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A REPORT

ON MY WORK AT

THE THIRD INDIAN ROUND TABLE CONFERENCE

BY

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POONA.

1933

REPORT ON THE WORK AT

The Third Indian Round Table Conference

I wish to present to my friends and sympathisers the following short report of my work, in connection with the Third Indian Round Table Conference held in London, which I attended as a delegate from 17th November to 24th December 1932.

I was first invited to the Round Table Conference in 1930. But I did not then accept that invitation for various reasons, relating both to personal considerations and my public policy.

I was not invited to the Second Round Table Conference in 1931.

An invitation was given to me again this time and I accepted it. When I was at Hyderabad (Deccan) on my way back from Madras, I was unexpectedly invited, on 12th of October last, by the British Resident to see him at Bolaram, and was told that he had received a telegram from the Government of India, in which he was instructed to inquire from me personally whether I would accept an invitation to the Round Table Conference. I gave an affirmative reply; but I did not, naturally, treat that inquiry as the

invitation itself. On the 24th of October I read my name among the invitees to the Conference in an official Communique issued by the Government of India; and I received the actual invitation over the signature of Lord Willingdon the next day. The date for the opening of the Conference was stated to be the 15th November; and I had, therefore, to start by the P. & O. mail steamer 'Rawalpindi' leaving Bombay on 29th October. I had thus only about four days within which to make my preparations for a trip to London.

There was not much difficulty in securing a passage and a passport; and I was able to embark on the 29th Oct. From the manner in which a send off was given to me both at Poona and Bombay, it was evident that a large number of my friends and sympathisers were in favour of my accepting an invitation to the Round Table Conference this time; and in particular, those among them, who took great interest in (1) the position of the Hindu Community, in relation to the new scheme of political reforms, (2) the position of the Indian States' subjects in relation to the Federation of States with British India and (3) the agitation of the people of Berar for separating it from the C. P. and making it a sub-province as a constituent unit in the Federation. I had no idea as to what exactly I might be able to do for these friends, from their point of view, at the Round Table Conference. But they probably thought that I would do the best that was possible under the circumstances.

I had a pleasant voyage to Marseilles except for some hours in the last stage of the journey.

I reached London at 4–30 p. m. on Saturday the 12th of November. Besides the usual representatives of the British Government and the Press, a number of Maharashtriyans also were present at the station ; and I feel grateful for the welcome they gave me.

From 13th November I occupied my apartments in the Hans Crescent Hotel, Knightsbridge (London S. W. 1.) and at once set about my work. My difficulty in getting clerical assistance was luckily removed owing to the presence in London of Mr. D. V. Tamhankar, B. A. He first came to London in September 1931 as a press representative, for reporting, among other things, the proceedings of the R. T. C. which had attracted much attention in India, as Mahatma Gandhi was attending the Conference as a Member after the Delhi Pact of 1931. Mr. Tamhankar succeeded in his mission, as he could obtain a ticket of admission to the Conference Room. But he did not return to India after the end of the Conference. He continued his stay in London in quest of a footing there as a journalist ; and on the strength of his connection with the *Kesari* as its London Correspondent of 1931, I secured his services as a Secretary to help me in my work in London.

The Conference was opened, on the 17th November (instead of 15th as originally announced) in a

Committee room of the House of Lords. The Prime Minister presided. It was, however, more or less an informal opening, as a number of members, invited to the Conference, had received very short notice like myself, and were yet on their way to London. The business of the Conference commenced in right earnest from Monday the 21st.

On the 17th November, Mr. Ramsay MacDonald opend the Conference. He made a very short speech. He welcomed the members of the Conference, both old and new, and said "Everybody's general position was clear, and the object of the present Conference would be to fill in detail the gaps in the discussions of the two previous conferences. The work this time would be more of the nature of Committee discussions. And only short minutes of the proceedings would be prepared and circulated." He proposed a Committee of three persons for this purpose.

With a very few words to this effect, Mr. MacDonald left the Conference. Lord Sankey, as Deputy-Chairman, then took his place and presided over the Conference from that day to its conclusion.

There was only one item of business as such, done at this meeting on the 17th November; and it related to the fixing up of the agenda of the Conference. A kind of provisional agenda was prepared in the office, and put before the Conference for sugges-

tions and approval. It contained nothing more than about nine or ten heads or common places of an Indian Constitution. I knew how at the last Conference (1931) things were rushed at the end, so that the Conference could not be said to have made up its mind or noted agreements upon the important questions before it. There was indeed a general discussion and a valuable one too, for several days. But there was at the end a sense of things remaining in suspense in view of the Consultative Committee, which was appointed to complete in India discussions of and investigations into outstanding matters, and also in view of the reports of certain Sub-Committees which were yet to be ready or formally presented. But the Consultative Committee, as we all know, proved abortive, and the present session was to be the third and the final session of the Conference; consequently no risks could now be taken of loose ends of deliberations being once more left over. I, therefore, made a short speech and brought this fact to the notice of the Conference; my particular point being that precedence should be given in the agenda to the more important among the outstanding questions, so that the time of the Conference may not be wasted on non-essentials and more or less undisputed matters. In reply to my speech the Prime Minister explained that the agenda was not meant to be either exhaustive or rigid, and that opportunity would be afforded from time to time for discussion of subjects relevant to the work of the Conference.

My suggestion for choice and precedence was thus noted but passed over, as support was not received for it from any other section of the Conference. It was, however, found and realized at a later stage, that my suggestion to give precedence to the more important subjects was not without sense or significance. For, in the Nationalist Party's letter, addressed to Lord Sankey on the 12th December 1932, precisely this point of precedence was indirectly upheld, in view of the single week that was left before the end of the Conference, and the crowded list of subjects that were yet to be discussed in that one week. As it was, however, I had to content myself with mentioning certain additional topics for discussion, such as Berar, Burma, Fundamental Rights, etc. along with certain others mentioned by Sir T. B. Sapru and Sir M. N. Metha.

Soon after my arrival I was invited by the Under Secretary of State, the Secretary of State, and the Prime Minister to see them. And with all of them I had long talks. Both the latter told me what programme and procedure was being adopted, and I in my turn told them what I thought in the matter. Also I saw Mr. Wedgwood Benn, ex-Secretary of State for India, and Mr. George Lansbury, the present Leader of the Parliamentary Opposition. From Mr. Wedgwood Benn I learnt interesting facts about the inner history of the R. T. C. Mr. Lansbury explained to me at some length the attitude of the Labour Party

towards the Conference, and especially its reasons for not participating in it. I also met some old Parliamentary friends and certain Englishmen who are in active service in India or pensioners.

A number of Press and News Agencies' representatives came to see me; and I was in touch with them, now and then, during my stay in London. Perhaps they recognised in me a brother journalist and were, therefore, friendly to me. This year, however, the proceedings of the R. T. C. were not as much pervious to the Press as during the last two years. These friends, therefore, naturally exercised their privilege of getting, not exactly confidential news but general ideas and impressions about the progress of the Conference which I on my part could give them without any impropriety. But on the whole, the Local Press seemed to be more or less indifferent about the R. T. C. Somehow, India had this year ceased to be attractive to the London public. Only a few leading papers published short summaries of the proceedings of the Conference, and these were taken from the official Communiques issued to the Press. There was not even the usual spirit of alertness to obtain odds and ends of relevant news of the Conference, nor the spirit of rivalry or enterprise in securing what may be regarded as secrets of the Conference history, or featuring them with the accustomed skill if any were so obtained. It was the "Daily Herald" alone which for the first time came out with anything like a sensa-

tional piece of news about the Conference, when that so-called organ of the Labour Party announced the alleged 'impending breakdown' of the R. T. C. in big headlines! The London "Times" was not slow to contradict this news. As a rule that leading paper of London gave a tempered and sedative account of the progress of the Conference.

Two explanations may be given of this phenomenon. First, that all the curiosity of the Press about the Conference was exhausted on Mahatma Gandhi, when he attended the Conference last year; or that the disillusionment of the Press with regard to Mahatma Gandhi, combined with a tedious repetition of the discussions in the Conference, had a sort of reactionary effect on the mind of the Press.

As regards hospitality and social attention at the hands of the City public, the Members of the Conference did not feel any lack in the least. In fact they were rather so overwhelmed with invitations to tea-parties, receptions, lectures and public entertainments that it was impossible to cope with them; and many among the Members had to make a choice, accept some and decline others, at the risk of even appearing discourteous or ungracious. A special Social Secretary was placed at the disposal of the members of the Conference, and it may generally be stated that we met with nothing but uniform courtesy at the hands of every official, highest and lowest.

The short winter days, the early hours of business, and almost daily engagements in the nature of visits and private meetings, left practically not much time to me to see London and its institutions. My visit to London, thirteen years ago, was of course an added reason. For, on that occasion, I was for five months in London—those again summer months—and could find some time amidst my duties for these things. The increasing cold weather of the season this year, also impelled me to cut short my stay in London after the end of the Conference and to return to India.

There were four main groups among the Members of the Conference viz. (1) British Delegation (official and non-official), (2) British Indian Delegation (non-Moslem), (3) Moslem Delegation and (4) The Indian States' Delegation. Of these, the Moslem Delegation alone was acting like one man. H. H. the Aga Khan was their declared head ; in fact he even took it upon himself, on the first day of the Conference, to reply to the opening speech of the Prime Minister in the name of the whole Indian Delegation. But the real leadership of the British Indian Delegation was soon taken up by Sir Tej Bahadur Sapru. The Aga Khan never troubled to make speeches, Mr. Jaffarulla Khan being the accredited spokesman of the Moslem groups. Among the British Delegation the Liberals (Lord Reading and Lord Lothian) generally supported the official view. The Conservative sub-group, consisting of Lord Peel and Earl Winterton, kept up, in the beginning, the

appearance of preserving their distinctive identity; but they soon ceased to take an active interest in the work of the Conference, seeing perhaps that things were not going far wrong from the Conservative point of view. The States' delegation was to the last divided on many points, unanimity being practically confined to the scope of the Mandate given by the Chamber of Princes.

Among the non-Moslem British Indian Delegation, there was one group of eleven members; and the mention of the following names may cause a legitimate surprise in India, that they could hold together on some of the crucial questions and speak as with one voice. The names are :—

1. Sir Tej Bahadur Sapru.
2. Mr. M. R. Jayakar.
3. Sir Cowasji Jehangir.
4. Sir Purushottamdas Thakurdas.
5. Sir N. N. Sircar.
6. D. B. Ramswami Moodliar.
7. Mr. N. C. Kelkar.
8. Dewan Nanak Chand.
9. Sardar Tara Singh.
10. Dr. Ambedkar.
11. Mr. N. M. Joshi.

It may be pointed out that, with the exception of the Supreme Court, there was no important subject on which this group of eleven spoke in the Conference with divided voice. Further, it may also be claimed

that the view, put forward by this group on the most crucial political issues, was the most advanced that was put before the Conference from any group.

Early in December, the game of delay and inconclusiveness on the part of Government had become evident to our party. Consequently the following letter, signed by all the members of the party, was sent to Lord Sankey, to make the position of the party quite clear:—

Dorchester Hotel, Park Lane
London, 12-12-1932.

To

The Right Hon. VISCOUNT SANKEY, G. B. E.,
Deputy Chairman of the
Round Table Conference,
House of Lords, Westminster, S. W. 1.

Dear Lord Chancellor,

"As your Lordship knows, we have still to cover a large extent of ground; and having regard to the date which has been indicated as the date of the closing of the Conference, we are afraid that some important subjects such as Financial Safeguards, Fundamental Rights, Constituent Powers, including the future method of amendment of the Constitution and the machinery for it, may either recede in the background or not receive that measure of consideration which their importance demands. For the successful conclusion of the Conference, and in order to enable us to

influence opinion in our country, it seems to us necessary that definite conclusions on these questions, and those already discussed including Defence, should be arrived at, and a record made of them in a report before the Conference disperses.

"We are most anxious that the inauguration of the Federation should not be left to an undefined future, and we would earnestly urge that the Indian States should be called upon to make up their mind and to declare it before a certain date, after the publication of the White Paper, which might be fixed by His Majesty's Government; and then another date, within 12 months of the passing of the Act by Parliament, might be fixed for the actual establishment of the Federation.

"While we welcome the association of the Indian States, and think that many of them would be willing to join the Federation once the outstanding questions are settled, we also feel that any unnecessary delay should not be allowed to operate to the disadvantage of British India. And accordingly we suggest that, while the Constitution may provide for the Indian States joining the Federation, as and when they find it convenient to do so, responsibility at the Centre should not remain in a state of suspension pending their entry into the Federation. Indeed, it is our considered opinion that we should take no risk of the Constitution of the Provinces being changed without Central Responsibility being placed on a ceratin and definite footing.

"Of course, all this presupposes (1) an agreement on vital issues which we are earnestly working to achieve, and (2) the acceptance by Parliament of Legislative proposals based on them.

"We shall be gratetful if your Lordship will bring this letter to the notice of the Prime Minister, the Secretary of State for India and your other colleagues.

We beg to remain, dear,
Lord Chancellor, Yours sincerely," &c.

The work of the Sub-Committees was going on for neary two weeks, and their reports, were finally submitted to the Conference under conditions, as to the pressure of time, which made it almost impossible for the Conference to closely scrutinise and discuess them. Those representatives of our party, who were on Sub-Committees, had done their best to put forward reasonably progressive views before the Committees. But they were in a minority on the Committees, and consequently their voice was drowned in the voice of the majority. Those views would have received ventilation and support in the open Conference, if the reports of these Sub-Committees could be discussed with an ample or adequate margin of time for the same. But things were simply rushed, as Government had made up their mind to conclude the Conference by the 22nd of December or so.

On the 20th December I wrote the following letter to Lord Sankey, to draw his attention to the difficulties of myself and some other members of the British Indian

Delegations, who were anxious to get at, if possible, definite conclusions arising out of the deliberations of the Conference.

20th December 1932.

" Dear Lord Sankey,

"I regret you have not been able to give me the advice which I sought from you on the day I lunched with you.

" The point is that I wish to be guided as to how and when I can state my views about ths Communal Award, as the subject of the constitution of the Provincial Legislative Councils does not seem Specifically to be included in the Agenda still to be disposed of by the Conference.

" Further, I wish to raise at the beginning of the proceedings of the very next sitting of the Conference, one or two points of information and inquiry about the conclusion of the Conference, in respect of time and the agreements reached. Myself and some of my other friends do expect that, like other Committees or Conferences, even this Round Table Cenference would end with some sort of a report stating (1) points of agreement already reached, (2) outstanding points on which agreements are yet to be reached and (3) points on which there is no hope of reaching any agreements. We cannot consent to an inconclusive termination of an important Conference like this. There is no Consultative Committee sitting after the Third

Round Table Conference as there was one after the second R. T. C.

"The concluding speech, to be made, whether by the Prime Minister or the Secretary of State or yourself, will go to the public as the last official word; and there can, of course, be no criticism on that last word in the Conference itself. If, however, a formal report is written and presented, the members of the Conference will have an opportunity to indicate their views on it, side by side with official views.

"Some of us have already booked our passages to sail from Marseilles on the 30th just; and part of our luggage has already been forwarded. But we shall be prepared to stay on even after Christmas, if necessary, for the purpose of enabling the Conference to reach a regular conclusion with a report, if not a satisfactory conclusion, with regard to India's aspirations.

"I write this letter as I do not think it would be fair to mention such a matter at the Conference without giving you, as Chairman, some indication of my intention about it beforehand.

Yours sincerely,

N. C. KELKAR.

[The following are the observations which intended to make, and of which I gave notice in the above letter. But it became ultimately unnecessary to touch the subject in the open Conference.]

"Before the Proceedings of the day commence, I wish to raise one or two points of information and inquiry. They relate to the business of the Conference in general, though not to any particular subject on the Agenda. In order to be precise, I would like to make a sort of a statement. The first point of information or inquiry is this. When is the Conference to close and the second point is how it is to terminate. Both events are in a way interdependent on each other. But between the two I feel more concerned about the second than with the first. In my opinion, the time when the Conference should close must depend upon how it is to terminate. The initiative in the business of the Conference very properly rests in the hands of the Government. And you, Lord Chancellor, as the Chairman of the Conference, have a right to regulate the proceeding when the Conference is sitting. But we the members of the Conference are, I suppose, equally concerned about certain aspects of the Conference, although we are responsible neither for that initiative nor for that regulation. We are concerned, however, with its termination, and the result of the business in connection with which we have been invited and are attending the Conference. It is naturally expected that in this

the Third and the final R. T. C. we shall have an official review of the business of the three Round Table Conferences, and a statement in the form of a regular though brief report, on three things, viz. (1) points on which agreement has been reached, as between the Government and the Non-official Delegations, (2) points upon which complete agreement has not yet been reached, but may possibly be reached on the part of the Government by the time a White Paper is issued, embodying the views of the British Cabinet, and (3) points on which the difference of opinion is so wide that agreement is not likely to be reached on them.

"It will be an impossible position for us to have to go back to our country without a report which embodies these three categories of conclusions of the business of the Conference. As it will be impossible or useless to raise this question on the very last day of the Conference, I wish to take this earlier opportunity of raising it. So that it may not be too late to mend matters, if Government share our view that the issuing of a formal report of the Conference is a vital necessity. As for the day on which the Conference should end, that question must necessarily depend upon, whether we are to tie up the loose ends of the deliberations of the Conference in the body of a final report? Or whether we are to part, contenting ourselves with a conclusion in which nothing is concluded. I repeat what I said on the first day of the Conference, that I (myself, and I believe I can say the same for some of

my friends here), am not prepared to stop here even one day longer than is absolutely necessary. In fact some of us have booked our passages by steamers leaving for India on the 29th and the 30th inst. and have already forwarded part of our luggage. But on the other hand we are prepared, even at some inconvenience, to stay on after Xmas for as long as necessary to secure what I regard is essential, from the point of view of knowing exactly where we are at the end of this Conference. I hope, therefore, that some light will be authoritatively thrown on these points of doubt and difficulty."

I believe my letter was immediately sent by Lord Sankey to Sir Samuel Hoare, with the result that on the very next day, the Secretary of State invited a few leading members of the Conference to meet him at his office, where the position was mentioned and discussed. And it was decided that a formal report of the Conference would be prepared by the office, embodying, as far as possible, the definite conclusions to which, the Government could say, they had arrived on many of the points that were taken up for discussion in the Conference. And as for inadequacy of time, required for the expression of their views by the members of the Conference on the reports of the Sub-Committees on other out-standing matters, it was agreed that instead of oral speeches, written memoranda may be put in, and they would go on the record as an integral part of the proceedings. At one time it seemed that it would be almost imperative to *adjourn* the Conference

on the Christmas eve, and continue it for as long as necessary after the Christmas holidays. But the permission, to put in written-Memoranda on any outstanding subjects, was regarded as solving the whole problem, because the reports of all the Sub-Committees were printed and supplied to the members of the Conference during the last two days of the Conference; and written memoranda could easily take the the place of oral observations on any of them.

The whole record of the Conference is now available in India; and one has only to look at it to detect therein signs of pressure and hurry all round. One, however, feels some comfort in the idea that the Joint Select Committee would give at least one more opportunity for some people to make an attempt to put forward the Nationalist view, and get it discussed. And the discussion would be obviously more pointed than in the Conference itself, since a draft Bill would be before the public at that time, and the intentions of the Government would take the form of legal words, which have to be definite and precise in their import. I would, therefore, ask all earnest critics of the results of the Third Round Table Conference to await the publication of this Bill. For, in the meanwhile, even the members of the Conference, who were present, or listened to discussions, and even participated in them, could not take upon themselves the responsibility of giving definite assurances as to the real intention of Government on many matters, though they may state roughly their own impressions of the whole thing.

My own opinion about the results of the Conference is, as I have already stated in my replies to newspaper reporters and other friends, that the results are not as bad as I had feared they might be, when I went to England, nor are they of course as good as I had wished they should be, in fact far less so. They are far from satisfactory, as the next immediate instalment of constitutional reforms, even from the point of view of reasonable and practically minded men. The position, taken up by the British Government, in relation to the Army and Defence, is scandolous and absolutely unjustifiable ; and their position in relation to fiscal safeguards is unreasonably stiff and suspicious. The only consolation, if it can at all work out as a consolation, would be that the prospect of the early establishment of Federation and Central Responsibility, though highly hedged around, is well nigh assured, and of course full provincial autonomy along with them, not before or by itself.

To a foreigner British Indian polilics would seem to be funny. At one end the Indian National Congress has already declared independence ! At the other end he sees the British statesmen solemnly trifling with political reforms and investigating the mathematical minima of concessions. Disparity like this was found only by Alice in the Wonder–land, when she had her body lengthened out to enormous proportions and sky-high, or shrunk like a shut-up telescope, according as she munched the one or the other end of a magic Mushroom !

Statement to the London *Times*.

[Immediately on my arrival in London a representative of the London *Times* met me and asked me for a Statement. Accordingly, I gave one which was published by the Times with a few alterations.]

Mr. N. C. Kelkar who, at the Round Table Conference, represents, among other interests, the Hindu Mahasabha, was received and welcomed on arrival in London, along with official representatives and the Press, by his numerous Indian friends.

Mr. Kelkar had visited England in 1919 as a member of the Deputations which gave evidence before the Joint Parliamentary Select Committee on behalf of the Indian National Congress and the Indian Home Rule League. He confessed that in his opinion there was a great difference between the position of Indian politics then and now. One of the principle points of difference was that the Deputations had then come to England, along with other individual witnesses to suggest alterations, not so much in the principles as textual provisions of the bill relating the Indian Reforms, which was already introduced in the Parliament. The position in 1932 on the occasion of Mr. Kelkar's second visit to England, was obviously materially advanced, as the two Round Table Conferences had already met and the third was now meeting to

discuss principles and plans of a very comprehensive scheme of Indian Reforms, possibly going up to the point of an All India Federation, by the far more acceptable method of discussion and agreement as far as possible across the table. Further the coming Joint Select Committee, though relating to a bill which would be as a result of the deliberations of all the three Round Table Conferences, was to be held before the bill itself would be introduced in the Parliament. The two things together evidently meant that full latitude should be available for persuasion, and perhaps even mild political pressure, on either side with a view to the framing of a bill of reforms calculated to take into consideration both the principle of self-determination and the exigencies of the political situation with regard to Parliamentary Government. For all these reasons Mr. Kelkar considers that the final session of the Round Table Conference is a very important one, involving however for the same reason great responsibility not only upon the non-official members but also upon the Indian States Representatives and perhaps more especially on the British Delegation to the Conference. Mr. Kelkar said he could not possibly make a guess as to how the situation would develop. But he hoped that now that the Communal questions had been practically settled, whether agreeably or disagreeably to certain communities, the field is now ready and open for the Indian States representatives to come forward with their much valued verdict as to whether they would

enter the Federation or not. And in case a reasonably considerable number of the States express their willingness to join the Fedration, the Conference would naturally and necessarily have to give the first place to what should be done about the Federation itself. For responsibility in the Centre appears somehow to be made dependent upon the States coming into the Federation, although there was also, as is well known, another view of the matter. As for Provincial Autonomy that seems to be already so much a matter of common ground, that neither the Conference nor the outside world feel great or paticular interest in it, in relation to a Round Table Conference of this nature, where the chosen representatives of the three realms of the Empire have been invited for common deliberation at such great cost and inconvenience.

As for himself Mr. Kelkar said, he was called upon to attend the Conference at very short notice, as must have also been the case with a number of other members of the Conference, who found it impossible for them to attend here on the 15th, which at first was stated to be a peremptory date for the Commencement of the Conference.

The following are the speeches delivered and memoranda submitted by Mr. N. C. Kelkar at the Third Round Table Conference.

SPEECHES

No. 1

Alternative Agenda

PRIME MINISTER,

I have to make certain suggestions about the Agenda, that has been placed before us. In fact, I have myself prepared what can be called an alternative Agenda, in which the sequence of certain topics or subjects in the official Agenda is changed by me, and also some new topics not in that Agenda, have been newly added. I will briefly state my reason for this. It has been broadly and even specifically suggested that it is proposed to conclude this Conference on the 20th of December. That is, of course, to be welcomed, from one point of view; for we have been dragged to England in this winter-weather; and I am not willing to stay here a day longer than is absolutely necessary. In fact, some of us might have been unwilling to come here at all, if the call of duty did not demand our attendance. But on the other hand, we would like to see the business of the Conference finished properly, whatever the time it takes. It will be seen that the subjects mentioned in the Agenda are not all of equal importance. The alternative Agenda, that I might suggest, would have reference to the proper precedence to be given to important

over comparatively unimportant subjects, like the Franchise, which has been adequately and also satisfactorily discussed in the Lothian Report. In case changes in the Agenda are not acceptable, I would at least suggest that, even at a later stage, we the members of the Conference, should be allowed to mention and discuss subjects as they occur to us, from time to time, provided they are relevant to the Agenda for the day. What I claim is that I should not be estopped at a later stage from suggesting my points for discussion, on the ground that they were not mentioned in the beginning. I may be ruled out by the Chair, if my points are regarded out of order. But I would not accept the plea of estoppel.

No. 2

Educational Qualification.

LORD CHANCELLOR,

I support the proposal of Education being made a special or additional ground of franchise for a voter, in addition to that of property. I was really surprised to find, that Sir A. P. Patro should like to pose as an opponant of education; and I wonder, if he does so because in his opinion, a certain class of people, say the Brahmins, are more advanced in education than others, viz. the Non-Brahmins. But education should be a ground for the franchise, because in the first place, it is a positive acquisition by the Voter, for which he should be rewarded with a vote. Education is not like adult age, which a man cannot help attaining in course of time. And there is no reason why a man should get a vote, simply because he attains majority. Education also is not like one kind of property, viz. inherited property; For a man cannot escape inheritance or cannot help coming into property, which his parents leave him. But education is something for which a man must spend money, time and energy to acquire it. Then, again, the educated man, if he is given the vote, is more likely to be useful to his society and help the development of his country, than a man who has merely attained the age of majority or inherited property. It is contended that there will be great difficulty in securing authentic evidence of a man having passed a particular examination, or completed a particular standard of education. Such evidence is generally available in school-records. And even supposing that for the first few years, there may be some difficulty for some people to get the required certificate, the difficulty will soon begin to disappear, if Gov-

ernment recognize education in the primary schools as a qualification for the franchise. In that event the Education Department will be alert, and will order the setting up of a system of school-records from which the required evidence of a certificate could be easily obtained.

There is, however, one point in the Agenda, which I wish to stress viz. it seems to be suggested that the educational qualification should be made optional, that is to say, the duty of claiming the franchise on the ground of education, and producing evidence for it, should be thrown upon the voter. And the reason given in the Agenda appears to be, that there are difficulties about 'polling.' I do not see the logic of this. It appears, as if, the intention is to take away by one hand what was given by the other! The additional number of voters, who will be registered on the ground of Educational franchise, will not be so large as to add to the difficulties of polling which do not already exist. If there are any difficulties they do not relate so much to polling as to the preparation of the roll. Nor do the Indian Franchise Committee in their Report refer to the difficulties of 'polling'. In para 86 of their Report they discuss the question of preparation of an electoral roll. But I am of opinion that the duty of obtaining information, even about educational qualification, should be primarily thrown, not upon the voter but upon the Government. Of course, it is more easy to prepare a register of voters possessing a tax-paying qualification ; for official registers of tax payers have got to be kept ready, and this can be done by incorporating ready lists of tax payers. I am aware of this. But I contend that if the preparation of registers of voters, with an educational franchise, is made a primary duty of Government, the system of keeping correct educational records and supplying certificates will slowly but definitely emerge.

No. 3

Residuary Powers

LORD CHANCELLOR,

I would like to make a few observations on this topic before the Conference, relating to the allocation of powers with special reference to the residuary powers. In the first place I wish to point out that this question of residuary powers is not and should not be regarded as a communal question. Communal colour is no doubt given to this question, because it formed one of the 14 demands put forward on behalf of the Muslim Community by Mr. Jinha. The Hindu Mahasabha did not agree to that demand; but it should be remembered that after all there are going to be more so-called Hindu Provinces in India than the so-called Muslim Provinces; and if I say that the residuary powers should not be vested in the Provinces but should remain with the Central Government, then obviously I would be speaking against Hindu interests. But I am going to say that very thing here. Therefore, my arguments against the grant of residuary powers to the Provinces must be regarded as at least disinterested and, therefore, strictly relating to their own merits.

Most of you perhaps may be aware that writers on Constitutions regard a two-fold division of Federations, one Analytical and the other Synthetical. In the first category of Federations, the starting point originally is the Central Unitary Government, and powers are taken out from that Government and given or made over to the Provinces, which are set up as more or less autonomous Provinces

and called upon to make a Federation along with the Central Government. In the case of the second category of Federations, provinces or states, which were already autonomous, surrender some of their own powers (which they actually enjoyed before) to a new Central Government and on that basis come into a Federation. Consequently, the residuary powers, that is to say, powers, which are not so surrendered, remain vested with the Government which was already enjoying them. The Federation, that is to come into existence in India, is a Federation of the analytical kind, formed by the process of further decentralization; and, therefore, whatever powers remain after exhaustive enumeration of expressly surrendered powers, must be supposed to vest or remain with the Central Government. British India illustrates the phenomenon of decentralization or devolution as a continual process; and we are, in this Conference, only seeking to make that decentralization or devolution as complete as we can, taking it almost to its logical conclusion. This process of decentralization was not, however, commenced till after the other process viz. of centralisation, was carried to an absurd point, say about the time of Lord Curzon.

No doubt, before the Regulating Act of 1774, the Provinces of India, such as Bombay, Madras and Bengal were never under a single central administration *in India*. That centre of administration was in England. The Regulating Act changed this. The Act of 1858 substituted direct Crown Administration for Company Administration. In departmental administration also the tendency was not to decentralize or differentiate, but to keep different powers in the hands of the same officials. Thus revenune, civil, and judicial powers were sometimes found to be exercised by the same person, as was, e. g. the case in Berar till

some 35 or 40 years ago. Centralisation was reduced to absurdity in Lord Curzon's time, when, as I well know, the common joke in the country was that, if a sign-post or poster was to be put up or removed in a village *Kacheri*, it could not be done without the permission or except in consonance with the general rules or standing orders of some Departmental Director-General at Simla.

Then came a reaction. The tide turned. A new cycle commenced. And that cycle was a cycle of decentralisation. In 1907 a Decentralisation Committee was appointed in the Bombay Presidency, and I remember that the late Mr. Gokhale and the late Mr. Tilak gave evidence before it. Decentralization took the form of certain powers exercised by the Governor being made over to the Commissioner, of the Commissioner to the Collector, of the Collector to the Deputy Collector, and so on. That was, of course, Departmental decentralization. Also certain Departments began to be specialised and differentiated. But side by side with this official decentralisation, the spirit of that process also reached Local Self-Government. In 1912 Urban Municipalities were allowed to have elected, in place of nominated, Presidents; and later on the Local Boards also. In 1911 we, for the first time, heard uttered the word 'Provincial Autonomy'. It occurred in the speech of His Gracious Majesty in the Durbar, and now in this Conference we are completing that process of decentralisation, on a group scale, in its highest and most desirable form, by making Provinces autonomous, setting them up on their feet and joining them together in a Federation. But even when the Federation is accomplished and the process of decentralisation carried to its fullest extent, the idea of a Central Government cannot be eliminated. And, if there must be a Central Government, it must also be competent, strong, effective, at least for certain though limited purposes.

foreseen; but, of course, for unforeseen, it must possess all the *unallocated and residuary* powers.

Both constitutional practice and common sense would require this; and such a Central Government would be useful for several purposes. As pointed out by Dr. Sapru and Mr. Jayakar, uniformity would have to be secured in certain matters of legislation throughout India, as for example, Civil and Criminal Codes etc. Then, again, unforeseen extra-Indian, affairs both political and commercial, would arise, with which a Central Administration alone would be able to adequately deal with, rather than the Provincial Governments. Then, again unforeseen doubts and disputes e. g. boundary disputes would arise and they will have to be resolved. It is possible that some of these doubts and disputes may be worthy of being taken to the Supreme Court, if one such is established; but there again, if a decision were given against a Province, and that Province was inclined to make trouble about accepting it or carrying it out, the need of a strong competent Central Government would become obvious. For, otherwise, the working of the Federation would come up against the same difficulties as the nations of the world feel in the sphere of International Law, and for removing which the League of Nations has been established.

There may be other matters also, although on a lower plain, such as inter-provincial adjustments of benefits; and here also the intervention of a Central Government, accepted by all is likely to be useful. To illustrate this point, however, I would tell a small fable relating to worldly wisdom, which I read in a book in my Grammar School. It happened that a father left a will mere stating that the whole of his property should be divided

after his death among his three sons in the proportion of $\frac{1}{2}$, $\frac{1}{4}$, $\frac{1}{5}$. When, however, an inventory came to be made, it was found that the whole property, to be divided, consisted of 19 horses, some of which would have to be cut up to satisfy these proportions, which looked absurd. Failing to solve their own difficulty the sons agreed to go to their family adviser, who was like another father to them. He too was puzzled for a time, but ultimately came to their rescue. He took his own horse with him, and went and tied it up along with those 19 horses, and then made the division so that the proportions mentioned in the will were strictly satisfied. The first son was given 10, the second 5, and the third 4 horses. The patrimonial property was thus fairly divided in terms of the will, the sons were satisfied and pleased, and the wise man rode back home, on his own horse, carrying the youngsters' compliments with him.

The moral of the fable is obvious. Even in a Federation, autonomous Provinces would be like boys, who have come of age no doubt and masters of themselves and their property. But there would be nothing derogatory to their dignity, that they would not cease to be children who might occasionally require the advice and friendly intervention of some one benevolently in *Loco Parentis*. And, lastly, the whole category of the 'unforeseen', remains; and in this respect the residuary powers may have some part to play. The process of decentralisation and devolution, if it is to be carried to the extent of Provincial Autonomy, would require a thorough allocation of subjects of administration, and corresponding powers shall have necessarily to be decided and allocated. Let the Conference by all means exhaust categories for such allocation. Let all human wit and ingenuity and legal acumen be used for this purpose. But the unforeseen will always remain an

unforeseen. And that tempts me, if I may not be charged with pedantry, to say somewhat fancifully, in the terms of the Vedantic doctrine, which my friend Mr. Jayakar well knows, that is to say, "Even if you take out the whole from the whole, the whole remains!" पूर्णस्य पूर्णमादाय पूर्णमेवावशिष्यते.

No. 4

Special Powers and Responsibilities of the Governor-General and Governors.

LORD CHANCELLOR,

We are reaching an important point in our discussions. And I would like to say a few words on the subject mentioned in to-day's agenda. But before doing so, I must say that the Agenda, as presented to us, thanks to the draftsman, is a labyrinth or a catacomb, out of which I could see light only after reading it 3 times. We all know what a catacomb is; but in relation to the subject of the Agenda, I must say, the boot is on the other leg. For the catacombs we know of, (I mean the catacombs in the early Christian history) were the subterranean labyrinths, in which the unfortunate Christians of the time were hiding themselves, to escape persecution at the hands of the Roman tyrants. But here in the catacombs of the Agenda, it is the special powers of the Governor-General, and the Governors—the Imperial safeguards—are concealing themselves to avoid detection. From the little light I see, I can say that the scheme of powers in the Agenda is an omnibus in its form and is likely to prove a deadly bludgeon in its effect.

I agree with Dr. Sapru in every word he has said. He has made a full and yet a discriminating speech. He has said 'yes', where he should have said 'yes,' and 'no' where should have said 'no', and he has reserved his opinion on some doubtful points. He never took up the attitude of *non-possumus*. For there are many matters in this scheme of powers which require a thorough examination. And the

Conference may well appoint a sub-committee to do it, as it has been done in other cases.

The view I take of the scheme is this. Responsibility is conceded *primafacie* both in the Central and the Provincial Governments. Not a single subject is to be reserved in the Provinces; but in the Central Government certain matters such as Army, Foreign Affairs, are now proposed to be reserved. And to that is being added the Ecclesiastical Department. To this last India will not be in a hurry to take exception. It is a question somewhat like the Disestablishment of the Church. If spiritual equipment of the British soldier is considered necessary, be it so. I would add that the spiritual equipment of the Indian soldier should also be attended to. With regard to the Army and Foreign Affairs, Dr. Sapru has pointed out that certain matters, even in these Departments, can be made over to the Central Responsible Government. But even with regard to those matters which may not be immediately so transferred, I would insist upon one thing viz., the appointment of Indians to the post of Ministers, through whom, as his instruments or agents, the Governor-General will carry out his special responsibility. For, if ultimately the whole of these matters are to be made over to the Responsible Government, a beginning may very well be made with *Indian* Ministers, so that they may get the initial training.

First, I will take the Foreign Affairs, and I claim that Indians can be easily found who are quite fit to discharge the duties of the Foreign Minister. Obvious reference can be made in this connection to the Indian States, which are said to be foreign countries! And are not their Indian officers now handling negotiations with British Govern-

ment on a footing of equality ?—as one ambassador to another? (A voice:—'But are Indian States really independent? Mr. Kelkar:—Well, is not that their claim? And if they make that claim for their convenience, why should I not make the same claim for my purpose also?) The point is that, in Indian States, there is no post or official duty, which is not filled by an Indian. And if Indians are fit for Foreign Affairs, in such big States as Hydrabad and Mysore, why should it not be the case in British India?

The same applies also to the Army Department. And I claim that an Indian must be appointed to the post of the Military Secretary or the Army Minister in British India. Speaking generally, it will be admitted that the water-line of Indian aspiration and its fulfilment has been steadily rising during the last 25 years. Till before that time no Indian was considered fit enough for holding the office of even the Revenue Commissioner. But since then Indians have bean appointed as members of the Executive Councils of Governors and also the Governor-General. They have been appointed as members of the Advisory Council of the Secretary of State for India. One Indian was made a peer in the House of Lords who served also as the Under-Secretary of State for India, and who subsequently was appointed a permanent Governor of a Province. Indians have been holding posts of officiating Governors; they have been High Commissioners for India in England, and they also go as ambassadors to the League of Nations. The question then arises why should the Army Dept. alone in India be so peculiarly regarded, that no Indian should ever hold the post as Army Secretary or Army Member under the Governor-General? I, therefore, insist that the letter of instruc-

tions to be issued by the Crown to the Governor-General hereafter, should contain a provision, if not in the statute, that an Indian must, as far as possible, be appointed to take charge of both the Army and the Foreign Affairs, though as an instrument or an agent, responsible only to the Governor-General himself. An Indian will be found to be fit for the purpose of this offices, as Indians have proved for all other offices I have mentioned.

For, after all, the actual experiment, experience and pressure of responsibility alone, that go to make a man fit for any office. And here I am reminded of a fanciful mathematical formula of the late Mr. Gokhale, who used to say, "If you would want a man to be fit for holding an office called X, he should first be appointed to an office (X+I). The point or the moral is obvious. The late Mr. Gladstone used to say that man can be fit for liberty only by exercising liberty. So is it with responsibility ? There is, however, a special reason why I insist upon an Indian being appointed Army Minister. It is this. A foreigner in that post will not hesitate, and I say, he will not be ashamed, of saying that the Indian Army can never be Indianised, or that enough good Indians will not be found for manning the ranks of Army officers. But I am sure an Indian in that post will think twice or thrice before he gives that advice to the Governor-General. In fact, an Indian will feel ashamed to say that about his country, when he knows that the history of his country and the glorious martial traditions of the Indian people. In this connection, I shall relate an experience of mine while I was a member of the Assembly. The then Army Secretary did actually say in one debate that in India enough young Indians could not be found who were fit to hold the post of higher officers in the Army. I was stung by that statment. I went to the Library, brought back with

me a red book full, from cover to cover, of names of Indian warriors who were awarded the V. C. And though I am a man very mild by temperament, in replying to the Army Secretary I said, "I would like to throw *that* book at his head". You can, therefore, see what I mean here when I say and insist that hereafter the Instrument of Instructions to the Governor-General must provide, that an Indian should be appointed to hold the post of the Member in charge of the Army and the Foreign Affairs. The Indian point of view in the Military matters can never have a chance unless that is done.

Now I shall turn to the question of the special responsibilities and powers of the Governor-General. I shall not deal with the question in detail. These powers seem to relate to every phase of legislation as well as administration. The powers relate to initiation, to any middle stage of progress, and even after a bill is passed. And so also with administration. If I may put it in some popular language, the scheme of powers as drawn up in the Agenda is somewhat like this. The Governor-General is to have at least two chambers of Administration, in which he and his Ministers may do anything they like between themselves. And those chambers will have no key-holes for any body to look into them! On the other hand, all the other chambers of Responsible Administration will have key-holes to them, through which the Governor-General will have a right to peep into. But that is not all. He will have in his possession a double key to the door of every such chamber, and then again a *Master-key* that will open any door at his will. This is intoleable. And, therefore, I will say here also, what I sade about the allocation of subjects and powers as between the Provinces and Central Government. Let us here and now put our heads together and pool all our wits, and make as

exhaustive a list as possible, of subjects and categories of powers, which should be free from the interference of the Governor-General; and also those, if any, which must be reserved for the irresponsible control of the Governor-General. Of course, human vision is limited. And no man can see beyond the horizon. But I would insist that we should be allowed to look full up to that horizon, and that no artificial barrier should be put up in our vision in the name of the special responsibilities of the Governor-General.

And then and then only I would say that the safeguards we shall agree to in this manner after such examination would be regarded as safeguards both in the interests of India and Great Britain.

No. 5

Defence and Army.

LORD CHANCELLOR,

I want to make some observations on the topic in hand. But before doing so I want to ask certain specific questions on a point of information—or rather want of information. It appears that more than one expert Committee were contemplated to be appointed, as arising out of the Defence Sub-Committee presided over by the Rt. Hon. Mr. Thomas. One of these Committees was, I know, appointed and was presided over by the Commander-in-Chief in India. That Committee's report is dated 15th July, 1931. It contains several minutes of dissent. I want copies of this Report to be supplied to the new members of this Conference. I ask for this here because I could not get a copy till this time. My second question is, was the second expert Committee also appointed and has it made its Report? My third question relates to a Report, which exists but is withheld from us. This is the Report made by a Sub-Committee, appointed by the Skeen Committee. Persistent demands were made for copies of this Report in and outside the Assembly. I shall read an extract from Mr. Jinnah's speech made in the Defence Sub-Committee, (page 48).

> "The Sub-Committee was appointed by the Skeen Committee to come to England, France, America and Canada, to collect materials of various systems that prevailed in these countries; and we spent something like three and a half months in travelling round and collecting these materials, and

those materials will give you all the information as to what is happening to other countries like ours such as America. etc,"

Mr. Jaykar also took up the point in the Defence Sub-Committee, but the Report was not supplied. The same point was taken up, as I know, in the Assembly by several members while I was in the Assembly. I hope, therefore, that the Report will be supplied to us at least at this Conference. If Government withheld the Report, that naturally leads to the suspicion that the information is so withheld because it is against the interest of Government, and in our favour, in the matter of raising a National Army or a second line of defence in India.

Then I come to the topic in to-day's agenda. In paragraph (2) the draftsman has put an apparently innocent question! He seys: "As the Army Department is *no longer* to be a *Civil* Department, is it agreed? etc." What a question to ask? What a presumption to make? I do not comprehend the question, and so far as I do, my reply is a negative–an emphatic negative. Even assuming that the Governor-General is to be irresponsible in the business of his special duties and powers in relation to *Defence*, how does it follow, and why should it be assumed to follow, that the Army Department should be regarded as a *Non-Civil* Department?

The very words "*no longer*" betray the draftsman. Do they not mean that *till now* the Army Department was regarded even by Government as Civil Department? Otherwise, there is no point in saying that it is to be "no longer to be a Civil Department!" But apart from that admission, I can prove independently that the Army

Department is, in certain respects, a Civil Department under the Government of India Act. A number of sections in the Act prove this. Thus Section 33 vests the *Military along with the Civil* Government of India in the Governor General-in-Council. He and his Council are primarily a Civil Authority. Surely, India is not under Military Government! It *is* under a Civil Government. The Commander-in-Chief alone is an exclusively Military Authority. But he may not even be a member of G. G's Council. And when he is, he is only one among a number of Councillors. Section 37 says that the Commander-in-Chief takes rank and precedence after the Governor-General. Here is, therefore, the subordination of the Military to the Civil Authority. He holds a secondary position in the scheme of Government.

Also when armies are mobilised they are by the authority of the G. G. and not the Commander-in-Chief. The Civil character of the Army Department is further emphasised by Section 36, which lays down that if a member of the G. G's Council is, at the time of his appointment, a military officer, he shall not, during his continuance in office as such *Member of Council*, hold any military command or be employed in actual military duties. Then, again Section 65 (d) gives power to *The Indian Legislature* to make laws for *certain* military matters. And these words were deliberately inserted in the Act of 1919 for the words "the G. G. in the Legislative Council." *All* these references will clearly show two things: (1) that the Army Department is, for certain purposes, intended to be a Civil Department, and (2) that the Army Department was not intended to be torn away from the Indian Legislature. It must be intended to keep a close relation between the two. Is it, therefore, now intended, I ask, to change all this? And to make the Army Depart-

ment a *Non-Civil* Department? In the name of the Special responsibility of the G. G?

Reference also was made, again, in the name of the special responsibility of the G. G. to some such thing as permanent laws by the G. G. in relation to Defence and Army. Is it really intended that hereafter the Statute Book is to contain *two sorts of laws*, one by the Indian Legislature and another by the G. G. alone? And again those laws, *permanent* laws? Colour was given to this doubt by the State Secretary's statement (page 15–16) where he says :

> "I think it is quite clear, that if the G. G. is to have effective powers of carrying into effect his special responsibilities, he must have legislative powers that do not come to an end in six months. There are certain measures he might have to take, for which purely temporary enactments of this character would not prove satisfactory."

But even there the State Secretary seems to refer only to G. G's special responsibilities, with only an alternative form of legislation for Ordinances, as a means of implementing his special responsibility in view of emergencies. Legislative powers that do not come to an end in six months may be a new claim, but even then that certainly does not mean *permanent* legislation which does not come to an end at any time. Even extension of time beyond six months must have essentially, in view a purpose which must be called a *temporary* purpose. In any case, that purpose cannot be to claim for the G. G. Legislative power concurrently with the Indian Legislature to enact and to put on the Statute Book permanent laws relating to any matter about the Army.

The Army Department must be regarded primarily a Civil Department legislated for by the Indian Legislature, and administered by a non-military Member or Secretary under the Control of the G. G. He may be a non-expert, for even the present Army Secretaries in the Legislature are civilians, that is non-experts. As for Legislation, the two Authorities, competent at present to Legislate for Army and the Defence are the British Parliament and the Indian Legislature. I should have no complaint if it be intended that the Parliament should delegate its Authority to the G. G., but I would certainly not consent to the transfer of the Legislative power from the Indian Legislature to the G. G. I do not see any reason why the present points of contact between the Indian Legislature and the Army Department should be cut off. I do want not only to retain all those points of contact but, if possible, to increase and develop them.

What I say of Legislation, I would like to say also of the Administration of the Army Department. And I would take for illustration the case of funds said to be required by the G. G. for carrying out his special responsibilities of Defence in cases of emergency. I would provide for him in this way. I would allow the G. G. to ask for funds in such a case, and even perhaps to take them by his own hands to carry out his purpose. But that only in an event arising *between* any two sessions of Legislature. But at the next following meeting of the Legislature, the Non-Military Army Member or Secretary would have to put forward a supplementary demand for grant of supply to that extent. If the Legislature thought that the demand was necessary or reasonable it would certainly sanction the grant. But the question may be asked what if the Legislature refuses to sanction it? The question will here arise about the position in that case of the Army Member in

the Cabinet of which he might be a member. Will he resign along with the Cabinet? But into that question I need not go here. My purpose will be served if I say that the G. G. would have certainly the power of restoring the rejected grant or certifying it, so that the authority that made the payment may be indemnified. Section I of to-day's Agenda says: "Future Legislature should have the same opportunity as now of discussing the Army Budget etc." But I am inclined to go further and say, that the whole Army Budget should *not only be discussed but voted upon* by the Legislature.

Briefly, the scheme, as I visualise it, would be on the analogy of the present Provincial Dyarchy to which reference was made in course of debate. I want the analogy to be fully applied. In the present provincial Dyarchy, certain departments like Finance, Law and Order, are reserved, and in the charge of Executive Councillors who are responsible only to the Governor and not the Legislative Council. This alone differentiates their position from the position of the Ministers. But that does not come in the way of the budgets of both the Finance Department and the Home Department being laid before the Legislative Council and voted upon by it. And if the Council cuts out any amounts from these budgets, the Governor has the power to restore or certify them. Exactly the same thing, I contend, should happen hereafter even in the case of the Army Department, though the G. G. would have, and exercise, his special responsibility by the use of his special powers.

Then comes the question of who should be the Army Member or in other words, the instrument or agent of G. G., in carrying out his responsibility and exercising

his powers. I think that that member must be a *non-Official* member. I would prefer that he be an *Indian*, and I would still more prefer that he be an Indian *member of the Indian Legislature*. The merit of my scheme is, that it will go to make the new Constitution, though Dyarchical in form, approximate to full self-Government or Dominion Government as far as possible.

And here I would refer to that claim for common-sense which the other day Sir Samuel Hoare put forward for Governors and the G. G.s, when asking for special powers for them. Now may I not be allowed to put forward that same claim for common-sense for the Indian Legislature in the matter of working this Dyarchy? If Governors and G. G.s may be assumed to possess common-sense to the necessary degree, why should not a quota of that common commodity be also conceded to the Indian Legislature? Surely no one in this world enjoys a monopoly of the Divine gift of common-sense. If the Legislatures may trust the Governors and the G. G.s, the latter too, in their turn, may learn to trust the Legislatures.

I would conclude my speech with saying one word as to what, in particular, I expect from a non-official Indian if he be selected to hold the portfolio of the Army Department, even as a reserved subject. In the first place, he would try to carry out public opinion about the required economy in the Military expenditure in certain matters. But on the other hand, he may also spend more to give effect to public opinion in certain other matters. He would economize the expenditure on the standing or regular Army by progressive Indianization and spend more on the promotion of Military training outside the regular Army i. e., in order to create well-trained national reserves or a

second line of Defence. The complaint is well-known that comparatively little is spent on encouragement to Military or semi-Military education through the University Corps, the Urban Units of the Territorial Force, etc., etc. Even out of the money now spent on the University Corps a very large amount goes towards the salaries of the European Military Officers, but this training can safely be entrusted to Indian Officers. Then, again, an Indian Army Member will try to establish more factories of Military Equipment in India that would lead to economy or at any rate give valuable technical training to Indians in the manufacture of Army Equipment.

And lastly, I would refer to the organaization of a National Army generally. In this respect a foreigner will never understand the real conditions in India about the sentiments of the people to prepare themselves to take a share in the defence of their country. An *Indian*, in his place, would easily realise that sentiment. The present unjust treatment of certain races in India, as non-martial races, is a case in point. Too much is really made of the so-called "Martial traditions." I do not think in England, or similar other countries, such a distinction is made. And are not the deeds and the achievements of one generation the traditions of the next? Referring to some of the Indian States, which are represented in this Conference, I would ask you to go back to their founders, and ask the question "what Martial traditions as such they possessed?" They carved out kingdoms with their swords, and the deeds and achievements of those men became naturally the traditions of the succeeding generations in their families. I would not want to go further into the details, but I am quite sure that an *Indian Army Member* alone will be truly susceptible to public opinion in the country.

No. 6

Fundamental Rights.

LORD CHANCELLOR,

I just want to take up only one or two points about this question of *Fundamental Rights*. I differ from Mr. Butler on one point and agree with Sir John Simon on another. I do not agree with Mr. Butler when he says, that, so far as India is concerned, *fundamental rights* could be left to develop only by political tradition, convention or usage. In my opinion, they must be stated in clear legal terms in the Constitution as far as possible. On the other hand, I agree with Sir John Simon, when he says that *fundamental rights*, so embodied in a constitution, should be as few in number as possible, and those again only to the extent, to which they would be definitely a limitation of legislative power and enforceable in a Court of Law. There is some element of truth also in what Sir John Simon said, namely, that some *fundamental rights*, permanently embodied in a constitution, are likely to be at times embarrassing to efficient administration in certain emergencies. But unfortunately, on the eve of framing a constitution for India, some of us would be inclined *rather* to take that risk, than leave it open to suspicion and distrust by minorities and communally-minded weak people. It is true that in a grave political emergency, a fundamental right, say like the one about an application for a writ of a "Habeas Corpus", would prove embarrassing. But the Statement of that fundamental right also could, I think, be so worded that it may save the enactment of a law, like The Defence of Realm Act in England. In fact this point was consi-

dered by the All Parties Conference at Allahabad in 1928. And the Nehru Report clearly states that the "Executive authority of the Commonwealth will be entitled to suspend the right for the time being, during a war or rebellion. But then the central legislature must be informed of this at the earliest opportunity such action as it may deem it." The Report deliberately states, and it is true, that certain safeguards and guarantees are necessary to create and establish a sense of security among those who look upon each other with suspicion and distrust. Even minorities will not deny to the Central Government the right temporarily to suspend the operation of the fundamental rights in a war or rebellion. But for normal times, at any rate, they will expect respect to be shown to the letter and spirit of the fundamental rights, with opportunity and fairplay to get them vindicated in a Court of Law.

Now let me turn to another, and perhaps a more important, aspect of this demand for fundamental rights. In British India, it is possible that, in course of time, the minorities and majorities will acquire confidence in each other in the process of rubbing their shoulders together, in working the constitution for the welfare of their country. And consequently, the statement of fundamental rights in the Constitution also may acquire a purely academic character. It will remain there perhaps to glorify the *bonafides*, the enlightenment and political wisdom of those who joined hands in framing the Constitution, rather than a means of worrying the Supreme Court or Federal Court with vexatious litigation.

But the same thing cannot be said of the other member of the Federation viz., the Indian States. Sir John Simon was sagacious enough to note this fact. For, towards the end of his speech he observed:

" In the last place, it is to be borne in mind that the States generally were not prepared to adopt the Fundamentel Rights, and these rights would, therefore, apply primarily to British India only. Looking at this purely from the point of view of constitutional structure, the constitutional document, that imposes these rights in one part and not another, would look somewhat odd and peculiar ".

This, of course, is very mild language and it probably is appropriate to a Foreign Minister, who has to tread with a firm step on the glass-floor of the high chancelleries in Europe. But the States' Representatives in this Conference would be, I hope, not so dense as not to understand the piercing censure shrouded in Sir John Simon's guarded language. I think I may be permitted to be somewhat more outspoken. And what I would say is this. Many critics of the Indian States have broadly hinted that the States are exploiting British India in a number of ways in this attractive deal of Federation. I do not like to go into details that are cited to prove the truth of this criticism. In the first place, I hope, the criticism is not well founded. And secondly, I would not mind even actual exploitation, if it proves to be the result of a coolly calculated or suspicious advance, on their part, towards a novel arrangement, which they may well pretend to be a trap laid for them.

But my principal grievance is that this Federation rests upon *no social idealism whatever.* Political or fiscal concessions I can understand. But I really fail to see the justification or the equity of a Federation, which must be featured by a number of glaring anomalies. And one of them relates to the declaration of Fundamental rights, on which alone can be based

the recognition of the State—subjects as citizens in the world of the 20th century; or even as mere human beings. In the name of resistance to intervention, in the internal affairs of the States, their rulers do not apparently stop at anything. They do not consent to the establishment to a uniformity of laws as between their territory and British India, even in such matters as the Law of Crime, and the Law of Evidence. They do not consent to give even representative, much less responsive or responsible government, to their people. Nor do they consent to send, to the Federal Chambers, delegates who may possess, in at least some small measure, a representative character and enjoy the confidence of the States' people. This topic well deserves to be enlarged. But I do not wish to do it on the present occasion. Nnw I must, at any rate, insist that such a thing as the status of a Federal subject must be recognised and embodied in the declaration of rights. The Federation enables a man like me to realize his favourite sentiment, that 'India is one and indivisible'. India must be one solid and continuous piece of Political "*Terra firma*" in all directions. That Federation would be simply ridiculous, in which India would be interspersed with small and large pieces of bog and marsh which may swallow, at the swet will and pleasure of an autocratic State Ruler, the commonest and most elementary rights and privileges of citizenship and humanity. The declaration of rights, therefore, is certainly not going to be academic for the States people, whatever it may be for the people of British India. And I would, therefore, also insist that such a *monumental mis-joinder*, as this limping Federation, should not be brought into being till the States rulers agree to a common formula, brief and clear, for the declaration of the *fundamental rights*.

And lastly, I would mention here the Foreigners' Act which at present figures on the Indian Statute book. I can understand the necessity of the Government of a country being armed with some law which may enable them to expel undesirable foreigners. But in the first place, the States' people will, after the Federation, be no longer before igners in British India and *vice versa*. And even if some States' people may prove undesirable individuals, they can be adequately dealt with under so many other penal laws. What happens at present is that the States' people are expelled from British India, under the Foreigners' Act. And funnily enough some of the Indian States also have copied the example of the British Government, by enacting such ridiculously drastic Foreigners' Acts, that they prove the truth of the maxim, that "the convert is more fanatical than the original adherent to the faith", or the other maxim, that "imitation is unconscious caricature". I do not minimize or wish to belittle the difficulties which at present exist as between the States and British India due to the limited scope of the rights of extradition. And I would rather give facilities towards a more effective operation of the law against criminals, by making extradition a matter of greater reciprosity than at present. But I would insist upon a summary demolition of the walls of Foreigners' Acts, built face to face, on the borders of British India and the States, which make the life of the politically-minded people of both territories simply miserable or even impossible.

No 7.

Berar.

MR. CHAIRMAN,

Berar originally formed *part* of the Nizam's territory and may still be described as such in the sense of ownership. It was *assigned* to the British Government in 1853. Until 1902 it was administered as a separate unit by the British Resident at Hyderabad. In 1902 the the assignment of Berar took the form of a perpetual lease to British Government for a quit rent of 25 lacs reserved to the H. E H. the Nizam. The administration was transferred from the Resident to the Chief Commissioner of C.P.

But *even now*, for certain limited practical purposes' Berar is regarded as a *unit separate* from the C. P. Unlike the other parts of the C. P. the *laws* in force in Berar are *applied under* the Indian Foreign Jurisdiction—Order-in-Council of 1902. The *Revenue Law* is not the same in Berar as in the C. P. The Legislative *Council Members*, elected to the C. P. Council for Berar, form the nucleus of a *Special Committee.* The *revenues* of Berar are *allocated* to the C. P., but are subject to *certain safeguards* in the interests of Berar. These safeguards have *never worked satisfactorily.* There is a large *annual surplus* from the revenues of Berar over the expenditure incurred upon it. And this goes to the C. P. as a kind of *tribute* or a *contribution* for no return or consideration.

The Memorandum, which was submitted to the Simon Commission by the C. P. Government, shows that the *combination* of the Berar and C. P. has not been a *happy*

one. *Less money* is spent on Berar than its due share. Its surplus cannot be used to improve its own nation-building departments, but is diverted to *make up the deficit* of the backward districts of the C. P. The *tenantry* in Berar, under the Royatwari system, is less landlord-ridden, more free in status, more independent and democratic in spirit than the Royatwari system in the C. P.

The *language* of the four Berar Districts is entirely Marathi, while that of the 14 Districts in C. P. is Hindi. Berar, though it is compressed from the original 6 Districts into only 4 districts at present, is nearly equal to Sindh, which is going to be made a separate Province. Belgium and Holland in Europe, and the Indian States of Baroda, Bhopal and Indore are smaller in area than Berar. In matters of Finance, Berar is more than self-sufficient and will *not* ask for a *subvention* like N. W. F. Province, or Sindh or Orrisa. With its own revenue Berar can very well *function* as a separate unit-Province without any loss in the *present efficiency of administration.* To make it such a unit what is needed is only to develop the present Berar Legislative *Committee* into a full-fledged Legislative *Council*, and to make the Executive Government of Berar responsible to the Legislature.

The grievance of BERAR is of a very long standing. In the Pre-Reform Councils the late R. B. Mudholkar used to ventilate it, but in vain. The *demand* for Berar being made a separate province was put before Mr. *Montague* and *Lord Chelmsford* in 1917. The Montford *Report* in para 264 says "In Orrisa and *Berar* at all events, it seems to us that the possibilities of instituting sub-provinces need not be excluded from consideration at a very early date."

The Montford Report, in accepting the proposal for an all round orgagnization of Provinces, recommend the *test*

of ascertaining provincial opinion upon schemes directed to this end. The people of Berar are quite willing to be submitted to this test. Nay, they have been insistantly and persistantly demanding that Berar should be separated from the C. P. and made into a separate administrative unit, which it actually was from 1853 to 1903. Mahomedans of Berar are in favour of separation.

Nor are the *Hindi people* of the C. P. *opposed* to this demand, at least from a linguistic point of view. For, these Hindi people also have started a *similar movement* of their own, demanding the formation of a new Hindi Province to be called the *Maha Kosal*, and including besides the *14 Hindi Districts* of the C. P. certain Southern Districts of the *U. P.* There is thus here *self-determination*, as it were, made and expressed on both sides of this question.

In *1923 the Reforms Inquiry Committee* observed that Responsible Government was introduced in the Provinces, but their units were shaped as already remarked in the Montford Report, by the Military Political and other considerations of the moment, and without any regard being paid to the natural affinities or wisbes of the people. The *Nehru Report* specifically referred to the desirability of the *Marathi* speaking people and the Hindi speaking people in C. P. being made into separate provinces along with Sindh and Orissa. The *Indian Statutory Commission*, while approving the idea of provincial reorganisation, has no doubt, cited the partition of Bengal as a warning to be remembered in the work of redistribution of Provinces. But in the case of Berar you have a warning of another kind, namely, compulsory mis-joinder imposed upon an unwilling people.

But I have already pointed out that while from the point of view of *homogeneity* and the *wishes* of the people,

Berar was at least on a par with Orissa, Sindh and N. W. F. Province, it is certainly *superior* in merit form the point of view of *Finance*. For Berar does not ask for subvention for separation. On the contrary it can pay and will go on paying the large amount of annual rent to the Nizam out of its own surplus. The case of Berar, therefore, stands unanswerable.

Here I have not alluded to the *larger ideal* of all the Marathi speaking people in India being brought together under one single province. That is to say the 4 districts of the C. P., all the 4 districts of Berar, and the 10 Marathi Districts of the Bombay Presidency, without, of course, including the Marathi speaking people distributed in States' areas. That, I know is, not a practical proposition at present. But there is no reason why the demand of the Berar people for a legitimate status of isolation should be rejected, when it will not cost a single penny to effect it.

In conclusion I wish to state on behalf of Berar people, that they have not the least desire to bring about, or seek, or advocate any the slightest change in the present relations, between the British Government and the Nizam's Government, in respect of Berar—relations which were settled as between the two governments by a treaty 30 years ago. They are quite willing to grant the Nizam's Government enjoying all the benefits, rights and privileges, which may accrue to them according to the legal interpretation of that treaty. And therefore, the Berar people also in their turn expect that the *Nizam's Government* cannot and will *not* raise any *objection* to the demand of Berar for separation from the C. P. They *cannot* obviously do so *under the treaty*; and it is not for me to say that the separation of Berar might be, if any thing, in their own ultimate interest.

Speech at a Lunch.

[Speech at a lunch in the House of Commons in honour of the R. T. C. delegates.]

" I join with my friends Dr. Sapru and Mr. Jaykar in expressing our gratitude to the hostess for giving us this lunch and this opportunity to meet you all here this evening. And as I have been called upon to speak, I shall express my mind also in my own way in a few words. Since coming to London a number of friends have been asking me as to how I feel like, in relation to this Conference. And I shall tell you what I have been telling these friends that I still find myself to be " in the wood " in the sense that I do not see the light beyond it. I only hope that on going back to India I may not have to tell my people, that I was in a wilderness, whose acoustic properties also were so bad that it did not even give back an echo ! ! I was here in 1919, thirteen years ago in connection with similar work. For I had come as secretary and member of the Home Rule League Deputation and a member of the Congress Deputation.

During these thirteen years, this wonderful country of yours must have changed enormously owing to the after effects of the War. But your landmarks, in respect of British Indian politics at any rate, do not seem to have changed. For even to-day, as then, I find the same Conservative Party with its empty blessings, the same Liberal Party, with its cooly calculated caution, and the same Labour Party, with its great gushing good-will to India but with its absolute impotence ! Of course, I take my hat off to that band of fifty Labour Members in Parliament who have kept the flag flying. But they are in a plight

which deserves *our* smypathy just we in India deserve *your* sympathy. I feel confident, however, that a day will come when with the assistance of the Labour Party, India will gain what she wants. But I must tell and warn you that the landmarks in Indian politics have changed. For in 1929 the Congress actually passed a resolution in favour of independence, and the President of the Congress actually planted with his own hand the flag of independence. You may ask me what has come out of that. I know we have not got actual independence out of it. But that at any rate shows how far India has advanced in point of political feeling.

So far about the general position. Coming back to the Round Table Conference, we are, of course, glad that the Conference is again meeting as a Round Table Conference. But we really yet do not know where we are. For on the one hand, the Prime Minister assures us, and I believe in his sincerity, that the White Paper, embodying the intentions of Government declared in it, will be carried out to the letter and the comma. But on the other hand, there is Mr. Churchill who said, what you know only two days ago. He said that the Conference was only for consultation, in fact for talking things over with us. Indeed, he at least said that we who have come here are "cultured and estimable gentlemen,"—and I say, 'even for this small mercy, thanks'! But he said that Government was not at liberty to arrive at conclusions or at any rate to make any commitments. And that if any commitments were made, he and his "storm troops"—meaning thereby his Conservative followers, were ready to upset the apple cart. (A voice—Oh, you take Mr. Churchill too seriously.)

Well, whatever it is, the threat is there. And in the Conference itself, we find something like what he said.

As soon as I came here, I raised the question about the agenda of the Conference and I suggested that the more important questions should be taken up first for discussion. But that was not done. And we are wasting precious time over such matters as the franchise. Of course, we are glad about some decisions that have been taken, e. g. the recognition given to women and Labour in the electorate and special provision made for their representation in the Legislature. But the more important questions such as Responsible Government in the Centre still remain. And the Chairman is reminding us again and again that the Conference would end on 20th December. He almost seems to say, " Beware of the *ides* of December " just as the sooth sayer or whoever he was in Shakespeare's Julius Caesar, was warning Caesar to "Beware the ides of March". He would almost seem to be making fun of the time-limit whenever a speaker exceeded his allotted length in speech. That gentlemen, is the plight in which we find ourselves here. And, therefore, it is for you people—independent people of England—to extend your help and sympathy to enable us to see the matter through.

Memo. I.

Feudatory States.

[On the Report of the Committee on the Instrument of Accession of Indian States to the Federation.]

In connection with the subject of the Instrument of Accession by Indian States, the question of the Feudatory States in India must be discussed and taken into consideration.

The constitution of the 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 para 5, to the rulers of States and their subjects. And the powers so transferred must be so large as to make the Federation effecive 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 which the Constitution is providing with such great care. They are certainly higher in status than the land-lords 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 Britsh India, even the ordinary land-holding 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, Jaipur, 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 Princes. 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 suzarains, 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 orginally 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, and 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 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 Government, 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 is 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 tranferring 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 who continued under their Suzerains have come in for 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 Suzeraim 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 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 upto 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. Upto 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 situa-

tion. 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.

Memo. II

Indian States Representatives

(*In the upper and the lower Legislative Chambers.*)

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 a strictly constitutional point of view, the State means the political ruler of the State. I am also 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 refering only to that profit from the status 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, 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 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 necessarily represent the effective political consciousness of thousands of Indian souls. Would he then 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 annimals, who are nearly if not wholly, of equal stature, strength and also of temperament. Similarly both the Brtish Indian Members and the State's representatives in the Federal Legislatures must have nearly the same political status, the same sense of self-respect, independence, and resposibility. To whom does 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 any thing, in his duties, that may displease his Princely Chief? Remember, even in our present Legislatures, only Official Members could be asked to tender their resignations and vacate their seats. But not so even those who are called Nominated Members. My friend Mr. N. M. 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, that new light has begun to dawn upon Indian States Rulers. We all welcome that orientation. But I feel that the record of this Conference should 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 Government, 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 puplic opinion !

Memo. III

Criticism of the Communal Award.

[The following joint memorandum was submitted by Messers N. C. Kelkar, Pandit Nanakchand and Sardar Tarasing to the Lord Chancellor, Dy. Chairman, The Indian Round Table Conference.]

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 R. T. Conference as a protest on behalf of the Hindu and Sikh Communities in India.

Since the publication of the "Award", the Hindu and Sikh Community in India has expressed its opinion upon the Award through the Press and on the platform, while resolutions of constituted bodies and associations, each of which in its own sphere, may be taken as representing the Hindu and Sikh mind, have uniformally criticised the Award as greatly adverse to Hindu interests. And now that the Indian R. T. C. is holding its final session, we cannot allow the decision of Government on the Communal question, to be recorded, without the opinion of the Hindu and Sikh 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 the

Government in giving their decision. But for all that, the Hindu and the Sikh Community is, we think, entitled to express its opinion of the effects and the consequences of that decision to its 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 inst., 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 Sikh 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 put 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 that their revised demand for joint electorates could very properly have been refused if the Lucknow Pact had held the ground.

(2) Since the pact was denounced on both sides, a new situation had arisen, in which the Government might have taken up the matter in their own hands, and 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 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-tongue, 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 and the Sikhs 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 Moslems ? 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 Moslem-controlled Goverment 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 and the Sikh 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 the Civilized British Government cannot be said to have realised and fulfilled their 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 represention 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 electorate 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 represention than was recommended by the Simon Commission.

In the U. P. 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, the 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 give n

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.

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