

# All Parties Conference 1928

4

Supplementary Report  
of the Committee

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

*Price Eight Annas*

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## LALA LAJPAT RAI

It is painful to us to have to issue this supplementary report without the signature of our late distinguished colleague Lala Lajpat Rai who passed away suddenly after the last meeting of the Committee and before this report was ready. Irreparable as the loss of this great man is to the whole country, it falls with special severity on us who had the honour and privilege of being associated with him in his life's last great work. It is to his deep earnestness and untiring labours that the main Report and the Lucknow Resolutions owe their wide acceptance throughout the country and poor consolation as it is we still have the melancholy satisfaction of being able to say that the conclusions embodied in this report had his full approval. He was a great force making for unity and, if he had been spared, was certain to contribute materially to the success of the Convention as he did at Lucknow in August. He is not with us here any more but the work of the Convention is of the nature of a sacred trust left by the departed patriot and the inspiration of his own lofty example will, we are confident, lead us to success.

## INTRODUCTORY

Our task now is to carry out the instructions given to us by the Lucknow Conference. That task we have endeavoured to perform. We venture however to make some observations in the hope and belief that they may remove some of the misapprehensions which have arisen in certain quarters in regard to the scope and effect of our recommendations.

We did not expect complete unanimity about our recommendations. There is nothing more controversial in human affairs than the evolution of a constitution. Whenever such an attempt has been made, whatever the circumstances have been, peaceful or disturbed, opinion has been sharply divided. We expected, therefore, a sharp division of opinion in India. It has been an agreeable surprise to us, however, that these differences of opinion have not been very substantial or fundamental. Such differences as have arisen are, in our opinion, indicative of a healthy growth of public interest in constitutional questions. The issue of the constitution has become a live issue and one is bound to note that the various opinions are based on the strength and seriousness of conviction. The public mind has been impressed and stirred to an extent not experienced before.

Our critics belong to two large groups—those, chiefly English, who describe our recommendations as fantastic or impractical, and those in India who think that we do not go far enough or who criticise details. We have little to say to our foreign critics. Reason seldom, if ever, makes a strong appeal when self-interest is concerned. "The convictions of the mass of mankind," said John Stuart Mill, "run hand in hand with their interests and class feelings. We have a strong faith, stronger than either politicians or philosophers generally have, in the influence of reason and virtue over men's minds, but it is in that of the reason and virtue of their own side of the question. We expect few conversions by the mere force of reason from one creed to the other."

We are not sanguine enough, therefore to expect to convince or convert those who have made it their business in the past to carry on an active propaganda in the English press and elsewhere against India. But even those who are habitually hostile to us have found it impossible to ignore the Report. The real conflict lies between two sets of ideas—the democratic and the autocratic. We seek to establish a democratic form of government. Our

English critics, long used to unfettered autocracy in India, cannot swallow this democratic pill, in spite of their loudly expressed enthusiasm for democracy nearer home. This enthusiasm for democracy resolves itself in India into the perpetuation of autocracy under the hollow shell of democratic forms. A false affinity to democratic ideals and methods without its essence is even more undesirable than naked autocracy; for it misleads the superficial.

A charge brought against us by our critics in England is that we have followed European and particularly British models and have betrayed an utter lack of originality. We frankly confess that we have not been original. We have been content to follow models which have been tried and tested in other parts of the world and which even the framers of the Montagu-Chelmsford constitution professed to follow. There is no patent in constitutions, and we were not aware of the fact that it is a special virtue in a constitution that it should be unique and unlike all others.

Those who imagine that democracy is the special prerogative of the west know little of history. But whatever the past may have been we should like to know from our critics what their alternative is to democracy. The only alternative, so far as we can see, is some form of autocracy.

The seat of autocracy, as far as we are concerned, has been Whitehall, and we are inclined to think that this excessive desire for an "oriental" constitution for India means a desire to perpetuate the autocracy of Whitehall in some shape or form. But it is time that our critics realised that whatever else may happen it is clear that no kind of autocracy is going to be tolerated in India. In his speech at Albert Hall on October 27, Prime Minister Baldwin said: "absolutism in monarchies is dead and absolutism in States is going."

It is said sometimes that although autocracy has to go ultimately there must be several steps leading up to its total abolition. Caution and expediency are sometimes necessary for the politician or statesman but there are occasions when half measures are dangerous. That time has come in India to-day.

There can be no question now of provincial autonomy with the Government of India or the Secretary of State retaining their powers. Only if the fullest responsibility is cast on the shoulders of the legislatures can they be expected to discharge their duties fearlessly and efficiently. Absence of such responsibility or divided responsibility leads to all manner of anomalies and monstrosities and woefully affects the morale both of public life and public administration.

We have had an example of this in the communal tension that has prevailed in the country during the last three or four years. The ardent communalist feels that his strength lies in feeding

and supporting the communal feeling. The administration finds it difficult to control the enthusiasm or fanaticism of the communalist except by compromises which are seldom successful. The position could not have been worse under responsible government where law and order rest with a popular legislature.

The ranks of our critics have been joined recently, we regret to say, by the Aga Khan. He tells us that "the British people could never honourably agree to leave an armed force, or even civil administrators, in a country for the good government of which it was no longer responsible.....If the British did this in a fit of madness, of which there has been no parallel in history, they would go down, not only in the estimation of the whole world, but in history for all time, for supplying armed force to a country wherein their responsibility had come to an end to be administered at the beck and call of other people." The Aga Khan is very solicitous about the honour and prestige of the British people. We wish he were equally concerned with the honour of his own country and people. There are some things to which the Indian people also will never agree and one of these is the perpetuation or continuation of British autocracy in India. The Indian people, we believe, are still prepared to welcome honourable co-operation with the British in many fields but that co-operation cannot be domination of any kind. We are prepared to welcome British experts, civil or military, on terms honourable to both parties. If, however, they only wish to come here to dominate and not on any other conditions then they are welcome to stay away. We shall take the risk and make other arrangements.

The Aga Khan's argument is creditable neither to the British nor to the people of this country, and if it represents any responsible opinion in England, we can only say that there was little of genuineness about the declarations that have so frequently been made about the establishment of responsible government in India. The internal position in India is not and cannot be worse than it was in Canada when Lord Durham wrote his famous report, or even when responsible government was actually established in Canada. He describes the French and the British "not as two parties holding different opinions and seeking different objects in respect to government but as different races, engaged in a national contest." "The mutual dislike of the two classes", says Lord Durham, "extends beyond politics into social life, where, with some trifling exceptions again, all intercourse is confined to persons of the same origin. Grown up persons of a different origin seldom or never meet in private societies and even the children, when they quarrel, divide themselves into French and English like their parents. In the schools and the streets of Montreal, the real capital of the Province, this is commonly the case.....Such a sentiment is naturally evinced

rather by trifles than by acts of intrinsic importance. There has been no solemn or formal declaration of national hostility, but not a day nor scarcely an hour passes without some petty insult, some provoking language, or even some serious mutual affront, occurring between persons of French and British descent."

A similar argument about India's incapacity to defend her frontiers and the consequent impossibility of India achieving responsible government was advanced in 1919. In dealing with it, Mr. Montagu said: "Parliament, I think, must see that you do not at one and the same moment withhold things for a particular reason, and then refuse the opportunity of procuring them. Do not at one and the same time say it is only a minority that wants them, when that minority tries hard to convert the majority. You must expect to see political life developed throughout India. Do not deny to India self-government, because she cannot take her proper share in her own defence and then deny to her people the opportunity of learning to defend themselves. These are problems of which Parliament takes upon itself the responsibility by the passage of this Bill."

The Aga Khan advocates independence for each Indian province and says that the position of each province must be "akin to that of Bavaria in the former German confederation, rather than that of an American State or a Swiss Canton." Some Indian princes and some Indian politicians, particularly of the Muslim community, have also laid stress on the future constitution being of a federal and not of a unitary type.

The Aga Khan's reference to Bavaria is, we think, particularly unfortunate. "The North German confederation," says Gooch in his book on Germany, "was transformed into the German Empire by the adhesion of the Southern States, and the *amour propre* of Bavaria was flattered by some innocent constitutional privileges. The Reich consisted of twenty two States, and the three Hanse towns. The Imperial dignity was conferred on the kings of Prussia in perpetuity, but Bismarck took care not to ruffle the feathers of the German Princes. King William became German Emperor, not Emperor of Germany, and the juridical sovereignty of the Reich was held to reside in the totality of the federated governments. The constitution, indeed, represented a skilful compromise between conflicting claims and principles. . . . Little enthusiasm for Prussian hegemony could be expected in the south, and the achievement of German unity under Prussian headship caused as little satisfaction to Gervinus and Constantin Frantz as the consummation of Italian unity under the House of Savoy brought to the republican soul of Mazzini." Again, Emil Ludwig in his "Life of Bismarck" says, "as a liegeman of the king of Prussia, as a Knight of Brandenburg, his only concern was with the expansion of Prussia; and he would much rather, after

the manner of earlier centuries have conquered German princes in order to enlarge Prussia, than have troubled himself about the problems of the Germanic federation. 'Primus' " was what he wanted to be and only perforce 'inter pares.'" We sincerely hope and trust that the analogy of Bavaria will not be pressed as a model for an Indian federation.

There has been a great deal of argument in the country on the respective merits of a federal or unitary type of government. We would like to point out however that political experience in other parts of the world has shown how impracticable it is to establish a new constitution on either an exclusively federal or an exclusively unitary model. The tendency in recent times has been towards a compromise. In some constitutions one type dominates, in others the other type. On this question we should like to quote a passage from Brand, a writer who played a considerable part in the evolution of the constitution of the Union of South Africa. In his book on South Africa he says : "Federalism is after all a, *pis aller*, a concession to human weakness. Alexander Hamilton saw its dangers, and only acquiesced because by no other means was union possible. In Canada, Sir John Macdonald strongly favoured a legislative union, but was obliged to bow to the intense provincialism of Quebec. In Australia the narrow patriotism of the different states has imposed upon the Federal Government limitations which are generally admitted to be checking that country's advance. Federalism must be accepted where nothing better can be got, but its disadvantages are patent. It means division of power and consequent irritation and weakness of the organs of government, and it tends to stereotype and limit the development of a new country. South African statesmen have been wise to take advantage of the general sentiment in favour of a closer form of union."

In drawing up our proposals we have deliberately declined to be overborne by one type or the other. We have borne in mind the peculiar position of India and have provided for the development of the fullest possible provincial life compatibly with national interests. We have kept before us the peculiar problem of minorities in various provinces, which, in our opinion, necessitates the reservation of a certain measure of interference, in cases of grave emergency, on the part of the central government. The limits we have provided for provincial activities and functions are very wide, and within these limits provincial governments will be masters within their own houses, free from the control of the central government. It is obvious, however, that there is a very large field of state activity which, in any system of stable administration, must be covered exclusively by the central government which alone can safeguard national interests and reconcile conflicting claims between province ar

province. It is from this point of view that we have approached our task and we are happy to be able to say that the vast majority of those of our countrymen who have thought over the matter have expressed their approval of the line adopted by us. We trust that in examining our proposals more heed will be paid to the substance and less to academic theories.

Our proposal to have adult franchise has also been subjected to some criticism though we are glad to note that it has met with a large measure of support. This proposal was part of the communal recommendations and cannot be separated from them. We are fully aware of the difficulties of adult franchise, but both theory and practice strongly support it. Professor Laski has pointed out that "neither sex, nor property, neither race nor creed, ought to prevent a citizen from aiding in the choice of his rulers. This choice may often be wrong, but then democracy lives by the method of trial and error. If the citizen has rarely the knowledge necessary to give a reasoned choice, it is the duty of the State to organise on his behalf easy access to such knowledge. For, whenever the body of voters is limited, the welfare realised usually excludes that of the persons excluded. No test has been devised which enables us to limit the franchise in such a fashion as to equate civic virtue with the possession of the franchise. Its limitation to property owners, was disastrous to those who did not own property. Its limitation to a creed or caste meant always special privilege to that creed or caste. Even Mill's test of education beyond simple literacy is unrelated to the virtues we require." Another recent writer on the new democratic institutions of Europe, observes. "The new constitutions have with one accord adopted equal universal suffrage. It is the inalienable right of every citizen to vote, and people insist on expressing their sovereignty directly, and not through the medium of the more intelligent or wealthy classes in society."

Theory thus is entirely in its favour. In this connection the recommendations of the Ceylon Commission are of some interest. They have advocated a wide franchise because this would expedite the passing of progressive social and industrial legislation, and would lessen corruption and the manipulation of the electorate. A wide franchise they felt would also automatically raise the position of the depressed classes. Dealing with this question, they say: "We have here to consider whether or not it was desirable that they should be given some form of special representation. It seems to us, however, apart from the general considerations we have advanced, that the enfranchisement of these people and the provision of equal and adequate educational facilities are the true remedies for their condition."

It has been stated that adult franchise involves two dangers.

The first is that the electorates are very largely uneducated and cannot be expected to exercise the franchise intelligently or to control their representatives. The second is the vastness of the country and the inadequacy of the means of transport which will make it difficult to evolve a satisfactory machinery for the functioning of the system. As regards the first we think that the repeated exercise of the right to vote is in itself a powerful educative factor. Literacy or some education has not been the test of the franchise in other countries when adult franchise was adopted and we see no reason why it should be so in India. We maintain that the average Indian voter understands his business and that he can form an opinion on matters that affect him directly. He will be no more liable to wire-pulling than the average voter in other countries. A Parliament elected on a narrow franchise is more of a menace to stability than a Parliament elected on a wide franchise. A comparatively small class dominating over Parliament necessarily looks after itself and largely ignores the interests of others and thus gives rise to disaffection and discontent which may become a great menace to stability of government and society.

The second objection to adult franchise is the difficulty of devising machinery for the working of the system. We appreciate the difficulties but we certainly do not think that it is impossible to devise the machinery or to work it. It will no doubt involve heavier public expenditure but the principle involved is well worth paying for.

A few of our critics have presumed to say that our proposals are meant to ensure the supremacy of the Brahmans in the government of the country. If there was the slightest chance of this or of any small class becoming supreme or dominant adult franchise would do away with it. But to those who know anything of the texture of Indian politics it is apparent that political leadership during the last fifty years has not been the monopoly of Brahmans. Such Brahmans as have come to the fore in the political life of the country—men like Mr. Tilak, Mr. Gokhale and Mr. Shastri—have acquired their position and influence by the possession of the very same qualities of leadership which have enabled non-Brahmans like Mr. Gandhi, Mr. C. R. Das, Lala Lajpat Rai and Mr. Jinnah to lead and influence public opinion in India. We might also refer to the great leaders of the past such as Dadabhai Naoroji, Pherozeshah Mehta, Budr-ud-din Tyabji, Bhupendra Nath Basu, Kalicharan Banerji (a Christian) and R. C. Dutt.

We have discussed at length in the main Report the problem of the Indian States and their relation to the future commonwealth Government. Our position however seems to have been misunderstood in certain quarters and we shall try to remove this

misconception and meet some of the criticisms made.

In the Report we quoted extensively from Lord Reading's letter dated 27th march, 1926. We did so to give the latest official and authoritative exposition of the theory of relationship between the British Government and the Indian States. We did not discuss the merits of the claim put forward in that letter. Indeed we pointed out that the letter had been criticised and had caused much dissatisfaction and searching of heart. We should not therefore be understood to endorse this letter or the principles it contains.

We have been led to believe from all that has appeared in the press in India and England and from Sir Leslie Scott's letter which appeared in the Law Quarterly Review that the Indian Princes were anxious to urge and establish the theory that their relations were directly with the Crown and that the Government of India were acting as the agents of the Crown. Further, that the Government of India would always continue to be of one particular pattern and any change in its character and composition would necessarily affect the continuance of these relations. We question the soundness of this theory and we have pointed out and emphasised the dangerous implications that follow from it.

Since our Report was published, it has been announced that the Princes are not going to raise this question before the Butler Committee. We are glad of this decision although the Princes have not so far authoritatively repudiated Sir Leslie Scott's views on the matter.

In our Report we expressed our sympathy with the desire of the Indian Princes to have their grievances remedied. How far and how best these grievances can be remedied, we stated, were matters for investigation and joint consultation. The Maharaja of Patiala has dealt with the present position of the Princes in an article in the November number of the Contemporary Review. Referring to a scheme put forward by the Princes before Mr. Montagu, he says: "We wanted three things: a Chamber of Princes, which would enable the States to speak with a common voice, and thus take their share along with British India in framing policies and taking decisions which affected the whole of India in common; an advisory board . . . . to be associated with the Political Department, . . . . and lastly a system of arbitration . . . . between the States and the Government of India."

So far as the demand for arbitration is concerned we have ourselves made a recommendation to that effect in our Report. In regard to the Chamber of Princes, politicians in British India are surely not responsible for its defects and failings. Nor has the Indian Legislature been in any way responsible in framing policies for the Indian States. That responsibility has rested entirely on the Government of India or the Secretary of

State. The Maharaja of Patiala complains that British India dictates the policy for the whole of India and the States are given no share in framing it. This is true but by British India here is only meant the Government of India and the Secretary of State, and not the Indian Legislature.

We have not suggested nor do we desire to withhold from the States what belongs to them or should belong to them legitimately. Clause 85 of our draft has been subjected to some criticism on the ground that it seeks to perpetuate the very evils against which the States are now protesting. We should like to make it clear that we do not desire any encroachment upon the rights of the States. We stand for just and equitable treatment and indeed in the main Report we stated that "the Government of India of the future will discharge their obligations in their integrity and with every desire to promote harmonious relations and no desire to override cherished privileges or sentiments."

It has also been urged that clause 85 arrogates to the Commonwealth a position of superiority over the States. We would point out however that if the Government of the Commonwealth must discharge obligations towards the States, it is only fair that it must also exercise those rights which under the constitution will belong to it. There is no question of superiority or inferiority.

It has also been urged by the Maharaja of Bikaner that the words "arising out of treaties, engagements, sanads, or similar other documents" in the second part of clause 85 may exclude certain fiscal and other justiciable matters. We would point out that it is a question of policy whether fiscal matters should be referred to a judicial tribunal or determined by some other machinery which may be established with common consent. Other justiciable matters may be brought before the Supreme Court if it is found that they can be dealt with in this way. We have no objection to this. If they cannot be so dealt with we would be willing to co-operate in exploring other avenues of settlement.

Lastly, we would recall that we have referred in our original Report to the possibility of a Federation between British India and the States. We stated then that "if the Indian States would be willing to join such a Federation, after realising the full implications of the federal idea, we shall heartily welcome their decision and do all that lies in our power to secure to them the full enjoyment of their rights and privileges." We stand by that opinion. We note that the Maharaja of Patiala says, in the article referred to above, that the Indian Princes "are perfectly prepared to entertain the idea of a Federation such as has been proposed in the memorandum presented to the Simon Commission by the European Association of India." If the idea of a Federation is being entertained seriously we would suggest that the Indian.

Princes might give some consideration to the proposals put forward by Indian politicians also. An Indian Federation, if it is to be a reality, must not only define and regulate the relations between the Commonwealth and the States on a just and equitable footing, but must also lay the foundations of a strong central authority and at the same time should give the fullest measure of freedom to each constituent unit to work out its own evolution.

The telegraphic summary of the debate in the House of Lords initiated on Lord Olivier's motion on the 5th December was received when these pages were in proof. We can only take a very brief notice of it. There should be no doubt now that the position we have taken in the main Report and in the preceding pages is thoroughly justified. Three main points emerge clearly from the debate. The first and the most important is that "the rights and duties of the Paramount power set forth in the famous letter to the Nizam of Hyderabad" have received the approval of the British Cabinet. The result is that the Princes have not at all advanced their case by their recent activities in India and in England and remain exactly where they were when the "famous letter" was published. We offer them our sincere sympathy. The next point is that it is not the intention of the British Government "to compel or in any way force upon the States a different constitution than the one they at present enjoy." There is of course no question of any compulsion and we never suggested any, but it is for the Princes to consider whether they are content with the "constitution they at present enjoy" which is none other than that laid down in the "famous letter." It is a mischievous suggestion which we entirely repudiate that there is any scheme in contemplation by which the Princes are to be "placed in a position of subservience to the legislatures of the central or provincial governments." The idea of a democratic legislature holding in subservience any class of persons who agree to participate in its proceedings is wholly inconceivable to us. The third point arises from the significant remark of Lord Reading. The author of the "famous letter" has said that the Princes were never slow to fall in with any view that might be put forward by the Government of India which was founded upon a desire to protect India or strengthen India in any way." The plain English of this in our opinion is that the Princes are to be used to strengthen the present, autocratic government of India. We trust the Princes will seriously consider their position in the light of this debate and choose between the continuance of their rights and duties as set forth in the "famous letter" and the honourable membership of the Commonwealth of India. We hope they will choose wisely.

## CHAPTER I

### THE ENLARGED COMMITTEE

After making certain amendments to the recommendations of the Committee the Lucknow Conference by its resolution number 13 adopted in principle the constitution outlined in the main Report. The same resolution continues:—

“This Conference resolves to re-appoint the Nehru Committee with power to co-opt and authorises it to select and instruct a Parliamentary draftsman to put the constitution outlined and recommended by it as accepted by this Conference with all necessary ancillary and consequential provisions, in the shape of a bill to be placed before a convention of the representatives of all political, commercial, labour and other organisations in the country present at this Conference and others of not less than two years' standing, provided that nothing will be added or altered which is inconsistent with the agreements and decisions arrived at by this Conference.

The Committee shall take all necessary steps for the holding of the said convention on such date as may be fixed by it.

In drafting the bill the Committee shall take into consideration Schedule I and Schedule II to the Report and the Committee is authorised to make such alterations in the said schedules as it may think necessary.”

Immediately after the conclusion of the Conference some members of the Committee present in Lucknow met and in consultation with the members of the Working Committee of the Congress selected Dr. Besant and the following gentlemen to be co-opted as members of the Committee: Dr. M. A. Ansari, Pandit Madan Mohan Malaviya, Lala Lajpat Rai, Maulana Abulkalam Azad, Mr. M. A. Jinnah, Mr. C. Vijayaraghavachariar and Maulana Abdul Kadir Kasuri. This selection was circularised to the members of the Committee who were not present at this informal meeting and their approval was subsequently received. With the exception of Mr. Jinnah who was not in the country the co-opted members signified their assent to serve on the Committee. On his return from Europe Mr. Jinnah declined to act. Our colleagues Messrs J. R. Pradhan and M. N. Joshi were unable to attend any of the meetings of the committee. We are sorry the time at our disposal did not permit of our obtaining their approval of the draft report before it was sent to the press. We

are therefore compelled to issue it without their signatures.

At a meeting of the enlarged Committee held at Simla on the 26th September it was decided to hold the Convention in Calcutta on the 17th December in order to enable the Indian National Congress and the other organisations to consider the decisions of the Convention at their annual sessions which are usually held during the Christmas week. Having regard to this decision it was pointed out that the interval was not sufficient to enable the Committee to carry out the directions of the Conference and have its recommendations put in the form of a bill by a Parliamentary draftsman. It was also considered premature to have such a bill drafted before it was known what the decisions of the Convention would be. The idea of the bill was therefore dropped and the publication of this supplementary report by the Committee on the points referred to it by the Lucknow Conference was considered more desirable.

The question of the date of the Convention was reconsidered at the meeting of the Committee held at Delhi on the 5th November. It was agreed that the date should be fixed with due regard to the convenience of all the organisations and so far as possible before the open sessions of the Congress. The 19th December was therefore provisionally fixed and in view of a press statement issued by Mr. Jinnah that the Convention should follow the annual sessions of the various organisations a sub-committee consisting of the Chairman, Dr. Ansari and Maulana Abulkalam Azad was appointed to confer with Mr. Jinnah and to communicate with the other members of the Committee if there appeared "grave reasons for not holding the Convention before the Congress." The sub-committee accordingly met Mr. Jinnah at Lucknow but unfortunately no agreement could be reached. Mr. Jinnah was in favour of holding the Convention after the annual sessions of the various organisations for the reason that it would only then be possible for the representatives of the Muslim League to attend the Convention with full authority to take a responsible part in its deliberations. This opinion was not shared by many members of the Council of the League which was meeting at the time as it was thought that the Council itself could give the requisite authority but Mr. Jinnah adhered to his view. The reason given did not apply to other organisations whose executives, with the exception, perhaps, of one or two, had duly elected their representatives to attend the Lucknow Conference where important decisions were arrived at. This they did in compliance with an appeal made by Dr. Ansari to send duly elected representatives to the Convention.

We were of opinion that any authority given to representatives could not obviate the necessity of formal ratification by the parent institutions and that the result of holding the Conven-

tion after the annual sessions of the various organisations would be to leave the decisions of the Convention unconfirmed for a whole year which was highly undesirable. The Committee therefore decided to meet the objection of Mr. Jinnah by so arranging the dates of the Convention as to enable the Muslim League to appoint duly authorised representatives at its annual sessions and at the same time to afford the fullest opportunity to all organisations to consider the decisions of the Convention at their annual sessions and pronounce their final opinions on them. The 26th, 27th and 28th December were fixed by the Council of the Muslim League at Lucknow for the annual sessions of the League. The Convention will open on the 22nd December which will probably be taken up with the inaugural speech of the President and other formal proceedings. The next two days will be given to more or less non-controversial matters. It is expected that in the course of these discussions occasion will arise for informal consultations between the various parties and meetings of any committees which may be appointed by the Convention to report to it on matters arising out of the discussions. There will therefore be no session of the open Convention on the 25th and 26th December and the various parties will be at liberty either to hold their separate meetings or joint conferences with other parties on those days. The Subjects Committee of the Indian National Congress will also meet on the 25th and the 26th to discuss the resolutions to be brought up before the Congress. The Convention will meet again on the 27th and will continue its sittings on the 28th and if necessary also on the morning of the 29th to discuss the communal and such other questions as may be reserved at the previous session. The Muslim League will have ample opportunity on the 26th and the 27th to authorise or instruct its representatives who will be able to attend the final sessions of the Convention with the necessary authority to deal with the communal and any other questions which they may like to raise. The Congress will meet on the 29th, 30th and 31st December with all the materials necessary to enable it to give its final verdict. This arrangement ought to meet the wishes of all parties. We have given the matter our most anxious consideration and have come to the conclusion that the course adopted is in the circumstances most desirable as it makes it possible and convenient to all organisations to be properly represented at the Convention and also gives them the opportunity of considering the decisions of the Convention in their full sessions.

We desire to take this opportunity to record our sense of gratefulness to the numerous bodies and associations which have passed resolutions expressing their approval of the scheme outlined by us. The general appreciation of our humble effort has been very encouraging to us and we treat it as a clear indication

of the strength of will of the nation to be satisfied with nothing less than full responsible government.

## CHAPTER II

### AMENDMENTS OF THE RECOMMENDATIONS

#### (A) *The Communal Aspect*

1. The most important question which engaged the attention of the original Committee and was discussed at length in the main Report was the question of reservation of seats for Muslim majorities in the Punjab and Bengal. It is gratifying to note that the recommendations of the Report were accepted by the Hindus and Muslims of the Punjab at the Lucknow Conference and the clauses relating to Bengal were formally accepted on behalf of Bengal Muslims and Hindus by Messrs. Akram Khan and J. M. Sen Gupta. The Punjab agreement is embodied in resolution No. 6 of the Lucknow Conference set out at p. 164 of the 3rd edition of the Report. All that is necessary for us is to add a proviso to Clause III (a) (p. 123). The proviso will run as follows :—

“Provided that the question of communal representation will be open for reconsideration if so desired by any community after working the recommended system for 10 years.”

It is a matter of great satisfaction that the Punjab and Bengal Provincial Muslim Leagues as well as the Punjab Provincial Khilafat Committee have at their open sessions fully accepted this agreement. The question of reservation of seats for Muslim majorities must therefore be taken as finally settled, the Muslims of the only two provinces concerned having accepted the Lucknow agreement. We are aware that the seceders from the old Muslim League in the Punjab and certain sections of Muslims in the minority provinces are still dissatisfied with the Punjab Hindu Muslim agreement. As against the former we have the fact that numerous public meetings held in almost all the important towns of the Punjab and attended by thousands of Muslims have passed resolutions approving the recommendations and that not a single public meeting has been called to support point of view of the seceders. We should have been glad to notice some of the points they have tried to make against our recommendations if we were only sure that they themselves believed in those points. When we find these gentlemen approaching the Statutory Commission with the most reactionary proposals insisting on communal electorates, no transfer of power to the popular repre-

sentatives in the Central legislature and continuation of law and order as a reserved subject in the Provinces we may be excused if we refuse to treat them seriously when they take us to task for not recommending proportional representation, a complete federal system of Government from top to bottom, and full provincial autonomy. As regards Muslims in Provinces other than the Punjab and Bengal, we are of opinion that they are entirely out of court as they are not in the least personally affected and have not been briefed by their brethren of the Punjab and Bengal who, as pointed out above, have accepted our recommendations. Bengal Muslims generally must be taken to have accepted the resolution of the Provincial League approving the Lucknow decisions as no other Muslim meetings have been held in that province either for or against that resolution. We therefore submit that the controversy about reservation of seats for majorities must now be taken as closed.

2. The connected question of reservation of seats for minorities was considered by us at our meeting held at Delhi on the 5th November and in compliance with the general Muslim desire expressed in the press and at various meetings we have added the following proviso to clause IV.

“Provided that the question will be open for reconsideration after the expiration of that period if so desired by any community.”

A great grievance has been made by certain sections of the Muslims against the main Report for not allowing the continuance of the weightage at present enjoyed by the community in provinces where it is in a minority. The reasons for that recommendation are fully set out at pages 51 to 53 of the main Report. We desire to point out here that the Madras Congress resolution which is accepted by most of these critics allows no weightage to minorities except as a result of reciprocal concessions by mutual agreement. No question of such concessions arises on our recommendations as we have not allowed any weightage to the Hindu or any other minority. Under the Madras resolution the Muslim minorities would be not only not entitled to claim any weightage but would be precluded from contesting additional seats beyond those warranted by their strict proportion to the population. So far from depriving them of any advantages they would have had under that resolution we have actually given them a valuable additional right which on reconsideration we hope they will appreciate.)

3. The question of the separation of Sind from the Bombay Presidency has been settled by mutual agreement which was adopted by the Lucknow Conference in resolution No. 4 vide page 162. It is one of the tragedies of communal controversy that the two bitterest opponents of the Lucknow agreement

Maulana Shaukat Ali and Maulvi Shafi Daudi are the signatories to the Sind agreement and have not yet explained how they came to sign it if as they now say it puts "Islam in danger."

We therefore unhesitatingly recommend that the Lucknow resolution be substituted for Clause V of the main Report vide page 124.

4. The word "Baluchistan" was by an oversight omitted from Clause VII (p. 124). By resolution 12 of the Lucknow Conference (p. 166) this omission was rectified and the clause will now read as follows :—

"The N. W. F. Province, Baluchistan and all newly formed provinces by separation from other provinces, shall have the same form of government as the other provinces in India."

5. The question of language was referred by the Lucknow Conference to us for report (resolution No. 9 p. 165). We have adopted the suggestions of the Conference and recommend that Clause 4 (v) of the original recommendations (p. 102) dealing with fundamental rights be amended by the addition of the following proviso :—

"Provided that adequate provision shall be made by the State for imparting public instruction in primary schools to the children of members of minorities of considerable strength in the population through the medium of their own language and in such script as is in vogue among them.

Explanation—This provision will not prevent the State from making the teaching of the language of the Commonwealth obligatory in the said schools."

In accordance with the same resolution of the Lucknow Conference we also recommend that the following new clause be added to the original recommendations after clause 4 under the new heading "Language" (p. 103) :—

4 A. (i) The language of the Commonwealth shall be Hindustani which may be written either in Nagri or in Urdu character. The use of the English language shall be permitted.

(ii) In provinces the principal language of a province shall be the official language of that province. The use of Hindustani and English shall be permitted."

6. The last question having a communal aspect referred to us was the amendment of clause 87 (p. 123). We were directed to amend that clause "so as to safeguard the interests and rights of the various minorities in the central legislature with regard to the amendment of the constitution." (Resolution 7, p. 165). A sub-committee consisting of Mr. Chagla, Sir T. B. Sapru and Pandit Hirday Nath Kunzru went into the question and reported that the needs of the situation would be met by substituting the

words "4/5ths of those present" for the words "2/3rds of the total number of members." We entirely agree and recommend that the said amendment be made.

It will be seen from the above that we have gone a very long way to meet the Muslim demand. The only point upon which we are sorry we cannot see eye to eye with them is the question of reservation for them of 1/3rd of the total number of seats in the Central legislature. This point has been fully dealt with in the main Report (p. 53 last paragraph and p. 54). We have not heard anything since to induce us to alter our opinion. On the contrary we are convinced that the fears of the Muslims are more imaginary than real. We may point out that our recommendations in this respect are more favourable to Muslims than the Madras Resolution which provides that the proportion agreed upon for the provinces shall be maintained in the Central Legislature. We have fixed no proportions for the Punjab and Bengal. With the unfettered rights we have recommended for Muslims in those provinces to contest any number of seats they like, the chances are that they will capture more seats for the Central legislature than they are entitled to in strict proportion to their population.

We dealt with the last District Board elections in Bengal at p. 47 and 48 of the main Report and gave interesting figures relating to it in Appendix C. (p. 154). The figures for the Punjab were not then available to us but we anticipated similar results in that province also. We are now in possession of full particulars and find that our expectation was justified. The figures now available are given in Appendix "A" to this report. They will appear at a glance to be even more illuminating than those of Bengal. In spite of the fact that the non-Muslim voters for the Punjab District Boards number about 3,02,000 and the Muslim voters about 2,68,000 only Muslims have captured 408 seats out of a total of 815 which is just over 50 per cent. In 15 out of 28 districts the Muslim members exceed Hindus and Sikhs combined. While there are 9 districts where no Sikhs have been elected and 4 where no Hindu has been elected there is only one district where the Muslims failed to capture a single seat. In two districts all the elected members are Muslims.

As we have shown in the main Report any attempt at the reservation demanded will upset the whole of our scheme. We are therefore strongly opposed to it. We appeal to the Muslims in the minority provinces to accept our recommendations in a generous spirit. The question does not arise in Bengal and the Punjab.

We cannot close this chapter without expressing our deep regret at the attitude taken by the Sikhs on the main Report and the Lucknow resolutions. Their case is fully considered in

that Report at pages 56 and 57 and we have again given our most anxious consideration to it. The complaint so far as we can understand it is against reservation of seats for Muslim minorities for a fixed period. The Sikhs do not stand to gain if this reservation is removed but have chosen to champion the cause of true nationalism and democracy by insisting on total abolition of reservation from every part of the country. We have not claimed that our recommendations can be justified by abstract principles. Indeed no constitution in the world can be supported by a strict application of those principles. All we claim is to have suggested a constitution which in all the circumstances of our country appeared to us to be just and reasonable. We regret we cannot remove the temporary reservation we have proposed on practical considerations simply to vindicate the highest principles of democracy.

There is one matter, however, in which the Sikhs have our entire sympathy and that is their proposal to introduce proportional representation in the Punjab. Our colleague Sardar Mangal Singh is strongly in favour of this system—we have discussed the question at length in the main Report (pp. 35 to 37.) where we have expressed our own approval of the principle but have refrained from recommending it on practical grounds. We shall be glad if a way out of those practical difficulties is found by the Convention.

## CHAPTER III

### AMENDMENTS OF THE RECOMMENDATIONS

#### *B. General*

We shall now deal with matters other than communal. Some of the amendments to the original recommendations have been made by the Lucknow Conference and suggestions for other amendments have been referred to us. We shall first take the former.

1. *Cl. 3 Definition of Citizen.*—In accordance with resolution No. 8 of the Lucknow Conference we have amended cl. 3 of the original recommendations by adding a fresh sub-clause as follows:—“who being a subject of an Indian State ordinarily carries on business or resides in the territories of the Commonwealth.”

At the time of writing this report our attention was called to the criticism of sub-clauses (a) and (b) of the original clause (3) that those sub-clauses exclude British subjects coming from the United Kingdom or the Dominions from acquiring rights of citizenship, while subjects of foreign countries naturalised in the Commonwealth of India are given that privilege. This criticism appears to us to be well-founded. The matter however was not discussed at any of the meetings of the Committee and we must therefore leave it to the Convention to consider the advisability of adding another sub-clause as follows: “or who being a subject of the Crown carries on business or resides in the territories of the Commonwealth.” If these amendments are carried out the sub-clauses will have to be re-arranged and clause (3) will read as printed in chapter IV.

2. We have carried out the amendment to clause 4 (ii) as decided by the Lucknow Conference by adding the words “all titles to private and personal property lawfully acquired and enjoyed at the establishment of the Commonwealth are hereby guaranteed.”

3. *Sub-Clause 4 (xvii)*—In accordance with resolution 11 we have added to this sub-clause the words “and Parliament shall also make laws to ensure fair rent and fixity and permanence of tenure to agricultural tenants.”

4. By resolution 13 the Lucknow Conference directed us to take schedules I and II of the Report into consideration and make such alterations therein as may appear necessary. This

direction was given in view of certain amendments proposed by Chowdhari Afzal Haq. Our colleague Maulana Abdul Kadir Kasuri informed us that the object of the amendments proposed by Chowdhari Afzal-ul Haq was to make it clear that legislation for the control of the subjects mentioned in items 28, 29 (a), 29 (b), 37 (a) (b) (c) and 38 of schedule I properly falls within that schedule but that the actual administration of those subjects must be left to the provincial governments. We have therefore added the words "Laws relating to the" before the word "control" in items 28, 29 (a) and 29 (b), and the same words before the word "welfare" in item 37 (a), before the word "provident" in item 37 (b), and before the word "industrial" in item 37 (c).

These were all the amendments which our colleague Maulana Abdul Kadir Kasuri considered necessary to schedule I and we have adopted his suggestion. No amendment of schedule II was proposed either at the Lucknow Conference or suggested to us at our meetings.

We now turn to the amendments upon which there is no resolution of the Lucknow Conference and fall within the matters referred to us for consideration and report.

5. We propose the following new clause to be added immediately after clause 13 and to number it as clause 13A.:—

(a) "In cases of grave emergency and in matters of serious controversy between provinces or a province and an Indian State, the Central Government and Parliament shall have all the powers necessary, and ancillary, including the power to suspend, and annul the Acts, executive and legislative, of a provincial government.

(b) The Supreme Court shall have no jurisdiction in cases where the Commonwealth Government or Parliament has acted in exercise of the powers under the preceding sub-clause."

The necessity for the clause will be quite evident. We find something similar to it in almost every written constitution. The clause no doubt confers extraordinary powers but no Central Government can be carried on without those powers. What is important for the safety and security of the people is that such powers should be under the control of Parliament and not merely in the hands of the Executive Government. We have taken care to establish such control.

6. Under clause 29 of the original recommendations the Governor of every province was to be appointed by the King. This has been the subject of some controversy. We are agreed that the appointment of a Governor should be made by the Governor-General-in-Council and therefore recommend that in clause 29 for the words "by the King and represent His

Majesty in the Province" the words "by the Governor-General-in-Council" be substituted. There was some discussion at our meeting as to whether the power should rest with the Governor-General or Governor-General-in-Council. The majority favoured the latter view.

7. Having regard to the amendment made in clause 29, clause 30 would now read as follows: "The salaries of Governors shall be fixed and provided by Parliament and until so provided shall be as in schedule....."

8. Clause 57 of the original recommendations provided for the removal of the Chief Justice and the other Judges of the High Court by the Governor-General-in-Council on an address by the Provincial Legislature. It was the general opinion at the Lucknow Conference that the powers should be exercised by the Governor-General-in-Council on an address from both Houses of Parliament. Apart from the fact that members of the Provincial Legislature cannot be expected to be entirely uninfluenced by local controversies difficulties will arise if there is one High Court for two or more provinces. We therefore recommend that for the words "by the Provincial Legislature" the following words be substituted: "from both the Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity."

9. It is not necessary to explain verbal amendments which we have recommended in certain clauses. For the convenience of the Convention all the recommendations made in chapter VII of the main Report are reprinted in the Appendix to this report and the amendments now recommended appear in italics.

These are all the amendments that we feel called upon to recommend.

We have considered resolution 14 of the Lucknow Conference which runs as follows:—

" This Conference declares that the agreements contained in the foregoing resolutions and decisions are based upon the assumption that the general scheme sketched out in the Nehru Report adopted by this Conference shall be given effect to as a whole in as much as the various provisions thereof are interdependent upon each other, and all the parties assembled in this Conference hereby agree that every one of them will stand by it as a whole and will refuse to accept any single part of it without giving full force and effect to all other parts. "

" Provided that any modification of this scheme may be accepted by the consent and agreement of all the parties. "

This resolution embodies a most important agreement between the parties but we are of opinion that there is no place for it in

the constitution itself. It is useful and operative only during the period preceeding the passing and adoption of the constitution and forms no part of it. We think it will serve its purpose if the resolution is confirmed by the Convention.

MOTILAL NEHRU  
TEJ BAHADUR SUPRU  
S. ALI IMAM  
MADAN MOHAN MALAVIYA  
ANNIE BESANT  
M. A. ANSARI  
M. R. JAYAKAR  
ABUL KALAM AZAD  
MANGAL SINGH  
M. S. ANEY  
SUBHAS CHANDRA BOSE  
VIJIARAGHAVACHARIAR  
ABDUL KADIR KASURI

## CHAPTER IV

### CONSTITUTIONAL STATUS OF INDIA

1. India shall have the same constitutional status in the *community*\* of nations, known as the British Empire, as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa and the Irish Free State, with a Parliament having powers to make laws for the peace, order and good government of India, and an executive responsible to that Parliament; and shall be styled and known as the Commonwealth of India.

#### *Operation of the constitution and laws*

2. This Act and all laws made by the Parliament of the Commonwealth thereunder shall be binding on the courts and people of every province, and of every part of the Commonwealth, notwithstanding anything in the laws of the Indian Legislature or of any province or in any Act of the United Kingdom extending to British India; and the laws of the Commonwealth shall be enforced in all Indian territorial waters.

#### *Definition of citizen*

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

- (a) who was born, or whose father was either born or naturalised, within the territorial limits of the Commonwealth and has not been naturalised as a citizen of any other country;
- (b) †*who being a subject of an Indian State ordinarily carries on business or resides in the territories of the Commonwealth;*
- (c) ‡*or who, being a subject of the Crown carries on business or resides in the territories of the Commonwealth;*
- (d) who is naturalised in the Commonwealth under the law in force for the time being.

Explanation.—No person who is a citizen of a foreign country can be a citizen of the Commonwealth unless he renounces the

\* The word in the Report was "comity."

† This clause was added by the Lucknow conference.

‡ This clause has been recommended by the enlarged committee to be added by convention.

citizenship of such foreign country in the manner prescribed by law.

### *Fundamental Rights*

4. (i) All powers of government and all authority, legislative, executive and judicial, are derived from the people and the same shall be exercised in the Commonwealth of India through the organisations established by or under, and in *\*due process of this constitution.*

(ii) No person shall be deprived of his liberty, nor shall his dwelling or property be entered, sequestered or confiscated, save in accordance with law. † *All titles to private and personal property lawfully acquired and enjoyed at the establishment of the Commonwealth are hereby guaranteed.*

(iii) Freedom of conscience and the free profession and practice of religion are, subject to public order or morality, hereby guaranteed to every person.

(iv) The right of free expression of opinion, as well as the right to assemble peaceably and without arms, and to form associations or unions, is hereby guaranteed for purposes not opposed to public order or morality.

(v) All citizens in the Commonwealth of India have the right to free elementary education without any distinction of caste or creed in the matter of admission into any educational institutions, maintained or aided by the state, and such right shall be enforceable as soon as due arrangements shall have been made by competent authority. † *Provided that adequate provision shall be made by the State for imparting public instruction in primary schools to the children of members of minorities of considerable strength in the population through the medium of their own language and in such script as is in vogue among them.*

*Explanation.—This provision will not prevent the State from making the teaching of the language of the Commonwealth obligatory in the said schools.*

(vi) All citizens are equal before the law and possess equal civic rights.

(vii) There shall be no penal law whether substantive or procedural of a discriminative nature.

(viii) No person shall be punished for any act which was not punishable under the law at the time it was committed.

(ix) No corporal punishment or other punishment involving

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\* The words in the report were "accord with"

† Added by the Lucknow Conference.

‡ This provision was added by the enlarged committee in compliance with resolution 9 of the Lucknow conference.

torture of any kind shall be lawful.

(x) Every citizen shall have the right to a writ of *habeas corpus*. Such right may be suspended in case of war or rebellion by an Act of the central legislature, or, if the legislature is not in session, by the Governor-General-in-Council, and in such case he shall report the suspension to the legislature, at the earliest possible opportunity for such action as it may deem fit.

(xi) There shall be no state religion for the Commonwealth of India or for any province in the Commonwealth, nor shall the state either directly or indirectly endow any religion or give any preference or impose any disability on account of religious belief or religious status.

(xii) No person attending any school receiving state aid or other public money shall be compelled to attend the religious instruction that may be given in the school.

(xiii) No person shall by reason of his religion, caste or creed be prejudiced in any way in regard to public employment, office of power or honour and the exercise of any trade or calling.

(xiv) All citizens have an equal right of access to, and use of, public roads, public wells and all other places of public resort.

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

(xvi) No breach of contract of service or abetment thereof shall be made a criminal offence.

(xvii) Parliament shall make suitable laws for the maintenance of health and fitness for work of all citizens, securing of a living wage for every worker, the protection of motherhood, welfare of children, and the economic consequences of old age, infirmity and unemployment \*and Parliament shall also make laws to ensure fair rent and fixity and permanence of tenure to agricultural tenants.

(xviii) Every citizen shall have the right to keep and bear arms in accordance with regulations made in that behalf.

(xix) Men and women shall have equal rights as citizens.

*Note:* Notwithstanding anything to the contrary in article (iv) the Sikhs are entitled to carry kirpans.

#### *Language*

4 A.† (i) *The language of the Commonwealth shall be Hindustani which may be written either in Nagri or in Urdu character. The use of the English language shall be permitted.*

\* This clause was added by the Lucknow conference.

† This section has been added by the enlarged committee on the recommendation of the Lucknow conference.

(ii) *In provinces, the principal language of a province shall be the official language of that province. The use of Hindustani and English shall be permitted.*

#### *Parliament*

5. The legislative power of the Commonwealth shall be vested in a Parliament which shall consist of the King, a Senate and a House of Representatives herein called the Parliament.

6. The Governor-General shall be appointed by the King and shall have, and may exercise in the Commonwealth, during the King's pleasure, but subject to this constitution, such powers and functions of the King as His Majesty may assign to him.

7. (a) There shall be payable to the King out of the revenues of India for the salary of the Governor-General an annual sum.....which, until the Parliament of the Commonwealth otherwise provides, shall be as in the schedule hereof provided.

(b) The salary of a Governor-General shall not be altered during his continuance in office.

8. The Senate shall consist of 200 members to be elected by the Provincial Councils, a specific number of seats being allotted to each province on the basis of population, subject to a minimum. The election shall be held by the method of proportional representation with the single transferable vote. (The Hare system).

9. The House of Representatives shall consist of 500 members to be elected by constituencies determined by law. Every person of either sex who has attained the age of 21, and is not disqualified by law, shall be entitled to vote.

Provided that Parliament shall have the power to increase the number of members from time to time if necessary.

10. (1) Every House of Representatives shall continue for five years from its first meeting and every Senate shall continue for seven years.

Provided that—

(a) either chamber of the legislature may be sooner dissolved by the Governor-General; and

(b) any such period may be extended by the Governor-General if in special circumstances he so thinks fit; and

(c) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months after the date of dissolution for the next session of that chamber.

(2) \**A session of the Parliament shall be held at least*

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\* This clause has been added by the enlarged committee.

*once a year.*

(3) The Governor-General may appoint such times and places for holding the sessions of either chamber of the Indian Legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(4) Any meeting of either chamber of the Indian Legislature may be adjourned by the person presiding.

(5) All questions in either chamber shall be determined by a majority of votes of members present, other than the presiding member who shall, however, have and exercise a casting vote in the case of an equality of votes.

(6) The powers of either chamber of the Indian Legislature may be exercised notwithstanding any vacancy in the chamber.

11. There shall be a president of each House of Parliament who shall be a member of the House and shall be elected by the House. There shall also be a deputy president of each House who shall also be a member of the House and be similarly elected.

12. The privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Representatives and by the members thereof respectively shall be such as are from time to time defined by Act of Parliament of the Commonwealth.

13. Parliament shall, subject to *\*and under* the provisions of this Constitution, have power to make laws.

- (a) for the peace, order and good government of the Commonwealth in relation to all matters not coming in the classes of subjects by this Act assigned to the legislatures of provinces ;
- (b) for the nationals and servants of the Commonwealth within other parts of India as well as those without and beyond India ;
- (c) for the government officers, soldiers airmen and followers in His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act or the Air Force Act, and
- (d) for all persons employed or serving in or belonging to the Royal Indian Marine Service or the Indian Navy.

For greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that notwithstanding anything in this Act the legislative authority of the Parliament of the Commonwealth extends to all matters coming within the classes of subjects hereinafter enumerated and specified in Schedule I attached hereto.

\* These words were added by the enlarged committee.

13. A \*(a). *In cases of great emergency and in matters of controversies between provinces or a province and an Indian State the Central Government and the Parliament have all the powers necessary and ancillary including the power to suspend or annul the acts, executive and legislative, of a Provincial Government.*

(b). *The Supreme Court shall have no jurisdiction in cases where the Commonwealth Government or Parliament has acted in exercise of the powers under the preceding sub-clause.*

14. The powers of Parliament with respect to foreign affairs, not including the Indian States, shall be the same as exercised by the self-governing dominions.

15. Provision may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian Legislature, and as to the persons to preside at the meetings of the House of Representatives in the absence of the president and the deputy president ; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.

16. (i) Any bill which appropriates revenue or monies for the ordinary annual services of the Commonwealth government shall deal only with such appropriations.

(ii) Bills imposing taxation shall deal only with the imposition of taxes, and any provision therein dealing with any other matter shall be of no effect.

(iii) Bills affecting the public debt or for the appropriation of revenues or monies or for imposing taxation shall be introduced only by a member of the executive council and can only originate in the House of Representatives.

17. A money bill means a bill which contains only provisions dealing with all or any of the following subjects, namely the imposition, repeal, remission, alteration or regulation of taxation ; the imposition, for the payment of debt or other financial purposes, of charges on public revenues or monies, or the variation or repeal of any such charges ; the supply, appropriation, receipt, custody, issue or audit of accounts of public money ; the raising of any loan or the repayment thereof ; or subordinate matters incidental to those subjects or any of them. In this definition the expression " taxation," " public money " and " loan " respectively do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

18. The question whether a bill is or is not a money bill will be decided by the president of the House of Representatives.

19. A money bill passed by the House of Representatives

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\* This section was added by the enlarged committee.

shall be sent to the Senate for its recommendations and it shall be returned not later than . . . . . days therefrom to the House of Representatives, which may pass it, accepting or rejecting all or any of the recommendations of the Senate; and the bill so passed shall be deemed to have been passed by both chambers.

20. (i) Subject to the provisions of this Act, a bill may be initiated in either House of Parliament and, if passed by the originating House, shall be introduced in the other House for being passed.

(ii) Except as otherwise provided under this Act, a bill shall not be deemed to have been passed by Parliament unless it has been agreed to by both Houses, either without amendments or with such amendments only as may be agreed to by both Houses.

(iii) If any bill which has been passed by the House of Representatives is not, within six months after the passage of the bill by that House, passed by the Senate, either without amendments or with such amendments as may be agreed to by both Houses, the Governor-General shall, on resolution passed by either House to that effect, refer the matter for decision to a joint sitting of both Houses. The members present at any such joint sitting may deliberate and shall vote together upon the bill as last proposed by the House of Representatives and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the Senate and the House of Representatives present at such sitting, shall be taken to have been duly passed by both Houses of Parliament.

21. (i) So soon as any bill shall have been passed, or deemed to have been passed by both Houses, it shall be presented to the Governor-General for the signification by him, in the King's name, of the King's assent, and the Governor-General may signify such assent or withhold the same or he may reserve the bill for the signification of the King's pleasure.

(ii) A bill passed by both Houses of Parliament shall not become an Act until the Governor-General signifies his assent thereto in the King's name, or in the case of a bill reserved for the signification of the King's pleasure, until he signifies by speech or message to each House of Parliament, or by proclamation that it has received the assent of the King in Council.

Provided that the Governor-General may, where a bill has been passed by both Houses of Parliament and presented to him for the signification by him of the King's assent, or has been reserved by him for the signification of the King's pleasure, return the bill for reconsideration by Parliament with a recommendation that Parliament shall consider amendments thereto.

(iii) Any bill so returned shall be further considered by Parliament together with the amendments, recommended by the Governor-General, and if re-affirmed with or without amendments, may be again presented to the Governor-General for the signification in the King's name of the King's assent.

*The Commonwealth Executive*

22. The executive power of the Commonwealth is vested in the King and is exercisable by the Governor-General as the King's representative, acting on the advice of the Executive Council subject to the provisions of this Act and of the laws of the Commonwealth.

23. (a) There shall be an Executive Council consisting of the Prime Minister and, until Parliament otherwise provides, not more than six ministers of the Commonwealth.

(b) The Prime Minister shall be appointed by the Governor-General and the ministers shall also be appointed by him on the advice of the Prime Minister.

(c) The Executive Council shall be collectively responsible to the *\*House of Representatives* for all matters concerning the department of the Commonwealth administered by members of the Executive Council *†and generally for all advice tendered by it to the Governor-General.*

24. Until Parliament otherwise provides, the appointment and removal of all other officers of the executive government of the Commonwealth shall be vested in the Governor-General-in-Council, unless the appointment is delegated by the Governor-General-in-Council, or by a law of the Commonwealth, to some other authority.

25. The Command-in-chief of the military, naval and air forces of the Commonwealth is vested in the Governor-General as the King's representative.

*High Commissioner and Foreign Representatives*

26. The Commonwealth shall have the power to appoint High Commissioners and other foreign representatives similar to that exercised by Canada and other dominions. Such appointments shall be made by the Governor-General in Council who shall also make provision by rules for their pay, powers and duties, and the conditions of employment.

*Financial control*

27. (1) The Auditor-General in India shall be appointed by the Governor-General-in-Council who shall by rules make provision for his pay, powers and duties, and the conditions of employment, and for the discharge of his duties in the case of

\*The word in the Report was "Legislature."

†These words have been added by the enlarged committee.

a temporary vacancy or absence from duty.

(2) Subject to any rules made by the Governor-General in Council, no office may be added to or withdrawn from the public service and the emoluments of no posts may be varied except after consultation with such finance authority as may be designated in the rules, being an authority of the province or of the Commonwealth according as it is or is not under the control of a local government.

### *The Provincial Legislature*

28. The legislative power of a province shall be vested in the King and the local Legislative Council.

29. There shall be a Governor of every province who shall be appointed by the *\*Governor-General-in-Council*.

30. †*The salaries of the Governors shall be fixed and provided by Parliament, and until so provided, shall be as in schedule . . .*

31. (i) There shall be one member of the Provincial Legislative Council for every 100,000 of the population of the said province, provided that in provinces with a population of less than ten millions there may be a maximum of 100 members.

(ii) Every member shall be elected by a constituency determined by law. Every person of either sex who has attained the age of 21 and is not disqualified by law shall be entitled to vote.

32. (i) Every Provincial Council shall continue for 5 years from its first sitting provided that—

- (a) it may be sooner dissolved by the Governor ;
- (b) the term of 5 years may be extended by the Governor if in special circumstances he so thinks fit ;
- (c) after the dissolution of the Council the Governor shall appoint a date not more than 6 months after the date of the dissolution, for the next session of the Council.
- (ii) The Governor may appoint such times and places for holding the sessions of the Council as he thinks fit and may also from time to time, by notification or otherwise, prorogue such sessions.
- (iii) Any meeting of the Council may be adjourned by the person presiding.
- (iv) All questions in the Council shall be determined by

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\*The words in the Report were " King and represent His Majesty in the Province."

†The original clause was " There shall be payable to the King out of revenues of the province for the salary of the Governor an annual sum of . . . . . which, until Parliament of the Commonwealth otherwise provides, shall be as in Schedule . . . . . hereof provided."

the majority of votes of the members present, other than the presiding member, who shall however have and exercise a casting vote in the case of an equality of votes.

(v) The powers of the Council may be exercised notwithstanding any vacancy.

(vi) *\*A session of the Council is held at least once a year.*

33. There shall be a president of every Council who shall be a member of the House and shall be elected by the House. There shall also be a deputy president who shall also be a member of the House and be similarly elected.

34. The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province. The legislative authority of every provincial council extends to all matters coming within the classes of subjects hereinafter enumerated and specified in Schedule II, attached hereto.

35. The local legislature of any province may repeal or alter, as to that province, any law relating to a provincial subject made before the commencement of this Act by any authority in British India.

36. Any measure affecting the public revenues of a province, or imposing any charge on the revenue, shall be introduced only by a member of the executive council of the Governor.

37. When a bill has been passed by a local Legislative Council, the Governor may declare that he assents to or withholds his assent from the bill.

38. If the Governor withholds his assent from any such bill, the bill shall not become an Act.

39. If the Governor assents to any such bill, he shall forthwith send an authentic copy of the Act to the Governor-General, and the Act shall not have validity until the Governor-General has assented thereto and that assent has been signified by the Governor-General to, and published by the Governor.

40. Where the Governor-General withholds his assent from any such Act, he shall signify to the Governor in writing his reason for so withholding his assent.

41. When an Act has been assented to by the Governor-General it shall be lawful for His Majesty in Council to signify his disallowance of the Act.

42. Where the disallowance of an Act has been so signified,

\* This has been added by the enlarged committee.

† Word "either" has been omitted by the enlarged committee.

‡ Words "or after" have been omitted by the committee.

the Governor shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification shall become void accordingly.

#### *The Provincial Executive*

43. The executive power of the province shall be vested in the Governor acting on the advice of the provincial Executive Council.

44. There shall be an Executive Council for every province consisting of not more than five ministers appointed by the Governor.

45. In appointing the executive council the Governor shall select the Chief Minister, and appoint others only on his advice.

#### *The Judiciary*

46. There shall be a Supreme Court which shall exercise such jurisdiction as Parliament shall determine. The Supreme Court shall consist of a Lord President, and as many other Justices, as Parliament may fix.

47. The Lord President of the Commonwealth and all other Judges of the Supreme Court of the Commonwealth to be appointed after the establishment of the Commonwealth shall be appointed by the Governor-General-in-Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be \* *altered* during their continuance in office.

48. The Lord President of the Commonwealth and other judges of the Supreme Court of the Commonwealth shall not be removed from office except by the Governor-General-in-Council on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

49. The Supreme Court shall have original jurisdiction in all matters—

- (i) referred to the Supreme Court by the Governor-General-in-Council under section 85 ;
- (ii) in which the Commonwealth, or person suing or being sued on behalf of the Commonwealth, is a party ;
- (iii) affecting consuls or other representatives of other countries ;
- (iv) between provinces ;
- (v) arising under this Constitution or involving its interpretation.

50. The Supreme Court shall have jurisdiction, with such

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\* The word in the Report was " diminished."

exceptions and subject to such regulations as Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders and sentences—

- (a) of any Justice or Justices exercising the original jurisdiction of the Supreme Court ;
- (b) of the high court, \*or of any other court from which at the establishment of the Commonwealth an appeal lies to the King in Council.

51. The judgment of the Supreme Court in all such cases shall be final and conclusive and shall not be reviewed, or be capable of being reviewed by any other court, tribunal or authority whatsoever.

#### *Appeals to the King in Council*

52. (i) No appeal shall be permitted to the King in Council from a decision of the Supreme Court upon any question howsoever arising, as to the limits *inter se* of the constitutional powers of the Commonwealth and those of any province or provinces, or as to the limits *inter se* of the constitutional powers of any two or more provinces, unless the Supreme Court shall certify that the question is one which ought to be determined by the King in Council.

(ii) The Supreme Court may so certify if satisfied that for any special reason the certificates should be granted, and thereafter an appeal shall lie to the King in Council on the question without further leave.

(iii) Parliament may make laws limiting the matters in which such leave may be asked, provided that such laws do not impair any right which the King may be pleased to exercise by virtue of his royal prerogative to grant special leave of appeal from the Supreme Court to the King in Council.

#### *High Courts—Constitution*

53. The high courts referred to in this Act are the high courts of judicature for the time being established in British India.

54. Each high court shall consist of a chief justice and as many other judges as the Governor-General-in-Council may think fit to appoint. Provided as follows :

- (i) The Governor-General-in-Council may appoint persons to act as additional judges of any high court, for such period, not exceeding two years, as may be required ; and the judges so appointed shall, while so acting, have all the powers of a judge of the high court appointed by the Governor-General-in-Council;

\* The words " of any province " have been omitted by the enlarged committee.

(ii) the maximum number of judges of a high court including the chief justice and additional judges shall be 20.

55. A judge of a high court must be an advocate on the rolls of a high court of not less than ten years' standing, provided that nothing herein contained shall affect the continuance of the tenure of office of the judges who may be holding appointments at the commencement of this Act.

56. (i) Every judge of a high court shall hold office during his good behaviour.

(ii) Any such judge may resign his office to the local government.

57. The chief justice and other judges of the high court shall not be removed from office except by the Governor-General-in-Council on an address\* *from both the Houses of Parliament in the same session, praying for such removal on the ground of misbehaviour or incapacity.*

58. (i) The Governor-General-in-Council may fix the salaries, allowances, furloughs and retiring pensions, and may alter them, but any such alteration shall not affect the salary of any judge appointed before the date thereof.

(ii) The remuneration fixed for a judge under this section shall commence upon his taking upon himself the execution of his office.

59. (i) On the occurrence of a vacancy in the office of chief justice of a high court, and during any absence of such a chief justice, the local government shall appoint one of the other judges of the same high court to perform the duties of chief justice of the court, until some person has been appointed by the Governor-General to the office of chief justice of the court, and has entered on the discharge of his duties of that office, or until the chief justice has returned from his absence, as the case requires.

(ii) On the occurrence of a vacancy in the office of any other judge of a high court, and during any absence of any such judge, or on the appointment of any such judge to act as chief justice, the local government may appoint a person with such qualifications as are required in persons to be appointed to the high court; and the person so appointed may sit and perform the duties of a judge of the court, until some person has been appointed by the Governor-General in Council to the office of judge of the court and has entered on the discharge of the duties of the office, or until the absent judge has returned from his absence, or until the local government sees cause to cancel the appointment of the acting judge.

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\* The words in the Report were "by the provincial legislature."

## *Jurisdiction*

60. (i) The several high courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction in respect of offences committed on the high seas, and all such powers and authority over or in relation to the administration of justice, including power to appoint clerks and other ministerial officers of the court, and power to make rules for regulating the practice of the court, as are vested in them by letters patent, and subject to the provisions of any such letters patent, all such jurisdiction, powers and authority as are vested in those courts respectively at the commencement of this Act.

(ii) The letters patent establishing, or vesting jurisdiction, power, or authority, in a high court may be amended from time to time by a further letters patent.

61. Each of the high courts has superintendence over all courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say—

- (a) call for returns ;
- (b) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction ;
- (c) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts ;
- (d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts ; and
- (e) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts ;

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any law for the time being in force, and shall require the previous approval of the local government.

62. (i) Each high court may, by its own rules, provide as it thinks fit for the exercise, by one or more judges of the high court, of the original and appellate jurisdiction vested in the court.

(ii) The chief justice of each high court shall determine what judge in each case is to sit alone, and what judges of the court, whether with or without the chief judge, are to constitute the several division courts.

63. The Governor-General in Council may, by order, transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts, and authorise any high court to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the high court was established, and also to exercise any such jurisdiction in respect of any British subject for the time being within any part of India outside the Commonwealth.

64. (a) The Governor-General, each Governor, each of the members of the Executive Council, whether in the Commonwealth or in the provinces, shall not be subject to the original, appellate or revisional jurisdiction of any high court, by reason of anything counselled, ordered or done by any of them, in his public capacity only.

(b) The exemption shall extend also to the chief justices and other judges of the several high courts.

65. The Governor-General-in-Council may, if he sees fit, by letters patent, establish a high court of judicature in any territory in the Commonwealth, whether or not included within the limits of the local jurisdiction of another high court, and confer on any high court so established, any such jurisdiction, powers and authority as are vested in, or may be conferred on, any high court existing at the commencement of this Act; and, where a high court is so established in any area included within the limits of the local jurisdiction of another high court, the Governor-General may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

#### *Advocate General*

66. The local government may appoint an advocate general for each of the provinces and may, on the occurrence of a vacancy in the office of advocate general, or during any absence or deputation of an advocate general, appoint a person to act as advocate general; and the person so appointed may exercise the powers of an advocate general until some person has been appointed by the Governor-General-in-Council and has entered on the discharge of his duties or until the advocate general has returned from his absence or deputation, as the case may be, or until the local government cancels the local appointment.

#### *Property, Revenue and Finance*

67. All property vested in, or arising or accruing from property or rights vested in, His Majesty or the Secretary of State in Council under the Government of India Acts, 1858, 1915 and 1919 shall vest in the Governor-General-in-Council.

68. The revenues of India shall vest in the Governor General-in-Council and shall, subject to the provisions of this Act, be applied for the purposes of the Commonwealth alone.

69. The expression "the revenues of India" in this Act shall include all the territorial and other revenues of or arising in British India, and in particular,—

- (i) all tributes and other payments in respect of any territories which would have been receivable by or in the name of the East India Company if the Government of

India Act, 1858, had not been passed ; and

- (ii) all fines and penalties incurred by the sentence or order of any court of justice in British India, and all forfeitures for crimes of any movable or immovable property in British India ; and
- (iii) all movable or immovable property in British India escheating or lapsing for want of an heir or successor and all property in British India devolving as *bona vacantia* for want of a rightful owner.

70. Parliament shall establish a Railway and Harbour Fund into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of railways, post and harbours, and such fund shall be appropriated by Parliament to the purpose of railways, posts and harbours, on such conditions and in such manner as it may prescribe. There shall also be formed a consolidated revenue fund into which shall be paid all other revenues raised or received by the Governor-General-in-Council and such fund shall be appropriated by Parliament for the purpose of the Commonwealth in the manner prescribed by this Act or by rules made in that behalf and subject to the charges imposed thereby.

71. There shall be charged on the revenues of India alone—

- (a) all the debts of the East India Company ; and
- (b) all sums of money, costs, charges and expenses which, if the Government of India Act, 1858, the Government of India Act, 1915, as amended by the Government of India Act 1919 or this Act had not been passed, would have been paid by the East India Company out of the revenues of India in respect of any treaties, covenants, contracts, grants or liabilities existing at the commencement of this Act ; and
- (c) all expenses, debts and liabilities lawfully contracted and incurred on account of the Government of India ; and
- (d) all other charges and payments under this Act (except so far as is otherwise provided under this Act).

72. (i) As soon as may be after the establishment of the Commonwealth the Governor-General-in-Council shall appoint a Commission consisting of one representative from each province and . . . . . representatives of the government of the Commonwealth, and presided over by an officer of the Commonwealth, to institute an enquiry into (a) the sources of revenue which may be assigned to the government of the Commonwealth and to the governments of the provinces respectively with due regard to the efficient administration and development of the services or subjects under the respective control of either, and (b) the financial relations which should exist between the governments of the

Commonwealth and the governments of the provinces, and (c) for the means to be adopted for giving effect to such relations.

(ii) The said Commission shall appoint a committee to examine the whole question of the training of officers for the land, naval and air forces of the Commonwealth and the establishment of the requisite number of schools and colleges for military instruction.

(iii) The committee so appointed shall report to the Commission about the requisite number of such schools and colleges and their staffs, the places where they are to be established, and the standard of instruction to be imparted in each, and an estimate of the initial and maintenance cost of the said schools and colleges.

(iv) The said Commission shall also appoint a committee to investigate and report on the steps to be taken for the introduction of general primary education in the Commonwealth and the affording of special educational facilities for backward classes.

(v) The said Commission shall have the power to appoint such other committees as it may consider necessary, for the purposes of its inquiry.

(vi) *\*The said Commission shall, in conformity with the principles of this Constitution and with the assistance of such Committee or committees as it may consider desirable to appoint :*

- (a) *take all necessary steps to constitute Karnataka and Andhra into separate provinces ;*
- (b) *take steps to amalgamate the Oriya speaking tracts in the different provinces and constitute this amalgamated area into a separate province if the people of that area are able or are prepared to bear the financial burden which is incidental to separation ;*
- (c) *report on the cases of C. P. Hindustani, Kerala and any other linguistic areas which may desire to be constituted into separate provinces ;*
- (d) *re-settle the boundaries of Assam and Bengal, Behar and Orissa and C. P. Hindustani, Kerala and Karnataka in accordance with the principles recommended by the Committee.*

(vii) The said commission shall report to the Governor-General-in-Council on matters recommended in clause (i), and shall make special recommendations fixing minimum charges on the revenues of the Commonwealth and the provinces for the purposes mentioned in (ii), (iii) and (iv).

73. The Governor-General-in-Council shall lay the entire report of the Commission together with his recommendations

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\*This clause has been added by the Lucknow conference.

before Parliament for such legislative or other action as it may deem fit.

74. Pending the completion of the said enquiry, and until Parliament has taken action under clause 68, the existing sources of revenue and the financial relations shall continue to be in force.

#### *Defence*

75. (a) The Governor-General-in-Council shall appoint a Committee of Defence consisting of (1) the Prime Minister, (2) the Minister of Defence, (3) the Minister of Foreign Affairs, (4) the Commander-in-Chief, (5) the Commander of the Air Forces, (6) the Commander of the Naval Forces, (7) the Chief of the General Staff, and two other experts.

(b) The Prime Minister shall be the chairman of the committee; and there shall be a permanent staff including a secretary attached to this committee.

(c) The functions of this committee shall be to advise the government and the various departments concerned with questions of defence and upon general questions of policy.

(d) As soon as the committee is appointed the Governor-General-in-Council may take the advice of the Committee of Defence as to the practicability and means of effecting a retrenchment in the expenditure on defence compatibly with the safety of India. The estimates shall be framed according to the recommendations of the committee.

76. The proposals of the Governor-General-in-Council for the appropriation of revenues or monies classified as "Defence", shall be submitted to the vote of the House of Representatives.

77. Notwithstanding anything to the contrary in the foregoing provisions, the Governor-General-in-Council may, in the event of any foreign aggression on India by land, air or sea, or upon his being satisfied that there is a reasonable apprehension of such aggression, authorise such expenditure as may be necessary for the safety of British India or any part thereof. Such action taken by the Governor-General shall be reported by him immediately to the Legislature, if in session, or if the Legislature is not in session, to a special session to be summoned as soon as possible thereafter.

78. No measure affecting the discipline or maintenance of any part of the military, naval and air forces of the Commonwealth, shall be introduced in Parliament except on the recommendation of the Committee of Defence appointed under this constitution.

#### *The Civil Services*

79. Subject to the provisions of the next succeeding section, all officers of the public services shall, at the establishment of the Commonwealth, become officers of the Commonwealth.

80. As soon as possible after the establishment of the Commonwealth, the Governor-General-in-Council shall appoint a Public Service Commission to make recommendations for such re-organisation and re-adjustment of the departments of the public services as may be necessary.

81. Parliament may make laws for regulating the classification of the civil services in India, the sources and methods of their recruitment, the conditions of service, pay and allowances, and discipline and conduct. Parliament may also, to such extent and in respect of such matters as it may prescribe, delegate the power of making rules under the said laws to the Governor-General-in-Council or to local governments.

82. (i) After the establishment of the Commonwealth the Governor-General-in-Council shall appoint a Permanent Public Service Commission with such powers and duties relating to the recruitment, appointment, discipline, retirement and superannuation of public officers as Parliament shall determine.

(ii) Members of the permanent Public Service Commission shall hold office for five years from the date of appointment.

83. Any officer of the public services who desires to retire within three years of the establishment of the Commonwealth, or is not retained in the service of the Commonwealth, shall be entitled to receive such pension, gratuity or other compensation as he would have received in like circumstances if the Commonwealth had not been established.

#### *The Army Services*

84. All officers, British and Indian, serving in the army, the navy, the Royal Indian Marine, or the Air Force of India, serving in India at the commencement of the new constitution, shall retain all their existing rights as to salaries, allowances or pensions or shall receive such compensation for the loss of any of them, as the Governor-General-in-Council may consider just and equitable, or as they would have received in like circumstances if the Commonwealth had not been established.

Further all such officers, British or Indian, who were in receipt of pensions at the date of the commencement of the new constitution, shall continue to receive the same pension from the revenues of India.

#### *Indian States*

85. The Commonwealth shall exercise the same rights in relation to, and discharge the same obligations towards, the Indian States, arising out of treaties or otherwise, as the Government of India has hitherto exercised and discharged.

In case of any difference between the Commonwealth and any

Indian State on any matter arising out of treaties, engagements, sanads or *\*any* other documents, the Governor-General-in-Council may, with the consent of the State concerned, refer the said matter to the Supreme Court for its decision.

#### *New Provinces*

86. The re-distribution of provinces should take place on a linguistic basis on the demand of the majority of the population of the area concerned, subject to financial and administrative considerations.

#### *Amendment of the Constitution*

87. Parliament may, by law, repeal or alter any of the provisions of the constitution. Provided that the bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together and at the third reading shall be agreed to by not less than *†four-fifths of those present*. A bill so passed at such a joint sitting shall be taken to have been duly passed by both Houses of Parliament.

*Note* :—The following are the recommendations on communal and other controversial matters.

#### *Communal representation*

I. There shall be joint mixed electorates throughout India for the House of Representatives and the provincial legislatures.

II. There shall be no reservation of seats for the House of Representatives except for Muslims in provinces where they are in a minority and non-Muslims in the N.-W. F. Province. Such reservation will be in strict proportion to the Muslim population in every province where they are in a minority and in proportion to the non-Muslim population in N.-W. F. Province. The Muslims or non-Muslims where reservation is allowed to them shall have the right to contest additional seats.

III. In the provinces

(a) there shall be no reservation of seats for any community in the Punjab and Bengal *†provided that the question of communal representation will be open for reconsideration if so desired by any community after working the recommended system for 10 years.*

(b) in provinces other than the Punjab and Bengal there will be reservation of seats for Muslim minorities on population basis with the right to contest additional seats ;

(c) in the N.-W. F. Province there shall be similar reservation of seats for non-Muslims with the right to contest other seats.

\* The enlarged committee has substituted "any" for "similar."

† The words in the Report, were "two-thirds of the total member of the members of both Houses."

‡ This was added by the Lucknow Conference.

IV. Reservation of seats, where allowed, shall be for a fixed period of ten years. \**Provided that the question will be open for reconsideration after the expiration of that period if so desired by any community.*

*Redistribution and status of provinces*

V. †*Simultaneously with the establishment of Government under this constitution Sind shall be separated from Bombay and constituted into a separate province.*

*Provided*

(1) *after an enquiry it is found*

(a) *that Sind is financially self-supporting, or*

(b) *in the event of its being found that it is not financially self-supporting, on the scheme of separation being laid before the people of Sind with its financial and administrative aspects, the majority of the inhabitants favour the scheme and express their readiness to bear the financial responsibility of the new arrangement ;*

(2) *that the form of Government in Sind shall be the same as in the other provinces under the constitution :*

(3) *that the non-Muslim minority in Sind shall be given the same privileges in the matter of representation in the Provincial and Central Legislatures as the Muslim minorities are given under this constitution in areas where they are in a minority.*

VI. ‡The N.-W. F. Province, *Baluchistan*, §and all newly formed provinces by separation from other provinces, shall have the same form of government as the other provinces in India.

\* This has been added by the enlarged committee.

† This has been substituted by the Lucknow Conference for the following :—  
“Sind should be separated from Bombay and constituted into a separate province after such enquiry about the financial position as may be considered necessary.”

‡ Original clause VI about Karnataka has been omitted as a provision about the same has been made in clause VI of section 72, and clause VII has been remembered as clause VI.

§ This was added by the Lucknow Conference.

# SCHEDULE I

## CENTRAL SUBJECTS

1. Trade and commerce with other countries and in India and the incorporation of trading, financial or foreign corporations in India.
2. Taxation, excluding the taxation assigned under this constitution to the provinces or parts of them ; but including customs, revenue, excise, income-tax, super-tax, corporation profits tax, opium, including control of its cultivation, manufacture, and sale, export duties.
3. Bounties on the production or export of goods.
4. Borrowing money on the credit, the assets and the property of the Commonwealth; the public debt of the Government of the Commonwealth.
5. Currency, coinage and legal tender.
6. Banking and insurance and savings banks; the incorporation of banks and the issue of paper money and stock exchanges.
7. Bills of exchange, cheques, *hundies* and promissory notes.
8. Shipping and navigation, including shipping and navigation on such inland waterways as may be declared to be of national importance; harbours, major ports, lighthouses, beacons, lightships, buoys.
9. Railways, and roads of all India and military importance.
10. Aircraft and all matters connected therewith.
11. Posts, telegraphs and telephones including wireless communications and installations.
12. The defence of India and all matters connected with the naval, military and air forces of the Commonwealth, including militia. Indian Marine Service and any other force raised in India other than military and armed police wholly maintained by the provincial government; naval and military works and cantonments; schools and colleges for military, naval and air training.
13. Foreign and external relations including relations with States in India and political charges; domicile, naturalisation and aliens; passports; and pilgrimages beyond India.
14. Emigration and Immigration,
15. Port quarantine and marine hospitals.
16. The Commonwealth Public Services and the Commonwealth Public Service Commission.
17. The Audit department of the Commonwealth.
18. The Supreme Court of India, and legislation relating to High Courts.
19. Civil Law including laws regarding status, contract, property, civil rights and liabilities and civil procedure.

20. Criminal Law including criminal procedure and extradition laws.
21. Bankruptcy and insolvency,
22. Legislation regarding marriage, divorce and matrimonial matters, parental rights, the custody and guardianship of infants; their status and age of majority.
23. Copyright; newspaper and books; patents of inventions and designs and trade marks.
24. Land acquisition by or for the purposes of the Government of the Commonwealth.
25. Laws relating to registration of deeds and documents.
26. Laws relating to registration of births, deaths and marriages.
27. Census and statistics.
28. *Laws relating to the Control of arms and ammunition.*
29. (a) *Laws relating to the Control of petroleum and explosives.*  
(b) *Laws relating to the Control of poisons.*
30. The standards of weights and measures.
31. Fisheries in Indian waters beyond the three miles limit.
32. Survey of India; geological survey and astronomical and meteorological observations.
33. Parliamentary elections.
34. The seat of the Government of the Commonwealth.
35. Inter-provincial matters.
36. Factory legislation,
37. Industrial matters:  
(a) *Laws relating to the Welfare of labour.*  
(b) *Laws relating to the Provident fund.*  
(c) *Laws relating to Industrial Insurance—General health and accident.*
38. *Laws relating to Control of mines.*
39. Medical qualifications and standards.
40. Stores and stationery for the Commonwealth.
41. Central publicity and intelligence department.
42. Zoological survey; botanical survey; archæology.
43. Central agencies and institutions for research (including observatories) and for professional and technical training or promotion of special studies.
44. Territorial changes, other than intra-provincial, and declaration of laws in connection therewith.
45. All property of the Commonwealth.
46. Legislation regarding forests.
47. Legislation relating to non-judicial stamps.

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The words in Italics have been added by the committee.

## SCHEDULE II

### PROVINCIAL SUBJECTS

1. Land revenue including assigned land revenue; any other tax that may be imposed on land or agricultural income; charges for water; survey and settlement; disposal and colonisation of public land and management of government estates.

2. Excise, that is to say, the control of manufacture, transport, possession, purchase and sale of alcoholic liquor and intoxicating drugs (except opium), and the levying of excise duties and license fees on, or in relation to, such articles and other restrictive excises.

3. All local taxation, such as tolls; cesses on land or land values; tax on buildings; tax on vehicles or boats; tax on animals; octroi and a terminal tax on goods imported into or exported from a local area; tax on trades, professions and callings; tax on private markets; tax on advertisements; tax on amusements or entertainments; tax on gambling: taxes imposed in return for services rendered by the local authority.

4. Land acquisition by and within the province.

5. Administration of forests and preservation of game.

6. Agriculture, including research institutes, experimental and demonstration farms, protection against destruction by insects and pests.

7. Fisheries, excluding Commonwealth fisheries.

8. Water supplies, irrigation canals, drainage and embankment, water storage and water power except where they involve a matter of inter-provincial concern or affect the relations of a province with an Indian State or any other territory.

9. Public works and undertakings within the province including buildings, roads, bridges, ferries, tunnels, ropeways, causeways, tramways, light and feeder railways, inland waterways and other means of communications except:

(a) such railways, roads and inland waterways as are central subjects.

(b) all such works as extend beyond the borders of the province.

(c) such works (although wholly situate within the province) as may be declared by Parliament to be of all India importance.

10. Co-operative societies.

11. Development of mineral resources.

12. Famine relief.

13. Pilgrimages within India.

14. Local self-government including constitution and powers of Municipal Corporations, Local Boards, Village Panchayats Improvement Trusts, Town Planning Boards and other local authorities in the province, and local fund audit.

15. Medical administration including hospitals, dispensaries, asylums, and provision for medical education.

16. Public health and sanitation and vital statistics.

17. Education, including universities and technical institutes, provincial institutions for professional or technical training and for promotion of technical studies.

18. Court of Wards and encumbered and attached estates.

19. Land improvement and agricultural loans.

20. Land tenures and landlord and tenant, rent law.

21. Administrator-General and Official Trustees subject to legislation by central legislature.

22. Development of industries, including industrial research.

23. Police, including military and armed police maintained by the province and Railway Police, subject in the case of Railway Police to such rules as may be prescribed by Parliament as to limits of jurisdiction and railway contribution to cost of maintenance.

24. Adulteration of foodstuffs and other articles.

25. (a) Control of vehicles, subject in the case of motor vehicles to legislation by the central legislature as regards licenses valid throughout India,

(b) Control of dramatic performances and cinematographs.

26. Prisons, prisoners and reformatories and vagrancy.

27. Backward tribes and their settlements.

28. Treasure trove.

29. Administration of justice in the province including the constitution, maintenance and organisation of courts of civil and criminal jurisdiction.

30. Election for the legislature of the province.

31. Legislation imposing punishments by fine, penalty or imprisonment for breach of any law of the province in relation to any provincial matter.

32. The borrowing of money on the sole credit of the province, subject to sanction of central government; assets and property of the province.

33. Administration of the law relating to the registration of births, deaths and marriages.

34. Provincial law reports.

35. Minor ports.

36. Public libraries, except the Imperial Library at Calcutta; museums, except the Indian Museum, the Imperial War Museum and the Victoria Memorial in Calcutta; zoological and botanical gardens and registration of societies.

37. Pounds and prevention of cattle trespass.
38. Civil Veterinary Department, including provisions for veterinary training, improvement of stock and prevention of animal diseases.
39. Factories, subject to legislation by central legislature.
40. Settlement of labour disputes.
41. Gas and electricity.
42. Boilers.
43. Smoke nuisances.
44. Housing of labour.
45. Coroners.
46. Provincial stores and stationery.
47. Provincial government press.
48. Provincial services and Provincial Services Commission.
49. The seat of the provincial government.
50. Control of elections subject to regulation by central government.
51. Fees, including court fees ; probate duties ; succession or estate duties.
52. Control of production, supply and distribution, subject to rules made by the central legislature.
53. Development of industries, subject to rules made by the central legislature.
54. Religious and charitable endowments, subject to legislation by central legislature.
55. Regulation of betting and gambling, subject to legislation by the central legislature.
56. Prevention of cruelty to animals and protection of wild birds and animals, subject to legislation by the central legislature.
57. Non-judicial stamps, subject to legislation by the central legislature ; and judicial stamps, subject to legislation by the central legislature as regards amount of court-fees levied in relation to suits and proceedings in the high courts under their original jurisdiction.
58. Registration of deeds and documents, subject to legislation by the central legislature.
59. Weights and measures, subject to legislation by the central legislature as regards standards.
60. Control of poisons ; arms and ammunition : petroleum and explosives, subject to legislation by the central legislature.
61. Control of newspapers, subject to legislation by the central legislature.
62. Regulation of medical and other professional qualifications and standards, subject to legislation by the central legislature.
63. Local Fund Audit.

# PUNJAB DISTRICT BOARDS

District	Voters			Number of seats in proportion to voting strength			Number of elected members			Total	Muslim Representation	
	M	S	H	M	S	H.	M	S	H		Increase	Decrease
1. Hisar ..	2155	1560	6361	7.3	5.3	21.4	8	3	23	34	.7	..
2. Rohtak ..	1504	..	23938	2	...	32	3	..	31	34	1	..
3. Gurgaon ..	5540	98	12446	9.8	.2	22	12	..	20	32	2.2	..
4. Karnal ..	3549	421	14691	6.7	.8	27.5	10	3	22	35	3.3	..
5. Ambala ..	3892	3615	12235	6.3	5.9	19.8	4	15	13	32	..	2.3
6. Kangra ..	105	..	7198	.5	..	33.5	..	..	34	34	..	.5
7. Hoshiarpur ..	8047	5820	14725	10.4	7.5	19.1	14	9	14	37	3.6	..
8. Jullundur ..	11466	21343	5255	10.2	19.1	4.7	11	19	4	34	.8	..
9. Ludhiana ..	3201	15804	821	4.8	22.9	1.3	7	21	1	29	2.2	..
10. Ferozepur ..	5277	15155	5977	7.4	21.2	8.4	11	20	6	37	3.6	..
11. Lahore ..	5235	11284	1161	10.6	23	2.4	17	16	3	36	6.4	..
12. Amritsar ..	8930	18948	3928	8.4	17.9	3.7	4	24	2	30	..	4.6
13. Gurdaspur ..	8797	10337	7708	11.8	13.9	10.3	9	10	17	36	..	2.8
14. Sialkot ..	11782	4481	7566	15.8	6	10.2	17	9	6	32	1.2	..
15. Gujranwala ..	12081	4470	4349	17.3	6.4	6.3	19	8	3	30	1.7	..
16. Sheikhpura ..	9808	7296	1307	12.7	9.5	1.8	17	5	2	24	4.3	..
17. Gujrat ..	15182	243	493	34.1	.8	1.1	36	..	..	36	1.9	..
18. Shahpur ..	17286	1848	2918	21.9	2.3	3.8	25	3	..	28	3.1	..
19. Jhelum ..	24771	1182	1749	21.5	1	1.5	23	1	..	24	1.5	..
20. Rawalpindi ..	18341	1240	880	21.5	1.5	1	22	1	1	24	.5	..
21. Attock ..	15245	519	1302	12.5	.4	1.1	14	..	..	14	1.5	..
22. Mianwali ..	3681	96	1763	8	.8	3.4	11	..	1	12	3	..
23. Montgomery ..	11649	3536	3564	14.9	4.5	4.6	15	4	5	24	.1	..
24. Layallpur ..	29842	14914	1352	23.3	11.6	1.1	23	12	1	36	..	.3
25. Jhang ..	11957	227	3205	18.7	.3	.5	22	..	2	24	3.3	..
26. Multan ..	12299	1009	4024	19.9	1.6	6.5	22	2	4	28	2.1	..
27. Muzaffargarh ..	4850	3	2770	15.3	..	8.7	21	..	3	24	5.7	..
28. Dera Ghazikhan ..	2969	3	1961	18.4	..	5.6	21	..	3	14	2.6	..

M=MUSALMANS

S=SIKHS

H=HINDUS