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The Formation of Federations

BY

S. G. VAZE, B. A.

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INTRODUCTORY

The declaration made by His Majesty's Government through Sir Stafford Cripps, a declaration incontinently withdrawn after certain confidential negotiations with Indian leaders but quickly restored in its broad outlines and later oft-repeated on the highest authority, alters the whole aspect of the question of Indian self-government. While promising full freedom, at first within the fold of the British Empire but subsequently without it if Indians so elect, the declaration casts upon the people of this country the duty of framing their own constitution. Such a constitution, it is obvious, can only be based upon a large measure of internal agreement among the various elements of the Indian population. To secure the assent of these elements will perhaps be found to be a more laborious and difficult task than to press the British Government to agree to one scheme of self government or another which each one of us may fancy, but it is a task to which we must address ourselves if we are to gain the object we so ardently cherish.

So long as there was no guarantee that any constitution which we might ourselves devise would receive the imprimatur of the British Parliament the core of agreement on which every-constitution must be based was hard to achieve and also appeared futile, if achieved. The best course for us at the time was to propound what seemed to us the most reasonable solution, and if it encountered any serious opposition in any quarter we could conclude that it was mainly because the British Government was playing off one section against another. But we shall be denied this kind of easy satisfaction hereafter. The British Government, having now decided to part with its own power and having left the final shape of the framework of our government to ourselves alone, has placed squarely on our shoulders the responsibility of composing our differences and of working out a scheme of national self-government on the basis of the agreement we may succeed in reaching. If any section is intransigent we

can no longer blame it all on the British Government. We must patiently sit down to accommodate all the varying interests and views, and if after all earnest attempts to harmonise them we find that some elements will not shed their sectionalism for a wider vision, we may have reluctantly to decide to leave them out of our scheme, for the time being, and proceed to devise self-government for a more restricted area, making it possible, however, for the recalcitrants to come in later, thus hoping to make our scheme fully nation-wide in the end. But whatever the decision, both as to the nature and scope of the Central authority, immediately and ultimately, it must be entirely our own.

That the British Government drops out from the formative stage, while it certainly adds immensely to our responsibility, is a thing to be welcomed with open arms. It will give, for the first time in our history, the fullest possible scope for our constructive genius and will afford an opportunity, never enjoyed by us before, of hammering out a really satisfactory and permanent solution of our troubles. It will, in the first place, impart a reality to our sectional differences and place them in the right perspective. So long as a decision on them rested with others, we could never tell which of the demands were put forward as mere bargaining counters and which were genuine, and this necessarily crippled our power in dealing with them in a satisfactory manner. But the last word being now with the people themselves, the various sections will be more restrained in pressing their claims because they know that if they press them too far they may have eventually to stand out in the cold. And there is every reason to hope that if those, to whom it will be given to take a hand in shaping India's destiny, approach the task which awaits them in the right spirit, showing tender regard for the varied interests that must be brought into harmony and even for the susceptibilities that must in the end be conciliated, even the sections from which dissidence is feared will rise to the great occasion and will lend active assistance in building up a free and united India. At any rate we must tackle our problems in that hope and belief.

After all it is for the best that the responsibility of tackling these problems is thrown upon us. It will no doubt involve us in protracted negotiations of a most delicate and difficult nature

which will tax all our gifts of statesmanship to the full. In comparison to this the short cut of a solution imposed by higher authority appears at first sight to have many advantages; but the advantages are superficial and largely illusory. In the first place, few of us have any confidence that this authority will hold the scales even between the various parties and impose upon them all a right solution, with a sole eye to India's interests, and will have no desire to derive any profit itself out of the transaction. But even if we could trust its disinterested motives, an imposed solution has inevitably the seeds of instability in it. Such a solution can never make for lasting peace and settled contentment. A memorable instance of this is found in Lord Carnarvon's attempt to unite the various independent States in South Africa in one confederation in 1876. Having assisted at the birth of Canadian Federation ten years earlier and concluding that the ills which afflicted South Africa would yield to the same kind of treatment, he persuaded the British Parliament to pass an enabling Act under which the South African territories could federate within the space of six years. But South African opinion being then unripe for such a measure the Act was not availed of and died a natural death. There is no question that if force had been used it would only have retarded the union that came about 33 years later. A constitution adapted to local conditions and suited to the genius of a people can be framed by the people themselves. Then only will it be rooted in the affection and reverence of the people, and then only will it be of a really viable nature.

It is not an unmixed evil therefore that a kindly British Government will not fabricate a constitution for us but that it will withdraw from this business altogether and leave it entirely in our hands. Let us grasp the opportunity that has offered and apply ourselves with a single-minded devotion to the task. Only the task will have to be performed in a realistic spirit. Nothing will be more disastrous than to assume that no great measure of suspicion and distrust prevails among any section of the people and seek to evolve the constitution on such a false belief. We must start by taking full account of such distrust and end by setting it at rest by suitable measures. To a country situated as ours, a study of the constitutions of multi-national States or States inhabited

by mixed populations will afford valuable lessons, and it will be my endeavour in the course of this paper to draw attention to some of these.

CANADA

The earliest example of the way in which the rivalries of different nationalities were at first held in check and later so reconciled as to illustrate the principle, that the unity of the whole is all the stronger for the diversity of its parts, is to be found in the treatment meted out to the French in British North America. By the conquest of French Canada after the Seven Years' War England came into possession of almost half a continent, peopled by a foreign European nation. In the Province of Quebec the British immigrants numbered some 600, while the French settlers were 1,50,000. These belonged to the Roman Catholic religion, spoke the French language and were governed by a system of laws wholly alien to the British. England was then at the cross-roads in colonial policy. What should her aim be: to Anglicise and assimilate the French by adopting measures of religious intolerance and race ascendancy or to let them develop their personality in their own way by giving them freedom to exercise their religion, promote their culture and cherish and nurture their nationality? The Quebec Act, passed in 1774, adopted the latter course, and though we may not in these days set much value on the policy of religious toleration and cultural autonomy which British statesmen initiated at the time, we cannot but consider that Act to be a momentous departure from the then ruling ideas, when religious persecution and suppression of a foreign nationality were the order of the day. If conciliatory treatment was accorded to the French, would it not only help solidify the French nationality in a territory which must after all remain British and would it not plague the colony with a permanent racial division? Above all, could the French be trusted, when they attained a measure of prosperity, to wean themselves from the ties which bound them to France and become loyal British subjects? Such questions it was not easy to answer in a dogmatic fashion at the time, but the British Government, be it said to its credit, chose a path which proved that by recognising the nationality of the French it could win their active allegiance which would stand them in good stead in all troublous times in the future.

One particular question, which arose at the time of the passage of the Quebec Act, deserves consideration at some length. It was usual at the time to endow every colony in which British settlement had taken place with a popular assembly, and such an assembly had also been promised to French Canada. It was however out of the question, in accordance with the ideas prevailing at the time, to fill the Quebec assembly with an overwhelming majority of French-Canadians, as would have been the case if the representation were in proportion to the population. As things stood at the time, Roman Catholic religion entailed exclusion from all office and would necessarily have entailed exclusion from the assembly, if one had been formed. The utmost length to which public opinion might have allowed the British Government to go would have been to lift the ban on the entry of French-Canadians into the assembly but to assign to them a small minority of seats. But even this moderate reform was not generally favoured. Liberal statesmen saw that a purely British body must be ruled out at once, but even they thought that a house composed of both races would not only be "a dangerous experiment with new subjects" but also "an inexhaustible source of dissension and opposition between them and the British subjects." Petitions for an assembly rained upon the Government from the British immigrants, but the French refused to join in this demand. They made counter-petitions praying that if they were not to be allowed to pull their full weight in the representative institutions the British Government should withhold such institutions altogether. The Government went back upon its promise to institute an assembly and contented itself with setting up a nominated council in which only 8 persons out of the total number of 23 were French-Canadians.

Everywhere the cry went up that the Government was reactionary inasmuch as it established an arbitrary regime. The principle of democracy at least required, it was said, that the Government should not take away from Englishmen the liberty which they could not give to Frenchmen. But was not the Government right in putting its foot down on what would have been a tyrannical rule of a handful of people over a vast majority belonging to a different race, and were not the French-Canadians right in declining to be willing parties to such an

arrangement? I have dwelt on this incident in such detail because it often happens that what appears on the surface to be demanded by the doctrine of popular government is at bottom directly contrary to it, and that which seems right on one view is clearly inexpedient on another. The British Government found it possible to institute an assembly in 1791, after, however, dividing the Province of Quebec into Lower and Upper Canada. By this time there had been an influx of loyal British immigrants from the old thirteen colonies, so that a separate though small province could be created comprising British settlers. It was thought that in this part "the British majority, now so much increased in numbers and in moral weight, might develop a province of their own, so to speak, on British lines, while the old French community along the banks of the St. Lawrence could continue its traditional life" in the other. But though this was the avowed object, the hope secretly cherished was that when "a British constitution was given to a French people they would forsake language, laws, religion and race itself". This hope was never realised, and in fact it was found that the race consciousness of French-Canadians, if anything, increased. The next forty years saw things pushing themselves to a deadlock, in Lower as well in Upper Canada, between a popularly elected legislature and an irresponsible executive. In both provinces futile risings broke out, and Lord Durham was called upon to investigate the situation. Great as was the genius that Durham showed in his report in prescribing the right remedy for such a malady, viz. responsible government, he was mistaken in believing that the trouble in Lower Canada was due mainly to the racial antipathy of the French-Canadians who wanted to revolt against an alien rule, and in fact his recommendation for the introduction of responsible government was largely prompted by his desire to crush out the racial individuality of His Majesty's French subjects.

He was convinced that peace could "only be restored by subjecting the province to the vigorous rule of an English majority" and for the purpose of absorbing French-Canadian nationality into British, Upper and Lower Canada were reunited in one province in 1840. It was a complete political fusion. Lower Canada was deprived of its political institutions which were

merged into common institutions for the whole of the country. Lord Durham made no bones about his objective. He says in his Report: "In any plan which may be adopted for the future management of Lower Canada the first object ought to be that of making it an English province, and that with this end in view, the ascendancy should never again be placed in any hands but those of an English population." But French-Canadian nationality refused to be submerged, and later experience proved that a forcible fusion of the two races was impracticable. What was done in 1840 had to be undone in 1867, when, with the establishment of federation, United Canada was again divided into the provinces of Ontario and Quebec. "Once more the French-Canadians were free to control their own domestic life in their old home in the St. Lawrence." The history of Canada proves that all attempts to stamp out a deep-rooted feeling of nationality and race consciousness can only lead to disaster and that the part of wisdom is, where two races inhabit a State, to let them both live their independent lives in perfect freedom. Only thus will they live in peace and amity.

The eventual form of the Canadian constitution was also determined in large measure by the racial factor. The federal as opposed to the unitary principle was adopted in that country because of the fear of the French-Canadians that under a complete union they would lose their cultural identity and be subjected to British ascendancy, as was the express purpose of Lord Durham in forcing a union on them a quarter of a century earlier. It is said, that federalism, on account of the dispersal of authority it necessarily involves, leads to a weakness in the central government and is not by any means an ideal polity. It is only a *pis aller* to be accepted where nothing better can be obtained. But whether the unitary or federal system should be adopted, and where the latter alone is practicable, whether the federation should represent a closer form of association or be of the looser variety, must be governed by the prevailing circumstances. In Canada the central government could be made stronger than in Australia or the United States, and in the division of powers a centralising influence was furnished by the American Civil War that was then being fought, brought on, it was believed, by reason of too much local autonomy granted to the States. But the ultimate authority

could not be concentrated in the Dominion, as Sir John Macdonald and some others wished, and that was due mostly to the opposition of the French-Canadians to the unitary system. Federalisation alone, they believed, would leave French Canada free to maintain and develop her individuality and enable her to share in full in the political power to which she was entitled. A device that was adopted for a due representation of all sectional interests in the federal government deserves special notice. A convention has grown up in that country "of taking geographical as well as political, racial and religious factors in making up the membership of the Dominion Cabinet." While such a convention is undoubtedly open to objection on the ground that the constitutional principle of united cabinet responsibility stands in danger of being violated thereby, expediency has required in Canada that the Cabinet be given a balanced representation of all sectional interests.

SOUTH AFRICA

In British South Africa it was found feasible to establish a closer union than a federation. This was mainly because the racial division between British and Dutch, who were about equal in numbers and influence, had become toned down on account of the common danger which both had to meet from the natives. "In religion they had no dividing line between them, for the great bulk of the European population belonged to Protestant Churches." A union could be effected only because the ruling power was confined to the Europeans. If the natives were not left out of the picture, neither a union nor a federation would have been possible. But among the Europeans, except in Natal, there was a general desire to surrender all their independence into the hands of a central government so as to equip the latter with plenary power to attack all the economic and political problems which faced the country as a whole. Even so, several devices peculiar to federalism had to be resorted to. Among these the most notable was the constitution of the Upper House of the legislature on the principle of State rights, equal representation being given to all the constituent provinces, be they large or small. Not even in the Lower House was the principle of representation according to population strictly followed, a

principle adopted in all federal constitutions. In all the provinces the native and coloured populations were wholly excluded from the franchise, but even in respect of the white population the franchise could not be made uniform. In the Transvaal, manhood suffrage prevailed, whereas in the Cape and Natal a high qualification test was demanded. The Transvaal insisted that, in view of the surrender of its gold mining industry and other great sacrifices asked of it in joining the union, a *quid pro quo* should be made to it in the form of a larger representation in the House of Assembly by adopting the basis of registered voters rather than that of the male population. This had to be done. Then for the other provinces the population basis was taken. But the two smaller provinces demanded that they be given more representation than what merely their population justified and this demand too had to be conceded. Thus Natal secured 50 per cent. more representation than it was entitled to, because it was clear that without this concession it would have been almost impossible to induce that province to enter the union. In this way the unitary constitution of South Africa went even farther than federal constitutions in adopting the principle of provincial representation in the composition of the central legislature.

That the Dutch language should be recognised as an official language was a matter of vital interest to the Orange River Colony, where two-thirds of the people could not speak English. For this reason both English and Dutch were declared in the Union Constitution to be official languages enjoying equal rights and privileges. This bi-lingualism was entrenched in the constitution, not being alterable by the Union Parliament, except by a majority of two-thirds of both Houses of the legislature sitting together. This again is a quasi-federal element. Advocates of union in South Africa based their arguments mainly on the need of the strong central government which could enforce a uniform native policy and native administration, while advocates of federation based their arguments chiefly on the impossibility and inadvisability of following a uniform policy in respect of the native and such other questions. A Natal delegate, pointing out the difficulties in the way of unification, said: "How was union to be brought about? Take the franchise as an instance. In the Cape they had a salary and property qualification. In

Natal they had similar qualifications. In the Transvaal and Orange River Colony they had manhood suffrage for the whites. On what lines did they propose to unify? Would the Transvaal and Orange River Colony accept a qualification test or would the Cape and Natal be expected to grant manhood suffrage? What about the native franchise in the Cape? Were those natives to be struck off the rolls or were they to elect representatives to sit in Parliament to make laws for the white man in South Africa? Take also the Indian question. The Transvaal and the Cape wished to exclude Asiatics and had passed special legislation with that object, but these Indians were essential to the industries of Natal and Natal could not afford to do without them. On the race and language questions also Natal was differently placed to the rest of South Africa and did not wish to be embroiled in the difficulties which had arisen elsewhere. He believed there would be more friction under an attempt at unification than with federation." Though union was eventually formed for the purpose of enabling a uniform policy to be followed on all such questions, uniformity was not in fact secured on any of them. A uniform franchise, as we have seen, was not created even for the whites. The native franchise was retained in the Cape but was not extended to the other provinces. The natives and coloured men, even in the Cape, where no racial bar had previously existed, were debarred from entering Parliament, for only men of European descent were declared in the constitution to be qualified for the privilege of membership. No attempt was made to achieve even an approximation to a common policy on native and Asiatic questions. Lord Selborne in his famous memorandum urged union because he thought that only a central government exercising control over all the provinces would be enabled to determine the relative places which the white, coloured and native populations were to fill. But the union has done nothing to determine the future place of the black man in the social structure of South Africa. Even now the laws and their administration differ radically from province to province. Unitary therefore as the South African constitution is in outward form, it may be said to be really federal in several essential aspects. The examples in the evolution of the constitutions of Canada and South Africa appear to me to establish the truth and wisdom of what Lord

Selborne has said, viz., that where there is a measure of distrust between peoples of different nationalities, "the best way to overcome this difficulty is for both races to avow it, and at the same time for both to admit that the only possible form of union is one which the other party will accept as well as themselves."

SOVIET RUSSIA

The best example of the rich fruits of the pursuit of such a policy is to be found in Soviet Russia. The Communists, to whom it fell to form the new polity, after they had first achieved mastery in Central Russia in the course of the Civil War and then gradually reconquered other portions of the Empire which had either broken away or were about to break away, found it necessary, contrary to their principles, to adopt a federal constitution for the Soviet State. The authors of the dictatorship of the proletariat, which necessarily involves centralisation of the most drastic character, naturally did not favour decentralisation implied in the federal structure, but the separatism evinced in various parts of Russia left them no alternative. Lenin had always expressed himself as opposed to federation before; he had stood then for "the closest possible amalgamation of large territories." But when faced with the *de facto* disintegration of Russia, he showed remarkable elasticity in revising his former opinion. Unity is necessary in the end, he said, but "it must be attained by means of teaching, propaganda and voluntary consent." He realised that for the time being federation had its own advantages. Thus, for tactical reasons federalism was adopted. It cannot be gainsaid that this federalism differs greatly from any other kind of federal system in the world and was regarded by those in authority as merely "a transitory stage in the evolution towards a purely communist society." The autonomy given to the federating units has even been described as "merely a tactical variation of the dictatorship of the proletariat." The various organs of government in those units are, speaking broadly, subject in the final analysis to control from Moscow, and Moscow itself is subject to control by the Communist Party, as may be seen from the fact that the various enactments passed by the Union Congress of Soviets were in pursuance of detailed instructions given by the Party.

Thus while there is always a contradiction between Soviet democracy and Communist dictatorship, the most remarkable thing about Russia is that the all-powerful Communist Party itself, on its own initiative and after a hard struggle with the so-called Great Russian chauvinism within its own ranks, adopted the policy of giving perfect freedom and complete equality to peoples of all nationalities living in the vast territory of the Soviet State. Over five hundred different races and tribes speaking a hundred and fifty different languages, professing widely different faiths and standing at markedly different stages of development, from the most primitive to a highly cultured, peopled this territory. Under the Czars the policy of Russification of all non-Russian peoples in the Empire, who formed a majority of the entire population; was carried to extreme lengths. There was no recognition of their nationality, nor were their civil rights respected. They "were not permitted to use their language in public business, and were allowed no opportunities of cultivating and developing it. There were no Government schools carried on for them in the mother tongue". There were continuous attempts to convert them to the Orthodox Church, the official religion of the Empire. "The position of privilege of the Russian element in all things political, cultural and economic was steadily maintained in every possible way. Nothing was done for the cultural and economic progress of the non-Russian populations. State and Church rivalled one another in a ruthless policy of colonisation; the best lands were taken away from the autochthonous owners and distributed among Russian colonists."

All this was completely changed by the Soviet Government. The four chief points in the declaration of the Rights of Nationalities, issued by it on November 2, 1918, were: 1. the abolition of all national and religious privileges and limitations, 2. the equality and sovereignty of all nationalities; 3. the right of free self-determination up to complete independence; and 4. the free development of minorities and ethnographical groups in Russia. All nationalities thereafter stood on an equal footing, and the new State did not content itself with a formal assertion of equality but sought with unremitting industry and unwearied enthusiasm to give it full content. Every nationality was permitted to conduct its religious services in its own way. It was per-

mitted to use the vernacular in schools and colleges, in courts of justice and in all state organs and institutions. It was permitted to publish books and newspapers in its own tongue. It was accorded full freedom in developing its own culture. In fact, every community was encouraged to do so. The difference between the educational standards of the different peoples was enormous before, and it was the aim of the founders of the new State to wipe it out as far as possible. This aim is being steadily pursued, and the advance made in universal literacy excites the admiration of the whole world. What is even of greater importance than this cultural autonomy, is the administrative autonomy that results from an assiduous attempt being made to recruit all organs of government, including the highest, from the local people. The "native self-government" that the nationalities thus enjoy has made them integral factors of the State as never before. The economic inequality that existed in the regime of the Czars between Russians and non-Russians is sought to be removed not only by the abrogation of the privileges which Russians formerly enjoyed, but by an active policy of fostering industries among the non-Russian nationalities. As a result, as the Webbs have said in their book on Soviet Communism: "Over the whole area between the Arctic Ocean and the Black Sea and the Central Asian mountains, containing vastly differing races and nationalities, men and women, irrespective of conformation of skull or pigmentation of skin, even including the occasional African negro admitted from the United States, may associate freely with whom they please; travel in the same public vehicles and frequent the same restaurants and hotels; sit next to each other in the same colleges and places of amusement; marry wherever there is mutual liking; engage on equal terms in any craft or profession for which they are qualified; join the same churches or other societies; pay the same taxes and be elected or appointed to any office or position without exception. Above all, these men and women denizens of the U. S. S. R., to whatever race or nationality they belong, can and do participate—it is even said that the smaller nationalities do so in more than their due proportion—in the highest offices of government and in the organised vocation for leadership; alike in the sovnorkoms (Cabinets of Ministers) and central executive committees of the several constituent republics and in those of the U. S. S. R., and, most important of all, in the

Central Committee of the Communist Party (and its presidium), and even in the all-powerful Politbureau itself."

It is not to be supposed that the right to autonomy and free development of all nationalities, which the Soviet Government accorded to its people, was absolute. On the contrary it was subject to strict limitations. Everything must be subordinate to the main aim of the communist regime. If the native cultures of backward races were to be promoted, the Government would use every endeavour to give them a communist content. If local administration was to be left to be carried on by natives, the Government would satisfy itself that the natives were loyal to the communist faith. If local autonomy was to be given to any region or nationality, the Government would take care that the autonomy would not interfere with the execution of the main objectives of the Communist Party. It often happened therefore that the abrogation of all privileges and the granting of local independence appeared to be a mere theory adopted for the purpose of flattering the aspirations of non-Slavic peoples, and not intended for actual enforcement. However, when all is said and done, it must be admitted that within the limits of what was supposed to be required for building up communism those in control in Soviet Russia have made an honest effort to break down all barriers erected on the basis of race or religion, and to give full freedom to all nationalities to organise their life in their own way, lend active assistance to them all in economic and cultural development and establish a single multi-national state on the principle of racial equality. The formal recognition given to the right of secession from the federation deserves particular notice. It is and under communist philosophy can only be a fiction, but the policy of local autonomy which Soviet Russia followed necessarily led it to adopt the doctrine of self-determination for each unit and concede to it the right to independent existence.

One peculiar feature of the Soviet structure may be of particular interest to us. Under Stalin's advice it was decided to form administrative divisions on the basis of ethnographical and national characteristics instead of on the basis of economic and territorial interests. A People's Commissariat for Nationalities was created for the purpose of establishing autonomous republics

and regions in which the different nationalities could be grouped together, so that all these various races and tribes might as far as possible lead a communal life in respect of language, religion, customs and ideas. It should be emphasised here once again that these national rights were never intended to "conflict with the declared right of the working class to establish its power," but granted loyalty to the soviet regime, the diverse nationalities were not only given a theoretical right to live their own lives but were deliberately brought together so that this might become possible in actual fact. Thus by 1922 in the west the Volga-German, Bakshir, Tartar, Karelian and Crimean republics were formed along with several regions consisting of different ethnic groups, each enjoying autonomy. The same process was carried on later in the east. Central Asia was divided up on ethnical lines, and there came into existence Turkoman, Uzbek and Tadzhik republics. But what is of even greater importance is the fact that within these larger national formations which correspond to provinces smaller units were also organised where possible on the basis of nationality in the form of counties, districts and villages. A particular race may predominate in a particular area, but its members are sure to be found in other areas in small numbers. They need not, however, suffer any disabilities as a minority in those areas. If the population is of sufficient size in any place it is allowed to form a separate organ of government there. Thus in the Ukrainian Republic "among the 380 regions there are 25 national regions; 8 Russian, 7 German, 3 Bulgarian, 3 Greek, 3 Jewish and 1 Polish. Among the great number of national village soviets of the Ukrainian S. S. R. there are 16 Moldavian, 10 Czech, 4 White Russian and even 1 Swedish and 1 French. In the Azerbaijan S. S. R. there is even a negro soviet." In 1935 there were believed to be 5000 national soviets, and their number is growing. If there is even a small congregation of people in a locality with common national characteristics, it is endowed with a soviet of its own, so that it can manage its local affairs in its own way. In this small unit it enjoys full cultural autonomy and can employ its own officials. As the Webbs say: "The policy of cultural autonomy and native self-government ... is not confined to the more powerful national minorities, not even to groups of magnitude. Wherever a sufficient minimum of persons of a particular race or culture are

settled together, the local administration allows for their peculiar needs. . . . The autonomy is carried so far as to secure, for even the smallest minority group, its own autonomy, as regards primary school and local officials, even against the dominant minority culture." Dispersed communities, like the Jews, have thus been able to derive the utmost advantage from this mode of forming administrative divisions from the highest to the lowest with reference to the racial composition of their populations. By taking into account the nationality factor in the administrative redivision of its territory, the Soviet State has found it possible to give the fullest scope to every national minority group to live its individual life and in fact, by its supra-national outlook the State has been able to dissociate politics completely from nationality.

GERMANY

Reorganisation of territory assumed crucial importance in post-war Germany also. It was found that no democratic constitution, whether on a federal or unitary basis, could be established unless a regrouping of the states as they existed under the Empire was effected. For Prussia, even after the loss of territory it had suffered by the Peace Treaty, represented no less than four-sevenths of the total population. It was felt that even if its former extraordinary privileges were abolished, which gave it a position of complete domination over the other States, a diminution of its size was required if in the new constitution the states were to be on a footing of equality. On the other hand, some states were too small in size and resources to be able to discharge the obligations that would fall on them. A fusion must take place of such states if they were to attain the status and dignity that should properly belong to them. Even apart from the question of this evening up of the component parts, territorial redistribution was required for the purpose of enabling the different peoples in the realm to realise their nationality. Most of the states, and Prussia above all, showed at the time religious and ethnographic divergences of a marked character. Dr. Hugo Preuss, the architect of the Weimar constitution, like many others, therefore insisted that a readjustment of territory was essential before new Germany could launch upon its political career. "The individual states," he pointed out, "were the products

of purely dynastic politics which almost everywhere ran counter to the natural relations of populations and races, separating what should have been united and uniting elements that had nothing in common. . . . He demanded the territorial redistribution of the states on the basis of the right of populations to self-determination according to their needs and their political and economic inclinations, with the intervention, by the sanction and under the direction of the Reich." "The Prussian state," he pointed out, "does not form an organic whole and is bound together neither by economic nor cultural relations." The same was true, though to a lesser degree, of all the other states, which equally were artificial formations, in which the populations had no real geographical unity or racial kinship with each other.

He therefore proposed in his draft of the constitution a radical transformation of the boundaries of states on rational lines. Prussia, according to his scheme, would be divided into some seven states and the remaining twenty-four combined to form another seven or eight new states. All these were to be brought into existence "so far as the racial characteristics of the population, the economic conditions and the historical relations support the formation of such states." The fusion of several member states into a new state was to be effected by a treaty between them, which should however receive the consent of their parliaments and also of the central government. But the transference of a part of a state to another would require a plebiscite. The draft says: "If the inhabitants of a district desire to cut themselves loose from their present state in order to unite with one or more other German Free States or to form an independent Free State within the Empire a referendum is necessary. The referendum will be decreed by the Government of the Empire at the request of the competent district governments or of the representatives of one or more self-governing corporations which represent at least a quarter of the inhabitants directly affected." Though these principles were generally agreed to, it was found impracticable to carry into effect such a far-reaching scheme for the modification of the boundaries of the states prior to getting the new Republican machinery to function. The constitution was thus drawn up on the basis of the old states, inserting in it, however, an enabling provision for altera-

tions in the territorial composition of the Reich at a later date. The Weimar constitution first gave full recognition to the principle of "mobility of frontiers"; it also paid homage to the principle of self-determination in the organisation of states. For, it says, "the division of the Commonwealth into states shall serve the highest economic and cultural interests of the people after most thorough consideration of the wishes of the population affected."

Territorial readjustment was a simple enough matter where it was a question of unification of small states. A number of minor principalities were willing so to amalgamate. In regard to such voluntary fusions the constitution provided that on their approval by the Reich by an ordinary law such combinations would come into effect. In such cases a plebiscite was thought unnecessary as under the democratic constitution which was ordained for the states the assent given by the state authorities might well be taken to represent the wishes of the people concerned. Even in the case of a partition of a state the affirmative decision of the state and a similar decision of any other state to which it might be proposed to join it would, subject to the approval of the central government, be final, no reference to the people being necessary. But the contingency was envisaged in which the state government might be unwilling to separate but the people belonging to it might desire separation. And as self-determination by the people was to be the guiding principle of all changes of territorial limits, detailed provisions were embodied in the constitution to meet such cases. The wishes of the population would in these circumstances be ascertained by a referendum. The central government would order a referendum either on its own initiative or on a demand being made by one-third of the qualified electorate in the territory to be cut off. A three-fifths affirmative vote, with at least half of the eligible electors voting, would be regarded as conclusive in favour of separation in so far as the wishes of the people were concerned. It would then be the duty of the central government, after satisfying itself that the separation was required by "a preponderant general interest", to bring down a confirmatory bill, and if the bill passed into law by an ordinary majority the partition would take immediate effect. "Even portions of the smallest administrative districts, if desirous of separating, are accorded the privilege of a

plebiscite. In the case of enclaves, i. e., regions belonging to one Land (state) within the territory of another, their vote may be pronounced final by national law without further ado. This provision is intended "to wipe out the anomalous condition of the numerous enclaves and to promote unification." Only in such cases the vote was to be taken of the population, not only of the part of the administrative division which desired separation but of the entire division. This special requirement was laid down "in order to avoid break-ups due to parochial quarrels."

It would thus be seen that the wishes of the population affected are given a pre-eminent place in the German Commonwealth's scheme for the territorial structure of its member states. But the final decision rests in the hands of the Commonwealth Government, which must give its approval. It is also theoretically possible to enforce changes in boundaries against the wishes of the states or of the people residing in them, but this can only be done by the process of constitutional amendment which requires a two-thirds vote of a two-thirds quorum in the Reichstag and a two-thirds vote in the Reichsrat. The changes actually brought about were not extensive. "Prussia was never divided; on the contrary, she gained additional territory from subsequent readjustments affecting other Lander (states). But in 1920 a new Land (state) of Thuringia came into being, consolidating as many as seven little states of earlier days; in the same year, the Coburg portion of the duchy of Saxe-Coburg-Gotha joined Bavaria, the remainder casting in its lot with Thuringia; in 1922 the Pymont section, and in 1929 the Waldeck division, of Waldeck-Pymont united with Prussia". Two projects of separation from Prussia were defeated even before a stage for a plebiscite had arrived. The population of Upper Silesia voted by a ten-to-one majority in favour of remaining with Prussia, and a similar proposal for the separation of Hanover found support from a good deal less than one-third of the voters necessary for a plebiscite being taken.

Though the territorial rearrangements that were in fact effected were not large, that they were constitutionally possible is a matter of great significance. Under the constitution of the United States, e. g., the boundaries of no component state can be altered without its own consent. The national government

in that country cannot in its own right take away a part of the territory from one state and join it to another. The Weimar constitution, however, gave the German Republic such power. It was the final arbiter in all changes of boundaries. It did not guarantee geographic integrity to any state, as the United States constitution did. On the contrary, it reserved to itself the right of bringing about any changes it thought proper, though in normal circumstances the right was intended to be exercised in accordance with the expressed wishes of the people concerned. Thus, as *Finer* says, this article in the constitution is important "for its continuous challenge to inquiry" and provides a machinery for making territorial changes as may be found necessary in the future. Hitler's dictatorship has, however, made a mockery of the whole of this constitution.

FINLAND

Another example of the way in which the nationality problem was sought to be met successfully by giving equal rights to the racial minorities and by so regrouping the districts that the people belonging to them may as far as possible be brought together is afforded by Finland. In this country the Swedish population forms a considerable minority of the people as a whole, and to it the constitution guarantees an equality of treatment with the Finnish population. Art. 14 says: "Care shall be taken that the rights of the Finnish population and the rights of the Swedish population of the country shall be protected in accordance with identical principles. . . . The State shall provide for the intellectual and economic needs of the Finnish and Swedish populations in accordance with identical principles". It also provides that "Finnish and Swedish shall be the national languages of the Republic," giving freedom to the inhabitants to use whichever language they choose. The constitution confirmed the political subdivisions that then existed in the country, but left the way open for a readjustment of them in future in the interest of the minorities. Indeed, in the mind of the framers of the constitution such readjustment was obligatory. "Whenever circumstances permit, new districts must be formed so as to include inhabitants speaking only one language, Finnish or Swedish, or so that the minority speaking the other language shall be as small as possible."

CZECHOSLOVAKIA

National self-determination being the professed principle on which political reconstruction was based after the last war, care was taken in creating new States to secure the assent as far as possible of all the different populations which composed them, whether the new States thus formed were unitary or federal. In the case of Czechoslovakia, for instance, a Convention was concluded at Pittsburg on June 30, 1918, between the Slovaks and the Czechs of America, which promised autonomy to Slovakia. Later, on October 30, the Slovak National Council made a declaration that "the Slovaks form linguistically and historically a part of the Czechoslovak nation" and joined with the Czech National Council to form a National Assembly which proclaimed the Republic and, as in Germany, Austria and Yugoslavia, adopted a provisional constitution which was to remain in force until the constituent assembly could meet for the purpose of framing a permanent constitution. The Slovaks were represented on this National Assembly, but not the Germans of Bohemia who stood aloof in the hope of being thereby permitted to unite with Austria. Nevertheless, contact was maintained and consultations held with them. In the end, however, they proved refractory, though on Masaryk, the President of the Republic, promising equality of treatment to Germans and Czechs, the hostile agitation died down. For some time thereafter the treatment accorded to the Germans was certainly vindictive, and although later this was set right the antipathy of the Germans could not be allayed and Hitler was able to utilise it for his own ends in a way which is known to all. Sub-Carpathian Ruthenia, whose union with the Republic was of a voluntary nature, was given a very large measure of autonomy. In addition to its representation in the national Parliament, it enjoyed the privilege of a separate Diet which controlled domestic affairs. To this body was made responsible the Governor, who as head of the autonomous territory is appointed by the President of the Republic on the recommendation of the Cabinet. The constitution also provides that "public officials in Ruthenia shall be selected, in so far as possible, from the Ruthene population".

YUGOSLAVIA

The difficulties attending the unification of all the Southern Slavs into a single state were enormous. There were common bonds of race and language between them, but everything else kept them apart. One section was Greek Orthodox, another Roman Catholic, a third Moslem; and there was a bitter religious feud among them. Politically they were divided. Serbia was an independent state, but Croatia, Slovenia, Dalmatia and others were under the Dual Monarchy which had fixed their administrative boundaries in such a manner as to scatter the people into different units and induce in them a spirit of separatism. The political climate under which the people lived was so different and their economic interests also were so conflicting that unity among all these varied sections appeared almost impossible. But the collapse of Austria and Hungary after the World War produced conditions in which it seemed at the moment that all the branches of the South Slav race could be organised in one state. A National Committee of the Austro-Hungarian Yugoslavs was constituted for the purpose of creating such a state, and the Serbian Government was at this time making a bid for creating a Greater Serbia in which all the Yugoslavs were to be included. But the two, following the Declaration of Corfu of July 20, 1917, reached an agreement with each other at Geneva, and a declaration was then made of the abolition of the old frontiers and of the creation of a new Serb-Croat-Slovene State "as an indivisible state unit." Then followed, as in several other countries, the framing of a permanent constitution by a constituent assembly which adopted a unitary and highly centralised form of government.

But the unity thus effected has always remained most precarious. Particularly the Croats could never feel a community of interests with the Serbs. It is said that "the differences between Croats and Serbs are of the nature of slowly acquired characteristics of different civilisations rather than of the physical differences of race. (Living respectively under the influence of Rome and Byzantium,) the cousins suffered different experiences, religious and political, so that when called upon to live in the same house they scarcely knew one another." Their ideas of government had come to be radically different. Although Stepan

Radich, the Croat Peasant leader, was persuaded to recognise the territorial unity of the Serb-Croat-Slovene State, he and other Croat deputies absented themselves from the constituent assembly which framed the new constitution, with the result that, of the two conflicting theories that were then discussed as to the proper way of composing the interests of different regions and of carrying on the central government, that of a centralist constitution favoured by the Serbs was adopted, in the belief that only a centralised government could give sufficient strength to the new State, surrounded as it was by old enemies, to resist their threatened aggression and to solve its financial difficulties. The Croats and the Slovenes were on the other hand in favour of federalism, leaving large legislative powers to the provinces and even decentralising the administrative machinery so far as possible. But on account of their policy of abstention the decision went by default in the constitution-making body. Not only was the government made unitary in form but the policy of centralisation was rigidly followed. The result was far from happy. As early as June, 1943, Hamilton Fish Armstrong felt constrained to write in *Foreign Affairs*, "To those who had hoped to see the attention of the Yugoslav people turned without more delay to constructive tasks the real danger seems to be that both the Serbs and the Croats and Slovenes are becoming confirmed in the belief that the aims and the interests of the one are in the nature of things contrary to the aims and the interests of the others." Radich soon began carrying on a propaganda for the establishment of a Croatian Peasant Republic, and the utmost concession he could be induced in private negotiations to make was that, while admitting that the Serbs, Croats and Slovenes probably had to live together, he would insist that the bonds between them must be as shadowy as possible and that each province must go its own way—politically, commercially, culturally.

On the constant shifts and changes in the cabinets formed from different party groups that took place in the state before the murders of Croat leaders in June 1928 it is unnecessary to dwell here. The following year the constitution of 1921 was abolished and absolute power was assumed by the King, the excuse being that democracy was unworkable in a country in which important elements were irreconcilably opposed to each other.

Not only did the old issue between a centralist and federalist form of government remain unsolved, but the dictatorship made it impossible for the issue to emerge again. The original title of the triune kingdom was replaced by that of Yugoslavia, and the change had a profound significance. "It meant the definite surrender of the idea of a federation of peoples for that of the unitary State set up by the constitution of 1921." Centralist aims were pursued even more rigorously; and the new regime was "an even greater challenge to Serbian democratic traditions than to Croat autonomous leanings."

Then came the murder of the King in 1934, and under the Regency attempts were made to bring about a rapprochement between the Serbs and the Croats, and the rapidly worsening international situation helped the cause. At last, under the stress of impending aggression by Germany, a Serb-Croat agreement was made in August 1939, giving a large degree of autonomy to Croatia. Foreign affairs, defence and communications were left to the central Government at Belgrade, all local affairs being placed under the control of a Croatian Diet in Zagreb. But the establishment of a federal State in Yugoslavia at this late stage did not save it from disruption at the hands of Hitler, who was using Croatian Quislings to demand the creation of an independent state. In the summer of 1941 Yugoslavia was invaded and an end put to all questions of self-government. There can be no doubt but that the feeling of sullenness engendered among the Croats contributed in no small measure to the result.

In the post-war reconstruction of Europe it was found inevitable in many cases to include in the states newly created peoples of different nationalities; and in order to protect the interests of racial minorities the creation of such an independent state was made subject to the stipulation that the state would grant local autonomy to a region inhabited mostly by a particular nationality. This happened, for instance, to Carpathian Ruthenia in the case of the Czechoslovak State. Where, however, minorities were geographically so dispersed that in no extensive and contiguous area they formed a large majority and consequently local autonomy could not be conceded to them the new state had to undertake special obligations for their protection. The constitution of such a state guaranteed to all citizens, without

regard to race, language and religion, full equality before the law, full civic and political rights, free use of any language in private and public life, thus giving cultural autonomy where territorial autonomy could not be given. The Czechoslovak constitution contains all such guarantees, but one additional provision that it has adopted merits particular attention. The scheme of proportional representation which the State has introduced admits "the pooling of all votes for minor parties all over the country, in order to secure parliamentary representation for minorities as low as one-third of the population." As a writer points out in *Foreign Affairs* of October 1921, "In accordance with the proportional representation electoral system not a single minority vote is lost. There are 23 electoral districts, each of them comprising approximately, 287,000 votes and 13 deputies. If a minority group secures 22,000 votes out of the 287,000 it has a right to a deputy. But this is not all. Assume that this minority represents a total of 27,000 votes in one of the electoral districts: then the 5,000 votes remaining after the 22,000 have been deducted are added to the votes secured throughout the Republic by the minority in question. The total of these scattered surplus votes entitles the minority to a seat in Parliament at the rate of one for every 22,000 votes. The result is that the Germans and Magyars who comprise 28.6 per cent. of the total population to-day have a parliamentary representation of 29.1 per cent."

CONCLUSION

This brief and somewhat desultory survey of the manner and spirit in which political constitutions were made in other countries makes at least one thing clear; that our future constitution must rest on a general concord among all the important sections in the country. This is not because the British Government has made such an agreement a condition precedent to its parting with power. The controversy on this point relates to the establishment of a provisional National Government during the war, and into a discussion of this question you will have noticed that I have scrupulously avoided entering. But if the future constitution is to be framed by ourselves, then we shall be compelled, irrespectively of any condition that the Government may or may not impose, so to frame our constitution that it shall secure the

assent of all the important elements in our varied population. The one sufficient reason for it is that the democratic government at which we all aim implies as much. As Headlam-Morley well says in "The New Democratic Constitutions of Europe," "Democracy can work effectively only amongst a people who agree on fundamentals. Divergence of opinion may be a sign of health in a Republic, a sign of the active interest of an energetic and aspiring people in the good of the country. Such divergence, however, must touch only the more immediate question of ways and means; so long as all agree that the prosperity of the State must be their first object, the maintenance of their constitution their first care, it does not matter that they differ in opinion as to the best means by which that welfare is to be won, that security achieved. But as soon as certain sections of the community look upon the very existence of the State to which they perforce belong as detrimental to the fulfilment of their dearest desires, or as soon as they consider the fundamental principle on which it is organised as contrary to the attainment of that general prosperity which should be the highest reward of true national service; as soon as any considerable number of people is placed in permanent and violent opposition, true democracy becomes impossible. All the forms of democratic government hitherto devised depend ultimately on the fact that the decision of the majority is considered binding. This rule of the majority can win theoretic justification only on the supposition that all have agreed that they will in fact submit to the opinion of the largest section of the people." In order both that our constitution may have this theoretic justification and may achieve practical success in its application, it is essential that the constitution will as a whole meet with the acceptance of all sections of the people which are of any consequence.

When speaking of the assent of the people as a whole, it will be a question worthy of serious consideration whether at the very initial stage of forming a larger association, call it a federation or union as you will, the component parts will be given a choice to cast in their lot with it or not. Sir Stanley Reed in his comments in the House of Commons on the Cripps scheme observed that the central government was not envisaged in the scheme as handing back powers to the constituent units but as

receiving powers from the constituent units which they of their own volition were willing to surrender for the purpose of unity, strength and direction. According to this idea, the constituent units would to all intents and purposes be placed in the position of those states which were originally independent but which to secure common ends came together of their free will and formed a federation. In India the provinces have no independent existence of their own and therefore have no legal right to stand apart from such an organisation, but the very fact that the constitution is intended to be drawn up by the people themselves and will take the form that the people will give it means that the units will acquire a moral right to decide on the issue, which it will not be easy to combat. A federation is described as an indissoluble union of indestructible states, but the constitutional right to keep all the member states within the federation and not to let them secede at will obviously depends for its moral justification on their prior consent willingly given to join the federation with the full knowledge that once they get in they cannot get out. Even this right of keeping the units within the federation is challenged by some writers. But if in forming a federation the consent of the units has not been taken, it will obviously be difficult on moral grounds to withhold from them the right of secession. In any case it is certain that the federation or union will not work harmoniously but will give rise to violent conflicts if any large section of people is brought within its scope against its deliberately formed and decisively expressed wishes. Nowhere has it been found possible to root out separatist tendencies, if they are widespread and genuine, by repression. They can be met successfully only by moral suasion, however long the process may take.

It may be taken for granted that India cannot be a unitary State. Even if it were not made up of distinct national elements, its very size would make it impracticable to adopt a unitary form of government. A centralised bureaucracy which does not feel the need for taking account of regional differences can somehow carry on on the unitary principle over such a vast expanse of territory; but when democracy is introduced which cannot but have regard for such differences the federal principle has also necessarily to be introduced. Moreover, the diversified composition

of India's population indicates a federal form of government. Headlam-Morley says : " In the new (European) States we have ample example of the difficulties arising through the union under one common Government of peoples differing in race, nationality, language, or religion ; they may be anxious to maintain their own identity, and are yet too small in numbers, or too isolated, to be set up as independent nations, or to be joined with their compatriots in other countries. In such cases federalism would seem the obvious solution. " But, strangely enough, in no State that came into existence after the last war and that had still large national minorities to deal with was this solution adopted. The course actually chosen cannot be said, however, to have led to happy results. In Yugoslavia, Rumania and Poland the national minority groups showed such bitter hostility to the existence of the States that even before these States had been drawn into the maelstrom of the present war their position had become exceedingly difficult and insecure. The perpetual tension created in them tends to show that the mere guarantees of cultural autonomy contained in the minority treaties were not enough to keep the racial minorities, divided by a deep gulf from the dominant community, contented enough to be loyal members of the newly formed states. Yugoslavia stoutly resisted the giving of that protection to its racial minorities which these treaties afford, but in Czechoslovakia the treaty provisions were faithfully carried out and yet the autagonism of its German population could not be assuaged. It is therefore permissible to infer that if these states had established a loose form of federation giving to their constituent units a wide measure of autonomy they might have attained greater stability in the first instance and the cohesive forces in them might have grown subsequently.

Let us assume then that a federation is to be organised in this country with the willing consent of all its component parts and that no national or religious minority is to be held under the government of this authority against the will of that minority. The question will thereafter arise of making the component parts of the federation as homogeneous as possible by means of territorial redistribution. This is a task that will have to be undertaken at some time or other. In India the existing provinces have no natural or scientific frontiers and therefore require no small amount of regrouping to introduce homogeneity into them. The

need for such reorganisation was recognised in concrete fashion when the provinces of Sind and Orissa were created, the former on the basis of race and religion and the latter on the basis of language. In post-war Europe it was often found that, either because historical traditions concerning administrative divisions were too strong to be overcome immediately or because the pressure of circumstances was too great to admit of delay in inaugurating constitutions, territorial rearrangement on the basis of nationality could not be taken in hand before the constitutions were adopted and actually set in motion. But enabling provisions were inserted in the constitutions prescribing a procedure for future territorial readjustments. At any rate such provisions will be desirable in our constitution. In the European States composed of diverse national elements, we have seen that the widest possible autonomy, both political and cultural, was given to a minority where it was concentrated in a defined area. But where the minority elements were geographically scattered in small groups among other national elements and the solution of regional self-government was not easily practicable, even there a redistribution of administrative divisions was effected with a view to bringing these dispersed nationalities together as far as possible in order that they should enjoy cultural and administrative autonomy in these smaller areas. The grant of autonomy on as large a scale as may be possible is found by experience to be the most satisfactory method of solving the minority problem where it has reached or threatens to reach an acute stage. Race or religion, it is true, should not enter as an active factor in politics; but it is a factor capable of immense potentialities for mischief, and the best way of sterilising it to a maximum degree is to take it deliberately into account and make it the basis of administrative subdivisions. Such territorial reorganisation might also be used for keeping the problem of linguistic minorities within as small a compass as possible. For the rest a guarantee of civic and political equality to all citizens, irrespective of race or creed, will give to all minorities the security to which they are entitled and which alone will make them contented and willing partners in a state of mixed nationalities.

To the question how loose or close the Indian federation should be the only answer that can be given is: as close as

possible and as loose as necessary. Federalism itself is adopted only when the prevailing conditions make it unavoidable, and a close union will not always be practicable only because a strong central government is thought to be desirable. After all there is a strong tendency in all federations for the central body to become increasingly powerful, whether in the old or new states. In U. S. A., although the intention of the founding fathers was different, "modern economic conditions and modern transport," as Cole says, "have so worked towards integration of the whole nation, that the federal institutions are now of much more positive importance than those of the individual states". In the new European States also the general tendency was, in the words of Headlam-Morley, "to strengthen the sense of unity in the states, even at the risk of arousing violent opposition amongst certain sections of the whole". On the other hand, we have seen that even where unitarism was chosen as the basis of the constitution, as in the Union of South Africa, many features had to be introduced in it which are generally associated with federalism.

It is undoubtedly true that in modern conditions it is desirable "to have a common basis not only for tariff policy and the regulation of trade, but also for industrial and labour conditions, and for such services as education and public health, at any rate in their broader aspects," and that it is therefore desirable to have a different type of constitution from that of the U. S. A. and Australia, which, as has been said, is appropriate only to the horse-and-buggy age of social organisation. But if in the sharing of powers and functions the prevailing opinion among large sections of the people would not make it possible while framing the constitution to assign wide powers and delegate wide functions to the central government, there is no alternative to making a beginning with a loose kind of federation and leaving it to the stress of economic and other factors to bring about a change in public opinion, so that an alteration in the constitution in the desired direction may later be adopted. In Australia at the present moment such an amendment is being attempted. It is felt there that a national plan must be developed for the attainment of economic security and social justice in post-war reconstruction, and that a national plan requires national action. For this purpose a Bill was moved in the House of Representatives

on October 1, 1942, in which provision is made for giving much wider powers to the central government than those in the present constitution of 1900. It is not contemplated to rewrite the Australian constitution on the basis of the South African model, thus giving to the Commonwealth unlimited legislative power and leaving to the states only such powers as might be assigned to them by the Commonwealth; nor is it contemplated to rewrite the division of powers on the Canadian model, thus giving the residuary powers to the Commonwealth and only such powers to the states as might be enumerated; nor yet is it contemplated to make a number of detailed alterations in sections 51 and 52, which define the powers respectively of the Commonwealth and the states, adding some new ones and striking out limitations from some others. The amendment proposed is a bold one. It consists of the insertion of a new section (60 A), which allots to the Commonwealth Parliament so broad a power as to be adequate for carrying into effect all measures of post-war reconstruction. Nor is a time limit fixed for the duration of the comprehensive power now being taken. It will remain available as long as the need that calls it into being remains. If the Bill is carried in Parliament a popular referendum will be taken on it, which will decide the fate of the amendment. The way will thus be open for the necessary improvement in the constitution.

It is but natural that the people in India would wish for a constitution that would be adequate to the needs of modern times from the very start instead of being compelled to improve it by subsequent amendments. An earnest effort should certainly be made in this direction. But what is of even greater importance is that we must be willing to effect a compromise if it is called for in order to reach general agreement. For it must always be borne in mind that no constitution will work which is not based on popular support. Miss Headlam-Morley points out in her interesting work that the constitutions of many of the new states in Europe contain clauses which are sometimes inconsistent or even contradictory on account of compromises having to be reached between groups holding different views. But she proceeds to point out "this is not altogether a disadvantage; considered merely as a constitution, the result may be less satisfactory than if one party had been able consistently to carry

through its ideas, (but) the practical advantage remains that the constitution as a whole was passed by a large majority and rests on the support of the great mass of the nation." And a constitution agreed to by all important sections of the people, though imperfect in itself, has greater chances of practical success than a constitution which is more logical and theoretically better but which is unable to win the assent of large elements in the population. This is not to say that no regard should be paid to basic principles. Indeed, they must be strongly insisted upon and public opinion educated in them. But the final form of the constitution can only be such as will meet with the acceptance of the people. To this task of constructing a constitution which will be founded on sound principles and which will at the same time be acceptable to the people as a whole we shall soon be called. It is to be fervently hoped that we shall perform it with knowledge, skill and wisdom, and that Indian self-government, which is at present only a virtuous expression so far as the British Government is concerned, will be translated by our efforts into a glorious achievement.

Gokhale Institute of Politics and Economics, Poona 4

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