Indian Round Table Conference

(THIRD SESSION)

November—December 1932

SUB-COMMITTEES' REPORTS; SUMMARIES OF DISCUSSIONS AND THE SECRETARY OF STATE'S STATEMENT

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MEMORANDA.

INTRODUCTORY NOTE.

1. The Prime Minister, in opening the third session of the Round Table Conference on the 17th November, 1932, explained that its object was to supplement the work so far accomplished at the Round Table Conference, by filling in, in some detail, the more important gaps left by the discussions at the two previous sessions.*

2. The Conference adopted the following Agenda:—

3. Subjects A, B (*b*), C, E, G and H, and the subject of the Supreme Court, were discussed in full Conference. Towards the close of the Conference reports recording in summary form the effect of the discussion on each of these subjects were prepared by the Secretariat and laid before the Conference.† Important comments or suggestions made on the reports by the Conference have either been incorporated in the reports as now printed, or indicated by footnotes thereto.

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* *See* Cmd. 3778 of 1931 and 3997 of 1932.

† Except as regards the Supreme Court; a summary of the discussions on this subject will be found on pages 70 to 72.

4. Subjects B (*a*), D and F were remitted by the Conference after a short general discussion*, for examination by Committees.

Subject I was considered by a limited number of delegates as indicated on page 64.

Anglo-Indian Education was also considered by a Committee.

The reports of these Committees are followed by a brief summary of the more important points raised in the Conference when it received and noted each report.

5. The Conference closed with a general discussion, ending on 24th December, 1932. The proceedings are given verbatim on pages 73 to 132.

* There was no previous discussion in full Conference on D. or I.

INDIAN ROUND TABLE CONFERENCE, 1932.

(NOVEMBER—DECEMBER.)

LIST OF DELEGATES.

BRITISH REPRESENTATIVES.

THE RIGHT HON. J. RAMSAY MACDONALD, M.P. (*Chairman of the Conference*).

THE RIGHT HON. VISCOUNT SANKEY, G.B.E. (*Deputy Chairman*).

THE RIGHT HON. SIR SAMUEL HOARE, BART., G.B.E., C.M.G., M.P.

THE RIGHT HON. VISCOUNT HAILSHAM.

THE RIGHT HON. SIR JOHN SIMON, G.C.S.I., K.C.V.O., O.B.E., K.C., M.P.

THE RIGHT HON. LORD IRWIN, K.G., G.C.S.I., G.C.I.E.

THE RIGHT HON. J. C. C. DAVIDSON, C.H., C.B., M.P.

MR. R. A. BUTLER, M.P.

THE RIGHT HON. EARL PEEL, G.C.S.I., G.B.E.

THE RIGHT HON. EARL WINTERTON, M.P.

THE MOST HON. THE MARQUESS OF READING, G.C.B., G.C.S.I., G.C.I.E., G.C.V.O.

THE MOST HON. THE MARQUESS OF LOTHIAN, C.H.

INDIAN STATES' REPRESENTATIVES.

RAJA OF SARILA (SMALL STATES).

RAI BAHADUR RAJA OUDH NARAIN BISARYA (BHOPAL).

RAO BAHADUR KRISHNAMA CHARI, C.I.E. (BARODA).

NAWAB LIAQAT HYAT-KHAN (PATIALA).

MR. WAJAHAT HUSSAIN, I.C.S. (KASHMIR).

NAWAB SIR MUHAMMAD AKBAR HYDARI (HYDERABAD AND REWA).

SIR MIRZA M. ISMAIL, C.I.E., O.B.E. (MYSORE).

SIR MANUBHAI N. MEHTA, C.S.I. (BIKANER).

INDIAN STATES' REPRESENTATIVES (*contd.*).

Rao Bahadur Pandit Sir Sukhdeo Prasad, C.I.E., O.B.E. (Udaipur, Jaipur and Jodhpur).

Rao Sahib D. A. Surve (Kolhapur).

Mr. L. F. Rushbrook Williams, C.B.E. (Nawanagar).

The Chief of Jath.

BRITISH INDIAN REPRESENTATIVES.

His Highness The Aga Khan, G.C.S.I., G.C.I.E., G.C.V.O.

Dr. B. R. Ambedkar.

Sir Hubert Carr.

Pandit Nanak Chand.

Mr. A. H. Ghuznavi.

Lieutenant-Colonel Sir Henry Gidney, I.M.S. (Retired).

Khan Bahadur Hafiz Hidayat Husain.

Sir Muhammad Iqbal.

Mr. M. R. Jayakar.

Sir Cowasji Jehangir, K.C.I.E., O.B.E.

Mr. N. M. Joshi.

Mr. N. C. Kelkar.

Raja of Khallicote.

Diwan Bahadur Ramaswami Mudaliyar.

Begum Shah Nawaz.

Rao Bahadur Sir A. P. Patro.

Sir Tej Bahadur Sapru, K.C.S.I.

Dr. Shafa'at Ahmad Khan.

Sardar Tara Singh.

Sir Nripendra Nath Sircar.

Sir Purshotamdas Thakurdas, C.I.E., M.B.E.

Mr. Zafrulla Khan.

INDIAN STATES' DELEGATION STAFF.

Mr. R. Z. Abbasy (Khairpur).

Sahibzada Mumtaz Ali Khan of Malerkotla.

Rai Bahadur Pandit Amar Nath Atal (Jaipur).

Lieutenant-Colonel Sir Richard Chenevix-Trench, C.I.E., O.B.E. (Hyderabad).

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Mr. K. V. Godbole (Phaltan).
Mr. C. G. Herbert (Cochin).
Mr. M. S. A. Hydari, I.C.S. (Hyderabad).
Nawab Mahdi Yar Jung (Hyderabad).
Pandit Ramachandra Kak (Kashmir).
Yuvaraj Shri Digvijaya Sinhji of Limbdi (Nawanagar).
Mir Maqbul Mahmood (Patiala and Jhalawar).
Mr. K. C. Neogy, M.L.A.
Major Pande (Orchha).
Mr. K. M. Panikkar (*Secretary to His Highness the Chancellor of the Chamber of Princes*).
Pandit P. N. Pathak (Sarila).
Sir Prabhashankar Pattani, K.C.I.E. (Bhavnagar).
Mr. G. P. Pillai (Travancore).
Mr. B. I. Powar (Kolhapur).
Mr. S. Qureshi (Mysore).
Mr. Madhava Rao (Mysore).
Mr. R. K. Ranadive (Baroda).
Mr. C. N. Seddon (Sangli).
Mr. R. K. Sorabji (Datia).
Mr. J. W. Young, O.B.E. (Jodhpur).
Mr. B. H. Zaidi (Rampur).

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Secretaries.

Mr. V. Dawson, C.I.E.
Mr. P. J. Patrick.

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INDIAN ROUND TABLE CONFERENCE.

HEAD A.

Report of the Indian Franchise Committee. Method of Election to and size of the two Federal Chambers.

The Franchise Sub-Committee of the First Round Table Conference recommended the establishment of an expert body to investigate the question of the Franchise, and a Franchise Committee, under the chairmanship of the Marquess of Lothian, was subsequently appointed by His Majesty's Government and reported in June, 1932. The Report of that Committee was before the Conference in its present session.

I.—PROVINCIAL LEGISLATURES.

Method of Election.

The principal methods of election to the Provincial Legislatures examined in the Report of the Franchise Committee were:—

(*a*) Adult suffrage;

(*b*) Adult suffrage by a system of indirect voting;

(*c*) Such modifications of adult suffrage as the grant of adult suffrage within certain age limits; adult suffrage for large towns; household suffrage; indirect election through local bodies;

(*d*) The combination of the direct and indirect systems of franchise; and, finally,

(*e*) The extension of the direct vote.

The Committee, after exhaustive examination pronounced in favour of the acceptance of the extension of the Franchise by the direct method, and after considerable discussion, in the course of which close attention was paid to the practicability and desirability of a system based on adult suffrage and to methods of indirect election, the general sense of the Conference proved definitely to favour acceptance of the Franchise Committee's proposals.

Basis of the Provincial Franchise.

The Conference agreed, with one dissentient,* that the essential basis of the franchise should be the property qualifications

* Mr. Joshi considered that, if it was impossible to secure adoption of a wider basis for the franchise than that proposed, provision should be made for automatic periodical extensions.

proposed by the Indian Franchise Committee in their Report, subject to such modifications of detail as might prove necessary*†.

The Conference carefully considered the proposals of the Franchise Committee for an educational qualification. Some members were strongly in favour of its acceptance, mainly on the ground that education was a proper basis for the franchise and that unless there was an educational qualification, an important section well capable of exercising the vote would be disfranchised. Others welcomed the proposal, which they regarded as attractive; but attention was drawn first to the inadequacy of the evidence as to the numbers (possibly very small) which would be added to the electoral roll by the adoption of such a qualification and, secondly, to the serious practical difficulties involved not only in its application but in the question of the standard to be adopted. An important section of opinion was, moreover, not in favour of the proposal. The general sense of the Conference was that further detailed examination would be required before any general educational qualification for the franchise could be adopted.

The Women's Franchise.

The Conference was unanimously in favour of accepting the proposals of the Franchise Committee that women should be enfranchised in respect of the same property qualification as that prescribed for men.

The Franchise Committee had further recommended the adoption in the case of women of a specially low educational qualification, *viz.*, mere literacy. Some difference of opinion manifested itself on this subject. Certain members of the Conference were of opinion that "mere literacy" was too low a standard and that it would be preferable to substitute for it the upper primary standard. Attention was, however, drawn to the fact that the application of the upper primary standard would very substantially reduce the number of women likely to be enfranchised on the basis of an educational qualification, and the general feeling appeared to favour the adoption of the literacy in preference to the upper primary qualification. An important section of opinion in the Conference urged, however, that if any special educational qualification were adopted at all it should be the same for women as for men.

A very general difference of opinion was felt as regards the proposal of the Franchise Committee that, subject to certain qualifications, the wives and widows over 21 of men qualified by property to vote for the existing provincial councils should be enfranchised.

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* Sir Henry Gidney drew attention to the fact that property qualifications alone would disfranchise a large proportion of Anglo-Indians and that the proposed educational qualification was a very important one from the point of view of the Anglo-Indian community.

† Pandit Nanak Chand stressed the importance of reducing the disparity in voting strength as between the agricultural and non-agricultural tribes in the Punjab, to which detailed reference has been made in paragraph 170 of the Report of the Franchise Committee.

The objections taken to this proposal, which was recommended by the Franchise Committee as the only practical method of securing an adequate proportion of women on the electoral roll, were, *inter alia*, that it would enfranchise a large number of illiterate women; that women would as a rule vote in the same way as their husbands; and that its adoption might give rise to domestic and religious difficulties. The general opinion of the Conference was that the proposal was one which required further examination.

Considerable support was forthcoming for a suggestion that it might be possible to deal with the problem of enfranchising an adequate number of women by giving to the various Provinces some latitude to propose a method of enfranchisement of women in the light of local conditions, subject to a general injunction to aim at much the same ratio of men to women voters as had been recommended by the Franchise Committee—*i.e.*, 4½ to 1—a ratio which the Conference as a whole was disposed to regard as not unsuitable.

Reference should be made in this connection to a suggestion put forward that, with a view to reducing the strain on the administrative machine, the registration of all voters qualified in respect of education, and of women enfranchised in right of their husbands, should be on application by the potential voter only.

Depressed Classes.

The Conference was of opinion that a special provision should be made to enfranchise a larger number of voters belonging to the Depressed Classes and that the standard to be aimed at should, as proposed by the Franchise Committee, be 10 per cent. of the Depressed Class population in each Province, such of the differential qualifications suggested by the Franchise Committee being adopted as might be necessary to secure this result in the light of the varying conditions in each Province.

It was agreed that the existing *military service qualification* should be maintained. One member of the Conference urged the desirability of extending the franchise to cover all members of the Territorial and Auxiliary Forces, and it was agreed that this point should be examined.

Special representation for Commerce in Provincial Legislatures.

Certain Delegates urged that the recommendations of the Indian Franchise Committee in regard to special electorates for Commerce resulted in grave inequality of representation as between Indian and European Commerce in several Provinces. It was pointed out on behalf of His Majesty's Government that examination of this question inevitably involved a reopening of the Communal decision. The matter was not further discussed, but certain Indian Delegates placed on record their objection to any connection of the question of commercial representation with the communal issue.

II.—THE FEDERAL LEGISLATURE.

Federal Assembly.

The Federal Structure Committee in paragraph 19 of their Third Report expressed the opinion that the selection of the British Indian representatives for the Lower Chamber of the Federal Assembly should be by direct election. This recommendation was supported by the Indian Franchise Committee. Considerable discussion took place in the Conference as to the relative merits of the direct as opposed to the indirect method of election. It was pointed out on behalf of His Majesty's Government that if direct election was regarded as inevitable, this should not be allowed to prejudice the question of the size of the federal legislature. The general sense of the Conference, in the light of the discussion was that the balance of advantage lay with the election of the British Indian representatives in the Lower Chamber by the direct method.

Franchise qualifications for the British Indian Electorate.

The Conference after full consideration of the various alternatives open, and in particular of a suggestion made by one member that a wage-earning qualification should be introduced, accepted generally the proposal of the Franchise Committee that the franchise for the British Indian section of the future Federal Assembly shall be the existing franchise for the provincial legislative councils, except in the case of the Central Provinces; in which it should be a franchise which would bring in double the existing electorate for the provincial council.

Educational Qualification.

As regards the educational qualification proposed by the Franchise Committee, opinion in the Conference generally was strongly in favour of the adoption as an educational qualification for men of the possession of the Matriculation or school-leaving certificate. An important section of opinion was, however, opposed to this proposal for the same reasons as in the case of the Provincial Legislatures.

The Conference were unable to agree as regards the adoption of an educational qualification for women voters for the Federal Assembly, the same arguments as were advanced for and against the proposal in the case of the provincial legislatures holding good, in their view, here also.

Depressed Classes.

The Franchise Committee stated that they were advised by the Census Commissioner that the addition to the qualifications prescribed for the general electorate for the new Federal Assembly of a qualification of mere literacy would result in the case of the Depressed Classes in an electorate of approximately 2 per cent. of their total population. In these circumstances they recommended the

adoption of such a differential qualification. The Conference agreed to their proposals.

Special Representation.

Women.

With the reservation that the communal proportions should not thereby be disturbed, the Conference as a whole accepted the proposals of the Indian Franchise Committee for the special reservation of seats for women, to be filled by the election of one woman by each provincial legislative Council. The women's representative in the Conference was however in favour of direct election by a special women's constituency in each province.

Labour.

The proposals of the Franchise Committee for special representation of Labour by the reservation of 8 seats in the Federal Assembly were accepted by the Conference. In some quarters it was felt that the number of seats proposed was inadequate, but it was pointed out that Labour would obtain additional representation through the Depressed Class seats in the general constituencies. It was suggested that the point might be further investigated in connection with the delimitation of constituencies.

The Moslem delegation in this connection recorded their anxiety that the number of special seats should be kept at a minimum.

Commerce and Industry.

The general sense of the Conference was in favour of the acceptance of the Franchise Committee's proposal that the representation of Commerce should be concentrated in the Assembly, and that four seats should be allocated to Indian and four to European commerce. The view was, however, expressed by some Indian delegates that those recommendations did not provide adequately for the needs of Indian commerce. They did not think that Indian commerce should be forced into the position of having to secure additional representation by seeking to influence the results of elections in the non-special constituencies, and they took exception to the connection of commercial representation with the communal question.

The representative of the European community stated that European commerce would not be satisfied with a smaller number of seats than that proposed by the Franchise Committee which represented the minimum with which they could hope to be able adequately to voice their views.

The Conference gave a sympathetic reception to a claim put forward for the retention of the seat at present filled in rotation by the Millowners Associations of Bombay and Ahmedabad, although the point was made that the grant of such special representation would make it difficult to resist claims from other industries

similarly situated. Reference was also made to the importance of securing adequate representation for up-country industrial interests, and to the difficulties which might arise under the proposals of the Franchise Committee in providing for this.

Landlords.

The Franchise Committee were in favour of retention of special representation for landlords, but in its existing strength, and their view on this subject was accepted by the Conference.

FEDERAL UPPER HOUSE.

The Federal Structure Committee of the Round Table Conference recommended that the British Indian section of the Federal Upper House in the new Constitution should be elected by the provincial legislative councils by the single transferable vote. This recommendation was supported by the Indian Franchise Committee and was accepted by the Conference, but Muslim Delegates reserved their judgment as regards the use of the single transferable vote until they knew what result the application of that system would have on the communal proportions in the whole House. Attention was also drawn to the importance of safeguarding the interests of the small minorities.

It was generally agreed that there should be no representation of special interests as such in the Upper Chamber.

III.—SIZE OF FEDERAL LEGISLATURE.

A marked difference of opinion manifested itself on this subject in the Conference. There was substantial general agreement that some weightage should be accorded to the States; the proportions of seats to be filled by representatives of the Indian States previously proposed, *viz.*, 33⅓ per cent. in the Lower and 40 per cent. in the Upper Chamber still held the field, though the apprehension of the States lest by federating they would lose their individuality was mentioned as a ground for increasing their proportion in the Upper House to one of equality with British India. One of the States representatives urged that at least 125 seats in the Upper House should be allotted to the States, and 36 per cent. of the seats secured to them in a joint session of both Houses. Provided this number of seats in the Upper House and this percentage in a joint session was secured, there would be no objection in his view to a lower percentage than 33⅓ in the Lower House.

Muslim delegates and one or two others were opposed to the principle of weightage for the States in the Legislature; the Muslim Delegates considered that if it was found inevitable to concede some weightage the quota of Muslim representation should be safeguarded so that the number of their seats from British India should not be less than they would have secured if the States enjoyed no weightage over population ratio.

Certain delegates urged the advantages of a large Lower House on the ground of the resultant reduction in the size of constituencies, the consequent lessening of expense to candidates, and the increased ease with which representation could be secured for the smaller States. A considerable section of the Conference supported the figure of 450 proposed by the Franchise Committee.

It was pointed out, on the other hand, that the Federal Legislature would have limited functions, for the discharge of which so large a Lower House as was recommended in the Lothian Report would not be necessary, and some delegates thought 300 would suffice. It was also pointed out that whatever decision was finally reached as to the size of the two Houses, grouping of the smaller States would be inevitable.

An alternative suggestion was put forward regarding the Upper House, namely that while the Lower House would fully reflect the popular element, the Upper House, as the peculiarly Federal organ of the Constitution, should provide for the representation of the constituent units as such. According to this proposal the Upper House would be limited to some 60 delegates of the Governments of the units and of the Federal Government.

No final decision proved possible in the Conference on this question. A suggestion made on behalf of His Majesty's Government, who intimated that general agreement on the subject between Indian delegates would carry great weight with them, that consideration should be postponed with a view to informal consultations between the Indian delegates in the hope of reaching a greater measure of agreement between the conflicting views expressed, was accepted by the Conference.

No modification of view has been reported as having resulted from such discussions as have taken place.

HEAD B (a).

Legislative Relations between the Federal Centre and the Units.

REPORT OF COMMITTEE ON THE DISTRIBUTION OF LEGISLATIVE POWERS.

The Committee was appointed—

" (i) To test the general principles discussed under Head B (*a*) by applying them to the list of subjects suggested by the Federal Structure Committee in the Appendix to its Second Report.

(ii) To re-examine in the light of the general discussion of principles the definition of those subjects and the effects of the recommendations made by the Federal Structure Committee in respect of them;

and to make suggestions."

and was constituted as follows:—

Lord Sankey (Chairman).
Sir Samuel Hoare.
Mr. Butler.
Lord Reading.
Sir Akbar Hydari.
Sir Manubhai Mehta.
Sir A. P. Patro.
Sir Tej Sapru.
Sir Nripendra Nath Sircar.
Mr. Zafrulla Khan.

The Committee found it convenient to deal first with the second head of their Terms of Reference and accordingly addressed themselves at the outset to an examination of the definition of the subjects provisionally allocated between the Centre and the Provinces by the Appendices to the Second Report of the Federal Structure Committee and to the further proposals made in the same connection by the Consultative Committee. Their deliberations on this matter satisfied them that the statutory delimitation of the spheres of competence of the Federal and Provincial Legislatures which the conceptions of provincial autonomy and federation inevitably involve will necessitate, whatever method of delimitation and allocation is adopted, a much more careful and scientific definition of each subject than was required for the purposes of the Schedules to the existing Devolution Rules upon which the Federal Structure Committee's lists were based. They are further satisfied that neither the Committee nor the Conference are competent to undertake this in the time at their disposal. The Committee hope, there-

fore, that His Majesty's Government will lose no time in beginning with expert assistance this laborious but important task.

2. In the course of their examination of this matter it was brought to the notice of the Committee by representatives of the States that in respect of some at all events of the subjects which had been classified by the Federal Structure Committee as " federal for policy and legislation " the States had not at the time intended to agree to the possession by the Federal Legislature of plenary powers of legislation in the States: in other words they intend to cede to the Crown in respect of each of these subjects a field of legislative jurisdiction to be specified in the Act or Treaty and to retain the remainder themselves. The Committee are not in possession of full details, but, as an example, they observe that, in the case of the Federal subject of railways, the exponents of this view suggested that so far as its operation in the States is concerned, the scope of Federal legislation might have to be confined to matters connected with safety, maximum and minimum rates and the interchangeability of traffic, that outside this limited range, the individual States' Governments should have independent and exclusive jurisdiction and that for securing compliance with its desires in railway matters not covered by the above heads the Federal Government should rely upon negotiation and agreement. Acceptance of this arrangement appears to involve, as a necessary consequence, variations of competence in relation to the States and the Provinces respectively, of the Federal Legislature.

3. Turning to the first Head of their Terms of Reference, the Committee endeavoured to assess in the light that had been thrown upon it by their detailed examination of subjects, the general requirements of a workable general plan of distribution of powers. They suggest to the Conference that any such plan must necessarily involve, as the first desideratum, a carefully drawn list of subjects upon which the Federal Legislature is to possess exclusive legislative powers. Two alternative methods present themselves of distinguishing between those of the ' exclusive ' subjects which are to be Federal and those which are to be British Indian. The first method would be so to classify them in the Act itself (or in a Schedule attached to the Act) as to make a statutory distinction between Federal and British Indian subjects. The second method would be to enumerate them all in the Act as matters on which the Federal Legislature has exclusive jurisdiction, leaving it to the States in their acceding Instruments to specify those of them which, in the States, are to be outside the range of Federal competence. The Committee recommend the adoption of the second alternative, but they agree with the view of States' representatives that even so it would be advantageous that the list should be divided into two Parts, of which Part I would include only those subjects in respect of which, generally speaking, the States may be expected to cede the necessary jurisdiction for the purpose of constituting them Federal subjects. Such a sub-division would greatly facilitate the drafting of the States' Instruments of Accession. The second alter-

native would also have the advantage that it would afford an easy means, either to the States generally, or to individual States in course of time, if they should so desire, to accept as operative in the States legislation upon subjects which by their original Treaty had been excepted.

4. The field of exclusive jurisdiction to be assigned to the Provinces would or would not require detailed definition by a similar schedule of subjects, according as it is decided that "residual powers" are to be assigned to the Centre or to the Provinces. In the latter event there would be no need to enumerate the Provincial subjects; they could be defined as all matters other than those assigned to the Centre. The advantages which would follow from the existence of only one list are very great, and the Committee do not disguise from themselves the risks which must attend the existence of two lists each within the exclusive competence of a particular legislature and neither containing "residuary powers". A law passed by one legislature must then fulfil two conditions before it is valid: not only must its subject-matter fall within the competence of that legislature, but every part of the law must also be demonstrably excluded from the competence of the other. The risk of litigation on questions of *ultra vires* must in that case be greatly increased. But since there was disagreement as to the allocation of "residual powers" exclusively to the Centre or to the Provinces, the sub-Committee assume, for the purpose of this report, the existence of an exclusively Provincial list.

5. The Committee are satisfied that it is not humanly possible so to define and separate all subjects of potential legislation as to secure that every conceivable subject will fall within the *exclusive* jurisdiction of either the Centre or of the Provinces. Moreover, even if this were possible, the allocation of every subject to the exclusive jurisdiction of either Centre or Provinces would seem to involve the loss of uniformity in directions where uniformity is desirable, or else an undue curtailment of flexibility and of Provincial initiative,—or, more probably a combination of both disadvantages. The Committee therefore consider that practical requirements will in any event necessitate a field in which both Centre and Provinces should have legislative jurisdiction. The Committee consider that the problem could be dealt with with sufficient precision by constituting a common field to which would be assigned matters upon which uniformity of law is or may be desirable and by assigning to both Centre and Provinces the power, but not the exclusive power, to legislate upon any subject included in it; but some method must at the same time be devised whereby administrative powers and functions which properly belong to the Provinces in respect of these subjects are secured exclusively to them.

6. The existence of concurrent powers will necessitate provisions for resolving a conflict of laws in any Province to which a Central Act regulating a "concurrent" subject is in force alongside a Provincial Act which is repugnant to it. The sub-Committee

suggest that the general rule in this matter must necessarily be that in that case the Central Act will prevail. But such a rule, if unqualified, would obviously tend in theory at all events to enable the Centre in course of time to usurp the whole concurrent field. The Committee therefore suggest that if a Provincial Act relating to any matter in the concurrent field is reserved for, and receives, the Governor-General's assent, it shall prevail in the Province over any Central Act to which it is repugnant. This rule itself will, however, require some qualification; otherwise it might operate to enable the Governor-General permanently to curtail the concurrent jurisdiction of the Federal Legislature. It should therefore be provided that the validity of a Provincial Act in the circumstances indicated shall be without prejudice to the power of the Federal Legislature to legislate subsequently in a contrary sense, but that the exercise of this power shall be subject to the previous assent of the Governor-General.

7. As regards the allocation of "residual powers"—*i.e.*, the right to legislate on matters not included in any of the three lists—the Committee would hope that if the lists are drawn in sufficient detail, the undefined or unforeseen residue will not prove to be extensive. But such cases will inevitably arise and suitable provision must be made to meet them. It was suggested that provision might be made whereby the Governor-General would be given power to decide in any given case which was the appropriate forum for legislation on an unallocated subject and whether a measure relating to that subject should be introduced in the Federal or Provincial Legislature. This suggestion found favour with some members of the Committee, as a compromise between the divided opinions on the ultimate allocation exclusively to Centre or Provinces of residuary powers, but was not acceptable to others. In these circumstances the Committee regret that they are unable to make any definite recommendation on this subject.

8. The attention of the Committee was drawn to the desirability of including in the Act some provision enabling the Federal Legislature at the request and with the consent of two or more Provinces to enact for those Provinces alone legislation which would not otherwise be within its competence. The Committee agree that provision should be made for this purpose, provided that the position of the Provinces is safeguarded by ensuring that such legislation should not result in withdrawing permanently any subject from the legislative competence of the provincial legislatures, and that the Federal Law keeps strictly within the authority conferred on the Federal Legislature by the terms of the request.

9. The Committee wish to add that it will, in their opinion, be necessary also to deal with the competence of the Federal and Provincial legislatures respectively to repeal or amend existing legislation. In the time at their disposal they have not been able to suggest a suitable machinery for this purpose, but the matter is one of great practical importance and they commend it for examination by His Majesty's Government.

The Conference noted the Report of the Committee on the Distribution of Legislative Powers after the following points had been raised:—

(1) *Mr. Joshi* complained that no progress had been made by the Committee. After the subject had been discussed for two years this sub-Committee suggested a further examination, without even indicating what kind of examination was in view.

(2) *Mr. Zafrulla Khan* urged, with reference to item 6 of the Schedule of 'Provincial Subjects, subject to legislation by the Indian Legislature', that the words 'light and feeder' should be omitted therefrom, so that Provincial Governments may have the legal competence to construct any kind of railway, whether light or feeder, or otherwise, subject to compliance with the technical standards laid down by a central authority and subject to the proposed line not competing with existing Federal lines.

(3) *Mr. Zafrulla Khan* urged that there should be as few centrally administered areas as possible; with the exception of Delhi, efforts should be made to bring such areas within some Province or other.

(4) *Mr. Zafrulla Khan* said that consideration should be given to the constitutional future of Baluchistan; it should be possible to weld British Baluchistan, Kalat, and Las Bela in some kind of federal union and so form a unit which might become a unit of the Federation.

(5) *Mr. Rushbrook Williams* dealing with the suggestion in the Report that certain States might in future desire to accept as operative legislation upon subjects which by their original Treaty had been excepted, entered a caveat to safeguard the position of other States not accepting such legislation, in the event of the legislation itself being sufficiently important to effect a change in the Constitution.

(6) Some discussion arose as to whether the previous assent of the Governor-General, referred to in the last sentence of paragraph 6 of the Report, should be dependent upon the advice of the Ministry.

Mr. Jayakar held that it should be so dependent; otherwise it would create an exception to the principle of the supremacy of the Legislature in the normal field (*i.e.*, outside the sphere of special responsibilities and safeguards). In reply it was explained that the object was to provide for an impartial decision in the event of conflict between the Federal and a Provincial Legislature; a Federal Ministry, however well-meaning, could hardly be expected to give an unbiassed opinion in such a conflict. General agreement was eventually reached by substituting the word "conflicting" for the word "contrary" appearing in the last sentence of paragraph 6.

(7) *Sir Tej Sapru*, referring to paragraph 7 of the Report on the question of Residuary Powers, said that his group considered that it was most desirable that unforeseen emergencies should fall to be

dealt with by the Federal Government, and assured the Conference that residuary powers, if allotted to the Centre, would not be used as a means of interfering with Provincial Autonomy. He and his group were prepared to accept the compromise that had been suggested, but if the other side found it unacceptable then he must adhere to his original position that residuary powers should be allotted to the Centre. He asked whether the Secretary of State for India could give the Government's view on the matter to the Conference.

The Secretary of State for India was unable to make a final pronouncement at that stage, but stated that the Government were fully alive to the great cleavage of opinion on the subject, although inclined to think that a careful and exhaustive allocation of legislative powers would make the matter of less practical importance than it had assumed. He was much attracted by the compromise that had been suggested and if the two sides were eventually unable to reach agreement the Government would consider this compromise most sympathetically.

HEAD B (b).

Administrative relations between the Federal Government and the Provinces.

1. It was generally agreed that the relationship between the Federal Government and the Provinces should not be so defined, in connection with the separation of powers, as to involve a necessary breach with the traditional methods and machinery of Indian administration, whereby the Central Government has habitually employed as the agency for administering a large part of its functions the ordinary provincial administrative staffs. No doubt the tendency which has shown itself of recent years, even under the existing constitution, towards employment by the Central Government of separate agencies of its own for the administration of certain of its functions will be accentuated by the departure from the unitary system: but considerations of financial and practical convenience are opposed to any immediate and necessary adoption of this system as the consequence of the statutory division of powers and functions between the Centre and the Provinces which is involved in Federation. The legal and constitutional relations between the Federation and the Provinces should therefore be so defined as to place no obstacles in the way of the devolution by the Federal Government and Legislature upon Provincial Governments, or upon any specified officers of those Governments, of the exercise on its behalf of any functions in relation to the administration in the provinces of any Federal or Central subject, wherever such an arrangement is found to be financially or administratively convenient.

2. It is clear, however, that the possession of such powers by the Federation will be liable to involve provincial governments in increased expenditure upon staff. It would clearly be unreasonable if every imposition of powers or duties upon provincial governments or their officers by a Federal enactment were to be regarded as necessarily involving a financial subsidy. The rule should therefore be that if the enactment of a Federal Act involves employment by the province of *additional* staff, the Federation should bear the cost of that staff if it is employed exclusively on the administration of a Federal or Central subject, and the cost should be shared between the Federation and that province if the additional staff is so employed only in part. In most cases, questions of the proportions in which such charges are to be borne should prove capable of adjustment by mutual agreement: in case. however, of disagreement, suitable provision should be made for an arbitral decision.

3. It was generally agreed that the Constitution should endow the Federal Government with specific authority to ensure that provincial governments give due effect to Federal legislation in so far as this depends upon their own administrative agencies; it

was felt in some quarters that Federal authority should extend, in the interests of the efficient performance of the functions entrusted to it, to ensuring that provincial governments so administer their own provincial subjects as not to affect prejudicially the administration of any Federal or Central subjects. As against this it was suggested in the course of discussion of this latter point that if the Federal Government is to possess this power there should be a reciprocal power in the hands of provincial Governments to ensure that Federal subjects are not so administered by the Federation as prejudicially to affect the administration of provincial subjects. No doubt any provincial government which considered that the action or policy of the Federal Government gave ground for legitimate complaint upon this score would lose no time in bringing its attitude to the attention of the Federal Government, either through its representatives in the Federal Legislature or by correspondence.

4. There was difference of opinion as to the extent—if at all—to which the Federation should be authorised to exercise control over the administration of provincial subjects when no question arises of reactions upon a Federal or Central subject. It was, however, generally agreed—

(a) that the scope for intervention by the Centre in the administration of provincial subjects should be strictly confined to questions involving the matters compendiously described as "law and order";

(b) that powers of intervention for this limited purpose should be vested in the Governor-General personally and not in the Federal Government as such; in other words, that the power should be exercisable by the Governor-General "at his discretion" as explained in paragraph 10 of the Report on Head C;

(c) that even so the Governor-General's intervention (which he would naturally exercise through the Governor) should be defined in appropriate terms as being exercisable only for the purpose of preventing the occurrence of conditions which might endanger the internal security of India.

It was generally recognised as the basis of these conclusions that the transfer of the control of "law and order" in the provinces cannot, in the interests of the country as a whole, be treated as involving the position that every province is to be entirely independent and uncontrolled in the administration of law and order but that at the same time the necessary powers of control and co-ordination must be so framed as, on the one hand, not to enable, or have the appearance of enabling, a constant external interference with the day to day Administration of provincial affairs, and, on the other hand, not to be so restricted as to be incapable of exercise until a serious breakdown of law and order has actually occurred. The conclusion recorded in clause (*c*) above is designed to meet this twofold purpose.

ADMINISTRATIVE RELATIONS WITH THE STATES IN FEDERAL MATTERS.

5. It was recognised that the relationship of the Federal Government with the States cannot be in all respects identical with that which will obtain with the Provinces. It was agreed that the Constitution should impose upon the States' Governments an obligation to exercise their executive power and authority, so far as they are necessary and applicable, for the purpose of securing that due effect is given within their territories to every Act of the Federal Legislature which applies to that territory. It was further agreed that the Constitution should recognise arrangements (which would, in fact, be made in suitable cases through the Instrument of Accession) for the administration by the States on behalf of the Federal Government of Federal subjects through the agency of staff and establishments employed and controlled by themselves, but that any such arrangements should be subject to conditions to be expressed in the Constitution enabling the Governor-General to satisfy himself by inspection, or otherwise, that an adequate standard of administration is maintained. Finally, it was agreed that power should vest in the Governor-General personally to issue general instructions to the States' Governments for the purpose of ensuring that their obligations to the Federal Government specified in this paragraph are duly fulfilled.

HEAD C.

Special powers and responsibilities of the Governor-General and Governors.

1. The Conference approached the problems presented by this head from the standpoint of the following assumptions as to the form of the constitutional structure:—

(*a*) that the Act will declare that executive power and authority (as in the United Kingdom and the Dominions) vests in the Crown, represented in the Federation by the Governor-General and in the Provinces by the Governors; but

(*b*) that nevertheless, except in so far as is otherwise provided, (whether such provision be in the Act or in the Instrument of Instructions) the Governor-General and Governors will be guided by the advice of their respective Ministers, and the Executive will depend for its Legislative enactments and for its Supply upon the concurrence in its proposals of the Legislature.

2. Approached from this standpoint and from that of a unanimous acceptance of the general principles enunciated in paragraph 11 of the Second Report of the Federal Structure Committee, the questions for consideration under this head were found to resolve themselves into examination in greater detail than had been necessary or possible at previous Conferences of the exact nature and scope of the responsibilities to be imposed upon the Governor-General and Governors, and of the special powers which are to flow from these responsibilities in order that the latter may be effectively fulfilled. The detailed conclusions at which the Conference have arrived under this head of the inquiry can best be described, therefore, under the general headings of the Governor-General's relations with his Ministers and with his Legislature respectively. The same general principle will apply to the Governors also, with the modifications of detail to be explained later.

A.—GOVERNOR-GENERAL'S RELATION WITH HIS MINISTERS.

3. In certain matters Ministers will not be entitled to tender advice to the Governor-General at all; these matters—namely, the Reserved Departments will be administered by the Governor-General upon his sole responsibility. But it would be impossible, in practice, for the Governor-General to conduct the affairs of these departments in isolation from the other activities of his Government, and undesirable that he should attempt to do so, even if it were, in fact, possible. A prudent Governor-General would keep his Ministers and the advisers who he has selected to assist him in the Reserved Departments in the closest contact; and, without blurring the line which will necessarily divide on the one

hand his personal responsibility for the Reserved Departments and, on the other hand, the responsibility of Ministers to the Legislature for the matters entrusted to their charge, he would so arrange the conduct of executive business that he himself, the personal advisers in the Reserved Departments, and his responsible Ministers, are given the fullest opportunity of mutual consultation and discussion of all matters—and there will necessarily be many such —which call for co-ordination of policy. The hope was expressed that His Majesty's Government would be prepared to consider the embodiment of this principle in appropriate terms in the Governor-General's Instrument of Instructions, though it was recognised at the same time that the Instrument of Instructions must make it clear, without ambiguity, that whatever consultation between the Governor-General and his responsible Ministers may take place upon matters arising in the Reserved Departments, the responsibility for the decisions taken is the Governor-General's and the Governor-General's alone.

Some further conclusions bearing upon this matter will be found in the Report dealing with Defence expenditure.

4. As regards the actual Departments to be classed as Reserved, it will be necessary to add the Ecclesiastical Department to the Departments of Defence and External Affairs in the reserved category. This agreement was based upon the understanding that an endeavour will be made to alter the existing classification of Ecclesiastical expenditure so as to bring under the head of defence all such expenditure upon the provision of Churches and Chaplains as is required primarily for the needs of the British Army, and that the general policy will be to arrive as soon as may be at the position that the provision of such Churches and ministrations as are not required for this purpose is confined to the needs of the European members of the Services. The separate Ecclesiastical Department would thus, probably, be confined to the regulation of civilian requirements.

In any case, the Conference was given to understand that pending the completion of this policy, Ecclesiastical expenditure would not exceed the present scale.

5. In the course of discussion it was suggested by some Delegates that it might be possible to define with precision the matters which were to be treated as falling within the Departments of Defence and External Affairs, and by so doing to leave to the charge of responsible Ministers certain spheres of activity which might otherwise be regarded as covered by those terms. There was, however, substantial support for the view that such a course would be undesirable in the case of Defence and unnecessary in the case of External Affairs. In the former case such an attempt would inevitably be found to involve a division of responsibility and control in a field where such division would be fatal to efficiency. This Department must, therefore, include all matters directly involving military requirements. In the case of External Affairs, while the primary ambit of the Department would be

matters involving relations with foreign countries, many subjects which involve such relations (*e.g.*, the multifarious questions which might be involved by commercial treaties) would necessarily be dealt with, and discussed, by the Ministers responsible for those subjects in the domestic sphere, by whose advice the Governor-General would be guided except in so far as he felt that his personal responsibility for the general subject of External Affairs made it incumbent upon him to act otherwise than in accordance with the advice tendered. The conclusions of the Conference upon this matter will become clearer in the light of their conclusions as explained in paragraphs 7 to 9 below: but the main point which requires emphasis in the present connection is the fact that a matter which, in the domestic sphere, is in charge of a Minister will not necessarily be removed from his province and included for the time being in the Reserved portfolio of External Affairs merely by reason of the fact that that matter happens to become the subject of international negotiations.

6. A different problem presents itself in regard to the Governor-General's relations with his Ministers outside the ambit of the Reserved Departments—*i.e.*, in the Departments which will be entrusted to the charge of Ministers responsible for the conduct of their administration of them to the Legislature. In this sphere Ministers will have a constitutional right to tender advice, and the Governor-General will, except to the extent and in the circumstances explained below, be guided by that advice. The problem is so to define the circumstances in which he will be entitled to act otherwise than in accordance with his Ministers' advice. The Conference, after examining various alternatives, were unanimous in agreeing that the most satisfactory course will be—

(*a*) the enactment of provision in the Constitution that the Governor-General has a "special responsibility" not for spheres of administration, but for certain clearly indicated general purposes, and that for securing these purposes he is to exercise the powers conferred upon him by the Act in accordance with directions contained in his Instrument of Instructions and

(*b*) the insertion in the Instrument of Instructions *inter alia* of a direction to the effect that the Governor-General is to be guided by his Ministers' advice unless so to be guided would, in his judgment, be inconsistent with a "special responsibility" imposed upon him by the Act, in which case he is to act, notwithstanding his Ministers' advice, in such manner as he judges requisite for the due fulfilment of his special responsibility.

It will be apparent from this conclusion that the Instrument of Instructions will assume a position of great importance as an ancillary to the Constitution Act.

7. It remains to indicate the matters or purposes in respect of which the Governor-General should be declared, in accordance with

the proposals in the preceding paragraphs, to have a special responsibility in relation to the operations of the Federal Government. It was generally agreed that they should be the following*:—

(i) the prevention of grave menace to the peace or tranquility of India or of any part thereof;

(ii) the protection of minorities;

(iii) the preservation of the rights of the public services;

(iv) matters affecting the administration of the Reserved Departments;

(v) the protection of the rights of the States;

†(vi) the prevention of commercial discrimination.

The actual terms in which the several items should be expressed formed the subject of some discussion,‡ but it should be made clear in the first place with regard to the list that the actual working of the items does not purport to be expressed here with the precision, or in the form, which a draftsman, when the stage comes for drawing a Bill, would necessarily find appropriate; but the list expresses with sufficient clarity for present purposes the intentions underlying the conclusions of the Conference on this point. The necessity of the first three items was accepted with a unanimity which makes further elucidation unnecessary—indeed they follow as a mattter of course from recommendations made at previous Conferences. With regard to (iv) it is apparent that if, for example, the Governor General were to be free to follow his own judgment in relation to the conduct of Defence policy only in regard to matters falling strictly within the ambit of the department of Defence, he might find that proposals made in another department in charge of a responsible Minister are in direct conflict with the line of policy he regards as essential for purposes connected with Defence, and consequently that the fulfilment of his responsibilities for the department of Defence would be gravely impaired if he accepted the advice of the Minister responsible for the charge of the other department in question: if, therefore, such a situation is to be avoided, it seems to be impossible to secure the object in view otherwise than by expressing the Governor-General's "special responsibility" in some such terms as those indicated in item (iv). As regards item (v), it should be explained that this is not intended to give the Governor-General any special powers *vis-a-vis* the

* An addition to this list is discussed in the Report of the Financial Safeguards Committee.

† See report of Commercial Safeguards Committee.

‡ For example, Mr. Zafrulla Khan proposed for the wording of (ii) "The avoidance of prejudice to the interests of any section of the population" (*vide* paragraph 16 of Second Report of Federal Structure Committee); he also proposed—and Sir Tej Sapru supported the suggestion—to retain for (v) the words used in the same passage of that Report, *viz.*: "To secure to the members of the Public Services any rights guaranteed to them by the Constitution".

States in relation to matters arising in the Federal sphere proper; the necessary powers having been transferred by the States in their treaties, such matters will be regulated in accordance with the normal provisions of the Act. Nor is it intended that the inclusion of this item should be regarded as having any bearing on the direct relations between the Crown and the States. Those will be matters for which the Constitution will make no provision and which will fall to be dealt with by a Viceroy representing the Crown, who will, it may be assumed, be the Governor-General in a capacity independent of the Federal organ. It may be, however, that measures are proposed by the Federal Government, acting within its constitutional rights in relation to a Federal subject, or in relation to a " Central " subject not directly affecting the States at all, which, if pursued to a conclusion, would affect prejudicially rights of a State in relation to which that State had transferred no jurisdiction. Or, again, policies might be proposed or events arise in a province which would tend to prejudice the rights of a neighbouring State. In such cases it seems evident that it must be open to the Crown, through the Governor-General or the Governor, as the case may be, to ensure that the particular course of action is so modified as to maintain the integrity of rights secured to the State by Treaty.

8. In addition to the items specified at the beginning of the preceding paragraph, the addition was suggested of a " special responsibility " for " the maintenance of good relations with other parts of the Empire ". In support of this suggestion it was urged that some power ought to vest in the Governor General to intervene in situation where the policy advocated by his Ministers was likely to end in serious detriment to Imperial solidarity. On the other hand it was agreed that the existence of such a power in the hands of the Governor General, with no corresponding power at the disposal of Dominion Governors General, would tend to place India at a disadvantage in inter-Imperial affairs and would raise grave suspicions in the minds of the Indian public as to the uses to which it would be put: those who held this view pointed out that the Governor General would in any case be in a position to refuse his assent to legislative measures which he considered likely to give rise to justifiable resentment in the Dominions, and that no additional safeguard for this purpose was either necessary or desirable. The general conclusion of the Conference was in this sense.

9. The range of the Governor General's special responsibilities having been thus indicated, it is desirable to explain somewhat fully the precise effects which were contemplated as the results of the proposals contained in the three preceding paragraphs. In the first place it should be made clear that unless and until the Governor General feels called upon to differ from his Ministers in fulfilment of a " special responsibility ", the responsibility of Ministers for the matters committed to their charge remains unfettered and complete. To take a concrete instance, it will clearly be the duty of

Ministers, rather than of the Governor General himself, to ensure that the administration of their departments is so conducted that minorities are not subjected to unfair or prejudicial treatment. The intention of attributing to the Governor General a special responsibility for the protection of minorities is to enable him, in any case where he regards the proposals of the Minister in charge of a department as likely to be unfair or prejudicial to a particular minority, in the last resort to inform the Minister concerned, (or possibly the Ministers as a body, if they generally support the proposals of their colleague), that he will be unable to accept the advice tendered to him. Nor is it contemplated that the Governor General, having been vested with " special responsibilities " of the kind indicated, will either wish, or find it necessary, to be constantly overruling his Ministers' proposals. The discussions of the Conference have proceeded on the basic assumption that every endeavour will be made by those responsible for working the Constitution now under consideration to approach the administrative problems which will present themselves in the spirit of partners in a common enterprise. In the great bulk of cases, therefore, in day to day administration, where questions might arise affecting the Governor General's " special responsibilities," mutual consultation should result in agreement so that no question would arise of bringing the Governor General's special responsibilities into play.

10. Apart from the Reserved Departments, and the specified special responsibilities of the Governor General outside the sphere of those Departments, there is a third category of matters in which the Governor General must be free to act on his own initiative, and consequently must not be under any constitutional obligation to seek, or, having sought, to follow, ministerial advice. For this purpose certain specified powers would be conferred by the Constitution on the Governor General and would be expressed as being exercisable " at his discretion ". In this category of " discretionary powers ", the precise range of which it will be impossible exhaustively to foresee until the drafting of the proposed Constitution has reached completion, it was agreed that the following matters should be included—

(*a*) The power to dissolve, prorogue and summon the Legislature;

(*b*) The power to assent to, or withhold assent from, Acts, or to reserve Acts for the signification of His Majesty's pleasure;

(*c*) The grant of previous sanction to the introduction of certain classes of legislative measures;

(*d*) The power to summon a Joint Session of the Legislature in cases of emergency, where observance of the ordinary time limit which, it was assumed, would be prescribed by the Constitution would produce serious consequences.

It follows further as a matter of logic from the foregoing proposals that the special powers to be conferred on the Governor General for the purpose of enabling him to fulfil his responsibilities must be similarly exercisable " at his discretion ". To the foregoing must, therefore, be added.

(*e*) The power to take action, notwithstanding an adverse vote in the Legislature—to be dealt with more fully below;

(*f*) The power to arrest the course of discussion of measures in the Legislature—also dealt with below;

(*g*) The power to make rules of legislative business insofar as these are required to provide for the due exercise of his own powers and responsibilities.

B.—GOVERNOR GENERAL'S RELATIONS WITH THE LEGISLATURE.

11. It is not sufficient, however, merely to regulate the Governor General's relations with his responsible Ministers, *i.e.*, to regulate matters arising in discussions amongst the members of the executive Government. It follows from the recommendations of the Federal Structure Committee, upon which these proposals are based, that the Governor General must be given powers which will enable him effectively to fulfil the responsibilities entrusted to him, whether his responsibilities for the Reserved Departments or the " special responsibilities " indicated above, if their fulfilment involves action normally lying within the functions of the Legislature to which the Legislature will not agree. The general scheme underlying the proposals is that, wherever the Governor General's responsibilities for the Reserved Departments, or his " special responsibilities ", are involved, he should be empowered not only, as has already been explained, to act without, or, as the case may be, contrary to, the advice of his Ministers, but also to counteract an adverse vote of the Legislature, whether such a vote relates to the passage of legislation or to the appropriation of funds. It was unanimously agreed, that the Governor General must, in some appropriate manner, be granted the necessary powers for this purpose, and that the exercise of these special powers should be expressed in the Act as being restricted to the fulfilment of these responsibilities. There was some difference of opinion, however, as to the precise form which these powers should be expressed as taking. It was suggested that provisions in any way closely analogous to the existing " certification " sections of the Government of India Act, namely, Section 67-B, which enables the Governor General to secure affirmative legislation, and Section 67-A (7), which enables him to " restore " rejected or reduced Demands for Grants, would be inappropriate under the Constitution now contemplated, and that the necessary powers should be so expressed as to involve not an overriding of the Legislature but action taken

by the Governor General independently of the Legislature on his own initiative and responsibility. On the other hand the view was taken that it would be unfortunate if the Governor General's power to secure legislative enactments otherwise than by the normal process of the assent of the Legislature were so framed as to exclude any right on the part of the Legislature to discuss the terms of such a measure before it was enacted and that the objection to a procedure analogous in form to the provisions of Section 67-B or Section 67-A (7) would be substantially met if the new Constitution were to make it clear that such a measure when enacted, is described in terms as a " Governor General's Act ", and does not purport to be an Act of the Legislature, and that votable supply which is, in fact, obtained otherwise than with the consent of the Legislature does not purport to have received such assent.

Notwithstanding this difference as to method, there was a general feeling in favour of the provision of powers of this character for use in fulfilment by the Governor General of his responsibilities for the Reserved Departments and of his " special responsibilities " on the understanding that care would be taken in framing the Bill to make it clear that their exercise was the outcome of the Governor General's own initiative and responsibility and would in no way compromise either the position of his Ministers in their relationship with the Legislature or the position of the Legislature itself.

12. It was also agreed that for the same purpose it would be necessary to place at the disposal of the Governor General powers analogous to the Ordinance-making powers to meet temporary emergencies contained in Section 72 of the existing Act. Indeed, in addition to such a power to be placed at the disposal of the Governor General " at his discretion " for the express purpose of fulfilling his responsibilities for a Reserved Department, or for carrying out a " special responsibility ", there was general agreement that a similar power should be placed at the disposal of the Governor General acting on his Ministers' advice, *i.e.*, at the disposal of the Federal Government, to meet cases of emergency when the Legislature is not in session, the Ordinances resulting therefrom being limited in duration to a specified period and their continuation beyond that period being made dependent upon subsequent ratification by the Legislature.

13. Finally, the Conference were agreed that the Constitution should contain provision requiring the previous sanction of the Governor General, acting in his discretion, to the introduction of any Bill affecting a Reserved Department, or religion, or religious rites and usages*, or any Bill repealing, amending or affecting any Act or Ordinance of the Governor General, enacted in fulfilment of his personal responsibilities†, and, in addition to this

* The opinion was expressed in this connexion that the Governor General's powers for this purpose should not be so framed as to hamper freedom in social reform.

† See also Financial Safeguards section.

requirement, that the Governor General should be empowered, on the lines of the provisions of Section 67 (2-A) of the existing Act, to prevent the discussion, or further discussion, of any measure the mere discussion of which, in his judgment, is liable to involve grave menace to peace and tranquillity.

14. It is perhaps desirable to summarise very briefly the essence and effect of these proposals. The intention is that the special powers of the Governor General properly so described, namely his power to obtain legislation and supply without the assent of the Legislature, will flow from the responsibilities specifically imposed upon him and be exercisable only for the purpose of enabling those responsibilities to be implemented. The responsibilities to be imposed on the Governor General by the Constitution should be of two kinds—an exclusive responsibility for the administration of the Reserved Departments, and a " special responsibility " for certain defined purposes outside the range of the Reserved Departments. On the administration of the Reserved Departments Ministers will have no constitutional right to tender advice, though, in practice, they will necessarily be consulted; nor will they have any such right to tender advice on the exercise of any powers conferred upon the Governor General for use " in his discretion ". On all other matters Ministers will be constitutionally entitled to tender advice, and unless that advice is felt by the Governor General to be in conflict with one of his special responsibilities he will be guided by it. If, in fulfilment of his responsibility for a reserved Department, or of a special responsibility, the Governor General decides that a legislative measure or supply to which the legislature will not assent is essential, his special powers will enable him to secure the enactment of the measure or the provision of the supply in question, but Ministers will not have any constitutional responsibility for his decision.

C.—GOVERNORS' SPECIAL POWERS AND RESPONSIBILITIES.

15. As indicated in paragraph 2 of this Report, the scheme for the Governor General's responsibilities and powers described above will be applicable in all respects to the Governor in relation to his Ministers and Legislature, with the following modifications of detail. In the Provinces there will be no category exactly corresponding to the Reserved Departments of the Governor General, though it may be found necessary to make arrangements somewhat analogous to those involved in reservation in order to provide for the administration of those areas in certain Provinces which, from the primitive nature of their populations and their general characteristics, will have to be excluded from the normal operation of the Constitution. With this exception, therefore, the Governors' special powers will flow from, and be expressed as being required in order to enable them to fulfil, their " special responsibilities " only.

16. As regards the " special responsibilities " of the Governors* these should be identical with those indicated in the case of the Governor General, save that the first item on the list would necessarily be confined in scope to the Province, or any part thereof, and not extend, as in the case of the Governor General, to India as a whole. But in the case of the Governors, it would be necessary to add to the list of " special responsibilities " an item relating to the execution of orders passed by the Governor General. If the Governor General is to be charged, as will be explained later, with the general superintendence of the actions of Governors in the exercise of their " special responsibilities ", and if, as has already been proposed, he is himself to have imposed upon him a " special responsibility " for the prevention of grave menace to peace and tranquillity throughout the country, it follows that he must be in a position to ensure that his instructions to a provincial Governor are acted upon: and consequently that the Governor must be in a position to act otherwise than on his Ministers' advice, if such advice conflicts with the Governor General's instructions. Finally, it may be necessary to impose upon the Governor a " special responsibility " for the administration of certain excluded areas, if, as seems probable, the arrangements for the administration of excluded areas involve their classification into two categories, one of which would be placed under the exclusive control of the Governor and the other made subject to Ministerial control, but with an overriding power in the Governor obtained in the manner explained in earlier paragraphs of this Report through his " special responsibility ".

17. The division of legislative powers between Centre and provinces would no longer make appropriate the concentration in the hands of the Governor-General of the power to legislate in emergency by Ordinance on provincial matters and this power should henceforth be conferred on Governors also, for the double purpose indicated in paragraph 13 of this Report. Some delegates, however, considered that only the Governor General should have the power to legislate by Ordinance.

18. Finally, the Conference were agreed that insofar as the Governor General or a Governor is not constitutionally bound to seek Ministers' advice, or in any matter in which being bound to seek their advice he is unable to accept it, the general requirements of constitutional theory necessitate that his actions shall be subject to direction by His Majesty's Government and Parliament and that the Constitution should make this position clear. In the case of a Governor the chain of responsibility must necessarily include the Governor General.

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* Sardar Tara Singh and Pandit Nanak Chand advocated a special arrangement in the Punjab in relation to "Law and Order". The Minister in charge of that subject should be assisted by a Statutory Board composed of one Hindu, one Sikh, and one Moslem; and the Governor should have the power of decision in the event of disagreement between the Minister and the Board.

19. It should be explained in conclusion that the recommendations on this Head of the Agenda have no reference to situations where a complete breakdown of the Constitutional machinery has occurred. It was, however, the unanimous view of the Conference that the Constitution should contain separate provision to meet such situations, should they unfortunately occur either in a province or in the Federation as a whole, whereby the Governor General or the Governor, as the case may be, should be given plenary authority to assume all powers that he deems necessary for the purpose of carrying on the King's Government.

HEAD D.

(i) Report of the Committee on Financial Safeguards.

The Committee was appointed " to consider the question of Financial Safeguards " and was constituted as follows:—

Sir Samuel Hoare (Chairman).
Lord Irwin.
Lord Peel.
Lord Reading.
Sir Akbar Hydari.
Sir Manubhai Mehta.
Sir Hubert Carr.
Mr. Hidayat Husain.
Sir Cowasji Jehangir.
Sir Tej Sapru.
Sir Purshotamdas Thakurdas.
Mr. Zafrulla Khan.

1. The Committee took as the basis of their deliberations paragraphs 18 and 19 of the Second Report of the Federal Structure Committee and the passage which relates thereto in the subsequent Declaration of Government policy by the Prime Minister at the final Plenary meeting of the first session of the Round Table Conference on the 19th January 1931. The Committee adhere to the principle that no room should be left for doubt as to the ability of India to maintain her financial stability and credit both at home and abroad.

The Committee examined in somewhat greater detail than was possible at the time of the Second Round Table Conference the implications of the conclusion in paragraph 18 of the Second Report of the Federal Structure Committee that " it would therefore be necessary to reserve to the Governor-General, in regard to budgetary arrangements and borrowing, such essential powers as would enable him to intervene if methods were being pursued which would in his opinion seriously prejudice the credit of India in the money markets of the world ".

2. It was agreed, with one dissentient, that the requisite power for the Governor-General could suitably be obtained by placing upon him by Statute a " special responsibility " in financial matters. The terms to be used in defining this special responsibility were carefully examined in the Committee. Some took the view that it was possible to enumerate exhaustively the occasions upon which the special powers of the Governor-General might have to be exercised. The majority are unable to accept this view, and are of opinion that the only statutory description of the

special responsibility which will serve the essential purpose which all of us have in view is " a special responsibility for safeguarding the financial stability and credit of the Federation."

As in the case of other special responsibilities of the Governor-General, the responsibility of the Ministers for the matters committed to their charge will remain unfettered and complete unless and until the Governor-General feels it necessary to exercise the powers entrusted to him; and when he does exercise his powers, his action will be so expressed as to make it clear that his Ministers bear no responsibility for it. Unless occasion arises for the exercise of these exceptional powers it will be for the Ministry, and the Ministry alone, to take decisions upon such matters as the means to be used for raising the necessary revenue, for allocating expenditure in the responsible field, and for the programme of external and internal borrowing.

It is, moreover, agreed that the Governor-General should not exercise the powers in question unless he is satisfied that failure to use them will seriously endanger the financial stability and credit of the Federation, and the Committee suggest that this should be made clear in the Governor-General's Instrument of Instructions.

The Committee are also agreed, with one dissentient, that the Governor-General should be enabled to obtain the services of a financial adviser, without executive power, to assist him in the discharge of the special responsibility referred to above. His services should be available to the Ministry as well as to the Governor-General, but he would be responsible to the Governor-General and would be appointed by him in his discretion and (in cases subsequent to the first appointment), after consultation with Ministers.

3. It has always been contemplated that the budget should include certain items of expenditure which are declared by Statute to be non-votable, for example, charges in respect of reserved departments and the service of the debt. The Committee endorse this principle.

4. The Committee agrees with the recommendation in paragraph 18 of the Second Report of the Federal Structure Committee that efforts should be made to create, on sure foundations and free from any political influence, and as early as may be possible, a Reserve Bank which would be entrusted with the management of currency and exchange. The Committee are of the opinion that the proposals to be submitted to Parliament should be based on the assumption that such a Reserve Bank would have been created prior to the inauguration of the Federal Constitution, and recommend that steps should be taken to introduce into the Indian Legislature a Reserve Bank Bill conceived on the above lines as soon as is possible. Certain requirements must be satisfied before the Reserve Bank could start operations with a reasonable chance of successfully establishing itself; in particular, that the Indian budgetary position should be assured, that the existing short-term

debt both in London and in India should be substantially reduced, that adequate reserves should have been accumulated and that India's normal export surplus should have been restored. The Committee recognise that some of these matters are beyond the control of governments but have been assured by the Secretary of State that, so far as is within his power and that of the Government of India, a policy which aims at the earliest possible realisation of the conditions required for the establishment of the Bank will be pursued.

The Secretary of State undertook that representative Indian opinion would be consulted in the preparation of proposals for the establishment of the Reserve Bank including those relating to the reserves.

5. In the existing state of financial and economic crisis throughout the world, it is impossible at this moment to predict a definite date by which the Reserve Bank will have been launched. In paragraph 20 of the second report of the Federal Structure Committee it was contemplated that if the establishment of the Reserve Bank was unavoidably delayed, some special temporary powers might be given to the Governor-General to control monetary policy and currency pending the establishment of the Reserve Bank. The Committee were informed that His Majesty's Government had carefully examined the possibility of framing special provisions to this end, but that none of the measures which had been suggested would have been satisfactory from the point of view both of the responsibility of the Federal Ministry and of the maintenance of India's credit; and it is important to remember that the maintenance of India's credit is itself one of the essential pre-requisites of the successful establishment of a Reserve Bank. The Committee accordingly have proceeded on the basis that the proposals to be submitted to Parliament would be framed on the assumption that the Reserve Bank will be in successful operation by the time that it is possible to inaugurate the Federation.

The Committee recognise that Indian opinion may well expect some indication as to the course to be followed if circumstances should arise in which, while all other conditions for the inauguration of the Federation have been satisfied, some obstacles remain in the way of the successful establishment of the Bank. The Committee have been assured by the Secretary of State that in this event His Majesty's Government would consult representatives of Indian opinion regarding the course to be adopted in the face of this particular difficulty.

It is on the basis of this assurance by the Secretary of State that some members of the Committee have been able to accept this part of the Report, and they reserve their right to reconsider their whole position should delay in the establishment of the Bank seem likely to result in postponement of the inauguration of the Federation.

6. Paragraph 18 of the Second Report of the Federal Structure Committee laid down that " provision should be made requiring

the Governor-General's previous sanction to the introduction of a Bill to amend the Paper Currency or Coinage Acts". The majority of the Committee endorse this recommendation. It necessarily follows that this condition will apply to any provisions which may be contained in the Reserve Bank Act itself laying down the conditions with which the Bank has to comply in the management of currency and exchange.

7.* The Committee are conscious of the difficulty in any country of reconciling the introduction of far-reaching constitutional changes, necessarily affecting finance with the highly important requisite that the confidence of world markets and of the investor in future financial stability should be maintained. They believe that the Ministry of the future Federation will pursue a course of financial prudence and that the Federation will rapidly establish an independent credit of a high class. Though, in the future as in the past, it will naturally be the aim to obtain internally, so far as possible, such loan funds as may be required, India will doubtless find it necessary to develop a credit that will enable her also to appeal with confidence to external markets. The provisions outlined in this Report are accordingly designed to afford India an assured prospect of maintaining the confidence of the investment market. Assuming that a prudent financial policy is pursued by the Federation, the Committee feel that there will be no need to call the proposed special safeguards into operation. Their existence should, however, afford reassurance to the investing public at a time when far-reaching developments in the political and financial sphere are being introduced.

* One member can only accept this paragraph so far as it does not conflict with his dissent from paragraph 2.

The Conference noted the Report of the Committee on Financial Safeguards after the following points had been raised:—

Mr. Jayakar found difficulty in accepting any provision which seemed to confer on the Governor-General a special responsibility in regard to Finance beyond the mere protection of the security of investors and the assurance of sufficient funds for the administration of his special subjects. He also feared that the proposed financial adviser might become a rival of the Finance Minister, and that the inauguration of the Federation might be seriously delayed if it depended on the creation of a Reserve Bank.

(Points raised by Sir Tej Sapru on this subject will be found in his speech in the general discussion.)

HEAD D.

(ii) Report of the Committee on Commercial Safeguards.

The Committee was appointed " to consider the question of commercial safeguards " and was constituted as follows:—

Lord Reading (Chairman).
Lord Irwin.
Mr. Butler.
Lord Peel.
Sir Akbar Hydari.
Sir Manubhai Mehta.
Dr. Ambedkar.
Sir Hubert Carr.
Mr. Hidayat Husain.
Sir Cowasji Jehangir.
Sir Tej Sapru.
Sir Purshotamdas Thakurdas.
Mr. Zafrulla Khan.

The Committee proceeded upon the basis of paragraphs 16-26 of the Federal Structure Committee's Fourth Report, which represents the general conclusions reached upon this subject, after much discussion and negotiation, at the previous sessions of the Round Table Conference.

The basic proposal of the Federal Structure Committee was that the avoidance of discrimination would best be achieved by specific provisions in the Constitution prohibiting discrimination in the matters set out in paragraph 18 of the Fourth Report of the Federal Structure Committee and defining those persons and bodies to whom the clause is to apply.

2. The Committee reaffirmed this proposal of the Federal Structure Committee as to the method of achieving the avoidance of discrimination. But while there was agreement (except for one dissentient) that legislative discrimination should be dealt with by such provisions, some members were disposed to the view that it was undesirable to attempt to provide against discrimination when it resulted from administrative action, on the ground *inter alia* that as the powers to prevent administrative discrimination must necessarily be vested in the Governor-General and the Governors, the possession of such powers would be tantamount to conferring a right of appeal to those high officers against any action of the Ministry which had given rise to dissatisfaction on the part of any individual or minority. The general view of the Committee was, however, that no such consequence need be anticipated from the inclusion of " the prevention of commercial discrimination " in

the list of the Governor-General's and Governors' " special responsibilities ",* and that the adoption of this expedient was the only available means of making such provision as can be made against administrative action of this nature. On the general plan already agreed by the Conference for the statutory recognition as part of the scheme of safeguards in general of " special responsibilities " for certain specified purposes, the consequence would be, in this particular instance, that the Governor-General or Governor, as the case may be, would be entitled in the last resort to differ from proposals of his Ministry if he felt that these involved unfair discrimination. The Committee anticipate that the Instrument of Instructions would make it plain that the " special responsibilities "—or rather the powers flowing from them—are not to be invoked, either in this particular instance or in any other, capriciously or without due cause.

3. As regards the persons and bodies to whom these provisions should apply, a distinction was at one stage of the Committee's discussions sought to be drawn between those carrying on business in and with India; for example, it was suggested that in the case of companies, protection on the lines indicated above should be confined to companies registered in India. It was however pointed out that a provision on these lines involved possible attempts at double registration by companies originally registered in the United Kingdom which would inevitably give rise to great legal confusion and conflicts of jurisdiction. The majority of the Committee were not in favour of any such distinction, but were of opinion that this aspect of the matter should be dealt with on the basis of the principle of reciprocity, *i.e.*, that no subject of His Majesty domiciled in the United Kingdom and no company registered in the United Kingdom should be subjected to any disabilities or discrimination in respect of the matters enumerated in paragraph 18 of the Fourth Report of the Federal Structure Committee to which subjects of His Majesty domiciled in India or companies registered in India are not subjected in the United Kingdom. Indian registered companies, on the other hand, would be secured against legislative or administrative action imposing upon them conditions as to the conduct of their business which discriminate against particular classes, through the operation of the general principles indicated in paragraph 18 of the Report of the Federal Structure Committee cited above.

The reciprocal basis here suggested should suffice to cover all the matters specified in paragraph 18 of the Fourth Report of the Federal Structure Committee, but, pending agreement between a Medical Council in India and the General Medical Council, some special provision may be required regarding the right to practice in India of practitioners registered in the United Kingdom.

The Committee assume that it would be open to the Government of India should they wish to do so, to negotiate agreements

* See paragraph 7 of Report on Governor-General's and Governors' special powers.

for the purposes indicated in this paragraph with any other parts of the British Empire.

4. The Committee agreed that bounties or subsidies should be available, without distinction, to all firms or individuals engaged in a particular trade or industry at the time the enactment authorising them is passed, but that in regard to companies entering the field after that date the Government should be at liberty to impose the conditions of eligibility recommended by the External Capital Committee. It would, of course, be a question of fact whether the purpose of the subsidy or the imposition of particular conditions, though not discriminatory in form was, in fact, intended to penalise particular interests; and the Governor-General or Governor, or the Courts, as the case may be, would have to form a judgment on this question in deciding whether a proposed measure was or was not discriminatory.

5. The Committee's proposals are based upon a conviction of the desirability of maintaining unimpaired under the changed conditions which will result from the new constitution that partnership between India and the United Kingdom with which the prosperity of both countries is bound up; and they are confident that the proceedings and policies of the future Indian Governments will be informed by a spirit of mutual trust and goodwill which will render it unnecessary to call into play the provisions of the Constitution to be framed on this matter.

The Conference noted the Report of the Committee on Commercial Safeguards after the following points had been raised:—

Dr. Ambedkar preferred the method of a "convention" scheduled to the constitution rather than clauses in the constitution limiting the powers of the legislatures.

Mr. Jayakar although accepting the principle that there should be no discrimination on the ground of race, attached great importance to not preventing the future governments and legislatures from adopting special measures to foster key industries or infant industries.

Mr. Mudaliyar with reference to the penultimate sentence of paragraph 3, stressed the importance of not creating a situation in which the hands of the Medical Council in India would be weakened in reaching a suitable agreement with the General Medical Council.

The Secretary of State for India undertook to do his utmost to secure that a suitable agreement was reached before the new constitution came into force.

HEAD E.

Defence.

(1) The discussions proceed on the basis agreed to in the two previous Conferences that Defence should be reserved for administration by the Governor-General as representing the Crown. At the same time His Majesty's Government undertook to consider whether the principle enunciated by the Defence sub-Committee of the first Conference, that " With the development of the new political structure in India, the Defence of India must to an increasing extent be the concern of the Indian people, and not of the British Government alone ", could not be reaffirmed in a manner that would bring it into relation with the new Constitution itself. It was also recognised that the future Indian Legislature should have at any rate no less latitude of discussion in the sphere of Defence than the present.

(2) The suggestion was made that the Governor-General's representative who is to act as Defence Member should be selected from Members of the Legislature representing British India or the Indian States, and further that he should be treated as a Member of the Federal Cabinet though not made dependent for his position on the support of the Legislature. It was argued that he could thus maintain a closer contact than could be otherwise secured between the Governor-General and representative political opinion in the sphere of Defence administration. Opinion was, however, divided; and other speakers referred to the difficulty of harmonising the position of the Defence Member with that of a Member of the Legislature dependent on the votes of his constituents, and also that of making him a party to decisions of the Federal Cabinet while he could not share their responsibility nor could they share his. His Majesty's Government expressed their preference for adhering to the conclusion previously recorded that the Defence Member should be appointed at the unfettered discretion of the Governor-General, since this in their view would preserve the essential responsibility of the Governor-General, while it would not rule out the possibility of selection from the Legislature, supposing that on occasion the individual best suited for the post in the Governor-General's opinion was a member of the Legislature.

(3) The Conference discussed what arrangements should be adopted to enable the Governor-General to obtain supplies for Defence purposes without placing limitations upon his responsibility for the subject. Two alternative schemes were put forward by certain Delegates: either that Defence expenditure should be fixed by a contract system for a term of years, and that the amount so fixed should be settled as far as possible by agreement on each occasion with the Legislature; or that Defence expenditure should remain non-votable but that there should be a system of close consultation between the Governor-General's immediate Advisers on

the one hand and the leading Federal Ministers on the other, before the Military Estimates were submitted to the Governor-General for his final approval and for presentation to the Legislature. A preference was manifested for the latter alternative; and it was further suggested that there should be a statutory obligation upon the Governor-General to consult the leading Federal Ministers in the manner indicated. A proposal was also made that, failing a scheme of this kind, the Defence Budget should be made votable by the Federal Legislature, subject to power of restoration by the Governor-General. His Majesty's Government felt that a statutory obligation of consultation could not but obscure the distinction between the responsibilities of the Governor-General and those of the Federal Ministers; but they associated themselves with the view that joint consultation in this matter was highly desirable in itself and ought in the ordinary course to become a regular feature of the working of the new Constitution. They were ready, therefore, to consider any suitable method of formally affirming the desirability of joint consultation, such as the inclusion of some reference to the principle in the Governor-General's Instrument of Instructions, and further to consider how an affirmation in this form could be brought into direct relation with the Act itself.

(4) It was suggested that the importance of rapid progress with Indianisation in the Army should be affirmed in some similar form; and the proposal was also made that a comprehensive programme of Indianisation should be laid down. As regards the latter, the objection was made that the immediate fixation of a final programme, extending as it must over a considerable period, would almost certainly necessitate an extra degree of caution, and that the rate of progress even from the beginning might thus be unnecessarily retarded. The view was stated on behalf of His Majesty's Government that the pace of Indianisation must continue to be regulated by stages, while it was pointed out that a programme of Indianisation already exists which extends much further than the previous stage and looks forward to still greater developments in future. They expressed their sympathy with the suggestion that some means should be adopted of affirming the importance of the subject. In this connection reference was made to the fact that the question of the strength of British troops in India had been brought under expert investigation as recommended by the Defence sub-Committee of the First Conference, and was at present under consideration by His Majesty's Government.

It was suggested in some quarters for consideration that in recruitment for the Defence Forces no distinction should be made between what have been termed the martial and the non-martial classes.

(5) There was some discussion on the possibility of giving the Legislature a voice in the employment of the Indian Army outside the limits of India. On analysis, it appeared to be implicit in the Reservation of Defence that the Governor-General must be

solely responsible for all measures which he judges to be required in the interests of India within the sphere of Defence, whether or not these might on occasions involve the employment of Indian Forces outside the actual limits of India. The general conclusion was that His Majesty's Government should consider how far the Legislature might appropriately be given a voice as to the loan of Indian Forces to the Imperial Government on occasions when the interests of India within the sphere of Defence were not involved.

HEAD F.

Reports of the Federal Finance Committee and the Indian States Enquiry Committee (Financial). Federal Finance.

REPORT OF THE FEDERAL FINANCE COMMITTEE.

The Committee was appointed " to consider the question of ' Federal Finance ' in the light of the Percy Report, Davidson Report, and suggestions in the Secretary of State's statement of 6th December 1932 ",* and was constituted as follows:—

Lord Peel (Chairman).
Mr. Davidson.
Mr. Butler.
Lord Lothian.
Rao Bahadur Krishnama Chari.
Sir Akbar Hydari.
Sir Mirza Ismail.
Sir Manubhai Mehta.
Sir Hubert Carr.
Mr. Ghuznavi.
Sir Cowasji Jehangir.
Dr. Shafa'at Ahmad Khan.
Mr. Mudaliyar.
Sir Nripendra Nath Sircar.
Sir Purshotamdas Thakurdas.

PRELIMINARY.

1. One essential feature of the general scheme of federal finance outlined by the sub-Committee of the Second Round Table Conference presided over by Lord Peel, namely, the transfer to the Provinces of almost the whole of the proceeds of taxes on income (other than corporation tax), has subsequently been criticised on the ground that it jeopardises the solvency of the Federation by depriving it of adequate access to revenue from direct taxation. The mutual financial relations of the Federation and the Provinces would also remain uncertain and perhaps discordant if the countervailing contributions from the Provinces to the Federation, originally proposed for a term of years, could not be extinguished in accordance with a definite programme. The view of the Percy Committee was that no definite time limit could be fixed for the abolition of contributions of such magnitude. A further difficulty revealed by the

* *Vide* Appendix to this Report.

Percy Committee is that, even on the basis of estimates which assume a substantial economic recovery, certain Provinces might be left in deficit, some possibly in permanent deficit, even if a full share in taxes on income could be handed over to them.

2. The aims which we have kept in view may be summarised as follows: to provide that all Provinces may start with a reasonable chance of balancing their budgets; to afford them the prospect of revenue sufficiently elastic for subsequent development; to assure the solvency of the Federation; and to ensure that, after an initial period, the federal sources of revenue shall be derived from British India and the States alike. The achievement of all these objects is a task of extreme difficulty, especially at a time of great financial stringency. Nevertheless, the scheme set out in the following paragraphs seems to afford a promising line of approach. We are in general agreement as to its main principles and, subject to a satisfactory settlement of the two important factors referred to in paragraphs 4 and 6 below, consider that it offers the prospect of a solution.

Allocation of Taxes on Income.

3. As the basis of the scheme we envisage a two-fold division of the proceeds of taxes on income into shares which would be assigned, as a permanent constitutional arrangement, to the Federal Government and the Provinces respectively.

4. The Federal Government would be entitled to a share based on the proceeds of heads of tax which are not derived solely from residents in British India. We have in mind such heads as corporation tax, tax on Federal officers, tax in Federal Areas, tax on Government of India securities, and tax on the incomes of persons not resident in British India. We recognise that the exact content of the list requires detailed investigation and definition by those familiar with the income-tax system, and further that in practice it may not be possible to isolate the yield of some of the heads. It may therefore be necessary, and from the administrative point of view it would in any case appear advantageous, to define at least a portion of the federal share as a percentage of the total yield. These problems, we suggest, should form the subject of immediate examination. It is obvious also that some assumptions will have to be made as to the yield of the various heads of tax. In the meantime we have proceeded on the basis that the five heads quoted above should be permanently federal, and that their yield would be $5\frac{1}{4}$ crores out of the sum of $17\frac{1}{4}$ crores estimated by the Percy Committee to be the normal net revenue from taxes on income. On these estimates, unfortunately, we are unable to report that the scheme is acceptable to all of us. The success of the scheme in practice and its virtue in theory depend very largely on the prospective amount of revenue which would be secured to the Federal Government; and, while the representatives of British India are not prepared to go beyond a sum of about 5 crores, the States' representatives maintain that it should not be less than $8\frac{1}{4}$ crores. It

is only on the assumption that a share in taxes on income estimated to yield at the outset a minimum of $8\frac{1}{4}$ crores is secured to the Federal Government that the States' representatives have agreed to assume the burden of corporation tax as explained in paragraph 8 below.

5. The whole of the remaining proceeds from taxes on income would be assigned to the Provinces, though their actual receipts might be limited by certain demands of the Federation presently to be proposed. We contemplate that the basis upon which the sum actually available for distribution should be divided among the Provinces would be laid down under the constitution, and generally speaking we are disposed to regard the proposals in paragraphs 74 and 75 of the Percy Report as suitable. These proposals, however, require re-examination in the light of our present scheme, and we recognise that some modification may be desirable.

6. In order to ensure the solvency of the Federal Government until the existing abnormal conditions have passed and sufficient time has elapsed for the development of new sources of revenue, it is proposed that, out of the provincial share of taxes on income, the Federal Government should retain a block amount for a period of X years. This amount would be deducted by the Federal Government from the total net yield attributable to the Provinces before any distribution took place. In this connection, however, some Delegates wish to state that, in their opinion, the result as between the Provinces would be inequitable since, in effect, each Province would make a special contribution to the Federation in proportion to its individual shares of income-tax. They consider that the provincial share of taxes on income should first be distributed, and that contributions should then be taken back on some basis yet to be determined. Delegates from Bengal and Bombay are particularly emphatic on this point. As regards the amount to be allotted to the Federal Government, we are agreed that it should initially be sufficient to balance the federal budget at the outset, and it would therefore have to be determined shortly before the inauguration of the new constitution. In the determination of this amount, the Provincial Governments and the Government of India should, of course, be closely associated. Many members of the Committee consider that, in view of the high level of military expenditure, the possibility of reducing such expenditure should be closely examined in determining the initial federal deficit. Indeed, some members go farther, maintaining that the problem of a federal deficit might be entirely eliminated by very substantial reduction in expenditure under this head, and referring particularly to Sir Walter Layton's remarks on the subject in Vol. II, para. 248 of the Statutory Commission's Report. On the question whether the initial amount should continue in full for entire period of X years we do not express final opinion, but on the whole we think it might be better to divide that period into two parts. On this basis, the amount would be fixed for a number of years and would then be gradually reduced to zero, on a scale provided under the constitution, during the

remainder of the period of X years. As regards the duration of this pediod, we are unable to report agreement. The States' representatives consider that the minimum period should be ten years, divided into two parts of at least five years each if the alternative proposal just mentioned were adopted. The British India representatives would limit X to four or five years, divided, if necessary, into parts of two (or three) and two years. There is agreement that if, during the initial period, the federal budget showed a prospect of a continuing surplus, relief to the Provinces and States which make special contributions to federal resources, whether direct or indirect, ought to have priority over remission of taxation.

7. In this connection we note that, if any scheme on the above lines were adopted, the references in the Davidson Report to " Provincial Contributions " should be construed as applying to the block amount retained by the Federal Government from the Provinces (*vide* paragraph 26 below).

8. We also note that, provided a satisfactory yield from taxes on income is permanently assigned to the Federation, the States' representatives agree to assume liability for corporation tax on the expiration of the period of X years, subject to the understanding that, assessment of the tax on the companies in a State having been made, the State may raise the amount due to the federal fisc by any method it may choose, and not necessarily by the actual levy of that tax.

9. In addition to the normal powers of the Federal Government, we also contemplate, as an integral part of the scheme, special powers designed to meet such a situation as might arise if the federal budget, initially balanced by the amount retained from the Provinces, failed to remain balanced despite increased taxation upon existing sources and the development of new sources of revenue permanently allocated to the Federation. It is implicit in the scheme that the Federal Government should do its utmost to develop its permanent resources from the outset. It is accordingly proposed that, so far as British India is concerned, the Federal Government should have power to levy, for its own purposes, additional tax on the heads of income-tax permanently assigned to the Provinces. (In practice, of course, it would simultaneously raise the rates of tax on its own corresponding heads.) Whenever this was done, the Federal Government would also levy proportionate contributions on a determined basis (for example, that suggested for a somewhat similar purpose in paragraph 113 of the Percy Report) from such States as prefer not to come into a federal income-tax.

10. Most of us are agreed that, independently of the scheme described above, each Province individually should have a right of surtax upon the personal tax levied on its inhabitants under the heads permanently allocated to the Provinces, subject to a maximum of $12\frac{1}{2}$ per cent. of the tax centrally imposed. This surtax, like all other taxes on income, would be collected by federal agency. Some members, on the other hand, urge that a provincial right of this

nature would not only offend against the general desirability of uniformity in rates throughout India, but would affect the reserve of taxable capacity available to the Federal Government in times of emergency.

11. As regards legislative procedure, we propose that the legislation for corporation tax and for the exercise of the special powers proposed in paragraph 9 above should be entirely federal. Legislation for the rates of provincial surtax would be entirely provincial. All other legislation for the imposition of taxes on income, whether affecting the basis of assessment or the rate of tax, would be uniform, and would be effected by the Federal Legislature with the leave of the Governor-General given after consultation with a council of representatives of the Units and of the Federal Government.

Deficit Provinces.

12. While it is essential to ensure the solvency of the Federal Government and an equitable distribution of burdens among the partners in federation, we recognise also that provincial solvency must be secured if the Provinces are to function successfully. At the same time, we are faced with the insuperable difficulty that financial conditions for some time to come do not seem likely to permit any general distribution of revenues which would automatically bring all Provinces on to a solvent basis, and that some of them might even be in permanent deficit. We propose, accordingly, that any proved cases of deficit Provinces (whether already constituted or newly created) should be met by subventions from the Centre on certain conditions. (The special cases of Bengal, Sind and the North-West Frontier Province are referred to in the succeeding paragaphs, and the probable needs of Orissa are set out in the Secretary of State's statement printed as an Appendix to this Report.) We consider that there should be an enquiry shortly before the new order is inaugurated in the Provinces, as a result of which the amount of any subvention, where necessary, and its duration (if only required for a limited period) would be finally determined. It is important that the decision should be final, as periodic revision could not fail to react on constitutional independence and financial responsibility. We contemplate that the amount would be only just sufficient to enable a Province exactly to balance its budget on a basis of providing for bare necessities. Further, the total sum involved for all the Provinces concerned should be manageable in size and not such as to affect materially the resources which can be made available to the other Provinces. We do not at the present stage give an opinion as to whether any particular subvention should be constant and permanent, or constant and terminating after a stated period of years, or constant for a term of years and then diminishing over a period. This must depend largely on the prospects of expanding revenue in a Province, and the enquiry which established the necessity of a subvention should also be directed to the conditions of its grant. As regards

the source from which subventions to deficit Provinces should be derived, the representatives of the States feel strongly that, except in the case of the North-West Frontier Province, they should form a charge on revenue derived from provincial heads of income-tax after the period of X years. The British India representatives, on the other hand, maintain that the charge would be properly federal after the period of X years in virtue of the amount of income-tax assigned permanently to the Federal Government under the scheme suggested in the earlier paragraphs of this Report.

13. In the case of Bengal, we recognise that the difficulties arising from the present distribution of resources are exceptional, and we suggest that they might perhaps be met by according to the Province some share in the revenue from jute. We make no definite proposal as to the form which this share should take as the question requires technical examination. A suggestion, however, which appears to some of us to afford a possible expedient, is that the export duty on manufactured jute might be removed, and a central excise on such jute imposed, to be distributed to the Provinces in which it is levied. A device of this kind would apparently overcome the serious difficulties likely to arise from giving any authority other than the Federal Government the power to impose export duties, or providing that a portion of the proceeds of any export duty should be assigned to a Province. The delegates from Bengal, however, view this suggestion with strong disfavour. They consider that the deficit position of Bengal should properly be remedied out of the export duty on jute, which is practically a monopoly of the Province. In their view, the whole proceeds of that duty should be allotted to the Province, though, for the period of X years defined above, half the proceeds might be given to the Federal Government.

14. Sind is in a special position in that careful investigations have already been made which show that it will be heavily in deficit for a considerable number of years, but that a surplus may eventually be expected to emerge. The whole financial outlook of the Province depends upon the Sukkur Barrage. In this case it is suggested that there should be subventions from the Federal Government on a pre-determined programme. (Some indication of the magnitude of the sums likely to be involved is afforded by the Secretary of State's statement of 6th December, printed in the Appendix to this Report.) We also consider that, in view of the financial importance of efficient administration of the Barrage, the Governor of the Province might be given special supervisory powers in relation to its administration. Some members wish to point out that the grant of a subvention to Sind in order to enable its separation constitutes a departure from what, in their judgment, was the principle laid down by the Sind sub-Committee of the first Round Table Conference.

15. A subvention will, of course, continue to be required for the North-West Frontier Province. In order to develop a sense of financial responsibility, we consider that the amount of the subven-

tion should be fixed both initially and on the occasion of each revision for as long a period as may be found possible.

Powers of Taxation.

16. We agree generally with the proposals of the Percy Committee in Chapter VI of their Report, subject to such modifications as may be required by the scheme for the allocation of taxes on income outlined above.

17. In regard to the list of " taxes leviable for the benefit of the Units subject to a right of federal surcharge ", we contemplate that all legislation should be undertaken by the Federal Legislature.

18. We feel that, if the lists of sources of revenue which it is proposed to insert in the constitution are carefully drafted, the problem of residuary powers of taxation will be reduced to small dimensions. Nevertheless, we consider that some provision for residuary powers is required, and we recommend that they should vest in the Units subject to the condition that the levy of a tax shall not directly prejudice a federal source of revenue.

Emergency Powers of the Federal Government.

19. We contemplate that the special powers, with which we have proposed in paragraph 9 above to invest the Federal Government, should ordinarily suffice to obviate the necessity of emergency contributions such as were proposed in section 21 of Lord Peel's Report, 1931. Nevertheless, we think it may still be desirable to provide in the constitution for such contributions, and we support the proposals of the Percy Report (paragraphs 112 and 113) as regards both the definition of the circumstances in which they should be levied and the basis of their assessment, except that we prefer in the case of a war emergency that it should rest with the Rulers of the States, as heretofore, to place their resources freely at the disposal of the Crown.

Borrowing Powers of the Units and Security of Federal Loans.

20. We agree generally with the recommendations of the Percy Committee in paragraphs 117 and 118 of their Report as to the limits within which the Units should exercise powers of borrowing and the machinery required in this connection.

21. We doubt, on the other hand, whether the proposal in section 22 of Lord Peel's Report, 1931, that future federal loans should be secured on the revenues of the Provinces as well as of the Federal Government, would really be effective. On the whole, we consider that it would be advantageous clearly to base the security for future federal loans on the revenues of the Federal Government only. The pre-federation debt, of course, will continue to be secured on " the revenues of India ".

CONTRIBUTIONS AND IMMUNITIES OF THE INDIAN STATES.

22. We have considered the adjustments which will be required to enable individual States to enter the Federation, on the basis of the general financial scheme, taking as its leading assumption that in an ideal system of federal finance all Federal Units would contribute on a uniform and equitable basis to the federal resources. It is generally agreed that the terms of entry of the States into federation should, as far as possible, entail the gradual elimination of contributions of a special character (cash contributions or ceded territories) by certain States to the resources of the Federal Government, and the disappearance of the immunities or privileges of certain States in respect of certain heads of federal revenue (sea customs, salt, posts and telegraphs).

23. To effect the necessary adjustments, separate agreements would require to be made, before the entry of the States into federation, with those now contributing in cash, or which contributed in the past by cession of territory for defence, and also with those now enjoying immunities or privileges in respect of specific heads of federal revenue. We endorse the recommendation of the Davidson Committee that the separate settlement for each State affected should be made by means of a balance-sheet setting off credits (in respect of cash contributions and ceded territories) against the value of any privilege or immunity enjoyed by the State. We also accept as a basis the plan proposed in paragraphs 443 and 444 of the Davidson Report.

24. We have not felt it to be a part of our duty to investigate the correctness of the details as regards existing contributions and immunities or privileges appended to the Davidson Report. Some question has been raised as to whether certain immunities should rank for the adjustments proposed, in view of the nature of the consideration which certain States have agreed to pay and are still paying for them. In this connection we note the caution in paragraph 13 of that Report as to the need for verification of the details in the Report, and we assume that the general principles accepted in the foregoing paragraph would be applied with due regard to the circumstances in which the contributions and immunities of individual States originated.

25. On the assumption that the method of adjustment with the States will be as above described, the nature of the settlement, in respect on the one hand of contributions and on the other of immunities and privileges, requires to be considered in some greater detail.

26. We are strongly of opinion that the present cash contributions, of unequal incidence, paid by certain States, contravene the fundamental principle that contributions to federal revenues should be on a uniform and equitable basis; and we endorse the view of the Davidson Committee that there is no permanent place for such exceptional and unequal contributions in a system of federal finance. We accordingly recommend that, generally speaking,

these contributions should be extinguished not later than the expiry of the period of 10 years provided for in paragraph 6 above; and, in case this period should be protracted longer than is expected, that a moiety should cease to be paid at the latest in ten years from the date of federation, and the whole within twenty years. Some of us would favour the immediate extinction of the cash contributions, but the general view is that, during the period of ten years, the entire sacrifice of this source of federal revenue would not be practicable. At the same time, it is the view of all of us that any cash contributions which are continued during the period of ten years must be taken in reduction of any contribution under paragraphs 9 and 19 of this Report which the States may be called upon to make during that period.

27. We have taken note of the view of the Davidson Committee in paragraph 95 of their Report that the tributes and cessions of territory for defence have, for the most part, a common origin. We therefore accept their view that States which in the past have ceded territory in return for protection are entitled, equally with the States now paying cash contributions, to some form of relief. Most of us agree with the conclusion of the Davidson Committee that the net value of the territories at the time of cession constitutes the fairest basis for calculating the relief to be granted when such relief is desired by a State. This, however, assumes that retrocession of the territories in question, or failing retrocession an exchange of territories in favour of the States concerned, is not found to be a practicable alternative. Credits in respect of ceded territories should rank for adjustment *pari passu* with credits in respect of cash contributions.

28. We fully endorse the view of the Davidson Committee that inter-State tributes are anti-federal, and we view with approval the suggestion that these tributes should disappear, or be replaced by some formal token. In any case, we recommend that the Government of India might explore, in consultation with the States concerned; whether the relief in respect of ceded territories, proposed in the preceding paragraph, should be reduced *pro tanto* by the amount of any inter-State tribute retained by a State which has a claim to relief in respect of ceded territory or tribute.

29. Turning to the question of the immunities and privileges, great and small, which are enjoyed by numerous States, and of which the nature and value is indicated in the Davidson Report and its Appendices, we would reiterate the view that the entry of each State into the Federation should, as far as possible, result in its assuming liability for an equitable portion of federal expenditure. Nevertheless, we agree with the conclusion of the Davidson Committee that, where a State enjoys privileges or immunities the value of which is not off-set by any special contribution, that State must retain the balance in its favour, in whole or in part, on its entry into the Federation.

30. In the case of salt, we note with approval the suggestion in paragraphs 230-232 of the Davidson Report that restrictions

upon the marketing of salt manufactured in Kathiawar might be removed. We assume, however, that the change recommended would require the agreement of the States concerned before it could be brought into effect in regard to any of them.

31. In the case of sea customs, we note that the present annual value of the immunities enjoyed by fourteen Maritime States amounts to over 1,80 lakhs, and we recommend that the question of extinguishing these immunities by compensation should be left over for consideration after the Federation comes into being. Meantime, however, our general view is that the possession by certain States of an immunity which prevents other States or Provinces from making their full contributions to the Federation, is contrary to federal principles. The existing treaties and agreements must be fully observed and no change made in them without the consent of the States concerned. But we recommend that Maritime States should retain at the most not more than the value of the duties on goods imported through their ports for consumption by their own subjects.

32. Numerous other important questions are raised in the Davidson Report, decisions on which must necessarily affect the adjustments to be made with individual States. We have thought it best to confine ourselves to the broader questions of principle affecting financial settlements with the States generally. We recommend that the conclusions reached on these basic questions should be applied to the examination of the further questions raised in the Davidson Report which is required before settlements with individual States can be effected.

APPENDIX.

Abstract of the Secretary of State's statement to the Conference on 6th December 1932.

The problems of federal finance have already been considered by two Committees, under the chairmanship of Lord Peel and Lord Eustace Percy. Within the limits of their terms of reference, no two committees could have produced more valuable reports. But certain facts have emerged, both from the Committees' enquiries and from the events of the last twelve months, that necessitate a review of the problem from a rather wider angle than that from which the Peel and Percy Committees investigated it.

For example, the Peel Committee based its main recommendations upon the assignment of income-tax to the Provinces, with countervailing provincial contributions to the Centre for a definite period of ten or fifteen years. The Percy Committee, when they went into this question, found that no time limit could safely be put at the end of which the provincial contributions should come to an end. This is an important consideration and must be taken into account. A good many delegates were originally prepared to accept provincial contributions for a limited time; but now it appears that these provincial contributions might have to continue indefinitely. The rather unfortunate history of provincial contributions under the Montagu-Chelmsford Reforms must be kept in mind. Provincial contributions are at best a bad and rather dangerous expedient, and it seems a very serious step for the Conference to decide upon a scheme of finance with these provincial contributions for an indefinite period.

Again, the Percy Committee showed that if affairs go well there may be just enough money to go round; but they certainly did not take the view that there is enough money to go round at present. They based their recommendations upon the hope that there will be a world recovery, that commodity prices will go up, and that the finances of the Federal and Provincial Governments will be substantially better than they are now. Regretfully, however, it must be recognised that the position to-day is not substantially better from the point of view of the prospective Federal Government and the Provincial Governments than it was twelve months ago. A recent estimate of the position of the Central and Provincial Governments shows that the central budget is likely to balance, but it will only balance as a result of new and heavy taxation. In the case of the Provinces, there will be many budgets showing deficiencies at the end of the year, and to-day no one can possibly say when these deficiencies will be wiped out.

The general conclusion to be drawn from these facts is that at the present time, the Federal Government would really need all the income-tax that is being collected. If, therefore, the Peel Committee's recommendation were accepted and the proceeds of income-tax were handed over to the Provinces, it would mean that, for an indefinite number of years, the Provinces would theoretically have the income-tax, but the whole of the tax would be transferred to the Federal Government in order to maintain its solvency. This would be a very anomalous state of affairs. Everyone is most anxious to give the Provinces real autonomy, with the fullest possible freedom in the disposal of their revenue and for their development; but no one would be prepared to set up a Federal Government that really had not at its disposal sufficient money to make itself solvent. Unless the Federal Government has at least the main part of the income-tax that is now being collected, it is not apparent how it is going to fulfil its obligations and remain solvent.

The Percy Committee, on the assumption that the present depression would come to an end and that there would follow a period of reviving trade and of increasing prices, estimated that it would be possible to distribute only about five crores, and then only if allowance were made for the match tax, which has not yet been imposed. Unfortunately, the assumption on which this forecast was based is a long way from being realised, and in India the immediate financial outlook is not encouraging. The Government of India have been able this year to budget for a small surplus only by raising taxation to a very high level, by reducing pay, by drastic retrenchment and by the postponement of expenditure. In the Provinces, where the field of taxation is more limited, the position is worse; and although a policy of severe retrenchment has been followed, seven out of the nine Provinces may this year be in deficit. From the latest figures available it appears that, taking India as a whole receipts will hardly balance expenditure. As matters stand, therefore, the Centre cannot surrender any substantial portion of its revenue; and if the Peel plan were applied in present circumstances, this would merely mean that the proceeds of the income-tax would be transferred and the whole amount taken back in the form of contributions.

The alternatives open to the Conference appear to be either to make no constitutional change in the Provinces until there is a marked financial recovery, or to attempt to devise some emergency plan which will enable the deficit Provinces to start as autonomous units on an even keel. It would scarcely be seriously suggested that a Province which could not balance its budget should be given a new constitution and left to work out its own salvation. The problem, therefore, is twofold: first, to devise emergency measures which will enable the reforms to be introduced; and, secondly, to embody in the constitution permanent provisions for the division of taxation powers and resources. The subject is one of great difficulty and complexity and it would probably help the Conference if a concrete plan were placed before it. The following proposals are tentative only and, of course, no final decision can be taken until the views of the Government of India and of the Provincial Governments have been obtained.

As regards emergency measures, it is suggested that we should consider the possibility of providing for financial equilibrium in the deficit Provinces at the outset by means of grants from the Centre. Under this plan it would be necessary, on the eve of the change, to ascertain the amount necessary in the case of each deficit Province, and for the total amount required to be found by the Government of India. It is, of course, impossible to estimate now the amount that might be needed, but it is hoped that it would not be an unmanageable sum. A number of questions in connection with these initial subventions arise: by what authority should they be determined; whether the contributions should be permanent or open to revision after a stated period; and whether they should be absorbed in any future distribution of central revenue. These subsidiary though highly important questions can best be dealt with in Committee. It will, of course, be realised that the initial subventions would do no more than start the deficit Provinces on a bare subsistence level. But if there is not enough money to go round they must tighten their belts and wait for better times.

As regards permanent arrangements, it must, so far as is possible, be ensured that the Provinces will have a reasonable expectation that, when normal times return, they will be able to function properly as autonomous units and to develop along their own lines. In the first place, it is necessary to define the field of taxation open to them. Certain proposals have been made by the Percy Committee, and these will have to be examined in Committee. Connected with this is the question of residuary powers of taxation, which, though perhaps not very important from the financial point of view, has led to considerable differences of opinion. Next, it is suggested that the Provinces should be given from the outset a right of surcharge of certain heads of income-tax up to 12½ per cent., so that they may at once be in a position to supplement their resources if they desire to do so by this method. The initial limit of surcharge should be low, as income-tax rates in India are already high; but the constitution might provide that the maximum percentage rate of surcharge could from time to time be increased. Collection would still remain central. As regards income-tax receipts, the constitution should provide for their division, and it will have to be considered in Committee whether this can best be done by the straightforward method of surrendering from time to time blocks of the receipts as the financial position permits, or whether any better plan can be adopted. It seems also desirable to provide for the possibility, with the return of prosperity, of distributing shares of certain specified heads of federal revenue, including the imposition by the Federal Government of excises for the benefit of the Units.

To summarise, special measure would be taken by means of central subventions to start the deficit Provinces on an even keel; the provincial field of taxation would be defined and Provincial Governments invested with a limited right of surcharging the income-tax; as the financial position improved, central revenue would be transferred, and special taxation for the benefit of the Units might be imposed. It must be admitted that the Provinces may regard such an arrangement as a poor substitute for the definite advantages which they expected to gain from the application of the Peel plan; but the problem is conditioned by the realities of the situation, and this should not be forgotten. Nor should it be forgotten that it is vital to preserve the financial stability of the Centre.

There are a number of other questions connected with federal finance which will have to be considered. The questionnaire that has been circulated sets out some of these, but perhaps they may be better discussed in the Committee appointed for the purpose.

Lastly, there are two questions on which one or two observations should be made before the general discussion begins, *viz.*, the questions of the separation of Sind and the separation of Orissa. In the first place, there is the separation of Sind, which His Majesty's Government have accepted in principle subject to the discovery of satisfactory means of financing the new Province, and which the Conference accepted in principle last year. The

financial problem has been examined both by an Expert Committee and by a Conference of representatives of Sind presided over by Mr. Brayne, whose Report indicates there will be a deficit of 80¼ lakhs from 1933-34 to 1938-39, after which it would be continuously reduced until, in 1944-45, a net surplus, of gradually increasing amount, would be established. These estimates represent a reasonable working hypothesis, except in one particular. They assume that the charges in respect of accumulated interest on the Lloyd Barrage debt would be shared between Bombay and Sind. After carefully considering the views of the Sind Conference, however, the conclusion has been reached that such a proposal would be inequitable to Bombay and inconsistent with the general principles on which separation ought to be effected. On this basis, after allowing for certain possible economies, and for the fact that the additional cost of separating Sind is expected to be covered by fresh taxation within the Province, there is likely to be an initial deficit on the administration of Sind amounting to about Rs. ¾ crore, which would be extinguished in about fifteen years, or earlier if new resources became available.

Secondly, there is the question of Orissa. In this case it is impossible to make so definite a statement until an opportunity to consider the whole question has been found; but in the discussions of the Conference it is certainly desirable that the possibility of creating a separate Province of Orissa should be taken into account. His Majesty's Government have not yet reached any final decision in principle upon this matter, though they hope shortly to be in a position to announce their conclusions. Meanwhile, it would be well that the Conference should consider the financial difficulties involved. The exhaustive Report of Sir Samuel O'Donnell's Committee has been thoroughly examined by the Government of India, who consider that slight reductions in the estimates might be made, with the following result:—

	Rs. in lakhs.
Basic annual deficit	13¼
Additional recurring cost of separation . . .	15
Total initial deficit	28¼
Ultimate deficit	35

It is suggested that the Conference might consider the question on the basis of these estimates. In so doing, the conclusion of the Orissa Committee will doubtless be borne in mind, that the deficit cannot be met to any appreciable extent by the imposition of new taxes.

The Conference noted the Report of the Committee on Federal Finance after the following points had been raised:—

(1) *R. B. Raja Bisarya*, on behalf of H. H. the Nawab of Bhopal, did not agree to corporation tax being included in the list of federal sources of revenue, or to any arrangement which might involve a direct contribution from the States towards charges on account of purely British Indian liabilities. (*Mr. Rushbrook Williams* added that he believed this statement to represent the opinion expressed at an informal meeting of the Chamber of Princes last March.)

(2) *Mr. Rushbrook Willams*, in regard to paragraph 31, stated that the position of the Kathiawar and other Maritime States must be governed by their Treaties. It was impossible for the States which he represented to accept the general proposition that they should only retain the duty on goods consumed in their own territories.

HEADS G AND H.

I.—Powers of the Indian Legislatures *vis-a-vis* Parliament.
II.—Constituent powers.
III.—Fundamental rights

I.—POWERS OF THE INDIAN LEGISLATURES *VIS-A-VIS* PARLIAMENT.

The existing Government of India Act embodies various provisions, all taken from earlier Acts, which place limitations upon the powers of the Indian Legislatures. The general effect of these provisions is *inter alia* that any legislation passed in India, if it is in any way repugnant to any Act of Parliament applying to India, is to the extent of the repugnancy null and void. It was felt that the form of these old enactments would be inappropriate for adoption as part of the Constitution now contemplated—a constitution very different in character from that of which they originally formed part: and that in substance, also, they would be unnecessarily rigid. There are certain matters which, without question, the new Constitution must place beyond the competence of the new Indian Legislatures and which must be left for Parliament exclusively to deal with—namely, legislation affecting the Sovereign, the Royal Family and the sovereignty or dominion of the Crown over British India; moreover, the Army Act, the Air Force Act and the Naval Discipline Act (which, of course, apply to India), must be placed beyond the range of alteration by Indian legislation; and it may also be found necessary to place similar restrictions on the power to make laws affecting British nationality. But, apart from these few matters, it was felt that the new Indian Legislatures, Federal or Provincial, can appropriately be given power to affect Acts of Parliament (other than the Constitution Act itself) provided that the Governor-General acting " in his discretion " has given his previous sanction to the introduction of the Bill and his subsequent assent to the Act when passed: in other words, the combined effect of such previous sanction and subsequent assent will be to make the Indian enactment valid even if it is repugnant to an Act of Parliament applying to India. In his decisions on the admissibilty of any given measure the Governor-General would, of course, on the general constitutional plan indicated in the Report on the Special Powers of the Governor-General and Governors, be subject to directions from the Secretary of State. Beyond a provision on these lines no further external limitation on the powers of Indian Legislatures in relation to Parliamentary legislation would appear to be required.

II.—CONSTITUENT POWERS.

The conclusion just indicated—that the power to vary the provisions of Acts of Parliament should not relate to the Constitution

Act itself—led directly to the question of Constituent Powers. Discussion of this question disclosed a unanimous recognition of the fact that it would be impossible to contemplate a delegation to Indian Legislatures by provisions in the Constitution Act of any *general* powers to alter that Act itself, and that such powers must necessarily remain with Parliament for exercise by means of further legislation as and when required.

2. This head of the Agenda was, however, framed on the assumption that there might be some matters in regard to which specific powers might be granted to Indian Legislatures to make modifications, subject to suitable conditions, of the detailed arrangements to be embodied in the new Act. The problem was discussed with particular reference to two matters which, though of a somewhat different character, were found to raise substantially the same problems—namely, (*a*) the details of the franchise and the composition of the Legislatures—Provincial and Federal; and (*b*) the alteration of provincial boundaries, or the formation of new provinces. Taking the latter first, there was a general feeling that, while, once the Federation had been brought into being, it would be undesirable to give ground for the impression that the number, size or character of the federating units was to be liable to frequent or capricious re-arrangement at the behest of particular elements in their population—an impression which would be inimical to solidarity and to a settled political outlook—yet the Constitution Act might advantageously provide machinery whereby His Majesty's Government would be empowered, after satisfying themselves that proposals for the re-adjustment of provincial boundaries, or possibly even for the formation of a new province, had behind them a solid backing of popular opinion in the areas concerned, and would not involve undue commitments on the resources of the Federation or the provinces, to give effect to such proposals. Attention was drawn in this connexion to the provisions of section 52-A of the existing Government of India Act as an indication of the kind of provisions which it might be desirable to retain in being.

3. As regards the franchise and the composition of the Legislatures, it was recognised that scarcely any modification of the plans now contemplated for embodiment in the new Constitution could, in practice, fail to raise, either directly or indirectly, the general communal issue. His Majesty's Government had, indeed, contemplated, and had foreshadowed in their Communal Decision, the insertion of provisions in the new Constitution designed to enable, after a suitable interval of time, its modification with the consent of the various communities and interests affected. Discussion, however, disclosed a general feeling that most difficult and controversial issues would be involved in an attempt to define here and now conditions which, on the one hand, would not render the power to make such modifications incapable of exercise, on account of the stringency of conditions to be fulfilled and, on

the other hand, would satisfy the several communities and interests that any decision for modification was, in fact, the result of substantial mutual agreement. It was, moreover, generally recognised that the difficulty which thus presents itself in relation to the Communal Award of devising suitable conditions for the exercise of any provisions in the nature of Constituent Powers, in fact pervades the whole problem discussed under this Head. In the course of the discussion a very complete plan was, in fact, suggested as a statement of the conditions to which the exercise of the power (should such be granted by the Constitution) to modify the composition of the Legislatures and the nature of the franchise should be made subject. Objection, however, was taken to this proposal on the ground that its elaboration and stringency were such as, in all probability, to frustrate, in practice, the exercise of the power, even though there might be a really substantial popular demand for its exercise: it was suggested, therefore, on behalf of those who urged this objection, that a preferable course would be to leave it to His Majesty's Government themselves to determine the nature of the provisions to be framed in fulfilment of their intention that the details of the Communal Award should be susceptible of modification with the consent of the communities affected.

4. Finally, there was a consensus of opinion that the Constitution should provide that whatever powers were granted of this nature should not be capable of exercise save after the lapse of a substantial period of time from the date of inauguration of the new Constitution, and account was not lost, throughout the discussion, of the probability that Parliament itself, in enacting the new Constitution, would be inclined to approach with great caution any proposals for its alteration otherwise than by means which it could itself control.

5. His Majesty's Government took careful note of the very difficult issues to which the discussion had given rise; they were disposed, while leaving unimpaired the authority of Parliament to decide any issues which might present themselves involving changes of a substantial character in the Constitution, to examine with care and sympathy the provision of such machinery as might obviate the disadvantages and inconveniences to be anticipated from the lack of means to secure any alteration of the details of the Constitution as first enacted otherwise than by the difficult and lengthy process of an amending Bill: and would be concerned to see that any provisions designed with this object were so framed as to enable Indian opinion to be fully ascertained before any alterations were, in fact, carried out.

III.—FUNDAMENTAL RIGHTS.

In the agenda of the Conference the question of Fundamental Rights was purposely linked up with the question of the powers of the Legislatures, because it was felt that it had been insuffi-

ciently realised that the effect of inserting provisions of this kind in the Constitution must inevitably be (if they are to be more than expressions of a political ideal, which have never yet found a place in English constitutional instruments) to place statutory limitations on the powers of the new legislatures which may well be found to be of the highest practical inconvenience. The Government have not in any way failed to realise and take account of the great importance which has been attached in so many quarters to the idea of making a chapter of Fundamental Rights a feature in the new Indian Constitution as a solvent of difficulties and a source of confidence: nor do they undervalue the painstaking care which has been devoted to framing the text of the large number of propositions which have been suggested and discussed. The practical difficulties which might result from including many, indeed most of them as conditions which must be complied with as a universal rule by executive or by legislative authority were fully explained in the course of discussion and there was substantial support for the view that, as the means of securing fair treatment for majority and minorities alike, the course of wisdom will be to rely, in so far as reliance cannot be placed upon mutual goodwill and mutual trust, on the "special responsibilities" with which it was agreed* the Governor-General and the Governors are to be endowed in their respective sphere to protect the rights of minorities. It may well be, however, that it will be found that some of the propositions discussed can appropriately and usefully find their place in the Constitution: and His Majesty's Government undertook to examine them most carefully for this purpose. In the course of discussion attention was drawn to the probability that occasion would be found, in connexion with the inauguration of the Constitution, for a pronouncement by the Sovereign and that, in that event, it might well be found expedient humbly to submit for His Majesty's gracious consideration that such a pronouncement might advantageously give expression to some of the propositions brought under discussion which prove unsuitable for statutory enactment.†

* See Report on the special powers of the Governor-General and Governors.

† Dr. Ambedkar advocated the inclusion in the Instrument of Instructions to the Governor-General and Governors of any propositions relating to Fundamental Rights which could not be enacted in the Constitution Act itself.

HEAD I.

Form of States' Instruments of Accession.

REPORT.

A meeting was held on the 20th December under the Chairmanship of Lord Irwin, which was attended by Mr. Davidson, Mr. Butler, the Representatives at the Conference of the Indian States and certain legal experts and officials, to consider the form of States' Instruments of Accession.

2. It was agreed that the Federation would derive its powers in part from the powers which the Rulers of the States would agree, for the purposes of the Federation only, to transfer to His Majesty the King for exercise by the Federal Government and Legislature and other Federal organs. In order to effect the transfer of these powers an agreement would require to be made by each State individually with the Crown which might be termed an Instrument of Accession.

3. It was agreed that the accession of States whose Rulers were not for the time being exercising Ruling Powers would have to be postponed until their Rulers were in possession of Ruling Powers. Some apprehension was felt as to the consequent reduction at the outset in the strength of the Indian States' representation in the Federal Legislature and it was considered that this question might require further examination in connection with that of the size and composition of the Federal Legislature in order that, having regard to the interests of British India, the position of the representation of the States as a whole might not be prejudiced.

4. It was accepted that the formal conclusion of agreements between the States and the Crown could not take place until after the Federal Constitution had been approved by Parliament.

It was contemplated that the provisions of the Act in regard to Federation should not take effect at once but that the Act should contain a proviso that they should be brought into force after a specified period if and when so many States had acceded. This procedure would secure that the States should not be asked to commit themselves definitely until they had the complete Act before them. But it was suggested that opportunity might be found to enable the Princes' views on the draft Constitution to be made known to Parliament while legislation was in progress. In particular it was thought desirable that opportunity should be afforded to the Chamber of Princes and the States individually to consider the Constitution as outlined in the White Paper and possibly again at a later stage (*e.g.*, during the Report stage) if important amendments were introduced in the scheme after its discussion in the Joint Committee where the States would be represented and the introduction of a Bill in Parliament.

5. As regards the form of the Instruments of Accession the procedure which commended itself to the meeting as a whole was one whereby the States would convey to the Crown a transfer of the necessary powers and jurisdiction in accordance with the specific provisions of the Act. This procedure would enable respectively the Governor-General of the Federation and the other Federal organs established for the purposes of carrying out the Constitution, to exercise in relation to the States and the subjects of their Rulers, but only in accordance with the Constitution, the powers which the Rulers had agreed to transfer and would avoid a reproduction in the Instruments of Accession themselves of the wording of each clause of the Act which related directly or indirectly to the States. But provision would have to be made for the transfer to be limited by the exclusion of certain matters.

6. It was agreed that the Instruments of Accession must provide for exclusion from the purview of the Federation of those powers and jurisdiction in respect of Federal subjects, in whole or in part, which it was not agreed by the individual States to transfer to the Federation, subject to the understanding that there could be no question of a State so restricting the transfer of powers as to render its adherence to the Federation ineffective.

7. It was considered desirable that in due course the skeleton draft of an Instrument of Accession should be discussed between the Viceroy and the representatives of the States.

The Conference noted the Report on the "Form of States' Instruments of Accession" after the following points had been raised:—

With reference to paragraph 6, in reply to enquiries by Mr. Joshi and Mr. Jayakar, the Secretary of State for India made it clear that it was not contemplated that a States' accession to the Federation should be accepted unless it was really substantially undertaking the Federal duties.

It was made clear that it was not contemplated that the Treaties should contain provisions which would enable a State to come into the Federation and go out again at pleasure.

REPORT OF COMMITTEE ON THE EDUCATION OF THE ANGLO-INDIAN AND THE DOMICILED EUROPEAN COMMUNITY IN INDIA.

1. The following delegates were selected to serve on the Committee:—

Lord Irwin (Chairman).

Sir Hubert Carr.

Sir Henry Gidney.

Sir Muhammad Iqbal.

Mr. Jayakar.

2. The Committee had the advantage of consultation with Sir Henry Richards, Senior Chief Inspector of the Board of Education, in regard to the system of inspection in England.

3. The main problem which the Committee had to consider was whether European education, which is at present a provincial reserved subject, should be a provincial subject under the new constitution, or should become a responsibility of the Central Government. As long ago as 1913 the domiciled European and Anglo-Indian Community asked that European education should be placed under the Central Government. In 1923, and again in 1925, deputations from the community were received by the Secretary of State for India and made the same request. More recently the Committee on Education presided over by Sir P. Hartog considered the matter and reported to the Statutory Commission against centralisation. The Committee had, therefore, to consider a problem which had been before Government of India and the Secretary of State for nearly 20 years.

4. It is perhaps, therefore, hardly a matter for surprise that two opposing opinions found strong expression on the Committee. In these circumstances the Committee sought for a middle course and they believe they have found it in the following proposals, which they accordingly submit for the approval of the Conference.

The Committee recognise the special needs and circumstances of the Anglo-Indian Community and the necessity of maintaining a proper and adequate standard of their education. They have, however, decided that it is not necessary on this account that Anglo-Indian education should be a central responsibility, but they recommend that the education of Anglo-Indians and domiciled Europeans should have special protection accorded to it in the several Provinces, and that means should be found to secure its better co-ordination. To this end they recommend that—

(*a*) it should be provided by statute that there shall be no reduction in existing educational grants-in-aid for the community in any Province other than a reduction *pro rata* with a reduction in the general educational grants-in-aid, save with the consent of a majority of three-fourths of the

Legislature concerned; and further that this special protection shall continue until such time as it may be decided otherwise by a majority of three-fourths of the Legislature. These provisions should be without prejudice to the special powers of the Governor for the protection of Minorities;

(*b*) each Province should forthwith and before the new Constitution comes into force create a Board for Anglo-Indian Education, consisting of the Education and Finance Ministers of Provinces, one representative from each of the Universities in the Province, one representative of the Managers of Anglo-Indian Schools and two Anglo-Indians, the Boards being nominated by the Governors in consultation with the Ministers of Education after taking into consideration any recommendations put forward by the interests concerned. The Boards' duties would be to make representations to the Ministers as to the amount of the block grant that they might consider necessary for the discharge of their duties, to administer the grants when made, and to tender advice to the Ministers on matters of administration concerning Anglo-Indian Educational Institutions;

(*c*) in order to secure uniformity of educational standards, and co-ordination of Anglo-Indian education, throughout India an Inter-Provincial Board for Anglo-Indian Education should be established forthwith, consisting of the Provincial Ministers of Education or their deputies and an equal number of persons nominated by Provincial Governors to represent Anglo-Indian schools, in consultation with the Ministers of Education and the community concerned. The Chairman should be elected by the Board from their own number;

(*d*) the Inspectorate of Anglo-Indian Schools should be appointed by the Inter-Provincial Board and placed under the general direction of the Board, for the purpose of securing uniformity of educational standard, and inspection. The Inspectorate should work under a Chief Inspector and have jurisdiction in such areas as the Board may decide, after consultation with the Provincial Boards concerned. In respect of the administration of schools situated within a Province, the Inspectorate would work under the specific control of the Provincial Minister of Education, acting in consultation with the Provincial Board of Education;

(*e*) the cost of the Inter-Provincial Board and of the Inspectorate should be borne by the Provinces in proportions to be decided by that Board, or, failing agreement, by arbitration.

5. In making the recommendations in sub-paragraphs (*b*) to (*e*) of paragraph 4, the Sub-Committee assume that the maintenance of this or some equivalent machinery for the purpose of giving effect to the recommendation in sub-paragraph (*a*) of paragraph 4 should be rightly held to fall within the scope of the special responsibilities of Governors for the protection of Minorities.

The Conference noted the Report of the Committee on the Education of the Anglo-Indian and the Domiciled European Community in India.

13th December, 1932.

SUPREME COURT.

The Conference considered the question of a Supreme Court for India. In introducing the discussion Sir Tej Sapru referred to the fact that general agreement had been reached in previous discussions that some sort of a Federal Court was necessary to interpret the constitution and to decide constitutional disputes between the Federation and the Provinces and between the units of the Federation. The only question that remained was whether there should be a Federal Court as apart from a Supreme Court or whether there should be a Supreme as well. Now, if it became necessary to have a Supreme Court at all then he and his colleagues were entirely opposed to having a separate Supreme Court set up. In the interests both of economy and efficiency there must be only one Court which might sit in two divisions for the decision of Federal issues and of appeals from High Courts in India respectively. He pointed out that a purely Federal Court of three or four judges would not be likely to carry much weight while a bigger Court of 9 to 12 judges would command confidence and attract talent. For these reasons he and his colleagues wanted both a Federal and a Supreme Court but not two separate Courts.

As regards the composition he thought that in view of the paramount importance of keeping the judiciary absolutely independent of all political taint the constitution should provide for the institution of the Court, for the appointment of the judges by the Crown and for the guaranteeing of their salaries. No religious or racial considerations should influence the appointment of judges who should be taken from any community, European or Indian, provided that they could command confidence by reason of their independence, of their competence and their impartiality.

The setting up of a Supreme Court, however, did not mean that the jurisdiction of the Privy Council should be ousted. That jurisdiction should continue. At present there are two classes of cases that come to the Privy Council. The first consists of cases which are valued at over Rs. 10,000; the second of cases in which the High Court certifies that there is some substantial point of law which ought to come before the judges of the Privy Council. It would be to the advantage of all alike if the pecuniary limit of appeal were raised, and with regard to the second class of appeals a certificate was required, not from High Courts but from the Supreme Court. He did not think that the work of the Supreme Court would be so vast as to require 20 or 30 judges as had been suggested in certain quarters. The right of appeal was perhaps somewhat abused and it would be the business of the new Legislatures to consider whether this right should not be restricted in the interests of justice, but his view was that no more than 9 to 12 judges would be necessary in the combined Federal and Supreme Court.

As regards Criminal appeals, his view was that appeals to the Supreme Court should be allowed only in cases of capital sentences

and then under certain well-defined conditions. He felt that the new constitution would not be complete without both a Federal and a Supreme Court.

Mr. Zafrulla Khan agreed generally with Sir Tej Sapru that there should ultimately be a Supreme Court. He considered however that as a Supreme Court was not an essential part of the constitution, all that was now necessary was to lay down the details of its constitution in the new statute, leaving it to the future Legislature to decide the actual date of its establishment. He agreed with Sir Tej that the right of appeal to the Privy Council should remain, that there should be some limitation to the number of appeals generally, and that the Supreme Court should have a certain criminal jurisdiction, for example, in cases of capital punishment; there should be a right of appeal to the Supreme Court in all cases of acquittal by a lower court and subsequent conviction by a High Court, and in other capital cases within certain defined limits.

Sir A. P. Patro speaking as a taxpayer was not convinced of the immediate necessity of a Supreme Court. A Federal Court was essential at the outset, but in their present straitened finances and with the jurisdiction of the Privy Council to continue, they might well wait until the Federal Court was in working order before setting up a Supreme Court. In any case it was not certain that the best talent could be procured for such a Court because a lucrative practice would generally be considered more attractive.

Sir N. Sircar was definitely opposed to the constitution of a Supreme Court. The cost would be prohibitive; any right of appeal to the Supreme Court even in the limited criminal field of capital cases, would be largely availed of and some twenty or twenty-five judges would be necessary to deal with the work. If the object of the proposal was to escape eventually from the jurisdiction of the Privy Council this was not possible because the Privy Council exercises a prerogative power. Nor was this desirable; the Privy Council, sitting as the last impartial tribunal in an atmosphere remote from local colour and prejudice, had done much for British-Indian jurisprudence during the last 150 years, and its services should not be lightly set aside.

Mr. Mudaliyar urged that a "Dominion Status" constitution involves a Supreme Court, just as a Federal constitution involves a Federal Court. The only issue therefore was whether a Supreme Court should be established now or later. The main objection urged to establishing it now was the cost. But this did not take account of the fact that civil courts in India were generally self-supporting. The judges of the Federal Court, at least three and possibly five in number, might not be fully occupied by Federal matters and if sitting as a Supreme Court they heard civil appeals the stamp fees would offset the cost of the Court. Criminal appeals would be comparatively few. It should be noted that a resolution had been passed by the present Legislative Assembly subsequent

to the meetings of the Consultative Committee in favour of the immediate establishment of a Supreme Court.

Sir Akbar Hydari, expressing the general view of the States Delegation, said that it was essential that the Federal Court should be a separate and distinct entity. A Federal Court was a constitutional necessity; a Supreme Court was not a matter of immediate importance, and, in any case, was the concern of British India alone. To visualise two divisions of the same Court, one Federal and one Supreme, was to confuse the issue. A Federal Court was a Federal essential and would require to be manned by judges of outstanding integrity, with a knowledge of constitutional law, customarily associated with All-India interests and free from local prejudices. The question of a Supreme Court on the other hand was merely a question of supplementing the judicial system of British India.

Sir Hubert Carr considered that no case had been made out for incurring the expense of a Supreme Court.

Mr. Jayakar, having shown that no difference of principle existed on the British Indian side, asked whether the constitutional picture could be regarded as complete if it did not provide every Indian with a complete right of appeal within his own country. The cost of a Supreme Court and its date of establishment were questions of detail; in principle, it was an essential of the Constitution.

Sir Tej Sapru did not agree with the conception of a Federal Court as put forward by Sir Akbar Hydari.

After some discussion it was decided that, in view of the differences of opinion that had emerged, it would be of no advantage to appoint a Committee of the Conference to consider the question further.

Subsequently, by leave of the Conference, a note on the subject by Sir Claud Schuster and Sir Maurice Gwyer was circulated as one of the Conference memoranda.

GENERAL DISCUSSION.

(Meeting held on 23rd December 1932.)

Sir Samuel Hoare: I suggest that now we should proceed at once to a general discussion before the proceedings of the Conference are wound up. I do not know whether Sir Tej Bahadur Sapru would be inclined to begin the discussion; if he would, I think we should be very glad.

Sir Tej Sapru: Mr. Secretary of State, My Lords and Gentlemen, I would begin by expressing our deep sense of obligation to the members of the Staff of the India Office. I associate with that expression of opinion the names of Sir Findlater Stewart, Mr. Carter and Mr. Dawson, and indeed every other officer who, as we have noticed with a remarkable degree of appreciation, have been working at all hours of the night and day. If we are destined to have a Secretariat of our own in the future over which we shall exercise any control, we shall bear this example in mind.

Now, Secretary of State, I feel a very heavy sense of responsibility—much heavier than I can say—in speaking on this occasion. It was in 1929 that Lord Irwin paid a visit to England. If His Lordship will allow me to divulge a secret, which I may do on this occasion, before he came to England I had a long conversation with him, the substance of which I have preserved. From distant India we were watching the progress of events here, and watching with great interest his activities here. In fact I do not mind now making a public confession, that the proposal of the Round Table Conference went from us to Lord Irwin.

To that proposal men like the late Pandit Motilal Nehru and the late Sir Ali Imam—I regret deeply the death of both these leaders—were parties. We decided to put forward that suggestion with the full concurrence of those two distinguished leaders of India. We put it before Lord Irwin and when Lord Irwin came to India I at any rate looked upon him as an ambassador of peace between England and India. When he came back he invited some of us to meet him. It has always seemed to me a matter of tragic significance that on that fateful day, 23rd December 1929, the conversations which took place in the privacy of the Viceroy's study broke down. The subsequent events are known to you and to everyone and I will not refer to them in detail. Nevertheless in 1930 when the situation in India was of a critical nature causing anxiety both to you and to us some of us decided in the midst of great public opprobrium to come and see whether we could not explore every avenue for the settlement of an issue which seemed to us to be growing more and more acute every day. Lord Irwin will bear me out—his Lordship was then the Viceroy of India—when I say that we did not come to England in the midst of the blessings of our people. We came to England in the midst of the curses, of

the jibes and of the ridicule of our own countrymen. Those of us who believe in constitutional methods took the great risk and we thought that upon the success of this Conference or the failure of this Conference would depend the success or failure of constitutional methods. Reviewing as I do the events of the last three years I feel, and I feel very sincerely, that we were right in coming at that time. Our experience in 1930 was certainly encouraging. When I remember that the one criticism which was then made of the Round Table Conference of 1930 was that men had assembled at that Table who possessed no goods to deliver, that the men who possessed goods to deliver were behind prison bars and had not come here, and when I remember that after our return to India the men who had goods to deliver and the men who had no goods to deliver according to popular estimate combined together in bringing about a different atmosphere of peace to which Lord Irwin made his greatest contribution in my opinion—well I do not feel inclined to agree with the criticism that we acted wrongly in coming here in 1930.

Unfortunately when we came here last year, accompanied by men who could " deliver the goods ", we met with difficulties of an extraordinary character, mostly of a domestic nature. We failed, except in one important respect, and I would beg you all to recognise the importance of that. Although we might not have achieved agreement on questions which divided us, we achieved success—and distinct success—in one direction and that was this—that His Majesty's Government of the year 1931, which was different from His Majesty's Government of 1930, then stood committed to the policy of the Round Table Conference and to the policy enunciated by the Prime Minister.

Now although it so happens that at the present moment you have the National Government—I do not pretend to interpret your politics—yet it so happens that in that National Government the dominant party is the Conservative Party, and I am entitled to hold the Conservative Party of England fast to that policy which was enunciated by the Prime Minister and which was endorsed by Lord Reading in the Houses of Parliament. Without suggesting that Lord Peel and Lord Winterton are diehards.

Lord Peel: I am afraid we are not considered so!

Sir Tej Sapru: At any rate I am prepared to say that you have proved much better than your reputation! Without suggesting that either Lord Peel or Lord Winterton is a die-hard I beg them to remember that we, the British Indians, hold the Conservative Party as much in honour bound to deliver those goods which they have promised to deliver us as we hold any other party, Liberal or Labour, in this country. Therefore, although in other aspects we may have failed to achieve any success last year, we did achieve this success, that we have now got the pledge of all three parties in this country. Now we have come this time, after having that obstacle

in our way removed by the word of the Prime Minister, which to my mind must hold the field unless it is replaced by agreement between the different communities, to ask you to deliver the goods which you possess, and I do sincerely hope and trust that you are going to deliver those goods.

I confess that during the six weeks that we have been working here there have been moments of great depression, there have been times when it seemed to me at any rate that the prospect was very gloomy. I make that personal confession. Those moments have alternated with moments of hope, and now the time has come when we should review our work and ask ourselves what it is that we have been able to achieve during the few weeks that we have been in your great country.

So far as the picture is concerned—I say it in no carping spirit—it has yet to be completed. I think it will be completed when we see your White Paper, and it will be then for us coolly and dispassionately to ask ourselves what is the sum total of our gain. Subject to any opinion which may be formed by myself or my colleagues or my countrymen at the time when we see the completed picture in the White Paper which I hope will be presented soon, I will say that there are certain broad questions on which there has been agreement, although it would be wrong to say that there has been agreement on every question.

The big issue in which we are all interested is the issue of Federation, and here, if I may say so, without raising any controversial issue, so far as I am concerned my whole interest lies in Federation. I have not come all this distance with the feeling that all that we could achieve was merely provincial autonomy divorced from responsibility at the Centre. Ever since the days that I had the honour of being a member of Lord Reading's Government I have held the conviction that if India is to get any Constitution it must be a Constitution which gives responsibility at the Centre.

Our political ideas with regard to the Federation were not very clear in 1921 and 1922, but as events progressed and as difficulties were felt and realised in regard to Central responsibility, some of us—I confess I was one of them—were forced to the conclusion that the future of India lay in Federation. That has been my deep conviction for the last five years. And I may say that the idea of an all-India Federation—however far away it might have been—began to develop in 1927 or 1928. I am disclosing no secret when I say that on an important occasion when the late Lord Sinha and I were invited by His Highness the Maharaja of Patiala to discuss high political issues, both of us advised the Princes that they must come into our Legislature and must look upon themselves as part and parcel of a big whole.

It is since then that our ideas began to get more and more clear; and I at any rate have felt all along these years that it is worth trying to bring into existence a greater India than mere

British India: to remove those conflicts which do at times arise between British India and the Indian States, to harmonise the two together so that our life may be greater and richer and more harmonious in every respect.

Now when we came here in 1930, Their Highnesses made a very generous and patriotic response to our invitation to join this Federation; and I put it to Their Highnesses representatives—I regret very much the absence of Their Highnesses on this occasion—that the time has come when they or their Sovereign masters should finally make up their mind and definitely and without any doubt or misgiving say that they are ready to join the Federation provided their special interests are safeguarded. Only this morning I ventured to interrupt Sir Manubhai Mehta and some others and asked them whether they had made up their minds on the question of the size of the Legislature or on the question of the proportion. I am bound to say that so far as Their Highnesses are concerned the position does not seem to me to be clear; that is to say, one group holds one opinion with regard to the size and the quota that they claim, another group holds another opinion. All that I am entitled to assume is that if those differences between themselves are removed—and we are not interested very much in those differences —I assume that they would be ready to come into the Federation; and I do hope that before this Conference concludes some definite statement might be made on their behalf.

My conception of an All-India Federation is a Federation of British India and Indian States in which the Indian States will be very honoured partners; but I will repeat what I said yesterday in the course of my remarks on the Report of the Financial Safeguards Committee, that while I should welcome them as honoured partners with every right under Treaty or under Agreement or Convention effectively safeguarded, I should not like British India to be treated as a dependency of Indian States. Therefore I am entitled to call upon the representatives of the Indian States in the course of their speeches to make the position somewhat more clear than it seems to be at the present moment.

But here, Mr. Secretary of State, I would venture to make one observation. We agreed to the All-India Federation in the hope and belief that the fruition of our ambition and of our ideals would be possible within the next few years.

If we wanted to get on with provincial autonomy the Simon Commission's Report gave us an opportunity. But we did not want provincial autonomy. Therefore from this point of view the question of the date of the Federation is to my mind of the most vital importance. With regard to that I wish to state the position of some of us as clearly as it is possible for me to do. Our position is that you must fix a date for the inauguration of the Federation as was done in the case of the Dominions of Canada, Australia and South Africa. But before you fix that date I hope you will also fix

the date on which the Indian States must formally and authoritatively notify their willingness to come into the Federation. I suggest that the date should not be longer removed than twelve months from the date on which the Act is passed by Parliament. If I am confronted with the position that that date may arrive and the Princes may not have made up their minds by that time to come into the Federation or that things may not be in such complete order as to justify the inauguration of the Federation, then my answer to that is that the Federation must be framed to function all the same leaving it open to Their Highnesses to come as and when they please. I am quite alive to the danger of fixing a date, but surely it should not be beyond British statesmanship to devise a formula to meet a contingency of that character. Therefore I suggest that if you find that there are any valid reasons which may prevent you from giving effect to that proposal and bringing the Federation into operation on that particular date you should reserve to yourselves the power of extending that date, provided of course that the extension is not too prolonged. Frankly I visualise the Federation coming into operation in working order in 1935 at the latest. I am not looking upon the Federation as a possibility or a probability in 1938 or 1940. That is my view with regard to it, but if you should find that this is impossible then speaking for myself—and I hope I am speaking for everyone on this side—I say that it would be a most dangerous thing for you to start the new constitution in the Provinces and leave the Centre unaltered. I say that because on constitutional and administrative grounds I hold that it would be impossible for the responsible Provinces to work in harmony with an autocratic central government. Besides I suggest to you that the constitutions of the Provinces have a direct relation to the new constitution which you are contemplating at the Centre and that they will not fit in with the constitution of the Centre as it is at the present moment. That was the vital condition which you imposed upon responsibility in British India in 1930 and which you repeated in 1931. To-day as Mr. Jayakar was good enough to point out a little while ago we find another condition imposed; that condition is that the Federation must come into existence simultaneously with or after the establishment of the Reserve Bank. I wish to explain my position and the position of many of us with regard to the Reserve Bank. Our quarrel is not with the Reserve Bank. As a layman, I am assuming that sound expert opinion is to the effect that a Reserve Bank is necessary. If that opinion has got to be contested, I leave it to be contested by those who claim to be experts. I am therefore proceeding on the assumption that that opinion is a sound one.

Now, so far as the Reserve Bank is concerned, so far as its composition is concerned, and so far as the conditions which are to be attached to its constitution are concerned, they were mentioned by my friend Sir Purshotamdas Thakurdas, who is entitled to speak on this question with greater authority, in a memorandum. I

understand that with regard to those conditions there is not going to be any serious difference of opinion. Very well. If there is going to be no serious difference of opinion on the conditions on which the Reserve Bank should be established, then we feel that the position still continues to be somewhat obscure, because, while on the one hand your experts are not able to give us a precise date on which they expect the Reserve Bank to be established, on the other hand there are others who hold the opinion that it may take us many more years than we imagine before the Reserve Bank is formed.

Now, as a layman, I do not pretend to judge between those two opinions, but what I would say is this. Without committing myself to the four conditions with regard to the establishment of the Reserve Bank which are mentioned on page 4 of the Report, namely, " that the Indian budgetary position should be assured, that the existing short-term debt both in London and in India should be substantially reduced, that adequate reserves should have been accumulated and that India's normal export surplus should have been assured," I do suggest that I should not like to be a party to any scheme which contemplates that, if there is to be no Reserve Bank, there is to be no responsibility at the Centre in India. Therefore I should not agree to any system of provincial autonomy which resulted from your non-compliance with this pre-requisite, namely, the establishment of the Federation. It is perfectly true that the Report safeguards that position in the last paragraph on page 5. I will venture to read that and make just a few comments on it: " It is on the basis of this assurance by the Secretary of State that some members of the Committee have been able to accept this part of the Report, and they reserve their right to reconsider their whole position should delay in the establishment of the Bank seem likely to result in postponement of the inauguration of the Federation ". I wish it to be clearly understood that my position is—and I believe it is the position of many on this side —that, if you should find, after making the best efforts which you propose to make—and I accept your assurance, Sir, on that matter—that it is impossible for you to inaugurate the Federation, with responsibility at the Centre, you must not assume that we then agree to provincial autonomy or to any change in the constitution at the Centre. We reserve to ourselves then the liberty of making any such demand with regard to responsibility at the Centre in British India as we may be advised to make at that time.

I therefore in the friendliest spirit wish to tell you that that is our position.

I will pass on now to another item of our programme. I am dealing with what are known as the Financial Safeguards. I do not propose to go into every item of that subject. I will leave to other friends of mine the task of dealing with those which I may omit. But I would like to make my position and the position of several others as plain as I possibly can. So far as

Finance is concerned we note with pleasure and with satisfaction that there is no truth in the rumours which were prevalent at one time that it was the intention of H. M. Government to reserve Finance. I note with gratification that H. M. Government do intend to transfer Finance to popular control. So far I am satisfied, but when coming to the Safeguards I have one or two observations to make. We have agreed—and I think we were honourably bound to agree—that there should be every possible guarantee given to the members of the Services that their salaries, emoluments, and pensions—that is to say, their rights which are guaranteed by statute—should be preserved and maintained intact. We have agreed that there should be a Statutory charge for debt services. Now, I approach the whole question from the point of view of a lawyer who has to deal with the claims of debtors and creditors every day of this life. I do not pretend to express any opinion on the mysteries of finance. I leave that to be done by others. But what I do say is that undoubtedly a creditor is entitled to get back his money, and not only to get back his money, but to see that the security on which he has advanced that money shall not be impaired until he gets it back. That is not only a sound legal principle, but an equally sound moral one. So far as that is concerned I wish to declare that it is not our intention that the security of the British investor, either with regard to short-credit loans or other loans, should be impaired in any degree or measure; and if it is thought to be impaired by the Finance Minister of the future or by the Legislature, I recognise that it would be a legitimate case for the Viceroy to step in for the protection of that security. It is for that reason that I decided, lest there might be misunderstanding, or, what is worse, misrepresentation of my position in my own country or your country, to submit two propositions to Sir Samuel Hoare and the Financial Safeguards Committee.

The first proposition which I gave in my written memorandum is this: I recognise the validity of the claim that the British investor's or for the matter of that, any investor's security should not be impaired, and the Governor General may be vested with power to secure the maintenance of that security unimpaired.

The second proposition is this: my objection is not to the Governor-General being vested during the transitional period with power effectively to secure the discharge of the obligations in regard to Reserved Departments and Services, but to a general phrase the content of which seems to me to be too elastic and indefinite.

That has reference to those words which find a place in the Report, namely, financial stability and credit. My position at the Committee was, and is that if you can show me what are your apprehensions in regard to that security being impaired or to the manner in which that security is going to be impaired, I should consider it my duty as far as possible to remove your legitimate apprehensions; but if I am asked to put my signature to a phrase which may mean anything or which may mean nothing in practice,

then I do hesitate to put my signature to a document like this. Supposing in an ordinary I. O. U. a creditor insists on the debtor saying that he will pay interest at the rate of " five per cent. etc."; I do not think any debtor would be justified in putting his signature to a document of that character. Therefore my objection is that the words are too elastic. They may mean something to financiers. I do not pretend to be a financier; I am a layman and a lawyer. Therefore until the thing is made clear to me—I hope the position will not be necessary—I cannot make up my mind to agree to a general phraseology of that character. Sir, I will say no more with regard to that matter. But there is one aspect of the question which I would like to present to you and through you to your countrymen in the City and to every British investor. India is not a foreign country to you; India has not been a foreign country to you during the last 150 years; and I refuse to believe that the British investor is as bad or is as suspicious as he is sometimes represented to be. I think the British investor is a man of courage, and, as every investor takes courage to make his profit, so does he. He deals with countries which do not owe any allegiance to the King-Emperor; he makes his profit, he loses too. Look at your investments in South America. Look at your investments in other parts of the world. You could afford to deal with Persia, and you know what is the issue now. You could afford to deal with some men of your race and of your colour and of your religion across the channel and you know what is the position now.

Well, personally speaking I think you will not be justified in bringing up against me the misdeeds of others who have disappointed you. You are certainly entitled to bring up the misdeeds of my own countrymen against me; you can certainly say: there are some men who have indulged in wild talk in my country, who have talked of repudiation of debts and things of that kind. I am not one of those men who believe in repudiation. It may be said that there are a few thousand men, although that is not literally true; literally it is true only of a few men. They may have talked of repudiation, but there are hundreds of millions of men in my country who are prepared to honour their obligations. Therefore I ask you to proceed in a more trustful spirit with us. Do not treat us as if we were absolutely strangers to you, or as if we had nothing to do with you in history. Why this nervousness? What is the cause of this nervousness? We are willing to meet all your legal claims and obligations, but humanly it is impossible for us to satisfy your whims, your suspicions, your spirit of distrust.

I therefore make a very earnest appeal to the British investor not to lose his courage in relation to a country which owes common allegiance to the King-Emperor, and which has been a member of the British Empire during the last hundred years, and which will remain a member of the British Empire if you once establish your political relations with India on a sounder footing. Once you do it you will advance the credit of India. If you fail to satisfy the political aspirations of India—(and let me tell you that they

are very live political aspirations, not confined to the intellectual classes any longer)—the credit of India will go down.

I do not wish to enter into financial jugglery, I do not understand how the ratio, or the exchange, or that kind of thing, can demolish the credit of a country; but as a politician I do say that it is on the political side that you can secure the credit of India. That must be your first duty and last duty now.

I will try to bring my speech to a conclusion as soon as possible, but there are just one or two remarks more that I will venture to offer. First of all, one of the questions which has been raised is whether there should be a Financial Adviser appointed in India. The position that I took before the Finance Committee was this: I am not a financier; I am unable to say whether, on financial grounds, there is need of a Financial Adviser; but as a constitutional lawyer who has been taking some interest in these matters for the last few years, and as one who has had some experience of the working of the Government of India, I have every sympathy with the Governor General of the future. You are making his task more onerous than anybody elses at the present moment. Although it might be that we should have a Reading or an Irwin in future in India, yet I should doubt whether even men of that calibre would feel perfectly happy in their isolation when they were called upon from day to day to exercise their discretion without advice. It is for that reason that I think it may very well be that the Viceroy of the future may require an independent adviser, but when you talk of a Financial Adviser let me tell you what I understand that Financial Adviser to be. I do not understand him to be the representative of any interests either in England or in my country; certainly not of any financial interests either in the City or in Bombay or in Calcutta. That is my conception of a Financial Adviser I maintain that he should be appointed by the Governor General in consultation with his Ministers; that his position should approximate as nearly as may be to that of the Auditor General; that he should be above party politics; and not connected with any party either in India or in England. Further, I should take every precaution that human language is susceptible of providing, that this Financial Adviser will not be a rival Finance Minister. I am fully aware of the position of the Financial Adviser in Egypt, and I do not want the Egyptian experience to be repeated in India, I tell you that frankly. It would be a perfectly legitimate thing for the Financial Adviser on questions of international finance or any other question to give advice to the Government of the day or to the Governor-General. There his function ends, and his opinion, in my view, must be brought to the notice of the Legislature too, because whatever else you may think of the Legislature I do think that if the Legislature is dealt with properly you will find it will give the utmost possible consideration to the advice of an expert in regard to whom it feels assured that there are no political motives behind his advice. That is my view of the Financial Adviser. I would also say that you must indicate that this is not going to be

compulsorily a permanent feature of the constitution. Either you must fix a time limit or you must leave it open to the Legislature to exercise its constitutional pressure on the Viceroy in regard to the continuance or discontinuance of this feature of the constitution. I say only constitutional influence and nothing more than that.

I will pass on now to another feature of the Constitution which is bound to attract considerable notice in India. Mr. Jayakar was, in my humble judgment, quite right in saying that your Constitution is going to be judged in India by two tests. The first is: Does it give India a substantial amount of financial independence? The second is: What is the position of India going to be in regard to Defence? After the discussion that took place in open Conference, some of us ventured to address the Secretary of State, and the Secretary of State was good enough to invite us to attend a kind of informal meeting at the India Office. We explained our position to him carefully on that occasion, and we have embodied our opinions in a letter to him. I will briefly tell you what our position is. We accept, although I am sure that this is not the opinion of everybody in India, that the control of the Army during the period of transition should be in the hands of the Governor General, and we do not look upon the period of transition as a very long one. We also agree that, so far as the Army Budget is concerned, it shall be independent of the vote of the Legislature, but we have a few suggestions to make on this matter. Our first suggestion is that, so far as supply is concerned, it should be left originally to a Committee consisting of the representatives of the Governor General, the Army Member—it may be the Commander-in-Chief or both; it is for the Governor General to decide—the Federal Finance Minister, the Federal Prime Minister and also other Ministers who may be appointed in that behalf. Whether this Committee will be appointed by Statute or by an Instrument of Instruction is a question which I can only answer if I know whether you are going to place your Instrument of Instruction on a statutory basis. The second point that we take with regard to this is that the Army Member in future should be a man to be selected from the members of the Legislature who represent either British India or Indian States, and we say this because we think that such a member will be a bridge between the Governor General and the Army and the Legislature. He will be able to interpret the views of the one to the other, and he will in our humble judgment carry far greater influence than any other person whom you may appoint to that office. Then we say that, so far as the Indianisation of the Army is concerned, you should introduce or reproduce the passage in the Thomas Committee's Report to the effect that the Defence of India will be the increasing concern of India and not of Great Britain alone. If your experts feel that preambles are out of fashion at the moment, or that you can add a clause to that effect in this statute, you can introduce it somewhere or other in the Instrument of Instruction, provided only that the Instrument has a statutory basis. Otherwise we should ask you to introduce a clause to that effect somewhere in this Statute.

Then again we say that statutory obligation should devolve upon the Governor General to take every possible step to Indianise the Army within the shortest possible time compatible with the safety of the country and the efficiency of the Army. Frankly I am one of those who have always stood by the recommendations of Lord Rawlinson's Committee, and I believe I am representing the general feeling of many of my countrymen who have taken an interest in this subject when I say that the Report of the recent Committee which was appointed in consequence of the recommendations of the Thomas Committee Report has failed to afford satisfaction in India.

Sir Henry Gidney: " Question."

Sir Tej Sapru: Well, it may have afforded some persons satisfaction after they had retired but it has not afforded satisfaction to the young men who wanted to enter the Army! Therefore it seems necessary that the Governor General should have a programme of his own prepared by military experts. We also claim that the Indian Legislature should have the responsibility given to it of maintaining and expanding military education in India and the institutions established for that purpose. I will not refer to what you, Sir Samuel, said the other day in regard to the reduction of British troops, as I understand that the question is under the consideration of H. M. Government; we can afford to wait. But in regard to military expenditure there is and has been a very strong feeling, voiced by men who have studied the question and are competent to speak on it authoritatively, that there is considerable room for economies in army expenditure. We are not so unreasonable as to ask you to agree to any particular figure at the present moment, but we do think that there should be at least a Committee of Independent Indians and British experts appointed to investigate the problems, to explore further avenues for the reduction of army expenditure, so that the expenditure may be brought as soon as circumstances permit to near the pre-War level. I am not permitting myself or anybody to any definite figure, but we at least want the problem to be explored.

And lastly, Sir, we say that those distinctions in the matter of recruitment which have prevented certain classes from adopting the Army as their career should be done away with. In this respect I would unreservedly associate myself with the demands of my friend, Dr. Ambedkar.

That is all that I wish to say with regard to these specific items which we have brought to the notice of the Secretary of State. I do suggest to you, Sir, in all humility that if you fail to afford satisfaction on this part of our work, you will have failed in a very large degree. Therefore a definite pronouncement from you on this part of our work which I invite you to make in all sincerity will considerably help the reception of the Constitution in my country.

I will now pass on to one other matter and then come to a conclusion. With regard to the powers of the Governor-General and the Governor, we all recognise that so far as the Governor-General is concerned he must have a reserve of power to fall back upon in case of grave emergency or in case of breakdown, and that power will be useful to him on occasions of a gravely critical character. But we have considerable doubts as to whether you should duplicate that machinery by giving a power of that character to the Governor as well. I will not take any further time in dealing with the other specific items of the programme which we have been discussing.

Now, Secretary of State, howsoever good the Constitution may be, ultimately the question which arises is: Is that Constitution going to be acceptable to the people of India? There was nothing wiser than the remark made by the Prime Minister in his speech that a Constitution of an agreed character has a greater chance of success than a Constitution which is imposed upon a country. Those of us who may agree to this Constitution realise the difficulties in our own country. We feel that it is not merely our duty but it is also your duty to mobilise public opinion in favour of that Constitution in my country. And I do suggest, Sir, that unless we are able to convince the political classes which have been taking deep interest in these matters—classes who have been a source of trouble to you and of trouble to some of us unless we are able to convince them, the chances of the Constitution making a wide appeal to the country are of a very limited character. May I say in all sincerity that there are some matters on which I very radically differ and have differed from the Congress in my country. But with all my difference from the Congressmen, I hold that so far as Mr. Gandhi is concerned, he sums up in his personality the highest degree of self-respect of India and the highest degree of patriotism in the country.

I do say this to you that the present state of things in my country cannot be allowed to continue very much longer without causing serious prejudice to the work which he have been doing in the midst of so much unpopularity. I am not one of those men who would like to keep the Congressmen out of the constitution and I make a confession to you that I should consider it my duty to persuade every single Congressman whom I could influence to come inside the constitution and to work it. I do not wish them to be treated as outlaws. If we are to discuss these things with whom are we to discuss them?—with men who are behind prison bars or with men who are free? I know that so far as Mr. Gandhi is concerned, he will simply refuse to discuss any political question with me or with Mr. Jayakar or with anyone else inside jail. He is far too honourable to break any rule of the jail. I know that I had immense difficulties in persuading him to discuss these things with me when I saw him two years ago and that was when I went with the permission of Lord Irwin, not as his emissary as I was represented at that time by my critics to have gone, but because Mr. Jayakar and I felt that it was necessary for us to intervene

at that time. On your own showing—I do not wish to discuss your policy—the situation in India has improved. That is the statement which I read this morning and similar statements have been made on previous occasions within the last few weeks. If the situation has improved to this extent do you think that you are improving the chances of constitutional methods and of this constitution being accepted in my country by keeping 15,000 or 16,000, I do not know the exact number of men in jail, men who may be thoroughly wrong—and I believe they were wrong—in the methods they adopted, but who nevertheless have gone to jail because of their opinions and because of certain activities? Can you keep Mr. Gandhi any longer in jail? Give us a chance to discuss with our own countrymen these high problems which we have been discussing with you. Why should you be nervous of the future? You have recently taken ample powers which should enable you to cope with any grave situation which may arise. I am making an earnest appeal to you to consider the situation and I tell you that I have never known in my thirty years' experience as a public man so much bitterness, so much hostile feeling in Indian homes as I have witnessed during the last few months. I should like to correct that impression which prevails here. If we are to discuss these things, if we are to mobilise the opinion of our own countrymen, if you want to carry the largest possible amount of opinion in our country, give us a free chance. Whether the Conference will agree to our proposals or whether they will reject them I cannot say. If they agree, nothing better can happen. If they refuse to agree, that will be their responsibility. We shall have done our duty and you will have done your duty, and I therefore ask you, Sir, at this time—I do not want to take advantage of the soft feelings in every English heart during Christmas;—I am putting it on a practical business basis—whether you can afford to go on with this Constitution without taking the largest possible measure of opinion with you in the country. Sir, I contend—and I am borne out in this by my reading of English history—the situation in India, grave as it may have been according to opinion here, has not been unknown in English history in other countries. You have had to deal with situations similar to this in Ireland and in other parts of the world, and there has always come a time when your policy has been revised. You have had to revise your policy in other parts of your Empire, and I ask you to revise your policy now, so that you may inspire a spirit of hopefulness in our country, so that people may feel that now the prospect before them is brighter and all the distrust and all the misapprehensions in the country may disappear, as your fog and mist sometimes disappear here. I have nothing more to say.

Lord Peel: Sir Samuel, I certainly do not propose to follow Sir Tej Sapru in his very eloquent and comprehensive review of the whole situation both in principle and in detail. Indeed, I think a great many of the questions will no doubt be dealt with by you to-morrow and I am well aware that a great many others wish

to speak and are not desirous of an all-night sitting. Therefore I shall make one or two very general observations.

I must first of all disclaim altogether the suggestion Sir Tej Sapru that I belong to the honourable persuasion of the die-hards. Certainly Mr. Churchill would repulse me with indignation if that was suggested. Again, may I say that I do not desire to disclose any secrets, because recently a debate in the House of Lords has shown the terrible consequences and penalties that are attached to any such performance? I speak therefore with reserve and caution.

Sir Tej Sapru: Cannot you defy those threats?

Lord Peel: Not in the House to which I belong! They were directed, I agree, at the other House.

Sir Tej Sapru referred to the question of the establishment of provincial responsibility. Of course, I was one of those who were very anxious that that question should be taken up at once and that provincial responsibility should be established, and I thought that possibly, when you had got those provinces with their new sense of responsibility, you might have built up on that a Federation more informed perhaps by the knowledge and experience of the provinces. I have never been quite persuaded that, for a time at least, Provincial responsibility of that kind was incompatible with the present form of Government, and I felt that the strong objection to the establishment of responsibility was very largely due to some fear or suspicion, if you like, that the changes might rest there, and that the Government might be content with the establishment of that Provincial responsibility alone. But I was not moved by that argument, because I naturally trust the declarations of my own countrymen.

May I just say one word about this Conference as compared with others, because one has a standard of comparison as a member of two previous Conferences. I certainly think this Conference has been more practical and perhaps less rhetorical than the others. We have got a good deal closer to the facts and realities of things, and the structure we have been trying to build up is far more definite in its outlines and far more filled up in detail than anything at the two previous Conferences. Nevertheless we owe those Conferences some debt of gratitude because they had to grapple with the raw material of the matter. They did a great deal to define the problems, and that, after all, is a large first step towards their settlement.

I must allude on a final occasion like this to the very dramatic event which took place at St. James's Palace when we heard the epoch-making declaration of the Princes that they were going to enter the Federal system. That very solemn pronouncement on their part, of course, made the whole difference to the situation. It turned the whole business in a new direction at a time when we were discussing whether there would be a unitary or federal system for India, and it most profoundly affected public opinion in this country and made it turn far more readily towards a federal solu-

tion. Indeed I regard Federation without the Princes coming in as really an impossible business. I believe they are an essential part of a united India.

I was little sorry to hear Sir Tej Sapru talking about set dates for these different periods. I feel that with the enormous changes and movements that are going on, a definite date is very difficult to settle, and I am content with the declaration of the Government that anyhow they will do all they can to press on the matter with all their efforts. Indeed, I know that during the months that have elapsed since the last Conference an enormous amount of work has been done on these different problems in India and certainly here.

Now, the proposed Constitutional changes follow on and are really a natural consequence of the development that has already taken place. In fact, I may say that they arise naturally from the different pledges, undertakings, and pronouncements that have been made by different governments—I go back further perhaps than the year 1917—and these have led to a reconsideration of the whole problem of Indian Government. They have resulted in this Conference itself, not merely in the proposals for the transfer of agreed spheres of activity to purely Indian influence and authority, but have done a great deal in the laborious marking out of the limits and divisions between the authority which is retained through the Governor General in the hands of this country and that which is handed over to the Indian Ministers.

Now that has been, of course, a gigantic task, and there have been great differences of opinion on that. Perhaps some of our Indian colleagues have been rather too ready, in my view, to rely too much upon definitions—those exact definitions with which we try to tie the complexity of public affairs. Sometimes we have rather relied upon general statements which we thought were more suited to a flexible system, and are certainly more in accord with our ideas in this country where we prefer Constitutions to grow rather than to be made, and where our experience of elaborate written Constitutions is not perhaps so very great. But while we have been dwelling upon these reservations, discussing them in great detail and carefully inspecting them, I think perhaps, very naturally, we have forgotten to look or were not looking so much at the very real and great transfer of authority which on the other side is taking place and being handed over to Indian Ministers. When you specify certain things and place all the others in a general statement, the things which you reserve are apt to loom I think—anyhow on paper—rather larger than that which is embraced in these more general words.

I should like to say just one word about the attitude of some, anyhow, of my countrymen towards what are considered to be safeguards, why they lay stress upon them and why they want them to be within their limits real and operative. I do not think, first of all, that they arise from any mere desire to retain power and authority. I think they arise from what is really a very deep sentiment of obligation and responsibility which they felt, and

their ancestors before them, to India for say 150 years; and before desiring to lift some of that responsibility from their own shoulders I think they are really and sincerely anxious that those new responsibilities shall be properly carried out by those to whom they are transferred.

And again—because this has been referred to by Sir Tej Sapru—no doubt many of those very violent statements that have been made in India by persons of considerable standing in that country have done a great deal to alarm and disturb large sections of public opinion. I do not at all doubt what Sir Tej said, that he and his friends and thousands and thousands of people in India for instance with regard to the payment of debts, are just as responsible and just as determined to see justice done as any other people in the world. But of course these statements are largely made in the newspapers. They have some reverberation here, and I only mention it in order to get one's Indian colleagues to realise, as they do realise, that these statements do considerable harm and affect public opinion in this country.

The other feeling as regards this state of things is I think that many here feel that where the whole world system as it were has been shaken and where these terrible economic disturbances have taken place, many of which have been alluded to by Sir Tej Sapru in his speech, we do feel I think, some of us, rather more anxiety than we otherwise should feel about the setting up of a new financial and economic system in India and our responsibility for it.

Some of us feel also that quite apart from these difficulties, economic and social, you are really being plunged in India into the work of government and into the organisation of an immense number of problems which have never been faced at any time in the world's history by any federal government that has been set up. You have got not only to deal with relations between the Centre and the Provinces, not only with relations between that central government and the Government here, but between the Centre and the States with all their different traditions and organisation and between the States and the Provinces. Those problems together constitute so large an area of new business that I think with our own experience of Government we feel you are really faced with a gigantic task. Again you are developing self-government in India at the very time when in many countries of the world popular government, responsible government, has not got perhaps quite the same reputation as it had forty or fifty years ago. With this system not so much in favour you are to start with an unexampled area of problems to deal with. I hope, of course, that this new system which we are trying to set up and that all our efforts here will bear the richest fruit. I was very glad to hear Sir Tej Sapru say that he and his friends would do their utmost in India to bring the largest section of Congress into their new activities and into the working of the Federation. But it must be clear that unless they succeed in their effort—and I am sure their efforts will be genuine and energetic—with all the in-

herent difficulties there are in these problems it will be extremely difficult for this new federal system to work with success. If they do succeed in those efforts they will not only have deserved well of their county but I think they will have shown themselves very remarkable and very successful statesmen. I do not wish to detain you longer this evening. I can only express the hope that the old historic union of Indians and Englishmen, changed indeed into forms unsuspected by our ancestors, will continue and that a new association built on the strong basis of co-operation and good will will be the great contribution—perhaps the greatest contribution—made in this our generation to world history and to world achievement.

Sir Samuel Hoare: I will now call upon Lord Reading to address us and in doing so I should like to thank him for the very great help he has given us throughout the proceedings of this Conference.

Lord Reading: I associate myself entirely with what has just fallen from Lord Peel. I do not intend at this time of night and with the list of speakers that I have just seen to take up time in discussing details. I do wish, sitting as we are here together for the last time discussing this subject at this Conference, just to emphasise the change that has come over the relations between British Indians and ourselves since the Round Table Conference first started. I well recall the doubts that there were in the minds of many. I am glad that, as regards the political parties in this country, there was in substance no difference of opinion, although perhaps in one party there was a little more hesitation about entering into Conferences. But we have travelled a long way since we first met, and, in particular, I should like to draw attention to the fact—without intending in the slightest degree to go into any details with regard to any difficulties which have arisen—that we have a Secretary of State who is a Cabinet Minister in the Conservative party and who has devoted untold efforts not only during these weeks but during the whole time he has been entrusted with the position of Secretary of State for India, and I should like, on behalf of the Parliamentary party I represent, to tender him a tribute of gratitude and, let me add, of admiration for the way in which he has carried out his work. We can all appreciate the demands made upon his time and, may I add, his patience, which I believe to be one of the first attributes of a Statesman. Seeing, as we have, Sir Samuel in this position, with all the difficulties that he has had to encounter and young as he is, if I may be permitted to refer to his age, I may say that he has already shown that he has all those qualities of experience and wisdom which come to the man who is entrusted with public affairs and realises the tremendous responsibility which is placed upon his shoulders.

May I add also a most cordial endorsement of what Sir Tej Sapru so happily said with regard to the Civil Servants? I would include, if I may, not only those here but those in India and those from this country who went out either at the head of Commissions

or as members of Commissions, who have all given the best of their attention to the problems that confront us.

I can only add that all of us who have had to consult those responsible at the India Office cannot have failed to admire the promptness with which they have seized the points which are put to them and the marvellous rapidity with which they manage to translate them, sometimes even while we are still talking, into editions which we can carry away.

Now, I will pass on to the more general question. My own view of these conferences is that we gain an advantage by discussion and examination of all the various problems in order to arrive at results and agreements, but in the main I would say that the greatest gain of these conferences is the greater spirit of trust and confidence that is brought about between us both. The relations between British India and ourselves in this country have greatly improved since we have had the opportunity of attending these conferences, and since those of our country who were unacquainted with the men of intellect, character, capacity, sagacity and wisdom, to be found in India, have had the advantage of learning to know them. I think myself that is a great point.

May I in this respect only just recall, as did Lord Peel, that we should acknowledge the debt we owe to the Princes of India for the part they played in this matter, for the spontaneous action at the beginning of the Conference which changed the whole situation. I am a profound believer in the Federation of all-India, and I believe it is by these means that we are laying sure foundations for the stability of government in India for more years than even some of you much younger than I will ever see.

I realise also that during these discussions we have been confronted with very serious problems. This Federation must really stand by itself. There is no history of the creation of Federations which can even approach the stupendous character of this Federation. It is not to be wondered at that we have had difficulties. I think we are to be congratulated on the amount of agreement which we have reached. If you look back to the early days it will perhaps surprise some of you to think how far we have progressed and how great a distance we have travelled in agreement, particularly because of this last Conference. I rejoice very much that you, Mr. Secretary of State, in the eventual disposition you made with regard to the Conference, enabled us to meet all our friends from India so that we have been able to investigate and discuss these problems in the best spirit and with a desire on both sides to try to reach a solution acceptable to both.

I have had the greatest sympathy with what has been advanced by Sir Tej Sapru, Mr. Jayakar, and all our British Indian friends, as also by the representatives of the Princes. There have been differences, but let us realise this now that we are at the end of the Conference that the differences between us are very rarely if indeed at all differences of principle. They are mainly differences in the method of carrying out principles to which we have agreed.

I am very struck, by considering as I did this evening between the Committee and coming here, with the number of principles upon which we have produced agreement. If we recall the early stages, particularly in the Conference at the beginning of 1931, we remember that many matters were left undiscussed because there was not time, but we did agree upon certain vital principles. I remember discussions between Sir Tej Sapru and a number of British Indian representatives and myself and others with regard to these points. The matters were left open for further consideration when we came to fill in all the details of the constitution. So far as I know there is no single point upon which we then came to an expression of view in which there is any difference of substantial principle between, let us say, Sir Tej Sapru and others who have spoken on this subject and ourselves. We have progressed to some extent, and particularly in this that a Government of totally different complexion, but nevertheless embodying the political parties of the day, are agreed upon the policy to be pursued and have given the best proof of it by the action of the Secretary of State.

All I would ask of those who are now going back to India is to remember, whenever they are confronted with difficulties there, as no doubt they will be, that the position of difficulty is not entirely confined to them. We have our difficulties; we have had them for a long period; most of them are known to you. What we have to do is to seek to arrive at a solution between us of these problems in a way which will be agreeable not only to British India but also of course to the Princes and to ourselves in this country, so that we can when the Bill is introduced into Parliament present a picture to them which the British public will be ready to accept. We have travelled a very long way in this direction. I was delighted to hear what Lord Peel said. He is always interesting and generally also amusing. This at any rate stands clear that we are agreed as to what we want to put forward; that you are agreed with us as to the main principles upon which the Constitution will be built. The differences between us are differences rather of methods in carrying out the principles to which we have agreed. When you consider this and when you have to explain this in India I will ask you in particular to remember one most important feature. Perhaps the greatest difficulty that we have had during this Conference, as no doubt most of us foresaw, was in relation to Finance. I will only add that, save in one respect, everything that has originally been said with regard to Finance is being carried out by the agreements which we have already reached. There is one respect, no doubt, in which it is right to say that there is a variation. That is in regard to the measures that it was hoped might be devised for the purpose of enabling a transfer before the Reserve Bank was brought into proper existence and effectiveness, by which the transfer of Finance could be made. I have myself tried again and again to reach a solution of this. I have definitely stated my own view with regard to it. I was anxious that we should be able to find some means of

facilitating this transfer. But unfortunately it has been found to be impossible. We have tried every way which perhaps might be of use, but it has been found to be impossible. If they bear in mind that simultaneously with that proposal you have to create your Reserve Bank with all that it means, those who are more familiar with Finance perhaps than us will realise how difficult and indeed how impossible it became. That is the only variation that I have been able to find in anything that was originally discussed, and which was eventually put forward by the Prime Minister in January of 1931, and what we are discussing now. But do remember this that those difficulties are not of our creation; they are not of the Government's creation; they have really nothing to do with our position here; they are entirely due to the world conditions.

When we began to discuss this question no one imagined that at the end of 1932 we should be in the position in which we find ourselves at the present moment. Difficulties might arise we knew, but we thought that they would be more easily surmounted. The point I wish to impress upon you—and I am sure that those who have been attending the Committee dealing with Financial Safeguards will readily appreciate it—is that all these obstacles in the way of making the transfer arise from the present condition of the world and not from any want of desire to carry out any promises that were made by Government. Let me now in a few sentences refer to some of the observations of Sir Tej Bahadur Sapru on finance. I am not going into detail because the Report shows what is the situation between us. I do not myself detect any general difference of opinion in principle between what Sir Tej Bahadur Sapru told us in his speech and what fell in the main from our British Indian colleagues at the Committee on Financial Safeguards. The difficulty that has arisen is how to carry out this principle. We have tried all kinds of ways and have not been able to meet exactly on common ground but I think that our Indian colleagues will agree that the Government has done its utmost to meet them and has met them wherever it was found possible. Wherever it has not been found possible it is because of conditions in this country. Sir Tej Bahadur Sapru placed his argument in the main upon security for the British investor. He said he had no fault to find with the proposition that the investor must be secure. But I cannot help thinking that he rather left out of account the fact that it is not merely the financial assets to which a lender looks. He also thinks of those who are going to handle those financial assets. There is no want of trust at all but you have to remember when you make your transfer of financial responsibility that you transfer not only the assets but you put in quite a different position those who have invested money. You must have some general provision in order to give the same feeling of security to the investor in the future that he has to-day. Of course as the Federal Government develops and the administration of finance by the minister is seen to be of a prudent and wise character that feeling of security will grow. But at the present

moment you have to bear in mind that you are making a change and in making that change you must take care that there is a safeguard given not only to the present investor but to the future investor because you will require to borrow money in this country again and again. I will not go into details with regard to the Reserve Bank, but I should like to refer to one observation made about that by Mr. Jayakar. I quite understand that he has not had much time to consider the Report and it is very difficult to deal with a Report such as this at short notice. I think that the suggestion he made that Federation was to be postponed because of this arose from the fact that the position as we have understood it has always been that it was not desired to have provincial autonomy until there was responsibility at the Centre. Consequently the two things must be brought about, if not exactly simultaneously, at approximately the same time. I do not think that we need be unduly pessimistic. I quite understood Sir Purshotamdas Thakurdas when he asked the question "How long"? It may of course be three years or five years or even six years. Everything depends on the future of the world. If we are going, as I hope we may, to get a better condition of world affairs within the next year or two that would get rid of some of the difficulties which have been present to all our minds. I do hope it will be realised that the situation is not of our making but that it is the result of this great economic stress and financial trouble in the world. In conclusion let me express the fervent hope that as the result of these Conferences we are now getting near to the birth of the new constitution by means of the introduction of the Bill that is to come. We have to accustom ourselves to the new state of things in our thoughts of the future and not to rely too much on the past. I could not help thinking, in listening to some of the arguments to-day, that we so constantly get back to the condition of affairs that exists now, in which the Government is of a very different character from that which we are seeking to set up. We have to realise that what we are seeking to do now is to work in a partnership between India and this country. What we are attempting to do is to build up so that there shall be real co-operation and good-will between us, and I do believe that that will continue so long as we work in the same spirit and with the trust which has been engendered between us, with the greater knowledge that we have of each other, with the greater understanding of our own difficulties, with the greater realisation that we are, on the Indian side and on the British, determined so far as it is humanly possibly to bring this Constitution into existence, and not only that but to carry it on, to work it, in the future, so that it will grow in strength and in trust and in confidence throughout the world and that the work that we have been doing will be regarded in the future, many years ahead, as one of the greatest achievements accomplished in the world's history.

Raja of Sarila: As we are near the completion of our work, I beg leave to make a few observations of a general character and to indicate very briefly the point of view of those States which I

have the honour to represent. I must first of all express my grateful thanks to the Government for according me an opportunity of taking part in the proceedings of this conference, which I take it is an acknowledgment that the so-called small States have some special contribution to make to the future Constitution of India, and as such, deserve to be heard through their special representatives.

Permit me to say that when further stages of constitution making are gone through similar opportunities should be afforded. I may be permitted to mention in passing that the States for which I claim to speak represent about 13 per cent. of the total area and about 12 per cent. of the total Indian States' population. In the aggregate, therefore, this class of States would not constitute an insignificant factor in the future constitutional development of India. Our hopes and fears of the new Constitution are in the main of the same character as those of the larger States. I do not therefore desire to repeat what has been said by the spokesmen of the other States on the points of common interest. I would, however, emphasise very strongly that no discrimination of any fundamental character should be made between States and States on the ground of size, population, or revenue, in the institutions of the Federal Constitution. If there is any matter in which I and those I represent feel more strongly than on others it is with regard to the process of distribution of seats among the States. We are anxious that no discrimination should be made against us. I had occasion to express our opinion on this point at some length at last year's Conference, and have no desire to repeat them to-day. It is our earnest hope that H. M. Government will give very sympathetic consideration to this point. It must frankly be stated that the Princes have failed to come to an agreed conclusion as regards the principle on which allocation of seats to Indian States should be made. Indeed, there is no hope of any agreement being reached among them in this respect. H. M. Government will therefore have to give an award on this question, and speaking on behalf of the smaller States I desire to say that they are content to leave the decision on this highly controversial question entirely to the sense of justice and equity of H. M. Government.

The other point on which I should like to touch is with regard to the contributions of a tributary character made by our States. I referred to this question before when the Committee's Report came before us, and only desire on this occasion to point out that these contributions in many cases operate as a real hardship to States whose resources are limited as compared with others. The smaller the resources of a State, the more does the contribution hamper the administrative machinery though its amount may not represent 5 per cent. or any other given percentage of its resources. As my State does not pay any Tribute, I have no personal interest in the matter, but I would all the same plead most earnestly for early abolition of the Tributes.

I would make a few observations as regards the exercise of the jurisdiction of the Federal Court within the territorial limits of

these smaller States in respect of Federal matters. Here again I hope that there will be no distinction of any essential character between large States and small, but that all States which are at present in the enjoyment of jurisdictional rights should be enabled to invest their Judicial Courts with equal authority to judge Federal issues, subject of course to an appeal to the Federal Court. I trust that there will be no difficulty experienced in giving effect to this idea.

Before I conclude I desire to place on record the deliberate opinion of the States for whom I speak that they will give their wholehearted co-operation in promoting the Federal idea and in giving their loyal adherence to the new Constitution when it is set up. They recognise that the Federation of British India along with the Indian States under the aegis of the British Crown is the only sure way to the realisation of our common hopes and aspirations. There is, however, one supreme condition: that these smaller States must insist upon before they can seriously think of entering Federation. That is that the place assigned to them in the Constitution must be quite as honourable as in the case of larger States, and that no treatment of an invidious character will be accorded to them in any respect whatsoever.

Sir Akbar Hydari: Sir, I have very little to say, and at this late hour I should not say even that little, but for some remarks that have been made in the course of this evening. There has been a feeling so far as the Indian States are concerned that when we came down to what have been called "brass tacks" the urge towards Federation would diminish and gradually disappear. On the contrary, Sir, during this Conference as we of the Indian States have come up against difficulties, in the same proportion have we shown our desire to overcome them and to attain the goal. I may remind some of those who are present how a very highly respected member of this Conference in the very first session was at one time deeply depressed about the future course of this Conference, and how we tried to buoy him up with the hope that nothing was lost.

I, for one, then gave up a deep seated conviction about a unicameral legislature and agreed to a bicameral legislature just in order to meet the position on the other side. During this session also there was a great idea that the Indian States would break the Federation on the rock of finance. But have we not shown our anxiety to try our utmost not to allow such a catastrophe to happen? Have we not shown courage in accepting a tax which was very odious to the Indian States and agreeing that that tax should be made a Federal source of revenue? What I desire to say most emphatically is that the Indian States have not retired from the position that they have taken up from the very first. There has been also another party under suspicion as regards its attitude towards Federation. Is it not a fact that the Secretary of State and His Majesty's Government have slowly but surely pressed us into the Federation? No one who has watched the Secretary of

State and his colleagues relentlessly holding us to it can doubt that it is an all-India Federation that they want and no lesser substitute. As a man from the Indian States I would like to make an appeal for a better understanding of our position. Our friends from British India speak of their constituencies. They seem at times inclined to forget that we have our constituencies and that they are Conservative constituencies. Have not the Princes and we their ministers really shown you by our acts our desire to join with you in a truly national Government of India? They have tried and we their advisers have tried to adapt ourselves so as to meet your wishes to the utmost limits possible. I have not worried myself about safeguards, for after all if we work central responsibility and provincial autonomy in the manner in which we all affirm that we shall—and being reasonable men I have no doubt we shall—then there will be no occasion for the exercise of these safeguards. The safeguards appear to me to have been so designed that they are as much a protection to all of us whether from British India or from the Indian States who stand for progress, but progress with stability, as they are in the interests of anyone else.

I think everyone of us round this table can visualise conditions—I hope they will never occur, but as practical men we must face the possibility of their occuring when nine Indians out of ten would be glad of some restraining power.

Sir, Lord Sankey has been unavoidably absent from some of our discussions, and, great though that loss has been, I think that every one of us will agree that the gap—if I may say so most respectfully—has been magnificently filled by you. You have shown yourself to be a pastmaster in the arts not only of exposition but of conciliation. You have summed up the issues clearly. You have been always willing to meet different points of view as far as it was possible for you to do so. I have spoken about the difficulties of British Indians and the difficulties of us, the representatives of the Indian States. We must not forget also the difficulties of the Secretary of State and his colleagues.

We have all taken risks with our respective constituencies, but they have been no more, I think, than the risks that the Secretary of State and his colleagues have taken with theirs, and I think you, Sir, have quite sufficiently shown that in you India has found not only an advocate in the matters under discussion with the British Medical Council but an advocate for everything which stable Indian opinion demands in the way of constitutional reform.

To-morrow, Sir, is the eve of the birth of one who preached peace on earth and goodwill to all men. To-day is auspicious, and I pray that, as it sees the conclusion of labours spread over the last three years, it may herald an era of peace for my country and of goodwill between her and Great Britain.

Sardar Tara Singh: Sir, I whole-heartedly join the previous speakers in the chorus and thanks paid to the Secretary of State,

Mr. Carter, Secretary-General, and his staff for such an efficient and smooth handling of the Conference work. My thanks are also due to Messrs. Latifi and Rama Rau, who have always ungrudgingly and cheerfully rendered help especially to a new member like myself. Apparently we are approaching the end of our deliberations but in my opinion our real task begins with the publication of the Report. That task will be more difficult on a larger scale and spreading over a very wide area. The Government will have to take stock of the situation in India from day to day.

I hope all the members of the Conference present to-night will agree with me when I say that the foundation upon which we are building our Constitution is unsound. Under the circumstances we in the Punjab prefer no advance. It is being forced on us and that is why at various stages attempts have been made from different sides of the Conference to ask for safeguards. If the foundation had been rightly laid many of these demands for safeguards would have been unnecessary.

Every Province has its own peculiar circumstances and some sort of adjustment will be needed. In my humble opinion the working of the new Constitution in the Punjab will be a practical impossibility. Either there will be continuous deadlock if the Governor properly discharges his obligation to protect the minorities or he will fall in line with the Statutorily minority community in order to avoid unpopularity. I therefore strongly believe that it is both in the interest of Government as well as the minorities that this evil be remedied. The sooner it is done the better it will be. Only the other day one speaker made a proposal which virtually meant the perpetuation of the award. He also suggested not to disturb it for ten years. We have however to remember that the seed of communalism sown by Montagu-Chelmsford scheme has sprung up into a plant and given seeds itself. Under the new Constitution they will take permanent root. If no remedy is applied quickly it will become impossible for us to think of ourselves as Inrians. Nationalism will be dead by that time. I will therefore urge the Government to relieve the Punjab of this trouble. It is not difficult to find a solution. The Government is aware that efforts are being made at home to solve the communal tangle and if the Government will only lend its weight the settlement will be a *fait accompli* before long. Thus many difficulties both in Punjab and in India will be overcome. I vehemently oppose the proposal of the Muslim delegation and appeal to the Government to evolve a method which will enable the award to be modified as soon as there is consensus of opinion in its favour. One way of obtaining this consensus is the passing of the Resolution abolishing communal representation by the Legislature by a simple majority.

I cannot stop here as I believe that the Government is not going to discriminate between one Province and another in the introduction of Provincial Autonomy. I know it is going to be inflicted upon us in the Punjab in spite of our desire for no advance in the presence of the Premier's award. In that case may I ask the

Government with all the emphasis I command to fully protect our interests, while discussing the powers of the Governors and the Governor-General it was agreed that no measure which pertains to religion or social usage should be introduced without their sanction. Sir, I had gone further and proposed that a measure which adversely affects a minority should be made dependent for its introduction on the sanction of the Governor and Governor-General. I may, with your permission Sir, attach another qualification to this proposal. That is this. Such a measure for its passage must secure the consent of three-fourths members of the community concerned. The Secretary of State I hope will give full consideration to this proposal of mine. If this security is granted it will inspire confidence in the minds of minorities and will to some extent relieve the present tension. It will strengthen our hands to remove their apprehensions and solicit their support for the agreements that have been arrived at in this Conference.

I also venture to put forward another suggestion for our protection in the sphere of administration. My community should be given adequate share in the administration of the Province, right from the membership of the Cabinet Public Service Commission down to Services up to a certain grade in the local bodies. The Provincial Constitution sub-Committee has already laid down that it is a matter of practical necessity that minorities should be represented in the Cabinet. The only question is how to achieve this object. If it is impracticable to place it in the Constitution, it should certainly be embodied in the Instrument of Instructions to the Governor who should also appoint one-Sikh to the Public Service Commission, which body will provide for an adequate representation to my community in the Services.

Besides allotting five per cent. seats to the Sikhs in the Federal Legislature the protection which I have asked for in the sphere of Provincial administration should also be extended to us in the administration of Central Government. I may also take this opportunity to ask you, Sir, to refute the impression that is gaining currency that the Sikh strength in the Army will be reduced substantially. Unfortunately this impression was further consolidated by the rumoured disbanding of the Pioneer Units. You will, Sir, allay these apprehensions by stating that the Sikh element in the Army will not be reduced beyond pre-War level. In case an Army Council is established the claim of my community for an adequate representation on it should be fully considered.

This brings me to the case of Sind. Sikh population in this Province is sufficiently large—our stake there is tangible and substantial. I have received a cablegram from the Sikh Association of Sind asking for adequate weightage. I will therefore appeal to you, Sir, to grant to the Sikhs of Sind the same weightage which has been granted to the Muslims in the Provinces where they are in minority. I am confident you will agree with this modest and reasonable demand.

These safeguards mentioned above when supplemented by the declaration of Fundamental Rights which I have exhaustively dealt with in my speech on that subject will materially render the unalterable majority harmless, though I realise that they are not the full and true remedy of the Communal Award.

I do not propose to deal with the question of Central Government in detail. In the matter of finance I fully endorse the views of Sir Purshotamdas. In all other matters relating to Centre such as Defence I have already unreservedly supported Sir Tej Bahadur Sapru and Mr. Jayakar. There are, however, one or two points which I wish to emphasis. Firstly, I plead for a strong and responsible Central Government as it alone will exercise a healthy restraint over the communal Punjab Government. It is therefore necessary that the Provincial Autonomy should be put into operation only when it is specified that after a certain time thereof the Federation will begin to function. In case the Government is unable to define this period the Provincial Autonomy should be held in abeyance. My second point relates to residuary powers which in my opinion should be vested in the Central Government only.

I cannot close without associating myself most sincerely and whole-heartedly with the passioned appeal of Sir Tej to usher in a new era by the release of Mahatma Gandhi and other political prisoners. I will implore the Government to take courage in both hands and I am confident that this bold act of statesmanship will produce a very wholesome effect on the sentiments of my Indian brethren. This will electrify the atmosphere for the better understanding of the new Constitution and ensuring co-operation and harmony.

Nawab Liaqat Hyat Khan: I am grateful to you for giving me the opportunity to make a few observations. I happen, luckily, to be an optimist and I therefore take this opportunity of giving expression to my own satisfaction with regard to what we have achieved at the Conference. I believe that a great deal of substantial work has been done at the Conference, which has taken us very much nearer constructive Federation than ever before, and although I confess that all of us here, representing three different parties as we do—British India, the British Delegation and the Indian States—cannot say that we have got all we wanted, the fact remains that there are many points on which we are agreed, and none of us can complain that either of the parties has hesitated to meet the other party more than half way. That to my mind augurs well for the future. It has been a necessity for all of us to arrange something on the principle of give-and-take in these matters.

I think that in that respect the States delegation has not lagged behind. I very fully associate myself with the remarks made by my learned colleague with regard to the attitude of the States. Lord Peel, I think, mentioned that the Princes at the first conference gave a solemn pledge that they would enter Federation and thereby make it possible for British India to reach the goal

that they are so anxious to reach. I think this is a very suitable opportunity for me, for the second and third time, to make it very clear that, so far as the Princes are concerned, they adhere to that pledge, and nothing has happened since then to make at any rate a very large number of them change their minds at all. Difficulties have arisen not merely for the Princes but for all sides concerned, and, if the Princes have taken time to consider those difficulties and to overcome those difficulties, not only for the sake of themselves but for the sake of British India, for the sake of India as a whole and for the sake of the Empire, I do not think it is justifiable to blame them or to insinuate that the Princes have either changed their mind or are now luke-warm about Federation. I make the emphatic declaration that the Princes as a whole are at this moment as prepared to enter Federation as they were when they made that solemn pledge, and I am sure that none on this side would question that declaration.

It is a declaration which comes on behalf of the Princes generally, and I hope you will take it as such. That we have achieved a great deal of success at this conference I attribute to certain obvious reasons. One of those reasons, if I may be permitted to say so, is the goodwill that has prevailed throughout the conference, and another very important reason, which has impressed me very much and which has impressed almost every member of the conference here, is the most excellent manner in which the Secretary of State has conducted these proceedings, the whole-hearted manner in which he has met us and in which he has tried to meet our difficulties. His transparent sympathy for British Indian aspirations, not only for one section but for all classes, has made a deep impression upon us.

I honestly feel that if we succeed, as I hope we will, in setting up a Federation, Sir Samuel Hoare will have a name in Indian history which will be most enviable. He has made history for himself and for the nation to which he belongs. We have also received the same sympathy from the entire British Delegation. I am one of those who believe that their position also is not free from difficulties, but they have not hesitated to appreciate our difficulties, and I think very serious attempts have been made to meet them. Personally I have not the slightest doubt that as a result of the good feeling which has prevailed, we are likely to achieve the object in view in a shorter time than some prophets predicted.

There was one remark that Sir Tej Sapru made in a previous speech to which I was most anxious to give an answer. He referred to the difference of opinion with regard to the Princes' representation in the Federal Legislature. There were some of us who favoured the proportions forty—sixty in the Upper House and 33⅓—66⅔ in the Lower House; there were others who, subject to a mandate, could not possibly give that undertaking at the moment. Sir Tej Sapru expressed the opinion that British India had gone as far as it could possibly go in that matter.

It is not in my province at the moment to tell British India what the Princes are going to do, but I give this solemn undertaking, that what has been said on behalf of British India will be faithfully represented to the Princes, and I have not the slightest doubt in my mind that, anxious as they are to help British India in the matter of Federation, the suggestions will receive their very careful consideration. More than that I cannot say.

There is another point on which I should like to say a word to the representatives of British India, or, rather, perhaps, to the British Delegation, because the British Delegation does believe that the Indian States want to come in, but may have been impressed by certain talk, which I should deprecate, on the British Indian side. The trouble is that if any member puts forward an opinion which gives the impression that the States are now becoming lukewarm, there is a tendency at once to jump to the conclusion that the States want to get out of it.

I do appeal to them to believe once and for all that they are as anxious to enter upon Federation as British India. That assurance is given to you and also to His Majesty's Government whom also we desire to help.

My Lord, I have nothing more to say except to pay my humble tribute also to the staff of the India Office who have done extraordinarily well, the kind of work which you would not expect any body of men to do in such a short time and in such an efficient manner. They have given us a lesson, and, as somebody remarked, if we were lucky enough to have a Secretariat of our own we would take a lesson from their work here. I am most anxious to say that. That is all I want to say.

Sir Purshotamdas Thakurdas: My Lord, my colleagues and you yourself will realise that this debate is taking place during the last hour of a day, and, if I may say so almost of a week, which has been more crowded than many of us have foreseen. If one addresses the Conference at this stage one is expected to review ever so briefly the work done by the Conference during the last four weeks. In view of the fact that some of the Reports which were prepared by the various Committees were only presented to the Conference to-day and passed, it is obviously not possible usefully to take any review of the work done by the Committees, as this has been practically the main work of the Conference. I do not propose, therefore, to undertake that task. But I submit that it is not easy even for a person who may have been able most closely to study all the Reports, effectively to review the work done by us during the four weeks we have been here, for the simple reason that there are many loose ends, and there are, necessarily perhaps, blanks left in the picture which require either to be tied or filled before one can take any review of the work done. I will therefore leave the work of review for those who will judge us both here and in my country. As far as I am concerned, where I found that I could not see eye to eye with my colleagues on the three important Committees with which I have worked, after full discussion with my colleagues, I

frankly and honestly expressed my dissents and got same recorded. It is not my purpose to take advantage of this opportunity to elaborate on those dissents; neither is it my purpose to try and justify them here. The reasoning for same may be found in the appropriate places in the Reports. But I think that it would not be wrong if I said that we cannot claim that we are all satisfied even to the smallest degree regarding the special subjects in which we hold different views.

I feel that few Indians would be satisfied until they get what has been set down in the phrase " Dominion status for India ". Until that status is reached an Indian will always feel that whatever may be the result of this Conference or of other consultations he has still to look forward to much more. I will therefore leave this point with the remark that whether we are satisfied with what has been done at this Round Table Conference or not, and however small or large may be the degree of our satisfaction, there is, even for the most dissatisfied member here, one ray of hope. That ray of hope is to my mind clearly the spirit in which the British Delegation headed by the Secretary of State has worked with us, and the assurances which he has given us both in Committees and in the full Conference meetings. We came here to tell the British Delegation what we felt was the right thing to do, the necessary thing to do. I think that has been imparted sufficiently clearly to our colleagues of the British Delegation and I do not think it need be repeated. We have put our views very frankly, and, perhaps, even with a degree of frankness which demanded considerable patience from them. I only hope that these dissenting points of view will be fully considered and will not be brushed aside.

What is the next immediate thing that we look forward to whilst we wait to see how those assurances of which I have spoken are translated into action? We have been told that there is a certain section in Parliament which holds very strong views about certain matters. We are further told that it is not possible to get these members of the Houses of Parliament to take a broader view. I submit that that difficulty is a difficulty common to the British Delegation and the Indian Delegation. If there are members of the British Parliament who will only go up to a certain point, there are members in my country who also have very great aspirations in the other direction. I do not think therefore that any member from the British Indian Delegation can usefully help members of the British. Delegation regarding this difficulty of theirs. What we jointly have to do is to see what is the right thing to do, what is the correct solution of the present position in India and then try to do that to the best of our ability. The mentality underlying the British part in this Round Table Conference will be judged in India by three acid tests in the very immediate future. The new constitution may take some months, or, perhaps, years to begin to work. In the meantime the spirit underlying it requires to be translated into action without delay. These acid tests, as I have said, are three. The first, to my mind, is: Are the Government of India

prepared substantially, to reduce the military expenditure of India from now onwards? I know I am repeating something that I have said before, but I do not think that I can repeat this too often at any time before a Conference of this nature. I have only to refer you, Sir, to the very excellent report of Sir Walter Layton which is contained in the Simon Commission Report. A perusal of paragraph 248 of that Report will assure anyone that there is no justification left for our military expenditure being at the figure which it is at to-day, namely, 47 crores *plus* another 5 crores. I am convinced that India needs substantial reduction in this expenditure without delay, and, if those reductions are not yet forthcoming, India will begin to feel that after all the remarks made by Sir Walter Layton are remarks which His Majesty's Government is not prepared to consider favourably.

The second direction in which my countrymen will expect relief, without any delay, is in the direction of the action of the Secretary of State in connection with the gold export from India. Very nearly rupees 100 crores worth of gold has left the shores of India. Reference has been made at the Conference to-day to the necessity of reserves being accumulated for a Reserve Bank. I will not be dogmatic. I do not propose to put my opinion before this Conference at all. I dare say there may be differences of opinion, but I do feel this as a matter of conviction, that the Government of India owes it to the people of India that the Finance Member at Delhi there shall forthwith consult representatives in India, both commercial men and politicians, with a view to examining the feasibility of retaining the gold of India for the purpose of India's reserves. It is conceivable that after going into the matter, such a committee may come to the conclusion that they need not interfere with the present position, or that they cannot interfere with it, for sound reasons in the ineresets of India. But there has been no pronouncement during the last fifteen months either by the Finance Member at Delhi or by anybody else, and I will tell you quite frankly, Mr. Secretary of State, that the public of India feel very strongly that the gold of India is being allowed to leave India avoidably and unnecessarily. I wish to very strongly impress upon you that it is necessary to have full consultation in India and either to assure the public of India that what they suggest is not feasible or to definitely take action in the direction required by the Indian public.

Regarding the third acid test, a good deal has been said by the Financial Safeguards Committee regarding the credit of India. The credit of India is not a thing which many can define to themselves accurately. The credit of any country is a thing which is more easily understood than defined. but there is no doubt about this, that the credit of India at the moment, and for years to come, would depend primarily, irrespective of any safeguards that may be in the Constitution, on the contentment of the masses of India, and on the masses of India resorting to their ordinary day-to-day work to earn their living by the sweat of their brow without resorting to methods which involve additional burden on and continued uneasiness to the

tax-payer. I would, therefore, end my remarks by putting before you with all the earnestness I can commend, what I would have stated had I been present on the first day of this Conference. The people of India are looking forward forthwith to the release of Mahatma Gandhi. This would impress them, and make plain the spirit animating your assurances regarding the new constitution. I do not wish to go into the why and wherefore of the action taken by the Government of India during the last eleven months, but I do wish to impress upon you that whatever you may do with regard to Constitution making, so long as you have Mr. Gandhi in gaol you will find that the people of India will not seriously consider Constitution making. The Constitution making in which we have been engaged at this Conference has many shortcomings and defects, partly necessary ones, and partly arising from the differences between what you are now prepared to offer us and what some of us expected. But in political matters when you are dealing with a country like India on the one side and with a country like England on the other there must be some differences of opinion. The question now is whether you are prepared to take such action as will reconcile the people of India to consider the work now done in the spirit in which you want it to be considered. I will conclude, Sir, with an earnest appeal that you seriously consider proving forthwith by your action that the spirit in which you have worked here with us is the correct one for India and is one in which if you work right through until the new Constitution is started, India will have something useful and tangible, if not all she asks for.

Lord Winterton: Late as the hour is, I think it is appropriate that I should say a few words as the only unofficial member of the House of Commons present. My colleagues both from India and this country will realise that, great and important as are the members of the Government and of the House of Lords in our polity, the members of the House of Commons, and especially the 400 Conservative supporters of the Government, are very important in respect both to India and to many other matters. In fact the existence of His Majesty's Government depends upon the goodwill of the 400 members of the House of Commons who belong to the Conservative Party.

Sir Tej Sapru: Have they got any safeguards?

Lord Winterton : Sir Tej asks me that. I would not like to go into it, but I think their safeguards are perhaps not quite as strong as they sometimes appear to be in public. I would like to say at the outset that I feel privileged to follow Sir Purshotamdas Thakurdas, because, however much I may differ from some of the things he said, I would like to say how much I appreciate the spirit and form of the speech which he has just made. It is really typical of the spirit of personal friendliness which has, I think, been displayed by all the members of the Conference from India.

I would like further to say this about the Conference generally. I am a new member of the Conference. Most of my colleagues both Indian and British have been members of former Conferences.

Lord Irwin: I am, too.

Lord Winterton: Lord Irwin and I are in the same position. I am greatly impressed by the great contribution which this and former sessions of this Conference have made to what I hope will be a permanent solution of the problem which I assure you, our colleagues in India, is regarded in this country as one of the most important, and perhaps the most important question to-day; that is the future Government of India.

I wish to avoid being effusive, but I feel bound to say that the brilliant advocacy, and the fair and clear exposition of their points of view which has been put forward by our Indian colleagues has evoked not only my admiration but my gratitude, because it has enabled me to see those points of view and the difficulties and problems which have to be overcome, and may I in that connection echo what has been said by every member of the Conference, I am sure with complete sincerity and from the heart, about the Secretary of State. We owe him a debt which we cannot repay for his tact, his knowledge and his savoir faire. I think also we ought to recognise the great services which the Lord Chancellor has rendered.

Now, Sir, I spoke a moment ago about Parliament and its attitude. I would observe that of course attacks have been made on our body in this country, just as they have been made in India. I think it would be fair to say that they have proceeded from the left in India and from the right in this country. We have had charges made here against us just as my colleagues from India have had charges made against them that we are unrepresentative and that we are suffering from a common self-delusion. In my political career I have always believed in meeting attacks by counterattacks. I pledge myself, so far as my humble capacity goes, to meet criticisms of our deliberations and proposals in Parliament with all the vigour and energy which I can command. I feel certain that our Indian colleagues will also defend their position as delegates with the courage which their record in the last few troublous years has shown us that we can expect from them. I venture with respect to say that it is extremely important that in both countries those of us who have been colleagues and sat round this table should defend the position which this Conference has occupied.

In regard to the position of the Conservative Party I will not conceal from you,—because it would be foolish to do so—the facts are known—that there have been differences of opinion in that Party on the subject of India and on the subject of the policy both past, present and future in India. But I would like to make this observation, which I believe to be well-founded, that the great bulk of unofficial members of the Conservative Party is willing and ready to consider and adopt the Federal solution of the Indian problem. I would like to add further that I do not believe that that bulk of

opinion is either obstructionist or reactionary, but that it does demand safeguards under this new Constitution, alike for the security of India itself and also for its fixation as a permanent part of the confederacy of self-governing nations of the British Empire. It has in mind both ideas. That opinion will naturally be influenced by the deliberations of this Conference; and I may say, and I think this will evoke some sympathy, that just as we of the British unofficial delegation recognise that representative Gentlemen from India who are sitting round this table have to consider the effect on the public opinion of those they represent of what they may do here, so do we in this country have to consider the effect on the public opinion of those we represent.

Secretary of State, I do not want to trouble you further except to say that in my judgment in all recent political events in this country and political policy there has never been a bigger conception or a greater ideal than that of all-India Federation.

I was immensely struck, if you will allow me to say so, by what Sir Tej Sapru said in the course of his speech. I understood him to say that long ago he formed the opinion in his own mind that along those lines a solution could be obtained. I can speak with more freedom than any member of the Government in this connection because I do not occupy the responsible position that they do, and I say with all the earnestness that I can command that I do most earnestly hope that gentlemen representing British India and gentlemen representing the Indian States will be able to compose such differences as exist between them still, in order that this Federation may be brought into operation with the utmost goodwill and unanimity; and the good wishes of all responsible people in this country will go out to them in that endeavour.

That is all I have to say, except to add my tribute also to what has been done by our permanent staff. I have worked with Civil Servants on and off for a very long time, but I have never seen any body of Civil Servants both British and Indian work harder than those who have been attached to this Conference.

Sir Manubhai Mehta: I am grateful to you for giving me this opportunity of speaking on behalf of our section of the Prince's Chamber, because it gives me the opportunity of removing certain misapprehensions in the minds of our British Indian friends and which have been voiced by Sir Tej Sapru with regard to the attitude of the Princes, which might cause delay in the realisation of the ideal that British India has looked up to as its goal. In this connection I am glad Sir Tej Sapru has reminded me that for the last 15 years we have worked together. He referred to 1918 as being his first visit to Patiala.

Sir Tej Sapru: 1928.

Sir Manubhai Mehta: I am talking of 1918 when Lord Sinha and Sir Ali Iman were present at Patiala, where I had the privilege of being present helping the Princes to work out a scheme of constitutional reform. It is often pictured that the idea of federa-

tion has sprung up in the minds of the Princes only like a mushroom —that it is only of yesterday's growth, but let me remind you (and it is not giving away any secrets) that it was in 1918 that the great statesmanlike Ruler who now graces the Gadi of Baroda, His Highness the Maharaja Gaekwar, in response to Lord Chelmsford's request as to what were the lines on which future reforms should go forward, said that the future of India and the good of the Indian States lay in federation. That was in 1918, and that document is still on the archives of the Government of India. Since 1918 the Princes have consistently worked on this theory. In the Montagu-Chelmsford Report the scheme of federation was pictured but for ten years no steps were taken to give effect to this idea of federation by which the Princes were to be given some share in the management of questions of joint concern, such as customs, railways, salt and so on, which are now considered to be federal. Sir Tej Sapru paid a deserved tribute to Lord Irwin as being the father of this idea of a Round Table Conference. Let me on behalf of the Princes also say that the Princes have at least provided the fitting pretext for this Round Table Conference. Sir John Simon in his letter to the Prime Minister referred to the relations of the Princes as one vital problem to be solved in the question of new reforms, and the Princes who had not been consulted by him in India could be consulted only in a Round Table Conference. That was how the idea of a Round Table Conference came into being. I am merely saying this in order to show that the Princes have been consistently taking a sustained interest in the idea of the development of federation since 1918. When, therefore, in 1930 you were pleased to call the Princes and the British Indians together in a Round Table Conference, and when a generous suggestion came from the British Indians that the Princes should unite in a common federation, His Highness the Maharajah of Bikaner, on behalf of the Princes, gladly accepted the idea, and welcomed the offer of federation as being in the best interests of his mother—country. The Princes then declared that they were proud to be Indian first and Princes afterwards. They took an interest in the well-being of their own dear country, and, for the good of their country, they were prepared to concede part of that sovereignty in order to advance the interests of their countrymen. In this way, Sir, the Princes made it clear, at the time when they were asked to join, that they would gladly enter federation, with two provisos. First, they wanted to know whether they stood on terra firma or whether they were standing on what the Maharajah of Bikaner called the shifting sands of expediency. He wanted to know what the rights of the Princes were. The Princes were naturally anxious to know where they stood on the eve of transfer of control from Whitehall to Delhi and therefore he wanted to clear up the question of Paramountcy. He asked how far Paramountcy extended because, after the declaration of the Butler Committee that Paramountcy must ever remain! Paramount, the dectrine of the ultimate powers of the Government became rather over-bearing. It was said that the powers of Government meant the ultimate or residuary powers,

anything undefined, and naturally the Princes became a little alarmed. They wanted some definition to be given of that doctrine of Paramountcy, and I am glad to inform my British Indian colleagues that this will not stand in the way of the early realisation of Federation, because the Secretary of State and the present Viceroy have been doing their level best to satisfy the Princes in their demand for a satisfactory solution of the Paramountcy question. When the question of Paramountcy is settled, the Princes will naturally carry out their promise of entering into Federation.

The second proviso made by the Princes was with regard to their safeguards. They wanted a clear picture; they wanted the picture to be completed before they were asked to come into federation. We are now about to complete the picture. We have met for the third year in order to complete the picture, and, I am told, the completed picture in the form of a White Paper will be placed in the hands of the Princes in the month of February or March, and the Princes will then be expected to make up their minds and to say whether they were prepared to come into the Federation or not. As my friend here has said, he is quite certain that the Princes will come into federation, and I share the same hope, the same confidence, because we have faith in the justice of His Majesty's Government and we have faith in the good-will of our brethren, the British Indians.

With co-operation from both sides I do not anticipate any difficulty. There was another minor difficulty to which I must refer. There were sections amongst the Princes who believed that in order to safeguard their own position and rights they must join as a confederate body, not as separate units individually, but those who preferred it might join first in a confederation before they entered the Indian federation. This difficulty has also been satisfactorily settled, and with these differences settled amongst the Princes, the hopes of our realising the aspiration or the dream of the Princes fully entering into Federation are much nearer fulfilment than was the case two years ago.

The Princes naturally desire that their treaty rights should be safeguarded, that their internal sovereignty should remain intact, and, as we have seen in our deliberations, the British Indians and His Majesty's Government are equally anxious that their treaty position and internal sovereignty should be fully assured and rigidly maintained. These obstacles, therefore, are removed, and I do not anticipate any further difficulty in the way of Federation.

But the picture has to be placed in their hands, and you have seen that there are also other reasons which might delay the transfer of full responsibility for some time. Let it not be said, however, that the fault for this delay lies at the door of the Princes. Two months time is nothing, and after March you can well expect the Princes to come into the Federation, and we have every confidence that they will do so.

In conclusion may I express gratification over-enthuse myself. I return to my country with a feeling that there is yet much more to be done. What we have achieved is very little in comparison with what remains to be done, and for the realisation of that further hope I look to you, Sir, and His Majesty's Government that they may help us in the realisation of our full aspirations.

If these foundations of a future prosperous Empire are to be laid they must be laid in a spirit of goodwill. As Lord Peel remarked, Constitutions are not made, they grow. They are organic growths. We have called them pictures, we have called them structures, the result of architecture, but I do not believe that architectural structures or pictures adequately represent what they are. They must be real organic growths, and in order that they should grow well the seed must be well sown and the ground must be made congenial.

The seed may be very good, but if the ground is not well prepared, is not well cultivated, is not well manured the seed will go to rot. Prepare the country well. At present it is sad to think that the state of the country is alarming. The iron has entered the soul and there is bitterness at the very core. It is very well to say that the situation of the country has improved. All I can say, Sir, is in the words of Shakespeare's Hamlet, all is not well in the State of Denmark. Something is rotten in the State of India. Therefore my request, Sir, is: give them with good grace, give them with open hands—give them freedom and give it quickly. I am pleading on behalf of British India even though I come from an Indian State, because I am actuated by self-interest. Geographical demarcations and boundary field marks do not prevent the spirit of unrest from coming over the barriers and invading our Indian States. As long as this spirit of unrest, this bitterness, this antipathy to Government, is allowed to remain unremedied in British India, we have a standing menace. Therefore I appeal to you, Sir, to remove that peril by giving solid satisfaction to the people. And I have to request you to do it soon. Delays will only lead to further hardening of hearts and further bitterness. The other thing I wanted to remark, Sir, was that whatever you give must lead to a real responsibility at the Centre. The Princes have also made it very clear—I read it out one day—that they are prepared to enter into Federation only with a self-governing India, with a responsible India. They were asked whether they were prepared to come into Federation with a Government that was not fully responsible to the people. They said they were not prepared to come into Federation with an irresponsible Centre. Just as it is remarked that the entry of the Princes into the Federation made it easy to confer responsibility on the Centre, and as responsibility at the Centre is not possible without the Federation of the Princes, so at the same time there cannot be any Federation of the Princes unless there is full responsibility at the Centre. These two things act and react upon each other. Therefore, Sir, my request is: if the Reforms are to be given, give them freely and give them

soon. In the Province from which I come, which is Gujerat, there is a proverb which is opposite to the present conditions and which will amuse you. We have castes; we have banias and merchants; there are also some Brahmins and there are Muslims among us. Of our national characteristics it is said that the Bania thinks of the future, he is a calculator and is far-seeing; he calculates from beforehand what will be the consequences. The Brahmin is only wise after the event. I am a Brahmin myself. We glory in our past and our life is only a life of lost opportunities and regrets. The Mussulman is quick witted. He has an iron fist. He strikes at once and he gets what he wants. He lives in the present and has no thought for the morrow. Last year I remarked that the nation of Englishmen is regarded as the nation of shopkeepers, merchants, calculators. Even this year you have paid the greatest attention to the subject of finance. Financial safeguards have been the crux of the whole situation. I ask you therefore to calculate beforehand what would be the consequences of further delay. The British nation has a great and glorious record of Empire building, but greater than the power to build an Empire is the power to retain an Empire, the mightier is its triumph. I wish you god-speed and pray that the British nation will retain the Empire by their wise action.

R. B. Raja Bisarya: I should not like to take up much of the time of the Conference at this late hour, but I should like to be allowed to refer to one remark made by Sir Tej Sapru who has contributed so greatly to the work of this Conference. He made the observation—may be he felt himself constrained to make the observation—that he did not want British India to be a dependency of the Indian States. Let me hasten to assure him and my British Indian friends if assurance is needed that the fear expressed by him can have no foundation in fact. There is nothing further from the minds of the States than to exploit the situation in India to secure unreasonable or selfish advantages for themselves. The Princes do not appreach the question of Federation in any spirit of bargaining. To them it is matter of a duty which they owe to the Empire, to the country of their birth and to their own States. As Sir Akbar Hydari has already said long before the idea of Federation took concrete shape the Princes had expressed their sympathy with the aspirations of British India for an honourable and equal position in the British Commonwealth of Nations. In 1930 when the first Round Table Conference was held the Princes wholeheartedly welcomed the idea of an all-India Federation. I will not take up time by quoting from the speeches on that occasion. Those who were present will remember the speech of His Highness the Ruler of Bhopal, whom I have the honour to represent, and the Maharaja of Bikaner and the Maharaja of Patiala were equally clear. The views expressed then were confirmed at the second Round Table Conference and the attitude of the Princes remains firm and unshaken. If anything they are more convinced than before that an all-India Federation based upon

recognition of the various interests concerned, a Federation designed to safeguard the just and legitimate rights of all will be in the best interests of the Empire, of British India and the Indian States. In that firm belief we want the happy confirmation of the establishment of an all-India Federation to take place at the earliest possible time. But whilst we have every sympathy with the aspirations of our friends from British India, they will understand our hesitation to sign a document without ascertaining its terms. They will understand our anxiety not to commit ourselves to a constitution without making sure that our own rights and interests are safeguarded in that constitution. That can only be done when we have the complete document before us and when we are in a position to ascertain the definite details of the scheme as it is finally decided to embody it in the form of a Bill to be placed by the Government before Parliament. As His Majesty's Government has already asured us, the White Paper will be in the hands of the Princes and the Chamber of Princes to be examined by them, and then they will make up their minds finally. But, as my colleagues have assured you, there is nothing in the minds of the Princes to make them disinclined to enter the Federation which they have always expressed a keen desire to enter.

**Pandit Nanak Chand :* Mr. Chairman, I am very grateful to you for giving me an opportunity for making my last submission to this august assembly. It is a great privilege indeed to be associated with famous British and Indian statesmen in the great and difficult task of making a constitution for the future government of India. My Lords and gentlemen, I am fully sensible of that honour. What greater honour could there be for a son of India than to be associated with you on this historic occasion. Mr. Chairman, it is not the honour of the occasion that fills my heart with joy. It is the sense of responsibility—the sense that I may have failed to discharge this responsibility to the satisfaction of those whose cause I have expressed or attempted to advocate. That overwhelms me. My Lords and gentlemen, you cannot imagine the deep disappointment and the great and bitter resentment of the people who relied upon the Government for the removal of their grievances. The Hindu minority of the Punjab fought hard, very hard, for the policy of co-operation as against the policy of non-co-operation. Many a time elections were fought between them and us, between the non-co-operators and co-operators, and we won. We won because we had told the people that the policy of suspicion and distrust must give way to the policy of trust and mutual goodwill. But what has been our fate—the fate of the Hindu co-operators in the Punjab?

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* NOTE.—The speeches, from that of Pandit Nanak Chand to that of Sir Hubert Carr, on pages 111 to 128, which are marked with an asterisk, were, by leave of the Conference, and in order to economise time, handed in as written speeches instead of being delivered.

Mr. Chairman, many a friend of mine doubted the wisdom of my accepting the invitation to join this Conference. I see suspicion and doubt and fear poisoning the public life of the Punjab Hindus. I wish to save the Province from the horrors of communal bitterness and strife. You cannot be unaware of the fact that the Hindus and the Sikhs are most unhappy over your award. I do not wish to discuss the Communal Award at this last stage of the deliberations of the Conference. I have placed on record the statement of the reasons which make the Award unacceptable to the Hindu minority of the Punjab. These reasons, I have not the least doubt, will appeal to all fair-minded persons. These reasons have already been appreciated by a large circle of British ladies and gentlemen outside this Conference with whom I happened to have an opportunity of exchange of views. I hope, Mr. Chairman the British Parliament and the Parliamentary Committees will investigate the truth of those reasons and will test their strength by a fair and frank discussion with me or with the representative of Punjab Hindu opinion.

When I look at the injustice done to the Hindus of the Punjab—both by Indian politicians and representatives of Government I begin to despair. But my Lords and Gentlemen, let me say this, that my experience of political life has taught me that despair is no remedy for the removal of great wrongs and that effort, constant effort, to get at the truth of things is needed to right the wrongs. I believe that deep down in the heart of man God has implanted love of justice, love of fair play which breaks through all barriers of religions, race and caste prejudices. My Lords and Gentlemen, I could not say otherwise, I could not believe otherwise after my experience with the Lothian Committee. The British people love a sportsman's spirit. They love fair play and a square deal. I wish nothing more and nothing less for myself than fair play and a square deal. I am not fighting for anything else but fair play and a square deal for the Hindu Community of the Punjab. These people—the Hindus of the Punjab—should not be made mere pawns in your game of politics. You must not treat them as if they have no hopes, no aspirations, no desire to be free. You cannot impose upon them a system of Government which will keep them unhappy and discontented. I know I cannot fight with other than clean weapons—weapons of debate and argument before an impartial tribunal. Mr. Chairman, give me a square deal. Do not say that the Award is final. It is not final. It cannot be final. Injustice can never be final. Expediency may prompt you to say yes; but love of fairness on the part of your Government will break through your prejudices against us. Mr. Chairman, you will listen to the Hindus of the Punjab. You will see justice done to them. That is my first point which I place before you even at the last moments of this Conference. I have placed on record a statement of reasons why the Award is not acceptable to us.

My second point is that the Punjab Province as it is constituted to-day consists of areas and peoples which have no natural affinity.

If there is to be an All-India Federation, if provinces are to be self-governing units in that Federation, then the Punjab will be so constituted, its territories so re-adjusted and arranged that people of one language or people of one religion may not be subjected to the hardship of living with others of different religion and of different language. The Units of the Federation must be organisms which may fit in with the Federation. They may not be always a source of anxiety, trouble and disorder to the Federal Government. My Lords and gentlemen, the Simon Commission saw the dangers of an all-India Federation based upon a union of Provinces which will not work with one another. Therefore they recommended the formation of a Boundary Commission with a neutral and impartial chairman to go into this question. I claim an enquiry with regard to the Punjab. Do not refuse this demand. You will be able to satisfy the Hindus, the Muslims and the Sikhs if an impartial enquiry is made. This enquiry and its results should be published before the Constitution of an all-India Federation. This, my Lords and gentlemen, is my second demand. You cannot refuse this most reasonable demand. I placed this demand before you during the course of discussion.

'My third point is that you will find suitable provisions in the new Government of India Act to give effect to the recommendation of the Franchise Committee embodied in paragraph 170, page 65, of the Report of the Lothian Committee. My Lords and gentlemen, I thank publicly Lord Lothian and his colleagues for recognising this just principle—that there shall be a fair and just representation of all communities in the electorate. That is the only safe method of seeing the various interests represented in the Legislatures. Political predominance cannot be made over arbitrarily to one class of people. The agricultural tribes and non-agricultural tribes are admittedly half and half in the Province. The non-agricultural tribes are labouring under great disabilities and bound by Statute and customary laws in acquiring property. They should have a fair representation on the electorate in accordance with their population.

Mr. Chairman, I spoke about this matter in the Conference. I drew the attention of the Conference to this paragraph. I was very glad to find that nobody challenged the *principle* on which the paragraph is based. It was still more gratifying for me to see the Secretary of State in sympathy with those recommendations. It is true that the Secretary of State stated that the figures given by the Committee were found to be incorrect by later investigation on the part of the Punjab Government. The voting strength of agricultural tribes according to the Lothian Report will be 75 per cent. and according to the Punjab Government 60 per cent. and for the non-agricultural tribes according to the Lothian Report 25 per cent. and according to the Punjab Government 40 per cent. The investigations of the Government were not published. The estimate on both sides is conjectural. It is bound to be so. The estimate can only be formed after the first elections. It is useless to speculate now. The point made by me before the Lothian Com-

mittee and accepted by the Lothian Committee and now by the Conference is that there shall be no disparity between the voting strength of the agricultural and non-agricultural tribes. That is a matter of great political importance to all people. The law must make provision to remedy the disparity if it is found that such a disparity does exist. Mr. Chairman, will you convey to Sir John Kerr and others who were members of that Committee and who are not members of this Conference our sincere thanks for their just appreciation of this problem.

Mr. Chairman, I now come to the fourth point. I discussed this point in the Conference. Dr. Ambedkar spoke about it at length. Sir Hubert Carr supported it. Sir Tej Bahadur Sapru, speaking on behalf of the largest group in the Conference, supported it. The other sections of the Conference were also in favour of it. In fact, if there was any matter on which there was complete unanimity it was this matter: that the Constitution should strictly interdict unfair and unjust treatment of the minorities or any section of the communities on the basis of religion, race, birth or descent, caste or colour; that civic disabilities should not be permitted to be imposed or privileged castes or classes created under the new order of things on the basis of religion, race, caste or colour; that equality of all citizens of the State before law should be firmly established. I beg to submit that there was complete unanimity on this point. This was a matter which was regarded by everybody as absolutely essential for the protection of minorities. I hold that the minorities whether of religion or race or caste, living in India and enjoying the rights of full citizenship, cannot be protected otherwise.

The citizens should have a guarantee under the law, which can be enforced in courts, that nobody shall be prejudiced in pursuit of his profession, trade, or industry, or in the acquiring of property and transferring it, or in the enjoyment of his citizen rights merely because he or she happens to differ in religion, race, caste or colour from the governing party. Mr. Chairman, the Prime Minister assured the people of India that such a guarantee will have to be given. In his speech at the final session of the Round Table Conference held in 1931, the Prime Minister said as follows:—

> "In framing the Constitution His Majesty's Government considers it will be its duty to insert provisions guaranteeing to the various minorities, in addition to political representation, *that differences of religion, race, sect or caste shall not themselves constitute civic disabilities.*"

There could not be a clearer and more definite statement,

I have placed on record a letter signed by various gentlemen who regard this provision as absolutely essential. Besides those, there are others who hold the same views. But a doubt was expressed that Sir N. N. Sircar and Sir Tej Bahadur were not in favour of such a clause. That was a wrong impression. I have sought to correct it. Yes, My Lords and Gentlemen, the Constitution must make provision of the nature suggested by us; and the

principle has already been accepted. Let us provide for fair play between all classes of His Majesty's Indian subjects. Analogies from the British Constitution do not apply. The British Constitution has grown, ours is being imposed. The British Constitution makes no provision for representation on the basis of religion, ours does. The British Constitution has got its Bill of Rights, Magna Charta and other documents of great importance; ours has no such history behind it. The British people are accustomed to the use of democratic government, ours are not. Why should we therefore ignore this important and vital difference? A clause like the following may be considered by the draftsmen.

> "No native of British India nor any citizen of British India (or any of His Majesty's Indian subjects resident therein) shall by reason of his religion, place of birth, descent, colour or caste or any of them be disabled from or prejudiced in adopting any profession, trade or calling, or engaging in any industry or acquiring or transferring right, title or interest in any property."

Mr. Chairman, certain people get perturbed when they come to the rights in acquiring or transferring property. They want to make distinctions in regard to this right, because they cannot forget the Punjab Land Alienation Act. In one breath they declare this Act to be non-communal and in the other breath they start defending its communal character.

I beg to you to approach the problem without any prejudice. Do not think of that Act. The Act—the Punjab Land Alienation Act—must be dealt with on its own merits. But do not deny to the minorities that very just provision which they seek.

Now let me come to the Punjab Land Alienation Act. It is a pity that it has become a storm centre in the Punjab. Certain classes demand its repeal, others its retention in its present form. I wish to steer a middle course. I maintain that the Act can be so modified that its baneful character, its discriminatory character can be taken away. People do not try to understand the moderate opinion. They listen to or decry the extremists of both sides. I do not wish to enter into the merits and demerits of the Act. What I maintain is—

> (*a*) that the Act in its form debars 50 per cent. of the population of the Punjab from acquiring property merely because this 50 per cent. happens to be born in particular castes. The Depressed Classes and other castes have got a just grievance, that 75 per cent. of the Hindus have been so debarred from purchasing property or agricultural land merely because they happen to be born in certain castes. Caste sticks to a person up to death.
>
> (*b*) that it is no protection to the poor proprietor of land who has to part with his property under necessity. He does not

get a fair price, as competition is limited. He practically has to sell his land at half the price.

(*c*) that it gives the money lenders, lawyers and men with money of certain tribes or castes a charter to rob the poor agriculturist.

(*d*) that it is possible to remedy these defects and find suitable definition of the agriculturist based not upon birth or caste but on occupation.

The privileged castes of the Act have got the rule of the Province in their hands at this time. They clamour for political privileges based on birth. They have set up and obtain intolerable claims due to birth in particular castes. The Punjab Legislative Council debates; and the history of the last ten years amply supports my contention.

I claim the right of fair trial on the issue of the Punjab Land Alienation. I am confident that I will convince impartial men that the Act in its present form is pernicious, and that it must be modified before full responsibility is introduced in the Province of the Punjab. Please do not forget that the possession of property confers the great and valued right of the vote, and thus the Act is not so harmless as it looks. It has worked havoc and it is bound to perpetuate injustice and grave wrongs.

The Parliamentary Committee should go into the matter thoroughly. The British Cabinet cannot lightly brush aside my arguments. More, the Punjab should not be singled out for such treatment and 75 per cent. of the Hindus should not be kept under disabilities. Large sections of the Muslim and Sikh communities alike are under disabilities. The Anglo-Indians are similarly circumstanced. But the majority of Muhammadans and the Sikhs make it impossible that this Act should be considered impartially in the Punjab Legislative Council.

Mr. Chairman, I hope the British Government will study this matter and will hear us at greater length and in greater detail. It is not a small or minor point.

The distinction drawn between the so-called martial and non-martial races is arbitrary and unjust. Sir Henry Gidney and Dr. Ambedkar spoke about this injustice. Sir Tej Bahadur Sapru associated his party with those remarks. It is gratifying to find that the Secretary of State gave a sympathetic reply. The whole classes or castes of people of India should not be stigmatised as non-martial. The history of India proves that no such distinction can be upheld. In fact the British Government in India is the outcome of the help of the so-called non-martial races. Every individual should be taken in the Army or rejected on the basis of his fitness or otherwise. I think the Government should provide special facilities for the military training of those who have been so long unjustly kept out from the Army. I hope it will appeal to the fair-minded Secretary of State. These matters are of great political and constitutional importance.

This takes me to Services. In the Punjab, the recruitment of Services proceeds not only on the religious basis, but also on the caste basis. It is strange to find the privileged castes under the Land Alienation Act trying to claim the posts because they are favoured possessors of the monopoly of land. One monopoly leads to another monopoly. Corruption and communal bias are terribly increasing. Justice or fair play are becoming meaningless words. Mr. Chairman, efficiency is being sacrificed. I think posts of trust and responsibility—which should be mentioned in a schedule in the Act—should be filled by open competition. Physical test of fitness may be added to literary tests to give confidence to those who are afraid of public tests. But merit, not caste or religion, should be the test for filling up Services.

Careers in politics and the Punjab Legislative Council, the professions, and trade and commerce are open to those who claim that open competitions are not the proper test of one's ability. The careers I have mentioned can and should be aimed at by such people.

Corruption and religious or communal bias in Services are undermining the public confidence and the moral prestige of the Government. If you must provide for backward classes—and there are backward classes amongst all communities—the scope of communalism and casteism in Services should be strictly limited.

For all legislative measures which may adversely affect the interest of minorities or classes of minorities, the previous sanction and ultimate sanction of both the Governor and Governor-General should be essential as is the case now.

Similarly in proposals relating to taxation, such a consent should be made necessary.

But it is said " this is not provincial autonomy ". My Lords and Gentlemen, I hope a man can still be called true to Indian conception of self-government without being true to the conception of provincial autonomy. This term provincial autonomy is foreign to the Indian Constitution and does not express Indian sentiments correctly. The sovereign power of the Centre must be supreme guardian of the interests of all minorities. The Governor-General acting with or without his Ministers is contemplated by the new Constitution as the sole head and source of political executive power. Pray do not be misled by words. We must have the substance of good government. A strong national Central Government is essential for the peace and safety of India and the people living in that country. Provincial autonomy or words like these cannot blind us to the fact that the Provinces or the provincial majorities cannot be let loose on the minorities. Discrimination in taxation and that should be avoided at all costs. Acts which prejudicially affect only one community or one caste or a number of castes must be avoided. Provincial autonomy frightens me when it is based upon communal majorities in the Legislatures.

I claim my patriotism transcends all such patriotism which divides the Legislatures of the Provinces on a religious basis. We uttered words of caution which were not heeded. We asked for time for the communities to make up their quarrels, we were not listened to. We pleaded the interest of Indian nationalism, we were ridiculed. We asked for historical precedents, we were called reactionaries. Impatience to understand the Punjab conditions is responsible for one attitude. Do not fling in our face these words " provincial autonomy ". It is a phrase of grave political import to us. It remains to be seen whether the Punjab Hindu politician was right or the Indian politician. We have made sacrifices equally with others. Let the future give its verdict whether we were right or they; whether the Punjab Hindu politician spoke the right word or the Indian politician. You say " time presses ". The Government says " we cannot wait. The Congress wants a constitution, the Muhammadans want a constitution of this kind ". We submit; but not without a protest. We, my Lords and Gentlemen, are hostages, in the hands of our Muslim friends. They demanded us as " hostages ". They made their demands from various pulpits and platforms; in Calcutta, in Madras, in Lahore, they used these words, " We want the Hindu minorities as hostages for the good behaviour of Hindu majorities elsewhere ". My Lords and Gentlemen, the Congress said " Yes ", and you said " Yes " and the British Government has said " Yes ". I hope and trust the British Parliament will say " No " to this theory of " hostages ". If it will not say " No ", at the least the civilised world, the historian of the future will say that the Punjab Hindu politician was right. The theory of " hostages " is abhorrent to me not because I belong to the minority community, but the theory smells very strongly of distrust, of suspicion, nay, of war. My Lords and Gentlemen, pause before you make your final recommendations. Do not condemn the Hindus of the Punjab to the position of the " hostages " in the hands of an enemy.

One point more, my Lords and Gentlemen, and I have done. The problem of maintaining law and order in the Punjab is an all-India problem. It is associated with the Defence of India. Political upheavals in the Punjab have led to disasters. In 1919 trouble in the Punjab brought about invasion of India by Afghanistan. In 1931-32 upheaval in the North-Western Frontier of India brought the Afridi tribes to our door. Do not ignore this problem—the maintenance of law and order in the frontier provinces of India. I asked for the appointment of a Statutory Committee to help the Minister. The point requires consideration—do not lightly throw it away. I am sure you will find it workable, less communal than the proposal of making over law and order to the charge of a Minister entirely supported by a Communal Ministry. See what is happening in the Punjab now. Send out a Commission to the Punjab to find out what the people feel. I hope my cry will not be a cry in the wilderness, I will not detain you further. I hope I have made my points and summarised them.

Let them be tested and criticised. They will prove their soundness, if you give us fair opportunity of being heard. Otherwise do what expediency demands, but you cannot speak in the name of fair-play. Mr. Chairman, I have done. I wish you all a happy X'mas and a happy New Year and to India and Britain a happy and long career of partnership based upon justice and equality. Justice and equality which I seek for the Hindu minority of the Punjab even at this last hour.

**Mr. Joshi:* Mr. Secretary of State, the greatest achievement of the three sessions of the Round Table Conference has undoubtedly been the bringing of the All-India Federation into the sphere of practical politics. For this result credit is due to the Indian States for their readiness to make a common cause with British India; to British India for its readiness to make sacrifices for the sake of the whole country; and to the British Government for their acceptance of the inevitability of responsible Central Government as the immediate next step. Although we rejoice at this result, we cannot shut our eyes to the difficulties and deficiencies that still remain to be overcome in order to avoid disappointment. By making the entry of the Indian States into the Federation an essential condition of Central Responsibility, the British Government has placed British India at the mercy of the Indian States, with the result that the Indian States refuse even to say by what method they would select their representatives to the Chambers of the Legislatures, as if it is not a matter of common concern. The mutual distrust between the British Government and the Indian people has led to the meticulous definition of safeguards and reservations by the British Government keeping dissatisfaction and apprehension alive in the minds of the British Indian representatives. As a representative of Labour, I am keenly disappointed that the need for the constitutional protection of the Indian masses and the workers has almost altogether receded into the background by the absorption of interest and attention in the protection of the racial and religious minorities, while representation was readily given to the small communities like the Sikhs, the Europeans and the Anglo-Indians, the right of representation of more than fifty millions of Indian workers was tardily recognised, and aboriginal and hill tribes, who number in British India more than ten millions, were entirely forgotten.

Self-Government has no meaning to the Indian masses, the workers and the aborigines, unless the constitution is made fully democratised, and the classes who are the backbone of the nation receive their due share of influence and power. Franchise has been extended, but property still remains its basis. The Indian indus- trial workers have been given some representation, but it is inade- quate; the representation given to the aboriginal and hill tribes is insignificant. In the Central Provinces, where their population is more than one-sixth of the whole, they are given one seat out of 112. In the Central Legislature no representation is given to these classes. I am glad that at least some members of the Conference expressed themselves in favour of increasing the labour representa-

tion in the popular Chamber. Fundamental rights have been claimed for the protection of property, race, religion, caste, creed and language, so that India may become an open field for the exploitation of the masses, a battlefield for religious fueds, and a Tower of Babel: I hope they will at least give to the masses the right to work and live: In the delimitation of the Federal field for legislation the Indian workers' claim for common protective legislation for the whole of the Federation is not yet conceded. Without this right the Indian workers would even lose the small protection which the International Labour Organisation of the League of Nations affords to them. The workers of India want no barriers against their movement from one unit of the Federation into another. But if emigration from and immigration into British India only is made a Federal subject, leaving emigration from and immigration into Indian States solely under the control of the States, the workers of British India are placed in a disadvantageous position. I make an appeal that, in the future stages of the constitutional discussions, the interests of the Indian workers and of the helpless aboriginal tribes will not be neglected but will receive their due recognition. Let me give a warning regarding the danger of not leaving adequate costitutional scope for the protection of the interests of those who are poor and illiterate.

In conclusion, I wish to support whole-heartedly the powerful appeal made by Sir Tej Bahadur Sapru for the unconditional release of Congressmen from jail. Let there be no huckstering spirit; generosity alone will lead to peace and reconciliation.

**Sir Henry Gidney:* Secretary of State, at this late hour of the night, and with so many others who are wanting to speak, I feel that my remarks will have to be curtailed.

Secretary of State, I desire to associate myself very largely with the expressions that have fallen from my friend Sir Tej Bahadur Sapru, as also from Lord Reading, in his appreciation of the work that has been done for us by the various Committees and Staffs that have, from time to time, been attached to the three Round Table Conferences. Apart from many important points raised by previous speakers, I again desire to stress what to my community is of the greatest importance, namely, the protection of the rights of Minorities. I shall not weary this Conference by repeating what I have already stated regarding the services rendered to the Empire by the Community I have the honour to represent. These services are to be found in every page of Indian history past and present, but I feel I must again impress upon you and on the British Parliament, the absolute need for adequate protection of its economic interests, and in doing so, I do not desire this Conference to think that I am unmindful of or ungrateful for the concessions it has already granted to the protection of Anglo-Indian education. The acceptance of that report has afforded the entire community in India, as well as myself, the greatest joy and pleasure, for it amounts to its educational Magna Charta. But Sir, of what use will this be to the

Community in the future, unless it is afforded adequate protection of its economic position, for it cannot be denied that the education of the child is entirely dependent on the economic security of the parent. It is in this connection I would ask you, Secretary of State, as also the members of the British and Indian Delegations to patiently bear with me while I stress certain undeniable facts in connection with the economic position of the community.

The great and abiding part the Community has played in the building up, the development, and the maintenance in their present state of efficiency, of the Railways, the Telegraphs and the Customs Services is known to one and all, and it is in these three departments in which at least three quarters of the adult population of the Community are employed. It, therefore, follows, that adequate employment in these services constitutes the very existence of the community. In what I am about to state, I have no desire to exaggerate the perilous position, unless adequately safeguarded, of the economic future of the community, nor do I desire to minimise my fears. My chief concern is to get you, Secretary of State and the British Parliament to see eye to eye with me in this matter. Time was when the community occupied a very high percentage of all appointments in all grades of the All-India Government Services. To-day, after but a decade of the operation of the Reforms and Indianisation of the Services, we find ourselves being jettisoned out of many departments and entirely ostracised from others, and viewed from the yearly increasing number of our people who are unemployed, it is obvious that a similar fate faces us, in the three services I have especially mentioned.

Secretary of State, I use no idle words, nor can it be disputed when I say that the Railways, the Telegraphs, and the Customs owe their present state of efficiency and revenue producing value almost entirely to the labour for nearly a century of the Anglo-Indian community, and it is in these three departments mainly that we desire Statutory protection. Sir, I am mindful of the advice the Lord Chancellor gave the Conference the other day, when, after hearing each of our grievances, and which led to our various demands as embodied in our Fundamental Rights, he asked us in all sincerity, to love one another, to trust one another, and not to complicate and overburden the Constitution with such demands, the majority of which he said could not be incorporated in the new Statute, and I particularly noticed he based this advice on what he called " apprehensions " one of the other. Secretary of State, my community certainly has grave apprehensions of its economic future, indeed I do not think there is a single member of this Conference who will contradict me when I say that no community has hitherto suffered more by the operation of the Reforms in India than has the Anglo-Indian Community, and I would go further and say without fear of contradiction, that the Anglo-Indian Community stands to lose more in the future than any other community. There is no need for me to enter into

the detailed reasons for this fear, for they are undeniable and are obvious to one and all; suffice it to say that we find ourselves wedged in between two stones and are being gradually crushed out of existence to satisfy the policy of Indianisation as interpreted and demanded by the majority communities, and which Government is being compelled to satisfy. With us, Sir, this is not a question of mere "apprehension" only as the Lord Chancellor said. It is a question of hard naked facts of life and death,—of the right to live in the country we have helped to build. This special position and this need of special protection was unanimously recognised and admitted by the Services Sub-Committee of the First Round Table Conference, when it passed the following resolution.

"The Sub-Committee recognises the special position of the Anglo-Indian Community in respect of public employment, and recommends that special consideration should be given to their claims for employment in the services."

Secretary of State, this recommendation was unanimous and was passed by the Committee largely composed of Indian delegates, as also representatives of the British delegation. It may be said that this recommendation amounts to nothing more than a pious resolution and an expression of sympathy, but Secretary of State, it has the official seal of recognition of a special Committee of the Round Table Conference, and as such, I feel it cannot be lightly passed over by this Conference, nor can Parliament or the official draftsman ignore its significance when drawing up the new constitution for India. Moreover, it is I believe an honourable understanding that we cannot deny or go behind our previous decisions. But Secretary of State, I go further and say that my claim for special economic protection even as a duty on the part of Parliament, is fortified by the Government of India in its "Despatch on proposals for Constitutional Reform" page 169, which states:—

"The Anglo-Indian community has in the past rendered very important services to the railways and still holds a large number of posts in particular branches of railway work. The economic life of the community is indeed to a large extent dependent on the opportunities of employment which the railways offer, and its numbers are gravely apprehensive of what may occur, if and when any change takes place in the present system of administration and control. In view of the history of the community, *a special obligation, we think, rests upon Parliament,* before relaxing its own control, to ensure, as far as may be practicable, that the interests of the Anglo-Indian Community are protected."

Secretary of State, these are ominous words,—they are uttered by His Excellency The Governor General's Council, consisting of both Britishers and Indians, gentlemen who clearly recognise our economic fears, who are familiar with them, and who share these fears with us, and join with us in our demand for Parliamentary protection, indeed this Despatch not only in a way admits the

inability of the Government of India to safeguard the employment of Anglo-Indians on Railways in the future and places this responsibility as a duty on Parliament in return for the services they have rendered, but places our claims for protection on a much higher plane than that for which I am asking; for it amounts to a moral and legal obligation on the Crown and gives to my demand the equivalent value of a Treaty obligation. Surely Sir, this "special obligation" on the British Parliament which the Government of India recognises and asks for on behalf of the Anglo-Indian Community, cannot be, will not be, and must not be ignored either by the Conference or the Parliament when it passes the new Constitution? In so frequently emphasising my fear I do not claim to be the only pebble on India's political and economic beach; my great fear however, is that unless this Conference and the British Parliament agree to statutorily protect the economic future of the community, even for a limited period of say 25 years, till it is able to stand on its own feet, it will be the only pebble that will be removed from this beach, and I feel sure that not a single delegate at this Conference has any such desire. I am sure that each one of my friends here is prepared to recognise the services the community has rendered to India in the past, and is further prepared to see that we are not deprived of adequate and suitable employment in the future, and so afford us the opportunity of serving the future India as faithfully, as loyally, and as efficiently as we have done in the past India, so rapidly disappearing from our vision.

But, Secretary of State, as I have previously said, my greatest fear is the hostile treatment that will be accorded to the community should the Congress be returned to the Legislatures, as I feel sure will happen, at least for the next two or three elections,—I fear they will treat us much worse than what is happening to-day and we will be denied the right to live. It is for this reason I seek Statutory protection.

Secretary of State, if you or the British delegates have any doubts regarding my apprehensions, let me ask each British Indian Delegate to place his hand on his heart and to ask himself is it not a fact that every additional appointment that is to-day being given to Indians (and no new appointments are being created) is taken from either a European or an Anglo-Indian? This cannot be denied and is proceeding at such a rate that I shall soon be deprived of all appointments. As you know every Province is thinking provincially, and the cry to-day of "Behar for the Beharis", "Bengal for the Bengalis", sounds the death knell of the Anglo-Indian community, who can claim no particular province as his birth-right for it is the only All-India Community in India to-day, and so being as it were nobody's child, we feel we have every right to look for and expect protection from the King and Country whom we have served so well and loyally, and for which services we are sure to suffer in the future. Is this to be the reward of the Anglo-Indian Community for its services to

the Empire,—surely both England and India will see to it that we are adequately protected in the future?

I realise the difficulties of drafting and including such a provision in the Statute. I also have cause to realise how useless such a measure is in the Instrument of Instructions unless it has a Statutory basis. I am not a constitutional lawyer, and so I am unable to draft out a protective clause embodying these safeguards, indeed it is immaterial to me what language is used, or where this safeguard finds a place,—I leave this to the official draftsman, but I do beg of you Secretary of State, to realise that my claim for economic protection is special, and is different to that of any other community in India, and that it requires special treatment. Possibly a clause giving protection to the Anglo-Indian Community that it will not be deprived of its present position in the All-India Services for a certain number of years, will meet the case,—I leave this entirely to you.

Another point I desire to stress on this occasion,—it refers to the Army. Secretary of State, you are aware of the invidious position the Community occupies in regard to both the British and Indian Armies in India. You are also aware of the great military services the Community has rendered to the Empire from the early John Company period through the dark days of the Mutiny, to the past Great War, and even during the recent Civil Disobedience Movement. These are historic facts, but notwithstanding the indisputable proof we have given as a martial race, and as a Community whose loyalty has never been disputed much less tarnished, we find ourselves to-day denied entrance into the British Army because of our origin, and declined entrance into the Indian Army lest we spoil the class homogenity of that body. Secretary of State, does this not strike you as tragic, as an irony of fate? We strongly resent this treatment, for we look upon it as wholly un-British and undeserved. I have been told by the Army authorities in India that it refuses to form an Anglo-Indian unit, or even an Anglo-Indian Battery, a Branch of the Army in which we have shown great aptitude especially in Mesopotamia and German East Africa. I look upon this as a slur on the community, and as a body we strongly resent such treatment. Secretary of State, you have heard from the Indian Delegates that they demand not only more rapid Indianisation of the Officer class of the Indian Army, but a reduction in the British Army, and if you are inclined to reduce the British Army, might I, in all humility, suggest that some of this responsibility be placed on the shoulders of the offspring of Englishmen, I mean the Anglo-Indian and Domiciled European Community. It is true that we cannot enter the Indian Army on the rates of pay given to the Indian Sepoy, which means that if we are accepted in the Army, a special rate of pay is necessary. Surely Secretary of State, I am not asking the British nation too much when I humbly request you to allow the Anglo-Indian Community to take an honoured place in the defence of India other than the position it is given

to-day and of which it will soon be deprived, namely, the Auxiliary Force of which it constitutes three-quarters. Our past military services and our loyalty to the King and Empire, are worthy of some such consideration and recognition, and on behalf of those hundreds of young men who, to-day, find all avenues of employment closed to them, and who are swelling our daily increasing army of unemployed, I beg of you to re-open this matter, to kill this unmerited prejudice that exists in the minds of the Army authorities in India, and to afford the community a chance of sharing in the defence of its Motherland India.

Secretary of State, there is one other point to which I feel I must refer, and that is in regard to the Jury rights of the community. A detail of the demands of the community on this matter will be found in the Memorandum it submitted to the Simon Commission. A perusal of this statement will show that, whereas an Indian and a European can, by the mere claim of his nationality, demand either an Indian or a European majority Jury, it is the unfortunate lot of the Anglo-Indian alone to prove both legitimacy and descent, before he can ask for a Jury, the majority of whom belong to a Community who are familiar with his manners, his ways, his religion and his language. To demand legitimacy and proof of descent as passports to justice is in my humble opinion a relic of barbarism and is not to be found in any other Judiciary or country in the world. We, therefore, ask that the following addition be made to the present Criminal Procedure Code, namely,

(i) the words " by legitimate descent " in section 4 clause (i) sub-clause (ii) be deleted.

(ii) to section 275 clause (i) and section 284 (*a*) clause (i) the following words be added " or Europeans as he may desire ".

(iii) that Chapter 33 of the Criminal Procedure Code be so amended as to include cases arising out of racial conflict or communal antagonism.

In short, we ask that all Communities, European, Indian, Anglo-Indian and others have the equal right to be tried by a European or an Indian Jury as he so desires.

In conclusion, let me beseech of you not to let our economic safeguards consist any longer of pious promises of help, sympathy and goodwill, as have characterised the Montagu-Chelmsford and Simon Commission Reports. Let these be as substantial as has been given to all other Communities, who have received almost all they have asked for from the three Round Table Conferences, *e.g.*, to the Muslims this Conference has given 33⅓ per cent. of seats in the Central Legislatures, communal electorates with almost statutory majority in the Provinces, of Punjab and Bengal, indeed to it has been given almost all the 14 points embodied in Mr. Jinnah's demand. To the Depressed Classes you have given almost all they desired, and have accepted the Pact recently entered into between them and Mr. Gandhi, and which has given them twice the number of seats in the Legislatures than was given in the Prime

Minister's Communal Award. Their social disabilities have been remedied; to the women of India you have rightly given extended franchise, and special representation in the Legislatures, as also special electoral qualifications.

To Labour you have promised additional representation in the Legislatures and special Constituencies. You have also satisfied the demands of the Landlords and the Universities. To other sections of the people you have granted their requests, *e.g.*, the creation of the North-West Frontier Province, the separation of Sind, and in all probability the separation of Bihar. To the Europeans you have not only accepted their demand for protection of their commercial and trade interests, but their Jury and other rights. And to the Liberal and Moderate Parties you have not only promised a large share of responsibility in the Centre, but a closer association in the defence f India. Against all these concessions to all other communities, I respectfully ask you, Secretary of State, and this Conference what has been granted to the Anglo-Indian and Domiciled European Community? I acknowledge with gratitude and thanks, your acceptance of the Irwin Committee's report on Anglo-Indian Education and I have already called this our educational Magna Charta. The granting of this special privilege to the community undoubtedly proves that this Conference is fully alive to the peculiar position and special needs of the community, but Secretary of State, of what use will this be to me, if, as we apprehend will happen within the next 20 years, we are deprived, by forces over which I have no control, but against which you can adequately safeguard us, of all our appointments in the Services. For the parent will then be deprived of the means by which to educate his child. It is to protect this that I ask for safeguards. We would prefer the safeguards to be incorporated in the Statute, if only for a limited period, or in the Instrument of Instructions if these are placed on a Statutory basis, but if this is not possible, we would ask you to be so kind as humbly to submit to His Gracious Majesty's consideration that He be good enough to make a pronouncement on this most vital question concerning the protection of the future of the Anglo-Indian and Domiciled European Community.

Secretary of State, I am emboldened and encouraged to make this special request as a fulfilment of the oft-repeated assurance of its economic protection given to the Community by the Government of India and successive Viceroys, as also the British Cabinet, and last but not least, by His Royal Highness, the Prince of Wales, Heir Apparent to the British Crown, who when replying to an Anglo-Indian deputation during his last visit to India said:

> " Gentlemen, you may rest assured that I now understand the conditions under which you live in India and the useful and honoured place which you fill as citizens of the Indian Empire. Your aims and aspirations have my sympathy. Your devotion to the cause of India, the land in which you live, and your desire to maintain an honoured place for her within the Empire do you credit. I shall watch the progress

of your Community with the closest attention. You may be confident that Great Britain and the Empire will not forget your Community, who are so united in their devotion to the King-Emperor and who gave such unmistakeable tokens of their attachment to the Empire by their sacrifices in the War."

Sir Hubert Carr: Two or three speakers have spoken of the bitterness of feeling in India at present and implied that this can be removed by Government action. I do not wish to say anything which may add to it, but I do ask any fair-minded man whether the Government of India has had fair support from the public in dealing with a movement calculated to bring all government to an end? For years Government has been trying to meet Indian aspirations as quickly as practical and if Government does not produce a fruit-bearing mango tree from a handkerchief, it has tended the plant, the seed of which was planted seventy years ago, and with united efforts we shall under providence see fruit of the tree in this generation.

At this final Meeting, at which opportunity is given to Delegates to express the views of their communities, there are one or two points which I would wish to mention.

Since the beginning of the first Conference, our determination has strengthened to lend such assistance as we can to the securing of self-government for India. Our position is strictly limited by practical difficulties—and not in any way by lack of sympathy for truly national aims. An influential section of my community has all along recognized that financial control is essential to real responsibility, and that the preservation of financial credit determines the limit to which responsibility can be transferred to a self-governing India at the present time. There will be genuine regret that the Conference has not been able to come to a unanimous decision with regard to financial responsibility, but—if I may repeat a remark I made in Committee this afternoon—I would like to impress upon some of my colleagues of the British India Delegation that the risks of starting a new Constitution—which all recognize—are lessened by having good credit and cheap finance, whilst those risks are converted into certainties of failure if Indian credit is jeopardized, and finance—even if obtainable—is expensive. The cost of the new Governments is going to impose a severe strain on the whole country, under the most favourable economic conditions we can now visualize as probable. Progress in nation-building departments will make large calls for money, and it is essential to the success of the Reforms that the sources of money should be kept available. It is this outlook which influences our view of the enlarged franchise proposals, and we are not convinced that Provincial Legislatures, based on smaller electorates, would not be at least as truly representative as those proposed.

As regards the transfer of responsibility at the Centre, this has been coupled with Safeguards and Federation, with the pur-

pose of securing stability. With a view to making an early transfer possible, the suggestion that seats not filled by federating States should be filled by nomination, commends itself to us, as enabling that earlier transfer which we believe to be necessary for meeting Indian political desire.

The particular requirements of my own community are not numerous, but they are essential. The rights of individuals have received generous recognition, in general, at these Conferences. The views expressed in this room to-day, however, will, I think, convince anyone that our desire for the protection of our commercial rights is not founded on any unreasonable suspicion. Moreover, we have been reminded this evening of the trouble in Persia, and told we must show the same faith in India as those who invested their money there did in Persia. I also remember, however, that Persian action is exactly based on the principles advocated by Mr. Gandhi in the Conference last year. Our demand for some statutory guarantee of our security is, therefore, not unnatural. I have always tried to make our position clear as to the conditions on which we are in India. The part Britain has played in India of the past, is playing in present-day India, and is likely to continue to play in the Federation of India, justifies the British community in retaining national rights. We want India to prosper industrially and commercially: we are prepared to support national demands for methods by which to increase that prosperity, and we expect to have our place in that progress in a fair and open field. For the protection of that position—which we appreciate the majority of our Indian fellow-subjects generously accord us—we are always open to negotiate any means which may be effective. In consideration of the position in India to-day, we think not only is special protection required for the British European Community, but that for all Minorities, a general omnibus clause is required in the Constitution for protection against discriminatory treatment.

With reference to the discussion which has already taken place to-day, I must put forward our claims that British qualifications for professional men should be accepted in India—in the future, as they have been in the past. British qualifications in any direction are at least as high as Indian qualifications, and I cannot believe that India would refuse to recognize qualifications which enable men—both Indian and European—to be efficient servants of the public in their various walks of life, whether Indian qualifications temporarily fail to receive recognition or not.

One more point and I have finished. With regard to the transfer of the administration to popular control, my community is most anxious that nothing should be left undone to retain the Indian Public Services at their present high standard of efficiency. Civil Service, Police, Engineering, Forests, and all the Services must, I suggest, be maintained at least at their present level, if the new Administration is to have a fair opportunity of making the success of the new Constitution which we all hope.

His Highness the Aga Khan: Mr. Secretary of State, My Lords and Gentlemen, now that we have come to the close of this third session of the Round Table Conference we may congratulate ourselves upon the fact that a great step forwards has been taken towards our goal, than which none more difficult or more splendid has ever been envisaged by statesmen. I am confident I speak the general mind when I say that we have come closer together. The three main groups of wihch the Conference is composed, British public men, representatives of the Princes, and British Indian delegates, have been working on the whole in a business like and matter of fact way, a fine example indeed of inter-Imperial co-operation in the achievement of a great end. I was going to join my friend, Sir Tej Sapru, in making an appeal to the representatives of the Princes, and, through them, to the Princes, for an early decision, but the happy speeches made by Sir Akbar Hydari, Sir Manubhai Mehta, Nawab Liaqat Hyat-Khan and Raja Oudh Narain Bisarya have made that unnecessary. In our discussions there have been differences of opinion, but always, in all sections of the Conference and, I am glad to say, including all the British delegates, the good of India as a whole has been the dominant consideration. Some matters of importance, such as the distribution among various sections of representation in the Central Legislature, and other similar questions remain unsettled and must be decided by His Majesty's Government before placing their scheme before the Joint Select Committee. It is our earnest hope that, by such decisions and by the formulation of broad agreements, the remaining differences will be settled and that those who may be called upon to co-operate with the Joint Committee will be united, irrespective of whether they are British, British Indian or States representatives. I should like to see a Round Table Party, a party consisting of all of us who have worked together here, to meet the Joint Select Committee of the two Houses of Parliament. Unity is needed for giving the final touches to the great work of which the foundation stone was laid when Lord Irwin, with the full consent of the Prime Minister, made his historic declaration in respect of Dominion status.

I have heard it said—and I think this point ought to be cleared up once for all—that that declaration of Lord Irwin's was the result of the announcement of 1917. Such an interpretation is a very wrong and misleading reading of history. The declaration of Lord Irwin was inevitable the moment that destiny brought England and India together in the seventeenth and eighteenth centuries. In view of the historic character of the English people and the peoples of India, without some such development their association would be historically meaningless. We find the very seeds of this declaration already in the speeches and writings and thought of Burke and Fox and all the leading statesmen of the late eighteenth century. In India already in the nineties men like Gokhale and Mehta and others with my humble self, were speaking and writing on this subject. Before the first durbar

some of us represented this to Lord Curzon as a happy occasion on which to give an indication of the ideal that should unite the two peoples.

I hope you will pardon me for going into these questions of the past, but I feel that it is necessary to make it clear that this was not a sudden departure from past history. May I say in this connection that while we deeply regret the absence of the Prime Minister, we well understand how pressing and continuous are the demands upon him, particularly in the midst of his great work for world recovery. I am convinced that if he succeeds in his great ambition of helping forward disarmament, peace, and world economic recovery, that will be the shortest cut to bring about the happiest results desired for the general welfare and prosperity of India.

We have had the continued good fortune of the Chairmanship of the Lord Chancellor, to whose courteous patience, sympathy and friendliness in guiding our proceedings we owe no small measure of the harmony that has prevailed. We are fortunate also, most fortunate indeed, in the fact that so large a share in deciding His Majesty's Government's policy has fallen to the present Secretary of State for India. Sir Samuel Hoare has impressed us deeply by his unswerving loyalty to the Federal idea and to the creation of true Federal units in the autonomous Provinces and in co-operation with the great self-governing States.

I have no doubt that when the Constitution has been framed we shall then consider how to give effect to it. I have also no doubt that the living forces of India will find reasonable and satisfactory methods of procedure. It is as well in politics, while we should always have the goal and object in view, to get over obstacles as we meet them and as we go along, and not unnecessarily tie our own hands in advance. I cannot possibly finish this evening without first of all thanking the English people for all the hospitality which for three consecutive sessions they have shown us. I must also thank the British Secretariat, the India Office staff, the various people associated with the work of this Conference as well as the British Indian Secretariat which has helped us on every occasion, whose work under difficult circumstances I admire and for which I feel most grateful.

We have come now to the close of this stage in the gratifying assurance that we have after all made an advance under the guidance of the Secretary of State towards India's attainment of full political status, and to sincere and devoted co-operation as a partner in the commonwealth of nations of which His Majesty the King-Emperor is the Sovereign.

Secretary of State, may I now move the Resolution (see pages 131-132).

Sir Samuel Hoare: I am going to ask Sir Tej Bahadur Sapru to second the Resolution.

Sir Tej Sapru: Sir, a Resolution of this character hardly requires any seconding. Nevertheless I wish to associate myself

with it in all sincerity and unreservedly. We are under a deep debt of obligation to Their Majesties for having been graciously pleased to place this room at our disposal. I am sure that it will be recognised that the utmost boundary of political controversy and political differences does not extend to the King-Emperor. The King stands above all party politics.

Therefore I unhesitatingly associate myself and those who come from British India with this resolution. I understand, Secretary of State, that to-morrow morning you will be addressing us. Before that occasion arises I would like to express on my behalf and on behalf of my friends in this Conference our very genuine and deep sense of obligation to the members of the Government and other members of the British Delegation for the manner in which they have worked during these strenuous weeks. I would like to take this opportunity of conveying our thanks to Sir Samuel Hoare for the unsparing efforts he has made during the last few weeks in promoting the cause which has brought us here. I will only say that whatever differences may divide us you have at any rate succeeded in convincing us that you are in great earnest about Federation. We believe that even a Secretary of State is capable of being educated and without going further I would say that it was necessary that the Secretary of State's outlook on this question should be placed beyond all doubt, because it must have great moral effect on British India and may I say on the Indian States also. For that reason I wish to convey to you our sincere thanks.

His Highness the Aga Khan has spoken of British hospitality. Every one of us feels that he has been overwhelmed with that hospitality. We all feel that whatever differences divide us—and you cannot reasonably expect that on big questions affecting the fortunes of 350 million people there should be no differences—our social relations have been of the most cordial character. Lastly I would like to mention our efficient Secretaries, Dr. Latifi and Mr. Rama Rau, who have given us conscientious and invaluable help, who have shared with us our anxieties, our fears and our hopes and I would also convey our thanks to the members of their staff as well.

Sir Manubhai Mehta: On behalf of the Indian States I claim the privilege of supporting this message of homage to His Majesty the King.

Sir Samuel Hoare: I will put it to the Conference and I think we ought to be standing to carry it.

(Delegates all stood to signify their approval.)

Resolution.

The delegates to the Indian Round Table Conference with their humble duty desire to assure Your Majesty on the eve of the termination of their deliberations of their grateful sense of the honour so signally done to them by the gracious act which has

placed the King's Robing Room at their disposal. In this matter and in other matters Your Majesties have once more manifested that consideration for the Princes and the people of India which has kindled with affection their traditional loyalty to their Sovereign. We recognise that much remains still to do before the task on which we have been engaged can be brought to a conclusion, but we are confident that Your Majesty will share the hopes and satisfaction which have been engendered in the minds of all of us by the spirit of mutual understanding and goodwill which has throughout inspired our consultations.

(The Conference adjourned at 1-5 a.m. on December 24th to 11-30 a.m. on December 24th.)

GENERAL DISCUSSION (*concld.*).

(Meeting held on 24th December 1932.)

Lord Sankey (in the Chair): Members of the Conference, the following reply to the message of the King Emperor from the Delegates of the Round Table Conference has been received from His Majesty.

(The Delegates and all present stood during the reading of the message.)

> "Delegates of the Round Table Conference, I thank you sincerely for the loyal words which you addressed to me at the conclusion of your Conference. I know how complex the problem before you has, under closer scrutiny, proved to be, and I shall study with deep interest the Report of your deliberations. It is gratifying to learn that the spirit of goodwill which is uppermost in men's hearts at this season has prevailed throughout your Meetings, and I am confident that your labours will prove to have fortified a partnership whose strength and endurance are of such consequence to all My people.
>
> I bid you God speed, with my best wishes for peace and prosperity in the New Year."

Sir Samuel Hoare: Lord Chancellor, to-day we are attempting to finish our endeavour to recreate the fellowship of the Round Table in modern conditions—the fellowship founded by King Arthur and depicted upon the opposite wall of this Royal Robing Room.

Lord Chancellor, we have not been unsuccessful in our attempt. Already others wish to follow our example. Only a few weeks ago a distinguished American came to see me to ask me for details as to our procedure. Evidently he was contemplating the experiment of a Round Table Conference for the Philippines. Lord Chancellor, imitation is the surest form of flattery, and the American's interest shows that the experiment upon which we have been engaged has been watched with the closest and most sympathetic attention in every part of the world.

To-day we are looking back at our past work. To-morrow we shall be looking forward to the next step. As to the past, we have not been working in an empty void. We have not been attempting to create a situation in the air. We have not been, like Abbe Sieyès in the years of the French Revolution, creating paper constitutions. From start to finish we have been circumscribed by the hard facts of the world as we find it. We have been confronted with the problem of reconciling the claims of three partners who have for many generations been united in an undertaking of far-reaching ramifications; Great Britain on the one hand, British India on the other, and Indian India on the other. The old Articles of

Association were getting out of date; a new matter be found.

Lord Chancellor, the great achievement of the first Round Table Conference was to establish the fact for the first and, I believe, for all time that the new bond must be the bond of an All-India Federation with the rights of each of the three parties effectively safeguarded. I believe that historians will say that this decision was a turning point in the course of the British Empire.

To-day let us with gratitude remember those Members who took so prominent a part in bringing this ideal into the realm of practical politics. Let us remember in particular His Highness the Maharaja of Bikaner, who I think was the first of the Princes to press his view in this respect upon the Conference. Let us also remember Sir Tej Bahadur Sapru. Sir Tej Bahadur Sapru, if I may say so, was the first member of the Conference who fully realised the implications of this great ideal and who in those early days was much more conversant with the details of Federation than I think any other member of the Conference. Lord Chancellor, let us throw our minds back to those days. Scarcely any of us, having lived under a unitary form of government, really understood the implications of a Federation. I am told that at that time the booksellers of London did a roaring trade in the sale of manuals about Federations. I am told that there was a positive run upon the London Library by the various Government Departments concerned in order to get any text books that bore upon that difficult subject. Sir, if I may say so, it was of the greatest value to all our subsequent proceedings that we had from the very start the expert and technical advice of Sir Tej Bahadur Sapru upon all those very difficult constitutional questions. The Federal idea then was the great idea that emerged from the first meetings of the Conference.

The second Conference met in the face of very great difficulties. On the one hand we were in the throes of a world economic crisis; on the other we were faced with a change of Government and an impending General Election. Those factors in themselves placed great difficulties in the way of our deliberations.

But there was a third difficulty. There was the difficulty of the communal question. There we found with the best will in the world at every stage last year we were brought up against the barrier of the communal difficulty. I think the real achievement of the Conference last year was to start on foot the whole series of enquiries, most important of which were the detailed enquiries that led to the Government's Communal Award and included amongst which were the invaluable Reports of the Committees that went to India in the new year—Lord Lothian's Committee, Mr. Davidson's Committee and Lord Eustace Percy's Committee, I am quite sure that without the work done by those Committees and without the Communal Award, that reluctantly but none the less inevitably the Government had to make, our deliberations this year would have been rendered impossible and infructuous.

I now come, Lord Chancellor, to the work of this Conference and I would venture to sum up the results in two sentences. I would say first of all we have clearly delimited the field upon which the future constitution is going to be built. In a much more detailed manner than in the last two years we have delimited the spheres of activity of the various parts of the constitution. Secondly, and I regard this result as much more important than even that important first result, we have I believe created an *esprit de corps* amongst all of us that is determined to see the building that is going to be reared upon the field that we marked out both complete in itself and completed at the earliest possible date. Lord Chancellor, I said that we had marked out the ground. Let me explain by a few examples what I mean by that assertion. I take the various parts of the constitutional structure in order. I begin with the part that Indian India, the India of the States, is to play in the Federation. There we have made it quite clear that there is no risk in any respect to the treaties or to the obligations into which they and we have entered. I hope that I have made it quite clear that all questions governed by that general term paramountcy do not enter into the Federal scheme at all. I think also I may say that we made some progress in the enquiry over which Lord Irwin presided one day this week into the methods by which the States will accede to the Federation.

Let me say in passing—for I think it may help our future discussions both here and in India—that we have always regarded an effective Federation as meaning the accession of a reasonable number of States and, as at present advised, we should regard something like not less than half the States seats and not less than half the population as the kind of definition that we have in mind.

Next I come to the Federation and the Units. Here again I think we have made great progress in delimiting the field between the Centre on the one hand and the Provincial and States Units on the other. We have been very carefully through the lists of Federal and non-Federal activities, and we have got much nearer to agreement than we have ever reached before. It is now quite clear that there will be a definite delimitation of the activities of each of these three parts of the federal structure. To-day I need not go into detail, for the Report of the Distribution of Powers Committee will show, both to you and to the world outside, the progress that we have made in that direction.

Next there is the very difficult question of Federal Finance, one of the most vital questions in the whole field of Federal activities. Unfortunately we were discussing that question at a time of great difficulty. We have been discussing it at a time when no Government in the world has sufficient money for its needs. But I think I can claim that there again we have made some substantial progress. I fully admit that there are differences still to be recognised and to be reconciled. I do not think it could be otherwise in any question of this kind, but I should like to say to Lord Peel, who, so far as the Conference is concerned, is the father of Federal

Finance—at present it is a rather difficult offspring, but I think as it grows up it will become easier to manage—how much indebted we are both to him and his Committee for having made the progress that they have achieved. I think I can say that the work that they have done will very materially help the Government in coming to a decision, in consultation with the Central Government and the Provincial Governments in India, at an early date.

Then, Lord Chancellor, there are those difficult questions that we have always had with us in connection with the federal institutions, the questions about the size of the Chambers and about the allocation of seats. I say quite frankly that, as regards the size of the Chambers, I had hoped that we should have reached a greater measure of agreement than we have found possible during these last weeks. It has been made clear that there still are differences to be reconciled, not only differences between British India and the States but differences between the bigger States and the smaller States, differences even between some members of the Chamber of Princes and other members of the Chamber of Princes.

I wish that we could have reached further agreement upon this difficult question. I am quite sure that we have got to come to a decision upon it in the early future. To-day I would venture to say that, so far as the Government is concerned, we have come to the view that whatever may be the numbers of the Second Chamber, some system of grouping will have to be adopted. I would say further that we must await further discussions that are going to take place in India in, I hope, the comparatively near future, about the size of the Chambers. I hope they will succeed, but I would like to emphasise the fact that, whether by the parties directly concerned, or whether, if they prefer it, by the British Government, a decision must be reached upon this point in the comparatively near future unless a great part of our future discussions is to be gravely impeded.

Then there was the question of the representation of the communities in the Centre, particularly of the Moslem Community. There I think I can say definitely—I think I have said it indirectly very often before—that the Government consider that the Moslem Community should have a representation of 33⅓ per cent. of British India seats in Federal Chambers. So far as Indian India is concerned, that must be a matter for arrangement between the communities affected and the India of the Princes. But so far as the British Government has any part in the question, we will at any time give our good offices to making it as easy as possible for an arrangement between those parties in regard to future allocation of seats. There again I venture to say that definitely to-day, because I am anxious that that factor in the problem should not in any way impede the future progress in elaborating the further stages of the Constitution.

Now, with all these Federal questions, I can see that there is a grave anxiety in the minds of many members of the Conference—and I can sympathise with that anxiety—lest the various compli-

cations of which I have just given you certain instances should take too long to settle, and that the Federation itself will drift into the dim distance and will cease to be a reality in practical politics.

Feeling that anxiety, Sir Tej Bahadur Sapru asked last night that a definite date should be placed in the Bill at which time the Federation should come into being. He qualified his request—and qualified it, no doubt, quite rightly—with the reservation that if the conditions were not fulfilled, Parliament must have some means at its disposal for postponing the date of the Federation.

Now I agree with him that the last thing in the world that we wish is to see the Federation drift back into being simply an idea and not an integral part of the Indian Constitution. But I think I ought to say that I do find a difficulty in agreeing—if indeed this is the time to agree or disagree—to anything in the nature of a definite date in the provisions of the Act. The difficulties that are in my mind are twofold. I am not quite sure—and here I am speaking very candidly in the presence of representatives of the States—what reaction something that might appear to be rather in the nature of an ultimatum might have on the Indian States themselves.

Again, I find this difficulty, I feel that the machinery of the Constitution will be of an extremely complicated nature, and I think that Parliament if it were confronted with a definite date might demand a longer interval and more cautious provisions than it would require if there were no fixed date. After all, the machinery for bringing the Act into operation is going to be of a very complicated nature. I have always contemplated that some such method as a Parliamentary Resolution of both Houses would be adopted for bringing the Federation into operation, and that that method would be adopted at the earliest possible opportunity.

What I can say to Sir Tej Bahadur Sapru is that we are going to do our utmost to remove every obstacle in the way of Federation and to remove it at the earliest possible date. Let me also say to him, we do not intend to inaugurate any kind of provincial autonomy under conditions which might leave Federation to follow on as a mere contingency in the future. We shall, as I say, between now and the passage of the Bill do everything in our power—here I am speaking I think not only for the British Government but for the British delegation as a whole—to remove any obstacles that may at present stand in the way of the Federation coming into being at as early a date as possible.

Lastly, let me say a word upon another side of this part of our discussions. For the last two years we have discussed the question of certain new Provinces. We have discussed the question of Sind from the very opening of our deliberations two years ago. Last year we discussed in detail for the first time the question of Orissa. Since those discussions we have had expert enquiries into both questions.

Basing our views upon the Reports of those enquiries, basing our views still more on what appears to be a very general agreement both in India and in Great Britain, we have come definitely to the conclusion that Sind and Orissa should both be separate Provinces. No doubt there will be details of machinery to settle and some of them of a rather complicated kind. For instance, there are questions connected with the boundary of Orissa that have not yet been fully considered. But it is the definite intention of the Government that in any all-India Federation both those great territories should enter as distinct Provinces. Lord Chancellor, I have now dealt with the more prominent of the features of our discussions that emerge upon the more directly constitutional side of the Federation itself. Let me now come to the other series of problems that in some cases affect more directly Great Britain and in other cases affect certain communities and certain interests in India itself. I mean by this all that chapter of questions that by a rough and ready phrase we have described as " safeguards ". Lord Chancellor, let me say at the outset of my observations that I regard the safeguards not as a stone wall that blocks a road but as the hedges on each side that no good driver ever touches but that prevent people on a dark night falling into the ditch. They are not intended to obstruct a real transfer of responsible power. They are not intended to impede the day to day administration of any Indian Minister. They are rather ultimate controls that we hope will never need to be exercised for the greater reassurance of the world outside both in India itself and in Great Britain. Let me take the two instances that have been most prominent in this part of our discussions. Let me take the most difficult question of all, the difficulty of a transfer of financial responsibility. There, Lord Chancellor, I am not disclosing any secret when I say that during the last twelve months the British Government have fully accepted the fact that there can be no effective transfer of responsibility unless there is an effective transfer of financial responsibility. We have fully accepted that fact and we have done our best in the very difficult circumstances that have faced us to reconcile the legitimate demand of every Indian politician for financial control with the legitimate demand of every one who is interested in finance, not only for stability, but for a situation in which there would not even be a suggestion that stability could be questioned. For in the field of finance it is not only the fact itself that matters, but it is what people say about that fact.

Now our difficulties have arisen from two sources. In the first place, there is the fact that, as things are at present, a large part of the Indian revenue has to be devoted to meeting the obligations that have grown up during these years of partnership between India and Great Britain. That in itself—and I am sure no one would question the justice of the point of view—makes people here, investors who invested their money in Indian securities, men and women whose families are interested in the meeting of the old obligations, extremely nervous of any change. Secondly, there is the fact that we are passing through, I suppose, the most

difficult financial crisis that has faced Asia and Europe for many generations. In the case of India there is a peculiar difficulty, namely, that a large body of short-term loans, raised under the name of the Secretary of State in London, fall due for payment in the next six years. That means that, if the Federation is to start with a good name, if its solvency is to be assured, some means must be found for meeting these short-term maturities without impairing the future of Indian credit.

Lord Chancellor, those are the hard facts that have faced the Government during the last twelve months. Those are the hard facts that we discussed in great detail and with great good will at the Financial Safeguards Committee. The British Government, the British Delegation, and sections of the Conference, came to the view that in those conditions certain safeguards were absolutely necessary if we were to keep the confidence of the world outside and if we were to make it possible in the future for a Federal Government to raise money upon reasonable terms. That, Gentlemen, in a few sentences is the history of the safeguards. That, in particular, is the history of the safeguard that has loomed very largely in our discussions this year, the history of the Reserve Bank. We feel that, if confidence is to be maintained in the financial stability and credit of India, a Reserve Bank must be in effective operation. Now our trouble has been—and it has been just as much a trouble for us as it has been for those members of the Conference who have been doubtful about this safeguard—that it is impossible to say exactly when a Reserve Bank of the kind that we all agree should be set up can come into effective operation.

What I can say—and I said it to the Committee, and I say it again to this Conference—is that we will take every step within our control to make the setting up of a Reserve Bank of this kind and its successful operation effective as early as possible. We will devote all our energies to that end. If events over which we have no control—namely, events connected with the world economic depression—are too strong for us, then I gave a pledge to the Committee, and I give it again to the Conference, that we will meet representative Indians and will discuss with them what is the best step to meet that situation. I hope the situation will not arise. If it does arise, we will take Indian opinion freely into our confidence, and we will discuss with them what is the best step to be taken.

I come now to the question of Defence, a question that again has loomed very large, and rightly so, in our discussions. We had first of all, as you all remember, a debate in full Conference—a debate in which I think I may claim that there was complete unanimity that Defence, until it can be transferred into Indian hands, remains the sole responsibility of the Crown. It was, however, clear to me in the course of the discussions, and afterwards in an informal talk that I was able to have with certain leading

members of the Conference, that there were differences of opinion as to the methods by which Indian political opinion might be consulted in the administration of the Reserved subject.

Sir Tej Sapru reverted to these questions in his speech last night. Well, Gentlemen, I think that I can say that the British Government can go at any rate some way—I myself believe a considerable way—towards removing some of the anxieties that he and his friends feel.

Let me take in order two or three of the principal points to which he and his friends attached importance in these discussions. First of all, there was the question of the discussion of the Defence Budget. We were all agreed that it should be non-votable. In the nature of things, I think that was inevitable, but we are quite prepared to take the necessary steps to see that the Budget should be put, as he and his friends wish, in blocks, not in a perfunctory manner simply to be discussed as a whole.

Next he was anxious about the employment of Indian troops outside India without the approval of the Federal Government or the Federal Legislature. There I think he and his friends were agreed that where it was actually a case of the defence of India, in which no Imperial considerations entered at all, the Defence say, of the Frontier of India itself, there the responsibility—the sole responsibility—of the Crown should remain undiluted. More difficult questions arose in cases where Indian troops might be employed for purposes other than directly Indian purposes. Now in those cases I can say to him, I would prefer not to be precise as to the exact method. I myself feel sure that a means will be found to leave the decision in some manner to the Federal Ministry and to the Federal Legislature.

Next, there was an important series of questions connected, first of all, with the Indianisation of the Army, that is to say, the greater participation of Indians themselves in the defence of India and, secondly, as to the bringing into consultation as much as possible the two sides of the Government. He and his friends were anxious that statutory provision should be made in some way for both these objects. Lord Chancellor, the British Government still take the view, and we feel we must maintain it, that statutory provision is too inelastic, if you define statutory provision in the narrow sense. But I think I can meet him and his friends effectively by including directions to the Governor-General in both these respects in the Instructions.

Now he said, quite rightly, that his attitude towards that proposal would depend very much upon the Instructions themselves. As regards the Instructions we intend first of all to allude to them in the body of the Statute. And then we intend to ask Parliament to agree to a novel procedure, but a procedure that I believe is well fitted to the conditions with which we are faced, namely, that before certain of them are submitted to His Majesty, both Houses of Parliament should have the opportunity of express-

ing their views upon them. The effect of that would be to give the Instructions a Statutory framework by the allusion in the Act itself, and to give them a Parliamentary framework by the Resolutions that would be passed approving of them before they are submitted for His Majesty's approval.

As to the other proposals that Sir Tej made in the matter of Defence, we still feel that the Governor-General should have an unfettered power in selecting his Defence Minister; but we will make it quite clear in the Instructions that we wish the two sides of the Government to work in the closest co-operation, and that we do definitely contemplate—I would ask his attention to this point, and we will make an allusion to it in the Instructions—that before the Estimates are actually put to the Federal Assembly the Finance Minister and no doubt the Prime Minister should have an opportunity of seeing them and giving to the Governor-General their views upon them.

I hope that I have said enough to show that if I have not been able to meet in the exact letter the wishes of Sir Tej and his friends, we have been able to go some way and I believe myself that in actual practice we shall find the result will be very much the result that he and his friends desire, namely, that although the question of Defence is a reserved question with the sole responsibility for it imposed upon the Governor-General as representative of the Crown, in actual practice there will be the closest co-operation between the two sides of the Government. I am afraid that I have taken up a very long time at our last meeting but I hope I have said enough to show not only to the Conference, but to the world outside the general outlines of the scheme that we intend to propose to the Joint Select Committee. But it is something more than a scheme upon which we have been engaged.

We have been planning a scheme and a very complicated scheme, but we have also been trying to create a spirit of co-operation. Several members of the Conference were very kind to me last night when they said that I had played some small part in helping to foster this spirit of co-operation during the last few weeks. I thank them for what they said but I say that their kind words were really undeserved. The spirit of co-operation is due to much greater events and to much greater people than any with whom I am connected or any that I could ever hope to emulate. This spirit of co-operation is not the result of the last few weeks. It is not the result even of the last two years of meetings of the Conference. It goes back to all the many prominent men both here and in India who, each in his own way, have attempted to make better relations between our two countries —Indians as well as British men, British men of the right of politics as well as of the left. Do not let us forget even when we disagree with their views of the future the great work that some of these more conservative administrators have done for India in the past. Do not let us forget the great men who have

gone from these shores to India in recent years. We have been doubly fortunate in the Conference of this year in having two of the most distinguished *ex*-Viceroys to help us who have ever carried out these most responsible duties of any in the whole Empire.

We have had the invaluable help of Lord Reading, not only this year but from the very opening of our discussions, and in the first year of the Conference it was to a great extent Lord Reading's help that concentrated British public opinion upon the all important question of an All-India Federation.

This year in particular we have had the great advantage of Lord Irwin's help. Lord Irwin, if I may so say, has put, in the help that he has given us during the last five weeks, the coping stone on the great work that he did in India.

Let us not forget also, in the company of the great men who have gone from these shores to India, the invaluable work done by Sir John Simon and his colleagues. Let us set aside all the minor questions of controversy that may have surrounded the work of the Royal Commission, and let us to-day remember only that, without that work, which is unique in the Parliamentary annals of Great Britain, it would have been impossible for us British members of the Government and of the British Delegation, and, I believe, for many Indian members of this Conference also, to bring to bear the instructed mind that the great complexity of these Federal problems demands at every stage.

Last night Sir Tej Bahadur Sapru made an eloquent appeal for a chapter of renewed co-operation between every section of Indian opinion and ourselves. Lord Chancellor, let me say that there is nothing that I should desire more earnestly, myself. I want to see no empty chairs at the Conference with the Joint Select Committee. I will give to the words that Sir Tej Sapru uttered last night the full consideration that they demand. He will not expect me this morning to give a definite answer, either in the affirmative or in the negative, but I can assure him that I am fully conscious of the expressions of good will of which we have had evidences in India itself during the last few months and of which we have had many evidences during the course of our deliberations in this Conference. I can tell him that, whatever we may decide, the thing that we wish above all others is that he and his friends shall go back to India and tell every section of Indian opinion that there is opportunity for their help and that we need their help, just as we shall go out into Great Britain and tell our friends that, after the discussions of the last two years and particularly after the deliberations of the last few weeks, we believe that we can produce before the High Court of Parliament a scheme on the lines that we have been discussing that will do credit both to British and to Indian statesmanship.

Lord Sankey: Members of the Round Table Conference, it falls to my lot to say a few closing words at this Conference. I should

first of all like to say how much we all regret—for I am sure that you share my regret—that the Prime Minister is not with us to-day. The Prime Minister has been one of the best friends India has ever had in this country, the Prime Minister remains your friend and intends to do everything possible to implement your discussions.

Now let me endeavour very briefly, not so much for your purposes as for other purposes, to sum up the history of these Round Table Conferences. The Round Table Conference first met on November 17th, 1930. It met again on September 7th, 1931, and yet a third time on November 21st, 1932. On each of these occasions the Round Table Conference resolved itself into committees, and, dealing with the committees and the Conference, this makes the 160th meeting we have had.

The first Conference was memorable for the Declaration of the Princes in favour of an all-India Federation. That Declaration went out as it were with the tripple of an irresistible tide. It spread over the whole of India, the whole of England, and then over the whole of the Empire. The idea penetrated into men's minds, it raised their hopes, and justified their aspirations, and that idea of an All-India Federaion will prove to be the solution of most of our difficulties.

That Declaration still holds the field. There is no need to be despondent, there is no need to falter, no need to fail. The event is beyond doubt. But I would make an appeal to the representatives of the Princes at the beginning of my speech. I know your difficulties, I know that you are acting on instructions, but I should like to say to you that there is only one thing which can dim the lustre of the wise and patriotic statesmanship of the Princes, and that one thing is delay.

The Maharaja of Bikaner in a recent speech said: "I have humbly endeavoured in all earnestness to live up to the ancient Hindu ideal of Kingship. Etymologically a Raja is only he who pleases the people and keeps them well content." Gentlemen of the States, India is thirsting, India is calling, you have put the cup to her lips, do not delay her drinking it. There is an old Latin proverb which says that he who gives quickly gives twice. Therefore I would beg you to convey to Their Highnesses this message, that they should endeavour to make up their minds as soon as possible about their entry into the Federation. You have excited the hopes of India. Hope deferred makes the heart sick; and I very much hope that when the—States appear in London at the Select Committee as I hope in March or April—as soon as possible,—you or your Rulers will be able to give us some definite assurance that you will enter into the Federation, that you are going to enter into the Federation; and, although perhaps it is not possible to arrange all the terms by then, it will assist everybody, it will gratify the ambitions and the aspirations of India, if we can have your positive

assurance that, come what, come may, your entry into the Federation is a certain fact.

Next let me turn to the achievements of the Conference. I do not object to critics, and I have seen a great deal of helpful criticism during the last few weeks. But it appears to me that the critics have asked two questions. Some of them have said: "What do you know about India?" And the next have said:—"What has the Conference done?" I propose to try and answer both those critics.

If the first question is this, "What do you know about India", my answer would be: "Come into this room and look round. What do you know about India?" We have had here the representatives of the Indian Princes, great and small—not, if I may be allowed to say so, mere theorists. Anybody can draw up a paper Constitution provided he gets enough books and copies out enough Sections. But we have had here, making suggestions and arguing, men engaged for years in the administration of public affairs in India. That is my answer to people who say: What does the Conference know about India?

I must be permitted to mention a few but very few names. I would like if I may be allowed to mention the name of a man whom I regard as the Nestor of this Conference, Sir Akbar Hydari, true as steel. I would like to mention another name, Sir Mirza Ismail, thanks to whose wise administration his State is not only a pattern to India, but a pattern to the world. Then there is Sir Manubhai Mehta and others over there whose name I need not mention. And may I add that great man among Indian public men, the Aga Khan. If he will allow me to say so in my opinion his triumphs as a negotiator and at this Conference are greater than his triumphs on the race course. What do you know about India? say our critics. Let me say a few words about other representatives of British India. What about my friend sitting next to me? (Sir Tej Sapru) He has been Law Member of the Viceroy's Council. I was going to mention my old friend, but I think I had better say my old young friend, the Zafrulla Khan, and I am not sure that I have not left until the last the best of the three, Mr. Jayakar. His name will go down as a great conciliator. Time forbids me to mention great financiers and great business men. We have Sir Cowasji Jehangir, we have men who have served upon the Council of State-men who have served in the Legislative Assembly, members of the Provincial Legislatures, like Diwan Bahadur Ramaswami Mudaliyar, and Sir A. P. Patro. What do they know about India? We have here the champions of many of the minorities of India and let me say that no cause has ever been better championed than the causes of those minorities have been championed at last year's and this year's Conference. There sits one who has championed the cause of the Depressed Classes, there one who has championed the cause of of Labour, there one who has championed the cause of the the Hindus in Bengal, another who has championed the cause of the Anglo-Indians and another who has championed the cause of the

Europeans. I feel a difficulty and it is this. So well have these gentlemen championed these causes that if ever I get into trouble I shall find great difficulty in selecting the one whom I should employ to champion my cause. But our English side has not been wanting. What do the Conference know about India, we have had on the English side three Secretaries of State for India, Lord Peel, Mr. Wedgwood Benn and Sir Samuel Hoare. I do want to say a word about Sir Samuel Hoare. I have had the pleasure —I go further; I have had the honour—of working with him throughout the whole of this year. I know his manifold difficulties and his manifold anxieties and, above all, I know his hard work. Overtime does not exist for him. I believe Sir Samuel Hoare's name will go down to history as the great Secretary of State during whose tenure of the office India realised, in the lifetime of a single Parliament, nearly all her ambitions. One final sentence about Sir Samuel Hoare. At times he has had to say Yes; anybody can say Yes. At times he has had to say No. But, whether he has had to say Yes or whether he has had to say No, Sir Samuel has always acted with courtesy and with courage.

But sometimes Secretaries of State have to rely a great deal upon their assistants.

Sir Samuel Hoare: Always.

Lord Sankey: Sir Samuel Hoare says always. I thought that only applied to a Lord Chancellor! But we have had three Under Secretaries of State here, Lord Winterton, Lord Lothian, and Mr. Butler. You all know what you owe to Lord Lothian. You all know what you owe to the distinguished father of the youngest Under Secretary of State who has ever held office.

I have left perhaps, like the man in the Bible, the best till last, but they have been already mentioned. I say without fear of contradiction that we have had the assistance at this Round Table Conference of two of the greatest Viceroys that India has ever had. Enough has been said about them already. The work of Lord Reading and Lord Irwin for India will never be forgotten, either in your country or in mine.

I said yesterday how much all of us owe to the officials, and I will not name them again, but the way the officials have worked has been beyond all praise.

One thing I regret. I have mentioned those who have helped us. I regret that one great political party in England and one great political party in India have not seen their way to help us on this occasion. I believe—I am sure—that, when we come to the next and the final stage of our deliberations, both those parties will come over and give us their assistance. I want to send a a message to them, and I send it in the words of one of the most famous of Eastern books translated into our language and which we use nearly every day. I would say to those two great political parties: "My brothers, we are labouring for peace; do not make yourselves ready for battle".

Let me deal for a few minutes with the second question. The critics say: "And what have you done?". I can put it in a sentence immediately. We have blazed the trail for Federation. We have prepared the way for the future Federal Constitution of India. We have examined here the Federal Constitutions of every country in the world. My position is well known, but I have purposely held my tongue on these last few days, in order that others might state their views, and I tell the critics without fear of contradiction that there is much more agreement in the Conference than there is disagreement.

What have we done? We have discussed and agreed upon many most important subjects. The Indian franchise, thanks to the labours of Lord Lothian and his Committee, is practically settled. We have discussed the relations between the Federal Centres and the Units both on the legislative and administrative sides. Let me draw your attention to two of the most important documents that have been framed in this Conference. The first is the document on Federal Finance which we dealt with last night, and the other is the document on the Special Powers and Responsibilities of the Governor General and Governors. Those are the key documents of the future Constitution of India, and they are worthy not only of reading but of committing to heart.

What else have we done? We have placed the position of women in India upon a new, a better, and an ascending plan. I regret that we have not the advantage of the presence of the Begum Shah Nawaz, but I had a letter from her last night which I propose to read to the Conference. The letter from the Begum Shah Nawaz, dated yesterday, is as follows:—

"Dear Lord Chancellor,

As you are aware, I have been laid up in bed with influenza and bronchitis, and have not been able to attend to my work. As one of the doctors said to-day, my impatience to be back in the Conference Hall is perhaps retarding my progress. Let me assure you that you have all had my prayers.

Last August, when the Communal Award was being condemned by my countrymen all round, I issued a statement requesting them to accept it. However, many of them may go on disliking it, it is because of the communal award that so many of the obstacles in our way have been removed, and that we have seen Sir Tej Bahadur Sapru, Mr. Zafrulla Khan, Mr. Jayakar, and Dr. Shafa'at Ahmad Khan many times supporting each other and following each other in the same strain.

Just before leaving for England I went to pay my respects to His Excellency the Viceroy, and the first thing that His Excellency told me was the names of the members of the British Delegation to the Round Table Conference. I said to His Excellency that, like one who is no more amongst us to-day, I have always been a born optimist."

I stop there a moment: "and, like one who is no more amongst us to-day." I regret—and everyone of you regrets the passing of

our dear friend Sir Muhammad Shafi. I like to think that he may some day know of the successful conclusions of the work in which he took such a prominent part on the last occasion. Let me add also our regrets at the passing of Sir Ali Imam and Maulana Muhammad Ali, both of whom in their lives did their best for their country according to their lights.

One more word from the Begum's letter: "Lord Chancellor, this is the third Conference I have attended, and every time I have come full of hopes and have gone back full of assurances." On many points I tell our critics we have reached agreement. Upon a few we have failed to reach agreement.

But what is the most important point of all? You may have Constitutions with dozens of sections, dozens of appendices and dozens of communal awards; you may put them all in the waste paper basket if you do not have a union of hearts. To my mind the value of this Conference has been that Indians and Englishmen have got to know each other as they never knew each other before and have got to trust each other as they never trusted each other before. Federation is founded on trust, not on fear, on compromise and not on selfishness. To me the chief value of the Conference has been that I have made, I hope, many personal friends. Some in the ordinary course of events I may not see again, but there is not one that I shall ever forget.

But what about the future? Again a Latin motto which somewhat appeals to me and which I have always endeavoured to act upon—at a great distance. It was said of the greatest of Roman statesmen and soldiers that he thought nothing done if anything remained to be done. We are finishing a chapter; we must get on to the next chapter. It has been hard work and we are all tired; but this day week I want you all to begin and to think of what you are going to say and what you are going to do when we have the Joint Select Committee.

These are my final words. I apologise, but I want, if you will permit me, to give you one piece of advice and to ask you to take on my behalf one message back to India. My piece of advice is this: Where many great Constitution-builders have failed the reason is because of their inability to distinguish between the ideally perfect and the practically possible.

My advice to you—it may be my last advice—is always to strive for the ideally perfect but accept as an instalment the practically possible. It is the practically possible that you are going to get. You are going to get a constitution that if tended will grow and increase and gather strength and through the means of accepting the practically possible you will eventually gain the ideally perfect. Now for my message. Sitting round this Table I see men of many races, of many tongues and of many creeds. Those races, those creeds and those tongues all have a glorious chapter in the history of the world. They have ruled great empires, they have produced great men in peace, in war, in the arts, in science and in literature. They have all made individual efforts. Now I want something more

than an individual effort. I want a joint effort. To-day is a good omen. The sun is shining on us and the message I want to send back to India is this. We are on the eve of one of our great national festivals. I am glad that this Conference is ending on Christmas Eve because we can all enter into the spirit of Christmas. You know it as well as I do and I am glad that we are all here together to remember that spirit and that you should take back my message to India. It is this. Peace on earth and goodwill towards men.

(The Conference ended at 1·8 p.m.)

Memoranda.

BENGAL FINANCES AND RECOMMENDATIONS OF PERCY COMMITTEE RELATING TO IT.

(Note by Sir N. N. Sircar.)

1. Since 1921 the miserable plight of Bengal, under the Meston Award, and the injustice to Bengal under the Award have been repeatedly pointed out by the Government of Bengal and admitted by the Government of India. All parties, Europeans, Hindu, Moslem, have supported the Government. Reference may be made to the speech of Hon. Woodhead in August, 1932, in Bengal Council.

2. The position of Bengal as compared with other Provinces will appear from the following table:—

(The figures in columns 2, 3 and 4 are in thousand of Rupees.)

Province.	Actual Revenue in 1921-22.	Contribution to Government of India.	Net Revenue.	Population at Census of 1931.
1	2	3	4	5
	Rs.	Rs.	Rs.	
1. Bengal	8,94,82	63,00	8,31,82	46,694,536
2. United Provinces	12,38,83	2,40,00	9,98,83	45,375,787
3. Madras	15,39,31	3,48,00	11,91,31	42,318,985
4. Bihar and Orissa	4,42,32	—	4,42,32	34,002,189
5. Punjab	8,64,41	1,75,00	6,89,41	20,685,024
6. Bombay	13,26,03	56,00	12,70,03	19,348,219
7. Central Provinces	4,93,61	22,00	4,71,61	13,912,760
8. Assam	1,96,64	15,00	1,81,64	7,606,230
9. Burma	9,78,67	64,00	9,14,67	13,212,000

3. The total revenue of the Government of India in the same year, 1921-22, was Rs. 64,52,66,000, of which Bengal contributed not less than Rs. 23,11,98,000. According to Sir Walter Layton in 1929, Rs. 1,659 lakhs were collected from Bengal, Rs. 714 lakhs from Madras, Rs. 584 lakhs from Bombay, Rs. 717 lakhs from United Provinces.

Since jute duty was imposed in 1916 Bengal has contributed nearly 50 crores of rupees to the Government of India from this source alone (income-tax and super-tax from jute mils and jute business are estimated to have contributed about 2½ crores of rupees annually to Government of India).

Bengal's unfortunate position was not due to poverty of the Province, but solely to the method of allocating the total revenues of India between the Provinces and the centre. The difficulties were further enhanced by the fact that the sources of revenue assigned to it were inelastic, *viz.*, Land Revenue, Excise, Stamps, Court Fees.

4. From the outset it was clear that the Meston Settlement worked grave injustice to Bengal, and the first budget showed a deficit of 120 lakhs

between revenue receipts and the expenditure required merely to carry on the administration.

This was admitted by Government of India, and Sir Malcolm Hailey, Finance Member, in September, 1921, in moving resolution for remission of Bengal contribution of 63 lakhs, said, in the Legislative Assembly:—

> "We (Government of India) have examined the case both narrowly and critically, and it appears certain with every economy Bengal will have a deficiency of not less than 120 lakhs. Even if we make no allowance for any expenditure for improvements in transferred subjects, which are desired by the Ministers, improvements which are necessary if the reforms are to be a success—Bengal would have that deficit, even if it provided only the bare minimum expenditure required to carry on the administration of the Province."

5. The remission of the contribution of Rs. 63 lakhs payable to the Goverment of India gave the province some relief. The Government, however, had still to face a large deficit, and in 1922 they presented three Bills to the Legislative Council, one of which provided for the taxation of amusements and betting, and the other two for increase of Court-fees and of stamp duties. A substantial increase of registration fees was also imposed a little later by executive order. At the same time Government closely scrutinised their expenditure and effected retrenchments amounting to Rs. 70,52,000 in 1921-22 and to Rs. 48,88,895 in the following year. In 1922-23 a Retrenchment Committee was appointed to explore the possibilities of further economies. The ultimate result of their recommendations was a saving of Rs. 37,50,000. These measures did not entirely relieve the Government of Bengal of their anxieties. Though retrenchments were possible in some directions, in others an increase of expenditure was unavoidable. In particular, the post-war revision of pay had added to the cost of every department. From 1925-26 onwards, however, the position improved silghtly and Government were able to carry on for some years without seriously trenching on the provincial balance. The general economic depression then began to affect the revenue receipts, which fell from Rs. 11,35,00,000 in 1929-30 to Rs. 9,66,00,000 in 1930-31. The Government of Bengal again took up the question of retrenchment, and in that year and the next they effected further economies to the extent of Rs. 44,28,000.

6. That further retrenchment will not give any appreciable relief will be borne out by the following passage from the recent Barisal speech of H. E. Sir John Anderson:—

> "In a budget of Rs. eleven crores, with two crores as deficit, none but supermen can suggest further retrenchment."

7. If the recommendatios of the Financial Committee are accepted, and its views about the Jute export duty and distribution of income-tax are accepted, it will be useless to introduce any reforms in Bengal. The first matter is of much greater concern to Bengal than the second.

This is not the view of the professional agitator, out for creating disaffection and impeding progress, but the considered opinion of every responsible person in Bengal.

In Sir John Anderson's Dacca speech (July, 1932) he said:—"Provincial autonomy will fail and fail disastrously in this Province" if Bengal finances stand on the footing recommended for it. He added, "It is absolutely vital that an equitable adjustment should be made before the new Constitution takes final shape."

Hon. Mr. Woodhead, Member Executive Council, Bengal Government, in his speech in August, 1932, has expressed similar views. Hon. Sir P. C. Mitter, another Member, has repeatedly placed in Council and before the pubilc the same opinion. Mr. H. H. Burn, in his recent speech, after pointing out that "This province has had the bitter experience of struggling hopelessly against a financial settlement that has from the outset made a mockery of whatever chance there might have been of working the reforms

successfully" shudders at the idea of "perpetuation and intensification" of this deplorable position.

8. Messrs. A. F. Rahaman and Azazal Hague have fully endorsed this view—and the former stressed the point "that all the goodwill in the world will not enable the reformed Government to function successfully in Bengal"..... "We have consistently abused the Meston Settlement for ten years, but we are to-day practically bankrupt, and from all indications it appears we shall be so in future—the future Government will end by being a dismal failure." Hindu opinion, as repeatedly expressed in and outside Bengal Council by responsible persons like Mr. J. N. Gupta, I.C.S., Mr. J. N. Basu, and others, is in complete agreement with this forecast.

9. A Memorandum on Jute, dated 3rd November, 1931, presented to the Round Table Conference, all the Bengal representatives, *viz.*, Hon. Sir P. C. Mitter, Messrs. A. K. Fazbel Huq, Narendra Natte Law, and J. N. Basu, concluded by saying:—

> "Under the circumstances we regret to have to emphasize that it will serve no useful purpose for Bengal to join the Federation if this unreasonable sacrifice be demanded of her—and we trust this discriminatory taxation will not be demanded of Bengal."

10. There being no doubt that the Government, and all communities in Bengal, are fully convinced that it will be mockery to introduce "reforms" in Bengal on the footing of the recommendations of the F. F. Committee, let us see if the position of Bengal is due to her lack of resources, or to inequitable treatment.

11. The financial condition of the Provinces, as found by the Committee, is set out hereunder:—

	Lakhs.
Madras	— 20
Bombay (excluding Sindh)	— 65
Bengal	— 200
United Provinces	+ 25
Punjab	+ 30
Bihar and Orissa	— 70
Central Provinces	— 17
Assam	— 65

12. To balance budget Committee recommended distribuwtion of income-tax as follows:—

Yield of income-tax (less collection charges)=1,720 lakhs. After retaining super-tax on companies, tax on salaries of Federal officers and personal income-tax, and super-tax levied in Federal areas, the balance avilable for distribution is 1,350 lakhs. Out of this, 200 lakhs represent super-tax (*i.e.*, other than company super-tax). The balance left is 1,150 lakhs.

Of this, according to the Committee, about one-seventh would represent estimated tax on undistributed profits of companies and on incomes of persons resident out of British India, and this fraction, *viz.*, one-seventh, should be distributed on population basis.

The remaining six-sevenths would be distributed on the basis of the estimated share of personal income-tax creditable to each Province.

13. The Committee work out the application of the above and arrive at the following amounts to be received by the Provinces:—

	Lakhs.
Madras	183
Bombay (excudilng Sindh)	322
Bengal	405
United Provinces	123
Punjab	91
Bihar and Orissa	107
Central Provinces	59
Assam	29
Frontier Provinces	10

Export Duty on Jute.

14. Percy Committee has disposed of the claim of Bengal in these words:—

"Bengal has frequently put forward a claim to a share of the proceeds from taxation on the export of jute. Assam, too, has recently claimed the excise duty on kerosene and motor spirit produced within its borders. These and/or any similar proposals raise highly controversial questions of principle, but as in any case they could only result in delaying *pro tanto* the remission of Provincial contributions, we have not felt able to take them into account for the purposes of our scheme."

15. It will be noticed that the Percy Committee did not decide against Bengal because in their opinions on the merits of the controversy Judgment should go against Bengal, but on the ground of delay in remission of Provincial contribution.

If Bengal's claim is just, then she loses a certain larger amount now payable, for the possible delay in remission of a smaller amount, which remission is not a certainty but problematic.

Export duty realised in 1929-30:—

	Lakhs.
Hides and skins	35·35
Jute	463·67
Rice	116·91

If Burma is separated 98 per cent. of export duty in British India will be referable to Bengal jute.

The Controversy on its Merits.

16. Coming to the merits, with reference to "highly controversial questions of principle," reference may be made to the financial provisions of the Government of Ireland Act.

If principle followed there is applied to Bengal her just demands will be met, and she does not want any extraordinary principle to be applied to her.

17. Mr. A. H. Ghuznavi, in his memorandum dated 2nd November, 1931, pointed out:—

"The export duty on jute, which is the product of the most localised industry in the world, should, as being a tax on produce of the land, be made a provincial source of revenue..... In my contention I have the support of the precedents of Section 51 of the Australian Constitution, and Section IX of the Constitution of the United States.

'The Parliament shall, subject to the Constitution, have power to make laws for peace, order and good government of the Commonwealth with respect to.....taxation, but so as not to discriminate between States or parts of States'.

'No tax or duty shall be laid on articles exported from any State.'"

18. The argument sometimes raised that jute is a monopoly and as such the export duty is paid by the consumer, is completely met by the note of Hon. Sir P. C. Mitter, dated 3rd November, 1931, presented to the R. T. Conference, which note is marked as appendix. It may be supplemented by the admission of the Fiscal Commission and Taxation Enquiry Committee that "an absolute monopoly, for which there is a stable demand is of rare occurrence."

Income-Tax.

19. Only two points are being pressed against the recommendations of the Committte. The first is that tax paid on salaries of federal officers

should be "federal." This is not based on reason. If residence is adopted as the basis of distribution why should tax paid by Government servants be put on a different basis from tax paid by other salaried servants in the Province?

The second point concerns the recommendation, that proceeds on taxes, on incomes other than personal income, should be distributed on population basis.

There is no reason for distribution of taxes on income other than personal income on population basis. The adoption of this recommendation will be to the disadvantage of industrial provinces. There is no reason to believe that the amount of this portion of the taxes on income attributable to an industrial province is the same as that attributable to an agricultural province with the same population.

Observation by Committee about Bengal and Submissions on it.

20. The Committee state: "We fully appreciate the difficulties through which Bengal is now passing and we cannot believe that the Bengal Government and Legislature have no means at their disposal, whether of economy or increased taxation, to reduce a deficit of this magnitude, and in the hope that measures will be devised to meet the situation we have felt justified in reducing the anticipated deficit by 40 lakhs." Comment on this may be made in the following words:—

"As regards increased taxation the Committee themselves are not hopeful. They surveyed the possible sources of new taxation, and the conclusion they arrived at was, that such provincial taxes as were within the sphere of practical politics in the immediate future, cannot be relied upon, to yield any substantial early additions to provincial revenues. In regard to economy, it would have been of assistance to the Local Government, if the Committee had afforded at least some indication of the directions, in which they considered this possible. We have examined the matter very carefully and the conclusion we have arrived at is that the expenditure under more or less normal conditions is reasonable and that the deficit on the introduction of the reforms is not likely to be less than 230 lakhs."—(*Speech of Hon. Mr. Woodhead in Bengal Council on 10th August, 1932.*)

21. Bengal may very well paraphase Committee's observation and retort by saying: "Bengal fully appreciates the difficulty of the centre, but Bengal cannot believe that the Central Government and Legislature have no means at their disposal, whether of economy or increased taxation, to augment their means for meeting the burdens placed on them by deficits in the North-West Frontier Provinces, the Chief Commissioners' Provinces, and the centrally administered areas, by the Settlement with the States, and separation of Sind.

22. If further economy and taxation is not possible for the Centre, as is also not possible for Bengal—it is against all ideas of justice and fair play that Bengal should make larger sacrifice than other Provinces.

The Attitude of Bengal.

23. The Government, the public, Hindus, Moslems, Europeans, officials and non-officials have repeatedly affirmed the very definite view that no reforms should be introduced into Bengal, unless recommendations of the Percy Committee, concerning her, be very substantially modified in her favour.

Bengal is not indulging in any threat. She is pressing a claim believed to be just. If by reason of "controversial principles," or on any other ground whatsoever, her demand is considered to be unreasonable—then in that event she does not intend to be supplicant for charity, nor does she suggest that other Provinces should be unfairly treated for giving her relief.

In that situation she protests against being asked to federate—and she will protest against the use of terms like "voluntary union" or "partnership" or "willing co-operation" in her case.

The only way to make her "federate" in those circumstances will be by hammering her into it, by the force and weight of an Act of Parliament over-riding her desires and sentiments—and by compelling her to accept the favour of a gift—an honour which can only aggravate her misery by increased expenditure of running the "reforms".

Appendix.

I have heard it stated that as jute is a monopoly of Bengal, the export duty on jute is really paid, not by the tax-payers of Bengal, but by the foreign purchaser. This opinion is held, amongst others, by some who, as officials or non-officials, are more interested in the welfare of other Provinces than that of Bengal. I do not at all agree with this view, and I am of the opinion that this argument does not bear any close examination.

It is true that jute is a monopoly of Bengal, in the sense that it is grown in Bengal and it is not grown in other parts of the world. But the question of substance is whether the foreign buyer really pays the tax, the producer being in no way affected because of the existence of the tax. If in a particular year the total demand for gunny or hession or loose jute by the foreign buyer is less than the amount manufactured or produced in Bengal, then in such a year the foreign buyer is in a position to dictate the price, either of the manufactured article or of raw jute. In post war days such a contingency has constantly arisen. In such years, therefore, jute mills in Bengal or the exporter of raw jute must agree to the price paid by the foreign buyer. The export duty in such years must largely, if not wholly, fall upon the manufacturer, or the primary producer, the ryot.

The position of the primary producer, the ryot, is however, different from that of the manufacturer in every year. For many reasons, into which I need not enter, the ryot can never control the price, and as jute is a monopoly crop, there is always the tendency on the part of the ryot to increase the cultivation of jute. Even in years when the demand of the foreign buyer is large there is a wide difference between the price received by the ryots and the price paid in foreign markets, and the existence of the export duty is a material factor which the exporter or manufacturer of jute in Bengal will always take into consideration in fixing the price.

Then again the jute produced by the ryot comes into the hands of the purchaser for the jute mills or the export trade through many intermediaries, and the existence of these intermediaries makes it more difficult for the ryot to fix his price. In order to grow jute the ryot has to undergo many hardships, and has to work under conditions which must affect his health. One process in the preparation of jute is to keep it in water for a number of days, and then to separate the fibre from the stem by a manual process while standing in the water. Keeping the jute submerged in water for a number of days breeds malaria and other diseases in the neighbourhood.

If Bengal could get the value of the jute as a source of revenue for the Province, then one of the great problems of Bengal, namely, the existence of malaria on a wide scale, would be reduced.

For all these reasons I think it is a mistake to assume that the export duty on jute is really paid by the foreign purchaser, and that the manufacturer or the primary producer are in no way affected or concerned by the export duty.

Assuming, however, for the sake of argument, that jute is a monopoly and that the export duty too is paid by the foreign purchaser, then Bengal cannot in justice be denied the profits received from that monopoly, as it is conceded that that monopoly is a monopoly of Bengal. Why should the rest of India be allowed to profit by this?

(Continuation of the note by Sir N. N. Sircar.)

BENGAL FINANCES AND PERCY COMMITTEES' RECOMMENDATIONS.

1. The proposals for the distribution of income-tax under the proposed system works out very unfairly to Bengal as will appear from the following Tables :—

TABLE A.

(Showing in lakhs of rupees, gross income-tax collection for each Province 1929-30, as percentages of total gross income-tax revenue 1,706 lakhs.)

Province.	*Amount.*	*Percentage.*
Madras	141	8·3
Bombay	369	21·6
Bengal	618	36·2
United Provinces	90	5·2
Punjab	64	3·7
Bihar and Orissa	50	2·9
Assam	19	1·1
Central Provinces	33	1·9
Burma	179	10·5
Miscellaneous	143	8·4
		99·8

TABLE B.

Reproduction of Percy Committee Table III, column 5, and giving in lakhs of rupees, provincial figures shown there as percentages of total income-tax revenue (i.e., 1,720 lakhs).

Province.	*Amount.*	*Percentage.*
Madras	183	10·6
Bombay	343	19·9
Bengal	405	23·5
United Provinces	123	7·1
Punjab	91	5·2
Bihar and Orissa	107	6·2
Assam	29	1·7
Central Provinces	59	3·4
Burma	[179]	
Miscellaneous	10	0·6
Retained by Federal Government	370	21·5
	1,720	99·7

The result is that 36·2 per cent. is collected from Bengal and she gets in return 23·5 per cent., whereas 21·6 is collected from Bombay and she gets back 19·9.

2. Percy Committee after arriving at the figure 1,350 lakhs as the balance available for distribution to the Provinces, states :—

> "of this sum about Rs. 200 lakhs represent collections of personal super-tax (*i.e.*, other than Company Super-tax), and would be distributed on the basis of actual collection from residents. Of the balance of 1,150, about one-seventh would approximately represent the estimated tax on undistributed profits of Companies, and on incomes of persons, resident out of British India and we suggest this fraction should be distributed on the basis of population."

Accepting outlines of the scheme suggested here it may be pointed out that Percy Committee has made a mistake in taking 1/7 as estimated tax on the undistributed profits of Companies and on incomes of persons resident outside British India.

The figures given in the letter from Government of Bengal to Government of India, dated the 7th November, 1927, make it clear the fraction should be taken at 2/7 and not 1/7. This makes a considerable difference.

3. Some comparative tables are set out below, which may be relevant in connection with the questions discussed.

TABLE I.

(Showing in lakhs of rupees estimated central taxes raised by Provinces in 1928-29.)

Province.	Customs.	Jute-tax.	Income-tax.	Salt.*	Total.	Population.
Madras . .	493	*Nil*	131	90	714	42,320
Bombay . .	226	*Nil*	317	41	584	19,350
Bengal . .	545	399	615	100	1,659	46,700
United Provinces	530	*Nil*	90	97	717	45,380
Punjab . .	241	*Nil*	61	44	346	20,680
Bihar . .	397	15	91	73	576	34,000
Central Provinces	162	*Nil*	33	30	225	13,900
Assam . .	88	8	15	10	127	7,600

NOTE.—Population—000s omitted.

* Salt taken at 3 annas 5 pies per head (Report of Taxation Enquiry Committee).

TABLE II.

Amount of Tax on Jute.

	Price.	Tax.	Percentage of tax on price.
	Rs.	Rs. A. P.	
1. Cuttings (bale of 400 lbs.) . . .	17	1 6 0†	8
2. Lightnings (bale of 400 lbs.) . .	23	4 10 0†	20·1
3. Sacking (per ton) .	235	20 0 0	8·5
4. Hessian (per ton) .	340	32 0 0	9·4

(NOTE.—†Includes As. 2 Municipal improvement tax. The prices quoted are those prevailing on 18th June 1932 according to Bengal Chamber of Commerce.)

FINANCIAL POSITION IN BENGAL.

(Memorandum by Mr. A. H. Ghuznavi.)

In the note circulated by my colleague, Sir N. N. Sircar, it has been pointed out how the financial settlement under the Meston award had made a mockery of the Reforms in Bengal. The difficulties of Bengal's financial position need no emphasis. They were recognised, as far back as 1921 by Sir Malcolm Hailey, who, in a speech before the Assembly, declared that even if no allowances were made for any expenditure on improvements in transferred subjects, improvements which were necessary for the success of the Reforms, Bengal would still have a recurring deficit of 120 lakhs a year. If the Reforms have failed in Bengal, if they have failed to secure contentment, a

very large measure of the blame must, by common consent, be laid at the door of the iniquitous financial settlement. The administrative difficulties of Bengal, as is well known, have increased enormously during the last two years. The suppression of the revolutionary movement has increased the cost of the police enormously, while the economic depression has had a serious effect on the revenue. The result has been that multitudes of beneficient schemes have been held up and the activities of the nation-building departments have been brought almost to a standstill. The state of things has increased discontent seriously; has exposed Government to constant criticism and has led to serious attacks on the very necessary provision for the protection of Government and the police made in the police budget. Government, in other words, is engaged in a hopeless struggle against a revolutionary movement which is being constantly fed and sustained by the discontent caused by the inability of Government to satisfy the crying educational, technical and other material needs of the people. No wonder then, that such a tried administrator as Sir John Anderson has felt it necessary to issue the warning that provincial autonomy will fail disastrously in the province if the existing distribution of resources is not modified in very material respects before the New Constitution takes final shape.

The proposals of the Federal Finance Committee do *not* constitute an equitable adjustment from the point of view of Bengal. According to these proposals, against a deficit of 2 crores, Bengal is to receive as her share of the income-tax receipts, a sum of 405 lakhs, but she will have to contribute to the central exchequer a sum of Rs. 255 lakhs. To meet the resulting deficit of 50 lakhs, Bengal's contribution is to be reduced by an equivalent sum. This is, to our mind, a most unsatisfactory and inacceptable solution. In the first place it still leaves Bengal a deficit province. The deficit of 2 crores, however, is based on the figures of the last ten years when Bengal was compelled to follow a cheese-paring policy. In every direction there is enormous leeway to be made up. If these are taken into account 2 crores is a very inadequate estimate of the deficit which is likely to accrue. Let it not be forgotten that the province has a population of 46 millions and the needs of a population of this size have to be met by a normal revenue of 11 crores or a little more than the amount spent in this country on the Metropolitan Police and the Police Courts in London.

In the second place, Bengal is still left without an elastic source of revenue comparable to land revenue in other provinces. As a result of the Permanent Settlement effected by Lord Cornwallis, the receipts from land revenue in Bengal were fixed once and for all and they cannot be increased without a gross breach of faith with the landlords. This important fact has to be remembered in estimating Bengal's resources under any scheme of financial settlement.

In the third place, the receipts from income-tax may easily prove to be precarious. They depend upon the material prosperity of the people and if they fall, Bengal's share must necessarily fall also. In this connection it is well to remember also that in order to improve the material resources of the people, it is imperative that the State should be in a position to attend to the vital problems connected with the health, education and the employment of the people, which are the chief factors on which prosperity depends. I would also like to emphasise here a fact which might be overlooked, that the ministers of an autonomous province will be subjected to a pressure which they will find it impossible to resist to cut down expenditure on the police in order to provide adequately for other departments, if the resources of the province are not sufficient to make adequate provision for them. Those who have studied the revoluntionary movement in Bengal are under no delusion that the new constitution will, *ipso facto* check its growth, and if the vital requirements of the police are not met it is easy to imagine the confusion into which the province will be thrown. The infection of the revolutionary movement if unchecked in Bengal cannot fail to have serious reactions in other provinces.

For all these reasons it is imperative that the next dispensation should begin by providing every province, and in particular Bengal, with resources adequate to her present and expanding needs. How is this to be done?

As regards income-tax, we consider that it should be made a provincial head and that, if it is retained as a central head, the basis of distribution proposed by the Committee is open to objection. But what I, in common with every shade of opinion in Bengal, wish to press for in addition to a share of the income-tax is, that the proceeds of the export duty on Jute should be given to Bengal, and if the duty is abolished, that Bengal should have ample power to raise revenue from Jute. By that means alone, would it be possible to give Bengal an expanding head of revenue adequate for her requirements.

The Federal Finance Sub-Committee never examined our claim on its merits and we contend that the arguments on which we have based our claim in the past should still hold the field and are sufficient to substantiate our claim. To keep the export duty on Jute a Federal tax for Federal purposes would mean that not only other British provinces but the Indian States as well would benefit from the taxation of a commodity which is virtually a monopoly of Bengal.

I should like to emphasise the fact that unlike mineral products such as oil or petroleum, jute is the main staple crop of Bengal and with its fortunes are bound up the prosperity of millions of her peasantry. The crop has to be grown under conditions which inevitably breed diseases to which the peasantry fall a victim. The excellence of the jute grown, and therefore the revenue derived from it, is dependent on the care which cultivators give to it. Is it not then equitable that the proceeds of any tax on the commodity should go to benefit those who grow it, and that the provincial government which they can directly influence by their votes, should have the power to push the fortunes of the industry in any manner best suited to their interests?

I do not propose to elaborate the argument I based on the American precedent in my note of last year; to this reference has been made in my colleague's note, but I wish to add that there is no true analogy between a commodity like jute which, as an exportable commodity is virtually the monopoly of Bengal and commodities like rice and tea which are grown not only in many other parts of India, but in other parts of the world.

FEDERAL FINANCE.

(Memorandum by Pandit Nanak Chand.)

With regard to the discussion which took place yesterday and the day before in the Conference, I submit the following for the consideration of the Federal Finance Sub-Committee.

(1) The Punjab Hindu view is definite on the point that Income-tax should continue to be a Central or Federal subject and should not be made over to the Provinces. We are opposed to the idea that the Provincial Governments should be given the right to make a surcharge on the Income-tax. We favour the idea of the Central or Federal Governments making grants to the Provinces to cover the whole or parts of their deficits.

(2) The argument that the Provinces will become extravagant in their expenditure if they know that they will get subventions from the Central or Federal Government, does not appeal to us. If the Federal or Central Government is to make these grants or subventions, it will be its duty to see that the Provinces spend their money in a proper manner. It is understood that subventions or grants will not be given to Provincial Governments on their mere asking. We must accept the commonsense point of view, that the Provincial and Central Governments will behave in a reasonable manner in this matter.

(3) The Hindus of the Punjab are opposed to the idea of surcharge on Income-tax by Provincial Governments, because, the Legislatures in various

Provinces are bound to be influenced by various considerations in levying the surcharge. It is much better to accept grants or subventions by the Central Government in place of the surcharge.

(4) Income-tax must remain a Central or Federal subject:—

(*a*) because if made Provincial there will be no uniformity in taxation,

(*b*) because the Legislatures will be influenced by racial, communal or other considerations in imposing this tax,

(*c*) because in the Punjab especially, where there is a sharp division and distinction between proprietors and non-proprietors; and agriculturists, non-agriculturists; there is bound to be a desire on the part of the governing classes to throw the burden of paying for the Government's expenditure on the non-proprietors and the non-agricultural classes. So long as this distinction, recognised by law and statute, exists between agricultural tribes and non-agricultural tribes; and proprietors and non-proprietors; the Hindus of the Punjab are definitely of opinion that the financial equilibrium so far maintained, will be greatly upset and confusion is bound to arise in the finances of the Punjab, if Income-tax is made over to the Provincial Government.

Under the circumstances stated above it is essential:—

(*a*) that Income-tax should remain central or federal, levied at a uniform basis throughout India,

(*b*) that the Provincial Governments should not have the right of making any surcharge on the Income-tax,

(*c*) that the wiser and safer course is to let the Central or Federal Governments make subventions or grants to such Provinces as may make out a case for help from the Central Government to cover their deficits.

1

MEMORANDUM (BY THE DEWAN OF COCHIN) ON THE CUSTOMS REVENUE ENJOYED BY THE STATE OF COCHIN AND THE RECOMMENDATIONS OF THE INDIAN STATES ENQUIRY COMMITTEE REGARDING IT.

In dealing with the Port of Cochin in paragraphs 378 and 379 at pages 128 and 129 of its Report the Indian States Enquiry Committee (Financial) has written as follows:—

"We recommend therefore that negotiations with Cochin for the adjustment of the difficulties arising from the divided ownership of the port, and with Travancore and Cochin for the purchase of their existing rights in its customs revenue, should not be delayed. With regard to the first, we understand that the subject is already under discussion between the parties concerned. With regard to the second, it is difficult to suggest an appropriate basis of any offer which might be made. A figure based upon present receipts would necessarily be of a speculative character and it must be borne in mind that a further large sum will require to be expended before the port is fully developed; but, since a speculative element must enter into the matter, it is far preferable that the risk should be assumed by a federal Government, which will have the economic interests of India as a whole in its charge, rather than that Travancore and Cochin should continue the present system of grants in aid in the expectation, though without any certainty of increasing their domestic revenues by a possible rise in the value of their share under the 1925 Agreement in the future customs revenue of the port.

There is no question here of a cession of rights arising from sovereignty. The rights of the States concerned came into existence as the consequence of a mutual exchange of valuable considerations. They are in effect commer-

cial rights, which should be susceptible of adjustment on a commercial basis agreeable to both parties, and we hope and believe that no real difficulty need be anticipated in bringing the parties together for this purpose."

2. From these recommendations it would appear that the Committee considered that it would be desirable for Cochin to surrender its rights of ownership in the port and for both Cochin and Travancore to give up their existing rights to a share of the customs revenue as a preliminary to their entering the proposed Indian Federation. Cochin is both willing and anxious to join the Federation; but it would be impracticable for it to do so on the terms suggested by the States Enquiry Committee for reasons based not merely on the history of the port, on the fact that it is situated largely within the boundaries of the State, and on the State's treaty rights in regard to it, but also on the actual necessities of administration. The facts of the situation as they appear to the State are set forth as shortly as may be in this Memorandum.

3. In the first place it would seem that the Committee, when it made its recommendations on this subject, was under some slight misapprehension regarding the past history of the port and the extent of that part of it which lies within the limits of the State. In paragraphs 256 and 257 at page 89 of the Report the Committee states:—

"The port of Cochin is a British Indian and not an Indian State port . . . . . It is a tiny, though very populous, settlement covering only one square mile of land; but that land includes both sides of the harbour entrance, and an important part of the lagoon comprising the harbour is also British. It is administered by the Government of Madras, of which Presidency it forms a part, and its customs house is controlled by British Indian officials."

Again, in paragraph 376 at page 128, it is stated:—

". . . . . The port which was in its origin, and is still to a large extent, a British Indian port under the control of the Government of Madras, now extends into Cochin territory, and will extend still further if and when the present development scheme is completed."

Finally, in paragraph 379 at page 129 there is the statement already quoted:—

"There is no question here of a cession of rights arising from sovereignty. The rights of the States concerned came into existence as the consequence of a mutual exchange of valuable considerations. They are in effect commercial rights . . . . ."

It would seem, therefore, that the Committee formed the opinion first, that the rights of Cochin in the Port are merely of a commercial nature and, secondly, that the rights of Cochin and Travancore are, in the main, founded on a common basis. This opinion, however, in so far as it relates to Cochin is hardly supported by the facts; for while it is no doubt true that the rights of Travancore in the port are commercial rights, those of Cochin have a far more extensive basis.

4 In its origin the port was situated wholly within the limits of the State of Cochin. Subsequently, as the Committee has stated in paragraph 256 at page 89 of its Report, the Portuguese established a settlement at the harbour mouth in 1502. The settlement was established on land granted by the then Raja of Cochin and both the Portuguese and their successors, the Dutch, paid to the Raja half the customs revenue realised by them at the port. For a time the British East India Company which succeeded the Dutch in possession of the settlement also paid a moiety of the customs revenue to the Raja, and, although for some years the Company obtained the Raja's consent to its ceasing to make this payment, the Madras Government, which had in the meanwhile replaced the Company, agreed in 1865 to pay the Raja half the net proceeds of the customs duties realised at the port subject to a minimum of Rs. 1,00,000, the Raja on his part undertaking to assimilate his rates of customs duty to those in force in British India. The State con-

tinued to receive half the customs revenue of the port under this Agreement until 1931, when, under the Four Party Agreement of 1925 between the Governments of India and Madras and Cochin and Travancore, the customs revenue was divided between the Government of India and Cochin and Travancore in equal shares.

5. Moreover, although it is unquestionable that the Raja of Cochin made a grant of land to the Portuguese and that the British have succeeded to that grant, the statement of the Committee in paragraph 257 (page 89) that "an important part of the lagoon comprising the harbour is also British" is by no means free from doubt. The actual extent of the British area in the waters of the port has in fact been in dispute between the Government of Madras and the State for many years and the Government of India have been requested to appoint a Court of Arbitration under the Government of India Act to decide the question. But even assuming that the decision of the Court is wholly unfavourable to the State four and part of the fifth of the existing seven moorings for steamers in the harbour are in undisputed State waters and the whole of the further development of the port will also be made within those waters.

6. In its origin therefore the port was not British but belonged to the State; and by far the larger part of the existing port lies within undisputed State waters. In those waters also the Port's further development will take place. This being so it is clear that the rights of Cochin in the port are not merely commercial rights which came into existence as a result of a mutual exchange of valuable considerations, but that they depend in part upon the sovereign rights of the State and in part upon the agreements of 1865 and 1925.

7. But apart altogether from treaty and sovereign rights there are practical reasons which render it impossible for the State to surrender its customs revenue if it is to continue to maintain its separate existence. These duties have formed an important part of the State's income for centuries and, at the present time, are one of the very few elastic sources of revenue which the State possesses. On the other hand, the population of the State has of recent years increased very rapidly and at the present day Cochin Kanayannur Taluk, in which the State part of the harbour is situated, is amongst the most densely populated rural areas in the world. The increase in population has inevitably resulted in a corresponding increase in the cost of administration and there is no reason to suppose that the limit either in population or cost of administration has been reached. On the contrary, there is every likelihood that the further development of the port will result in an even more rapid increase both in population and State expenditure. The port is in fact by no means a pure asset to the State; it is also a considerable liability. For the extreme density of population which exists in its neighbourhood is unquestionably due in part at least to the demand for labour which the trade of the port stimulates. Thus, while it is true that the State obtains revenue from the customs duties collected at the port, it is no less true that a considerable and increasing expenditure on administration is incurred as a result of the port's existence. Were the customs revenues to be surrendered the State would be left with the liability to provide for a large and rapidly growing population while it would be deprived of one of the very few expanding sources of revenue from which it could meet its inevitably increasing expenditure.

8. The facts of the situation may thus be summed up as follows: Historically the port belonged in its origin wholly to the State and for centuries the revenue derived from it has formed a substantial part of the State's income: geographically most of the port lies within undisputed State waters: politically the State enjoys its present share of the customs revenue under treaties and agreements: practically, it is impossible for the State to surrender the share of the customs revenue which it received because that revenue is almost the only flexible source of income which the State possesses and to forego it would be to surrender an essential means of meeting the increased expendi-

ture in which the further development of the port will itself involve the State. The surrender of the customs revenue would in fact almost certainly involve as a corollary the eventual termination of the existence of the State itself as a separate unit since the Government would not have at its disposal the means necessary for carrying on the administration. Anxious as His Highness the Maharaja and the people of Cochin are to join the Federation they would obviously have to hesitate to enter it on conditions which would necessitate the termination of the State's existence.

FEDERAL FINANCE.

(Memorandum by Sir Sukhdeo Prasad on behalf of the State of Udaipur, Jodhpur and Jaipur.)

REPORT OF COMMITTEE ON FEDERAL FINANCE.

Allocation of taxes on income (paragraphs 3 to 11).

1. In a previous statement made we have already expressed the view that Income-tax should in principle be a central source of taxation to be appropriated to:—

(1) The funding of pre-federation debt,

(2) Pre-federation pensions, and

(3) Subventions to deficit Provinces including new Provinces to be created, any balance being distributed to the Provinces.

But we are prepared to agree to the method of approach to the problem of financing the Federal Budget now suggested by the Committee since, in effect, the two proposals are materially the same.

2. We must however qualify this approval of the scheme before us by saying that the permanent allocation of Income-tax proceeds to the Federal Government must be a sum of not less than Rs. 8·25 crores and not less than 50 per cent. of the revenue collected under this Head. Further, that in addition to this permanent allocation, the Federal Government should retain out of the Provincial share of taxes on income a block amount, in order to ensure the solvency of the Federal Government, for a period of X years. The period X should, we consider, be a minimum of 10 years (we would prefer to see it fixed at 12 years), divided into two periods of five years (or six years); a gradual scaling down of the block amount being made during the second five (or six) year period.

3. The reason for making these two stipulations in accepting the scheme under consideration is that unless a substantial allocation from the proceeds of income-tax is made to the Federal budget, the effect will be to throw on the States a liability for pre-federation debt, pre-federation pensions and subventions to deficit Provinces, for which they clearly have no responsibility. We believe firmly in the principle that all units of the Federatin should contribute to the Federal budget on a uniform basis, but this principle does not extend to the acceptance of burdens which do not now and should not in future fall on the shoulders of the States. However generous some States may be prepared to be in order to assist in a solution of this federal financial problem, sight should not be lost of the fact that the financial resources of the majority of States are very limited. They do not possess the inexhaustible wealth sometimes attributed to them. For this reason the States, as a whole, though full of goodwill to bring about the plan of Federation, naturally desire to see themselves protected from undue burdens—burdens, which their financial position makes it impossible for them to bear.

4. We agree with the principle expressed in paragraph 9 of the Committee's report that the Federal Government should in emergencies have the right to levy for its own purposes additional tax on the heads of Income-tax permanently assigned to the Provinces and, as a corollary, that the proportional contribution on a determined basis should also be levied from the States.

Deficit Provinces (paragraphs 12 to 15).

5. We agree with the view expressed on behalf of the States in paragraph 12 of the report that any subvention to deficit Provinces should not fall on the States. To suggest that the States should contribute to any such subventions to Provinces naturally gives rise to the claim that might readily be made by States for similar assistance to provide for the administration machinery and public services they perhaps should have and would like to have, but which they cannot at present afford. We venture to suggest that the argument raised in the closing sentence of paragraph 12 of the report is hardly tenable in view of the fact that the permanent allocation of Income-tax proceeds to the Federal Government proposed is realised from sources which are not derived solely from residents from British India.

6. We desire to point out that the suggestion made in paragraph 13 to the effect that some portion of the revenue now derived from the export duty on jute and credited to central revenues should in future be credited to Bengal would only mean a further loss of revenue to the Federal Government to be replaced by some means unspecified. If effect is given to this suggestion it must be taken into consideration in determining the allocation of Income-tax reserved to the Federal Government.

Powers of Taxation (paragraph 16 to 18).

7. We agree with the Committee's observations and recommendations under this Head.

Emergency Powers of Federal Government (paragraph 19).

8. Similarly we are in agreement with the Committee's recommendations in the matter of Emergency Powers of taxation.

Borrowing Powers of the Units and Security of Federal Loans (paragraphs 20 and 21).

9. We also endorse the Committee's observations on the strength of borrowing powers of the Units and the security of Federal Loans.

Contributions and Immunities of the States (paragraphs 22 to 32).

10. In our previous statement we laid particular stress on the abolition of all tributes or cash contributions by States to the British Government before Federation is introduced for the reason, universally admitted, that payments of this nature are incompatible with the Federal idea. The Committee, however, on the grounds of financial expediency, recommends the gradual elimination of such payments instead of immediate abolition. We venture to suggest that arguments in favour of immediate abolition clearly outweigh the alternative proposal of gradual elimination. The question is rather one of equity than financial expediency.

11. We agree with the admission made by the Committee that some of the general recommendations made by the Davidson Committee require more detailed examination in their application to individual States; both in the matter of cash contributions and alleged immunities, as also on proposals affecting the existing commercial treaties or engagements in connection with the manufacture of salt. We assume from observations made in paragraphs 23 to 25 of the report that the particular States concerned will be given the opportunity of representing the views they hold on some of the Davidson Committee's proposals and recommendations, which I am asked to say on behalf of Jodhpur, that State is not prepared to accept.

12. We should also like to be assured that His Majesty's Government will consider before Federation comes into being certain territorial claims advanced by the States of Udaipur and Jodhpur which have not been dealt with by the Davidson Committee. We refer here to the Ajmer-Merwara villages and

the district of Umarkot. It may be true that the Government of India have in the past answered in a way representations made in this connection but the States have reason to feel that their claims have not received the impartial and careful examination they deserve and it would be a matter of great satisfaction to them if His Majesty's Government would be pleased to order a special enquiry to be made into these cases before the inauguration of Federation—for with the establishment of Federation the door will inevitably be closed for any further consideration of these matters.

Defence.

13. We desire to reiterate the remarks made in our previous statement on the subject of Defence, *viz.*, that the Governor-General should be given unfettered discretion not only in regard to military policy and the selection of his Military Adviser, but also in the control over Military finances. We cannot but agree with the general comments expressed by the Conference on the magnitude of military expenditure in the Federal budget and recommend a very careful examination of the demand with a view to a possible reduction consistent with maintaining the present efficiency of the Army in India.

14. Here we desire to add that when the control of the Army is eventually transferred to the Federal Government, we assume that adequate arrangements will be made whereby the Crown will be in a position to implement effectively the guarantees of security given to the States in their treaties.

15. In conclusion we desire to make one or two observations of a general character indirectly appropriate to the questions under review.

The States which I have the honour to represent hold the view that Paramountcy is a question quite apart from Federation.

With regard to the general scheme of Federation our views are well expressed in the words of His Highness the Maharana of Udaipur in his speech welcoming His Excellency the Viceroy to Udaipur on the 6th December, 1932.

His Highness said,

"With goodwill and hearty co-operation our Princely Order are earnest to evolve an All-India Constitution that may prove practicable and honourable to all concerned and bring lasting peace to my Mother Country. In framing such a Constitution, it is, I strongly feel, of prime importance to keep in view the fact that Paramountcy and Protection are linked. Another essential condition for joining Federation must be that the existing relations between the British Crown and the States should remain unaltered."

THE COMMUNAL AWARD.

Statement of reasons against its acceptance by the Hindus of the Punjab.

(Submitted by Pandit Nanak Chand.)

The so-called Communal Award, announced by His Majesty's Government through the Prime Minister on August 17th, 1932, has created great dissatisfaction and resentment amongst the Hindus of the Punjab, who are in a minority in that Province and who have been treated as if they were a majority community, inasmuch as they have not received representation in the Legislative Council of the Punjab even on their population basis, though, as a minority community, they were entitled to a weightage which the Muslim communities get everywhere where they are in a minority.

The special circumstances of the Punjab Hindus are such that it is difficult for the inhabitants of other Provinces even to grasp the significance of the Punjab Hindu point of view. The Punjab Hindus, since 1919, when there was great political upheaval in the Punjab and consequent attack by

Afghanistan upon India, have doubted the wisdom of allowing political excitement and fanatical religious movements to control the machinery of government, especially in a Province like the Punjab which has a great military and strategic importance. The Hindu Leaders in the Punjab have been endeavouring since then to counteract all tendencies towards disruptive movements, which may plunge the Province into bitter conflict between the Europeans and Indians, and they organised themselves into a political party called the National Reform Party. Indeed, in 1926 there was a serious trial of strength between Congress Hindus and the National Reformers at the time of the elections to the Punjab Legislative Council and the Legislative Assembly. Leading Congressmen of the Punjab contested many seats against the National Reformers, and it is a matter of common knowledge that the Congress candidates sustained serious defeats. Many of them, though the foremost men of the Congress, lost their deposits as against the Hindu Reformers.

In 1928, when the Statutory Commission was appointed, the National Reformers elected to co-operate and express their views, through a representative deputation, regarding political advancement. The Hindus of the Punjab maintained that they were not prepared to accept any reforms which were based upon communal electorates and communal considerations, unless the communities agreed to an advance without the recognition of communal or caste principle there should be no advance in India. This view was in 1929 placed before Mr. Wedgwood Benn, the then Secretary of State, by Pandit Nanak Chand. The view of the Punjab Hindus has always been that the settlement should be by mutual consent between the parties, and should not be imposed either by the Congress or by any outside authority. The people, who have to live together and work the Constitution together, are the proper parties to decide their differences and, if the majority community fails to give satisfaction to the minority, there should be no advance in any particular Province.

Therefore it will be abundantly clear that the outlook of the Punjab Hindus is essentially different from that of the Hindus in other Provinces. The Communal Award however makes no distinction between the minority Hindus of the Punjab and majority Hindus elsewhere.

The Communal Award is one-sided inasmuch as it grants to Muslim minorities special weightage in every Province where they are in a minority and ignores the claims of the Hindus of the Punjab and Bengal to similar treatment. Not only this, but as was stated above, the Hindus of the Punjab do not get their quota on their population basis which, as a minority community, they were entitled to.

The Communal settlement to be imposed by the British Government ignores the Pact of Lucknow of 1916, which was brought about by the two communities, Hindu and Muslim, when there was goodwill between them. So long as the communities could not settle their present difficulties in a similar atmosphere of peace and goodwill the old arrangement should have stood, even if the communal arrangement of separate electorates was to be accepted for the constitutional government of the Province.

The Settlement ignores the recommendations of the Statutory Commission which were entitled to the greatest weight, because the Commission had made extensive enquiries on the spot and the communities of the Punjab had put their case before the Commission without any reservation. The Commissioners dispose of the Muhammadan claim for excessive representation where they are in a minority and their claim for an absolute majority in the Punjab and Bengal in this manner,

> " The continuance of the present scale of weightage in the six provinces could not—in the absence of a general agreement between the two communities—equitably be combined with so great a departure from the existing allocation in Bengal and the Punjab.
>
> It would be unfair that the Mohammedans should retain the very considerable weightage they now enjoy in the six provinces and that

there should at the same time be imposed, in face of Hindu and Sikh opposition, a definite Moslem majority in the Punjab and in Bengal unalterable by any appeal to the electorate."—(Simon Commission Report, Vol. II, page 71.)

The Indian Central Committee which also toured India and made exhaustive enquiries along with the Statutory Commission, have made the following recommendations with regard to communal representation in the Legislature,

"In the Punjab we have followed for the two principal minority communities, the Hindus and the Sikhs, the same principle which we have applied to the Muslims in provinces in which they are in a minority. For the Hindus and Sikhs, therefore, in the Punjab we would reserve seats in joint electorates on a population basis or on voting strength, whichever may be more favourable to them, without prejudice to their right to contest other seats in general constituencies. The Muslims in the Punjab will then be placed on the same footing as the Hindus in all other provinces save Bengal and Burma."—(Report of Indian Central Committee, pages 42 and 43.)

Thus it will be clear that the two bodies appointed by Parliament did not recommend the giving of an absolute majority to the Muslims in the Punjab. No reason has been assigned by the British Government for giving the Muslims the excessive representation in the other Provinces and an absolute majority in the Punjab.

The Award is the result of anti-Hindu prejudice which has been created in the minds of the authorities by Congress activities, the non-co-operation movement, civil disobedience and other movements of like nature. Interested parties have described these as Hindu movements and have tried to blind British politicians by attempting to shew that the Hindus are an irreconcilable people who must be put down with a strong hand. It was ignored by the British authorities that the Hindu Leaders of the Punjab have stood by constitutional methods and have had the backing of the Hindu masses of the Punjab, as shewn by the election results of 1926. Indeed, they had co-operated with the British Government and relied upon them for the removal of their grievances.

The Award runs contrary to the very just and fair principle so far recognised by the Government, that the existence of separate or joint electorates must be left to the will of the minority community. The majority can in no circumstances claim that privilege. The Hindus as a minority feel that the absolute majority of a community based upon separate electorates—unchangeable, unalterable—is opposed to all canons of fair play and justice. Indeed, the history of Muhammadan rule in the Punjab, previous to the Sikh rule, shews how barbarous in its methods of conversion Muslim rule can be, with its conversions by bayonet, its prevention of freedom of worship by order of the magistrate, and its prohibition of the playing of music before Mosques. The history of the pre-Sikh days has been repeating itself throughout the Punjab in the last ten years. The Hindus of the Punjab are therefore naturally nervous that a religious, fanatical majority Muslim rule should not be based upon separate electorates, situated, as the Punjab is, close to the frontiers and close to Afghanistan and other Muhammadan countries. They have not forgotten the warning of Lord Hardinge in 1846 to the Administration of those days as follows,

"I am satisfied that the Mussulman population will be generally ready to make common cause against the British power, whenever any Afghan or Persian intrigues may afford the opportunity. This restless feeling was felt in the Deccan,—and to allow a Mohammedan power to occupy the Doabs between the Khyber Pass and the Sutlej would excite and revive Mussulman hopes throughout India. It is not desirable anywhere within our Indian Empire; but to permit it again to rear its head on our most vulnerable frontier, and in contact with the Mussalmans of Central Asia, would be a perpetual source of anxiety to the Government.

If this be so, the Government of the Punjab must either be Hindu or British."

Again,

"This entrance (the Khyber Pass) into India has always been the high road taken by every invader. A Hindu Government acting as our advance guard had for 30 years barred this entrance against all invaders. The very existence of such a Nation depended upon its success in subduing the Afghan and Mussulman population. A Hindu Government under Runjeet Singh fulfilled all these conditions without any expense or anxiety to us. The Punjab was so hemmed in by natural boundaries that it could never materially extend its power in any direction by conquest. Having conquered its Mussulman enemies, it had a natural and mutual interest with the British Government in resisting all foreign aggression from Central Asia, and so long as a Hindu Government could hold the 5 Rivers, it appeared to me the arrangement the best calculated to secure the interests of both Governments."—(Private letter from Lord Hardinge to the Right Hon'ble Sir John Hobhouse, M.P., September 2nd, 1846.)

The Communal Award ignores that the Muslim claim to special privilege and concession is based upon the fact that the Muslims are illiterate, economically backward, and liable to be misled and duped by clever people. Now when provincial autonomy is going to be conceded, will it not be politically most unfair and destructive of all good government to entrust the rule to a people, who, on their own shewing, are backward in every way?

The working of the Constitution based upon the Award is bound to set up an intolerant religious majority rule, and is bound to disturb the peace of the Punjab and make government difficult, if not impossible. And it will open the gates of India to invasion from the North-West Frontier, as was the case as recently as 1919.

The Hijrat Movement of 1920-21, when thousands of Muslims left their homes, sold their property and marched out of India towards Afghanistan, in the belief that it was wrong for a Muslim to live under foreign rule, and the invasion of Afghanistan in 1919 should not be lightly forgotten. Similar incidents are likely to take place in the near future, causing great disturbance and misery.

The Communal Award, as I have stated above, is the result of a misconception based upon incorrect facts and is bound to cause resentment in the hearts of those people who have stood by ideals of mutual goodwill and co-operation with Great Britain. It is clear that the British are driving all the Hindus into a hostile camp and are punishing friends because they cannot successfully put down political opponents.

It is not too late even now to retrace the steps. It is not wise to divide the country into hostile camps of Hindus, Muslims, Sikhs, Christians, etc. I have great admiration for the industry and interest which eminent British statesmen are exhibiting at the Round Table Conference. No man but will be struck by their keen and earnest desire to frame a Constitution for the further advancement of India. But the basis upon which it is sought to found the Constitution is wrong. It is neither national nor democratic. Hence it will not be for the benefit of the Indian masses. A Constitution based upon the Communal Award will be merely patchwork. It will not bring peace and happiness to India, but will divide the country into religious factions, warring with one another and thus plunging the country into civil discord at home and laying it open to warfare from outside.

LIST OF SAFEGUARDS.

(Memorandum by Sardar Tara Singh.)

1. There should be at least one Sikh in the Punjab Cabinet.

2. Out of the three members of the Punjab Public Service Commission one should be a Sikh.

3. This Public Service Commission should control services of the local Board up to a certain grade.

4. This Commission will secure a fair and adequate representation to the Sikhs consistently with considerations of efficiency and possession of necessary qualifications.

5. No legislative measure either social, religious or economic which discriminates against a minority community should be allowed to be introduced without the sanction of Governor and Governor-General. It should not be declared passed unless three-quarters members of the community concerned consent to it.

6. Religious liberty, management of places of worship, religious assignments, educational grants-in-aid and language should be guaranteed.

7. Sikhs should be given 5 per cent. representation (out of the British Indian quota) in central legislature.

8. There should be one Sikh on the Cabinet of the Central Legislature.

9. There should be one Sikh on the Central Public Service Commission.

10. Sikhs should be adequately represented on the Army Council.

11. The pre-war strength of the Sikhs in the fighting forces should not be reduced.

12. Sikhs should be given adequate weightage in Sindh.

27th December, 1932.

NOTE ON MEMORIAL SUBMITTED TO THE RIGHT HONOURABLE THE SECRETARY OF STATE FOR INDIA, DATED THE 25TH OCTOBER 1932.

(Submitted by Sir H. Gidney.)

This Memorial has been prepared and submitted to the Secretary of State for India for his careful consideration and has for its object the reservation of European education in India as a Federal Subject with special statutory powers to His Excellency the Viceroy to enable him to exercise, whenever the necessity may arise, the powers of certification vested in him in respect of any measure affecting the subject under the new Government of India Act which is at present engaging the attention of the Imperial Government.

The recommendations embodied in this memorial are as under:—

(1) That the financial control and the control of the Department of European education be vested in the Government of India with a special provision for the certification of any measure in respect of which His Excellency may deem the exercise of the powers reserved to him necessary.

(2) That a special All-India Department be created for the control of European education, under the Minister for Education, Government of India, and that a qualified officer, with practical experience of the educational needs of the community, be appointed as Director of European Education with a sufficient staff of European and Anglo-Indian Inspectors directly subordinate to him to administer to the needs of the several Provinces.

(3) That special provision be made for the unification of the Code of European Education, All-India, so as to obviate the existing anomaly of varying curricula for different Provinces and to give effect to the principle that European education in India necessitates a uniform standard, both of scholarship and of methods of instruction.

(4) That special provision be made for the inclusion in the curriculum of at least one of the vernaculars of India as a compulsory subject of instruction from the Primary Classes upward and that

the vernacular selected (which may vary according to the Province in which the Institution is situated) replace one of the modern European languages now included in the curricula.

(5) That special provision should also be made for the employment of qualified Anglo-Indians and Domiciled Europeans in the superior staff of the various schools provided for the education of the community and that the claims of Anglo-Indians and Domiciled Europeans should—other conditions being equal—be considered preferentially in making these appointments.

(6) That adequate provision should be made for the inauguration and maintenance of Colleges and Schools planned and equipped for the training of both sexes of the community for Teacherships and more particularly to qualify them to fill the important positions of Head Masters and Head Mistresses, on equal terms with Europeans who have hitherto been recruited overseas on the ground that talent available in India lacks the necessary training.

I have submitted these recommendations with a specific representation of the grounds on which they are based which are reproduced below:—

(1) & (2) That unless the financial and administrative control of European education is vested in the Central Government and the Viceroy possesses special power of certification, there is grave reason to apprehend that the Grants-in-Aid voted for the purpose will be subjected to a systematic process of being whittled down by the Provincial Governments and Legislatures, and it is easily conceivable that, with the preponderance of majority community representation in the Provincial Councils, State Aid for European education will, within the very first decade of the grant of Provincial autonomy, be reduced to a negligible factor in its relation to the actual educational needs of the community and in comparison with expenditure in other directions.

It is of almost equal importance that the control of European education should be centralised for administrative purposes other than finance. It is essential that the methods of supervision should be co-ordinated; it is equally essential that the Inspectors employed should be released from the burden of office work, which is inseparable from Provincial control and that they should be entirely free to exercise their supervisory functions and to maintain a much closer touch with the schools under their control than obtains to-day under dyarchical conditions. A point of considerable importance made by Mr. Hammond is that the scheme of centralization will, on its adoption, effect a considerable saving in cost of establishment and that this saving will be sufficient to cover the salary of the Director of European Education.

(3) The recommendation in regard to the unification of the Code of European Education is supported by an overwhelming mass of material considerations, each of which is of importance in itself. The majority of these considerations are purely educational and, as such, can be most fittingly dealt with by an educationalist and have been dealt with in detail by Mr. Hammond in the memorandum submitted to the Secretary of State for India.

I need not, therefore, reiterate these considerations in general, but there is one that has an economic or *quasi*-economic aspect, and to this I crave the liberty of a brief reference. The anomaly of varying curricula in the different Provinces imposes a very substantial hardship upon the community, who are largely migratory, owing to the exigencies of the public services in which they are employed. In consequence of the frequent transfers from Province to Province to which they are liable, coupled with

the differences of curricula between Province and Province, the education of their children is necessarily disjointed, and, therefore, unsatisfactorily and not infrequently imposes an additional financial burden of no inconsiderable weight upon the parents.

(4) The recommendation in respect of inclusion in the curriculum of one of the vernaculars as a compulsory subject also has an important bearing upon the economic welfare of the community. At present children of Anglo-Indian parentage, although born and bred in the country, more often than not attain maturity without a literate knowledge of any of the many vernaculars of the country and with scarcely a sufficiently colloquial knowledge to carry on a sustained conversation. This, involving as it does an inability to make themselves intelligible to the Indians with whom they are in constant contact in their daily avocations, constitutes a most serious handicap in after-life, and it is emergently necessary that this disability should be removed.

(5) & (6) These recommendations are so closely akin as to be incapable of separate consideration. In this connection also we are presented with a glaring anomaly in the system of education applied to the Anglo-Indian community. No other community in India—it is almost safe to say no other community in the world—suffers the education of its children to be conducted and the more important and highly paid situations in their communal schools to be filled by men and women who are not of their own community and who are recruited from overseas sources, generally at very much higher salaries than would be gladly accepted by men and women of the community directly concerned and which in turn helps to increase the cost of European education; yet this is actually the case with the Anglo-Indian and Domiciled European community. It is urged by some that this state of things is the logical outcome of a scarcity of Anglo-Indians and Domiciled Europeans possessing the necessary educational qualifications; but I maintain, with due deference, that there is plenty of first class indigenous (Anglo-Indian) talent available, but neglected in favour of the overseas European Head Master, and that if there is a paucity of trained teachers in the community, the defect should be remedied by the establishment of additional Training Schools and Colleges to ensure a supply commensurate with requirements.

I now desire to appeal to every member of the Round Table Conference to consider the subject-matter of this memorial in the light of all the information I have furnished and very sincerely trust that they will both individually and collectively accord to me and to the community I represent the full weight of their support in order to enable me to attain the object in view.

STATUTORY ECONOMIC PROTECTION IN THE GOVERNMENT SERVICES.

(Memorandum by Sir Henry Gidney.)

I.—Introductory.

This Memorandum is submitted with the permission of the Rt. Hon. Lord Sankey, Chairman of the Third Round Table Conference, who at the concluding session of the 3rd Round Table Conference requested any delegate who so desired, to submit a Memorandum on behalf of any matter which he considered required further enquiry. It is because I feel the necessity of further emphasising the great danger which faces the economic future of the Anglo-Indian Community unless it is statutorily and adequately protected, that I have taken advantage of this offer.

Before dealing with the various aspects of this problem it is necessary to make a few general observations, each of which has a direct and important bearing on the economic future of the Anglo-Indian Community, and the demands contained herein.

II.—Military services.

The military services rendered by the Community to India and the Empire during the John Company period are also to be found writ large on every page of Indian history. In every book on the Indian Mutiny will be found chronicled the great and abiding services rendered by the Anglo-Indian Community, and how heroically they helped the Britisher to retain India; indeed the military services rendered by the Community during this period were such that the then Metropolitan of India—Bishop Cotton—in his sermon in St. Paul's Cathedral, Calcutta, on the 28th July, 1860, recommended that public thanksgiving "to Almighty God for deliverance from the Sepoy revolt" should take expression in the form of the establishment of Schools for the children of the Community "that had stood so nobly by England in her hour of need, and who had shed their blood for their kinsmen across the seas" and with which the then Viceroy of India, Lord Canning, joined "con amore".

Moreover, during the past great War, the Community gave 80 per cent. of its manhood in almost every theatre of war, a record unparalleled by any other community in the Empire; while its women were employed in hundreds as Military nurses. Within the past few years, during the recent Civil Disobedience Momevent, the Community which forms three-quarters of the Indian Auxiliary force, helped largely to maintain the peace and tranquillity of the country. The Anglo-Indian is however to-day denied admission into the British Army on account of his origin, although during the past Great War, thousands of our young men were freely enlisted into the British Army, and, even to-day, there are about 1,000 of them still serving in the British Army. The community is also denied admission into the Indian Army, lest it disturb the class homogenity of that Force. But the most cruel and unjustifiable charge that has been levied against the Community is to be found in the refusal by the Army authorities in India to recognise the Community as one of the martial classes of India, notwithstanding its past great military record during the John Company time, the Indian Mutiny, the past Great War, and also the meritorious and loyal services it rendered in the old Volunteer Corps, which gave birth during the war to the Indian Defence Force and which, to-day, is called the Indian Auxiliary Force, and forgetful of the great soldiers and leaders the Community has produced and the fact that it was two Anglo-Indians, who rendered such conspicuous service during the Great War,—Lieutenant Robinson, V.C. who brought down the first German Zeppelin in London, and Lieutenant Warneford, V.C. who brought down the first German aeroplane in the battle fields of France. I am, however, told that the chief practical difficulty which prevents the Army authorities from creating an Anglo-Indian Unit is that the Anglo-Indian cannot exist on the same pay as does the Indian Sepoy, and therefore, it would necessitate the introduction of a third rate of military pay, to which the Government of India thinks there would be serious objection from the Indians. This is correct, but if it is the intention of the Government to reduce the present strength of the British Army in India, I would respectfully suggest that it would afford an ideal opportunity for the creation of either an Anglo-Indian Unit or one or two A.I. Batteries of Artillery, and so give to the Community an honoured position in the defence of its own country, and which is, to-day, denied to it except service in the Auxiliary Force.

III.—Civil services.

(1) There is no doubt that the Anglo-Indian Community has materially helped to lay the foundations and to build up, maintain and develop,

to their present states of efficiency, the various utility and revenue bearing Services of the Government of India. The privations endured and the dangers to which these pioneer workers exposed themselves in the early days of the development of India's industrial communications, when very few loyal and efficient workmen were available, form a notable chapter in the past history of India, which must be read to be really appreciated, and, if possible adequately assessed at the present time, when our need is so urgent and our reward has been fully earned. And we feel that we would not be exaggerating the case if we were to state that, had it not been for these pioneer Anglo-Indian workers and their loyal and steadfast service in those days, as also in the immediate past and present, when Government has been faced with many economic and railway crises, the revenue from the trade and industries of India, would not be at the high level it is to-day. We go further and affirm that not only the revenue which the Government of India receives from the Customs, but also the immunity the country has enjoyed from the chaos and dangers associated with the promiscuous importation of arms and ammunition, has largely been due to the honest, loyal and efficient services of the Anglo-Indian community employed in the Customs Service, which Service was, until as recently as 1921, entirely manned by this Community.

The same can be said with equal force and value in regard to the services rendered by the Community to the Railways and Telegraphs—indeed history will bear us out when we say that it was an Anglo-Indian Telegraphist—named Brendish—who, by heroically remaining at his post of duty in the telegraph office at Delhi during the Indian Mutiny, was able to dispatch that famous telegraph message which saved the Punjab for the British Empire.

It is said the Indian Civil Service have made India: this no doubt is true, but not a single Indian Civil Service Officer will deny that his success has, in a large measure, been due to the spade and research work performed for him by his Assistant Secretaries, Registrars, Superintendents and other clerical staffs of the Government of India and the Provinces, the majority of which appointments have, until lately, been held by the Anglo-Indian Community, and who therefore can rightly be called the pillars of the basement floor of all Government edifices of to-day,—men who by their loyalty and steadfastness, have helped the Indian Civil Service to build up the Civil Services of India to what they are to-day, but whose only reward is replacement in these offices by Indians.

(2) *Effects of Indianisation of the Services.*—Time was when the Anglo-Indian and Domiciled European Community held a large percentage of most Government appointments, particularly in the Provincial Civil Services (both Executive and Judiciary) as also in the Government of India and the Provincial Government offices, in the Salt, Opium, Post and Telegraph, Railways and Customs Services, etc., but, since the operation of the present Reforms and Indianisation of the Services, the community has been gradually but surely squeezed out of these services, while in some Departments not a single Anglo-Indian is to be found to-day. As an instance of this, authentic records show that within the past few decades the percentage of Anglo-Indians in the clerical staff of certain Government offices has been reduced from 90 per cent. to 18 per cent. while that of Indians has increased from 1 per cent. to 81 per cent. In the Provincial Civil Service, the percentage of Anglo-Indians has decreased from 35 per cent. to 3·5 per cent., while in the Provincial Judiciary Service, it has been reduced from 29 per cent. to 0. In the Customs Service the reduction during the last 10 years has proceeded at such a pace that, unless it is checked, there will be no more Anglo-Indians in this Department within the next 20 years. In the Postal Service in which the Community has for many years played a very important part, very few, if any, Anglo-Indians are to be found to-day. As regards the Telegraph Service, entrance into

this Department has been rendered so difficult by means of recent competitive examinations, that the door has been all but closed to the community.

There can be no doubt that the word "Indianisation" is being interpreted as employment for Indian-Indians only, and not for Anglo-Indians, indeed a study of the Budget Debates in the Legislative Assembly, and the various speeches made by the opposite Benches, will prove beyond doubt that certain sections of Indians look upon the Anglo-Indian as much an alien as he considers the European to be, and, although we have Statutory economic equality, he refuses to recognise, such as our claim for employment in Government Services.

Moreover, the Anglo-Indian community is the only all-India community in India. It has such a peculiar setting in every Province in India that it can claim no Province as its birth-right, and, therefore, cannot ask any Provincial Government for communal protection—indeed, nine-tenths of the community are employed in the Government of India Services which *ipso facto* places our economic protection as a direct charge and responsibility on the Government of India. Moreover, from every Province comes the demand for exclusive indigenous employment and the incessant cry one hears to-day of "Behar for the Beharis". "Punjab for the Punjabis", "Bengal for the Bengalis", etc., while it benefits the Indians, sounds the death knell of the Anglo-Indian community, who being as it were nobody's child, is in consequence the chief sufferer by being denied the right to live.

(3) *The Montagu-Chelmsford and the Simon Commission Reports.*—Although these reports recognised and recommended important concessions and privileges to other communities of India, they gave the Anglo-Indian community nothing but pious expressions of sympathy and goodwill, and left its future at the mercy of the larger communities, and the benevolence of Government and its Ministers.

Notwithstanding the fact that the Instruments of Instructions contained in the Government of India Act of 1919 gave to the Governor-General and Governors specific powers to protect the interests of minorities, yet, on not one occasion has this power been exercised, although the Anglo-Indian community has frequently represented its grievances to the various Governments.

(4) *Our status refused recognition.*—It is well known that by an Imperial Statute—the Indian Councils' Act of 1870, 33 Vic. Chapter III—the community is given the positions if "natives of India by Statute" and as such it has an equal claim with other communities for employment in all Government Services. The community has been urged to admit, recognise, and demand this status, and we have never lost an opportunity to advise them accordingly, but it is one thing to ask and another thing to receive, for, whenever we have demanded our economic rights in the Legislative Assembly as "natives of India by Statute" the opposite Benches of the House have flouted our claims and have made the community clearly to understand that it is not included in the term "Indianisation".

(5) The insistent demands of the majority communities accompanied with threats of strikes or reprisals in the refusal to co-operate with the Legislatures, have had so irresistible and compelling an effect on the Government and its various officials, that the Anglo-Indian community, which is not only numerically weaker, but is very inadequately represented on the Legislatures, has been and is being used by Government as a common sacrifice on the altar of political expediency, in its efforts to satisfy the demands of other more clamorous and powerful communities. The cumulative effect of this has been that, while in 1921, before the Montagu-Chelmsford Report began to operate, there were less than 1,000 unemployed Anglo-Indians and Domiciled Europeans in India, to-day, after a decade of the Reforms and the introduction of Indianisation of the Services, nearly 15,000 or more than one-third of the total able-bodied men of the community are unemployed and roaming the streets in quest of food.

The tragedy of the situation is that a decade ago our cry was "Give us this day our daily work" to-day our every morning prayer is "Give us this day our daily food"!! But the most distressing feature of our present economic tragedy is to be seen in the hundreds of young men and women who are annually leaving our excellent European Public Schools in India, well educated, well developed, keen sportsmen (it was men of this type who formed three-quarters of the first hockey team who beat the rest of the world at Olympia) who are unable to secure employment anywhere and at any price. This is the toll that one decade if the Reforms and Indianisation has extracted from the community.

(6) Our position has been gradually going from bad to worse and our complete economic disaster has hitherto been avoided only by the exercise of special favours from the Government in the shape of confidential orders to officials to safeguard, as far as is possible, our interests and by the benevolence of some sympathetic officials, but of late the cry of Indianisation has been so loud and insistent that even these marks of favour are being denied the community.

(7) *Prejudicial effect on community to-day.*—With the present retrenchment and economy that is being practised in every Government Department, it is well known that no new appointments are being created, but it cannot be denied that every additional appointment that is to-day given to an Indian is taken away—(indeed it must be so) from either a European or an Anglo-Indian, and, so, in this way the community is being deprived of the right to live, and will soon altogether disappear from Government employment.

(8) *Government of India's apprehension.*—The Government of India, to whom we are grateful, have, however, found the political pressure exercised on them by the larger communities so great that they now find themselves wholly unable to guarantee any further economic protection to the Community, especially to those employed on the Railways. This admission is to be found on page 169 of the Government of India's Despatch on proposals for Constitutional Reform, dated 20th September, 1930.

> "The Anglo-Indian Community has in the past rendered very important services to the Railways and still holds a large number of posts in particular branches of railway work. The economic life of the Community is indeed to a large extent dependent on the opportunities of employment which the railways offer, and its numbers are gravely apprehensive of what may occur, if and when any change takes places in the present system of administration and control. In view of the history of the community, *a special obligation we think, rests upon Parliament*, before relaxing its own control, to ensure, as far as may be practicable, that the interests of the Anglo-Indian Community are protected."

(8-A) *Round Table Conference apprehensions and recommendations.*—The Services sub-Committee of the first Round Table Conference, in a manner, also recognised our apprehensions and admitted the special position in which the Anglo-Indian Community was placed in regard to employment in Government services and recommended that special consideration be given to our claims. The resolution was as follows:—

> "The sub-Committee recognises the special position of the Anglo-Indian Community in respect of public employment, and recommends that special consideration should be given to their claim for employment in the services."

This resolution was unanimously passed by a Committee largely composed of Indian Delegates, and is a most significant admission and recommendation. It may be said this recommendation is nothing more than a pious resolution, but we submit it has the official seal of recognition of a special Committee of the Round Table Conference and as such, cannot be overlooked either by this Conference or Parliament or by the official draftsman

when he is drawing up the new constitution for India. We also understand that this Conference cannot deny or go behind the resolution passed by the previous Conference. We, therefore, submit that if the Indian Delegates are prepared unanimously to offer us special protection, to our mind there can be no difficulty in the drafting out and the incorporation into the constitution of a special clause, granting us the protection we seek.

(9) *Treaty or Crown obligation.*—In this connection it must not be overlooked that the assurances of economic protection given to the Anglo-Indian Community by the Government of India, successive Viceroys and Great Britain have been so many and so consistent as to have assumed the force and value which is rightly attached to a Treaty obligation. Indeed the assurance given to the Community by His Royal Highness The Prince of Wales and Heir-Apparent to the British Crown, places this protection on a much higher plane, *i.e.*, a Crown obligation, as evidenced in the reply His Royal Highness gave to the Anglo-Indian Deputation that waited on him in India.

> "Gentlemen, you may rest assured that I now understand the conditions under which you live in India, and the useful and honoured place which you fill as citizens of the Indian Empire. Your aims and aspirations have my sympathy. Your devotion to the cause of India, the land in which you live, and your desire to maintain an honoured place for her within the Empire, do you credit. I shall watch the progress of your Community with the closest attention. You may be confident that Great Britain and the Empire will not forget your Community, who are so united in their devotion to the King-Emperor and who gave such unmistakable tokens of their attachment to the Empire by their sacrifices in the War."

(10) *Comparisons.*—During the three Round Table Conferences, the various communities which go to form India, have each, in turn, presented their demands for consideration, with the results that the Muslims have been given 33⅓ per cent. of the seats in the Central Legislatures communal electorates with an almost statutory majority in the Provinces of Punjab and Bengal, indeed it has been given almost all the 14 points embodied in Mr. Jinnah's demand. The Depressed Classes have been given almost all they desired, and Government has accepted the Pact recently entered into between them and Mr. Gandhi, which has given them twice the number of seats in the Legislatures as was allotted to them in the Prime Minister's Communal Award. To the women of India have rightly been given extended franchise, and special representation in the Legislatures, as also special electoral qualifications.

Labour has been promised additional representation in the Central Legislatures and special constituencies. The demands of the Landlords and the Universities have also been satisfied. Other claimant sections of the people have been granted their requests, *e.g.*, the creation of the North-West Frontier Province, the separation of Sind, and, in all probability, the separation of Behar. Europeans have not only been granted protection of their commercial and trade interests, but their Jury and other rights. The Liberal and Moderate Parties have not only been promised a large share of responsibility in the Centre, but a closer association in the defence of India. These have been detailed not in the nature of a complaint but as a comparison and I feel bound to ask against all these concessions given to other Communities what has the Round Table Conference done to satisfy the demands made by the Anglo-Indian Community, who to-day stand more in need of statutory protection than any other community in India? It cannot be denied that except for pious expressions of sympathy and goodwill nothing material has been done for it, though in making this statement, I feel I must admit with gratitude the acceptance by the Round Table Conference of the Irwin report on Anglo-Indian Education, but in doing so, we cannot help but ask of what value is this concession to the education of our children, if their parents are deprived of their employment and the

right to live because, it cannot be denied that the education of the child is entirely dependent on the economic security of the parent.

IV.—Protection Claimed.

We have detailed these indisputable facts as a preamble to our demands, with a desire to place before the authorities, in a brief and concise manner, the services rendered by the Community to the Indian Empire, the serious disadvantages under which it labours owing to Indianisation of the Services, the apprehensions which it entertains and its precarious position in the New India, and so to justify our claim for economic protection if only for a limited period of years from the date of the operation of the New Constitution.

Under these circumstances it is only natural that the Community should look to the Government of India, and through it to the Secretary of State and the British Parliament, for protection of its economic interests. It feels that hitherto the powers that have been given to the Governor General and Governors to protect their interests have been used very sparingly. The Community also feels that if these powers are merely to be repeated in the Instrument of Instructions, they will be of very little material value because with the grant of Provincial Autonomy and responsibility in the Centre, the Departments in which the Anglo-Indian Community are employed, will be placed under the complete control of the various Ministers and it will be against the principles underlying Provincial Autonomy and responsibility in the Centre for either the Governors or the Governor General to interfere with the day-by-day administration of any of the Services, and this is precisely what will have to be done if the few appointments to-day held by the Community are to be statutorily protected. After all, we are not asking for the impossible, all we want is the protection to the Community of these 25,000 appointments compared with the millions held by Indians, but which to us mean our very existence.

Our claims are:—

(i) We look upon the economic future of the community as a joint responsibility on every Englishman and every Indian and who, in turn, are the co-Trustees of that responsibility.

(ii) The Anglo-Indian Community seeks statutory protection not only of its economic interests, but to be afforded an opportunity to serve the future India as loyally, as efficiently and as conscientiously as it has laboured for the past India.

(iii) We apprehend and we feel sure this apprehension is shared by many other Communities that for the next two or three General Elections, the Congress Party will be returned to the Legislatures in an overwhelming majority, and we have grave reasons to believe that they do not entertain sympathetic feelings towards the needs of the Anglo-Indian, especially his employment in the various services, and which constitutes the very existence of the Community. It is to protect the community during this period that we claim adequate Statutory economic safeguards.

(iv) But if the New Constitution cannot grant us this Statutory protection, the Community feels it is entitled to look to the British Parliament to grant this protection, at least for a limited period of years.

(v) Failing this, and after the repeated assurance of economic protection which have been given to the Anglo-Indian Community, and which amount to a "Treaty obligation" or an obligation on the part of the Crown, we humbly and respectfully submit to His Majesty that he will be graciously pleased to ordain some means by which this section of His most loyal and devoted subjects are protected, and that they be given the right to live in the land of their birth and in the service of a country which they have materially helped, along with their English forebears, to build up to its present position of prosperity.

(vi) In conclusion we submit that if this appeal to the peoples of India and to this Round Table Conference fails to secure us Statutory Economic

Protection, we desire to place our claim on a higher plane, that of a moral obligation on the British Parliament and the British Nation who called us into being, and whom we have served for centuries with a sense of loyalty, of patriotism and of efficiency, difficult to parallel in the British Empire, remembering always that, if, in our allegiance and our loyalty to the British Empire as outlined in this note, we have been so unfortunate as to estrange the goodwill of the Indian to such an extent that our economic demands have come to be scrutinised with zealous vigilance amounting, at times, to open hostility and a desire to deprive us of the right to live, the Government and the British Parliament, who are the successors of the East India Company, cannot to-day, when it is handing over that Government and control, disclaim all responsibility nor can it repudiate the claims of the Anglo-Indian Community to legislation that will effectively guarantee their future, and that such protection be placed beyond dispute or challenge.

It is said that the Reforms were given to India as a reward for her services during the Great War. We ask, is expropriation of our employment and the refusal of the right to live in our country India the only reward for our unparalleled services during the War? Is India's gain to be our loss? Does India's destruction connote our destruction and does the regeneration of India mean the degeneration of the Anglo-Indian? Surely no one desires this and yet this is exactly what will happen to the Community unless its economic future is adequately statutorily protected.

27th December 1932.

DISTRIBUTION OF SEATS AND THE METHOD OF ELECTION OF MEMBERS IN THE PROVINCIAL LEGISLATIVE COUNCIL UNDER THE COMMUNAL AWARD.

(Memorandum by Mr. N. C. Kelkar, Pandit Nanak Chand and Sardar Tara Singh.)

We, the undersigned, members of the third Round Table Conference wish to enter our protest against and criticism of what is known as the Communal Award, announced by the British Cabinet through the Prime Minister on the 17th August last. And we further desire that this protest should go on the record of the Round Table Conference as a protest on behalf of the Hindu and Sikh Communities in India.

Since the publication of the "Award", the Hindu Community in India has expressed its opinion upon the Award through the Press and on the platform, while resolutions of constituted bodies and associations, who each in their own sphere may be taken as representing the Hindu mind, have uniformly criticised the Award as greatly adverse to Hindu interests. And now that the Indian Round Table Conference is holding its final session, we cannot allow the decision of Government, on the Communal questions, to be recorded, without the opinion of the Hindu Community also going on record along with it.

We fully recognise that since the Indian communities could not come to an agreed decision, embodying a settlement of their respective claims to representation on the Legislatures and the method of election to them, it became inevitable, under the circumstances, for Government to take up the matter into their own hands and give such decision as they thought proper. Nor do we wish, in the slightest degree, to throw doubt upon the motives of Government in giving their decision. But for all that, the Hindu Community is, we think, entitled to express its opinion of the effects and the consequences of that decision to their interests throughout India generally and in special respects in particular provinces.

Before, however, proceeding to that topic, we would make a few brief observations here about the real causes underlying the apparent hopelessness of agreement between the Hindu Community and the largest minority in

India, *viz.*, the Muslims. It is indeed true, as observed by the Prime Minister in his speech at Portsmouth on the 19th November last, that "whether in industrial or in international affairs, if the parties met with good-will in their hearts, how easy it would be to come to an agreement. But when you meet with suspicion, with history that ought to have been dead years ago, generations, centuries ago, when that left in their hearts a rankling, poisoning of the spirit, what a task coming to agreement was!" The same description, which so aptly applies to the communal trouble in India, is not without its counterpart to a greater or less degree in the history of every other country. The duty of any third party, observing the conditions in India, should be to adjudicate fairly between the different communities. The British Government, installed in India as they themselves profess and avow to be, for holding the scales evenly between the different communities, have a responsibility to look after the interests entrusted to them with strict impartiality. Had that been duly fulfilled, there is reason to believe that the communal conflict would not have taken such an acute form. In any case, when sitting down to arrive at a decision on this difficult question, the Government might well have taken the following points into their consideration:—

(1) The conflict between the Hindu and the Muslim interests was the same before 1916 as it is to-day. Yet it is on record that at the Lucknow Congress, in that year, the Hindu and the Muslim leaders came to a unanimous agreement and cleared the path for what is known as the Congress League Scheme of political reform. The British Government accepted it as a legitimate basis for an official scheme of representation of the two communities in the Indian legislatures. If the Government really puts so much store by a unanimous communal agreement then they should have said to the communities, "Here is an agreed pact in operation and we shall not allow it to be disturbed except by another pact similarly agreed to". The Hindus are aware that the Lucknow pact conceded special electorates to the Muslims, and also weightages to safeguard the interests of the Muslim minorities in all provinces; and their revised demand for joint electorates could very properly have been refused, if the Lucknow pact held the ground.

(2) Since the pact was denounced by both sides, a new situation had arisen in which the Government might have taken up the matter in their own hands but in the spirit of a real impartial arbitrator, they might have applied to the case of Indian minorities the principles which the League of Nations has successfully applied in solving the problems of the European Minorities in their charge. The responsibility of the League of Nations, for the protection of minorities in her charge, could not be regarded as less onerous than that of the Indian Government in relation to the Minorities in India. Surely the claim of any minority in India for protection of its interests could not go beyond the preservation in their integrity, of their mother-togue, culture, customs, manners and religion. The rules framed by the League, in this respect, are reasonable and adequate for the purpose.

Instead of doing any of these things, the Government have taken upon themselves the grave responsibility of giving a decision which strikes at the very root of a sound framework of polity, which it is their purpose to raise by a Parliamentary Statute.

Apart from these considerations the more poignant regret which the Hindus feel arises from the fact that the failure on the part of the two great communities, to come to a settlement on communal issues, is being obviously exploited, for refusing the claims of the Indian nation at every turn, on matters connected with crucial political issues relating to the transfer of power and responsibility from the British Parliament to the Indian people.

Would the Government, we wonder, accept a sporting offer, if it were made by the Indian nation? Would they grant by a Parliamentary Statute, the kind of self-Government India asked for if a settlement were arrived at by the Hindus and Muslims? Would they do this without making any change whatever, as they did in the case of South Africa, where the problem for solution was not less difficult than in India, owing to the conflicting interests between three or four colonial units? We invite the British Government to reply to this question.

The so-called Award can be impeached on many grounds. We enumerate only a few. The provisions in it have conceded special electorates not only to Mahomedans who demanded them, but also to Anglo-Indians, Indian Christians and even Indian women who never asked for them. It goes beyond even the recommendations of the Simon Commission, which did not propose to give an assured majority in the legislatures for majority communities in the provinces, nor special electorates for Depressed Classes or Indian Christians. It exceeds the demands put forward even by the official Muslim controlled Government of the Punjab in the interests of the Muslims, for whereas an excess of two seats was suggested by the British Government for Muslims over Hindus, a majority of nearly 10 has been conceded by the Award. If the Government were of opinion that minorities really should be given representation according to the population basis, then they should have done for the Hindu minorities in different provinces what they have done for Muslim minorities. But they have done injustice to the Hindu minorities alone in Bengal and the Punjab.

The Award thus cannot be justified on any common principle of fair dealing. The Award makes it impossible for the legislatures in any province effectively to control the Executive Administration. Under the Award group would be set up against group. Patronage would do its destructive work And the Government would be able to manipulate the see-saw of political power so that the result would be in their favour.

It would be tedious to go into more than a few details and comparative figures in order to show how injustice has been done to the Hindus in each province, either by the grant of separate electorates or excessive weightage. Those we give are indicative of the whole tendency of the Award. The general effect, it is now acknowledged on all hands would be as we have indicated above. Surely a civilised Government like the British Government cannot be said to have realised and fulfilled its responsibility in laying the foundation of a political state and Democratic Government, by such an Award.

In the Punjab the Hindu minority is not given representation even according to its population basis, not to speak of the weightage. The Punjab Hindus are a wealthy and influential community and contribute a very large share of Government revenue of the Province. With Joint Electorates and Free Election they might have been able to overcome some of their disabilities due to an assured Muslim majority. But the separate electorates and statutory majority for Muslims make this impossible.

In Bengal the Hindu Community is the main-stay of the province in point of education, culture influence and wealth. It was to be expected, therefore, that these considerations would be taken into account in fixing their representation in the Provincial Council. This has not been the case.

In the Central Provinces, the Award gives to Mahomedans even a larger share of representatives than was recommended by the Simon Commission.

In the United Provinces, the Hindus had a grievance with regard to the weightage of Muslim representation even from the time of the Lucknow Pact. The Award, far from redressing the grievance, perpetuates it.

In Bombay, separation from Sind would reduce the Mahomedan population to a very small fraction; and consequently the weightage given to them becomes very excessive. The separation of Sind, where Muslims will be a dominating majority, when coupled with weightage given to Muslims

in the Bombay Presidency, so separated from Sind, constitutes a double wrong.

For all these reasons we hope Government will look more closely, than they seem to have done, into the equities and inequities of the Award which they have given. Obviously they have power to revise their Award, if they feel convinced that such revision will enable them to put the Award on a fairer and juster basis.

23rd December, 1932.

SPECIAL REPRESENTATION OF LANDHOLDERS.

(Memorandum submitted by the Raja of Khallikote.)

Representing the Landholders of India, I feel it my duty to place before the Conference and His Majesty's Government the case of the Landholders regarding special representation in the Legislatures—Central and Provincial. I need hardly say that the proposal of the Indian Statutory Commission was made under a grave misconception of facts as the Commission failed to make any distinction between Permanently Settled Estates held under Sanads and Landholders who hold property under tenures different from theirs. I further submit that the conclusion was arrived at without realising the fact that the community whom I represent is an asset upon which the Government of the country has always drawn and which can be relied on for rendering loyal co-operation. Zamindars do not wish to come in through the back door of nomination. The Landholders as a class stood by the Government at all times of necessity and their loyal service to the British Crown has been unquestioned. While the intelligentsia have been luke-warm in their support, the Zamindars wholeheartedly co-operated with Government and worked the difficult constitution that was given for about the last twelve years. Is there any reason for denying their just rights? The Government of India's Despatch on constitutional reforms and all Local Governments strongly supported the just claims for special representation of Landholders.

In Madras, the only constitutionalist and organised party that has worked the constitution owes its existence to the support and untiring efforts of the Zamindars. The Landholders of India pay about 44 per cent. of the total Land Revenue to Government. They have a great stake in the country and are anxious, not only to maintain a steady and stable Government, but that India should progress steadily on constitutional lines to achieve her legitimate goal of responsible self-government.

The Franchise Committee, while recommending the existing special representation of Landholders, did not realise the necessity for their increased representation in proportion with the increased representation of other interests and the expansion of the Legislatures based on an extended franchise. It is essential, in the circumstances, that the Landholders should have more adequate representation. In certain elections a few Landholders have been elected through general constituencies but their success is not due to the fact that they are Landholders. It was due entirely to their merits and experience in the Local Board administrations. Landholders elected through general constituencies cannot truly safeguard or support the interests of Landholders in the Legislatures. It is getting more and more difficult for Landholders to succeed in general constituencies even in their capacity as Local Board administrators. The tendency of the present times is to create controversy between the interests of Landholders and tenants. Persons pledged to champion the cause of the tenants against the vested rights and interests of Landholders are more likely to succeed in the present day politics of India, and instances of this have already occurred. Therefore, there is great need to have adequate and effective representation of Landholders.

In the Madras Council there are only six Landholders' representatives, in the true sense of the term, out of a total strength of 132, and it is proposed to maintain the same representation even in an enlarged house of 215. This very small and disproportionate group of Landholders, in a big house of 215, will not be able to exert their influence to safeguard their vested rights and interests. We have, therefore, a great apprehension that unless our special representation is increased, proportionate with the strength of the Legislatures, our interests will not be protected and we may be thrown overboard in all matters by the majority interests. We find that in all the Provincial Councils, out of a total strength of about 1,700 members, there will be only 32 Landholder representatives, and in the Federal Assembly, out of a strength of about 300 from British India, there will be only 7 Landholder representatives. The representation is inadequate and ineffective and I therefore beg that special representation of Landholders in Provincial and Central Legislatures should be increased proportionately with the strength of the respective houses.

It is unnecessary for me to repeat the history of the Permanently Settled Estates about which I have already spoken at the Conference. The Sanads were issued on a distinct pledge that Government will protect the rights of Landholders. They form the main stay in the district and provincial administrations. The increased responsibility introduced into the Central Government necessitates that the Zamindar class should be given opportunities of playing their part and rendering loyal and useful service to the country as a whole.

26th December, 1932.

SPECIAL REPRESENTATION OF LANDHOLDERS OF THE UNITED PROVINCES OF AGRA AND OUDH IN THE UNITED PROVINCES LEGISLATIVE COUNCIL.

(Memorandum by Khan Bahadur Hafiz Hidayat Husain.)

When certain delegates to the Round Table Conference attempted to re-open the question of the proportion between European and Indian members to be elected for special constituencies representing commerce and industry, His Majesty's Government pointed out that this involved the re-opening of the Communal Award, which could not be altered without the consent of all parties in India affected thereby. The important question of special representation for landlords, particularly in the United Provinces of Agra and Oudh, could not therefore be brought before the Conference as the question, theoretically considered, of their special representation is on all fours with that of Commerce and Industry. But in view of Lord Sankey's announcement at the concluding session of the Conference on the 24th December 1932, that it was permissible for any delegate who desired to submit a memorandum on any matters on which he considered further enquiry was required, I hereby do so. The allotted quota to the zemindars in the Provincial Legislature of the United Provinces has caused widespread resentment. As the only sitting member of the United Provinces Legislature invited to the third Round Table Conference, I feel it my duty to lay stress once more on the injustice that has been done to the zemindars in the award of His Majesty's Government. There is no communal element involved in this question of representation of zemindars. It is claimed on the ground of representation of an interest and is not based on the proportion of community representation. The landlords of the United Provinces together pay over 60 per cent. of the provincial revenue, they have always been the main-stay of the Government. They have supplied the sinews of war in the great struggle and together are mainly responsible for the change in the angle of vision of the British Government towards the form of Government in India which is now being forged at the Round Table. Lately they have been the principal assistance in breaking the campaign of lawlessness in the country.

Ever since the introduction of the Montagu-Chelmsford Reforms and indeed even before, the contributions of the landlords to the counsels of the Government has been considerable and the success of dyarchy in the province is mainly, if not entirely, due to the influence and the prestige of the landlords in the Cabinet. The educational and other nation-building institutions of the province owe their existence almost entirely to their beneficence. The British India Association of Oudh, the Agra Province Zemindars' Association of Allahabad and the Mozaffarnagars' Association are representative bodies of the zemindars of the province. Almost all important landlords are members of the one or the other of these bodies. The first two have statutory recognition and their income is assured under Acts of Legislature. The taluqdars of Oudh—the Baronial class of India—are members of the first body, the numerical strength of their representation to the Provincial Legislature has been reduced by more than half, while the other two bodies have been entirely ignored. Representation of the zemindars *qua*-zemindars in the Agra Province has also been reduced by 55 per cent.; in spite of assurances of protection given to taluqdars and zemindars on several occasions by successive Viceroys and Governors of the Province. These amount to binding commitments. I am not unaware of the fact that the traditional influence of and respect for good landlords is such that they may continue to secure the votes of their tenants as much as in the past. But is that a reason for whittling down their number when comparatively unimportant interests have had such tender consideration paid to them. I feel bound to say that as against the concessions given to the above interests, neither the Government nor the Round Table Conference have done anything to satisfy the requirements of the zemindars. That sagacious Governor, His Excellency Sir Malcolm Hailey, saw the justice of the claims of the zemindars and recommended doubling the number of their special seats. The Government of India, however, left this for investigation by the Lothian Committee and the recommendations of the Lothian Committee which had practically no zemindar element in its constitution followed the line of least resistance. This recommendation has unfortunately been incorporated in the communal award. It is true that no interest could be given to such a representation as to effect the balance of democratic parties in any legislature, but an interest which is of such vital importance to the future stability of the Government which we are framing, should not be so reduced as to make it wholly ineffective and capable of being constantly ignored. It is for this reason that I earnestly press for a revision of the zemindars' representation in the Provincial Council of the United Provinces. I claim that the British India Association should at least have six seats if not eight instead of four allotted to that body, that in Agra Province Zemindars' Association should be statutorily recognised as a constituency and allotted a sufficient number of seats commensurate with its importance and that the Mozaffarnagar Association should also be given a similar privilege as soon as its income and membership are statutorily assured.

I claim this increase of seats for the zemindars for the following reasons *inter alia*:—

(1) That the taluqdars and the zemindars are the largest stake-holders in the Province.

(2) That they are an asset upon which the Government has invariably drawn and will in future draw with assurance of response.

(3) That the interests which the zemindars represent are indissolubly bound up with the future prosperity of the country and the stability of the future constitution.

(4) That the increase of elected seats from 100 to 228 makes increase in the numbers of their seats a logical corollary of an extended franchise and an enlarged House.

(5) That the exigencies of future elections, when controversies between landholders and tenants will be introduced with sinister backgrounds, demand that their number should not be left in doubt.

(6) That zemindars returned from general constituencies are not likely faithfully to safeguard the interests of the zemindars in the Legislature.

(7) That those who have made the province what it is, should be given an adequate share in the control of its future destinies.

I am not unmindful of the great difficulties of any change in the Award, but the subject to which I draw attention is of such overwhelming importance to the future working of the Constitution that I would be failing in my duty if I left the matter where it now stands.

31st December, 1932.

REPRESENTATION OF THE ABORIGINAL AND HILL TRIBES.

(Note by Mr. N. M. Joshi.)

The Franchise Committee has recognised the need for the separate representation of the Aboriginal and Hill Tribes. The Committee has recommended some form of election for the appointment of their representatives at least in Assam, Bihar and Orissa, and possibly in Madras. I suggest that the method of some form of election should be adopted in all provinces where they have been given special representation.

In the Communal Award of the Prime Minister, one seat each has been reserved for the Backward Areas, presumably for the representation of these tribes, in Madras, Bombay and Central Provinces, eight in Bihar and Orissa, and nine in Assam. I consider that, taking into regard the number of the population of these tribes, their representation is very inadequate.

The Census Report for 1921 has given 16 millions as the figure of the total population of these tribes for the whole of India, and as the population of India has now increased during the last ten years, I can safely estimate the present figure of their population, for the whole of India, at 18 millions Proportionately, their population for *British India* cannot be less than 12 millions. The figure of five millions given by the Franchise Committee is obviously a mistake. This figure represents those only who declared themselves as belonging to "Tribal Religions". But as some of these people either declare themselves as Hindus or are put down by the enumerators as Hindus, their total population is shown to be much less than it really is. Although some of these people call themselves Hindus, and some have become Christians, their social and economic backwardness is not necessarily removed. Dr. Hutton, the present Census Commissioner, has admitted this fact in his D. O. No. 18, dated 19th September, 1932, written to Mr. A. V. Thakkur of the Servants of India Society. Dr. Hutton writes as follows:— "I am replying to your letter of 8th September in a purely private capacity. The actual number of aboriginal tribes who returned their tribal name for their religion in 1931 was 8,280,347 and the number in British India was 5,779,709. This of course does not represent the population of the tribes themselves as owing in part to the natural process of the substitution of Hinduism for their tribal religion, and the idea of social superiority attaching to a return to Hinduism, in addition to a very vigorous propaganda by the Hindu Mahasabha at census time, directed presumably to obtaining as large as possible a return of Hindus as might be, there has been a very considerable transfer at this census from "Tribal Religions" to "Hinduism"..... My figure given to the Lothian Committee had reference to professed religion only, as I had not then any figures for the actual numbers of tribes, and I fear that I shall not have any such figures until I have all the tables of the different provinces compiled. If you will write to me again in two or three months' time I can probably then give you the actual numbers of tribes returned from the different provinces as "primitive" though here again it is often very difficult to draw a line between primitive tribes which profess Hinduism and a caste."

Estimating that their total population in British India is between four and five per cent., the twenty seats out of 1,513 given to them by the Prime Minister's Communal Award are very much less than they should have on the basis of their population. Strictly speaking, they should have been given at least sixty seats. This injustice is more glaring especially in Central Provinces. In this province their population is more than one-sixth of the whole, yet they are given only one seat out of 112, while on the population basis they should have been given at least 18 seats. The Central Provinces Provincial Franchise Committee recommended two seats, but the Prime Minister reduced the number to one! On this point Dr. Hutton, the Census Commissioner, writes to Mr. Thakkur in the letter referred to above as follows:—

"I presume that it is the comparatively small number of one million odd returned as "Tribal" in religion from the Central Provinces which accounts for the fact that in the Communal Award only one representative has been allotted to backward tribes, which in point of fact constitute nearly one-fifth of the population. Even the local Franchise Committee of the Central Provinces was prepared to recommend two representatives for primitive or backward classes."

I fully realise the difficulty of changing the Communal Award. But as the representation of these classes is to come out of the general constituencies, the seats given to the Muslims and to the Depressed Classes need not be disturbed, and some measure of justice may still be done to these classes.

It is a matter of great regret that the Franchise Committee has not recommended any representation to the "Aboriginal and Hill Tribes" or "Backward Areas" as the Prime Minister's Award has termed them, although their total population is more than 4 per cent., and although the Franchise Committee and all others interested have seen the desirability and necessity of giving them separate representation. It is not correct to think that the interests of these classes are only affected by the Provincial Legislatures. The Federal Legislature is of equal importance to them. As some of the Areas in which they live are very backward, and as in some cases they are under special Legislative and Administrative arrangements, the Simon Commission has recommended that the Central Government should bear some financial responsibility for them. Moreover, as the Federal Government is going to depend upon indirect sources of revenue which affect more adversely the poorest classes of people which the Aboriginal and Hill Tribes undoubtedly are, the case for their representation in the Federal Legislature is unanswerable. I therefore strongly hope that, when the Government takes decision as regards the representation of various Communities and interests, they will not forget to do justice to the Aboriginal and Hill Tribes or the Backward Areas as they prefer to call them. I suggest that they should have 10 reserved seats in the Assembly distributed as follows:—

	No. of Seats.
(1) Representing Backward Areas of Assam . .	2
(2) Representing Backward Areas of Bihar and Chota Nagpur	2
(3) Representing Backward Areas of Central Provinces	2
(4) Representing Backward Areas of Bombay . .	1
(5) Representing Backward Areas of Madras . .	1
(6) To represent the Aborigines of the whole country, and to be co-opted by *all* members of the Assembly	2
	10

REPRESENTATIVE CHARACTER OF THE REPRESENTATIVES OF INDIAN STATES IN THE LEGISLATURES.

(Memorandum by Mr. N. C. Kelkar.)

I would like to mention a matter which is closely related to the representation of Indian States in the Federal Legislatures through their representatives. I know that for the practical purposes of Federation the unit is a state, small or large, and from current constitutional point of view, the State means the political ruler of the state. I also am aware that, like Louis XIV, every Indian State ruler, is known to be in the habit of saying, "I am the State". But it would not, I think, be quite unpardonable, if some of us attempted to probe the identity of the State and its ruler with the lancet of constitutional theory. The word ruler necessarily implies that there must be subjects over whom he rules. And these subjects are not only human beings but citizens who are entitled to certain civic rights. By virtue of the Federation these subjects attain a status which may tersely be described as the status of Federal Subjects. They will be called upon to bear their share of the burdens of the Federation and must be also regarded as entitled to a share in the profits of the Federation. Now some of these profits may have a material aspect or value. But for the moment I am referring only to that profit from the states of a federal subject which relates to political power and influence. I do not wish here to refer to any questions of the internal administration of any state. But we of British India here, I think, ought to look, though at a distance, into the credentials of the states' representatives, who will sit in our legislatures along with us, and participate in Federal Administration. According to the new Constitution there will be no members of the legislature who will not be elected by a certain, I may say, by a very large number of electors among the people. The old official block consisting of the officials of Government simply disappears, and every elected member will thus necessarily represent the effective political consciousness of thousands of Indian souls. Would *he* like to be vitally associated with any other member who bears on him the hall mark of the sufferance of undiluted autocracy? That would be indeed serious political misjoinder. Oil and water have never mixed up well, or at all. For effective team work a pair must be made up of men, as of animals, who are nearly if not wholly, of equal stature strength and also of temperament. Similarly both the British Indian members and the State representatives in the Federal Legislatures, must have nearly the same sense of political status, the same sense of self-respect, independence and responsibility. To whom will the State representative feel himself responsible? Will he be like the British Indian Member, irremovable from his seat and office during the term of the life of the Federal Legislature? Or will he be liable to be recalled if he does anything, in his duties, that may displease his Princely Chief? Remember, even in our present Legislatures, only official Members can be asked to tender their resignations and vacate their seats. But not so even those who are called nominated members. My friend Mr. Joshi has for long been a nominated member of the Assembly; and yet be it said to his credit and the credit also of the Government who nominated him, successively for so many terms, that he spoke and was allowed to speak, and he voted and was allowed to vote, with as much independence as if he were an elected member. So much from the point of view of the member himself. But what about the subjects and the taxpayers of the State who will be represented in the Federal Legislature? Are they to have no voice at all in the selection of the State representative who will be entrusted with their affairs to that extent? Now in answer to this question I do not expect the State representatives, here and now, to declare what arrangements will be made by their State Governments to clothe the delegates, whom they will depute to the Federal Legislature, with some sort of representative capacity. But I shall be satisfied if they would simply and at least say that their states will feel bound to make some such arrangement, considering the

anomalous juxtaposition as described by me, between the British Indian Members and the States Representatives in the Legislatures. I am aware, Lord Chancellor, that the new light has begun to dawn upon Indian States' rulers. We all welcome that orientation, but I feel that the record of this Conference will be allowed to bear upon it the evidence of the expressed willingness, I may even say, cheerful willingness, of the States here represented to develop, at least progressively, institutions of representative Governments, so that their representatives in the Federal Legislatures may come with some stamp of popular approval. May the States live long is my prayer, but may they also prove themselves susceptible to public opinion.

23rd December, 1932.

FEUDATORY STATES.

(See Report of the Committee on the Instrument of Accession of Indian States to the Federation.)

(Memorandum by Mr. N. C. Kelkar.)

In connection with the report of the Sub-Committee on the subject of the Instrument of Accession of Indian States, the question of the Feudatory States in India must be discussed and taken into consideration.

The constitution of Federation, which we are hammering out at this Conference, may be said to be marked by one great feature, *viz.*, its care and solicitude for the suppressed classes and interests in India. If I may say so, it is care and solicitude for many an 'under dog'—the under dog that already exists or may be brought into being under the new Constitution. The Indian Feudatory States fairly come under that category, and should be put as one more on our list of under-dogs. And I contend that provision must be made for their protection in the Instrument of Accession by Indian States, when they will be prepared for the signature of the rulers of appropriate States, which may have Feudatory States charged to their care.

The scheme of the present report provides for an agreement as between the British Government and the Indian States who may wish to join the Federation. The agreement would contain matters and provisions about certain powers and jurisdictions to be transferred from the States to the Federal Government for Federal purposes. These relate, as the report says in paragraph 5, to the rulers of States and their subjects. And the powers so transferred must be so large as to make the Federation effective for its purpose. Now there is also another class besides the subjects, which is vitally concerned in the administration of the ruling powers in the States, *viz.*, the Feudatories. They want protection for their existence and welfare, just as much as any other minorities for whom the Constitution is providing with such great care. They are higher in status than the landlords and zamindars to whom representation is given in the Franchise Committee Report, and who are represented in this Conference.

The question of these Feudatories, who are not as vocal as others, is altogether left out of consideration. The Feudatory Chiefs exercise varying jurisdictional powers in their territories, represent ancient historic houses and wield no small influence in the country. Being part of British India, even the ordinary landholding classes have got some representation both in the Provincial and Central Legislatures, although it is inadequate in proportion to their interests and influence in the country. But the position of the Feudatory Chiefs under the Princes is still worse. They are too scattered and divided to form their own organization. The Princes are represented by the Princes Chamber and are quite capable of protecting their interests. The position of the Feudatories is very peculiar. Being subordinate to the Indian States, they are not classed as Princes, nor have they any voice in framing the Constitution, as they come under the States. While the Princes

and every other class and interest in British India have been represented at the Round Table Conference, the Feudatory Chiefs under the Princes got no representation at all.

These Feudatory Chiefs who form an important group of small States by themselves are not quite a negligible factor. Under most of the big Indian States there is a large body of Feudatory Chiefs exercising varying jurisdiction. Under the Gwalior Durbar *e.g.*, there is a number of such Chiefships, most of which are guaranteed by the British Government. Similarly, there are mediatised Feudatories under Kashmir, Jayapur, Indore, Cutch, Kolhapur, and many other States.

It is needless to describe in detail here how all these States came into being. But it is necessary to mention that when the East India Company came into closer relations with Indian States, they found a large number of Chiefs who exercised jurisdictional rights in their own domains, while at the same time they owed a sort of precarious allegiance to some powerful neighbouring Prince. These Chiefs sought the protection of the British Government, who, acting as mediators between them and their suzerains, guaranteed their rights, privileges and possessions and secured their formal allegiance to their suzerains. No fixed principle was, however, followed in effecting these settlements. In Kathiawar, *e.g.*, most of the States were subordinate to the Gaikwar of Baroda. But all these States were made independent of Baroda subject only to the payment of tributes. On the other hand, most of the smaller States in Central India and elsewhere were placed under their respective suzerains with a British guarantee for continuance of their rights and possessions. Thus the settlements were largely influenced by the exigencies of the moment and were the result of historical circumstances. The status and position of most of these States were originally almost the same, but by the settlement some States were brought directly under the control of the British Government while others continued under their suzerains, protected by guarantees from the paramount power.

Similarly some of the lapsed States such as Satara, Nagpur had guaranteed feudatories under them, which, after the lapse of the suzerain states came under British control. Although the powers of the Feudatories of the lapsed states and of the Feudatories under other states, were originally the same, the powers of the former have been enlarged since they came into direct relations with the British Governmnt, while the powers of the latter under their suzerains have been considerably reduced.

The above arrangements worked satisfactorily to all parties, so long as it was the policy of the British Government to enforce strictly the terms and conditions of the guarantees and to protect the smaller states against any encroachment by their suzerains. The policy of the British Government was to maintain intact the rights and privileges of both the suzerain and the Feudatory States. No deviation from the guarantees thus given was allowed. But during the past few years there has been a change in the policy of the British Government towards the Princes, which has been very prejudicial to the rights and privileges of the Feudatories and their very existence as separate entities are being jeopardised. The Government have latterly enhanced the powers of the Princes, and also their prestige and position. The establishment of the Princes' Chamber has also increased their status. In short the Government have adopted a policy of trust and generosity towards the Princes, and they are allowed as large a measure of independence in their internal affairs as possible. Most of the States have been transferred from the control of Provincial Administration to the direct control of the Government of India. But supervisory powers which the British Government used to exercise over the guaranteed feudatories are also being gradually relaxed, and the feudatories are being handed over to their suzerains. It is true that in transferring that control Government have declared that the guarantees are not affected by the change; but such an assurance is of little avail against the grasping policy of the Durbars. The feudatories that were freed

from the control of their suzerains by the original settlement have their powers enlarged—some of them have become even members of the Princes Chamber—but those that were continued under their suzerains have come in for a curtailment of their powers and the transfer of control is tantamount to a virtual cancellation of the guarantee, although it continues in form only. Once the direct control of the paramount power is withdrawn, the suzerain States feel that they can deal with their feudatories as they like. It appears to be the avowed intention of the suzerain states to reduce the guaranteed feudatories to the position of mere landlords. Naturally the feudatories resent this, but there is little hope of redress being obtained at the hands of the paramount power because of the policy of non-interference.

One would ask why there should be these disputes and quarrels and consequent ill-feeling between the suzerain and the feudatory States. It would really be a happy day for both the Princes and their feudatories if all their disputes are amicably settled and they live in peace, harmony, and goodwill. But the real cause of the trouble is that there is always a conflict of interests between the Princes and their subordinate states. Again in some cases there are age-old family feuds and quarrels between the suzerain states and their subordinates and they have unfortunately continued even up to the present moment.

In the interests of justice and fair play it is quite necessary that there should be some third party to act as arbitrator in the settlement of these disputes. Up to now the British Government acted as arbitrators by holding both the parties fast to their engagements. But now they are withdrawing from this position and handing over the feudatories to their suzerain States. Instead of improving their relations, this will tend only to aggravate the situation. A really satisfactory solution of this problem would be the establishment of a court of arbitration for adjudication of disputes between the suzerain states and their feudatories. Such a tribunal would inspire confidence in both the parties and its decisions would be more acceptable to both.

23rd December, 1932.

MUSLIM POSITION IN THE CENTRE.

(Memorandum submitted by the Muslim Delegation.)

I.—Muslim Representation in the Federal Legislature.

As has been urged over and over again in the Round Table Conference and elsewhere, the Muslim community claim a one-third share in the Federal Legislature, *i.e.*, 33 seats out of every hundred in the Lower House, and 33 seats out of every hundred in the Upper House. The community insists that of their 33 seats out of one hundred in either House, 25 should be guaranteed to them out of the British Indian quota.

As between British India and the Indian States, British India is on the population basis entitled to 76 seats out of a House of 100. That is why the Muslims ask for 25 or a third of 76 seats out of the British Indian quota. Further, they ask that it should be so arranged that 8 Muslim seats out of a House of 100 are secured out of the Indian States' quota to represent Muslim interests in the Indian States.

For reasons that need not here be reiterated, the Muslim community are opposed to the grant of any weightage to the States. The population of British India (excluding Burma) is 256,782,052, of whom 66,435,604 or 25·8 per cent. are Muslims. The population of the Indian States (excluding Burma) is 79,098,008, of whom 10,657,102, or only 13·5 per cent. are Muslims. Hence any weightage granted to the States will be so much weightage for the Hindu majority and to that extent a handicap to the Muslim minority.

If on the insistence of the majority community less than 76 seats are allotted to British India and more than 24, in a House of 100, to the Indian States, then it is not the Muslims but the majority community that should make good the weightage given to a predominately Hindu block.

Mode of Election.

For the Lower Chamber we take it for granted that the Muslim representatives will be chosen by direct election through separate Muslim constituencies.

For the Upper Chamber also the Muslim community insists that their representatives from British India should be elected through separate constituencies, *i.e.*, by the Muslim members of the various provincial Legislatures and by them alone. The Muslim community would strongly object to any plan under which the whole of the British Indian quota for the Upper House would be elected by the provincial Legislatures voting as a body by the system of the single transferable vote. Apart from other reasons, the chief of which is the community's dislike of joint electorates in any form, their objection rests on the ground that under the most favourable conditions, such a system would not secure for them a due share in the Upper House.

II.—Residuary Powers.

The Muslims attach the greatest importance to the vesting of residuary powers in the Provinces, both in regard to legislation and taxation, because they regard this as one of their necessary safeguards. That the residuary powers of taxation should vest in the Provinces is settled, but unfortunately there has been a conflict of views in regard to the legislaitve field.

The arguments in support of the Muslim position need not be here restated. Apart from the fact that the Muslims regard it as a safeguard, this is the only arrangement which would reduce to a minimum litigation regarding the validity of provincial statutes, and thus enable the constitution to work with the least possible friction.

III.—The Position of Baluchistan.

Baluchistan comprises a very large area of immense strategic importance. The population is, no doubt, sparse, but it possesses the advantages of homogeneity and a common tribal system which is still able to carry on practically the entire local administration of the whole area.

Baluchistan is divided into the tract known as British Baluchistan, the tribal and agency areas and the territories of the two States, Kalat and Las Bela. It would be eminently desirable to weld the whole of this area into one Federal unit for the purpose of being included within the proposed All-India Federation.

The question of introducing a provincial autonomous form of Government in Baluchistan is simplified by the very large amount of autonomy at present enjoyed by this tract through what is known as the Jirga system. This system could easily be adapted so as to form the basis of the future legislative as well as administrative system of the Province.

It is not desired, and indeed it is not necessary, that the formation of Baluchistan into a Federal Until should result in the introduction of an expensive form of administration. A simple form of administration, suited to the nomadic and tribal character of the population of this area, should amply meet the requirements of the people, and no difficult questions of financial adjustment need arise.

So far as the Federal Legislature is concerned, the share of Baluchistan as a whole should be taken proportionately out of the British Indian and Indian States' quotas, the share of British Baluchistan being taken from

the British Indian and that of Kalat, Las Bela and other non-British areas from the Indian States. The existing Shahi Jurga may be enlarged and utilised both as the legislative organ of Baluchistan as a unit, and as the electorte for choosing its representatives to the Upper and Lower Federal Houses.

It may be pointed out that the exclusion of Baluchistan from the future scheme of an all-India Federation, would be both anomalous and a source of embarrassment from many points of view. Having regard to the importance of Baluchistan as a Frontier Province, it would be of the greatest advantage from the political, as well as the military, points of view to work Baluchistan into the fabric of the future Federation.

27th December, 1932.

CREATION OF A FEDERAL COUNCIL.

(Memorandum by Dr. Shafa'at Ahmad Khan.)

There was considerable agreement in regard to the provision in the constitution of a council of representatives of the units and of the Federal Government. Such a council has in fact been suggested in paragraph 11 of the Report of the Federal Finance Sub-Committee. It should, by a "prudent Governor General" be kept in close contact with all matters in which the autonomous Provinces within their independent spheres are concerned (see paragraph 3 at page 20. Further, it is essential that such a council should, whenever possible, be also consulted by the Governor General in regard to treaties, particularly those which impinge on the powers of the Provinces and States. A treaty, for example, which would affect the power of the Provinces to levy octroi within their own boundaries should not be concluded without consultation with such a council. It must be remembered that a treaty concluded by the Governor General, being an act of the reserved department, would have the binding force of law. Such a council would also be useful in harmonising the administrative relations between the Federal Government and the units [see Head B (*b*), end of paragraph 3].

27th December, 1932.

FUNDAMENTAL RIGHTS.

(Memorandum submitted by K. B. Hafiz Hidayat Hussain and Dr. Shafa'at Ahmad Khan.)

We believe it to be essential to the stability of the Indian Constitution that fundamental rights should be embodied in the Constitution for the protection of the religion, culture, and personal laws of the minorities of India. These rights should be deemed fundamental in the sense that any bill, resolution, or motion passed by legislature, or any statutory self-governing body, such as a municipal or district board, that is repugnant to these rights should be void to the extent of such repugnancy.

We need not enumerate these rights, as they were discussed by the Conference on Saturday the 17th, and Monday the 19th December 1932. While we hold that some of them should be drafted very carefully, we are convinced that most of them are necessary and should be embodied in the Constitution.

We should like to add one or two other rights which we deem to be necessary, but which were not duly stressed at the meeting, though they were specifically mentioned.

(1) We are strongly of the opinion that provision should be made whereby the personal law of the Muslim Community should be guaranteed. No legislature in India should have the power to modify, amend or in any way change the Muslim law of Sharait (Shariat-i-Islamia).

We are strongly of the opinion that the Muslim Community should be assured in the new Constitution that nothing will be done by any legislative body in India which will have the effect of modifying in any way the personal law of the Muslim Community.

(2) The Muslims of the United Provinces enjoy separate electorates on the municipal boards by an Act of the United Provinces Legislature, passed in 1916, and by the United Provinces District Board Act of 1922. Muslims of other provinces, such as Bombay, etc., also enjoy separate electorates on some local bodies, in accordance with various statutes passed by various provinces in India from time to time. We urge that these rights hitherto enjoyed by the Muslims should be guaranteed to them, and no change should be made therein without the consent of three-fourths of the Muslim members of the provincial legislatures.

(3) We have both of us, speaking at the meeting, already stressed the necessity of a definite and unambiguous provision in the Constitution for the representation of the Muslim Community in the public services. By public services we mean not merely the services maintained by the Central and provincial Governments, but also the services maintained by statutory self-governing bodies, such as Universities, Board of Intermediate Education, which are maintained almost entirely by grants from the provincial and Central Governments. We are of the opinion that parts 1 and 2 of paragraph 5 of the Services Sub-Committee of the Round Table Conference should be incorporated in the Constitution Act. The Muslim Community attaches the greatest possible importance to this safeguard, as it feels that upon its due execution depends, to a very large extent, the success or failure of the organisms which the Constitution will create in the provinces of British India. We think that the percentage in various departments will have to be fixed by the Governor in accordance with paragraph 5 (2) of the Report of the Services Sub-Committee.

We are of the opinion that the recommendation contained in paragraph 5 (c) of the Provincial Constitution Sub-Committee, regarding the representation of important minority interests in the provincial Cabinet, and paragraph 12 of the Report of the Minorities Sub-Committee of the Round Table Conference should be embodied in the Instrument of Instructions to the Governor General.

We think that the Constitution Act should embody safeguards regarding the representation of minorities in the public services as well as some of the fundamental rights enumerated above, while the Instrument of Instructions to the Governors and Governor-General should contain the rest. We are of the opinion that in the latter case, the procedure outlined by the Secretary of State in his speech to the Conference on December 24th for giving statutory force and effect to the provision dealing with the joint meeting of Federal Ministers and the Governor-General's Army Adviser should be applied in the case of such fundamental rights as are not incorporated in the Constitution Act. Our object is to make such provisions in the Instrument of Instructions effective by making them a statutory basis. We are of the opinion that after such rights have been embodied either in the Constitution Act or in the Instrument of Instructions, they should all be restated in the Royal Proclamation to be issued on the inauguration of the new Constitution.

27th December, 1932.

MEMORANDUM BY EIGHT DELEGATES REGARDING DISCRIMINATORY LEGISLATION.

(1) We, the undersigned, are definitely of the opinion that the Constitution should contain a clause absolutely prohibiting discriminatory legislation, or

the imposing of disabilities on any section of His Majesty's Indian subjects, on the basis of a person's birth, religion, race, caste or colour. The Prime Minister, in his speech at the final session of the Round Table Conference, 1931, made the following observations :—

"In framing the Constitution His Majesty's Government considers that it will be its duty to insert provisions guaranteeing to the various minorities, in addition to political representation, that differences of religion, caste, race or sect shall not themselves constitute civic disabilities."

(2) We therefore recommend that there should be some such clause incorporated in the Constitution as follows :—

"No native of British India, nor any of His Majesty's subjects resident therein shall, by reason of his religion, place of birth, descent, colour or caste, or of any of them, be disabled from, or prejudiced in adopting any profession, trade or calling, or engaging in any industry, or acquiring or transferring right, title or interest in any property."

(3) The spirit of the recommendations of the Consultative Committee, embodied in A, B and K of the Fundamental Rights, should be expressed in precise language. We are definitely of the opinion that there should be no civic disabilities imposed on any of His Majesty's subjects in British India in acquiring or transferring right, title or interest in any property, on a basis of a person's religion, caste or colour.

The existence of the Punjab Land Alienation Act should not stand in the way of this very healthy provision, which is absolutely essential for the protection of minorities, whether of religion, race or caste.

We are firmly of the opinion that privileges based on the accident of birth, caste or religion should be abolished. The laws should be so framed that no one should suffer on account of one's religion, caste, race or colour.

(Sd.) B. R. AMBEDKAR.
,, M. R. JAYAKAR.
,, COWASJI JEHANGIR.
,, N. M. JOSHI.
,, N. C. KELKAR.
,, NANAK CHAND PANDIT.
,, TEJ BAHADUR SAPRU.
,, N. N. SIRCAR.

December 23rd, 1932.

MEMORANDUM REGARDING THE PROPOSED CONSTITUTION.

(By Sir Tej Bahadur Sapru and Mr. M. R. Jayakar.)

1. On the eve of our departure we desire to submit a Memorandum on some of the features of the proposed constitution for India which has formed the subject of discussion at the Third Round Table Conference and the previous Conferences, and request that this Memorandum may be published along with the proceedings of the Conference. Having regard to the shortness of the time at our disposal it is obviously impossible for us to submit a detailed statement of our views and therefore we shall content ourselves by confining our remarks to only some of the leading features of the contemplated constitution.

2. At the outset we desire to emphasise the need for a speedy establishment of the Federation with responsibility at the Centre. It is our conviction that mere provincial autonomy by itself will not be acceptable to the vast majority of the political classes in India, even though a single Bill may provide for a Constitution at the Centre coming into operation at some future date upon the fulfilment of certain conditions. We are glad to note that this point of view has been appreciated by the Secretary of State, but we feel that it is necessary to fix a date on which the Constitution at the Centre should begin to function.

Upon the assumption that the India Bill may be passed by Parliament towards the end of July, 1933, we think that the Constitution in the Provinces can begin to function early in 1934. In this connection we would emphasise that there should be no delay in the preparation of the electoral registers and the delimitation of constituencies. The Lothian Committee's Report and the discussion on it at the Round Table Conference could easily though tentatively form the basis of preliminary work to be done in that behalf, subject no doubt to the final sanction of Parliament. It would, in our opinion, be most unfortunate if the working of the Constitution was held up after the passing of the Bill, merely because the registers were not ready by that time or their preparation involved delay.

3. We think that the Federation should then be set up and begin to work some time in 1935, if not sooner. We would point out that in the Dominions of Canada, Australia and South Africa the Constitution was inaugurated by a Royal Proclamation, and the Acts of Parliament in the case of each one of these Dominions fixed a definite date for the inauguration of the Constitution, and we think that the same practice should be followed in the case of India. In order to meet possible contingencies power may be taken to extend that date by a few months, if valid reasons exist.

4. Two difficulties have been urged against our view regarding the fixing of a date. They are—

(1) The uncertainty about the readiness or preparedness of the Princes to join the Federation;

(2) The uncertainty about the date on which the Reserve Bank can be established.

We shall now deal with both these difficulties.

5. As regards 1, we think that His Majesty's Government should invite the Princes to notify by a certain date in February or March 1933 their willingness to join the Federation. We think that by that time the White Paper should enable everyone to see the complete picture and it would, in our opinion, not be fair to British India on the part of the States to postpone the definite announcement of their intention until a later stage, though no doubt everyone concerned will have the fullest right to revise his opinion of the draft Constitution after it emerges from the hands of the Joint Parliamentary Committee. If this is done, it should make easier the task of fixing by the Statute a date for the inauguration of the Federation in 1935, by which time the Treaties of Accession could be prepared and executed.

6. We think that the Federation can work effectively without insisting that half the Indian States, representing about half the population of Indian India, should join the Federation at the start. We see no reason why the entry into the Federation should be blocked, if once some of the bigger States should be ready to join the Federation. In such a case the Statute should provide for the coming in of the other States later on. If no State should be ready to join the Federation, it would give rise to a new situation and we would in that case assume that British India should be endowed with Central responsibility, and the necessary readjustments in the Constitution should take place.

7. As regards 2, *viz.*, the Reserve Bank, we would point that neither at the first nor at the second Round Table Conference did the Government treat the prior establishment of the Reserve Bank as a condition precedent for the inauguration of the Federation. This condition is new and we are therefore anxious that our position should not be misunderstood. We are not satisfied that it is impossible to establish a Federation without first establishing a Reserve Bank, and we think that interim provisions should be made to cover the period of time which may be required for the establishment of the Bank. Such provisions were contemplated in paragraph 187 of the Federal Structure Committee's Report in 1930-31. As regards the date of the establishment of the Bank, we note with satisfaction the assurances given by the Secretary of State that he will take steps at a very early date to introduce legislation in the Indian Legislature and to take all other necessary steps to bring the Bank into existence.

We would, however, draw attention to the four conditions in the report on Financial Safeguards presented on the night of the 23rd December last. We apprehend that the fulfilment of those conditions may involve greater delay than we can at present imagine, and indeed one of our colleagues, Sir Purshotamdas Thakurdas, has expressed the opinion that we may have to wait for the Bank for a much longer period of time than we can foresee. It is true that the Secretary of State and his expert advisers do not take such a gloomy view of the prospects of the establishment of the Bank. Indeed they seemed to us to take a hopeful view of the possibility of the Bank coming into existence at a much earlier date than Sir Purshotamdas's opinion would seem to indicate, but even they were cautious enough not to exclude the reactions of the world forces on India's financial capacity—a caution which we ourselves are not prepared to ignore. It would then seem that the position is one of uncertainty and is causing us much anxiety. We would therefore suggest that Government should in that case revert to the interim provisions which the Conference originally contemplated. We are anxious that the impossibility of establishing the Reserve Bank within the next two years should not be allowed to block the way of the Federation and Central Responsibility. We understand the position of the Secreatary of State to be that, if such a situation should arise, he would consult Indian opinion again and then consider fresh proposals, and that it is not the intention of Government in any circumstances to give effect to the Constitution by introducing provincial autonomy alone. While we appreciate the attitude of the Secretary of State in regard to this matter, we cannot help feeling that the position created by the imposition of this new condition is unsatisfactory in the highest degree and is causing us grave concern.

8. As regards the constitution of the Reserve Bank, we would draw attention to the Memorandum submitted by Sir Purshotamdas Thakurdas with which we are generally in agreement, and therefore refrain from reproducing the suggestions he has made. We would, however, urge that the Bank should be based on sound financial foundations and should be free from any political influences in England or India, that its Governor and Deputy Governor should be selected by the Governor General in consultation with his Ministers out of a panel of names to be submitted by its Directors, and that at least seventy-five per cent. of its capital should be raised in India.

9. As we are dealing with the Reserve Bank, we may conveniently at this stage deal with other financial safeguards.

Financial Safeguards.

10. We think there should be real financial responsibility placed on the Finance Minister of the future. We cannot but feel that the nervousness which has been displayed as regards the capacity of Indians to manage their finances and the general attitude of the Legislature is not justified. It is our deliberate opinion that the establishment of responsibility at the Centre will have a most salutary effect on the attitude of the Legislature. We would like to point out that if the Army Budget, the salaries, emoluments and pensions of the Services are to be guaranteed by the Statute, and that if the Governor-General is to possess the power to indent upon the Treasury for implementing his special responsibilities, the danger in regard to such matters becomes non-existent.

As regards the service of the Debt, we thing that the British investor like every other creditor is entitled to claim that his security should not be impaired, and for that purpose we do recognise that it might be necessary during the period of transition to arm the Governor-General with special power, enabling him to intervene, when and only when the security of the British, or for that matter, of the Indian investor is impaired or sought to be impaired by any action of the Finance Minister. We cannot subscribe to the view which is held in certain quarters that it is necessary to give the Governor-General a general power of intervening for the protection of India's credit and financial stability. We think that such a general power couched in such elastic language may be a fruitful source of friction between the Federal Legislature and the Federal Government on one side, and the Governor-General on the other, and may conceiv-

ably, in certain circumstances, destroy the financial responsibility of the Minister. We therefore do not agree that this general power should be given to the Governor-General. We strongly urge that the Government should reserve their decision on this point. Further we think that after the establishment of the Reserve Bank there is no need to require the previous assent of the Governor-General to the introduction of any legislation relating to currency or exchange. The day to day administration of currency and exchange will presumably be left in the hands of the Reserve Bank and we think that it is hardly likely that any Finance Minister will lightly deal with questions of exchange in the teeth of expert advice which in actual practice he will receive from the Governor of the Reserve Bank or the Financial Adviser if one is to be appointed, or both.

As regards the Financial Adviser, we are unable to form an opinion whether on financial grounds it is necessary to appoint such an adviser. That must be a question for Financial experts, but we realise that the Constitution places such heavy special responsibilities on the Governor-General that he may require the advice of an independent expert adviser on the discharge of those responsibilities. But we are of opinion that such advice should in the nature of the circumstances be strictly limited to matters which are within the province of the special responsibilities of the Viceroy, and should not be extended so as to amount to a general power of control over the Finance Member. In other words we would strongly urge that every precaution should be taken that the general responsibility of the Finance Member and the Legislature for the administration of the finances of the country should be in no way interfered with or weakened. We are further of opinion that if at all a Financial Adviser has to be appointed for the limited purposes indicated above, the appointment should be made by the Governor-General in consultation with his Ministers, and the Adviser should in no way be connected with any financial or political interests in England or in India. We would further add that the appointment should be provisional, to endure only so long as a clear necessity for the retention of that office is felt and that the advice of the Adviser should be fully available both to the Governor-General and the Federal Government.

Commercial Safeguards.

13. We next come to the question of Commercial discrimination. While we agree to the general principle that discrimination in legislation on purely racial grounds should be avoided, we are not sure that the principles accepted in the report of the Committee which considered that question do not go too far. To take only a few instances, we are clear in our minds that for the future development of Indian industries, many of which are lying fallow or are struggling in an impoverished condition, it is absolutely necessary to leave in the hands of the Central and Provincial Governments enough power to initiate, subsidise, and protect industries which can be briefly described as key or infant industries, even if such initiation, subsidy or protection should occasionally look like discrimination. We are equally strong in our view that ample power ought to be left in the hands of the Government, both at the Centre and in the Provinces, to control the evil effects of unfair competition, such as sometimes has been practised in the past by powerful organisations against their weaker rivals.

Defence.

14. We next come to the question of Defence. We think that the success of the proposed Constitution will be judged in India very largely by the policy which His Majesty's Government will adopt towards Defence. We are of the opinion that the Statute or the Instrument of Instructions, if the latter is to have a statutory basis, as we think it should have, should recognise the principle laid down in the Report of the Thomas Committee that the Defence of India should be to an increasing degree the concern of India, and not of Great Britain alone. We also urge that consistently with this principle and

in order to implement the same, a duty should be cast on the Governor-General to take every step to Indianise the Army within the shortest possible period compatibly with the safety of the country and the efficiency of the Army. This would, in our opinion, necessitate the preparation of a programme more or less on the lines of the Rawlinson and other Committees' Reports, to which attention was drawn during the deliberation of the Thomas Committee on Defence. A definite time should be kept in view for this purpose, the duration of which should be adjusted according to the experience gained.

15. While during the period of transition, which we do not envisage to be a long one, the Governor-General will have the control of the Army and the Army Budget may not be put to the vote of the Legislature, we strongly urge the adoption of the following proposals :—

(*a*) The Army Member, though appointed by the Governor-General, and responsible to him, should be selected from among the members of the Legislature representing British India and the Indian States. We think that this cannot be regarded as an undue restriction of the discretion of the Governor-General, as the Indian Legislature will consist of at least 500 representatives, if not more, and it should not be difficult for the Governor-General to find a suitable person out of so large a number. Such a member will carry great weight and influence in the Legislature and will act as a bridge between the Governor-General and the Legislature, and will, in our opinion, be able to enlist the interest of the Legislature in the Army much more effectively than an outsider. Besides it will enable members of the Legislature to acquire knowledge and experience, so that when the period of transition ends and Defence has to be transferred to Indian control, the shoulders that will bear the burden may be found prepared to take it up.

(*b*) It is not enough, in our opinion, that there will be consultation between the Finance Department and those responsible for Defence. We therefore urge that provision should be made in the Statute or the Instrument of Instructions, placed on a statutory basis as suggested above, for the appointment of a Committee consisting of (1) Army Member and such other representatives of the Army Department as the Governor-General may appoint, (2) The Prime Minister, the Finance Minister, and such other members of the Federal Government as the Prime Minister may appoint, to discuss and arrive at an annual settlement of the Army Budget. We are agreed that failing such settlement the Governor-General should have power to arrive at a final decision as regards the budget.

(*c*) The Army estimates should, in our opinion, be put in separate blocks before the Legislature annually, and this should be independently of the consent of the Governor-General.

(*d*) The Indian Army should not be sent out of the limits of India without the consent of the Legislature for any purposes not directly connected with the defence of India.

(*e*) The Army should be thrown open to all of His Majesty's subjects, irrespective of class, creed or community.

(*f*) We strongly urge that a Committee should be appointed consisting of British and Indian exports for further exploring all avenues for the reduction of military expenditure to a level as near as possible to that existing before the War. We are strongly of the opinion that there is room for further economy in Army Expenditure. While we recognise that the expenditure on the Army is in the nature of an insurance for the safety of the country, we think it must be limited by the taxable capacity of the people and the needs and requirements of the moral and material progress of the people of the country.

(*g*) We urge also that the expansion, upkeep and maintenance of military schools and colleges should be committed to the charge of the Legislature.

(*h*) We trust the decision of His Majesty's Government on the question of the reduction of British Troops in India, which on financial grounds cannot be postponed much longer, will soon be announced.

GOVERNOR-GENERAL'S AND GOVERNORS' POWERS.

16. We next come to the Governor-General and the Governors' reserve and special powers. We would here strongly urge that these powers should be so precisely defined as not to conflict with or override the powers of the popular Ministers in regard to matters which will be exclusively within their competence, and that the Governor-General and the Governors shall in respect thereof always act on the advice of the Ministers. We would further urge that even in the field of their special powers and responsibilities, they would consult their Ministers though they would not be bound by their advice.

17. The power of making ordinances should be strictly limited to cases of grave emergency affecting the peace and tranquillity of the entire country or large areas thereof. We do not think this power should be extended to Provincial Governors, as in our opinion they can always in case of emergency easily apply to the Governor-General for aid. We think that there are strongly cogent reasons for not duplicating this power, and that the Governor-General's position of detachment from local feelings of panic is calculated to secure a more prudent and temperate exercise of this power than would otherwise be the case.

FUNDAMENTAL RIGHTS.

18. We think that in the circumstances of India, there is need for a declaration of fundamental rights and that such a step will tend to allay the apprehensions of minorities and special interests. Such fundamental rights as cannot be fitted in with the Act of Constitution may easily find a place in a Royal Proclamation.

HIGH COURTS AND SUPREME AND FEDERAL COURTS.

19. We are strongly of the opinion that the High Courts in India should have direct relations with the Central Government. The Judges should be appointed in future by the Governor-General representing the Crown. Their term of office should be during good behaviour as in England and their salaries should be fixed by Statute. There should be no reservation for seats on the Bench as against any class of qualified persons.

2. We are of the opinion that the Statute should provide for the constitutional powers and functions of a Federal Court and Supreme Court, the latter as a final Court of Appeal for British India. It is not our intention to abolish the right of Appeal to the Privy Council, but only to limit it. We are of opinion that a separate Federal Court by itself will not command the necessary weight and prestige in the country. We refrain from going into further details as we understand that legal experts in England are examining this question. We trust that before a final decision is arrived at on this matter we shall be consulted. We therefore content ourselves with reiterating our demand for the early establishment of this Court. We are strongly of the view that the Federation of India will not be complete without the establishment of such a Court.

THE SECRETARY OF STATE AND THE INDIA COUNCIL.

21. We regret that the question of the future powers of the Secretary of State and the continuance or discontinuance of the India Council was not taken up within the short time at our disposal, though some members were anxious to do so. Our opinion is that there will be no need under the new Constitution for the India Council and that the powers of the Secretary of

State being strictly limited to matters within the reserved Department and the special responsibilities of the Governor-General, should be transferred to the Dominions Office.

22. Lastly we are of the opinion that at the further stage of consultations every attempt should be made to secure the representation of all important political parties in India so that any settlement arrived at may have the support of every progressive section of Indian public opinion.

27th December, 1932.

FEDERAL COURT.

(Memorandum by Sir Maurice Gwyer and Sir Claud Schuster.)

(Included by permission of the Conference.)

It is believed that there is a greater measure of agreement on this subject among all parties than the discussion at the Round Table Conference on December 13th appeared to indicate; and this Memorandum (which is wholly unofficial) is an attempt by the undersigned, who have been closely concerned with the matter ever since the first Round Table Conference, to set out the probable extent of that agreement, and to suggest possible compromises on those points on which there is still a divergence of view.

1. The necessity for a Federal Court being accepted, the Constitution Act will in any event have to make provision for the following matters: (1) the number of the Judges, (2) their qualifications, (3) the manner of their appointment, (4) their salaries, (5) their tenure of office and the manner in which they may be removed from office, (6) the jurisdiction of the Court, both original and appellate, and the appellate jurisdiction of the Privy Council in relation to it, (7) the rule making power, (8) the Staff of the Court and (9) the place where the Court should sit. These matters are dealt with *seriatim* in the following paragraphs.

2. The Federal Judges should be appointed by the Crown, in order that the divorce between the Court and politics may be complete. The number might in the first instance, be fixed at not less than five nor more than (say) nine, one of whom would be styled the President or Chief Justice; alternatively, the number might be fixed at five, and power given to the Crown to increase the number from time to time up to a maximum of (say) nine, on receiving an address from the Legislature praying for such an increase.

3. The following should be qualified for appointment to the Court:—barristers, advocates or pleaders of at least fifteen years standing, and judges of any High Court in British India or in any federating State, who at the time of their appointment were barristers, advocates or pleaders of at least ten years standing.

4. The salaries of the Judges should be fixed by the Act itself, and (whatever figure is ultimately decided) should be not less than the highest salary at present enjoyed by the Chief Justices of any High Court, with a rather larger figure in the case of the Federal Chief Justice or President.

5. Federal Judges should retire on reaching an age to be specified in the Act (*e.g.*, sixty-five) and should hold office during good behaviour and should only be removable by the Crown. Their salaries, as in England, should be non-votable, and they would receive a pension (varying possibly with their length of service) on retirement on reaching the age limit or by reason of illness. They should receive the same protection in respect of all acts done in their judicial capacity as Judges of any High Court, and their conduct on the Bench should not be the subject of discussion in any circumstances by the Legislature. The question of their precedence and other like matters would of course be wholly within the discretion of the Crown.

6. The jurisdiction of the Federal Court should be twofold, original and appellate. It should have an exclusive original jurisdiction in all justiciable disputes in the federal sphere between the Federation and any Federal unit, and between the Federal units themselves, *e.g.*, State and State, Province and Province, Province and State. On its appellate side is primary function will be to act as guardian of the Constitution and it should therefore have an exclusive appellate jurisdiction to hear appeals from all British-Indian and State High Courts in any matter involving the interpretation of the Constitution. In such matters there would be an appeal as of rights to the Federal Court subject to due safeguards against frivolous and vexatious appeals. Provioion should be made for staying proceedings in lower Courts in order that a constitutional issue arising in a case may be separately determined, possibly by means of the machinery of a Case Stated : and it is understood that the States generally would prefer all appeals from their own High Courts to be way of Case, Stated, though in that event it would be necessary to give the Federal Court power to require a Case to be stated in appropriate circumstances.

7. The Federal Court should have jurisdiction to give advisory opinions on any justiciable matter involving a constitutional issue which may be referred to them by the Governor-General (but not in any other circumstances), as the Privy Council are empowered to do by Section 4 of the Judicial Committee Act, 1833, on references to them by the Crown.

8. An appeal should lie from the Federal Court to the Privy Council by leave of the Court or of the Privy Council itself in any matter involving the interpretation of the Constitution

9. The Federal Court (or alternatively the President or Chief Justice) should have a wide power of making rules to regulate the procedure of the Court, subject to the approval or concurrence of the Governor-General. The Court should be empowered, if a rule is made to that effect, to sit in two or more divisions for the purpose of expediting business. No appeal should however be heard by less than three judges; and though a single judge should have power to sit in the exercise of the Court's original jurisdiction, provision should be made for an appeal from the decision of such a single judge to the Court sitting in banc.* The rule-making power should include the power of specifying fees which may be charged to suitors, subject in this case also to the approval or concurrence of the Governor-General, who would presumably consult his financial advisers before approving or concurring.

10. The staff of the Court should be appointed by the President or Chief Justice after consultation with the Public Service Commission, but subject to the approval of the Governor-General as regards number snd salaries. In this case also the Governor-General would presumably consult his financial advisers, though the ultimate responsibility would be his alone, in order that there may be no risk of political pressure being brought to bear upon the Court. Provision should be made whereby receipts from Court fees are appropriated in aid of the Federal Court Vote, though it seems unlikely that for some time to come receipts from fees would cover the total amount of the Vote.

*11. The principal seat of the Court should be at Delhi, but it is worth considering whether, subject to the approval of the Governor-General, other places might not from time to time be fixed for that purpose. Possibly the Court might even have regular sessions in North and South India respectively.

12. It is not believed that there will be much difference of opinion with regard to the preceding paragraphs, which deal with the Federal Court in its strictly federal aspect, *i.e.*, as the interpreter of the Constitution and as the forum for the decision of disputes between the Federation and its constituent units *inter se*. Other questions however arise on which opinions still differ.

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* If it is thought that the original jurisdiction of the Federal Court should not be exercised by less than (say) three judges, then an appeal should lie directly to the Privy Council.

These are briefly as follows:—(1) Whether the Federal Court as such should have a wider jurisdiction than that already described; (2) whether there should also be a Supreme Court of Appeal from the British-Indian High Courts on matters outside that jurisdiction; (3) whether, if so, such a Supreme Court should be a separate Court or should be the Federal Court sitting in another capacity, or a separate division of the Federal Court.

13. It is understood that the States would be prepared to give the Federal Court jurisdiction to hear appeals from a State High Court in civil matters involving the interpretation of any Federal law which extends to the State, since (as they contend) in no other way can uniformity throughout the Federation of Federal laws be secured. This would imply an appellate jurisdiction at least as extensive from the British-Indian High Courts: but the question of defining a 'Federal law' for this purpose in the case of British India is one of some difficulty. Thus, is the appellate jurisdiction of the Federal Court to be in respect only of the interpretation of Federal laws which extend both to British India and to the States? But some States may have excepted from their Instruments of Accession matters in respect of which other States have acceded, and Federal laws relating to those matters will accordingly extend to the latter States but not to the former. What in such a case is to be the criterion for deciding whether the Federal Court has jurisdiction in an appeal from a British Indian High Court on a question involving the interpretation of that law, *i.e.*, is the law to be regarded as a 'Federal law' for the purpose of an appeal? It would seem quite illogical that the Court's jurisdiction should depend upon accidental circumstances such as those indicated above, and in view of all the facts it is suggested that the more reasonable plan would be that the Federal Court should have jurisdiction to hear appeals in *civil* cases from the High Courts of British India or the States, involving the interpretation of any Federal law which extends either to British India or to the States, or to both, as the case may be. This need not imply a great flood of appeals; for it is thought that no appeal in these matters should lie as of right (unless perhaps the value of the subject-matter of the case exceeded a specified amount), but that either a certificate from the Court appealed from should be required to the effect that a point of law of general importance was raised by the appeal, or that the Federal Court itself should give leave to appeal.

14. The establishment of a Supreme Court for British India alone, having an appellate jurisdiction in matters *outside* the jurisdiction of the Federal Court, appears to be eminently a matter for the future Federal Legislature to settle, though the Constitution Act should lay down the general lines which any future enactment of the Federal Legislature for the purpose should follow. To establish a Supreme Court by the Constitution Act itself would impose upon the future Federal budget an additional expense which it might reasonably desire to postpone until the financial situation becomes clearer, and it would seem difficult to justify a denial of the right of the Federal Legislature to settle so important a matter of policy for itself.

15. The question whether it was possible to combine in one tribunal the functions of a Federal Court and of a Supreme Court for British India was much canvassed at the present and previous Conferences. Such a combination was objected to by the States, mainly on the ground (1) that the essential function of the Federal Court is to be the guardian of the Constitution and of Federal laws, and that its efficiency for this purpose would be impaired by its assumption of other responsibilities, (2) that to confer upon it the jurisdiction of a Supreme Court also would involve the appointment of so many additional judges that the quality of the judges would suffer, the supply of judicial talent of the highest quality being always limited, and (3) that the Federal side of the Court would tend to be overshadowed by the Supreme Court side. These objections are, it is believed, based to a great extent upon the assumption that the tribunal would, in its Supreme Court capacity, have a wide appellate jurisdiction in criminal matters, in which case no doubt a large number of judges might in certain events be necessary to deal with the appeals which came before the Court. If on the other hand the jurisdiction of

the Court were confined to questions of law arising in civil matters and appeals could only be brought before it as of right where the value of the subject-matter of the suit exceeded a specified (and really substantial) amount, there seems no ground for supposing that the business of the Court might not be adequately despatched by a comparatively small bench, little, if any, larger than that required for its strictly federal work. Thus it would not require a large number of judges to deal with as many cases as at the present time come on appeal to London from the British Indian High Courts; and it seems probable that three or four additional judges would be capable of dealing with that amount of business and indeed with a substantially greater amount.

16. There is however this further consideration to be borne in mind. If the jurisdiction of the Federal Court is extended to the interpretation in civil cases of any Federal law, as has been suggested above, then the jurisdiction of a Supreme Court would necessarily be limited (*a*) to appeals from High Courts in matters outside the competence of the Federal Court as such and (*b*) criminal appeals. With regard to (*a*) this jurisdiction need not be very extensive, if limitations on the right of appeal are imposed, such as are suggested above. With regard to (*b*) Criminal appeals stand an a different footing altogether and give rise to peculiar problems of their own. It may be that the solution of this question is to be found in the establishment later on of an independent Court of Criminal Appeal for British India; the problem is one which it is suggested should be separately examined on its merits and should not be allowed to complicate the question of the establishment of a Supreme Court.

17. If however the Constitution Act makes provision for the establishment at a future date of a Supreme Court with a limited civil jurisdiction such as is indicated above, it is submitted that the establishment of two independent Courts each with its own body of judges and its own staff and organisation, would be unfortunate. It would certainly cause additional expense, and might tend to create undesirable rivalries. If on the other hand the Federal Court were divided into two permanent divisions styled perhaps the First and Second Chambers respectively, in such a way as to mark as clearly as possible the difference between the above two sets of functions and responsibilities, it is thought that the objections voiced by the States could be met. It was against the confusion or blurring of the two functions of such a Court that the representatives of the States protested; but it is submitted that a scheme on the lines suggested might reasonably be accepted by them as a compromise between the two views,—it being understood that there would be only one Court and that the Federal Court.

18. It appeared from observations made by many members of the Conference that the time is ripe for a thorough examination of the present system of appeals to the Privy Council from British India. Attention was drawn to the inordinate delays involved in these appeals, to the need for restricting them to cases of greater importance, and to the difficulties which arise in those cases where an appeal lies on questions of fact. The new Constitution appears to provide a suitable opportunity for an investigation of these matters with a view to placing the right of appeal on a more satisfactory basis; and clearly in cases where under the Constitution Act a right of appeal is given to the Federal Court or to the Supreme Court, no appeal should be allowed to the Privy Council directly from any High Court.

19. One other matter was touched upon at the Conference, on which, though it is not strictly relevant to the question which arise in connection with a Federal Court, it seems desirable to add a few words. A decided opinion was expressed that the administrative control of the Provincial High Courts in British India should under the new Constitution be vested in the Federal Government and not in the Provincial Governments, a course strongly recommended by the Statutory Commission (see paragraphs 341-349 of Volume II of their Report).

The necessity of securing the High Courts from even the suspicion of political pressure does not require to be emphasised, and legal opinion in India seems to be practically unanimous in holding that this object

can best be attained by Central rather than Provincial control. Central control however must imply Central responsibility for High Court finance, as the Statutory Commission pointed out. It is believed however that, subject to certain readjustments, the receipts from judicial stamps would go far towards covering the expenses of the Courts, so that a charge would not necessarily be incurred by Central revenues; but it follows as a corollary that a deficit, if one should arise, would have to be met out of those revenues and not made good by the Province concerned. If however as the Statutory Commission recommended, the proceeds of judicial stamps arising in connection with Courts of subordinate jurisdiction are to be retained by the Provinces, the likelihood of a deficit in the case of some Provinces would obviously be increased; but this involves financial considerations which are outside the scope of this Memorandum. Nevertheless, it is submitted that the balance of argument and the interests of the High Courts themselves are altogether on the side of Central rather than Provincial control; nor, it should be added, ought Central control in this matter to be regarded as in any way infringing the principle of Provincial autonomy. It is also a question for consideration whether, for the purpose of securing still further the independence of the High Courts, provincial legislation affecting their jurisdiction should not require the prior sanction of the Governor of the Province.

(Sd.) MAURICE GWYER.

(Sd.) CLAUD SCHUSTER.

23rd December, 1932.

On by far the greater part of the matters discussed in this Memorandum I am in complete agreement with Sir Maurice Gwyer, and I have, therefore, signed the Memorandum with him. But I feel compelled to add on my own behalf that—

(1) While I think it easy to establish a distinction between matters involving the interpretation of the Constitution and constitutional issues generally, on the one hand, and other civil litigation, on the other, I do not believe that the dichotomy suggested in paragraph 13 is possible, and I think that if any attempt were made so to define the jurisdiction of the Federal Court very grave conflicts of jurisdiction would arise between it and the Provincial High Courts, or, if a Supreme Court were established, the Supreme Court.

(2) I think that the establishment of a Supreme Court is a matter for which the Constitution ought to make provision, though I agree that for reasons of expediency, and particularly the objections which seem to be entertained by some of the States and the financial exigencies, may render it desirable that the date of its establishment should be left to the determination of the Federal Legislature.

(Sd.) CLAUD SCHUSTER.

23rd December, 1932.

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