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**ALL PARTIES CONFERENCE
DELHI**

— 38790

**Resolutions of the Conference and Report of the
Committee of the Conference regarding a
Swaraj constitution for India**

February - March 1928

**PUBLISHED BY
THE GENERAL SECRETARY, ALL INDIA CONGRESS COMMITTEE
ALLAHABAD**

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REPORT

of the
Committee to the All Parties Conference

TO THE PRESIDENT
ALL PARTIES CONFERENCE
DELHI

Sir,

On the 22nd February the All Parties Conference passed a resolution (attached hereto as Appendix A) appointing a Committee to report to the Conference on the following subjects :—

1. Constitution of the Swaraj Parliament—whether bi-cameral or uni-cameral
2. Franchise
3. Declaration of Rights.
4. Rights of Labour and Peasantry
5. Indian States

The Committee subsequently co-opted Sardar Sardul Singh Caveeshar and Mr Shiva Rao. It met daily and fully considered the subjects referred to it as well as certain allied subjects. We have now the honour to present to the Conference the Report of this Committee. The resolutions of the Conference which were referred to in our terms of reference are attached hereto as Appendix B.

It will be observed that a considerable measure of unanimity has been attained in the conclusions arrived at. Many of the subjects however were such as have evoked a difference of opinion amongst constitutional experts and political thinkers. In all such matters it has been thought desirable to note the difference of opinion. This procedure, it is hoped, will enable the Conference to have the various points of view before it and thus facilitate a full consideration by the Conference. We would add that this report is the result of informal discussions and is not meant to be a formal document or to contain final decisions or recommendations. The recommendations made are in some cases tentative and represent the views of those members who took part in the discussion.

SUMMARY OF RECOMMENDATIONS

Declaration of Rights

The Committee has drawn up a comprehensive *Declaration of Rights*. This was agreed to almost unanimously and the dissenting notes of members relate to minor matters and to certain additions which it was desired to make to the declaration.

Labour and Peasantry

The clauses dealing with the *Rights of Labour and Peasantry* were also unanimously agreed to by the members present. It was sought however by representatives of labour to add the right to strike and certain other provisions but the majority did not think that any affirmation of this right in the constitution was necessary.

Indian States

The clauses relating to the *Indian States*, which were agreed to, lay down that the States must form part of the Indian Constitution and cannot be separated from the

rest of India. The Commonwealth Government will, to begin with, assume all the rights, powers, and obligations of the present British Government and while respecting the treaty rights, will endeavour to negotiate with each State for a closer union. This closer union should be effected by an agreement between the Commonwealth and the Governments and peoples of the States. The States may have the fullest autonomy but the Commonwealth must be the suzerain power and must control foreign relations, defence and like matters.

Language

The Committee has also recommended that the language of the Commonwealth should be Hindustani, written either in the Devanagri or the Urdu Script. This does not, we need hardly add, mean, that other languages, including English, will not be permitted. In the provinces, the local languages will naturally take pride of place, but Hindustani and, if necessary, English can be used.

Uni-cameral or Bi-cameral Legislatures

A considerable discussion took place as to whether the constitution should be a *unitary* or a *federal* one. The Committee however came to the conclusion that a formal theoretical decision of this question was unnecessary, and what really mattered was the division of powers and subjects between the Central and Provincial Governments. It was on the basis of this division (given in Appendix C to this report) that consideration took place as to whether the legislature should be *uni-cameral* or *bi-cameral*. The majority opinion favoured a bi-cameral central legislature and uni-cameral provincial legislature. Some members were for uni-cameral legislatures throughout, whilst others wanted two houses even in the provinces, specially in case adult suffrage was agreed upon.

Franchise

In regard to the *Franchise* a considerable majority were of opinion that there should be adult suffrage both in the provinces and in the Lower House of the Central Legislature. For the Upper House a majority have recommended a restricted Franchise. Some were of opinion however that the Upper House should be elected solely by the constituent provincial legislatures.

Qualifications for Candidates

Regarding the *qualifications for candidates* the Committee has recommended an age limit of 25 for the Lower House of the Central Legislature and an age limit of 30 for the Upper House.

Number of members for Legislatures

As for the *number of members for the legislatures* the Committee has suggested 750, with power to increase if necessary, for the Lower House of the Central Legislature and 250 for the Upper House. For the provinces it is suggested that there should be as a general rule one member for every 100,000 of the population with this proviso that a province with a population of less than 10 millions may have a maximum of 100 members.

Constituencies

The Committee did not go into the question of *electorates*. This would involve a great deal of time and labour and should be considered after the Conference has come to some decisions on the other points.

Distribution of powers between Central and Provincial Governments.

The Committee has drawn up lists of subjects wherein the Central and Provincial Governments should have exclusive control and also some in which they will have concurrent powers. The Central Government alone should have all residuary powers. attached to this report (Appendix C). The Committee has also made a provision for These lists are the settlement of disputes between the Central and Provincial Governments and between Provincial Governments. These should be settled by a Committee presided over by the Chief Judge of the Supreme Court.

The Committee has also suggested a definition of the word "citizen".

DETAILED REPORT

We now proceed to give the recommendations of the Committee in detail, noting the dissents and the amendments suggested.

WHETHER THE LEGISLATURE SHOULD BE UNI-CAMERAL OR BI-CAMERAL

Having regard to the agreement arrived at about the distribution of powers between the Central and Provincial Legislatures, *M. Nehru, M. M. Malaviya, Jinnah, Sarojini Naidu, Srinivasa Iyengar* and *Kelkar* were of opinion that the Central Legislature should be bi-cameral but the Provincial Legislatures should be uni-cameral.

Chaman Lal and *Shuaib Qureshi* were of opinion that the Central Legislature should be bi-cameral only if the franchise of the Second Chamber was restricted to the members of the various Provincial Legislatures.

Mohamad Ali, Joshi and *J. Nehru* wanted the Central Legislature to be uni-cameral in any case, but if it was decided to have a second chamber, they agreed with *Chaman Lal* and *Shuaib Qureshi* as to electorate.

Besant, Vijiaraghavachariar and *Shiva Rao* held the view that if adult suffrage was agreed upon both the Central and Provincial Legislatures should be bi-cameral.

FRANCHISE

Provincial Legislature

Ansari, M. Nehru, Vijiaraghavachariar, Mohamad Ali, Sarojini Naidu, Srinivasa Iyengar, Joshi, Chaman Lal, Pathik, Shuaib Qureshi and *J. Nehru* recommended adult suffrage for the Provincial Legislature.

M. M. Malaviya favoured adult suffrage in principle but would like to consider further if it was practicable.

Besant and *Shiva Rao* favoured adult suffrage in village panchayats but for the Provincial and Central Legislatures they advocated a graded franchise as provided for in the Commonwealth of India Bill.

Central Legislature—Lower House

Ansari, M. Nehru, Vijiaraghavachariar, Sarojini Naidu, Mohamad Ali, Chaman Lal, Joshi, Pathik, Shuaib Qureshi and *J. Nehru* recommended adult suffrage for the Lower House of the Central Legislature

Srinivasa Iyengar would recommend adult suffrage in case the membership of the House was fixed at 1000; otherwise he was for literacy or minimum income franchise.

M. M. Malaviya recommended literacy or minimum income franchise to start with.

Besant and *Shiva Rao* were opposed to adult suffrage. They preferred graded franchise as in the Commonwealth of India Bill.

Central Legislature—Upper House

M. Nehru, M. M. Malaviya, Sarojini Naidu, S. Iyenger, Pathik, R. Gasanfar Ali were of opinion that an elector for the Upper House must (a) be a citizen of India (b) be not less than 21 years of age (c) comply with the provisions of the electoral law for the time being in force and

- (i) be or have been a member of a legislature, or
- (ii) be or have been a fellow or honorary fellow or member of the governing body of any recognised Indian University, or a graduate of a recognised University, or
- (iii) be or have been a member of a Local or District Board or Municipality, or
- (iv) be a member of the Council of

1. Chambers of Commerce, or
2. Landholders' Associations, or
3. Trade Unions, or
4. Agriculturists' Associations, or
5. Co-operative banks or any such organisation as may be recognised by law, or

(v) be a member of the Bar, or

(vi) be a duly qualified Medical Practitioner or Engineer.

Mohamad Ali, Shuaib Qureshi, Chaman Lal and J. Nehru held that the franchise for the Upper House should be confined to the constituent Provincial Legislatures. *Srinivasa Iyenger* also preferred this. *Vijayaraghavachariar* was in favour of giving franchise to every person whose educational qualifications were not below matriculation or its equivalent.

Besant and Shiva Rao were against giving franchise to graduates as such because members of governing bodies of universities had already been included.

Joshi was of opinion in regard to classes (v) and (vi) that only members of the Councils of the Bar, Medical Practitioners' and Engineers' associations should be electors.

QUALIFICATIONS OF CANDIDATES

Central Legislature—Lower House

Every citizen of India who has reached the age of 25 years and complies with the provisions of the electoral law for the Lower House prevailing for the time being, will be eligible to stand as a candidate for membership of the Lower House.

Upper House

Every citizen of India who has reached the age of 30 years and complies with the provision of the prevailing electoral law for the senate will be eligible to stand as a candidate for membership of the Upper House.

J. Nehru would prefer the age limits of 21 and 25 for the Lower and Upper House respectively.

Provincial Legislatures.

Same as for the Lower House of the Central Legislature.

NUMBER OF MEMBERS OF THE LEGISLATURES

1. The Lower House of the Central Legislature should consist of 750 members with provision to increase the number if necessary on an uniform population basis.
2. The Upper House should consist of 250 members.
3. In the Provincial Legislatures as a general rule there will be one member for every 100,000 population. Provided that in a province with a population of less than 10 millions there may be a maximum of 100 members.

ELECTORATES

The Committee is of opinion that it is not practicable at this stage to go into the question of electorates for the various legislatures. This must be left over till the Conference has decided upon the other points. *Srinivasa Iyengar* was of opinion that each constituency should have at least 2 members. Other members expressed no opinion on this point.

DECLARATION OF RIGHTS

The Committee recommend that the following articles be incorporated in the Constitution of the Commonwealth as the fundamental rights of the people:—

1. 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

2. No person shall be deprived of his liberty nor shall his dwelling or property be entered, sequestered or confiscated, save in accordance with law.
3. Freedom of conscience and the free profession and practice of religion are, subject to public order or morality, hereby guaranteed to every person.
4. 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, or the law relating to defamation for the time being.
5. All citizens in the Commonwealth of India have the right to free elementary education, and such right shall be enforceable as soon as due arrangements shall have been made by competent authority.
6. All citizens are equal before the law and possess equal civic rights
7. There shall be no penal law whether substantive or procedural of a discriminative nature.
8. Every citizen shall have the right to a writ of *habeas corpus*. Such rights shall not be suspended except by an Act of the Central Legislature in case of war or rebellion.
9. No person shall be punished for any act which was not punishable under the law at the time it was committed.
10. No corporal or other punishment involving torture of any kind shall be lawful.
11. 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.
12. 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.
13. No citizen 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.
14. Every citizen shall have the right to keep and bear arms in accordance with regulations made in that behalf.
15. Men and women shall have equal rights as citizens.

Members' dissenting notes to Declaration of Rights

Article 1 : Vijiaraghavachariar, Mohamad Ali, Sarojini Naidu, Shuaib Qureshi and J. Nehru were of opinion that it should be stated that the sovereignty of the Commonwealth belonged to the people and was inalienable and indivisible. Vijiaraghavachariar and Shuaib Qureshi wanted to add also that it was imprescriptible.

Article 2: Vijiaraghavachariar and Mohamad Ali wanted to replace this article by article 7 of Vijiaraghavachariar's draft or by the provision in the United States Constitution relating to searches of private houses. They were of opinion that detailed provisions should be laid down in regard to all such searches. In the article as adopted Srinivasa Iyengar and Vijiaraghavachariar wanted to add at the end "and by duly constituted courts of law".

Article 3 : Mohamed Ali wanted to add "propagation" after profession.

*Article 8 : Mohamad Ali was opposed to suspension of *habeas corpus* under any circumstances.*

Article 15: Shuaib Qureshi was against women franchise.

Vijiaraghavachariar desired the inclusion of Articles 12-17, 24-29, 31, 36, 38, 39, 40 of his draft constitution.

Vijayaraghavachariar, Ansari, Pathik and *J. Nehru* desired that it should be stated that there would be no death sentence except in case of treason against the State.

Srinivasa Iyengar was of opinion that the following articles should be added and if necessary the Hindu Law be modified to that extent.

"All castes are hereby declared and guaranteed to be on a footing of perfect equality, no superiority or inferiority of any caste and no hierarchy of castes shall be recognised or given effect to by the State for any purpose".

"The State shall not treat or allow to be treated any community in India as an untouchable community but shall recognise it as having the same status as other communities".

J. Nehru agreed with this proposal

DISTRIBUTION OF POWERS BETWEEN CENTRAL AND PROVINCIAL GOVERNMENTS

The Committee is of opinion that

1. The Central Government and the Provincial Government should each have:

(i) Exclusive power in certain matters

(ii) Concurrent powers in certain other matters

(iii) The Central Government alone should have residuary powers.

2. Special provisions :

In case of disagreement between the Central and Provincial Government on the question of powers each Government shall appoint members to constitute a committee which shall be presided over by the Chief Judge of the Supreme Court who in case of an equality of votes, but not otherwise, shall be entitled to vote. The decision of the committee shall be final.

A similar method of settlement of disputes should be adopted in case of inter-provincial disputes.

Vijayaraghavachariar dissented from both these decisions.

Regarding the special provision mentioned above, *Srinivasa Iyengar* and *Jayakar* prefer that the disputes be settled by the Supreme Court but they agree to the above proposal. *Kunzru* wanted the Supreme Court only to decide and did not agree to the committee. *Malaviya* was of opinion that in case of a dispute the view of the Central Government should prevail.

The Committee agreed that the distribution of powers between the Central and the Provincial Legislatures should be as given in Appendix C attached to this report.

RIGHTS OF LABOUR AND PEASANTRY

The Committee were of opinion that the following articles should be incorporated in the constitution:

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

2. No breach of contract of service or abetment thereof shall be made a criminal offence.

The Committee further agreed to recommend that

1. 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.

Agricultural Tenants

2. Parliament shall also make laws to ensure fair rent and fixity of tenure to agricultural tenants.

Joshi was of opinion that the right to strike should be definitely recognised.
Besant did not agree to fixity of tenure.

INDIAN STATES

The Committee were of opinion that the relation of the Indian States to the rest of India should be determined in accordance with the following principles :—

1. The constitution of India must comprise the Indian States as India cannot be split up into two or more parts independent of each other.

2. On the establishment of the Commonwealth, the Central Government of the Commonwealth shall have the same position, powers and obligations in regard to the Indian States as the present British Government. The Commonwealth shall respect the treaty rights of States and shall enter into negotiations with each State or with any group of States with a view to their fuller participation in the common political, economic and social life of the Commonwealth.

3. The manner in which this fuller participation shall be effected will be determined by agreement between the Commonwealth and the Government and people of the State, subject to the suzerainty of the Commonwealth and the control by the latter of foreign relations, defence and like matters. On such an agreement being arrived at the State will be entitled to adequate representation in the Central Legislature of the Commonwealth.

Besant disagrees with paragraphs 1 and 3 above.

Malaviya is of opinion that the words "and people" in paragraph 3 should be omitted as, among other reasons, they are inconsistent with paragraph 2.

LANGUAGE

The language of the Commonwealth shall be Hindustani written either in Devanagari or Urdu Script.

CITIZEN

The word "citizen" wherever it occurs in this constitution means every person

(a) who was born or whose father was either born or naturalized within the territorial limits of the Commonwealth and has not been naturalized as a citizen of any other country ;

(b) who is naturalized 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.

J. Nehru wishes to state that although he has expressed his agreement with and dissent from some matters dealt with in this report he has a fundamental objection to the basis on which the constitution is sought to be drafted. He is of opinion that it should be made clear that the constitution should establish a democratic socialistic republic in India. He also thinks that territorial elections should as far as possible give way to elections by economic units. Even if this cannot at present be done to any large extent, a beginning should be made wherever practicable. Representation by economic units will not only ensure real and effective legislatures representing the life of the country and every interest therein, but will also automatically do away with the problem of communal representation.

Chaman Lal agrees with the above

JAWAHARLAL NEHRU
SHUAIB QURESHI
Secretaries

DELHI
March 8th 1928

MINUTE OF MR. M. A. JINNAH AND RAJA GAZANFAR ALI KHAN

As the Council of the Muslim League at its meeting on the 6th of March, 1928 has appointed a Committee to represent the Muslim League at the All Parties Conference fixed for the 8th March to confer with the representatives of other organizations, I think in the circumstances, it would not be right for me to express my individual opinion upon such vital questions as are under consideration. Besides I feel that more data and more time is necessary to pronounce upon questions such as, Indian States, Franchise and Rights of Labour and Peasantry, in the framing of the future constitution of India

If the Hindu-Muslim question is settled at the Conference on the 8th March, our Committee, appointed by Muslim League, will then proceed to examine these questions and will be glad to collaborate with the representatives of other organizations.

M. A. JINNAH,
GAZANFAR ALI

7th March 1928

Note.—Resolutions adopted by the Conference on March 11th, 1928, when the above report was considered, are given as Appendix D.

Appendix A

Resolution of the All Parties Conference appointing a Committee, passed on 22nd February, 1928.

This Conference having reached certain important conclusions resolves that a Committee consisting of the following members be constituted to report to this Conference before March 8th, 1928 on the various items on the agenda namely :—

1. Constitution of the Swaraj Parliament—whether bi-cameral or unicameral ;
2. Franchise ;
3. Declaration of Rights ;
4. Rights of labour and peasantry ;
5. Indian States ;

with due regard to the resolutions already adopted by this Conference.

NAMES OF MEMBERS OF THE COMMITTEE

- | | |
|---------------------------------------|--------------------------------------|
| 1. <i>Dr. M. A. Ansari</i> | 11. <i>Maulana Mohamad Ali</i> |
| 2. <i>Pandit Madan Mohan Malaviya</i> | 12. <i>Dr. Tej Bahadur Sapru</i> |
| 3. <i>Mr. S. Srinivasa Iyengar</i> | 13. <i>Mrs. Naidu</i> |
| 4. <i>Mr. C. Vijayaraghavachariar</i> | 14. <i>Mr. N. M. Joshi</i> |
| 5. <i>Dr. Besant</i> | 15. <i>Raja Gazanfar Ali</i> |
| 6. <i>Mr. M. A. Jinnah</i> | 16. <i>Pandit Hriday Nath Kunzru</i> |
| 7. <i>Lala Lajpat Rai</i> | 17. <i>Mr. Pathik</i> |
| 8. <i>Mr. M. R. Jayakar</i> | 18. <i>Dewan Chaman Lal</i> |
| 9. <i>Mr. N. C. Kelkar</i> | 19. <i>Mr. Jawaharlal Nehru</i> |
| 10. <i>Pandit Motilal Nehru</i> | 20. <i>Mr. Shuaib Qureshi</i> |

Subsequently co-opted { *Sardar Sardul Singh Caveeshar*
Mr. Shiva Rao

Appendix B

Resolutions passed by the All Parties Conference regarding the constitution, referred to in the terms of reference of the committee :

1. The constitution to be framed providing for the establishment of full responsible Government in India. (Unanimous)
2. The constitution must include the Indian States. The Committee to be appointed should explore ways and means to bring the States within the Swaraj constitution and should also report on the general aspect of the question.

(Dr. Besant dissenting)

This question was subsequently reopened on February 21st, 1928 and was referred to the Committee for consideration and report.

3. (a) In the new constitution representation in all legislatures, Central and Provincial, shall be by joint electorates, subject, for the present, to reservation of seats on population basis in any province in which such reservation is asked for by Hindus or Muslims.

(Representatives of the Hindu Mahasabha do not agree to the reservation of seats for majorities in any province.)

- (b) The Conference is of opinion that simultaneously with the inauguration of the new constitution a redistribution of provinces such as Andhra, Utkal, Sind, Karnatak, C. P. Hindi and any other area demanding separation on a linguistic basis shall be undertaken, provided

(i) that the separated province shall be financially self-supporting ;

(ii) that on the scheme of separation being laid before the people of the area concerned, with its financial aspects, the majority of the inhabitants favour the scheme and express their readiness to bear the financial responsibility of the new arrangement ;

(iii) that the N.-W. F. Province, Baluchistan, Delhi, Ajmer-Merwara, Coorg, and the scheduled districts, and any province which may be separated from an existing province, shall be placed on the same footing in respect of its form of Government and its executive and judicial administration as any other province (Mr. Kelkar dissenting).

(Mr. Chablani dissents from clause (b), (i) (ii) and (iii))

(iv) This Conference resolves that so long as the system of Government in the N.-W. F. Province and Baluchistan is not placed on the same footing as in the other provinces and Sind is not separated from the Bombay Presidency, in spite of the readiness of the majority of people to bear the financial responsibility involved in the separation, separate electorates for Musalmans and Sikhs shall remain in force. (Representatives of the Hindu Maha Sabha dissenting). Sikh representatives wish it to be noted that their consent to joint electorates does not depend on the separation of Sind and the introduction of reforms in the N.-W. F. and Baluchistan Provinces. If separate electorates are retained for any community they want separate electorates for Sikhs also.

(v) That reciprocal concessions in favour of minorities may be made by mutual agreement so as to give them representation in excess of the proportion of the number of seats to which they would be entitled on population basis in any province or provinces, and the proportions so agreed upon for the provinces shall be maintained in the representation of the two communities in the Central Legislature from the provinces. In the decision of the reservation of seats for the Punjab, the question of the representation of Sikhs as an important minority will be given full consideration.

(Representatives of the Hindu Maha Sabha dissenting)

Note.—Mr. Jinnah, Raja Gazanfar Ali and Nawab Mohammad Ismail Khan are ready to agree to proposals put before the Conference as far as they are in accordance with the principles embodied in the resolution of the All India Muslim League at its Sessions at Calcutta but with regard to sub-clauses (i) and (ii) of clause (b) which are new they cannot accept them until they have been able to consult the Council of the All India Muslim League which meets on 26th February, 1928.

Subsequently, Sardar Mangal Singh, Secretary, Central Sikh League wrote on behalf of his organisation that the Sikhs were not agreeable to reservation of seats on population basis, nor could they accept a statutory communal majority.

Appendix C

Distribution of Powers between the Central and Provincial Legislatures.

Central

The following subjects should be exclusively under the jurisdiction of the Central Government :

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, 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, lighthouses, beacons, lightships, buoys.
9. Railways, and roads of All India and military importance.
10. Aircraft and all matters connected therewith
11. Posts, Telegraphs and Telephones including wireless communications and installations.
12. The defence of India and all matters connected with the naval, military and air forces of the Commonwealth, including militia, Indian Marine Service and any other force raised in India other than military and Armed Police wholly maintained by the Provincial Government; naval and military works and cantonments; schools and colleges for military, naval and air training.
13. Foreign and external relations including relations with States in India and political charges; domicile, naturalization and aliens; passports; and pilgrimages beyond India.
14. Emigration and immigration.
15. Port quarantine and marine hospitals.
16. All India Public Services and All India Public Service Commission of the Commonwealth.
17. Central Audit.
18. The Supreme Court of India, the High Courts or Chief Courts in various parts of India.
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. Marriage, Divorce and Matrimonial matters, parental rights, the custody and guardianship of infants; their status and age of majority.
23. Copyright; Newspapers and books; patents of inventions and designs and trade marks.
24. Land acquisition by or for the purposes of the Government of the Commonwealth

25. Laws relating to registration of deeds and documents
 26. Laws relating to registration of births, deaths and marriages.
 27. Census and statistics.
 28. Control of arms and ammunition.
 29. (a) Control of petroleum and explosives.
(b) Control of poisons.
 30. The standards of weights and measures.
 31. Fisheries in Indian waters beyond the three miles limit.
 32. Survey of India; geological survey and astronomical and meteorological observations.
 33. Parliamentary elections.
 34. The seat of the Government of the Commonwealth
 35. Inter-provincial matters.
 36. Factory legislation.
 37. Industrial matters :
 - (a) Welfare of labour.
 - (b) Provident fund
 - (c) Industrial Insurance—General health and accident
 38. Regulation of mines
 39. Medical qualifications and standards.
 40. Fees including court-fees; probate duties; succession or estate duties.
- S. S. Iyengar* would make them a provincial subject

PROVINCIAL

The following subjects should be under the jurisdiction of the Provincial Governments

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 testates.
2. Excise, that is to say, the control of manufacture, transport, possession, purchase and sale of alcoholic liquor and intoxicating drugs (except opium) and the levying of excise duties and license fees on or in relation to such articles and other restrictive excises. (*Vijaraghavachariar* would make it Central. *Mohamad Ali* would make prohibition a concurrent subject).
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 market; tax on advertisement; 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. Forests and preservation of game.
6. Agriculture, including research institutes, experimental and demonstration farms, protection against destruction by insects and pests. (*Vijaraghavachariar* would make it central).
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 situate within the province) as may be declared by Parliament to be of All India Importance.

10. Co-operative societies.
11. Development of mineral resources.
12. Famine relief.
13. Pilgrimages within India (*Vijiaraghavachariar* would make it central subject).
14. Local self-government including constitution and powers of Municipal Corporations, Local Boards, Improvement Trusts, Town Planning Boards and other local authorities in the province and local fund audit.
15. Medical Administration including Hospitals, Dispensaries, Asylums and provision for medical education. (*Vijiaraghavachariar* would make medical education a central subject).
16. Public health and sanitation and vital statistics (*Vijiaraghavachariar* would make it a central subject).
17. Education, including Universities and Technical Institutes, Provincial institutions for professional or technical training and for promotion of technical studies. (*Vijiaraghavachariar* would make it a central subject).
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 motor vehicles ;
(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 ; provincial public debt ; assets and property of the province.
33. Zoological survey ; botanical survey ; archaeology ; historical and ancient monuments.
34. Administration of the law relating to the legislation of births, deaths and marriages.
35. Provincial law reports
36. Minor Ports
37. Public libraries, museums, zoological and botanical gardens and registration of societies.
38. Pounds and prevention of cattle trespass.
39. Civil Veterinary Department including provisions for Veterinary Training, Improvement of stock and prevention of animal diseases.
40. Factory inspection.
41. Settlement of labour disputes.
42. Gas and electricity
43. Boilers.

44. Smoke nuisances.
45. Housing of labour.
46. Coroners.
47. Provincial stores and stationery.
48. Government Press.
49. Provincial Services and Provincial Services Commission ; the seat of the Provincial Government.
50. All matters pertaining to a Commonwealth subject in respect of which powers have been conferred by other sections of this constitution, or by or under any Act of Parliament, on all Provincial Legislatures or Government.

CONCURRENT

The Central and Provincial Governments will have concurrent powers in regard to the following subjects :—

1. Religious and charitable endowments;
2. Regulation of betting and gambling;
3. Prevention of cruelty to animals;
4. Protection of wild birds and animals;
5. Laws for the protection of Maternity and for Child Welfare;
6. Laws for the maintenance of health and fitness for work of all citizens and the economic consequences of old age, infirmity and unemployment.

Appendix D

Resolutions passed by the All Parties Conference on March 11th, 1928 when the Report of the Committee was considered.

1. Resolved that N.-W. F. Province, Baluchistan, Delhi, Ajmer-Merwara, Coorg, and the scheduled districts, and any province that may be separated from an existing province, shall be placed on the same footing in respect of its form of Government and its executive and judicial administration as any other province. (passed *nem. con.*)

2. Whereas it appears that the decision of the question of the separation of Sind will be very much simplified if an immediate enquiry is undertaken as to the financial aspect of the separation, it is resolved that a Committee consisting of

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| (1) <i>Haji Abdullah Haroon</i> | (4) <i>Mr Jivramdas Daulatram</i> |
| (2) <i>Khan Bahadur Shah Newaz
Bhutto or Shiekh Abdul Majid</i> | (5) <i>Mr. Jamshed Mehta, President,
Karachi Municipality</i> |
| (3) <i>Prof. Chablam</i> | (6) <i>Bhai Ishwar Das, President,
Singha Sabha, Karachi</i> |

with (7) *Sir Purshottamdas Thakurdas*
as Chairman

be appointed to report to this Conference at an early date whether when separated the new province of Sind would be financially self-supporting. If it would not be self-supporting under the present system of administration the Committee will suggest ways and means to make it self-supporting if possible. On the receipt of the report of this Committee the question of the separation of Sind will be considered in all its aspects. (Pandit Deva Ratna Sharma, Secretary, Hindu Sabha, on behalf of the Hindu Maha Sabha objects to the appointment of this Committee at this stage because it is not settled as yet what form of Government the province will have and what responsibility the people will have to bear.

Representatives of the Muslim League and of the Sikh League have no objection.

3. The question discussed at some length was the reservation of seats for majorities. It was found that while the Hindu Maha Sabha and the Sikh League were strongly opposed to any such reservation the Muslim League equally strongly supported it. The resolution of the Congress (Part A. 2) is open to the construction that reservation of seats may be claimed by majorities as well as minorities. This Conference is

of opinion that it is possible to provide for the safeguards contemplated by the resolution of the Congress and the Muslim League by devising a system of election on the principle of proportional representation by a single transferable vote or some similar method. This Conference resolves that a Committee consisting of the following members be appointed to investigate the whole matter and make its report to this Conference at an early date. Meanwhile representatives of the parties concerned are requested to lay the matter before their respective organisations and obtain full powers to deal finally with the matter at the next meeting of the Conference:—

NAMES OF MEMBERS OF THE COMMITTEE

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|--|---------------------------------|
| 1. <i>Syt. S. Srinivasa Iyengar (Chairman)</i> | 3. <i>Sardar Mangal Singh</i> |
| 2. <i>Syt. Shanmukham Chetty</i> | 4. <i>Mr. Rafi Ahmad Kidwai</i> |
| | 5. <i>Maulana Mohamad Ali</i> |

(The representatives of the Muslim League dissenting).

4. The consideration of joint and separate electorates and the proportion of members in the Central Legislatures and the protection of minorities and like matters do stand adjourned till the receipt of the Reports of these Committees.

5. The Report of the Committee appointed by the Conference on the 22nd February, 1928, was taken up. It was resolved that the said report be published and circulated among the various political, labour, commercial and communal organisations, and opinions and suggestions be invited thereon by the 1st of May, 1928 and the matter be laid before the next meeting of the Conference to be held at Bombay on the 19th May, 1928.

Resolved further that each of the said organisations be requested to send its delegates to the next meeting of the Conference with the necessary authority to confer and arrive at agreements with the Conference on all matters, subject to ratification of such agreements by their respective organisations.

6. This Conference places on record its appreciation of the services rendered by Mr. Shuaib Qureshi, Secretary.

STATEMENT OF DR. B. S. MOONJE ON BEHALF OF THE HINDU MAHA SABHA

With reference to the Muslim demands for separation of Sind, Reforms in Baluchistan and N.-W. F. Province, and the reservation of seats for Muslims even in provinces where they form the majority, the Hindu Maha Sabha stated its position very clearly in resolutions passed at its meeting held on 7th February, 1928. These resolutions have already been published. Thereafter some leading men of the Hindu Maha Sabha on their own responsibility, and in their desire further to meet Muslim sentiment, took up at the All Parties Conference a modified position with reference to these proposals and expressed their willingness to persuade the Maha Sabha to agree to the said modifications if the Muslim League would be thereby satisfied. Subsequently the Council of the All-India Muslim League in its meetings held on 5th and 6th March, 1928, rejected even these modified proposals and has expressed its inability to be content with nothing less than the entirety of the Calcutta proposals. Their representatives at the meeting of the All Parties Conference held yesterday made this position very clear, having no doubt on the question that the All-India Muslim League would be satisfied with nothing less than their Calcutta resolutions. Under these circumstances the Hindu Maha Sabha regrets that it is unable to agree to the Calcutta resolutions as they stand at present.

That where the province be found to be financially self-supporting or not on the scheme of separation being laid before the people of the area concerned with its financial and other aspects, at least two thirds of the electors of the majority community and one third of the electors of the minority community favour the scheme.

B.S. Moonje
9th March, 1928

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