

**THE FUTURE  
CONSTITUTION OF INDIA**

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**ROCHOUSE & SONS, LTD.  
PUBLISHERS : MADRAS**

**As. 12/-**

Departmental Lectures delivered by Dr. E. Asirvatham,  
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nistration, under the auspices of the University of Madras  
during the academic year 1944-45.

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Thompson & Co., Ltd., Printers, Madras.

## THE FUTURE CONSTITUTION OF INDIA

In the political life of India to-day there is no problem which is more baffling than her future constitution. Several schemes have been suggested, but none has met with the approval of all the parties and interests concerned.

### The 1935 Constitution

Beginning with the Government of India Act, 1935, as a convenient starting point for our discussion, we find that it provides provincial autonomy and a federation at the Centre. Whatever critics may say, provincial autonomy has conferred a large measure of autonomy upon the provinces and is a distinct advance upon dyarchy which prevailed from 1921 till 1937. It is true that the Governor still has his special responsibilities and is empowered to act in his discretion or use his individual judgment. In actual practice, however, restrictions of the latter category, in the earlier years at any rate (1937-39), were not of a very serious nature. The Centre, under the new constitution, is allowed to retain only the necessary minimum control. The power of the Federal Court to interpret the constitution is a safeguard against encroachments by the Centre. In the words of Professor Coupland: "Power in every field, including law and order, (is) now vested in Ministers responsible only to their legislatures, subject only to the Governor's right to intervene and in the last resort to override his Ministers for certain purposes, the most important of which (is) the protection of minorities."<sup>1</sup>

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1 The Cripps Mission, p. 14.

It is a well-known fact that, during the years when Congress was in office, Governors rarely had occasion to use their overriding authority. Lord Erskine, the Governor of Madras at the time and Sir Harry Haig, the Governor of the United Provinces, publicly stated that no occasion arose for them to use the special power for the protection of minorities. Autonomy was, therefore, "an unquestionable reality." One Congress ex-Minister whom Coupland interviewed said, with some pardonable exaggeration, that his Province was as fully self-governing as a Canadian Province. In the light of all this, it seems difficult to lend support to the claim that if Congress had continued in office "there would have been an outbreak of communal violence on an unprecedented scale."<sup>2</sup>

It is true that, except in one or two Provinces, no coalition ministries were formed; and the claim of the Muslim League to be represented on the Cabinet was thoughtlessly rejected. But it was not the result of a deliberate plan to exclude Muslims from power and lay the foundations for Hindu domination. The Congress, in its keenness to secure independence for the country as speedily as possible, was eager to bring together Hindus, Muslims, and others under a national banner. Could it have foreseen future events, it would easily have agreed to coalition ministries. It might have been guilty of a lack of political sagacity, but not of Machiavellism.

If the Congress had failed to take into account powerful psychological factors which upset rational calculations,

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<sup>2</sup> The Cripps Mission, p. 15.

the British government was equally guilty in having deliberately refused to include any promise of 'Dominion Status' in the 1935 Act. Experienced statesmen like Sir Tej Bahadur Sapru pleaded for such inclusion, even if Dominion Status was to be realised only at the end of, say, 25 years, but all such pleas fell on deaf ears. The Conservatives who were in power at the time thought it enough to save the preamble promising complete self-government from the 1919 Act, and repeal the rest.<sup>3</sup>

#### The Federal Part of the Act

From the federation contemplated, the Provinces were given no option to stay out. In the case of the States, however, such option was granted. Indian States could enter the federation by executing an Instrument of Accession, but on their once entering it they were not allowed to withdraw later. On the eve of the war, the British Government was busy evolving a standard Instrument of Accession which would have nullified some at least of the extravagant demands of different Indian States as a price of their entry. But unfortunately the outbreak of the war called a halt to all that.

Dyarchy which had been an acknowledged failure in nearly all the Provinces was to have been enthroned at the Centre. The position of the Governor-General was not to be merely like that of the Governor-General in any of the Dominions. Defence, external affairs (excluding the relation between the Federation and any part of His Majesty's Dominions), ecclesiastical affairs, and tribal areas were to be reserved subjects.

<sup>3</sup> To use the words of Prof. A. B. Keith, this was like "preserving the smile of a departed Cheshire cat".

Such a federation was unacceptable to every party in the country, though, in some cases, for exactly opposite reasons. The nationalists regarded the scheme as a hotch-potch of irresponsible autocracy, benevolent monarchy, and democracy. Some even suggested that it was designed to strengthen imperial interests in India. It was compared to a labyrinth, entry into which was much easier than exit. The wide powers given to the Governor-General came in for much criticism. Other unsatisfactory features of the scheme to which pointed attention was called were (1) indirect election to the popular House at the centre, (2) equal powers of both Houses in respect of financial matters, (3) nomination of representatives of the autocratic Princes to the Legislature, (4) over-representation of Indian States in the Lower House to the extent of 33 per cent., while their population constituted only 21 per cent of the total population of the country, (5) the continuance of communal electorates, (6) the votable items of expenditure at the Centre amounting to less than 10 per cent. of the total, and (7) the incorporation of numerous commercial, financial, and other safeguards.

For all these reasons the Congress resolved not to accept the federal scheme. The Muslim League, under the guidance of Mr. Jinnah, decided on the same course of action because of the fear that a federation would enthrone the Hindus permanently at the Centre, giving them a chance to tyrannise over the Muslims. Apropos of this fear, the famous Lahore resolution of March 1940 of the League declared: "the scheme of Federation embodied in the Government of India Act, 1935, is totally

unsuited to and unworkable in the peculiar conditions of the country and altogether unacceptable to Muslim India." The Princes who were keen on a federation at the first Round Table Conference began to get cold feet when it was proposed to translate their patriotic sentiments into action. Their fear was that democracy from the Indian Provinces might invade their territories, reducing them to the position of constitutional rulers, and that their treaty rights might amount to nothing under a federation.

The consequence of all this opposition was that at the outbreak of the war, the Viceroy, acting on behalf of the authorities in England, proclaimed that the federal part of the constitution was set aside for the time being.\* And at the time of writing there is no indication of its being revived. Judging from this distance, it seems that we would have been wise to have accepted federation with all its limitations in 1937 along with provincial autonomy. Among other things, that would have prevented Pakistan from rearing its ugly head. The extraordinary powers of the Viceroy could have been reduced partly by convention and partly by continuous propaganda in the country.

#### The Viceroy's August Offer of 1940

This offer may be regarded as the next important landmark in the political development of India after the 1935 Act. "It repeated the promise of full Dominion

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\* Sir R. K. Shanmugam Chetti regards this as "the greatest disservice that Lord Linlithgow did to India and the British Commonwealth."

Status and conceded the claim for constitutional self-determination.”<sup>4</sup> The framing of a new Indian constitution was to be “primarily the responsibility of Indians themselves.” But this business was not to be undertaken when the Commonwealth was “engaged in a struggle for existence.” On the close of the war the British Government would welcome “the assembly of a representative constituent body with the least possible delay.”<sup>5</sup>

The condition attached to the Offer was that the minorities should give their approval to any agreement which might be finally reached. The words of the Offer were: “It goes without saying that they (the British Government) could not contemplate transfer of their present responsibilities for the peace and welfare of India to any system of government whose authority is directly denied by large and powerful elements in India’s national life. Nor could they be parties to the coercion of such elements into submission to such a government.”

The Congress rejected this offer.. Pandit Jawaharlal Nehru called it “an insult to India.” Mr. Jinnah took the view that nothing must be done which did not have the previous approval of the League. The general feeling in the country was that much was being made of the Minorities in withholding from India what had been promised her. No reasonable person, it was said, would object to the meeting of all the reasonable demands of the different elements in the Indian population. But the August Offer amounted to giving a blank cheque to every

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4 Coupland: *The Cripps Mission*, p. 19.

5 *Ibid.*

minority and vested interest in the country. Each of them was allowed to hold up the progress of the country, setting forth both real and imaginary fears, if complete self-government should become a reality.

The promise of Dominion Status contained in the offer evoked no enthusiasm, for the time for such enthusiasm had gone. Had it been offered in 1929 or even as late as 1935, it would have been welcomed with both hands. But much water had flown under the bridge between 1935 and 1940. There was a widespread fear that even if Dominion Status was granted, it would not be a straightforward offer, but would be hedged in by all sorts of conditions—reasonable and unreasonable—in the interest of the Princes, the Minorities, and vested interests. The number and character of the safeguards incorporated in the 1935 Act seemed to lend support to this fear. The tempo was for independence.

### **The Atlantic Charter**

The Atlantic Charter of 1941, in promising the self-determination of nations, revived the drooping spirits of Indians for a while. The third article declared respect for "the right of all peoples to choose the form of government under which they will live;" and a wish "to see sovereign rights and self-government restored to those who have been forcibly deprived of them." When asked whether the Charter applied to India, Mr. Churchill answered that it was meant primarily to apply only to the countries occupied by the enemy powers, although Mr. Roosevelt, the co-author of the Charter, gave it a wider interpretation. Lord Linlithgow argued that his famous August Offer of 1940 had already in it the germs of the

Atlantic Charter. Mr. Amery claimed that the British policy in India was in accord with the principle of the Charter. All this resulted in making a bad situation worse.

### The Cripps Proposals

At this juncture, the country was taken by surprise by the personal visit of Sir Stafford Cripps, who brought with him a Draft Declaration from the British Cabinet. But the times were unpropitious for a calm and dispassionate consideration of it. Japan was knocking at the doors of India and people's minds were confused, and their nerves over-strained.

The Draft Declaration said that "the object of His Majesty's Government" is the creation of a new Indian Union which shall constitute a Dominion, associated with the United Kingdom and the other Dominions by a common allegiance to the Crown, but equal to them in every respect, in no way subordinate in any aspect of its domestic or external affairs." What was promised—and has not been withdrawn since—was full Dominion Status with the right to secede.

Prof. Coupland believes that future generations may come to regard March 29, 1942, when the Draft was made public, as the date of the Declaration of Indian Independence. Its important provisions were:—

1. After the war a constituent assembly was to be summoned for the drafting of a new constitution with no interference from Britain. This Assembly was to be elected according to the system of proportional representation by the entire membership of the Lower Houses

of the Provincial Legislatures acting as a single electoral College. It was to be roughly one-tenth the size of the electoral college. Indian States were to be represented by the nominees of Princes in States where there were no popularly elected assemblies. Where there were such assemblies, they were to be elected. The number of Indian State representatives was to be proportionate to their population in the country. The door was left open for "the leaders of Indian opinion in the principal communities" to agree upon some other method of setting up a constituent assembly before the cessation of hostilities.

2. Any Province or Indian State which wanted to stay out of the Union was allowed to do so. A non-acceding Province could retain its present constitutional position or form a Union with others and frame a constitution of its own, although provision was made for its later accession. Indian States could join such a Union, but could not form a Union of their own. None of the new Unions could expect any financial aid from Britain. States which chose to remain outside the Union would retain their existing relationship with the Paramount Power. If the majority in favour of accession was less than 60 per cent., the majority was entitled to demand a plebiscite of the adult male population.

3. A treaty was to be negotiated between His Majesty's Government and the constitution-making body, one of the provisions to be included in it being the protection of racial and religious minorities.

4. There was to be a "complete transfer of responsibility from British to Indian hands" in the future.

5. The British Government was prepared to implement the constitution as finally agreed upon.

In the press conferences which followed the announcement of the Draft, Sir Stafford Cripps made the following points clear:—

1. The Indian Union was entitled to disown its allegiance to the Crown and could even abolish the office of the Governor-General if it so chose.

2. It could enter into a treaty with any other nation in the world, thus establishing an important aspect of external sovereignty.

3. No power was to be reserved to the British except that there was to be a treaty by which the Government of the Indian Union would undertake to carry on the protection of the minority communities which had been promised to them.

4. No Imperial troops were to be stationed in India except at the request of or by agreement with, the new Indian Union or Unions.

5. No protection was to be extended to British vested interests. "We are not going," Sir Stafford said, "to make any condition in the Treaty as regards guaranteeing the vested rights of British interests in India", for they are not "one of the social and religious minorities to be protected by the Treaty." (Since then the European commercial community in India has asserted itself by seeing to the inclusion of Sir E. Benthall as War Transport Member in the Viceroy's Executive Council.)

6. India was to be represented at the Peace Conference and the Atlantic Charter was to be made applicable to her.

### Criticisms of Cripps' Proposals

1. Although Mr. Jinnah was willing to help in the formation of a Provisional National Cabinet, he and the League opposed the proposals because they did not specifically grant their demand for Pakistan. The Hindu Mahasabha resented even the suggestion of Pakistan in the light of its basic principle that "India is one and indivisible." The nationalists agreed that the creation of new unions would have meant continuance of British interference. States and Provinces staying out of the Union, it was said, might become safe places for British imperialism like Ulster, playing the unenviable part of "barriers to the growth of Indian freedom." Sapru and Jayakar said: "The creation of more than one Union, however consistent in theory with the principle of self-determination, will be disastrous to the lasting interests of the country, and its integrity and security." Many regarded the proposals as an invitation to separation. The Sikhs objected to the non-accession proposals and through their All-Parties Committee declared:

"Ever, since the British advent our community has fought for England . . . and this is our reward that our position in the Punjab . . . has been finally liquidated. . . . Why should not the population of any area opposed to separation be given the right to record its verdict and to form an autonomous unit? . . . We shall resist by all

possible means separation of the Punjab from all-India Union.’<sup>6</sup>

2. The Princes insisted that their “moth-eaten” treaty rights must be effectively protected. Sir Stafford sympathised with them and repeatedly declared the intention of the British Government to honour its treaties, although at times he gave the impression that the Princes would have to deal with the new Indian Government. The Congress leaders said “The complete ignoring of 90 millions of people in the Indian States . . . is a negation both of democracy and self-determination.”

3. The Depressed Classes became apprehensive of caste Hindu domination; and their leaders, Dr. Ambedkar and the late Mr. M. C. Rajah wrote: “We are all of us absolutely convinced that the proposals are calculated to do the greatest harm to the Depressed Classes and are sure to place them under an unmitigated system of Hindu rule.”<sup>7</sup> As against these fears, Sir Stafford gave the assurance that the protection of the racial and religious minorities would form the subject matter of a Treaty between His Majesty’s Government and the constitution-making body, and that on the constitution-making body itself the Depressed Classes would be represented in the same proportion as in the Provincial Legislatures.

According to Prof. Coupland, the causes of breakdown had nothing to do with the future constitution as envisaged in the proposals, but with the provisional arrangements for the duration of the war. This is certainly an

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<sup>6</sup> R. Coupland: *The Cripps Mission*, p. 40.

<sup>7</sup> Quoted by R. Coupland: *op. cit.*, p. 39.

exaggeration, for the bulk of the progressive opinion in the country was apprehensive of the creation of more than one Union and of Provinces and States being allowed to stay outside the Union.

The two main subjects on which controversy centred making a compromise impossible were (1) Defence and (2) the character of the Provisional National Government at the centre.

(1) As regards defence, the Congress, the Mahasabha, and the Liberals all wanted its transfer to Indian hands, for, it was argued, that only such transfer could secure real co-operation in an all-out struggle. Cripps declared that it would endanger the war effort. The Congress President, Moulana Abul Kalam Azad, was willing to let the Commander-in-Chief have the direction and control of military affairs and strategy, but Indians were to have a voice in the broader policies of defence. In claiming this latter right, the Congress President was only claiming in part a right which the Dominions were exercising in full. Indian opinion saw no reason why Indians themselves through their Legislature and Executive should not decide upon such questions as the best methods of financing the war, the distribution of defence forces in such a manner that the degree of sacrifice they might have to undergo in the prosecution of the war would not be greater than that undertaken by other members of the United Nations, etc. Sir Stafford agreed to having an Indian Defence Member on the Executive Council, but his powers were to be restricted to such secondary matters as demobilisation, post-war reconstruction, and amenities for

the welfare of troops and their dependents. This aggravated the feelings of the Congress which insisted on having a real Defence Minister. Persistent rumour has it that the attitude of the Commander-in-Chief was unhelpful in the matter, although Sir Stafford himself denied it at the time. The argument of Sir Stafford in circumscribing the powers of the Indian Defence Minister was that under war conditions all departments were defence departments and that defence was closely related to finance, civil defence, communications, food and supply. This argument did not appeal to the nationalists, for, if it was sound, Great Britain could just as well manage with a Prime Minister and a Defence Minister, instead of adding new departments with new ministers for the efficient prosecution of the war. The impression made at the time was that Britain was not prepared to trust India in the matter of defence, although she wanted the new Government of India to organise "to the full the military, material, and moral resources of India."

(2) The second bone of contention was the character of the National Government. At an early stage in the negotiation Cripps seems to have given the impression to Azad and Nehru that the Government contemplated was to be a genuine national government, with the Viceroy playing the role of a constitutional ruler, as in the Dominions. But he later changed his mind.<sup>8</sup> To the Congress demand that all the members of the Council were to

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<sup>8</sup> See a signed letter of Azad and Nehru published by Louis Fischer to the effect that Cripps's instructions were countermanded. But this was promptly denied by the Secretary of State.

be Indians except the Commander-in-Chief, the Viceroy seems to have been willing to yield, but hitch arose over the powers of such a Council. It was claimed that under the 1935 Act the Governor-General was entitled to dissent from the majority opinion of his council as to any measure "whereby the safety, tranquillity, or interest of British India or any part thereof" might in his judgment be essentially affected. This argument did not appeal to the nationalists, for to assume that a foreign Viceroy knew the interests of India much better than an All-Indian Cabinet was to assume that he was a super-man or, what was more likely, that he would meekly obey the behests of the Government in Britain. Sir Stafford went on to argue that to convert a quasi-Cabinet into a real Cabinet would necessitate a new act of Parliament and that it would take time. What the Nationalists could not understand was that, if in the summer of 1940 Mr. Churchill could offer France a political union with Britain, which nobody had dreamt of even in his wildest imaginations, there was no inherent difficulty in transforming a Council into a Cabinet. The trouble was that Sir Stafford was eager to come to some settlement in the shortest time possible and had come armed with the slogan "Take it or leave it." In these circumstances the most that the Viceroy was prepared to undertake was to deal with his Council as far as possible as if it were a Cabinet. The Congress was not prepared to accept this position and so wanted "a Cabinet with full power." It was to be a 'free government,' its members acting as members of a Cabinet in a constitutional government. Things having come to such an impasse it was inevitable

that the negotiations should break down. In the words of Prof. Coupland, what the Congress Working Committee "asked for, in fact, was National Independence here and now."

When this last demand of the Congress was rejected, Cripps brought in considerations which had not figured hitherto in the course of the negotiations. He claimed that the demand of the Congress would be resented by the minorities and that it would be unfair to the Indian States, as well as to the Secretary of States' Services. He reiterated the earlier argument that if the Commander-in-Chief were to have complete control over military operations, he would have to have indirect control over food, supply, transport, and the like. He also held that the Commander-in-Chief was responsible for maintaining internal security.

The conversations having failed, Sir Stafford flew back to England. It was the opinion of experienced observers that had he stayed a little longer he would have been able to arrive at a working compromise. The Draft Declaration was promptly withdrawn by the British Government, although it has been repeatedly said that the offer still stands. It has not been made clear what part of it still stands and what part has been consigned to the limbo of oblivion.

Since the failure of the Mission, Mr. C. Rajagopalachariar, the former Prime Minister of Madras, has set forth a case for the acceptance of the Cripps proposals. Of late, the Rt. Hon. V. S. Srinivasa Sastri has argued for the acceptance of the proposals *minus* the right of

non-accession of Provinces and States. It is extremely unlikely that the British Government would agree to the suggestion for, in the present state of affairs, it would amount to coercion.

Looking at the whole question from this distance, it looks as though we would have been wise to have accepted the proposals for the following reasons:—

1. The British people were in a mood to transfer complete power on account of war exigencies. It has been repeatedly said that the offer of the British Government had nothing to do with the Japanese being at the doors of India at the time. Nevertheless, what any one can see is that with the receding of that danger, British willingness to part with power has proportionately declined. Our sulkiness has hardened hearts to some extent; and it may take some years before we find the ruling classes of Britain in an accommodating mood.

2. Even the wide powers which had been reserved for the Viceroy and the Commander-in-Chief could have been tackled successfully, and India could have secured the substance of power, as she did in the Provinces between 1937 and 1939. There was possibly a certain amount of undue nervousness on the part of our national leaders in assuming responsibility.

3. From the internal point of view, the rejection was a tactical blunder. We were promised Dominion Status with the right to secede. Both Mr. Jinnah and leaders of the Depressed Classes were willing to enter a National Government. We should have struck the iron while it was hot. Instead, we let it cool and are now trying to

heat it artificially without much success. The rejection has given the Muslim League a new lease of life and provided an opportunity to British statesmen practically to go back on their promise when they say that no part of the British Empire is to be liquidated at the end of the war. They claim that the Cripps offer still stands, but the only stand which it seems to take is that it stands in the way of any friendly settlement.

4. World opinion has to some extent hardened against us; for it is likely to be said that we were afraid of responsibility at a critical time. "All or nothing" in the midst of a war is not the right policy.

5. A splendid opportunity has been lost of building up a genuine Indian army. Under an enthusiastic Indian Minister we could have infused a genuine Indian spirit into the army and cultivated a genuine national loyalty and sentiment. At present an attempt is made to create in the minds of Indian defence forces the impression that they are in a special measure beholden to the British Government and its paternal care over them. We further lost the opportunity of learning the intricacies of government and of administration and of winning the Services to the Indian cause.

What next is the question.

#### The Coupland Scheme

The failure of the Cripps proposals has been followed by a learned treatise on the 'Constitutional Problem of India' by Prof. Coupland. While it is not an official scheme, the amount of publicity given to it makes one feel sure that it is not a mere academic study. In many

respects it is less liberal than the Cripps proposals and is calculated to strengthen the British hold on India.

The heart of the scheme is *Regionalism*. The object is to satisfy the Muslims and yet maintain the unity of India. According to the author himself, it is a *via media* between Partition on the one hand and an All-India Federation on the other. The divisions are to be along the main river basins of the country, the argument being that "the natural physical division of India is the river basins." India is to be divided into four Regions: (1) The Indus Region (roughly corresponding with the North-Western zone of the Muslim League). It is to include the present Provinces of Sind, the North-West Frontier, and the Punjab minus the Ambala division where Non-Muslims predominate, as well as Baluchistan, Kashmir, and a good portion of Rajputana. (2) The Ganges Region, comprising mainly the United Provinces, Bihar, portions of Central India and Orissa. (3) The Delta Region (roughly corresponding with the North-Eastern zone of the Muslim League). It is to include Assam and Bengal *minus* the Burdwan division where the Hindus predominate. (4) The Deccan with its rivers which have their sources in the Western Ghats.

Each of the four Regions is to have a government of its own with governmental institutions of its own, including a legislature, an executive, and administration. This means that, instead of two sets of Government, as at present, there are to be three sets of Government. The chief merit of the scheme is, according to the writer, that it concedes to the Muslim League the substance of its demand

for separation and establishes "a rough balance between two Hindu-majority and two Muslim-majority Regions," thereby freeing the Muslims from the fear of Hindu domination. Another advantage which the writer claims is from the point of view of the Indian States. While the author concedes the possibility of a separate States' Dominion or Dominions of their own (which was ruled out by Cripps), he is convinced that their safety and prosperity lie in their becoming an intrinsic part of the Regions. Such Regionalism, he says, would "bring the States to the Centre not as a single bloc confronting the Provinces, but already combined with the Provinces in their respective Regions." A further advantage of the scheme, says Coupland, is that the approach is economic and social rather than political.

The whole scheme has a family resemblance to that of Dr. Benes for the re-drawing of the map of Europe along river basins. The idea is to have something like the Tennessee Valley Authority in the U.S.A. which exercises jurisdiction over parts of seven States and furnishes a good example of "planning co-operation on a basis of economic regionalism."

The Government contemplated at the Centre is an Agency Centre. It is to be a purely Inter-Regional institution. The members of the executive and legislature would act as agents of their Regions, exercising control over foreign affairs and defence, tariffs and currency. Communications might be added to the list if the Regions agree. The representatives at the Centre would be chosen primarily as representatives of the Provinces and States comprising the regions. Yet, strange as it may seem,

Coupland says that the Centre could be a real government, giving its orders to its own soldiers and its officials and not a mere Confederacy. It would pay its own way. The Regions would have an equal representation on the executive as well. The Prime Minister might be alternately a Hindu and a Moslem. On important issues representatives of a Region would vote 'en bloc' and not as communities or parties. The Supreme Court might be made up of one judge from each Region.

### Examination of the Scheme

1. The chief criticism of the scheme is its artificiality. It is so devised as to placate the Muslims by giving them 50 per cent. representation at the Centre. One fails to see what there is in common between the people of the Bombay Presidency, Madras Presidency, Central Provinces, and portions of Central India—all of whom are lumped together in the Deccan Region. Mr. S. Adhikari is of the opinion that, although Coupland speaks only of four regions, there is a suggestion of a fifth region including the Indian States from the western end of India to the eastern comprising Kathiawar, Rajputana, including such principal aerodromes as Gwalior and Jodhpur and the principal air routes of India, Central India, Central Provinces and Orissa. This region Adhikari calls Princistan and claims that it will be under the special care of Britain, driving a wedge between self-governing and independent Indias in the North and the South. Whether this fear is justifiable or not, the Deccan Region is a conglomeration. It should really be divided into the Central zone including the areas mentioned by Adhikari

and the Deccan zone comprising Bombay and Madras Presidencies, Hyderabad, and S. Indian States.

The areas placed by Coupland under Deccan are not situated along any great river or rivers. If all of them can be grouped together into one Region, why not the whole of India, particularly for purposes of economic development?

2. While in the earlier part of the Report the author holds that Calcutta, on the whole, belongs to the so-called "Hindu India," he quietly slips it into Muslim India. Likewise, the "Sikh India", together with Amritsar. Coupland fully realises the advantages of union and the disadvantages of Partition. He realises that from the point of view of finance, defence, and the means for rendering social services, Pakistan would be an untenable proposition, reducing India to the level of Egypt and Siam in international councils. On p. 101 he writes: "Geography seems to have marked out India to become in due course a single political and economic unit." Why "to become"? It is that already. Coupland's scheme is to break it up and re-make it—like some of children's games. Elsewhere in the Report, he pertinently remarks: "History shows that nations can realise their nationhood without being wholly independent States." Holding views such as these, why should he be so anxious as to placate the advocates of Pakistan? Should he not really have examined the extent to which it is the result of clever propaganda and the extent to which it represents the genuine desire of the masses? Coupland's chief concern, as pointed out earlier, is to balance Hindu India and Muslim India—to reduce the recruiting sources of the

Central Legislature and the Executive to four, two Muslim and two Hindu, thus producing a balanced central government.

3. Regionalism, says Mr. Ruthnaswamy,<sup>9</sup> is a tender plant and takes time to grow. Where it has been tried, it has not been a great success. "Regionalism is as old as the end of the French Revolution in the 19th century coming as a sort of reaction against the orgy of centralisation indulged in by the French Revolution and Napoleon, the faithful child of that Revolution. Against the geometrical division of France into more or less equal territorial divisions called departments for which the mathematical mind of Saint Just was mainly responsible, a reaction began in the course of the 19th century which sought the restoration of the old historical divisions of France, Brittany, Normandy, Provence, Picardy, Lorraine. It found the support of genius in Mistral with his revival of Provençal, later journalistic support in Maurice Barres and scientific support in the geographer Vidal de la Blache. In Spain also in the course of the 19th century, reaction set in against the centralised system set up by Philip II. Catalonia, Galicia, the Basque country claim not only cultural but political autonomy—a claim that found intense expression in the civil war of a few years ago. In Italy also after the Risorgimento and Italian unity, the political and economic difference between North and South, the excessive centralisation of the government, the geometrical division of the country into departments on the French model riding rough shod over the historical and cultural and long autonomous units of

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<sup>9</sup> The New Review, November 1944, p. 182.

Lombardy, Venice, Tuscany, Campagne, Naples, Sicily, there has been a reaction towards federal regionalism as a method of decentralisation.”<sup>10</sup>

Coupland does not say what steps are to be taken to develop the regional idea and cultivate regional patriotism. To quote Mr. Ruthnaswamy again, “Regionalism to flourish in any country must respond to the call of history or tradition or culture”; and there is no such idea or tradition in India.

4. Three sets of governments will make the machinery top-heavy. If they can make India genuinely self-governing and independent and hold the country together, the expense may be worth while. Otherwise, it will be an unnecessary strain upon our slender resources.

5. An Agency Centre is no substitute for a proper central government. It is likely to degenerate into a confederation. In the article cited above, Mr. Ruthnaswamy quotes from Alexander Hamilton to the effect “These powers (those allotted to the central government) ought to exist without limitations because it is impossible to foresee or define the extent and variety of national exigencies or the correspondent extent and variety of the means which may be necessary to ratify them.” A “purely Inter-Regional institution,” in our opinion, cannot be anything more than a glorified confederacy with the danger of falling apart on the slightest excuse or provocation, inasmuch as the representatives of the regions, says Coupland, come to the centre not on an all-India

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<sup>10</sup> The New Review, November 1944.

footing, but solely as the agents of their regions with mandates from their governments and legislatures.

6. Coupland believes that customs revenue should be enough to meet defence expenditure. This is a doubtful contention even in peace time, considering the fact that mechanised warfare requires considerable expenditure. If free India decides upon a certain amount of protection for indigenous industries, there is likely to be a decline in our customs revenue. Coupland does not contemplate the reduction of national defence expenditure by a system of world security, but wants the Indian army of the future to undertake not only external defence, but also internal security.

7. Coupland's suggestion for the combination of executive and legislative functions at the Centre is not likely to be acceptable to the people of the country. It is likely to be regarded as reverting to the East India Company days. Legislatures have come to stay, and our business is to make them truly representative and clothe them with adequate authority.

8. Regionalism does not solve the problem of minorities. Hindus and Muslims will stay where they are and minorities will have to depend on the good sense of the majorities. Even after the new constitution comes into existence, separate electorates are to continue in the Provinces. This seems altogether incongruous. Separate electorates have been the cause of our trouble and are responsible for the present cry in favour of Partition. There is separatism in legislature, executive, and the services. Some want separation even in education, com-

merce, and the award of government contracts. There is no knowing where this downward trend will end. It is a pity that Coupland has not discussed such alternatives as joint electorates with the reservation of seats and the Muhammad Ali formula.

9. Coupland's hope is that his economic approach may prove to be a solvent and that economic considerations may come to prevail over the political. But may not such a hope prove to be a hope against hope? Under provincial autonomy Bengal to-day is faced with narrow communalism even in education, as seen in the proposed Secondary Education Bill. Very recently, Mr. Jinnah has been pleading for the establishment of separate Muslim Chambers of Commerce in every city and town. So long as the communal outlook is not given a decent burial, it will raise its ugly head even in the economic sphere. Interested politicians in the Regions are bound to set up "majority economic interests" against "minority economic interests" and vice versa.

Further, if the economic solution is the right one, it should be much more thorough-going than that contemplated by Coupland. It should be along socialistic or communistic lines. The minority communities are more afraid of the moneylender and the landlord than of anybody else. So what we want is far-reaching economic reforms. For that, a united India is far better than a divided India. Yet no political party in the country has addressed itself to that problem. Even the Communist party in the country is more interested in the political approach than the economic. We want a vast network of social services, permanent Food Ministry, some form

of food rationing, excess profits tax, etc. From this point of view Prof. A. V. Hill is right when he says: "I have grave doubts about the wisdom of urging that consideration should be given to partition. Devolution, yes; self-government as we have in this country (England) within limited regions. But partition having five separate regions in India could only lead to a Balkanisation of the great peninsula. I would like to emphasise the frightful penalties which would result from the disaster if it occurred."

10. To revert to Mr. Ruthnaswamy's article, history and geography have decided that India should be a land neither of Hindus nor of Muslims, but of Indians. Both Muslims and Hindus have lost the opportunity to make India Muslim or Hindu. 57:43 proportion of Muslims in the Punjab and 54:46 proportion in Bengal do not make them Muslim provinces. They are "mixed Muslim Hindu provinces."

11. If what Prof. Venkatarangaiya says is true that in federal constitutions it is becoming increasingly unrealistic to make sharp distinctions between the centre and units, the difficulty becomes still greater when we have to deal with three levels of government. Confusion becomes worse confounded. Coupland assumes that large scale economic planning should be assigned to the Regions. Why should it be so? Is not the centre more suited for that, or at least for certain aspects of it involving the avoidance or duplication of planning and effective co-ordination?

12. Coupland is not able to free himself from the so-called "British obligations" upon which practically

every British statesman lays emphasis. He discusses the possibility of a free India entering into a treaty with Britain for the maintenance of British forces for purposes of external defence only. One has only to hope that this will not mean a repetition of the history of our alliance with the East India Company. He also discusses British obligations to the Princes (but not to their people), the scheduled castes, the backward communities in wholly and partially excluded areas, the British commercial community, members of the Secretary of State's Services, and members of the Defence Services. He believes that all these are capable of satisfactory adjustment in a free India. All that we need to say is that it remains to be seen. What one notes with regret is that the longer the political settlement of the country is delayed the larger will be the number of interests which will come into existence, the latest addition being "the returned soldier."

#### Points of strength in the Scheme

1. In some respects, Coupland goes farther than Cripps. While Cripps speaks of a treaty which free India is to enter into with Britain, particularly for the protection of religious and social minorities, Coupland argues that external sanctions of any kind do not fit into a picture of a free India. The best safeguard, he says, is the constitution itself arrived at after consulting all interests and the changing of that constitution in the same manner.

2. Coupland does not seem to be in favour of commercial safeguards such as are found in the 1935 Act. The best safeguard for trade, he says, is the good will of the people.

3. He wishes to incorporate three types of safeguards in order to protect the minorities: (1) "general safeguards such as a declaration of rights or such provisions as figure in the European Minority Treaties"; (2) "political safeguards such as the requirement of more than a bare majority for decisions"; (3) "cultural safeguards such as the cultural autonomy laws of Russia or Estonia." "It is essential that the safeguard clauses of the constitution should be incapable of alteration without the minorities' assent and should be easily enforced in the courts. The success of the new regime will mainly depend on the sovereignty of the Law." If fundamental rights are to be of any value, they should deal with essentials; and the language should be precise enough to be enforced by law courts.

4. The author believes that it is not necessary to have identical constitutions for all the units, but throws his weight on the side of coalition ministries formed on the basis of the strength of the parties in the Legislature. The model which he wants the country to adopt is the Swiss model which would make the ministries both stable and strong, not responsible to the Legislature from day to day.

5. If in the re-constituted Provinces or Regions parties are still to be on communal lines, we shall not be in a much better position than where we are to-day. What Indian conditions require for some time to come is a composite government rather than a coalition. In a composite government parties play little or no part, whereas a coalition government is often a marriage of convenience and where a truce is declared for the time being on-

### 3) THE FUTURE CONSTITUTION OF INDIA

extreme party claims. For a Province like Madras where there is no serious communal issue, a single party ministry may be better than a coalition or even a composite ministry.

#### The Pakistan Issue

While the demand for a separate homeland for the Muslims is only a few years old, it assumed a definite shape in a resolution of the Muslim League passed at Lahore on March 26, 1940. It reads:

"It is the considered view of this Session that no constitutional plan would be workable in this country or acceptable to the Muslims unless it is designed on the following basic principles, viz. that geographically contiguous units are demarcated into regions which should be so constituted, with such territorial adjustments as may be necessary, that the area in which the Muslims are numerically in a majority, as in the North-Western and North-Eastern zones of India, should be grouped to constitute independent States in which the constituent units shall be autonomous and sovereign."

The resolution proceeds to stress that—

"adequate, effective and mandatory safeguards should be specifically provided in the constitution for minorities in these units and in the regions for the protection of their religious, cultural, economic, political, administrative and other rights and interests in consultation with them."

Conversely, it envisages identical guarantees in an identical manner for Muslim minorities in other parts of India.

This resolution has come to be regarded as something of a Statute of Westminster for Muslims in India. One of its main defects is its vagueness, which has been a cause of difference of interpretation in the recent Gandhi-Jinnah

negotiations. Terms like 'units,' 'regions', 'areas,' 'zones', and 'independent States' are used without any attempt at a precise definition of terms.

### The Delhi Resolution and Sequel

Partly as an answer to the Lahore resolution, the Indian National Congress passed a resolution in Delhi in March 1942 recognising a diversity inside's India's unity, and declaring that no territorial unit would be coerced into joining the Indian Union against its will. It further recognised the advisability of creating linguistic provinces.

This indirect conceding of Pakistan caused some disturbance in the country and so the All-India Congress Committee at its meeting in May 1942 at Allahabad adopted a resolution moved by Jagat Narain Lal which reads: "The A.I.C.C. is of opinion that any proposal to disintegrate India by giving liberty to any component state or territorial unit to secede from the Indian Union or Federation will be highly detrimental to the best interests of the people of the different States and Provinces and the country as a whole and the Congress, therefore, cannot agree to any such proposal." In spite of Gandhi's recent approach in the direction of Pakistan, it must be assumed that Jagat Narain Lal's resolution reflects still the official policy of the Congress, since the Congress has not gone back on it.

In August 1942 the A.I.C.C. passed a resolution which led to the indefinite incarceration of the members of the Congress Working Committee and thousands of their followers. The main points of the Resolution, as paraphrased by Mr Jinnah, are:—

(1) The immediate grant of complete Independence and the setting up immediately of a Federal Central Government on the basis of a united democratic Government of India with federated units or Provinces.

(2) The National Government so set up is to evolve a scheme for constituent Assembly, which will be chosen by adult franchise and which will prepare a constitution for the Government of India.

(3) To enforce this demand the August Resolution decides on and sanctions a resort to mass civil disobedience under the direction of Mahatma Gandhi.<sup>11</sup>

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#### TASKS OF PROVISIONAL GOVERNMENT

11 "The A.I.C.C., therefore, repeats with all emphasis the demand for the withdrawal of the British Power from India. On the declaration of India's independence, a Provisional Government will be formed and Free India will become an ally of the United Nations, sharing with them the trials and tribulations of the joint enterprise of the struggle for freedom. The Provisional Government can only be formed by the co-operation of the principal parties and groups in the country. It will thus be a composite Government, representative of all important sections of the people of India. Its primary functions must be to defend India and resist aggression with all the armed as well as the non-violent forces at its command, together with its Allied Powers, and to promote the well-being and progress of the workers in the fields and factories and elsewhere, to whom essentially all power and authority must belong. The Provisional Government will evolve a scheme for a Constituent Assembly which will prepare a constitution for the Government of India acceptable to all sections of the people. This constitution, according to the Congress view, should be a federal one, with the largest measure of autonomy for the federating units, and with the residuary powers vesting in these units. The future relations between India and the Allied Nations will be adjusted by representatives of all these free countries conferring together for their mutual advantage and for their co-operation.

### The Rajagopalachari Formula

It is a well-known fact that for sometime past Mr. Rajagopalachari, the ex-Prime-Minister of Madras, has been carrying on a vigorous campaign in favour of settlement with the Muslims on the basis of some form of Pakistan. While his efforts received considerable attention, it cannot be said that either the Muslim League or the Congress gave him its blessings. But when it came to be known that Mahatma Gandhi had given his approval to the C. R. formula as early as March 1943, it began to assume a new importance. The formula as published on July 10, 1944 reads as follows:—

1. "Subject to the terms set out below as regards the constitution for free India, the Muslim League endorses the Indian demand for independence and will co-operate with the Congress in the formation of a provisional interim government for the transitional period.

2. "After the termination of the war a commission shall be appointed for demarcating contiguous districts in the North-West and East of India wherein the Muslim population is in absolute majority. In the areas thus demarcated, a plebiscite of all the inhabitants held on the basis of adult suffrage or other practicable franchise shall ultimately decide the issue of separation from Hindustan. If the majority decides in favour of forming a sovereign state separate from Hindustan, such decision shall be given effect to, without prejudice to the right of districts on the border to choose to join either state.

3. "It will be open to all parties to advocate their points of view before the plebiscite is held.

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in the common task of resisting aggression. Freedom will enable India to resist aggression effectively with the people's united will and strength behind it." [Aug. 6, 1942 resolution of the Congress.]

4. "In the event of separation, mutual agreements, shall be entered into for safeguarding defence and commerce and communications and other essential purposes.

5. "Any transfer of population shall only be on an absolutely voluntary basis.

6. "These terms shall be binding only in case of transfer by Britain of full power and responsibility for the Government of India."

### The Gandhi-Jinnah Negotiations

These negotiations took place in September 1944 at the request of Mahatma Gandhi. Although they lasted for nearly three weeks, no agreement could be reached even on fundamentals. Mahatma Gandhi proceeded on the basis of the Rajagopalachari formula, but this did not satisfy Mr. Jinnah on several points. Hence he put forward an alternative formula of his own which was a simplified form of the Rajagopalachari formula. The assumption of the formula is that Muslim areas in the North-West (Baluchistan, Sind, N.W.F.P. and that part of the Punjab where the Muslims are in a majority) and the North-East zone (parts of Bengal and Assam where they are in a majority) want separation from the rest of India.

On the basis of this assumption the following proposals were made:—

1. "The areas should be demarcated by a commission approved by the Congress and the League. The wishes of the inhabitants of the areas demarcated should be ascertained through the votes of the adult population of the areas or through some equivalent method."

2. "If the vote is in favour of separation, it shall be agreed that these areas shall form a separate State as soon as

possible after India is free from foreign domination and can, therefore, be constituted into two sovereign independent States."

3. "There shall be a treaty of separation which should also provide for the efficient and satisfactory administration of Foreign Affairs, Defence, Internal Communications, Customs, Commerce and the like, which must necessarily continue to be matters of common interest between the contracting parties."

4. "The treaty shall also contain terms for safeguarding the rights of minorities in the two States."

5. "Immediately on the acceptance of this agreement by the Congress and the League, the two shall decide upon a common course of action for the attainment of the Independence of India."

6. "The League will however be free to remain out of any direct action (mass civil disobedience), to which the Congress may resort and in which the League may not be willing to participate."

Gandhi claimed that both his formula and that of Mr. Rajagopalachari conceded the substance of the Lahore resolution. But Mr. Jinnah stoutly opposed this contention. He claimed that C. R. had not only put the Lahore Resolution "out of shape, but mutilated it" and went on to say that "there (was) a close family resemblance between the two (formulae) and the substance of one or the other (was) practically the same, only it (was) put in different language, and that neither (met) the substance nor the essence of Lahore Resolution. On the contrary, both (were) calculated to completely torpedo the Pakistan demand of Muslim India." In the course of the correspondence which accompanied the negotiations, the following points were made clear:—

1. While Gandhi wanted Independence to precede Pakistan, Jinnah insisted on the reverse process. The

latter claimed that the August Resolution of 1942 was "inimical to the ideals and demands of Muslim India" inasmuch as the Muslim League stood for the independence not of a "United India" for which the August Resolution stood, but for the independence of Pakistan and Hindustan as separate States. Therefore, Jinnah said that he was not prepared to fight for independence or even for a provincial government till Pakistan was separated from Hindustan as an independent sovereign State. "Ours is a case" he wrote, "of division and carving out two independent sovereign nations, Hindus and Muslims, and not of severance or secession from any existing union, which is non-existent in India." Jinnah's demand was for agreement on complete separation into Hindustan and Pakistan even before Britain handed over responsibility. Afterwards by united effort they were to "secure the freedom and independence of the peoples of India on the basis of Pakistan and Hindustan." Jinnah's possible fear was that he would not be able to get the same advantageous terms from the British as he could from the Congress, which was eager for complete independence.

2. Jinnah took his stand on "the two nations theory," to which Gandhi was not prepared to accede. He described it as "wholly unreal" and claimed that the mere fact of conversion making the Muslims a separate nation was "a new test of nationhood." "The more I think about the two nations theory the more alarming it appears," said Gandhi. He further argued that what made Indians a nation was common subjection to a foreign government. If division there must be, he declared, let it be as a partition between brothers.

Jinnah was equally adamant with regard to his point of view. His consistent claim was that the two-nation theory was not open to question and that the principle of Pakistan had to be accepted by whoever wished to discuss with him the details of a communal settlement. In one of his letters to Gandhi, he wrote "We maintain and hold that Muslims and Hindus are two major nations by any definition or test of a nation." In a highly rhetorical passage which is not particularly noted for its accuracy, he said "we are a nation of hundred million, and what is more, we are a nation with our distinctive culture and civilisation, language and literature, art and architecture, names and nomenclature, sense of value and proportion, legal laws and moral codes, customs and calendar, history and traditions, aptitudes and ambitions; in short, we have our own distinctive outlook on life and of life. By all canons of international law we are a nation." Holding this view, Jinnah held that the Muslims had "an inherent right of self-determination."

3. Sharp difference of opinion arose with regard to the boundaries of the Muslim Zone. While both the C. R. and Gandhi formulae contemplated contiguous areas where Muslims were in an absolute majority, i.e. had a clear majority over non-Muslim elements, Jinnah, interpreting the Lahore resolution in his own way, claimed practically the whole of the Punjab and Bengal (and possibly Assam) as they exist to-day in addition to areas about which there is no dispute. He was probably frightened by Dr. Ambedkar and others who have proved to the hilt that Pakistan as originally contemplated including only predominantly Muslim areas would be economically unsound.

Without clearly indicating what areas would constitute Pakistan, Jinnah argued that territorial adjustments in the six Muslim Provinces were to be according to the terms of the Lahore Resolution. His contention was that if Gandhi's proposed demarcation were effected, "the present boundaries of these Provinces (Baluchistan, Sind, North-West Frontier Province, Punjab, Bengal and Assam) would be maimed and mutilated beyond redemption, and leave us only with the husk, and it is opposed to the Lahore Resolution."

4. On the question of plebiscite also to decide upon the question of Partition, there was difference of opinion. Both Gandhi and C. R. wanted a plebiscite of the entire adult population. Gandhi held that "there must be clear proof that the people affected desire(d) Partition." According to C.R.'s formula, it was to be district-wise. Jinnah was not prepared to concede any plebiscite at all. If there was to be one, it was to be confined to Muslims alone; "they alone", he wrote, "are entitled to exercise this right of theirs for self-determination." This position of his was rather unfortunate. For, if the Muslims are a clear majority and are adamant in having their own Pakistan, there is nothing to be lost by having a universal plebiscite. Further, to commence the life of a new State with the denial of a fundamental right to the minorities within it disenfranchising them at the very start is not calculated to inspire their confidence.

5. Gandhi contemplated a Provisional Government representing the nation to which power was to be peacefully transferred by the British Government. It was to represent all parties and was to be responsible to the

elected members of the present Assembly or a newly elected one. It was to give effect to the findings of the Boundaries Commission. The new constitution was to be framed by it or by a special authority set up for the purpose. To all this Jinnah was unalterably opposed.

6. He was also opposed to the very suggestion of a central agency for Hindustan and Pakistan. Gandhi's proposal was for a central Board of Control or Administration for defence, commerce, and the like. In one of his letters he wrote that he would not be a willing party to a division which does not provide for the simultaneous safeguarding of common interests such as Defence, Foreign Affairs and the like. In reply to it Mr. Jinnah said that he did not reject "the idea of common interest between (the) two arms," but that "it will be for the constitution-making body of Pakistan and that of Hindustan, or any other party concerned, to deal with such matters on the footing of their being two independent States." In other words, while, according to Gandhi, some sort of a central agency was to be an integral part of the Treaty enacting separation, according to Jinnah it was for the two sovereign States to set up a common agency after separation, should they feel the need for it. That this was not going to be an easy matter was indicated by Jinnah when he wrote that the matters for the centre mentioned by Gandhi were "the life blood of any State" and could not "be delegated to any central authority or government." In a later statement, feeling strongly on the subject of some sort of a centre Gandhi remarked "the creation of two completely independent States without some friendly arrangements in regard to certain com-

mon interests might mean war to the knife" (an unfortunate phrase for which Jinnah rightly castigated him). He further said "There is no question of one party overbearing the other or the Centre having an overbearing Hindu majority."

7. At one stage Gandhi suggested international arbitration, but to that Jinnah was not willing. At another stage he offered to address the League and explain his position. But Jinnah ruled it out on the technical ground that only a delegate could address a meeting of the Assembly, failing to realise that not long ago Mr. Churchill, the British Prime Minister, had addressed the American Congress.

8. At an earlier stage in the negotiations Gandhi wanted satisfaction from Jinnah that a number of independent sovereign States "will not become a collection of poor States, a menace to themselves and the rest of India," expressing his own fear that as he visualised the working of the Lahore Resolution, he saw "nothing but ruin for the whole of India." On this question no satisfaction was forthcoming. To the other fear that Pakistan when set up might join hands with neighbouring Muslim states against Hindustan, the only consolation which Jinnah offered was that "Pan-Islam (was) only a bogey." Neither did he take up the question of how the two "units of Pakistan" were to be linked together.

9. It is noticeable that throughout the negotiations the question of Indian India or Princely India was left out of account. Whether they were to become a part and parcel of Hindustan or Pakistan as the case may be or

were to be federated with one or the other of them was not even considered.. Likewise, the autonomy of closely-knit and powerful minorities like the Sikhs did not play any part at all.

10. The attitude of the third party was not helpful. Gandhi went so far as to say "My experience of the precious three weeks confirms me in the view that the presence of a third power hinders the solution."

#### The Viceroy's Attitude

On the eve of the negotiations, Lord Wavell issued a statement on August 15th reiterating the position taken by the British Government in 1942. The main points of the statement were:

1. The offer of unqualified freedom after the cessation of hostilities was conditional upon the framing of a constitution agreed to by the main elements of Indian national life and the negotiation of the necessary treaty arrangements with His Majesty's government.

2. No "National Government" responsible to the central Assembly was feasible during the war. Wavell added that during war military functions could not be divided from other functions and that until hostilities ceased and the new constitution was in operation, His Majesty's Government and the Governor-General must retain their responsibility over the entire field.

3: His Majesty's Government had the duty of safeguarding the interests of racial and religious minorities and of the Depressed Classes and their treaty obligations to the Indian States.

4. "If, however, the leaders of the Hindus, the Muslims and the important minorities were willing to co-operate in a transitional government established and working within the present constitution, I believe good progress might be made. For such a transitional government to succeed there must be before it is formed, agreement in principle between Hindus and Muslims and all important elements as to the method by which the new constitution should be framed. This agreement is a matter for Indians themselves."

It is noticeable that in his statement, Lord Wavell scrupulously avoids the terms "the Congress" and the "Muslim League" and substitutes for them the terms "Hindus" and "Muslims." He adds a further hurdle to those which already exist when he says that a Congress-Muslim settlement alone is not enough, but that there is to be also a settlement between Hindus and Muslims and other important minorities.

#### Reaction to the failure of the Negotiations

When the Gandhi-Jinnah negotiations broke down there was universal disappointment, except on the part of groups like the Hindu Mahasabha. Mr. William Dobbie, representing the progressive elements in Britain, remarked "It is a pity that Mr. Jinnah should be the Leader of the Muslim League. Gandhiji had suggested the fairest means of resolving the Indian deadlock by conceding to the Muslims Pakistan." Mr. Amir Shah, speaking for Mussalmans in Britain, said that 95 per cent of them were "unalterably opposed to Pakistan," for they wanted "a united India and not a divided one." The Rt. Hon. V. S. Srinivasa Sastri who had opposed Pakistan root and

branch wrote: "Gandhiji must free himself from the Pakistan obsession, if his future services to the Motherland are to maintain the qualities of wisdom and foresight."

Writing on the constitutional implications of the negotiations, the Hindustan Times observed: "The issue of the present negotiation clearly points to some form of confederation as the true remedy . . . . A confederation of autonomous units with homogeneous populations will provide for the satisfaction in the fullest degree of the natural desire for independent evolution of the component states as well as for the efficient administration of matters of common interest which arise out of the essential economic and cultural unity of India."

A line of criticism which has been suggested by some is that if Gandhi is willing to concede to the Muslims the substance of the Lahore Resolution, why not concede the Resolution itself and let Jinnah give it his own interpretation? After all, a limited centre like that contemplated by Gandhi cannot hold Hindustan and Pakistan together if one or the other of them is determined to fall out. Further, even after accepting the authority of the limited Centre, it is possible for Pakistan to join with other Muslim powers and turn against Hindustan. Therefore, it is argued that it will be very much better to yield completely to Jinnah and his demands than to make a partial surrender.

#### **The Communist Solution**

In a pamphlet entitled "Pakistan and National Unity," Mr. S. Adhikari deplures the cleft between the Congress and the Muslim League and believes that it can be removed

by making India a multi-national State. He argues that the Congress is playing into the hands of British imperialism by refusing to recognise the just claims of various nationalities in India. What it should do is to recognise the right of these nationalities to independent state existence within the framework of an Indian Union as well as to secede from the Union. Each one of them should be allowed to plan its own education, culture, and economic life.

As to who form a nationality and are, therefore, entitled to complete autonomy, Mr. Adhikari's answer is "Every section of the Indian people which has a contiguous territory as its homeland, common historical tradition, common language, culture, psychological make-up and common economic life would be recognised as a distinct nationality with the right to exist as an autonomous state within the free Indian union or federation and will have the right to secede from it if it may so desire." This view of nationality, says Adhikari, is in consonance with that of Stalin who himself seems to have anticipated something like a multi-national State for India. "A nation" Stalin says "is a historically evolved stable community of language, territory, economic life and psychological make-up manifested in a community of culture." This definition, says Adhikari, does not describe a static state of affairs; it is rather "the process of a people growing into a nation." The two key slogans of the national policy of the Communists, as understood by Adhikari, are:—

1. Unity of the workers and peasants, of the common people, for revolutionary struggle for democracy.

2. Recognition of the right of all nationalities to self-determination—to the point of secession.

Surprisingly enough, in his treatment of the subject Adhikari hardly gives any attention to the first slogan, his emphasis being on the second. Instead of approaching the questions of nationality and self-determination from the purely economic standpoint, which we expect a communist to do, his approach is political and cultural. Thus, the free India of tomorrow, as envisaged by Adhikari, would be "a federation or union of autonomous States of the various nationalities such as Pathans, Western Punjabis (dominantly Muslims), Sikhs, Sindhis, Hindustanis, Rajasthanis, Gujeratis, Bengalis, Assamese, Beharis, Oriyas, Andhras, Tamils, Karnatakas, Maharashtras, Keralas, etc." This means that while Mr. Jinnah and the Muslim League demand one Pakistan with two areas, Adhikari offers them and others like them 16 Pakistans!

This solution, says Adhikari, is superior to the C. R. solution: In the first place, the C. R. formula concedes Pakistan as a political expedient and thereby indirectly concedes the "two nations" theory. Secondly, it is in the nature of a top settlement in that it does not take the masses into account. The communist solution, on the other hand, aims at a greater and more glorious unity. It "is based on the just right of nationalities to equality and freedom within a free India." Toilers of all castes, communities, and nationalities are to be drawn together in common class organisation such as Trade Unions, Kisan Sabhas, etc. In the communist constitution for India, says Adhikari, "all privileges and discriminations based

on caste, race, and community will be abolished by statute."

According to the same writer, the reason why the various "nationalities" mentioned by him clamour for self-determination is their backwardness. India is unequally developed and, therefore, the demand is just. Its "essence is equality and freedom from oppression." The cry for Pakistan in the religious sense is unreal, but is real in the political sense. Religion is used as a convenient handmaid.

### Criticism of Adhikari's Solution

1. As indicated earlier, though a Communist, Adhikari does not make the fullest use of the economic approach. If the Hindus, Muslims and other groups are to be organised on a class basis, there is no reason why questions of Pakistan and self-determination should be dragged in. In Adhikari's analysis the demand for Pakistan belongs to the stage where the struggle is between the bourgeoisie among Hindus and Muslims. Communism, on the other hand, belongs to the final stage where the proletariat comes into its own. Adhikari himself writes: "Unite the masses of both sections on economic issues, on common struggles for economic demands; side by side, grant the Muslims their cultural rights—and the problem will be solved." The problem is not so very simple as all that. Even to-day there is nobody to interfere with the cultural autonomy of the Muslims. What they are clamouring for is political power.

2. Once the separatist tendency gets started, there is no knowing where it will stop. Adhikari argues that to

grant the right of separation does not necessarily mean that it will lead to actual separation. We are not so sure of that. In the present state of strained feelings, the right to secede is likely to be fully utilised. Once the sixteen nationalities mentioned by Adhikari secede, there will be nothing left from which secession may take place. Once separate State existence is conceded, the logic of events will drive us to separatism in every district, town, and village. Even the Brahmans may divide themselves into Vadakalai and Tenkalai Brahmans and the Muslims may organise themselves under Sunni and Shiya flags. So, instead of sixteen nationalities, we may have sixty of them.

3. Adhikari argues for the fullest possible freedom, for the development of one's own education, culture, and language. But to this no one in his senses has raised any real objection. Doubt arises only when separate State existence is demanded for the realisation of this end.

4. Adhikari's solution is facile. It seems plausible because it does not go into details of legislation and administration. What does an Indian Union of autonomous States mean? How will it work as regards defence, foreign affairs, customs, communications, currency, economic planning, food, the control of epidemics, promotion of public health, etc. As Dr. Beni Prasad points out, in our modern world a variety of relationships is possible and desirable; international, national, regional, and provincial. What we want is, in some cases, exclusive jurisdiction for the centre or the units as the case may be; in some normative legislation by the centre, co-ordination, supervision and inspection; and in some advice and sug-

gestion by the centre—the calling together of voluntary conferences of units.<sup>12</sup>

5. The Indian States are completely left out of the picture. Will Hyderabad, for instance, agree to be placed on a level with Eastern Bengal, Western Punjab or Karnatakas?

<sup>12</sup> To state the matter largely in Dr. Beni Prasad's own words with some modifications (refer to *The Communal Settlement*, pp. 22-3):—

1. The units comprising the Union should enjoy complete autonomy in matters pertaining to religious, cultural, and civic rights, subject to effective guarantees for minorities. The proper subjects of legislation and administration are education of all types and grades, agriculture, land revenue and taxes on land, law and order, justice, health and sanitation, prisons, local self-government, etc.

2. Electrification, irrigation, and the use of inter-provincial rivers properly belong to Regions. The broad framework of an economic planning may be left to an All-India authority.

3. In the sphere of transport and communication there should be a large measure of regulation and supervision from the Centre; also in the sphere of industry and commerce, especially inter-State and overseas commerce. Intra-State commerce, of course, belongs to the units.

4. In the region of social insurance, the central authority should lay down general principles, leaving detailed working to the units or regions. The Centre should enact normative legislation, the units attending to detailed or subsidiary legislation.

5. Currency and exchange require uniform legislation and, therefore, it is best to leave them to the Centre. Dr. Abdul Latif would rather leave them to the units so that they may have the feeling of sovereignty.

6. Defence, foreign affairs, and customs must belong to the Centre. In Dr. Beni Prasad's own words: "whatever the terms

### Our Constructive Suggestions

It is perhaps too late in the day to argue the Muslims out of some sort of Pakistan. Rightly or wrongly, the Muslim League, which is the only considerable party among the Muslims, is bent upon securing Pakistan. It is not a matter of reason and argument with them, but one of sentiment and emotion. The part of wisdom, therefore, seems to be to come to some honourable terms with them on the basis of equity. The longer we delay the more will be the fetters forged upon us by an alien government. The Muslim League, too, will do well to give heed to the advice of those who see clearly the dangers of Partition. The Muslims can get much better terms from fellow-Indians than from the British, for it is natural for Britain to want to continue her overlordship as long as

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of a Congress-League pact may be, they must provide an All-India administration of foreign and military affairs and consequential regulation of the principal means of transport and communication, currency and customs".

All these can be grouped under four categories as follows:—

1. Foreign affairs, defence, the principal means of transport and communication, customs, currency and exchange, shall be controlled entirely by the Centre, i.e. both their legislation and administration.

2. There are certain subjects where the centre may pass may undertake co-ordination, advice, and inspection in this normative legislation in broad outline; but the units may pass laws within that framework and administer them. The Centre sphere—e.g. social insurance.

3. On some subjects which belong to the units, the Centre may arrange for consultation and deliberation on a purely voluntary basis. Decisions in this field shall not be binding on the autonomous units.

4. Certain subjects are to belong exclusively to the units.

possible. This means that the Muslims should desist from demanding things which cannot be justified at the bar of reason or any international court of justice.

1. An Mr. Venkoba Rao<sup>13</sup> pertinently remarks, if India is to be divided into two or more sovereign States, that can only be done by the British Parliament which is the sovereign authority for India. This means that the totality of sovereignty has to be resumed by the Crown and re-distributed among the new States.

2. In drawing up the boundaries, the most that any reasonable person can demand is along the lines of the Gandhi-Rajagopalachari formulæ. This is especially true as regards the Punjab and Bengal where the Muslims do not form an overwhelming majority. (They are respectively 57.1 and 54.7 per cent in the two Provinces). The division which P. C. Joshi<sup>14</sup> suggests in a recent pamphlet seems reasonable. In the Kangra district the Muslims are only 5 per cent and the Hindus are 93 per cent. In the districts of the Ambala Division 28 per cent are Muslims and 66 per cent Hindus. Besides, these areas are mostly Hindustani-speaking, instead of Punjabi. Therefore, in any scheme of separation they cannot reasonably be included in Pakistan. After the exclusion of Kangra district and Ambala division the Muslim population in the Punjab will be 67 per cent, Hindus 16 per cent and Sikhs 15.1 per cent, making a good homeland for the Muslims.

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13 For some of these I am indebted to Mr. K. Venkoba Rao. M.L. Lecturer in Constitutional Law, University of Madras. See his article "Suggestions on India—a Union of Sovereign States", Journal of the University of Madras, January 1945.

14 P. C. Joshi: "They Must Meet Again".

To the west of the Sutlej there are certain districts known as Sikh districts. These are the Jullundur division and the districts of Amritsar and Gurdaspur. In none of these areas the Sikhs are a majority, but are a strong minority. The Muslims are the biggest single majority, but are not an absolute majority over the Sikhs and Hindus. Therefore, according to Joshi, these districts should have a plebiscite as to which side they would join. Joshi personally thinks that they should join Pakistan, for "economically, culturally and linguistically they are a part of the Punjab." But there should be a Muslim-Sikh pact guaranteeing certain rights. The areas in question might even become an autonomous unit within Pakistan. Since the Sikhs do not have contiguous territory, it is difficult to carve out a homeland for them.

So far as Bengal is concerned, it is admitted on all hands that there is a strongly developed sense of nationality among all Bengalis—both Hindus and Muslims. Therefore, it seems unwise to break up an already existing unity. The Muslims are backward culturally and economically and constitute a majority in the eastern districts. In the western districts the Hindus predominate—in the Burdwan division and the 24 Parganas. In the city of Calcutta the Muslims are only 26 per cent. In Bankura they are as low as 5 per cent; in the 24 Parganas they are 34 per cent; and in the district of Kalna they rise to 49.5 per cent. The Sylhet district in Assam is predominantly Muslim, *viz.* 60.71 per cent. Such main industries as jute, iron and coal are all in Hindu Bengal. "Hindu Bengal with Calcutta is the richest and most vital part of Bengal."

If the Hindu districts are all excluded, the North Eastern Zone becomes moth-eaten and mutilated.

If partition there must be, it is better for the whole of Bengal and Sylhet to constitute a sovereign and independent State through its own constituent Assembly in which all the just rights of the Hindu majority are safeguarded. But it cannot justly form an arm of Pakistan. P. C. Joshi suggests the establishment of a democratic constitution, the abolition of landlordism, as typified by the permanent settlement, and the setting up of two houses of legislature, "the lower to be elected through adult suffrage with separate or common electorate as the Muslims desire, ensuring Muslim majority, while the Upper House is a House of Communities in which Hindu and Muslim representatives are equal in number."

If Bengal is to remain united as a single State, it may be necessary to provide for a permanent composite ministry on which the Muslims and Hindus may be represented in the proportion of 60 to 40. The term of the ministers may be fixed freeing them from dependence upon the legislature from day to day.

3. Just because certain Muslims are vociferous in their demand for a separate State, it does not mean that they are necessarily right or that others do not have similar claims to make. We have considered the problem of a well-organised and considerable minority like the Sikhs. In their own interest as well as in the interest of India, it is better for them to form an autonomous unit within a larger whole. There is an increasing need for the setting up of autonomous units on linguistic and cultural lines. The Communist solution, as envisaged by Mr. Adhikari,

suggests a federation or union of autonomous States of the various nationalities. This does not mean separate States for each of the groups mentioned by him, but complete autonomous existence. One defect of the scheme is that it leaves the Indian States out of account. It is possible to incorporate the smaller States into larger autonomous units and make larger States the centres of autonomous units, including portions of the country which now belong to self-governing India.

If we are to experiment with Coupland's scheme of regionalism, it is better to have five regions rather than four, along the lines suggested earlier. Its chief drawback is that it will upset the nice balance of 50—50 which Coupland wants to maintain between the Hindus and Muslims. In order to allay the fears and suspicions of Muslims, the three non-Muslim regions may agree that for a period of, say, thirty years the two Muslim regions will have the same percentage of representation at the centre as the other three.

4. If we are to have Hindustan and Pakistan as separate states, it is possible to administer certain areas which do not logically belong to one or the other by the central authority. Such territories will occupy more or less the status of the present Chief Commissioners' Provinces. The City of Calcutta with its predominant Hindu population is an illustration in point. It has a population of 1,531,512 Hindus, 497,535 Muslims and 79,844 others. If separated from the North Eastern Zone, it will mean a considerable loss of trade to that zone, for which Calcutta may be required to pay a certain annual compensation.

The marking of the boundaries should be done by a Commission which has the confidence of the Congress and the Muslim League. If this is not possible, the task may be assigned to an Allied Commission presided over by an American. Public opinion is not likely to favour a British Commission responsible to the British Parliament for the purpose.

5. The nature of the central machinery will have to be agreed upon before any separation takes place. When this is done, separate constitution-making bodies may be set up for Hindustan and Pakistan or for as many separate States as it is decided to have. A constituent assembly on the basis of adult suffrage is impracticable. A Select Committee chosen by the Lower Houses of the Province will serve the purpose better. If no agreement can be reached on this question, it may be referred to the Allied Commission indicated under point 4.

Till the new central machinery comes into existence, the present central executive may be empowered to carry on the work of the government. Or a provisional national government may be set up representing the principal political parties in the country.

6. The constitutions of both Hindustan and Pakistan or of the five regions should be of a democratic character. There is no place for theocracy of any kind. We do not want rule according to Quoranic or Puranic injunctions. Government should be based on sound principles and practices of political science. It is quite unnecessary for the different States or units within them to have a uniform type of democratic constitution; where the people are unified and majority-minority questions have not reached

the breaking point, the British Parliamentary type is likely to work well. In cases where the minorities are well organised and are conscious of their own unity and strength, a composite type of the Swiss variety may work better.

7. The Central machinery to be set up will come midway between a federation and a confederation. In dealing with such important matters as defence, foreign affairs, customs and communications, it will have full powers of legislation and administration. In dealing with certain other matters as economic planning, procurement of food, higher education and health, the centre may serve as a co-ordinating agency.

If Hindustan and Pakistan are the only two units, the two may have 50 per cent representation each on the executive, legislature, and the Supreme Court. If, on the other hand, it is decided to have five regions, equity demands that each should have 20 per cent representation. But for the first 30 years, as said earlier, the "Muslim" regions may be given the same representation as the "Hindu" regions. These regions will arrange for representation at the centre as well as for economic planning for the whole region. Large Indian States such as Hyderabad, Kashmir, Mysore, Travancore and Baroda will have their own autonomous existence and will be represented both in the regional and central governments. As for representation on the central executive, it may be according to a system of rotation. Small States will have to merge either with neighbouring large States or Provinces. In some instances, they may be allowed to enjoy

full autonomy. The treaty rights of all Indian States will have to be brought under the Central Government.

8. In the peculiar conditions prevailing in India, as Mr. Venkoba Rao points out, a system of checks and balances has a special value as between the principal organs of Government as well as between the centre and the units. The President of the Union may be elected for a term of four years out of a panel of three members set up alternatively by Hindustan and Pakistan or by the five regions. Election may be like the American Presidential election *i.e.*, the candidate who secures the majority of votes in any of the constituent units will have the entire votes of the delegates to which that unit is entitled. Within the two units or the five regions there may be some kind of a rotation for nomination to the Presidency.

Motion for the removal of the President may be made by a three-fourths vote of the central legislature of Hindustan or Pakistan or any one of the five regions and pleaded before the Supreme Court. If the Supreme Court concurs, the President may be removed.

9. The Vice-President is to be elected in the same way as the President. If one is a Hindu, the other may be a non-Hindu. A convention may be set up so as to prevent the President and Vice-President being elected from the same State or Region.

10. Instead of a Cabinet, there may be a Board of Commissioners to assist the President. Since the number of functions to be undertaken by the centre is small, four to six commissioners may be quite adequate. They will be in charge of defence, foreign affairs, commerce, customs

and tariff, communications and currency. They are to be appointed by the President from panels of names submitted by Hindustan and Pakistan or the five regions.

11. A single-chambered legislature at the centre with about a hundred members is likely to be adequate. Members may be elected indirectly by the legislatures of the two States or the five regions.

12. While the centre may have a limited number of functions, it should be a real government. We do not want a mere League or alliance. Times are not propitious for any kind of weak government. In the sphere of defence and foreign policy, the centre should be the only authority. Therefore, it must have its own soldiers, sailors, and airmen, make its own recruitment on some agreed basis, give its own orders, and pay its own way. Prof. Coupland opines that, in normal times, the revenue from customs ought to be enough to meet defence expenditure. This seems hardly possible. An additional source of revenue which may be tapped is income-tax, but the new States are likely to resent its appropriation by the centre. It is possible to arrive at a compromise by means of which the centre may collect the whole of the income-tax, keep a certain percentage for itself, and return the rest to the units.

13. The Commander-in-Chief shall be appointed by the President for a term of four years from Hindustan and Pakistan alternatively or from the five regions by rotation. Representation on the defence forces may be roughly in the proportion of 40 to 60 or 20% for each of the five regions. Absolute parity between Hindustan and

Pakistan does not seem equitable, but may be conceded as a gesture of good-will to the Muslims.

14. If Hindustan or Pakistan or any of the five regions is attacked by a foreign power, it may at once declare war without reference to the central authority, although it is only the central authority which can provide the senews of war. In all other cases, the declaration of war should rest with the central authority. The limited power given to the units will assure them of a certain measure of sovereignty, sovereignty being a matter of degree in the modern world.

15. There should be Supreme Court to adjudicate upon disputes arising out of matters of common interest and for the safeguarding of minority rights incorporated in the constitution. Hindustan and Pakistan may be represented on a fifty-fifty basis. If there are to be five regions each may be given 20% representation. Judges should hold office for life, subject to removal on a three-fourths majority vote of Hindustan or Pakistan legislature or any of the five regions.

16. In the central services Pakistan and Hindustan may be represented on a two to three basis. If there are to be five regions each may have 20% representation.

17. Five years' residence may be required for the acquisition of citizenship in either of the two States or of the five regions. Any business started in Hindustan or Pakistan or any of the five regions should have at least 50% of its assets and management in that State.

18. The central principle to be kept in view, as Mr. Venkoba Rao observes, is the principle of checks and

balances. In the system of checks and balances, the President controls the Supreme Court by appointing the judges; he controls the units by directly executing his orders in regard to defence, customs, income-tax and minority rights. The units or regions control judges because they can remove them by a three-fourths vote of their respective legislatures; they control the President because all his orders (except in regard to defence, customs, income-tax and minority rights) have to be enforced by them and they can refuse to enforce them. The Supreme Court controls the President by deciding on his removal and declaring legislation passed by him or the units as unconstitutional.

19. The two States or the five regions should agree to declare their constitution for the centre as inviolable for the next thirty years and may renew it for further period of 30 years. Changes may be made during the thirty year period with the mutual consent of the States or regions by a majority of votes in each State and by a two-thirds majority of the total number of voters.

20. When the new constitution is brought into existence, no part of India should be allowed to stay out, but every unit may have the right to secede after a lapse of thirty years.

### *Postscript*

Since the above was written enlightened public opinion in India is once again swinging in favour of an All-India Federation and definitely against the partition of the country. Sir R. K. Shanmugam Chetty in his Sastri Endowment lecture delivered on 24-2-1945 says:

“If partition of the country will be a radical solution of the communal problem, I would have no hesitation in advocating it notwithstanding any sentimental or other reasons. But I am convinced in my mind that far from solving the communal problem it would aggravate it and sow the seeds of perpetual conflict between the sovereign States that would be created.”

Writing in the same vein, in answering the Questionnaire of the Sapru Committee, Sir C. P. Ramaswami Aiyar says that “under no circumstances and subject to no conditions” is he “prepared to support the Muslim League claim for Pakistan”.

“Favouring the establishment of a single union for all-India, I would contemplate a Federal arrangement with full powers vested in the units excepting in matters affecting the relations of India with the outside world, and where an all-India policy is inevitable and essential, e.g. customs, tariffs, maritime and aerial navigation and inter-provincial and inter-State transport, domicile, naturalisation, etc. In all such cases the residual powers must vest in the Centre. No province of British India nor an Indian State should be given the liberty of not acceding to an All-India Union, the unity and integrity of India being the basic conception without which the task of constitution-making would be futile. After an All-India Union is established, no community can have the right of secession. Before the formation of the new constitution, there can be no objection to the re-alignment of boundaries of units so as to ensure linguistic and cultural autonomy to different communities”.

According to Sir R. K. Shanmugam Chetti, the Central Government in an All-India Federation should "exercise only such functions as defence and international relations, customs and currency, posts and telegraphs, aerial and railway communications and the like".

Sir Mirza Ismail's advice is that we should proceed on the basis of the Government of India Act of 1935 and introduce changes where necessary. He contemplates not merely an All-India federation, but a federation of the whole of India, Burma, Ceylon and Afghanistan. The units in this larger federation are to have the fullest possible autonomy, the Centre refraining from the temptation to become a centralised government. Such a larger federation of Southern Asia, could it be brought into existence, might prove to be a stabilising factor in planning for peace in the post-war world.

2. So far as the executive is concerned, progressive opinion to-day is definitely in favour of a composite government. This will not only make for stability but also satisfy the minorities. Where party allegiances are not deep-rooted, the upsetting of government overnight by the sudden shifting of loyalties is not uncommon in some of our Indian Provinces. As regards the Cabinet at the Centre, Sir Sultan Ahmad's suggestion is that its composition should roughly be 40 per cent Hindus; 40 per cent Muslims; 10 per cent Scheduled Castes; and 10 per cent other minorities. This seems a sensible suggestion in the present circumstances. With regard to the composition of the ministry in the Punjab, the suggestion is 40 per cent Muslims; 28 per cent Hindus; 28 per cent Sikhs; and the balance other minorities. Sir R. K. Shanmugam

Chetti says: "I have no hesitation in saying that party government is unsuited to our country. The future government both at the Centre and in the Provinces must be broadbased on a coalition of the important communities and groups".

3. For the proper enforcement of fundamental rights, Sir C. P. Ramaswami Aiyar considers a Supreme Court of the American variety based on the doctrine of the separation of powers a necessity. To quote his own words:

"I find it difficult to believe that the enunciation and formulation of fundamental rights would be effective so long as the Executive, Judicial and Legislative authorities are not kept separate as in the United States. The effective incorporation of fundamental rights in the future constitution of India would depend upon whether a Supreme Court on the American judicial model with its over-riding powers can or will be brought into existence in India. The predominance of the Legislature, as in the British system, is in essence incompatible with the formulation of fundamental rights, because whatever rights are declared to be fundamental can indirectly, if not directly, be modified by the Legislature".

4. Some of the fundamental rights which the new constitution should rigidly enforce, with the help of law courts wherever possible, are liberty of thought, speech and writing, freedom of conscience, freedom of worship, freedom to propagate one's faith, protection against discrimination in the matter of employment, wages, and amenities provided by the State such as education and health facilities. Even in the award of government contracts the minorities should have their due share. There should be an open road to talent. Merit should be recognised wherever found.

5. On the question of linguistic provinces, enlightened opinion is by no means unanimous. Sir Mirza Ismail regards such Provinces as a chimera; and Dr. Beni Prasad, too, is of the same opinion. Sir R. K. Shanmugam Chetty, however, is in favour of them. In his own words: "All the great languages of India have in varying degrees rich cultural heritages. Full scope must be given to the development of these rich cultures. A re-distribution of the Provinces on a linguistic basis is, therefore, necessary for the growth of these cultures. All these Provinces must be autonomous and federated into a nation-state". Thus "there would emerge a Bengali nation, a Punjabi nation, a Gujerati nation, a Dravidian nation, and so on".

For ourselves, we believe that large and compact linguistic areas say with a population of at least 15 millions and a revenue say of 10 crores a year may be allowed to become separate provinces, one essential condition being that no new province should be a burden on the Centre. There is no justification for deficit provinces.

6. Whatever arrangements that may be made for the constitutional development of India, the States should have their full share. Sir Mirza Ismail is of the opinion that a majority of the States will not stand in the way of complete self-government for India. Sir C. P. Ramaswami Aiyar is "definitely in favour of the inclusion of Indian States in an All-India Union". He does not grant to them or to any of the Indian Provinces the liberty of non-accession or the right of secession. "Treaty Rights or no Treaty Rights, no Indian State has a right to exist, which does not and will not come into a scheme by which there is created a central direction or central control as

to matters that appertain to the Indian States and British India alike". Agreements arrived at between the two sides should be the result of "a free and equal discussion and resultant compromises". State should enjoy as much internal autonomy or internal sovereignty as the Provinces. "Those need not be and at the start there cannot be complete identity of modes of internal government amongst all the units, although a minimum standard of economic integrity and sufficiency of administrative, legislative, and judicial methods and of the association of the people with governmental operations would be a condition precedent to the formation of the Union".

Small States will have to go out of the picture. Large States which are allowed to remain should cease to hark back to Treaty Rights and should ask for what is fair and equitable. Their future relations should no longer be based on "Paramountcy" which has lost its force and validity to-day. Between the Provinces and States the relationship should be one of equality.

7. With regard to the position of India in the British Commonwealth of Nations, Sir Mirza Ismail is of the opinion that Dominion Status with the right to secede by a simple vote of the Legislature at the Centre ought to satisfy us. No one believes that partnership in the British Commonwealth of Nations, in addition to its advantages in the matter of defence, will give the country the fullest possible scope for the economic and political development of the country. Sir C. P. Ramaswami Aiyar strikes a similar note when he says that

"fully conscious though she should be of possible handicaps and obstacles, the right course for India to pursue is to choose

Dominion Status, at the same time making it clear that the development of her army, her navy, her air force, and the evolution of her social and economic plans would be envisaged primarily in her own interests, although Indian policy must be consonant with that regional and international policing and guidance without which humanity will slide into chaos. Such Dominion Status involves the shedding of all inferiority and superiority complexes and the problems resulting therefrom".

According to Sir Zafrullah Khan, "India can only be fitted into the Commonwealth, if two conditions are fulfilled: first, she should be free to order her own affairs without dictation from outside, and secondly, between the Dominions she should be able to pull her full weight in the matter of racial discrimination".

8. A useful suggestion made by Prof. Beni Prasad is the depoliticisation of administrative work. Sound public administration requires the maintenance of a careful distinction between the policy-making and policy-enforcing organs of government. It is fitting that policy-making should be in the hands of people's representatives just as policy-enforcing should be in the hands of impartial, efficient, and well-trained public servants.

9. One further suggestion which merits attention in framing the future constitution of India is the necessity of starting India on sound socialistic lines, consistent with the genius of her people and her ancient institutions. The first step in that direction might well be the formation of a large number of governmental or semi-governmental commercial corporations which will more and more assume charge of the business of the country, turning over the profits into the general coffers. The economic goal which we should aim at is "Private property small, common property large".