

Framing India's New Constitution

PROF. K. T. SHAH ON ASSEMBLY PLAN

FROM OUR OWN CORRESPONDENT.

POONA, January 22.

Who will convene the Constituent Assembly? Who will accept the decisions of that assembly? Who will compose it? Who will ratify the final constitution framed by it? These were some of the questions placed before advocates of the idea of a Constituent Assembly by Prof. K. T. Shah, of Bombay, delivering the Kule Memorial Address at the fourth celebration of the Founder's Day of the Gokhale Institute of Politics and Economics, Poona, at the Gokhale Hall, on Sunday.

Prof. Shah enumerated several difficulties in the way of the realisation of the ideal of a Constituent Assembly as advocated by the Congress, but said he did not wish to imply that these difficulties were insuperable. He only wanted to point out, however, that these difficulties would have to be solved before the proposed Constituent Assembly could be convened.

Who will convene such an assembly? asked Prof. Shah. There was no homogeneity among Indians in all the provinces of the country. Although the Congress had a majority in the legislatures of seven out of the 11 provinces, the remaining four important and strategic provinces did not subscribe to the ideal, and were not prepared to accept a constitution framed by the assembly. The important minorities in the country and many other interests were definitely opposed to such a constitution, unless their rights were safeguarded.

MINORITIES' RIGHTS

Alluding to the question of minorities, Prof. Shah said that assuming that these minorities had no faith in the majority—a fact that had been demonstrated—it might be that they would demand a guarantee that their fundamental rights would be safeguarded in the constitution by special procedure. It was also likely that they might not be satisfied unless some outside agency, other than the majority in the country, stood as guarantor of their rights. The very purpose of wrenching power from the hands of the British Government might be defeated by this attitude of the minorities.

It was obvious the British Government would not accept the thankless task of convening such an assembly. It was further in the interests of the country that this task should not be handed over to an outsider. The only body competent to convene such an assembly was the Indian National Congress, and the leaders of that organisation were capable of rising to the occasion and shouldering the responsibility. But there was this difficulty they would have to face later. Even if an agreement were possible among the parties in the country, it was pertinent to ask, "Who will be the final authority to ratify the final draft of the constitution?"

OTHER PROBLEMS

Dealing with other problems that the plan for a Constituent Assembly gave rise to, Prof. Shah said such an assembly could not touch subjects like religion. There were certain fundamental rights which would have to be laid down by special procedure, and which could not be decided by a mere majority.

The future Indian National Government would have to be some kind of a federation of several units, the rights of which would also have to be laid down. The future constitution could not, and the Constituent Assembly must not, say that social progress would be only along certain prescribed channels. A constitution had to be an elastic mechanism. There was always a conflict between individual rights and social order and authority, and it was the task of the makers of a constitution to leave no room for such conflicts.

Discussing the composition of the proposed assembly, Prof. Shah raised the following problems. What would be the weightage accorded to the minorities? What would be the basis of election? Would such an assembly be competent to consider the question of framing a constitution, or would it have to be split into several sub-committees? would such an assembly be an intelligent reflection of popular opinion in the country?

Prof. Shah did not think that these questions were insoluble, but he thought it necessary to place them before the country for the consideration of those who hold the strings of leadership in their hands.

Prof. D. R. Gadgil, Director of the Institute, read a report of the progress of the Institute, and Mr. S. G. Vaze thanked the lecturer.

Altercation Over Cabinet

SILCHAR, January 21.

Habibur Rahman and Golam Zilani, described as a Muslim League workers, were sentenced today by the Sessions to six and five years' rigorous imprisonment, respectively, the former on a charge of stabbing a student and the latter for abetment. The assault was stated to be a sequel to an altercation the previous day between the student and Zilani on a public road over the formation of the Saadullah Ministry.—Associated Press.