child". I give you an historical instance".

Mr. Jinnah then proceeded to show from the constitutional history of Canada and Egypt that the minorities were always afraid of majorities and that in those countries the majorities had been given representation in excess of their population strengths.

Mr. Jinnah proceeded: "I do ask you once more to consider this question of the security of the minority before you can expect to carry it with you. Please don't think that I am threatening you, because I am liable to be misunderstood. If we don't settle this question to-day we will settle it



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# THE SIKH LEAGUE'S STATEMENT

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to-morrow. We are sons of this land, we have to live together. We have to work together and whatever our differences may be let us not arouse bad blood. If we cannot agree let us agree to differ, but let us part as friends. Nothing will make me more happy than to see Hindus and Muslims united. I believe there is no progress for India until Muslims and Hindus are united. Let not logic, philosophy and squabbles stand in the way of your bringing that about".

## Amendments Lost.

The Chairman then put all the amendments of Mr. Jinnah to vote. They were all lost by a majority, excepting two—one about the restriction about the alterations of the constitution unless passed by a four-fifths majority in either house and also in both houses sitting jointly and the other with regard to the incorporation in the draft constitution of the proviso in the Punjab Hindu-Muslim agreement of Lucknow. Thus his proposals regarding one-third representation in the Central Legislature, about residuary powers and about an alternative to adult franchise, were rejected.

The President asked any body who wished to record his protest but none responded. The President wished to proceed with the consideration of the Sikh case, but as the house was getting impatient he adjourned the Convention till Sunday the 30th December.

## SIXTH DAY—30TH DECEMBER 1928.

The National Convention reassembled on this day with a poor attendance. Dr. Ansari urged the Convention for a quick disposal of business, lest the attendance should further thin down, making it a farce.

On behalf of the Central Sikh League, Sardar Mehtab Singh moved an amendment to the communal portion of the Nehru Report to the effect that communalism should not be made the basis of the future policy of India in any shape or form, direct or indirect, and that the Nehru Committee Report should be amended accordingly.

Dr. Ansari, after consulting Mr. Vijayaraghavachariar, ruled this out of order.

Sardar Harnam Singh then, on behalf of the Central Sikh League, read out a long statement, announcing the League's withholding of its support from the Nehru Report and not to take any more part in the proceedings of the Convention as the League did not want to waste the time of the Convention by pressing amendments to the Nehru constitution. The statement said :—

## Sikh League's Statement.

"There are three amendments standing in my (Sardar Harnam Singh's) name. As you will find, 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 the strange coincidence of circumstances and the obduracy of certain interested parties, find themselves helpless at the present moment.



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"Mr. M. A. Jinnah rightly observed the other day that the test of a good constitution is the security of minorities that it affords. But the trouble is that this wise counsel is not adhered to in the case of Sikhs.

"Permit me, Sir, if I say that all this is being done advisedly and of purpose. Be that as it may, 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 utmost to break the shackles and trammels of the foreign yoke. My amendments in substance read as under :—'In the Punjab there shall be 30 per cent reservation of seats for the Sikh minority and the Sikh representation from the N. W. F. Province and Baluchistan shall be adequate and effective'. 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.

"Historically the Sikhs were rulers of the Punjab, the Frontier Province and Kashmir before the advent of the British. In the Punjab, they pay 40 per cent of land revenue and canal charges, which is the chief source of the provincial exchequer. They have always supplied one-third manpower in the Punjab and one-fifth throughout India to the Indian Army. Besides, Sikhism had its birth in the land of 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 per cent 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 are still on the anvil. Under the existing system, they have their separate electorate and are given 19 per cent of seats in the provincial Council, although their voting strength is 25 per cent. Their representation in the Central Legislature is 25 per cent 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 substance and spirit a perfectly just and fair demand. Some time ago 25 per cent reservation of seats in the Punjab Legislature was proposed for them by some Congress leaders, but this they would not accept. It is needless to add also that throughout the communal controversies that have raged around the question of representation in the legislatures during the recent years, they have always relied upon due recognition and just appreciation of the question of Sikh representation by their Hindu and Muslim brethren and have even stood by the national movement, doing their utmost 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 the recent years are much more than 20 times their proportional share according to the population figures.



"When 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 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. 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 Indian policy. 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 have the way for another communal war. How the Congress-League Lucknow compact of 1916 ruthlessly trampled upon the right of Sikhs is a matter of history. The Sikhs have again received the rude shock of having had to realise that those alone who talk the loudest and manœuvre agitation most are listened to, however inequitable their demand may be. That the Report tends to keep alive communalism in various shapes and forms in the country resulting in 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 a Hindu India and a Muslim India (vide page 31 of the Nehru Report).

"(2) Adumbration of the principle of adult suffrage with a view to ensure that the numbers of electors of various communities may bear the same ratio to each other as the population figures of those communities and making it a part of the communal recommendations quite inseparable from them. That the recommendation of adult suffrage is based on communal considerations the following excerpt from the Nehru Report page 92 will conclusively prove:—'At present the voting ratio between the 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 voters 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) Extension of the same form of Government to the N.-W. F. Province and Baluchistan, as in the other provinces in India on grounds purely communal in a spirit of bargaining to pay the price of Muslim acceptance of joint electorates.

"(4) To crown all, the questions of amendment of the constitution and form of Governments, whether unitary or federal, have also acquired a communal aspect and they are being approached from that point of view.

"Under the circumstances, the Sikhs in view of the prevalent communal mentality find their interests seriously jeopardised 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 reservation of at least 30 per cent. seats in the Punjab Council and



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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 the others.

"On this question of Sikh representation 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 the 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, 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."

A dozen members of the Sikh League led by Sardar Mehtab Singh walked out after the statement was read.

### Namdhari Sikh's Statement.

Sardar Gurdial Singh on behalf of the Namdhari Sikh community, supporting the communal solution embodied in the Nehru Report, said: "We 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 the minority interests can not be protected by this system, as it has already done more harm than good in this matter. 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 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 with our brethren in their demand for a 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 that under the present conditions there could be no better settlement among the various parties in the country".

### Discussion of Amendments.

After the Sikhs had walked out and Sardar Gurdial Singh, on behalf of the Namdharis, had accepted the communal solution of the Nehru Report, Mr. K. L. Raliaram (Indian Christian community, Punjab) moved that the Sikhs should be given the same privileges in the matter of representation to provincial and central Councils as the Muslims and other minorities in the Punjab, the North-West Frontier and Baluchistan. He said if they gave separate representation to one community they should do the same for others. The Sikhs in the Punjab were perfectly justified in asking for a separate representation, if it was given to other communities, especially as they contributed largely to the man-power of the Indian Army.

Mr. Satyanti seconded the amendment.

An interesting discussion followed, in which divergence of opinion was expressed. Mr. Biswas in moving an amendment said that all the minority communities should be treated alike.



Pandit Gaurishanker Misra thought that reservation of seats for the minorities had been disposed of generally when Dr. Ansari had ruled three days ago that only the Sikh question would be considered after Mr. Jinnah's amendment had been disposed of.

Mr. Nariman (Bombay) speaking on behalf of the baby community of India (the Parsis), urged against separate reserved electorates. He quoted the example of his own election to the Bombay Council with the support of other communities and exhorted: 'Trust begets trust'. The Nehru Committee had made a great blunder in agreeing to reservation of seats and there should be no additional blunders to it.

Dr. Alam said that the position of the Sikhs could only be defined by a compromise between the different communities in the Punjab just in the same manner as the Mahomedans generally came to a pact with the Hindus at Lucknow. As long as the Nehru constitution stood the Sikhs had no alternative but to ask for a modification after an agreement amongst the communities in the Punjab.

Mr. Dharambir Singh, supporting Mr. Raliaram's amendment, asked the Convention not to punish the Sikhs simply because they did not make so much noise as the Mahomedans.

Pandit Malaviya generally agreed with Dr. Alam. As one who had attended the Gujranwala Conference of the Sikhs, he pointed out that the Sikh demand was a just one and it would be better if, as Dr. Alam had suggested, the demand was settled firstly in a Conference between the Hindus and Mussalmans 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 that the Hindus of the Punjab were willing not to raise the question of reservation of seats for themselves.

Mr. N. C. Sen-Gupta said that the suggestion that the economic basis should not ever be allowed to come to the front and that they should go on fighting on the basis of communal interests was futile.

Maulana Zafar Ali Khan made a sentimental appeal to the Sikhs not to demand reservation of seats.

#### Pt. Nehru's Appeal.

Before the amendments of Mr. Biswas and Mr. Rallia Ram were put to the vote, Pandit Motilal addressed the House. He said :—' You have had the reasons for which we have not included the Sikhs in the communal problem in the report itself. You will no doubt recognise that the Punjab presents very peculiar features, which are not present in the other provinces. The Punjab has defied solution because there were three communities. The device of reservation was a wholly impracticable problem in the Punjab. The Sikhs had every right to ask them why should they depart from the accepted principle in this case. The Sikhs were no party to the Punjab pact between the Hindus and Mussalmans at Lucknow. Although two nationalist Sikhs had signed the pact, the Sikh League, as a body, had not associated itself with that pact. They had obtained the highest consensus of opinion in favour of the communal settlement, as it stood, and therefore asked the House not to disturb that arrangement. He had been told that the Sikhs were not present and therefore, the acceptance or rejection of the amendments would not matter. They were not there to sit as judges but to obtain the highest consensus of all parties and, even if they passed amendments, would the Sikhs



be prepared to accept it? He, therefore, appealed to them to think twice before disturbing the pact on which the whole scheme rested.

The amendments being put to vote were lost by a majority. The Convention was postponed till the next day.

SEVENTH DAY—31ST DECEMBER 1928.

THE BENGAL HINDUS' DEMAND.

On this day the National Convention resumed discussion on the communal part of the Nehru Committee's Report. The attendance was very thin, there being only about 200 members.

The special committee appointed a few days ago to discuss the question did not assent to the Bengal Hindus' demand for reservation of seats in the Legislatures. Mr. Jitendralal BANERJEE, however, moved that seats for the Hindus in Bengal should be reserved on the population basis.

He held that, according to the Nehru Committee's recommendations, in the Bengal Council the Muslims would be able to obtain 255 seats and the Hindus would be able to send 210. But as the character of the population of the districts varied, unless seats were reserved for the Hindus, they would not be able to send in more than 150. Thus, the Mahomedans would get 60 more than their due share and the Hindus 60 less, which meant 120 seats more in favour of Mahomedans. The Hindus of Bengal would not have cared for having seats reserved for themselves if communal representation was completely abolished and if the Mahomedans had given up asking for reservation of seats in certain provinces. But the Nehru Report acknowledged the principle of communal representation and kept alive the feeling of bitterness and suspicion. If the Nehru Report recommended the reserving of seats for the minorities in certain provinces more than their share, then indeed the case of Bengal Hindus for reservation became overwhelming, because the Hindus were in a minority 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.

Mr. N. Sen-Gupta, who comes from Mymensingh, opposed the amendment. He agreed that the feeling among the Hindus there was strong in view of the fact that they had been swept away by the Mussalmans in the elections to district boards. But it must not be forgotten that in some districts the Hindus had swept the boards. That being so, it should not be regarded as a calamity that because the Mahomedans at the last elections had come in very huge numbers, therefore they should seek reservation of seats in the Legislatures—a principle which ran counter to the progress of nationalism.

The President (Dr. Ansari) put Mr. Jitendralal Banerjee's amendment to the vote and found that the majority was in favour of it. Before declaring the result, Dr. Ansari appealed to the House to realise the serious consequences of carrying motions destroying the Convention itself. By passing this amendment they would be declaring to the world that it was only people holding one set of views that 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 again.



## DEFINITION OF CITIZENSHIP

Mr. Jitendralal Banerjee appreciated the remarks of the President and said that he fully realised the consequences, but he had brought the motion as a protest against a certain gentleman posing to speak at the Lucknow Conference in the name of Bengal Hindus. He, therefore, suggested that the matter be left over and no votes be taken at this stage.

Dr. Ansari ordered the amendment to stand over.

### Definition of Citizenship.

The President then announced that the committee which had been appointed by the Convention to go into the question of the definition of citizenship had made its report recommending that clauses (a), (d) and (b) should remain as they were in the Supplementary Report and that the following words be added to clause (c) at the end: 'or who fulfils the conditions of citizenship provided in this constitution.'

Mr. Haji did not agree with this recommendation, and in a note of dissent suggested the addition of the following words to clause (c): "and fulfils the conditions prescribed by Parliament for the exercise of the rights of citizenship".

Mr. Haji 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 that 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 is made against Indians, as in South Africa. If these rights were given to foreigners, they would dominate over Indians economically and still dictate the policy of India.

Mr. Vijayaraghavachariar was in entire sympathy with the amendment moved by Mr. Haji and commended its acceptance to the House.

The amendment of Mr. Haji was carried and the majority recommendation was lost.

### Language of the Commonwealth.

Mr. Lalchand Jagatiani moved an amendment to sec. 4, clause (a), to provide that the script for India should be in Roman characters because he thought that this device of having Hindi and Urdu as languages and the Roman characters as the script would mitigate the communal tension and bring about harmony.

The amendment was, however, not accepted by the House. There were a number of amendments tabled to the same clause by about half a dozen delegates, but as they were not present the amendments lapsed.

### Nagari vs. Persian Characters.

Dr. Kitchlew was defeated in his attempt to lay down that both Nagari and Urdu should be the characters of the Hindustani language for the Commonwealth, where the Nehru Report had mentioned that the language of the Commonwealth may be written either in Nagari or in Urdu.

Dr. Ansari, replying to a delegate, said the Nehru Committee meant that it should be both and not either.

### Central Government's Powers.

Mr. C. Vijayaraghavachariar moved an amendment vesting in the Central Government and Parliament power to interfere not only in cases of great



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emergency and in matters of controversies between provinces or between provinces and Indian states but also to give protection to the minorities and special classes.

He emphasised that his object was not to promote communal differences but to give surer effect to what the Nehru Committee itself had stated on page 29 when it said that the object of the communal settlement was not to give dominion to one community over another but to prevent harassment and exploitation of any individual or group by another. He himself was a signatory to the enlarged report, but he could not help pointing out that, while the recommendations suggested in this respect were in one form, the constitution drafted did not quite cover the object.

At Dr. Ansari's suggestion, further discussion was postponed in order to enable other members of the Nehru Committee to participate in it. Pandit Malaviya agreed to this course.

### Separate Electorates.

Regarding the communal solution, Mr. Daulat Ahmed Khan sponsored an amendment, tabled by Mr. Mahomed Siddiq, to the effect that there should be no joint mixed electorates but only separate electorates.

He instanced the case of election of Hindu candidates in joint mixed electorates to the disadvantage of Mahomedans and referred to Mr. Asaf Ali's defeat in Delhi.

Dr. Kitchlew, in an impressive speech 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.

### Reservation of Seats for Muslims.

An amendment tabled by Haji Abdullah Haroon was moved by Mr. Daulat Ahmed in the absence of the former for the reservation of seats in excess of their population for Muslims in provinces wherever they were in a minority.

Mr. S. A. Brelvi, in opposing the amendment, said that past experience had shown that reservation of seats was detrimental to the national cause and did no good to the Muslims either. They must not consider the question from a communal view point, because they were out to establish Swaraj, which was the means to the establishment of a new social order based on justice.

Gazi Abdul Rahman's amendment of a technical nature in regard to the substitution of certain words and the omission of certain others with regard to the Punjab pact was accepted without division.

All other amendments tabled on the communal question, with one exception, were lost after a short discussion and some of them were withdrawn without discussion.

### Reform for Frontier Province.

Mr. Das Ram Bagai (Dera-Gazi-Khan) then moved for the deletion of the words 'the N. W. F. Province, Baluchistan and' from clause 6, page 51 of the Nehru Committee's supplementary report, which gives the same form of Government to the provinces in question as will exist in others.

The mover read a long statement and extracts from official reports with regard to the fanatic nature of the Mahomedans and Pathans of that province and the difficulties of the Hindu minority there;



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## QUALIFICATION OF VOTERS

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It appeared as if he would carry the House with him, but the appeal to the patriotic sense of the audience by Mr. Lal Chand Jagatiani and Dr. Kitchlew and Mr. B. Das served as a cold douche to the heat generated by him. All the three could not reconcile their demand for Swaraj with a denial of the right of self-determination to the people of the Frontier Province.

This appeal had its effect, and the amendment was defeated by a large majority. The President then adjourned the Convention till next day.

### EIGHTH DAY—1ST JANUARY 1929.

#### Qualification of Voters.

On this day also, the last day of the session, the Convention reassembled with a very thin attendance. Babu Bhagavan Das moved the following amendment regarding the qualifications of voters :—

‘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 :—  
 (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 of the legislature and preferably, but not necessarily, have retired from active bread-winning or money-making business.

‘Canvassing, directly or indirectly, beyond putting forth of a statement of the candidate's qualifications by his nominators shall be regarded as a disqualification.

‘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 public funds.’

Babu Bhagavan Das was glad that after years the country had been able to give a meaning to the word ‘Swaraj’. But the Nehru Committee had left 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.

Dr. Besant said that if the amendment was adopted, it would be unhesitatingly rejected by the British Parliament.

The motion was lost.

#### Question of Indian States.

The question of Indian states was taken up next. Mr. Satyamurti, 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 the Indian States in the scheme of 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 India and the Indian States.

‘(3) This Convention is of opinion that full responsible Government should be established in the 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 India and the States.’

He said that this was a kind of compromise between the untenable position taken up by Sir Leslie Scott, the constitutional lawyer, on behalf of



the Indian Princes and the position of those extremists in India who regarded the Indian States as an anachronism to be wiped out from the map of India. Whatever the nature of the rule in the 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 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 admit autocratic Princes unless they established responsible Government in their own States.

Mr. Sanjiva Rao, of Mysore, seconded the motion.

### Round Table Conference with Princes Suggested.

Mr. Manilal Kothari, by an amendment, suggested a Round Table Conference to discuss the constitutional position and the status of Indian States in the future Commonwealth and the relations that should subsist between Indian States and the Central and Provincial Governments of the Commonwealth.

Mr. Manilal Kothari said the subjects of Indian States should be saved from the clutches of autocratic rulers. King George had lesser powers than the Indian rulers. They enjoyed absolute monarchy. (At this stage Mahatma Gandhi arrived and the attendance swelled.) Referring to the Princes and the Nehru Report, he said there was nothing in it which was against the Princes. What was required was a proper understanding.

Referring to the Maharaja of Patiala's statement against the Nehru Report, he said it was a false and baseless fear that if the Nehru Report were carried, they would be ruled by British India. He was glad that the Princes were now coming to the right path. He suggested that the following persons might attend the Round Table Conference:—Pandit Motilal Nehru, Mr. Jayakar, Dr. Ansari, Pandit Malaviya, Mr. Satyamurti, Dewan Bahadur Ramachandra Rao, Sir Tej Bahadur Sapru, Sir Ali Imam, Sardar Sardul Singh and himself.

*A voice*:—What would you do if the Indian Princes refuse your invitation?

*Mr. Manilal Kothari*:—At least our conscience will be clear.

Mr. S. A. Brelvi, supporting the motion for a Round Table Conference, pointed out that neither the representatives of Indian States' subjects nor their Princes had taken any active part in the framing of the Nehru Report and it was only right that in any scheme of federal constitution, the relations that should subsist between Indian States and British India should be clearly laid down after a full and frank discussion. Moreover, he argued that Indian Princes, at any rate some of them, had shown a willingness to join the Nehru Committee in evolving a solution. It was, therefore, fitting that a suggestion for a Round Table Conference should be adopted by this National Convention.

Mr. Manilal Kothari's amendment was carried by a large majority, Mr. Satyamurti recording his dissent.

### Problem of Burma.

Mr. Tyabji (Burma) moved:—

'That in view of the peculiar political conditions obtaining in Burma and the complexities of her relation to India, it is resolved that the Convention do appoint a committee



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and report after due enquiry as to what, if any, modification of the proposed constitution of the Commonwealth is necessary in respect of Burma.'

The motion was adopted.

## Adjournment Motion.

Mahatma Gandhi then moved a resolution recording the opinion that the resolution already passed on the recommendations of the Nehru Committee Report sufficiently indicated the will of the nation as to the main principles of the constitution acceptable, and that, except on points on which notes of dissent had been recorded at the instance of some parties, there was general agreement on the basis of the solution on the communal question recommended by the committee.

He further moved adjournment of the Convention *sine die* and to authorise the Working Committee to convene it, whenever necessary, for a more detailed examination of the recommendations of the Committee.

They had not been able to solve the Muslim question nor to placate all the parties. Personally, he felt that justice had not been done to the Sikhs. The Utkal question also remained to be solved. Indeed, it was springing before him like King Charles' head. It was a nightmare to him. If the Muslims happened to spring a surprise on them regarding the communal problem, then there would have to be another committee. But the Nehru committee had done its best.

## Dr. Besant's Protest.

Dr. Mrs. Besant proposed the appointment of a committee consisting of about two dozen members to carry on the work of the Convention. She objected to authorising the Congress Working Committee to summon the next Convention. The Congress was only one party to the Convention, as Dr. Ansari himself had pointed out. All parties must be given freedom to carry on the work of the Convention, but the inclusion of the word '*sine die*' was, she thought, a clever device to get rid of them. The committee, she proposed, would communicate with all the organizations belonging to the All-Parties Conference and draw up a common programme. There was fundamental disagreement between the Congress Working Committee, which would be engaged in the task of organizing non-co-operation, and other groups belonging to the Convention. If the Congress Working Committee was authorised to summon the Convention, it might never be summoned at all. It was discourteous to say: 'Go away. Your work is done.' She contended that their work was not being done and they were being treated as untouchables. She would never be a party to allowing one section to rule over others. She could not help remarking that, although the Congress was the potent force, the Liberal party was also an able body and indeed one brain amongst them was greater than those of many who could merely shout. It was not wise to break up an organization that had worked for 11 months and brought out an unanimous report.

Mr. Lalchand Jagatiani asked if it was the intention of Dr. Besant to dissolve the Nehru Committee.

Dr. Besant replied: 'No. My idea is that the committee might unite all parties in order to popularise the Nehru Report.'

Dr. Ansari thought Dr. Besant's amendment was out of order.

Mr. Vijayaraghavachariar held that if Mrs. Besant's amendment was out of order, then Mahatma Gandhi's resolution was also out of order. He





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objected to the words *sine die* and 'when necessary' as dangerous, for under these two expressions the Convention might not be summoned at all. He was of opinion that the Convention should define the date (of its next sitting) and that Dr. Ausari should be authorised to make arrangements therefor.

Mr. Shanmukham Chetty thought that the Nehru Committee itself could do the task of summoning the Convention.

Mr. Vijayaraghavachariar remarked that the Nehru Committee had done its work and consequently had ceased to exist.

After further discussion Mahatma Gandhi's resolution was amended and finally adopted 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 8 of their report, sufficiently indicate the will of the nation as to the nature of the main principles of the constitution acceptable to it and it is further of opinion that except on points on which notes of dissent have been recorded at the instances of some parties present, it is a general agreement on the basis of the solution of communal problems recommended by the said committee. This Convention adjourns "sine die" to meet when necessary for completing its work.

The Convention then adjourned 'sine die'.

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## REPORT OF THE Royal Commission on Agriculture.

The Report of the Royal Commission on Agriculture, presided over by the Marquess of Linlithgow, was published in June 1928. The members of the Commission were: Sir Henry Lawrence, Sir Thomas Middleton, Sir Ganga Ram (since deceased), Sir James Mackenna, Mr. H. Calvert, Raja of Parlakimedi, Mr. N. N. Gangulee, Mr. L. K. Hyder, and Mr. B. S. Kamat.

The Report is a voluminous document of 675 printed pages, with Appendices, Index and Glossary bringing up the volume to 756 pages.

The salient features of the report are summed up in the form of an Abridged Report, covering the first 90 pages. Important among the aspects of Indian agricultural industry dealt with and reported upon by the Commission are: (1) Agricultural Improvement and Fragmentation of Holdings (2) the Finance of Agricultural Research, (3) the Village, (4) Rural Industries and Labour and (5) the Agricultural Services.

### Task for Agricultural Dept.

In an introductory retrospect of Indian agriculture, the Commission observe:

That great progress had been achieved by the agricultural departments cannot be denied, but their influence has, so far, reached a very small fraction of the total area. But, though, throughout our Report we deal at length with the problem of improving the efficiency of these departments and of extending their activities over the whole area of agricultural India, we regard this as merely one aspect of the far wider problem of creating an environment in which the cultivator will be willing to receive and put to the best possible use the advice and help which the agricultural and other departments are in a position to place at his disposal.

### Use of Manure.

Referring to agricultural improvement and sub division and fragmentation of holdings, the report discusses at length the facilities available to the cultivator in the matter of manures, seeds and machinery and suggests a more extensive use of farmyard manure, oilcakes, bones and bonemeal and fish manures.

It may be said that the main success of the agricultural departments has been in the direction of the introduction of improved varieties of crops and in this branch of its work it has been eagerly assisted by the cultivator. It is estimated that nearly nine million acres are now under improved varieties of different crops. It is true that this only represents a small fraction of the total area under these crops, but, even so, it can be claimed that a substantial beginning has been made.

### Seed Distribution.

The crops in which the greatest advance has been made are cotton, wheat, rice groundnut and jute, but there is still very great scope for further work, especially in regard to the millets, pulses and oilseeds. There are three methods of obtaining varieties superior to those ordinarily grown either in respect of yield, quality or suitability to the special conditions of environment. These are selection, hybridisation and acclimatisation.



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Until reliable seed merchants come into the business, the selection and distribution of pure seed should be controlled by the agricultural departments.

The problem of seed distribution is of such importance that, even with all the assistance which the co-operative and other organisations can give, we consider that a separate organisation is necessary within the Agricultural Department, to deal with seed distribution and seed testing.

### Selection of Machinery.

In general, it may be laid down that the aim of the agricultural departments should be the evolution of a small number of types of implements and machinery suitable for a wide range of conditions and suitable also for mass production. In our view, the improvement of existing agricultural implements and machinery offers a more promising field than the introduction of new types.

It is desirable that, when new type have been evolved their manufacture should be taken up by manufacturers in India. In order to overcome the difficulties of transporting such manufactures over the vast distances which one finds in India, we would suggest for the favourable consideration of the railway authorities a re-examination of railway freight rates on agricultural implements and machinery and the grant, wherever possible of concessions. In this connection, it has also been represented to us that, whilst agricultural implements and machinery, with a few exceptions, are admitted into India free of duty the high protective duties levied on imported iron and steel greatly increase the cost to the Indian manufacturer of his raw material, whether imported or produced in India. We consider that this is a matter which might be investigated by the Indian Tariff Board.

### Fragmentation.

Touching fragmentation of holdings, the report says:

A serious obstacle to agricultural improvement is, in some provinces, caused by the sub-division and fragmentation of holdings. Sub-division is chiefly due to the laws of inheritance, customary amongst Hindus and Mahomedans, which enjoins a succession to immovable property amongst all the heirs, usually in equal shares. Fragmentation is, in the main, due not to the laws of inheritance but to the method by which the law as to division of property amongst the heirs is carried into effect. The problem is being attacked by the Co-operative Department in the Punjab, where some striking results have been achieved, and by legislation in the Central Provinces. The latter method is also proposed in Bombay.

### Mortgage of Land.

In regard to the finance of agriculture the Commissioners observe:

Mortgage of agricultural land is the most common method of arranging long term credit and the total sum advanced upon this form of security must now be very large. Mortgage credit is rarely used to finance improvements in agricultural land. It is resorted to when the unsecured debt becomes larger than the lender considers safe and, in times of distress, for ordinary agricultural needs.

Another point in connection with mortgages is the reluctance of the mortgagees to accept redemption.

Various enactments have from time to time been passed by different local governments to deal with transfer by sale or mortgage of agricultural land to non-agriculturists. The best known of these are the Punjab Land



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Alienation Act and the Bundelkhand Land Alienation Act. The Bombay Land Revenue Code lays down rules with a similar object. The desirability of extending the principle of statutory restriction on the alienation of land to districts or provinces other than those in which it is now operative is one which, in our view, can only be measured in the light of local conditions, including the state of mortgage debt amongst cultivators, the extent to which land is actually passing from agricultural to non-agricultural classes, and the feasibility of defining with reasonable precision those agricultural tribes or classes whose interests it is sought to protect.

The business of joint stock banks so far as it relates to the advancing of loans on the security of agricultural land, is usually confined to the larger landholders, the planting community and others who possess tangible marketable security.

### “ Home Farms.”

We would suggest that, where existing systems of tenure or tenancy laws operate in such a way as to deter landlords who are willing to do so from investing capital in the improvement of their land, the subject should receive careful consideration with a view to the enactment of such amendments as may be calculated to remove the difficulties. The establishment of “ home farms ” run on model lines is to be commended and, where tenure difficulties arise, action to permit the establishment of such farms appears especially necessary.

The Land Improvement Loans Act has on the whole worked well, but it is doubtful if its provisions are as widely known as they should be.

When land mortgage banks are firmly established, part of the allotments under this Act might be placed at their disposal, provided that steps are taken to ensure utilisation on objects which fall within the scope of the Act.

### Indebtedness.

Alluding to rural indebtedness the report says :

Knowledge of rural indebtedness and its causes has steadily increased as the subject has again and again come under review. The general expansion of the credit of the landholder, his illiteracy, and the temptation he has to relieve present necessities by mortgaging his future income and even his capital, have, on the one hand, led to increase in indebtedness, while, on the other the position of the moneylender has been strengthened by the rapid development of commerce and trade, the introduction of established law and permanent civil courts, and the enactment of such measures as the Contract Act.

Legislative measures designed to deal with the problem of indebtedness have proved a comparative failure. Evidence was received in one province that the provision of the Civil Procedure Code exempting the cattle, implements and produce of agriculturists from sale may be ignored. The Kamiauti Agreements Act in Bihar and Orissa has been found ineffective. The provisions of the Deccan Agriculturists Relief Act are being evaded and the Usurious Loans Act is practically a dead letter in every province in India. We consider that an enquiry into the causes of the failure to utilise the last named Act should be made in all provinces. If its provisions were fully utilised, this would go far to remove the worst evils of uncontrolled usury. Other Acts worthy of the consideration of local Governments are the Punjab Moneylenders Act and the British Moneylenders Act of 1927, while the case for a simple Rural Insolvency Act should also be examined,



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### Co-operative Movement.

The Commissioners add :—We have no hesitation in recording our belief that the greatest hope for the salvation of the rural masses from their crushing burden of debt rests in the growth and spread of a healthy and well-organised co-operative movement, based upon the careful education and systematic training of the villagers themselves. Apart altogether from the question of debt, co-operative credit provides the only satisfactory means of financing agriculture on sound lines. Thrift must be encouraged by every legitimate means, for the saving resulting from the thrift of the cultivating classes form the best basis of the capital they require. If the rural community is to be contented, happy and prosperous, local Governments must regard the co-operative movement as deserving all encouragement which it lies within their powers to give.

A very interesting and instructive chapter is devoted to Co-operative Movement in India, which the Commission think has made considerable progress.

The progress of the movement, says the report, is indicated by the fact that, in 1926-27, there were in British India some 67,000 agricultural primary societies with over two and a quarter million members and with a total working capital of nearly 25 crores of rupees.

Success in co-operation cannot, however, be gauged by figures and our enquiries have shown that progress has not been uniform in all provinces, and that increase in numbers has not always been accompanied by improvement in quality.

There is evidence that supervision and guidance have been withdrawn too soon. Members of co-operative bodies have not been adequately trained to assume the responsibilities thrown upon them; a natural restiveness under control has found expression in resentment against what has appeared to be undue official interference and transactions have been embarked upon which have led to disaster.

### Honorary Workers.

To the failure to recognise the limitations inherent in the system of utilising honorary workers must be largely attributed the very serious defects in the movement, which have been brought to our notice. We consider that there is full scope for both the honorary workers and the official staff, and the time has not yet come when the official staff can be eliminated or even reduced. We, therefore, strongly recommend that every effort should be made to build up a highly efficient and well-trained official staff in all provinces.

As the official head of the movement, the personality of the Registrar is a matter of the greatest importance. It is most important that a Registrar should always have one or more officers under training to act for him when on leave and ultimately to succeed him. Every opportunity should be given to Registrars and the officers of the department to study the co-operative movement in Europe or elsewhere.

### Assistance from Government.

In the early stages of the movement, Government advanced considerable sums of money as capital. This practice has now almost entirely ceased. We consider, however, that assistance from Government might be given in the following ways :—



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(a) By contributing towards the out-of-pocket expenses of honorary workers, both whilst under training and whilst they are working in the field ;

(b) In assisting institutions whose object is to spread education and the application of co-operative principles to various objects and assisting unions in supervision ;

(c) In promoting organisations on a co-operative basis to facilitate specialised forms of co-operative activity, such as the consolidation of holdings, adult education, irrigation and the like.

(d) In the propagation of the movement in backward tracts.

As a rule, we consider that Government should spend money rather on education than audit. The audit of healthy societies is not a proper charge on the public funds.

In particular, co-operative societies should be allowed to take full advantage of the facilities afforded by the district treasuries and sub-treasuries for the movement of money to finance agriculture. They should be given a refund of three-fourths of the commission on postal money orders, when these are employed for remittances between societies, and should have a "first charge" on the property of their members where this has been purchased by a loan from a society or consists of a crop grown from seed obtained by such a loan.

The question of land mortgage banks has come into prominence within recent years. It has become apparent that village credit societies are not suitable agencies for the grant of long-term loans, and that this class of business should not be mixed up with the short-term credit which it is the function of the village society to provide. The Conference of Registrars held at Bombay in January 1926 considered the question and decided that land mortgage banks could, and should, be established under the provisions of the existing Co-operative Acts. We endorse the resolution passed on the subject at the Conference. The Acts already provide for land mortgage credit and we consider that, for the present, they should be utilised for the formation of land mortgage banks, and that no special legislation is required to establish such banks.

With regard to assistance by Government to land mortgage banks, we do not recommend that Government should subscribe to debentures but we consider that a guarantee of interest on the debentures would be a suitable form of assistance. We consider also that the issue of debentures of land mortgage banks should be controlled by a central organisation, otherwise the position will arise of a number of small institutions flooding the market with competing issues. Land mortgage banks would be a suitable agency for distribution of loans under the Land Improvement Loans Act, and their debentures should be added to the list of trustee securities. We would emphasise the importance of a most careful preliminary enquiry before a land mortgage bank is floated and would insist on efficient management as essential. The simpler the constitution of such banks, the better they are likely to function.

### Non-Credit Societies.

So far little progress has been made with non-credit societies as compared with credit societies. This is natural as advance in other directions is difficult until the burden of rural debt has been definitely lifted from the shoulders of the cultivator. Purchase and sale societies, seed societies, cattle insurance societies and other forms of non-credit activity have been attempted



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with varying success, but it cannot be claimed that any substantial advance has generally been made in any of these directions. If such societies are to be successful business management is required and it is not easy to find the capacity for this among their members. As a matter of principle, the single purpose of the society seems the best line of development. "One thing at a time" should be the policy.

The function of the Co-operative Department, apart from the provision of credit, is to prepare the ground for the advice of the various experts employed by Government in its several departments. Naturally these departments can work best through co-operatively organised bodies of cultivators rather than through isolated individuals. The co-operative society should be the unit through which the various departments of Government concerned with rural welfare carry on their activities.

The desirability of appointing a special officer of the grade of deputy director of agriculture to work under the Registrar deserves to be examined in all provinces. As regards the appointment of specialist officers from other technical departments, much will depend on the stage of development and the particular form of co-operative activity which it is desired to foster.

In regard to Communications and Marketing the Commission states:

### Need of Roads.

Good communications are of great importance to the cultivator, for on them largely depends his opportunity for the favourable marketing of his produce. Mileage of railways and roads in India is rapidly expanding. All roads, except those of military importance, are a transferred subject in the major province. In Bengal, practically all the roads are under the District Boards, who meet the entire cost of construction and repair from the roads and public works cesses.

The condition of the roads in India has deteriorated in recent years, and the rapid expansion of motor traffic has brought into existence an entirely new range of problems of road construction and maintenance. This new factor has led to the recent appointment of a Road Development Committee, which is investigating the whole question of road development in India. The concern of this Committee is primarily with the development of the main roads, but we would emphasise the importance of subsidiary communications which are of even greater concern to the cultivator. His village must be linked up with the main arterial roads if he is to get the advantage of good communications.

It is desirable that in the development of communications generally railways and roads should be regarded as complementary to each other. Roads should be designed to serve rather as feeders to the railways than as competitors for traffic. Railway freight rates are frequently criticised from the point of view of the agriculturist. We do not accept the view that rates are generally too high, but we suggest a periodical revision of rates with a view to the adjustment of their incidence as between various sorts of produce.

With regard to water-ways, the only point brought prominently to our notice was the extent to which their use is hampered by the spread of water-hyacinth in Assam, Bengal and Burma. Various attempts have been made to deal with this pest but with indifferent success. Further research is urgently needed and, as the problem affects a number of provinces, we consider that a programme of work should be formulated by the Council of



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Agricultural Research so that concerted action can be taken simultaneously in all the provinces affected.

### Marketing Conditions.

The agricultural departments in India have done much to improve the quality and to increase the quantity of the cultivator's outturn but it cannot be said that they have been able to give him substantial help in securing the best possible financial return for his improved quality and his increased outturn. There is great absence of information with regard to marketing conditions in India.

In all provinces we received complaints of the disabilities under which the cultivator labours in selling his produce in markets at present organised.

The most hopeful solution of the cultivator's marketing difficulties seems to lie in the improvement of communications and the establishment of regulated markets, and we recommend for the consideration of other provinces the establishment of regulated markets, on the Berar system as modified by the Bombay legislation.

### Weights and Measures.

A question which has for long engaged attention is the standardisation of weights and measures. These vary most extraordinarily throughout the country and, in some provinces, almost from village to village. Although a committee to investigate this subject was appointed by the Government of India in 1913, no action has yet been taken on its recommendations. We consider the matter of such importance that we would recommend that the Government of India should again undertake an investigation into the possibility of standardising weights and measures throughout India and should lay down general principles to which provincial Governments should adhere so far as this is possible without undue interference with local trade custom.

The marketing of his produce is such an important matter from the cultivator's point of view that we consider that an expert marketing officer should be appointed to the staff of the agricultural departments in all the major provinces.

In view of the growing importance of Indian agricultural products in Europe, we consider that the Indian Trade Commissioner in London should be given the assistance of an officer with experience of agriculture and co-operation in India. An officer of similar standing and experience should be attached to the staff of the Director General of Commercial Intelligence in Calcutta, who would pass on to the departments concerned information which he receives from his colleague in Europe, in a manner which would enable them to utilise it to the best advantage. Ultimately as Indian trade grows, it may be necessary to appoint separate Trade Commissioners in other countries.

On the question of Agricultural Research, we propose that an Imperial

### Research.

Council of Agricultural Research should be constituted, the primary function of which would be to promote, guide and co-ordinate agricultural research throughout India. It would not exercise any administrative control over the Imperial or provincial research institutions. One of the most important functions of the Council will be in regard to the training of research workers and part of its funds should be utilised in the provision of research scholarships tenable by students who have given evidence that they are capable of taking full advantage of an opportunity for intensive training in scientific research in agriculture.



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An approved course of post-graduate study should be regarded as an essential qualification for admission to the now superior Provincial Agricultural Services. We hope that the universities will take an increasing share in the prosecution of agricultural research and it is with the object of facilitating this that we have suggested that they should be represented on the Council of Agricultural Research.

Although we do not consider that research can conveniently be organised by Government on a crop basis, we see no objection to any trade, which feels that its interests demand such a step, organising itself on the lines of the Indian Central Cotton Committee, provided it is willing to tax itself for this purpose. The case of jute presents special features and we consider it most desirable that a committee should be formed which would watch over the interests of all branches of the trade from the field to the factory. The Chairman of the Council of Agricultural Research should be the Chairman of this Central Jute Committee and Government should finance the work of the Committee by an annual grant of Rs. 5 lakhs.

### Animal Diseases.

Discussing diseases of livestock and their control the Commission devote considerable attention to the havoc wrought by rinderpest and recommend a more widespread resort to preventive inoculation. Turning to the provision of veterinary aid the report says:—The first necessity is a very substantial increase of veterinary officers of all grades.

The close relations between agriculture and public health are obvious and they react upon each other to a remarkable degree. There is no direction in which the rural community needs help more than in the provision of medical facilities and public health amenities.

### Public Health.

It is the duty of Government to investigate basic medical problems and to enunciate and direct sound principles of public health administration. It is the duty of the people to co-operate in giving effect to such recommendations and generally to assist in improving rural conditions. Much is being done by Government and private agency and the general economic trend of events is conducive to, and suggests the possibility of, a rapid improvement in rural conditions at no distant date. The matter largely rests with the people themselves.

In the course of our tour, we have been much impressed by the great awakening of non-official interest in the health and welfare of the countryside. It is from this manifestation of public interest that we derive our greatest encouragement and hope. This awakening is general and not confined to any particular province. As typical examples of such efforts, we would mention the Poona Seva Sadan Society, the Co-operative Anti-Malaria Society in Bengal, and the rural reconstruction work of the Y.M.C.A. in Southern India.

In concluding our remarks on public health we desire to emphasise the urgency of the need for developing the rural, medical and public health services to the utmost possible extent and with the utmost speed.

Throughout our investigation, we have constantly been impressed with the thought that mere material improvement alone will not bring lasting benefit to the agricultural population. Increase in yield by better

Improving Amenities of  
Village Life.