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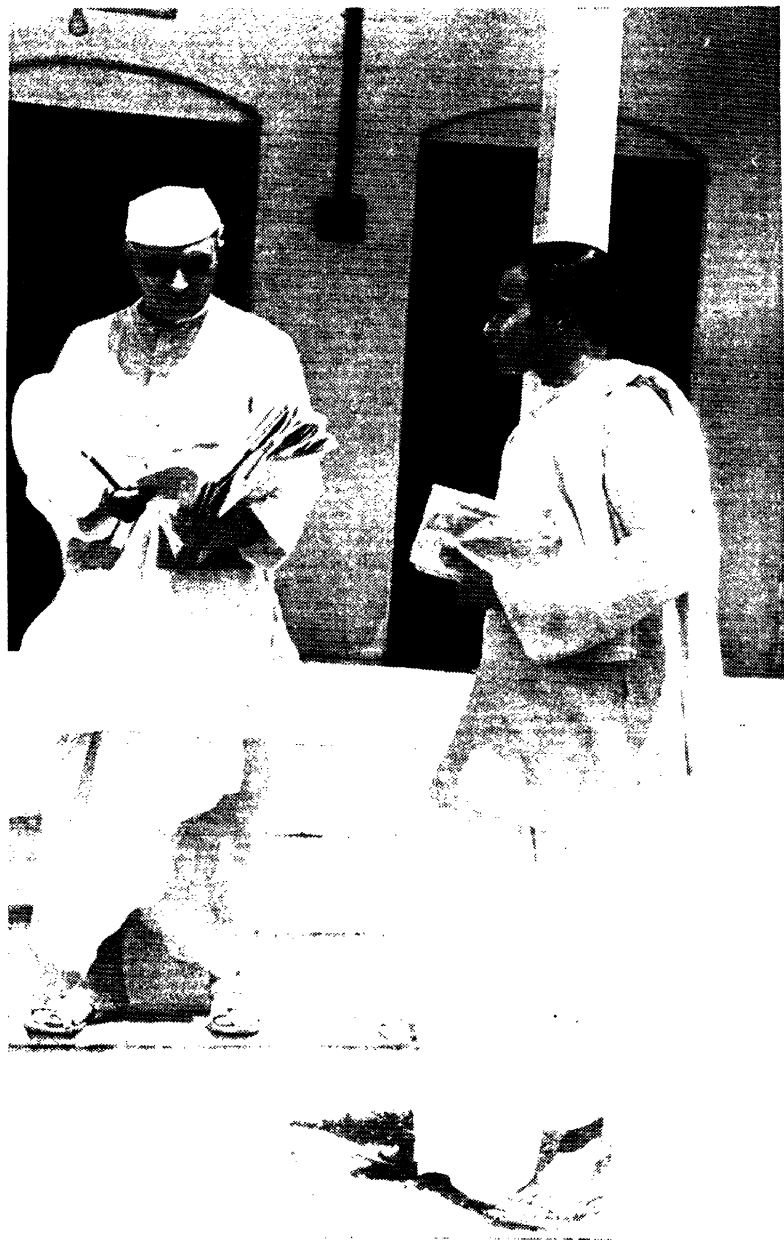
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The Author with Pandit Jawaharlal Nehru

CONSTITUENT ASSEMBLY AND INDIAN FEDERATION

BY
Y. G. KRISHNAMURTI

FOREWORD BY
PANDIT JAWAHARLAL NEHRU

INTRODUCTION BY
PROF. S. SRIKANTHA SASTRI

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FOREWORD

A few weeks ago I wrote a foreword to a book on a Constituent Assembly. Another little book dealing with the same topic, but in a different way, has now come before me and at the author's request I am contributing this foreword. This question of a Constituent Assembly has become one of the most vital questions of our day in India. It represents our demand for independence and full self-determination, and therefore it is desirable that every aspect of it should be fully considered by the public and its significance realised. Every book on the subject, if competently written, is therefore to be welcomed, from whatever view-point it may approach the subject.

Mr. Krishnamurti's brochure deals not only with the Constituent Assembly but with many of the problems which may come up before such an Assembly. It touches on a variety of subjects briefly and is a useful little book for reference.

It is right that we should have some knowledge of the history of the idea of the Constituent Assembly and of how it has worked in different countries. And yet it is far more important that we should understand the dynamic significance of this idea and to appreciate what this demand really means for us in India. A Constituent Assembly may be any Assembly which draws up a constitution of a country. And yet this is a poor enough definition of it. The real conception of such an Assembly is a dynamic one. It does not mean

a body of people, or a gathering of able lawyers, who are intent on drawing up a Constitution. It means a nation on the move, throwing away the shell of its past political and possibly social structure, and fashioning for itself a new garment of its own making. It means the masses of a country in action through their elected representatives. It has thus a definite revolutionary significance. At any time this would be so, much more so at present when all the world is in the throes of a change and a rebirth. Therefore to consider a Constituent Assembly divorced from this revolutionary background of masses in action and vital change is to miss entirely its significance.

It is because of this that the Congress has laid stress on the recognition by the British Government of Indian independence and of the right of a Constituent Assembly to frame India's constitution without any external interference. It is also because of this that adult suffrage is postulated, for that brings in the masses in its fold. A recognition of all this does not necessarily lead to revolutionary conditions. But it does create a psychological revolution in men's minds and gives freedom of action to that Assembly. Obviously such an Assembly can only function satisfactorily as a sovereign body for the particular object for which it is elected, and giving place to a sovereign legislature of its own creation.

Ordinarily, such sovereign Assemblies come into existence after a successful revolution in a country. But it is certainly a possibility, if not a probability, that the shadow of coming events and world changes might lead to an agreement that such an Assembly should be elected and should function as formulated. The demand for such an Assembly is ultimately a declaration of

what we intend to do whenever we have the power to do so. That power may conceivably come to us by agreement without a conflict, or it may come after a conflict. Like the demand for independence, this is not the request for a gift from a dominating authority, but a declaration of our objective and will, which may be realised in a variety of ways. Whatever these ways might be, they represent ultimately a recognition of the power of the Indian nation. In the case of a successful revolution, there is a clean slate to write upon. In the event of an agreement, howsoever specific that might be, the slate is not so clean and all manner of difficulties might arise. Those difficulties have to be faced. It must be remembered that the acceptance of the premises of a real Constituent Assembly itself adds to the strength of the nation. The election and constitution of such an Assembly adds still further to that strength and makes it difficult for external and internal disruptive forces to come in the way of its work.

The ideal of the Indian National Congress is the creation of an independent democratic State and so far we have thought in terms of some kind of Parliamentary democracy. If this is the objective, then the only fully democratic method is the method of the Constituent Assembly elected by the mass of the people. The alternatives to this are no democracy or the Soviet form of democracy. The absence of democracy means either a continuation of foreign rule or individual or group dictatorship. Those who criticise the proposal for a Constituent Assembly should be clear in their own minds as to which of these alternatives they prefer. It is not good enough to adopt an attitude of mere negation. So far there has only been this negation from

some of the critics. It is legitimate for us to know whether the opponents to this proposal do not like democracy, or they do not like independence for India and a break away from British imperialism. I take it that few of them will agree to go a step further and advocate the Soviet form of Government.

Behind our many problems, and ultimately behind the demand for independence itself, lie vast social and economic problems which insistently demand solution. Any constitution that fails to solve them will have a short life. Similar problems in other parts of the world have brought about the present war in Europe where rival imperialisms fight for mastery. Even if one of these imperialisms triumphs in the end, it will have to face these very problems in an accentuated form. It is well recognised to-day that if peace and freedom are to exist in the world, the imperialist structure must vanish and a new world order must be established. Such a world order will have to be largely based on socialistic principles.

For us in India also this aspect of the problem is important and cannot be ignored. We seek political freedom, but this freedom must lead rapidly to vital social and economic changes which will facilitate a solution of our many problems. The content of political freedom is therefore important. It may be arguable that these basic economic problems cannot ultimately be solved within the structure of a parliamentary State on the old model. And yet it need not necessarily be so. But it is quite clear that there is no chance of solution if the content of political freedom is such that power rests in the hands of small groups at the top. The giving of the vote for the Constituent Assembly to the adult masses does not give them real

I consider this book a necessary pendant to my previous work "*Indian States And The Federal Plan.*" Several aspects that were briefly touched upon have now been amplified and after sifting through a mass of scattered and diversified material certain conclusions regarding the future of Indian polity have been put forward. The ideal of a real democratic federation has been advocated in the previous volume and therefore it was thought unnecessary to cover the same ground in the present thesis.

I owe a deep debt of gratitude to Pandit Jawaharlal Nehru, who may well be styled the parent of the idea of constituent assembly in India, for contributing a foreword to this book.

I wish to express my obligations and my thanks to Professor S. Srikantha Sastri, a paramount authority in Indian politics and history, for the introduction. His inspiration and help have been indispensable in writing this thesis.

In the preparation of this work I had the co-operation and active assistance of Professor V. Raghavendra Rao, of the Mysore University, and Mr. N. G. Jog of the *Bombay Chronicle*, to whom I am profoundly grateful. My heartfelt thanks are also due to my Publishers Mr. K. F. Taraporewala for having so attractively brought out the book in spite of the abnormal conditions brought on by the war.

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CHAPTER I.

THE CONSTITUENT ASSEMBLY—ITS NATURE

"Here and there are men moving in free, joyous and vigorous life. Now are they sitting in solemn deliberation, then marching on with flags up-hoisted. They are speaking sweetly in persuasion, or loud in quarrel, intent on pleasing their colleagues or winning them to a sense of duty. Eating and drinking they take counsel together, and finally rise for the worship of Concord."

Atharva Veda.

The immemorial tradition of India has always given the sanction to settlement by agreement and it is contrary to the very spirit of its culture to resort to force, fraud and coercion. Even in times of national crises, when India was seething with antagonistic and mutually destructive forces, history shows that there was always a bias for peace and concord.

A germ of such concord is found not only in the rural assemblies but also in national and international associations that established peace in historical times. Therefore, the idea of a constituent assembly is nothing alien, nothing intrusive, nothing disturbing to the spirit of Indian polity.

* A. V., 30, 5 and 6 :

Jāyasantah chittino ma viyasuhṭā sam vadhyanatah sudhirāś-charantah,

*Anyonyasmai valgu vadantah sadrichinavm vah sammanasah
Kṛṇomi*

Saināni prāpā saha vonnabhāgah samāne yōktre saha vō yunajmi.

A constituent assembly may be defined as a concrete method of determining the goal of a nation in conformity with historical realities. As an instrument of national self-determination, it presupposes a unity of method and purpose.

The national assemblies which have formulated new constitutions in most democratic countries have been elected by the whole people, the geographical limits, common tradition, common language, common racial and cultural inheritances having given the impress of nationality, which is expressed in the political institutions. Nationalism, therefore, is a binding factor and without it the society would go to pieces.

A nation implies all the factors—the ethnic, the economic, the historic, the spiritual, the psychological and the symbolic and combining them to make in the aggregate an enumeration of the characteristics of the nation. But the uncertain factors such as race and nationality are apt to bring disintegration, unless a more dominating force called civilization unifies the nation. Therefore, as Balfour says, the basis of the principle of nationality is that people who had this consciousness could naturally and easily work together as one community.

The problem of democracy it is stated, is the problem of the historical endowment of a people and of their political aptitude. There is a time-lag between political ideals and political facts, and realists argue that the nineteenth-century ideas that there is a natural harmony of interests among men and that what is economically right is also morally right, have been applied to conditions of the twentieth century. In the old sense of the term, there is not the same natural harmony of interests even biologically and it cannot be applied to politics. Political justice would mean the rights of the stronger. Hence, there is

greater intrusion of the state into this sphere of socialistic experiments and a mixture of force and idealism and of power and principle may not always be happy.

A politics of power might emerge and there will be a change in the distribution of power at the slightest stimulus. To bring about a peaceful change a sense of community in the nation is the only adequate safeguard. The nation-state will remain the unit of all international organizations. Even communism, which claims to be international and to abolish the state, has in the very country where it has been first introduced, brought into existence a national Father-land.

The integrating force in modern civilization i.e. the consciousness of kind, which characterizes a nation, contributes towards those living memories and feelings, the success and failure of men living together as a society that have gone to the making of a state. This feeling may assert itself out of proportions and turn out to be a spurious unrestrained nationalism. It has been recently argued that India is not a single nation but two distinct nations. This clearly ignores the true teaching of history and is the result of misplaced pride in a misunderstood past¹. A

1. Mr. M. A. Jinnah in his Presidential Address to the All-India Muslim League says :—"This misconception of one Indian nation has gone far beyond limits and is the cause of most of our troubles and will lead India to destruction if we fail to revise our notions in time. The Hindus and the Muslims have two different religious philosophies, social customs, literature. They neither inter-marry, nor inter-dine together, and, indeed, they belong to two different civilisations which are based mainly on conflicting ideas and conceptions.

"It is quite clear that Hindus and Mussalmans derive their inspiration from different sources of history. They have different epics, their heroes are different, and they have different episodes. Very often the hero of one is a foe of the other and, likewise, their

nationalism of this type contributes very little either to a true national or international understanding.

A proper antidote to this psychological and emotional expression of grievance is the formation of a constituent assembly. Reasoning from principles of democracy and nationality, one community or one people have no right to prescribe what shall be the constitution and the consequent method, for another people. Government by consent has been accepted even in the international sphere as the only alternative to war and civil disturbance.

The history of political institutions shows that various devices like the referendum, the initiative and the recall have as a whole, proved effective, provided that it is definitely recognized that sovereignty belongs only to the people. Every people "has alone the right to give itself its laws and the inalienable right of changing its laws". It is inevitable that modern democracies comprising large communities must necessarily be mediate. But popular control must make itself felt and the evils that are inherent in any ultra-rigid constitution can be eradicated by a government based on consent, combined with capacity.

The objections to a mediate democracy that it may not be properly representative is only partly true. In the Italian plebiscites of 1848, 1860, 1866, and 1870 the whole of the adult male population practically exercised their vote. Where the limited suffrage exists, there also popular control is exercised by voting for delegates with definite instructions to an assembly convoked *ad hoc*. No modern

victories and defeats overlap. To yoke together two such nations under a single State, one as a numerical minority and the other as majority, must lead to growing discontent and final destruction of any fabric that may be so built up for the government of such a State."

country is prepared to safeguard the fundamental constitution by placing it beyond the jurisdiction of the majorities. Hence, no state can afford to commit suicide by conceding to a part of the population within its territorial sovereignty, the right to non-co-operate, based upon self-determination. Unity cannot be sacrificed by paying deference to the so-called nationalities and minorities within the nation.

The constituent assembly will be empowered to discuss and formulate the principles of all aspects of national reconstruction. The definition of the goal, the statement of fundamental rights, the provision for the transitional stage, economic and social reform, legislative, financial and elective systems, a definite time limit for the ending of the provisional constitution, institutions of the supreme court of justice, enumeration of the safeguards and immunity for members fall within the scope of the constituent assembly.

In abnormal times as when a country is involved in foreign wars, economic depression, fundamental social changes or threat of civil war, a constituent assembly must be empowered to adopt extraordinary powers on the express understanding that such powers can be exercised only till normal times return.

A history of the constituent assemblies especially in post-war Europe is illuminating. There was a common tendency to emphasize the importance of economic and social reconstruction, sometimes even at the expense of drafting a constitution. The political ideologies tended definitely towards socialism. Social welfare had to be realized by government possessing the confidence of the whole people. The emphasis on democracy, liberty, equality and sovereignty vested in the people is common to all the post-war constitutions.

The agreement of the majority for the fundamental principles can be realized only on a basis of universal adult franchise. The examples of Lithuania and Esthonia clearly show that even in comparatively backward states, the election on the basis of universal, equal, secret, and proportional suffrage can be possible. The very existence of the democratic body elected directly from the people and functioning even in the midst of political and economic turmoil is itself a very valuable lesson and it serves to convince a foreign government that the efforts of the nationalists to establish orderly government are entitled to international recognition. Therefore, the postponement of a constituent assembly on the plea of abnormal international conditions or threat of internal civil war cannot stand scrutiny.

A facile objection raised against election on the basis of universal adult suffrage is that for a country like India with a population of 400 million illiterate and communal-ridden, it is an impossibility. But it is a wrong analogy that because the country is industrially backward and riddled with minorities, no consensus of opinion is possible. It is the mistake of intellectuals to underestimate the intelligence of the average citizen for which, as history shows, they have to pay very heavily.

In Russia where the conditions were analogous to India and when the country was involved directly in a world war and moreover, was deliberately being dismembered by the ruling classes, a revolution was possible. Now it has become fashionable to say that the Russian constituent assembly failed because the Bolsheviks who were in a minority overthrew the legally convened constituent assembly by force. Lenin makes it quite clear that the charge against the Bolsheviks who are said to have destroyed democracy has absolutely no basis. He

shows that the social revolutionaries split into two sections after the election to the constituent assembly and before its meeting. The rapid growth of political consciousness in this intermediate period naturally made the first constituent assembly totally unrepresentative. The first assembly was the organ of the petty bourgeois and other counter-revolutionary elements.

Litvinov has stated that the whole edifice reared up by the coalition-mongers collapsed like a house of cards. The following day the Bolsheviks set up a new government under the title of "The Council of Peoples' Commissars." They had established a new government and another constituent assembly met when the Bolshevik members submitted a resolution to accept the Soviet form of government. When the constituent assembly was dissolved there was no resentment in the country, because it was unrepresentative. Mr. Arthur Ransome says that it would have been cowardly on the part of the Bolsheviks to accept a bourgeois constitution. Nowhere did the masses in Russia stir in protest. Litvinov further says that the real constituent assembly met a week later, when the All Russian Congress of Soviets assembled and elected a joint central executive to represent the nation. The resolution of this assembly showed clearly that the earlier constituent assembly did not faithfully reflect the mind of the people.

Similarly, the failure of the constituent assembly in France after the French Revolution and sixty years later does not prove any inherent defect in the method itself. Karl Marx has clearly analysed the causes for the failure of the French constituent assemblies and shows that they were neither fully representative nor based upon a clear analysis of the social and economic institutions. Hence

Ceaserism and imperialism succeeded and reduced France to a petty bourgeois community.

In Germany the idea of centralization and unity of the country became prominent but racial feeling asserted itself : " We do not fear unity but we fear unity under the rule of Berlin ". The problem therefore was of bringing the natural racial divisions of the German peoples into harmony with that unity which political and economic development had made it necessary. Still the insistence on a unitary form of government without a great degree of decentralization naturally resulted in the growth of the *Länder*, which wrecked parliamentary government. Therefore, the defect lay in the fact that feudalism was not eradicated and a facile compromise was attempted.

The comparative success of constituent assemblies in the British Empire can be attributed to the sense of security, the tradition of racial or cultural autonomy and the limited scope of political and economic problems. The racial theories that have been imported into the political sphere, the question of language and religion, the comparative economic backwardness present fresh problems complicated by a worsening of international situation and imperialism. The only solvent can, therefore, be a democratically elected constituent assembly with full sovereign powers.

CHAPTER II.

THE CONSTITUENT ASSEMBLY—ITS HISTORY

The history of the political thought of the post-war period is a record of the attempt made to adjust political theories to facts. The grave international issues affecting the interests of all countries and controlling the destinies of the nations naturally resulted in searching of hearts and insistence upon self-determination, consistent with friendly international relations. The Dominions of the British Empire had already gone through various stages of evolution towards self-determination and the sacrifices made by them in the last war naturally entitled them to demand international recognition. This achievement of international status was the result of various factors, not the least being autonomy in the economic sphere.

For the present purpose we can rapidly review various stages in the development of the Dominions and other countries where the constituent assembly was employed to evolve new constitutions. The Dominion of Canada was formed out of several separate colonies differing altogether in origin and character. The bankruptcy of party government, the restrictions on inter-colonial trade, the necessity for expansion and the fear of a powerful neighbour contributed to bring about the Quebec Conference, which passed resolutions representing the substance of the British North America Act. The Quebec resolutions were treated as terms of a treaty between Canada and England

which could not be amended but accepted or rejected *en bloc*. The Bill with a few emendations became law in 1867. In 1871 an Imperial Statute declared that the Parliament of Canada might from time to time establish new provinces as a part of the Dominion.

The history of Canada shows that the diversity of race and of interests dictated a federal form of government and not a mere confederation. The cautious conservatism of the founders who were in favour of a legislative union was abundantly justified and a new and mighty nation came into existence.

In Australia the first scheme was proposed by Lord Grey in 1847. A general assembly consisting of the governor-general and of a single house to be called the House of Delegates was to be summoned. Equality of status and functions was guaranteed to the different colonies which elected delegates from their legislatures. The Australian Government Bill of 1850 stated that the colonies formed a part of constitutional development but the federal clauses of the Act failed to work satisfactorily and the only means of solving difficulties was to hold a conference of delegates from the respective colonies. This conference had to determine whether there should be merely a consultative council authorized to frame propositions for the sanction of state legislatures or a federal executive and assembly with supreme powers. Duffy's Report, however, brought no lasting satisfaction and again there was an inter-colonial conference in 1853. It recommended the formation of a Federal Australian Council for certain specified purposes. A Bill to this effect establishing a federal council with legislative but no executive or financial powers was passed.

In 1885 this very scanty, fragmentary and imperfect federal constitution was embodied in the Australian Fede-

ral Council Act. The international situation drove the colonies towards a far closer union and in 1899 a Convention of all leading men among the colonies and delegates appointed by the authority of the Parliament was suggested. The conference immediately resolved to convene a National Australian Convention and in 1891 the Convention consisting of 45 delegates from the seven Australian colonies met at Sydney. Again the colonial legislatures refused to accept all the conclusions of the Convention and therefore in 1897 fresh elections were held and ten members from each colony attended the Convention. The constitution thus evolved was embodied in a Bill approved by substantial majorities in the five colonies. The Parliament gave sanction in 1900 and in 1901 the Commonwealth of Australia came into existence. This Act represents a successful attempt in democratic constitution making.

In South Africa the intrinsic importance of the national question, and of tariff and railway-rates provided the strongest motive. In 1908 the Convention met at Durban, with a preponderance of the foreign element. The problems of equal rights to urban and country constituencies and the delimitation of electoral divisions were solved by consideration given to diversity of interests, means of communication, physical features and the density of population. The cleavage between the different races was bridged by proportional representation and in 1909 the constitution was accepted by all the colonies. South Africa preferred a unitary constitution because of the racial divisions and tariff rates. The unifying consideration was the race and not the locality. The prompt readiness of the English delegates to recognize the complete equality of the Dutch and their language dispelled suspicion and the crowning victory was won.

In Austria the constitution of 1920 was drawn up by a constituent assembly which looked to the ultimate incorporation of the new Austria into the German federation. Provisionally, a quasi-federal state of eight provinces was formed. In France the Convention of 1871 elected by universal manhood suffrage met for a set purpose of deciding peace or war. But soon it had to go beyond this and before dissolving formed the existing constitution. It was elected by universal manhood suffrage and by resisting the temptation to have a rigid written constitution, it enabled the Third Republic to withstand many shocks. These laws were passed by the assembly without a constitutional mandate and were never submitted to the people for approval.

In Germany there was internal discontent combined with the after-effects of the war. A Parliamentary executive could not properly be established until the revolution of the Spartacists was overthrown, allowing the constituent assembly to draw up the constitution of 1919. The German Socialist Republic stated "in the confidence that a national assembly will establish its complete sovereignty, a Central Council places in the hands of the German National Assembly, the authority delegated to it by the Republican Congress of workers and Soldiers Councils and wishes for its labours every success, for the happiness and salvation of the whole of the German nation and all the German races united in the new German republic". The ideal was a democratic republican state, guarding against reactionary attempts and to ensure the complete security of the right of equality without any prejudice of class consciousness. Eber declared that the National Assembly of Weimar had been convened for the purpose of formulating a German constitution only by the broad highway of parliamentary discussion.

Therefore the National Assembly was the highest and sole sovereign body in Germany. Socialism meant organization, order and solidarity. In order to establish as quickly as possible a legal system a compromise was arrived at the distinction between two kinds of legislation—constitution-making and urgent—was made. In accordance with the urgent wish of the individual states the committee of the states was given the right to consider the draft but the draft had to be placed before the whole Assembly, whose decision would be final. They informed the Assembly that though the sanction of the individual states was necessary yet the final provisions as the territorial re-groupings had to be decided only in the Assembly.

Nearly all the parties in the Assembly aimed at a unitary state on a federal basis, with centralization of powers. But a thorough unitary constitution like that of France was not possible because in Germany each individual state was a cultural centre. The problem of bringing the natural racial divisions into harmony with national unity proved to be very difficult. Fichte declared "the state must be inspired with the spirit of the nation and the nation must be inspired with the spirit of the state." The *Länder* or the individual state had to consent for any territorial re-organization but at the same time the Reich could enforce a constitutional law provided that such a law was demanded by a free popular vote or in the interests of the whole nation. The adjustment of territorial boundaries had to be made with the purpose of securing cultural and economic efficiency with the greatest possible consideration for the will of the population concerned. If the *Länder* refused to give previous consent a Reich enactment amending the constitution was necessary when it was demanded by the inhabitants of the territory.

In Esthonia there was a general agreement that a constituent assembly should be speedily summoned for settling the problems of national reconstruction. The provisional government ordered the holding of elections on April 5, 1919, on the basis of universal suffrage. The parties fought the elections on definitely national issues. The extremists were defeated and the nation expressed itself in favour of constitutional socialism and permanent economic and political planning. The provisional government resigned its powers to a constituent assembly. A manifesto was issued promising an independent democratic republic, defining lands and maritime frontiers and establishing Esthonian as the state language. Though guaranteeing the use of their own language to linguistic minorities in local government bodies and in the court care was taken to emphasize the linguistic rights of minorities as strictly separate from the provisions dealing with the rights and duties of citizens.

The Bill of Rights declared "Every one has the right to existence compatible with human dignity. To this end the law accords to all citizens the right to receive a certain amount of land which they may develop or where they may establish their habitations." The provisional constitution further re-affirmed the principle that the supreme powers belong to the people as represented in and by the Constituent Assembly: "By order of the Constituent Assembly and under its control the government of the Republic exercises its supreme executive power."

The duty of the Constituent Assembly was not merely the elaboration of a new permanent fundamental law but also establishing economic and social reforms. The duties were then detailed. The Assembly was declared to be the final authority in the conduct and control of foreign affairs. A special legislative commission was created to

function in the interval between the sessions of the main body. The Assembly could be convened by the presidency officer when demanded either by the government or 20 of the members. In its passion for direct democracy, the Estonian Constituent Assembly came very close to the French Socialist Workers Republic that was to be proposed by Tokai. The provisional government was definitely limited to one year until the permanent constitution could be put into effect. Thus having safeguarded the sovereignty of the people against the abuses inherent in political opportunism, the Constituent Assembly gave parliamentary immunity to its own members exempting them from accountability for the opinions expressed and from military service.

For the amendment of the provisional constitution the majority vote of the Constituent Assembly was sufficient. The supreme court was created and placed beyond the encroachment of the executive. The constitution was Spartan in its simplicity and was the expression of the democratic body issuing directly from the people.

In Lithuania a Constituent Assembly was created by the electoral law passed in 1920 providing for universal, equal, direct and secret suffrage, into a scheme of proportional representation. The voting was exceptionally heavy, in some districts as heavy as 92%. Therefore, the Assembly was fully expressive of the national will. Out of 112 members 59 belonged to the Christian Democratic party, which stood for complete independence, agrarian reform and Catholicism as the state religion. Next in importance came the Populists with 49 seats favouring the peasant classes and agrarian reform. The Social Democratic group had 13 members representing industries. Agrarian reform became the primary consideration.

All the parties combined to provide land for landless

and to raise the poor peasants to a new status of self-reliance and responsibility. The permanent constitution was promulgated on May 6, 1922. The document in the Preamble enunciates the principles of a permanent political organization, complete independence on a democratic basis, the creation of conditions for the establishment of rights and justice, and assurance of equality and freedom to all citizens gave evidence of an ideal of social welfare to be realized by government protection. Democracy, liberty and social welfare were set up as the trilogy of ideals. The constitution declared that Lithuania is an independent democratic republic with sovereignty vested in the people.

The first section of the Constitution Act devoted to fundamental principles deals with local autonomy, Lithuanian as the state language, and the definition of the state flag. Next, an elaborate Bill of Rights as regards individual national minorities is included. Lithuania wished to build upon sound conservative lines, guaranteeing equality before the law, inviolability of person and domicile, of *Habeas corpus*, of freedom of religion, speech, communication, assembly, association and petition. The appreciable minorities are given autonomy to administer the affairs of their national culture like education, charity and mutual aid, but it is provided that religious beliefs should not be invoked as an excuse for refusing to perform public duty and military service. Though no state religion is recognized, all religious organizations regarded as corporations are given equal rights. The provisions are so phrased as to give full legal weight to the Acts of the Roman Catholic Church whose followers are in the majority. Moreover, the constitution explicitly stipulates that the economic life should be so regulated that every citizen must be provided with work. For this purpose bureaus of agriculture,

commerce, industry etc. are set up to co-operate with the government.

In Turkey the Parliament under the arrangements of the constitution, revived in 1918, assembled at Angora and assumed a constituent mandate. This assembly so amended the original constitution that in fact it was abolished and a new one was formed.

The agitation in Russia in 1905 was directed to the demand for a Constituent Assembly by which the will of the people should be revealed. Its model was to be the *Assemblée constituante* of the French Revolution. It was expected that such a representative institution of the people would bring about a complete revolution of all economic and state relations. Marx had already suggested a constituent assembly to compel the Czar for political reform. In 1917 the provisional government declared that a constituent assembly on the basis of universal suffrage should be convoked as soon as possible. Lenin had advocated it for the immediate establishment of the Soviet Republic. But the provisional government of the Social Revolutionaries violated their own solemn pledges. They could not stem the advance of the revolution, which was led by one who had a clear programme in his own mind. The method that had been adopted was that of selecting candidates by central committees of respective parties. This was very much criticized because the candidates would be unknown to the electors.

The Peasants Congress had declared in favour of a constituent assembly by a majority of 40 votes. The Social Revolutionary party drew up many projects of new laws regarding land, education, foreign affairs and parliamentary methods. Informally many questions like the sovereignty of the Assembly were discussed and appeal was made to the people to defend the Constituent As-

sembly. But the provisional government was discredited and the edifice reared by it also collapsed. The Bolsheviks refused to regard the Constituent Assembly as the final form of executive authority. The parliamentary government as existing in capitalist countries had been the result of the struggle between the classes and was based upon feudal foundations.

The Bolsheviks contended that the basis of society should itself be revolutionized whereas the Social Revolutionaries wanted that all power should be vested in the Constituent Assembly and not in a Russian bourgeois democratic parliament.

Lenin declared that a republic of soviets was a higher form of democracy but since the idea of a constituent assembly was extremely popular with the masses, the Bolsheviks provisionally agreed for a Constituent Assembly, which met on January 18, 1918. The dilatory tactics followed by the Social Revolutionaries were naturally resented and the Soviet government decreed the dissolution of the Constituent Assembly. It was not regretted by the people and on the other hand a truly representative Constituent Assembly met a week later and endorsed by a overwhelming majority the policy and actions of the Council of People's Commissars. This showed better than anything else that it faithfully reflected the real mind of the people.

Lenin in his thesis on the Proletarian Revolution vehemently refutes the charge of Kautsky that the Bolsheviks had destroyed democracy. He stigmatizes as an infamous lie that because the Bolsheviks found themselves in a minority they suppressed the Constituent Assembly. On the very first day of his return to Russia, Lenin proclaimed the supremacy of a commune type of state over the bourgeois parliamentary republic.

In his thesis he shows that the Social Revolutionaries who had obtained a majority in the Constituent Assembly by indirect elections did not truly represent the wishes of the people. The Bolshevik ideal was that "a revolution is one continuous desperate struggle while the proletariat is the advance guard of all the oppressed, the focus and centre of all aspirations, of all the oppressed strivings for their liberation." It is natural, therefore, that the Soviets as the instrument of the oppressed masses should have reflected and expressed the moods and changes of view of the masses much more rapidly, much more fully and much more faithfully than any other institution. In this as among other things lies one of the reasons why the Soviet democracy is the highest type of democracy.

The first Constituent Assembly was a reactionary body and a glance at the figures below will show why the defence of the Constituent Assembly and the talk that the Bolsheviks have not behind them the majority of the population is met in Russia with laughter¹.

All Russian Congress of Soviets.	Number of Delegates	Number of Bolsheviks	Percentage of Bolsheviks
1st, 16th June 1917	790	103	13 p. c.
2nd, 10th Nov. 1917	675	343	51 p. c.
3rd, 23rd Jan. 1918	710	434	61 p. c.
4th, 20th March, 1918	1,232	795	64 p. c.
5th, 17th July, 1928	1,164	773	66 p. c.

1. See Appendix for Lenin's Thesis on the Constituent Assembly.

CHAPTER III.

INDIAN EXPERIMENTS IN CONSTITUTION-MAKING

The history of the attempts made in India to evolve a constitution under the ægis of a foreign paramount power is a clear record of increasing centralization and "divide and rule". The first indication of any attempt at "decentralization" is found in the Local Self-Government Act of Ripon between 1833-1835 which created district boards and unions permitting the election of non-officials. Ripon said that the Act was put forward as a measure of political and popular education.

The Minto-Morley reforms conceded non-official majorities in provincial legislative councils and also nominated members with power to make recommendations. Though even in 1892 election had been accepted for the Imperial Legislative Council, an official majority was maintained to discourage the parliamentary system. Madras and Bombay were less liable to supervision by the governor-general and could deal directly with the secretary of state in certain matters.

By the Indian Councils Act of 1909 legislative councils and executive councils were enlarged, election and nomination were adopted and Indians were appointed to the councils of the governor-general and the secretary of state. The Decentralization Commission recommended that the local legislatures should be allowed to make laws for the good government of the provinces, so far as they

did not affect the governor-general's Acts and every Act should receive the assent of the governor-general. The policy was laid down that the control of the government of India is not confined to the prescription of policy but also to scrutinize and modify the annual budgets of the local governments. The central government prescribed all important offices, conditions of service and public works and individuals could appeal to it against the local Acts.

Dufferin said explicitly "England should never abdicate the supreme control of public affairs or delegate to a minority or a class the duty of providing for the diversified communities over which she rules." Morley was definitely averse to "the establishment of a parliamentary system in India." Reforms, not political concessions, were the aim.

For the removal of abuses and social reform the control of England was made indispensable. Curzon, Dufferin, Lord Balfour all thought that representative institutions were not suited to India. Therefore it was proposed that in the central legislature there should be 60 and in the larger provinces 50 members. The Muslims were given the right to elect a certain number but the other communities were severely left alone. Members were also nominated for certain interests like industries and commerce.

The Montagu-Chelmsford Reforms declared that British India was an integral part of the British Empire, with self-government as the goal of the British rule. In 1917 it had already been declared that the policy was "increasing association of Indians in every branch of administration and the gradual development of responsible government in India as an integral part of the British Empire." Mrs. Besant had begun the agitation for Home Rule and her Commonwealth of India Act suggested that three members chosen in each district and the members of the chambers of commerce and trades were to elect 24

members and land-holders to elect six. Separate representation for the Muslims was suggested and after ten years the more democratic system of a Cabinet of ten, half being elected, should come into force.

The National Congress modified the proposals of Mrs. Besant and demanded full provincial autonomy except in certain matters. The Muslims were to be given separate electorates in specified proportions. Lionel Curtis and his group of R. T. C. students proposed diarchy, when the members of the executive should have a majority in the legislatures. But only certain functions such as public works, education, health and local self-government, were to be assigned to the popular ministers. The Congress vehemently denounced this scheme as unworkable and claimed full provincial autonomy. As a result of this agitation some functions were practically handed over but this policy did not secure the approval of any except the Liberals and the big land-holders. Even the civil service opposed the ministers and proposed that the governor should have the choice of distributing portfolios.

The Government of India Act of 1919 provided executive councils for the provinces and partial responsibility was introduced. Ministers having a majority in the legislatures could hold office at the discretion of the governor. Subjects were divided into central, controlled by the governor-general and provincial. The provincial subjects were again divided into reserved and transferred, with powers for the governor to take over the transferred subjects. The governor also had the power of certification. There was no responsibility introduced in the central government, though the central legislature had been enlarged. A Council of State was created with an official majority and in case of disagreement between the upper and the lower houses, a joint session had to be held and

finally the Viceroy could certify a Bill as essential to the discharge of his responsibilities. The supreme authority was the Parliament which retained the powers of regulating and restricting all the laws.

The defects of the reforms soon became glaring. There was no responsibility in the centre. Nomination both to the Council of State and the Assembly, a high property qualification for members, an insubordinate civil service, a thoroughly unrepresentative franchise—only one million out of 65 million people having the right to vote, and even in the provincial legislatures only one in nine having voting power—naturally brought about a deadlock. No true party except the Congress emerged. In Madras the Justice party lost its importance, though it tried to work diarchy. The Simon Commission was appointed but was boycotted by all important parties in India because of its purely British composition.

The Congress agitation compelled the British government to put forward the idea of a Round Table Conference. The first Conference met in 1930 but the Congress refused to participate and at Lahore declared complete independence as the goal. The Civil Disobedience movement was launched. The Round Table Conference was merely of consultative character and recommended a federal government of states and British India, with full provincial autonomy. The governor-general should have special powers as regards minorities, finance, maintenance of peace and order, and is responsible only to Parliament. But there were great difficulties like that of the states, safeguarding of minorities and formation of the executive responsible to the electors. The princes then announced that they were prepared to join the federation provided they were not asked to delegate their sovereign powers. H. H. the maharaja of Patiala said : “ We can only federate with

the British India which is self-governing.” Ramsay MacDonald announced the principle of responsibility qualified by reservation of defence, external affairs, minority rights and finance. Several suggestions were made regarding the form of federation.

One federation of the Indian states and another of British India with a common central government or an All-India parliamentary system, with provinces and states being considered as the units of a central federal body, were advocated. Hindus pleaded for the first and Muslims, the princes and the British for the second. Kelkar, Joshi and K. T. Paul asked for full adult franchise. But the wealthy classes insisted on indirect elections. The Lothian Committee in 1932 declared that adult franchise was impossible and recommended franchise only for 36 million out of 133 million and only 10·3 females and 43·4 males in British India had votes. Meanwhile in 1932 the Congress and other political bodies began a wide-spread agitation. The Gandhi-Irwin Pact in 1931 had no doubt brought a momentary peace but Gandhi soon found little sincerity among the British statesmen at the second Round Table Conference.

Many attempts had been made to hammer out a constitution. The Nehru constitution submitted to an All Parties Convention in Calcutta had declared that India should have the same constitutional status in the community of nations known as the British Empire as the Dominions of Canada, and New Zealand, Union of South Africa and the Irish Free State.

Ramsay MacDonald had declared in 1928 at the British Commonwealth Labour Conference that “within a period of months rather than years there would be a new Dominion added to the Commonwealth of Nations, a Dominion of another race, a Dominion that will find self-

respect as an equal within the Commonwealth,—I refer to India.” But the Labour government missed a splendid opportunity and under the pressure of the Conservatives lapsed into a policy of drift. The policy of repression went on and until 1932 India presented a spectacle of repression and brutality. The British government in its pursuit of the dual policy of repression and reform set up many sub-committees but even the moderates were compelled to resign because of the new procedure that was announced by the secretary of state.

It practically meant the abandonment of the conference method, and altered the character of the whole third Round Table Conference. Sir Samuel Hoare, however, announced that the government would introduce federation at the centre with full provincial autonomy. Select Committees were appointed and a White Paper was issued in 1937 which was condemned in India as giving the provincial governors almost despotic powers. A Joint Select Committee of British members with some Indians who would only be consulted, was set up. The failure of the British government to gauge the depth of the Indian feeling, resulted in increasing opposition to the White Paper proposals. But Gandhi suspended the civil disobedience movement though the government refused to lift the ban on the Congress. Special laws were passed restricting even constitutional agitation. The Congress made radical alterations in its policy but the British government accepted the Joint Select Committee Report and even made some reactionary amendments while it passed through the Parliament. In August 1935 the new Constitution Act received royal consent and federation was inaugurated.

CHAPTER IV.

THE PRESENT FEDERATION AND PROVINCIAL AUTONOMY

The Government of India Act of 1935 which thus came into existence was based on the explicit repudiation of the principle of self-determination. Indian problems were treated as subordinate to the exigencies of administration and by making a show of concessions robbed even the fundamental machinery of any adaptability by devising ingenious obstacles.

Federation became a providential means of checking the nationalist movement. The federal portion of the Act could not be put into effect because of increasing opposition from all parties in the country. The lack of responsibility in the centre, and the yoking together irresponsible autocratic states with autonomous provinces negated any possibility of progress. This Act antagonised every shade of opinion. But it was felt that the reactionary elements might take advantage of this situation and therefore the Congress decided to use provincial autonomy as a means of furthering its constructive programme.

The general elections resulted in an overwhelming majority for the Congress and in seven provinces all opposition was completely routed. The interim ministers even with the cooperation of the governors could not get on satisfactorily without the help of the majority party. In 1937 office acceptance was permitted in the provinces

where Congress was in a majority "provided that minister-ships shall not be accepted unless the leader of the Congress party in the legislature is satisfied and is able to state publicly that as long as he and his Cabinet act within the constitution the governor shall not use his special powers of interference or set aside the advice of his ministers."

There was much opposition to the suggestion that the governors should suspend or part with their special powers. R. T. Butler, the under-secretary of state, at last gave a definite assurance that special powers of the governors would not be put to other uses than was intended by the Act. It was the purpose of the Parliament to entrust responsibilities to the popular ministries and after further negotiations Lord Linlithgow gave an assurance that the governors would not interfere with the ministers in the discharge of their duties, nor would attempt to sever the fruitful partnership between the governors and the ministers. Upon this assurance the Congress Working Committee was satisfied and in July 1937 advised the formation of ministries.

Provincial autonomy became an accomplished fact in spite of many unsatisfactory features. The Congress ministry in Madras reduced the salaries of the services in the local government and introduced Prohibition. The Debt Relief, Sales Tax, Hindi and Temple-entry Bills were carried into force. But provincial autonomy soon showed very unsatisfactory features. In February 1938 the U.P. and Bihar ministries resigned on the question of the release of political prisoners. At last it was conceded that the ministers had the right to look into the particular cases of political prisoners without any intervention by the Viceroy.

Another important issue was whether a civil servant who was subordinate to the ministers could be raised to

governor-ship as at Orissa. The British government tactfully killed it by permitting the permanent governor to cancel his leave.

The provincial governments launched a programme of rural reconstruction, prohibition, social reform and education. Prohibition was acclaimed a great success in Madras, Bombay, Bihar and United Provinces. All Congress governments put forward a united demand for a constituent assembly in 1937. Similarly, Bombay and Madras urged the formation of linguistic provinces, Andhra and Karnatak. But the response of the secretary of state was disappointing. Further encroachments were made on the eve of the war upon provincial autonomy by the India Act Amending Bill. Dr. Kailasnath Katju says that this Amending Bill "expresses the hollowness of the pretension made by the British government regarding the desire to carry on the government in India on terms of partnership with the Indian people. . . . The British government does not hesitate to amend the Government of India Act without even the formality of consulting the wishes of the Indian people". Neither was there any attempt to refer the matter to the Federal Court.

One of the objects of the Bill was to nullify the U. P. Employments Tax Bill recently passed by the provincial legislature. The taxing proposals as embodied in the Employments Tax Bill was entirely within the competence of the provincial government and was also just because the different classes should not be taxed at the same rate or in the same proportion. It was not a tax on the income but upon privilege. The provincial governments had launched extensive schemes of nation-building activities. Rural development and reconstruction, improvement of agriculture, industries and co-operation, public works and education, and the policy of prohibition naturally demanded large funds.

The Amending Bill passed by the Parliament is extraordinary because while recognizing that the provinces have the right to impose tax on employments on a graded scale, it yet provides that the tax on a particular employee shall not exceed a specified amount. Thus the British government came to the help of the government of India and in a most arbitrary manner made provincial autonomy a mockery.

CHAPTER V.

PARTY GOVERNMENT—AND ITS ROLE IN DEMOCRACIES.

The essentials of self-government are that in a state containing within itself a variety of flexible institutions, each expressing a collective attitude of some group, there should be various devices for the expression of the collective will, without destroying its spontaneity. In a democracy all groups must be regarded not as standing aloof from the government but as important contributors to the national welfare.

The Collectives in Russia are the expressions of this type of society. Within the framework of essential institutions spontaneity of organization must be encouraged to make democracy a living organism. But the problem in less developed societies as in India is to so diffuse the social institutions as to satisfy the sense of justice.

Political systems must be adaptable and capable of modifications without being destroyed. A real democracy can never be consistent with social and economic inequality. Since democracy can act only through representatives in big countries under modern conditions, the emergence of the parties is inevitable. The parties are the real power, the "invisible government" in modern constitutions. In a pure democracy without party system, the electorate would be atomized. But the complexity of modern administrative systems necessitate political parties and con-

versely, party organizations encroach upon parliamentarism. It is said that whereas parliament discusses, the parties decide.

Democratic government can be a success or failure according to the measure of its parliamentary quality. But since it rests upon a party system, the centre of gravity is also likely to shift. This defect is inherent when once we grant the right to dissent and the environment will continue to produce parties. Croce says that the dream of a political thinker is a great unity party, a party of sound and upright men, a party which would have only one defect—that of being a party and being political.

A democratic party can conceivably exist in an undemocratic society ; but if the parties themselves are undemocratic, universal suffrage will be in vain. The history of the party system shows that the great historic parties have been undemocratic in the sense that they have not been built upon the basis of mass memberships and that their programme has not received the direct consent of their members. In Great Britain even the Labour party was built from the top by a caucus of socialist and Trade Union leaders. Even now its policy is controlled by the *bloc* votes of the Trade Unions. As a contrast, the Communist party in Russia shows a high degree of loyalty, an exceedingly rigid discipline and demands positive service from the rank and file of the members. It is not a party in the ordinary sense, because no rival is tolerated. Lenin himself noticed that universal suffrage was not the last word in democracy and many parties opposed to the interests of the state might emerge as a result of it.

Even in the parliamentary democracies power depends upon adherence to parties. In England, political bribery plays an important part in the parliamentary system. In America public offices have become the spoils of the par-

ties. In France, patronage falls to the share of deputies rather than to the party in power. Other defects of the party system can be pointed out. In a struggle between minorities, equality of voting rights might really put extraordinary powers in the hands of propagandists. Monied interests opposed to the government can create economic depression and drive it out of office.

Parliamentary institutions can succeed only when the rivalries and opposition of parties contending for power, are always so balanced that there is always a potential alternative to the rule of the party in power. It is enough if the parties are reasonably democratic and from this point of view the Soviet system can be said to have more real elements of democracy. The Soviets are far more truly representative having emerged directly from the people. The charge that it is dominated by the Communist party which manages elections is not true. Because in other countries also parliamentary elections are merely designed to yield unfailing majority to the party in power. A settled democracy providing the best guarantee for personal and group freedom can give rise to a really responsible government.

Some forms of freedom may be superior to the other recognized forms and the facile charge that the Communists have suppressed all criticism ignores the tremendous victory that has been achieved in a thousand other directions. Therefore, the rise of a healthy party system depends upon the social and economic conditions and the test of a democracy is ultimately moral justice, tolerance and human dignity.

Popular control over the government and over the parties can be expressed through various methods such as the initiative, the referendum, and the recall. The parliamentary legislatures exist for the purpose of discussion and

amendment. The initiative might prevent the adoption of even the most essential and acceptable alterations. The legislator does not merely record the wishes of his supporters but is given some latitude. Constitutional safeguards are inevitable when a new constitution has been launched.

The plebiscite was a rough and ready instrument to ascertain the representative character of the government and the opposition to it has been due to the preference for a mediate and better informed manifestation of opinion. It was not popular in England, where the second chamber was supported to give additional security. But as already indicated, it is exceptional to safeguard the fundamental constitutional law by placing it beyond the jurisdiction of the majorities.

The initiative and the referendum have been accepted by Manitoba where 8 per cent. of the voters can demand the passing of a bill. The plebiscite is provided for in Alberta and the use of referendum has also greatly increased in recent years. Referenda were taken in 1892 in Manitoba, Ontario etc., in 1896 in South Africa and in 1908 in Queensland. Referendum has been more widely required in the Irish Free State.

India has possessed an administrative system which though not responsive has yet maintained a high standard of efficiency. But now that popular governments are being introduced, it is necessary to maintain the purity of administration by being influenced by the party system. The opponents of the party system point out that it divides not only the legislature but also the country into rival camps so that in effect, it nullifies democracy. Able men are kept out of government, because they are not members of the party. The party propaganda may rouse factious spirit and therefore it is suggested that "any democracy in India should not follow the system of party

government." This view clearly ignores the fact that party organizations can make a stable government possible and the voice of the electors effectively heard. It is wrong to argue from the disintegration of the party system in England that democracy has not suffered. The history of the National government shows that in spite of severe attacks, the so-called National government was stifling all opposition and can entrench upon the popular will. A non-party national government cannot be an alternative to a party government on a democratic basis.

A coalition is manifestly unsatisfactory because it has all the defects of the party system without its redeeming features. A national government on non-party lines can be successful when the international situation or the economic condition demands some form of centralization. Therefore, it can never be strong and stable and the presidential system of America is no safe guide. The party system gives effective expression to the will of the electorate. It may be true that propaganda plays an active part but in a democracy where difference of opinion is permitted, parties are inevitable and a party organization becomes necessary, provided that liberty is not threatened by the parties. Especially where there are minorities, party system indicates a healthy organism.

The fundamental rights of citizens to associate for all purposes including political cannot be taken away. It is too early to say that the growth of a healthy two-party system is impossible in India. No doubt the existing communal divisions claim the name of political parties. But the general advance in economic and social standards will inevitably dissolve the communal parties and the examples of Esthonia and Lithuania clearly demonstrate that national interests will prevail.

The communal divisions will become rigid only if

socialization is postponed. The evils of a party system can be mitigated by a strong sense of national unity and active public opinion. In India there is abundant scope for the abolition of the existing communal party systems. A common goal i.e., independence for India, a common social programme like prohibition, uplift of the depressed classes and social legislation, a common economic objective like protectionism, and the encouragement of Swadeshi and reducing the burden of taxation should animate all parties in India. In every democratic state the spirit of compromise and accommodation should prevail but this does not mean a total obliteration of all parties. It is untrue to say that whereas English tradition stands for the spirit of compromise, in India such a spirit of accommodation is lacking.

The spirit of Fascism is said to pervade most of the major parties in India but Fascist regimentation is quite a different thing from legitimate party discipline. In a small country like Switzerland it is possible that there is no necessity for well-disciplined parties but in a vast country like India democracy demands that the right to dissent should be conceded.

Scrupulous regard for the rights of the minorities which is the very basis of democracy will be possible only when there are genuine parties animated by a national spirit. Economic and social justice is at the bottom of any democratic constitution. It cannot be ignored in a modern world and no state deserves to exist merely for the protection of the lives and liberties and for providing equality before the law. Therefore, the whole question of a party system in India depends upon the legitimate rights of the minorities and social and economic planning.

CHAPTER VI.

METHODS OF REPRESENTATION

We have already seen that the constituent assemblies in Europe were elected on full adult franchise by proportional representation, with single transferable vote. The objection towards choosing representatives by election seems to be that the best men in every constituency are seldom selected. Propaganda and different influences may be brought to bear on the electorate. But in spite of this possibility the electoral system prevailing in modern democracies functions fairly and there will be no doubt that universal adult franchise is an indispensable condition of complete democracy.

Other objections are raised. In many countries women have only been very recently admitted to the franchise, in 1920 in the United States of America and also in England. The age-limit under the constitution Act is fixed as 21 for exercising the franchise. Further, literacy in India is only eight per cent. but it should be remembered as the Lothian Committee said, "Illiteracy by all means does not imply that the individual is not capable of casting an intelligent vote in matters within the range, of his own knowledge and experience. An Indian villager like the peasant all over the world is a fairly enlightened person. Illiteracy, however, inevitably restricts the range of individual's knowledge and his power of access to knowledge." It may be that much education in the ordin-

ary sense is unnecessary for a voter to exercise the right on matters which are fundamental and which concern him intimately.

Moreover, the written word has lost some of its importance as an educating factor with the advent of the cinema and the radio. No doubt unscrupulous propaganda might bring into prominence a particular party in specified territory with a programme not always beneficial to the whole country. But such a risk is inherent in any type of representation on a democratic basis. Merely by abolishing parties we cannot abolish the bias towards error. Of course, it is desirable that the elected candidate should represent views of the majority of the voters on national questions and also on local economic interests.

Territorial representation is simple and has an added advantage that the voter may know the candidate personally. More recently functional representation has been advocated. It is said that representation would be far more real if men were not called upon to represent voters in all matters but if there are different representatives for different purposes. Such functional bodies in the charge of particular branches of national government have been advocated by socialists. In Russia where the nation is highly organized such functional representation is possible. But to replace a traditional territorial system by occupational representation involves serious defects.

It would continue to deny proportional representation to minorities who might yet be prevented from voting for the candidate they like most. Secondly, there would be the great difficulty of classifying individual groupings and assigning particular individuals to a group. Thirdly, it makes impossible the change of occupation and the movement from industry to industry. Further it ignores the fact that individual interests are not the only dominant

in the country and many electors might desire representation in some other capacity. Therefore, all the good features of occupational representation can be secured without any of its blemishes by proportional representation in the form of the single transferable vote.

The recent reforms in Hyderabad are based on occupational representation and negate democracy.¹ The conflict between economic groups dominates the mind of electors and national interests are relegated to the background. In a large country like India where the functional bodies are scattered far and wide, uniformity is not possible. Special local interests might suffer and if occupational representation is meant to eradicate communalism it cannot succeed because new forms of particularism based upon purely local issues might emerge and within the economic groups, communal divisions will be perpetuated.

Proportional representation is a name given to all the methods which aim at reproducing in the elected body the opinion of the electorate in true proportions. Single member constituencies from equal electoral districts have been advocated as in England but one member cannot possibly represent all the varied interests and the larger the number of members in a constituency, the more accurate will be the representation, according to the proportional representation system.

It is not true that the minorities would go unrepresented. Equal representation means that they would also be represented in just proportion. For the choice of the members to be elected in the multi-member constituency, two principal methods are in force, the single transferable vote widely adopted in the British Empire and in U.S.A. and the "list system" prevailing in Europe. The variations

1. See Appendix IV, Table 3.

according to the single transferable vote are small and unimportant, but may differ widely in the list system. According to the single transferable vote method, each elector has one vote and one vote only, which may however be transferred according to the wishes of the elector as indicated in the order of preference. In the list system, the elector does not vote merely for one candidate but for the whole list.

Taking the history of the single transferable vote, in Australia in 1862 an attempt was made to introduce it in New South Wales. In 1907 it was adopted in Tasmania but by-elections caused some difficulty. If the vacating member represented a minority, there was the danger of his party losing the seat in the by-election. The Tasmanian Act of 1907 solved the difficulty by directing the returning officer to re-examine the ballot papers by which the vacating member was elected and declare elected the candidate who got the next preference. In 1918 proportional representation was applied to New South Wales and in Queensland and Victoria, the single transferable vote, (called 'the contingent vote' and in England 'the alternate vote') was generally used. But this modification was meant not for the representation of all considerable sections of electorate but for executive representation of the majority. In New Zealand it is confined to elections to the second chamber and to the municipal bodies.

In South Africa it was adopted in 1909 for the second chambers and municipalities. The South Africa Act of 1909 was the first Act of the Parliament of the United Kingdom definitely establishing proportional representation and single transferable vote. In Canada, the method was adopted for parliamentary elections in 1920, but then there can be no by-election until two vacancies have occurred in the same constituency. In the United King-

dom the example of the Dominions influenced the progress of proportional representation. Especially in Ireland it was recognized as having special value and the Local Government Act, 1919 has established proportional representation throughout Ireland.

The alternative to the single transferable vote is the list system. In Germany *scrutin de liste* was adopted requiring the voter to vote not for individuals but for party lists in very large constituencies. For every quota of votes given to a party, one of the candidates beginning from the top of the list was declared elected. This ensured the representation of all bodies of opinion in proportion to their strength but also encouraged the multiplication of parties. The list systems, are infinitely various and some permit voting for the individual in the list as well as for the whole list and the seats in a constituency are distributed among the lists in proportion.

This type of proportional representation was adopted in Denmark in 1855. In Switzerland it was adopted on a referendum by population majority. In Belgium it is now established for all types of election. Bulgaria, Holland and Finland have followed suit. After the war there was a general feeling that proportional representation was absolutely necessary to safeguard democracy. Russia for the constituent assemblies in 1917, Germany in 1918, and Austria in 1919 unanimously adopted proportional representation. In Russia the same system has been employed for certain important committees of the Soviet republic. In Poland and Czechoslovakia the national assemblies were elected on the same system. Italy in 1919 adopted it for the Chamber of Deputies. In South America Brazil adopted it even as early as 1855 and Uruguay in 1919.

As regards the franchise the tendency in the British Dominions is to have a single sovereign body to which the

members are directly elected. In Australia for the lower house there is manhood suffrage and in Canada franchise is given to all persons, who are British subjects above 21 years of age, who have served the forces of Canada or have ordinarily resided in the country for at least 12 months. In Newfoundland the age-limit for the male British subject is 21 and for women 25. In Australia it is similar i.e., 21. In South Africa franchise is extended to all aged 21, who are literate and naturalized subjects. The property qualification is also insisted on. In Ireland the Free State constitution provides a definite set of principles regarding the legislatures. All citizens of the Irish Free State, born in Ireland or resident for seven years are entitled to the franchise on reaching 21.

According to the Government of India Act, 1935 only 30 million out of 256 million in British India have a right to vote, for the provincial assemblies.¹ The minimum age for the exercise of the franchise is fixed at 21, and the candidate should be aged 25 for the provincial assemblies and 30 for the provincial councils. There are no reasons when 21 is taken as the minimum age for the voter, why a higher age-limit is necessary for the candidate. In law it is recognized that a man who has attained 18 years is no longer a minor legally.

At present the effective population for adult suffrage is put about 130 million but this is entirely inadequate and excluding minors and other undesirables like the insane, persons guilty of serious crimes etc., out of a total population of 400 million at least 300 million must be given the right to vote for the constituent assembly.

The present territorial distribution is the result of historical accidents and has nothing to commend it. India

1. See Appendix D, Table I.

can no longer go back to a unitary non-parliamentary type of government, nor can be a loose confederation in spite of the vociferous minorities. Therefore, as advocated by the Indian National Congress a territorial redistribution is necessary. The A. I. C. C. resolution in May 1927 declared :

“The Committee is of opinion that the time has come for the redistribution of provinces on linguistic basis—a principle that has been adopted by the constitution of the Congress. It is also of the opinion that such redistribution of provinces be immediately taken in hand, and that any province which demands such reconstruction on linguistic basis be dealt with accordingly. It is further of opinion that a beginning be made by constituting Andhra, Sind and Karnatak into separate provinces.”

Some provinces like Orissa and Sind have been constituted by British government on linguistic basis. The insistent demand for more provinces on linguistic lines has been expressed in the resolutions of the Madras and Bombay provincial legislatures but the proposals were turned down by the secretary of state.

Andhra, Karnatak, Kerala, Tamil Nad, Bengal and Chota Nagpur have been agitating for such formation.¹ The principle being accepted partly by the government and wholly by the Congress it would be consistent with the demands of justice that other provinces would similarly be constituted. But, of course, the provinces should be self-supporting. Even here the claims of the people must be paramount and the British government has not itself insisted upon this principle in the case of North West Frontier province, Sind and Orissa.

Bengal demands a readjustment of its boundaries so that the Bengali speaking areas might once again be included in the newly constituted province. Without accept-

1. See Appendix IV, Table 4.

ing as perfectly accurate the enumeration of India's languages which may have been placed at too high a figure by the British, roughly 14 provinces can be constituted as self-supporting units of democratic India. The Munda-Naga-Assamese group of languages comprises a population of about 2 million, the Tamil Nadu 20 million, Karnatak 11 million, Maharashtra 21 million, Bengali 53 million, Eastern Hindi 7 million, Western Hindi 71 million, Oriya 10 million and Gujarati 11 million approximately, according to the Census of 1931.¹

The 562 Indian states which are scattered throughout the country with varying degrees of power, status, and honour constitute an obstacle to the unification of India. It has been demonstrated quite clearly that the so-called sovereignty of the rulers is merely fictitious and recently the All-India States' People's Conference has declared that the treaties are not sacrosanct and not binding on the state's people because they were concluded without consulting them. Only about 30 states are tolerably big enough to have an independent existence but the other states cannot hope to exist in a free and united country. They are bound to disappear and Lord Linlithgow himself has suggested a regrouping of the minor states for protection against outside agitation. But it is reasonable to contend that these artificial boundaries of the states, whether big or small, should disappear and the only way is by the formation of linguistic provinces, cutting across the states.

We cannot expect the paramount power to acquiesce in the disappearance of the states because they are purposely set up as counterpoise to the national movement. Therefore, the Congress which stands for the unity of the

1. See Appendix IV, Table 4.

whole of India and which has declared the states to be anachronisms, must take the decisive step of ignoring the artificial boundaries, and the constitution of electoral districts for the constituent assembly in the linguistic provinces can be solved by a Declaration of Fundamental Rights and by adopting proportional representation thus setting at rest the fear of the Muslims that their majorities in the Punjab and Bengal would be converted to minorities.

CHAPTER VII.

THE PROBLEM OF THE MINORITIES.

In a Parliamentary democracy the political minorities play an active role in enlarging their sphere of influence by adopting different techniques to make the majority conscious of their peculiar status. The increasing socialization which is the tendency of modern governments, substituting cooperation for competition must result in a final absorption of the minorities.

The word minority is applied to racial, religious and linguistic groups but anthropologists have exploded the racial theories, because it is impossible to isolate a particular racial group on the criteria of social and religious customs or language.¹ The history of the minorities in Europe shows that the various groups are not always rigid and their development depends primarily upon social and economic conditions.

In Russia where there are 200 different nationalities, the impetus given to the local industries, mass education

1. Under the caption "The Fiction of Majority", Mahatma Gandhi says in an article in the "*Harijan*":

"And who are the minorities? They are religious, political and social; thus Mussalmans (religious); Princes (social); Lingayats (social); Non-brahmins (social); Sikhs (social?); Christians—Protestants and Catholics (religious); Jains (social); Zamindars (political?); It is the policy of the British Government to recognize every group that becomes sufficiently vocal and troublesome."

and the separation of religion from politics have resulted in the formation of a strong nation. As W. P. Coates says, "If Soviet Government has done nothing else, the solution of the question of the friendly co-existence of the numerous nationalities within the frontiers of the U. S. S. R. would secure for it an honourable place in world history. The Soviet government, with the best intentions, would have been powerless to bring about unity between Cossack and Jew, Ukranian and Great Russian, Armenian, Georgian, Tartar etc. etc., were it not for its general economic policy. In a society based on cooperation, on production for use and not for profit, there is naturally no room for exploitation of one class by another. If peace and amity between some two hundred nationalities which at the outset were at vastly different stages of economic, political and cultural development could be established over one-sixth of the world's surface, all enjoying full freedom to develop their own characteristic national culture, then there is no reason whatever to doubt that the same could be done in the rest of this world, if capitalist exploitation of class by class and nation by nation were eliminated."

The Russian system has stimulated a coordinated political activity because of the minorities being given greater political work and permitted debates on public affairs and exercising as collective institutions public authority. These particular associations should be countenanced by the state as long as they function without prejudice to the state. Possession of private property, the rights of the citizens in their particular group, freedom to observe their particular religious and social customs must be guaranteed. Religion in primitive backward societies naturally becomes the animating spirit of minorities. But when more progressive institutions are evolved, economic organizations like the Joint-stock companies,

Trade Unions etc., exercise great social influence. In a modern state numerous other organizations advocating particular reforms, women's rights, taxation etc., may increase and possess the power to influence the state. But they cannot be called nationalities. Different languages, standards of life, and culture may divide national consciousness and bring about antagonism especially when a particular group controls political power. Where minority elements are geographically isolated and feel that a particular territory is their national home the problem becomes intense as in Yugoslavia, Rumania, Poland, Germany and Belgium.

There states within the state become a menace. They have also international loyalties like the Catholic church, Islam, labour or communism. The problem is how to reconcile the antagonistic claims of the various associations with the welfare of the state. The state should take into account the potential strength of the various groups or obstruction and must coerce or compromise. It depends upon the social and economic conditions whether a particular group should be prohibited, tolerated or encouraged. In England the problem was solved as far as religion was concerned by making the church subordinate to the state. In Germany an attempt was made to unify the German Protestant church. In America economic combines have received provisional recognition.

The League of Nations tackled this problem and laid down certain general principles. The minority treaties embody special provisions to safeguard the rights of the groups when there is national readjustment. The principle is that nationality in a new country can be acquired by residence and the rights of citizenship must be the same as those of other groups. The various treaties also lay down that all persons born in the territory of any of these states

and not born nationals of another state shall *ipso facto* become nationals of such state. The various states have given an assurance to all their inhabitants of full and complete protection of life and liberty. They recognize that their inhabitants are entitled to the free exercise of any creed, religion or belief as long as it is not inconsistent with public good.

Equality before the law, equality in civic and political rights, equality of treatment and security in law and in fact are the general principles. The differences of race, language, or religion shall not prejudice any citizen in the matter of public employment, functions and honour or the exercise of professions and industries. The minorities have equal right to establish and control at their own expense charitable, social and religious institutions, schools and other educational establishments, with the right to use their own language and the free exercise of their religion.

As regards language, the states have an obligation not to restrict the use of any language in private intercourse, commerce, religion, press, publications or at public meetings. Proper facilities should be given to the groups for speaking a language other than the official language. Further, where the language of the minorities predominates in a particular district, the state should guarantee that instruction in the primary schools should be given to the children in their mother tongue. But the state is free to make obligatory the teaching of the official language.

As regards public funds, the minority treaties assure that where there is a considerable proportion of the nationals they are entitled to an equitable share in the enjoyment and application of public funds for educational, religious or charitable purposes. Correspondingly, the minorities have their duties. While recognizing the primary rights of the minorities to be protected from oppres-

sions, it is also emphasized that the racial, religious or linguistic minorities should cooperate loyally with their fellow-citizens and a periodic investigation should be made to ascertain how far these minorities have fulfilled their obligations towards the state.

In Europe the minorities have been dealt with either by constitutional provisions, special statutes or treaties. Attempts were made to create safeguards against the intolerance of the new governments towards the minority groups. In this direction the Soviet government has made a daring innovation, an experiment which may yet be of significance in building up multi-national states. Cultural and racial autonomy is reconciled with the wider aim of territorial and functional representation and administration.

The Soviet is bringing about a devolution of the administration and placing the actual government in the hands of the indigenous minorities. A special institute has been created for the study of the problem in its economic, cultural and legal aspects. In Finland the use of both Finnish and Swedish languages are guaranteed, and change of religion is also permitted. Education of the racial groups is at the expense of the state. But in matters of national defence every citizen, regardless of race, must take his share in the defence of his country as provided by law.

In India the bogey of minorities has been raised to postpone the grant of political reform. One form it takes is communal representation. The classification of minorities as the British commercial community, Muslims, depressed classes, Indian Christians, Sikhs and Anglo-Indians is defective because race is confused with religion and economic interests. If language is taken as the criterion there will be about 300 groups. If religion is the guide there will be more than 80 distinct groups. Therefore, the

word minority is so flexible that it can be applied to any interest and such interests are innumerable. Taking the minority to mean a backward class belonging to a particular faith, it becomes clear that the British policy in India has always been to set up one minority or other and profess to be the trustees with special responsibilities towards the minority group.¹

The "favourite wife" theory was started. After 1857 the Muslims began to lose influence as they refused to acquire western education. The unwisdom of this policy was condemned by Sir Syed Ahmad who wanted to make friends with "the people of the Book, the Christians and the Jews." He condemned political propaganda as undesirable for the Muslims because the Congress was predominantly Hindu. He wanted the Muslims to educate themselves and established the Aligarh College in spite of the opposition of the orthodox Muslims. Yet he held that cooperation with the Hindus was necessary. "India is a bride whose two eyes are Hindus and Muslims and friendship is far to be preferred to the sacrifice of cows."

In 1906 the All India Muslim League was formed to demand separate electorates as the Muslims were in a minority except in the Punjab and Bengal. Minto was eager to accept the principle and said "I am in accord with you. I can only say to you that the Mohammedan community may rest assured that their political rights and interest will be safeguarded in any administrative reorganisation with which I am concerned." Thus originated the policy of concession to communalists. Morley protested: "Everybody warns us that a new spirit is growing and spreading over India. Lawrence, Chirol and Sydney Low all sing the same song: You cannot go on governing in the same

1. See Appendix D. Table 2.

spirit ; you have got to deal with the Congress party and Congress principles whatever you may think of them." Be sure that before long the Mohammedans will throw in their lot with the Congressmen against you."

Lady Minto records a conversation with Gandhi which is very revealing. "You forget, Mr. Gandhi" I (Lady Minto) replied, "that the separate electorates were proposed by your leader and predecessor, Mr. Gokhale." "Ah," said Mr. Gandhi with a smile, "Gokhale was a good man, but even good men may make mistakes."

In 1888 Lord Dufferin wrote a Minute describing the population of India as "composed of a large number of distinct nationalities, professing various religions, practising diverse rites, speaking different languages, while many of them are still further separated from one another by conflicting social usages and even antagonistic material interests." On the basis of this classification, Minto arrived at the conclusion that separate electorates were necessary and territorial representation was unsuited to India. The danger had already been pointed out by Gladstone but even the Montagu-Chelmsford Report accepted communal representation because the Muslims held that their only adequate safeguard was separate electorates.

In 1919 there was absolutely no communal trouble because the Ali brothers allied with Gandhi. Again in 1921 the treatment of Turkey by the Allies roused the Indian Muslims to throw their lot with the Congress. But the Moplah rebellion broke down the Hindu-Muslim concord and serious riots broke out. In 1929 the Muslim All Parties' Conference reasserted the claims for separate electorates, adequate protection and safeguards and 33 per cent. of the seats in the central legislature. In 1932 the Communal Award was made maintaining separate electorates for Muslims, Sikhs, Indian Christians, Anglo-Indians, depressed classes and Europeans.

The Government of India Act of 1919 accepted communal representation upon the following principles :—

1. Retention of separate Muslim electorates.
2. Provision for a separate electoral roll and separate constituencies for the Sikhs.
3. Recognition of the claims of the Marathas, allied castes and Non-Brahmins of the Madras Presidency.
4. Nomination of members to represent depressed classes.
5. Representation of workers in organized industry.
6. Separate electorates for Indian Christians, Anglo-Indians and Europeans.
7. Representation of other interests like the chamber of commerce and trade associations.

The Non-Brahmins also claimed protection and Montagu caustically remarked “ What strikes me as so astounding about these Non-Brahmins is they are vigorous enough to object to the influence of the Brahmanas. They lie on their stomachs and appeal to the government for help instead of fighting ; and although there is the beginning of the most promising party system here, they want to spoil it by the horrible extension of communal representation.”

The commercial interests represented by the Indian Chamber of Commerce, the Indian Merchants Chamber and the Maharashtra Chamber of Commerce claimed to have representation, and members were nominated to the Council. Women, through the All India Women's Conference, though opposing communal representation and rejecting weightage claimed half the number of the seats. The European community and the Anglo-Indians have on the strength of alleged grievances claimed separate electorates but the majority of Indian Christians have repeatedly declared their opposition to communal representation. Now

the princes are also clamouring for protection. The object of perpetuating these states is clearly indicated by various pronouncements of Morley, Canning, Williams, Wedgwood and also by the criticism of Karl Marx.¹

The next class that claims protection is that of the big land-holders like the Zamindars of the permanent settlement areas, which are the creations of the British government. Says Karl Marx "The Zamindaree and the Ryotwar system were both of them agrarian revolutions affected by British.....made not for the people who cultivate the

1. (a) Minto wrote to Morley (May 28, 1906).
"I have been thinking a good deal lately of a possible counterpoise to Congress aims. I think we may find a solution in the Council of Princes."
- (b) Lord Canning after the Mutiny said :—
"These patches of native government served as a break-water to the storm which would otherwise have swept over us in one great wave."
- (c) P. R. Williams writes in *The Cultural Significance of Indian States* :—
"For our own purposes we kept in existence as independent entities small states which would, but for our insistence, have become baronies incorporated with greater neighbours.....We continued for thirty years to absorb state territory until at long last we produced the proportions which today exist between British India and Indian India."
- (d) J. Wedgwood in his evidence before the Joint Select Committee said :—
"These Princes were brought into the Federation not as the Simon Commission intended as fellow self-governing units ; they were brought in to make the centre conservative and Pro-English."
- (e) Karl Marx in his *Letters on India* says :—
The Native States "are the most servile tools of English despotism.....the strongholds of the present abominable English system and the greatest obstacles to Indian progress."

soil, nor for the holder who owns it but for the government that taxes it." The Liberals though not venturing to claim that they are in a minority yet have served British interests and expect adequate rewards.

The depressed classes, similarly, claim protection but Dr. Ambedkar himself at the R. T. C. said, ".....But I cannot understand for instance how weightage can be allowed on the ground of political importance or services rendered either to the Empire or to the British government." The principle of communal electorates has been repeatedly condemned.¹

It has become fashionable to say that Britain cannot agree to future constitutional advance as long as certain re-

1. Gladstone in his speech in the House of Commons on the Indian Councils Bill of 1892 said :—

"There is the danger of having persons who represent cliques, classes or interests, and who may claim the honour of representing the people of India."

2. The Joint authors of the 1919 reforms were of the opinion :

"Communal electorates are opposed to the teaching of history, perpetuate class division, stereotype existing relations and are a very serious hindrance to the development of the self-governing principle."

3. Sir P. C. Mitter in the Minorities Sub-Committee :

"It can well be understood that if we have communal cleavages, if our future democracy be one section Hindu, one section Muslim, and one section the depressed classes, then although we might get nationalism, it will be a much longer path."

4. Sir C. Setalvad :

"As I have said, and again repeat, although I disapprove of separate electorates, if our Moslem brethren want separate electorates let them have them."

5. Mahamad Ali :

"Freedom for India is not through separate electorates, though, being one of the authors of the separate electorates in 1906, I shall be the last to surrender them."

quired conditions are not present. It is thereby implied that India cannot hope to solve the problem of the future until the minority question is settled.

The *Times* said recently that the convening of the constituent assembly now or after the war could only prove to the world the extent of Indian political disunity. This great solicitude of the British for political unity is very suspicious. Britain did not dare to bring forward such a plea to refuse Dominion status to Canada, South Africa and Ceylon. The Donoughmore Report¹ rejected communal representation in Ceylon and in Keyna the Hilton Young Commission² recommended the abolition of separate electorates.

In these two countries it should be noted that Indian settlers are in the minority and have suffered at the hands of the majority but Great Britain has not evinced any interest in the matter. Apparently, the principle of safeguarding the minorities is to be applied only to India. In Canada also Britain actively cooperated to bring about a settlement between the French and the British. Lord Durham's Report is not the result of automatic development but due to the revolt of the two communities. In Ireland Balfour's Declaration was the result of pressure exercised by the

1. *The Donoughmore Report*, p. 99 :

"tends to keep communities apart, and to send communal representatives to the Council with the idea of defending particular interests instead of giving their special contribution to common weal."

Ibid, p. 99 :

"Only by its abolition will it be possible for the various diverse communities to develop together a true national unity.

2. *Hilton Young Commission Report*, p. 208 :

"The surest foundation for a stable constitution is community of interest rather than a nice adjustment of opposing forces. The communal system where it has been tried has tended to accentuate differences and prevent the growth of a healthy political life."

Irish. Therefore, India claims that the problem is purely a domestic one and cannot allow the British government to assume extraordinary rights of arbitration. Provided that Britain does not interfere and insiduously encourage the reactionary elements, the future constitution can be hammered out and adequate safeguards and methods of representation can be guaranteed.

In analysing the minority problem in Europe, it has been pointed out that a clear declaration of the legitimate rights of the minorities has been very helpful. Further a Declaration of Fundamental Rights as a part of the constitution has allayed the fears of the minorities. A similar procedure may be followed in India. As regards implementing the declaration various methods have been advocated in other countries. The veto of the executive, devolution, suitable changes in the legislative procedure etc. are of some value. The system of communal representation that now obtains India has made communities more stereotyped and the results have been far from beneficial.

As regards a scheme of providing reasonable security to the minorities in the future constitution, the method adopted in Canada might be followed. The minority rights might be secured by full provision in the Act to be enforced by the courts. A system of proportional representation either by the limited vote or the cumulative vote may be adopted. Functional representation as a solution for the minority problem cannot work in the present state of industrial organization. In elections the advantage of two or more stages so as to secure proper representation of minorities may be tried. And, above all, the supreme need is for a systematic social and economic planning, for the problem of the minorities is fundamentally economic.

CHAPTER VIII

SOCIAL AND ECONOMIC PLANNING

In Europe the constituent assemblies met primarily not for political reorganization but for social and economic planning. Planned economy has become a magic word because of the chaos in the world economic order and recurring wars. The science of economics has become discredited and a lament for economics is reaching the high heavens. The old theories,—cost of production on a competitive basis, distribution according to hedonistic psychology, theory of population based on the findings of Malthus and the evolutionary theories of the German historical school have all been buried without the shedding of a tear.

Under the influence of undigested German metaphysics, utilitarianism of Bentham and evolution of Darwin, Marshall dominated economic theory and became the saviour of capitalism. He put forward the laudable sentiment that there is no general economic principle which supports the notion that industry will necessarily flourish best or that life will be happiest or wealthiest when each man is allowed to manage his own concern as he thinks best. But his theory of value created an illusory universe which disappeared as the mist before the sun when the hard facts of post-war conditions had to be confronted. The mechanical perfection of Marshall's theories may no doubt delight the intellect but it is far from reality. In a dyna-

mic world it is not possible to enunciate laws by the haphazard mixture of assumptions.

The epitaph on Marshallian economics was written in his own day. As predicted by Karl Marx imperialism and capitalism resulted in the Great War and Marshall's "principles became a debased currency and museum exhibits." With the disappearance of Victorian prosperity, the automatic system of Marshall also disappeared. The theorists who had imagined ever-expanding free markets were confronted with high tariff walls. Consumer's demands no longer affect producer's services, because the producer's tactics are creating new wants.

Capitalism and imperialism are branded as out-castes and even the Western democracies are forced to recognize the lack of coordination in the economic processes and the deep gulf that separates production and purchasing capacity.

Roosevelt has declared that the present economic order is bound to collapse unless capitalism can clear its house of the dirt of depression and evolve some form of socialism : "Do what we may to inject health into the economic order, we cannot make it to endure for long, unless we bring about an even more equitable distribution of national income." The Brain Trust of Roosevelt was an honest attempt but it failed because of the lack of coordination inherent in a capitalistic economy.

Planned economy can be defined as a "conscious and deliberate provision by human forethought of means for regulating production, distribution and consumption with a view to securing maximum opportunities for the satisfaction of the greatest variety of quality of human wants."¹

1. Sir Basil Blackett.

Conscious and deliberate effort implies a definite social philosophy.

The art of planning cannot reconcile itself to the existing world but it changes it. In Russia the Five Year Plan was the result of the collaboration of the best Russian minds for the extension of nationalized large-scale industry. By controlling heavy industries, developing water power, exploiting natural resources, and improving transport facilities, Russia has made planning a powerful weapon against the capitalist countries. The entire life of the people was subjugated to the plan. The utilization of the profits, the activities of the cooperatives, the work of the credit system and of social insurance, all were under strict state supervision. The object was to produce goods for use and not for profit, to provide good all-round education, health and other social services for the citizens.

The orthodox economists who would have argued that profit is the only incentive to production, have been forced to take into account the monopolistic combines, bank capital or banking interests and a cut-throat competition for markets and in such an atmosphere the tender plant of planned economy cannot be expected to flourish.

Indian economists especially have been repeating the age-old fallacies about the rigidity of the caste-system, fatalistic attitude of the peasants, intensive concentration on agriculture, lack of organized cooperation and distrust of scientific improvements. Indian conditions are closely analogous to pre-communist Russia. But under systematized planning, Russia shows a remarkable progress during the past twenty years, such as has not been achieved in other countries even in a century.

The Russian peasant under the Czarist regime was equally illiterate and fatalistic. The *Nichevo* (no matter) habit had been highly developed because the bureaucrats

wanted to keep the country economically backward. A poor country depending very little on foreign credits, harassed by civil war and foreign attacks, has yet emerged within two decades as an equal member of even the most industrially advanced capitalist countries which took more than a century to attain that position.

Even the economists have come to realize that nothing but intellectual confusion can result from a failure to know that planning and socialism are fundamentally the same. Without a socialist ideal no planned economy can be a success. Therefore it depends on the character and the force of nationalism. Indian writers like Sir M. Visvesvaraya have no doubt realized the need for a planned economy and whatever the political differences, there is unanimity as regards the necessity for a workable and concrete plan. Sir M. Visvesvaraya in his learned volume "Planned Economy for India" has put forward a solid foundation for reconstruction. But it cannot be called planned economy because they are merely practical suggestions. It would be misusing the term "planned economy" for any and every deliberate guidance without reference to the ultimate national aspirations.

The economic system in Japan is controlled by the state and so was the policy in England soon after the industrial revolution. So are the corporate organizations set up by the Fascist and the Nazi governments. These cannot be called planned economies in the real sense of the word. To take into account merely the economic conditions without reference to social and political planning, would be to distort our vision. Pious prayers for a disposition of the world to return to the doctrine of cheapness and free exchange are perfectly useless.

When provincial autonomy was inaugurated and the Congress accepted office in seven provinces the need for

national planning for the whole country was acutely felt. A National Planning Committee was set up. About 30 sub-committees were formed and all the provinces and many of the states cooperated with it. Though it is too early to comment upon the recommendations that might be made by the Committee, the memorandum issued shows the trend of discussions.

The question of state control became important and vehement differences of opinion seem to have been manifested. Among the recommendations generally accepted are : The defence industries, key industries, and public utilities should be under the control of the state and where some latitude was permitted as in the case of public utilities, the state should own the organizations. To control such public utilities, a board, like the London Transport Board has been suggested. In regard to other vital industries a small measure of control according to the nature of the industry is advocated. Autonomous public trusts are suggested for state-owned industries, in order to avoid difficulties and inefficiency due to democratic control. As regards private industries supported by the state, the state should have a controlling voice by appointing representatives who should look to the proper coordination of that industry with the whole scheme.

The problem of technical education is proposed to be met by compelling industries to give training to the staff. When private industries are taken over by the state proper compensation must be made to the owners, care being taken to avoid the establishment of new vested interests. The development of cottage industries being one of the objects of the National Congress, the problem is to coordinate them with the large-scale industries, so that there can be no conflict. Further women should be assured of opportunity for training and employment and also such employment would be guaranteed to them as the consequence

of planned economy.

All talk of planned economy is useless without the political power to implement it. In Russia political autonomy made it possible to evolve an economic system. The first Five Year Plan was devoted to the development of power and heavy industries. The State Planning Commission, the Gosplan, set before itself in 1927 a far more ambitious aim of drafting a plan for the whole national economy. In spite of derision of the foreign elements, the Soviet authorities carried through a heavy programme. The Trotskyites believed that the whole world should adopt socialism before planning can become a success in Russia and such success would bring about the victory of socialism in other countries by propaganda.

In 1928 a spontaneous movement started and the Five Year Plan was completed in four and a quarter years. 94 per cent. of the programme was taken as realized. The main achievements were in the sphere of heavy industries, 235 per cent. higher than in 1913. The output exceeded the estimates by 3·4 per cent. In the machine construction industry the advance was 54 per cent. The first Five Year Plan not merely increased the output but raised the cultural level of the minorities by distributing industries among them.

In all about 1500 new enterprises were set up. The psychology of the peasantry began to change. As regards agriculture there was great opposition and the plan had to be modified. Stalin called a halt and pointed out genuine mistakes of policy. Fully fledged agricultural communities in the districts were abandoned and grain collectives were organized. The government did everything in its power to encourage mechanization of agriculture. Transport made some progress though not coming up to the expectation. Unemployment was completely eliminated. Social welfare schemes increased and also the functions in every Soviet. Education was a startling success, and illiteracy fell down

to 10 per cent. Teaching was conducted in the mother tongue. In spite of the world economic crisis, the first Five Year Plan was comparatively a success.

In 1924 Russia was still a backward agricultural country wrecked by civil war. But in 1932 it became a highly industrial country with large-scale industries and collective agriculture. The value of the industrial output increased from 40 per cent. in 1928 to 70 per cent. in 1932.

The following figures show the result of the first Five Year plan :—

GROSS PRODUCTION OF THE PRINCIPAL BRANCHES OF INDUSTRIES

(In million of Roubles, in prices of 1926-27)

Serial No.	Industries.	1928	1932
1	Coal	375.2	659.9
2	Oil	582.7	1413.0
3	Metal	2722.6	9032.6
4	Ferrous Metals	705.5	1263.7
5	General machine-building, ship-building and produc- tion of metal goods ...	1405.8	5252.9
6	Agricultural machine-building	176.7	890.4
7	Electrical Equipment ...	293.3	1218.3
8	All Machine Building ...	1822.0	7361.6
9	Chemicals	348.0	1039.9
10	Timber	836.7	2400.0
11	Articles of consumption excluding food	5408.8	8477.1

The second Five Year Plan laid the real foundation of a socialist economy. By completely eliminating capitalism conditions were favourable for the creation of a classless state. A further development of the industries was proposed and in agriculture the second Five Year Plan provided for complete collectivization and the elimination of the Kulaks. The plan made a determined effort to bring about a rational distribution of industries. So far as means of production were concerned, the country became independent and by the end of 1936 Russia attained the position of being the first in Europe and the second in the world in regard to gross industrial output. Russia showed to the world that no section of her population can be said to be not by nature mechanically-minded. On the other hand given the scope, the organizational ability and mechanical skill manifest themselves in every person born anywhere in the world.

A brief resume of the results of economic planning is given below :

1. In 1937 the value of large-scale industrial output was estimated at 80.9 million roubles or 7.3 times the pre-war output.

2. The value of producer's goods in 1932 was 21.6 milliard roubles and it rose to 52.4 in 1937.

3. Of the area cultivated in 1937, 0.9 per cent. was sown by individual peasants.

4. The produce of agricultural output was 83 per cent. above the value of the pre-war output.

5. In 1936 the Soviet government spent nearly 40 roubles per head of the population on the health services, the Czarist government only spent 90 kopeks per head on these services.

Social planning in India is equally urgent. In ancient India the relation between the individual and the society

was clearly defined according to the *Varnasrama Dharma* and the *Purusharthas*. The ethical and intellectual (*Dharma*), the economic (*Artha*), the emotional (*Kama*) and the spiritual (*Moksha*) were the four goals and the caste-system in its purity stood for social workers (*Sudras*), executors (*Vaisyas*), the guardians of the moral order (*Kshatriyas*) and finally the planners of the social order (the *Brahmanas*).

The state was not above ethics and this hierarchic system was not considered a method of coercion and exploitation but a law of nature, because it was clearly recognized that men were spiritually equal and no class could escape its responsibilities. All works socially useful and economically important formed an integral part and the social justice was based upon a scheme not of theoretical rights but of practical opportunities.

If the essence of democracy is a consideration for others, caste-system represents it. In this scheme of life, life becomes more difficult as we go higher in the social scale. No doubt perversion of this system resulted first in the lack of moral authority, secondly, rise of militarism and imperialism, thirdly, commercial exploitation and lastly social drudgery.

But the idea of Dharma gave stability, coherence and direction to all activities of life. A complete rule of life had been evolved and ethical effort was the means for a spiritual life.

Under the present conditions though it is not possible to go back to the pristine purity of the ancient social order, the enduring element of Indian civilization, Dharma should be preserved and fostered. A valuable lesson can be learnt from the happenings in China. The Chinese struggle has evoked the admiration of the whole world. Pitted against a ruthless imperialism armed with all the brute force of a

westernized Japanese civilization, racked by internal dissensions, yet China has stood forth as the champion of humanity. *Generalissimo* Chiang Kai Sheik has launched a scheme of National Salvation Association. The National Salvation Association has achieved a tremendous success in organizing the backward people and bridging the chasm of centuries and has made China a progressive nation.

The Peasants N. S. A. has full autonomy over elections, reduction of rent and interest, formation of co-operative groups, internal trade, raw-material, and recruitment to the army. With fanatical enthusiasm young men and women of China have organized themselves into a Youth N. S. A. The youth of China brought up in the cities, had become denationalized and under the impact of foreign danger resolved to carry on the work of social regeneration. They have formed themselves into brigades for helping the peasants in sowing and harvesting. Literacy campaign is being carried on in the villages. The peasant women are being organized. Military training for the boys and nursing for the girls has become obligatory. The heroic part played by the youth of China in the regeneration of their country deserves to be recorded to their eternal credit.

The Workers N. S. A. is in the nature of a general labour union and mechanics and technicians are being trained up at a fast rate. The workers by sabotage and non-cooperation in the areas occupied by the enemy, are fighting a more deadly war on behalf of their country than perhaps even the army.

The Women's N. S. A. has undertaken the work of literacy and social reform in the primitive areas of China. The political consciousness has so much increased that women have received the right to vote and are being elected as heads of villages.

The Merchants N. S. A. facilitates trade, and para-

lyses the attempts of the Japanese to dominate the country economically. The Cultural Workers N.S.A. is composed of teachers, professors, artists, journalists, actors, press magnates etc., who are carrying on the war by propaganda. Elementary and adult education has been taken over by them and broadcasting has become a vital feature of their work.

The result of all this vast effort is seen in the formation of the People's Self Defence Army, which is a mass military organization of men between 25-45 years of age. Even the Communist Eighth Route Army and the Fourth Army have relegated to the background their political ideologies and are fighting for the defence of the country along with the armies of the *Kuomintang*.

CHAPTER IX.

THE DECLARATION OF FUNDAMENTAL RIGHTS AND THE GOAL

The leading problem of Indian politics is, therefore, the problem of peaceful change. A proper machinery must be perfected if India should not lapse back into a state of anarchy. Immediately we are confronted with a number of questions as to the feasibility of bringing about a consensus of opinion necessary if a constituent assembly is to be a success.

In the analysis of the minority question, it has been pointed out that social and economic changes might bring about a psychological change. But the "emotional grievances" can only disappear when there is an assurance of security. Therefore, it is imperative that there shall be first an agreement of all major parties as to the fundamental rights.

When the American constitution was being hammered out, a general principle was thus enunciated "that it should be recommended to the respective assemblies and conventions of the United States to adopt such government as shall in the opinion of the representatives of the people best conduce to the happiness and safety of their constituents in particular and America in general."

Virginia became famous as the first state to set up a Declaration of Rights, which is the model not only to America but for the whole world.

The Virginian Declaration of Rights, 12 June 1776 :
“ *A Declaration of Rights*, made by the Representatives of the good People of Virginia, assembled in full and free Convention, which rights do pertain to them and their posterity as the basis and foundation of government :— (1) That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a society, they cannot by any compact deprive or divest their posterity, namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety. (2) That all power is vested in, and consequently derived from, the people ; that magistrates are their trustees and servants, and at all time amenable to them. (3) That government is, or ought to be, instituted for the common benefit, protection and security of the nation or community ; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration ; and that, when a government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal. (4) That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services, which not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary. (5) That the legislative, executive and judicial powers should be separate and distinct ; and that the members thereof may be restrained from oppression by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken,

and the vacancies supplied by frequent, certain and regular elections, in which all, or any part of the former members to be again eligible or ineligible, as the laws shall direct. (6) That all elections ought to be free, and that all men having sufficient evidence of permanent common interest with and attachment to the community, have the right of suffrage, and cannot be taxed, or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not in like manner assented, for the public good. (7) That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised. (8) That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favour, and to a speedy trial by an impartial jury of twelve men of his civinage, without whose unanimous consent he cannot be found guilty ; nor can he be compelled to give evidence against himself ; that no man can be deprived of his liberty, except by the law of the land or the judgment of his peers. (9) That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. (10) That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted. (11) That in controversies respecting property, and in suits between man and man, the ancient trial by jury of twelve men is preferable to any other, and ought to be held sacred. (12) That the freedom of the press is one of the great bulwarks of liberty,

and can never be restrained but by despotic governments. (13) That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free State ; that standing armies in time of peace should be avoided as dangerous to liberty ; and that in all cases the military should be under strict subordination to, and governed by the civil power. (14) That the people have a right to inform government ; and therefore that no government separate from or independent of the government of Virginia ought to be erected or established within the limits thereof. (15) That no free government, or the blessing of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by a frequent recurrence to fundamental principles. (16) That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed equally entitled to the free exercise of religion, according to the dictates of conscience ; and that it is the duty of all to practise Christian forbearance, love and charity towards each other."

By such a deliberate act, a firm basis for political life was secured. The fundamental institutions necessary for political life were defined and solemnly guaranteed by special convention. In Russia Lenin restated even in broader terms the formula of self-determination. As the guiding principles were accepted equality and the sovereignty of the people, the right of the people to dispose of themselves even as far as separation and the establishing of an independent state, the separation of all national and religious institutions and the development of national minorities and ethnic groups in Russia. This far-reaching decree resulted in territorial dissolution and the minorities openly declared their adherence to the Russian government. There was no attempt to impose by force the view of a particular party.

Finland, Esthonia, Latvia and Lithuania preferred to break away from Russia and were permitted to do so. As far as Russia was concerned this strengthened her.

In India if the minorities come to realize that their destinies are bound up with the whole nation and that foreign help cannot be relied on in the present state of the world, they are certain to feel that a better bargain can be struck with the majorities in India. The Congress in the view of some has already gone too far to placate the minorities by accepting the Communal Award and even nomination and general electorates with reservation of seats provisionally.

The Congress long ago passed a Bill of Fundamental Rights including a guarantee to the minorities for the protection of their cultures, languages, scripts, education, profession, and practice of religion and religious endowments. Personal laws would be protected by specific provisions. Public appointments would be made by a non-party Public Service Commission.

Mr. Jinnah's present demand can be summarized thus : perpetuation of the Communal Award, proportion in the services to be fixed by statutory enactment, statutory guarantee for personal law and culture of the Muslims, the freedom to observe religious ceremonies without hindrance, the Muslim majorities in those provinces where they exist should not be affected by territorial redistribution, abandonment of the *Bande Mataram* song, the adoption of Urdu as the national language, the Muslim League flag to be of equal importance as the tri-colour flag, recognition of the Muslim League as the only authoritative organization of All-India Muslims and formation of coalition ministries in the provinces. To these have recently been added such further claims as the right to form a Pakisthan, isolation of the Muslim majority provinces, recognition of Muslims as a separate nation and the abandonment of democracy.

The Muslim League proposes that instead of a federation there should be a confederation of culturally homogeneous states for which purpose the Muslims in India should be constituted into four zones ; the North-West bloc, the North-East, Deccan and the Central. A Royal Commission was demanded to enquire into the alleged persecution of the Muslims by the Congress ministries. Even when the Indian states were included in an All-India federation the quota of Muslims to the central legislatures should be maintained at a proper proportion. A stable executive, independent of legislature was advocated with a substantial Muslim majority.

The Hindu Mahasabha, while standing for the principle of 'one man, one vote' claims that the Hindus are a nation but the Muslims are a minority. It opposes communal representation and communal electorates. The redistribution of provinces should be made on merit and financial considerations but no new province should be created with the object of giving a majority therein to any particular community. It is also prepared to accept Dominion status immediately as opposed to complete independence demanded by the Congress and the Muslim League, forgetting that when once a solemn pledge accepting the status is given there is no possibility of a development towards a fuller status viz. independence.

It is difficult to understand the mentality behind such proposals. The Imperial interests have created many false bogies such as the Muslims being racially different and the British historians have not failed to create the illusion that the Muslims for nearly half a millennium were the conquerors and rulers of India. The lack of historical perspective is responsible for the unscientific generalization. At no time in the history of India were the Muslims culturally dominant throughout the country. The dynasties

rose and fell without any reference to the conscious idea of a particular nationality. The spot-light of history has been designedly turned upon those few patches of the country ruled by Muslim potentates ignoring such vast Empires as that of the Rajputs, the Sikhs, Vijayanagar and the Marathas, so that an impression is created that the whole of India from the twelfth century onwards was dominated by a single cultural minority.

No terms can be too strong to condemn such a vicious misreading of history. For good or ill India has now become a united country, a fact which cannot be denied by the communalists. The British government itself has brought about, whether designedly or otherwise, a unity which cannot be broken. Moreover, a certain advance has been made in democracy and it is too late to go back to the principles of oligarchy or aristocracy.

The grievances of the Muslim League have been stigmatized as merely emotional and the correct lead has been given by the Congress in its resolution on the National Demand : "The Congress declares afresh its solemn resolve to achieve independence for the Nation and to have a constitution framed through a Constituent Assembly, elected by the people and without any interference by a foreign authority. No other constitutions or attempted solutions of the problem can be accepted by the Indian people."

Next to the Declaration of Fundamental Rights but equal in importance is the necessity for the declaration of India's goal in unambiguous terms. The recent declaration of Lord Linlithgow that the contemplated goal of India is Dominion status of the Westminster variety has revived a controversy which has obscured the fundamental principles underlying Dominion status and independence.

The Congress throughout its historical development

has from time to time declared its goal. In the early period of its history a spirit of prayerfulness and importunity had manifested itself and its resolutions were mainly confined to administrative matters. In 1906 it began to assert itself as the representative of the nation and advocated Swaraj. In 1917 passive resistance movement was launched. Boycott of foreign goods and similar retaliatory measures were advocated. From 1919 onwards the goal was made clear as full autonomy within the British Empire like other Dominions. The right of self-determination was asserted. The Swaraj party led by C. R. Das was prepared to accept full Dominion status but the offer of cooperation was rejected because of the intransigent attitude of the government. But the phase soon passed and the Lahore Congress declared that independence was the goal. Therefore, the creed became complete national independence.

The independence resolution has been repeated year after year but Gandhi preferred to interpret Dominion status with the right of secession as the substance of independence. He has held on to this interpretation. The official pronouncement by Dr. Rajendra Prasad recently has made it quite clear that independence pure and simple is the goal of the Congress.

CHAPTER X.

DOMINION STATUS AND INDEPENDENCE

The ideal form of government which suits the genius of the Indian nation is a parliamentary state, federal in character, distributive in technique and thus renouncing the absolute notion of legal sovereignty.

This does not mean a confederation as advocated by certain sections of Indian opinion like the Muslim League, nor a unitary state. In a confederation, the complete sovereignty of the member states is acknowledged and the relationship between the states is analogous to international treaties. The confederations of Switzerland and the United States of America had to evolve into federations, because collective security demanded a closer union.

The ties in a confederation are very loose in spite of a common national consciousness and historical tradition. Trietschkæ concluded that the centripetal tendency was inherent in the very nature of a federal state but in a confederation which is merely a union for certain specific purposes the dissolution can be brought about by any state because the right of secession is inherent.

Kelsen held that no confederation is ever formed with a deliberately limited period of duration. The treaty rights involving the inalienable right to secede exist for the sake of the state and there is the assumption that individual state-system serves the highest end of the citizens.

But due to international conditions no loose confederation can hope to survive and the history of the British Dominions evolving towards full Dominion status shows the centripetal tendency in every confederation. Therefore, a federation is the only possible form of government for India. The nature of a true federation and how far the federation contemplated in the Government of India Act, 1935 falls short of the national demand has been discussed elsewhere.¹

The national demand is for complete independence and the implications of this statement have to be carefully worked out in relation to Dominion status, and the Indian states. Some thinkers are of the opinion that Dominion status has nowhere been defined and that even the Statute of Westminster has made no attempt to give a legal definition. After the war the Dominions realized for the first time how gravely international issues affected their interests and how the question of foreign relations entirely depended upon the British government.

The Imperial Conference which culminated in the Statute of Westminster discussed all the implications of Dominion status like autonomy, international status, and the right of secession and neutrality. The members felt that it was not possible to define by legislation the powers of the Dominions and therefore the Statute emphasized only the negative aspect.

It is alleged that the British temperament is averse to precise definitions. Lord Balfour had given in 1926 his description, rather than definition, of Dominion status : "They are autonomous countries within the British Empire, equal in status and in no way subordinate to one another in any respect of their domestic and external affairs, though united by a common allegiance to the

1. Y. G. Krishnamurti : *Indian States and the Federal Plan*.

Crown and freely associated as members of the British Commonwealth of Nations.” This vague and ambitious statement was meant merely to placate the new nationalisms of the Dominions.

The Statute of Westminster though ostensibly based on this resolution, yet makes serious departures. It is contended that the right of secession inherent in Balfour Declaration has been taken away by the Statute. V. S. Srinivasa Sastri in 1930 still argued that the right of secession was not only essential but formed the very bond and cement of the Commonwealth and demanded that the same principle should apply to India also. Morley was unable to visualize a time when India would have parliamentary institutions. Birkenhead similarly made it quite plain that he could not imagine India achieving Dominion status at any time. Irwin tried to pour oil over troubled waters by saying that the Preamble to the previous Act clearly implied Dominion status and therefore there was no necessity to introduce it in the Act of 1935, since the Preamble had not been repealed.¹

But the answer to this is furnished in the discussions that took place in 1931 in the Parliament. Sir Thomas Inskip argued that the Preamble to the Statute immensely strengthened the position of the Crown because if it prevails, the consent of every single unit in the Empire was required for any alteration of the position of the Crown. But he had to acknowledge that the Preamble had no legal validity because the judges do not read Preambles.

The Statute of Westminster² in the first section deals with King's powers to disallow any Dominion Act on the advice of his ministers of Great Britain. Though this right had not been used since 1873 an agreement was arrived

1. See Appendix, C. III.

2. See Appendix II.

at that the present position was that such powers no longer existed. Regarding the right of reservation the governor-general in the Dominions had the right of reserving bills at his discretion for the approval of the King and this was made compulsory in Australia, New Zealand and South Africa. But the Statute was framed on the agreement that this right of reservation should be abolished.

An analysis of the Statute makes it clear that serious divergences of views on vital issues still exist. The King represented by the governor-general has not the power to declare war, proclaim neutrality, make peace or to exercise the treaty power through his governor. These rights are still vested in the King himself. Secondly, whereas the king can personally influence the Parliament and thus has a reserve power of control as regards the Dominions, they have no similar safeguard. Thirdly, the Statute secures the pre-eminence of the British Parliament. It has the right to legislate for the Dominions and in fact the Statute itself is a creation of the Parliament. Fourthly, the Parliament has not repealed the Imperial Acts and therefore the old constitutional restrictions on the alterations of the Dominion constitutions still prevail.

Legally, no doubt, the Imperial Parliament cannot limit the powers of its successors. But it can lay down the constitutional principles which may effectively bind the future Parliaments. The question of the right of appeal to the Privy Council is not faced directly. The constituent powers of the Dominions in some cases as Ireland are limited by treaties which override any Free State legislation. The grant of the right of extra-territorial legislation to the Dominions may bring about international conflicts.

The financial power of the Dominions is also circumscribed by the agreement that any Act which violates the terms affecting stocks should be disallowed by the Crown. In case of conflicts between the Dominions, no machinery

has been set up, though Sir Stafford Cripps insisted that a tribunal acceptable to all parties should be formed. Since the Dominions are given full legislative powers, it is possible for them to deny that its nationals are British subjects. Recent discussions in South Africa have made it plain that the Dominions claim the right to exist apart from the Crown. The bond between the Dominions can be terminated at will and by a unilateral action. Some have claimed that the Dominions can secede but the very idea of secession of a Dominion is absurd. The Attorney-General pointed out that the words Dominion status are meaningless apart from the Empire and indeed the Balfour Declaration of 1926 describes the Dominions as autonomous communities within the Empire. Therefore, secession is a positive 'act' of independence and extra-constitutional. It is not a 'right'.

It is inconceivable that India can enter into any treaty right with Great Britain on the basis of secession, because Parliament cannot introduce a clause that India may secede if and when she likes. Therefore, the issue should not be confused and cannot be disposed of by saying as Lord Balfour did: "You might as well consider all the cases of divorce before you decide upon the problems of matrimony."

The Dominions are sovereign international states in the sense that the King in respect of each of his Dominions is separate in the eyes of international law. This is proved by the abdication of Edward VIII. The Preamble which mentions the sovereignty of the king has been put to test when the assent of all the Dominions before the Abdication Act was passed was deemed necessary. The Dominions were consulted but a peculiar situation arose. Following Great Britain, Australia, Canada and New Zealand have taken the date of the demise of the Crown as December 11th, when Edward signed the Abdication Bill. But South

Africa and Irish Free State have chosen December 10th, when Edward signed the Declaration of Abdication. From this it follows that Imperial sovereignty is divisible and that the Imperial Crown is not single but multiple.

As regards treaty-making, the Dominions must consult in advance every unit of the Empire equally with the United Kingdom and no part of the Empire can impose any obligation upon the other part. The unity of the Crown may be put to test when there are disputes between the Dominions. The Free State holds that the treaty of 1921 is a treaty of international law to which Article 18 of the League Covenant is applicable. Eire claims the right to submit disputes to the paramount Court of the League. As regards neutrality the extension of sovereignty is formally vested in the person of the King. Britain has launched a war but the Irish Free State has declared its neutrality. McGilligan contended that in foreign issues the King must accept the advice of his Dominion ministers even if he is convinced of its unwisdom. Western Australia claimed the right to secede but much bitterness has been engendered by the decision of the Parliament not to interfere with the states of Australia.

The Statute abolishes the application of the term "colonies" to the Dominions. The provisions of the Statute make no effort to give a definition of the term British Empire. In International Law the term British Empire denotes primarily an Empire less the Dominions.

Therefore, the Statute is undesirable and the Dominion status contemplated in it falls short of Indian expectations. The Statute confers no new legal powers but only declares the present status. The legislative and legal predominance of the British Parliament is made plain. It is not an act of renunciation but preserves the theoretical right of the Parliament to legislate for the whole Empire.

This Act can in no sense be interpreted as recognizing independence.

Since the Statute of Westminster became law, Dominion status according to Dr. Keith has come to mean something more. He contends that the right of secession and neutrality was recognized by Mr. Chamberlain when the new constitution of Eire was accepted and when the treaty of 1938 released Eire from the obligations to Britain in case of war which prevented her exercise of the right of neutrality. In the Union of South Africa neutrality in the present war was admitted to be within the rights of the Union under Dominion status, though it was decided to adopt instead an attitude of passive belligerency which excludes any armed aid to Britain. It is stated therefore that the demand for the recognition of independence should have been met by pointing out that Dominion status includes the right of India in due course to decide the question of allegiance. The anxiety of Britain to give only Dominion status of Westminster variety plainly shows that even full-fledged Dominion status is being withheld.

The goal of complete independence is visualized not only by the National Congress but also by the Muslim League, the two parties that really matter. The only way short of actual revolution to achieve this goal is by the formation of a constituent assembly. Many suggestions and alternatives have been put forward. A constituent assembly may be formed from among the members of the present legislatures. This is advocated on the ground that a small number of delegates chosen from the eleven provincial legislatures and the central legislature can discuss and agree on the provisions necessary for safeguarding the interests of the minorities, when a full agreement has been reached not merely by a majority vote. A decision can

be arrived at and placed before the British Parliament for acceptance.

This method is entirely unsatisfactory, because the interests of the states' people are entirely ignored, and the cleavage between British India and Indian states will be perpetuated. The present legislatures were not elected on a definite mandate as regards Central Assembly. The minorities in the provincial legislatures have been elected according to separate electorates, the very principle against which the Congress is fighting. Further, since the elections were fought many parties in the country have dissociated themselves from the programme of the Congress. To form a constituent assembly from the 2,000 members of the provincial legislatures will be an easy way out but since the Congress itself has advocated a constituent assembly elected on full adult franchise, no short-cuts are possible. The example of Russia shows that it would be a coward's way out of the impasse if such a committee unworthy of being called a constituent assembly, is formed. A second method of convening a constituent assembly is according to the majority of the states within the federal constitution. This is also unsatisfactory since the federal constitution itself has been suspended and the principles on which the present federation is based are invidious. A third method suggested by some is the formation of zones followed by a Round Table Conference. This is impracticable because it will only accentuate local differences.

Stigmatizing the idea of a consultative committee as a "poor relation" Prof. Harold Laski adds, "It will have none of the authority of effective participation in the making of decisions."

The referendum can be employed for ascertaining directly from the people their consent for the fundamental principles of government. The referendum has been used

in Switzerland, Ireland and Australia. If the Congress organizations extending all over the country take up the work in cooperation with the other recognized political bodies, it can be a success in India also. It is also argued that a special convention may be summoned. The problem of summoning a constituent assembly must naturally depend for its success on Indians themselves. Britain will never agree for the summoning of such a sovereign assembly. The Indian rulers will do their best to prevent their subjects from casting their lot with the rest of India. In order to allay misgivings and fear all the major parties in the country must agree upon a Bill of Fundamental Rights. The propaganda for a constituent assembly should not be based upon party lines if thorough unanimity is to be secured. There are sections of the people who have no love for certain items of the Congress programme such as Charkha, compulsory Hindi, Prohibition, Temple-entry etc. Whatever the individual merits of these items in the Congress programme, it will be the height of unwisdom to make them appear indispensable. For, at this stage they are not really essential. Social and economic reform can be brought about only after securing political power.

Universal adult franchise is a possibility and is the greatest solvent for the communal tangles. A preliminary requisite is the compilation of a National Register of all the adults. The elections can be conducted by sub-committees of a preliminary All-Party Conference in order to see that corruption cannot creep in. The whole country irrespective of the artificial divisions should be divided into equal electoral districts and the representatives thus elected will be the delegates for the plenary assembly. In case the body becomes too unwieldy electoral colleges can be set up and a final body not exceeding 400 can be constituted into a committee. The fundamental principles of the future polity should receive its consent. This body

can proceed to appoint expert committees. The problem of defence and foreign relations can be solved as in Eire and Egypt without detriment to independence status.

The Russian constitution can serve as a fitting model for India. In the Stalin constitution the political foundation is provided by the Soviets. Elections are direct, secret and on a territorial basis. The right of recall and referendum are provided for. People's Commissariats are established. The council of the People's Commissars is formed by the heads of these Commissariats together with the Chairman of the Gosplan, the Commissar for Soviet, the Chairman of the State Bank, the presidents of the other committees for education etc.

The Supreme Soviet elects the Vice-Chairmen. The Presidium of the Supreme Soviet is elected at a joint session of the Council of the Union and the Council of Nationalities. The Presidium is subordinate to the Supreme Soviet. Thus the single multi-national democratic state can be created with minimum of centralization of authority and a real democracy can be achieved.

Then the age-long struggle of India for independence will attain its crowning glory and she will carry the torch of liberty through the encircling gloom of a world lapsing back to barbarism and proclaim the dawn of a new age, when Man rises

Equal, unclassed, tribeless, nationless
Exempt from awe, worship, degree, the king
Over himself ; just, gentle, wise.

APPENDIX—A.

LENIN'S THESIS IN RESPECT OF THE CONSTITUENT ASSEMBLY.

(Reprinted from the *Pravda* of January 8, 1918.)

1. The demand for the summoning of a Constituent Assembly formed in the past a perfectly legitimate part of the programme of the revolutionary Social Democracy, because in a bourgeois republic the Constituent Assembly constitutes the highest form of democracy, and because the imperialist republic, with Kerensky at its head, in creating a parliament, was preparing an adulteration of the elections, accompanied by numerous infractions of democracy.

2. While putting forward the demand for the summoning of a Constituent Assembly, the revolutionary Social Democracy repeatedly since the beginning of the revolution of 1917, emphasised its opinion that a republic of the Soviets is a higher form of democracy than the ordinary bourgeois republic with a Constituent Assembly.

3. From the point of view of transition from the bourgeois to the Socialist order, from the point of view of the dictatorship of the proletariat, a republic of Soviets is not only a higher form or type of democratic institutions, as compared with the ordinary bourgeois republic crowned with a Consti-

tuent Assembly, but also the only form capable of securing the most painless transition to Socialism.

4. The convocation of a Constituent Assembly in our revolution on the basis of lists drawn up and promulgated at the end of October, 1917, is taking place in conditions which exclude the possibility of a faithful expression of the will of the people in general, and of the labouring masses in particular, by the elections of the Constituent Assembly.

5. First, the proportional system of elections yields a faithful reflection of the will of the people only when the party lists correspond to the real division of the people in actual accordance with those party groupings which are reflected in those lists. But with us, as is well-known, the party which between May and October had the largest number of adherents among the people and especially among the peasantry, that is the party Social Revolutionaries, presented united lists for the Constituent Assembly at the end of October, 1917, but split into two after the elections to, but before the meeting of the Constituent Assembly; hence, there is not and could not be even any formal correspondence between the will of the majority of the electors and the composition of the Constituent Assembly.

6. Second, a still more important, not formal nor legal, but social and economic source of the discrepancy between the will of the people and, especially, of the labouring class, on the one hand, and the composition of the Constituent Assembly, on the other, is the circumstance that the elections to the Constituent Assembly took place at a time when the overwhelming majority of the people could not yet know the whole extent and significance of the Soviet proletarian and peasants' revolution, which began on November 7th, 1917, that is, *after* the promulgation of the lists of candidates for the Constituent Assembly.

7. The November revolution, which has handed over authority to the Soviets, and which has wrested the political

predominance from the hands of the bourgeoisie and transferred it into the hands of the proletariat and poorer peasantry, is passing under our eyes through successive stages of development.

8. It began with the victory of November 6-7th, in the capital, when the Second All-Russian Congress of Soviets, the advance guard of the proletarians and of, politically, the most active section of the peasantry, yielded a majority for the party of the Bolsheviks and placed it at the helm.

9. Then in the course of November and December, the revolution was taking hold of the entire army and the peasantry manifesting itself, first of all, in the dismissal and re-election of the old organisation at the top (army committees, provincial and peasant committees, the central executive committees of the All-Russia Council of Peasants' delegates, etc.), which embodied the obsolete, compromising stage of the revolution, not the proletarian stage, and which were bound to disappear under the pressure of the lower and broader popular masses.

10. This mighty movement of the exploited masses for the reorganization of the leading organs of their organization is even now, at the end of December, 1917, not yet at an end, and the Railwaymen's congress, which still continues, constitutes one of its stages.

11. Hence, the grouping of the class forces in Russia in the course of their class struggle is taking an essentially different shape in November and December, 1917, from the one reflected in the party lists of the candidates to the Constituent Assembly towards the end of October, 1917.

12. Recent events in the Ukraine, partly also in Finland and White Russia, as well as in the Caucasus, similarly revealed a re-grouping of the class forces, which is taking place in the course of the struggle between the bourgeois nationalism of the Ukrainian Rada, the Finnish diet, etc., on the one hand, and the Soviet authority, the proletarian and peasant revolution in each of these national republics, on the other.

13. Lastly, the civil war which the counter-revolutionary rebellion on the Kaledinites has started against the Soviet authority, against the workers and peasants' revolution, has fully brought the class struggle to an issue and has destroyed all chances of settling in a formal democratic way the acute problems raised by history before the peoples of Russia and more particularly before the Russian working-class and peasantry.

14. Only a complete victory of the workers and peasants over the bourgeois and landlord rebellion (as illustrated by the movement of the Cadetes and Kaledinites), only a ruthless military suppression of these revolting slave-owners can practically safeguard the proletarian and peasant revolution. The course of events and the development of the class struggle in the revolution has brought about such a condition of affairs that the Slogan "All power to the Constituent Assembly," which takes no account of the conquests of the workers' and peasants' revolution or of the Soviet authority, and of the decision of the Second All-Russia Congress of Peasant Delegates, etc., has in practice become the Slogan of the Cadetes and Kaledinites, and of their myrmidons. It is becoming clear to the entire people that this Slogan practically proclaims a war for the overthrow of the Soviet authority, and that the Constituent Assembly, if it parted company with the Soviet authority, would inevitably be condemned to political death.

15. Among the most urgent problems of our peoples' life is the problem of peace. The real revolutionary struggle for peace began in Russia only after the victory of the revolution on November 6th, and the first fruits of this victory were the publication of the secret treaties, the conclusion of an armistice, and the beginning of public negotiations for a general peace, without annexations or indemnities. Only now the wide popular masses have a chance to witness the policy of a revolutionary struggle for peace, and to study its results. At the time of the elections to the Constituent Assembly, the popular masses were

deprived of such a chance. Hence, from this point of view also, the discrepancy between the position of the Constituent Assembly and the real will of the people on the question of terminating the war is also inevitable.

16. The combination of the circumstances set out above has for its result the fact that the Constituent Assembly, elected according to party lists previous to the proletarian and peasant revolution under the domination of the bourgeoisie, must inevitably conflict with the will and interests of the labouring and exploited masses who on November 7th began the Socialist revolution against the bourgeoisie. Naturally, the interests of this revolution stand above the formal rights of the Constituent Assembly, even if those formal rights had not been undermined by the absence in the law relating to the Constituent Assembly of a provision giving the people the right to recall and to re-elect its deputies at any moment.

17. All attempts, direct or indirect, to view the question of the Constituent Assembly from the formal point of view of law, from the point of view of ordinary bourgeois democracy, without reference to the class struggle and civil war, constitute a betrayal of the proletarian cause, and a desertion to the bourgeois camp. It is the absolute duty of revolutionary Social-Democrats to warn all and everybody against this error, to which a few Bolshevik leaders have succumbed, who have not been able to realise the significance of the November rebellion and the problems of the Dictatorship of the Proletariat.

18. The only chance for the painless solution of the conflict which has been brought about by the discrepancy between the elections to the Constituent Assembly and the will of the people as well as the interests of the labouring and exploited classes, is the earliest possible grant to the people of an extensive right to re-elect the members of the Constituent Assembly itself to the law of the Central Executive Committee relating to these re-elections, the unreserved by the Constituent Assembly

of the authority of the Soviets, of the Soviet revolution, and of its policy on the land question and on workers' control, and its unqualified support of the enemies of the Kaledinite and Cadet counter-revolution.

19. Outside these conditions the conflict with the Constituent Assembly can only be settled in a revolutionary war, by energetic, rapid, resolute, and firm authority against the above-mentioned counter-revolution, by whatever slogans and institutions (including membership of the Constituent Assembly) this counter revolution may screen itself. All attempts to hinder the Soviet authority in this fight would be tantamount to aiding and abetting the counter-revolution.

APPENDIX—B.

THE STATUTE OF WESTMINSTER, 1931

An Act to give effect to certain resolutions passed by Imperial Conferences held in the years 1926 and 1930 (22 Geo. 5, c. 4) (11 Dec. 1931).

Whereas the delegates of His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial Conferences held at Westminster in the years of our Lord, nineteen hundred and twenty-six and nineteen hundred and thirty did concur in making the declarations and resolutions set forth in the Reports of the said Conferences :

And whereas it is meet and proper to set out by way of Preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations,¹ and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth

1. This term, which is due to the Irish Treaty of 1921, was erroneously explained by the Solicitor-General on November 24, 1931, as denoting only the Dominions. It means the Empire regarded as a number of independent sovereignties, one of which is the United Kingdom and its dependancies. See above, pp. xlvī, xlvii.

in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom.¹

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion.

And whereas it is necessary for the ratifying, confirming and establishing of certain of the said declarations and resolutions of the said Conferences that a law be made and enacted in due form by authority of the Parliament of the United Kingdom.

And whereas the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland have severally requested and consented to the submission of a measure to the Parliament of the United Kingdom for making such provision with regard to the matters aforesaid as is hereafter in this Act contained.

Now, therefore, be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. In this Act the expression 'Dominion' means any of the following Dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland.

2.—(1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after commencement of this Act by the Parliament of a Dominion.

1. The Government refused to enact this Preamble as an operative clause.

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion.¹

(3) It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.

(4) No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion² has requested, and consented to, the enactment thereof.

(5) Without prejudice to the generality of the foregoing provisions of this Act, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion.

(6) Without prejudice to the generality of the foregoing provisions of this Act, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause) and so much of section seven of that Act as requires the approval of His Majesty in Council to any rules of Court for regulating the practice and procedure of a Colonial

1. The Act gives no power to repeal its provisions. See s. 10.

2. The necessity of Parliamentary requests was negated by Dominion representatives. See Parliamentary Debates, cclx. 279. For Australia, see s. 9(3).

Court of Admiralty, shall cease to have effect in any Dominion as from the commencement of this Act.

(7)—(1) Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930, or any order rule or regulation made thereunder.

(2) The provisions of section two of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces.

(3) The powers conferred by this Act upon the Parliament of Canada or upon the legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the legislatures of the Provinces respectively.

8. Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution or the Constitution Act of the Commonwealth of Australia or the Constitution Act of the Dominion of New Zealand otherwise than in accordance with the late existing relations before the commencement of this Act.

9.—(1) Nothing in this Act shall be deemed to authorize the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia.

(2) Nothing in this Act shall be deemed to require the concurrence of the Parliament of Government of the Commonwealth of Australia in any law made by the Parliament of the United Kingdom with respect to any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia, in any case where it would have been in accordance with the constitutional practice existing before the commencement of this Act that the Parliament of the United Kingdom should make that law without such concurrence.

(3) In the application of this Act to the Commonwealth of Australia the request and consent referred to in section four shall mean the request and consent of the Parliament and Government of the Commonwealth.

10.—(1) None of the following sections of this Act, that is to say, sections two, three, four, five and six, shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that section is adopted by the Parliament adopting any section of this Act may provide that the adoption shall have effect either from the commencement of this Act or from such later date as is specified in the adopting Act.

(2) The Parliament of any such Dominion as aforesaid may at any time revoke the adoption of any section referred to in sub-section (1) of this section.¹

(3) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

11. Notwithstanding anything in the Interpretation Act, 1889, the expression 'Colony' shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any Province or State forming part of a Dominion.

12. This Act may be cited as the Statute of Westminster, 1931.

1. This wording ensures that ss. 8 and 9 cannot be altered by the Commonwealth, being adopted to meet the desires of the States. It has been agreed by the Commonwealth that action under s. 10 shall not be taken until after consultation with the States; Mr. Sulin, Nov. 26, 1931 (*Parl. Debates*, p. 1927). Early action by New Zealand and Newfoundland is improbable. On the Act see Keith, *Journal of Comparative Legislation*, xiv (1932), 101-11.

APPENDIX C.

OBITER DICTA

“The British Crown is *de facto* sovereign in India. How it became so it is needless to enquire. This sovereignty cannot now be renounced without still greater evils, both to that country and to this, than even the acquisition of power has ever yet produced. It must be maintained. . . . That sovereignty which we hesitate to assert, necessity compels us to exercise.”

LORD GRENVILLE, 1813, Parliament.

“We are trying. . . to give a good government to a people to whom we cannot give a free government.”

MACAULAY, 1833, Parliament.

“We have to engraft on despotism the natural fruits of liberty. In these circumstances, Sir, it behoves us to be cautious even to the verge of timidity. . . . We are walking in darkness—We do not distinctly see whither we are going. It is the wisdom of a man so situated to feel his way, and not to plant his foot till he is well assured that the ground before him is firm.”

JAMES MILL in Parliament.

“The good of England must come through the channels of the good of India. There are two modes of gaining anything by our connection with India. The one is by plundering the people of India and the other by trading with them. I prefer to do it by trading with them.”

JOHN BRIGHT.

“Endeavours should be made to form a class of persons Indian in blood and colour ; but English in tastes, in opinion, in morals and in intellect.”

MACAULAY in his Minute on English Education.

“It is one of our sacred duties to be the means, as far as in us lies, of conferring upon natives of India those vast material and moral blessings which flow from the diffusion of useful knowledge, and which India may, under providence, derive from her connection with England.”

LORD CANNING.

“The Government of India must be, on the whole, carried out in India itself.”

LORD DERBY, on the Act of 1885.

“That no native of the said territories, nor any natural born subject of His Majesty resident therein, shall by reason only of his religion, place of birth, descent, or any of them, be disabled from holding any place, office or employment under the said company.”

ACT OF 1833.

“No sooner was the Act (1833) passed than the Government began to devise means for practically evading the fulfilment of it.”

LORD LYTTON, 1878.

“Circumscribe your concessions with as many safeguards as possible consistent with Imperial interests.”

LORD LYTTON.

“India is the pivot of our Empire. If this Empire lost any other part of its Dominion we could survive, but if we lost India, the sun of our Empire would be set.”

LORD CURZON, 1898.

"I rejoice to learn that you recognise how indissolubly the prosperity of the United Kingdom is bound up with the retention of that vast Eastern Empire."

LORD ROBERTS, 1893.

"Every Englishman throughout the country...exercising his power to the oppression of the helpless Natives... We have the strongest sense of the deplorable state...from the corruption and rapacity of our servants...by a scene of the most tyrannic and oppressive conduct that ever was known in any age or country."

COURT OF DIRECTORS, 1768.

"I cannot believe that a people numbering one-sixth of the whole inhabitants of the globe, and whose aspirations have been nourished from their earliest youth on the strong food of English liberty, can be permanently denied a voice in the government of their country."

SIR WILLIAM HUNTER.

"We hold ourselves bound to the Natives of our Indian territories by the same obligations of duty which bind us to all our other subjects, and these obligations, by the blessings of Almighty God, we shall faithfully and conscientiously follow."

"And it is our further will that, so far as may be, our subjects, of whatever race or creed, be freely and impartially admitted to offices in our service, the duties of which they may be qualified, by their education, ability and integrity, duly to discharge."

"When by the blessings of Providence, internal tranquillity shall be restored, it is our earnest desire to stimulate... and to administer its government for the benefit of all our subjects resident therein. In their prosperity will be our strength, in their contentment our security, and in their gratitude our best reward. And may the God of all power grant to us and

to those in authority under us strength to carry out them our wishes for the good of our people."

QUEEN'S PROCLAMATION of 1858.

"We have not fulfilled our duty or the promises and engagements which we have made."

DUKE OF ARGYLE, 1869.

"The British solemn pledges are all 'political hypocrisy'."

LORD SALISBURY.

".....exposed to the charge of keeping promise to the ear and breaking it to the hope."

COMMITTEE OF THE COUNCIL OF
THE SECRETARY OF STATE, 1860.

"Our government will never be popular in India."

LORD GEORGE HAMILTON, 1899.

".....to me it is frankly inconceivable that India will ever be fit for Dominion self-government."

EARL OF BIRKENHEAD.

"If it could be said that this chapter of reforms led directly or indirectly to the establishment of a parliamentary system of India, I for one would have nothing to do with it."

LORD MORLEY.

"The foundation stone of Indian reforms must be the steadfast maintenance of British supremacy."

LORD CROMER, 1909.

"Indian ideas! What are they? Caste (not exactly the labour ideal!), purdah, suttee, child marriages, female infanticide those are Indian ideas. Govern India according to Indian ideas. What nonsense."

MORLEY.

“The natural issue of India’s progress as those contemplated is the attainment of Dominion Status.”

LORD IRWIN, 1929.

“The policy of His Majesty’s Government, with which the government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire.”

Preamble : GOVERNMENT OF INDIA Act, 1919.

TABLE II.
Proportional Strength of Main Religions

(000's omitted)

	Hindu	Sikh	Jain	Buddhist	Muslim
INDIA (Total)	6,824	124	36	365	2,216
Provinces (Total)	6,548	118	17	468	2,469
Ajmer—Merwara	7,755	6	348	—	1,734
Andaman & Nicobar Islands	2,586	220	—	988	2,280
Assam	5,720	3	3	17	3,196
Baluchistan	894	181	1	1	8,744
Bengal	4,304	2	2	63	5,487
Bihar & Orissa	8,231	1	1	—	1,132
Bombay	7,65	10	92	1	2,039
C. P. & Berar	8,601	7	50	—	440
Coorg	8,939	3	5	—	844
Delhi	6,285	101	84	1	3,253
Punjab	2,684	12,99	15	1	5,655
Madras	8,831	—	7	1	707
N. W. F. P.	590	175	—	—	9,184
U. P.	8,450	10	14	—	1,484
States and Agencies	7,771	141	101	12	1,347

Assam ...	...	...	...	4	3	1	393
Baluchistan	...	...	...	2	198	—	9,096
Baroda ...	...	...	...	2	5	149	748
Bengal ...	...	...	...	—	1	3	3,210
Bihar & Orissa	...	...	...	—	195	—	42
Bombay	...	...	...	2	76	—	929
Central Indian Agency	...	...	...	2	128	—	568
Gwalior	...	...	...	2	8	—	580
C. P. ...	...	...	...	1	2	—	94
Cochin ...	...	...	...	—	15	—	729
Hyderabad	...	...	...	4	2	106	1,063
Kashmir	...	...	...	139	1	—	7,728
Madras ...	...	...	...	—	45	2	692
Mysore ...	...	...	...	—	—	—	608
N. W. F. P.	...	...	...	1,168	9	30	4,970
Punjab ...	...	...	...	248	17	2	933
Punjab States Agency	...	...	...	2,228	288	—	3,480
Rajputana	...	...	...	37	—	3,225	953
Sikkim ...	...	...	...	—	2	—	10
U. P. ...	...	...	...	1	—	—	2,090
Travancore	...	...	...	—	—	—	693
Western India Agency	...	...	...	—	509	—	1,364
							—

TABLE III.
Distribution of Occupations
(per mille.)

Province State or Agency	Exploitation of animals & vegetation	Exploitation of minerals	Industry	Transport	Trade	Public Force	Public administration	Professions and liberal arts	Persons living on their income	Domestic service	Insufficiently described occupations.
INDIA	295	1	44	7	22	2	3	6	1	31	22
Provinces	288	1	43	6	21	2	2	6	1	32	23
Ajmer—Merwara	327	1	67	26	35	7	5	15	1	11	21
Andaman & Nicobar	384	...	37	33	23	26	25	6	1	27	140
Assam	377	2	34	6	13	1	1	5	...	4	4
Baluchistan	224	1	33	32	20	52	5	7	1	14	2
Bengal	197	1	25	6	19	1	1	6	...	16	12
Bihar & Orissa	320	3	27	3	15	1	1	4	...	5	32
Bombay	256	...	46	9	21	3	6	7	1	8	23
C. P. & Berar	429	2	42	6	22	3	3	5	...	6	11
Coorg	372	...	24	10	18	1	2	6	...	170	80
Delhi	105	1	116	34	56	12	11	12	...	38	29
Madras	269	...	49	6	22	1	3	7	1	137	56
N. W. F. P.	218	...	45	8	25	16	4	9	1	5	18
Punjab	214	...	66	8	22	4	3	8	1	10	9
U. P.	369	...	54	4	23	2	2	6	...	10	12
States and Agencies	317	1	47	8	27	4	5	8	1	30	21

Assam States	390	1	50	5	17	2	4	2	2	2	6	...	4	8
Baluchistan ...	275	...	25	8	11	4	4	4	4	4	3	1	3	...
Baroda State ...	350	1	53	7	28	6	6	6	6	6	12	2	3	27
Bengal ...	238	...	53	5	13	1	1	1	1	1	4	...	6	4
Bihar & Orissa	353	3	42	4	17	2	2	2	2	2	3	...	6	11
Bombay ...	313	...	31	2	14	1	1	1	1	1	4	1	6	23
Central India Agency	387	1	43	4	20	5	5	5	5	5	5	1	8	23
C. P. ...	438	...	32	4	11	2	2	2	2	2	2	...	5	3
Gwalior ...	358	1	46	2	21	5	5	5	5	5	2	...	8	34
Hyderabad ...	268	2	50	21	55	4	4	4	4	4	9	1	33	12
Jammu & Kashmir	224	...	23	3	8	2	2	2	2	2	4	1	157	28
Madras ...	139	1	71	8	31	1	1	1	1	1	11	1	139	24
Cochin ...	213	...	89	12	35	1	1	1	1	1	11	2	117	21
Travancore ...	185	1	69	7	31	1	1	1	1	1	11	2	140	23
Other Madras States	322	2	41	5	28	1	1	1	1	1	8	...	184	42
Mysore ...	347	2	36	4	20	3	3	3	3	3	5	1	7	22
N. W. F. P. ...	50	...	44	24	23	707	707	707	707	707	2	...	2	19
Punjab ...	541	...	33	3	12	2	2	2	2	2	4	1	5	3
Punjab States Agency	311	...	47	6	20	5	5	5	5	5	7	1	7	9
Rajputana Agency	379	1	61	5	26	5	5	5	5	5	14	...	8	16
Sikkim State	636	...	34	5	8	...	...	...	...	...	1	...	11	1
U. P. ...	421	...	4	2	19	2	2	2	2	2	5	...	8	9
Western India Agency	231	2	52	10	29	4	4	4	4	4	10	1	6	28

TABLE IV.
Linguistic Areas

	Male	Female
I. Munda-Naga-Assamese ...	1,042,000	957,000
II. Tamil	10,073,000	10,339,000
III. Telugu	13,291,000	13,083,000
IV. Kannada	5,690,000	5,516,000
V. Marathi	10,573,000	10,317,000
VI. Bengali... ..	27,517,000	25,952,000
VII. E. Hindi	4,210,000	2,657,000
VIII. W. Hindi	37,743,000	33,804,000
IX. Oriya	5,485,000	5,709,000
X. Gujarati	4,610,000	5,240,000

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