

THE INDIAN National Demand

*Being a Summary of the Nebru Reports and the
Proceedings of the National Convention
held in Calcutta, in December, 1928*

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I

The Genesis of the Demand

The Indian National Congress at its session held at Madras in December 1927 passed a resolution directing its Working Committee to confer with similar committees to be appointed by other organisations—political, labour, commercial and communal—in the country and to draft a Swaraj Constitution for India on the basis of a Declaration of Rights. In compliance with these directions the Working Committee of the Congress issued invitations to a large number of organisations to attend a joint Conference. This Conference was held at Delhi from the 12th to the 22nd February 1928, under the Presidentship of Dr. M. A. Ansari, President of the Indian National Congress for the year. The principle resolution passed was that a Constitution should be framed providing for the establishment of responsible government for India.

The All Parties Conference met again at Bombay on May 19, 1928 and appointed a Committee with Pandit Motilal Nehru as Chairman to consider and determine the principles of the Constitution.

From June 5, 1928 onwards the Committee thus appointed met at Allahabad daily and held 25 sittings besides informal conferences. The Committee had at the outset two formidable difficulties to meet. The first arose from the difference in the general outlook of the Congress and that of the other organisations, the former having at its Madras session adopted a resolution declaring Independence as its goal and the latter aiming at Dominion Status; the second from the widely differing angles of vision from which the various communal organisations viewed their political rights. It was found that a general agreement was not obtainable on any higher ground than Dominion Status. The Committee therefore proceeded to settle the principles of a Dominion Constitution. It also recommended a solution of the communal problem on the basis of what it conceived to be a just and equitable compro-

mise between all the parties.

The Committee published its report in August 1928.

The All Parties Conference met again at Lucknow on the August 28 to 31, 1928 to consider the Committee's Report. The most important feature of this Conference was that the solution of the communal problem proposed by the Committee was accepted by the Hindu and Muslim representatives from the Punjab and Bengal, the Sikhs of the Punjab dissenting. Hindus and Muslims form 87% of the population of the Punjab and 97% of that of Bengal. The Sikhs are 11% in the Punjab and do not number more than a few thousands in Bengal.

An agreement was also arrived at in regard to the separation of Sind and its Constitution as a separate province which was demanded by Musalmans.

The Conference after minor alterations of detail passed a resolution adopting in principle the Constitution outlined and recommended by the Nehru Committee and resolved to re-appoint the Nehru Committee, with power to co-opt, to put its recommendations as accepted by the Conference in the form of a bill before a Convention of the representatives of all political, commercial, labour and other organisations in the country.

The enlarged Nehru Committee met, carried out the instructions of the Lucknow Conference and published a Supplementary Report in November 1928.

The Convention met in Calcutta from December 22, to January 1, at which the members of the Central and Provincial legislatures, the various political, commercial, communal, labour, landholders, Indian States, women, backward classes, journalists and other miscellaneous organizations throughout India were represented. A complete list of these numbering 72 is given in the Official Report of the Convention.

The two reports of the Nehru Committee were considered and after 8 days of strenuous work the following resolution was passed:

"This Convention is of opinion that the resolutions it has already passed on the recommendations of the All Parties Committee

contained in clauses 1 to 6 of their Report sufficiently indicate the will of the nation as to the nature and the main principles of Constitution acceptable to it and is further of opinion that except on points on which notes of dissent have been recorded at the instance of some of the parties present there is a general agreement on the basis of the solution of the communal problem recommended by the said committee. This Convention adjourns *sine die* to meet when necessary for completing its work."

Clauses 1 to 6 of the Nehru Committee recommendations referred to in the above resolution relate to the constitutional status of India and the fundamental rights of citizenship. A brief summary of these and of the communal solution is given in the following pages.

The Indian National Congress also held its annual session in Calcutta, from December 26, 1928 to January 1, 1929. There was a keen and lengthy contest on the issue of complete Independence for India or Dominion Status but after many formal and informal discussions the Nehru Committee Reports were approved for adoption by a majority, only on the condition proposed by the Committee and was accepted in its entirety by the British Government before the December 31, 1929 and it was declared that in the event of, non-acceptance of the said Constitution by the Government by that date or its earlier rejection, the Congress would organise a campaign of non-violent non-co-operation including non-payment of taxes and work for complete Independence.

II

Constitutional Status of India

For some years past high officials in England and India have been drawing a subtle distinction between the terms "Dominion Status" and "Responsible Government" by attempting to show that what Great Britain is committed to grant to India is not "Dominion Status", but only "Responsible Government." It is evidently overlooked that both these terms are well understood phrases in Constitutional Law, and though the task of defining them with precision may be difficult, what is common to all the constitutions of the Dominions is the form of Government in which the executive is responsible to the popularly elected legislature. The essence of the problem is the transfer of control and responsibility from the people of England to the people of India and the task of statesmanship is to devise means to achieve it.

The problems of the Indian Native States, the minorities, the backward and depressed classes, the European commercial interests, the Civil Services and the Army are also pointed out as standing in the way of India's attainment of Dominion Status. Solutions of these problems will follow in due course. Here it need only be noted that most of them are by no means peculiar to India and have had to be solved by all nations in their march towards democracy.

The scheme recommended by the Nehru Committee and finally adopted by the National Convention at Calcutta in December 1928 is as follows:

The Commonwealth of India shall have the same constitutional status in the British Empire as the self-governing Dominions. Citizenship rights in India will be acquirable on the same conditions on which they can be acquired in the other parts of the British Empire. Every citizen will be guaranteed by the Constitution certain fundamental rights, such as non-violation

of personal liberty and private property; freedom of conscience, religious practices, speech, and association for lawful purposes; free elementary education; equality before law, eligibility to all offices in the State irrespective of religion; access to all places of public resort; equality of rights between men and women, etc.

The Parliament of the Commonwealth shall consist of the King, a Senate of two hundred members and a House of Representatives of 500 members, and shall have the same powers and functions as the Parliaments of the Dominions. The Cabinet shall consist of a Prime Minister and six other Ministers. The Provincial Governments shall have unicameral legislatures and executives on similar lines.

Both the Central and the Provincial Legislatures shall be elected on the basis of universal adult franchise.

There will be a Supreme Court for India with its jurisdiction determined by Parliament. The present High Courts and subordinate courts will continue.

Immediately after the establishment of the Commonwealth special commissions shall be appointed to go into the questions of training young Indians for Military and Naval careers, and making arrangements for general primary education in the Commonwealth and special educational facilities for backward classes.

On the establishment of the Commonwealth the Governor-General shall appoint a Committee of Defence consisting of (1) the Prime Minister, to be its Chairman, (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. The functions of this Committee will be to advise the Government and the various departments concerned on questions of defence and general policy. The Committee will also make recommendations in the matter of annual expenditure on defence.

The interests of the Civil Services will be looked after by a

The Civil Services Public Services Commission. The Commonwealth Government, however, on its establishment will undertake the re-organisation and the re-adjustment of the Public Services in India, which are at present notoriously top heavy. If any member of the Indian Civil Service chooses to retire from the service as a result of such re-organisation, he may do so within three years of the establishment of the Commonwealth, and he 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.

III

The Communal Problem

The communal problem of India is essentially a question of adjusting Hindu-Muslim claims. Excepting in Baluchistan, the North West Frontier Province, the Punjab, and Bengal, the Muslims form a minority in all other provinces of India, consisting no more than 15 per cent of the population in the United Provinces where they have the highest minority. In Bengal their percentage of the population is 54, in the Punjab 55 and in the North West Frontier Province over 90. In Baluchistan too they are in an overwhelming majority.

The solution of the communal problem in its political aspect depends upon a fair and equitable adjustment of the Muslim demand in regard to the electorates, the reservation of seats in the legislatures for them whether they form the majority or the minority in any province, the separation of Sind from the Bombay Presidency and its constitution into an independent province, and the establishment of the same form of Government in the North West Frontier Province and Baluchistan as in other Provinces.

Communal electorates can have no place in any system of representation conceived in national interests, and what is worse, they invariably reduce the two communities to continually warring camps, thus in practice, defeating their own purpose viz., the safeguarding of minority rights.

Reservation of seats on the basis of population for majorities is indefensible both in principle and practice. It is only in the Punjab and Bengal that reservation has been asked for by a majority community, namely, the Muslims. Their case is that though they are numerically stronger in those two provinces, their cultural, educational and economic backwardness

would deprive them of their due majority in the legislatures. The Committee, however, found it impossible to recommend such reservation on any grounds. In the first place, where a majority community is artificially propped up in this fashion, responsible government becomes a sham (since it loses its essential characteristic, viz., Government by a majority freely returned by the electorate. But apart from the question of principle, an impartial study of the actual distribution of population over the Punjab and Bengal, and of the local board elections in the two provinces, leads to the conclusion that if voting were to go on communal lines, the Muslims in neither province would find it difficult to secure a parliamentary majority.

Reservation of seats for minorities is equally objectionable on general principles but the position is considerably different in practice as such reservation does not vitiate the basic working principle of responsible Government. The Committee, therefore, recommend it in the case of the Muslim minorities in general and the Hindu minority in the N.-W. F. Province and Baluchistan for a period of not more than ten years, both for the Central and Provincial Legislatures, provided that such reservation is in strict proportion to the population of the minority concerned. The further right of contesting additional seats in the general electorates has been conceded to them. An exception has been made in the case of the Hindu minorities in the Punjab and the Bengal where they are too strong to need any reservation. This principle of minority representation is not to be introduced in the case of other minorities as they are too small to benefit by reservation in proportion to their numbers.

As regards the Non-Brahmans in the South who form a majority of the population it is expected that their growing self-consciousness will very soon bring them in line with the advanced Brahman community.

For the depressed classes special educational and other facilities have been proposed. The Committee's proposal that adult suffrage be immediately introduced in the country will also enhance their political prestige and power.

The Muslim demand for the separation of Sind from Bom-

Separation of Sind bay is based frankly on the consideration that thus separated, the Muslim Community would have an overwhelming (over 73%) majority in that province, which at present is ineffective owing to Sind being a part of the predominantly Hindu Bombay Presidency. The Hindus on the other hand, object to the demand as being based on the vicious principle of creating new provinces purely on communal considerations. The fact, however, is that Sind is geographically and in culture, language and many other respects a unit by itself, and therefore has every right to be formed into a separate province provided the majority of the inhabitants of the province express their readiness to bear the financial responsibility of the new arrangement, and provided further that the non-Muslim minority in Sind, is given the same rights in respect of representation in the legislatures as the Muslim minorities have in other parts of India.

Redistribution of Pro- The Committee recommend that the re-distribution of all provinces should be taken up on the linguistic basis.

N.-W. F. Province and Regarding the form of Government in Baluchistan and the Baluchistan North-West Frontier Province, the Committee propose that their status should be raised to that of all major provinces. One cannot in justice or logic deny the right of responsible Government to any part of India.

IV

The Indian States

The Nehru Committee recommended the following provision in the Constitution:

Indian States "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 or sanads, or any other documents, the Governor-General in Council may, with the consent of the State concerned, refer the question to the Supreme Court for its decision."

As however the Princes were not represented at any of the All Parties Conferences or the Convention it was considered undesirable to discuss the question in their absence and the Convention passed a resolution inviting the Princes and peoples of the Indian States to appoint representatives to confer with representatives of the Convention at a Round Table Conference with a view to discuss and agree upon the constitutional position and status of Indian States in the future Commonwealth of India and the relations that should subsist between Indian States and the Central and Provincial Governments of the Commonwealth.

A strong Committee of the Convention was elected to meet these representatives when appointed.

This invitation stands and a favourable response is awaited.

V

The Net Result

As against the British Government all parties in India are united in demanding the same constitutional status for India as is enjoyed by 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.

As between themselves the representatives of All Parties have broken the back of the communal problem by important and far-reaching agreements on fundamental rights of citizenship, universal adult suffrage and abolition of communal electorates. The matters that still remain unadjusted are more or less matters of detail and will adjust themselves in no time once the Government accepts unequivocally the right of India to the immediate establishment of the Dominion form of Government.

As between the Indian Princes and the people of India there is really no difference on any question of principle. The Indian princes have expressed their fullest sympathy with the demand of full responsible Government in British India. As regards the people of their own states the Princes have come to realise that the present autocratic form of Government in the States cannot exist side by side with the Dominion form of Government on their borders. All that the Princes can reasonably claim is the maintenance of their rights and privileges as Rulers of which neither the people of British India nor the people of the Indian States have any intention to deprive them so far as they are consistent with the rights of free citizenship. The relations of the Princes with the people of India generally can be easily adjusted by a joint Conference to which they have been invited by the Convention.

In the presence of all these factors making for peace and goodwill between the two countries the principal parties concerned are busy making their preparations in the opposite directions—the

Government to force the Report when made of the boycotted and discredited Simon Commission upon India; the Indian National Congress to start its campaign of non-violent non-cooperation after January 1, 1930. The future is on the knees of gods.