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R.T. 1st Meeting.

FINAL COPY.

INDIAN ROUND TABLE CONFERENCE
1932

Notes of the Meeting of the Conference
held at the House of Lords on Thursday,
17th November, 1932 at 12 noon.

PRESENT.

BRITISH REPRESENTATIVES.

Government Delegates.

Mr. Ramsay MacDonald
(Chairman)
Lord Sankey
(Deputy Chairman)
Sir S. Hoare
Lord Hailsham
Lord Irwin
Mr. Davidson
Mr. Butler

Non-Government Delegates.

Lord Winterton
Lord Lothian

Also Present

Sir F. Stewart
Sir M. Gwyer
Sir C. Schuster
Sir J. Dunnett
Sir R. Glancy
Sir L. Kershaw
Mr. Croft
Mr. Stuart King
Lt.Col. Neale
Mr. Duff

Secretaries

Mr. Dawson
Mr. Patrick

INDIAN STATES' REPRESENTATIVES

R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukbo Prasad
Mr. Rushbrook-Williams.

Also Present.

Lt.Col. Sir R. Chenevix-Trench
Pandit Ramachandra Kak
Mir Maqbul Muhmood

Secretaries

Mr. Hyde
Mr. Par

2.

BRITISH INDIAN REPRESENTATIVES.

H.H. The Aga Khan
Sir H. Carr
Sir M. Iqbal
Mr. M.R. Jayakar
Sir C. Jehangir
Mr. N.C. Kelkar
D.B. Ramaswami Mudaliyar
Sir T.B. Sapru
Dr. Shafat Ahmad Khan
Sardar Tara Singh
Sir N.N. Sircar
Mr. Zafrulla Khan

Also present.

Sayed Anjad Ali

Secretaries.

Mr. Latifi
Mr. Rama Rau

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General)
Mr. Anderson
Mr. Roy
Mr. Williams

PUBLICITY OFFICERS.

Mr. MacGregor
Mr. Joyce

1. The Prime Minister welcomed the delegates and explained that for the convenience of discussion a draft agenda had been prepared containing the major points left over for discussion. Everyone's general position was clear and the object of the present Conference would be to fill in 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. Short minutes of the proceedings would be prepared and circulated.

He suggested that a press committee of 3 should be appointed under whose general supervision information would be supplied to the press.

2. In the course of discussion it was explained that the agenda was not meant to be either exhaustive or rigid and that opportunity would be afforded for the discussion of subjects relevant to the work of the Conference. The provisional agenda appended to the minutes was adopted. A few additional subjects were suggested. Some of them were intended to be covered by one or other heads of the agenda. As regards ^xothers further, additions to the provisional agenda were left to be made in the light of progress.

3. It was agreed that the press committee should be appointed.

* e.g. Federal and Supreme Courts, Judiciary in the States in relation to Federal matters.
Redistribution of provincial boundaries.

Secretariat-General,
House of Lords,
S.W.1.
November 17th 1932.

PROVISIONAL AGENDA ADOPTED ON 17TH NOVEMBER.

- A. REPORT OF THE INDIAN FRANCHISE COMMITTEE.
METHOD OF ELECTION TO AND SIZE OF THE TWO FEDERAL CHAMBERS.
- B. RELATIONS BETWEEN THE FEDERAL CENTRE AND THE UNITS.
 - (a) Legislative.
 - (b) Administrative.
- C. SPECIAL POWERS AND RESPONSIBILITIES OF THE GOVERNOR-GENERAL AND GOVERNORS.
- D. FINANCIAL SAFEGUARDS AND COMMERCIAL SAFEGUARDS.
- E. DEFENCE (FINANCE AND CONNECTED QUESTIONS).
- F. REPORTS OF THE FEDERAL FINANCE COMMITTEE AND INDIAN STATES INQUIRY COMMITTEE (FINANCIAL).
FEDERAL FINANCE.
- G. FUNDAMENTAL RIGHTS.
- H. "CONSTITUENT POWERS" AND POWERS OF INDIAN LEGISLATURES VIS-A-VIS PARLIAMENT.
- I. FORM OF STATES INSTRUMENTS OF ACCESSION.

Minutes of the Second meeting of
the Conference held on Monday,
21st November at 11 a.m. and
2.30 p.m.
(R.T. 2nd Meeting).

Copy No: 36

CONFERENCE 1932.

mber).

Please substitute the attached
final copy of the above Minutes for the
version issued on the 21st ultimo and
destroy the latter.

ting of the Conference
of Lords on Monday,
1 a.m. and 2.30 p.m.

DIAN STATES' REPRESENTATIVES.

Secretary-General,
House of Lords,
S.W.1.
2nd December, 1932.

Ja of Sarila
B.Raja Oudh Narain Bisarya
B.Krishnama Chari
Wab Liaqat Hyat-Khan
Wab Sir N. Akbar Hydari
r Mirza Ismail
r Manubhai N. Mehta
B.Pandit Sir Sukdeo Prasad
b Sahib J.A.Surve
Rushbrook-Williams.
Mr. Wajahat Hussain

Non-Government Delegates.

Lord Peel
Lord Winterton
Lord Reading
Lord Lothian.

Also Present.

Sir F. Stewart
Sir M. Gwyer
Sir C. Schuster
Sir J. Dunnett
Mr. Croft
Capt. Knatchbull
Mr. Laithwaite
Lt. Col. Keale
Mr. Turnbull
Sir R. Glancy.

Secretaries.

Mr. Dawson
Mr. Patrick

Also Present.

Sahibzada Mumtaz Ali Khan
R.B.Pandit Amar Nath Atal
Mr. C.L. Corfield
Mr. C.G. Herbert
Nawab Mahdi Yar Jung
Pandit Ramachandra Kak
K.S.D. Sinha of Limbdi
Mir Maqbul Mahmood
Sir Prabhashankar Pattani.

Secretaries.

Mr. Hydari
Mr. Panikkar.

BRITISH INDIAN REPRESENTATIVES.

Dr. B.R.Ambedkar
Sir H. Carr
Pandit Nanak Chand
Mr. A.H.Ghuznavi
Lt. Col. Sir H.Gidney
K.B.Hafiz Hidayat Husain
Sir M.Iqbal
Mr. M.R.Jayakar
Sir C.Jehangir
Mr. N.M.Joshi
Mr. N.C.Kelkar
D.B.Ramaswami Mudaliyar
Begum Shah Nawaz
R.B.Sir A.P.Patro
Sir T.B.Sapru
Dr. Shafa'at Ahmad Khan
Sardar Tara Singh
Sir N.N.Sircar
Sir Purshotamdas Thakurdas
Mr. Zafrulla Khan

Also Present.

Sayed Amjad Ali
Mr. Holme

Secretaries.

Mr. Latifi
Mr. Rama Rau.

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General)
Mr. Anderson
Mr. Roy
Mr. Williams.

PUBLICITY OFFICERS.

Mr. MacGregor
Mr. Joyce.

Morning Session.

The Lord Chancellor took the chair and, after welcoming those delegates who arrived on November 19th, paid a tribute to Sir Muhammad Shafi, the news of whose death would be received with general regret.

No. (1)A of the Heads for discussion on subject A of the Conference Agenda, viz. "Method of Election" to the Provincial Legislatures, was then thrown open to discussion.

SIR AKBAR HYDARI remarked that while he agreed that the method of election to be adopted in British India was not the direct concern of the States, he trusted that the discussion of that subject would not be allowed to prejudice in any way the question of increasing the size of the Federal Legislature as recommended by the Lothian Committee.

LORD LOTHIAN first gave a concise account of the main recommendations of the Franchise Committee and then, at the instance of Lord Peel, gave the arguments for and against the method of indirect election. He referred to the four reasons given in paragraphs 43-46 on page 22 of the Committee's report, and concluded that, fifthly, the administrative difficulties in the way of a system of indirect election were probably the weightiest objection of all.

BEGUM SHAH NAWAZ explained that the method of indirect election was generally supported by women's associations in India, and urged various reasons in support of this attitude.

SIR A.P.PATRO explained that the method of indirect election/

election had been tried in Madras Presidency for Panchayat elections but, having been found unsatisfactory, had been replaced by the direct vote.

MR. JOSHI dissented from the Franchise Committee as regards the practical difficulties in the way of adult suffrage and advocated the adoption of adult suffrage.

SIR COWASJI JEhangIR also disagreed with the Franchise Committee. He was not convinced that the indirect system was impracticable and still favoured his original plan of electoral colleges, in spite of its having been rejected by the Round Table Franchise Committee. He also disagreed with the assumption that the extension of political power to India should necessarily be linked with an extension of the franchise. The franchise was the ultimate basis of any system of self-government and must, therefore, be inherently sound.

SARDAR TARA SINGH suggested the fixation of a period, e.g. 10 years, after which adult suffrage should be introduced. He objected to the special representation of landlords on the ground that the representation which that class would secure through the ordinary electoral qualifications would be adequate. It is the poor people who require special protection and special representation, not the influential classes, particularly in the Punjab. He recommended in short that the special seats proposed to be reserved for landholders should instead be allotted to small holders paying less than Rs. 5 land revenue.

MR. RAMASWAMI MUDALIYAR developed further the reasons which had persuaded the Franchise Committee to decide against adult suffrage and indirect election.

SIR SAMUEL HOARE observed that, as regards Provincial Councils, he had been reluctantly driven to the view that

- (1) it was difficult to thrust upon the Provinces a system of indirect or group election which they did not approve;
- (2) administrative difficulties were very great;
- (3) direct system on the whole seemed safer.

SIR TEJ SAPRU, having first pointed out that both British and Indian Conservatives were represented on the Franchise Committee, said that the formation of primary groups, as advocated by Begum Shah Nawaz, was precisely the tendency they should try to avoid: the future demanded combination, not separatism. One could not argue for India generally from the Punjab, where tribal features were very marked.

MR. JAYAKAR, in opposing the indirect method,

- (1) stressed the Franchise Committee's point that indirect election would deprive 7,000,000 voters of their direct votes; this would be regarded as a retrograde step.
- (2) Primary elections will mean more litigation than ever.
- (3) Primary elections will carry communal differences into the heart of the village.

LORD WINTERTON was much impressed by the reasons impartially set forth by the Franchise Committee in favour of indirect election and was not sure that the

balance/

balance of argument adduced by the Franchise Committee did not favour the indirect method rather than the direct method which that Committee had recommended.

LORD PEELE also was not greatly impressed by the arguments against the indirect system. If, as appeared, adult suffrage was a certainty of the future, and adult suffrage necessarily meant indirect election, would it not be as well to make a start with the indirect system now? He was not yet convinced that the direct system should be preferred.

SUMMING UP.

1 A.

The Lord Chancellor summed up the general opinion of the Conference as supporting the recommendations of the Franchise Committee that the franchise should be extended by the direct vote.

Four individual view points had been given, one in favour of the group system, one in favour of adult suffrage, one in favour of a system of electoral colleges, and one favouring adult suffrage after ten years. Two delegates were not yet convinced that the proposals of the Franchise Committee were preferable to an indirect system.

Mr. Joshi suggested a constitutional provision for the automatic periodical extension of the franchise, e.g. to be doubled every ten years, in preference to leaving the matter to a future Indian legislature. Sir Samuel Hoare replied that the point might be discussed under the heading "constituent powers".

The Conference then passed to

No. B. (i). Nature of the Franchise.

PANDIT NANAK CHAND stressed the position of the non-agricultural tribes in the Punjab. Of the electorate enfranchised by the Franchise Committee's proposals, only 25 per cent. were drawn from the non-agricultural tribes.

SIR S. HOARE pointed out that further investigation by the Punjab Government showed that 40 per cent. of this class and not 25 per cent. as originally estimated would be enfranchised by the Franchise Committee's proposals.

MR. JOSHI disagreed with the property qualifications recommended by the Franchise Committee.

SIR H. GIDNEY said that the property qualifications will exclude a large number of Anglo-Indians, but agreed that that community generally will be enfranchised by the proposed educational qualification.

SUMMING UP

B (i).

It was generally agreed that the essential basis of the franchise should be the property qualifications proposed by the Franchise Committee subject to such modifications of detail as may prove necessary.

Afternoon Session.

Items (ii) to (iv) relating to Educational franchise under head B of Heads of Discussion under A of Agenda - Nature of franchise.

The practical difficulties in the way of applying the educational qualification were stressed. A delegate from Bengal pointed out that there would be very considerable difficulties in the way of its adoption in his province, a Madras delegate who originally supported it pointed out that he had had to revise his opinion after careful consideration of his experience of its operation in elections to local bodies, while a Punjab delegate who also spoke on behalf of the Moslem delegation from British India, stressed the administrative difficulties and announced that the qualification was unacceptable to the Moslem Delegation.

It was explained that in making their recommendations under this head the Lothian Committee had chiefly in mind the desirability (a) of bringing into the electorate those elements which help to form opinion on political issues but are not qualified under the property qualification - an important consideration in an electorate which will be chiefly illiterate, (b) of providing an automatic method of expansion of the electorate by means of a qualification which can be quickly acquired.

It was also pointed out that this qualification would bring into the electorate members of joint families not otherwise qualified and be of special benefit to the depressed classes. As to the nature of the educational qualification, it was felt that to fix it as high as the matriculation standard would give undue advantage to the more advanced communities.

In the course of subsequent discussion the principle

of/

of having an educational qualification in addition to property qualification found many supporters but doubts were expressed as to the desirability of fixing the upper primary standard as the best. Sir Samuel Hoare pointed out that while the qualification was attractive some local governments had opposed it and there was no certainty as to the extent to which this qualification would overlap with the property qualification. He thought further examination was desirable.

SUMMING UP.
 tems (ii)
 o (iv)
 nder Head B.

The discussion was summed up by the Chairman as follows: The Educational qualification is attractive and many members would welcome it, and certain members feel very strongly that it ought to be adopted, but there is inadequate evidence as to how many extra voters it would add to the register (it might not be very many). There are, however, serious practical difficulties in the way which will require further detailed exploration as to this and as to the proper standard which should be adopted.

Items (v) and (vi) (a) and (b) and (vii)
 under Head B - Nature of Franchise - special franchise for women.

LORD LOTHIAN explained that

(i) the ordinary property qualification would enfranchise	1,950,000
(ii) the Literacy test	1,255,000
(iii) the enfranchisement of wives and widows	4,300,000

Total 7,505,000. But the Franchise Committee had scaled this down to 6,620,000 - the existing ratio of women voters to men voters was 1 : 21, under the Franchise Committee's recommendations the ratio would be 1 : 4.4.

After some discussion the subject was adjourned until Tuesday, the 22nd November for further discussion.

Items/

Items (viii) and (ix) relating to depressed classes.

ENDING UP.

11

It was agreed that special provision should be made to secure the presence on the electoral roll of a larger percentage of depressed classes and the percentage of voters to be aimed at should be, as recommended by the Franchise Committee, 10 per cent. of the depressed class population in each province. It was also agreed that such differential qualifications suggested by the Franchise Committee as may be necessary to secure this result in the light of the varying conditions in each province, should be adopted.

Item (x) Military service qualification.

The question of extending the franchise to all members of the Territorial Auxiliary forces was raised by Sir Henry Gidney.

It was pointed out that the proposal is to continue a qualification which already exists.

ENDING UP.

It was agreed that it should be retained.
(Investigation of the point raised by
Sir Henry Gidney was promised).

Secretariat-General,
House of Lords,
21st November, 1932.

Copy No. 36

Minutes of the Third meeting of
the Conference held on Tuesday,
22nd November at 2.30 p.m.
(R.T. 3rd Meeting)

Please substitute the attached
final copy of the above Minutes for the
version issued on the 22nd ultimo and
destroy the latter.

Secretariat-General,
House of Lords,
S.W.1.
14th December 1932.

Non-Government Delegates.

Lord Peel
Lord Winterton
Lord Lothian.

Also Present.

Sir F. Stewart
Sir C. Schuster
Sir J. Dunnett
Mr. Croft
Lt. Col. Neale
Sir R. Glancy

Secretaries

Mr. Dawson
Mr. Patrick

CONFERENCE 1932.

(Member)

of the
se of
ember at

INDIAN STATES' REPRESENTATIVES.

Raja of Sarila
R.B. Raja Oudh Narain Bisarya.
R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib J.A. Surve
Mr. Rushbrook-Williams.

Also Present.

Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Lt. Col. Sir R. Chenevix-Trench
Mr. C.L. Corfield
Mr. C.G. Herbert
Pandit Ramachandra Kak
K.S.D. Sinhi of Limbdi
Mir Maqbul Mahmood
Sir Prehashankar Pattani

Secretaries

Mr. Hydari
Mr. Panikkar

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Copy No. 36

T. 3rd Meeting

FINAL COPY.

INDIAN ROUND TABLE CONFERENCE 1932.
(November - December)

Minutes of the Third Meeting of the
Conference held at the House of
Lords on Tuesday, 22nd November at
2.30 p.m.

PRESENT.

INDIAN STATES' REPRESENTATIVES.

BRITISH REPRESENTATIVES.

Government Delegates.

Lord Sankey (Deputy Chairman)
Sir S. Hoare
Lord Irwin
Mr. Davidson
Mr. Butler

Raja of Sarila
R.B. Raja Oudh Narain Bisarya.
R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib J.A. Surve
Mr. Rushbrook-Williams.

Non-Government Delegates.

Lord Peel
Lord Winterton
Lord Lothian.

Also Present.

Also Present.

Sir F. Stewart
Sir C. Schuster
Sir J. Dunnett
Mr. Croft
Lt. Col. Neale
Sir R. Glancy

Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Lt. Col. Sir R. Chenevix-Trench
Mr. C.L. Corfield
Mr. C.G. Herbert
Pandit Ramachandra Kak
K.S.D. Sinhi of Limbdi
Mir Maqbul Mahmood
Sir Prabhashankar Pattani

Secretaries

Mr. Dawson
Mr. Patrick

Secretaries

Mr. Hydari
Mr. Panikkar

BRITISH INDIAN REPRESENTATIVES.

H.H. The Aga Khan.
Dr. B.R. Ambedkar.
Sir H. Carr.
Pandit Nanak Chand.
Mr. A.H. Ghuznavi.
Lt. Col. Sir H. Gidney.
K.B. Hafiz Hidayat Husain.
Sir M. Iqbal.
Mr. M.R. Jayakar.
Sir C. Jehangir.
Mr. N.M. Joshi.
Mr. N.C. Kelkar.
D.B. Ramaswami Mudaliyar.
Begum Shah Nawaz.
H.B. Sir A.P. Patro.
Sir T.B. Sapru.
Dr. Shafa'at Ahmad Khan.
Sardar Tara Singh.
Sir N.N. Sircar.
Sir Purshotamdas Thakurdas.
Mr. Zafrulla Khan.

Also Present.

Sayed Amjad Ali.
Sir E. Wood.

Secretaries.

Mr. Latifi.
Mr. Rama Rau.

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General)
Mr. Anderson.
Mr. Roy.
Mr. Williams.

PUBLICITY OFFICERS.

Mr. MacGregor.
Mr. Joyce.

SUBJECT A OF CONFERENCE AGENDA.

WOMEN'S FRANCHISE.

(No. 1(E)(v) and (vi) of the Heads for discussion, see document R.T.1).

(The discussion on this subject was begun during the afternoon session on Monday, 21st November and adjourned to the afternoon session on Tuesday, 22nd November.)

It was generally agreed that it was of the first importance to secure that full weight should be given to the woman's point of view under the constitution now envisaged. There was some difference of opinion as to the manner in which this aim should be achieved. The proposals of the Franchise Committee would raise the ratio of women to men voters, at present 1 : 21, to 1 : 4.4. But this depends upon the enfranchisement of the wives and widows (being over 21 years of age) of men qualified by property to vote for the existing Provincial Councils; the number so enfranchised being roughly two-thirds of the total number of women enfranchised by the Franchise Committee's proposals.

The/

The Moslem delegation from British India took exception to the proposed "wives and widows" franchise first on the broad ground that special franchise qualifications are undesirable in themselves; secondly, because it is merely an artificial duplication of the husband's vote; and thirdly because it might prove embarrassing to a community in which polygamy is still recognised by law. The last objection impressed certain other delegates, who were inclined to regard the proposal as premature in the present stage of social development in India. Those delegates who supported the proposal were not necessarily enamoured of it, considered by itself, but could see no other way by which an adequate number of women could be enfranchised.

Unanimity was lacking on the proposed educational qualification, that of literacy. Here also the main opposition was voiced by the Moslem delegation, who urged that if there were to be a special qualification at all the standard should be the same for men as for women.

The woman's point of view was put to the Conference by the only lady delegate. In principle women's associations in India demand equality with men, and support adult suffrage or the group system. If neither of these franchises are adopted, one body of women's opinion does not desire to "co-operate" at all; another section

realising/

realising that adult suffrage may be held to be impracticable at the present time, though they deprecate special qualifications for women in principle, desire the greatest possible degree of enfranchisement and certainly would not accept less than the ratio embodied in the Franchise Committee's proposals.

At this stage a proposal was made - which found considerable support - that the various provinces should be allowed a wider measure of latitude as to the manner in which adequate enfranchisement of women should be carried out in each province.

SUMMING UP.

Every member of the Conference regarded the question of the women's vote as of the highest importance, and all were anxious that the right of women to vote should be most sympathetically considered and that women should be placed in an electoral position where their voice would be made effective. The Lethian Committee examined many witnesses and with the exception of one member who sounded a note of dissent was unanimous; but unanimity had not been obtained at this meeting of the Round Table Conference.

It/

It was therefore necessary to state briefly the points of agreement and disagreement. At present the ratio of women entitled to vote was one woman to 21 men. The Franchise Committee considered that that was not a sufficient proportion and cast about for means to increase the number of women electors. They recommended three qualifications for women electors :-

- (1) property qualification.
- (2) literacy qualification
- (3) wives and widow of existing Provincial Council voters.

The total number of all these classes is 7,505,000, but owing to overlapping the net total would be 6,620,000. This means a ratio of 1 woman to 4.4. men. The total is made up as follows:-

- (1) Number of women with independent property vote - 1,950,000 voters. This qualification was unanimously accepted.

- (2) Number fulfilling literacy test - 1,255,000.
But there were one or two objections taken to the literacy provision. It was said that the literacy standard was too low and some proposed that the upper primary standard should be the qualification. Such a change would reduce the number of voters in this class to 200,000. The literacy qualification plus the property qualification represented a ratio of one woman to 12 men voters. The upper primary standard qualification plus the property qualification/

qualification represented a ratio of one woman to 13.6 men voters. It seemed on the whole that having regard to the difficulties of getting a large number of women voters the literacy test had rather an advantage over the upper primary standard test.

(3) The real difficulty came in the last class.

"Wives and widows" - 4,300,000.

With this total the ratio of women voters increased to 1 woman to 4.4 men. But there were several objections to this qualification.

- (a) It was said that ex hypothesi these women were not included under the literacy test and thus a large number of illiterates were admitted.
- (b) Women always voted the same way as their husbands.
- (c) It might raise domestic and religious difficulties in a society in which polygamy was permitted.

It/

It did not seem to be possible that the Conference could get any decided opinion upon this question of the inclusion of "wives and widows," and it was a general opinion that the matter should be further examined. It was suggested for consideration whether satisfaction might be secured by giving a wide latitude to the various provinces to deal with the question of method of enfranchisement of women in time for the first election under the new constitution, subject to a general injunction to aim at much the same proportion as that recommended by the Franchise Committee.

DR. AMBURNAR drew attention to the point that if several of the special qualifications for the provincial franchise were abandoned there was risk that the general proportions for enfranchisement advocated by the Franchise Committee might be seriously reduced.

SIR P. THAKURDAS referred to the recommendations of the Franchise Committee in regard to special electorates for Commerce, and contended that they resulted in grave inequality of representation as between European and Indian Commerce in several Provinces. He felt that justice had not been done to Indian Commerce and to that extent the Provincial Councils would be handicapped. It was explained that the Franchise Committee's recommendation that the existing ratio, whatever it was, between British and Indian in Commerce Constituencies should be left undisturbed, had been made in view of the fact that in the general Constituencies, the ratio of European representation would be greatly reduced.

THE SECRETARY OF STATE FOR INDIA pointed out that the discussion of this question could not fail to re-open the whole issue as regards the communal award and this he deprecated.

SIR P. THAKURDAS AND SIR COWASJI JEhangIR, however, desired that it should be noted that they objected to commercial representation being mixed up with the communal issue.

No. II/

NO. II OF THE HEADS FOR DISCUSSION UNDER SUBJECT A
OF AGENDA.

FEDERAL LEGISLATURE.

Federal Assembly.

A. Method of Election to British
Indian Seats.

A preliminary point was raised as to the method the States would follow in selecting their representatives to the Federal Assembly, but it was pointed out that it had already been agreed by the Round Table Conference that this question must be left to the States themselves.

LORD LOTHIAN then explained why the Franchise Committee had found itself unable to recommend any method of indirect election to the Federal Assembly. British Indian delegates generally favoured the method of direct election to the lower house and even some who were originally in favour of the indirect method thought that on the whole the direct method was preferable. Some British Delegates who favoured indirect election thought it unnecessary to restate their views having regard to the strength of the general opinion in favour of direct election.

THE SECRETARY OF STATE FOR INDIA pointed out that

in/

in the case of the Federal legislature, once the indirect method was rejected it became more difficult to resist the argument for enlarging the size of the legislature, and he thought that it should be understood that if direct election was regarded as inevitable, this should not be allowed to prejudice the decision to be taken as regards the size of the legislature.

WINDING UP

It was agreed that the method of direct election be adopted for election to British Indian Seats.

B. Franchise for British India Seats.

(1) Should the Franchise for the Federal Assembly be the existing franchise for Provincial legislative Councils save in the Central Provinces?

SIR HENRY GIDNEY raised the question of enfranchising people resident in Bangalore which is an assigned tract. The point was one of some difficulty and the Secretary of State offered to look into it.

MR. JOSHI thought the franchise recommended did not go far enough and urged that wage earning should be a qualification for the franchise.

WINDING UP

The objection was noted but the Conference was in favour of accepting the recommendation of the Franchise Committee on this point.

(II)/

(ii) Should the franchise described above be supplemented by a special educational qualification?

The special education qualification recommended in this case is the matriculation or school leaving certificate and the justification for it is that the franchise for provincial Councils leaves out a great number of educated people who would be fitted by reason of their education to vote on Federal issues. The Moslem delegation was opposed to it for the same reason that they opposed an educational franchise for the provincial Councils. It was pointed out, however, that the practical difficulties in the way of registering those who had passed the upper primary or equivalent test did not exist in the case of matriculates of whom a record was readily available.

ING UP || Opinion in favour of accepting the additional
|| qualification was strong.

(iii) Women: special educational franchise.

It was explained that the ratio of women to men on the rolls of provincial Councils was 1:21 and without a special educational franchise for women the number of women voters would be disproportionately small.

DIWAN BAHADUR MUDALIYAR emphasised the importance of adopting the upper primary standard as a qualification for women educational as the other qualification was a dying one. It would give women a qualification in their own right and secure a steadily expanding electorate.

ING UP. Subject to this, the considerations to which expression was given in the discussion of the educational franchise/

franchise for women to provincial Councils, were held
to apply here also.

(iv) Depressed Classes.

MING UP. It was agreed that the Franchise Committee's
proposals be adopted.

Secretariat-General,
House of Lords, S.W.1.
22nd November, 1932.

Minutes of the Fourth Meeting
of the Conference held on Wednesday,
23rd November 1932 at 11 a.m. and
2.30 p.m.

(R.T. 4th Meeting).

Please substitute the attached final
copy of the above minutes for the version
issued on the 23rd November 1932, and destroy
the latter.

Secretariat-General,
House of Lords,
S.W.1.

2nd December 1932.

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CONFIDENTIAL.

Copy No.

R.T. 4th Meeting

INDIAN ROUND TABLE CONFERENCE 1932.
(November - December).

FINAL COPY.

Minutes of the Fourth Meeting of the
Conference held at the House of Lords
on Wednesday, 23rd November 1932 at
11 a.m. and 2.30 p.m.

PRESENT.

BRITISH REPRESENTATIVES.

Government Delegates.

Mr. Sankey
(Deputy Chairman)
Mr. S. Hoare
Mr. Hailsham
Mr. Irwin
Mr. Davidson
Mr. Butler

Non-Government Delegates.

Mr. Peel
Mr. Winterton
Mr. Reading
Mr. Lothian.

Also Present.

Mr. F. Stewart
Mr. C. Schuster
Mr. J. Dunnett
Mr. R. Glancy
Mr. Croft
Mr. Rumbold
Mr. Col. Neale
Mr. Laithwaite

Secretaries

Mr. Dawson
Mr. Patrick

INDIAN STATES' REPRESENTATIVES.

Raja of Sarila
R.B. Raja Goudh Narain Bisarya
R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib D.A. Surve
Mr. Rushbrook-Williams

Also Present.

Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Lt.Col. Sir R. Chenevix-Trench
Mr. C.L. Corfield
Mr. C.G. Herbert
Nawab Mahdi Yar Jung
Pandit Ramachandra Kak
K.S.D. Sinha of Limbdi
Mir Maqbul Muhmood
Sir Prabhashankar Pattani

Secretaries

Mr. Hydari
Mr. Panikkar

INDIAN REPRESENTATIVES.

The Aga Khan
B.R. Ambedkar
H. Carr
Jit Nanak Chand
A.H. Ghuznavi
Col. Sir H. Gidney
Hafiz Hidayat Husain
M. Iqbal
M.R. Jayakar
C. Jehangir
N.M. Joshi
N.C. Kelkar
Ramaswami Mudaliyar
Shah Nawaz
Sir A.F. Patro
T.B. Sapro
Shafa'at Ahmad Khan
Tara Singh
N.N. Sircar
Furshotamdas Thakurdas
Zafrullah Khan.

Also Present.

Sayed Anjad Ali.

Secretaries.

Mr. Latifi
Mr. Rama Rau

SECRETARY-GENERAL.

Carter (Secretary-General)
Roy
Williams

PUBLICITY OFFICERS.

Mr. MacGregor
Mr. Joyce.

Subject A of Conference Agenda (continued).

(Heads for Discussion see document R.T.1.)

SPECIAL REPRESENTATION IN THE FEDERAL ASSEMBLY.

(1) Women.

This was generally agreed to, but the point was raised whether it would affect communal proportions in the House. Provided the communal proportions are not disturbed, the Moslem delegation is prepared to accept the proposed reservation of seats for women to be filled by election of one woman by each Provincial Legislative Council.

As regards the method of election suggested, the BEGUM SHAH NAWAZ stated that women are not in favour of indirect election of their representatives to the Federal House in the manner suggested but would rather favour a special Women's constituency for direct election in each Province.

WINDING UP.

The Conference was in favour of the proposal of the Franchise Committee. As to the method, that suggested by the Franchise Committee was agreed to, but the point urged by the Begum was noted.

(2) Labour, Commerce and Industry, Landlords.

In discussing this subject the question of provision for special representation was discussed along with the recommendations of the Franchise Committee as to the exact extent of that representation.

(a) Labour.

The provision of special representation for Labour was approved.

MR. JOSHI considered that the number of seats recommended by the Franchise Committee, namely 8, was inadequate, and contended that as the wage-earning population was at least 20% of the total population, Labour should have 20% of the total seats in the Federal Lower House. It was pointed out that a large percentage of the electorate would be drawn from the

Depressed Classes which included a large element of agricultural and industrial labour and therefore labour interests were likely to be represented fairly adequately through the general constituencies. The view that Labour requires special protection to a greater degree than has been recommended also found some support from other quarters. On the other hand the Muslim delegates would like to keep the number as low as possible.

(b) Commerce and Industry.

R PURSHOTAMDAS THAKURDAS AND SIR COWASJI JEHLANGIR did not consider that the Franchise Committee's recommendation for 8 special seats, four for European Commerce and four for Indian Commerce was an adequate representation of the special interests of Indian Commerce. The point was discussed whether Indian Commerce would find representation through the general constituencies. Some were of opinion that, having regard to the large increase in general constituencies it was not necessary to increase the special seats for Indian Commerce. Sir P. Thakurdas however felt that as candidates would be returned in the general electorate mainly on political tickets, it was necessary to ensure to Indian commerce representation of Indian commerce as such. He said that the representation suggested for British commerce was extravagant as the main task of the Britishers returned through the relative communal channel would be to look after British commerce.

SIR HUBERT CARR thought that European Commerce would not agree to less than four representatives in the Federal Lower House. It might be true that the predominant interest of Europeans, as a whole, was commercial, but the best the Europeans could hope to do in a legislature so overwhelmingly Indian was only to voice their views, but this they could not possibly hope to do adequately with less than four seats.

SIR COWASJI JEHLANGIR also urged special representation for the Bombay Millowners' Association, representing the cotton industry which at present enjoys separate representation but will not do so under the proposals of the Franchise Committee.

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It was pointed out that the difficulty of giving special representation to one industry was that the claims of other similar industries to have special representation would be difficult to resist.

(c) Landlords.

The recommendations of the Franchise Committee for special representation of Landlords was approved.

ING UP.

The Conference favours special representation for all the special interests mentioned, namely, Labour, Commerce and Industry and Landlords, but with regard to Labour, several members thought that the provision of eight seats was inadequate. On the other hand there were some who thought that this number would be sufficient in view of the fact that Labour would find representation through the Depressed Classes from the general constituencies. This point might be further investigated in connection with the delimitation of constituencies.

As regards Commerce and Industry, while Sir Cowasji Jahangir paid a tribute to the part that European representation had played in the past and did not question the right of European Commerce to be adequately represented, ^{he} contended that Indian Commercial interests were not sufficiently protected.

Sir Purshotendras Thakurdas did not wish Commerce and politics to be mixed up and pressed for greater representation of Indian Commerce as such. In addition a claim/

claim for special representation was made in favour of the Bombay Millowners' Association. This claim was sympathetically received.

The proposals of the Franchise Committee regarding representation of Landholders was accepted unanimously.

B. FEDERAL UPPER HOUSE.

The method of election proposed by the Federal Structure Committee and supported by the Indian Franchise Committee is by the Provincial Legislative Councils by the method of the single transferable vote, the general scheme being that the Upper House is to represent the Units through the Legislatures in the case of British India and the Lower House to be representative of the people through direct election, it being found that the method of the single transferable vote would, if the communities stood together, secure the proper communal proportions. There are, however, some difficulties to be overcome in the case of small minorities. The Moslem delegation did not object to election by the Provincial Legislatures, but reserved their judgment as regards the use of the single transferable vote until they knew what result that system would give as regards the communal proportions in the whole house.

MR. JOSHI raised the point whether the interests of labour should not be taken into consideration/

consideration along with those of small minorities. The
for India
Secretary of State/pointed out that the general idea was not
to represent interests in the Upper House and that, in any
case, Depressed Classes would have sufficient representation
in the Provincial Legislatures to ensure adequate
representation in the Federal Upper Chamber.

The Sikh delegate pressed that the Sikhs should be
included among the "small minorities" when a solution of
their special difficulties was being sought.

ING UP

It was generally agreed that there should be no
representation of special interests in the Upper Chamber and
that the method of election shall be that proposed by the
Federal Structure Committee.

At a subsequent stage it was pointed out that the
question whether in the case of Bicameral Legislatures in
Provinces both Houses would vote in joint session to elect
representatives to the Senate, had not been discussed and it
was decided that this question would be taken up after the
discussion on the Size of the Central Legislature was
concluded.

SIZE OF CENTRAL LEGISLATURE.

SIR TEJ BAHADUR SAPRU, in opening the discussion under this head, pointed out that this was one of the most important issues alike for British India and for the States. In the third Report of the Federal Structure Committee a Lower House of 300 and an Upper House of 200 had been recommended, but the Report also indicated that these numbers might be inadequate. So far as the Lower House was concerned, the Franchise Committee's recommendation that there should be a representation of 300 members from British India alone was more in consonance with the popular opinion. The recommendation had been arrived at after extensive consultations and enquiries in India, and Sir Tej thought that it should be accepted. The important point was that, if the representatives were actually to represent their constituencies, then the latter should be as small as circumstances permitted, but Sir Tej and those for whom he spoke desired to adhere to the proportions agreed upon last year and, if British India was to have a representation of 300, the Indian States should have one of 150, to give them a 33 per cent. representation in the whole house.

As regards the Upper House, Sir Tej realised that there were sharp differences of opinion. Some wanted it to be a very small house; others thought that it should be sufficiently large to represent all States effectively. The experience of other countries might be valuable in this connection and from a study of upper chambers in other countries/

countries he found that, generally speaking, the strength of the upper house was about half that of the lower. He desired to say that, while his group did not want to take sides in any controversy, they would be prepared to support anything between 200 and 250, if the majority of States were willing to agree on any figure between these limits. The question remained as to what should be the States' quota. There were some who were prepared to agree to 33 per cent. There were others who had agreed to 40 per cent. Others again were not prepared to give any weightage at all. Weightage had, however, been given in the Lower House and speaking for himself, while fully realising that a percentage as high as 40 was unpopular in British India, he would be prepared to adhere to it in spite of its unpopularity. Therefore, he would answer the first question on the agenda paper under this head in the affirmative and say in regard to the second that some alteration was necessary. He would take the liberty of reminding those who were thinking of a smaller Upper Chamber that, if they had in mind the old German Bundesrath, that was out of harmony with the general scheme of the constitution for India as it had been envisaged. He was not prepared to agree to a very small house of the Bundesrath type.

ZAFRULLA KHAN expressed the viewpoint of the Muslim Delegation.

As regards the number of the Lower House, the Muslim Delegation was of opinion that the numbers recommended in the last Report of the Federal Structure Committee should be adhered to, viz. 300 members for the Lower House and 200 for the Upper House. It was necessary in the interest of efficient transaction of public business to keep down the size of these Houses. 300 should be the maximum for the Lower House.

As regards the States' quota, the Muslim Delegation

last/

last year thought that representation according to population was the fairest method and that no weightage was desirable. He reminded the Conference of this, and did not think it was necessary to re-argue the question. If, however, some weightage were thought absolutely inevitable, the Muslims would not object to it, provided Muslim representation was safeguarded. The Muslims had asked for a 33 per cent. representation, but the States were not prepared to bind themselves in any way in regard either to the mode of selection or the personnel of their representatives. If the States would not be bound, then it would mean that the Muslim quota would have to be taken out of British India alone. He explained the Muslim position by taking illustrative figures. Supposing that the number of members was 100, the division as between British India and the States according to population would be 76 to 24, and the 76 should include 25 Muslims, but if weightage were given to the States so that they were given more than 24 seats, this should not be allowed to operate to the prejudice of the figure of Muslim representation in the house, that is to say, in this particular instance in any event Muslims should not have less than 25 seats from British India out of a total house of 100. As regards the balance of 8 per cent. which the Muslims claimed as their just due, they hoped that the States would give careful consideration to their request that they should return that percentage from the Muslim community. There were two other points, however, to which the Muslim Delegation wanted to draw attention, viz. that disqualification for the legislatures should be uniform in British India and the States/

States and, secondly, that it should not be open to the States to change their representatives during the life of a legislature unless they became disqualified.

SIR AZBAR HYDARI referred to his previous remarks at the Round Table Conference to show that he had consistently advocated small legislatures for the Federation, because only in that way ~~could~~ there be an assurance of a selective representation ^{which was necessary} to deal with the intricate subjects which would come before a federal legislature. He recalled the fact that the States had agreed to come into the Federation in order to help forward the demand of British India for responsible government at the Centre, but one condition of their joining the Federation was that there should be guarantees for a stable government at the centre. Although his personal preferences were for a Lower House of 150 and an Upper House of 100, he had agreed to the compromise of last year for houses of 300 and 200 respectively. This increase in numbers was due largely, so far as the Lower House was concerned, to a desire to reduce the large size of constituencies. With a House of 300 it was envisaged that the average size of a constituency would still be 4,000 square miles. The Franchise Committee had recommended the increase to establish greater contact between constituencies and their members. He doubted whether, by raising the number of British India representatives, this object had really been secured.

(The discussion was adjourned until after lunch and was resumed at 2.30 p.m.).

He might also criticize the necessity of the widening of the franchise for the central legislature and ask, with Sir Cowasji Jehangir, whether it was really necessary to link the grant of responsibility at the Centre with a wide extension of the franchise. He would not labour these points, but he felt that he must insist that the agreement as regards the size of the two houses should be adhered to. An all-India federation could not be democratic in the true sense because it would consist of Units which were not democratic. Therefore, although responsibility might be granted, it did not follow that the federal legislature must necessarily be democratic. It was up to British India to agree to the demands of the States for a legislature which would have stability and would ensure that the basis of the polity in Indian States was not destroyed, but had time to develop slowly and gradually. If the figures agreed upon were departed from, he felt that it would be difficult for some of the States, both large and small, to come into the Federation at all.

MIRZA ISMAIL did not see any reason for changing his opinion that a Lower House of 300 would be sufficiently representative for all purposes. He was not opposed to a democratic constitution but he felt that an overdose of democracy might kill the patient/

patient instead of curing him. So far as the Upper House was concerned, he pressed again the scheme he presented last year for having a small Upper House of 60 consisting of nominated delegates of the Governments of the federating Units. This House would have a suspensory veto over the measures passed by the elected chamber, but would have the right of initiating legislation and the right of expressing its opinion upon all measures of the Federal Government before they were laid before the elected chamber. The method of election of British India representatives for the Second Chamber would produce a replica of the legislative councils of those Units. The higher qualifications proposed for candidates would not attract a different type of personnel and the representatives of British India Units would not represent the Governments of those Units. On the other hand, his Upper House would have a composition of members more federally-minded and less mixed up with local and sectional interests. It would be less costly and more efficient. He suggested that this scheme might receive further consideration.

SIR A.P. PATRO pointed out that the present representation in the Legislative Assembly is unreal because the constituencies are too large and supported the proposals of the Franchise Committee so far as the Lower Chamber was concerned. He objected to the allocation of $33\frac{1}{3}$ of the seats in the Lower Chamber to the States and considered that representation on the basis of population would be sufficient. There was no need to give the States weightage because the proposed federation was a limited one and there was no indication that the contribution of the States to the Federal exchequer would be similarly weighted.

As regards the Upper Chamber, he was in favour of limiting the number and did not object to the proposed weightage of 40% for the States.

NAWAB LIAQAT HYAT-KHAN said that it was for British India to decide how many representatives it would require in the Federal Lower Chamber and that his group would have no objection whatever decision was reached, subject to the reservation of one-third of the total number of seats for the States. The Federal Upper House should be large, increased proportionately with the Lower House, in order to provide for the individual representation of as many States as possible. Many States were averse to the group representation of States; some of them objected very strongly to it and might possibly have to remain outside the Federation if they could not be satisfied on the point. He would prefer to see the Upper House at 300, but would accept any number down to 250. If these numbers were considered to make a joint session unwieldy, some form of representation of the two Chambers might be devised.

SARDAR TARA SINGH was generally in favour of the Franchise Committee's proposals, but made a claim similar to that put forward by the Muslim delegation; that any weightage given to the States should not adversely affect the proportion of Sikh representation, and that if this weightage were in excess of the States' population ratio, the Sikh representation of 5% should be increased.

SIR MANUBHAI N. MEHTA pointed out that the conclusions of the Federal Structure Committee were merely tentative, that the Franchise Committee reached its conclusions after detailed investigation, and that in any case it was not for the States to decide how many representatives British India required in the Federal Chamber. As to the ratio of seats for the States, he wanted at least 125 seats in the Upper House and 36% of the seats in a joint session of both Chambers. If given more seats in the Upper House, he would be prepared to accept a lower percentage than 33. $\frac{1}{3}$ in the Lower Chamber, provided that the percentage in a joint session did not fall below 36.

MR. M.R. JAYAKAR strongly advocated the adoption of the Franchise Committee's proposals for the Lower Chamber. He pointed out that 200 representatives from British India as recommended by the Federal Structure Committee would mean an increase of only 85 over the present number of elected representatives, and stressed the heavy expenses of candidates standing for unduly large constituencies. He suggested that the difficulties of a joint session might be met by some formula of representation.

Mr./

MR. PUSHBROCK-WILLIAMS observed that there was general agreement among the States delegates as to the character of the Upper House, namely that it should be representative of the federating Units. He referred to the existence of a very real apprehension among the States that by joining the Federation they might lose their individuality. It was this feeling that was responsible for the recent resolution that the States desired a fifty-fifty representation in the Upper House. Individual representation does not necessarily mean equal representation; it might be possible to employ some such device as the half-vote.

With reference to Mr. Zafrulla Khan's point about the right of States to change their representatives he thought that, within reason, the use of such a power would be helpful; and it had to be remembered that a State, unlike a Province, would not have a large block of representatives to use.

DR. SHAFAT AHMAD KHAN urged that a small House meant the efficient despatch of the limited type of business that would fall to the Federal Chamber and considered that the proposals of the Federal Structure Committee went far enough.

DIWAN BAHADUR RAMASWAMI MUDALIYAR observed that it was clear that the States had to be given some weightage if they were to have a Federation at all and that the compromise reached in the Federal Structure Committee still held the field, namely, $33\frac{1}{3}\%$ in the Lower House and 40% in the Upper House. As regards the size of the House, he pointed out that one great advantage/

advantage of the Franchise Committee's proposals was that it would, in many Provinces, make the constituency co-terminous with the district; with only 200 British Indian representatives in the Lower House, this would not be possible. Further, if the number of British Indian representatives proposed by the Franchise Committee were reduced, the representation of special interests recommended by the Committee would also have to be curtailed, a task which would present grave difficulty.

As to the extra seats* in effect claimed by the Muslim Delegation on account of the weightage proposed to be given to the States, the Diwan Bahadur conceded that the claim had some substance, but suggested that instead of allotting the extra seats at the outset, they should be kept in reserve and distributed with reference to the communal proportion among the representatives actually sent by the States.

MR. NAWAK CHAND advocated the direct representation in the Lower Chamber of the Hindu minority in the Punjab. He would prefer a larger Lower Chamber and suggested 600 members.

MR. SUKHDEO PRASAD considered that British India should be allowed to decide for itself the number of its representatives in the Lower Chamber, provided that the States' proportion of $33\frac{1}{3}\%$ was observed. He would like a large Upper Chamber in order to provide for the representation of as many of the smaller States as possible.

MR. BAHADUR RAJA OUDH NARAIN BISARIA said that he would prefer to maintain the agreement reached in the Federal Structure Committee, but if the Lower House had to be enlarged the Upper House must also be increased so as to maintain the balance. If the States were given a fifty-fifty representation in the Upper House, he would be prepared to accept a representation in the Lower House based on the population ratio.

* Estimated by him at 14.

SECRETARY OF STATE FOR INDIA observed that two big issues had been raised, the first indirectly and the second directly. The first was the communal question at the Centre. The British Government's attitude towards this question was the same as that towards the communal question in the Provinces. The Government would much prefer to see agreement reached between the representatives of the communities and appealed for efforts to be made to this end; in the meantime he suggested that the communal question be kept out of their discussions.

The second issue was the size of the Chambers. There was much disagreement but, on the other hand, there was fairly general agreement on two important features:-

- (a) that the States should have some weightage.
- (b) that the ratio decided upon last year, $33\frac{1}{3}$ and 40% respectively, still held the field.

In favour of a large house, there were strong arguments which had been put forward on the score of getting constituencies of a manageable size, keeping down expense to candidates, and making it easier for smaller States.

On the other hand, there were arguments which appealed very strongly to some and to him personally, in favour of small houses. The Federal Legislature would have limited functions, and assemblies of 700 seemed too large for these purposes.

Unless the houses were of quite unmanageable size, he saw no possibility of avoiding some grouping in the case of States, so that that difficulty could not be avoided by adopting the larger figure under discussion for the Upper House.

... He suggested that consideration of the question should be postponed in order that there might be informal consultations, in the hope of getting a greater measure of agreement. It would make a great impression upon His Majesty's Government if there were general agreement among the Indian Delegates on the subject.

SECRETARIAT-GENERAL,

HOUSE OF LORDS, S.W.1.

23rd November, 1932.

CONFIDENTIAL.

Copy No. *X*

R.T. 5th Meeting

FINAL COPY

INDIAN ROUND TABLE CONFERENCE, 1932.
(November - December)

Minutes of the Fifth Meeting of the Conference
held at the House of Lords on Thursday,
24th November at 11 a.m. and 2.30 p.m.

PRESENT.

BRITISH REPRESENTATIVES.

Government Delegates.

Lord Sankey
(Deputy Chairman)
Sir S. Hoare
Lord Hailsham
Lord Irwin
Mr. Davidson
Mr. Butler

Non-Government Delegates.

Lord Peel
Lord Winterton
Lord Reading
Lord Lothian

Also Present.

Sir F. Stewart
Sir M. Gwyer
Sir J. Dunnett
Sir R. Glancy
Mr. Croft
Mr. Stuart King
Lt. Col. Neale
Mr. Laithwaite
Sir E. Chamier
Mr. Turnbull
Capt. Knatchbull
Mr. C.M. Patrick
Mr. Rumbold

Secretaries

Mr. Dawson
Mr. P.J. Patrick

INDIAN STATES' REPRESENTATIVES.

Raja of Sarila
R.B. Raja Oudh Narain Bisarya
R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib D.A. Surve
Mr. Rushbrook-Williams.

Also Present.

Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Lt.Col. Sir R. Chenevix-Trench
Mr. C.L. Corfield
Mr. C.G. Herbert
Pandit Ramachandra Kak
K.S.D. Sinhji of Limbdi
Mr. Madhava Rao
Mr. Queishy
Chief of Jath

Secretaries

Mr. Hydari.
Mr. Panikkar.

BRITISH INDIAN REPRESENTATIVES.

H.H. The Aga Khan.
Dr. B.R.Ambedkar.
Sir H. Carr.
Pandit Nanak Chand.
Mr. A.H.Ghuznavi.
Lt. Col. Sir H. Gidney.
K.B.Hafiz Hidayat Husain.
Sir E. Iqbal.
Mr. M.R.Jayakar.
Sir C. Jehangir.
Mr. W.M.Joshi.
Mr. W.C.Kelkar.
D.B.Ramaswami Mudaliyar.
Begum Shah Nawaz.
R.E. Sir A.P.Patro.
Sir T.B.Sapru.
Dr. Shafa'at Ahmad Khan.
Sardar Tara Singh.
Sir N.N. Sircar.
Sir Purshotandas Thakurdas.
Mr. Zafrulla Khan.

Also Present.

Sayed Amjad Ali.
Mr. Holme.

Secretaries.

Mr. Latifi.
Mr. Rama Rau.

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General)
Mr. Roy.
Mr. Williams.

PUBLICITY OFFICERS.

Mr. MacGregor.
Mr. Joyce.

Subject B (a) in Agenda.

(For Heads for Discussion see document E.T.2).

(a) Legislative Relations between Centre and Provinces.

General Discussion.

THE SECRETARY OF STATE FOR INDIA observed that there were two important broad aspects of this technical question. The first was the great importance of establishing a sound relationship between the Centre and the Provinces from the outset. The second was that the projected federation for India was different from other federations in that it involved to some extent the breaking up of an already established unitary system of government. He considered that, in approaching the subject, two fairly definite assumptions should be made as far as British India was concerned. The first was that the Provinces should be given the fullest opportunity of developing on their own lines, having regard to their individual needs and conditions. The second assumption was that it would be a calamity if the uniformity which now existed in certain fields (for example, civil and criminal law) were abruptly terminated. He then referred to the main questions which arose for discussion, viz. the classification of federal and provincial subjects and the question of residual powers, and suggested that the best method of dealing with the subject would be to have a Second reading discussion in full conference, followed by the appointment of a small sub-committee to examine details.

SIR TEJ SARDH agreed with the Secretary of State's proposal

for/

for the appointment of a small sub-committee. He reminded the Conference of the proposals in the report of the "Legal Sub-Committee" at the first Round Table Conference. There was an important field in which uniformity was essential, though Provinces might have power, with the previous sanction of the Governor-General, to meet local conditions. He was definitely opposed to any suggestion that provincial legislation within the exclusively provincial field should require the previous assent of the Governor-General.

As to the matter of residual powers, he considered that the great importance which had been attached to this subject would be materially reduced by a careful and exhaustive classification of subjects. Provision would, however, still have to be made for residual powers to meet unforeseen contingencies. These residual powers should vest in the Centre; (in the United States, where the residual powers had been left to the States, the embarrassing doctrine of implied powers had grown up). The residual powers, however, would not be used to interfere with the Provinces, but should be reserved for unforeseen circumstances and would indeed only be used in relation to subjects the emergence of which it is impossible to anticipate at the present time.

MR. ZAFRULLA KHAN said that it was desirable to aim at an eventual elimination of Central Subjects. But the States would probably never be willing to surrender their residual powers. If, therefore, on the British India side the residual powers remained in the Centre, there would be a permanent anomaly in the constitution. It would be better to avoid this anomaly and vest the residual powers in the Provinces.

As/

As regards the classification of powers, certain subjects must be classed as Central and over these the Centre would have exclusive jurisdiction. The second group would include subjects of the character indicated in paragraph (3) of the heads of discussion, in which uniformity is desirable but in regard to which there should be concurrent powers. Within this concurrent field there were certain Acts of great importance (and possibly certain other subjects) in regard to which the Provinces should only be empowered to legislate either with prior sanction or subsequent assent of the Governor-General. But in regard to such subjects, once a provincial Government has legislated with previous consent, the Federal Legislature should only be able to override it with the previous consent of the Governor-General. In the concurrent field not so specially protected, the latest statute, whether Central or provincial, would of course prevail. The remaining subjects would be exclusively provincial. He agreed with Sir Tej Bahadur Sapru that legislation in regard to provincial subjects should require only the assent of the provincial Governor and not the previous assent of the Governor-General.

As regards paragraph 8, the matter would be covered by the proposed concurrent group of subjects. As regards paragraph 10, even although more than one Province might desire uniform treatment on the same subject, he considered it better for them to legislate independently than for the Centre to undertake general legislation.

SIR AKBAR HYDARI urged that federal subjects should be

clearly/

clearly and specifically defined in every possible detail. He urged further that Central powers should be carefully defined and restricted so that they might not, on the one hand, affect the sphere transferred to the Provinces and, on the other, invade the federal field, as the tendencies would inevitably be for the powers left to the Centre to be gradually transferred to the federal rather than to the provincial sphere. As regards the residual powers, he considered that these should be left to the federating units. The unspecified balance should form the sphere of provincial subjects. He agreed to the proposed appointment of a sub-committee, which he hoped would consider the further discussions that had taken place on this subject in the Consultative Committee.

MR. JAYAKAR agreed with the Secretary of State's observation regarding the breaking up, so far as British India was concerned, of a unitary form of government. Care should be taken not to break up the common conceptions which 150 years of British rule has inculcated. He went on to emphasise that the federation projected was a federation of anomalous units and, therefore, that no analogy could be drawn between the Sovereign States on the one hand and the Provincial Governments on the other hand, in regard to the question of "residual powers". He agreed that there should be three groups of subjects:

- (1) Completely provincial,
- (2) Completely central, and
- (3) Concurrent.

He could not, however, agree to the proposal that central
legislation/

legislation should not override provincial legislation without the previous assent of the Governor-General; this would give too much power to the Governor-General and would infringe the supreme power of the legislature. He agreed that the list of central subjects should be gradually eliminated and considered that they should be added to the federal group and not to the provincial group. As regards the residual powers he urged strongly that the importance which sought to be given to the subject should be minimised by a careful and exhaustive classification of subjects. Those subjects which it is now humanly impossible to anticipate should, however, remain with the Centre. He favoured the proposal in paragraph 10.

MR. KETIKAR said that he would refrain from treating the matter as a communal question, considered that the residual powers should vest in the Centre, and described two processes of federation, the analytical and synthetic.

SIR COWASJI JEHangIR thought it unfortunate that after so many discussions there should still be differences of opinion on residuary powers. He failed to see how any communal issue was involved in any discussion of this subject and agreed with Sir Tej Sapru that they should vest in the Centre instead of the Units.

(The discussion was adjourned until after lunch and was resumed at 2.30 p.m.)

SARDAR TARA SINGH endorsed all the remarks of Sir Tej Sapru but

while he agreed that Provinces should have exclusive jurisdiction over provincial subjects, certain safeguards were necessary in the interests of Minorities. For example, where legislation was contemplated adversely affecting the social, economic or religious interests of minorities the previous consent not only of the Governor but of the Governor General should be necessary, because the Governor would tend to be guided by the majority in power. He was in favour of vesting the residuary powers in the Centre as the Central Government would be likely to be more free from sectarian and communal interests and would be in a better position to protect minority interests. Central legislation should prevail over Provincial, in case of conflict.

DR. AMBEDKAR generally agreed with Sir Tej Sapru and with the desirability of 3 lists of (1) Federal (2) Provincial and (3) Concurrent powers. As regards residuary powers he pointed out that the theory that it was the essence of federalism that these should vest in the federating units, was not correct. Residuary power was vested in the Centre in the Canadian constitution, but Canada was none the less a federal State. Similarly in South Africa, the federating units had surrendered their powers to the Centre to such an extent as to be reduced almost to the position of provincial administrations. It had been suggested that it would be anomalous to vest the residuary powers in the Centre when the States were to retain their sovereignty in matters in regard to which they were not going to federate. But one of the virtues of Federalism is that you can have an anomalous constitution and in the Indian Federation this would not be the only anomaly. The question is whether the anomaly will be unfair to the Provinces. To this his answer was in the negative. The nature of Residual power/

power should not be forgotten. It was not an overriding power which could be used to interfere with day to day administration. Therefore there would be no unfairness; nor would it prejudice the position of minorities.

SIR A.P. PATRO approached the question from the point of view of a practical administrator and pointed out that the Provinces already enjoy legislative autonomy subject only to (1) previous sanction and (2) assent. In the concurrent field the previous sanction of the Governor-General should be required. He agreed with the method suggested in paragraph (9) of the heads of discussion. As regards residuary powers he thought that it was better to have as few anomalies as possible, but having regard to recent Australian experience, he felt that in practice it would be better to vest the powers in the Crown or the Governor-General.

DR. SHAFI'AT AHMAD KHAN thought that a careful and exhaustive classification of subjects would narrow the field of residuary powers. It was necessary to assure the Provinces the greatest possible freedom. For a time, however, it would be necessary to have a list of Central subjects but provision should be made that a Central subject might be transferred alternatively to the Federal or provincial list. He thought that the residuary powers should vest in the Units, as in Australia, the United States of America and Switzerland. They should not vest in the Crown, which should have emergency powers only. There must be concurrent powers in certain matters but their number should be small and they should not be allowed to abridge provincial autonomy.

SIR MANUHAJI MEHTA agreed generally with what had been said by Sir Tej Sapru and Mr. Jayakar. But he pointed out that the States had agreed to federate only on certain questions and would not agree to additions to the list of federal subjects, so that if, as had been suggested, the subjects on the Central list could not be transferred to the provincial list, that list would have to remain always like a no man's land. The constitution now being

devised was sui generis and no analogies were really applicable.

SIR MUHAMMAD IQBAL challenged the statement that Muslims were urging communal claims in suggesting that residual powers should remain with the Units. That was the essence of provincial autonomy and the principle should apply throughout all the federating Units. He doubted whether British rule had effected any unity and the several parts of India should have full freedom for development on their own lines.

MR. JOSHI did not believe in the device of previous consent to legislation in the field of concurrent powers. This was neither desirable nor adequate to secure uniformity while it might easily become an instrument in the hands of a reactionary Centre to block the progress of a progressive Unit. It is better to give an overriding power to Central legislation than to allow provincial legislation to be blocked from above. He was in favour of giving residuary powers to the Units.

On the suggestion of the Secretary of State for India, the Conference agreed to the appointment of a sub-Committee composed as follows with the terms of reference set out below.

Lord Sankey (Chairman)

Sir S. Hoare

Mr. Butler

Lord Reading

Sir A. Hydari

Sir M. Mehta

Sir A.P. Patro

Sir Tej Sapru

Sir N.N. Sircar

Mr. Zafarulla Khan.

Terms of Reference to sub-Committee on
Head E(a) - Distribution of
Legislative Powers.

- (i) To test the general principles discussed under Head E(a) by applying them to the list of subjects suggested by the Federal Structure Committee in the appendix to its Second Report;
 - (ii) To re-examine in the light of the general discussion of principles the definition of those subjects and the effects of the recommendations made by the Federal Structure Committee in respect of them;
- and to make suggestions.

Secretariat-General,
House of Lords,
S.W.1.

24th November, 1932.

MINUTES of the Sixth Meeting of the
Conference held on Monday, 28th
November 1932, at 2.30 p.m.
(R.T. 6th Meeting.)

Please substitute the attached final copy of
the above Minutes for the version issued on the
29th ultimo and destroy the latter.

Secretariat-General,
House of Lords,
S.W.1.

7th December 1932.

CONFIDENTIAL.

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6th Meeting.

ORIGINAL COPY.

INDIAN ROUND TABLE CONFERENCE, 1932.

(November - December)

Minutes of the sixth Meeting of the Conference
held at the House of Lords on Monday,
28th November, 1932, at 2.30 p.m.

PRESENT

BRITISH REPRESENTATIVES

Government Delegates

Lord Sankey (in the Chair)
Sir S. Hoare
Lord Hailsham
Lord Irwin
Mr. Davidson
Mr. Butler

Non-Government Delegates.

Lord Peel
Lord Winterton
Lord Reading
Lord Lothian

Also Present

Sir F. Stewart
Sir C. Schuster
Sir J. Dunnett
Sir R. Glancy
Sardar Bahadur S.S. Uberoi
Lt. Col. Neale
Mr. Rumbold
Mr. R. Law
Mr. C.M. Patrick
Captain Knatchbull

Secretaries

Mr. Dawson
Mr. F.J. Patrick

INDIAN STATES REPRESENTATIVES

Raja of Sarila
R.B. Raja Oudh Narain Bisarya
R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajshat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib J.A. Surve
Mr. Rushbrook-Williams

Also Present

Mr. R.Z. Abbasy
Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Mr. C.L. Corfield
Mr. K.V. Godbole
Mr. C.G. Herbert
Chief of Jath
Nawab Mahdi Yar Jung
Pandit Ramachandra Kak
K.S.D. Sinhji of Limbdi
Mir Maqbul Muhmood
Mr. K.C. Neogy
Major Pande
Pandit P.N. Pathak
Sir Prakashankar Pattani
Mr. G.P. Pillai
Mr. B.J. Power
Mr. Qureshi
Mr. Madhava Rao
Mr. C.N. Sedden
Mr. J.W. Young
Mr. B.H. Zaidi

Secretaries

Mr. Hydari
Mr. Panikkar.

- 2 -

BRITISH INDIAN REPRESENTATIVES.

H.H. The Aga Khan
Dr. B.R. Ambedkar
Sir H. Carr
Pandit Nanak Chand
Mr. A.H. Ghuznavi
Lt.Col Sir H. Gidbey
K.B. Hafiz Hidayat Husain
Sir M. Iqbal
Mr. M.R. Jayakar
Sir C. Jehangir
Mr. N.M. Joshi
Mr. N.C. Kelkar
D.B. Ramaswami Mudaliyar
Begum Shah Nawaz
R.B. Sir A.P. Patro
Sir T.B. Sapru
Dr. Shafa'at Ahmad Khan
Bardar Tara Singh
Sir N.N. Siroar
Sir Purehotandas Thakurdas
Mr. Zafrulla Khan.

Also Present.

Sayed Amjad Ali.
Mr. Holme.

Secretaries.

Mr. Latifi
Mr. Rama Rau.

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General)
Mr. Roy
Mr. Williams.

PUBLICITY OFFICERS.

Mr. MacGregor
Mr. Joyce.

Head B (b) of the Provisional agenda - Administrative relations between the centre and the units - was taken up for discussion.

I. Relations with the Provinces.

Utilisation by the Federal Government of Provincial Agencies
(Items 1 - 3 of the Heads of Discussion)

With regard to items (1) - (3) it was generally agreed that (i) the Federal Government should be at liberty to ask the Provincial Governments to act as its agents in the administration of Federal subjects;

(ii) the Federal Government should be in a position to secure that the duties are properly carried out;

(iii) Provincial Governments should be entitled to be recouped for extra expenditure involved in the administration of Federal subjects.

Items 4 (a) and (b).

As regards the nature and extent of the control of the Federal Government over Provincial Governments, it was agreed that it should be armed with specific authority to ensure that Provincial Governments give due effect to Federal legislation - some doubt was expressed as to whether the Federal Government should have similar power to enforce Federal policy and the meaning to be assigned to the word "policy". It was explained that the word had been used in a wide sense to indicate that there should be power to secure that Federal legislation was carried out in letter and in spirit. This was agreed to but in regard to the next question viz. whether the Federal Government should have power to ensure that Provincial subjects are so administered as not to affect prejudicially the administration of a Federal or Central subject, it was urged on behalf of the Moslem Delegation that if it was necessary to take this power safeguards should, at the same time, be provided

against/

against the administration of Federal subjects in a manner prejudicial to the Provinces.

Item (5).

The discussion under this head was confined mainly to the administration of "Law and Order" and to the provision of safeguards against the breakdown of that administration.

It was generally agreed that while "Law and Order" should be transferred to ministerial control and should not be excluded from the ambit of provincial autonomy, the Provincial Governors and the Governor-General (not the Federal Government) should be empowered to intervene in an emergency.

It was emphasised by some Delegates that these powers of intervention should be exercised only in exceptional circumstances, when the minister concerned was unable or unwilling to discharge his responsibilities and the public tranquillity was seriously endangered and not as a means of interference with the day-to-day administration or of expressing disapproval of a particular policy. The importance of defining the nature and range of these powers in precise terms was also stressed. On the other hand, it was pointed out that if these powers of intervention - designed in fact to deal with emergencies - were to be effective they would have to be exercised promptly and should not therefore be unduly hampered with restrictions. One delegate took this argument a stage further and urged that powers of intervention should be confined to the Governor, who should have the power to call in military aid without the necessity of reference to the Governor-General, a restriction which implied delay; in his view it was

unnecessary/

unnecessary to invest the Governor-General with the special powers in question. Another view was that, while it was important to provide for emergencies, it was equally, if not more important, to secure that the first means of dealing with an emergency, namely, the Police Force, should not be allowed to rust and so prove inadequate when an emergency arose. This view was echoed by certain delegates with personal knowledge of Bengal, who urged that in that Province it was essential that powers of supervision should rest with the Governor and Governor-General. A similar view was expressed of the Punjab, though for different reasons, by the Sikh delegate. He maintained that while "Law and Order" should properly be transferred in those Provinces where the communities were satisfied that the communal balance would be adequately maintained the dissatisfaction of his community with the Government's communal award was such that law and order could not safely be entrusted to ministerial control. If however His Majesty's Government insisted on transfer of "Law and Order" in the Punjab, he would suggest that the minister in charge be assisted by a statutory board composed of one Hindu, one Sikh, and one Muhammadan, and that in the event of a disagreement between the Board and the Minister, the Governor should decide.

Another minority representative, the Hindu delegate from the Punjab, urged that the proposed emergency powers of the Governor-General should be both wide and clear in order to secure his effective intervention. A further minority viewpoint, urged on behalf of the Depressed Classes, was that the Federal Government should not be obliged unconditionally to render assistance of a military nature to a Provincial Government. It might be that agitation might arise against a policy materially detrimental to the interests of a

particular/

particular section of the population; the Federal Government should not in such circumstances be bound to assist in quelling the agitation without reference to its cause.

THE SECRETARY OF STATE FOR INDIA welcomed the general unanimity which had been reached on the two main issues, that "law and order" should be transferred and that certain emergency powers should be vested in the Governors and Governor-General. It was in regard to details that difficulties arose. What should constitute an emergency? At what point should the Governor intervene, and at what point the Governor-General? How was the Police machine to be kept in good order? This was a very important point and would require further consideration. The question of adequately protecting the minorities was also important and might be further discussed when they came to deal with the special responsibilities of the Governor-General. He assured the Delegates from British India, however, that the Government did not intend to transfer with one hand and to retain with the other. He was clear that there could be no real provincial autonomy without the transfer of law and order. In general there were two extremes to be reconciled. On the one hand the definition of an emergency could not be restricted to a breakdown that had actually taken place; on the other hand any possibility of interference with day-to-day administration by virtue of these emergency powers must be avoided.

II/

II. Relations with the States.

(Items 6 to 8 of the Heads of Discussion).

SIR AKBAR HYDARI was anxious that all possible safeguards should be provided against encroachment by the Federal Government on the authority of the States. Subject to this power to issue general directions referred to in paragraph 8 of the Heads of Discussion should vest in the Governor-General as representing the Crown.

SIR MIRZA ISMAIL was of opinion that when a subject was Federal for policy and legislation only, the administration should be in the hands of the States themselves and should be controlled by them but where entertainment of a special staff was necessary it should be paid for by the Federal Government who should have rights of inspection. Provision should be made on the lines of Article 15 of the German Constitution. There should be provision also for settlement of disputes. These, if justiciable, might be decided by the Supreme Court, or if of an administrative character by a Federal Council.

SIR MANUBHAI MEHTA pointed out that no question of supervision arose in purely States matters. It only arose in regard to matters which are Federal or which though not Federal directly affect Federal interests. The States would carry out their part in regard to the administration of Federal subjects but they would not object to supervision by Federal inspectors provided the reports of the inspectors were submitted through the Rulers. Any powers of supervision should vest in the Crown through the Governor General.

The/

The privity between the Federal Government through their supervisors and the States will be with the Governments of the States. There will be no direct contact with either the officers or the subjects of the States and any admonition or punishment dealt out for negligence would be first recommended to the Governments of the States. Powers of Federal execution should vest in the Crown through the Governor-General and not in the Federal Government.

MR. RUSHBROOK WILLIAMS preferred the agency of the Governor-General in preference to the Federal Government.

Secretariat-General,
House of Lords, S.W.1.

28th November, 1932.

Minutes of the Seventh Meeting of the Conference
held on Tuesday, 29th November, 1932, at 2.30 p.m.
(E.T. 7th Meeting.)

Please substitute the attached final copy of the above
Minutes for the version issued on the 29th ultimo and
destroy the latter.

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Secretariat-General,
House of Lords, S.W.1.
6th December, 1932.

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7th Meeting.

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INDIAN ROUND TABLE CONFERENCE, 1932.

(November-December)

Minutes of the seventh meeting of the Conference
held at the House of Lords on Tuesday,
29th November 1932 at 2.30 p. m.

PRESENT

BRITISH REPRESENTATIVES

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Mr J. Simon
Lord Irwin
Mr Davidson
Mr Butler

Non-Government Delegates

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Lord Reading
Lord Lothian

Also Present

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Mr M. Gwyer
Mr C. Schuster
Mr J. Dunnett
Mr R. Glancy
Mr D. Bray
Mr C. Tegart
Mr Croft
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Nawab Sir N. Akbar Hydari
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Sahibzada Mumtaz Ali Khan
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Mr. C.L. Corfield
Mr. K.V. Godbole
Mr. C.G. Herbert
Chief of Jath
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Mir Magbul Muhmood
Mr. K.C. Neogy
Major Pande
Pandit P.N. Pathak
Sir Prabhashankar Pattani
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Mr. M.R. Jayakar
Sir C. Jehangir
Mr. N.M. Joshi
Mr. N.C. Kelkar
D.B. Ramaswami Mudaliyar
Begum Shah Nawaz
R.B. Sir A.P. Patro
Sir T.B. Sapru
Dr. Shafa'at Ahmad Khan
Sardar Tara Singh
Sir N.K. Sircar
Sir Purshotamdas Thakurdas
Mr. Zafrulla Khan

Also Present

Sayed Anjad Ali
Mr. Lawson

Secretaries

Mr. Latifi
Mr. Rama Rau

SECRETARIAT-GENERAL

Mr. Carter (Secretary-General)
Mr. Roy
Mr. Williams

PUBLICITY OFFICERS

Mr. MacGregor
Mr. Joyce

Head C of the provisional agenda - Special powers
and responsibilities of the Governor-General
and Governors.

LORD IRWIN in opening the discussion under this head suggested that it might proceed on the basis of the Governor-General's special powers on the understanding that the same general principles would apply to Governors. The subject was of the greatest importance and constituted one of the three legs of the tripod on which the future Constitution would rest, namely, Federation, Responsibility and Safeguards. He referred to the reports of the Federal Structure Sub-Committee as showing acceptance of the general position that full responsibility could not be achieved at one step. The general conclusions previously reached had now to be implemented in the most appropriate practical form.

Safeguards were in no sense intended to hamper responsibility. They were designed to provide as it were the working articles of partnership in those matters in which, for the sake of India herself, co-operation between India and Great Britain was essential, at any rate for some time to come. The British position quite frankly was this; that however willing Parliament might be to go as far as possible in recognising the claims of Indian national sentiment, it would require an assurance that the safeguards designed would be effective.

He then proceeded to examine the content of the Governor-General's special powers and suggested that they would fall under four well-defined groups:-

I. The reserved subjects of Defence, External

Affairs/

Affairs and Ecclesiastical Affairs.

II. Special Responsibilities.

In this group would fall the following items, in regard at least to some of which there would be no controversy.

(1) Prevention of grave menace to the peace and tranquillity of India, a subject which had been touched upon in yesterday's discussions.

(2) Protection of minorities.

(3) Securing of the statutory rights of the Services.

(4) Protection of the administration of those Departments under the Governor-General's own control.

(5) Protection of rights of the States (e.g. there might be cases of Federal legislation cutting across the rights secured to a State or States by treaty).

(6) To provide against commercial discrimination, especially on the administrative side.

(7) Maintenance of good relations between India and other parts of the British Commonwealth.

III. Powers in relation to the Legislature; i.e. powers of dissolution, prorogation, summoning, assent, veto, previous sanction, etc. (See paragraph 6 of Heads of Discussion under Head C).

IV. Extraordinary powers to provide for the carrying on of the King's Government in the event of a breakdown of the Constitution.

These two first groups might be considered from both the legislative and administrative points of view. As to the former, how was the Governor-General to secure the enactment of any legislation that he might deem

necessary/

necessary for the exercise of his duties in relation to the reserved subjects or of his special responsibilities? Was it necessary to invest him with an ordinance-making power?

The two main questions confronting the Conference were, first, what subjects were to be safeguarded; secondly, how were such subjects to be safeguarded? Any measure of unanimity attained by the Conference on these issues was likely to have a great effect on British opinion vis-à-vis Indian constitutional reform.

SIR TEJ SAPRU stated that in regard to the three legs of the tripod, to which Lord Irwin had referred, namely, Federation, Responsibility at the Centre and Safeguards, there was no controversy. If, after providing safeguards and reservations, the field of activity which remained to be transferred to popular control was real, moderate opinion would welcome it; but it was essential that the safeguards should not swallow up responsibility at the Centre. In the field transferred to popular ministers nothing should be done to whittle down their responsibility. He, and those for whom he spoke, had no wish to challenge the inclusion of the Ecclesiastical Department within the reserved field. But, before agreeing to the inclusion of Defence and External Relations, he would like to know what was to be the exact content of these two subjects.

In/

In previous discussions it had been pointed out that there are some branches both of Defence and External Relations which could suitably be brought under popular control. The time had come, he thought, when some indication might be given of the attitude of Government about these points. In the field in which popular ministers have control, the Governor-General must act on the advice of his ministers and neither he nor those associated with him would agree to any diminution of that responsibility. He felt it necessary to state this because from the manner in which the Questionnaire has been drafted, it would appear that it was contemplated that even in regard to matters which fell within the sphere of ministers, the Governor-General might, on occasions, override them.

He referred to sub-Heads (a), (b) and (c) of Head (4) of the Heads of Discussion and stated that if any of these alternatives related to subjects appertaining to the popular sphere, he could not support the suggestions contained in any of them.

In regard to the category described in Head (6), of subjects in which the Governor would have to exercise his own discretion, he should agree that (a), (c), (e) and (f) would properly fall within that category. With regard to (b) and (d) he would reserve his opinion at the present stage.

In/

In regard to paragraph (7) of the Heads of Discussion, he recognised that it was necessary to give the Governor-General certain powers either in the reserved field or for emergencies. It followed, therefore, that he must also be in a position to implement these powers, but he thought that the manner in which he implemented these powers was one of great importance. It is one thing for him to call upon the Finance Minister to provide him with funds required for the discharge of his powers; it is quite another to override the Minister or the Legislature. The latter method should be restricted to the narrowest possible compass and he illustrated this by reference to the points raised in paragraph (8) of the Heads of Discussion.

Section 67A(7) was fully justified in the existing Government of India Act, for at the time the present Constitution was brought into force there was no intention to give responsibility to the Legislature. To attempt to repeat this provision, however, under the new Constitution in regard to matters in which responsibility has been granted to popular ministers, would be tantamount to the denial of responsibility. On the other hand, a provision similar to that contained in Section 67A (8) could suitably be adopted since it had been agreed that the Governor-General should have some emergency powers.

In regard to Section 67B of the Government of India Act, he and his friends recognised that the Governor-General should have special powers in respect of matters which were essential for the "safety and tranquillity" of British India. This phrase means certain well-defined things, but the word "interests" contained in that Section is a very indefinite term, and to grant

the Governor-General special powers in matters which he considers essential for the interests of British India would be to open the door to serious encroachment on the fields of popular ministers, and to a conflict between the Governor-General and his Legislature. With reference to paragraph 9(a) of the Heads of Discussion, he agreed that so far as reserved departments were concerned the Governor-General should have power to pass emergency legislation, but this power should ordinarily be restricted to his responsibilities in regard to peace and tranquillity. He felt very strongly against vesting him with this power in regard to unspecified matters and felt that to do so would not contribute to the success of the new constitution. With regard to parts (b) and (c) of paragraph 9, it was, of course, always open to the Governor-General to consult his Ministers when he thought fit, but it was undesirable to compel the Governor-General to consult them in regard to matters which fell within the Governor-General's special sphere of responsibility.

In regard to the question raised in paragraph 10, his reply was in the affirmative in so far as the matters affecting religion or religious rights were concerned, but with regard to other points he would reserve his opinion until he knew precisely what the implications of them were.

Finally, as regards paragraph 11 he would prefer to reserve his opinion until after the question of Financial Safeguards had been discussed.

Sir Tej went on to deal next with the points to which Lord Irwin had drawn attention. First, with regard to Defence and Foreign Policy, he agreed that these should be reserved, subject, however, to the remarks he had made before, namely, that both these matters require precise definition.

Then as regards the special responsibilities of the Governor-General, he agreed generally that he should have powers to protect the rights of minorities, but here again it was necessary to define what was meant by a minority and to state what were the particular rights of minorities that he should be empowered to protect. There are, for example, certain rights which would be justiciable and might be decided by the Supreme Court and all the power that the Governor-General would require in this sphere would be the right of suspending legislation until the Supreme Court's decision had been obtained. Then, so far as the Services were concerned, it was agreed that certain statutory safeguards should be provided in the Act itself. Apart from these, what are the other matters in which the interests of the Services require protection? There will be the Public Service Commissions instituted in all provinces under the recommendations of the Services sub-Committee which would also protect the interests of the Services. If any further protection was necessary he would like to know what were the specific matters which would come under the Governor-General's special protection.

He had no objection to the protection of the administration of departments under the Governor-General's control. As regards safeguarding the rights of the States Lord Irwin had mentioned the possibility of Federal legislation cutting across their treaty rights. He would like to know what are the type of things which were contemplated. Similarly he would ask the nature of the power it was proposed to confer on the Governor-General to ensure the adequate administration of the Commercial Safeguards

Would/

Would not the Courts be the proper authority for doing this and was it necessary to invest the Governor-General with any special powers in regard to this?

Next, as regards the preservation of good relations of India with other parts of the Empire, he would like to know whether this phrase, which he felt was too wide, covers matters which might be compendiously described as Imperial interests. Taken in that sense, to give the Governor-General special powers might mean the restriction of the control which the Legislature now enjoyed, e.g. in matters of fiscal policy, or ought to enjoy, e.g. in regard to the position of Indians in other parts of the Empire.

Finally, he would agree that the Governor-General should be invested with powers to secure the continuance of the administration in the event of a breakdown of the Constitution, but here, too, he felt that it was necessary to state more definitely what precise circumstances would be regarded as constituting a breakdown.

MR. KELKAR agreed with everything that had fallen from Sir Tej Sapru. He however, put in a plea for Indianisation in the Departments which would be specially reserved to the Governor-General. Since it is intended that complete responsibility should be granted at some future date, it seemed to him essential that Indians should be given opportunities of being trained in those Departments. He therefore suggested that in the Instrument of Instructions to the Governor-General it should be laid down that the Army and Foreign Secretaries should be Indians.

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As regards special powers he felt that it was desirable to prepare a detailed list of them and that the safeguards should be only in the interests of India.

MR. HAFIZ HIDAYAT HUSAIN thought that the reception of the new Indian constitution would depend very largely on the manner in which the problems under discussion to-day were solved. The special powers of the Governor-General and the Governors should be so circumscribed as not to transcend the limits of ordinary constitutional practice. They should not on the one hand be so narrow as to enable them to act only when an actual breakdown had occurred, nor on the other should they be so large as to permit day-to-day interference with the administration. The over-riding powers of the Governors should be subject to supervision and control by the Governor-General in All-India subjects, but in regard to provincial subjects, Governors should be in a position to act on their own responsibility. As regards matters in which the Governor-General would have to exercise his own discretion he agreed that items (a) to (f) should fall within that category. He felt that power of certification should, in the interests of the Governors themselves, be confined to the narrowest possible limits for they create unnecessary difficulties and tend to make Governors unpopular. On the other hand, he felt that the powers to protect minorities should not be unnecessarily restricted and these should be conferred in the Constitution itself and not be left to the Instruments of Instructions.

Secretariat-General,
House of Lords, S.W.1.

29th November 1932.

CONFIDENTIAL.

T. 8th Meeting

Copy No. 120

FINAL COPY

INDIAN ROUND TABLE CONFERENCE
(November - December, 1932)

Minutes of the eight Meeting of the Conference
held at the House of Lords on Wednesday,
30th November 1932 at 2:30 p.m.

PRESENT

BRITISH REPRESENTATIVES.

Government Delegates.

Lord Sankey (in the Chair)
Mr. S. Hoare
Lord Hailsham
Mr. J. Simon
Lord Irwin
Mr. Davidson
Mr. Butler

Non-Government Delegates

Lord Peel
Lord Winterton
Lord Reading
Lord Lothian

Also Present

Mr. F. Stewart
Mr. C. Schuster
Mr. J. Dunnett
Mr. R. Glancy
Mr. D. Bray
Mr. Croft
Mr. Col. Neale
Mr. C.M. Patrick
Mr. R. Law
Mr. Walton
Professor Coatman

Secretaries

Mr. Dawson
Mr. Patrick

INDIAN STATES' REPRESENTATIVES.

Raja of Sarila
R.B. Raja Oudh Narain Bisarya
R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib J.A. Surve
Mr. Rushbrook-Williams

Also Present

Mr. R.Z. Abbasy
Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Lt.Col. Sir R.Chenevix-Trench
Mr. C.L. Corfield
Mr. K.V. Godbole
Mr. C.G. Herbert
Chief of Jath
Nawab Mahdi Yar Jung
Pandit Ramachandra Kak
K.S.D. Sinhji of Limbdi
Mir Maqbul Muhmood
Mr. K.C. Neogy
Major Pande
Pandit P.N. Pathak
Sir Prabhashankar Pattani
Mr. G.P. Pillai
Mr. B.J. Power
Mr. Qureshi
Mr. Madhava Rao
Mr. C.N. Seddon
Mr. J.W. Young
Mr. B.H. Zaidi

Secretaries

Mr. Hydari
Mr. Panikkar

BRITISH INDIAN REPRESENTATIVES.

H.H. The Aga Khan
Dr. B.R.Ambedkar
Sir H.Carr
Pandit Nanak Chand
Mr. A.H.Ghuznavi
Lt.Col. Sir H.Gidney
K.B.Hafiz Hidayat Husain
Mr. M.R.Jayakar
Sir C. Jehangir
Mr. N.M.Joshi
Mr. M.C.Kelkar
D.B.Ramaswami Mudaliyar
Begum Shah. Nawaz
R.B.Sir A.P.Patro
Sir T.B.Sapru
Dr. Shafa'at Ahmad Khan
Sardar Tara Singh
Sir N.N.Sircar
Sir Purshotamdas Thakurdas
Mr. Zafrulla Khan.

ALSO PRESENT.

Sayed Amjad Ali
Mr.Holme

Secretaries.

Mr. Latifi
Mr. Rama Rau

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General)
Mr. Roy
Mr. Williams

PUBLICITY OFFICERS.

Mr. MacGregor
Mr. Joyce.

Head C of the provisional agenda - Special powers
and responsibilities of the Governor-General
and Governors - discussion continued.

The discussion under this head begun on Tuesday,
November 29th, was continued.

NAWAB LIAQAT HYAT KHAN put forward the considered
view of the Chamber of Princes on this subject, as
expressed in recent resolutions. The States were
prepared to join the Federation on condition that the
Crown guaranteed provision for the following matters:-

- (1) Safeguards, which should be embodied in
the Constitution;
- (2) Treaty rights of the States should be
observed and should be beyond the purview
of the Federal Legislature;
- (3) Sovereignty and internal administration of
the States to remain intact.

An essential safeguard was a guarantee of permanent
connection between India and the Crown.

LORD READING stated that he adhered to the general
principles laid down at the previous Round Table
Conferences. On the one hand he saw no reason to
depart from anything then generally accepted; on the
other hand he considered that no further safeguards were
necessary. It must be remembered that the conclusions
reached at the Conference must ultimately go before
Parliament. There was some anxiety in Parliament lest
safeguards should be introduced in the Constitution in

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a manner which would not give assurance of their effectiveness. Equally the Conference must take care not to lay more than the necessary stress upon their proposals for safeguards. The general principle was that in normal matters (those outside the scope of the safeguards and Reserved Subjects) there should be a very definite element of ministerial responsibility. It was not intended to restrict this responsibility except in regard to safeguards.

As to the Reserved Subjects, general agreement had been reached at the earlier Conferences. A somewhat analogous subject was "Relations between Crown and States" which would be in the hands of the Viceroy.

As to the Governor-General's special responsibilities, it was important to remember that the question of exercising these powers would arise only in certain events. It was generally agreed that the protection of minorities should be a special responsibility attaching to the Governor-General. The provision was not intended to refer to any section other than those representative minorities whose delegates had attended the various Round Table Conferences.

As to the subject "Commercial Discrimination", here again there was no doubt as to the general intention of the preceding Conferences; what remained was the important business of drafting and definition.

Again, it was essential to give the Governor-General powers to meet a grave menace to order and tranquillity or a breakdown of the constitution. Once more there was no real difference of opinion, though it was necessary of course, to describe these powers and the circumstances in which they should be used, in precise language. It was

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also essential to place at the Governor-General's disposal such resources as will enable him effectively to exercise his special powers; he must not only be invested with these special powers but also afforded effective means of exercising them.

It had been suggested by Lord Irwin that a subject compendiously described as "Imperial interests" might be included among the Governor-General's special responsibilities. His first inclination was to support the proposal but he would reserve a definite opinion until the matter had been further discussed. Such a provision might be found distinctly helpful; e.g., it might well enable the Governor-General to prevent an acute controversy with one of the Dominions from developing into feelings of antagonism.

There was also general agreement that the Governor-General should be entrusted with powers of dissolution, etc. in relation to the Legislature.

Referring to Sir Tej Bahadur Sapru's objection to the method of certification, Lord Reading went on to say that the essential was to be sure that the Governor-General had in fact the power to draw on the Treasury in the discharge of his special duties. Once this is clear, the question of how best to empower him to this end is of less importance. It must be remembered that we cannot build a Constitution on the assumption that there will always be friends of the Constitution working it. We must provide for emergencies; the alternative was chaos and anarchy.

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So also it was essential to provide the Governor-General with an ordinance-making power, if he was to be in a position to discharge his obligations. There might, for example, be no other way of dealing with a situation calling for swift action at a time when the Legislature was not sitting. Whether this power would be exercised with or without the agreement of the Ministry would depend upon the circumstances. For example, if the situation were one of grave menace to order and tranquillity, the question would be for the Governor-General's own discretion. It would, of course, be open to him to consult his Ministers, but he would not and could not be bound by their advice.

Lord Reading concluded by emphasising that there were two broad tasks before them. The first was to satisfy Indian opinion as far as was possible; the second was to satisfy Parliament of the effectiveness of the proposed safeguards.

SARDAR TARA SINGH was of opinion that a strong Government at the Centre was necessary, but he felt some difficulty in visualising the Constitution. So far as the Federation is concerned, neither the Government nor the States had put their cards on the table and no indication had been given as to the stage at which the States were to come into the Federation. His argument on a previous occasion for special treatment of the Punjab should not be exploited to withhold responsible government in other Provinces. In regard to the latter, he agreed with Sir Tej Saprú that the safeguards should

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be in the interests of India and should be so circumscribed as not to swallow up Responsibility. In regard to minorities, however, he felt that the Governor-General's powers to protect them should be real and he suggested that a portfolio for this subject should be created both at the Centre and in the Provinces. With regard to the Punjab, his community would rather have the present Constitution continued than have any advance on the lines proposed for other Provinces if the communal award of the Prime Minister was to be maintained.

SIR A. P. PATRO understood the position to be that there is general agreement as to the necessity for safeguards but difference of opinion as to the method by which those safeguards were to be secured. On this point he agreed with Lord Reading that care should be taken, on the one hand, that the impression was not created that the safeguards were so far-reaching as to destroy responsibility - and on this point there is much anxiety in India - while, on the other, that they should be sufficiently real to satisfy Parliament, who would, after all, have to pass the necessary legislation. As regards the reserved subjects, he agreed with Lord Reading that the Governor-General should have the means to implement his special powers either by certification or by ordinance. There should, however, be no interference normally with the responsibility of Ministers and of the Legislature in the field in which responsibility was going to be conferred. For example, if the Ministry could not get the Budget accepted in the Legislature the normal course should be for the Ministry to resign but a situation might arise when,

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owing to certain special circumstances, the Legislature repeatedly rejected the financial provision required. In such an event the Constitution should contain a provision for enabling the administration to be carried on on the Budget provision of the previous year. Such a provision existed in the Japanese Constitution and might be adopted. He agreed with the method suggested in Clause (c) of paragraph 4 of the Heads of Discussion, - a strong Central Government was a necessity in India.

PANDIT NANAK CHAND . With reference to certain remarks which had fallen from Sir Tej Sapru about the unreasonable apprehensions of minority communities in the Punjab, he wished to explain that the situation in that Province was peculiar. In the first place, the Province was close to the Frontier and was therefore exposed to attack. Secondly, the Province was inhabited by an inflammable population, who are peculiarly susceptible to appeals to their religious emotions. Thirdly, the Punjab has a normal record of crime which shows that respect for law and for human life is small, and lastly, the principles of representative government have not been followed in devising the distribution of power under the new Constitution. A Constitution is being started which is based on distrust and which, in the magnitude of its experiment, is unparalleled. In all these circumstances, the Punjab could justifiably claim to have special treatment accorded to her. It was imperative that law and order should be properly safeguarded and that the administrative machine should be able to function, and it was necessary to invest somebody with wide special powers to protect minorities. In regard to the exercise of these special powers, he endorsed the suggestion

that they should be exercised by Statutory Committees consisting of members of all the important communities. The Punjab Hindu view was that there should be no advance in that Province on the basis of the distribution of power between the communities proposed in the Prime Minister's Award.

SIR N.N. SIRCAR said that he thought that the points in issue really fell within a very small compass. It was clear from the discussion that no one wished to go back on the agreements recorded in paragraphs 16 and 22 of the Second Report of the Federal Structure Committee. That being the case, special emergency powers have got to be given to the Governor-General and the Governors in regard to the three subjects mentioned in paragraph 16. The range of differences with regard to these appeared to him to be small. For example, it had been agreed that, for the purposes mentioned in paragraph 16, the Governor-General must be able to implement his powers when necessary, by requiring appropriation of revenue to be made or by legislative enactments. It did not matter in the least whether these legislative enactments were called Ordinances, Regulations or Notifications. If there was any way except that of Ordinances by which the same power could be secured, let that be adopted be all means, but the point was to ensure that the Governor-General should have effective means of implementing his special powers. As regards the method of appropriation of revenue he did not mind whether the power was obtained by certification or not, so long as the Governor-General could get the money he required for discharging his special responsibilities. Therefore the question before the Conference was one of detail, of method and of definition rather than one of principle. In conclusion,

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he wished to state, with reference to a point made by Pandit Nanak Chand, that he was not apprehensive that because the Muslims were in a majority in Bengal that they would devote all their time to devising means for oppressing the Hindus.

Secretariat-General,
House of Lords,
S. W. 1.

30th November 1932.

Minutes of the Ninth Meeting of the Conference
held on Thursday, 1st December, 1932 at 11 a.m. and
2.30 p.m.

(R.T. 9th Meeting).

Please substitute the attached final copy of
the above Minutes for the version issued on the
1st instant and destroy the latter.

Secretariat-General,
House of Lords,
S.W.1.

9th December, 1932.

CONFIDENTIAL.

Copy No: _____

R.T. 9th Meeting.

NAB COPY.

INDIAN ROUND TABLE CONFERENCE 1932.

(November - December)

Minutes of the ninth Meeting of the Conference

held at the House of Lords on Thursday,

1st December, 1932 at 11 a.m. and 2.30 p.m.

PRESENT.

BRITISH REPRESENTATIVES.

Government Delegates.

Lord Sankey (in the Chair)
Sir S. Hoare
Lord Irwin
Mr. Davidson
Mr. Butler

Non-Government Delegates.

Lord Peel
Lord Winterton
Lord Reading
Lord Lothian

Also Present.

Mr. F. Stewart
Mr. M. Gwyer
Mr. C. Schuster
Mr. J. Dunnett
Mr. R. Glancy
Mr. D. Bray
Mr. H. Wheeler
Lord Dufferin
Mr. Croft
Mr. Col. Neale
Mr. Rumbold
Mr. Turnbull
Mr. C.M. Patrick
Captain Knatchbull
Mr. Walton
Mr. Monteath

Secretaries.

Mr. Dawson
Mr. P.J. Patrick.

INDIAN STATES REPRESENTATIVES.

Raja of Sarila
R.B. Raja Oudh Narain Bisarya
R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib J.A. Surve
Mr. Rushbrook-Williams.

Also Present.

Mr. R.Z. Abbasy
Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Lt. Col. Sir R. Chenevix-Trench
Mr. C.I. Corfield
Mr. K.V. Godbole
Mr. C.G. Herbert
Chief of Jath
Nawab Mahdi Yar Jung
Pandit Ramachandra Kak
K.S.D. Sinha of Limbdi
Mr. K.C. Neogy
Major Pande
Pandit P.N. Pathak
Sir Prabhashankar Pattani
Mr. G.P. Pillai
Mr. B.I. Power
Mr. Qureshi
Mr. Madhava Rao
Mr. C.N. Seddon
Mr. J.W. Young
Mr. B.H. Zaidi
Pandit Pratap Narain

Secretaries.

Mr. Hydari
Mr. Panikkar.

BRITISH INDIAN REPRESENTATIVES.

H.H. The Aga Khan
Dr. B.R. Ambedkar
Sir H. Carr
Pandit Nanak Chand
Mr. A.H. Ghuznavi
Lt.Col. Sir H. Gidney
K.B. Hafiz Hidayat Husain
Mr. M.R. Jayakar
Sir C. Jehangir
Mr. N.M. Joshi
Mr. N.C. Kellar
D.B. Ramaswami Mudaliyar
Begum Shah Nawaz
R.B. Sir A.P. Patro
Sir T.B. Sapru
Dr. Shafa'at Ahmad Khan
Sardar Tara Singh
Sir N.N. Sircar
Sir Purshotamdas Thakurdas
Mr. Zafrulla Khan.

Also Present.

Sayed Amjad Ali.
Mr. Holme.

Secretaries.

Mr. Latifi
Mr. Rama Rau.

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General)
Mr. Roy
Mr. Williams.

PUBLICITY OFFICERS.

Mr. MacGregor
Mr. Joyce.

Subject C of Conference Agenda
(for Heads for Discussion see document R.T. 4.)

SPECIAL POWERS AND RESPONSIBILITIES OF THE GOVERNOR-GENERAL
AND GOVERNORS.

DISCUSSION (continued)

LORD PEEL referring to the suggestion that by imposing special responsibilities on the Viceroy the field of ministerial responsibilities might be unduly contracted, observed that there was no difficulty with regard to subjects which fell within the reserved field. The problem really arises only with reference to matters normally within the sphere of ministers. Here there is a real problem, because, on the one hand, since the field of public activities cannot be divided into water-tight compartments, reserved subjects might impinge and have re-actions on the ministerial sphere; on the other, the special responsibilities imposed on the Governor-General in regard to matters described in paragraph 16 of the Second Report of the Federal Structure sub-Committee may involve his intervention in the sphere which ordinarily falls within that of ministers. Difficulties are likely to arise, because it is impossible precisely to delimit the circumstances in which special powers should be exercised. In paragraph 4 of the Heads of Discussion, reference has been made to alternative methods by which provision for the exercise of special powers could be secured. As regards these, he would much prefer alternative (c)- to alternative (b).

As regards the difficulty of dividing power between the Governor-General and his ministers in the ministerial sphere, it should be borne in mind that the special powers of the Governor-General would only come into operation if for example unfair treatment of minorities or commercial discrimination went to such lengths as to compel their use. In such cases the responsibilities of ministers must necessarily, to a certain extent, be impaired, but unless such condition arose there would be no question of the use of the Governor-General's special powers at all. It has been suggested that the Viceroy might wish to stretch

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his powers to interfere in day-to-day administration. The Viceroy would, however, be human, and the normal burdens of his office would be so great that he would be reluctant to interfere, unless he was compelled to. Besides, he would go out with instructions not to restrict but to encourage responsibility, and if he tried to stretch his own powers he would be acting in a sense contrary to the policy of Government. It comes down to this: It must be assumed that there will be a fair attempt on both sides to carry out this new policy. In a sense the more clearly defined the special powers were, the less likely they are to be used. The feeling in the Conservative Party during the last two years has stiffened in favour of making the safeguards effective, but really when the safeguards are examined it will be found that there is a very large sphere in which the ministers will be able to act quite freely, and with a full sense of responsibility to their Legislatures. India requires in the coming years the fullest co-operation of England, but in order that the new Constitution might have a good send-off in this country, it is necessary to ensure that the safeguards within their limited sphere are effective.

MR. ZAFRULLA KHAN, pointed out that the difference of opinion related not to principles, but to methods, for the points referred to in Lord Irwin's speech and in the Heads of Discussion are the logical result of the report of the Federal Structure Committee, and as far as he was aware there was no desire on any side to go back on the conclusions there stated. Except in one particular matter, in which he did not quite follow Sir Tej Sapru, the points that he raised were really points of definition. First of all, there is the field of reserved subjects, dealt with in paragraph 11 of the Second Report of the Federal Structure

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sub-Committee. Sir Tej Saprú had suggested that there were aspects of these two subjects which might be transferred to popular control. This might, perhaps, be examined and if it were found feasible to separate the subjects in that manner, his suggestion might be adopted. The second class of reservations included the powers of the Governor-General to act on his own responsibility, even in the field in which he would normally act on the advice of his ministers, in strictly well-defined circumstances. It is in this field that some controversy arises. There are three purposes laid down in paragraph 16 of the Federal Structure sub-Committee's Second Report, in which in the last resort the Governor General might have to act on his own responsibility. Lord Irwin, in dealing with this matter, had indicated some other purposes; viz: (1) Relations with the States, (2) the avoidance of commercial discrimination, (3) good relations with the other parts of the Empire. Of these latter, the first really falls within the reserved field. The second ought not to offer any serious difficulty, because as he understood it it was going to be the subject of an agreement; but as regards the last, there was some real difficulty. First, there is the question of definition - what exactly is meant by "good relations" with other parts of the Empire? Secondly, if the Governor-General has special powers in this sphere, the question is bound to be asked whether the Governors-General of the Dominions have special powers to secure good relations with other parts of the Empire. There was a real danger that unless other Dominion Governors-General have power to preserve good relations with India and other parts of the Empire, to invest the Indian Governor-General with any special powers in this respect would create the suspicion that it was not being done in the interests of India. Therefore, it seemed likely that the advantage of giving him such special powers/

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powers would be more than outweighed by the suspicion that this was an attempt to impose restrictions in India which could not be imposed on any other Dominions.

The third field is the field of the discretionary power of the Governor-General, and lastly there are his powers of carrying on the Government in the event of a breakdown. In regard to the last point there was unanimity that the Viceroy must have the necessary powers to carry on in the case of a breakdown.

Turning to the items in the Heads of Discussion, he said that the Muslim delegation have no objection to the inclusion of the Ecclesiastical Department in the reserved field, as indicated in paragraph 3. Turning to the matters in which the Governor-General has special responsibilities, of the three methods suggested in paragraph 4 of the Heads of Discussion, for securing the exercise of powers to implement them, the third seemed to be the best. That paragraph makes it clear that special responsibilities exist for certain specified purposes and the powers would only be invoked in respect of those matters in which the Governor-General has special responsibility. If the field of special powers is properly defined, there can be no objection to the method suggested in sub-paragraph (c) of paragraph 4. Taking the analogous powers of Governors in the Provinces, he referred to paragraph 6 of the Report of the sub-Committee No. 2 on Provincial Constitutions. He took it that the specified duties in relation to the Governor were those mentioned in paragraph 16 of the Federal Structure sub-Committee's Second Report, and that the Governor would have no responsibilities in regard to the three points added by Lord Irwin, to which he had already referred.

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Turning to paragraph 6 of the Heads of Discussion, he thought that items (a), (c), (d), (e) and (f) should be agreed to. With reference to paragraphs 7 and 8, he pointed out that the situation might arise in which the Governor-General might require funds for the discharge of his special responsibilities in the interests of peace and tranquillity, which would be normally in the field of the Federal Minister. It was agreed that the Governor-General must have power to secure such funds, but there seemed to be some differences as to the method by which he should do so. Personally, he was in favour of the view that in the discharge of his special responsibilities the Governor-General should obtain the funds he required by his own certificate, for it might well be that he would be overriding his ministers, and it would be unfair to his Cabinet to require them to sponsor the measures necessary to provide him with funds. The same applies to any power which he might require by legislation. In the Provinces, in the normal course, no question of certification should arise. With regard to the power of making ordinances, referred to in paragraph 9, two classes of cases should be distinguished. The Governor-General might require powers to carry out his own responsibility. These must be secured to him by whatever method is most feasible, whether it be by the method of ordinances or any other. The point is that some method must be devised by which he can place legislation on the Statute Book. The second class of cases are those in which emergency legislation powers are necessary to assist the Governor-General's Cabinet, e.g. to meet a serious situation before the Legislature can be got together conveniently. In regard

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to legislation of this character, some time limit should be imposed, within which it could be submitted to the Legislature for confirmation. He felt that a period of three months would be sufficient for this purpose.

In Provinces Governors should have Ordinance-making powers only when the peace and tranquillity of the Province was menaced, the other two matters, viz. the protection of Minorities and of Services, would not require legislation so much as his personal intervention.

With reference to paragraph 10 of the Heads of Discussion, he observed that previous sanction would be required not only in the cases mentioned in that paragraph, but also in most of the subjects referred to in sub-Section 2 of Section 67 of the Government of India Act. He further agreed that the powers referred to in paragraph 11 should be secured. Sir Tej Saprú had questioned the advisability of investing the Governor-General with special powers in respect of matters which were essential for the interests of British India, on the ground that the phrase was too wide. He agreed with that view.

Although not strictly pertinent to the subjects under discussion, he wanted to point out that the system whereby certain provinces had their Governors appointed from public men while other provinces drew their Governors from the I.C.S., was regarded as a stigma of inferiority by the latter. The statutory distinction contemplated by Section 46 of the Act should, he thought, disappear and no distinction should, in practice, be made between provinces. The aim should be that Governors should be drawn only from public men of India and England. The second point to which he wished to refer was one to which allusion had already been made by Sir Tej Saprú and Sir N.N.Sircar, namely that

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no distinction should be made between the Constitution of one province and another, because of the apprehensions of any particular community. To do so would make the Constitution entirely unworkable and lead to serious agitation.

SIR P. THAKURDAS said that the safeguards should not be such as to encourage recklessness either by the Governor-General or by the Legislature. The language employed in describing these safeguards was too general and vague. As to the reserved subjects of Defence and External Affairs, for example, what was the exact extent of each? He could not agree that as had been suggested the Department of Ecclesiastical Affairs should also be a reserved subject. As to the proposed special responsibility against commercial discrimination, emphasis had been laid on the administrative aspect; but "administrative discrimination" was very difficult to define. It was difficult to give the Governor-General any power in this respect without substantially detracting from the position of the Ministry. Another proposed special responsibility, that of "Imperial interests", he could not accept. Unless some basis of reciprocity was established by vesting an analogous responsibility in the Governors-General of other Dominions, the proposal would arouse considerable opposition as leaving India under the domination of the Colonial Office. As to the other special responsibilities, he agreed generally with Sir Toj Sapru. He observed that there were two risks in a democratic constitution - deadlocks and a breakdown. As to the latter he agreed that adequate powers must be given to the Governor-General; but deadlocks were not an unusual occurrence and should be left to be solved constitutionally, without recourse to special powers. He appealed to all concerned not to be influenced by present conditions in India, to trust her people and to give them an opportunity of constructive work. To this end the Governor-General should be placed in the position of a constitutional monarch right up to the stage of a

breakdown. In conclusion Sir P. Thakurdas said that he could not agree with the detailed inferences arising out of the questionnaire under consideration, and submitted that the questions required more precision, and discussion thereafter.

SIR AKBAR HYDARI agreed generally with Mr. Zafrulla Khan and felt that a considerable amount of agreement had been reached. As to the Reserved Subjects, it was essential so far as the Indian States were concerned that the exercise of Paramountcy powers and the protection of Indian States which were covered by the subject "Political Relations" and Defence to the extent at least as Defence affected the Indian States and their specific Treaty Rights, should be reserved to the Crown; this was what was understood by the phrase "Federal Reserved Subjects". He then proceeded to deal with the various paras. in the Heads of Discussion as follows:-

Para. 4. He agreed with the course proposed in sub-para.(c).

Para. 6. He agreed that these powers were necessary.

Paras. 7 - 8. He suggested powers analogous to those conferred by Sections 67A and 67B of the present Government of India Act. The main point was that the essential and fundamental powers here referred to should be effectively secured.

Paras. 10 and 11. He would answer affirmatively.

(The discussion was adjourned until
after lunch and resumed at 2.30 p.m.)

DIWAN BAHADUR RAMASWAMI MUDALIYAR said that he stood by the safeguards as enunciated in principle at the earlier Round Table Conferences. The situation was simply that while responsibility was to be transferred in some matters, certain apprehensions were felt as regards other matters. Indian opinion wished to meet these apprehensions, though not necessarily sharing them. It was agreed in other words that special powers were necessary for certain eventualities.

The proposals made by Lord Irwin in regard to special responsibilities were generally covered by the main recommendation of the Federal Structure Committee, which embraced three broad heads. The first was "grave menace to peace and tranquillity;" in this respect the Diwan Bahadur had nothing to add. The other two heads were the Minorities and the Services. He would like to know the precise extent of the powers which the Government propose to give to the Governor-General under these heads. Paragraph 3 of the report of the Minorities sub-Committee defined to some extent the protection to be accorded to Minorities. The Consultative Committee in considering Fundamental Rights also reached certain conclusions in the matter. Did the Government accept these conclusions or did they propose to go further? So also with the Services. The Services sub-Committee laid down certain broad principles for the protection of the Services. Did the Government accept these principles or did they wish to go beyond them? So also with the special and emergency powers of Governors as treated by the Provincial Constitution Committee. If the Government had any further proposals to make now was the time to throw them open to discussion and examination.

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As to the proposed responsibility for "Imperial Interests", he agreed generally with the position taken by Mr. Zafrulla Khan. The main interest of India was the position of Indians overseas. But the proposals meant in effect placing India in a position of subordination to other Dominions. Delegates to South Africa, for example, would be in an impossible position if it were known that the Viceroy had this special power at his command. The power of veto would be sufficient to check undesirable legislation and this power should be sufficient.

Turning to reserved subjects, the Diwan Bahadur argued that if permanent legislation was required, it should be placed before the Legislature in the ordinary way. If rejected, or amended in such a way as to make it unsuitable for the purpose intended, it should be possible to certify it. He agreed that the subject of Ecclesiastical Affairs should be reserved and pointed out that this was not a new suggestion. He agreed with paragraph 4 (c) of the Heads of Discussion provided that, in the closing words, the phrase "for the good government of the Federation" was replaced by "for the discharge of his special responsibilities." As regards paragraph 9 (b) of the Heads of Discussion, he said that if this meant temporary legislation, to be ratified as soon as the Legislature meets, then the responsibility is that of the Legislature and it is not a special power.

He agreed with Sir Tej Sapru and Mr. Zafrulla Khan that a certificate of demand was preferable to restoring a rejected demand. Such certificated demands should be reported to the Legislature at once in order to provide an opportunity of discussion. As regards the Ordinance-making power, there was a great prejudice against the word "Ordinance" in India and it would

therefore/

therefore be of great value if that word could be avoided. It was not necessary to give this power to Governors who did not enjoy it under the present Constitution. It should be given only to the Governor-General who might, if necessary, issue an Ordinance applying to only one province.

The Diwan Bahadur concluded by remarking that there was little difference of opinion at the present Conference but it was hoped that the safeguards proposed would not be enlarged at the Joint Select Committee stage, for Indian opinion had already conceded as much as was possible.

SIR TEJ SAFRU suggested that, in order to allay their anxiety as regards safeguards, a clause should be embodied in the Instruments of Instructions enjoining the Governor-General and Governors to observe the advice of ministers in the sphere of transferred subjects in so far as their special responsibilities were not affected; and that mention of the Instruments of Instructions should be made in the Constitution itself.

THE SECRETARY OF STATE FOR INDIA said that the suggestion would be sympathetically considered and that he hoped to refer to the matter later.

Mr. Jayaker/

MR. JAYAKAR thought that the work of the Round Table Conference had justified the decision of those who, like himself, had decided to co-operate in that work in spite of the opposition and the misgivings of their friends, for the speeches which fell from the British delegates had left no doubt in his mind that there was unanimity in desiring a genuine advance for India. Agreement has been reached as regards the safeguards necessary, the subjects to be reserved, and the discretionary powers of the Governor-General, but details are important, for, in spite of agreement on principle, it was possible that detailed provisions might kill the principle. He was, therefore, going to take the opportunity of bringing forward points which should perhaps really be taken at the time of drafting, but which he felt he might usefully take now in case he had no opportunity of doing so at the proper time.

As regards reserved powers, it was perhaps not sufficiently realised that the future Viceroy's position was going to be one of extreme difficulty. At the present time he is surrounded by experts of every description. Under the new Constitution the reverse will be the case. Therefore, it would be futile to expect that by giving him a great many reserved powers safeguards will necessarily be achieved. Safeguards will work well if the good will of the people is obtained. They will not work at all if the good will of the people is alienated. In this connection he wished to point out that his own experience had been that the existence of the reserved powers has been a fruitful cause of irresponsibility in India Legislatures. The cure for the irresponsibility in his opinion was greater responsibility. Naturally, a certain amount of risk was involved, but in large issues of this character courage and optimism were justified.

Turning/

Turning to the method of providing the special powers, he said that it would be of real assistance to Indian politicians who wanted to get the constitution accepted by their people if there were separate chapters to deal with

- (1) Reserved Subjects.
- (2) Special Responsibilities.
- (3) Discretionary powers.

A division of this kind would help to bring home to people that in the normal constitutional working there would be ample responsibility, and it is only in abnormal circumstances that the special powers would be invoked.

He emphasised the importance of very careful drafting and urged that when the draft comes to be prepared certain points should be carefully borne in mind, for example:-

- (1) While all agreed that in the event of a breakdown of the constitution the Governor-General or Governor should have ample powers to carry on it should not be forgotten that a breakdown is a very different thing from a deadlock and words should be found which would preclude the use of these powers except when there was real danger of the whole machinery coming to a standstill.
- (2) Similarly in regard to peace and tranquillity, all were agreed that certain special powers should be provided, but let it be remembered again that law and order would be a transferred subject and should not ordinarily be interfered with. The special powers under this head should only be invoked in the case of a grave menace to the security of the province or of India.

(3)/

- (3) In regard to Minorities the Governor-General should certainly have special powers to safeguard their fundamental rights, but every case of injustice should not go to the Governor-General and care should be taken to see that this provision was not utilised to turn him into a sort of Court of Appeal in all cases of injustice to Minorities. It should be made clear that it was only in cases of serious prejudice to the interests of a Minority that the Governor-General should bring into operation his special powers.
- (4) Similarly in regard to the Services, clear words were required. It had been urged that the right to salaries and pensions should be statutorily protected, but it would be going too far to turn the Viceroy into a Court of Appeal for all aggrieved protected public servants. Only those interests should receive protection which are guaranteed. He instanced the controversy over the question of accruing rights of the Services and stated that that sort of thing had created considerable feeling in India against the Services. There should be no protection of any accruing rights.
- (5) On the previous day Nawab Liaqat Hyat Khan had referred to the essential conditions on which the States would be willing to federate. These conditions really resolved themselves into:-
- (a) the protection of the treaty rights of States, and
 - (b) Guaranteeing the maintenance of their relations with the Crown.

There is no disposition in any quarter to question the provision of ample protection in both these respects, but here again it was important to

avoid/

avoid making the Viceroy a Court of Appeal in every dispute with the States.

- (6) Imperial interests had been mentioned as one of the subjects requiring safeguards. He did not like this heading because it is indefinite and it tends to create suspicion. There is a real danger that in attempting to protect Imperial interests a great deal of suspicion would be created without actually securing any protection at all. Would not the Governor-General's right of veto be sufficient in this?
- (7) Commercial Discrimination. He was prepared to accept the formula which gives the Viceroy the power of veto on legislation to the prejudice of the commercial interests of Europeans. He considered that nothing else was necessary. As regards Defence, he was prepared to agree that the subject should be reserved for a temporary period. But since it was intended that at some time the subject would be brought under popular control, he thought that the present procedure of bringing the Army budget before the Assembly for discussion should be continued. It was important that the inexperience of India in military matters should be cured so that the subject could be brought under popular control in the future. One suggestion he would like to make to help to secure this was that a direction should be given either in the Instrument of Instructions or otherwise, that the Viceroy should select a non-official Indian as the Governor-General's non-technical adviser on Defence.

As regards safeguards in connection with legislation affecting religion, the provisions to be made should be such that these matters were not a bar to progressive legislation. He and many others were looking forward to the new India embarking

on/

on a course of progressive legislation and he was afraid that small sects of people might try to create a stir against such legislation.

As regards Governor-General's Ordinances, provided that they are limited to the field of the reserved subjects or special powers, he had no objection to the grant of power to make them, but in the transferred field he would not have any Ordinance-making power, except a ministerial power for use in grave emergencies and subject to ratification by the Legislature.

DR. SHAFI'AT AHMAD KHAN observed that responsibility and safeguards were complementary. He agreed with the suggestion that the provisions conferring responsibility should be embodied in a separate chapter of the Constitution. It was necessary to take a broad view of safeguards. They should be regarded not as weapons of daily use but as necessities for special occasions. There had been very few instances of the use of the veto during the last twelve years.

Of the three methods proposed in paragraph 4 of the Heads of Discussion he would prefer method (c); this would best maintain ministerial responsibility. Referring to the three main categories of special responsibility mentioned in the report of the Federal Structure Sub-Committee, he said that it was essential to invest both the Governor-General and Governors with special powers for the protection of minorities; and that the proper person for securing the rights of the Services, which should be guaranteed, was the Governor-General.

He did not understand all the implications of the proposed special responsibility for "Imperial Interests". Unless it was clearly shown to mean the interests of Indians overseas, it would be suspect and misunderstood.

As/

As to the powers of making Ordinances and of certification, it was clear that the Governor-General must be in a position to implement his powers.

Referring to paragraph 10 of the Heads of Discussion, he said that the existing restriction in regard to religion and religious rites had a long history and was most desirable; he would leave the provision as it stands and not amend it as suggested by Mr. Jayakar.

SIR M. MEHTA said that there was a clear distinction between Federal and non-Federal matters. As regards Federal matters the States do not require special protection; it will always be open to them to resort to the Federal Court. As regards non-Federal matters, they must ask that the Governor-General be invested with special powers for the protection of the States so long as they were denied the ability, for which they had long been pressing, to appeal to a judicial tribunal in justiciable matters. He would prefer most of all, together with adequate representation of the States in the Federal Legislature, some constitutional guarantee, e.g., when three-quarters of the States' representatives vote against a particular measure on the ground that it is prejudicial to the interests of the States, that measure should be suspended.

His mandate was, he explained, that the consent of the States to join the Federation was conditional upon the grant of responsible government to British India. The States had no desire to interfere in regard to the scope and extent of that responsibility, but unless it was substantial, they would not be able to join the Federation.

Secretariat-General,
House of Lords, S.W.1.
2nd December 1932.

Minutes of the Tenth Meeting of the
Conference held on Friday, 2nd December, 1932
at 11 a.m.

(R.T. 10th Meeting).

Please substitute the attached final copy of the
above Minutes for the version issued on the 2nd
instant and destroy the latter.

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.T. 10th Meeting.

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INDIAN ROUND TABLE CONFERENCE, 1932.
(November - December)

Minutes of the tenth Meeting of the Conference

held at the House of Lords on Friday,

2nd December, 1932 at 11 a.m.

PRESENT.

BRITISH REPRESENTATIVES

Government Delegates.

Mr. Sankey (in the Chair)
Mr. S. Hoare
Mr. Hailsham
Mr. Irwin
Mr. Davidson
Mr. Butler

Non-Government Delegates.

Mr. Peel
Mr. Winterton
Mr. Reading
Mr. Lothian

Also Present

Mr. M. Gwyer
Mr. C. Schuster
Mr. J. Dunnett
Mr. R. Glancy
Mr. Dufferin
Mr. Croft
Mr. Col. Neale
Mr. C.M. Patrick
Mr. R. Law
Mr. Captain Knatchbull
Mr. Maj.-Gen. Muspratt
Mr. F.W.H. Smith
Mr. S.K. Brown
Mr. Montearth
Mr. Walton
Mr. Rumbold

Secretaries

Mr. Dawson
Mr. P.J. Patrick

INDIAN STATES' REPRESENTATIVES

Raja of Sarila
R.B. Raja Oudh Narain Bisarya
R.B. Krishnama Cakri
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib J.A. Surve
Mr. Rushbrook-Williams

Also Present

Mr. R.Z. Abbasy
Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Lt.Col. Sir R.Chenevix-Trench
Mr. C.L. Corfield
Mr. K.V. Godbole
Mr. C.G. Herbert
Chief of Jath
Nawab Mahdi Yar Jung
Pandit Ramachandra Kak
K.S.D. Sinhji of Limbdi
Mr. K.C. Neogy
Major Pande
Pandit P.N. Pathak
Sir Prabhashankar Pattani
Mr. G.P. Pillai
Mr. B.I. Power
Mr. Qureshi
Mr. Madhava Rao
Mr. C.N. Seddon
Mr. J.W. Young
Mr. B.H. Zaidi

Secretaries

Mr. Hydari
Mr. Panikkar

BRITISH INDIAN REPRESENTATIVES.

Dr. B.R. Ambedkar
Sir H. Carr
Pandit Nanak Chand
Mr. A.H. Ghuznavi
Lt.Col. Sir H. Gidney
K.B. Hafiz Hidayat Husain
Mr. M.R. Jayakar
Sir C. Jehangir
Mr. N.M. Joshi
Mr. N.C. Kelkar
D.B. Ramswami Mudaliyar
Begum Shah Nawaz
R.B. Sir A.P. Patro
Sir T.B. Sapru
Dr. Shafa'at Ahmad Khan
Sardar Tara Singh
Sir N.N. Sircar
Sir Purshotamdas Thakurdas
Mr. Zafrrulla Khan

Also Present

Sayed Amjad Ali
Mr. Holme

Secretaries

Mr. Latifi
Mr. Rama Rau

SECRETARIAT-GENERAL

Mr. Carter (Secretary-General)
Mr. Roy
Mr. Williams

PUBLICITY OFFICERS.

Mr. MacGregor
Mr. Joyce.

Subject "C" of Conference Agenda.

(For Heads for Discussion see document R.T.4.)

SPECIAL POWERS AND RESPONSIBILITIES OF THE GOVERNOR-GENERAL
AND GOVERNORS.

Discussion (continued).

SIR HUBERT CARR commented on the remarkable degree of unanimity which had been achieved on important points, and the fact that even those who had joined in the discussions with some misgivings were now convinced of the sincerity of the intentions of the British parties. Safeguards which were, at one time, looked upon with great suspicion had, on closer scrutiny, come to be regarded as necessary to ensure confidence in the working of the Constitution. He agreed with Lord Peel that the more closely they were defined, the less necessary it would be to exercise them. While he fully realised that excessive use of special powers breed irresponsibility, it was unlikely under a responsible Ministry that they should have to be invoked except in rare circumstances. Taking the different heads under which special powers were proposed, he remarked that

- (i) all were agreed as to the necessity of special powers for the maintenance of peace and tranquillity.
- (ii) As regards Minorities and commercial discrimination, questions may arise not merely with regard to the community which he represented but with regard to inhabitants of different provinces.
- (iii) With regard to the Services, the view that no more was necessary than to secure the fulfilment of contracts seemed to him to be too narrow. It was necessary in the interests of India herself that there should be loyal

and/

and contented Services. The Ministers would require good instruments. It was, therefore, reasonable that they should have security in the rights and privileges which they have enjoyed in the past.

(iv) Ordinances, unpleasant as the word seemed to be, would be asked for by ministers, as well as utilised by Governors on their own responsibility.

(v) With regard to the head Imperial relations - the European community had always had the keenest sympathy with Indians overseas and if the special powers sought were likely in any way to hamper India in securing their rights he would be opposed to them, but he doubted if that would be the case.

SIR HENRY GIDNEY agreed that responsibility in the Centre should not be weakened by too great an emphasis on safeguards but safeguards should not, on the other hand be minimised or whittled down. They must be a fundamental part of the Constitution. He did not agree, for example, that the special powers in regard to Minorities should only be exercised when the community as a whole was menaced. On the contrary, the Governor-General must be a Court of Appeal for Minorities. Lord Reading had referred to the fact that it could not be assumed that those who came to power under the Constitution would necessarily be friends of the Constitution. This was precisely what the Anglo-Indian community in Bengal feared. They had so far only received pious expressions of good will but their educational and economic

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economic needs required careful attention and that could only be secured by making the safeguards for Minorities really effective. With regard to the Services, too, he knew that there was a great sense of insecurity. Protection of the rights of the Services should be secured to the fullest extent.

. MR JOSHI generally associated himself with what Sir Tej Saprú had stated but he wished to make a few special points:

- (i) How was the responsibility of the Governor-General to Parliament in regard to the Reserved Subjects and special powers to be implemented under the new Constitution? Is the Governor-General to be responsible to a Secretary of State for India or to the Dominions Secretary? Is the Secretary of State's India Council to be kept on? Would it be necessary to keep on such a large establishment at the India Office. What is going to be the position of the High Commissioner and was he going to be responsible to the Governor-General or the Federal Government?
- (ii) So far as the special powers of the Governor-General are concerned is it right to give both the Governor-General and Governors these powers in regard to Minorities ^{as regards provincial subjects?} /If this is done the Governor-General may interfere in provincial matters. Then in regard to maintenance of peace and tranquillity who is going to pay when the Governor-General's intervention is sought in a province. There is a danger that if the Centre pays, the provincial Governors will be tempted to throw/

throw the responsibility on the Governor-General.

- (iii) As regards previous assent to legislation, he was afraid that this power might impede social legislation. He suggested a distinction should be made between legislation affecting a whole people, e.g. the Child Marriage Act and legislation which is only permissive and extends the freedom of individuals and legislation permitting the registration of marriages between Hindus, Muhammedans and Christians. The former only should require previous assent.
- (iv) It is not necessary in present times to maintain churches and ministers for any denomination. The Christian population is now sufficiently large to dispense with a State department for the benefit of its civil employees. The State as an employer should pay their servants well but not be required to provide for their spiritual ministrations.
- (v) Finally, as regards the Reserved field, the Governor-General should not have power to prohibit discussion in the Legislature. Cases had occurred of grave injustice which fell within the sphere of the Foreign and Political Department which were, therefore, not allowed to be discussed in the Legislature. This was intolerable. If there was to be any power to close discussion that power should vest in the President.

SIR S. HOARE. A feature that presents itself to my mind in reviewing the comprehensive discussion on this subject is that the members of the Federal Structure Committee last year and the year before were extremely wise and far-seeing people.

In spite of the very detailed investigation which the proposals, received from the Federal Structure Committee, have been submitted to during the last three days the reports of the Committee stand practically intact. In principle and in detail we, the members of the British

delegation/

delegation, are in just the same position as 5.
we were when that report was made and so, I am
assured, are our Indian friends.

The question falls into three fields of discussion.

First of all, the field of the special responsibilities of the Governor-General and the Governors, secondly, the field of the reserved powers and thirdly, the field, and a very important one, which covers the methods by which the reserved departments are to be administered and by which the Governor-General and the Governors are to carry out their special responsibilities. Let me begin with the field of the special responsibilities. Let me begin by making two over-riding assumptions. The first is that these special responsibilities are to be definitely restricted and there is no question of the special powers to be exercised over an undefined field. The second assumption that I would venture to make is that these special powers will be used in a commonsense way. I think we have some justification for making that suggestion. I am inclined to think that our Indian colleagues would agree generally with me when I say that upon the whole the British Governors-General and the British Provincial Governors in the past have carried out their duties with remarkable commonsense and I say that that commonsense is going to continue to be a part of the administration of their duties and that neither the Governor-General nor the Provincial Governors are going to use these special powers in a foolish way or going to apply them in such a manner as to make responsible government either in the Centre or in the Provinces impossible.

Having made these two assumptions let me now come to the actual field of the special responsibilities. First of all, there is the very difficult field of finance. We propose to avoid any detailed discussion of that field to-day and, as the Conference knows, we intend in due course to ask them to set up a special Committee to deal definitely with/

with that very complicated and difficult question.

Next there is the question of Commercial Discrimination. There again I am going to say nothing about that question to-day, because here again, as in finance, we contemplate setting up a special Committee sometime in the immediate future.

Thirdly, I will come to the question of Minorities. I have been impressed in the debate very forcibly by the fact that the Minorities safeguards are definitely safeguards in the interests of India. What other conclusion can we come to after the very moving speeches we have heard from representative of the Minorities and from our friends from the Punjab. I hope they won't think that because I tried to prevent re-opening discussion of the Communal Award that we are unsympathetic to the cause of the Minorities in the Punjab or in any Province in India. But we listened with ^{great interest and with} great sympathy to what they said and it is just for the purpose of meeting the kind of anxieties they feel that we do attach so much importance to the Minorities safeguards really being effective.

A suggestion was made that in the administration of law and order, the Governor should be advised by a Committee composed of representatives of various communities. I suggest that that would not carry out what is desired. I am inclined to think first of all it would make it impossible for a Governor to act quickly in an emergency. I am sure, secondly, that as long as communal feeling is as acute as it is in certain Provinces in India, a Committee composed of members of each of the communities would not be likely to give unanimous advice. I think therefore that the better course is not to adopt the suggestion but to give the Governors the special powers and possibly in the Instructions of the Governor-General and the Provincial Governors to advise them, so far as it is possible, to see that fair representation is given to the chief communities in the Governments in the Provinces and the Government at the Centre.

Other/

Other suggestions were made about the treatment of the Minorities. It was suggested that we should depend to a great extent upon the declaration of Fundamental Rights and the intervention of the Federal Court. There again, I am afraid, that that procedure would not by itself, be effective. It would be too long, too ponderous, it would mean too great a delay, and I do feel very definitely that over and above the safeguard of the Federal Court and any declaration of fundamental rights that we may include in the Constitution, it is essential that the Governor-General and the Governors should have the kind of powers we have been discussing for the past few days.

Now there is the special field of the responsibilities connected with the Services. There I do not feel that nothing more than a Public Services Commission is required. By all means have Public Services Commissions in the Centre and in the Provinces, but over and above that, - and here again I think we are all agreed - we must make sure of a fair deal for the Services. We must ensure that the conditions under which they have entered the Services are adhered to. Indeed, that was very much the spirit of the paragraph dealing with the Services in the Services Committee's report two years ago, and I was glad to find that upon the whole there was no disagreement as to what we wished to see done. We quite realise that the introduction of provincial autonomy and the introduction of responsible government at the Federal Centre must make a difference in the lives of the Services but, assuming all that, I think we are generally agreed that we have got to give these men to whom India is going to look for so much help in the days to come, fair treatment in the conditions under which they serve.

Then/

Then there was the question of the special responsibilities of the Governor-General in the field of the relations with the States. There was a very interesting contribution to the debate in this particular subject yesterday by Sir Manubhai Mehta.

Let me make it clear that there are certain misunderstandings that might arise over the definition of this subject. In the first case let us be quite clear that this heading has nothing whatever to do with paramountcy. Paramountcy is outside the Federal constitution altogether. Paramountcy is a direct relation between the Crown and the Princes. Secondly, this heading is not intended to apply in any way in the federal field. In the federal field recourse would be had to the Federal Courts. Thirdly, he made some observations with reference to cases outside the federal field and he implied that if a certain procedure was adopted dealing with justiciable cases between the Crown and the Princes, the States would not, in his opinion, require any action under the heading we have been discussing. / I think he went rather too far. I think even outside the assumption he made there may be cases in which the States should be able to have recourse to the Governor-General. Let me refer to a case last year taken not from the field of theory but from what actually happened, the trouble between certain sections of the Punjab population and Kashmir. I do not say that one side was right or one wrong, but it is conceivable that you might get other cases of this kind. Under this heading we contemplate that the Governor-General should have this special responsibility of seeing that movements of that kind are not stimulated or permitted in a Province that would/

would endanger the stability of the neighbouring State, that is to say a neighbouring Unit of the Federation.

We now come to the fourth field of the special responsibilities of the Governor-General, the field that we have described as Imperial Relations. First let me say what we do not intend by this heading. We do not intend that the Governor-General should normally intervene between India and the Dominions or a Crown Colony. We have no intention whatever of intervening in the sort of case that may occur to you, the type of case about the conditions of Indian labour in South Africa, Kenya and so on. We have in mind an emergency in which relations became so strained between the Federal Government in India and the Government of one of the Dominions that there really was a danger of a break-up of certain parts of the Empire, and it is that extreme emergency that in the main we contemplated when we put this heading in as one of the special responsibilities of the Governor-General. But I must say at once that my colleagues and I were very much impressed by the course which the debate took yesterday and the day before, and we are convinced of the danger that this item would be liable to very grave misrepresentation in India itself and, taking that into account, we are prepared to look into the question again. We think we might have some discussion with the members of the Conference who are specially interested in this question and see whether we cannot cover what we think is necessary in some other way and in some manner which is less open to misunderstanding. We are very sympathetically inclined to what was said yesterday, but need a little more time to look into it.

In the field of special responsibilities there were certain questions raised about the Governors' powers as distinct from the Governor-General's powers. Mr. Zafrulla Khan raised certain questions of this kind. Mr. Mudaliyar suggested that the provincial Governors should have no power of issuing Ordinances at all. Our trouble is that, as we see it, the actual place where discrimination will take place, where the kind of dangers will ultimately arise against which we wish to provide safeguards, will be in the Provinces themselves. We take the view that it is essential that the provincial Governors should have the power of acting in this case. Of course they will be acting in close liaison with the Governor-General.

There is another consideration. When Law and Order is transferred to the Provinces, it appears to me that it would be much better that it should be in the power of the Governor of the Province to act in an emergency rather than the Governor-General coming in from outside and that is the reason why provincial Governors should have special powers in addition to the powers exercised by the Governor-General. Then, there was another question raised in this part of the discussion. It does not exactly arise in the field of debate but I should like to say a word about it. Mr. Zafrulla Khan raised the question of the status of provincial Governors. He pointed to the present state of affairs, under which the three Presidency Governors are regarded as of different status/

status from the rest. Now there I can tell you that although, of course, as a Conservative, I am very anxious to maintain historical traditions, we do not contemplate that in the Federal Act distinction should be drawn between one provincial Governor and another.

Now I pass from the field of the special responsibilities to the field of the reserved departments and there I think that we may congratulate ourselves that no difference of opinion exists in the Conference about the list of reserved departments. The only difference, if indeed there was a difference, was about the content of departments and as to the meaning that we attach to the headings, say, External Affairs, Ecclesiastical, and so on. I would like to say a word about the content. Let me begin with Foreign Affairs. Let me first say I do not think it is necessary but perhaps I had better say again, that in the field of Foreign Affairs we are not going to include paramountcy or any relation with the States at all. Well now, by Foreign Affairs we do not intend anything more than is set out very clearly in the Fourth Report of the Federal Structure Committee (paragraphs 10 and 11):

The general result is that precise definition of the boundaries of the reserved Departments may be difficult, or even impossible, but that while

- (a) the Reserved Subject of "External Relations" will certainly include all matters arising out of, or directly affecting, political relations with countries external to India (e.g. Persia, Afghanistan or the Frontier Tracts), yet
- (b) commercial, economic or other "non-political" matters, even though they may involve international questions, will be dealt with by the "transferred" Departments concerned with/

with the subject matter; and the question whether, in any given case, the Governor-General will accept the advice of the Minister responsible for the subject matter will depend on whether he regards that advice, tendered ex hypothesi on a matter which may affect his responsibility for external relations in the strict sense, as inconsistent with the due discharge of that responsibility. If he does regard it as inconsistent, he will be entitled to overrule the Minister: if not, the Minister's advice will be accepted.

As regards the question of commercial treaties, it was sometimes suggested as suitable for transfer to ministerial control. The position would be very much in fact what it is here. The actual negotiating of treaties would probably be conducted in the Governor-General's department of reserved affairs and the department will retain control throughout of correspondence, just as the Foreign Office does here. At the same time the subject matter of the treaty will naturally be referred by the External Affairs department to the department immediately concerned with its subject matter, and the question whether the Minister's advice could or could not be accepted by the Governor-General would depend on his view of the reactions of that advice upon his own responsibilities. This is the position accepted in the two previous reports of the Federal Structure Committee and I believe it is the only kind of position that would work in the special circumstances.

Then/

Then there is the question of Defence. I say nothing about that because we are going to discuss it shortly.

By the Department of Ecclesiastical Affairs we do not mean more than that the Department will provide for the legitimate needs of the Army and the Services. In the main, it is regarded as a necessary part of the reserved subject "Defence" and as a necessary condition for the Services that as long as there are British Services in India they should have this kind of religious provision made for them. Now there are several questions we are asked as to the exact meaning of the term "Ecclesiastical". I will tell the Conference what we do mean. The position at the moment is that the Government of India Act and the Indian Church Act and Measure taken together, give wide power to the Governor-General in Council and the Secretary of State in Council to make provision at the expense of Indian revenues for spiritual ministration to Christians (principally to Anglican Christians but also to Christians of other persuasions.) If such provisions are to be maintained it is clear (and is generally agreed) that the powers to provide them must be placed in the "Reserved" category.

But we do intend that the scope of the reserved powers now to be given for this purpose shall be limited ultimately to the purpose of making adequate provision for (a) the Army and (b) Civil officials.

The Government of India are now re-examining the whole position with this object in view. It may be that it will be found unfair and impossible to make at once a reduction and reorganisation which will reduce the scope of Christian Ministrations solely to the two classes, civil and military, indicated above, but the policy will be to arrive at that position as soon as is reasonably possible and in any case it is intended meanwhile to provide that expenditure

shall/

shall not exceed the present scale.

The provision to be made for the Army would have to involve continuance of the present arrangement whereby reasonable provision is made for the requirements of troops of other persuasions, e.g. Catholics and Non-Conformists. But it is unlikely that the wide powers given by Section 123 (referred to by Sir Tej Sapru) will be retained in its present form, or possibly if it is retained it would be made subject to the assent of the Legislature by vote.

Now, Lord Chancellor, I come from the field of the Reserved Department to the very important questions connected with the methods by which the Governors and the Governor-General are to exercise their powers. Now, it seems to me that many of the Delegates want to hear, and what particularly Sir Tej Sapru had in mind when he opened this discussion, was the method of sharing of the responsibility between the Governor-General and the Governors on the one hand and the ministers on the other. It seemed to me that there was a nervousness lest nobody in India should know where the one responsibility began and the other ended. There was also a nervousness lest this kind of dyarchy might be used for driving a wedge between the ministers and the Legislature, that is to say, a Minister might be forced into action by the Governor-General or the Governor that would embroil him with his majority in the Legislature and the latter would not realise the fact that action had been taken not upon the advice of the minister but upon the direction of the Governor-General or the Governor. I say at once I think it is a very important point. There are one or two lines I will suggest to make it quite clear whether action is taken on the special powers of the Governor-General or whether it is taken on the advice of

his/

his responsible ministers. Sir Tej Saprú made two suggestions. He and some of his friends who followed him made the suggestion that in the drafting of the Bill we should keep these two fields of activity as distinct as possible. I will tell Sir Tej Saprú that we shall look most sympathetically into that question. We should like to do anything we can to help them and we welcome any suggestions from him and other members of the Conference who have expressed anxiety about this matter.

There was a special point he raised, namely, that it should be clearly set out in the Instructions to the Governor-General, and presumably also to the Governors, that where they are not acting under their special responsibilities they are to act on the advice of their responsible ministers. That should be specifically set out in the Instructions and the Instructions should be specifically approved as part of the Constitution by Parliament. We have looked into this question further and we think that there will be no difficulty in carrying out his request. We think on the merits of it it would be a good thing and I am sure that we can do what he suggests.

There was a further field of questions covered by several speakers, viz.: Is the legislative action of the Governor-General and the action of the Provincial Governors always to be by Ordinance, or whether there should be such things as Governor-General's Acts, in addition to Ordinances? I do not want to split hairs about words or names except to say, and I do not think I am breaking any confidence when I say that we will be glad to lose the word Ordinance and we will welcome it if anyone has any ideas about terminology. I think it is quite clear that if the Governor-General is to

have/

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. I rather gather that that was the general view of anyhow most people, and it is as to what we should call that kind of measure that we should welcome suggestions from the Conference.

As regards the Ordinances that might have to be issued outside the field of special responsibility of the Governor-General and the Governors, there need be no misgivings on this point. Such Ordinances would only be issued in an emergency upon the advice of responsible ministers. The procedure would rather be on the lines of what we have here, a Special Emergency Powers Act, under which the appropriate ministers can issue orders for a period, subject at the end of that period to the approval of Parliament, and that, I imagine, would be the procedure or something similar, the Governor acting on the advice of his ministers.

Now, one last point. As I say, we are ready as far as we can to meet the general view that has been expressed that where the Governor-General's special responsibilities begin and end must be clearly defined, but let me suggest to you that we mustn't carry this dyarchy too far. Whilst we admit the strength of everything you have said about making the position quite clear, I would suggest to the Conference that the way to constitution-building is not on the lines in which there is an impassable gulf between the transferred field on the one hand and the reserved field on the other, between the special responsibilities of the Governor-General on the one hand and the general responsibilities of the

minister/

minister on the other. As far as possible, these two fields of activity should be brought together and I contemplate that the Constitution will be worked upon a basis of commonsense so that in 99 cases out of 100, even in the field of special responsibilities, the Governor-General and the Governor will not have to take action. If the system works he will have taken the ministers into his confidence. He will have been watching what has been happening either at the Centre or in the Provinces and he will, with the help of his responsible ministers, avoid a situation arising to deal with which he has to make a special Ordinance.

Take, for instance, the case of discrimination against minorities, I should think that if a case were brought to the attention of the Governor-General he would call into consultation his ministers and have the case treated as an urgent necessity. I believe that if there is sound co-operation between the minister and the Governor-General the case will be met not by a special measure but by the minister or, if necessary, by a legislative measure of the actual Legislature introduced by the responsible minister. That is the way that I should hope the constitution will work. I hope that even in the field of legislation where it is possible for the ministry and the Governor-General or Governors to agree, that they will get the ministers to introduce the legislation that they require for the carrying out of their special responsibility in many cases into the Federal Chamber and the Provincial Chamber and, I believe, that in many cases that legislation would be carried without any need for the exercise of the special powers.

Just/

Just one further point. I must say a word about definitions. Mr. Mudaliyar, for instance, made a point about the definition on page 4 of the Questionnaire. The definition to which he drew attention is "in such manner as he judges requisite for the due fulfilment of his responsibilities." We should be quite prepared to restrict it to making it clear that it deals only with such cases in which he must intervene for the exercise of his special powers.

Another definition that came into our discussion yesterday. Reference was made to the phrase in the present Government of India Act, "safety, tranquillity and interests of British India." We have no intention of introducing so wide a term as "interests of British India" in the definition of any of the special responsibilities.

I want to make it quite clear that His Majesty's Government hope that the Governor-General and Governors will be able to persuade Ministers to accept responsibility for all acts of Government; but on what we hope will be the rare occasions on which the representative of the Crown cannot carry his Ministers with him, His Majesty's Government have no wish whatever that his decision should be so represented as to compromise Ministers with the Legislatures to which they are responsible. If, for example, a Governor found that a permanent measure was necessary for the discharge of his special responsibilities and the Legislature were unwilling to pass it, the measure would be promulgated as a Governor's Act. Possibly in some such cases a temporary enactment of the nature of an

Ordinance/

Ordinance would suffice. But I can imagine cases in which the needs of the case could only be met by a permanent measure, e.g. a measure for the safeguarding of the interests of some minority. In such a case there would be obvious advantages in the Governors hearing the views of the Legislature before reaching a final decision. But where he could not accept their views the final enactment would not be represented as an Act of the Legislature nor would a Ministry which shared the views of the Legislature be expected to accept any responsibility for it. Obviously they could not do so consistently with their responsibility to the Legislature.

I have endeavoured to approach all these questions with the one desire to make the constitution work and with the assumption upon which I began my speech to-day, namely, that we are going to work it with common sense. A great friend of mine, one of the wisest men in Europe said the other day that the task of the British Empire was to teach the world common sense. That is the attitude with which we have to approach the extraordinarily difficult questions we have been discussing to-day and without common sense I am sure you will agree with me it will be quite impossible to work satisfactorily. The constitution will depend so much upon goodwill on both sides. Constitution-building is otherwise so complicated that hostile people can easily make it impossible to work at all, and it is because I feel that we have approached these questions during the last few days in a right atmosphere that I am much more hopeful as to the issue than I was when we began our discussions.

Sir/

SIR TEJ SAPRU suggested that it should be examined whether the second part of Section 72 of the Government of India Act should be retained and also whether Section 131 should be abolished.

MR. JAYAKAR asked whether the Instrument of Instructions could enjoin the Governor-General and Governors to consult with Ministers as regards the exercise of the special responsibilities.

SIR SAMUEL HOARE undertook to have these suggestions examined.

Secretariat-General,

House of Lords, S.W.1.

2nd December 1932.

Minutes of the Eleventh Meeting of the
Conference held on Monday, 5th December 1932
at 11 a.m. and 2.30 p.m.

(R.T. 11th Meeting.)

Please substitute the attached final copy
of the above Minutes for the version issued on the
5th instant and destroy the latter.

Secretariat-General,
House of Lords,
S.W.1.

12th December 1932.

CONFIDENTIAL

Copy No. _____

R.T. 11th Meeting.

FINAL COPY. INDIAN ROUND TABLE CONFERENCE 1932.
(November - December)

Minutes of the Eleventh Meeting of the Conference
held at the House of Lords on Monday, 5th
December 1932 at 11 a.m. and 2.30.p.m.

PRESENT.

BRITISH REPRESENTATIVES

Government Delegates

Lord Sankey (in the Chair)
Sir S. Hoare
Lord Hailsham
Lord Irwin
Mr. Davidson
Mr. Butler

Non-Government Delegates

Lord Peel
Lord Winterton
Lord Reading
Lord Lothian.

Also Present

Sir F. Stewart
Sir M. Gwyer
Sir C. Schuster
Sir J. Dunnett
Sir R. Glancy
Col. Sir Umar Hayat
Sir D. Bray
Sir L. Kershaw
Lord Dufferin
Mr. Croft
Lt.Col. Neale
Mr. J.R. Martin
Mr. R. Law
Mr. S.K. Brown
Major-Gen. Muspratt
Mr. Turnbull
Captain Knatchbull

Secretaries

Mr. Dawson
Mr. Patrick

INDIAN STATES' REPRESENTATIVES.

Raja of Sarila
R.B. Raja Oudh Narsain Bisarya.
R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib J.A. Surve
Mr. Rushbrook-Williams.

Also Present.

Mr. R.Z. Abbasy
Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Lt.Col. Sir R. Chenevix-Trench
Mr. C.L. Corfield
Mr. K.V. Godbole
Mr. C.G. Herbert
Chief of Jath
Nawab Mahdi Yar Jung
Pandit Ramachandra Kak
K.S.D. Sinhji of Limbdi
Mir Maqbul Muhmood
Mr. K.C. Neogy
Major Pande
Pandit P.N. Pathak
Sir Prabhashankar Pattani
Mr. G.P. Pillai
Mr. B.I. Power
Mr. Qureshi
Mr. Madhava Rao
Mr. C.N. Seddon
Mr. J.W. Young
Mr. B.H. Zaidi

Secretaries.

Mr. Hydari
Mr. Panikkar

BRITISH INDIAN REPRESENTATIVES.

Dr. B.R. Ambedkar
Sir H. Carr
Pandit Nanak Chand
Mr. A.H. Ghuznavi
Lt.Col Sir H. Gidney
K.B. Hafiz Hidayat Husain
Mr. M.R. Jayakar
Sir C. Jehangir
Mr. N.M. Joshi
Mr. N.C. Kelkar
Raja of Khallisote
D.B. Ramaswami Mudaliyar
Begum Shah Nawaz
R.B. Sir A.P. Patro
Sir T.B. Sapru
Dr. Shafa'at Ahmad Khan
Sardar Tara Singh
Sir N.N. Sircar
Sir Purshotamdas Thakurdas
Mr. Zafrullah Khan.

Also Present.

Sayed Amjad Ali.
Mr. Lawson.

Secretaries.

Mr. Latifi
Mr. Rama Rau.

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General)
Mr. Roy
Mr. Williams.

PUBLICITY OFFICERS.

Mr. MacGregor
Mr. Joyce.

Subject "E" of Conference
Agenda.

(For Heads of Discussion see document R.T. 5.)

DEFENCE.

Sir Tej Sapru opened the discussion. There was no dispute as to making Defence a reserved subject and Indian opinion would welcome the assumption contained in the first part of the Heads for Discussion that the same opportunities of discussion in the Legislature as at present would continue to be given under the new Constitution. He referred, however, to the provisions of Section 67A (3) of the Government of India Act which only allowed of such discussion if the Governor-General permitted it. He admitted that as a matter of fact this permission had always been granted, but he thought that the right of the Legislature to discuss Defence matters should be given statutory recognition. The position then would be that the Governor-General would remain responsible for Defence, but he would be kept in touch with public feeling in the matter all the time and his policy would to a certain extent be influenced by the views expressed in the Legislature.

Indianisation.

2. Turning to the Report of Sub-Committee No.VII of the Conference on Defence, he drew attention to the contents of paragraph 3, where it is stated that one section of the Sub-Committee was in favour of a strong affirmation to the effect that the complete Indianisation of the officers in the Indian Army should take place within a specified period, subject

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to certain conditions. The Committee convened in India had recommended an Indian Sandhurst, but had expressed no definite opinion on the question of Indianisation. There was very strong feeling in India on this subject and Sir Tej felt that some announcement of the Government's policy in this respect was called for. The Indian view was that there should be a definite programme of Indianising the Army within a definite period of 20, 25 or 28 years to implement the policy stated in paragraph 4 (1) of the Sub-Committee's Report, viz. that the defence of India must to an increasing extent be the concern of the Indian people. He thought that while the rate of Indianisation in the Indian Army had been increased recently, it was not commensurate with the main object in view just mentioned.

There was a good deal of discussion as to the feasibility of fixing a definite period in the manner suggested. THE SECRETARY OF STATE FOR INDIA pointed out that the rate of Indianisation had recently been doubled and the results of this experiment must be awaited before any further pronouncement could be made on this subject. Admittedly Indianisation could only proceed consistently with the requirements of efficiency and the provision of suitable candidates for the Army. Both these factors made it difficult to fix a definite period. LORD IRWIN pointed out that if any declaration of this character was insisted upon, it must inevitably be based on a very cautious estimate, perhaps more cautious than circumstances/

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circumstances might show to be necessary. He thought, therefore, that it would not be to India's own interest to attempt to fix a definite time table. SIR TEJ SAPRU stated that the fear in India was that in the absence of a definite programme, Indianisation might be delayed indefinitely.

MR. JAYAKAR, suggested that it should be possible to have a declaration made authoritatively either in the Preamble or otherwise, in the sense of paragraph 4 (1) of the Sub-Committee's Report, viz., that the defence of India must to an increasing extent be the concern of the Indian people, and that this would help to reassure opinion in India. THE SECRETARY OF STATE FOR INDIA, promised to consider the suggestion carefully.

Maintenance and development of
Military education in India.

3. Continuing his remarks SIR TEJ SAPRU referred to paragraph 4 (2) (b) and stated that he and his colleagues considered that the maintenance and development of the Military College in India should be subject to the vote of the Legislature. He contemplated that the number of cadets to be trained every year, their quality and the standard of education required should be laid down by technical experts and that the Legislature would not interfere with any of these. He thought that Indian opinion was so extremely keen on Military education and training that there would be no difficulty with the vote in the Legislature. LORD READING put some questions with a view to clearing up the issues. What was to happen if the Legislature and the Governor-General were to differ as to the number of cadets to be admitted? Sir Tej seemed to
contemplate/

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contemplate that in such a case if consultation with the Legislature failed to bring about an agreement the Governor-General would authorise the necessary expenditure which he considered to be desirable. The object of this practice would be to keep the Legislature in touch with Army matters and to enable them to put pressure on the Governor-General to keep up the pace of Indianisation at its highest. Lord Reading thought that the right of discussion in the Legislature would be sufficient to maintain the necessary pressure. The Legislature would always be treading on the heels of the Commander-in-Chief to increase Indianisation, while the Commander-in-Chief would want to see that Indianisation was not effected in such a manner as to outpace efficiency. He thought it would be a great mistake to take away one part of the military budget and to subject it to the vote of the Legislature.

Position of Army Member.

4. As regards the appointment of the Army Member, SIR TEJ SAPRU stated that he was originally in favour of leaving the discretion completely in the hands of the Governor-General but last year he went a little further and proposed that the Army Member should be a member of the Legislature and normally function as a member of the responsible Cabinet but would not, however, be amenable to the vote of the Legislature in respect of his budget. He should resign with the Cabinet, but would be liable to re-appointment by the Governor-General. To this view he still adhered. The suggestion proved to be somewhat controversial. It was pointed out that the practice would probably grow up of securing the presence of the Army Member at the Cabinet discussions whenever it was considered desirable to maintain

liaison/

liaison between the responsible ministers and the Army Member so that in so far as the proposal was intended to secure that the Cabinet should work together this would be achieved by the growth of a natural convention. To adopt the particular device suggested of resigning only to be re-appointed would be something of a comedy, while the arrangement would tend to blur the line between the responsibilities of the Governor-General and those of ministers. The suggestion did not appear to have any advantage to commend it. It would create a sort of fictitious impression of the responsibility of the Defence Minister to the Legislature which the constitutional position would not justify. SIR AKBAR HYDARI was entirely opposed to the blurring of the responsibility of the Viceroy in this important matter and agreed with the Secretary of State, Lord Reading and Lord Irwin that, in so far as liaison was required between the Defence Minister and the other responsible ministers, this should be allowed to grow up as a convention. MR. JAYAKAR stated that Indian sentiment on this matter was that, being an expert, the Defence Minister should not be isolated, but should be brought into daily contact with the popular ministers. Otherwise the arrangement might be wrecked on the shoals of dyarchy. MR. ZAFRULLA KHAN pointed out that, in appointing a Defence Minister, two important considerations would have to be kept in mind; first, whether he was fit for the post by experience, and second, whether he was likely to be able to carry the Legislature with him. He did not think that it would be possible to provide that a Defence Minister should always be a member of the Legislature. On the whole it would be better to leave the power of appointment/

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appointment entirely to the discretion of the Viceroy. He was opposed to the idea that the Defence Minister should resign with the ministry. DR. SHAFA'AT AHMAD KHAN suggested that, following the instruction in the existing Instrument of Instructions to Governors, it might be possible to include a clause in the Instrument of Instructions of the Governor-General that he should encourage joint consultation as much as possible. THE SECRETARY OF STATE FOR INDIA thought that this suggestion was valuable and that it might be possible to do something on the lines of it.

5. Continuing Sir Tej Sarni said that Indian opinion was strongly in favour of establishing a military council including representatives of Indian States as recommended by the Sub-Committee.

6. Turning to Part II of the Heads for Discussion (Finance), he was prepared to agree to a contract budget for a short period, but one defect of the contract system would be to cut off the Legislature from the Army altogether. Moreover, it would have to be decided how the contract amount was to be settled. He, therefore, suggested an alternative plan, under which the representatives of the Army should meet a committee of the Legislature every year to consider the budget and endeavour to reach agreement. If no agreement was reached, the Viceroy would have to consider the matter and his direction would prevail. In neither case would the budget come before the House, but the advantage of this system would be to create confidence in the Legislature and keep it in close touch with the Army. He agreed that the Governor-General should be in a position to secure additional grants for emergencies, such as for war or the suppression of a widespread movement of unrest, but if the contract budget

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was exceeded in normal circumstances, it should be necessary to go to the Legislature to obtain the extra grant. As regards Item III (3) of the Heads for Discussion, if any Province finds it necessary to invoke the aid of troops owing to maladministration of the Province, then the Province should be required to pay, but if the troops are required to suppress a movement which endangers the Federation, the Federation should pay. The Governor-General should have the power to decide whether in all the circumstances of the case the Province or the Federation should pay.

His reply to Item III (4) was in the affirmative.

(The discussion was adjourned until after lunch and was resumed at 2.30 p.m.)

LORD WINTERTON emphasised the fact that the whole position of India as an integral part of the Empire depended on her Army and the question of responsibility for the Army was, therefore, one of fundamental importance. Moderate Conservatives whom he represented had accepted the White Paper and were prepared to go far in the direction of granting responsibility to India but they would want the control of the Army to be kept intact.

He agreed with the policy enunciated in paragraph 4(1) of the sub-Committee's report that the Defence of India must to an increasing extent be the concern of the Indian people but in considering the pace of Indianisation it was essential that efficiency should be maintained and not be subjected to political or sentimental considerations. It is recognised that there are differences between the peoples of India in regard to their fitness for Military Service. Supposing that a direction were given that a sufficient number of Indian officers should be trained within a given period of time to officer the whole Army, surely it must happen that they would be drawn from one or two races of India. That would not bring contentment but would have a contrary effect. Communal and race considerations, unpleasant though they might be, do enter into the problem and it seemed to him that reflection would show that a fixed time-table was impracticable.

Turning to the question of responsibility he said that paragraph 8 of the Fourth Report of the Federal Structure Committee stated the position very clearly and he agreed with it. So long as the Governor-General is responsible for defence, the defence Minister should be appointed at the unfettered discretion of the Governor-General to whom alone he should be responsible. His relations with the rest of the Ministry and the Legislature must be left to the evolution of usage. Speaking from his own
experience/

experience he could say that the history of the Indian Army, even under purely British control, shows that whenever there has been divided responsibility it has resulted in inefficiency. Divided control must, therefore, be avoided at all costs. He was not sure that even the suggestion that the maintenance and development of military education should be subject to the vote of the Legislature would not lead, in a small field, to divided responsibility.

DR. SHARAFAT AHMAD KHAN said that there was no doubt that the Governor-General should be responsible for Defence. As to the connected questions arising from the discussion he agreed with Sir Tej Saprú that the Defence Member might be either an Indian or a European. What was more important was to secure to the Legislature the power to discuss Defence administration and he would prefer that this power should be expressly stated in the Constitution. As to the appointment and constitutional position of the Defence Minister, he considered that the Governor-General should have an unfettered power of appointment and that the Minister should be responsible only to the Governor-General. The Defence Minister should attend Cabinet meetings. (In this connection he referred to the remarks of the Joint Select Committee on the present Government of India Act regarding collaboration between reserved and transferred halves.) With this principle of joint consultation and clarity as to where the responsibility ultimately rested there should be no difficulty. As to the suggestion that the Defence Minister should resign when the Ministry was defeated and be immediately reappointed if the Governor-General so desired, he observed that the Muslim delegation was still opposed to it as being difficult to reconcile with the principle of collective responsibility.

Turning/

Turning to the Heads of Discussion, he said that the Muslim Delegation did not feel strongly about the two methods proposed with reference to paragraph 1 of the Heads. The method of an annual budget would tend to maintain the position of the Legislature while the other method, that of a basic rate fixed for a period of years, would make for continuity of military administration. He agreed to paragraph 2 of the Heads. In answer to paragraph 3 he considered that the Governor-General should be empowered to demand the cost of employing troops from the Province concerned. He agreed to paragraph 4 but considered that the powers of the Governor-General should be subject to clear and definite rules in order to prevent unnecessary interference by the Governor-General in provincial affairs and that the Governor-General should meet the cost of any expenditure incurred in exercise of this power.

LORD READING thought that the discussions so far had shown little real difference of opinion. It was necessary to be careful to avoid doing anything likely to belittle or whittle away the Governor-General's ultimate responsibility or even to give any appearance of doing this. Under the new constitution everything will depend on the Governor-General and the Ministry working together. The Governor-General will be only too anxious to consult his ministers or any Committee of the Legislature, especially as the latter will be able to discuss Army administration. He was, however, opposed to providing for the appointment of such a Committee in the constitution itself, as the existence of a statutory Committee might tend to belittle the Governor-General's responsibility.

As to the suggestion that the Governor-General should appoint his Defence Minister from the Legislature, he considered that this cut right across the recommendation of the previous Round Table Conference that the Governor-General shall have unfettered discretion in this respect.

Moreover/

) Moreover the Governor-General might not be able to find a suitably qualified Minister from among the members of the Legislature. It was essential for him to have a really responsible adviser.

He fully appreciated the very natural desire among Indians for the rapid Indianisation of the Army but, bearing in mind the necessity of keeping the Army efficient, it was impossible to lay down any hard and fast rate of progress. In any case it will be as well to await the result of the latest experiment.

As to the constitutional position of the Defence Minister he thought that it might, if possible, be indicated (but not in the Constitution itself) that the Governor-General shall, as far as possible, encourage discussion between his Defence Minister and other Ministers. Concluding, he urged that on this vital subject of Defence the Governor-General's responsibility must not be impaired.

MR. KETKAR urged that the Army Department should remain a civil department and should not be deprived of its specific civil character in the name of special responsibilities and reserved subjects. He considered further that the Governor-General should not be given powers of permanent legislation in military matters or, indeed, in any reserved subject. It was essential, he thought, to maintain such points of contact as existed at present between the military department and the Legislature. When in an emergency the Governor-General found it necessary to draw upon the exchequer, the circumstances should be laid before the Legislature for discussion as soon as possible. He considered further that the Army budget should be voted upon like the budgets of other departments and that the Governor-General should not be given a continuous day-to-day power over military administration/

administration, but that his power should be reserved for emergencies. He considered that the Defence Minister should be an Indian, preferably a non-official and more preferably a member of the Legislature. An Indian is likely to be more economical, more devoted to the subject of military or semi-military education and more sympathetic towards Indianisation of the Army than a European.

NAWAB LIAQAT HYAT-KHAN observed that Defence was a matter of vital importance to India as a whole and was not merely a concern of the States. Undoubtedly a deep national sentiment in India demanded the Indianisation of the Army. On the other hand there was a strong body of opinion opposed to taking any risks with the efficiency of the Army. While a definite programme of Indianisation as has been suggested would be in accord with national sentiment it had certain disadvantages. Firstly, military experts might advise a period so long as to be entirely unacceptable to Indian opinion. Secondly, a progressive Governor-General might wish to proceed faster with Indianisation than the prescribed programme would allow. He considered that the present Government had given evidence of their sympathy with this claim by recently doubling the number of Indian cadets. He agreed that the Instrument of Instructions might contain a provision enjoining the Governor-General to advance Indianisation as quickly as possible.

As to the appointment of the Defence Minister, he urged that the Governor-General should be allowed unfettered discretion in filling the appointment as it was essential that he should secure the best man available.

The Nawab concluded by stating that the States will welcome any advance in the Indianisation of the Army, provided that it does not prejudice the States' treaties or the defence of India.

SARDAR TARA SINGH said that their ideal was ultimate Indian control of the Army and connected matters. The steps now decided upon must satisfy India that the British Government sincerely meant to prosecute that ideal. On the question of supply he thought that the proposed contract system would give rise to suspicion. It would deprive the Legislature of opportunity of discussion for 5 years and was a retrograde proposal to which he was strongly opposed. Annual budgets on the other hand will give the Legislature regular opportunities of constructive criticism and will also avoid the difficulty of providing for supplementary grants under the contract system. He proceeded to point out that Military expenditure had not decreased proportionately with the fall in prices and gave detailed examples of how it might be further reduced. He was anxious that the Government should specify the period within which the Indianisation of the Army was to be effected and held that the process will involve no risk; ample proof of Indian Military efficiency was given during the Great War.

SIR P. THAKURDAS began by asking that the position might be clarified as regards the employment of Indian troops outside India. Would the Governor-General be able to act in this respect on his own responsibility or only with the consent of the Legislature?

THE SECRETARY OF STATE FOR INDIA promised to refer to the point when making his general speech on the subject of Defence.

SIR PURSHOTAMDAS THAKURDAS said that the result of this Round Table Conference will be judged in India in matters of defence by three acid tests, viz. financial, Indianisation, and the constitutional position of the Army member. Regarding the first, he divided financial under (1) amount of the military budget, and (2) the opportunities that the legislature will have to influence it. He said that he would not deal with the first under the head 'Defence,' as there will be another opportunity to deal with it more extensively, but he strongly favoured an annual budget in preference to the contract system to which he was definitely opposed. He considered that the proposed Finance Committee of the legislature for army estimates should be statutory, and this suggestion of Sir Tej Sapru was a very modest one indeed. The committee will merely make recommendations to the Governor-General, whose ultimate responsibility therefore will not be impaired. In the present Legislative Assembly there was said to be a good deal of ill-informed criticism of military matters. A good Finance Committee might help to remedy this and might even provide well-informed supporters of the Army Budget in the legislature. He could see no objection to such a statutory committee, particularly as the Governor-General's ultimate responsibility is admitted and secured.

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As to Indianisation, he pressed for a settled policy paying due regard to Indian opinion; otherwise, the feeling on this subject in India and the criticism of the present sluggish policy would inevitably grow and be a source of continued clash between the legislature and the Governor-General and even the Army Member.

As to the Defence Minister, he urged that a representative legislature would be far from providing a narrow field of selection. It was better that he should come from inside than outside the legislature. They did not require a military expert for the post, but a man of broad views and one in whom the legislature will have some confidence. He agreed with Sir Tej Saprú that the Defence Minister should resign with the rest of the Ministry; this may be an anomaly, but it would be one of several anomalies.

In conclusion, he desired to sound a note of warning to the members of the British delegation that if these most reasonable demands of the people were not found in the constitution, not only would the political extremists but even men of proved moderation and constructive ability would not be satisfied. The danger of such a policy was obvious, and he earnestly hoped that the British delegation would make up their minds whether they desired to court the risk.

MR. JAYAKAR felt that the difficulties before the Conference could be solved by commonsense. He and his party had already conceded four major principles:-

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(1) That the Governor-General should be the supreme authority for Defence.

(2) That efficiency should be the only test. (Many people in India thought that there would be little loss of efficiency and therefore little risk by rapid Indianisation.)

(3) That the safety and tranquillity of India should be specially protected.

(4) That the Governor-General should have power to draw on the exchequer in the discharge of his personal responsibilities without reference to the Legislature.

These concessions had aroused considerable opposition in India. All they were asking in return was that the military administration should not be completely isolated, not entirely divorced from civil non-official administration. The Viceroy will have one expert military adviser; he will not need another, but something else - a representative of the non-official point of view. He hoped that by this means the people of India would become more interested in and better informed about military matters.

SIR HENRY GIDNEY agreed with Indian Liberal opinion that the present provision for Indianisation was small and urged that it was as important to nationalise the rank and file as to nationalise the officer class; the Sandhurst Committee had done the latter but not the former. It was time that recruitment became general and ceased to be confined to particular castes or communities.

He was not in sympathy with the proposal for a Statutory Financial Committee of the Legislature for the

Army/

Army budget and suspected that the underlying idea was to detract from the direct responsibility of the Governor-General. He considered, however, that the time had come for the Legislature to be made more familiar with the details of Army administration and that this required the maintenance of closer touch between the ministry and the Legislature.

He did not agree that the Defence Minister should be selected from the Legislature, which was to restrict unduly the field of choice. It was essential to secure a man of broad views and one likely to work in harmony with the Commander-in-Chief.

While holding that it was impossible to reduce the British Army by one man at present, he thought that certain departments, such as the Works and Service Corps could safely be Indianised forthwith.

Secretariat-General,

House of Lords, S.W.1.

5th December 1932.

Minutes of the Twelfth Meeting of the Conference
held on Tuesday, 6th December, 1932,
at 11 a.m. and 2.30 p.m.
(R.T. 12th Meeting.)

Please substitute the attached final version of
the above Minutes for the version issued on the 6th
instant and destroy the latter.

ES.

Secretariat-General,
House of Lords, S.W.1.
17th December, 1932.

CONFIDENTIAL

Copy No.

L.T. 12th Meeting.

FINAL COPY.

INDIAN ROUND TABLE CONFERENCE
1932.

Minutes of the Twelfth Meeting of the Conference
held at the House of Lords on Tuesday,
6th December 1932, at 11 a.m. and 2.30 p.m.

PRESENT.

BRITISH REPRESENTATIVES.

INDIAN STATES' REPRESENTATIVES.

Government Delegates

Mr. Sankey (in the Chair)
Mr. S. Hoare
Mr. Irwin
Mr. Davidson
Mr. Butler

Non-Government Delegates.

Mr. Peel
Mr. Winterton
Mr. Reading
Mr. Lothian

Also Present.

Mr. F. Stewart
Mr. M. Gwyer
Mr. J. Dunnett
Mr. R. Glancy
Mr. R. Mant
Mr. D. Bray
Mr. L. Kershaw
Mr. Dufferin
Mr. Croft
Mr. Col. Neale
Mr. S.K. Brown
Mr. J.-Gen. Muspratt
Mr. J.R. Martin
Mr. R.A. Grieve
Mr. Monteath
Mr. Captain Knatchbull

Secretaries

Mr. Dawson
Mr. Patrick

Raja of Sarila
R.B. Raja Oudh Narain Bisarya
R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib J.A. Surve
Mr. Rushbrook-Williams

Also Present.

Mr. R.Z. Abbasy
Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Lt.Col. Sir R. Chenevix-Trench
Mr. C.L. Corfield
Mr. K.V. Godbole
Mr. C.G. Herbert
Chief of Jath
Nawab Mahdi Yar Jung
Pandit Ramachandra Kak
K.S.D. Sinhji of Limbdi
Mir Maqbul Muhmood
Mr. K.C. Neogy
Major Pande
Pandit P.N. Pathak
Sir Prabhashankar Pattani
Mr. G.P. Pillai
Mr. B.I. Power
Mr. Qureshi
Mr. Madhava Rao
Mr. C.N. Seddon
Mr. J.W. Young
Mr. B.H. Zaidi

Secretaries

Mr. Hydari
Mr. Panikkar

TISH INDIAN REPRESENTATIVES.

H.H. The Aga Khan
Dr. B.R. Ambedkar
Sir H. Carr
Pandit Nanak Chand
Mr. A.H. Ghuznavi
Lt.Col. Sir H. Gidney
K.B. Hafiz Hidayat Husain
Sir M. Iqbal
Mr. M.R. Jayakar
Sir C. Jehangir
Mr. N.M. Joshi
Mr. N.C. Kelkar
Raja of Khallicote
D.B. Ramaswami Mudaliyar
Begum Shah Nawaz
R.B. Sir A.P. Patro
Sir T.B. Sapru
Dr. Shafa'at Ahmad Khan
Sardar Tara Singh
Sir N.N. Sircar
Sir Purshotamdas Thakurdas
Mr. Zafrullah Khan

Also Present.

Sayed Amjad Ali
Mr. Holme
Mr. Lawson

Secretaries.

Mr. Latifi
Mr. Rama Rau

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General)
Mr. Anderson
Mr. Roy
Mr. Williams

PUBLICITY OFFICERS.

Mr. MacGregor
Mr. Joyce.

1.

Subject E of Conference Agenda.

(For Heads of discussion see document R.T.5.)

DEFENCE.

Discussion -(concluded.)

SIR COMASJI JEHANGIR agreed in emphatic terms that in the interests of India herself Defence should be a reserved subject. He then developed the proposal put forward by the Liberal Section of the British Indian delegation that the Legislature should be regularly associated with the Army Estimates through the medium of a Standing Army Committee. The budget proposed by the Army Department would be discussed by the proposed Committee (comprising among others the Commander-in-Chief and the Chief and Finance Ministers) and any observations that the Committee had to make would be laid before the Governor-General whose decision would be final. The Committee would thus not entrench upon the Governor-General's responsibility; indeed the main purpose of the proposal was the education of the Legislature in military matters. It was not intended that the estimates should be subject to the vote of the Legislature.

He did not approve of the suggested contract system of supply. It was most inadvisable in a time of depression like the present to fix the scale of expenditure for so long a period as five years.

As to the proposed Defence Minister, it was, he thought, important to provide some agency for watching military expenditure from the non-military point of view. Under the present constitution this function was exercised by

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the Finance Member. It could not however be exercised by the Finance Minister under the new constitution, for he would have no concern with a reserved subject; nor would the Commander-in-Chief fulfil quite the purpose in view. The proposed Defence Minister would in short assist the Governor-General by advice from the general and non-technical point of view.

R.B. RAJA OUDH NARAIN BISARIA said that the general attitude of the States towards the question of the Indianisation of the Army was governed by the following provisos:-

- (1) it should not affect the treaty arrangements between the Crown and the States.
- (2) the effective defence of India was the paramount consideration.
- (3) the ultimate transfer of Army control to responsible ministers should not affect the rights of the States in their own armies.

SIR TEJ SAPHU and MR. JAYAKAR at this stage handed in a statement of the main propositions advanced during the debates by themselves and their colleagues. The statement is annexed to these minutes.

THE SECRETARY OF STATE FOR INDIA: Lord Chancellor, I must apologise for making two speeches on the same day, but we felt that the delegates would expect a member of the Government to take part in the debate and give them our general views upon the issues that have been raised. It was clear from the very beginning of the debate that every Indian member of the Conference takes the intensest interest in this question.

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That of course is to be expected. After all the question of Defence cuts directly across a good many of the political and constitutional issues and from that point of view it is only natural for every member of the Conference to take a very close interest in it. There is first the historical side of the question. Members of the Conference will know that the Indian Forces have played a very distinguished part in the history of India. There is a further point of view, that of the States. The States view with great caution any changes which might directly or indirectly affect the obligations that exist between the Crown and the Indian States in Defence matters. For those reasons, my Lord Chancellor, it is not surprising that a most intensive interest has been shown in this question since we began to discuss it. This morning we had an aftermath of the discussion in the allusions that were made to the cost of Indian defence. There is the fact that the cost of Defence amounts to almost one half of the central expenditure. That in itself makes it loom very large in the field of Federal Finance. I will not now take up some of the arguments that were made this morning in this connection except to utter this one word of caution. It did appear to me that some of the speeches revealed a feeling that there was extravagance in Defence expenditure in India and that it would be possible to cut down this expenditure with a view to meeting some of the difficult questions of Federal Finance, upon the discussion of which we are now engaged. Lord Chancellor, I would put in this word of warning that I do not feel myself there is any substantial prospect of immediate reduction. I have been very carefully into the question and so have the Military

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and administrative experts in India; and whilst we shall go on trying our utmost to economise in every possible way, I do not believe that the system of Indian Defence or the expenditure that goes to support it is in the main excessive. I say further it would be quite out of the question not only for this Government but for any responsible Government to take some theoretical figure for Defence expenditure and to say here and now that it will be the figure of Federal expenditure on the Defence of India. I am quite sure, Lord Chancellor, that nobody - whether the British Government or a responsible Indian Government or advisers from the Indian States - I am sure that no one facing the problem of Defence and keeping always in mind what has been admitted by every speaker in these two debates, namely that nothing must be done to endanger the safety of India, that no one could possibly lay down a definite figure of Defence expenditure. That expenditure must depend upon the conditions of the time. It may be, and we hope it will be, that, as H.H. the Aga Khan observed this morning, we shall see a general lowering of Defence expenditure and lessening of the risks in the world, both in Europe and in Asia; but whether at a future time or now the figure of expenditure must depend upon the needs of the security of India. That is a figure that will vary from time to time and cannot be finally or semi-finally stated at this or any other time.

Well now, Lord Chancellor, let me pass from these opening observations to certain of the speeches that were made in the debate. Let me begin, if I may, by saying on behalf of the British delegation - and here I am speaking for all the British Delegation - that we were greatly impressed not by the differences of opinion but by the remarkable unanimity upon the main questions of principle.

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First of all it was admitted, I think, by every speaker in the debate that the sole responsibility for Indian Defence must rest upon the Governor-General. Secondly it is expected, I think by every member of the Conference, that we should attempt to obtain the greatest possible co-operation between the Governor-General and his advisers on the one hand, and the responsible Ministry and the Legislature on the other hand. It is only when we come to the methods of applying these two principles that differences of opinion show themselves. First of all in the field of the Governor-General's responsibilities. It seemed to me that there was one proposal made last night and again this morning that might, if we are not careful, cut across it. So far as I understood it from Mr. Jayakar's speech this morning and from Sir Purshotamdas Thakurdas last night, it is the desire of a section of the Conference that no Indian troops should be employed outside India without the previous consent of the Indian Legislature. Lord Chancellor, that sounds a reasonable request to make when it is considered that Indian lives and Indian treasure are at stake, but let me point out that it may cut very directly across the Governor-General's responsibility. It is quite conceivable, to take one instance, that the Defence of India will be best pursued outside the boundaries of India. I need not give instances to you, they will occur to you at once. Obviously the Governor-General - I say obviously, I mean obviously to myself - ought to have the sole responsibility in a case of that kind to say whether or not Indian troops should be employed. Let me remind you that Indian troops will only be employed for the express purpose of the defence/

defence of India. If there were any question of their being employed for Imperial purposes, other than Indian purposes, then the Imperial revenues would be called upon to pay. But, Lord Chancellor, I really do not want to argue this question in detail to-day for what I believe to be a very good reason. There is at this very moment sitting a Tribunal composed of British and Indian judges investigating the very difficult question of the obligations of Indian revenue for Defence purposes, both from the point of view of Indian revenues being called upon to pay for the training of British troops and also from that of whether Indian revenues are at present being used for Imperial purposes; and I would suggest, Lord Chancellor, to the Conference that it would be better to await the verdict of this Tribunal, always keeping in mind the word of caution which I have just ventured to express.

Let me come from that question to another point in which it seemed to me there was some danger, though perhaps not a very great danger, of the Governor-General's responsibility being impinged upon. Sir Tej Sapru made a proposal that the Indian Sandhurst should not only come up for discussion in the Legislature but should be dependent on the vote of that body.

Sir/

Sir Tej Sapru was careful to circumscribe this power by stating categorically that no question of policy would be left to the Legislature, that the question of the number of cadets would not be left to the Legislature, and that the standard of qualification should not be decided by the Legislature. Well now, My Lord Chancellor, having excluded those questions from the responsible scope of the Legislature I honestly do not know whether it really would be wise to give any kind of statutory sanction to an arrangement of that kind. I would have thought, speaking quite frankly to the Conference, that when the functions of the Legislature were so narrow, it would be almost an encouragement to encroach upon questions of policy. I fully agree that we want to obtain the interest of the Indian Legislature in the Indian Sandhurst and in the question of training. I would have thought that much the better way to effect that result would have been to have had a certain number of the members of the Legislature, say, on the Management Committee of the College, and I venture to throw out that suggestion to-day to the representatives of India and of the Indian States.

Then/

Then there is the wider question of Indianisation and there we were invited here and now to state a programme and to give almost an undertaking that at a particular date the whole of the Indian Army would be Indianised. Lord Chancellor, I do not think we can act in that way. I do not believe that with the best will in the world anybody can give an undertaking of that kind. We have got to take into account a number of very important factors, some of them rather obscure. For instance, we have to take into account the question of expenditure. Now I am quite aware that the Indian unit costs much less than the British unit. At the same time I do not think it will be contradicted by any one that - whilst Indianisation is going on, whilst the experiment is still being tried, whilst Indian officers are being introduced into certain battalions - at such a period of transition, probably the expenditure will be higher rather than lower. Next we have to take into account the overriding question of military efficiency. We are making an experiment. We hope the experiment is going to succeed. We are making it with good will and with a desire to make it succeed; but no one at present can say, looking over a period of years, how completely it is going to succeed, still less how quickly it is going to succeed. What effect, for instance, is it going to have upon the general standard of the Indian Army? How soon, again, are these cadets who have just entered the Indian Sandhurst for the first time going to qualify themselves in the years to come for promotion to the higher ranks? Those

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are questions, I venture to suggest to the Conference, upon which nobody can dogmatise at the present time. The most we can do is to state quite categorically that our policy is a policy of Indianisation in as large a measure as is consistent with efficiency. My Lord Chancellor, I think I may say that we have shown our good will in setting up the Indian Sandhurst with very little delay, and in quickening up the rate of the experiment upon which we were already engaged. I am inclined to think that a year ago, in October 1931, I should have been considered optimistic had I said that the Indian Sandhurst would be working in a year's time. The programme on which we are working is that there should be a complement of Indian cadets based upon a programme of Indianising a whole division and a whole Indian Cavalry Brigade, together with all the various ancillary arms. Do not think that we have no programme, that we are simply drifting on. My Lord Chancellor, we have a definite programme, viz. the Indianising of the division and the Cavalry Brigade. That is not the end of the story at all; but it is a programme upon which we are immediately engaged and I hope that we shall have other programmes of the same kind when we have seen how this experiment is going; and that, as this experiment proceeds, if it proceeds satisfactorily, we shall be able to embark upon a more ambitious programme.

Now let me pass from the question of Indianisation to a series of constitutional or semi-constitutional questions that were raised by several speakers during the debate.

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Let me suggest to the Conference that there are two ways of dealing with those questions; there is the way of statutory enactment and there is the way of constitutional usage. On the whole the British Government greatly prefer the way of constitutional usage. When I say that, I do not wish to imply that we are in the least unsympathetic to what we believe to be in the minds of our friends who prefer the procedure of statutory enactment. Lord Chancellor, when I listened to Mr. Jayakar's speech, when I listened to him during previous debates, I felt it very difficult not to be convinced by a great deal of what he said. He put the case very well; he put it very persuasively. He stated it with justice that he and his friends had taken great risks in advancing as they have advanced; and it made it all the harder for us to prefer our own way of procedure. I will tell the Conference why we prefer the way of constitutional usage. We feel, and Lord Irwin expressed the view very effectively at one stage of the debate, that if we try to dot the i's and cross the t's too rigidly, we may be forced into a much more cautious line of advance than that we should be prepared to adopt if the experiment proceeds successfully. Take the two or three specific proposals that have been made and let me apply this to each of them. Take first of all the proposal that the Defence Minister should of necessity be a member of one or other Legislature. The view stated by both Nawab Liaquat Hyat Khan and Dr. Shafa'at Ahmad Khan was that it is much better to retain the decision of the Federal Committee of last year, namely that the Governor-General's discretion should be unfettered.

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It should be unfettered so that he may have a British Defence member or an Indian Defence member, a member of the Legislature or someone who is not a member of the Legislature; and we do take the view very definitely that that is really much the wiser course in the present circumstances.

Next there was the proposal that there should be a statutory Defence Committee with certain definite duties. Well there again I suggest that the wiser course is to leave things to develop by usage. You have had for some years past an Army Committee in the Legislative Assembly, I am told both by Lord Irwin and Lord Reading that on frequent occasions that Army Committee has been very useful both to the Viceroy and to the Commander-in-Chief. It seems much better to leave a question of this kind to the development of natural relations between the Governor-General and the Assembly. I should hope that the kind of relations that have subsisted so far would continue and indeed that they would be greatly improved. I should hope that if the Legislative Assembly wishes to have a Committee of this kind, and it seems to me to be essentially an internal affair for any Assembly to settle for itself, I should hope that the closest relations would exist between the Governor-General's officials on the one hand and the Committee on the other. And I would suggest that it is much wiser to adopt this course than to provide by statutory enactment for such a Committee and for its composition.

Let/

Let me give you an example taken from our own experience of the advantages of elasticity in these affairs. Perhaps the most successful instance that has developed in Great Britain in the last generation has been the Committee of Imperial Defence. There is not a word in any statute about the Committee of Imperial Defence. There is not a word anywhere about its procedure. The Committee of Imperial Defence only has one ex-officio member and that is the Prime Minister. The Prime Minister is left perfectly free to summon to the consultations of the Committee any Minister or almost anybody that he thinks has something to contribute to the Committee's discussions; and by this elastic procedure the Prime Minister is able to bring to the Committee experts of every kind and Ministers not of one party or two, but of all parties. I feel myself that as questions of defence become more and more inter-woven with the ordinary life of the country - which has been the experience of the last 10 or 15 years - that an elastic body of this kind is much more effective than anything in the nature of a statutory body with a list of specified members, I would like to say in passing that in addition to the Army Committee of the Assembly, I should very much like to see an Indian Committee of Defence on lines similar to those of our Committee of Imperial Defence here.

It/

It would give the Viceroy an unrivalled opportunity of bringing into consultation on this question of Defence not only one or two specified Ministers but any Minister whose Department was concerned with the discussion.

Well now, having said that about our different conceptions of the methods of carrying out this co-operation, I would not wish to end on a negative line. I do not at all wish to appear to be unsympathetic to what I know is very near to the hearts of members of the Conference. I would say that we shall look very sympathetically into the suggestions made and repeated this morning, of bringing somewhere into the framework of the Act the kind of expressions of opinion that they suggested, namely, that we do wish to associate Indians more and more in the Defence of India; secondly that we do wish the Governor-General to use every opportunity of bringing all members of the Federal Cabinet into discussions on questions of Defence, and conversely of bringing the Defence Minister into general questions outside the usual field of Defence. Mr. Jayakar suggested that that kind of intention might be put into the Preamble of the Act. Well I would not turn down that suggestion at all but I would say that at any rate in Great Britain there has been unfortunate experience in that kind of thing. Before the War something was put in the preamble of an Act but nothing ever happened about it. It is conceivable that the House of Commons and the House of Lords with the memory of that in mind would look rather suspiciously at a Preamble. However we will take note of the suggestion. At the moment I am inclined to think that the suggestion made by Dr. Shafa'at Ahmad Khan was probably a better one, namely, to put these intentions in the Instructions to the Governor-General. We might give Instructions to the Governor-General that will be approved by both Houses of Parliament, something rather on the lines
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of the existing instructions to the Provincial Governors as follows:- "You should encourage deliberations between yourself, your Counsellors and your Ministers in order that the experience of your official advisers may be at the disposal of your Ministers, and that the knowledge of your Ministers as to the wishes of the people may be at the disposal of your Counsellors". It may be we could put in something at the same time about bringing Indians more and more into active co-operation in the Defence administration. We have looked most sympathetically at both those suggestions and I do not see any reason why in some form or other we should not embody them in the Constitution.

My Lord Chancellor, I am afraid I have gone on much longer than I intended but so many questions were raised in the course of the debate. I will end by saying that the differences of opinion reflect not a difference of principle but only a difference of method. Rightly or wrongly we believe that our way of constitutional usage is safer and better and that it would be wiser to take it rather than the method suggested in the statement read out this morning by Mr. Jayakar.

Dr./

DR. AMBEDKAR said that the proposal in the statement read out by Mr. Jayakar this morning, in which the Legislature was not given the right to vote upon the Army Budget but was only given the power to discuss it, was made on the distinct understanding that there would be an Army Committee, of the sort mentioned in the statement, constituted to consider the Army Budget before it was submitted to the Governor-General for final orders. Under the ordinary system of dyarchy as it prevails in the Provinces the Budget estimates relating to reserved subjects are put to the vote of the Provincial Legislature although they are subject to the Governor's power to restore them. In the plan suggested we did not make them votable because we thought that the Legislature would be sufficiently represented on the Army Committee through the Prime Minister, Finance Minister and the Minister of Interior. At any rate his consent to make it non-votable was given on the distinct understanding that the proposal of the Army Committee would be accepted as part of the Constitution. As the Secretary of State did not accept the proposal, Dr. Ambedkar asked whether the Secretary of State does or does not intend, following the Provincial practice of dealing with reserved subjects, to make the Army Budget votable by the Central Legislature subject to the Governor-General's power of restoration.

THE SECRETARY OF STATE FOR INDIA replied that the Government's only objection was to a Statutory Committee.

Sir/

SIR TEJ SAPRU asked whether the Government had come to any conclusion as between the two suggested methods of supply - the contract system and annual budget.

THE SECRETARY OF STATE FOR INDIA replied in the sense that no decision had been reached; he personally felt that the contract system had certain advantages but there was the difficulty of recognising with precision the contracting parties.

MR. JOSHI asked whether the Finance Minister under the new Constitution would occupy the same position as the present Finance Member vis-a-vis military expenditure viz. would it be his duty to watch some expenditure in the interests of the Exchequer?

SECRETARY OF STATE FOR INDIA replied that naturally there would be consultation between those concerned but that the responsibility of decision must rest on the Governor-General.

DR. AMBEDKAR asked whether it were not possible for the Government to make a definite pronouncement to the effect that Army recruitment would be general in future and not exclude the so-called "non-martial" communities.

THE SECRETARY OF STATE FOR INDIA replied that the Government had every sympathy with the point of view expressed. There was no policy of exclusion; it was simply a matter of recruiting the most suitable material.

SUBJECT "F" OF CONFERENCE AGENDA.

(For Heads of Discussion see Document
R.T.6.)

FEDERAL FINANCE.

PART I.

THE SECRETARY OF STATE FOR INDIA referred to the history of the various enquiries into the problems of federal finance. Last year there was a certain amount of discussion as a result of which a small Committee, presided over by Lord Peel, was appointed. The Committee had a rather narrow reference but did some very valuable work and in due course made a report. They came to the view that a further enquiry was necessary in India for the purpose of investigating actual facts on the spot. Accordingly a Committee went out under the chairmanship of Lord Eustace Percy, and made a most valuable investigation. They carried it through with almost unequalled speed and in due course they made their report. Again, however, the reference to the Committee was of a very narrow character. The Committee were in difficulty because they had no power to go beyond their terms of reference. Within their terms of reference no two Committees could have produced more valuable reports. But certain facts have emerged, both from the Committees' enquiries and from the events of the last twelve months, that necessitate a review of the problem from a rather wider angle than that from which the Peel Committee and the Percy Committee investigated it.

In the first place, for example, the Peel Committee based its main recommendations upon the assignment of income tax to the Provinces, with countervailing provincial

contributions to the Centre for a period of 10-15 years. The Percy Committee, when they went into this question, found that no time limit could safely be put at the end of which the provincial contributions should come to an end - that is to say, they found that for an indefinite period provincial contributions would have to continue. This is an important consideration which must be taken into account. A good many delegates were prepared to accept provincial contributions for a limited time; the question, however, has come to a point when it looks as if these provincial contributions may have to go on indefinitely. The rather unfortunate history of provincial contributions under the Montagu-Chelmsford Reforms must be kept in mind. Provincial contributions are at best a bad and rather dangerous expedient, and it seems a very serious step for the Conference to decide upon a scheme of finance with these provincial contributions for an indefinite period.

Secondly, the Percy Committee stated that if affairs go well there may be just enough money to go round, but they certainly did not take the view that there is enough money to go round at present. They based their recommendations upon the hope that there will be a world recovery, that commodity prices will go up, and that the finances of the federal and provincial governments will be substantially better than they are now. Regretfully, however, it must be recognised that the position to-day is not substantially better from the point of view of the federal government and the provincial governments than it was twelve months ago. A recent analysis of the central accounts and the provincial accounts shows that the central budget is going to balance, but it is only going to balance as a result of new and heavy taxation. In the case of the Provinces, there will be many

provincial budgets showing deficiencies at the end of the year; and to-day no one can possibly say when these deficiencies will be wiped out.

The general conclusion to be drawn from these facts is that, at the present time, the Federal Government really needs all the income-tax that is being collected. If, therefore, the Percy Committee recommendations were accepted and income-tax was made a provincial tax, it would mean that, for an indefinite number of years, the Provinces would theoretically have the income-tax but that the whole of the tax would be transferred to the Federal Government in order to maintain its solvency which would be a very anomalous state of affairs. Everyone is most anxious to give the Provinces real autonomy, with the fullest possible freedom for the disposal of their revenue and their development; but no one would be prepared - either the British representatives, or the representatives of British India or the representatives of the Indian States, to set up a Federal Government that really had not at its disposal sufficient money to make itself solvent. Unless the Federal Government has the main part of the income-tax that is now being collected, it is not apparent how the Federal Government is going to carry out its obligations and remain solvent.

The Percy Committee, on the assumption that the present depression would come to an end and that there would follow a period of reviving trade and of increasing prices, estimated that it would only be possible to distribute about 5 crores, and then only if allowance were made for the match tax, which has not yet been imposed. Unfortunately, the assumption on which this forecast was based is a long way from being realised, and in India the immediate financial outlook is not encouraging. The Government of India have been able this year to budget for a small surplus only by raising taxation

to a very high level, by reducing pay, by drastic retrenchment and by the postponement of expenditure. In the Provinces, where the field of taxation is more limited, the position is worse, and although a policy of severe retrenchment has been followed, seven out of the nine Provinces will this year be in deficit. From the latest figures available it appears that, taking India as a whole (that is, the Centre and the Provinces), receipts will not balance expenditure. As matters stand, therefore, the Centre cannot surrender any substantial portion of its revenue and if the Peel plan were applied in present circumstances, this would merely mean that the proceeds of the income-tax would be transferred and the whole amount taken back in the form of contributions.

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

As regards emergency measures, it is suggested that we

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

As regards permanent arrangements, it must, so far as is possible be ensured that the provinces will have a reasonable expectation that when normal times return they will be able to function properly as autonomous units and to develop along their own lines. In the first place, it is necessary to define the field of taxation open to them. Certain proposals have been made by the Percy Committee and these will have to be examined in Committee. Connected with this is the question of residuary powers of taxation, which, though perhaps not very important from the financial point of view has led to considerable differences of opinion.

Next/

Next it is proposed to give to the provinces from the outset a right of surcharge of certain heads of income tax up to $12\frac{1}{2}$ per cent. so that they be at once in a position to supplement their resources if they desire to do so by this method. The initial limit of surcharge should be low, as income tax rates in India are already high; but the Constitution might provide that the percentage rate of surcharge could from time to time be increased. Collection would still remain central. As regards income tax receipts, the Constitution should provide for their division and it will have to be considered in Committee whether this can best be done by the straightforward method of surrendering from time to time blocks of the receipts as the financial position permitted or whether any better plan can be adopted. It seems also desirable to provide for the possibility, with the return of prosperity, of distributing shares of certain specified heads of Federal revenue, and provision should also be made for the imposition by the Federal Government of excises for the benefit of the units.

To summarise, special measure would be taken by means of Central contributions to start the deficit provinces on an even keel; the Provincial field of taxation would be defined and Provincial Governments invested with a limited right of surcharging the income tax; as the financial position improved Central revenue would be transferred, and special taxation for the benefit of the units would be imposed.

It must be admitted that the Provinces may regard such an arrangement as a poor substitute for the definite advantages which they expected to gain from the application of the Peel plan, but the problem is conditioned by the realities of the situation, and this

should not be forgotten. Nor should it be forgotten that it is vital to preserve the financial stability of the Centre.

There are a number of other questions connected with Federal Finance which will have to be considered. The questionnaire that has been circulated defines these, but some of them may be better discussed after a "second reading" debate or in the Committee appointed for the purpose.

Lastly there are two questions on which one or two observations should be made before the general discussion begins, viz. the questions of the separation of Sind and the separation of Orissa. In the first place, there is the separation of Sind, which His Majesty's Government have accepted in principle subject to the discovery of satisfactory means of financing the new Province, and which the Conference accepted in principle last year. This problem has been examined both by an expert Committee and by a Conference of representatives of Sind presided over by Mr. Brayne, whose report indicates there will be a deficit of 80½ lakhs from 1933-34 to 1938-39, after which it would be continuously reduced until, in 1944-45, a net surplus, of gradually increasing amount, would be established. These estimates represent a reasonable working hypothesis, except in one particular. They assume that the charges in respect of accumulated interest on the Lloyd Barrage debt would be shared between Bombay and Sind.

After carefully considering the views of the Sind Conference, however, the conclusion has been reached that such a proposal would be inequitable to Bombay and inconsistent with the general principles on which separation ought to be effected. On this basis, after allowing for certain possible economies, and for the fact that the additional cost of separating Sind is expected to be covered by fresh taxation within the Province, there is likely to be an initial deficit on the administration of Sind amounting to about Rs. $\frac{3}{4}$ crore, which would be extinguished in about fifteen years, or earlier if new resources became available.

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

Basic annual deficit	Rs. 13 $\frac{1}{2}$ lakhs.
Additional recurring cost of separation	" 15
	Total/

Total initial deficit	Rs. 28½ lakhs.
Ultimate deficit	35

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

SIR COWASJI JEHLANGIR found criticism of the scheme just adumbrated by the Secretary of State extremely difficult at such short notice and in the absence of precise knowledge of the facts which underlay it. He urged very strongly that the principles upon which the Peel and Percy Reports were based should not be rejected without the most careful examination of the situation. In particular it might well be that the correct answer to the Secretary of State's conclusions was a substantial reduction in Army expenditure.

Intervening on the question of the facts underlying his statement, the Secretary of State said that Lord Eustace Percy himself accepted generally the views put forward; while Sir Akbar Hydari desired to emphasise the specific assumptions on which the Percy Report was grounded.

Continuing, Sir Cowasji Jehangir advanced the following views which, independently of the situation revealed by the Secretary of State, represented the opinions of his group on the proper course to be pursued:-

1. They consider that the classification of revenues recommended in paragraph 10 of the Peel Committee's Report should be generally adhered to. In their opinion Corporation tax should be definitely a federal source of revenue.

2. Income Tax (other than the Corporation tax and the Income tax on salaries of Federal Officers and personal Income tax and Super tax in Federal Areas) should be distributed to the Provinces according to the principles suggested by the Percy Committee.

3. The distribution of Revenues proposed above would according to the Percy Committee result in a Federal deficit of $8\frac{1}{2}$ crores. This conclusion is based on assumptions which they do not entirely accept. For instance the Committee have assumed that the expenditure on Defence will continue to be about Rs. 47 crores. If, however, a further review of the data on which these estimates are based (suggested in Paragraph 7 of the Percy Report) and also of the Defence expenditure reveals a deficit in the Federal Budget they consider that the deficit should be met by contributions from the Provinces. They are, however, not unanimous as regards the principles suggested by the Percy Committee for the assessment of these contributions.

4. They do not agree with the Percy Committee that these contributions should continue for an indefinite period. They should in their opinion be extinguished by the Federal Government by annual stages over a definite period.

5. During the period referred to above the cash contributions from the Indian States should continue, but any contribution in excess of 5 per cent of the Revenues
of/

of a State may be immediately remitted as suggested by the Peel and Davidson Committees. The balance should be wiped out pari passu with the provincial contributions.

6. They accept the Scheme of the Percy Committee for emergency contributions and also agree that the expression "emergency" should cover economic emergencies.

7. As regards the question whether residuary powers of taxation should vest in the units they would like to hear the views of the Indian States before coming to a definite conclusion.

8. They accept generally the proposals of the Percy Committee relating to the borrowing powers of the Provincial Governments.

SIR PUSHOTAMDAS THAKURDAS considered that the necessity of balancing provincial budgets, equally with that of the Central Government was of vital importance, unless a continuance of the old bitterness was to be contemplated. Every conceivable means of balancing the Federal budget without depriving the Provinces of essential resources should first be tried, and after that, if necessary, all units should be taxed. Foremost among the factors to be faced was a reduction of the Military expenditure. A figure of 47 crores could not be tolerated, and even that ignored other connected expenditure such as frontier watch and ward and strategic railways. This position was likely to be aggravated by the reservation of Defence. He held that the enunciation of a policy which would deprive the Provinces of expected and essential resources/

resources ought to be accompanied by a specific declaration of His Majesty's Government's policy in the matter of Military expenditure. In conclusion, he enquired what was the position in regard to Burma, and how the financial situation would be affected on that account.

To the enquiry regarding Burma THE SECRETARY OF STATE FOR INDIA said that he was unable to give any definite information. A rather confused situation had arisen in the new Burma Legislature. He thought the Federal Finance Sub-Committee should work on the assumption previously made that Burma would be separated. If Burma eventually came into the Federation, obviously the position would have to be reviewed.

H.H. THE AGA KHAN held that reduction of Defence expenditure depended on world-wide co-operation, and urged that His Majesty's Government should bring the united efforts of the Commonwealth to bear in this direction.

SIR NRIPENDRA NATH SIRCAR raised, on behalf of Bengal, the question of the allocation of the export duty on jute, which on grounds of equity, precedent and economic facts he considered should properly belong to the Province. Attention was invited to his note on the subject which had been circulated to the Conference.

SIR A.P. PATRO, emphasised the impossibility of introducing the new Constitution with Provinces in deficit. To do so would be entirely to ignore the lesson of the Montagu-Chelmsford Reforms and to make a mockery of autonomy. He urged that the Constitution should allocate income tax to the Provinces, even though it might temporarily be necessary to keep back all the proceeds for the Federal Government. They must at least have a statutory ground for hope, even though a definite period could not be laid down for its realisation. Meanwhile there should be some obligation on the Federal Government to develop new sources of revenue, particularly excises on matches and tobacco. He was opposed to any remission of State tributes until the condition of Federal revenues permitted equalisation all round. In conclusion, he strongly supported the claim of Orissa to be a separate Province, and gave an affirmative answer to all the questions in Section B and C of Part I of the Questionnaire.

DR. SHAFI'AT AHMAD KHAN recognised the importance of Federal stability, but contended that Provincial finances must equally be placed on a sound basis. The principal recommendation of the Peel Committee was intended to remedy a fundamental defect of the Montagu-Chelmsford Reforms, namely, the inelasticity of the sources of revenue allotted to the Provinces. He would therefore adhere to the Peel Committee's recommendation and would accept the proposals of the Percy Committee for the basis of distributing income-tax. In this connection he was anxious that corporation tax should become Federal. As regards the Secretary of State's proposed scheme he maintained that experience showed a system of subventions to be a premium on extravagance and that it was better to give the provinces power to develop their own resources. He considered that the Peel

Committee/

Committee had made adequate provision to balance falling customs revenue in the shape of countervailing Federal excises. His answer to the first three questions was therefore in the negative, since income tax ought to be provincial. He agreed in regard to question 4 (b) that there should be a power of surcharge for the Provinces in addition to any income tax receipts derived from the general fund. He was in general agreement with the Percy Committee's list of sources of revenue, except that he would only accept taxes on personal income under head 1 of List III (a) and that he still thought commercial stamps might well be federalised instead of appearing as head III (a) 3. His answer to the remaining questions was generally affirmative. For the purpose of securing administrative co-ordination, including the field indicated in ^{para.} ~~Section~~ 118 of the Percy Report, he gave support on behalf of the Muslim delegation to Mr. Latifi's plan for an Advisory Council which was circulated during the Second Session at the request of Mr. Gandhi.

LORD PEEL summarised the principles upon which his Report was based and the criticisms which had been brought against them as worked out in the Percy Report. Tentatively he suggested that the case for departing from this scheme was not altogether convincing. He thought that the failure of the Federal Government to keep all income tax undermined the argument based on the need for elasticity, and was very doubtful about the wisdom of the proposed surcharge, both in the Secretary of State's scheme and in the Percy system of powers of taxation. He attached little importance to the problem of residuary powers and was doubtful whether the restrictions on internal borrowing of Provinces indebted to the Federal Loans Fund would not in fact encourage independent borrowing, which on the whole was not desirable. He emphasised the necessity of giving the Provinces no independent power of external borrowing. On the question of

security for debt and emergency powers he still thought there was much to be said for the basis proposed in his own Committee's Report.

K.B.HAFIZ HIDAYAT HUSAIN considered it essential that income tax should be provincial, and that, even on the basis of distribution proposed by the Percy Committee, provincial burdens would be insufficiently lightened.

SIR H.CARR agreed that it was essential for the Provinces to have more money to spend and that this should be the ultimate aim, though for the time being he was inclined to think that Federal needs might be even more emphatic. The Provinces must ultimately get the yield of income tax and there should be no provincial surcharges. The basis of any countervailing contributions ought to take account partly of land revenue and partly of income tax. He agreed with Sir A.P.Patro in emphasising that the Provinces ought to get their income-tax as soon as possible and that new sources of Federal revenue ought to be explored with this end in view. In conclusion he asserted that, in his opinion, the case for the allocation of the Jute export duty to Bengal was unanswerable.

Secretariat-General,
House of Lords,
S.W.1.

6th December 1932.

ANNEXURE TO MINUTES OF 12TH MEETING
HELD ON 6TH DECEMBER 1932.

Statement handed in by Sir Tej
Sapru and Mr. Jayakar.

1. The Preamble to the new Act shall contain a declaration to the effect that the defence of India must to an increasing extent be the concern of the Indian people and not of the British Government alone (see para. 4, clause 1, of the Defence Committee Report) and the Governor-General, who shall have the control of the Army during the transitional period, shall take all the necessary steps to achieve the Indianisation of the Army, so that India may ultimately assume responsibility for its own defence, within the shortest period of time consistently with the safety of the country and the efficiency of the Army, and that in consultation with his British and Indian expert advisers he shall prepare a programme for that purpose.

2. During the period of transition, Defence, that is to say, the entire Army organisation, shall be under the control of the Governor-General.

3. The Army portfolio shall be held by a Minister who shall be appointed by the Governor-General from among the members of either House of the Legislature and shall be responsible wholly to the Governor-General.

4. The Army Minister shall be treated as a member of the Cabinet and there shall be joint deliberations between him and the responsible Ministers, his responsibility to the Governor-General remaining unprejudiced. All questions relating/

relating to Army policy should be discussed in the combined Cabinet, the decision of the Governor-General being final on all such questions.

5. Supply -

(a) The Army budget shall not be put to the vote of the Legislature.

(b) The Army estimates shall first be prepared by the Army Department in consultation with the Finance Department and shall be submitted to a Committee consisting of:

- (1) Army Member
- (2) Commander-in-Chief
- (3) The Chief of the Staff
- (4) Foreign Member
- (5) The Prime Minister
- (6) The Finance Minister
- (7) The Minister of the Interior
(dealing with questions relating to internal security).

The conclusions of this Committee shall be submitted to the Governor-General whose decisions shall be final.

(c) The Army budget shall be submitted to the Assembly in appropriate sections for discussion, but shall not be voted upon.

6. No part of the Indian Army shall be employed outside the limits of India without the sanction and approval of the Federal Legislature.

Minutes of the Thirteenth Meeting of the
Conference held on Wednesday, 7th December,
1932 at 2.30 p.m.
(R.T. 13th Meeting)

Please substitute the attached final copy of
the above Minutes for the version issued on the 7th
instant and destroy the latter.

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Secretariat-General,
House of Lords,
S.W.1.

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7th December, 1932.

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Mr. R. A. G. G. G.
Captain Knatchbull

Secretaries.

Mr. Dawson
Mr. Patrick.

Sir Prabhashankar Pattani
Mr. G. P. Pillai
Mr. B. I. Power
Mr. Qureshi
Mr. Madhava Rao
Mr. C. N. Seddon
Mr. J. W. Young
Mr. B. H. Zaidi
Mr. Sorabji.

Secretaries.

Mr. Hydari
Mr. Panikkar.

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R.T. 13th Meeting.

FINAL COPY.

INDIAN ROUND TABLE CONFERENCE 1932.

(November - December).

Minutes of the Thirteenth Meeting of the Conference
held at the House of Lords on Wednesday,
7th December 1932 at 2.30 p.m.

PRESENT.

BRITISH REPRESENTATIVES.

Government Delegates.

Lord Sankey (in the Chair)
Sir S. Hoare
Lord Irwin
Mr. Davidson
Mr. Butler.

Non-Government Delegates.

Lord Winterton
Lord Reading
Lord Lothian.

Also Present.

Sir F. Stewart
Sir C. Schuster
Sir J. Dunnett
Sir R. Glancy
Sir R. Mant
Sir L. Kershaw
Lord Dufferin
Mr. Croft
Lt. Col. Neale
Sir E. Chamier
Mr. J.R. Martin
Mr. R. Law.
Mr. R.A. Grieve
Captain Knatchbull

Secretaries.

Mr. Dawson
Mr. Patrick.

INDIAN STATES' REPRESENTATIVES.

Raja of Sarila
R.B. Raja Oudh Narain Bisarya
R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib J.A. Surve
Mr. Rushbrook-Williams.

Also Present.

Mr. R.Z. Abbasy
Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Lt. Col. Sir R. Chenevix-Trench
Mr. C.L. Corfield
Mr. K.V. Godbole
Mr. C.G. Herbert
Chief of Jath
Nawab Mahdi Yar Jung
Pandit Ramachandra Kak
K.S.D. Sinhji of Limbdi
Mir Maqbul Muhmood
Mr. K.C. Neogy
Major Pande
Pandit P.N. Pathak
Sir Prabhashankar Pattani
Mr. G.P. Pillai
Mr. B. I. Power
Mr. Qureshi
Mr. Madhava Rao
Mr. C.N. Seddon
Mr. J.W. Young
Mr. B. H. Zaidi
Mr. Sorabji.

Secretaries.

Mr. Hydari
Mr. Panikkar.

BRITISH INDIAN REPRESENTATIVES.

H.H. The Aga Khan.
Dr. B.R.Ambedkar.
Sir H. Carr.
Pandit Nanak Chand.
Mr.A.H.Ghuznavi.
Lt.Col.Sir H.Gidney.
K.B. Hafiz Hidayat Husain.
Sir M.Iqbal.
Mr. M.R.Jayakar.
Sir C.Jehangir.
Mr. N.M.Joshi.
Raja of Khallicote.
D.B. Ramaswami Mudaliyar.
Begum Shah Nawaz.
R.B.Sir A.P.Patro.
Sir T.B.Sapru.
Dr.Shafa'at Ahmad Khan.
Sardar Tara Singh.
Sir N.N.Sircar.
Sir Purshotamdas Thakurdas.
Mr.Zafrulla Khan.

Also present.

Sayed Amjad Ali.
Mr. Holme.

Secretaries.

Mr. Latifi.
Mr. Rama Rau.

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General).
Mr. Anderson.
Mr. Roy.
Mr. Williams.

PUBLICITY OFFICERS.

Mr. MacGregor.
Mr. Joyce.

Subject "F" of Conference Agenda

(For Heads of Discussion see Document
R.T. 6.)

FEDERAL FINANCE

(Discussion Contd.)

MR. DAVIDSON introduced Part II of the Heads for Discussion.

He pointed out that the Terms of Reference of his Committee were limited to the consideration of contributions in cash or territory and privileges or immunities in respect of customs and salt. They had no instructions to consider the question of taxation in the States. He further emphasised that the recommendations in his Report were based on the assumption of a Federation and that they could only be applied to States which joined the Federation. It was also important to remember that the States cannot, for financial purposes, be treated collectively and that it is impossible to set off the immunities of one State against the tribute of another. In treating with a State on an individual basis, however, it would be necessary to balance credits in respect of tribute or ceded territories against any immunity which the State elected to retain. Thus there would have to be a series of balance-sheets for each State.

On the subject of cash contributions, he stressed that the true argument for their remission is based on their unequal incidence as contributions to the Federal purse and not on any feudal characteristics. As against the argument that tributes should continue on the ground that the present position arises historically, it was proper to urge that the present
position/

position was entirely of recent creation owing to the change in British India from a low tariff to a high tariff policy. In this connection, he drew attention to the view of his Committee that inter-State tributes are anti-federal but that the question of their remission was a matter primarily for the consideration of the States themselves.

As regards ceded territories, he admitted that the case for regarding them as possessing a specific value with which the ceding States should be credited is less strong than the case for remission of cash contributions. But the claim could not be dismissed without due regard to the counter-claim that the territories should be retroceded and his Report took this into account.

In connection with immunities, he drew special attention to the possibility of removing the existing restrictions on the manufacture and marketing of salt in Kathiawar and Cutch in return for the levy of a Federal excise duty as an element in the policy of developing India's own salt resources.

Summarising the financial result of his Committee's recommendations, he pointed out that the estimated gross cost of remitting cash contributions and giving compensation for ceded territories would not exceed Rs.1 crore. This figure would be reduced to Rs.80 lakhs after setting off certain immunities which are balanced by contributions now made by the States enjoying them. The full charge on Federal revenues would not be reached at the earliest before 20 years from the date of Federation, and the whole of the recommendations might ultimately be expected to cost not more than Rs. $\frac{1}{2}$ crore.

Sir/

3.

SIR AKBAR HYDARI emphasised the true significance of the recommendations of the Peel and Percy Committees. The whole of the Peel Report has been based on the assumption that wide powers as proposed in paragraph 4, would be conferred upon the Expert Committee. The Percy Committee, in turn, had to make many assumptions, but they, in their concluding note, had found it necessary to reserve complete freedom of comment on the principles involved, upon which, under the Terms of Reference, they had not been at liberty to state their views.

While it was essential at present to take any figures and estimate with caution, he felt that the procedure outlined by the Secretary of State represented the only possible course in the existing situation. There must be solvency both in the Centre and in the Provinces, and with this in view income tax must certainly remain in the hands of the Centre at first. Even on the basis of the Percy Committee's figures, it would be an unjustifiable use of words to declare income tax provincial; and the inability of the Committee to recommend any limit to the duration of provincial contributions further emphasised the impossibility of adhering to the principle laid down in the Peel Report.

The permanent scheme suggested by the Secretary of State would provide for all possible transfer of revenue from income tax at the appropriate time; but, in his view, it was essential that for any conceivable period of time income tax should remain constitutionally vested in the Centre. He agreed that every possible step should be taken to prevent its being used to reduce the

legitimate/

legitimate burdens of the States. On the other hand, in considering the problem of the debt, it was important to consider not merely the amount of the debt and the amount of the assets, but also the extent to which the service of the debt was covered by revenues. There could be no question that income tax was necessary in this sense as a backing for the debt, and it would further be desirable to retain it as against future debt, in order to get the best possible terms.

Turning to Part I of the Heads for Discussion, his answers were as follows:-

As regards Part I, Section A, he held that income tax should remain central and not provincial. As regards Section B, the States for whom he spoke did not agree with the lists of sources of revenue drafted by the Percy Committee in the following respects: List I, item 5, should not include fees for the registration of Companies, since the administration of Company law was not to be a Federal subject; List II, Excise duties, must be restricted to articles on which customs duties are now imposed, they should be collected by State machinery, and the States should have the option of making a cash contribution; List III (b), taxes on the income or capital of Corporations, was not agreed to. His answer to questions 8 and 9 was in the affirmative; but as regards emergency contributions (question 10) he stressed the necessity of a clear definition of the meaning of the term and, as regards the case of War, pointed out that this would be a Crown subject and that the States would in future, as in the past, place all their resources at the disposal of the Crown. There would, of course, be no interference with the right of the States to raise

any/

any contributions in a manner they thought fit.

As regards Part II of the Heads for Discussion, his answer to question 1 was that no new burdens must be imposed on the States in consequence of Federation. He agreed as regards question 2. On question 3 he contended that treaty immunities should be regarded as having in some way been paid for, and should, therefore, not be taken into account in the balance-sheet. He agreed to the first portion of question 4, but thought that the whole of cash contributions ought to be remitted in view of the burdens which would be assumed by the States in respect of central charges. On question 5 he pointed out that the claim of one State had been ruled out of consideration by the Terms of Reference of the Davidson Committee; and on question 6 he was unable to agree entirely, owing to the inclusion of immunities, with which he had already dealt. The answers to questions 7 and 8 were matters for the individual States concerned.

MR. ZAFRULLA KHAN wished to examine the position of the income tax which it was now proposed to retain at the Centre. According to the Percy Report, little or none would be required against purely British Indian charges, and the purpose of proposing its retention was clearly to balance the Federal budget. He was unable to perceive what contributions from the States would off-set this purely British Indian contribution.

He pointed out that the conception of a government's duties and of the purposes of its revenue has undergone a change since tributes were imposed on certain States.

Government/

Government was no longer a profit-making concern. On this principle he agreed that the ultimate remission of Tributes may perhaps be agreed to. The question of ceded territories however, was different. According to the Davidson Report all revenue collected went back to the taxpayer in the form of administration. He was, therefore, unable to see why the British India taxpayer should make a payment to a State simply because that State made a profit on the territory in question a very long time ago, nor was he able to see that there was any case for retrocession unless the original treaty were in some way unfair. In regard to immunities, it seemed to him that as fast as we set right the general complaint of the State in regard to British Indian customs, we were creating another very serious anomaly.

In conclusion, he advocated the constitution of an Inter-State Council on the lines hinted at in paragraph 118 of the Percy Report. This should be a co-ordinating advisory body with a fixed number of members from the units, but with a membership changing according to the subjects under consideration.

SIR MANUBHAI MEHTA, speaking on behalf of the Chamber of Princes, said that the Princes were unwilling to shoulder the burden of pre-Federation debt if it were true that it was not covered by remunerative assets. At present it appeared to them that there was uncovered debt of Rs. 119 crores. Subject to

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the retention of a sufficient sum to cover:-

- (1) service of the uncovered pre-Federation debt;
- (2) pre-Federation civil pension charges; and
- (3) the cost of establishing new Provinces;

it was necessary that all income tax should go back to the Provinces.

He was not, however, unhopeful that the amount of income-tax to be retained by the Federal Government would prove to be a comparatively small sum. For example, might it not be possible, in pursuance of the Lausanne policy, to establish a moratorium in respect of so much of the debt as was due to India's war contribution? Again, it was essential that the States should be satisfied that the expenditure of the Federal Government had been reduced to the minimum. In particular, military expenditure might surely be reduced.

In regard to powers of taxation, the States were determined that Federal sources of revenue must be indirect and that ordinarily excises must belong to the States. In an emergency they might well give over the proceeds and they might also forego immunities and any credits in respect of State forces. Otherwise, so far as War emergencies were concerned, the States wished to remain on the same voluntary basis as in the past. War was connected with Foreign Relations which would be a Crown subject. In economic emergencies, however, the States would have an interest and might pay a proper share through indirect taxation.

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On the question of the subjects investigated by the Davidson Committee, he stressed, in the case of ceded territories, the logic of the alternative of retrocession. As regards tributes he agreed that if tributes to the Paramount Power were abolished, it was proper that negotiations for the termination of inter-State tributes should take place. As regards immunities, he felt that the evaluation of the Davidson Committee was not always satisfactory.

THE RAJA OF KHALLIQOTE held that all income tax should be provincial and that the Percy Committee over-estimated expenditure especially on the Army. He was concerned chiefly to advocate the claims of Orissa to be constituted a separate province. He thought that the deficit had been over-estimated by the O'Donnell Committee and that adjustments in respect of backward tracts and pre-Reforms irrigation debt would, in any case, practically overcome the difficulty. At all events, the case of Orissa was as strong as that of the North West Frontier Province and Sind, and the amount of money required very much less, and he appealed to His Majesty's Government for an early declaration in favour of separation.

MR. GHUZNAVI referred to the note which he had circulated to the Conference emphasising that, as a matter of principle, the proceeds of taxes on income should be given to the Provinces and that, so far as the jute export duty is concerned, the claims of Bengal both in principle and equity are irrefutable. While all the facts would have to be taken into consideration, it was essential that the Provinces should be given adequate resources, that any system of "doles" from the Centre should/

should be avoided and that the Provinces should not be forced at the outset to impose further taxation. If it were necessary for the Centre to retain income-tax it must only be as a very temporary measure to meet abnormal circumstances. As regards the export duty on jute he claimed that both the right to levy the tax and the proceeds should belong to the Province.. Though he recognised that two neighbouring Provinces might put forward claims to some share in the proceeds. At the least, he demanded a clear recognition of Bengal's claim to the proceeds of the duty and to a share in the determination of its amount and incidence. He concluded by emphasising that the reactions of inadequate resources upon the condition of Bengal were a matter of all-India concern and that unless funds were available it would be impossible to make a success of the Constitution.

On the proposal of the Secretary of State for India the Conference agreed to the appointment of the following Committees:-

- (1) Sub-Committee to consider the question of "Federal Finance" in the light of the Percy Report, Davidson Report, and suggestions in the Secretary of State's Statement of 6th December.

Lord Peel (Chairman)

Lord Lothian

Mr. Davidson

Mr. Butler

Sir Akbar Hydari

Sir Manubhai Mehta

Sir Mirza Ismail

Recd/

Rao Bahadur Krishnama Chari
 Sir Cowasji Jehangir
 Sir Purshotamdas Thakurdas
 Mr. Mudaliyar
 Sir N.W. Sircar
 Dr. Shafa'at Ahmad Khan
 Mr. Ghuznavi
 Sir Hubert Carr.

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- (2) Sub-Committee to consider the question whether Anglo-Indian Education should be a "Central" subject or a Provincial subject.

Lord Irwin (Chairman)
 Mr. Jayakar
 Sir Muhammad Iqbal
 Sir Hubert Carr
 Sir Henry Gidney

x x x x

- (3) Sub-Committee to consider the question of Financial Safeguards.

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

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Minutes of the Fourteenth Meeting of the
Conference held on Thursday, 8th
December, 1932 at 12.15 p.m.
(R.T. 14th Meeting)

Please substitute the attached final copy of the
above Minutes for the version issued on the 8th instant
and destroy the latter.

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Secretariat-General,
House of Lords,
S.W.1.

8th December, 1932.

CONFIDENTIAL.

Copy No.

R.T. 14th Meeting

FINAL COPY. INDIAN ROUND TABLE CONFERENCE 1932

(November - December)

Minutes of the Fourteenth Meeting of the
Conference held at the House of Lords on
Thursday, 8th December, 1932 at 12.15.p.m.

PRESENT

BRITISH REPRESENTATIVES.

Government Delegates.

Lord Sankey (in the Chair)
Sir S. Hoare
Lord Irwin
Mr. Davidson
Mr. Butler

Non-Government Delegates.

Lord Winterton
Lord Lothian.

Also Present

Sir J. Dunnett
Sir R. Glancy
Lord Dufferin
Mr. Croft
Lt.Col. Neale
Mr. R. Law
Mr. J.R. Martin

Secretaries

Mr. Patrick

INDIAN STATES' REPRESENTATIVES.

Raja of Sarila
R.B. Raja Oudh Narain Bisarya
R.B. Krishnama Cahri
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib J.A. Surve
Mr. Rushbrook-Williams

Also Present

Mr. R.Z. Abbasy
Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Mr. C.L. Corfield
Mr. K.V. Godbole
Mr. C.G. Herbert
Chief of Jath
Nawab Mahdi Yar Jung
K.S.D. Sinhji of Limbdi
Mir Maqbul Muhmood
Mr. K.C. Neogy
Mr. G.P. Pillai
Mr. Qureshi
Mr. Madhava Rao
Mr. C.N. Seddon
Mr. J.W. Young
Mr. B.H. Zaidi

Secretaries

Mr. Hydari

BRITISH INDIAN REPRESENTATIVES.

Dr. B.R. Ambedkar
Sir H. Carr
Pandit Nanak Chand
Mr. A.H. Ghuznavi
Lt. Col. Sir H. Gidney
K.B. Hafiz Hidayat Husain
Sir M. Iqbal
Mr. M.R. Jayakar
Sir C. Jehangir
Mr. N.M. Joshi
Mr. N.C. Kelkar
Raja of Khallicote
Begum Shah Nawaz
R.B. Sir A.P. Patro
Sir T.B. Sapru
Dr. Shafa'at Ahmad Khan
Sardar Tara Singh
Sir Purshotamdas Thakurdas
Mr. Zafrulla Khan.

Also Present.

Sayed Amjad Ali.

Secretaries.

Mr. Latifi
Mr. Rama Rau.

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General)
Mr. Anderson
Mr. Roy
Mr. Williams.

PUBLICITY OFFICERS.

Mr. MacGregor
Mr. Joyce.

SUBJECT "F" OF CONFERENCE AGENDA

(For Heads of Discussion see Document R.T.6.)

FEDERAL FINANCE.

(Discussion concluded).

SIR SUKHDEO PRASAD, on behalf of Udaipur, Jaipur and Jodhpur, emphasised the need to consider the realities of the financial situation and the limited ability of the States to contribute to Federal revenues. He supported the view that income tax should be a Central source of revenue, distributable to the Provinces only after meeting charges in respect of pre-Federation debt and pensions and subventions to deficit Provinces. In principle it should always remain Central.

In emergencies the Federal Government could retain income tax receipts as a contribution from the Provinces. Excise duties, however, were neither convenient nor expedient in such circumstances. The States should be liable for special contributions in a manner to be determined. Clear definition of the meaning of emergency was desirable and it should probably be limited to war and internal disorder.

No form of direct taxation, whether corporation tax or fees for registration of companies or any other, was acceptable. But full powers of indirect taxation, including excises, would be accepted, subject to the exceptions mentioned in paragraph 103 of the Percy Report. Residuary powers of taxation should vest in the units.

The answer to questions (8) and (9) of Part I of the Heads for Discussion was in the affirmative.

He urged that all cash contributions ought to be abolished at the outset in order to right outstanding inequalities./

inequalities. Similarly it was desirable that inter-State tributes should be remitted.

In conclusion, he recorded the view that the Governor-General should be given unfettered discretion in regard to control of military policy, selection of the military adviser and the control of military finance.

RAO SAHIB D.A. SURVE stated that he was unable to agree with the assumptions of the Davidson Committee that the Kohlapur Infantry was a local corps comparable with the Mina and Malwa Bhil Corps, and that the expenses borne by the State for its upkeep were in the nature of a contribution towards a local force. He maintained that it was purely a State Force, paid for exclusively out of State funds for service within the State.

He was also unable to agree with the Davidson Committee's findings regarding ceded territories.

MR. RUSHBROOK WILLIAMS paid a tribute to the work of the Davidson Committee, but thought it was more important to get a system of Federal Finance going than to achieve precise theoretical equity. The monetary significance of the States' privileges was very small and he protested against the assumption that they ought to be abolished, as also against the view of immunities taken by the Committee. He claimed that some price had already been paid for these immunities and doubted especially whether any attempt to lay down general principles would work.

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He next raised the point that certain supplementary engagements between the States and the Crown on such matters as Salt might prove on legal examination to terminate automatically owing to the change in the position and functions of one of the contracting parties - namely the Crown - which would result from Federation. Without such examination, he suggested, His Majesty's Government were not entitled to assume that the States would as a matter of course continue to be bound by such engagements. Where an agreement of this kind was on balance favourable to a State, the Crown could not by its own unilateral act deprive the State of the benefit without compensation. This fact, he said, might have an important if negative bearing upon the kind of negotiations between the States and the Crown contemplated by the Davidson Report as a preliminary to the States' entry into Federation.

In regard to customs and salt, the position must clearly be governed by the treaties and, if there were any doubt as to the significance of the treaties, it must be resolved as early as possible. A port, he maintained, is a natural asset just as much as the possession of jute fields or mineral deposits and should similarly be taken into account. Moreover, the ports of the States were an asset to the whole country and the interests of the Maritime States did not conflict with those of the rest

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of India. It was impossible for the States which he represented to accept the general proposition that they should only retain the duty on goods consumed in their own territories. Similarly, in regard to salt, no general propositions could be laid down and the States which he represented could only signify their readiness to enter negotiations.

K.B. KRISHNAMA CHARI agreed with Mr. Zafrulla Khan's observation at the previous meeting that compensation for ceded territories must depend on the terms of the treaties. The Davidson Committee had in fact taken this into account and had only recommended credits for cessions made against distinctively Federal objects. If compensation were refused in such a case, the States involved would be paying twice over for defence, viz., through customs and through ceded territory. He maintained that the glaring inequalities due to tributes and cessions of territory must disappear.

In regard to immunities he held that treaty rights must be observed in the absence of agreement and suitable compensation. On this subject the recommendations of the Peel Committee still held good.

THE RAJA OF SARILA said that most of the States which he represented were involved in the question of tributes and heartily welcomed the recommendations of the Davidson Committee. He especially stressed the proposals immediately to reduce any tributes in excess of five per cent. of the revenues of a State and to effect the stabilisation of fluctuating tributes.

Secretariat-General,
House of Lords, S.W.1.
8th December, 1932.

Minutes of the Fifteenth Meeting of the
Conference held on Tuesday, 13th December, 1932
at 2.30 p.m.

(R.T. 15th Meeting)

Please substitute the attached final copy
of the above Minutes for the version issued on the
13th instant and destroy the latter.

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Secretariat-General,
House of Lords, S.W.1.
17th December, 1932.

CONFIDENTIAL.

Copy No. _____

R.T. 15th Meeting.

FINAL COPY.

INDIAN ROUND TABLE CONFERENCE 1932.

(November - December).

Minutes of the Fifteenth Meeting of the
Conference held at the House of Lords on Tuesday,
13th December 1932 at 2.30 p.m.

PRESENT.

BRITISH REPRESENTATIVES.

Government Delegates.

Lord Sankey (in the Chair)
Sir S. Hoare
Lord Irwin
Mr. Davidson
Mr. Butler.

Non-Government Delegates.

Lord Peel
Lord Reading.

Also Present.

Sir M. Gwyer
Sir C. Schuster
Sir J. Dunnett
Sir R. Glancy
Sir L. Kershaw
Mr. Croft
Mr. F.W.H. Smith
Lt. Col. Neale
Sir E. Chamier
Mr. J.R. Martin
Mr. C. M. Patrick
Captain Knatchbull

Secretaries.

Mr. Dawson
Mr. P.J. Patrick.

INDIAN STATES' REPRESENTATIVES.

Raja of Sarila
R.B. Raja Oudh Narain Bisarya
R.B. Krishnama Chari
Nawab Liaqat Hyat-Khan
Mr. Wajahat Hussain
Nawab Sir N. Akbar Hydari
Sir Mirza Ismail
Sir Manubhai N. Mehta
R.B. Pandit Sir Sukdeo Prasad
Rao Sahib J.A. Surve
Mr. Rushbrook-Williams.

Also Present.

Mr. R. Z. Abbasy
Sahibzada Mumtaz Ali Khan
R.B. Pandit Amar Nath Atal
Mr. C.L. Corfield
Mr. K.V. Godbole
Mr. C.G. Herbert
Chief of Jath
Pandit Ramachandra Kak
K.S.D. Sinhji of Limbdi
Mr. K.C. Neogy
Major Pande
Pandit P.N. Pathak
Sir Prabhashankar Pattani
Mr. G.P. Pillai
Mr. E. I. Power
Mr. Qureshi
Mr. Madhava Rao
Mr. Sorabji
Mr. C.N. Seddon
Mr. J.W. Young
Mr. P. H. Zaidi.

Secretaries.

Mr. Hydari
Mr. Panikkar.

BRITISH INDIAN REPRESENTATIVES.

H.H. The Aga Khan
Dr. B.R. Ambedkar
Sir H. Carr
Pandit Nanak Chand
Mr. A.H. Ghuznavi
Lt.Col.Sir H. Tidney
K.B. Hafiz Hidayat Husain
Sir M. Iqbal
Mr. M.R. Jayakar
Sir C. Jehangir
Mr. N.M.Joshi
Mr. N.C. Kelkar
Raja of Khallicote
D.B. Ramaswami Mudaliyar
R.B. Sir A.P. Patro
Sir T.B. Sapru
Dr. Shafa'at Ahmad Khan
Sir N.N. Sircar
Sir Purshotandas Thakurdas
Mr. Zafrulla Khan

Also Present.

Sayed Amjad Ali
Mr. Holme
Mr. Lawson.

Secretaries.

Mr. Latifi
Mr. Rama Rau.

SECRETARIAT-GENERAL.

Mr. Carter (Secretary-General)
Mr. Anderson
Mr. Roy
Mr. Williams.

PUBLICITY OFFICERS.

Mr. MacGregor.
Mr. Joyce.

SUBJECT B (a) OF CONFERENCE AGENDA.

LEGISLATIVE RELATIONS BETWEEN THE CENTRE AND THE PROVINCES.

Report of sub-Committee on the Distribution
of Legislative Powers (see document R.T.7).

The Conference adopted the Report of the sub-Committee on the Distribution of Legislative Powers, after the following points had been made during the discussion:-

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

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

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

(4) MR. ZAFRULLA KHAN said that consideration should be given to the constitutional future of Baluchistan; it should be possible to weld

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British Baluchistan, Kalat, and Las Bela in some kind of federal union and so form a unit which might become a unit of the Federation.

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

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

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

(7) SIR TEJ SARNI, referring to paragraph 7 of the Report/

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

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

Report of sub-Committee on education of the
Anglo-Indian and the Domiciled European
Community in India.

(see Document R.T.8)

LORD IRWIN introduced the report of the Sub-Committee on the education of the Anglo-Indian and the domiciled European community in India. The Anglo-Indians, he said, were anxious to have some security that their educational facilities would not be curtailed unfairly under the new constitution and they were anxious to secure greater co-ordination of their education over the whole field. Sir Henry Gidney had therefore urged that Anglo-Indian education should be centralised. That view was strongly contested on the ground that it would not be to the best interests of the community to isolate itself from the provincial field. The sub-Committee had therefore to arrive at a middle course and the middle course which had been agreed upon after a great deal of discussion was set out in paragraph 4 of the report. Sub-paragraph (a) of that paragraph recommends a statutory provision against a serious reduction of grants-in-aid without the consent of a three-fourths majority in the Legislature and leaves discretion to the Legislature to terminate the protection so given at any time that it may consider proper by a similar majority. At one stage it was proposed that complete protection should be given for a period of years, but the sub-Committee came to the conclusion that the protection would be more secure without a limit of time being imposed. Sub-paragraphs (b) to (d) provide a machinery whereby co-ordination of the standard of education of the Anglo-Indians and the domiciled European community could be secured. The

sub-Committee/

sub-Committee were greatly impressed by their discussion with Sir Henry Richards, the senior Chief Inspector of the Board of Education that in order to have proper inspection the field must be sufficiently wide to enable a comparison of standards. Lord Irwin thought that the machinery suggested by the sub-Committee would secure the object the Anglo-Indians had in view. Sir Henry Gidney paid a tribute to the helpful assistance given and the spirit of compromise shown by Mr. Jayakar and Sir Muhammad Iqbal and paid a tribute to the guidance of Lord Irwin. Mr. Jayakar explained the reasons why the sub-Committee had come to their conclusion that it was reasonable to give the community some protection. The proposal for a time limit had been rejected. What has been ensured by the recommendation of the Committee is that it would not be open to a Minister malevolently or under sectional pressure to reduce the grants-in-aid for European and Anglo-Indian education. Sir Muhammad Iqbal and Sir Hubert Carr supported the agreement reached.

SUPREME COURT.

Discussion.

The Conference then went on to consider the question of a Supreme Court for India. In introducing the discussion Sir Tej Saprú referred to the fact that general agreement had been reached in previous discussions that some sort of a Federal Court was necessary to interpret the constitution and to decide constitutional disputes between the Federation and/

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

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

The setting up of a Supreme Court, however, did not mean that the jurisdiction of the Privy Council should be ousted. That jurisdiction should continue. At present there are two classes of cases that come to the Privy Council. The first consists of cases

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

As regards Criminal appeals, his view was that appeals to the Supreme Court should be allowed only in cases of capital sentences and then under certain well-defined conditions. He felt that the new constitution would not be complete without both a Federal and a Supreme Court.

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

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

SIR N. SIRCAR was definitely opposed to the constitution of a Supreme Court. The cost would be prohibitive; any right of appeal to the Supreme Court,

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

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

SIR AKBAR HYDARI, expressing the general view of the States Delegation, said that it was essential that the Federal Court should be a separate and distinct entity. A Federal Court was a constitutional necessity/

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

SIR HUBERT CARR considered that no case had been made out for incurring the expense of a Supreme Court.

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

SIR TEJ SAPRU did not agree with the conception of a Federal Court as put forward by Sir Akbar Hydari.

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

Secretariat-General,
House of Lords,
S.W.1.

13th December, 1932.