

APPENDIX—III

THE CABINET MISSION

“On 19, February 1946, the day following the outbreak of the revolt, Lord Pethick Lawrence announced in the House of Lords that “in view of the paramount importance, not only to India and to the British Commonwealth, but to the peace of the world, of a successful outcome of discussions with leaders of Indian opinion, the British Government would send out to India a special mission of Cabinet Ministers consisting of the Secretary of State for India (Lord Pethick Lawrence), the President of the Board of Trade (Sir Stafford Cripps), and the First Lord of Admiralty (Mr. A. V. Alexander) to act in association with the Governor-General in this matter. A similar statement was made in the House of Commons by Mr. Clement Attlee.”

The Cabinet Mission, headed by Lord Pethick Lawrence, arrived in India on 23, March 1946 to find a solution to the problem of India. Its activities and the following events may be understood, “in the background of the Labour Government’s firm decision to quit India at a very early date after making the best possible arrangements for handing over power.”¹ The negotiations with party leaders did not bring an agreed solution. On 16, May 1946, the Mission gave a Scheme of its own. After fully examining the question of Pakistan, it concluded that neither a larger nor a smaller sovereign State of Pakistan would provide an acceptable solution for the communal problem keeping in view other consideration also—like administrative, economic and military and those relating to communications and the Indian States, and that the creation of Pakistan could not be advised. But Muslim apprehensions that their culture and political and social life might be dominated by the Hindus, could not be ignored. As regards the Indian States, the view of the Mission was that with the attainment of independence by British India, paramountcy over them could neither be retained by the British Crown nor transferred to the new Government: yet the States were willing to Co-operate

¹: Speeches and Documents of the Indian Constitution, Vol. 1, selected by Sir Maurice Gwyer and A. Appadorai, Introduction at P. Vii (1957).

in the new development of India. The precise form which their Co-operation would take must be a matter for negotiation during the building up of the new constitutional structure which might not be identical for all the States.

The Cabinet Mission then indicated the nature of a solution which would be just to the essential claims of all parties and bring about a stable and practicable form of constitution for all India. It recommended that the constitution should take the following basic form : (1) There should be a Union of India, embracing both British India and the States which should deal with the following subjects : foreign affairs, defence and communications, and should have the powers to raise the finances required for the above subjects. (2) The Union should have an executive and a legislature constituted from British India and States representatives. Any question raising a major communal issue in the legislature should require for its decision a majority of the representatives present and voting of each of the two major communities as well as a majority of all the members present and voting. (3) All subjects other than the Union subjects and all residuary powers should vest in the Provinces. (4) The States would retain all subjects and powers other than those ceded to the Union. (5) Provinces should be free to form groups with executive and legislatures, and each group could determine the Provincial subjects to be taken in common. (6) The constitutions of the Union and of the groups should contain a provision whereby any Province by a majority vote of its Legislative Assembly call for a reconsideration the terms of the constitution after an initial period of ten years and at ten yearly intervals thereafter.

The Cabinet Mission proposed the following constitution making machinery to enable a new constitution to be worked out. In forming any assembly to decide a new constitutional structure, the first problem was to obtain as broadbased and accurate a representation of the whole population as was

possible. The most satisfactory method obviously would be by election based on adult franchise, but any attempt to introduce such a step now would lead to a wholly unacceptable delay in the formation of the new constitution. The only practicable course was to utilise the recently elected Provincial Legislative Assemblies as electing bodies. There were, however, two factors in their composition which made it difficult. First, the numerical strengths of Provincial Legislative Assemblies did not bear the same proportion to the total population in each Province. Secondly, owing to the weightage given to minorities by the Communal Award, the strengths of the several communities in each Provincial Legislative Assembly were not in proportion to their numbers in the Province. After a most careful consideration of the various methods by which these points might be corrected, the fairest and most practicable plan would be (a) to allot to each Province a total number of Castes proportional to its population, roughly in the ratio of one to a million, as the nearest substitute for representation by adult suffrage ; (b) to divide this Provincial allocation of seats between the main communities in each Province in proportion to their population ; (c) to provide that the representatives allocated to each community in a Province should be elected by members of that community in its Legislative Assembly. For these purposes it was sufficient to recognise only three main communities in India—General, Muslim and Sikh, the General community including all persons who were not Muslims and Sikhs. As smaller minorities would upon a population basis, have little or no representation, since they would lose the weightage assuring them seats in Provincial Legislatures, some arrangements, were suggested to give them a full representation upon all matters of special interest to minorities.

The Mission, therefore, proposed that there should be elected by each Provincial Legislative Assembly the following numbers of

representatives, each part of the Legislative Assembly (General, Muslim or Sikh) electing its own representatives by the method of proportional representation with single transferable vote.

Table of Representation

Section A			
Province	General	Muslim	Total
Madras	45	4	49
Bombay	19	2	21
United Provinces	47	8	55
Bihar	31	5	36
Central Provinces	16	1	17
Orissa	9	0	9
Total	167	20	187

Section B				
Province	General	Muslim	Sikh	Total
Punjab	8	16	4	28
North-West Frontier	0	3	0	3
Sind	1	3	0	4
Total	9	22	4	35

Section C			
Province	General	Muslim	Total
Bengal	27	33	60
Assam	7	3	10
Total	34	36	70
Total for British India			292
Maximum for Indian States			93
Total			385

In order to represent the Chief Commissioners' Provinces, there would be added to Section A the member representing Delhi in the Central Legislative Assembly, the member representing Ajmer-Merwara in the Central Legislative Assembly and a representative to be elected by the Coorg Legislative Council. To Section B would be added a representative of British Baluchistan. The States would be given in the financial Constituent Assembly appropriate representation which would not, on the basis of the calculation of population adopted for British India, exceed 93, but the method of selection would have to be determined by consultation. The States would in the preliminary stage be represented by a Negotiating Committee.

The Cabinet Mission then proposed that representatives thus chosen should meet at New Delhi as soon as possible. A preliminary meeting would be held at which the general order of business would be decided, a chairman and other officers elected and an Advisory Committee on rights of citizens, minorities and tribal and excluded areas set up. Thereafter the Provincial representatives would divide up into Sections A, B and C, as indicated in the Table. These Sections would proceed to settle Provincial constitutions for the Provinces included in each Section and decide whether any group constitution should be set up for those Provinces and if so what Provincial subjects the group should deal with. Provinces should have power to opt out of groups. As soon as the new constitutional arrangements would come into operation, any Province might elect to come out of any group in which it was placed. Such a decision should be taken by the Legislature of the Province after the first general election under the new constitution. The representatives of the Sections and the Indian States should reassemble for the purpose of settling the

Union constitution. In the Union Constituent Assembly resolutions varying the provisions relating to the basic form of the constitution indicated above or raising any major communal issue would require a majority of the representatives present and voting of each of the two major communities. The Chairman of the Assembly would decide which resolutions raised major communal issue and, if so requested by a majority of the representatives of either of the major communities, consult the Federal Court before giving his decision.

The Cabinet Mission further proposed that the Advisory Committee on the rights of citizens, minorities and tribal and excluded areas would contain due representation of the interests affected and their function would be to report to the Union Constituent Assembly upon the list of fundamental rights, clauses for protecting minorities, and a scheme for the administration of tribal and excluded areas, and to advise whether these rights should be incorporated in the Provincial, the Group or the Union constitution.

The Cabinet Mission lastly proposed that the Governor-General would forthwith request the Provincial Legislature to proceed with the election of their representatives and the States to set up a Negotiating Committee. It would be necessary to negotiate a treaty between the Union Constituent Assembly and the United Kingdom to provide for certain matters arising out of the transfer of power.”¹

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¹: Mittal J. K., Pp. 119-123.