



INDIA

(CABINET MISSION)

Correspondence and Documents
connected with the Conference between
the Cabinet Mission and His Excellency
the Viceroy and Representatives
of the Congress and the
Muslim League,
May 1946

*Presented by the Prime Minister to Parliament
by Command of His Majesty
May 1946*

LONDON
HIS MAJESTY'S STATIONERY OFFICE

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Correspondence and Documents connected with the Conference between the Cabinet Delegation and His Excellency the Viceroy, and Representatives of the Congress and the Muslim League, May 1946.

No. 1.

LETTER FROM LORD PETHICK-LAWRENCE TO MAULANA ABUL KALAM AZAD AND MR. JINNAH, DATED 27TH APRIL 1946.

The Cabinet Mission and His Excellency the Viceroy have carefully reviewed the opinions expressed to them by the various representatives they have interviewed and have come to the conclusion that they should make one further attempt to obtain agreement between the Muslim League and the Congress.

They realise that it would be useless to ask the two Parties to meet unless they were able to place before them a basis of negotiation which could lead to such an agreement.

I am therefore asked to invite the Muslim League to send four negotiators to meet the Cabinet Mission and the Viceroy together with a similar number from the Congress Working Committee with a view to discussing the possibility of agreement upon a scheme based upon the following fundamental principles :

The future constitutional structure of British India to be as follows :—

A Union Government dealing with the following subjects :—Foreign Affairs, Defence and Communications. There will be two groups of Provinces, the one of the predominantly Hindu Provinces and the other of the predominantly Muslim Provinces, dealing with all other subjects which the Provinces in the respective groups desire to be dealt with in common. The Provincial Governments will deal with all other subjects and will have all the residuary Sovereign rights.

It is contemplated that the Indian States will take their appropriate place in this structure on terms to be negotiated with them.

I would point out that we do not think it either necessary or desirable further to elaborate these principles as all other matters could be dealt with in the course of the negotiations.

If the Muslim League and Congress are prepared to enter into negotiations on this basis, you will perhaps be so good as to let me know the names of the four people appointed to negotiate on their behalf. As soon as I receive these I will let you know the locus of the negotiations which will in all probability be in Simla, where the climate will be more temperate.

No. 2.

LETTER FROM THE PRESIDENT OF THE CONGRESS TO LORD PETHICK-LAWRENCE, DATED 28TH APRIL 1946.

I thank you for your letter of April 27th. I have consulted my colleagues of the Congress Working Committee in regard to the suggestion made by you, and they desire me to inform you that they have always been willing to discuss fully any matters concerning the future of India with representatives of the Muslim League or any other organisation. I must point out, however, that the " fundamental principles " which you mention require amplification and elucidation in order to avoid any misunderstanding.

As you are aware, we have envisaged a Federal Union of autonomous units. Such a Federal Union must of necessity deal with certain essential subjects of which defence and its allied subjects are the most important. It must be organic and must have both an executive and legislative machinery as well as the finance relating to these subjects and the power to raise revenues for these purposes in its own right. Without these functions and powers it would be weak and disjointed and defence and progress in general would suffer. Thus among the common subjects in addition to Foreign Affairs, Defence and Communications, there should be Currency, Customs, Tariffs and such other subjects as may be found on closer scrutiny to be intimately allied to them.

Your reference to two groups of Provinces, the one of the predominantly Hindu Provinces and the other of the predominantly Muslim Provinces, is not clear. The only predominantly Muslim Provinces are the North-West Frontier Province, Sind and Baluchistan. Bengal and Punjab have a bare Muslim majority. We consider it wrong to form groups of Provinces under the Federal Union and more so on religious or communal basis. It also appears that you leave no choice to a Province in the matter of joining or not joining a group. It is by no means certain that a Province as constituted would like to join any particular group. In any event it would be wholly wrong to compel a Province to function against its own wish. While we agree to the Provinces having full powers in regard to all remaining subjects as well as the residuary powers, we have also stated that it should be open to any Province to exercise its option to have more common subjects with the Federal Union. Any sub-federation within the Federal Union would weaken the Federal Centre and would be otherwise wrong. We do not, therefore, favour any such development.

Regarding the Indian States we should like to make it clear that we consider it essential that they should be parts of the Federal Union in regard to the common subjects mentioned above. The manner of their coming into the Union can be considered fully later.

You have referred to certain "fundamental principles" but there is no mention of the basic issue before us, that is, Indian independence and the consequent withdrawal of the British army from India. It is only on this basis that we can discuss the future of India, or any interim arrangement.

While we are ready to carry on negotiations with any party as to the future of India, we must state our convictions that reality will be absent from any negotiations whilst an outside ruling power still exists in India.

I have asked three of my colleagues of the Congress Working Committee, namely, Pandit Jawaharlal Nehru, Sardar Vallabhbhai Patel and Khan Abdul Ghaffar Khan to accompany me in any negotiations that may take place as a result of your suggestion.

No. 3.

LETTER FROM THE PRESIDENT OF THE MUSLIM LEAGUE TO LORD PETHICK-LAWRENCE, DATED 29TH APRIL 1946.

I thank you for your letter of the 27th April, which I placed before my Working Committee yesterday morning.

My colleagues and I fully appreciate the further attempt that the Cabinet Mission and His Excellency the Viceroy are making to bring about an agreement between the Muslim League and the Congress by proposing a meeting of the representatives of the two organisations for the purpose of negotiating an agreement. They, however, desire me to invite your attention to the position taken up by the Muslim League since the passing of the Lahore Resolution in

1940 and, thereafter, successively endorsed by the All-India Muslim League Sessions and again by the Convention of the Muslim League Legislators, as recently as the 9th of April, 1946, as per copy enclosed.

The Working Committee desire to point out that many important matters, both of principle and detail, in your brief letter, require elucidation and clarification, which, in their opinion, can be achieved at the meeting proposed by you.

Therefore, without prejudice or commitment, the Working Committee, in their anxiety to assist in finding an agreed solution of the Indian constitutional problem, have authorised me to nominate three representatives on behalf of the Muslim League to participate in the negotiations.

The following are the four names :—

1. Mr. M. A. Jinnah,
2. Nawab Mohammad Ismail Khan,
3. Nawabzada Liaquat Ali Khan, and
4. Sardar Abdur Rab Nishtar.

No. 4.

ENCLOSURE TO MR. JINNAH'S LETTER TO LORD PETHICK-LAWRENCE, DATED 29TH APRIL 1946.

Resolution, passed by the Subjects Committee, to be placed before the All-India Muslim League Legislators Convention on April 9th, 1946.

Whereas in this vast sub-continent of India a hundred million Muslims are the adherents of a Faith which regulates every department of their life (educational, social, economic and political), whose code is not confined merely to spiritual doctrines and tenets or rituals and ceremonies and which stands in sharp contrast to the exclusive nature of Hindu Dharma and Philosophy which has fostered and maintained for thousands of years a rigid Caste System resulting in the degradation of 60 million human beings to the position of untouchables, creation of unnatural barriers between man and man and superimposition of social and economic inequalities on a large body of the people of this country, and which threatens to reduce Muslims, Christians and other minorities to the status of irredeemable helots, socially and economically ;

whereas the Hindu Caste System is a direct negation of nationalism, equality, democracy and all the noble ideals that Islam stands for ;

whereas different historical backgrounds, traditions, cultures and social and economic orders of the Hindus and Muslims have made impossible the evolution of a single Indian nation inspired by common aspirations and ideals and whereas after centuries they still remain two distinct major nations ;

whereas soon after the introduction by the British of the policy of setting up political institutions in India on the lines of Western democracies based on majority rule which meant that the majority of one nation or society could impose its will on the majority of the other nation or society in spite of their opposition as was amply demonstrated during the two and a half years regime of Congress Government in the Hindu majority Provinces under the Government of India Act, 1935, when the Muslims were subjected to untold harassment and oppression as a result of which they were convinced of the futility and ineffectiveness of the so called safeguards provided in the Constitution and in the Instrument of Instructions to the Governors and were driven to the irresistible conclusion that in a United Indian Federation, if established, the

Muslims even in majority Provinces would meet with no better fate and their rights and interests could never be adequately protected against the perpetual Hindu majority at the Centre ;

whereas the Muslims are convinced that with a view to save Muslim India from the domination of the Hindus and in order to afford them full scope to develop themselves according to their genius, it is necessary to constitute a sovereign independent State comprising Bengal and Assam in the North-East zone and the Punjab, North-West Frontier Province, Sind and Baluchistan in the North-West zone :

This Convention of the Muslim League Legislators of India, Central and Provincial, after careful consideration hereby declares that the Muslim Nation will never submit to any constitution for a United India and will never participate in any single constitution-making machinery set up for the purpose, and that any formula devised by the British Government for transferring power from the British to the peoples of India, which does not conform to the following just and equitable principles calculated to maintain internal peace and tranquillity in the country, will not contribute to the solution of the Indian problem :

1. That the zones comprising Bengal and Assam in the North-East and the Punjab, North-West Frontier Province, Sind and Baluchistan in the North-West of India, namely Pakistan zones, where the Muslims are in a dominant majority, be constituted into a sovereign independent State and that an unequivocal undertaking be given to implement the establishment of Pakistan without delay ;

2. That two separate constitution-making bodies be set up by the peoples of Pakistan and Hindustan for the purpose of framing their respective constitutions ;

3. That the minorities in Pakistan and Hindustan be provided with safeguards on the lines of the All-India Muslim League Resolution passed on the 23rd March 1940, at Lahore ;

4. That the acceptance of the Muslim League demand of Pakistan and its implementation without delay are the *sine qua non* for the Muslim League co-operation and participation in the formation of an interim Government at the Centre.

This Convention further emphatically declares that any attempt to impose a constitution on a United India basis or to force any interim arrangement at the Centre contrary to the Muslim League demand will leave the Muslims no alternative but to resist such imposition by all possible means for their survival and national existence.

No. 5.

LETTER FROM LORD PETHICK-LAWRENCE TO THE PRESIDENT OF THE CONGRESS,
DATED 29TH APRIL 1946.

Thank you for your letter of 28th April. The Cabinet Delegation are very glad to know that the Congress agree to enter the joint discussion with representatives of the Muslim League and ourselves.

We have taken note of the views you have expressed on behalf of the Working Committee of Congress. These appear to deal with matters which can be discussed at the Conference, for we have never contemplated that acceptance by Congress and the Muslim League of our invitation would imply as a preliminary condition full approval by them of the terms set out in my letter. These terms are our proposed basis for a settlement, and what we

have asked the Congress Working Committee to do is to agree to send its representatives to meet ourselves and representatives of the Muslim League in order to discuss it.

Assuming that the Muslim League, whose reply we expect to receive in the course of the afternoon, also accept our invitation, we propose that these discussions should be held at Simla, and intend to move there ourselves on Wednesday next. We hope that you will be able to arrange for the Congress representatives to be in Simla in time to open the discussions on the morning of Thursday, May 2nd.

No. 6.

LETTER FROM LORD PETHICK-LAWRENCE TO THE PRESIDENT OF THE MUSLIM LEAGUE, DATED 29TH APRIL 1946.

Thank you for your letter of the 29th April. The Cabinet Delegation are very glad to know that the Muslim League agree to enter the joint discussion with the representatives of the Congress and ourselves. I am glad to say I have received a letter from the President of the Congress to say that they are also willing to participate in the proposed discussions and have nominated Maulana Azad, Pandit Nehru, Sardar Vallabhbhai Patel and Khan Abdul Ghaffar Khan as their representatives.

We have taken note of the resolution of the Muslim League to which you draw our attention. We have never contemplated that acceptance by the Muslim League and the Congress of our invitation would imply as a preliminary condition full approval by them of the terms set out in my letter. These terms are our proposed basis for a settlement and what we have asked the Muslim League Working Committee to do is to agree to send its representatives to meet ourselves and representatives of the Congress in order to discuss it.

We propose that these discussions should be held at Simla and intend to move there ourselves on Wednesday next. We hope that you will be able to arrange for the Muslim League representatives to be in Simla in time to open the discussions on the morning of Thursday, May 2nd.

No. 7.

AGENDA.

1. Groups of Provinces—
 - (a) Composition.
 - (b) Method of deciding Group subjects.
 - (c) Character of Group organisation.
2. Union—
 - (a) Union subjects.
 - (b) Character of Union Constitution.
 - (c) Finance.
3. Constitution-making Machinery—
 - (a) Composition.
 - (b) Functions.
 - (i) in respect of Union ;
 - (ii) in respect of Groups ;
 - (iii) in respect of Provinces.

No. 8.

LETTER FROM THE PRESIDENT OF CONGRESS TO LORD PETHICK-LAWRENCE,
DATED 6TH MAY 1946.

My colleagues and I followed with care the proceedings of the conference yesterday and tried to understand what our conversations were leading up to. I confess to feeling somewhat mystified and disturbed at the vagueness of our talks and some of the assumptions underlying them. While we would like to associate ourselves with every effort to explore ways and means of finding a basis for agreement, we must not deceive ourselves, the Cabinet Mission or the representatives of the Muslim League into the belief that the way the conference has so far proceeded furnishes hope of success. Our general approach to the questions before us was stated briefly in my letter to you of April 28th. We find that this approach has been largely ignored and a contrary method has been followed. We realise that some assumptions have to be made in the early stages as otherwise there can be no progress. But assumptions which ignore or run contrary to fundamental issues are likely to lead to misunderstandings during the later stages.

In my letter of April 28th, I stated that the basic issue before us was that of Indian independence and the consequent withdrawal of the British army from India, for there can be no independence so long as there is a foreign army on Indian soil. We stand for the independence of the whole of India now and not in the distant or near future. Other matters are subsidiary to this and can be fitly discussed and decided by the Constituent Assembly.

At the conference yesterday I referred to this again and we were glad to find that you and your colleagues, as well as the other members of the conference, accepted Indian independence as the basis of our talks. It was stated by you that the Constituent Assembly would finally decide about the nexus or other relationship that might be established between a free India and England. While this is perfectly true, it does not affect the position now, and that is the acceptance of Indian independence now.

If that is so then certain consequences inevitably follow. We felt yesterday that there was no appreciation of these consequences. A Constituent Assembly is not going to decide the question of independence; that question must be and, we take it, has been decided now. That Assembly will represent the will of the free Indian nation and give effect to it. It is not going to be bound by any previous arrangements. It has to be preceded by a Provisional Government which must function, as far as possible, as a government of free India, and which should undertake to make all arrangements for the transitional period.

In our discussions yesterday repeated references were made to "groups" of Provinces functioning together, and it was even suggested that such a group would have an executive and legislative machinery. This method of grouping has not so far been discussed by us but still our talks seemed to presume all this. I should like to make it very clear that we are entirely opposed to any executive or legislative machinery for a group of Provinces or units of the Federation. That will mean a sub-federation, if not something more, and we have already told you that we do not accept this. It would result in creating three layers of executive and legislative bodies, an arrangement which will be cumbrous, static and disjointed, leading to continuous friction. We are not aware of any such arrangement in any country.

We are emphatically of opinion that it is not open to the conference to entertain any suggestions for a division of India. If this is to come, it should

come through the Constituent Assembly free from any influence of the present governing power.

Another point we wish to make clear is that we do not accept the proposal for parity as between groups in regard to the executive or legislature. We realise that everything possible should be done to remove fears and suspicions from the mind of every group and community. But the way to do this is not by unreal methods which go against the basic principles of democracy on which we hope to build up our constitution.

No. 9.

LETTER FROM LORD PETHICK-LAWRENCE TO THE PRESIDENTS OF THE MUSLIM LEAGUE AND THE CONGRESS, DATED 8TH MAY 1946.

My colleagues and I have been thinking over the best method of laying before the Conference what in our judgment seems the most likely basis of agreement as shown by the deliberations so far.

We have come to the conclusion that it will be for the convenience of the parties if we commit this to writing and send them confidential copies before the Conference meets again.

We hope to be in a position to let you have this in the course of the morning. But as this will give you too short a time to study it adequately before the proposed resumption of the Conference at 3 o'clock this afternoon, I feel sure that you will agree that the meeting be postponed until the same hour (3 o'clock) tomorrow afternoon, Thursday, 9th May, and I hope that you will concur in this change of time which we are convinced is in the interests of all parties.

No. 10.

LETTER FROM THE PRIVATE SECRETARY TO LORD PETHICK-LAWRENCE TO THE PRESIDENTS OF THE CONGRESS AND THE MUSLIM LEAGUE, DATED 8TH MAY 1946.

With reference to the Secretary of State's letter to you this morning the Cabinet Delegation wish me to send to you the enclosed document which is the paper to which the Secretary of State referred. The Delegation propose that this paper should be discussed at the next meeting to be held on Thursday afternoon at 3 p.m. if that is agreeable to the Congress/Muslim delegates.

No. 11.

Enclosure with letter of 8th May.

SUGGESTED POINTS FOR AGREEMENT BETWEEN THE REPRESENTATIVES OF CONGRESS AND THE MUSLIM LEAGUE.

1. There shall be an All-India Union Government and Legislature dealing with Foreign Affairs, Defence, Communications, fundamental rights and having the necessary powers to obtain for itself the finances it requires for these subjects.

2. All the remaining powers shall vest in the Provinces.

3. Groups of Provinces may be formed and such groups may determine the Provincial subjects which they desire to take in common.

4. The groups may set up their own Executives and Legislatures.

5. The Legislature of the Union shall be composed of equal proportions from the Muslim-majority Provinces and from the Hindu-majority Provinces whether or not these or any of them have formed themselves into groups ; together with representatives of the States. •

6. The Government of the Union shall be constituted in the same proportion as the Legislature.

7. The constitutions of the Union and the groups (if any) shall contain a provision whereby any Province can by a majority vote of its Legislative Assembly call for a reconsideration of the terms of the constitution after an initial period of 10 years and at 10 yearly intervals thereafter.

For the purpose of such reconsideration a body shall be constituted on the same basis as the original Constituent Assembly and with the same provisions as to voting and shall have power to amend the constitution in any way decided upon.

8. The constitution-making machinery to arrive at a constitution on the above basis shall be as follows :—

A. Representatives shall be elected from each Provincial Assembly in proportion to the strengths of the various parties in that assembly on the basis of 1/10th of their numbers.

B. Representatives shall be invited from the States on the basis of their population in proportion to the representation from British India.

C. The Constituent Assembly so formed shall meet at the earliest date possible in New Delhi.

D. After its preliminary meeting at which the general order of business will be settled it will divide into three sections, one section representing the Hindu-majority Provinces, one section representing the Muslim-majority Provinces and one representing the States.

E. The first two sections will then meet separately to decide the Provincial constitutions for their group and, if they wish, a group constitution.

F. When these have been settled it will be open to any Province to decide to opt out of its original group and into the other group or to remain outside any group.

G. Thereafter the three bodies will meet together to settle the constitution for the Union on the lines agreed in paragraphs 1-7 above.

H. No major point in the Union constitution which affects the communal issue shall be deemed to be passed by the Assembly unless a majority of both the two major communities vote in its favour.

9. The Viceroy shall forthwith call together the above constitution-making machinery which shall be governed by the provisions stated in paragraph 8 above.

No. 12.

LETTER FROM THE PRESIDENT OF THE MUSLIM LEAGUE TO LORD PETHICK-LAWRENCE, DATED 8TH MAY 1946.

I have now received the letter of your Private Secretary, dated 8th May 1946, and the enclosed document to which you had referred in your earlier letter of 8th May 1946. It is proposed by you that this "paper" be discussed at the next meeting of the conference to be held on Thursday afternoon at 3 p.m. if this is agreeable to the Muslim League Delegation.

Your proposal embodied in your letter of 27th April 1946 runs as follows :—

“ A Union Government dealing with the following subjects :—Foreign Affairs, Defence and Communications. There will be two groups of Provinces, the one of the predominantly Hindu Provinces and the other of the predominantly Muslim Provinces, dealing with all other subjects which the Provinces in the respective groups desire to be dealt with in common. The Provincial Governments will deal with all other subjects and will have all residuary sovereign rights.”

This matter was to be discussed at Simla and we agreed to attend the Conference on Sunday, 5th May 1946, on the terms of my letter, dated 28th April 1946.

You were good enough to explain your formula and then after hours of discussion on the 5th and 6th of May, the Congress finally and definitely turned down the proposed Union confined only to three subjects even with power to levy contribution for financing the Union.

Next, your formula clearly envisaged an agreement precedent between the Congress and the Muslim League with regard to the grouping of Muslim and Hindu Provinces and the formation of two Federations of the grouped Provinces and it followed that there must be two constitution-making machineries. It was on that basis that some kind of Union was suggested in your formula confined only to three subjects and our approval was sought in order to put into this skeleton blood and flesh. This proposal was also categorically turned down by the Congress and the meeting had to be adjourned for the Mission to consider the matter further as to what steps they may take in the matter.

And now the new enclosed document has been sent to us with a view that “ this paper should be discussed at the next meeting to be held on Thursday afternoon at 3 p.m.” The heading of the paper is “ Suggested Points for Agreement Between the Representatives of Congress and the Muslim League.” By whom are they suggested, it is not made clear.

We are of the opinion that the new suggested points for agreement are a fundamental departure from the original formula embodied in your letter of 27th April, which was rejected by the Congress.

To mention some of the important points we are now asked to agree that there should be one All-India Union Government in terms of paragraphs 1-7 of this paper, which adds one more subject to be vested in the Union Government, *i.e.*, “ Fundamental Rights”, and it is not made clear whether the Union Government and Legislature will have power or not to obtain for itself the finance by means of taxation.

In the new “ suggestions” the question of grouping of Provinces is left exactly as the Congress spokesmen desired in the course of discussions that have taken place hitherto, and is totally different from your original formula.

That there should be a single constitution-making body we can never agree to; nor can we agree to the method of formation of constitution-making machineries suggested in the paper.

There are many other objectionable features contained in the suggestions which we have not dealt with as we are only dealing with the main points arising out of this paper. In these circumstances, we think, no useful purpose will be served to discuss this paper, as it is a complete departure from your original formula, unless after what we have said above you still desire us to discuss it in the Conference itself to-morrow.

No. 13.

LETTER FROM LORD PETHICK-LAWRENCE TO THE PRESIDENT OF THE MUSLIM LEAGUE, DATED 9TH MAY 1946.

I have to acknowledge your letter of yesterday which I have shown to my colleagues. In it you raise a number of issues to which I propose to reply in order.

1. You claim that Congress "finally and definitely turned down the proposed Union confined only to three subjects even with power to levy contribution for financing the Union". This statement is not in accord with my recollection of what took place in the Conference room. It is true that the Congress representatives expressed their view that the limitation was too narrow and argued further that even so limited it necessarily included certain ancillary matters. Up to a point you recognised that there was some force in the argument because you agreed, as I understood, that some power to obtain the necessary finance must be given. There was no final decision on this matter (or of course on any other).

2. Next you claim, if I understand you aright, that our reference to the formation of groups is at variance with the formula in our invitation. I am afraid I cannot accept this view. It is of course a slightly amplified form because it specifies the manner in which the Provinces can decide as to joining any particular group. This amplified form is put forward by us as a reasonable compromise between the views of the Muslim League and those originally expressed by Congress against grouping at all.

3. You further take exception to the machinery that we suggest should be set up for making the constitution. I would point out to you however that you yourself in explaining how your two constitution-making bodies would work agreed on Tuesday last in the Conference that they would have to join together in the end to decide the constitution of the Union and you took no exception to their having a preliminary session in common to decide procedure. What we are proposing is in fact precisely the same thing expressed in different words. I am therefore quite at a loss to understand what you have in mind when you use the words "this proposal was also categorically turned down by the Congress".

4. In your next succeeding paragraph you ask who it is that makes the suggestions that are contained in the document I sent you. The answer is the Cabinet Mission and His Excellency the Viceroy who make them in our endeavour to bridge the gap between the viewpoints of the Congress and the Muslim League.

5. You next take exception to our departing from the original formula in my invitation. I would remind you that in accepting my original invitation neither the Muslim League nor the Congress bound itself to accept in full the original formula, and in my reply of April 29th I wrote these words:—

"We have never contemplated that acceptance by the Muslim League and the Congress of our invitation would imply as a preliminary condition full approval by them of the terms set out in my letter. These terms are our proposed basis for a settlement and what we have asked the Muslim League Working Committee to do is to agree to send its representatives to meet ourselves and representatives of the Congress in order to discuss it." Indeed this is the only sensible attitude because the object of all our discussions is to explore every conceivable possibility of reaching agreement.

6. "Fundamental Rights" were included by us in our suggestions for addition to the list of Union subjects because it seemed to us that it would be of benefit both to the large communities and to the small minorities for them to be put in and accordingly to be worthy of consideration in our conference. As to finance it will of course be quite open to discuss in the Conference the precise significance of the inclusion of this word in its context.

7. Your two following paragraphs are mainly a recapitulation of your previous arguments and have been already dealt with above.

From your last paragraph I understand that though you do not consider in the circumstances that any good purpose would be served by the attendance of the Muslim League delegation at the conference fixed for this afternoon, you are willing to come if we express a desire that you should do so. My colleagues and I wish to obtain the views of both parties on the document submitted and therefore would be glad to see you at the Conference

No. 14.

LETTER FROM THE PRESIDENT OF CONGRESS TO LORD PETHICK-LAWRENCE,
DATED 9TH MAY 1946.

My colleagues and I have given the most careful consideration to the memorandum sent by you yesterday suggesting various points of agreement. On the 28th April I sent you a letter in which I explained briefly the Congress view-point in regard to certain "fundamental principles" mentioned in your letter of 27th April. After the first day of the conference, on May 6th, I wrote to you again to avoid any possible misunderstanding regarding the issues being discussed in the conference.

I now find from your memorandum that some of your suggestions are entirely opposed to our views and to the views repeatedly declared by the Congress. We are thus placed in a difficult position. It has been and is our desire to explore every avenue for a settlement and a change-over in India by consent, and for this purpose we are prepared to go far. But there are obvious limits beyond which we cannot go if we are convinced that this would be injurious to the people of India and to India's progress as a free nation.

In my previous letters I have laid stress on the necessity of having a strong and organic Federal Union. I have also stated that we do not approve of sub-federations or grouping of Provinces in the manner suggested, and are wholly opposed to parity in executives or legislatures as between wholly unequal groups. We do not wish to come in the way of Provinces or other units co-operating together, if they so choose, but this must be entirely optional.

The proposals you have put forward are meant, we presume, to limit the free discretion of the Constituent Assembly. We do not see how this can be done. We are at present concerned with one important aspect of a larger problem. Any decision on this aspect taken now might well conflict with the decisions we, or the Constituent Assembly, might want to take on other aspects. The only reasonable course appears to us is to have a Constituent Assembly with perfect freedom to draw up its constitution, with certain reservations to protect the rights of minorities. Thus we may agree that any major communal issue must be settled by consent of the parties concerned, or, where such consent is not obtained, by arbitration.

From the proposals you have sent us (8 D.E.F.G.) it would appear that two or three separate constitutions might emerge for separate groups, joined together by a flimsy common super-structure left to the mercy of the three disjointed groups.

proposal made by you at the Conference yesterday, with all its implications after your and my consulting our respective colleagues.

I shall be glad to meet you to consider the various aspects of your proposal any time that may suit you tomorrow morning after 10 o'clock.

No. 17.

LETTER FROM PANDIT JAWAHARLAL NEHRU TO THE PRESIDENT OF MUSLIM LEAGUE, DATED MAY 11TH 1946.

Your letter of May 10th reached me at ten last night.

During the talk we had at Viceregal Lodge, you referred to various matters besides the choice of an umpire and I gave you my reactions in regard to them. But I was under the impression that the proposal to have an umpire had been agreed to and our next business was to suggest names. Indeed it was when some such agreement was reached in the Conference that we had our talk. My colleagues have proceeded on this basis and prepared a list of suitable names. The Conference will expect us to tell them this afternoon the name of the umpire we fixed upon, or at any rate to place before them suggestions in this behalf.

The chief implication in having an umpire is to agree to accept his final decision. We agree to this. We suggest that we might start with this and report accordingly to the Conference.

As suggested by you, I shall come over to your place of residence at about 10.30 this morning.

No. 18.

LETTER FROM THE PRESIDENT OF THE MUSLIM LEAGUE TO PANDIT JAWAHARLAL NEHRU, DATED MAY 11TH 1946.

I am in receipt of your letter of the 11th May.

During the talk we had at the Viceregal Lodge, which lasted for about fifteen or twenty minutes, I pointed out various aspects and implications of your proposal and we had a discussion for a little while, but no agreement was arrived at between you and me on any point except that at your suggestion that you consult your colleagues and I should do likewise we adjourned to meet again the next day to further discuss the matter.

I shall be glad to meet you at 10.30 this morning for a further talk.

No. 19.

MEMORANDUM BY THE PRESIDENT OF MUSLIM LEAGUE EMBODYING MINIMUM DEMANDS BY WAY OF AN OFFER, IN ACCORDANCE WITH THE CONFERENCE DECISION.

(Copies sent to Cabinet Mission and Congress.)

PRINCIPLES TO BE AGREED TO AS OUR OFFER

1. The six Muslim Provinces (Punjab, N.-W.F.P., Baluchistan, Sind, Bengal and Assam) shall be grouped together as one group and will deal with all other subjects and matters except Foreign Affairs, Defence and Communications necessary for Defence, which may be dealt with by the Constitution-making bodies of the two groups of Provinces—Muslim Provinces (hereinafter named Pakistan Group) and Hindu Provinces—sitting together.

2. There shall be a separate Constitution-making body for the six Muslim Provinces named above, which will frame Constitutions for the Group and the Provinces in the Group and will determine the list of subjects that shall be Provincial and Central (of the Pakistan Federation) with residuary sovereign powers vesting in the Provinces.

3. The method of election of the representatives to the Constitution-making body will be such as would secure proper representation to the various communities in proportion to their population in each Province of the Pakistan Group.

4. After the Constitutions of the Pakistan Federal Government and the Provinces are finally framed by the Constitution-making body, it will be open to any Province of the Group to decide to opt out of its Group, provided the wishes of the people of that Province are ascertained by a referendum to opt out or not.

5. It must be open to discussion in the joint Constitution-making body as to whether the Union will have a Legislature or not. The method of providing the Union with finance should also be left for decision of the joint meeting of the two Constitution-making bodies, but in no event shall it be by means of taxation.

6. There should be parity of representation between the two Groups of Provinces in the Union Executive and the Legislature, if any.

7. No major point in the Union Constitution which affects the communal issue shall be deemed to be passed in the joint Constitution-making body, unless the majority of the members of the Constitution-making body, of the Hindu Provinces and the majority of the members of the Constitution-making body of the Pakistan Group, present and voting, are separately in its favour.

8. No decision, legislative, executive or administrative, shall be taken by the Union in regard to any matter of controversial nature, except by a majority of three-fourths.

9. In Group and Provincial Constitutions fundamental rights and safeguards concerning religion, culture and other matters affecting the different communities will be provided for.

10. The Constitution of the Union shall contain a provision whereby any Province can, by a majority vote of its Legislative Assembly, call for reconsideration of the terms of the Constitution, and will have the liberty to secede from the Union at any time after an initial period of ten years.

These are the principles of our offer for a peaceful and amicable settlement and this offer stands in its entirety and all matters mentioned herein are interdependent.

No. 20.

POINTS SUGGESTED ON BEHALF OF THE CONGRESS AS A BASIS FOR AGREEMENT,
12TH MAY 1946.

I. The Constituent Assembly to be formed as follows:—

- (i) Representatives shall be elected by each Provincial Assembly by proportional representation (single transferable vote). The number so elected should be one-fifth of the number of members of the Assembly and they may be members of the Assembly or others.

(ii) Representatives from the States on the basis of their population in proportion to the representation from British India. How these representatives are to be chosen is to be considered later.

2. The Constituent Assembly shall draw up a constitution for the Federal Union. This shall consist of an All-India Federal Government and Legislature dealing with Foreign Affairs, Defence, Communications, Fundamental Rights, Currency, Customs and Planning, as well as such other subjects as, on closer scrutiny, may be found to be intimately allied to them. The Federal Union will have necessary powers to obtain for itself the finances it requires for these subjects and the power to raise revenues in its own right. The Union must also have power to take remedial action in cases of breakdown of the constitution and in grave public emergencies.

3. All the remaining powers shall vest in the Provinces or Units.

4. Groups of Provinces may be formed and such groups may determine the Provincial subjects which they desire to take in common.

5. After the Constituent Assembly has decided the constitution for the All-India Federal Union as laid down in paragraph 2 above, the representatives of the Provinces may form groups to decide the Provincial constitutions for their group and, if they wish, a group constitution.

6. No major point in the All-India Federal Constitution which affects the communal issue shall be deemed to be passed by the Constituent Assembly unless a majority of the members of the community or communities concerned present in Assembly and voting are separately in its favour. Provided that in case there is no agreement on any such issue, it will be referred to arbitration. In case of doubt as to whether any point is a major communal issue, the Speaker will decide, or, if so desired, it may be referred to the Federal Court.

7. In the event of a dispute arising in the process of constitution-making, the specific issue shall be referred to arbitration.

8. The constitution should provide machinery for its revision at any time subject to such checks as may be desired. If so desired, it may be specifically stated that this whole constitution may be reconsidered after ten years.

No. 21.

NOTE BY THE CONGRESS ON THE PRINCIPLES TO BE AGREED UPON AS SUGGESTED ON BEHALF OF THE MUSLIM LEAGUE, DATED 12TH MAY 1946.

The approach of the Muslim League is so different from that of the Congress in regard to these matters that it is a little difficult to deal with each point separately without reference to the rest. The picture as envisaged by the Congress is briefly given in a separate note. From consideration of this note and the Muslim League's proposals the difficulties and the possible agreement will become obvious.

The Muslim League's proposals are dealt with below briefly :—

(1) We suggest that the proper procedure is for one Constitution-making body or Constituent Assembly to meet for the whole of India and later for groups to be formed if so desired by the Provinces concerned. The matter should be left to the Provinces and if they wish to function as a group they are at liberty to do so and to frame their own constitution for the purpose.

In any event Assam has obviously no place in the group mentioned, and the North-West Frontier Province, as the elections show, is not in favour of this proposal.

(2) We have agreed to residuary powers, apart from the central subjects, vesting in the Provinces. They can make such use of them as they like and, as has been stated above, function as a group. What the ultimate nature of such a group may be cannot be determined at this stage and should be left to the representatives of the Provinces concerned.

(3) We have suggested that the most suitable method of election would be by single transferable vote. This would give proper representation to the various communities in proportion to their present representation in the legislatures. If the population proportion is taken, we have no particular objection, but this would lead to difficulties in all the Provinces where there is weightage in favour of certain communities. The principal approved of would necessarily apply to all the Provinces.

(4) There is no necessity for opting out of a Province from its group as the previous consent of the Provinces is necessary for joining the group.

(5) We consider it essential that the Federal Union should have a Legislature. We also consider it essential that the Union should have power to raise its own revenue.

(6 and 7). We are entirely opposed to parity of representation as between groups of Provinces in the Union executive or legislature. We think that the provision to the effect that no major communal issue in the Union constitution shall be deemed to be passed by the Constituent Assembly unless a majority of the members of the community or communities concerned present and voting in the Constituent Assembly are separately in its favour, is a sufficient and ample safeguard of all minorities. We have suggested something wider and including all communities than has been proposed elsewhere. This may give rise to some difficulties in regard to small communities, but all such difficulties can be got over by reference to arbitration. We are prepared to consider the method of giving effect to this principle so as to make it more feasible.

(8) This proposal is so sweeping in its nature that no government or Legislature can function at all. Once we have safeguarded major communal issues other matters, whether controversial or not, require no safeguard. This will simply mean safeguarding vested interests of all kinds and preventing progress, or indeed any movement in any direction. We, therefore, entirely disapprove of it.

(9) We are entirely agreeable to the inclusion of Fundamental Rights and safeguards concerning religion, culture and like matters in the constitution. We suggest that the proper place for this is the All-India Federal Union constitution. There should be uniformity in regard to these Fundamental Rights all over India.

(10) The constitution of the Union will inevitably contain provisions for its revision. It may also contain a provision for its full reconsideration at the end of ten years. The matter will be open then for a complete reconsideration. Though it is implied, we would avoid reference to secession as we do not wish to encourage this idea.