

MARCH 24—31, 1956

PAKISTAN.—Adoption of Republican Constitution. Continued Pakistani Membership of British Commonwealth. - Major-General Mirza elected Provisional President. - Inauguration of Islamic Republic of Pakistan.

Pakistan Constituent Assembly adopted on Feb. 29 Constitution Bill, under which Pakistan became an Islamic Republic, and on March 2 decided that Pakistan should remain in the British Commonwealth. Major-General Iskander the Governor-General, was elected provisional President of Islamic Republic of Pakistan on March 5.

Constitution, which consisted of 234 Articles, was divided into 13 parts, of which Part I dealt with the Republic's territories, Part II with fundamental rights, Part III with directive principles of State policy, Part IV with the President, Part V with the Provinces, Part VI with the relations between the Federation and the Provinces, Part VII with property, contracts, and suits, Part VIII with elections, Part IX with the judiciary, and Part X with the Services of Pakistan. Part XI dealt with emergency provisions, Part XII with general provisions, and Part XIII with temporary and transitional provisions. There were also six Schedules, the first of which dealt with the election of the President, the second with oaths and affirmations, the third with the powers of the Supreme Court and the remuneration of judges, the fourth with the remuneration and privileges of the President, Speaker and Deputy Speaker of the National Assembly, the Provincial Assemblies, members of the National Assembly and the Provincial Assemblies, and Provincial Ministers; the fifth with the lists of subjects for which either the Federation or the Provinces, or both concurrently, would be competent to legislate; and the sixth with the election of the President of the Republic.

The main provisions of the Constitution, which was published in final form on Jan. 8 and underwent considerable revision in the Constituent Assembly, are summarized below.

Republic and its Territories. Article 1 stated that "Pakistan is a Federal Republic, to be known as the Islamic Republic of Pakistan," its territories comprising (a) the Provinces of East Pakistan and West Pakistan, (b) the States which had already acceded to or might accede to Pakistan, (c) federally-administered territories not included in either East or West Pakistan, and (d) such territories as might be included in Pakistan.

It also laid down that the President might, by Order, make provision for the government and administration of the territories included under (b), (c), and (d) until otherwise provided for by law.

Fundamental Rights. All citizens would be equal before the law, no person might be deprived of life or liberty save in accordance with the law. No person might be punished for an act which was not punishable by law when the act was done, or subjected to a punishment greater than that prescribed by law for an offence when the act was committed. Any person arrested (except enemy aliens) must be arrested under a law providing for preventive detention; he must be informed of the grounds for his arrest; allowed to consult a lawyer of his own choice; and brought within 24 hours before the nearest magistrate, whose authority would be limited to his further detention. No law providing for preventive detention might authorize the detention of a person for longer than three months, except on the recommendation of the appropriate Advisory Board. Any person detained under such a law must be informed of the reasons for his detention, and permitted to appeal against it.

Every citizen would have the right to freedom of speech and expression, subject to any reasonable restrictions imposed by law in the interests of national security, friendly relations with foreign States, public order, decency, or morality, or in relation to contempt of court, defamation, or incitement to an offence. Every citizen would have the right to assemble peacefully without arms, and to form unions or associations, subject to any reasonable restrictions imposed by law in the interests of morality or public order.

Every citizen would have the right to move freely throughout Pakistan and to settle in any area; to acquire, hold, and dispose of property; to enter any lawful profession or occupation for which he possessed the necessary qualifications; and to conduct any lawful business. No person might be deprived of his property save in accordance with the law, and no property might be compulsorily acquired by the State or other authorities save by the authority of a law providing for compensation. Slavery and all forms of forced labour were prohibited, although the State might require compulsory labour for public purposes.

Subject to law, public order, and morality, every citizen would have the right to profess, practise, and propagate any religion, and every religious denomination and sect would possess the right to manage its affairs, maintain, and manage its religious and educational institutions. No student in educational institutions would be required to receive instruction in, or to take part in the ceremonies of, any religion other than his own, and no person might be compelled to pay a special tax the proceeds of which were to be spent for the promotion or maintenance of any religion other than his own.

In the making of public appointments, and in respect of access to places of public resort, there would be no discrimination against any citizen on the grounds of race, religion, caste, sex, or place of birth. The practice of untouchability in any form was forbidden, and would be declared a legal offence.

Any community having a distinct language, script, or culture would have the right to preserve it.

No law inconsistent with these rights might be passed, and any existing law inconsistent with them was declared void. The Supreme Court and the High Courts of West and East Pakistan were empowered to issue writs for the enforcement of these rights.

Directive Principles of State Policy. Pakistan would endeavour to strengthen the bonds of unity among Moslem countries, promote international peace and security, foster goodwill and friendly relations among all nations, and encourage the settlement of international disputes by peaceful means.

No law repugnant to the injunctions of Islam as laid down in the Koran and Sunnah (traditional teachings of the Prophet) might be enacted; this clause, however, would remain inoperative until Parliament had received the recommendations of a commission to be set up to report on the codification of Islamic injunctions. Gambling, prostitution, and the consumption of alcoholic drinks and other intoxicants, except for medicinal purposes, would be prohibited. The State would take steps to enable the Moslems of Pakistan, individually and collectively, to order their lives in accordance with the Koran and Sunnah, and would make efforts to promote unity among Moslems and ensure observance of Islamic moral standards. These provisions, however, would not affect the personal laws of non-Moslems and their status as citizens.

The State would endeavour to promote "with special care" the educational and economic interests of the Special Areas, the backward classes, and the Scheduled Castes; to remove illiteracy, and provide free and compulsory primary education within the minimum possible period; to make provision for securing "just and humane" conditions of work, for the protection of children and women against employment of a kind unsuitable to their age or sex, and for maternity benefits for women in employment; to enable the people of different areas, through education, training, and industrial development, to participate fully in all forms of national activities, including employment in the public services.

The State would also endeavour to raise the standard of living, irrespective of caste, creed, or race; to prevent the concentration of wealth and the means of production and distribution in the hands of a few; to provide facilities for work and an adequate livelihood for all; to ensure social security by means of compulsory social insurance; and to furnish the basic necessities of life for citizens prevented from earning their livelihood by sickness or unemployment. A National Economic Commission—consisting of five members from West Pakistan and five from East Pakistan, with the Prime Minister as *ex officio* chairman—would formulate commercial, financial, and economic policies to ensure a uniform development of industry and agriculture in all areas.

Steps would be taken to achieve parity in the representation of East and West Pakistan in all spheres of Federal administration, and to enable people from all parts of the country to participate in the Defence Services.

The independence of the judiciary was guaranteed.

The President. The President of the Republic, who must be over 40 years of age and a Moslem, would be elected for a five-year term by an electoral college consisting of members of the Central and Provincial Legislatures. He would have supreme command of the armed forces, would be empowered to dissolve the National Assembly upon the Prime Minister's advice, and would appoint the Election Commission and the Public Service Commission. No person might serve as President for more than two terms. The President might be impeached by the Assembly on a charge of violation of the Constitution or of gross misconduct; while a motion of impeachment was under consideration he might not dissolve the Assembly or dismiss the Prime Minister.

If the office of President fell vacant, or if the President was absent from Pakistan or unable to discharge his duties owing to illness or any other cause, the Speaker of the National Assembly would act as Head of State pending the election of a new President or the resumption of duties by the existing President.

Pending the holding of the first general elections, a provisional President would be elected by the Constituent Assembly.

The Cabinet. The President would, "in his discretion," appoint from among the members of the National Assembly a Prime Minister who, in his opinion, was "most likely to command" the confidence of a majority of the Assembly members. Other Ministers, Ministers of State, and Deputy Ministers would be appointed and removed from office by the President, but only members of the National Assembly could become Ministers of State or Deputy Ministers. The appointment of Cabinet Ministers from outside the Assembly would thus be possible, but they would have to seek a seat in the Assembly within six months, since any Minister who was not a member of the National Assembly for a period of six consecutive months would cease to hold office. The Cabinet, together with the Ministers of State, would be collectively responsible to the National Assembly. If the President was satisfied that the Prime Minister did not command the confidence of a majority, he could dismiss him.

The National Assembly. The National Assembly would consist of 300 members equally divided between West and East Pakistan, and would be elected for five years on a basis of adult suffrage. For the first 10 years 10 additional seats in the National Assembly would

be reserved for women—five elected by women's territorial constituencies in West Pakistan and five by similar constituencies in East Pakistan. The Constituent Assembly would decide later whether elections should be by communal or joint electorates. An independent commission, members of which might not be reappointed for more than one term, would be appointed by the President to ensure fair and impartial elections. The total number of members of the National Assembly might be altered by Act of Parliament, provided that equality of representation between East and West Pakistan was preserved.

The Assembly would choose its Speaker and Deputy Speaker; frame its own rules of procedure; and take its decisions by a majority of the members present and voting (unless otherwise laid down in the Constitution), the Speaker or Deputy Speaker having a casting vote in the event of a tie. The validity of any proceedings in the National Assembly could not be questioned in any court. Members of the Assembly would have immunity from court proceedings in respect of any statements made or votes cast in the Assembly or its committees. The privileges of the Assembly and of its members would be determined by Act of Parliament.

Legislative and Special Powers of the President. When a Bill had been passed by the National Assembly, the President could within 90 days either (a) assent to the Bill; (b) withhold his assent; or (c)—in the case of a Bill other than a money Bill—return it to the Assembly with the request that the Bill, or any provision thereof, should be reconsidered, and any amendment specified by him be taken into consideration. If in cases (b) and (c) the Assembly again passed the Bill, with or without amendment, by a two-thirds majority of the members present and voting, the President must assent to the legislation (Article 57).

Article 69 provided: "If at any time, except when the National Assembly is in session, the President is satisfied that circumstances exist which render immediate action necessary, he may make and promulgate such Ordinances as the circumstances appear to him to require, and any Ordinance so made shall have the like force of law as an Act of Parliament." The President's powers in this respect would, however, be subject to the same restrictions as the power of Parliament to make laws, and any Ordinance made by him under this clause might be controlled or superseded by an Act of Parliament. Such an Ordinance must be laid before the National Assembly, and it would cease to operate after six weeks from the Assembly's next meeting, or if the Assembly passed a resolution expressly disapproving it.

The President could also, at any time when the National Assembly was dissolved, make and promulgate an Ordinance authorizing Federal expenditure if he was satisfied that circumstances existed which rendered such action necessary. Any such Ordinance would have to be laid before the new National Assembly as soon as possible, subject to the usual procedure laid down for Finance Bills.

Finance Legislation. No tax would be levied for the purposes of the Federation except by or under the authority of an Act of Parliament. All revenues received by the Federal Government, as well as the proceeds of loans or loan repayments, would be credited to the Federal Consolidated Fund, whilst all other public monies received by or on behalf of the Federal Government would be credited to the Public Account of the Federation.

In respect of every financial year the President would "cause to be laid" before the National Assembly a statement of estimated Federal receipts and expenditure. The Assembly would have power to assent, reduce, or refuse to assent to any demands for grants, with the proviso, however, that expenditure charged upon the Federal Consolidated Fund might be discussed but would not be subject to the Assembly's vote. Expenditure of this kind was defined as including, *inter alia*, remuneration and expenses of the President, the judges of the Supreme Court, the members of the Federal Public Services Commission, the Comptroller and Auditor-General, the Election Commissioners and regional Election Commissioners, the Speaker and Deputy Speaker of the National Assembly, and the members of the Delimitation Commission, as well as the administrative expenses connected with these offices. It would also include all charges on the Federal debt.

The Provinces. Each Province would have a Governor who would be appointed or dismissed by the President. Any citizen of Pakistan aged 40 years or over would be eligible, with the proviso that no-one could hold a Governorship and be a member of the National or a Provincial Assembly at the same time. Each Province would have a Cabinet of Ministers, headed by a Chief Minister, whose functions and responsibility to the Provincial Assembly would correspond to those of the Federal Government to the National Assembly.

Each Provincial Assembly would have 300 members, plus another 10 seats reserved for women members for a 10-year period. The National Assembly might, by legislation, alter the total membership of the Provincial Assemblies, provided that the number of members of the Assemblies for East and West Pakistan would always remain equal. Until Oct. 14, 1965, the distribution of members in the Provincial Assembly of West Pakistan would be subject to the proviso that the former Province of Punjab would not have more than two-fifths of the total membership.

The Governor would have the same special legislative powers with regard to provincial legislation as those conferred on the President with regard to Federal Legislation.

Division of Powers. The Central Government would protect the Provinces against external aggression. The allocation of responsibilities between the Central and Provincial Governments would conform to the policy of provincial autonomy, whilst vesting in the Central Government responsibility for matters of national interest. Railways would become a provincial responsibility. The fifth Schedule accordingly divided the principal subjects as follows:

Federal List.

- (1) Defence and defence forces, defence industries; nuclear energy and mineral resources necessary for its production; armaments manufacture.
- (2) Foreign affairs, including diplomatic, consular and trade representation, international organizations, decisions on war and peace, and the making and implementation of treaties, conventions, declarations, and other agreements with foreign countries; foreign and extra-territorial jurisdiction; offences against the law of nations; Admiralty jurisdiction; piracy and offences committed on the high seas and in the air; admission into and emigration and expulsion from Pakistan, extradition, passports, visas, pilgrimages abroad and by foreigners to places in Pakistan; quarantine.
- (3) Citizenship, naturalization, and aliens.
- (4) Inter-provincial and foreign trade and Customs matters.
- (5) Currency, foreign exchange, the State Bank of Pakistan and banking (excluding co-operative banking) not confined to one Province.
- (6) Federal public debt and foreign loans.
- (7) Stock Exchanges and futures markets not confined to one Province.
- (8) Insurance and Company Law for companies whose activities were not confined to one Province.
- (9) Copyright, patents, designs, inventions, trade and merchandise marks, and export standards.
- (10) Standards of weight and measure.
- (11) Navigation and shipping, including coastal shipping, confined to one Province, airways, aerodromes, aircraft and navigation, lighthouses, etc.
- (12) Major ports, fishing, and fisheries outside territorial waters.
- (13) Posts and telecommunications, including broadcasting and television.
- (14) Industries owned wholly or in part by the Federation and federally-owned corporation.
- (15) Mineral oil and natural gas.
- (16) Constitution, organization, jurisdiction and powers of the Supreme Court.
- (17) Elections to the National Assembly, the Provincial Assemblies and to the office of President, and the Election Commission.
- (18) Central intelligence and investigating organization; preventive detention for reasons connected with defence, foreign affairs or the security of Pakistan.
- (19) Census affairs, the Survey of Pakistan, geological survey and meteorological organizations.
- (20) Federal property and its revenues.
- (21) Federal agencies and institutions for the promotion of special studies and research; federally-financed libraries and museums.
- (22) Federal Services, the Federal Public Service Commission and Federal pensions.
- (23) Remuneration of the President, of members of the Federal Government, of members of the National Assembly, including the Speaker and Deputy Speaker, and of the Comptroller and Auditor-General, the Attorney-General, and the Provincial Governors.
- (24) Privileges and immunities of the President and Government.
- (25) Powers, privileges and immunities of the National Assembly and its members.
- (26) Customs and Excise duties, corporation taxes, taxes on income other than agricultural income, estate and succession duties (excluding agricultural land); taxes on capital (excluding agricultural land), sales and purchases, mineral oil and natural gas; sea and air fares and freights.
- (27) Jurisdiction and powers of all courts (except the Supreme Court), and offences against laws, with respect to any of the matters in the Federal list.
- (28) All matters within the legislative competence of Parliament under the present Constitution, and matters incidental thereto.

Concurrent List.

- (1) Civil and criminal law, including the law of procedure, marriage and divorce, minors and infants; adoption and family; succession by inheritance and transfer of property (excluding agricultural land); registration of deeds and documents; arbitration; contract partnership; agency; bankruptcy and insolvency; accidents, wrongs; legal and medical professions; contempt of court; trusts and official trustees.
- (2) Scientific and industrial research.
- (3) Poisons and dangerous drugs.
- (4) Newspapers, books, printed publications, and printing presses.
- (5) Relations between employers and employees, trade unions, industrial and labour disputes, labour welfare, provident funds, employers' liability, workmen's compensation, invalidity and old-age pensions, maternity benefits, vocational and technical training, social security and social insurance.
- (6) Measures to combat corruption.
- (7) Price control.
- (8) Relief and rehabilitation of refugees and the custody, management, and disposal of evacuee property.
- (9) Economic and social planning.
- (10) Commercial and industrial monopolies, combines, and trusts.
- (11) Inter-provincial migration and quarantine.
- (12) Iron, steel, coal, and mineral products (excluding mineral oil and natural gas).
- (13) Banking, insurance, and corporations not falling under the Federal list.
- (14) Stock Exchanges and futures markets not falling under the Federal list.
- (15) Ancient and historical monuments of national importance.

(16) Arms, ammunition, and explosives not falling under the Federal List.

(17) Jurisdiction and powers of all courts (except the Supreme Court), and offences against laws, with respect to any of the matters in the Concurrent List.

Provincial List.

This included, *inter alia*, public order; administration of justice and the constitution and organization of all courts except the Supreme Court; police; preventive detention for reasons connected with the maintenance of public order; prisons; land, including land tenures, transfer, alienation, and devolution of agricultural land, land improvement, agricultural loans, and colonization; Company Law as far as it is not within the competence of the Federation; literary, scientific, religious, and other societies and associations; co-operative societies; revenue; compulsory acquisition or requisitioning of property; agriculture, including agricultural education and research; protection against pests and plant diseases; local government; livestock and prevention of animal diseases; water supplies, irrigation, storage, flood control; education, including universities, technical education, and professional training; libraries; theatres, cinemas, sports, entertainments; film censorship; public health and sanitation; hospitals and dispensaries; registration of births and deaths; railways; communications (roads, bridges, ferries, inland waterways, and not specified in the Federal List; shipping and navigation on inland waters, and coastal shipping along Provincial seacoasts; air ports; vehicles; relief of the disabled and unemployed; licensing liquors; opium; industries; internal provincial trade and commerce; production, manufacture, supply and distribution of goods; weights and measures (except establishment of standards); manufacture, supply and distribution; money-lending; forests; protection of wild animals and birds, and prevention of cruelty to animals; foodstuffs control; lotteries, betting, and gambling; electricity and gas; professions; charities and charitable institutions; religious endowments; *waqfs* and mosques; orphanages and houses; various taxes, duties, and estate duties in respect of agricultural land and income; taxes on mineral rights (as far as not regulated by the Federation) and certain other Excise duties and taxes.

Emergency Provisions. "If the President is satisfied that a grave emergency exists in which the security or economic life of Pakistan, or any part thereof, is threatened by war or external aggression, or internal disturbance beyond the power of a Provincial Government to deal with, he may issue a Proclamation of emergency. . . ." (Article 191, Section 1).

While such a Proclamation was in operation, (a) Parliament would be empowered to make laws for a Province or any part of it, with respect to any matter outside the Federal or the Concurrent Lists; the executive authority of the Federation would extend to giving directions to a Province as to the manner in which the executive authority of that Province was to be exercised; and (c) the President might, by Order, assume to himself, or direct the Governor of a Province to assume on his behalf, all or any of the functions of the Provincial Government, and all or any of the powers vested in, or exercisable by, any body or authority in the Province other than the Provincial Legislature. He might also make such incidental and consequential provisions as appeared to him to be necessary or expedient for giving effect to the objects of the Proclamation, including provisions for suspending, in whole or in part, the operation of any provisions of the Constitution relating to any body or authority in a Province, except those relating to the High Court (Article 191, Section 2).

The powers of a Provincial Legislature to make laws which under the Constitution it had power to make would be unimpaired, but any provisions of a Provincial law repugnant to any provision of a Federal law made under this Article would be void so long as the Federal law continued to have effect (Article 191, Section 3).

Any law made by Parliament under (a) above would cease to have effect six months after the President's Proclamation had ceased to operate (Article 191, Section 5).

A Presidential Proclamation must be laid before the National Assembly "as soon as conditions make it practicable for the President to lay it before that Assembly"; if approved by the Assembly it would remain in force until it was revoked, but if disapproved it would cease to operate immediately (Article 191, Section 6).

A Proclamation declaring that the security of Pakistan or any part thereof was threatened by war or external aggression might be made before the actual occurrence of war or any such aggression if the President was satisfied "that there is imminent danger thereof" (Article 191, Section 7).

While a Proclamation of emergency was in operation, the President might, by Order, declare that the right to apply to any court for the enforcement of such fundamental rights as might be specified in the Order, as well as any proceedings already pending for the enforcement of such rights, should remain suspended for the period during which the Proclamation was in force, but every Order so made "shall, as may be, be laid before the National Assembly" (Article 192).

If the President, on receipt of a report from the Governor of a Province, is satisfied that a situation has arisen in which the Government of the Province cannot be carried on in accordance with the provisions of the Constitution, the President may by Proclamation—assume to himself, or direct the Governor of the Province to assume on behalf of the President, all or any of the functions of the Government of the Province, and all or any of the powers vested in, or exercisable by, any body or authority in the Province, other than the Provincial Legislature; (b) declare that the powers of the Provincial Legislature shall be exercisable by, or under the authority

of, Parliament; (c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending, in whole or in part, the operation of any provisions of the Constitution relating to any body or authority in the Province." The powers of the High Court of the Province and the operation of any Constitutional provisions relating to the High Courts would, however, remain unaffected (Article 193, Section 1).

A Proclamation under this Article must be laid before the National Assembly and would cease to operate after two months unless approved by the Assembly within that period; by an Assembly resolution it might be extended for up to another four months, but no Proclamation would in any case remain in force for more than six months. Nevertheless, if such a Proclamation was issued "at a time when the National Assembly stands dissolved, or if the dissolution of the National Assembly takes place during the period of two months referred to in this clause," the Proclamation would cease to operate after 30 days from the first meeting of the new National Assembly, unless approved by it within that period (Article 193, Section 2).

If a Proclamation had declared that the powers of the Provincial Legislature should be exercisable by or under the authority of Parliament, the latter might confer on the President the power of the Provincial Legislature to make laws, but any such laws would cease to have effect six months after the Proclamation had ceased to operate. Under such a Proclamation the President would also have emergency power to confer powers or impose duties on the Federation, and to authorize expenditure in the Province, and the National Assembly would be competent to sanction such expenditure (Article 193, Sections 3 and 4).

"If the President is satisfied that a situation has arisen whereby the financial stability or credit of Pakistan, or any part thereof, is threatened, he may, after consultation with the Governors of the Provinces or with the Governor of the Province concerned . . . by Proclamation make a declaration to that effect, and while such a Proclamation is in operation the executive authority of the Federation shall extend to the giving of directions to any Province to observe such principles of financial propriety as may be specified . . . and to the giving of such other directions as the President may deem necessary for the financial stability or credit of Pakistan, or any part thereof." Any such directions might include provisions requiring salary reductions for Provincial Civil Servants and employees, and the President might also issue directions for salary reductions of Federal Civil Servants and employees, including judges. Any such Proclamation would be subject to the provisions of Clause 2 of Article 193 as to the period of its operation (Article 194).

The validity of any Proclamation issued, or Order made, under any of the aforementioned provisions might not be questioned in any court (Article 195).

Parliament would be free to make any law indemnifying any person, including Federal or Provincial Government employees, in respect of any act done in connexion with the maintenance or restoration of order in any area where martial law was in force, or validating any sentence, punishment, forfeiture, etc., under martial law (Article 196).

Inter-Provincial Council. With the consent of the Governors of the Provinces, the President might establish an Inter-Provincial Council if at any time it appeared to him that this would serve the public interest. The Council would be charged with the duty of (a) investigating and discussing subjects in which the Provinces, or the Federation, and one or both of the Provinces, had a common interest; or (b) making recommendations on any such subject, and in particular for the better co-ordination of policy and action in that respect (Article 130).

Federal Capital. Its administration would be vested in the President, who would, by Order, make provision for its government and administration, the laws to be enforced in it, expenditure from Federal revenues for it, etc. Parliament would have power to make laws for the Federal capital with respect to matters enumerated in the Provincial List, as well as matters (other than those relating to the High Courts) not listed in the Fifth Schedule.

Scheduled Castes and Backward Classes. The Federal and Provincial Governments would promote, with special care, the educational and economic interests of the Scheduled Castes and backward classes in Pakistan, and would protect them from social injustice and exploitation (Article 205). The President might appoint a commission to investigate their conditions and make recommendations for their improvement; he would also appoint a Special Officer for the Scheduled Castes and backward classes to investigate matters relating to the safeguards provided for them, to investigate the implementation of any recommendations by the aforementioned commission, and to report to the President.

Judiciary. There would be a Supreme Court consisting of a Chief Justice and not more than six other judges, and a High Court for each Province. The Supreme Court would sit in Karachi and at such other place as the Chief Justice of Pakistan might, with the President's approval, from time to time appoint, but it would sit in Dacca (East Pakistan) at least twice a year.

Kashmir. The people of Kashmir, if they decided to accede to Pakistan, would be free to determine the relationship between Kashmir and the Republic of Pakistan (Article 203).

Language. The official languages of Pakistan would be Urdu (the language predominantly spoken in West Pakistan) and Bengali (the language of East Pakistan). English would also continue to be used for all official purposes for 20 years, but Provincial Governments

might replace English by one of the State languages before the end of this period. Measures would be taken for the development of one national language for Pakistan, and after 10 years the President would appoint a commission to make recommendations for the replacement of English.

Public Service Commission. An independent commission would be appointed by the President to ensure impartiality in recruitment to the Public Service.

Amendment of the Constitution. The Constitution might be amended by an Act of Parliament passed by a majority of the Assembly's membership and a two-thirds majority of members present and voting. The amendment of Articles dealing with the territories of the Federation, the composition of the National Assembly and Provincial Assemblies, the division of legislative competence between the Federation and the Provinces, and the composition and functions of the National Economic Council and the National Finance Commission, would also require the consent of the Provincial Assemblies before the President could give his assent (Article 216).

The draft Constitution, as published, represented a compromise between the two Government parties—the Moslem League and the United Front. The recognition of Bengali as an official language, and the establishment of a National Economic Council, had been demanded by the United Front, which, in return for these concessions, had abandoned its demand for full provincial autonomy and the limitation of the Centre's powers to the spheres of defence, foreign affairs, and currency. No agreement was reached, however, on the question of joint electorates, which was demanded by the majority of the United Front, the East Pakistan Awami League, and the Hindu community, but was opposed by the Moslem League and also by the *Nizam-e-Islam*, one of the constituent parties of the United Front. The clauses declaring Pakistan an Islamic Republic and excluding non-Moslems from the office of President encountered strong opposition from the Pakistan Congress and the United Progressive Party (two Hindu organizations supporting the United Front). The East Pakistan Awami League criticized the powers granted to the President, and demanded full regional autonomy for the Provinces.

The draft Constitution was submitted to the Constituent Assembly on Jan. 9 by Mr. Chundrigar, the Law Minister.

Mr. Chundrigar gave an assurance that the Islamic provisions would in no way deprive non-Moslems of their fundamental rights under the Constitution, which made extensive provisions for safeguarding and promoting their religions and cultures.

During the general debate on the Bill, which continued from Jan. 16 to Feb. 1, Mr. Chundrigar again defended the Islamic provisions, which had been strongly criticized by Hindu spokesmen. Denying that the clause requiring the President to be a Moslem deprived the minorities of any substantial right, he pointed out that in England the Sovereign must belong to the Church of England, and that the Head of the State was required to hold certain religious beliefs in Norway, Sweden, Spain, Greece, and some Latin American countries. All other offices, including that of Prime Minister, were open to the minorities. The description of Pakistan as an "Islamic Republic" was justified as 87 per cent of the population were Moslems.

Mr. Zahiruddin (Awami League) maintained that the clause dealing with the President was neither democratic nor truly Islamic, as it sought to distinguish and discriminate between citizens of Pakistan. He also pointed to the practical difficulties of interpretation, recalling that in a well-known case eight learned theologians had each given a different definition of a Moslem, and that some Islamic sects did not regard the others as Moslems. If this clause were adopted, it might lead to sharp differences which would ultimately result in Pakistan's disintegration.

Pir Ali Mohammed Rashdi (Moslem League), the Minister of Information, opposed Opposition motions for circulating the Bill to elicit public opinion and for referring it to a Select Committee. He said that the consensus of opinion was that Pakistan must have a Constitution as quickly as possible; all schools of thought had amply expressed themselves during the past eight years, and no document or decision had evoked so much enthusiasm or so little opposition as the draft Constitution.

Mr. Biswas (United Front), the Minister of Food and Agriculture, pointed out that as the membership of the Assembly was to be equally divided between East and West Pakistan, there could be no apprehension that one wing would do injustice to the other. East Pakistan had been given the maximum degree of autonomy consistent with the country's safety, and if, after deliberation, the country thought there was reason for doing more, the Government would not hesitate to do justice.

Mr. Dutta, the Hindu leader of the United Progressive Party, also expressed approval of the Constitution, which, he said, gave ultimate power to the people and effective authority to the Legislature, whilst limiting the power of the Executive.

Chaudhri Mohammad Ali, the Prime Minister, recalled that the object of the Pakistan movement had been, in the words of the late Mr. Jinnah, "that we should have a State in which we could live and breathe as free men and in which we could develop according to our own way of life and culture, and wherein the principles of Islamic social justice could find free play." It was an essential part of the faith of the Moslems of Pakistan that non-Moslems should be equally free to develop their culture and to practise and propagate their

religion, and should be equal and honoured citizens. To realize these aims, West and East Pakistan must be welded into an indivisible whole, since any attempt to create misunderstanding between them endangered the integrity of the State. The dictates of geography made a federal Constitution and the maximum of provincial autonomy inevitable, but provincial autonomy had to be consistent with the country's integrity, security, and stability. No Constitution was perfect, and they had tried to make the procedure for its amendment simple, easy, and flexible.

The Assembly unanimously adopted the motion for consideration of the Bill on Feb. 1, and began the second reading [corresponding to the committee stage in the British House of Commons] on Feb. 3. During this stage the following amendments were adopted:

(1) The President and the Provincial Governors, who under the draft Constitution had been empowered to dissolve the National Assembly and the Provincial Assemblies respectively at their discretion, could only exercise these powers on the advice of the appropriate Ministers.

(2) The clause in the draft Constitution providing for a Vice-President was suppressed, and the Speaker was empowered to act as Head of State in the absence of a President.

(3) The Provincial High Courts, in addition to the Supreme Court, were empowered to issue writs for the enforcement of fundamental rights.

The Bill passed its second reading on Feb. 28. During the third reading debate on the following day, 20 Awami League and Pakistan Congress members from East Pakistan walked out as a protest against the Islamic provisions of the Constitution and its failure to accord full provincial autonomy to East Pakistan. The Bill was consequently adopted without a division, and received the Governor-General's assent on March 2.

The Assembly adopted on March 2, by 42 votes to two, a resolution ratifying the declaration on Pakistan's continued membership of the British Commonwealth as a republic which had been issued on Feb. 5, 1955, by the Commonwealth Prime Ministers' Conference (see 14038 A).

In moving this resolution, Chaudhri Mohammad Ali pointed out that the declaration was almost identical in substance with that made by India. Pakistan accepted the Queen, "not as our Sovereign but as the symbol of the free association of the Commonwealth," and this did not involve any derogation of Pakistan's sovereignty. Membership of the Commonwealth was in the enlightened self-interest of Pakistan, and by retaining it Pakistan would contribute to world peace. The resolution was supported by Dr. Khan Sahib (Chief Minister of West Pakistan), who recalled that he himself had "fought against British imperialism all his life," as well as by Mr. Suhrawardy (Leader of the Opposition) and Mr. Firoz Khan Noon (Independent). The two dissentient votes were cast by Mr. Mahmud Ali (East Pakistan Democratic Party) and Mr. Iftikharuddin (And Pakistan Party). The members of the Awami League, except Mr. Suhrawardy, did not take part in the vote.

Major-General Mirza was elected Provisional President by the Constituent Assembly on March 5, without opposition. His nomination was put forward by 50 members, including Chaudhri Mohammad Ali (the Prime Minister), the Minister of the Interior (Mr. Fazlul Huq), the Governor of West Pakistan (Mr. Gurmani), the Chief Minister of West Pakistan (Dr. Khan Sahib), and three Hindu members. The election was boycotted by the 20 members who had walked out on Feb. 29.

The Islamic Republic of Pakistan formally came into existence on March 23, when President Mirza took the oath of office in Karachi from the Chief Justice, Mr. Mohammad Munir. The day was observed as a public holiday under the name of Constitution Day, and the anniversary will be similarly observed every year under the name of Republic Day.

In a message to President Mirza, H.M. Queen Elizabeth II expressed her warmest wishes for the peace and prosperity of the Islamic Republic of Pakistan, and her satisfaction that Pakistan intended to remain within the Commonwealth.

Prior to these developments, the Constituent Assembly had taken several important decisions in recent months—notably the repeal of Section 92A of the Government of India Act and its replacement by a new Section 93, limiting the Governor-General's emergency powers (Oct. 5, 1955); provisions for the government and administration of the Federal Capital (Oct. 8); the appointment of a nine-man Committee of Privileges (Oct. 12); the reduction of the Assembly's quorum from one-third to one-quarter of its membership (Nov. 7); and the decision that the Speaker and Deputy Speaker should continue to preside over the House when it met as a Federal Legislature (Nov. 29). In response to the demand of East Pakistan members, the Speaker announced on Oct. 12, 1955, that Bengali would henceforth be one of the official languages permissible for use in the Assembly, in addition to Urdu and English.—(Constitution of the Islamic Republic of Pakistan, Pakistan High Commissioner's Office, London - Dawn, Karachi)