

Parity For Hindus & Muslims In United India

SAPRU COMMITTEE'S PROPOSALS: PAKISTAN PLAN REPUDIATED

NEW Delhi, April 8.

THE Sapru Committee's proposals, issued today, for the future constitution of India, proceed on the basis of parity between Hindus, other than the Scheduled Castes, on the one hand, and Muslims on the other, in the constitution-making body, the future Central Legislature and in the Executive, the over-riding condition being that the unity of India and joint electorates are accepted.

The Committee has emphatically declared itself against Pakistan. Mr. N. M. Joshi dissents from this declaration, as also from the corollary that no province may elect not to accede to the future Indian Union or secede therefrom.

The Committee envisages the transfer of Paramountcy to the Union, and recommends the appointment of a Minister in charge of functions in relation to Indian States, with whom a body of three Indian States' advisers is to be associated.

A declaration of fundamental rights, the setting up of a minorities commission, and special proposals for minorities in the Punjab are included in the Committee's recommendations.

These proposals are in addition to those already published for the interim period.

The Committee says that it would have preferred the recommendations to appear simultaneously with the report giving their full implications and setting out in detail the reasons which led the Committee to adopt them, but it may take some time for the report to be prepared and published. In the meanwhile, the Committee states, there is the risk of the publication of inaccurate forecasts and garbled versions. The Committee has therefore unanimously decided to release at once the text of its recommendations. It would, however, request the public to suspend their final judgment in regard to any of the recommendations until they have seen the report.

NOT FULL BLUE-PRINT

"It is needless to say that the recommendations do not constitute a full blue print for the future constitution," says the Committee. "They merely indicate the outlines which the Committee feels would suit the conditions in India. They are essentially suggestions made for the constitution of the country at large.

"These proposals are confined to British India only. When the Indian States decide to come into the Union, as the Committee hopes they will, it is obvious that arrangements will have to be made for consultation with them for necessary adjustments and additions."

The recommendations of the sub-committees on Scheduled Castes and aboriginal tribes and on minorities, adopted by the Committee, will soon be published separately.

The Constitution-making Body: The constitution-making body shall be constituted in the manner prescribed in Clause "D" of the draft resolution of His Majesty's Government, brought by Sir Stafford Cripps, subject to the following modifications:—

(1) The total strength of the body shall be 160, distributed as follows: Special Interests, namely, commerce and industry, land-holders, universities, labour and women—16; Hindus, excluding the Scheduled Castes—51; Muslims—51; Scheduled Castes—20; Indian Christians—seven; Sikhs—eight; Backward areas and tribes—three; Anglo-Indians—two; Europeans—one; others—one.

(2) It is because Clause "D" of His Majesty's Government's declaration

(Continued on page 5.)

RAPID BUILD-UP OF INDIAN FORCES

Sapru Committee On Defence: Plan For Minorities

(Continued from page 1.)

provided for election by a joint electorate, composed of members of all Provincial Legislatures, under the system of proportional representation, that the Committee has decided to recommend that, in spite of the disparity in the population strengths between Muslims and Hindus other than the Scheduled Castes, the Hindu community should, in the interests of promoting communal unity, agree that the representation of the Muslim community on the constitution-making body shall be on a par with that given to the Hindus, other than the Scheduled Castes.

(3) No decision shall be valid unless it is supported by three-fourths of the members present and voting.

(4) His Majesty's Government shall enact the constitution on the basis of the valid decisions of the constitution-making body, supplemented wherever necessary by its own awards on matters in which the requisite majority for decision was not forthcoming.

Division of India: The Committee, having considered carefully the resolution of the Muslim League passed at Lahore in 1940, the various other resolutions of the League and the published version of the talks between Mr. Jinnah and Mahatma Gandhi, and having also considered the "C. R." and Gandhi proposals, is emphatically of the opinion that any division of India into two or more separate independent sovereign States is unjustified, and will endanger the peace and orderly progress of the whole country without any compensating advantage to any community, and that the political unity of India should therefore, be maintained.

Indian States: Provisions should be made in the constitution for the accession from time to time of Indian States as units of the Union, on such terms as may be agreed upon. The establishment of the Union should not, however, be made contingent on the accession of any Indian State or of any minimum number of Indian States. The Union should be brought into being and should commence to function at the earliest possible date, even if no Indian State has acceded to it as a unit by then.

Non-Accession and Secession: No province of British India may elect not to accede to the Union, nor may any unit—whether a Province or a State, which has acceded—be entitled to secede therefrom.

Provincial Boundaries: While it is not desirable that the new constitution should be delayed by the realignment of provincial boundaries on linguistic or cultural considerations, the Constitution Act shall indicate the machinery and prescribe the procedure for such realignment of the old Provinces and for the creation of new Provinces after it has come into force, and on such realignment or creation of Provinces, all consequential amendments may be made in the constitution.

The Committee submits the accompanying suggestions for the consideration of the constitution-making body. They have been placed before the Committee by one of its members, who has great experience of the administration of Indian States and of the working of the Government of India Act (1935) in relation to them. As the Indian States are not represented on this Committee, and as the suggestions are of a very vital and far-reaching character, the Committee has thought it desirable to express no opinion on the merits of the several alternatives suggested beyond stating that a clear definition of "a Head of the State" is necessary, as the several resolutions adopted by the Committee assume the existence of a Head of the State and the exercise by him of certain powers and functions. The member responsible for these suggestions agrees that they, or any variant of them, involving the participation of the Indian States, cannot be finally adopted except with the consent of the Indian States.

(1) There shall be a Head of the State (that is, Union) in India, who shall be the repository of (a) all such powers and duties as may be conferred or imposed on him by or under the Constitution Act; and (b) such other powers as are now vested in His Majesty the King of England, including powers connected with the exercise of the functions of the Crown in its relations with Indian States, provided that in relation to his powers, the Head of the State shall conform to the traditions, usages and conventions which are binding on the constitutional head of any State.

(2) The office of Head of the State shall have a tenure of five years, and ordinarily no person may hold the office for more than one term.

SELECTION OF HEAD

First Alternative: The head of the State shall be elected by an electoral college composed of the members of the two Houses of the Union Legislature, either without any restriction as to their choice, or subject to their choice being confined to the Rulers of Indian States having a minimum population, or revenue, or both, to be named in a schedule to the Constitution Act.

Second Alternative: (3) The Head of the State shall be elected by the Rulers of the Indian States referred to above from amongst themselves.

Third alternative: The Head of the State shall be appointed by His Majesty the King of England, on the advice of the Union Cabinet, either without any restriction as to his choice, or subject to his choice being confined to the Rulers of the Indian States referred to above.

(4) In case the third alternative is adopted, and a link with the British Crown is maintained, the Secretary of State for India, together with all the control that he or the British Cabinet exercises over Indian administration, should, in any case, be abolished.

(5) The head of a unit, other than an Indian State, shall be appointed by the Head of the State on the advice of the Union Cabinet.

Union Legislature: (A) The Union Legislature shall consist of the Head of the State and two Chambers—the Union Assembly and the Council of State.

(b) The strength of the Union Assembly shall be so fixed that there shall be on the average one member for every 1,000,000 of the population.

(c) Ten per cent. of the total strength shall be reserved for the representation of the following special interests: Landholders; commerce and industry; labour; women.

(d) The remaining seats shall be distributed among the following communities: (1) Hindus, other than Scheduled Castes; (2) Muslims; (3) Sikhs; (4) Indian Christians; (5) Anglo-Indians; (6) other communities.

(e) (1) In case the Muslim community agrees to the substitution throughout of joint electorates, with reservation of seats for separate, communal electorates, in that case only this Committee would recommend that, in the interests of promoting national unity, the Hindu community should agree that in the strength of the Central Assembly, excluding the seats allotted to special interests, such as commerce and industry, landholders, labour, etc., Muslim representation from British India shall be on a par with the representation given to the Hindus (other than Scheduled Castes) in spite of the great disparity in their respective population strengths.

The Committee desire to emphasise their view that if this recommendation is not to be implemented in its entirety, the Hindu community should be at liberty not merely not to agree to the claim for parity of representation, but to ask for a revision of the Communal Award.

(2) The Committee considers that the representation given to the Sikhs and Scheduled Castes in the Government of India Act is manifestly inadequate and unjust and should be

substantially raised. The quantum of increased representation to be given to them should be left to the constitution-making body.

(f) For the Union Assembly there shall be adult franchise, for seats other than those reserved for special interests.

(g) For the special interest, there shall be special constituencies. There shall be direct election to the Union Assembly. As for election to the Council of State, the question shall be decided by the constitution-making body.

Lists of the matters in respect of which the power of making laws for peace, order and good Government, and the functions pertaining to the administration of those laws, shall fall within the sphere, respectively, of the Centre and the units, shall be embodied in the Constitution Act. The detailed drawing up of these lists should be left to the constitution-making body. The Committee, however, would recommend that the following principles, among others, should guide the constitution-making body in the distribution of powers and functions between the Centre and the units:—

(A) The powers and functions assigned to the Centre should be as small in number as possible, provided that they shall in any case include (i) matters of common interest to India, as a whole, such as foreign affairs, defence relations with Indian States, inter-unit communications, commerce, customs, currency, posts and telegraphs; (ii) settlement of inter-unit disputes; (iii) co-ordination where necessary of the legislation and administration of different units; and (iv) such other matters or action as may be required for ensuring the safety and tranquillity of India or any part thereof, or for the maintenance of the political integrity and economic unity of India, or for dealing with any emergencies.

(B) While all matters not assigned to the Centre exclusively or concurrently must be declared to fall within the sphere of the units, a list of these should, for greater certainty, be given in the Constitution Act, with the rider that all residuary powers—those not included in either of the two lists shall vest in the units.

(C) All customs barriers between one unit and another shall be abolished, and there shall be free trade within the Union, provided that, where the abolition of existing customs barriers affects prejudicially the finances of a unit, it shall be entitled to adequate compensation out of the revenues of the Union Executive.

UNION EXECUTIVE

(A) Subject to the provisions of Clause (B), the Executive of the Union shall be a composite Cabinet in the sense that the following communities shall be represented on it: (i) Hindus, other than Scheduled Castes; (ii) Muslims; (iii) Scheduled Castes; (iv) Sikhs; (v) Indian Christians; (vi) Anglo-Indians.

(B) The representation of these communities in the Executive shall be, as far as possible, a reflection of their strength in the Legislature.

(C) The Cabinet shall be deemed to be duly constituted, notwithstanding the absence from it temporarily of representatives of any of the communities mentioned in Clause (A). Where, on account of a whole community refusing to join or remain in a Cabinet that community goes, without representation therein, the vacancies may, pending the availability of members of that community, be filled by the appointment of members of other communities, and the Cabinet may commence or continue to function, provided it commands a majority in the Legislature.

(D) The Cabinet shall be collectively responsible to the Legislature.

(E) The Cabinet shall be led, guided and held together by a Prime Minister, who shall ordinarily be the leader of a party, which by itself, or in combination with other parties, is able to command a stable majority in the Legislature. A convention should be created that the offices of the Prime Minister and the Deputy Prime Minister should not be monopolised by any one community.

(F) The other members of the Cabinet shall be appointed on the advice of the Prime Minister.

(G) One of these Ministers shall be designated Deputy Prime Minister, and it shall be a standing rule that the Deputy Prime Minister shall not belong to the same community as the Prime Minister.

Alternative: (A) Subject to the provisions of Clause (B), the Executive of the Union shall be a composite Cabinet in the sense that the following communities shall be represented on it: (i) Hindus, other than Scheduled Castes; (ii) Muslims; (iii) Scheduled Castes; (iv) Sikhs; (v) Indian Christians; and (vi) Anglo-Indians.

(B) The representation of these communities in the Executive shall be, as far as possible, a reflection of their strength in the Legislature.

(C) The Cabinet shall be deemed to be duly constituted notwithstanding the absence from it temporarily of representatives of any of the communities mentioned in clause (A) where, on account of a whole community refusing to join or remain in a Cabinet that community goes without representation therein, the vacancies may, pending the availability of members of that community, be filled by the appointment of members of other communities, and the Cabinet commence or continue to function, provided it commands a majority in the Legislature.

(D) The Cabinet shall be elected by the Central Legislature in a joint session by the system of the single transferable vote. The elected Ministers shall hold office for the duration of the Legislature. The Legislature shall elect from among the Ministers a President and a Deputy President who shall not both belong to the same community.

Minister for Indian States: There shall be a Minister in charge of the functions in relation to Indian States, and with him shall be associated a body of persons, not less than three and not more than five in number, who shall be called Indian States' advisers, and who shall be chosen in the manner agreed upon with the Indian States. The Minister shall consult the Indian State advisers in all important matters, and shall obtain their concurrence in respect of certain matters to be specified in the Constitution Act.

COMPOSITION OF COURTS

Judiciary: (1) There shall be a Supreme Court for the Union and a High Court in each of the units.

(2) The strength of Judges in each of these courts at the inception of the Union, as well as the salaries to be paid to them, shall be fixed in the Constitution Act and no modification in either shall be made except on the recommendation of the High Court, the Government concerned and the Supreme Court, and with the sanction of the Head of the State (a Governor-General or President as the case may be), provided, however, that the salary of no Judge shall be varied to his disadvantage during his term of office.

(3) (A) The Chief Justice of India shall be appointed by the Head of the State and the other Judges of the Supreme Court shall be appointed by the Head of the State in consultation with the Chief Justice of India.

(B) The Chief Justice of a High Court shall be appointed by the Head of the State in consultation with the head of the unit and the Chief Justice of India.

(C) Other Judges of a High Court shall be appointed by the Head of the State in consultation with the head of the unit, the Chief Justice of the High Court concerned and the Chief Justice of India.

(4) A Judge of a High Court or a Supreme Court shall be appointed for life, subject to an age-limit prescribed by the Constitution Act, but he may by resignation addressed to the Head

of the State resign his office.

(5) A Judge of the High Court may be removed from office by the Head of the State on the ground of misbehaviour or of infirmity of mind or body, if on reference being made to it by the Head of the State, the Supreme Court reports that the Judge ought on any such grounds to be removed.

(B) The Judge of the Supreme Court may be removed from office by the Head of the State on the ground of misbehaviour or of infirmity of mind or body, if on reference being made to it by the Head of the State, a special tribunal appointed for the purpose by him reports that the Judge ought on any such grounds to be removed.

(6) As regards other matters connected with the appointment and function of the Judiciary, the provisions embodied in Part 6 of the Government of India Act of 1935 seem suitable, with such modifications as may be required for being fitted into the framework of the new constitution.

NATIONAL ARMY

Defence: The Committee strongly recommends that under the new constitution there should be a Portfolio of Defence which should be held by a Minister responsible to the Legislature, and that the actual control and discipline of the Army should be placed in the hands of a Commander-in-Chief under the new Government.

The Committee further recommends that a National Army should be created and developed as rapidly as possible. It is unable to suggest at this stage what the strength of this army should be, as this will depend, apart from the vital question of finance, on a number of other factors, such as, the nature of the post-war world settlement and the efficacy of the international organisation for the maintenance of world peace. Among the measures which should be adopted for the creation of such an army, the Committee recommends the following:—

(1) (A) Such British units as temporarily may be required for the efficient defence of India, and such officers as may be needed for officiating the National Army until an adequate number of Indian officers becomes available, shall be obtained by a treaty or agreement entered into by the Union Government and His Majesty's Government, specifying, among other things, the terms and conditions of their re-employment by the Union.

(B) As soon as the war is over, all direct recruitment of British officers to the Indian forces should cease. Such British officers as do not belong to the Indian Army and are not required for specific appointments should be reverted to the British Army Establishment.

(2) An institution should be established for the training in sufficient numbers of officers of all the three arms—air, land and sea—and all defects existing in the present system which prevent rapid Indianisation or the creation of Indian officers capable of assuming leadership should be forthwith removed.

(3) If it is found that the present educational system does not produce a sufficient number of young men suitable in every respect for a military career, steps should be taken at once to remove this defect.

(4) University Officers Training Corps should be established where they do not exist and largely expanded, and measures taken not only for ensuring the supply of officers to fill vacancies in peace time, but for the rapid expansion of the cadre in the event of a military threat to India. Such measures should aim at creating a reserve of young men with service training who can be rapidly absorbed as officers when expansion takes place.

(5) The Committee would emphasise that the maintenance of law and order is essentially the responsibility of the Unit Governments, and they should, if necessary, by increasing the strength of their police forces, equip themselves adequately for the discharge of this responsibility. The Committee would, however, make it clear that the services of troops on the Union Army Establishment should be available for being requisitioned only when the civil power finds itself unable to cope with any particular situation.

The Committee further recommends that a balance should be maintained between the respective arms and that special attention should be paid to the Navy, Air Force, mechanised units and such other branches as may from time to time be developed.

The Committee recommends that steps should be taken, even before the coming into being of the new constitution, to adopt and give effect to the measures as far as practicable.

COMMUNITIES & SERVICES

Public Services: (3) The orders now in force at the Centre regarding the representation of the communities in public services may continue in operation till the Union Government under the new constitution comes into being. The Committee, however, recommends that the 8-1/3 per cent. of the seats now allotted to the Sikhs, the Indian Christians, and the Anglo-Indians and Parsis may be split up between the Sikhs, the Indian Christians and the Anglo-Indians, and Parsis in the proportion of 3 1/2 per cent. for the Sikhs, 3 per cent. for Indian Christians and 1-5/6 per cent. for Anglo-Indians and Parsis. The special provisions relating to Anglo-Indians in certain services under Section 242 of the Government of India Act of 1935 are not to be affected by this recommendation.

Minorities Commissions: (A) The Constitution Act shall provide for the establishment at the Centre and in each of the provinces an independent Minority Commission which shall be composed of a representative for each of the communities (not necessarily a member of that community) represented in the Legislature.

(B) Subject to the possession of such qualifications or experience as may be prescribed, the member representing each community, who need not necessarily belong to the same community, shall be elected by members of the Legislature belonging to that community.

(C) No member of the Legislature shall be eligible for membership of the Commission.

(D) The term of office of members of the Commission shall be the same as, and synchronise with, the term of office of members of the Legislature concerned.

(E) The functions of the commission shall be:—(i) To keep a constant watch over the interests of minority communities in the area; (ii) without attempting to deal with stray administrative acts or individual grievances to call for such information as the Commission may consider necessary for discharging its functions; (iii) to review periodically—for example once every six months—the policy pursued in legislation and administration by the Legislature and the executive in regard to the implementation of non-justiciable fundamental rights assured by the constitution to minority communities, and to submit a report to the Prime Minister.

(F) The recommendations of the the Cabinet, and the Prime Minister Commission shall be considered by small, as soon as possible, place the report of the Commission before the Legislature with a full statement of the action taken or proposed to be taken in pursuance of the recommendations of the Commission. In case any of the recommendations are not accepted wholly or in part, the statement should also contain full explanations of the decisions taken by the Government. Facilities shall be provided to the Legislature for a discussion of the report and the decisions of the Government thereon.

The Committee while strongly recommending to all communities and parties to accept the proposals says that in the event of their being unacceptable to the various communities and parties and their failure to reach an agreement on any other basis, His Majesty's Government should set up an Interim Government in India and proceed to establish machinery for drafting the new constitution generally on the basis of the principles underlying these proposals, enact it in Parliament and put it into operation at the earliest possible date.