Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

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DR. BABASAHEB AMBEDKAR
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VOL. 2

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HARI NARKE

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Minister for Social Justice and Empowerment
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MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

Selja

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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FOREWORD

Dr. Babasaheb Ambedkar was one of the greatest sons of India. A parliamentarian, scholar and constitutionalist of world repute, he has been universally acclaimed as a saviour of untouchables. As a great crusader of the downtrodden, he waged a relentless struggle against the old order which was based on injustice and was devoid of human dignity. He strove, throughout his life, to establish a new social order based on principles of liberty, equality and universal brotherhood.

Not only the depressed classes but Indian society, as such, owe a debt to this great humanitarian and social reformer for the awakening he brought about in that section so that they can contribute their due share to India's progress and prosperity.

Dr. Ambedkar always considered India's interest foremost and above the class in which he was born. To understand Dr. Ambedkar is to practise his message that the country is greater than the individual.

The Government of Maharashtra is committed to the welfare of all backward classes for whose uplift Dr. Ambedkar dedicated his entire life. The thoughts and teachings of great men like Mahatma Gandhi and Dr. Ambedkar will always serve as a beacon light for the new generations. Our Government, therefore, feel proud and happy in bringing out this Second Volume as a part of our total project of publication of the writings of Dr. Ambedkar.

This volume consists of his work in the erstwhile Bombay Legislature, with the Simon Commission and at the Round Table Conferences. Students of political science and politicians

are sure to find this book of great help in understanding the history of constitutional reforms in our country.

BABASAHEB A. BHONSALE,
Chief Minister of Maharashtra.

PREFACE

I consider it a rare privilege to have been called upon to write a preface to this volume.

Dr. Babasaheb Ambedkar has carved out for himself a niche in the minds of the people of India. He was a ray of hope to the Dalits, the oppressed and the downtrodden in out society. He instilled in them honour, dignity and freedom. For this purpose, he utilised his tongue, his pen and all his actions were directed towards attainment of the objective of securing to them equality in true sense–economic, social and cultural equality. The thoughts of such a great personality serve as a sentinel to his followers as well as to those who wish to pursue the ideals he cherished. It is with this view that the State Government took the decision to bring out collected volumes of his marathon work–his speeches and writings. I have pleasure in presenting the second like volume in this series to the readers.

Dr. Ambedkar's writings and speeches are mostly in English which has admittedly a very limited readership in our country. In order, therefore, to reach Dr. Ambedkar's erudition to every door-step, the Government is making efforts to render these English volumes in Marathi, for the benefit of our teeming masses.

The present volume consists of Dr. Ambedkar's work in the Bombay Legislature and with the Simon Commission and at the Round Table Conferences. This book will provide a great food to understand the constitutionalist in Dr. Ambedkar. Besides, it will be useful to the students and politicians to understand the history of constitutional reform in our country.

I thank the members of the Committee for their painstaking efforts in collecting material of this volume. I also thank the Government Central Press and its staff for their dedication in printing this volume in its excellent form. It is the love and affection towards Dr. Ambedkar that has reflected in production of this volume.

Mrs. S. S. PATIL,
Minister for Education.

INTRODUCTION

The present volume is the second in the series, which includes Writings and Speeches of Dr. B. R. Ambedkar. Many of Dr. Ambedkar's books went out of print. However, those were available in the shelves of libraries and those interested could read them. But his work in the Assemblies and Parliament is not easily available, with the result his contribution to the development of Indian Constitutional Law is not adequately recognised.

Dr. Ambedkar entered the Bombay Legislative Council in 1927. He was re-nominated in 1932. In 1937, he was returned to the Bombay Legislative Assembly in the General Elections. The Assembly was prorogued in 1939 when the Second World War broke out.

During this period of 12 years, Dr. Ambedkar played multifarious roles in the public life of the country. In 1927, he conducted the famous Satyagraha at Mahad to establish the right of access of the depressed classes to public places. In 1929, he pioneered the Satyagraha at Nasik for temple entry for untouchables. In April 1927, to rouse the public concience, he started a fortnightly bulletin in Marathi called 'Bahishkrit Bharat'. Through its columns, Dr. Ambedkar wrote articles on various social, political and religious subjects, in his own chaste style of Marathi. These articles have now become specimens of the best writings of Marathi

journalism. In 1928-29 he was elected a member of the committee to associate with the Simon Commission. He was also elected a member of the State Committee which made enquiries into the educational, economic and social conditions of the depressed classes and aboriginal tribes of the Bombay Presidency. Thereafter Dr. Ambedkar was nominated as a British India Delegate to the Round Table Conference held in London in 1930. This was followed by a proclamation of Communal Award and consequential starting of Fast Unto Death by Mahatma Gandhi. Dr. Ambedkar passed through this ordeal indomitably. The Poona Pact that followed brought out Dr. Ambedkar as an unquestionable champion of the Depressed Classes of India, which claim was hitherto denied to him. After the Round Table Conferences, Dr. Ambedkar proclaimed all-out war on Caste and Hindu Religion. In 1935, he proclaimed, "I am born as Hindu, but I shall not die as a Hindu". 1936 saw Dr. Ambedkar pleading for conversion of religion by the untouchables. Soon he was involved in organising labour movements, including the one for abolition of Proprietary Rights of Landlords viz. Khoti and also for abolition of Watans of Maharashtra's Mahars. He also founded the Indian Labour Party and fought battles for the rights of labourers, in and out of the Assembly. Such were the salient features of his activities.

Part I of this volume includes his speeches in the Bombay Legislature on varied subjects e.g. University Education, Primary Education, Khoti System, Mahar Watan, Industrial Disputes, Prohibition, Minister's Pay, Maternity Benefit for women employees, Linguistic States, participation in the Second World War etc. and also his considered views on the Budget. We have also incorporated his questions put up in the Legislature along with the replies given by the Ministers.

Dr. Ambedkar's views on Birth Control are reflected in the speech which Mr. P. J. Roham delivered. This speech and Dr. Ambedkar's evidence before the University Reforms Commission of 1924 are enclosed as Appendix to this Part. We have also included the draft bills on Khoti and Mahar Watan introduced by Dr. Ambedkar and his note of dissent to the Small Holders' Relief Bill.

The Part II includes his work with the Indian Statutory Commission, popularly known as the Simon Commission. This contains his independent report regarding his views on changes in the Constitution of the Bombay Presidency, his two memoranda submitted to the Commission on behalf of the Bahishkrit Hitakarini Sabha, and his oral evidence before the Simon Commission. We have also appended a note submitted by him to the Lothian Committee on Franchise.

In the Part III, we present his speeches in the Plenary Sessions of the First Round Table Conference, his arguments in the Minorities Sub-Committee and fight for safeguarding the rights of the Untouchables in the future Constitution of India and his role in the Franchise Sub-Committee as protagonist and advocate of universal adult suffrage. In Second Round Table Conference, we find him crossing sword with Mahatma Gandhi on the question of Untouchables' Rights in Minorities Committee. His examination of various witnesses as a member of the Joint Committee on Indian Constitutional Reform is also presented as much in detail as possible.

We do not propose to elaborate in details or analyse the value of this book, Apparently, the book presents Dr. Ambedkar's thoughts on varied subjects between 30s and 40s. They may be found relevant even in the context of the

present day problems. The volume may be found useful not only to a scholar but to a general reader as well. The students of Political Philosophy, History, Sociology, Economics, and particularly of Indian Constitutional Reform may find sufficient food in this work.

We greatfully acknowledge the permission granted by Her Majesty's Government of the United Kingdom for reproduction of excerpts from the Unrevised Minutes of Evidence of the Joint Committee during the Round Table Conferences. The India Office Library and Records, London, also deserves our gratitude for giving us Dr. Ambedkar's rare photograph along with Sir Mohammed Zafrullah Khan taken at the Third Round Table Conference. We are indebted to the librarians of the Bombay University Library, the Legislative Council . Library, Bombay, Gokhale Institute of Politics and Economics, Pune, Dr. Ambedkar Research Institute, Nagpur and Director of Archives, Government of Maharashtra, Bombay, for their help and co-operation, without which this volume would not have seen the light of the day. We have no words to express our thanks to the Director and Deputy Director of Government Printing and Stationery, and the Manager and the Staff of the Government Central Press, Bombay, who worked hard for speedy publication of this volume.

With all our efforts and due care, we cannot claim immunity from errors, which might have inadvertently crept in. Readers are requested to send their valuable and considered opinion which will be taken into consideration in the next print.

EDITOR

FOR SECOND EDITION

Dr. Babasaheb Ambedkar was the Social Revolutionary in the human history of world. He always considered his countrys interest foremost and above all, than any class of society. In his speech dated 4th April 1938 in Bombay Legislature he said, " I want all people to be Indian first, Indian Last and nothing else but Indians." *(Dr. Babasaheb Ambedkar Writings and Speeches, Vol. 2, page No. 195).* It appears for Dr. Ambedkar, to be an Indian is foremost important than any sectirian, rigional, religious and creed notions.

The biggest problem India is facing today is population explosion. Impact of that can be realised today in education, employment, health and food supply. We can observed that it was also Dr. Ambedkar's measure concern's back in 1938, When he outlined this problem in his manifesto of his Independant Labour Party. Declaring that if he come into power he will make birth control a compulsory issue for Bombay Province. Therefore we can call him that first even Indian politician to be concern about Population control of India. Even being on opposition leader in Bombay Legislature he moved a birth control bill and told the assembly that he recomends to the Government that they should make necessary arrangements to educate people, on 10th November 1938 *(Vol. 2, p.p. 263)* and have adequate facilities available for the practice of birth control. It was his firm belief that the population control is a remedy leading to controlling many future problems but the Congress Party, the Hindu Mahasabha,

the Communist Party and the Muslim League all opposed this bill which is the direct result of todays population explosion and problem related to it. He kept on stressing the problem in his further meeting with youth dated 12th December 1938, If you have to learn anything from Ambedkar learn have only one child. He further warned to Young Ladies that don't hurry to get married, But if you do so, remember having to many children is a crime. This I am advising you, that having economic independance of women is very important, because the progress of the community and the country can only be measured by the progress of women.

HARI NARKE,

Member-Secretary,

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CONTENTS

				Pages
FOREWORD	...	Chief Minister	...	VII
PREFACE	...	Minister for Education	...	IX
INTRODUCTION	...	Editor	...	XI
FOR SECOND EDITION	...	Hari Narke—Member-Secretary		XV

PART I

Dr. Ambedkar in the Bombay Legislature

1	On Budget : 1	24th February 1927	...	1
2	On Budget : 2	21st February 1928	...	6
3	On Budget : 3	2nd March 1938	...	9
4	On Budget : 4	21st February 1939	...	21
5	On the Finance Act Amendment Bill	28th August 1939	...	35
6	On Grants for Education	12th March 1927	...	39
7	On the Bombay University Act Amendment Bill: 1.	27th July 1927	...	45
8	On the Bombay University Act Amendment Bill : 2.	1st October 1927	...	54
9	On the Bombay University Act Amendment Bill : 3.	3rd October 1927	...	59
10	On the Bombay University Act Amendment Bill: 4.	5th October 1927	...	61
11	On the Bombay Primary Education Act Amendment Bill : 1.	21st April 1938	...	64
12	On the Bombay Primary Education Act Amendment Bill: 2.	30th April 1938	...	65
13	On the Bombay Primary Education Act Amendment Bill : 3.	30th April 1938	...	67
14	Bill No. XII of 1928 to amend the Bombay Hereditary Offices Act.	19th March 1928	...	72
15	On the Hereditary Offices Act Amendment Bill: 1.	3rd August 1928	...	75
16	On the Hereditary Offices Act Amendment Bill: 2.	4th August 1928	...	88
17	Bill No. XXIII of 1937 to amend the Bombay Hereditary Offices Act.	17th September 1937	...	90
18	On the Hereditary Offices Act Amedment Bill No. XXIII of 1937.	17th September 1937	...	94
19	Bill No. XX of 1937 to abolish the Khoti System.	17th September 1937	...	96
20	On a Bill to abolish the Khoti System	17th September 1937	...	101
21	On Village Panchayats Bill: 1	6th October 1932	...	104
22	On Village Panchayats Bill : 2	10th February 1933	...	113
23	On Village Panchayats Bill : 3	13th February 1933	...	118
24	On Village Panchayats Bill : 4	24th March 1933	...	121
25	On Local Boards Act Amendment Bill : 1	18th January 1938	...	123
26	On Local Boards Act Amendment Bill : 2	22nd January 1938	...	126
27	On Small Holders' Relief Bill : 1	10th October 1927	...	129
28	On Small Holders' Relief Bill : 2 (Minute of dissent from the Report of the Select Committee).	30th June 1928	...	132
29	On Small Holder's Relief Bill : 3	24th January 1938	...	135
30	On the Bombay Police Act Amendment Bill : 1	27th April 1938	...	138
31	On the Bombay Police Act Amendment Bill : 2	28th April 1938	...	148
32	On the Bombay Police Act Amendment Bill : 3	29th April 1938	...	154
33	On the City of Bombay Municipal Act Amendment Bill.	3rd May 1938	...	161

			PAGES
34	On Prohibition	10th March 1927	163
35	On Maternity Benefit Bill	28th July 1928	166
36	On Punishment of Whipping	18th February 1933	168
37	On Ministers' Salaries Bill	23rd August 1937	170
38	On Probation of Offenders Bill	20th January J938	179
39	On Tobacco Duty Act Amendment Bill	5th March 1938	181
40	On Independence of Judiciary	7th March 1938	183
41	On Creation of a Separate Karnatak Province	4th April 1938	188
42	On the Assembly Procedure	10th September 1938	197
43	On the Industrial Disputes Bill	15th September 1938	201
44	On Disturbances Enquiry Committee's Report	17th March 1939	233
45	On Participation in the War : 1	25th October 1939	238
46	On Participation in the War : 2	26th October 1939	242
47	On Participation in the War : 3	27th October 1939	261

APPENDICES

I	Speech by P. J. Roham on Birth-Control on behalf of Dr. Ambedkar	263
II	Questions asked by Dr. Ambedkar and Replies given by the Government	277
III	Questionnaire of University Reforms Committee and Written Evidence by Dr. Ambedkar.	292

PART II

Dr. Ambedkar with the Simon Commission (Indian Statutory Commission)

A. Report containing Views and Recommendations regarding changes in the Constitution of the Bombay Presidency–

PREFACE		315
SECTION I –	Redistribution of the Area of the Province	316
SECTION II –	Provincial Executive–	
	Chapter 1 — Dual *versus* Unified Government	322
	Chapter 2 — The Executive in Working	331
	Chapter 3 — The Position and Powers of the Governor	334
SECTION III –	Provincial Legislature–	
	Chapter 1— Franchise	337
	Chapter 2 — Electorates	344
	Chapter 3 — Distribution of Seats	357
	Chapter 4 — Lucknow Pact	370
	Chapter 5 — Second Chamber	374
	Chapter 6 — Powers of the Legislature	377
SECTION IV –	Provincial Autonomy–	
	Chapter 1 — Provincial Government in relation to the Government of India.	382
	Chapter 2 — Provincial Government in relation to the Crown.	386
SECTION V –	Public Services	389
SECTION VI –	Summary of Recommendations	400

B. Statement concerning the State of education of the Depressed Classes in the Bombay Presidency on behalf of Bahishkrita Hitakarini Sabha to the Indian Statutory Commission (29th May 1928). 407

C. Statement concerning the safeguards for the protection of the interests of Depressed Classes as a minority on behalf of Bahishkrita Hitakarini Sabha, to the Indian Statutory Commission (29th May 1928). 429

D. Evidence of Dr. Ambedkar before the Indian Statutory Commission on 23rd October 1928. 459

			PAGES
E.	Note submitted to the Indian Franchise Committee (Lothian Committee) on 1st May 1932.		491

PART III

Dr. Ambedkar at the Round Table Conferences

1	In the Plenary Session —		
	5th sitting	20-11-1930	503
2	Committee of the Whole Conference —		
	Comments on the Interim Report of Sub-Committee No. I (Federal Structure).	16-12-1930	510
3	In Sub-Committee No. II (Provincial Constitution) —		
	1st sitting	4-12-1930	512
	3rd sitting	8-12-1930	516
	4th sitting	9-12-1930	517
	5th sitting	15-12-1930	524
	Committee of the Whole Conference—		
	Comments on the Report of Sub-Committee No. II	16-12-1930	527
4	In Sub-Committee No. III (Minorities)—		
	2nd sitting	31-12-1930	528
	5th sitting	14-1-1931	534
	6th sitting	16-1-1931	535
	Appendix I—A scheme of political safeguards for the protection of the Depressed Classes in the furture constitution of a self-governing India— A memorandum by Dr. Ambedkar and Rao Bahadur R. Srinivasan.	Appendix to Sub-Committee's Report	546
	Appendix II—Relevant paragraphs of the Report of Sub-Committee No. III related to the Depressed Classes approved by the Committee of the Whole Conference.	19-1-1931	554
5	In Sub-Committee No. VI (Franchise)—		
	2nd sitting	22-12-1930	557
	3rd sitting	30-12-1930	568
	4th sitting	1-1-1931	571
	Committee of the Whole Conference—		
	Summary of the Report of Sub-Commitee No. VI	16-1-1931	576
6	Committee of the Whole Conference—		
	Comments on the Report of Sub-Committee No. VII (Defence).	16-1-1931	579
7	In Sub-Committee No. VIII (Services)—		
	2nd sitting	7-1-1931	581
	3rd sitting	8-1-1931	584
	4th sitting	9-1-1931	590
	5th sitting	12-1-1931	592
	6th sitting	13-1-1931	593
8	In the Plenary Session (General Review)—		
	8th sitting	19-1-1930	596

			PAGES
9	In the Federal Structure Committee—		
	23rd sitting	16-9-1931	600
	25th sitting	18-9-1931	612
	26th sitting	21-9-1931	615
	28th sitting	23-9-1931	622
	30th sitting	25-9-1931	624
	34th sitting	14-10-1931	624
	35th sitting	15-10-1931	630
	38th sitting	22-10-1931	635
	44th sitting	2-11-1931	648
	45th sitting	4-11-1931	650
	46th sitting	16-11-1931	650
10	In the Minorities Committee—		
	7th sitting	28-9-1931	652
	8th sitting	1-10-1931	654
	9th sitting	8-10-1931	659
	Appendix I — Claims of Minority Communities— Joint Memorandum.		664
	Appendix II — Supplementary Memorandum by Dr. Ambedkar and Rao Bahadur R. Srinivasan.		669
11	Evidence before Joint Committee on Indian Constitutional Reform—		
	Witnesses examined by Dr. Ambedkar—		
	(1) Sir Patrick James Fagan and others	13-6-1933	673
	(2) Mr. Sachchidananda Sinha	22-6-1933	675
	(3) Mir Maqbool Mahmood and others	27-6-1933	679
	(4) Sir Michael O'dwyer	29-6-1933	685
	(5) Mr. F. E. James and others	4-7-1933	688
	(6) Sir John Perronet Thompson and others ...	6-7-1933	690
	(7) Sir Charles Innes	6-7-1933	691
	(8) Sir Edward Benthall and others	13-7-1933	692
	(9) Lady Layton and others	26-7-1933	696
	(10) Rajkumari Amrit Kaur and Mrs. Hamid Ali ...	29-7-1933	698
	(11) Mrs. P. K. Sen and Mrs. L. Mukerji	29-7-1933	704
	(12) Discussion on Poona Pact	31-7-1933	707
	(13) Dr. B. S. Moonje and others	31-7-1933	714
	(14) Mr. M. K. Acharya and others	2-8-1933	730
	(15) Lieut. Col. C. E. Bruce and others	6-10-1933	736
	(16) Wing Commander A. W. H. James and Dr. J. H. Hutton.	16-10-1933	736
	(17) Right Hon. Sir Winston Churchill ...	24-10-1933 and 25-10-1933	742
	(18) Lieut. Col. Sir Henry Gidney	10-11-1933	746
	(19) Mr. J. C. French and Mr. S. H. Mills	13-11-1933	747
	(20) Right Hon. Sir Samuel Hoare and others	July, October and November 1933	748
	INDEX	.....	793

PART I

Dr. Ambedkar in the Bombay Legislature

BLANK

1

*ON BUDGET : 1

†*Dr. B.R. Ambedkar :* Mr. President, the budget discussion has gone on for a long period, and I feel that all that could have been said has already been said. It would therefore have been better for a new member like me to keep silent But I feel that there is a point of view, which has not yet been placed before this House, and as I represent that point of view, I think it is my duty to give expression to it.

Mr. President, when one begins to criticise the budget, one is at the outset overcome with a feeling of helplessness. For the range of effective criticism is indeed very small. The total estimated expenditure as given in this budget is something like 36 per cent. The total estimated revenue of this presidency is 15½ crores, and out of this about 9½ crores is being levied by the Executive without the consent of this Council. I refer to the land revenue and excise revenue. So taking both the expenditure and revenue into consideration, I think it is fair to say that the criticism which one has to make is indeed very limited, because the Council can only deal with 64 per cent of the expenditure and 40 per cent of the revenue. But taking the things as they are, Mr. President, I proceed to offer such remarks as I am capable of making.

Commencing with the revenue side of the budget, I wish to deal with it, in the first place, from the standpoint of the Honourable the Finance Member, and secondly, from the standpoint of the taxpayers. The Honourable the Finance Member will agree with me when I say that the first and most essential requirement of a good revenue system is that it should be reliable. It does not matter whether that revenue system brings in large revenue or small revenue. But whatever it brings, it ought to be certain in its yield. Judging the revenue side from this standpoint, I find that the land revenue, which is the largest item in the budget, is capable of a variation of something like 50 lakhs. If you take "Excise", the second largest source of revenue, you find that since the inception of the Reforms, it has shown a variation of 73 lakhs. I, therefore, invite the attention of my friend, the Honourable the Finance Member, to consider the consequences

*B.L.C. Debates, Vol. XIX, pp. 164-68, dated 24th February 1927.

†Dr. Ambedkar was sworn in as a nominated Member of the Bombay Legislative Council on Friday the 18th February 1927.

that would follow if these two items in the revenue system varied in the same direction. If they did, then I think they will land him into a ditch of more than one crore. I do not know whether such a system of revenue is a system on which the Honourable the Finance Member should rely. But it is for him to see that and not for me, because he is in charge of the finances of this country.

Now, Mr. President, taking the same items of revenue into consideration and judging them from the standpoint of the taxpayers, I think the revenue system of this presidency is inequitable and undefensible. Take first of all the land revenue. Whatever may be the quibbles, whether it is tax or whether it is rent, I may say that there is no doubt that this land revenue is a tax on the profits of the businessman. If these two levies are the same, I want to know from the Honourable the Finance Member as to why there should be difference in the methods of levying the two. Every farmer, whatever may be his income, is brought under the levy of the land tax. But under the income-tax no person is called upon to pay the tax, if he has not earned any income during the year. That system does not exist as far as land revenue is concerned. Whether there is a failure of crop or abundance of crop, the poor agriculturist is called upon to pay the revenue. The income-tax is levied on the recognised principle of ability to pay. But under the land revenue system, a person is taxed at the same rate, whether he is a owner of one acre of land, or a jahagirdar or an inamdar. He has to pay the tax at the same rate. It is a proportionate tax and not a progressive tax as it ought to be. Again under the income-tax holders of income below a certain minimum are exempted from levy. But under the land revenue the tax is remorselessly collected from every one, be he rich or poor.

Take again the "Excise". This is an item from which a large revenue is derived. There can be no two opinions that this is public legal monopoly. This was not meant for the purpose of enabling the Government to raise revenue, but the monopoly was enacted because the Government would be in a better position to put a stop to demoralisation of the people by spread of the habit of drink. If collection of revenue is the only aim there is no necessity for a Government monopoly. How has this monopoly been managed by Government ? If you take the figures as to how much the people of each Presidency spend in drinking, you will find that the Bombay Presidency stands first so far as the drinking habit is concerned. I find in Madras every individual spends Re. 1-3-7 (Re. 1.22), in Bengal Re. 0-7-1 (Re. 0.45), in United Provinces Re. 0-4-7 (Re. 0.28), in Punjab Re. 1-7-8 (Re. 1.48), in Burmah Re. 1-4-0 (Re. 1.25), Bihar and Orissa Re. 0-8-7 (Re. 0.58), in Central Provinces and Berar Re. 0-15-0 (Re. 0.94), in Assam Re. 0-13-3 (Re. 0.83), but in Bombay we have the appalling figure of each individual spending Rs. 2-2-9 (Rs. 2.18). I ask my honourable friend the Finance Member whether this is a defensible system. Mr. President, Government has accepted the policy of prohibition and has adopted certain measures for carrying out that policy to fruition. But they have not done so. The first

of such measures is rationing. Now, Sir, the quantity of country liquor rationed out by Government beyond which it was not to sell was fixed at 1,883,804 gallons. But the limit fixed was only an idle pretence at checking consumption. For the actual quantity consumed was only 1,405, 437 gallons, i.e., the actual quantity rationed was in excess of the actual quantity consumed by 478,367 gallons. I understand that a second measure adopted for carrying the policy of prohibition to fruition was the appointment of an advisory committee. But I have found that 40 per cent of the composition of this advisory committee is composed of anti-prohibitionists. I do not think, Mr. President, that the Government benches are treating this Council with respect which it is their due. Mr. President, while I am speaking about the financial system of this country, I think, it is fair to suggest to my honourable friend the Finance Member that the prosperity of the people is the greatest patrimony of the State. He should not demoralise them or he should not beggar them. A state that beggars its people ends in beggaring itself.

Mr. President, I now want to touch—I know my time is very brief and I hope you will be pleased to allow me a little more time if you can.

The Honourable the President: No, no.

Dr. B. R. Ambedkar: Coming to the other sources of revenue, I do not think that the Honourable the Finance Member is doing his best in husbanding the resources of this presidency to the best advantage. For instance, taking the forests as a source of revenue, in 1921-22 the forest revenue was Rs. 74.9 lakhs; in 1927-28 the forest revenue was only Rs. 74 lakhs. There is, you will see, therefore, a stagnation of the revenue. But if you take the expenditure that has been incurred on the forests, you will see that the expenditure has increased from Rs. 40 lakhs to Rs 48 lakhs ; so that, ultimately, when we come to speak about the net gain from forests, you find a loss of something like Rs. 4 lakhs.

Mr. President, I next want to speak of irrigation and civil works. I think I will be wasting my time in giving details. But I do want to say one thing, Mr. President, that when Government undertakes a certain industry or work, it does it primarily for revenue ; or it does it primarily for service though incidentally for revenue; or it may be that it does it primarily for service. I do not think that the Government has any defined or definite policy with regard to the services it has undertaken. For instance, I personally feel—there might be difference of opinion between me and the other honourable members of this House—but I do feel that the Irrigation Department is not giving us the full return that we are entitled to get from them. I think if my honourable friend refers to the Taxation Inquiry Committee's report, he will find that the water rate is very low. I think we on this side of the House are entitled to expect from him better husbanding of the resources of this presidency.

Mr. President, I now turn to the expenditure side of this budget. I know most members of this House are alarmed at the deficit. I may say I am not.

Deficit is not something which ought to alarm honourable members. What has disquieted me is this, that the deficit in the budget is not due to any inclusion in it of a large policy of social advancement. The deficit is due entirely to the increase in cost on the non-productive charges of the administration. Mr. President, the honourable member the Secretary of the Finance Department was yesterday very wise, I should say, in telling the House to be reasonable. He said that if the honourable members of this House desires that they should be taken seriously by the Government benches, they should be reasonable. Mr. President, I admit the force of that argument But I want to send the argument back to him and ask him whether the increase in expenditure that has taken place in this presidency is reasonable and can be justified on the ground of increase of the administrative quality.

Mr. President, when you compare the cost of administration in this presidency from the year 1910 to the year 1927-28—and I am taking only figures of such departments for the purpose of comparison as were wholly provincial then and as are wholly provincial now—I find under General Administration the charges in 1910-11 were only Rs. 17 lakhs. Today they are Rs. 126 lakhs. I ask my honourable friend the Finance Secretary whether that is reasonable . . . . . .

Mr. G. Willes: If the honourable member will permit me, I would point out to him that I explained to the honourable member Rao Saheb Dadubhai Desai yesterday that the figures given in the statements in the budget should be used with great care. The classification of General Administration before the reforms is not the classification which is taken now. There was an item of expenditure on account of alienated lands which was then shown under another head and which is now included under the head of General Administration.

Dr. B. R. Ambedkar: Be that as it may, we are bound to take the statements as are given there, of course, subject to the correction as my honourable friend has said. But I do think that the cost of General Administration in this presidency has been very very heavy. In fact, it had no justification even from past history of this presidency. We have to-day, for instance, four Executive Councillors and three Ministers, and we have under them Secretaries and Deputy Secretaries numbering about 25 or so. I do not think that my honourable friend the Finance Secretary will say that that is something reasonable. The Honourable the Finance Member has tried to explain away this extravagant cost of administration in this presidency. I hope, Mr. President, you will give me some little time . . . . . .

The Honourable the President: No. I am so hard pressed for time, the honourable member will understand. He has got only two minutes more.

Dr. B. R. Ambedkar: Mr. President of course, I will drop what I had to say, and I will now come to my conclusion. In this part of my speech, Mr. President, I want to make my position quite clear. We have been hearing from honourable members that there should be severe retrenchment. I have joined and I do join in that chorus with all earnestness, for

I believe there is room for retrenchment But, Sir, I cannot disguise from myself the fact that this retrenchment will not take us very far. Taking retrenchment as its highest, I think it would quite probably give us a relief of a crore or two crores of rupees. But how far will it go ? I know by that means we could perhaps balance the budget But is that the only ambition of this House that the budget should be balanced ? I hope, and I hope I am right in saying, that this Council is really earnest in its desire for compulsory education, for medical relief, for freedom of the people from the habit of drink, and for providing all the amenities of life. Then, I want to remind this House that the good things of this earth do not fall from heaven. Every progress has its bill of costs and only those who pay for it will have that progress.

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2

*ON BUDGET : 2

Dr. B. R. Ambedkar: Sir, the budget is no doubt an unsatisfactory budget in so far as it is really a deficit budget. But if it was only unsatisfactory on account of the fact that it discloses a deficit, I do not think it would have been necessary for me to take any serious notice of it. The budget however is not merely unsatisfactory but it is, I think Sir, a deplorable budget and the state of affairs is indeed a very serious state of affairs.

You know, Sir, that we are practically coming to a close of the first decade of the Montagu-Chelmsford Reforms. That being so, it is certainly worth our while to take stock of the situation as from the year 1921 up to now. Now, Sir, these Reforms were introduced in order that the transferred subjects may receive greater consideration at the hands of the Government than the subjects which are called "Reserve". But, Sir, if you analyse the expenditure of this presidency from the year 1921 up to now, what do we find ? We find that the hopes that were entertained, that under the new regime objects of expenditure which help progress will receive preference over subjects which merely help the maintenance of law and order, have failed to come true.

I shall now show how it is so. I have collected some figures of expenditure incurred in various provinces on the "transferred" and "reserved" departments and with your permission, Sir, I beg to present those figures to this House, so that the House may know how deplorable the situation is. The figures I am giving show the percentage increase or decrease of expenditure in 1925-26 as compared with the year 1921-22 over the transferred and reserved departments in the various provinces. These figures are as under : —

	Reserved Department		Transferred Department	
	Increase, per cent.	Decrease, per cent.	Increase, per cent.	Decrease, per cent.
Madras . . .	1.21	. . .	14.26	. . .
Bombay . . .	6.33	. . .	5.82	. . .
Bengal† . . .	. . .	. . .	6.11	. . .

†Decrease of expenditure on Reserved Department.

*B.L.C. Debates, Vol. XXII, pp. 167-70, dated 21st February 1928.

	Reserved Department		Transferred Department	
	Increase, per cent.	Decrease, per cent.	Increase, per cent.	Decrease, per cent.
United Provinces* ...	...	...	12.57	...
Punjab ...	10.40	...	29.41	...
Burmah ...	34.36	...	6.44	...
Bihar and Orissa ...	5.89	...	44.66	...
Central Provinces ...	6.24	...	18.15	...
Assam ...	8.24	...	12.75	...

*Decrease of expenditure on Reserved Department

Sir, if we look at these figures what do we find ? I am sorry to find, and I am sure every one in this House will be sorry to find, that such an important province as Bombay should occupy the very lowest place in the order of its relative expenditure on the reserved and transferred departments. Even the province of Burmah, which appears to have been so badly managed, stands higher than Bombay in this respect. I, therefore, submit, Sir, that that is a grave scandal. Surely this is not the way in which the finances of an important presidency like the Bombay Presidency should be managed. I wish the Honourable the Finance Member had paid more attention to the "transferred" departments than he seems to have actually paid to them. From the figures it is evident that the reserved departments are systematically over-fed and the transferred departments are systematically starved. Sir, what good is an Indian Finance member if he is not to respond to the wishes of his countrymen. There is a general clamour for progress on all hands. The Honourable, the Finance Member knows how very insistent the clamour is. But unfortunately he has so far done nothing to lead us to hope for anything at his hands in the future.

Then, Sir, not only are the finances badly managed, but I submit, that the financial position of this presidency is indeed very serious. Sir, if you examine the financial position year by year from 1921-22 to the present day, you will find that every year there is a reduction of the surplus; so much so that instead of having surplus budgets we have exhausted our surpluses and we have now reached a period where the budget discloses a series of deficits. In 1922-23 there was a surplus of Rs. 64 lakhs. In 1923-24 the surplus came down to Rs. 29,38 lakhs. In the year 1925-26 the year was closed with a deficit of Rs. 91 lakhs; and we know what has been the state of affairs since then. You see, Sir, from these figures that the financial position of this presidency is deteriorating year by year, and I submit, Sir, that having regard to the commitments made by Government, the position in time to come is indeed going to be very serious. Sir, you know the loan arrangements will have soon to be paid off. Some arrangement shall have to be made for the repayment of that loan, that is bound to cast a heavy burden on the already exhausted finances of the presidency. Sir, this Council and the Government have been committed to universal compulsory

primary education. This Council and Government are also committed to the carrying out of the policy of prohibition. These three items, I do not think any honourable member of Government is going to deny, are going to make a very heavy call upon the finances of this presidency. And when our finances are deteriorating year by year even without these three items, I cannot quite imagine what will be the state of affairs when we begin to give these items a practical shape. Finding myself in this situation what surprises me most is that all this does not seem to trouble the Honourable the Finance Member at all. He does not disclose that he is aware of all these commitments. In the financial statement he has submitted he does not show that he is conscious of these obligations. He is merely, if I may say so, carrying through a hand-to-mouth policy, a policy for the day without any thought for the morrow. There is no outline of a general policy which will improve the future exigencies of the situation. After me the deluge seems to be his watchward. He is merely trying to meet the deficit of the budget He is calculating upon what he might be able to gain out of the reduction in the famine insurance grant, and in the Meston contribution. But I ask him in all seriousness whether these small, paltry gains, as I call them, are going to really take us a long way in the financial stabilization of the presidency ? I think, Sir, it would be a mistake to suppose that they can. Either the Honourable the Finance Member must assure us that there are sufficient possibilities of economy in the administration of this presidency which will carry us through, or he should tell us definitely that we shall not get what we want unless we have recourse to taxation. I respectfully refer to the speech made yesterday by His Excellency the Governor. In that speech His Excellency pointed out that the Legislative Council was entirely responsible for taxation, that it was within its powers to impose such taxation as was necessary I admit that the Legislative Council has the power of taxation. But I also submit that the initiation in the matter must come from Government It is the Government that must suggest what taxation it wants. Has the Government done so ? The Government on the contrary is absolutely sitting silent It does not propose to tell us what it is going to do. It cannot be said that Government has not got the data to work out a plan. We all know that the Taxation Enquiry Committee has submitted a most exhaustive report, with endless recommendations which ought to suffice for the initiation of a new and adequate financial policy. These, I am sure, are lying on the table of the Honourable the Finance Member, but nothing seems to have been done in the matter at all. I say, Sir, that the situation is indeed very serious and it is high time the Honourable the Finance Member make up his mind to deal with it in a statesmanlike manner.

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3

*ON BUDGET : 3

†*Dr. B. R. Ambedkar* (*Bombay City*)*:* Mr. Speaker, Sir, this is the second financial statement which has been presented by my honourable friend the Finance Minister. It would therefore be natural to expect this Budget to be subjected to greater scrutiny and closer examination. Before stating what I think of this Budget, I cannot forget the fact that this budget has been commended by all those members of this House who have so far taken part in the discussion. The Honourable the Finance Minister must have felt a certain amount of satisfaction that his work has secured praise from all those who have spoken. But I must confess that I am very much surprised that this budget should have been really commended in the way in which it has been commended by speakers who have preceded me. I have devoted a certain amount of time for the consideration of the financial statement which he has presented, and I have no hesitation in saying that this is not only the most paltriest budget that I have ever seen, but it is a hollow and insubstantial Budget. It discloses no vision of the future and no recognition of the problems with which this presidency is faced. This may appear somewhat extravagant, but I am presently going to substantiate what I am saying. There is, Sir, one item for which, perhaps, I may praise the Government, but that praise, unfortunately for my honourable friend, cannot go to him. It must go to the Honourable the Home Minister. I refer to item No. 45 in the new scheme. This item No. 45 is an item which provides an additional expenditure of Rs. 36,217 for the augmentation of the police force. Sir, the relationship that existed between the members who are sitting on the other side and the police force before they took office and became part of the Government is a well known thing. I myself well remember having witnessed the scene of a number of people clad in white pursuing the police from place to place shouting "*Pili topi, hai, hai"*. That there should have been established this *camaraderi* between the police, who were at one time regarded as the instruments of tyranny and oppression upon the people, and the Congress

*B.L.A. Debates, Vol. 3, pp. 168-79, dated 2nd March 1938.

†Dr. Ambedkar was elected to the Bombay Legislative Assembly in 1937 and was sworn in on Monday, the 19th July 1937. as M.L.A.

party is certainly a matter, if one may say so, for congratulating the Honourable the Home Minister for demanding the money and the Honourable the Finance Minister for finding it. He certainly in my judgment needs the police force. He certainly needs their loyalty, for we all know now what he is engaged in doing with the police force, and we recently had an illustration of what use the police force is being made of. I refer to the firing that took place at Dharavi. I am sure that the present Government, which has, so far as I can see, shown very little sympathy for the advancement of the cause of labour, may have to indulge in greater use of the police force against the labouring classes. That the Congress Ministry should have come out in its true colour is a matter of congratulation. But with that I must stop, because in the rest of the budget there is nothing for which Government can take any credit.

The first thing, Sir, to which I would like to draw the attention of this House is what I regard certain examples of financial impropriety. There are before me here—I have called out from the financial statement which the Honourable the Finance Minister has presented—some 5 items, namely, item No. 53 which provides 24 lakhs for education, item No. 46 which provides Rs. 25,000 for what is called voluntary police force, item No. 105 which provides 4 lakhs for village panchayats, item No. 100 which provides 1 lakh for labour amenities, and item No. 67 which provides Rs. 80,000 for what is called the training of Unani Hakims. Now, Sir, when one looks at the Blue Book which has been circulated, one notices an admission on the part of the Government that for none of these items which are included in the financial proposal is there any scheme in existence. All these heads on which this expenditure is intended to be incurred are still in incubation. They themselves do not know what are the purposes on which this money is to be spent. The second thing is that this House has not passed any of the legislative measures on which this expenditure is supposed to follow. Sir, this expenditure which practically asks for a blank cheque from this House with the fullest liberty for the members of the Government to spend it on anything they like so long as it falls under the main heads such as education, police etc. amounts altogether to 31 lakhs of rupees. Now, if one takes into consideration the fact that the total amount of the new items which have been added by the Honourable the Finance Minister to the existing budget comes to about 1.16 lakhs, one can very easily realise the amount of money which this Government proposes merely to lift from the hands of the House and spend in the way it wants to spend. Sir, I cannot help saying that this Government has been constantly encroaching upon the privileges of this House. My honourable friend the Home Minister is unfortunately not here and I regret it because I do want to refer to one or two things for which he principally is responsible. I have noticed ever since the Congress Government has taken office that the Honourable the Home Minister has insisted that this House has no right to pass upon any rules that the Government might make under any

particular law that this House may have passed. Sir, I say that this is an encroachment upon the authority of this House. I say that there are rules and rules. There are rules which merely carry out what is called the administrative policy. There are rules which are nothing else but a part of the law, and I claim and I insist that wherever a rule is a part of the law, then this House has not only the right to pass upon the original legislation but it has the right to pass upon the rule as well, and I do not understand how any executive Government can appropriate this field to itself. But the Congress Government has. Time in and time out it encroached upon this privilege of the House. This lifting of money, this asking for a blank cheque is, I regard, another in-road and an encroachment upon the privileges of this House. Sir, I do not know what the situation now is but I was quite familiar with what is known as the Devolution Rules which were prepared under the old Government of India Act and I think my honourable friend the Finance Minister will bear me out that one section of the Devolution Rules included what is called the constitution of the Finance Department. It was one of the cardinal principles then recognised under the old Government of India Act that the Finance Department ought not to be a transferred department. The reason given was a very substantial reason for not treating the Finance Department as a transferred department. The Finance Department was intended to be the watchdog. The Finance Department was intended to scrutinise all expenditure that was put forth by any particular Minister in charge of any particular portfolio. It was intended that one of the principal functions of the Finance Department was not only *to* see whether the sum asked for any particular purpose was necessary and could be granted, having regard to the financial position of the province, but whether the grant asked was properly itemised.

I am sure that, although the old Government of India Act of 1919 has ceased and the Devolution Rules framed under that Act are probably no longer law, the principles enunciated in those Devolution Rules must be permanent, must be abiding for all time. Ever since finance came to be recognised as an important part of the machinery of control which the Legislature has forged over the Executive, it has always been accepted that no Minister shall place before the Legislature a demand for any lump sum without specifying the particular services, the particular items which are supposed to be included in that demand. The reason is two-fold. The House must know what are the details on which funds are being spent. Secondly, it is necessary for the Audit and Accounts Department to know how the money granted by the House has been spent. And I say, Sir, that it is something which is quite inexcusable, that this Government should have had the courage—I say, the audacity to come forward before this Legislature and merely say that they want Rs. 31 lakhs for spending on certain items, about the propriety of which the House has never decided and as to the details of which the Government itself has not made up its mind. I say it is audacity.

Now, coming to the budget itself, I do not propose to go into the details of the different items of which this budget is composed. That would take me too long; nor do I think the general discussion is the occasion on which one should go into the details of the expenditure. I propose to confine myself to the general aspects of the budget, the broad problems with which we are faced and the ways and means adopted by the Finance Minister to deal with those problems. The first thing to note is that the new items which have been added in this budget to the frame-work of the administration as it exists now, come up to a total sum of Rs. 1,16,67,000. The question is, does this show a real expansion of our activities ? Now, Sir, I think we must make one deduction from this figure, and that is the deduction of Rs. 48,11,000. That part of the expenditure, as admitted by the Finance Minister, is non-recurring, that is to say, it is intended to cover temporary items which are the needs of the day. They are not intended to provide permanently for such deficiencies of the social services which it is the duty of the Government to make good. Therefore, deducting Rs. 48 lakhs out of a total of Rs. 1,16,00,000 you get a balance of Rs. 68,56,000 and therefore, I say that correctly estimated what the Government has come forward with' as a permanent addition of expenditure for meeting the social services of this Province is not what is alleged to be this big sum of Rs. 1,16,00,000 but the sum of Rs, 68,56,000. From that you have also to make a further deduction in my judgment, and that further deduction is Rs. 31,45,000 due to prohibition. That is merely a negative thing. It adds nothing positively to meeting the needs of the Province. It is merely the foregoing of an amount of revenue which was due to Government. Therefore, ultimately what one finds as the real budget providing for permanent expenditure is nothing more than Rs. 37,11,000. How this amount of Rs. 37,11,000 is distributed by the Government, many members of this House know. One conspicuous item is education, which takes up 29 lakhs ; that is recurring. Minor irrigation is Rs. 3,50,000, which is also recurring. The rest is non-recurring; and the other items of expenditure are village panchayats, village open sites, water supply, medical relief, quinine, teaching of Ayurvedic medicine, and all that; they are all non-recurring; that is to say, they are merely intended as stopgaps for the year. Now, Sir, taking the budget in the way in which I submit, it ought to be taken, the question really that has to be asked is this ; is this Government to be congratulated when, as a matter of fact, it comes before this House and demands nothing more than this paltry sum of Rs. 37,11,000 ? Sir, I have no hesitation in asking, having regard to the needs of this Province, having regard to the illiteracy, having regard to the poor health, having regard to malaria, having regard to gonorrhoea and syphilis and the other diseases that are prevalent in this Province, whether it connotes a sense of responsibility, whether it connotes a sense of adequacy on the part of this Government to come forward with nothing more than a paltry budget of Rs. 37,11,000. I see my honourable friend the Minister is laughing. Of course he must laugh. What else can he

do ? He can do nothing else (Laughter.) (An Honourable Member : Should he cry ?) I wish he did cry, and I would very much like to see him cry, because that would really show a certain amount of feeling and a certain amount of sympathy. A laugh carries us nowhere and is certainly not an argument.

Now, Sir, let me take another aspect of the question; it is this. Is there any chance of this expenditure provided for by the Government in this budget becoming permanent ? Is there any chance of the Rs. 29 lakhs which the Government proposes to spend on education being available for the next year or the year after that ? Is there any chance that the provision made by the Government for minor irrigation works and for many other things—is there any hope for us to feel that money for spending on all these items will be available to us next year or the year after ? Can we depend upon it that these will be permanent items ? Sir, I cannot give a positive answer. But it will be clear to all of us if we really ask one question, and it is this ; how is this expenditure financed by the Government ? What are the means adopted by it for the purpose ?

I find that the Finance Minister, in making up his budget, has, in the first instance, depended upon a surplus of Rs. 10,50,000 from the current year's budget. Then he has drawn upon this year's balances to the extent of 63 lakhs; and thirdly, he hopes to have, by what he calls the additional yield from certain taxes which are levied now, a sum of Rs. 8 lakhs. These are the sources on which my honourable friend is depending for financing the new items which he has provided in the budget. But, Sir, the question that I ask is this : are these sources, these ways and means which have been devised by my honourable friend the Finance Minister permanent and lasting ? Can they be depended upon to return from year to year ? Let us analyse the figures. First of all, the increase in the current year's revenue which has given him Rs. 10,50,000 is principally due to the fact that by good luck he has been able to get additional income from two sources, namely, excise and stamps. According to his own figures, these two sources of revenue have given him Rs. 21,52,000. Then, the Government of India gave him as part of income-tax return a revenue of 27 lakhs. Now, on his own principle, prohibition, or rather the excise revenue, is tainted money. His whole show, if one may say so, is a tainted show, based on tainted money. Let us not talk about the past; we are faced with the present; and there is no question about it that this excise money will not come to him again. Not only is he not collecting more but he is giving up what he has. Stamps, I do not think, will yield him much. He does not expect much from that, and, therefore, so far as recurring years are concerned, these two items which swelled his balance must now be dismissed from our consideration. Income-tax may or may not come. That again is a contingent item. Therefore, all that one can see now, so far as the future is concerned, is this. For the new items of expenditure which he has shown in the Budget, the basis in the form of real assets is nothing else but the paltry sum of

8 lakhs of rupees which he proposes to derive from remodelling the system of tabacco taxation which prevails in this Province. For this additional expenditure of 37 lakhs of rupees, all the revenue we have is 8 lakhs of rupees on which we can depend. Therefore, I feel I am justified in saying even this petty show which has been presented to us in the form of a budget of 37 lakhs may not come again next year.

Now, Sir, let us look at this Budget from another point of view. I ask this question : What are the liabilities, responsibilities, which the Congress Government propose to take upon its shoulders ? Let us realise what our total liabilities are. Sir, it is a small matter whether these liabilities are such that we can meet them tomorrow, day after, or whether it will take a long time for us to meet these liabilities. That is altogether a different question. It is quite important; I say quite essential and in fact fundamental, that all of us—those who are sitting on this side and those who are sitting on the other—should know once for all what we propose to undertake with respect to the welfare of the people of this Province, so far as the welfare of the people of this Province is concerned. Therefore, it is very necessary that we should take stock of what the ultimate position is going to be apart from the question how we meet and how soon we shall meet it. Now, Sir, it is quite clear that, traditionally taking things as they stand in this Province up to this day, Governments have undertaken, although they have never fulfilled, their responsibilities and duties which certainly cover such fields as education, public health, medical relief, and one may say, to a certain extent water supply. These are admittedly the functions of Government. Now, I am glad to say that the Congress Ministry, when it came in office on the 17th August 1937, issued a statement which is called a statement on the " Labour Policy of the Government." I would like to remind my honourable friend of that statement, because he has altogether taken no note of what Government have stated in the Press Communique. Referring to that statement, I find that Government have unequivocally accepted the fact that these are not the only duties which this Government would look upon as their obligations. The Congress Government have accepted that over and above these, what are called the essential services— education, public health, medical relief, and water supply—there are, by common standards now prevailing in all modern countries, other duties which Government must undertake. These duties, I find, are unemployment benefit, sickness insurance, old-age pensions, maternity benefits and premature death benefits to dependents. Therefore, we have got to start with this position that my Government who claims to have the reins of office in its hands must look upon these duties as part of their functions. And the question, therefore, is what are going to be the total liabilities of Government, if Government were to decide upon discharging these obligations ? As I said, it matters nothing, it does not solve the problem, whether we are in a position to do this today or not. It is quite essential, quite necessary, that we ought to know what our duties are and what is the

liability in which we will be involved ultimately. Now, Sir, taking all these things into consideration, I would like, I would welcome, even at the closing of the debate, some kind of estimate from my honourable friend from his expert hand, to tell us what exactly would be the liability thrown on the revenues of this Province, if we are to undertake the discharge of those liabilities in their fullness. I have made some little calculation so far as I am able to do. My calculations cannot be exact. I have no information, I have no data, I have no expert assistance, but I have ventured to make some kind of estimate to find out exactly what would be the total financial liabilities of Government. Modestly speaking, the total liabilities of this Province will come to 24 crores of rupees. This is what a Government of this Province will have to bear in mind. I have no objection which Government comes in. Even this Government may perpetually carry on the administration of this Province. I have no quarrel so long as that Government is conscious of what their obligations are. The question, therefore, we have to bear in mind is, how are you going to raise this sum of 24 crores ? It may be a little more or a little less ; somewhere about that figure will be the liability of the Government in this Province to undertake. Sir, I ask : Is it within the competence of this Government, any Government for that matter, to raise this sum ? Let us now turn to certain figures of revenue in other parts of the world and let us compare the position in other parts of the world with the position that we find in our own province. I have worked out some figures of per capita revenue in some countries. They are—

			£	s.	d.	
Canada	...	...	9	8	0	
South Australia	...	...	19	0	0	
New South Wales	...	...	13	0	0	
New Zealand	...	...	22	0	0	
Union of South Africa		...	4	0	0	(This does not include the revenue collected by the Provincial Governments.)
Australia	...	...	12	0	0	
Irish Free State	...	...	10	0	0	
Bombay	...	...	0	0	7	

Sir, this, I say, is a most staggering picture. It is a picture, it is a contrast, which is bound to make any Finance Minister who wants to take the responsibility of bringing welfare to the mass of the people of this province, shake in his shoes.

Now, the other thing which we have to notice with regard to the financial position in this province is that our revenues have been absolutely stagnant. I am quoting the Finance Minister himself. In the last year's budget speech, he gave us a very useful set of figures comparing the increase of revenue

in the different provinces of India between 1922 and 1935. The increases were : —

	Per cent.
Madras	26.7
The Punjab	28.6
The United Provinces	16.7
Assam	14.7
Bengal	11.9
Bombay	3

Even this 3 per cent has to be taken with a further deduction. This increase is found to be on the basis that you take into consideration all the additional taxation that was imposed from the year 1922. If you deduct all the additional taxes that were levied from 1922 to 1935, the revenues of the presidency of Bombay have decreased by 5½ per cent. We, therefore, find ourselves in this position, that our revenues are not increasing at all ; they are practically in a stagnant position. Now, add to that two new factors. The first is that this position is now going to be worse off by the prohibition policy which has been adopted by this Government. Secondly, we have to bear in mind that this Government has announced its policy of reducing the land revenue. Now, it is a fact that these two items of revenue together make up something like 7 crores of rupees. These 7 crores of rupees, having regard to the policy laid down by the Government, must now be regarded as the vanishing assets of the province. Therefore, the net revenue which you can calculate as a permanent basis for building up anything that could be permanent is only 5 crores of rupees. As against this, you have to set up, as I said, an ultimate liability of 24 crores of rupees.

Now, Sir, the question is : What are the ways of improving the financial resources of this province ? I am very sorry to say, but I must really say it, that looking at the financial statement and the budget speech which my honourable friend made, that this budget is a most retrograde budget. It is a budget which shows that the Government has gone back on its plighted word. Sir, the last budget speech which the Honourable, the Finance Minister made, I do say—and I think praise must be given where it is due—did contain an element of boldness, an element of radicalism, which gladdened the hearts of those of us who were sitting on this side of the House. I have compared the speech which he delivered on the last occasion, with the speech which he delivered the other day, and I noticed a very painful contrast between the two. Sir, last year ; my honourable friend—at any rate judging from the speech which he delivered—gave me the impression that he was conscious of one of the most difficult and one of the most important problems with which we are all faced, namely, the problem of finding money. He was not only aware of the fact that, that was our one supreme problem, but he gave us the promise that he would tackle it in such a way that not only would there be greater resources available for the benefit

of this province but that the burdens would be so equitably distributed that those who could not bear would be relieved and those who could would be taxed. I am going to read to him certain passages from the speech which he delivered last year. In paragraph 14, this is what my learned friend—

An Honourable Member: "Honourable friend".

Dr. B. R. Ambedkar: I am used to the High Court where we call our friends "learned". This is what my honourable friend said :

> "Lastly, we come to new taxation as a source of the much needed additional finance. In this connection, our first object is to make the necessary adjustments in the incidence of the existing taxes. Take the land tax first. Our ultimate object is to cease taxing the uneconomic holdings in which our land is at present divided. To begin with, however, we think it necessary to introduce a graded tax on the larger agricultural incomes. Through a process of the expropriation of the actual cultivator, a considerable portion of the lands has passed into the hands of non-cultivating, rent-receiving, absentee landlord. Are their incomes, large or small, to be treated in respect of immunity from or reduction of taxation in the same way as the actual cultivator of the soil ? Then there is a large class of income derived from alienated lands. These incomes are putting this province to an annual loss of nearly 70 lakhs of rupees. How are these incomes to be treated when we propose to tax the more well-to-do classes of our Khatedars ? The views of the honourable members on every side of this House on questions like these would be of immense use in the formulation of definite proposals by Government. Such resources as will become available by the adoption of policy of higher taxation on landed incomes which could bear the burdens should, we think, be largely utilised for making the burden of land tax easily bearable by the actual tillers of the soil and for making their lives better. Enquiries regarding the result of a graded tax on higher and equitably taxable agricultural incomes have already been set afoot. Similarly the other taxes from which we are at present deriving our revenues require to be carefully re-examined and readjusted both in reference to their incidence as well as in reference to their effects on public interests. We are proceeding with this work as expeditiously as possible and Government have every hope that our definite conclusions could be announced to this House by the time the next budget is ready for submission to it.
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> "I hope that nothing that I have said this evening will countenance the belief that Government are not ready to propose new taxes for financing schemes of social utility. Such an impression would, I may say, be far from the truth. Although taxation in this province is very high, it is clear to us that most of this taxation is being borne by the poorer people in the province. The land tax, the excise tax, the stamps and court fees, the taxes on public conveyances, the tax on country grown tobacco—all these are being mostly paid by the poorer classes. The income-tax is the only tax paid by the rich and that at present is beyond the reach of the Provincial Government. Between the poorer classes who pay most of the provincial

taxes and the richer classes who pay the income-tax to the Central Government, there is a considerable body of people who ought to bear a portion of the financial responsibilities of their province. The wealthier classes whose contribution to Provincial Revenues is inadequate must also come forward to take their proper share in them. Pledged in as we are by numerous restrictions, it is no easy task to devise taxes which will affect only the taxable untaxed. Though today I am not in a position to anticipate the decisions of the future, I may state that we are exploring the possibilities of many proposals with a view to submit to this House proposals which may provide the necessary funds for not only recouping ourselves from the loss which a policy of prohibition may involve but will also enable us to undertake some expansion, though not all the expansion, that we desire in the many fields of social service, social service in the widest sense of the term."

Then, Sir, he also made this observation :

"There is one other direction in which Government's activities must be extended for the purpose of augmenting its resources. There are many public utility services which are at present being utilised for the benefit of a few at the cost of the community as a whole. There is no reason why the State should not nationalise these activities and appropriate the profits for the good of the community as a whole. The supply of electricity, for instance, to the public is carried on at present by private agencies under the protection which Government alone can give on behalf of the public. There is no valid reason why the profits of this public utility activity should not return to the pockets of the public as a whole through its accredited agency, the Government. Nothing has been hitherto done in this direction. Many other potential sources of income which could fairly be taken up by Government remain unutilised or are allowed to be exploited for the benefit of a few. There is a large field which we must explore, to which State activities could be extended, and Government will look forward with confidence to activities of this nature as possible sources of public benefit."

Is there anything of this in the new Budget speech which my honourable friend has made ? He has eaten up his very words : there is not even a passing allusion to any of the statements which he made in the course of his last Budget speech. I ask him this question : Why has he eaten up his words ? Who has compelled him to do it ? (Honourable Members : "Vallabhbhai!" "Shegaon !"). There must be somebody behind I will not go into that. But I do want to say one thing, and I want to say it with all the sincerity that I possess. My honourable friend has been congratulated, I think, on the ground that there has been no new taxation. I for myself have the greatest condemnation for the Government for not coming forward with taxation. This Budget, therefore, I say, is a rich man's budget. It is not a poor man's budget. The poor man wants more and more. The rich man can afford to be independent of the Government. A rich man needs no

school : he can keep a schoolmaster and give his son education up to B.A. or M.A. without sending him to school or college. A rich man needs no dispensary : he can call in a doctor, pay him Rs. 30 and get himself, his wife and his children examined if suffering from any disease. It is the poor man who wants Government to come to his succour ; it is the poor man that needs more service. **No Government worthy of its name, no Government with any sincerity, can tell the poor classes that it cannot provide these amenities because it has not the courage to levy taxes.** The sooner such a Government abdicates the better for all.

The Honourable Mr. Morarji R. Desai: That is the rub.

Dr. B. R. Ambedkar: There is one other point to which I should like to refer. I do not know how many members of this House will agree with me in what I am saying, but I hold firmly to the view that the Governments in India, no matter what the province is, will never do any good if they confine their attention to what in European countries are merely called social services. I do maintain, and I state it emphatically, that one of the principal duties of this Government must be to tackle the problem of poverty. The Government must see that they do adopt ways and means whereby the national income of this province rises to some substantial level, whereby the majority of the people can live in amenities which rightly belong to all modern and civilised men. The system of social services which has so far prevailed in European countries, whereby the Government gives what are called doles or unemployment benefits, maternity benefits, and so on, presupposes one thing : it presupposes that a majority of the people are above want, are above the line of poverty, and that it is only those few who, either by the vagaries of the economic system or by any misfortune befalling them, fall below that line of poverty, that need, assistance from the Government. It is, therefore, perfectly possible, perfectly justifiable, for European governments not to bother with problems of general economic uplift of the people as a whole. But the problems with which we are faced in this country are of a totally different character. I have no hesitation in saying and I do not suppose there is anybody in this House who would quarrel with me if I state it, that we are all a nation of beggars and coolies. That is the description which one can give of all this mass of people. Therefore, no Government worthy of its name can sit silent and not take account of this grave problem.

Now, Sir, having regard to the Budget proposals which we have before us, is there anything to indicate that this Government is aware of this problem, that it does take cognisance of it, that, after all, the one supreme aim must be to see that the national income of this country rises, that the national dividend rises ? I do not see anything. There seems to be one idea which is prevalent all over and which I really want to examine at this stage. The view is held by all that a large part of the poverty of the agriculturists arises out of what is called the heavy burden of land revenue. Therefore the view is held—and I have no doubt that that is the view of the Finance

Minister—that all that needs to be done in order that the people's income may increase would be to reduce that burden of land revenue. Now, Sir, I take the liberty of saying that nothing can be more fallacious than this view. That does not mean that I am opposed to the reduction of the land revenue : I am for it ; I will insist upon it, because I say that this Government has really no right to take what are called the profits of agriculture, as distinguished from mere rent for the use of land. But let me examine for the moment the idea that seems to be prevailing and the idea on which this Government seems to be proceeding, namely, that all that need be done for the relief of the poverty of the general mass of people is to remit the land revenue, to reduce it. Sir, let us examine and see what relief can be afforded by this process. The total land revenue which we collect is about 3½ crores and the total population of this Province is something like 2 crores, very nearly. Now, assuming for the sake of argument, and I am assuming it against myself, that this Government was generous enough and could afford to remit the whole of the land revenue, namely 3½ crores, let us distribute this precious sum of 3½ crores over the two crores of the population. Now, on a rough calculation I find that the total addition to the income of one individual, under these circumstances, would be 1 Rupee and eight annas. That is the highest Converting it into a monthly allowance I find that the addition that would be made to the income of each man would be of 2½ annas. Now, I like to ask whether anyobdy would seriously contend that an addition of 2½ annas, which would be the result of the remission of the whole of the land revenue, would increase our economic welfare in such a way that the problem of poverty would be abolished from our midst. Sir, the problem needs different remedies—altogether different remedies. I do not want to go into that now ; I have probably wearied the House enough. But I do want to say that this is something which this Government does not seem to be aware of, and I do say that a Government which is not cognisant of this problem, a Government which has not the ways and the means of solving this problem, can bring no relief, can be a source of no happiness to the people of this Province ; and, therefore, I will say, in conclusion, that this is a budget which is a most disappointing budget, a budget which is designed to relieve the rich and to starve the millions. (Applause.)

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*ON BUDGET : 4

Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, Sir, this is now the third Budget which the Honourable the Finance Minister has submitted to this House. I think it would not be an exaggeration to say that the first two Budgets which he submitted to this House were not of a very satisfactory character. And probably there were sufficient excuses for the unsatisfactory character of the first two Budgets. The first Budget that was submitted by him was, as a matter of fact, not his Budget; it was probably the Budget prepared by the interim Ministry and undoubtedly the Finance Minister could not be held responsible for whatever blemishes the first Budget contained. The second Budget had the excuse of having been made in a hurry, without Government's having had sufficient time to prepare their plans and to digest the whole thing. But I am sure none of these excuses or extenuations could apply to the present Budget which has been presented to us. It must be said that this is a Budget which has been prepared after mature consideration. It undoubtedly embodies in it the full plan which the Ministry has with regard to the taxation and with regard to the proposals of expenditure which, from their point of view, are matters of urgency. I think that this Budget, therefore, needs to be more specifically scrutinised.

Every one is aware that this Budget has been a Budget which has caused a great deal of agitation. Those who were expectant have been disappointed, and those who have been hit have called this Budget a revolutionary Budget. Speaking for myself, when I refer to the revenue side of the Budget as well as its expenditure side, my own view is that the proper description of this Budget would be that on the revenue side it is a reckless Budget and on the expenditure side it is a senseless Budget. This is, of course, no occasion to discuss the merits or demerits of the proposals which have been embodied in the Finance Bill which is a part of this Budget; the detailed criticism of those proposals must wait till the Finance Bill is presented to this House for consideration. However, it would not be unwise to say, in a general way, what I think of the proposals of taxation which have been embodied by the Minister in the Finance Bill.

There are six different proposals in the Finance Bill. First of all, the Bill

*B.L.A. Debates, Vol. 5, Part I, pp. 903-16, dated 21st February 1939.

proposes to continue for a year more, the additions made to the stamp duties and the court-fees sanctioned by the Bombay Finance Act II of 1932. Secondly, it increases the duty on the consumption of electricity. Thirdly, it increases the stamp duties in certain cities and urban areas on conveyances of immoveable property. Fourthly, it levies a tax on leases of immoveable property. Fifthly, it imposes a tax of 10 per cent, on the annual letting value of buildings in Bombay, Bombay Suburban District, and Ahmedabad City. And Sixthly, it imposes a sales tax not exceeding 6¼ per cent. on three items, namely, motor spirit or lubricants, manufactured cloth, and silk yarn. As I said, I do not propose to go into the details of these proposals of taxation. All that I am going to do now is to offer, in a summary way, certain criticisms which occur to me on general principles.

Now with regard to the continuation of stamp and court fees, I would like to remind the Honourable the Finance Minister that this was a tax which, if my memory serves me aright, has always been objected to by Congressmen in the old Legislative Council. Sir, I do not remember a single Budget Session, when Congressmen did not turn the Budget Session into a kind of hardy annual between the Finance Members on the one hand and the Congressmen on the other. A tax which was fought tooth and nail every year, and where Congressmen themselves were not prepared to give this tax a perpetual lease of life should have now been thought by Congress Ministers themselves as a tax which should be continued *ad infinitum,* year by year is, to say the least, a bit of the same policy which Congressmen have been following now that they have got office, namely, that the things which were then bad are now good, because they are run by Congressmen. Very many examples could be cited of that kind of turn of mind. We know Congressmen who use to fight tooth and nail because the Executive was not separated from the Judiciary. They thought that was a most oppressive system and we have now the same Congressmen supporting that that was the most ideal system. I will not say anything more than that, but I should certainly like to point out that this is certainly contrary to the declared faith of all Congressmen.

Coming to the duty on electricity, this is, to my mind, in principle, a bad tax. I am one of those who believe that the use of electricity ought to be encouraged more and more, because in the absence of electricity what people would do would be to burn kerosene oil which causes smoke which is injurious to health and that ought to be stopped in the best way possible. The only way to discourage the consumption of kerosene oil would be to make electricity as cheap as one can possibly make it. And therefore my submission is that, on general principles, this is a bad duty. My second comment on this part of the taxation proposal is that it is a tax which is badly distributed. One of the most extraordinary things that one notices about this electricity tax is that there is no increase in the tax on the energy used by cinemas and theatres. Sir, I should have thought that if there was any person or any individual tax, it was certainly the cinema and the

theatre. Because, if a tax was levied on the cinema or on the theatre it would certainly be passed on, if not borne by the consumer, upon the persons who go to the theatres and to the cinemas. That would be taxation on luxuries and I am sure, although, I cannot be absolutely accurate, that instead of spreading the tax as the Honourable the Finance Minister has done upon householders, if he had increased the rate upon cinema and on theatre he would have got all the revenue that he intended to get out of this duty. But as I said it is an extraordinary thing that the party which has got the broadest back to bear this is exempt, and what is done ? What is done is this : that those persons who were hitherto consuming less than 12 units are now taxed, and those who consume more than 12 units, their taxation is increased from 9 pies to 15 pies. Sir, I do not understand the equity of the distribution of this taxation measure. Why is it that people who were hitherto exempt because they consumed less than 12 units are now taxed ? Why is it that those who bore only 9 pies (5 Nps.) are now made to pay 15 pies (8 Nps.), while the theatres and the cinemas are exempted from the operation of this measure ?

With regard to the third item of taxation which is, Stamp Duty on Conveyances, the increase, to my mind, is quite unjustified. In Bombay City, the Honourable the Finance Minister proposes to increase the tax from 3½ per cent. to 4 per cent. which is an increase of 20 per cent. on the present basis. In Poona and Ahmedabad he proposes a tax from 2¼ per cent, to 3 per cent. which is also an increase of 20 per cent. In other towns, which are to be notified by the Government, the tax is to be raised from 1½ per cent. to 3 per cent. which is an increase of 50 per cent., and in the rest of the towns it is to be raised from 1½ per cent, to 2, which is 33½ per cent. Reading the Honorabue Minister's Statement of Objects and Reasons which is attached to the Finance Bill, I do not find any explanation as to the justification for the increase of this taxation. All that the Honourable Minister chooses to say is this : that it is considered desirable that the stamp duty for conveyances should be higher in urban areas than in rural areas. Why is it desirable, why the urban areas are more sinful that they should be made to pay more than what they have been paying so far, we have had no answer from the Honourable Minister at all. It is a simple arbitrary act saying that the tax shall be increased without any rhyme or reason.

Then we come to the fifth proposal, that is the property tax. This of course, is the crux of the whole taxing proposal. Now this proposal, to my mind, is objectionable from the various points of view. My honourable friend Mr. Jamnadas Mehta has already pointed out one of the objections to this measure, and that objection is this : that this Government is now encroaching upon a basis of taxation which has hitherto been left for the Municipal governments. The Bombay City Municipality derives a large part of its revenue from taxation on property. Not only the Bombay Municipality derives its revenue from property tax, but similarly all the City

Municipalities are allowed to levy a tax upon property. Sir, this competition by Government into a field of taxation which is reserved for municipal bodies, I am sure, will prove greatly detrimental to the growth of local self-government. I will not say anything more on that point. But I will refer to certain other aspects of the proposal and the first aspect is this. The tenants of the Bombay City have been carrying on an agitation that the rents in the City of Bombay are abnormal and that they should be reduced. Now, Sir, if the Government as it is going to do by this measure of taxation, is going to take away 10 per cent. of the value of the property, it should not in the same breath say to the landlord that he shall also reduce the rent of the tenants who have been agitating against the present high pitch of rent. Therefore, what the Government is doing is really nothing more than defrauding the tenants of the Bombay City and similarly of Ahmedabad and Poona by taking away from them what was legitimately their due ; and I think that is certainly one of the most serious objections that can be urged *to* this measure.

Secondly, this property which is to be the subject-matter of taxation under the Government proposal cannot be said to be property which is not subject to taxation now nor can it be said that this is a property which has been lightly taxed and, therefore, can still bear a higher taxation. Let me take the case of Bombay City itself.

The Honourable the Speaker: I am afraid there is a misunderstanding ; Poona is not included in this taxation proposal.

Dr. B. R. Ambedkar: I am sorry—only Bombay and Ahmedabad. Now, with regard to the position in Bombay, what one finds is this. The Bombay Municipality levies on the whole 18½ per cent. on the rateable value of the property for its own use. In addition to that, the owner of the House has to pay, what is called, ground rent if the property is a leasehold property. In addition to that, he has to pay income tax to the Government of India on the income which he derives from the total rental of his property. Taken all together. I think all this burden would certainly come to about 22 to 23 per cent. (An Honourable Member : 50 per cent.). Well my honourable friend says it would come to 50 per cent.; he will probably explain it later on. What I point out is this that it cannot be said that this property is a lightly taxed property ; it is a property which is already heavily taxed and, therefore, it will be very unjust to impose upon it a further burden of 10 per cent.

The next thing that I should like to point out to the Honourable the Finance Minister is this. He seems to treat this tax as though it was just a rate and not a tax. Well, I have a quarrel with him on that point What he is levying is not a rate but it is a tax. The difference between a rate and a tax is this. A rate is something for which you get specific service. We pay rates to the municipality because in return for what we pay to the municipality we get direct service—we get water, we get conservancy, we get lighting, we get various other services. It is really a charge for the

services rendered, but in the case of what the Honourable Minister is doing there are no services. Therefore, it is a tax. And, I say, although the Minister chooses to call it a tax on property, it is a tax on income, because I do like to tell him that nowhere things pay anything. In all ultimate analysis, it is the man who pays ; things do not pay. If men pay, they pay out of their income. Therefore, it is an income tax. Now, I would like to ask the Honourable Minister why the equitable principles which are always recognised to be the part of a general scheme of income tax are not made the part of this tax ? Two things might be mentioned. One thing that needs to be mentioned is this that every scheme of income tax has in it a basis of exemption. Below a certain minimum you do not tax. In the present day income tax, the minimum, I think, is about Rs. 2,000. If this is an income tax, and I insist and say that it is an income tax, and nothing else, why is it that there is no exemption ? It is no use lumping all landlords together. I live in Hindu Colony; there are many people who have drawn their gratuities from Government, there are many people who have received certain accumulations of provident fund. These people have built small houses. In a part of the nouse they live and in the remaining part of the house they have tenants. These people pay ground rent; they pay municipal taxes. Is there no consideration for them ? Then, there are several people who have invested lakhs and lakhs of rupees in buildings and who are doing nothing else but living on the income derived from these properties. I say there is a distinction and a distinction ought to be made between a landlord of one type and a landlord of another type. Why is that distinction not made here?

Take another consideration. A number of these properties—I do not know how many but a great number of them—are certainly properties which belong to charitable organisations. Take for instance the Bombay City. Here, we have the Social Service League, the Servants of India Society and there are many other organisations which can be mentioned which are catering out of the income that they get for rendering assistance to poor widows, to orphan children, to people who have had no education and giving them medical aid. I cannot understand why a Government like this which has repudiated its responsibility—I am going to tell that later on—with regard to all social services and has thrown the burden upon the public to provide for such services out of charity, should not show any exemption for charitable organisations. Even the Income-tax Act, section 4, says that income derived from charities shall not be subject to taxation. I do not understand why none of these considerations have prevailed with the Honourable Minister for Finance. I am sure he will have something to say when we consider the Bill itself.

Coming to the Sales Tax, personally I do not like it. I know there are people who believe that it is a good tax and that it may be levied. I have a different opinion about it. To my mind, it certainly smacks of what we in India used to have imposed upon the Indian mills, and what was called

the excise duty on cotton manufactures, from the year 1894. It cannot be anything else except that. If it is shifted by the manufacturer or by the salesman, it is certainly going to affect the consumer ; it is certainly going to affect his standard of living. If it is not shifted, if it is borne by the manufacturer himself, then it is going to affect the industry on which it is placed. In either case, it is not a very satisfactory piece of taxation.

Now, Sir, I am one of those who have always held the view that good things of life do not fall from heaven like Mannat ; they have never done so anywhere. In fact, if you want the good things of life, you have got to pay for them. Unless you pay for them, you cannot get them. I am therefore, one of those who cannot have any conscientious objection to taxation, because I am certainly one of those who believe in having the good things of life and also believe in having to pay for them. The question, therefore, that we have to consider is this : What is all this taxation for ? What is the purpose ? What good the Government proposes to do by levying this taxation ? It is necessary to remember that the total revenue which the Finance Minister is proposing to raise by his scheme of taxation is 169 lakhs of rupees. Now, Sir, turning to the budget, one must first ask, what are the new items of expenditure which this budget includes ? Now, I have excluded from the budget certain items of expenditure which merely refer to administrative departments and do not result in direct benefit to what may be called the social welfare of the people. I have picked up from the budget such items of new expenditure which in my judgment may be said to be items which affect the public welfare of the people. I find that for irrigation the budget provides 7½ lakhs. For education it provides 16½ lakhs. Out of the 16½ lakhs, 5 lakhs are provided for the expansion of primary education, 5 lakhs are provided for buildings and 1.81 lakhs are provided for the introduction of what are called basic crafts. Then under public health there is nothing to report except an item of 5 lakhs for village water supply ; for agriculture there is nothing ; for co-operation there are 7 lakhs ; for rural development which of course means nothing more than the employment of 7,000 itinerary men who would be wandering all over the presidency carrying on some kind of propaganda which the Honourable Ministers think is going to be helpful to the people.

Secondly, there is a provision for 2 lakhs for debt redemption. One thing I would like to point out is this : apart from the question whether the expenditure that is provided for in the budget is adequate having regard to the needs of the province, the one thing that this House should realise is this that new taxation is not at all necessary for the new expenditure. As the Honourable the Finance Minister himself has said in his budget speech, out of a total taxation of 169 lakhs, only 44 lakhs are supposed to be necessary for two schemes, namely, one for expansion of rural education and one for economic rural development. The rest, practically 125 lakhs, are not wanted for the new expenditure that the Ministry has in contemplation 125 lakhs is wanted by the Ministry for no other purpose than to wipe

out a deficit arising from what they call their Prohibition Policy and therefore, the question that arises for consideration is a simple question. The issue is absolutely narrowed down and that issue is this : is drink a problem and if drink is a problem, is it an urgent problem ? Unless this House is prepared to give an affirmative answer to both these questions, there will be no justification for voting taxation which has been proposed by the Finance Minister. Sir, let us make no mistake in analysing the position. There is no question that drinking is an evil and it does have very bad consequences, but to admit that drink is an evil is not to admit that drink is a problem ; much less is it an admission that it is an urgent problem.

Now, Sir, let us look at the position in a comparative way. What is the position in the Bombay Presidency? We need not bother ourselves with the rest of India at all for the moment because we are dealing with the budget of the Bombay Ministry. What is the position in the Bombay Presidency and what is the position in other countries so far as the drink question is concerned ? First of all, let me give some figures with regard to the total excise revenue that is derived in various countries because the revenue of a country from excise is some indication as to the magnitude of the problem which a country has to face. Now, I have taken these figures from the Blue Book issued by the League of Nations and the figures refer to 1931. Beginning with Great Britain the population is 44,937,444 and the excise revenue is 1,504,895,000. In Austria—which is now no more but still it was in 1937—the population is 6,760,233 and the total revenue derived from excise was 15.96 lacks and odd. In Canada the population is 1 crore while the excise revenue derived is 57.19 lakhs. The Irish Free State has a total population of 2,965,854 while the total revenue derived from excise is 665 lakhs. Then take Denmark. Its total population is 37 lakhs while the excise revenue derived is 5,34,80,000. France has a total population of 419 lakhs and odd while the total revenue derived from excise is 207,079,650. Take now the figures for Norway. Norway has a total population of 2,814,194 and its total revenue derived from excise is—it is a country where there is local option 1,66,72,600. Now, Sir, in the light of this compare the figures of our presidency. The Bombay Presidency has a population of 180 lakhs. The total revenue from excise is 325 lakhs. Can any one say that this consumption of liquor in the Bombay Presidency can be said to create a problem which the State must undertake immediately to meet ? A man who said "Yes" and gave an affirmative answer would certainly be a man who has lost all his bearings. (Laughter) Take another test. Take the consumption of liquor and I take these figures from the report submitted by the Government of Bombay itself. What is the total amount of liquor that the people consume ? Now, the Blue Book or the Administration Report issued by the Government of Bombay say that the average consumption for the whole presidency works out at the rate of 3 drams per head. I am told that it is less than an ounce, in fact ¼ of an ounce, and my honourable

friends opposite call this a problem. In rural area consumption is 1.8 of a dram, and taking towns together, it is 8.2 drams not even an ounce. Take again the revenue basis of the Bombay Presidency, and I am taking here now the largest item of consumption, namely, the country spirit, which of course figures the largest in our excise. What is the revenue that this Presidency derives from country spirit? The report says that the total amount derived from country spirit is Rs. 1,54,43,750. That is the total for the whole Presidency. Now let us distribute this between the urban area and the rural area. According to the Administration Report, there are 33 towns in the Bombay Presidency. These 33 towns together total up in point of population about 29,00,000 of people. How much revenue is derived from these 33 towns from country liquor ? The revenue that is derived is fully a crore of rupees from these 33 towns. That means that the balance of the population, which does not live in the towns but lives in the villages and that is according to my calculation 1,52,00,000—consumes not more than 54 lakhs worth of country spirit. Working that out per head, it means that every individual consumes no more liquor than worth 5 annas (31 Nps.) in a year. Let me analyse the total figures in the towns a little further. In the towns as I said, 29,00,000 of people consume liquor worth one crore of rupees. Is that correct ? We all know that women in this country do not drink, and even the most habitual drunkard would not tolerate his wife sipping even a dram. Also children do not drink. Therefore, making an allowance for women and children, I think we would be justified in deducting about 75 per cent. of the population of the towns as a non-drinking population. If you deduct that, then it comes to this, that about 10,00,000 of people are the people who are affected by what is called the drink evil. Sir, with these figures before me I claim to say that with these figures before him nobody who is a fair minded person would be able to say that drink is such a problem in this country that it ought to be tackled forthwith.

Now, Sir, I know there are people who have the United States of America as their model, and who think that because the United States has carried out the policy of prohibition by amending the constitution of the United States in 1919, this country ought to follow that lead. But, Sir, it is necessary for us, before we run amok, if I may say so, to consider what the position was in the United States. I have here some figures of the problem as it existed, the magnitude on which it existed in the United States before the constitution was amended in 1919. What was the total consumption of liquor in the United States ? According to the Book "Prohibition" by Feldman, the position was this. Between 1910 and 1914 the total per capita consumption of distilled spirits, wines and beer in gallons was 22.43 per. individual ; between 1905 and 1910 it was 21; between 1900 and 1904 it was 18.77. It will be seen that the consumption per capita was rapidly growing. Between 1900 and 1901 it was 18, between 1905 and 1909 it was 19.46 and between 1910 and 1914 it was 22.43. Surely,

our conditions cannot be said to be in any way comparable with the position in the United States.

Take again another indication. Can we say that there is in this country such a thing as alcoholism ? Can we say that there are people here who have died of sheer alcoholism, people who have died of liver trouble on account of the fact that they have been taking alcohol excessively ? I have gone through the figures published in Public Health Reports of this Province and I have also searched the figures published by the Commissioner of Health appointed by the Government of India, and I want to say that neither have thought it necessary even to notice such a thing. The reason why they do not notice deaths from alcoholism or from liver trouble is because such a thing does not exist in India at all. On the other hand, see what has happened in the United States. In the United States, in 1917, 5 people out of 1,000 died of sheer alcoholism ; in 1916, 5.8 ; in 1915, 5.2 ; in 1914, 4.9 ; in 1913, 5.10. Take again another indication namely, deaths due to what is called cirrhosis of the liver. In 1917, 11 persons out of 1,000 ; in 1916, 12; in 1915, 12.6; in 1914, 13 ; in 1913, 13.4. Such a phenomenon, I submit, does not exist in our part of the country at all. Therefore, my contention is that it is wrong on the part of the Ministry to say that this is a problem which we ought to deal with. My contention is that this really cannot be a problem in our part of the country, and for two very good reasons. One good reason is that all religions in India agree in imposing an injunction upon the people, that drink is a sin. Religion may have done many mischievous things, but certainly there can be no doubt that the one good thing that the Indian religions have done, both Hindu and Mahomedan and the Zoroastrian religion, is that they do impose such an injunction which has been so strictly obeyed by a large part of our people.

The second distinguishing feature which marks out our country from other countries, and which cannot create a problem so far as drink is concerned is just this, that the drink traffic is in the hands of the Government. It is not in the hands of private profiteers as it is in the case of America or as it is in the case of other European countries. The Government is a responsible body, is subject to public opinion, is subject to the opinion of this House, and therefore can never do the mischief which a private profiteer can do. As I said, looking at it from every point of view, I refuse to admit that it is a problem which needs to be tackled.

Then, Sir, the next question that I want to ask is this. Is this such an urgent problem that we must keep aside everything and deal with it first ? In order to answer that question, it is necessary to bear in mind what the different needs are of the people of this Province. Are the other needs fully satisfied ? Are they tolerably satisfied, so that because they are tolerably satisfied we ought to keep them aside for the moment and tackle this one and only question ? Let me take a few illustrations. First of all take the question of education. With regard to adult education, the position in this Province is this. So far as males are concerned, only 14.3 per cent. of

the male population is literate. So far as the female population is concerned, only 2.4 per cent. of the female population is literate. That means that practically 86 per cent. of the male population and 98 per cent. of the female population needs still to be taught the rudiments of education, so that they may carry on the activities of their life without falling a prey to the machinations of other classes. We have had a committee appointed by the Government to report upon this matter. That committee has made its report. But I do not find any provision made in the present budget to carry out the proposals made by that committee. Take children's education. What is the position in this Province ? In this Province, one thing which is absolutely undeniable is this, that this Government have repudiated their responsibility in regard to college education. I think there can be no doubt on the point. This Government do not regard giving higher education to the boys of this Province any business of theirs. That has been left by Government to private agencies. With regard to secondary education, the matter is more or less on the same footing. Government do not take responsibility on their shoulders but they supplement the monies collected by private agencies by small grants from public treasury. Therefore, we are really under a very limited field of activity so far as education is concerned. Then, primary education. What have Government done with regard to primary education ? From the figures that I have been able to collect yesterday, I find the present position is this. The Primary Education Act applies to children who are between 6 and 11 years of age. The total number of children between 6 and 11 is 2,479,000. Of these children, I think 754,000 are in schools; and the rest of them are not in schools. This proportion works out in this way. Out of every three children, one is in school and two are still outside school. Examine the question from another point of view, from the point of view of facilities provided by Government for primary education. According to Government figures, there are in the towns of this Province, 184 primary schools. This is with regard to towns. What is the position with regard to villages? The total number of villages in this Province is 21,484. Out of these only 8,599 villages have got schools ; and 12,885 villages have no schools at all. That is the position. Government do not even care to provide facilities for them, apart from the question of carrying out the provisions of the Primary Education Act. Now, Sir, one curious thing which strikes me at any rate, and I do not know whether it strikes the Honourable Finance Minister, is what would be the cost of making primary education compulsory. According to the figures worked out by the Primary Education Committee, what Bombay Government need to make primary education compulsory is 1.30 lakhs. Now, Sir, that is just the amount the Honourable the Finance Minister is raising by his taxation proposals. Apart from the question whether the taxation proposals are good or not, confining my attention to the question as to the best method, the proper purpose for which this money ought *to* be spent, the question that I should like to ask of the Honourable the Finance Minister is this. You are

raising practically 1,30 lakhs of rupees ; is it necessary that you should spend this money on improving the lot of a drunkard or should you spend this money on educating children who do not get education ? What is the choice that you make ? That is really the whole question. Is the education of children more important ? Is the education practically of 17 to 18 lakhs of children less important than the lot of 10 lakhs of city people who choose to drink ? Sir, I do not believe in it. I am a teetotaller and I wish everybody was. But the problem is really this. If you give me an educated man who is also a sober man. I welcome him. But, if you tell me to take sober man who is a fool, who is a dud, who does not understand anything, I for myself would prefer a man who drinks but who knows something. That is my position, I think that is the position which ought to be considered by the Honourable the Finance Minister when distributing this colossal taxation which he is levying on the Province.

Take another alternative thing. I refer to public health. The total expenditure this Province incurs on public health is a paltry sum of Rs. 31,48,000. It works out at the rate of 2½ per cent. on our total expenditure. Now, Sir, village water supply is a crying need; there are hundreds of villages which have no water supply at all. Any one who goes to the villages will mark that every village in this Province is nothing else but a dung heap. It is a misnomer to call it a village, it is a misnomer to call it a place fit for human habitation. The improvement of the insanitary condition and the abomination that exist in villages is certainly the crying need of our Province. Hundreds of people are dying from malaria, are dying from all sorts of diseases. There are hardly any dispensaries. There is hardly any provision made for distribution of medicine or medical treatment. There is no water supply, as I said. Last year, a provision of 10 lakhs was made. We do not know how that money has been spent. This year, I find there is some provision made, about Rs. 8,55,000. What is all this having regard to the enormity of the want ? Hundreds of people are dying by reason of the fact that there is no medical aid, no clear water to drink. The Finance Minister has chosen to spend this money in saving the souls to use a biblical expression—in curing the souls or in being the curate of 10 lakhs of drunkards in Bombay and Ahmedabad.

Then, Sir, take another point. The same point has been made, that we are taxing the city dwellers, we are taxing the urban population. Why are we taxing the urban population ? The reason why we are taxing the urban population is because we want to improve the amenities of the village folk. Is there anything of the kind done in this budget ? If the Honourable Minister was really doing the thing for which some friends of mine have given so much care and attention, I shall be very glad. On whom is it spent, this tax of 1.69 lakhs ? He spends on the drunkard who lives in the town. The poor man in the village does not get any benefit out of it. Take for instance, one single item, namely, the land tax. The total of the land tax in this province is Rs. 3,38,63,000. Ten lakhs were remitted last year.

This of course is not a permanent reduction. It is indicated in the budget that there will be a total permanent reduction of something like 40 lakhs. That means that the rural population will still have to bear 3 crores of land revenue. The question I would ask the Finance Minister is this : if he is raising this tax of 1.69 lakhs from the city dwellers, why is he not wiping out the land revenue altogether ? Personally, I would be very glad indeed ; I will withdraw all my opposition to these taxation measures if he spends all this money on wiping out the land revenue. Is he doing that ? Why is he not doing that ?

Now, Sir, there are just one or two points which I should like to touch upon. In this budget, the Honourable the Finance Minister seems to take credit for two things. One is, that after all he is levying all these taxes from the urban areas. The second is, that taking things by their total, there is no additional burden imposed, because what is levied by way of a new tax is remitted by prohibition and, therefore, on the total the sums are equal. Now, with regard to the first question, I should like to draw attention to some important figures. It has been my view, and that view is confirmed by such study as I have been able to make of the conditions of this province, that, so far as our province is concerned, agriculture is the most congested occupation. I am going to cite a few figures in support of that proposition. The first thing to be noticed is that Bombay is a small province in point of area. The total area of this province is 76,735 square miles ; which is really just one-half of the Madras Presidency, two-third of the Punjab, of the United Provinces and of the Central Provinces, and just a little less than Bihar and Orissa. Now, bearing this in mind, compare the area that is actually sown for purposes of cultivation, for raising food-crops. In Bombay, the total area that is sown is 32,801,971 acres. Now, as I said, although our province is small in area, the area actually sown in our province is just the same as that in Madras, a province which is twice as big as Bombay, and that in the United Provinces. It exceeds the areas sown in Bihar and Orissa and in the Central Provinces by about 8 million acres, and what is sown in the Punjab by about 6 million acres. My contention is that that shows that agriculture is the most congested industry in this presidency, that almost every inch of area which can be utilised has already been utilised, and that, therefore, there is no use driving people to agriculture. Take again a further comparison, that of the cultivable waste lands. In the United Provinces the cultivable waste land is 10 million acres ; in Madras, 13 million acres; in the Central Provinces, 14 million acres ; in the Punjab, 14 million acres ; and in Bombay it is only 6 million acres. Sir, that being the position, the view I take is—and I say this with full deliberation—that the salvation of this province and, if I may say so, the salvation of the whole of India lies in greater urbanisation : in reviving our towns, in building our industries, in removing as much population as we possibly can from our villages to the towns. What is there in villages ? After all, our village folks have no capital to run their agriculture in the

best way in which agriculture ought to be run. Population is increasing every decade, and land is being fragmented every time a man and heirs come on the spot. Everywhere the situation is as bad as one could conceive it. The only way by which you can increase the standard of living of the people in the villages is not to give them an antiquated machine like the charkha or to force them to weave cloth which they cannot sell in a competitive market. The way to increase the standard of living is not to destroy industries and other revenues of service in the towns and force them to go to villages. The way lies in the other direction, namely, in taking away as many people as you possibly can from the villages and bringing them to the towns, giving them employment in industries and establishing better ways of economic life. That is the way. Sir, I have no hesitation in saying that a man who is bent upon breaking up such little industry, such little urbanisation, as we possess is certainly no friend of the people ; if I may say so, I look upon him as an enemy of the people.

Now, as regards the second point. My honourable friend says : "After all, what am I doing ? Am I adding anything to the total ? No. I am raising Rs. 1,69 lakhs, but I am also giving up 1,25 lakhs of the drink revenue and 40 lakhs of land revenue." I do not know whether he is serious in taking credit for this. If he is, I would remind him of the potter who was given a certain amount of potter's clay. Sir, if the potter instead of making a Ganapati made a monkey out of that clay, or instead of making a good elephant out of it made a donkey, would you say that the potter was a good potter, because he did not use more clay ? I wonder what would be the answer. This is nothing else but making a monkey out of the thing ; nothing else but that Therefore, Sir, in my judgment, as I said at the opening of my speech, this budget so far as taxation is concerned, is a reckless thing, and so far as expenditure is concerned, is a senseless thing. Sir, we all ought to realise that this presidency is the most highly taxed presidency. The per capita taxation in the provinces of British India is—these are not my figures; they are figures that I have taken from the speech my honourable friend the Finance Minister delivered last year :—

				Rs.
Bihar and Orissa	...	...	...	1.29
Bengal	...	...	...	1.78
Assam	...	...	...	2.26
Central Provinces	...	...	...	2.72
United Provinces	...	...	...	2.29
Punjab	...	...	...	4.43
Madras	...	...	...	3.26
Sind	...	...	...	4.90
Bombay	...	...	...	6.00

This alone will show that we are a very heavily taxed people. As a matter of fact our expenditure also is so regulated that we have really very little

to spend. We have really, as a matter of fact, very little margin for the purposes of our expenditure. Practically the cost of collection in this Province makes up 15 per cent. of our revenue; Superannuation is 10 per cent.; Interest takes away 10½ per cent; Law and Order including Justice, Police and Jails takes away 18 per cent of our revenue; and what little remains is spent on the other subjects which may be said to be subjects of public welfare. This is the position. In fact, it is a very tight corner : so far as the revenue is concerned, our capacity is less, and so far as our appropriations are concerned, many items are such that they really do not give us anything by way of public welfare. In a situation like this, I think it was but necessary that the Honourable Minister for Finance ought to have been more cautious than he has been. I am sorry to say that he has not. (Applause.)

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*ON THE FINANCE ACT AMENDMENT BILL

Dr. B. R. Ambedkar (*Bombay City*)*:* Mr. Speaker, Sir, having applied my mind to the Bill which has been moved by the Honourable the Finance Minister, I find that the Bill seeks to make three provisions. The first provision which the Bill seeks to make is to make the property tax a first charge; the second provision is with regard to the penalty in respect of the non-payment of the tax and the third is the retrospective character sought to be given to the penalty clause in this Bill. At the outset, I am glad to say that I find an occasion to congratulate the Honourable the Finance Minister on the declaration that he made in the course of his speech to which we have now listened, namely, that he would be prepared to accept an amendment in order to take away the retrospective character of the penalty. So far so good. With all that, it is not possible for me to pass from this point to other points in the Bill without expressing my sense of surprise that a Government which includes in it no less than five eminent lawyers should have thought it fit at the outset to bring in a Bill with a penalty which has got a retrospective character. I think it is a shocking thing. It should never have been brought in that form. However, dropping the matter aside, the two other provisions in the Bill which now call for attention are the two remaining ones, namely, whether the property tax should be made the first charge and whether there should be any penalty with regard to its non-payment.

I will take the second point first with regard to the question of penalty. I think it would be desirable if I draw the attention of the House to one or two points connected with that aspect of the Bill. My learned friend would have noticed—he perhaps has not paid sufficient attention to it—that the Municipal Act itself makes no provision for imposing any penalty for non-payment of the municipal part of the property tax. Section 200 of the City of Bombay Municipal Act provides that as soon as assessment is made, a bill shall be presented to the occupier who has to pay up the tax. Then section 202 provides that such a bill shall be met within 15 days from presentation. Then section 203 provides that if the bill is not paid within 15 days from the date of presentation, it shall be followed up with what is technically called notice of demand. Then section 203 says that if the amount due and mentioned in that notice of demand is not paid within 15 days, the municipality shall have certain rights for the recovery of the

*B.L.A. Debates, Vol. VI, pp. 1033-37, dated 28th August 1939.

amount due. Now, under the Municipal Act, there are only two provisions included in it in order to enable the municipality to recover the amount of property tax from the person who has defaulted. The first step is to levy a distress upon the property of the defaulted. The second method permitted to the municipality is to file a regular suit in the ordinary way. But, so far as penalty is concerned, there is none whatever in the Municipal Act itself. Then, coming to other financial measures I proceed to mention the provision in the Income Tax Act. My honourable friend must have noticed that there is a certain kind of penalty provided under the Income Tax Act that might be levied on the persons who are defaulters. That is done under section 45 of that Act. That is a big section and I do not want to go into it. I can mention the gist of it by saying that the scheme included under section 45 for the purpose for a continuing default. That is to say, if you make a default for one day, you will have to pay a certain penalty, if you default for two days then a further amount of penalty. That is penalty in a progressive manner. The maximum of penalty mentioned here is the amount of the tax itself. The provision contained here is not a continuing penalty for a continuing default. Then, I come to the Bombay Land Revenue Code. The penalty is mentioned in section 148. There, the provision is merely this. If there is a person who is a defaulter in the sense that he has not paid his instalment within the period fixed, then the Collector shall either levy a penalty, or interest on the amount due. According to the rules, there is one authorising Government to make a rule in that behalf. Having gone through the rules made by the Government of Bombay under the Land Revenue. Code, I find that the Government have made no rules at all with regard to the levy of penalty or with regard to the charging of interest. There is a casual mention in the notice of demand itself which fixes the penalty at a maximum of one-fourth the amount due. Now, Sir, I readily admit that the principle of penalty is new but it is something which undoubtedly exists in many financial provisions. Now, the questions we have to consider are with regard to the manner in which it is prescribed and the amount of maximum penalty that is laid down.

With regard to the other provisions of the Bill, the Honourable Minister has told us that they were merely consequential. Speaking for myself, I should have thought that they are the most contentious part of the Bill. If there is any provision in this Bill which makes me oppose it, it is really section 24B which my honourable friend seeks to introduce. First of all, let me deal with the arguments that this is merely consequential. Is it consequential or is it making the most radical, or if I may say so, revolutionary—

The Honourable Mr. A. B. Latthe: I never said that it was consequential—

Dr. B. R. Ambedkar: I withdraw—

The Honourable Mr. A. B. Latthe: I said that it was for making the provision clear.

Dr. B. R. Ambedkar: By trying to make the position clear, I have no doubt my Honourable friend the Minister has placed the Municipal Corporation of Bombay City in the issue. What is the position at which we

are now ? The position seems to be this, whether the amount due to the Bombay Municipal Corporation in respect of the urban property tax should be the first charge or not. You will recall one point of attack levelled against the Bill when it was first discussed in February was this, that the Government by taking the urban property as a basis for provincial taxation was really invading the domain which by tradition and by common consent had been reserved for the municipality for taxation. One of the points of criticism which was given expression to by many members on his side, and particularly by my honourable friend Mr. Jamnadas Mehta, was this, that by trespassing into the domain of their taxation Government had crippled the municipality. That is one point of criticism. Another point of criticism against this Bill was that it was very wrong on the part of this Government to use the Bombay Municipality as an agent for the collection of those taxes. One of the points made was, just as the Central Government use their own machinery for collecting such taxation as it levies—for instance, excise revenue, income-tax, salt duty, similarly the Government of Bombay should collect this levy by agencies belonging to itself. My honourable friend departed from that well established principle, from that most efficient practice, and utilised the services of the municipality for the purpose of collecting this revenue. Fortunately, he did not then add to the troubles of the municipality which he is now doing. He did not have the courage then to say that the tax collected by the municipality on behalf of the Government of Bombay under the urban property tax was to be the first charge. That he did not say. I have gone through the Bill. I do not find any provision to that effect at all. Therefore, I contend that this is a new ground we are travelling.

What was the position before this Bill ? If one refers to section 212 of the City of Bombay Municipal Act, the position was this : according to that section, the land revenue was the first charge on the property situated in the City of Bombay and which is subject to the municipal tax leviable by the municipality. After the land revenue, the first thing that came in order of priority was the municipal claim. That was the position. What is going to be the position now ? The position is going to be this. Land revenue will be the first charge ; the urban property tax due to Government is the second charge ; and the municipality which has an integral interest in this property tax is to come last. Sir, is that an enviable position from the point of view, of the Bombay Municipality which is to carry on its shoulders the burden of the welfare of practically 13 lakhs of people ? Is it right and fair that we should consent to a Bill which places the municipality's claim last ? My honourable friend is responsible for the levy of this urban tax. As he himself stated in the course of his opening remarks this measure is being opposed by the people—

The Honourable Mr. A. B. Latthe: I said, by a section—

Dr. B. R. Ambedkar: That is enough for me. (Laughter.) He said that there is opposition to this measure. If there is opposition to this measure, what kind of opposition is it ? We must realise it. I do not think I am making a false statement or one which is not within the knowledge of the Honourable the Revenue Minister. And the statement is this—and I think my honourable friend the Leader of the Opposition will bear me out that

apart from the small sections of landowners opposing the Bill, the whole of the Mahomedan community is opposing it. I think there is not the slightest exaggeration in that. They are : rightly or wrongly, I do not care to examine at this stage. Therefore, it is not the case of a single recalcitrant individual not being prepared to pay; it is a whole community which is opposed to it. Now, Sir, what is the position that we are going to have as a result of this Bill ? The position is this. The municipality is called upon to recover both its own tax levied on properties and the tax levied by the Government of Bombay and to be collected by the municipality on behalf of the Government of Bombay. Now, my honourable friend will not find it agreeable if I state that like a robber he comes forward and pounces upon the money collected by the municipality irrespective of the fact whether the amount collected by the municipality is collected on his behalf or whether it is collected on behalf of the municipality itself. The moment he sees with his open eyes that the bank balance of the municipality is inflated, without examining what the debit side of the municipality is, he issues a warrant to the bank quite at home. The municipality is left high and dry. What is the municipality to do ? The municipality, according to the scheme of the Bill, is to proceed against the whole community and to collect the tax. Now, the point I am putting to my honourable friend is this. If he has the courage, let him collect the tax himself. How can the municipality collect this tax, if it has to come against organised resistance—resistance, let us all be aware of it, coming from the Muslim community, who observe purdah ? Who will have the courage to enter their houses and find out what trinkets they have and what jewels they have ? What is the municipality to do in this case ? It has not an army of police ? It has no material and no means of forcing people. After all, as he has to levy the tax, then let him come but and as a courageous man employ his own agency and hook it from those who do not want to pay Why put the municipality to any difficulty ? That is my point. The rest of the thing I do not care to discuss; I do not mind. But the point really is this : Should the Government of Bombay be allowed to put the municipality of Bombay in so difficult a position, for reasons for which the municipality is not responsible ? Why should you shirk your responsibility ? It is no exaggeration to say, and I have no hesitation in saying, that this is a most cowardly Bill. If you say your tax is popular, why are you shirking the responsibility of collecting it ? Why are you throwing the burden on the municipality ? Why are you employing their resources ? From that point of view, I certainly think this is a cowardly Bill which ought not to be supported.

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*ON GRANTS FOR EDUCATION

Dr. B. R. Ambedkar: Mr. President, I do not wish to take much time because I know that the time that we have at our disposal is very short. All the same, I wish to present certain points for the consideration of the Honourable the Minister for Education.

The first point that I wish to bring to his attention is the fact that we are making indeed a very very slow progress in the matter of the education of our children. The recent report issued by the Government of India on the progress of education makes a very sad reading. It says that if the progress of education goes on at the rate at which it is going on today it will take 40 years for boys and 300 years for girls of school-going age to be brought under education. I beg to submit, Sir, that that is a very dark-prospect for this House to contemplate. The Honourable the Finance Member on the day on which he presented his budget told us that from the year 1921-22 to the present day, the expenditure on education had increased by something like 39 lakhs. Sir, taking into consideration the amount of increase of expenditure on education and the increase in the number of pupils in the schools, I find that the increase in the number of pupils is certainly not commensurate with the increase of expenditure on education. If we take the statistics from 1916-17 to 1922-23, we find that the expenditure on education has increased by something like 100 per cent. while the increase in the number of pupils during the same period is only 29 per cent., Sir, I know that there is a great financial stringency in this presidency, and that we are not at present situated in a position to ask for a rapid increase in education, but we can certainly plead for one thing. We have in this presidency two departments, which if I may say so are working at cross purposes. We have the Department of Education, the purpose of which is to moralise and socialise the people. We have on the other hand the Department of Excise which is working, if I may say so, in the reverse direction. Sir, I think that it is not asking too much if I plead that we should at least spend on education the same amount that we take from the people in the form of excise revenue. The amount of expenditure that we incur per individual in this presidency on education is only 14 annas, but

*B.L.C. Debates, Vol. XIX. pp. 971-76, dated 12th March 1927.

the amount of money that we recover in the form of excise revenue is Rs. 2-2-9 (Rs. 2.17), I think it is only fair that our educational expenditure should be so adjusted that we should spend on the education of the people as much as we take from them in the form of excise.

Another matter which is more or less analogous and to which I want to draw the attention of my honourable friend the Minister for education is that, at present the amount of money which we are spending on primary education is to a large extent really wasted. The object of primary education is to see that every child that enters the portals of a primary school does leave it only at a stage when it becomes literate and continues to be literate throughout the rest of his life. But if we take the statistics, we find that out of every hundred children that enter a primary school only eighteen reach the fourth standard; the rest of them, that is to say, 82 out of every 100, relapse into the state of illiteracy. What is the remedy for this state of affairs ? Sir, the comments made by the Government of India in its report on the review of education, I think might, without much excuse be read to this House. The report says : —

> "The wastage in educational effort is immense and most educationalists are of opinion that there is no solution to this problem of wastage in educational effort in India, but compulsion. The total wastage of educational effort and its concurrent dissipation of educational funds in the primary classes is about fifty per cent of the total energy put forth."

I therefore request the Honourable the Education Minister to spend more money on primary education, if for nothing else at least for the purpose of seeing that what he spends bears some fruit ultimately. Sir, this argument is not very different from the argument that was urged from the official benches in the matter of Back Bay reclamation. We were urged to spend more money on Back Bay because we were told that if we do not spend more money on Back Bay what we have spent will be an utter loss. I think the same argument might be utilised in this case, as well, and we can say that unless we spend a sufficient amount of money, to see that every child that enters a school reaches the fourth standard, what we have already spent upon him is of no purpose whatsoever.

Sir, the third matter to which I wish to draw the attention of the Honourable Minister for Education is this. Going over the figures which give us information as to the manner by which we finance education in this presidency I find that out of the total expenditure which we incur on arts colleges, something like 36 per cent is financed from fees; out of the expenditure that we incur on high schools, something like 31 per cent. is financed from fees ; out of the expenditure that we incur on middle schools, something like 26 per cent. is derived from fees. Now, Sir, I submit that this is commercialisation of education. Education is something which ought to be brought within the reach of every one. The Education Department is not a department which can be treated on the basis of *quid pro quo*. Education ought to be cheapened in all possible ways and to the greatest

possible extent. I urge this plea because I feel that we are arriving at a stage when the lower orders of society are just getting into the high schools, middle schools and colleges, and the policy of this department therefore ought to be to make higher education as cheap to the lower classes as it can possibly be made. I therefore wish to draw the attention of the Honourable Minister for Education to this rather glaring fact in the administration of education in this presidency.

Sir, the fourth point that I wish to bring to the attention of my honourable friend the Minister for Education is the great disparity in the comparative advancement in education of the different classes in this presidency. But before I go to that, I wish to explain one fact, namely, that the census report of this presidency has, for the purpose of comparing the advancement of the different communities in the matter of education, divided the total population into four different classes. The first class is called "advanced Hindus", the second class is called "intermediate Hindus" and it includes those people who for political purposes have now been designated as non-Brahmins i.e., Marathas and allied castes.

There is a third class called the backward classes which includes the depressed classes, Hill Tribes and the Criminal Tribes. Then, we have the fourth class which covers the Mahomedans. Bearing these divisions in mind, one sees a great disparity in the comparative advancement of these different communities in the matter of Education. Comparing these classes of people, according to the order in which they stand on the basis of population and according to the order in which they stand on the educational progress, what do we find ? I find that the intermediate class, namely, non-Brahmins, who are first in order on the basis of population, are third in college education, third in secondary education and third in primary education. The Backward classes who are second in order of population are the fourth in the order of college education, fourth in order of secondary education and fourth in order of primary education. The Mahomedans who are third in order of population are second in the order of college education, second in the order of secondary education and second in order of primary education. The advanced Hindus who are fourth in order of population are the first in order of college education, first in order of secondary education and first in the order of primary education. Now, Sir, I have given an idea of the comparative disparity in the educational advancement of the different communities. But the figures do not give us the range of disparity in the advancement of the different communities in our presidency. I will, therefore, present the following figures to the Honourable the Minister for Education for his serious consideration. Taking first the primary education, we find there are—

Advanced Hindus	. . .	119 students per 1,000 of their population.
Mahomedans	. . .	92 students per 1,000 of their population.
Intermediate Class	. . .	38 students per 1,000 of their population.
Backward Class	. . .	18 students per 1,000 of their population.

That is the state of the primary education. Coming to the secondary education, we find—

Advanced Hindus	. . .	3,000 in one lakh of their population.
Mahomedans	. . .	500 in one lakh of their population.
Intermediate Class	. . .	140 in one lakh of their population.
Backward Class	. . .	14 in one lakh of their population.

That is the state of the secondary education. Now, coming to the college education we find—

Advanced Hindus	. . .	1,000 in two lakhs of their population.
Mahomedans	. . .	52 in two lakhs of their population.
Intermediate Class	. . .	14 in two lakhs of their population.
Backward Class	. . .	Nil (or nearly one if at all).

That is the state of the backward class, as far as the college education is concerned, when their total population is something like 37½ lakhs. Sir, these figures show two things conclusively : one, that the different communities are not on a par in the matter of education. They also show another thing to which I should like to draw the attention of the honourable House, namely that the Mahomedans have stolen an enormous march in the matter of education. Sir, this is not an imaginary statement. The statistics I have given to this honourable House are from the Report of the Director of Public Instruction for Bombay for 1923-24, and in support of this argument I may cite the opinion of no less a person than Sir Ibrahim Rahimtoola who made the same remark from the presidential chair of the Mahomedan Conference. It may be remembered that I am not making this statement in any carping spirit nor grudge the efforts that Government have made in the matter of the education of Mahomedans. I must here emphasise that this country is composed of different communities. All these communities are unequal in their status and progress. If they are to be brought to the level of equality then the only remedy is to adopt the principle of inequality and to give favoured treatment to those who are below the level. There are some I know who object to this and adhere to the principle of equality of treatment. But I say Government has done well in applying this principle to the Mahomedans. For I honestly believe that equality of treatment to people who are unequal is simply another name for indifferentism and neglect My only complaint is that Government has not yet thought fit to apply this principle to the backward classes. Economically speaking or socially speaking, backward classes are handicapped in a manner in which no other community is handicapped. I, therefore, think that the principle of favoured treatment must be adopted in their case. As I have shown, their position is worse than that of the Mahomedans and my only pleading is that if the most favoured treatment is to be given to those who deserve it and need it most, then the backward classes deserve more attention of Government than do the Mahomedans. That is the question which I prominently, wish to place before this House, and I urge upon the Honourable the Minister for Education that he should adopt the same

methods and principle towards the uplift of the backward classes as have been adopted towards the uplift of the Mahomedan community. Sir, I may refer the Honourable Minister to the instructions issued by the Government of India in 1885 on the Report of the Education Commission of 1882. There were several proposals put forward for improving the education of the Mahomedan community ; the proposal on which the Government of India, however, laid stress was the appointment of a special inspecting staff to look to the educational wants of the Mahomedan community and to bring home to it the necessity of education. I think there is an equal urgency for special inspecting staff to look after the education of the depressed classes. I may mention, Sir, that the Primary Education Act is a great wrong. Perhaps honourable members may not agree with me, but I say it is a wrong, it is double wrong. It is wrong because the responsibility of education is transferred to the hands of those who are not enlightened enough to understand that education is a great necessity. If there are any people who realise the necessity for education they are not to be found in this Council. The members of the local boards are too uneducated to realize that education is a necessity. Therefore, I say this Council has done a great wrong in transferring the responsibility for education to the hands of those people who do not feel for education. Again, the transfer of education to local bodies is a wrong because the burden has thereby been transferred to shoulders less broad to bear it. Sir, education of the masses, we all realize, is a matter of great cost and if there is any body which can be said to be able to bear it, it is this Council with its revenue of 15½ crores and not the local bodies with their meagre revenues of a few lakhs. I feel, Sir, that this Council in transferring education to the local bodies has practically postponed the spread of education among the masses *sine die* and in doing so has gravely erred. But, Sir, this is only preliminary to, the point which I wish to make, namely that the people who are the greatest sufferers by this wrong are the depressed classes. With great respect to the Honourable the Minister for Local Self-Government, I am impelled to say that his local boards are conceived after the fashion of money houses in a museum where the aim of the curator is to make room for one individual of every species. Sir, there is only one representative of the depressed classes provided in each local body. What is the utility of having only one representative of these classes ? I cannot understand. If, for instance, the representation of the depressed classes in a local board is intended to force upon the local board the policy which is in the interests of the depressed classes, it is futile. For, certainly, one man cannot count in a body of ten or twelve. I hear complaints from all parts of the presidency that, under the present regime, the depressed classes find themselves in a most helpless condition. They are surrounded by people who by no means share their aspirations or their desires for advancement and betterment. There is, therefore, all the greater necessity, I say that this Government should employ certain inspecting agency under their direct control which will see that the depressed classes are not neglected by the bodies to whose charge such an important subject like education has been entrusted.

The second thing that I wish to say about the depressed classes is that

I find a certain sum has been set aside in the budget for scholarships for the backward communities. Now, Sir, I cannot understand the connotation of the words "backward classes" as used in the budget. I would have very much wished that the Honourable Minister had adopted the same-phraseology which the Director of Public Instruction adopts in his report, and I should very much like to see that he allocates a separate and distinct sum to each of the different communities which he proposes to include in the term "backward classes." We would then be in a position to know how the intermediate Hindus, backward Hindus, and the Mahomedans progress year by year. Now-a-days we are lumped together, when, as a matter of fact, there is no reason to lump us all together, because we are certainly different from one another however much we might wish to say we are one.

And the third thing which I wish to point out and which I hope the Honourable Minister will give his best consideration to, is the method of giving scholarships to the boys of the depressed classes. Now scholarship as an aid is better than no aid at all. But my honourable friend the Minister for Education will take it from me that my enquiries and my experience show that the method of giving scholarships is really a waste of public money. The depressed class parents are too poor, too ignorant, to understand that the help given by Government is really the help for the education of the child. The scholarship is looked upon by the parent as a family aid to meet their expenses. It is certainly not made available for the education of the boy as such, which is the primary object of the scholarship. Secondly, Sir, with the scholarship I have found that the boy is never able to reach the goal. There are a variety of reasons for that. First of all, a boy of the depressed classes is growing up in an evil set of surroundings. .....

An Honourable Member: Who is responsible for that ?

Dr. B. R. Ambedkar: God knows. He is brought up in circumstances which are by no means desirable, and when a boy gets a scholarship, he is an easy prey to all sorts of evil influences. Without proper direction he succumbs and gives up his education and money spent upon him is lost. I would, therefore, put it to the Honourable Minister whether it will not be better for him to spend this money in promoting hostels which either Government may open of its own accord or which may be opened by private agency for the promotion of the education of the backward classes. Sir, it will be a double saving. A hostel, first of all, weans the boy from evil surroundings. It provides effective inspection. And when a hostel is managed by private agency, it will mean some saving of money to Government.

Sir, these are the three suggestions which I wish to make in the very short time that is at my disposal. I hope that my honourable friend the Minister of Education will carefully consider them and do the needful in the matter.

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*ON THE BOMBAY UNIVERSITY ACT AMENDMENT BILL: 1

Dr. B. R. Ambedkar: Mr. President, I have listened with great interest to the speech which was delivered by my honourable friend the member for the University of Bombay. He has so exhaustively covered the subject in his speech which it took him an hour and twenty minutes to deliver that I fear very little is left for me to say. However, I think it fortunate that there is a point of view which has not been so far presented before this House either by my honourable friend the representative of the University or by my honourable friend Prof. Hamill who was specially called in to advise us on this important bill which we are discussing to-day. Sir, my honourable friend Mr. Munshi devoted a considerable part of his speech to the organization of the University of Bombay. He talked with a great deal of intimacy as regards the relations of the syndicate, the senate and the academic council as laid down in the Bill. I have not the good fortune to be a member of the University. I cannot therefore say with the same authority as to whether the provisions that have been incorporated in this particular bill will produce the results which we all desire that it should produce. But, Sir, I must say with due respect to my honourable friend the member for the University that even if we succeed in establishing the relations between the three bodies in the way in which my honourable friend wants that they should be, I am afraid that in the end we will be getting only the shadow but not the substance. Sir, the bill is primarily intended, if I understand the Honourable Minister for Education correctly, to organize the University of Bombay into a better teaching university. That I consider to be one of the principal objects of this Bill. Now, Sir, when I come to analyse the provisions that are incorporated in this bill must say that I felt that in this particular matter we are sure to be disappointed. One of the greatest defects from which this University has suffered ever since it was established was that it was primarily constituted as an examining body.

Sir, it must be realised that the University cannot succeed in promoting research or in promoting higher education, if it makes the examination

*B.L.C. Debates, Vol. XX, pp. 825-33, dated 27th July 1927.

system the be-all and end all of its existence. This fact was recognised by the University Commission of 1902 and the bill which followed the report of that Commission recognised that the statute which brought the University into being must be altered so as to enable the University directly to undertake teaching besides its usual task of examining the scholars appearing at its examinations. Now, Sir, when that particular Act of 1904 came into operation, the University, of course, was blocked in its path of undertaking higher education by the existence of a certain number of colleges which were already existing at that time. Obviously, therefore, Sir the only thing that the University could do was to appropriate to itself the field of what is called post-graduate work, and since 1912 the University of Bombay has been following along that line and has established what is called a School of Sociology and Economics to deal particularly with those students who care to take up post-graduate work in that department. I understand, Sir, that the University is also desirous of establishing certain other post-graduate faculties in order to carry out the mission which has been entrusted to it by the Act of 1904. With due respect to those who have framed this bill. I must say, Sir, that they have not paid any attention to the results of this policy of bifurcation that has been adopted by the University in carrying on its function as a teaching university. Sir, I think my honourable friend Prof. Hamill and my honourable friend Mr. Munshi will bear me out when I say that this bifurcation was brought into being by the Act of 1904, by which the University has appropriated to itself the post-graduate work and has relegated to the colleges the under-graduate work has brought about a certain amount of rivalry—I may almost say a certain degree of enmity — between the two institutions. Although my experience of this is limited, yet I was a Professor for sometime in one of the colleges, and even though I am no longer a Professor, I still have the chance of meeting my old colleagues and they tell me that the relations between the University Professors and the Professors of the colleges are not as cordial as they ought to be. Surely, Sir, that must be so. When, for instance, a University sets up itself as something higher, as something superior to the other colleges which are already carrying along similar education in their own way, one is apt to feel jealous of the other. Now, I submit, Sir, where a college professoriate is not on amicable terms with the professoriate established by the University, I think no research, no promotion of knowledge, can be carried on with any benefit either to the colleges or to the University, or to the public at large.

Secondly, I submit, Sir, that unless the University undertakes undergraduate teaching, any amount of super-imposition of post-graduate work will not be of any avail whatsoever. Sir, what is the position of the different colleges that we have to take ? Apart from the Government colleges, I beg to submit, Sir, that most of the colleges are established as a result of private effort, and I do not mean any disrespect to those who are serving upon these colleges, when I take the liberty of stating that I do not think

that the colleges are able to cope satisfactorily with the training of the under-graduates. First of all they are inadequately staffed. Take, for instance the two subjects which were my special subjects, namely, history and political economy. I find that a college has generally two professors on its staff to deal with these subjects. Now, I think it would be absurd to believe that two professors in a college can adequately teach such a vast subjects as political economy or history. The result is and I think my honourable friend Prof. Hamill will bear me out when I say that every professor is obliged to lecture for something like thirteen hours in a week. I say that a professor who is made to work in that galley slave fashion can never be a teacher in the real sense of the word. He can only be a hack doing a task with the help of ready-made notes. We can expect no originality from him and he can give no inspiration to those who may have the misfortune to listen to him. The whole study is bound to be a merely mechanical process. Not only are the colleges under-staffed but they are generally staffed by men not because they have more to give to the colleges but because they are willing to accept less. With the help of the army of under-graduates, any adventurer can form a college and get the control of under-graduate to teaching. I say, Sir, if your under-graduate work is as bad as I have described it to be, a university which merely super-imposes postgraduate to work upon it cannot succeed in promoting real knowledge or real research. Thirdly, the present system involves absolute waste, and I think that by a better organization of the University and the colleges this waste could be easily avoided. Take, for instance, the question of teaching of political economy in the city of Bombay itself. There are, Sir, to my knowledge somewhere about six professors at the Sydenham College of Commerce who deal particularly with the subjects of history and political economy and commercial geography. There are two professors at the Wilson College who are also dealing with the same subjects. There are two at the Elphinstone ; there are two at the St. Xavier's. Altogether, Sir, in a city like Bombay we have, so to say, a faculty engaged in the teaching of history and political economy which is composed of twelve teachers. Surely, Sir, if these four colleges, with their twelve professors on them, could be organized in such a fashion that the lecturing system was pooled and the students in the different colleges were allowed to listen and attend to the lectures to be delivered in any one particular college, the professors who are lecturing would be easily released to do some other kind of special work. If that is done, I am absolutely certain that these twelve gentlemen, who are now lecturing on the same subjects in the different colleges, not only will be able to manage the under-graduate teaching, but also can manage the post-graduate teaching as well. So that the expenses which we now have to incur on the extension of the School of Sociology and Economics will certainly be saved for better utilisation on other subjects. Now, Sir, not only does this waste take place with regard to the post-graduate teaching of history and political economy; but I submit,

Sir, that this waste will take place with regard to any other subject that the University might appropriate to itself as a subject for post-graduate research, for the simple reason that our colleges are, so to say, pocket universities in themselves. Each college is teaching almost every conceivable subject, and it has upon its collegiate staff, professors who teach all subjects which are laid down for the University examinations. That being so if the University establishes separate professors for post-graduate work there is bound to be duplication and waste in addition to the several disadvantages which I have mentioned in the earlier part of my speech. I therefore submit, Sir, that if the object of the bill is to promote higher education and research, the best method would be not to separate the colleges from the University as has been done now but to make a synthesis in which the University and the colleges would be partners on terms of equality and would be participating in promoting together, both the undergraduate and the post-graduate studies. Sir, what I have stated I must say is really not mine. It is what was recommended by the Sadler Commission which analysed a similar problem which faced the University of Calcutta. There is no doubt about it that the Sadler Commission was one of the most expert Commissions that could possibly be had in this country. I do not personally understand how, for instance, this Government can strut about with a report brought about by men who were absolutely inexpert in their job and pit it against the elaborate and considered judgment of experts who sat upon the Sadler Commission.

I have read with great care the report prepared by the University Committee for the reorganisation of the University of Bombay. But I have found nothing in it which can lead me to alter my opinion* that the recommendations of the Sadler Commission will be far more effective and beneficial than the recommendations of the Bombay University Committee. I, therefore, think that it would be far better if my honourable friend the Minister for Education could still in some way, either by introducing provisions in this bill itself or by giving powers to the Senate in the matter of making regulations, allow the University to localise teaching by giving greater control over colleges which may be called "constituent colleges" situated in geographically compact centres. The committee has, I think, admitted that Poona is a place which is ripe for establishing a separate university. There is no doubt that Bombay itself is ripe to have a separate university for itself and I think that if the colleges located in these two centres were separated and grouped into a university, we would be solving the problem of the promotion of higher education and research. As regards mofussil colleges which are scattered about in the Presidency we can very easily deal with them by adopting the suggestion of the Sadler Commission which recommended the establishment of a "Mofussil Board." I say that

*Dr. Ambedkar's written evidence to the Bombay University Reforms Committee is printed as Appendix III.

the scheme suggested by the Sadler Commission is a hundred times better than the scheme recommended by this Reforms Committee, namely, the appointment of a Rector. This is all, Sir, that I have to say as regards the organisation of the University itself.

Now, I wish to turn to the question of the composition of the Senate. A great deal of heat was generated yesterday by the speech of my honourable friend Mr. Jadhav when he said that the statement of objects and reasons does, not recognise/the necessity of the representation of backward communities on the Senate of the University of Bombay. I was somewhat surprised to see that my honourable friend, the member for the Bombay University, flared up at once. But I should like to point out, Sir, that we always kick the ladder by which we rise, and that my honourable friend, the member for the University, who has violently disclaimed communalism in himself is no an exception. Sir, I should like to remind him that he himself had issued a manifesto to the graduates of the University to support him on the ground of Gujarat was for Gujaratis. I would like to ask him now if that is not communalism, what is communalism ? I should like him to answer that . . ..

Mr. K. M. Munshi: I am glad to say, Sir, that that statement is absolutely incorrect.

Dr. B. R. Ambedkar: It is not absolutely incorrect. I myself have read your manifesto. However, politicians are men with very short memories.

What I want to state on the floor of this House is this, that I do not think that the Hindus and Mahomedans, constituted as they are, can honestly say that they are non-communal in their attitude towards each other. No member in this House can say that he is non-communal in his attitude. I challenge any honourable member to deny it . . ..

Rao Bahadur R. R. Kale: I challenge that statement.

Honourable Members: We challenge that statement too.

The Honourable the President: Order, order. No conversation across the table, please.

Rao Bahadur R. R. Kale: But the honourable member Dr. Ambedkar said that he would challenge any honourable member to deny his statement.

Dr. B. R. Ambedkar: There can be no gainsaying about this, that every Hindu and every Mahomedan is born in a certain caste or a community. There is no gainsaying that we are brought up and bred up in a communal environment. We share the aspirations and the ambitions of that community ; we feel the disabilities of that community and consequently, there can be no doubt in my mind that every member in this House as well as outside is bound to look at every question consciously or unconsciously from a communal point of view.

Honourable Members: No, no.

Dr. B. R. Ambedkar: I refuse to believe in the "Noes" absolutely; I call it hypocrisy—It is absolutely hypocrisy to shout "No", Sir. I myself look at every question that comes up before this House—I honestly

admit—from a communal point of view and I ask myself whether it would be good for the depressed classes or not.

Mr. K. F. Nariman: Sorry.

Dr. B. R. Ambedkar: Those who say "sorry" are themselves not free from communalism. It is very easy to talk about non-communalism, because it is only talk. We know, Sir, that we are so minded that we cannot, for instance, associate with other communities on terms of equality, that whenever we want to marry our daughters we begin to ask whether the bridegroom to be is a man Of our own caste or not (Laughter), when we want to invite guests for dinner we commence to enquire whether they are members of our own community. .....

Mr. B. G. Pahalajani: I challenge that.

Dr. B. R. Ambedkar: It is sheer hypocrisy to say that we do not do these things. I wish the honourable members to realise that this is a defect for which I do not accuse any one community. I say, Sir, that it is a blemish from which we all suffer. That being so, it ought to be recognised that no one community, however intellectually advanced it may be, can be the guardians of other communities. This has been recognised even by the legislators who framed the Reforms Act. If that was not so, we would not see in this Council separate representation for Mahomedans, separate representation for backward classes and separate representation for the depressed classes. It is because we are constitutionally unable to take a larger view of the situation and in order that the operative forces of communalism may be checked, that this counter-check has been provided and I think very wisely provided by these legislators. I should like to be honest, Sir, and I do hope honourable members will be honest on this point. There is no use talking one thing and doing another. That is the reason, I submit, why there is a necessity for the representation of communities, which are not intellectually advanced, on the Senate of the Bombay University. I submit Sir, that I do not wish to accuse the Senate of any conscious bias at all, yet I say that the policy of the Bombay University hitherto has not been very encouraging to the backward or the depressed classes. I will cite only one instance. Take the instance of the system of education that has been adopted by the University. There is no doubt about it in my mind and I do not think that those who represent the University will deny the fact, that our system of examination is the severest possible that exists in India to-day. This is no doubt justified by certain educationists in India who believe that the raising of the standard of examination is equivalent to the raising of the standard of education. I beg respectfully to differ from them. Examination is something quite different from education, but in the name of raising the standard of education, they are making the examinations so impossible and so severe that the backward communities which have hitherto not had the chance of entering the portals of the University are absolutely kept out. But I do not wish to speak of that; because that system applies to all communities alike.

But, Sir, just think of it. Has the University ever considered the effect of simultaneous examinations on the progress of education of the backward communities ? I do not understand what virtue there is in demanding that a particular candidate who appears at an examination shall pass in all the papers at one shot. It may be a matter of indifference, for instance, for students whose parents are rich enough, who can spare time to attend the colleges during the day time and who can devote their whole time to education. But what about the poor, the poverty-stricken parent, who requires his son to earn in the day time to add to the family earnings in order to make both ends meet ? What about the boy who finds very little during the 12 hours of the day to devote to university education ? Surely, if the University was mindful of the economic condition of the backward communities, it certainly would not have persisted in a system of simultaneous examinations which in my opinion is absolutely unjustifiable and absurd. I will give you another instance which comes to my mind just now, because my honourable friend Mr. Munshi says that the University has been doing everything without showing any preference of any kind to anybody. One of my friends, who has been nominated to the University Senate, told me the other day he twice moved a resolution in the Senate that candidates belonging to the depressed classes who appear at University examinations should be shown some concession in the matter of fees. I understand from him that the proposition was twice turned down by the Senate.

An Honourable Member: There are poor people in all communities.

The Honourable the President: The honourable member should proceed without minding interruptions.

Dr. B. R. Ambedkar: It has been everywhere recognised, even by the Government, that there are communities which are economically poor and which do require certain special concessions from the Government, in order that they may come on the same level on which the other communities are. If this wise principle cannot be appreciated and understood by the Senate, then I submit such a Senate can never be the guardian of the interests of the backward classes at all.

My honourable friend Professor Hamill made certain remarks in the course of his speech, and I think it is necessary that I should deal with him, although I do not wish to take much of the time of the House. He said that the depressed classes and the backward classes could certainly get nomination on the Senate, if they can help the efficiency of the University. I think that was the line of argument that he adopted, that if the members of the depressed classes were experts in educational matters, they should certainly have a seat on the Senate of the University of Bombay. Now, I should like to say that my honourable friend Professor Hamill absolutely forgets, when he makes that statement, the true function of the Senate. The Senate is not an executive body of the University. No member from the backward classes has asked for any special representation on the

Syndicate or on the Academic Council. I recognise, and I realise fully as well as my honourable friend Professor Hamill does, that these two bodies are no doubt bodies which are to be manned by experts, who will run the show of the University. But I have to remind him that the Senate is entirely intended to be a legislative body, a body which has to put forth the needs of the backward communities and to suggest the facilities that are necessary for meeting them. The Senate in my opinion, corresponds exactly to our Legislative Council, and we have in this Legislative Council members from the depressed classes, who are appointed not because they desire to displace any honourable members who are sitting here on the Government side but their only business here is to point out to the Government what are the needs of the communities which are suffering under disabilities. That is all we are asking, and I think when my honourable friend makes the point he absolutely forgets what the Senate is intended to be.

Now, Sir, before I close, I wish to state one thing most emphatically, Sir, there is a demand from honourable members belonging to the Swaraj party that we must have provincial autonomy. Sir, it is a demand which is a welcome demand. But, Sir, I beg to submit that when three-fourths of the population is drenched in ignorance and does not know its rights and responsibilities there can be no hope of autonomy. If we do get self-government notwithstanding the fact that three-fourths of the population is drenched in ignorance, our representative system will be a sham, and there would be a rule of wealth against poverty, of power against weakness. That is really what it will be. I, therefore, say, Sir, that if we desire to have provincial autonomy, we must ensure two things. One thing is that every access must be given to every grade of modern education to the communities which are educationally backward, in order that they may realise their rights and liabilities of citizenship, and secondly, in order that every access may be given to these communities, it is absolutely necessary, under the present circumstances, that special representation should be provided for them.

Before I sit down, Sir, I do wish one matter cleared up. You, Sir, have given us a ruling yesterday about which I am not quite clear. I understand, Sir, from your ruling yesterday that the principle of communal representation has been ruled out. Now, by that I understand that the principle of communal representation in the ordinary sense of that word, namely, that the voters of a particular communities are to be grouped together to elect a member from that community is ruled out. That is my interpretation of your ruling. So that, we are debarred now from raising the question of communal representation on the various bodies of the University in that sense of the term. But I do not think that your ruling goes so far as to say that we shall have no say in the matter as to how the 40 seats which are reserved for nomination shall be distributed. I submit that that particular matter is still open for the honourable members of this House to discuss in the select committee or at the second reading. I should like to ask, therefore, my honourable friend the Minister of Education that in his concluding

remarks he should make his position clear is regards that point; because, I want to say most emphatically that unless the representation to these backward communities is provided for on the Senate, the bill would be of no value to us whatsoever, and I for one will vote against it.

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*ON THE BOMBAY UNIVERSITY ACT AMENDMENT BILL: 2

Dr. B. R. Ambedkar: Sir, before I move my amendment to clause 3 I should like to correct a typist's error which has crept in the amendment as it stands on the paper. The amendment should read :

> "An incorporated college is any institution founded and managed by the University itself for the study of a special group of subjects not provided in any adequate way in other colleges; and so on."

Sir, this amendment which I propose to move is a consequential amendment which depends upon the passing of the main amendment to clause 25 of the bill which I shall be moving. If that amendment is not passed it will not become necessary for me to move this amendment. I therefore submit that I may be allowed to move this amendment after my main amendment to clause 25 is passed. If I move this amendment now and later on if my main amendment is lost, I shall be wasting the time of the House.

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RELATION OF COLLEGES TO THE UNIVERSITY

Dr. B. R. Ambedkar: Mr. President, the first part of my amendment to clause 7 is a consequential amendment depending upon the amendment to clause 25. I therefore request you, Sir, to hold it over till the amendment to clause 25 is disposed of.

The Honourable the President: I will hold it over.

Dr. B. R. Ambedkar: As regards my second amendment to clause 7. I understand the Honourable Minister desires to have some time to consider whether he can devise some amendment to my amendment to which both of us can agree.

The Honourable the President: Will the honourable member move his amendment.

Dr. B. R. Ambedkar: My second amendment to clause 7 runs thus :

Add the following clause to the bill :—

> "7(b) For the purposes of grants-in-aid from Government Treasury the University alone shall be recognised by the Government and no grants-in-aid shall be given to any college except through the University."

*B.L.C. Debates, Vol. XXI, pp. 250-53, dated 1st October 1927.

I should like to insert the word "except" after the word "college" in the amendment of which I have given notice. It had been left over through mistake of the typist.

Sir, my reasons for moving this amendment are these. Under the new Act the University has been charged with the responsibility of undertaking the work of education far more directly than it was ever done before. Now, although the responsibility for teaching has been placed upon the University by the provisions of this Act, it must be recognised that the colleges which will be affiliated to the University will be the primary bodies which will carry on the practical work of teaching under this University. Now, Sir, I submit that unless the University is allowed some control over the colleges to regulate the work of teaching that is carried on in the colleges, I think it would not be fair to hold the University responsible for maintaining the standard of education. It must be given power to control the colleges and to regulate their work of teaching if the University is to discharge this responsibility. Now, Sir, under the existing law, the only means of control which the University has over these colleges is that the University appoints, I understand, what is called a committee of inspection, which committee visits these colleges at certain stated intervals, makes inspections and finds out what are the defects in their organisation and equipment. That committee I understand. .....

Mr. P. R. Chikodi: I rise to a point of order. I should like to know what the exact wording of the amendment of the honourable member is.

The Honourable the President: It was read out, the word "except" has been added.

Dr. B. R. Ambedkar: Now, Sir, I find that the only means of control which the University has over these colleges, whereby it can enforce its regulations on the colleges, is through the report of this committee of inspection. I understand that this committee of inspection occasionally goes round on a visitorial tour, and makes reports on the defects in the college organisation, and that report, I understand, is submitted to the standing committee of the University; and the standing committee reports to the syndicate its opinion on the defects pointed out by the committee of inspection. That is all that is done today by way of enforcing the rules of discipline which the University has framed in the matter of controlling the colleges. Now, I submit that that is not sufficient, because if the colleges do not follow the directions given by the University on the basis of the report of this committee of inspection then the only effective power which the University has got over these colleges is the right to disaffiliate those colleges. Now, I submit, Sir, that that is a power which is too drastic ; it is a power which is the power of annihilation. The University has really, as a matter of fact, no power to amend the ways of the colleges. In other words, under the existing system of control which the University has got over the colleges, the University today can only make or unmake a college, either by granting affiliation or by disaffiliating a college. The University,

under the present system, has now power, whereby it can enforce its discipline and compel obedience on the part of the colleges to these rules of discipline, without resort to this extreme penalty of disaffiliation. Now, Sir, my amendment is such that it gives the University the power to amend the ways of the colleges and to compel obedience on the part of the colleges to the directions given by the University, without resort to this extreme measure of disaffiliation. I submit, therefore, that if the University was recognised by the Government as a unit—and I submit that it ought to be—and if the grants given to the different colleges by the Government were distributed through the University or, if possible, on the recommendation of the University, then my submission is that the University will acquire a power which, it is very necessary for it to enable it to enforce its discipline on the colleges. I think there is no other power which the University can be given which can effect this object, and I say the most necessary object, of enabling the University to enforce its rules of discipline over a recalcitrant college. Now, Sir, this view, that the University should be given financial control over these colleges, is a view which has also been laid down by the Royal Commission on University Education in London. In paragraph 41 of their report, they say :

> "The power of the purse is indeed the most important means of control which the University should possess, if it is to organise teaching, with which it is concerned. All the other modern Universities, except Wales and Scotland are masters in their own house in regard to the assignment of State and municipal grants, because the University is one unit and not a congeries of many units."

In this report the Commissioners also recommended that the same principle should be applied in the case of the University of London and my amendment is based upon this important recommendation of the Royal Commission on University Education in London. I should also like to point out in this connection that the organization of the Bombay University in its inception was fundamentally based upon the organization of the University of London. I think we are also tending in this Bill to amalgamate, so to say, or assimilate the position of the colleges under the Bombay University to the same position which colleges under the London University have been made to assume under the reforms effected as a result of the Royal Commission. The situation in both cases is the same: and I think the rule prescribed for regulating the relations of the colleges under the University of London to that University should with equal advantage be applied for regulating the relations of the colleges under the University of Bombay to that University. There might be some objection on the ground that probably the University may misbehave in the matter of making recommendation for grants-in-aid. I think there is no justification at all for the supposition that the University will have any private grudge against any particular college. I do not think that a University under the new Act will be composed of such irresponsible persons that they would for their own

whims or private ends sacrifice the interests of a particular college. I therefore submit that on these grounds my amendment should be carried.

***Discussion resumed**

Dr. B. R. Ambedkar: Sir, although I do not know what is going to be the fate of this amendment, I am rather glad to find that there are so many honourable members who have recognised the principle embodied in this amendment. I do not think that I should waste the time of the House in dealing with every sort of objection that is raised against this amendment, but I should first of all like to point out that so far as I am able to construe the amendment as I have put it down, I do not think that it makes the University in any sense the sole arbitrator in the matter of distributing the grants.

All that I say is this : that the grant shall be distributed through the university. It does not take away the power of control of the Minister of pay grant. He is the final determining authority in the matter of making grants notwithstanding this amendment. I do not think that the Honourable Minister of Education will object to have any consultation with such an important body as the university in the matter of making grants. I am sure that those honourable members who have stood up for the mofussil colleges and feared that university authorities would manipulate affairs in such a way as to affect the interests of the mofussil colleges would agree with me when I say that it is as much their duty as the duty of every one in this House to see that Government money that is paid as grants-in-aid is properly expended by the colleges. I think there cannot be a better body than the university to advise the Minister whether the money which has been raised from taxation and handed over to the mofussil colleges as grants is well spent or not. I think the Honourable Minister should be the last man to reject the views of an important body of which he is going to be the father by the passing of this bill.

There was a point made by the honourable member Mr. Jairamdas which was greatly appreciated by the Government benches. He said that this amendment was going to reduce the control of this House over the Minister. I do not see how that can be the result of my amendment. As I said just now the only object of my amendment is to strengthen the hands of the Minister. If that object is not clear I am prepared to accept any amendment which the Honourable Minister may move in order to make that meaning clear. I do not see how it can at all curtail the power of this House over the Minister or the power of the Minister. Even under this amendment the Minister will be the final authority to make these grants. The only object of the amendment is that the university as an intermediary body should be consulted for making grants. I do not think there is any serious limitation either on the power of the Minister or on the control of the House over the

*B.L.C. Debates, Vol. XXI, pp. 264-65, dated 1st October 1927.

Minister. The House on the other hand will be in a much better position to judge whether the provision made by the Minister is properly spent. With these words I commend my amendment to the House.

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*ON THE BOMBAY UNIVERSITY ACT AMENDMENT BILL : 3

APPOINTMENT OF RECTOR IN THE UNIVERSITY

Dr. B. R. Ambedkar: Sir, I rise to support the amendment of my honourable friend Mr. Jadhav. It has been said by the honourable members who have preceded me that in the present financial circumstances of the University this office will be, an additional burden upon the meagre resources of the University. I think that argument is very cogent in itself, and in the few remarks that I wish to make, I should like to say that the office, administratively speaking, would be a superfluous one. Sir, I find that in 1914 the University of Bombay invited Sir Alfred Hopkinson, the Vice-Chancellor of the Manchester University, to advise the University upon a scheme of research proposed by the University, and I find, Sir, that officer making a report to the effect that this officer is not necessary. He is reported by the committee on University Reform, on page 9, to this effect :

> "He was not in favour of a salaried administrative head of the University and proposed to solve the difficulty of getting the increasing work done by employing a full-time Registrar and a paid full-time Secretary to the Joint Matriculation Board and by making more use of the University and College Professors for University administrative work."

If that was the opinion of such an expert as Sir Alfred Hopkinson in 1914, I do not see what new circumstances in the intervening period have arisen to compel us to force this officer upon the University. Further, I find that the office of the rector has no defined duties which he can perform. I. find it stated on page 162 of the report of the University Reform Committee that the Vice-Chancellor is to exercise general supervision over the University, and to have the power to see that the act, statutes and ordinances are observed. Now, Sir, referring to the position of the rector, the University Reform Committee also states on the same page that he is to hold office for five years and to be eligible for re-appointment, to be the principal executive and academic officer of the University and it is to be his duty to see that the act, statutes and ordinances are faithfully observed, and he should have all the powers necessary for this purpose.

*B.L.C. Debates, Vol. XXI, pp. 286-87, dated 3rd October 1927.

I do not see what is the difference between the duties attached to the office of the Vice-Chancellor and the duties that are going to be attached to the position of the rector. If the position as stated in the report of the University Reform Committee is what I have just placed before the House, then I do not understand how this office differs from that of the Vice-Chancellor on the one hand and from the office of the Registrar of the University on the other because I find on page 163 of the report of the same Committee stated that in the absence of the rector the Registrar will carry on his duties. Obviously, therefore, I do not see that the office of the rector is going to be in any sense distinct from that of the Vice-Chancellor and the Registrar, and therefore calling for the appointment of a distinct officer. It is superfluous and in the present circumstances a burden on the University. On these grounds, I support the amendment of my honourable friend Mr. Jadhav.

***Discussion resumed**

Dr. B. R. Ambedkar: I rise to support the amendment. I am not really in favour of principals of the different colleges coming into the University ; because I am one of those who hold the view that if the University, is to grow, the college organization must be subordinated to the faculty organization. It is my own feeling and I do not know how many honourable members share that view. If all the principals are allowed to enter they will carry into the University organization a spirit of the separatist and instead of integrating the University into one whole they will make University a disintegrated body. But my honourable friend Mr. Hamill has advanced the view that a University must really contain the minimum strength of the academic element that is necessary for the University to function. He has also pointed out that the University as at present constituted does not contain the academic element in sufficient strength. Sir, I think that the point made out by the honourable member Mr. Hamill is worthy of consideration, for I think that while we are democratising the University we must not forget that the University should have a sufficient academic element to enable the University to function as a body entrusted with the educational affairs of this presidency. I do wish that while providing for the presence of this academic element into the University we could have avoided the entry of the principals for the reasons I have already given. But I find that is not now possible, because by the definition in clause 3 teachers include professors. The principals are professors and they could come in whether the honourable member Mr. Dastur's amendment is accepted or not. His amendment is only explanatory and does not introduce any new change. I therefore support it.

*B.L.C. Debates, Vol. XXI, pp. 326-27, dated 3rd October 1927. This speech was delivered in support of Mr. Hamili's amendment to introduce the academic element in the university.

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*ON THE BOMBAY UNIVERSITY ACT AMENDMENT BILL : 4

Dr. B. R. Ambedkar: Sir, I rise to support this amendment. If I had agreed with the views which my honourable friend Mr. Munshi holds on university reforms and the functions of the university, I would certainly not have risen to support this amendment. But I find that both as a person who takes an interest in university reform and as one coming from the backward communities I am in fundamental disagreement with my honourable friend Mr. Munshi. Sir, my honourable friend Mr. Munshi seems to hold that the University is merely a body for the purpose of making statutes and regulations, that it is a body which is merely concerned with holding examinations, and with providing post-graduate courses in University Departments of Education to be started under this Bill. Sir, I think that that is a very narrow view of the University. One of the fundamental functions of the University, as I understand it, is to provide facilities for bringing the highest education to the doors of the needy and the poor. I do not think that any University in any civilised country can justify its existence if it merely deals with the problems of examinations and the granting of degrees. Now, if it is the duly of a modern university to provide facilities for the highest education to the backward communities, I think it will be accepted as a corollary that the backward communities should have some control in the University affairs. Sir, I look upon the University primarily as a machinery, whereby educational facilities are provided to all those who are intellectually capable of using those facilities to the best advantage, but who cannot avail themselves of those facilities for want of funds or for other handicaps in life. Now, Sir, it is said that the University is primarily a concern of the intelligentsia and of the educated classes, and that as the University is to function properly it is necessary that it should be controlled by what are called the educated classes. I would accept that principle, if the educated classes who are going to control the University possessed what we called social virtues. If they, for instance, sympathised with the aspirations of the lower classes, if they

*B.L.C. Debates, Vol. XXI, pp. 414-16, dated 5th October 1927. This speech was in support of the amendment to the Bombay University Bill moved by Mr. Noor Mohmed to raise the number of nominated senators from 40 to 50.

recognised that the lower classes had rights, if they recognised that those rights must be respected, then probably we, coming from the backward communities, might well entrust our destinies to what are called the advance communities. But, Sir, for centuries we have had the bitterest experience of the rule of what are called the higher and the educated classes, Sir, I think it is hardly to the credit of the advanced classes that there should exist in this country a large part of the population which is known as the criminal tribes. It is certainly not to their credit that there should exist in this country a population which is regarded untouchable. Surely, they could have raised the status of the depressed classes, they could have raised the status of the criminal classes. They could have brought their culture to us and made us equal to them, if they had only the desire to do so. But they have never done so in the past and do not mean to do anything in that direction in future. By their callous neglect of us and by their active hostility to our progress they have convinced us that they are really our enemies. There is no doubt that it is their desire to keep us where we are. I do not wish to refer to the debate that has gone on for the last few days. But there is not the slightest doubt about the fact that the opposition benches which looked upon Government as their enemy sided with it now with the sole object of defeating us on this vital question. There is no other excuse for their conduct except that they wanted to defeat the claims of the backward communities for representation through nomination. It is for that reason that they have joined Government whom they opposed in season and out of season. Sir, can we have any trust in an intelligentsia so narrow, so illiberal in its views.

My honourable friend, Mr. Munshi said that if it had been a question of division of any material benefits he would probably consent to the introduction of communal representation on the Senate. But I wish to remind him that the backward classes have come to realise that after all education is the greatest material benefit for which they can fight. We may forego material benefits, we may forego material benefits of civilization, but we cannot forego our right and opportunity to reap the benefit of the highest education to the fullest extent. That is the importance of this question from the point of view of the backward classes who have just realized that without education their existence is not safe. It is for this reason that the fight for increase of seats is being made.

There is another point to which I wish to refer. It has been stated several times that since the principals in the different colleges have been given separate representation it will not be necessary to increase the number of nominated seats, because, if the principals had not been given direct representation on the University, Government would have been obliged to use at least 10 seats to make for them. And that as separate provision has now been made for them the whole number of 40 seats will go to the backward classes. Now, Sir, I submit that it is for that very reason that the number of the nominated seats should be increased for ensuring adequate

representation of the backward classes. It can never be guaranteed to us that the principals of different colleges who have got direct representation as a result of the amendment of the honourable member Mr. Hamill would necessarily be friends of the backward communities. I have had sufficient experience of these principals, and I am sure that those who will be elected to the Senate will be from the upper classes and they will never come to the rescue of the backward classes who are clamouring for education. If the Honourable Minister had added 10 seats more to the strength of the upper classes in the Senate he should come to the rescue of the backward communities and equalize the balance. That can be done only by adding 10 more seats to the seats that have already been provided in the bill. Sir, we have expressed our fears and our doubts. I think it is only fair that in a matter like this, where the feelings of the backward communities are so high and where they think that their interest will not be safeguarded unless they get representation on the Senate, Government should consider whether it is proper that Government should use its official force to put the backward classes at the mercy of the upper classes. I think it would be wise and I appeal to the Honourable the Leader of the House to leave this question to the free vote of this House. Let the House decide in any way it likes best. With these remarks I support the amendment.

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*ON THE BOMBAY PRIMARY EDUCATION ACT AMENDMENT BILL: 1

Dr. B. R. Ambedkar : I find it very difficult to follow this section ; if I heard him correctly with reference to what he said that we should not think of a democratic constitution for the board contemplated under section 2A, I agree with him on the point. This board is intended to be a body of experts. Those members who are supposed to be elected by the school boards on the provincial board ex-hypothesi may be persons who will merely express the views of the general public. They could not bring to the work of this board expert mind. Obviously by their constitution, they could not. The other six members are to be appointed by Government. There is nothing in this section to suggest that Government bind themselves to appoint only persons who will be experts in education. The clause merely says that three shall be appointed by the Provincial Government. There is nothing to indicate that the three shall be experts on education. Therefore, analysing the whole constitution of the Provincial Board, beyond the three Government officers, who will be there, there is certainly no guarantee that the board as a majority will have experts on it. Therefore, my honourable friend should accept the principle suggested by the honourable member Mr. Bhole that this ought to be looked at as a democratic institution. From that point of view, the elective principle should prevail over nomination principle. If my honourable friend says that it ought not to be looked at as a democratic institution but as a body intended to give advice, he must provide for it by saying that the board shall consist of a majority of experts on education. I suggest to him whether he will accept some such amendment "three members to be appointed by the Provincial Government shall be appointed from people who are known as experts on education". He should not leave the matter vague as it is. Government in its weaker moments—Government have weaker moments as Governments and we have our weaker moments—may appoint persons who may not be experts. It will frustrate the very object underlying this clause.

The Honourable Mr. B. G. Kher : I am much indebted to the honourable member Dr. Ambedkar for replying in effect to the amendment brought forward by a member of his own party. I confess, I myself could not have put forth more convincing arguments against the amendment.

*B.L.A. Debates, Vol. 3, pp. 2176-77, dated 21st April 1938.

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12

*ON THE BOMBAY PRIMARY EDUCATION ACT AMENDMENT BILL: 2

(Clause by clause reading)

The Honourable the Speaker: We now proceed the Bill No. XV, the Primary Education Act Amending Bill. It was, I believe, on Tuesday last that the House was considering this Bill and, when it adjourned, amendment No. 91 in the consolidated list of amendments was under discussion. That amendment was moved by the honourable member Mr. Jamnadas Mehta and it runs as follows :

The sub-clause (2) of clause 12, omit the words "and shall be servant of".

The clause, as sought to be amended, will then read as follows : —

"(2) The Administrative Officer shall be appointed by the Provincial Government. His pay, powers and duties shall be as prescribed."

Dr. B. R. Ambedkar: May I rise to a point of order, Sir ? I am unable to understand the amendment and the purport of it. Therefore, I am rising to ask for some information on this point. The amendment is to omit the words "and shall be the servant of the Provincial Government". Am I right ? Therefore, the purpose of the amendment seems to be this. .....

The Honourable the Speaker: The words to be omitted are "and shall be a servant of". The words "the Provincial Government" are not sought to be omitted.

Dr. B. R. Ambedkar: Therefore, what I understand is that he is to be appointed by the Provincial Government but is not to be the servant of the Provincial Government. My submission is that in law, even if these words were omitted, namely, "and shall be a servant of ", he will continue to be the servant of the Provincial Government, by reason of the fact that he is allowed to be appointed by the Provincial Government. Therefore, it is rather difficult to make up one's mind whether to vote for the amendment or against it. If the honourable mover of the amendment desires that he should continue to be appointed by the provincial Government, then the fact that he is a servant of the Provincial Government is merely the legal consequence of it, and the omission of these words would not come in the

*B.L.A. Debates, Vol. 3, pp. 2647-49, dated 30th April 1938.

way of his being regarded as a servant of the Provincial Government. I want some light on this point.

The Honourable the Speaker : I am not sure whether the honourable member was present when the amendment was moved.

Dr. B. R. Ambedkar: I was present.

The Honourable the Speaker : I am unable to agree about the legal consequences.

Dr. B. R. Ambedkar : The Honourable the Home Minister might clear up the point.

The Honourable the Speaker : I believe the contention was that if the way in which the officers are selected or appointed by the school boards is not an ideal one or a proper one, it should be left to the Government to make the appointments on the lines of the appointment of the Municipal Commissioner for Bombay, but so long as they continue to be in service, they will be the servants of the school board and therefore amenable to their jurisdiction, and liable to suspension or dismissal or to being dealt with in any other way like any other servants at the hands of the school board. That seems to be the idea; and I believe it was also suggested that Government may have a panel submitted to the school board for that body to make a selection, and that is how the appointment was to be made. There does not seem to be any conflict or inconsistency in it.

Dr. B. R. Ambedkar: If the object is that he shall be the servant of the school board, then that object will not be carried out by the omission of these words, "and shall be a servant of" because in law he will be the servant of the Provincial Government, simply by reason of the fact that the Provincial Government appoints him. To be a servant is one thing, to be under control is another. One may be the servant of another, and yet may be under the control of a third party. I submit there is great distinction between the two.

The Honourable the Speaker: It does not necessarily follow that because an appointment is made by one party he cannot be the servant of another party. A person may be appointed by one party and yet may be the servant of another party. I expect the honourable member will clarify it in his reply.

Mr. Jamnadas M. Mehta: So far as I am concerned, I do not look upon it as a point of order.

Dr. B. R. Ambedkar: It is a point of information, if not a point of order. I would like to understand the position in order to decide whether to vote one way or the other.

The Honourable the Speaker: I will leave it to the honourable member the mover of the motion to reply, so far as the point of information is concerned.

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13

*ON THE BOMBAY PRIMARY EDUCATION ACT AMENDMENT BILL: 3

Dr. B. R. Ambedkar: Sir, I lost my opportunity of speaking on this amendment, but there is a question which I should like to ask the Prime Minister, if you permit me, just for information's sake.

The Honourable the Speaker: Do not be too long.

Dr. B. R. Ambedkar: He wanted to speak on the point, but I think he forgot. I should like to ask the Prime Minister whether the school board administrative officer would be under the disciplinary control of the school board or not. I can quite understand from the clause that he is a servant of the Provincial Government. But while he is in the school board, would he or would he not be under the disciplinary control of the school board ?

The Honourable Mr. B. G. Kher: How do you mean ? We have provided for this by saying that his pay, powers and duties shall be prescribed by rules. The powers of the school board are already defined. The honourable member was not present when I went into them in detail and put before the House the powers and duties of the school boards. These will now be prescribed by rules, as to what exactly will be the powers and duties of the administrative officers. I do not think, therefore, that the question of the school board's wishes in important matters being overridden by the administrative officer is such an imminent danger.

The Honourable the Speaker: It is not a question of danger. The point of the enquiry has been as to whether he will be subject to the disciplinary control of the school board.

The Honourable Mr. B. G. Kher: Well, he will not be removable by them.

Dr. B. R. Ambedkar: I will cite an example. There is an officer working in the Secretariat. An order is issued by the Minister, and the officer disobeys the Minister. The Minister has a right to punish him in the four or five different ways mentioned in the Civil Service Regulations. Of course, the officer has a right of appeal under certain circumstances. What I want to know is whether the relations of the administrative officer and the school board in the matter of disciplinary control would be exactly the same

*B.L.A. Debates, Vol. 3, pp. 2672-73, dated 30th April 1938.

as the relations of the Minister and any other superior administrative officer.

The Honourable Mr. B. G. Kher: No. I am afraid not.

***Discussion resumed**

Dr. B. R. Ambedkar (Bombay City): Sir I want to move an amendment to the amendment of the honourable member Mr. More.

The Honourable the Speaker: Is it a different one ?

Dr. B. R. Ambedkar: Yes, it is a different one. My amendment is this :

> "For the words 'removable from his office as such administrative officer' substitute the following : —
>
> 'under the disciplinary control of the school board and shall be liable to such punishment for breach of discipline at the hands of the school board by a resolution duly passed, subject to a right of appeal by the administrative officer, as may be provided for by rules.'
>
> So that the whole of the amendment with my amendment will read thus—
>
> 'The administrative officer shall be under the disciplinary control of the school board and shall be liable to such punishment for breach of discipline at the hands of the school board by a resolution duly passed subject to a right of appeal by the administrative officer, as may be provided for by rules.' "

The Honourable the Speaker: We should add "by the school board" after the word "passed" and change "provided for" into "prescribed".

The amendment will then read—

Delete the words beginning from "removable from his office" and ending with the words "shall forthwith withdraw the administrative officer", and substitute instead the following : —

> "under the disciplinary control of the school board and shall be liable to such punishment for breach of discipline at the hands of the school board by a resolution duly passed by the school board, subject to a right of appeal by the administrative officer, as may be prescribed by rules."

Dr. B. R. Ambedkar (Bombay City): Sir, the amendment which I am moving is totally different from the amendment which has been moved by my honourable friend Mr. More. Mr. More's amendment provides that under certain circumstances, the school board shall have the right to remove from office the administrative officer who has been appointed by Government. My amendment is fundamentally different from the amendment of Mr. More. My amendment does not give the school board the power to remove or dismiss an administrative officer. All that the amendment seeks to do is this that during the period when an administrative officer is engaged in doing his service as an administrative officer under a particular school board, that school board shall have disciplinary control over him. Sir, it must be realised that clause 12 of the Bill is an anomalous

*B.L.A. Debates, Vol. 3, pp. 2679-82, dated 30th April 1938.

clause in principle. It is an accepted principle that an officer must be subordinate to the authority whose servant he is. Now, by this clause 12, we have provided that the administrative officer shall be appointed by the Provincial Government and that he shall also be the servant of the Provincial Government. The evil effects of this anomaly have been pointed out by various members of the House who have spoken on the amendment which was tabled by my honourable friend Mr. Jamnadas Mehta. Therefore, I do not wish to take the time of the House in repeating what has been stated. What would be the result of enacting clause 12 ? I have my sympathy with the Honourable the Prime Minister in the procedure which he has adopted, namely, the administrative officers should be appointed by the Provincial Government and should be the servant of the Provincial Government and for two reasons. One reason why I sympathise with the view he has taken is this. If the local boards or the school boards continue to appoint the administrative officers, the one result will be that the administrative officers will have to spend all his life in one place which is undoubtedly a bad thing in principle, because, when an officer remains in service in one particular place all his life, he does undoubtedly create a party for himself, secures friendship and, therefore, provides for himself opportunities and occasions for exercising his administrative power in a partial way. Therefore, it is very desirable that these administrative officers should be moved from place to place just as the practice of moving important officers, like the Collector or the District Judge, from district to district. The second reason why I felt a certain amount of sympathy for the procedure adopted by the Honourable the Prime Minister is this. Unless Government appoint the administrative officers, it is not possible to provide a cadre with a regular service, with prospects of promotion and so on. I fully sympathise with that view. But, Sir, I do not understand why it should be difficult for Government to place these officers under the school boards for the purpose at least of disciplinary control. I do not understand how the smooth working of the local board machinery as contemplated in this Bill can be secured unless the amendment which I am suggesting is given effect to.

I should like to illustrate what I have to say by reference to what has happened under the Government of India Act. I would take for illustration the position of the members of the Indian Civil Service. The members of the Indian Civil Service are appointed by the Secretary of State. At the time when the Montagu-Chelmsford Report was made, I think those who have read it will realise that one of the greatest difficulties that was felt at the time in transferring effective control to ministers was just the opposition of the members of the Indian Civil Service. The contention of the members of the Indian Civil Service was that, as they were appointed by the Secretary of State and not by the ministers who were going to take office under the then contemplated reforms, they protested that they could

not subject themselves to any control by ministers. On the other hand, those who were upholding the cause of transferring effective power to Indian ministers decided that there could be no effective transfer of power to the Indian ministers unless the Indian ministers had effective power of controlling the Indian Civil Service members who were the instrumentality of the administration. For a long time this tussle was going on, and as a matter of compromise it was decided, if I remember correctly, as a result of the report of the Lee Commission, that the via media should be the via media which I am suggesting by my amendment. The via media that was suggested between the point of view that was taken by the members of the Indian Civil Service and the point of view that was taken by Indian politicians, namely, that the I.C.S. men should be under the entire control of the Ministers, and that those I.C.S. men who were working in the Transferred Departments under the dyarchical system should be under the disciplinary control of the Ministers. And by the Classification Rules it was provided that five different kinds of punishments might be levied by the Ministers against a recalcitrant I.C.S. man who refused to obey the orders of the Ministers. The punishments that were prescribed and which the Indian Ministers could exercise under those rules were censure, reduction, stopping of promotion, transfer and dismissal. The civil servant at the same time was given a right of appeal if he felt that a punishment had been inflicted upon him by the Minister which was not proper, which was unjust, or which was based upon racial antagonism. The civil servant would take his appeal to the Governor and finally to the Secretary of State and challenge the order of punishment passed by the Minister. In this way the two contending points of view, namely, no control, and absolute control, were brought so to say, to a common meeting point; the formula that was devised was that the civil servants should remain servants of the Secretary of State, liable to be dismissed by the authority who appointed them, but during the period that they were working as servants in the department, they should be subject to the disciplinary control of the Minister in charge of the department. Sir, the amendment which I have tabled merely gives effect to that formula. It does not take away the right of the Minister to appoint; it does not take away the right of the Minister to dismiss an administrative officer; nor does the amendment say that during the period that the administrative officer is serving under a school board he shall be regarded as the servant of the school board. The amendment is of a very limited character ; it merely says that during the period that he is working as the administrative officer of the school board, the school board shall have disciplinary control. Further, what kind of punishment the school board shall levy, and what is the nature of the appeal that the administrative officer is to have, are still matters which by my amendment are left to the Government to prescribe by rules, I do not say that this or that kind of punishment may be inflicted upon the administrative officer by the school

board ; I do not say that this or that alone should be the right of appeal. The nature of punishment, the extent of appeal—all that is left to the discretion of the Government to provide for by rules. All that the amendment does is to ensure that during the period that he is working ; he shall feel that the school board has control over him. If we do not give even this little power to the school board, I do not quite understand how and administrative officer will feel, by the necessities of the case, that he is really the servant of the school board. I ask the Honourable the Prime Minister; supposing he himself had no such power over the civil servant that was working under him, if he could not punish him for any disobedience on his part, what would be the state of his own department ? I submit that in the interest of smooth working this much at least must be given to the school board in order that the administrative officer shall feel that he is bound to carry out the just and lawful order of the school board. With these words, I commend my amendment to the House.

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14

BILL No. XII OF 1928 TO AMEND THE BOMBAY HEREDITARY OFFICES ACT

The following Bill*, for the introduction of which leave was granted to Dr. B. R. Ambedkar, M.L.C., at the meeting of the Legislative Council of the Governor of Bombay on the 19th March 1928, is published under rule 20 of the Bombay Legislative Council Rules : —

BILL No. XII OF 1928

A Bill further to amend the Bombay Hereditary Offices Act, 1874

(*Bom. III of 1874*)

WHEREAS it is expedient to amend the Bombay Hereditary Offices Act in a manner hereinafter appearing; And whereas the previous sanction of His Excellency the Governor under section 80C of the Government of India Act has been obtained, it is hereby enacted as follows : —

1. This Act may be called Bombay Hereditary Offices (Amendment) Act, 1928.

2. *Amendment of section 9 of Bom. Ill of 1874.*—In section 9, clause (1), for the words "whether assigned as remuneration of an officiator or not", substitute the following : —

"not assigned as remuneration of an Officiator".

3. *Insertion of new section 9A in Bom. III of 1874.*—After section 9, add the following : —

"9-A. (1) Whenever any watan or part thereof assigned as remuneration of an officiator has or have before the date of the Bombay Hereditary Offices Act, 1874 (Bom. III of 1874), coming into force passed otherwise than by virtue of, or in execution of a decree or order of any British Court, and without the consent of the Collector and transfer of ownership in the revenue records, into the ownership, or beneficial possession of any person, not a watandar of the same watan, the Collector shall declare such alienation to be null and void, and order that such watan or any part thereof, or any profits thereof, shall from the date of such order belong to the watandar previously entitled thereto, and shall recover and pay to such watandar any profits thereof accordingly.

*This is the text of the Bill to amend the Bombay Hereditary Offices Act of 1874 as published in *Bombay Government Gazette,* Part V, dated April 16, 1928. Speech delivered by Dr. Ambedkar while moving this Bill is printed at pages 75-87.

(2) If such part of the watan be land the Collector shall order its transfer to the watandar."

4. *Amendment of section 15 of Bom. III of 1874.*—Add the following proviso to section 15, clause 1 : —

"Provided that the whole body of representative watandars or a majority of them holding a hereditary office within the meaning of section 63 of the Act having in their possession watan lands shall have the option, if the same be expressed by a written application to the Collector, to be relieved of their obligation to perform such services in perpetuity and shall be entitled to retain possession of the lands held by them if they agree to pay full survey assessment on such lands."

5. Amendment of section 19 of Bom. III of 1874.—Delete the following from section 19, "and to decide whether the payment shall be made in kind or money".

6. *Insertion of new sections 19A, 19B, 19C and 19D in Bom. III of 1874.*— After section 19, add the following sections : —

19A. When the whole body of representative watandars or a majority of them whose watan property consists of a right to a levy in kind apply to the Collector to convert such right into money cess the Collector shall then convert the same into an equivalent money cess.

19B. When such a right to a levy in kind has been converted into an equivalent money cess the whole body of representative watandars or a majority of them concerned may apply to the Collector to recover the same from those who are liable to pay. The Collector shall then recover the same along with and as part of the land revenue and shall direct that the same be paid from Government treasury to those watandars entitled to the same.

19C. In case where such a right to levy in kind be deemed a joint return for services to both the ryots and the Government the whole body of representative watandars or a majority of them whose right to a levy in kind has been converted into a money cess may apply to the Collector to decide how much of the money cess is due to them for services to Government and how much for services to the ryots. The Collector shall then give such a decision, which decision shall be deemed to be final.

19D. That the whole body of representative watandars or a majority of them who have asked for such a decision as is referred to in section 19C, shall have the option to refuse to render any services to the ryots provided they inform the Collector in writing of their decision in this behalf. In case such option is exercised the watandars exercising such option shall forfeit that portion of the money cess due to them for services to the ryots.

7. *Amendment of section 21 of Bom. III of 1874.*—In section 21 for the words "such periods" substitute the following : —

"a period not exceeding ten years".

8. *Amendment of section 83 of Bom. III of 1874.*—This section shall be substituted in place of section 83—

83. After the passing of the Act, Government shall make rules, except as is otherwise provided for in section 18. Laying down the duties that are to appertain to any hereditary office :

Provided that the rules so made shall not come into operation until the same are previously published in the *Bombay Government Gazette* for one month previous to the next session of the Bombay Legislative Council and shall be liable to be rescinded or modified by a resolution of the said Council tabled at the next session thereof.

Statement of Objects and Reasons

The objects of this bill are : —

1. To make better provision for the remuneration of the officiating watandars.
2. To allow commutation of watans of inferior hereditary village servants.
3. To provide for the conversion of Baluta into money cess.
4. To allow the holder of inferior watan to free himself from the obligations to serve the ryots.
5. To define the duties of officiating watandars.

(Signed) B. R. AMBEDKAR

G. S. RAJADHYAKSHA,
Acting Secretary to the Legislative Council
of the Governor of Bombay.

Bombay, 13th April, 1928

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15

*ON THE HEREDITARY OFFICES ACT AMENDMENT BILL: 1

Dr. B. R. Ambedkar: Sir, I rise to move that Bill No. XII of 1928 (A Bill further to amend the Bombay Hereditary Offices Act, 1874) be read for the first time. This bill is not concerned with the Patel or the Kulkarni. The hereditary officers referred to in this bill are known under the Hereditary Offices Act as the inferior officers. At the present moment, such inferior hereditary officers cover the Mahars in the Deccan, the Vethias or the Varthanias in Gujarat, the Ramoshis or the Juglias and the Holiyas in Karnatak. A large part of these inferior holders are Mahars, and in the course of the remarks that I propose to offer this House, I shall largely speak of the Mahars as representative of the inferior officers.

Sir, in order to understand the provisions of this bill, I think it is very necessary that the House should know the wrongs and the grievances which have led me to bring forth this Bill. Now, the wrongs are very many, but I do not wish to spend the time of this House in giving a lucid description of what actually takes place. I will speak in general of the system and the nature of that oppressive system. First, Sir, it will be remembered that these inferior holders of watan are Government servants according to the Watan Act. But, Sir, the duties of these Government servants are not defined anywhere. It is not known, in fact nobody as a matter of fact can say, to what particular department these watandar Mahars belong. As a matter of fact, every department claims their services. They can be called upon to render service to the Irrigation Department; they can be called upon to render service to the Revenue Department; they can be called upon to render service to the Vaccination Department; they can be called upon to render service to the Education Department; they can be called upon to render service to the Local Self-government Department, and I think they can also be called upon to render service to the Police Department. They can also be called upon to render service even to the Excise Department. That I submit is an extraordinary system. Every Government servant knows and knows definitely to which department he belongs and the services that are expected of him. No department I understand employs

*B.L.C. Debates, Vol. XXIII, pp. 708-21, dated 3rd August 1928.

any individual as servant who can be called upon as the maid of all work but Mahars for all practical purposes are and are treated as maid of all work of all the Government departments. Further he may be called upon to render service at any hour of day or night. Every other Government servant, however humble his position between particular hours ; every peon in the Collector's office or any other office knows that he has to go to his duties at definite hours and return at definite hours. But that is never the case with these Mahars. They can be called upon to render service not only during the day not even between sunset and sunrise but they can be called upon to render service at night. If an officer calls upon the Mahar to render service during night, whether it is raining or there is lightning or any other difficulty, he dare not refuse to do so.

The third grievance is this. In the case of Mahars the officiator is the person whose name is entered in what is called the service register and he is not the only one person who is liable to render service to Government, but his whole family is liable to render service to Government. In case the officiator whose name is entered and who is liable to render service has gone out on service, if the officiator is absent on any Government duty and if there is no one to answer the call, his father may be called upon to render service. If his father is absent his grandfather may be called upon to render service but the names of the father and grandfather may not appear in the register. Not only the male member but, I submit that in their absence the female members also are impressed into Government service. If the officiator is absent his wife may be called upon ; if the wife is absent his mother may be called upon and if the mother is absent the young female members of the family are required to render service in the absence of the officiator. Imagine for one moment a situation like this; a young female Mahar of 18 years called upon by a police officer of 18 years to carry his bigar with him for a distance of five or six miles ! ! Imagine the dangers to which she is exposed under a situation like this ! ! Sir, there is no escape out of the system as it exists today. Under the system as it operates not only the officiator is obliged to render service but the whole family is obliged to render the service. I submit that this is a most oppressive system not obtainable in any other department of Government service.

Coming to the question of remuneration, what is the remuneration that these poor people get for their hard and arduous labour that they do for all the 24 hours ? This House will be surprised if I tell them that the Government practically pays nothing from their treasury directly for the services it exacts from these people. I have before me the figures given by the Government themselves. In Thana district the amount paid by Government directly to the Mahar officiator comes to Rs. 1-8-0 per month; the amount paid in the Ahmednagar district comes to Rs. 1-8-0 per month ; the amount paid in East Khandesh comes to Rs. 1-12-0 per month ; the amount paid in West Khandesh comes to 9 as. 4 pies per month ; in the Nasik district the amount comes to Re. 0-13-4 per month ; the amount paid in the Poona

district is Rs. 1-1-4 per month ; the amount paid in the Satara district comes to Re. 0-2-1 ; the amount paid in a Sholapur district comes to Re. 0-3-3 per month; and in the Bombay surburban district the amount varies between Rs. 9-8-0 and 5 as. per month. There is no salary paid by Government from their treasury in Belgaum. The figures for Ratnagiri and Kolaba are not given by Government in answer to the question put in March session of 1925. This House can see what a paltry pittance the Government pays for the services they exact from them. There is practically no remuneration whatsoever which Government gives to these poor Mahars for the services it exacts from them. The sources of income for these people, the watandar Mahars, are two. The first source is the inam land and the second source is what is called the baluta or the collection of grain made by the watandar Mahars from the villagers. These inam lands were not given by British Government but they were given to these Mahars by the ancient Emperors of this country. The Mahar watan is the most ancient watan that we have in this country and all the lands have been given to them in ancient times. I do not know, at least I am not aware, that the British Government has ever increased the extent of land that has been once given to these people in ancient times. Prices have increased, the standard of living has gone up and every Government servant has been given an increase—I do not know how many times—since the establishment of British Government. But the British Government has never paid a moment's attention to the remuneration of these people. They have left these poor people with such land as the ancient Rajas were pleased to give them. The Mahar population has increased enormously and the land assigned to the Mahars is divided and sub-divided to such an extent that the income these people get from the inam lands is absolutely not worthy of being taken into consideration. The main part of the remuneration which these people get comes largely from the second source, namely, the baluta. Now, Sir, the peculiarity of this mode of payment is really worthy of notice by this honourable House. Again I will repeat that the Mahars are Government servants ; but the Government does not take upon itself the responsibility of paying the remuneration to the person whom the Government employs. In every other case Government takes upon itself the responsibility of paying the peon, the clerk, the officer and employers but in the case of Mahars, so far as baluta is concerned, there is no way by which Government takes upon itself the responsibility that the remuneration shall be paid to them. The reason is that under the Watan Act with regard to the payment of the baluta. the Mahar is left entirely to the sweet will of the ryots. If the ryots are pleased to pay a Mahar he can get it. If the ryots are not pleased to pay the Mahars at the end of 12 months after exacting service from him, the Mahar will find that he has rendered service for nothing.

That, I submit, Sir, is an atrocious system, a system which has no justice in it whatsoever. If the Government desires that these people should work

for them, it is absolutely necessary that the Government should take upon its shoulders the responsibility of paying these Mahars ; they ought not vicariously to throw off this burden in a most careless way upon a third party, namely the ryot, but that is exactly what is happening under the present system.

Then, Sir, is there any security that the watan will be continued ? Is there any security that the Mahar watan will not be suspended or resumed ? Sir, there is no guarantee whatsoever. The reason is obvious and very simple. In every case of course, the tenure of service of a subordinate depends entirely upon the goodwill of the immediate officers under whom he works. Here, Sir, the patil, the kulkarni and the mamlatdar are the immediate officers under whom the Mahar has to work. The Mahar, cannot expect that his watan will be safe unless, besides rendering services to the Government—I mean the legitimate services which are expected of him as a Government servant—he also renders willingly, and without remuneration, private services to his immediate superiors, namely the patil, the kulkarni and the mamlatdar. Unless he ingratiates himself into their favours—and those favours are not easily given ; they are earned at the cost of services rendered without remuneration—there is no security that the patil or the kulkarni will not make a report that the Mahar is not discharging his duty—an absolutely false and concocted report. There have been innumerable cases where such reports have been made by patils and kulkarnis and acted upon by the mamlatdar and the Mahars have had their watans suspended or resumed. In my own experience, which I admit does not extend over a very large number of years, I have come across innumerable cases where Mahar watans have been suspended or resumed. I have myself tried my level best to get the superior officers, the District Deputy Collectors, the Assistant Collectors, the Collectors and even the Commissioners to reverse the orders passed by the mamlatdars, but, Sir, I have never succeeded in any single case. The result is that the subordinate officers are always certain that their decision, whether it is right or wrong, whether it is founded on legitimate grounds or not, whether, it is based on concocted evidence or not, will be upheld by their superiors. Grounded in that feeling of security there is no limit to the oppression or tyranny these people exercise over these unfortunate class of people. That, I submit, is another evil which is inherent in this system.

Now, Sir, if the evils of the system affected only the officiating Mahars and did not affect the rest of the depressed class community, probably I would not have made so much of the matter. The trouble is that the evils of this system are so wide in their scope and extent, so all-pervading, that they affect not merely the officiating class of Mahar but they affect the whole population of the depressed classes. Sir, the House will not probably believe it when I say that as a result of the watan system it is not open to the Mahar population in villages to claim the benefit of Dr. Paranjpye's circular that their children should be made to sit along with the children

of the other classes ; although this Council has passed a resolution that the depressed classes should be allowed the use of dharamshalas and all public places, it is not open to the depressed classes to ask for these privileges that this Council has been pleased to give them. This Council, as I say, will not believe in this, that the watan system is responsible for a situation like this ; but, Sir, that is the only explanation that I can offer why the Mahar population is not able to progress. The reason is simple. Whenever, for instance, any Mahar community in any particular village desires to make progress in any particular direction and that direction is not liked by the ryot, the one immediate step that the ryot takes is to stop the baluta and to proclaim a social boycott. I have known of a case where the villagers have stopped the baluta and declared a social boycott because the relative of a certain Mahar went into the village with socks and boots, an act which the villagers did not like. I have known of a case where the villagers have stopped the baluta and declared a social boycott against the Mahar population because one Mahar in the village had the daring to put tiles on his house. Sir, such a system which enslaves the whole population, which smothers the spirit of progress, which blocks the way for furtherance, is a system which, I think, no right-minded person, no man with any feelings, will sustain or will justify. Sir, no wonder that the whole of the Mahar population is absolutely tired of this watan system. My honourable friend the Revenue Member will take it from me that the whole of the Mahar population—I say that without fear of challenge—is absolutely tired of the system and is desirous of getting rid of it as soon as possibly can. With these few preliminary remarks I will now proceed to explain the provisions of the bill which is before this House today.

Now, Sir, for the consideration of my bill it is necessary to bear in mind that I propose to make two divisions of the watandar Mahar population. The first division is one which is absolutely tired of and would have nothing to do with the watan at all, a class which would like to be immediately relieved of the obligation to serve. Their only condition is that if they choose to give up their watan, that is to say their right to serve hereditary, they should not be deprived of the lands which they have in their possession. In order to carry out that object I have provided by clause 4 to add a proviso to section 15(1) of the existing Watan Act. By that proviso I propose that if a representative body of watandar Mahars or a majority of them represent to the Collector in writing that they do not want to serve and that they are willing to pay the full rate of assessment on their lands, the Collector should relieve them of their obligation to serve. That is the meaning of the proviso. Now, the first thing I should like to point out is that the principle of this proviso is not new. The principle enacted in this proviso is a very old principle, a principle with which the Government is familiar and a principle which Government have accepted and acted upon on various occasions. Sir, this House or at least the majority of honourable members in this House will know that before the introduction

of British Government in this country we had in the villages twelve different village servants known as Balutedars. When the British Government began the administration of this country they classified these 12 officers into three groups : Those whose services were necessary for the purpose of Government, those whose services were necessary only for the purposes of ryot and those whose services were necessary for both. In the case of those village servants whose services were only necessary for the purpose of the ryot, Government by what are known as the Gordon settlements, commuted their watans, that is to say they allowed them to retain full possession of the lands on their consenting to pay full revenue assessment. Sir, the proviso of my bill is nothing else than the principle embodied in the Gordon settlement.

The second example that I would like to give in support of my proposition that the principle of the bill is not new is that I find in 1923 Government issued a resolution with respect to the Shetsanadi watans. In that resolution No. 9319, dated the 13th October, Government have laid down that these Shetsanadi watandars who do not render services may be relieved of their obligations to serve provided they are willing to pay full revenue assessment.

Then, Sir, I should like to remind the House of the more recent example, I mean the Joshi Bill. When the Joshi Bill came up for discussion on the floor of this House it was pointed out that those Joshis who do not want to serve should be allowed to keep their land. Government, on that occasion, introduced of their own accord, I understand, a proviso in the bill allowing the village Joshis to retain the land provided they were willing to pay full revenue assessment. The proviso of my bill is not something different from the proviso introduced in the Joshi Bill.

Then, Sir, I should like to argue this point also from the legal point of view. Suppose, now, there was not this proviso and supposing a watandar Mahar wanted to be relieved of his obligation to serve and suppose, further, that Government wanted to exercise their powers of resumption of the watan, what would Government resume ? I submit, Sir, that Government would be entitled to resume only the land revenue and nothing more. The High Court of Bombay in a series of decisions which it has given has held that in the case of inam in this Presidency there is always the presumption that the grant is of land-revenue only and not of the land. That has been the view of the Bombay High Court. That being so, I submit, Sir, that ordinarily and without the enactment of this proviso the utmost that Government can do in the case of Mahars who do not wish to render services would be to ask for full revenue assessment on their lands because the inam merely consists in nothing else than freedom from land revenue. The grant does not include the land. I am aware. .....

Sardar G. N. Mujumdar: Even in the case of Mahars ?

Dr. B. R. Ambedkar: Yes, even in the case of Mahars.

I am aware, Sir, that there are two decisions of the Privy Council wherein

Their Lordships have stated that there is no justification for starting with a presumption of this sort. But then, Sir, there is also a decision of the Bombay High Court after those judgments were delivered. I refer to 22 Bombay Law Reporter, page 275 where the High Court has held, even after the decision of the Privy Council that that presumption holds good and the reason they have given is very important. That reason is this. Government in 1854 after the passing of the Act of 1852 for inquiring into the titles of revenue free estates passed a resolution defining the meaning of the word "resumption". I refer to resolution No. 2449 of the year 1854. The resolution expressly states that resumption means not taking away the land but the levying of full revenue assessment The Bombay High Court says that having regard to that resolution its ruling that in the case of crown grant the resumption is of land revenue and not of land will not be unjustifiable. I, therefore, submit, Sir, that even on legal grounds what Government can resume in the case of Mahar watans would be land revenue only and not land.

The Government may perhaps object to this proviso on the financial grounds. Government have stated in the course of the debate which has preceded this bill that if watans were commuted, that is to say, if the Mahars were allowed to retain their watan lands on the payment of the land revenue, Government in that case would be obliged to employ a paid agency and that the cost of remunerating this paid agency would be an additional burden on their treasury. Now, Sir, my first submission is this : I do not think there would be any additional burden on the treasury, and for these reasons. Even if Mahar watans are commuted and even if Mahars are liberated from rendering services that they render and even if Government employ a paid agency the Government will have at its disposal a fund from which they would be in a position to pay the new agency employed. First of all they would have a fund derived from the assessment levied on the lands of the Mahars. In addition to that Government will also have the right to levy baluta because according to the ruling of Government the village population is liable to pay, the cost of the watch and ward. I submit, Sir, that these two things together will form a sufficient fund for the maintenance of the new paid agency. The one reason which terrified Government at the thought of commutation of the Maharki watan is that they think they shall have to employ the same number of people as they at present employ. I understand—I have not the exact figures—that Government are employing about 64,000 Mahars in the Bombay Presidency. I submit, Sir, under the new system they will not have to employ such a large number of people. They are employed by Government now because they can vicariously do so at the cost of the ryot. In some villages there are 16 Mahars employed. In other villages for instance in Nagar District there are 32 Mahars employed in one village. I submit, Sir, that the number of Mahars employed at the present moment is most extravagant which certainly can be greatly reduced and if the reduction comes about as I expect it is

bound to come, one-third of the present number will be sufficient and the land revenue and the baluta will constitute a sufficient remuneration without any additional burden on the treasury. I ask in all seriousness why should not the Government undertake to bear that burden ? Why should not the Government pay the cost of the services ? In the case of every other Government employee, Government has made itself bold to come before this Council to ask for additional money. Sir, in the year 1921 Government agreed to increase the salaries of village teachers. In the same year Government brought forward proposals to increase the salaries of the subordinate services. Apart from this, Government brought forward proposals to increase the salaries of the talatis. If, Sir, the Government have got the nerve, the courage and the sympathy for these classes to bring forward financial measures to remunerate other services, why should not Government have the same nerve, the same courage and the same sympathy in the case of these Mahars ? I do not understand, Sir, why for instance Government should continue or be a party to a system which enthrals and enslaves a class of His Majesty's subjects. I submit, Sir, that either on the legal ground or the moral ground, and I say on financial ground, the principle I have enunciated in section 4 of my bill is just and equitable.

I now come, Sir, to the other class of watandar Mahars, those who care to carry on with the watan, those who are prepared to render services provided their grievances are remedied. These Mahars I have provided for in clause 6 of my bill. The provision in this section which is sought to be enacted in the interests of that part of the Mahar population, which cares to carry on the village duties, mainly consists in the re-organization. I use the word advisedly—mainly consist in the re-organization of the baluta system. If honourable members will go through the clauses which are enacted therein, they will find that there is, first of all, a provision made for the conversion of the baluta into a money cess. Secondly, provision is made for the recovery of the money cess along with the land revenue. Thirdly provision is made for the division of that cess into two parts, one for services rendered to the ryot and another for services rendered to the Government; so that that part of the cess which will be apportioned for services to the Government will be obligatory, while that part of the cess which will be apportioned for private services to the ryot will be optional. Those ryots who care to employ the services of the Mahar for their private service will be obliged to pay only that part of the cess which will have been assigned for private service. The Mahars, on the other hand, if, they do not want to render service to the ryot but want to render service only to the Government shall forfeit that part of the money cess which will have been assigned for private services.

Now, Sir, the House is likely to think that I am making some novel proposals; I wish however to emphasise that none of these provisions are new. They already exist in the Watan Act. There is only a change in the existing system and a re-organization. The first provision that baluta shall

be converted into a money cess will be found already existing in section 19 of the Watan Act. That is not, therefore, a new thing. Under the existing Watan Act the Collector is given the power to convert, whenever he thinks fit, the baluta into a money cess. The second provision that the collection of the money cess shall be made along with the land revenue, I submit again is not a new proposal. It already exists in the Watan Act. Reference to section 81 of the Watan Act will show that the Collector has, under the existing Act, the power to collect all haks, all remunerations, all emoluments, as if they were arrears of land revenue. Therefore, what I submit, Sir, is that there is nothing that is new in section 6 of the bill. All that is new in section 6 of my bill is that the discretion instead of being given to the Collector is given to the parties themselves. The existing law recognizes that circumstances will arise when provisions such as those contemplated by section 6 of my bill will be necessary. Otherwise those provisions would not have found any place in the existing law. What I feel is that although the Collector may have the discretion, he may not know, he may not be aware, and may not be cognisant of the fact that circumstances have arisen which require that his discretion should be exercised. All I say is that the Collector should be guided by the parties themselves in the matter of the exercise of the discretion, so that, if the parties desire that the baluta should be collected along with the land revenue, the Collector will know that the occasion has arisen for him to use his discretion. There is nothing new in this, except the transfer of the discretionary power from the Collector to the ryots and to the Mahars.

Then, Sir, the third provision as regards the partition of the baluta between two specific shares, one for private service and the other for Government service, is no doubt new. But I submit that circumstances have rendered it very necessary. According to the view of Government the baluta is a joint payment for services to the ryots and for services to Government. The Government on the 3rd of May 1899 passed a resolution No. 3074 wherein they have expressly laid down that baluta is a joint remuneration for services both to the ryots and to the Government. I need not go so fai back in order to give support to this view. Even as late as 1919, the Government in the papers that they laid before this House, in reply to a question on this point relied upon the order passed by the Assistant Secretary to Government in which the proposition has been expressly emphasized, that the baluta is not paid for merely private services, but is also paid for services to Government Now, Sir, what I submit is that the Mahars, some of them, are willing to render services to the Government, but they are not willing to render services to the ryots. There are also certain ryots, I know of, who do not want to employ an agency which is forced upon them as the Mahars are by the present law. They would like to employ on their own initiative at their own will, any one whom they would care to employ. In the same way there are some Mahars who do not want to render services to the ryot. They would like to have their freedom

to serve or not to serve. But under the existing law this freedom is denied to them. They are forced to serve whether they wish it or not. This is due to the fact that the baluta is a joint remuneration and there is no way of finding out how much of the remuneration in the form of baluta is due for Government services and how much of it is due for private services. In these days of rivalry in social advancement the tension between the ryots and the Mahar has become great and will continue to grow in intensity unless freedom to employ and freedom to serve is provided for. To achieve this purpose it is necessary to define the quota of baluta due from the ryot on account of private services to the ryots and that due for the services rendered to Government. What happens under the present circumstances is this, that if a Mahar does not render service to the ryot, all the same, there being no partition of the baluta, the ryot is obliged to pay the whole and the Mahar gets an advantage over the ryot.

On the other hand it happens that if the Mahar did not render service to the ryot but rendered services only to Government, he loses the whole of the baluta, for the reason that the ryot has no idea how much of the baluta is due from him for Government services. Not knowing this he withholds the whole and thereby causes a wrongful loss to the Mahars. It is therefore very essential, I think, in the interest of better administration and in the interests of peace in the villages that this partition of the baluta should take place. I submit it is absolutely contrary to the principle of law that the services of one class of people should be forced upon other classes of people. It would be atrocious to uphold a system under which a particular barber should alone shave us to the exclusion of any other barber. But the watan system is such an atrocious and barbarous system. I am sure the lawyer members of this House are aware that we had in the High Court a case in which one of the barbars had brought a suit that the Yajmans (the ryots) in a particular village were not entitled to employ the services of an outside barber, that whether or not that particular barber was efficient or not, whether he knew how to crop the hair or to pare the beard, he was entitled to render service to the ryots all the same. The same thing happens in the case of Mahars. What my bill aims at is freedom of contract; if the ryots do not want to employ the Mahars, they ought to have perfect liberty not to employ them, and if the Mahars do not want to serve, the Mahars should have perfect liberty not to serve. But under the present system, under the system of joint remuneration, this liberty of contract is negatived and is not obtainable. My scheme provides for that freedom of contract, and I think at least in this century when every society has advanced from status to contract we ought not for instance to block the progress of Indian society by refusing the Mahars and the ryots the liberty of contract.

One thing I would like to say is that the system which I have outlined here in this bill is not altogether my own. It is a system which I have copied from the Berars. In the Central Provinces and the Berars, similar feuds and troubles were going on between ryots and the Mahars. A great agitation

was carried on, on the part of both the sides and Government there appointed a committee to investigate into the matter and to make their proposals. In 1920, the committee made its proposals and the Government introduced the system which I have essentially reproduced in the provisions of this bill. I submit that if the provisions of this bill, which are the result of the recommendations of the Berar Committee, are good for the Berars, I think they cannot be bad for the Bombay Presidency, because the Berar system was a replica of the Bombay system ; so much so that the whole of the Berar Committee's report is based upon the resolutions of the Bombay Government. These are the main provisions of the bill.

There is a provision in the bill, however, which probably requires a little explanation and that provision is the provision which introduces certain changes in section 9 of the Watan Act. I mean clauses 2 and 3 of my bill. Under the provisions of the Watan Act, it is laid down that watan lands shall not be alienated to any one outside the watan family. There is also a provision under section 9, which empowers the Collector to resume the land of a watandar which has been transferred to a non-watandar. But under section 9 whether or not to declare the alienation null and void and to resume such alienated land is left entirely to the discretion of the Collector. The Collector does not always choose to exercise the discretion vested in him under section 9 in favour of the watandar. This may cause no particular hardship when the land so alienated although it is watan land is not assigned as remuneration to an officiating watandar. But I submit, Sir, that if an officiator is required to render services to Government on the express understanding that his watan land has been assigned to him in remuneration for his work shall always remain in his possession, I think Government ought to resume those watan lands which have gone out of the hands of the officiator. The sections which I have introduced make the declaration of alienation as null and void obligatory upon the Collector in the case of such watan lands as are assigned as remuneration of an officiator. In introducing these sections I adopt as my basis the well-known division of watan lands into two classes, those assigned as remuneration and those not assigned as remuneration. In the case of lands not assigned as remuneration the Collector may well not exercise his discretion because of the fact that the land is not necessary immediately for the purpose of the remuneration of the officiator. In that case if the Collector does not exercise his discretion in favour of the watandar and declare the alienation null and void there is not much case for complaint. But when the land is expressly reserved and assigned as remuneration. I think the Collector ought to have no discretion whatever in the matter but in every such case, the declaration should be given that the alienation is null and void.

I admit, Sir, that there are two defects in the bill as I have drafted it, and I like to make this admission because I want to be very, very just. I do not want to throw any additional burden on the ryot in the interests of the Mahars. The simple reason is that I am an enemy of the watan system.

I have striven all along to destroy the Maharaki watan system, although I know that in the immediate future the Mahars will suffer a great loss. But I am convinced that these shackles of the watan system are the principal causes which are keeping them backward. I am taking a long view of the matter and it is this that leads me to be indifferent to the immediate benefits to the Mahars from their watans. I cannot therefore be particularly striving to steel an advantage over the ryots, not particularly striving for benefitting the Mahars at the cost of the ryot. Honourable members of this House will see that the baluta system is, as I have organised it in my bill, not going to impose any additional burden upon the ryot. I use expressly the word "equivalent". That means no additional burden shall be levied upon the ryots for the remuneration of the Mahars. That will show how just I mean to be,. That leads me to admit that there are two defects in the bill. One is that in altering section 9 (alongwith clauses 2 and 3 of the bill) so as to make it obligatory upon the collector to resume the land, there ought to be a provision allowing the Collector to pay compensation to the dispossessed non-watandar. I readily admit that the lands may have been transferred to any one in faith and for full consideration. It stands to reason that when such a transferee is deprived of it, he ought to be paid compensation. When I had first drafted this bill, I had provided that the Collector should have power to compensate the non-watandar, but on the advice of certain official members, I withdrew that, but I am prepared to make that amendment in the select committee. Secondly, I ought to have provided that just as the Mahars should have option not to serve the ryot, the ryot ought to have the option not to employ the Mahars. I am prepared also to make that amendment in the bill in the select committee to which it may be referred. These are all the things, I think, in the bill which call for explanation.

Before I bring my remarks to a close I think I ought to make it very clear to the Honourable the Revenue Member that this bill has the support of the entire Mahar population. There is no division of opinion on that point at all. In fact there cannot be a division of opinion on this bill and for very good reason. The bill is not an obligatory bill. It is purely a discretionary bill. Unless the watandar Mahars desire that the provisions of this bill should be brought into operation, they will not be brought into operation. Things will continue as they are now. A change will come only when the Mahars will feel the necessity for it. It will not be forced upon them against their will.

Mr. P. R. Chikodi: This is an unilateral arrangement. It ought to be bilateral.

Dr. B. R. Ambedkar: I know I ought to make that amendment which has been omitted but which will be made in the select committee.

I say there cannot be any opposition to this bill on the part of the Mahars themselves because the bill is not an obligatory one and it does not compel them *to* take advantage of it. It only makes certain provisions in their interest if they want to avail themselves of them. The Mahars have not

therefore objected to this bill. Indeed there cannot be any objection on their part. Not only have they not opposed the bill, but they have whole heartedly welcomed it. Since the time I have been at this bill I have never kept anything secret from the Mahar population. I have placed the principles and the provisions of this bill before the whole Mahar population at several meetings to enable them to express their opinion on this bill and I am glad to say that the whole of the bill and the principles embodied in it have been unanimously accepted by them. In order that the Government may not have any occasion to say that these meetings were engineered by me for the purpose of obtaining support for the bill. I have, for the most part abstained myself from attending these meetings, which have been held under the chairmanship of members of other communities. My honourable friend Mr. Bole, sitting just by my side, will corroborate me when I say that in the city of Bombay a meeting of over 5,000 watandar Mahars was held under his presidentship. Of course some people tried to fool the Mahars that the bill is going to do them harm, but I think that the honourable member will corroborate me whether or not the Mahars supported the bill unanimously without a single dissenting voice. In the same manner, I would refer to my honourable friend Mr. Rajma Lakhichand. A meeting was held of the watandar Mahars of Khandesh at Jalgaon under his presidentship, where I addressed them on the provisions and the principles of this bill. Conservatively estimated, that meeting again was attended by something like 3,000 Mahars ; the theatre was full to its capacity, and when the resolution was moved, there was not a single Mahar who opposed it. I think my honourable friend Mr. Thorat will corroborate me that a similar meeting was held in the Ahmadnagar district, where also the bill was unanimously supported. I need not of course refer to the minor meetings held at different places. I can assure the House that the Mahar people are absolutely determined to have the bill, and I may tell my honourable friends that if the Government refuse to liberate these people on grounds of finance, on grounds of convenience, or on any other grounds, that it will be a war between the Revenue Department and the Mahars. If this bill does not pass, I for myself am not going to be in the Council; I am going to spend the rest of my time in seeing that the Mahars organise a general strike, and bring the Honourable the Revenue Member to feel that the principles of this bill are absolutely essential for the welfare of the Mahar people. I am speaking from the bottom of my heart; I do not want to keep anything behind. I want to say in all seriousness that that is our aim. Sir, I have been labouring in the cause of the depressed classes for the last three ycars as far as I possibly can. I have come across many difficulties in my way, and I have come definitely to know that the watan is probably the greatest difficulty that I have to face, in order to carry the Mahar population further. I am happy to find that the Mahars as well are convinced that these watans stand in the way of their advancement. I therefore hope that this Council will unanimously pass this bill. With these words, I move the first reading of the bill.

Question proposed.

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*ON THE HEREDITARY OFFICES ACT AMENDMENT BILL: 2

(Discussion on Bill No. XII of 1928, a Bill further to amend the Bombay Hereditary Offices Act, 1874, resumed)

Dr. B. R. Ambedkar: Sir, I am very much thankful, indeed to the non-official members of this House for the very warm and whole-hearted support which they have given to this measure. Sir, the debate has not disclosed that the opponents of this bill have made out any case against it and I do not think, therefore, that it is necessary on my part at this stage to enter into any details in reply to the objections that they have registered, All that they have done is to raise and place before this House certain matters, what we call "matters of prejudice", something which does not touch the intrinsic merits of the bill itself. Sir, I have admitted in my opening speech that the bill has no doubt probably certain defects, as is pointed out by a few of the honourable members opposite, and I made it plain in my opening speech that I leave an open door to the select committee to make such amendments that they may desire to make. I make no objections on that score. .....

An Honourable Member: Amendments even of principle ?

Dr. B. R. Ambedkar: Such amendments that the select Committee may want to make, even of principle; I have no objection at all. Any amendments that the select committee may desire to make. .....

Sardar G. N. Mujumdar: Even of principle ?

Dr. B. R. Ambedkar: Yes, I would much rather leave this bill in the hands of the select committee made up of non-official members of this House than leave it to the tender mercies of the officials. That I am prepared to do. Let the fate of the bill be what it may, but I leave it to the non-official members of the select committee of this House. Sir, I do not think that this procedure is going to inconvenience the Honourable the Revenue Member. Sir, I do not wish to incorporate into this bill any allegations or accusations against the official members. But I am constrained to say this, that they have certainly not treated this subject with the same urgency and with the same importance or with the same concern with which the

*B.L.C. Debates, Vol. XXIII, pp. 791-93, dated 4th August 1928.

depressed classes have viewed this bill. I remember a resolution was placed before this House in February 1923 discussing specifically same part of the provisions of this bill. The whole of that resolution was looked upon with the utmost favour by the non-official members of that House. The Honourable the Revenue Member then induced the member in charge of the resolution to withdraw it on the express understanding that he would institute immediate enquiries into the matter. Sir, four or five years have elapsed since that date, but no enquiry has been made at all. Sir, again a resolution was moved by my predecessor in the year 1925 raising the same issue which this bill raises. Then again, the honourable mover of the resolution was induced, to withdraw the resolution by the Government on the specific understanding that they would make enquiries into this matter. But nothing has been done. I do not think that it can lie in the mouth of my honourable friend the Revenue Member, that this bill is in any way a surprise sprung upon him. The provisions of this bill, that is, the demands that the depressed classes are making in the matter of their watan, are before him for a long time. If he really wanted to arm himself with facts and figures, if he really wanted to formulate his own proposals in substitution of the proposal which I have made, I submit, Sir, that he has sufficient time on his hands to do so. He has not availed himself of that opportunity which he had. All the same, I am prepared to offer him another opportunity and I say this, that if the bill goes to the select committee, I am prepared to move that the select committee shall make this report some time in June next; so that my honourable friend will have practically nine or ten months in between to make enquiries, to appoint any separate committee he wants to do of persons whom he regards as experts. He may thereby be in a position to formulate his own proposals and come before the select committee and move them by way of amendments. I have no objection to that, and if my honourable friend accepts that, I am perfectly willing to adopt that course. It is for him to say. But, as I said at the very beginning I am prepared to leave this measure in the hands of the select committee constituted of this House. I am not prepared to leave this measure to the official side. That is, Sir, what I want to say in reply.

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*BILL No. XXIII OF 1937 TO AMEND THE BOMBAY HEREDITARY OFFICES ACT

The following Bill for the introduction of which leave was granted to Dr. B. R. Ambedkar, M.L.A., at the meeting of the Bombay Legislative Assembly on the 17th September 1937 is published under rule 20 of the Bombay Legislative Assembly Rules : —

BILL No. XXIII OF 1937

A Bill to amend the Bombay Hereditary Offices Act HI of 1874.

Whereas it is expedient further to amend the Bombay Hereditary Offices Act, 1874 (Bom. in of 1874) in manner hereinafter appearing; It is hereby enacted as follows : —

1. *Short title.*—This Act may be called the Bombay Hereditary Offices (Amendment) Act, 1937.

2. *Amendment of section 15 of Bom. III of 1874.*—For section 15, clause 1, the following shall be substituted: —

15. *Clause 1.*—When the holder of a watan or any member of a watan family having an interest in the watan applies to the Collector in writing to relieve him in perpetuity of liability to perform services, the Collector shall so relieve him on being satisfied that the application is genuine.

Clause 2.—From the date when he is relieved from liability to serve he shall cease to be the holder of a watan and shall not be entitled to any rights existing from his watan except as is provided for in clause 3 hereof.

Clause 3.—On his agreeing to pay full assessment every holder of a watan who is relieved from the liability to serve under clauses 1 and 2 of this section shall be allowed to retain the land which he was entitled as the holder of the watan and shall be deemed to be an occupant of it within the meaning of section *3*(*16*) of the Bombay Land Revenue Code.

Clause 4.—It shall be lawful for the Collector to apportion the land to the applicant who is relieved from service if it is held jointly by more than one watandar or watan families.

Clause 5.—The land which is allowed to be retained by such applicant who is relieved from service shall cease to be regarded as watan land assigned as remuneration of an officiator.

**Bombay Government Gazette,* Part V, pp. 101-05, dated October 21, 1937.

3. Clause 2 shall be renumbered as clause 6.

4. Clause 3 shall be renumbered as clause 7.

5. In clause 4 after the words "the whole number of joint owners" the words "or one or some of such joint owners" shall be added. Clause 4 shall be renumbered as clause 8.

6. *Amendment of section 16 of Bom. III of 1874.*—In section 16 for the word "originally", the word "primarily" shall be substituted.

7. *Amendment of section 19 of Bom. III of 1874.*—In section 19 the words "and to decide whether the payment shall be made in kind or money" shall be deleted.

8. *Insertion of new sections 19A, 19B, 19C and 19D, after section 19 of Bom. III of 1874.*—After section 19, the following new sections shall be added : —

"19A. *Conversion of a right to a levy in kind into an equivalent money cess, by the Collector.*—When the whole body of representative watandars or a majority of them whose watan property consists of a right to a levy in kind apply to the Collector to convert such right into a money cess, the Collector shall then convert the same into an equivalent money cess.

"19B. *Recovery and payment of money cess by the Collector.*—When such a right to a levy in kind has been converted into an equivalent money cess the whole body of representative watandars or a majority of them concerned may apply to the Collector to recover the same from those who are liable to pay. The Collector shall then recover the same along with and as part of the land revenue and shall direct that the same be paid from Government Treasury to those watandars entitled to the same.

"19C. *The Collector to decide on application from watandars how much money cess is due to them for services to Government and how much for services to ryots.*—In case where such a right to a levy in kind be deemed a joint return for services to both the ryots and the Government, the whole body of representative watandars or a majority of them whose right to a levy in kind has been converted into a money cess may apply to the Collector to decide how much of the money cess is due to them for services to Government and how much for services to the ryots. The Collector shall then give such a decision, which decision shall be deemed to be final.

"19D. *Option to the watandars to refuse to render any service to the ryots.*—The whole body of representative watandars or a majority of them who have asked for such a decision as is referred to in section 19C, shall have the option to refuse to render any service to the ryots provided they inform the Collector in writing of their decision in this behalf. In case such option is exercised, the watandars exercising such option shall forfeit that portion of the money cess due to them for services to the ryots."

9. *Amendment of section 21 of Bom. HI of 1874.*—In section 21 for the words "such periods" the words "a period of 10 years" shall be substituted.

10. *Amendment of section 83 of Bom. III of 1874.—For* section 83, the following shall be substituted : —

> "83. Except as is otherwise provided for in section 18, Government shall have power to make rules laying down the duties that are to appertain to any hereditary office. Provided that the rules made under this section shall be laid on the table of the Legislature for not less than one month previous to the next session thereof and shall be liable to be rescinded or modified by a resolution of the Legislature. If any rule is modified or rescinded, Government shall accept the modification and republish the rule accordingly or shall rescind the rule."

Statement for Objects and Reasons

Three purposes underly the Bill. First is to permit commutation of the watan at the option of the holder, second to provide better security for the payment of the remuneration of certain classes of watandars and the third purpose is to provide for specification by rules of the duties to be performed by the watandars.

Sections 2-6 are designed to give effect to the first of these purposes. Sections 7-9 are intended to carry out the second purpose and section 10 is to meet the third purpose of the Bill,—

(*i*) Section 2 allows a watandar who wishes to do so to free himself from the liability to serve as a watandar without involving a loss to his right to the land which formed part of his watan. While it allows such a watandar to retain the land it does not involve any loss to Government because Government will be entitled to recover from him full survey assessment.

(*ii*) Sections 3 and 4 are formal.

(*iii*) Section 5 makes it possible for one or some of the joint owners of the watan to apply for being relieved from service.

(*iv*) Section 6 is intended to define more accurately who shall be liable for service to the community by the use of the word "primarily".

(*v*) Section 7 provides that there shall be no discretion left to the Collector in determining whether the collection shall be made in kind or in money.

(*vi*) *Section 8 adds four new sections to the Act.*—Section 19A gives the right to watandars to apply to the Collector to convert payment in kind into payment in money and requires the Collector to convert the same in its money equivalent.

Section 19B places an obligation on the Collector to collect the money cess as part of the land revenue if required to do so by the watandars. Section 19C gives the Collector the power in cases where the remuneration of the watandar is a joint payment for services to Government as

well as to the ryots to decide how much of it is for services to Government and how much is for services to the ryots.

Section 19D gives an option to the watandar to free himself from the liability to serve the ryots subject to his foregoing any claim to that part of the remuneration fixed by the Collector under section 19C as being due for services rendered to the ryots.

(*vii*) Section 9 fixes 10 years as the maximum period for any settlement made by the Collector under section 21 in respect of the profits of the watan.

(*viii*) Section 10 merely requires that the duties to be performed shall be laid down by rules.

(Signed) B. R. AMBEDKAR

H. K. CHAINANI,

Secretary to the Bombay Legislative Assembly.

Poona, 18th October 1937.

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18

*ON THE HEREDITARY OFFICES ACT AMENDMENT BILL No. XXIII OF 1937

Dr. B. R. Ambedkar (*Bombay City*): Sir, I rise to move for leave to introduce a Bill to amend the Bombay Hereditary Offices Act III of 1874.

Three purposes underlie the Bill. The first is to permit commutation of the watan at the option of the holder, the second to provide better security for the payment of the remuneration of certain classes of watandars, and the third purpose is to provide for specification by rules of the duties to be performed by the watandars.

Sections 2-6 are designed to give effect to the first of these purposes. Sections 7-9 are intended to carry out the second purpose and section 10 is to meet the third purpose of the Bill.

Section 2 allows a watandar who wishes to do so to free himself from the liability to serve as a watandar without involving a loss to his right to the land which formed part of his watan. While it allows such a watandar to retain the land, it does not involve any loss to Government because Government will be entitled to recover from him full survey assessment.

Sections 3 and 4 are formal.

Section 5 makes it possible for one or some of the joint owners of the watan to apply tor being relieved from service.

Section 6 is intended to define more accurately who shall be liable for service to the community by the use of the word “primarily”.

Section 7 provides that there shall be no discretion left to the Collector in determining whether the collection shall be made in kind or in money.

Section 8 adds four new sections to the Act

Section 19A gives the right to watandars to apply to the Collector to convert payment in kind into payment in money and requires the Collector to convert the same in its money equivalent

Section 19B places an obligation on the Collector to collect the money cess as part of the land revenue if required to do so by the watandars.

Section 19C gives the Collector the power in cases where the remuneration of the watandar is a joint payment for services to Government as well as to

*B.L.A. Debates, Vol. 1, pp 1091-92, dated 17th September 1937.

The Bill introduced by Dr. Ambedkar is reproduced at pages 90-93

the ryots to decide how much of it is for services to Government and how much is for services to the ryots.

Question put, and leave granted.

Dr. B. R. Ambedkar: Sir, I introduce the Bill.

The Honourable the Speaker: The Bill is introduced.

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19

*BILL No. XX OF 1937 TO ABOLISH THE KHOTI SYSTEM

The following Bill for the introduction of which leave was granted to Dr. B. R. Ambedkar, M.L.A., at the meeting of the Bombay Legislative Assembly on the 17th September 1937 is published under rule 20 of the Bombay Legislative Assembly Rules : —

BILL No. XX OF 1937

A Bill to abolish the Khoti System

WHEREAS it is desirable and necessary to abolish the system of revenue farming known as the Khoti System and to extend the principles of the Rayatwari System as being more beneficial to the area where the Khoti System is in operation; It is hereby enacted as follows : —

1. *Short title and extent.*—This Act shall be called "The Khoti Abolition Act, 1937." It shall extend to the whole of the Presidency of Bombay.

2. *Aboition of Khoti System.*—After the passing of this Act it shall be lawful for Government by notification in the *Government Gazette* to declare that the Khoti Rights of a particular khot or of khots in a particular area are abolished from such date as may be mentioned in the said notification.

3. *After notification Khot not entitled to act as Khot and Government not bound to employ or recognise him as Khot.*—From the date of any such notification so much of any law, custom or usage now in force which entitles the Khot to act as a Khot or which requires Government to employ or recognise a Khot or which confers upon him the rights of Khot shall cease to be enforced in any suit or proceedings in any Court.

4. *After notification Khot free from liability in respect of revenue.*—From the date of any such notification the Khot shall be free from any liability to Government relating to revenue becoming due after the date of the notification.

5. *Compensation to Khots.*—(*i*) It shall be lawful for Government to pay reasonable compensation to the Khot for the loss of his rights as a Khot suffered by him in consequence of the notification :

Provided that the compensation shall not exceed one per cent. of the assessment leviable under the Land Revenue Code in respect of the land held by him as Khot.

**The Bombay Government Gazette,* Part V, dated October 21, 1937, pp. 88-94.

(*ii*) The decision of Government regarding the amount of compensation shall be final and conclusive.

(*iii*) It shall be lawful for Government to pay compensation due to a Khot in cash, bonds or annuity or in any other form and the decision of the Government as to the form and mode of payment shall be final and conclusive.

6. *Inferior holders of Khoti villages to be occupants.*—When the Khoti System in any area has been abolished under the provisions of this Act all persons in possession of the lands in that area whether under the management or beneficial enjoyment of the Khot shall be regarded as occupants of the lands in their possession within the meaning of section *3*(*16*) of the Land Revenue Code, 1879, and shall have the same rights and be affected by the same responsibility in respect of lands in their possession as the occupants of the unalienated land have been or are affected by or under the provisions of the said Code and all the provisions of the said Code shall be applicable to them.

7. *Determination of disputes regarding claims to occupancy rights.*—In case there is a dispute as to who should be the occupants of a particular holding priority shall be granted to the claimant whose occupation of the land has been of greater duration during the 12 years preceding the notification.

8. *Rights to occupancy not lost by disturbance.*—Any disturbance caused to the rights of an inferior holder after the passing of the Act shall not prejudice the rights to which he may be entitled under section 6 of this Act.

9. *Inquiry into disputes as to rights to compensation by Khots and rights to occupancy by inferior holders.*—(*i*) It shall be lawful for Government to appoint an officer to enquire into and decide all disputes arising under this Act between persons, claiming to be interested as occupants of lands in the area in which the Khoti System has ceased to exist, and also disputes between persons laying a claim to the compensation payable under this Act.

(*ii*) For the purpose of enquiries under this Act the Officer shall have power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel the production of documents by the same means and so far as may be in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

(iii) The provisions of sections 9, 10, 11, 12, 13, 14 and 15 of the Land Acquisition Act, 1894, shall so far as may be apply to the proceedings held under this Act for the determination of the amount of compensation to be paid or of the right to be recognised as an occupant.

(*iv*) It shall be lawful for the officer to compel the Khot or the inferior holder to produce all documents, records and registers in his possession or power for the purpose of any enquiry that may be necessary for settling disputes regarding rights to the amount of compensation or regarding rights to occupancy.

(*v*) The Officer shall lodge his decision with the Collector and shall communicate in writing his decision regarding claims, to a right to occupancy in the land or claims to a right *to* the compensation to the persons making such claims.

(*vi*) If the Officer is unable to satisfy himself as to which of the different claimants was entitled to compensation he may suspend payment of compensation until a competent Civil Court has determined the rights of the persons who have claimed the compensation.

10. *Reference by inferior holders whose claim to occupancy has been rejected.*—(*i*) Any person who is aggrieved by reason of the fact that his claim for being registered as an occupant is rejected by an order passed by an Officer specially deputed by the Government in his behalf shall by a written application to the Collector require that the question of his claim be referred by the Collector for the determination of the District Court within whose local jurisdiction the whole of part of the land is situated or a Tribunal appointed by Government in this behalf.

(*ii*) The application shall state the grounds of his objections to the decision of the Officer and shall be submitted within 90 days from the date of the service of the order rejecting his claim.

(*iii*) The Collector shall refer the application to the District Court or the Tribunal as the case may be. The application shall be numbered and registered as a suit between the applicant as plaintiff and the person or persons who have been declared by the Officer to be entitled to occupancy as defendant.

(*iv*) On such application being registered the Court or the Tribunal shall direct notice thereof to be given to the defendant or defendants to appear and answer the claim on a date to be therein specified.

(*v*) The application shall be set down for hearing as a suit instituted in the ordinary manner under the provisions of the Code of Civil Procedure, 1908, shall apply to such suits so far as the same are applicable.

(*vi*) No appeal shall lie from any decision given or order passed in any such suit by the Court or by the Tribunal.

11. *Statements to be filed by Khots.*—(1) Within three months from the passing of this Act the Collector shall by notice in writing require every Khot to lodge with him on or before a day named by him in the notice (which day shall not be later than three months from the date of the notice) a statement signed by the Khot showing : —

(*i*) The survey numbers of all lands of which he is a superior holder as a Khot or otherwise ;

(*ii*) the persons who have been in occupation of each survey number for each year commencing from the year 1920 to the date of the passing of this Act; and

(*iii*) the title and the nature of the interest claimed by the Khot in each such survey numbers.

(2) The Khot shall report to the Collector from time to time in writing of any change that may subsequently occur in any of the particulars contained in the statement lodged under sub-section (*i*).

(3) *Liability to make statement.*—Every Khot required to make or deliver a statement under the preceding section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

12. *Statement to be evidence.*—The entries in the statement furnished by the Khot under section 11 shall be conclusive evidence as against the Khot of the facts contained therein in any suit or proceeding to which the Khot or his representative in interest is a party.

13. *Penalty for not furnishing statement.*—(*i*) Any Khot who in contravention of the provision contained in sub-sections (1) and (2) of section 11 refuse or neglects to lodge a statement when required to do so or refuses or neglects to report any change occurring subsequently in any of the particulars of the statement shall be punished for each such offence with fine which may extend to 100 rupees.

(*ii*) Any Khot neglecting to make a statement as required by sub-section (*1*) of section 11 within the prescribed period shall be liable at the discretion of the Collector to be charged a late fee not exceeding five rupees a day of every day of the delay which shall be leviable as an arrears of Land Revenue.

14. *Provision for obtaining certified copies.*—In all cases in which a statement is lodged by the Khot and in all cases in which in the course of an enquiry documents have been filed and decisions have been given authenticated copies of entries in the statement of documents and decisions shall be furnished to the parties and to those claiming under them on due application being made for the same subject to such charges for copying, etc., as may from time to time be prescribed by Government.

15. *Authority to Government to make rules.*—(1) It shall be lawful for the Government to make rules for giving effect to the provisions of this Act and in particular providing for—

(*i*) the form, contents, publication and service of the notification.

(*ii*) the determination of the amount of compensation, and the mode of payment,

(*iii*) the appointment of Tribunal to hear and decide references,

(*iv*) the fees and cost to be paid by claimants on applications, references and authenticated copies of documents, entries and decisions arising in any proceedings under the Act,

(*v*) the production of documents by parties and the maintenance of the documents produced or lodged.

(2) The power to make rules under this section shall be subject to the condition of previous publication in the *Bombay Government Gazette.*

(3) The rules made under this section shall be laid on the table of the Legislative Assembly for not less than one month previous to the next session thereof and shall be liable to be rescinded or modified by a resolution of the said Assembly. If any rule is modified or rescinded, Government shall accept the modification and republish the rule accordingly or shall rescind the rule.

Statement of Objects and Reasons

1. The Khoti System is one of the minor land tenures in the Bombay Presidency. It is found mostly in the Ratnagiri District and in some parts of the Kolaba and Thana districts.

2. The terms of the Khoti Tenure are in some cases regulated by law, in some by custom and usage and in the rest by grant. In the Ratnagiri District the terms are regulated by Bombay Act I of 1880. In the Kolaba District the terms are regulated by custom and usage and in the Thana District by grant.

3. The Khoti Tenure differs from the ordinary Rayatwari Tenure inasmuch as in the latter the Government collects revenue directly from those who are in occupation of the land while in the former the Government is required to employ the services of the Khot for the purpose of collecting revenue.

4. The system of Khoti Tenure while it binds the Khot to pay revenue to the Government leaves him free to do what he likes to the inferior holders and this freedom has been so grossly abused by the Khots that the inferior holders are not only subjected to all kinds of exactions but they have been reduced to a state of abject slavery. In recent years the inferior holders have been carrying on a great agitation against Khots and have been demanding the abolition of the Khoti system. The relations between the khots and the inferior holders have been so strained that three Khots were murdered by them.

5. While the Khoti Tenure may have the advantage of facilitating the collection of revenue its disadvantages are so great that the Tenure cannot be allowed to continue hereafter without causing grave disturbance to the peace and tranouillity of the Presidency. It is therefore imperative to abolish the system.

6. The Bill aims (1) to abolish the Khoti System and to establish direct relationship between Government and those who are in possession or occupation of the land which is under the management or beneficial enjoyment of the Khot, (2) to make provision for the payment of reasonable compensation to the Khot for the loss of his rights and (3) to give those inferior holders who are in actual occupation of the land the status of occupants within the meaning of the Land Revenue Code and (4) to provide for other incidental purposes.

(Signed) B. R. AMBEDKAR.

H. K. CHAINANI,

Secretary to the Bombay Legislative Assembly.

Poona, 18th October, 1937.

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20

*ON A BILL TO ABOLISH THE KHOTI SYSTEM

Dr. B. R. Ambedkar (Bombay City, Byculla and Parel): Sir, I rise to move for leave to introduce a Bill to abolish the Khoti system. The brief statement which you have directed us to make in support of the motion will, in my case, consist of nothing more than a reference to the statement of objects and reasons. And before I do so, I would point out, Mr. Speaker, that this is the shortest statement of objects and reasons ever drafted to a Bill which is so important as the abolition of the Khoti system.

The Khoti system is one of the minor land tenures in the Bombay Presidency. It is found mostly in the Ratnagiri district and in some parts of the Kolaba and Thana districts.

The terms of the Khoti tenure are in some cases regulated by law, in some by custom and usage and in the rest by grant. In the Ratnagiri district the terms are regulated by Bombay Act I of 1880, in the Kolaba district the terms are regulated by custom and usage, and in the Thana district by grant.

The Khoti tenure differs from the ordinary Rayatwari tenure inasmuch as in the latter the Government collects revenue directly from those who are in occupation of the land while in the former the Government is required to employ the services of the Khot for the purpose of collecting revenue.

The system of Khoti tenure, while it binds the Khot to pay revenue to the Government, leaves him free to do what he likes to the inferior holders, and this freedom has been so grossly abused by the Khots that the inferior holders are not only subjected to all kinds of exactions but they have been reduced to a state of abject slavery. In recent years, the inferior holders have been carrying on a great agitation against the Khots and have been demanding the abolition of the Khoti system. The relations between the Khots and the inferior holders have been so strained that three Khots were murdered by them.

While the Khoti tenure may have the advantage of facilitating the collection of revenue, its disadvantages are so great that the tenure cannot be allowed to continue hereafter without causing grave disturbance to the

*B.L.A. Debates, Vol. 1, pp. 1087-89, dated 17th September 1937.

The Bill introduced by Dr. Ambedkar is reproduced at pages 96-100.

peace and tranquillity of the Presidency. It is therefore imperative to abolish the system.

The Bill aims (1) to abolish the Khoti system and to establish direct relationship between Government and those who, are in possession or occupation of the land which is under the management or beneficial enjoyment of the Khot, (2) to make provision for the payment of reasonable compensation to the Khot for the loss of his rights, and (3) to give those inferior holders who are in actual occupation of the land the status of occupants within the meaning of the Land Revenue Code, and (4) to provide for other incidental purposes.

With these words, Sir, I beg leave of the House to introduce the Bill.

Question proposed.

Mr. S. L. Karandikar (Ratnagiri North): Mr. Speaker, Sir, I rise to oppose the introduction of this Bill. (Interruption.) I would not ordinarily have opposed the introduction, because it seems to be a formality in this House to allow introduction unopposed. But I think it my duty to oppose this Bill at its very introduction for one reason only.

When the land revenue question was being discussed in this House at the time of the demands for grants, it was made clear to us by the Honourable the Revenue Member, when he gave us an assurance, that the whole question of land revenue policy in the Presidency would be taken up some time in ensuing February, and therefore, we have to wait before we do anything. We should not accept any piecemeal legislation in regard to any item of land revenue. Therefore, even the members on the Treasury benches will agree with me when I say that this piecemeal legislation that is being proposed should not be allowed to be introduced in this House.

There are so many other remarks that I would have liked to oppose, because the introductory remarks were read out to the House ; but, I believe, there is sufficient time ahead when all these matters will have to be discussed and fought for. Therefore, I do not want to take up any more time of the House. But I think this is a matter of principle. Government have given us an assurance that the whole question of land revenue in this Presidency will be taken up for consideration and that legislation on a broad basis will be brought before this House some time in January or February. There is no reason why an exception should be made so far as this legislation relating to Kolaba and Ratnagiri is concerned. With these remarks I oppose the introduction.

The Honourable the Speaker: I do not think that any other member has a right to participate in this, treating it as a debate. The honourable member who begs leave to introduce the Bill has a right of reply ; and if he wants to reply, I will give him a chance.

Dr. B. R. Ambedkar: Sir, I do not think that any very detailed reply is called for by the observations made by my honourable friend Mr. Karandikar. He said that the Honourable the Revenue Minister has

given an assurance to the House that he is going to bring in legislation in order to overhaul the whole of the revenue system. Unfortunately, I was not present when this assurance was given; and I personally myself do not know exactly the extent and the scope of the assurance that he gave to the House. But, Sir, what I should like to submit to the House is this. The Khoti system is a system which stands by itself. It is not a system which comes under the Land Revenue Code and therefore can be said to be a part and parcel of the general land tenure of this Presidency. It is a separate item altogether. Therefore, I do not see any objection to a system which does not come under the general system being considered by itself.

My second submission to the House is that if the honourable members who occupy the Treasury Bench do in fact intend to carry out what they have assured the House they will, and if I find that the measures that they are bringing forth in order to deal with the subject with which this Bill deals are of such a nature that I should be content with the remedies which they propose, then I have no hesitation in saying that I will withdraw the Bill if I find that their legislation is superior to mine. I do not think anything more is necessary for me to say on this occasion.

Question put, and leave granted.

Dr. B. R. Ambedkar: Sir, I introduce the Bill.

The Honourable the Speaker: The Bill is introduced.

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21

*ON VILLAGE PANCHAYATS BILL : 1

Dr. B, R. Ambedkar: Mr. President, I have listened with very great interest to the speech delivered by the Honourable Minister in charge of this Bill. Sir, I must also say that I have listened to it with very grave concern. I am sure there can be no two opinions on the fact that this Bill deals with some very vital issues. It not only deals with the question of self-government in so far as it affects the civic amenities of the rural population of this Presidency, but it also affects the question of the life, liberty and property of the rural population. Having regard to these vital issues involved in this Bill, I am bound to say that the Honourable Minister, in justice to all the interests concerned, ought to have given a longer period for the consideration of the implications involved in this Bill. Sir, he has chosen to satisfy his conscience by barely complying with the requirements of the law by allowing seven days to pass before the Bill was brought for consideration. May I say that in my opinion not only seven days but seven months are necessary for the consideration of this Bill ? And I suggest that there would be nothing wrong even now in the Honourable Minister sending this Bill for circulation in order to elicit the opinion of the general public on the issues involved in this Bill. That course I would request him with all due respect to adopt, but if he does not, I would like to address to him two other considerations which, in my opinion, are very important considerations. Sir, I would like to say that, in my opinion, the present Government is not competent to undertake this piece of legislation. The Government is aware that the present system of administration is a discredited system. I am not using that in any carping sense. I am only trying to depict the facts as we all know them. Sir, no section of the population of this country is satisfied with the administration and the working of this Government. Indeed, if one wants to state facts as they are, there is a powerful section in this country which is not prepared to admit and to acknowledge the moral authority of this Government to rule. Sir, we also know that we are on the threshold of a new constitution. We know that the constitution of India for a government of the people, by the people and for the people is on the anvil. We all know and I think we are justified in hoping that this new constitution will be

*B.L.C. Debates, Vol. XXXV, pp. 1128-36, dated 6th October 1932.

forged within the short period of a year or two, and that a new government, supported fully by all sections of the community, will be installed. Sir, having regard to that consideration, I would like to point out to the Honourable Minister and to those honourable members who are occupying the Treasury Bench that they in their present position are no better than caretakers. Sir, by common consent a caretaker cannot undertake substantial alterations in the premises he is appointed to look after. At the most, during the interval before the real occupant comes to occupy his abode, he may undertake repairs in order to keep the building in working order.

I would also like to point out to the Honourable Minister the analogy of parliamentary life. In England where parliamentary system has been in operation for centuries now, when a Ministry is defeated and when the defeated Ministry does not resign outright and allow the reins to pass into the hands of the opposition but chooses to make its appeal to the electorate, it is an accepted convention of the constitution that the Ministry so situated must not undertake any legislation of any consequential importance. All that they can do is to look after the administration pending the decision of the electorate so that the new Government may not be embarassed by anything that may be undertaken by such a Government. I ask the Honourable Minister whether he does not wish to abide by the conventions of the parliamentary constitution. I leave it to him to decide.

Sir, I do not find any reason why the Honourable Minister should rush with this measure with such terrific speed, if I may say so, with only seven days notice. I do not find that there is any very great urge, that there is any very great necessity and urgent call upon him by the people of this Presidency to introduce this measure. So far as I am aware, no political party in this country has made this measure a party cry. I do not know that the Liberals, the Responsivists or the Non-Brahmins or the Congress members who were in this House during the last Legislative Council had ever insisted that they looked upon the introduction of the village panchayats as a fundamental part of their programme. I know of no such thing. Not only that, but I do not find that the masses themselves are clamouring for this measure. If you read the report of the Committee made in 1925 on this question appointed to report upon the working of the Village Panchayat Act of 1920, what do you find ? You find this. There are in this Presidency as many as 30,000 villages, on a rough calculation. The Act was passed in 1920 permitting the people to apply for the application of that Act voluntarily. What is the result ? The result is that the Sind people set their face against the introduction of village panchayats, so that we do not find a single village panchayat instituted in the province of Sind. In the presidency proper, there is a paltry figure of 323 or something like that. I submit that it is a sad commentary on the civic spirit of the people. Apart from that, it is a proof positive that the people are not anxious for the introduction of village panchayats. I do not wish to go into the reasons of that at this stage, but I am certain that my honourable friend the Minister for Local Self-

Government will accept that that is a correct analysis of the situation. Not only that, but I would like to suggest that the reason why he has super-added the judicial functions to the village panchayats is to sweeten the pill so that it may be swallowed more readily. In view of these considerations, I think it would be advisable for the Honourable Minister to postpone the Bill *sine die* so that it may be considered in all its implications on its merits by a new Government which will be fully representative of the people of this Presidency.

Coming to the merits of the Bill itself, Sir, I find that the Bill has two parts. The first part deals with the functions of the panchayat as a body for local self-government. I should like to say at once that I have no objection in principle to the policy of devolution ; if it is found that the local boards of this Presidency are overburdened by the functions which are placed upon them by the Local Board Act and if by reason of that they are unable to discharge their functions efficiently, then I say "by all means institute village panchayats so as to disburden the local boards." Sir, if the desire is to constitute panchayats for their own sake, then to my mind it is a reversion to a very dangerous system. Many have eulogised the ancient system of village panchayats. Some have called them "rural republics". Whatever be the merits of these rural republics, I have not the slightest hesitation in saying that they have been the bane of public life of India.

Mr. Pestanshah N. Vakil: Question.

Dr. B. R. Ambedkar : If India has not succeeded in producing nationalism, if India has not succeeded in building up a national spirit, the chief reason for that in my opinion is the existence of the village system. It made all people saturated with local particularism, with local patriotism. It left no room for larger civic spirit. None whatever. Under the ancient village panchayats, India, instead of being a country of a united people, became a loose conglomeration of village communities with no common tie except common allegiance to a common King. I am glad to say, Sir, that this is not my opinion alone. A member of the committee which was appointed in 1925 expressed himself in that same strain. I refer to the minute of my friend Mr. R. G. Pradhan. This is what he stated in that minute :

> "The excessive village patriotism and village spirit which these communities fostered proved very fatal to the growth of a strong Indian nationality based on the realisation of the territorial unity of India as a whole or of the racial unity of each of our natural territorial divisions."

Mr. Pestanshah N. Vakil: Is Mr. R. G. Pradhan a historian ?

Dr. B. R. Ambedkar : I do not think that we need bring historians here ; we ought to be beware of historians. In these days when you are striving for bringing about a national spirit, in these days when you are striving for bringing about a common nationality and a common sense of Indian citizenship, in my opinion we ought to do nothing which will nullify and which will dilute that sense. I would like to leave this aspect of the matter at that so far as I am concerned.

My next objection is to the constitution of the panchayats themselves. The Bill, as the honourable member has pointed out, provides that the village panchayats shall be elected on the basis of adult suffrage both for males and females. I may at once state that, so far as I am concerned, I say "so far so good", but I should like to make it clear to the Honourable Minister that, speaking for the depressed classes, I have not the slightest hesitation in saying that adult suffrage is not sufficient for us. The Honourable Minister has forgotten that the depressed classes are in a minority in every village, a miserable minority, and assuming that he adopts adult suffrage, he will readily admit I am sure that adult suffrage cannot convert a minority into a majority. Consequentially I am bound to insist that if these village panchayats come, there shall be special representation for the minorities. At any rate, there shall be special representation for the depressed classes, and others of course will speak for themselves.

I know, Sir, that there is a section in this House who will at once jump and say that this is communalism. Now I agree that this is communalism. But I am also convinced that communalism must be my policy. I am not ashamed of it.

Mr. J. B. Petit: Is that compatible with nationalism ?

Dr. B. R. Ambedkar: Oh, yes. Why not ?

Mr. J. B. Petit: I am glad to hear that.

Dr. B. R. Ambedkar : I will say that India cannot proceed, in my opinion at any rate, on the path of political progress without communalism. Without communalism there can be no self-government for India. That is the proposition that I would assert without fear of challenge.

Speaking for the depressed classes, therefore, I can never accept the principle of self-government for India unless I am satisfied that every self-governing institution has provisions in it which give the depressed classes special representation in order to protect their rights, and until that is done, I am afraid it will not be possible for me to assent to the first part of the Bill.

Sir, in respect of this, I am glad to find that two members of the committee which was set up in 1925 to discuss this question supported the plea of the depressed classes for special representation. I refer to the minute of Mr. R. G. Pradhan. This is what he said :

> "I am of opinion that provision should be made for the representation of the depressed classes on the village panchayats by nomination. The nomination should be made either by the Collector or the President of the district local board, preferably the latter. It is eminently desirable in the interests of the proper representation of the depressed classes and much more with a view to raising their general status and making the other classes realise their communal identity with them that there should be at least one member of the depressed classes in every village panchayat. In cases, therefore, where no member of these classes has been able to get in by election, recourse should be had to nomination."

Sir, I should also like to refer to the minute of my honourable friend Mr. P. R. Chikodi. He also wrote a separate minute and this is what he said :

> "I think it is necessary that some arrangements ought to be made to secure on panchayats the representation of the depressed classes by means of nomination or by the system of reserved seats in villages where there are at least 50 adult persons belonging to these classes. It is not likely at present that any representative of these stands a chance of being elected at an open election, the failure of such an attempt having come to my notice very lately."

In this connection, I would also like to draw the attention of the Hindu members of this honourable House to the recent events that have happened. I refer to the Poona Pact between the Caste Hindus and the Depressed Classes that was signed on the 24th of last month. Many members, I am sure, must have read the terms of that Pact, but I should like to draw particular attention to one section of it. In that section it has been agreed that the right of the depressed classes to representation in all local bodies shall be accepted and an endeavour shall be made in order to give effect to that part of the agreement. Sir, I would like to draw the attention of the Hindu members to that part of the Pact and I am sure whatever may have been the opinions before 24th of last month, they will now loyally abide by the terms of that Pact.

Now, Sir, I come to what I call the second part of this Bill. I ought to have stated at the very start that when I read this Bill, I was inclined to say that this Bill was, like the curate's egg, bad in parts only. But after having read the whole Bill and gone through all the provisions of the Bill. I am obliged to revise my opinion. I now think that it is worse than the curate's egg. It is not only bad in some parts but it is rotten in others. I refer, Sir, to the judicial provisions of the Village Panchayats Bill. Sir, I do not know what is the view of the Honourable Minister for Local Self-Government as to the requisites of a proper judiciary which could be trusted to deal with civil and criminal justice. I was expecting to hear from him on that point in the course of the opening remarks which he addressed to this House, but he was silent on that point. I think it will be agreed that a judiciary before it could be entrusted with the duties of discharging civil and criminal justice, must have three requisites. It must be trained in law, it must be impartial in its outlook, and I submit, it must be independent in position. Let us apply these three requisites to the provisions of this Bill. What does the Honourable Minister provide in this Bill ? He says, "We shall elect a panchayat based on adult suffrage, consisting of five or seven members ; those gentlemen will hold office for three years. During the course of these three years they shall not only discharge the functions of a local self-governing body, but in addition to that they will also discharge the functions of trying certain criminal and civil cases." That is, in substance, the provision of this Bill.

Now, the first question that I would like to ask the Honourable Minister is this : Does he expect that these five gentlemen who will be elected on the basis of adult suffrage will have sufficient judicial training to discharge the duties of judges ? Sir, I would like to submit that judicial decisions demand a developed judgment; they demand a vast amount of legal knowledge. (Laughter.) Let there be no laughter, because it is a serious matter. Just take this into consideration. We are all agog when members of the I.C.S. want to have certain places reserved for them in the High Court or in the judiciary. What is the reason for our objection ? If I have understood the objection correctly, it is this, that these gentlemen who have passed the I.C.S. examination have no judicial training, and not having judicial training, we cannot entrust them with judicial powers. That is the gravamen of the objection. They not only want justice, but they want judges who are competent to discharge their duties. Now, I ask the Honourable Minister whether he thinks that a population which is illiterate, which is steeped in ignorance, which is swallowed up in superstition, can produce five good men who can be entrusted to discharge the duties of judges.

Mr. M. M. Karbhari: Are we so bad as that ?

Dr. B. R. Ambedkar: I do not know we may have a difference of opinion on that. But that is my contention. And, supposing it may not be held necessary for these gentlemen to have the necessary legal training. I think we ought at least to expect this much, that they should have proper notions of right, of duty, of equity and good conscience. A population which is hidebound by caste, a population which is infected by ancient prejudices, a population which flouts equality of status and is dominated by notions of gradations in life, a population which thinks that some are high, that some are low—can it be expected to have the right notions even to discharge bare justice ? Sir, I deny that proposition, and I submit that it is not proper to expect us to submit our life and our liberty and our property to the hands of these panchas.

The next proposition that I would like to place before this House is this : Is it possible to expect this panchayat to be an impartial body of judges ? Let us consider the facts as they are. No honourable member of this House, I am sure, will deny that there are very few villages which are not rent by faction feuds. There are quarrels between the Brahmins and non-Brahmins .....

Dewan Bahadur D. R. Patil: They will remain for ever.

Dr. B. R. Ambedkar: So much the worse for you if they do. There are, I submit, Sir, factions between Brahmins and non-Brahmins, and I think I may as well cite a case, in view of the fact that the honourable member Rao Bahadur Kale is laughing at the suggestion, from what I know of his own district, namely, Satara. I remember at one time the feud between the Brahmins and non-Brahmins had gone to such an extent in a certain village in Satara District that a complete boycott of the Brahmins was proclaimed by

the non-Brahmins. They could not get a barber to shave them ; they could not get the village Baniya to sell them provisions ; they could not get people to do any service for them. The Brahmin had either to grow a beard or walk seven miles to Satara to have a shave. So, there are quarrels between the depressed classes and the non-Brahmins.

An Honourable Member: They are over.

Dr. B. R. Ambedkar: Unfortunately, far from being over, they have become the order of the day. Not only are there quarrels amongst the Hindus themselves, but there are quarrels between the Hindus and the Mahomedans, and these quarrels are of no ordinary importance, they are serious. I would like the Honourable Minister and the House to consider whether a panchayat elected in an atmosphere of this sort would be impartial enough to distribute justice between men of different castes and men of different creeds. That is a proposition, I submit, which the House and the Honourable Minister should consider seriously.

The next question I would like to ask is, does the Honourable Minister expect that the judiciary he is bringing into being will be an independent judiciary ? Sir, what is his proposition ? His proposition is that the judiciary shall be elected, because that is what the provisions for a panchayat means. The panchayat which will administer justice will be a panchayat elected by the adult population of the village. I would like to ask him whether he expects that a judge who has to submit himself to the suffrage of the masses will not think twice before doing justice, whether, while giving justice he is offending the sensibility of the voter. Suppose there was a Hindu-Mahomedan riot ; suppose a Mahomedan was brought up before a panchayat for an offence which is triable by the panchayat; suppose one Hindu member of the panchayat thought that there was justice on the side of the Mahomedan. Does the Honourable Minister and does the House think that this gentleman, who may have to submit himself to an election within the course of a few months or a year, will think that he ought to do justice to the Mahomedan rather than keep his seat ? What will he do ?

Dewan Bahadur D. R. Patil: A riot case is not triable by a panchayat.

Dr. B. R. Ambedkar: I am giving it as an example; it may be for some other offence.

Sir, I have never seen anywhere a judiciary that is elected. The only country where we know that the judiciary is elected is America, and you know that it has brought judges into disrepute in all the American Commonwealth and has small justice a by-word for corruption. I am sure my honourable friend does not want us to have that experiment tried on us. In view of this, I must say at once, as I do not wish to trespass too much upon the time of the House, that I cannot accept the principle embodied in the second part of the Bill, that judicial powers, both civil and criminal, should be handed over to a panchayat, which, in substance, is an elective judiciary. Sir, I am bound to say, watching as I have been the affairs that are going on in this presidency and especially what is happening to the depressed

classes, that so far as we are concerned we can never consent to judicial affairs being administered by a panchayat. Ours is a very peculiar and, if I may say so, a very pitiable position. We are a small body of people, occupying a corner of a village. We are never looked upon as part and parcel of the village community. Although living in the village, we are all the same an alien body, whose progress is looked upon with great jealousy by the rest of the community. My honourable friend Mr. Kamat shakes his head, and therefore I think I must read to him from the report of the State Committee, which I did not want to do. In paragraph 102 of that Committee's report, the condition of the depressed classes in the village is described at great length. This is what the Committee say :

> "Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities, we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.
>
> "The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with a bridegroom on the horse through the public street."

That Sir, is our position. We are a besieged people, so to say, and I cannot

allow, and I cannot consent to so much judicial power, both civil and criminal to be handed over to a people who are perpetually in an organised conspiracy to defect our aims and objects.

An Honourable Member: No, no.

Dr. B. R. Ambedkar: I perfectly sympathise with the Honourable Minister's underlying purpose. If I have understood him correctly, all that he wants is that the villagers should get justice cheaply, and it should be more easily accessible to them. I believe that is the underlying motive he has for the judicial provisions he has made in his Bill. If that is so, then I think that there is a better method of doing that. It is not necessary to give the judicial powers to the village panchayats. We have already in existence what are called honorary bench magistrates in towns. It should be perfectly possible to extend that system whereby we can divide each district into judicial circles extending over an area of two or three miles suited to convenience, and for Government to nominate—I emphasise the word "nominate"—three or more persons to discharge the judicial functions in that circle. These three gentlemen would on one day sit as magistrates to deal with criminal cases and on another day they will sit as civil judges to try civil cases. By this method, you will secure cheap justice, easy justice, at the same time you will secure a judiciary that will be independent of local influence, a judiciary that will be free from the disadvantages of an elective system. I think, Sir, this ought to satisfy the requirements of the case. At any rate, I have to make it plain that, if the Honourable Minister insists that the Bill be put through as it is with all the provisions in it, especially those provisions which he regards as matters of principles, I must say that I shall oppose this Bill. (Applause.)

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*ON VILLAGE PANCHAYATS BILL : 2

Nomination Of Depressed Classes On Panchayat

Dr. B. R. Ambedkar: Mr. President, I must congratulate the Honourable Minister in charge of this Bill for having brought this amendment, belated as it is, which seeks to do some justice to the two great minorities of this province. Grateful as I am to the Minister I feel I must support the amendment of my honourable friend Mr. Mitha. I do not know what has passed on the floor of this House before I came in between the Honourable Minister for Local Self-Government and my honourable friends who are sitting on the front opposition bench. But I understand that they have no objection to the amendment as worded by the Honourable Minister for Local Self-Government that if the amendment stood in the terms in which he had proposed it, the opposition, without much lament would accept it.

Now Sir, if that is the position, then I do not understand what difficulty can the honourable members of the opposition have in order to accept the amendment proposed by my honourable friend Mr. Mitha. Sir, as I understand the position of the Honourable Minister and my friend Mr. Mitha the difference seems to me to be of a very minor character. The Honourable Minister for Local Self-Government has stated his amendment in general terms. He wants to impose an obligation upon the Collector in the matter of exercising his discretion in making provision for the appointment to the village bench of members of minority communities. That obligation he chooses to state in the general terms in the name of minorities whoever they may be. My honourable friend Mr. Mitha has gone a step further and stated that in doing so, the Collector should specifically bear in mind the

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*B.L.C. Debates, Vol. XXXVII, pp. 323-24, dated 10th February 1933.

Honourable Sir Rustom J. Vakil moved an amendment to clause 37(2) of the Village Panchayats Act, seeking just and proper representation of minority communities in the village on a village bench.

To this amendment, Mr. Mahomed Suleman Cassum Mitha moved another amendment which reads as under :—

"Provided that when any such class consists of Mahomedans or members of the depressed classes the Collector shall appoint at least one Mahomedan or one member of the depressed classes, as the case may be, a member of the village bench.".

Dr. Ambedkar rose to support this amendment of Mr. Mitha.

Mahomedans and the Depressed Classes. Sir, I do not understand why the Honourable members who accept the amendment in general terms should object to the particularisation of that amendment. Do they think or do they not think there are minorities in this province, and the Honourable Minister's proviso is intended to safeguard the interests of these minorities ? If the minorities are there, then what is the harm if those minorities are specifically named in a clause ? If the general amendment is accepted that the minorities ought to be protected and if we, by our common knowledge of affairs in this Presidency, know that in every village if there are no other minorities, there are certainly the depressed classes and the Mahomedans. I do not quite understand what objection there can be if these particular minorities were mentioned in the clause itself. Either let us be honest and say that we do not see why any such clause giving special rights and special protection is necessary, or admit that there are communities which need special protection, and, if we mean business, let us specify the community that needs protection.

Rao Bahadur G. K. Chitale: What is that protection ?

Dr. B. R. Ambedkar: There ought to be no half-way halting house if we are honest in meeting the situation as it is.

Sir, the last speaker, honourable member Rao Bahadur Chitale, urged two propositions. First of all, he said that in accepting the amendment proposed by my honourable friend Mr. Mitha we shall be disfiguring the statute. Well, Sir, I would like to remind my honourable friend that this is a cry which is too late. We shall have a constitution not for this province, nor for that province, but a constitution for every province, a constitution for the whole of India, which will have recognised this principle in as clear terms as we can think of.

Honourable Members: "Hear!"

Dr. B. R. Ambedkar: It is too late. The plea which has been urged by my honourable friend in this House is a plea which has been urged by many stalwarts in the Round Table Conference, and we know, Sir, that they all came to grief, not only they came to grief but they almost ended in wrecking the constitution. If I may speak from personal experience, if there is anything that brought disaster on the Round Table Conference, it is the academic attitude of these stalwarts.

Sir, India is not Europe. England is not India. England does not know caste system. We do. Consequently the political arrangement that may suit England can never suit us. Let us recognise that fact And I would go one step further, Sir in saying that, whatever other students of Indian politics may say, I maintain the proposition that if there is any good in the Indian Constitution that is going to come, it is the recognition of the principle of communal representation.

Honourable Members: "Hear, hear!"

Dr. B. R. Ambedkar: I am not ashamed of what I am saying. I know, and I am saying, that it is going to be one of the best parts of the Indian

Constitution. We do not want, I do not want, the mere right to go to the ballot box and not knowing who is my representative, or if there is going to be any representative to represent me at all. I want a system in which not only I will have a right to go to the ballot box, but I will have a right to have a body of people belonging to my own class who will be inside the House, not only discuss matters but take part in deciding issues. I say, therefore, that communal representation is not a vicious thing, it is not a poison, it is the best arrangement that can be made for the safety and security of the different classes in this country. I do not call it a disfiguring of the constitution. I call it.....

Dr. M. K. Dixit: Decoration.

Dr. B. R. Ambedkar: Yes, decoration of the constitution. Then my honourable friend asks, should we admit this principle in the judiciary? Well, if my honourable friend can assure me that the existing judiciary is not without its communal bias, that, the Brahmin judge, when he sits to adjudicate upon issues between a Brahmin defendant and a Brahmin plaintiff, he decides as a mere judge I perhaps would be inclined to consider his proposition favourably. But I know what sort of judiciary we have. If my honourable friend and if this House had the patience, I could reel off heaps of stories where 1 know to my knowledge that the judiciary has abused and prostituted its position.

(*Honourable Members Oh ! Oh!*)

It is because we are not certain that what they call the village folk, the folk who are bound together by ties of blood, by ties of kith and kin, will not make a conspiracy to utilise the political and judicial power that they will get to put down the other classes that we want this provision. Sir, I have no doubt at all that this is one of the best provisions that we can have in the constitution, and I whole heartedly support the amendment of my honourable friend Mr. Mitha.

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†*Rao Bahadur R. R. Kale:* ..... Then Sir, I do object to the remarks of my honourable friend Dr. Ambedkar with regard to the judiciary of this presidency. It pained me certainly to hear him say that he questioned the *bona fides* and straightforwardness of our judiciary, which has been proclaimed even by the Privy Council to be second to none, when matters went to that Tribunal ..... It has been held by the highest tribunal in the land, namely, the Privy Council in its judgments from time to time, as being the best judiciary in the whole of the World.

An Honourable Member: In the whole world ?

Rao Bahadur R. R. Kale: Yes, in the whole world. My point is that it is certainly a serious slander to say that the judiciary is influenced by communal considerations. It pained me very much when I heard my

†B.L.C. Debates, Vol. XXXVII, pp. 326-27, dated 10th February 1933.

honourable friend Dr. Ambedkar say "I know what sort of a judiciary we have, they are guided by communal considerations in disposing of cases.

Moulavi Sir Rafiuddin Ahmed: By whom is it uttered ?

Rao Bahadur R. R. Kale: By the Honourable member Dr. Ambedkar.

Moulavi Sir Rafiuddin Ahmed: Your brother-in-law, and a Hindu.

Rao Bahadur R. R. Kale: What do you mean by "brother-in-law" ? He may be even my father or my son. I certainly would detest such an accusation coming from any one in this House. He may be my brother-in-law, or my father, or my son. I say I do not care. I do really feel for such an aspersion being thrown on the whole body of the judiciary in this privileged place, when they are not here to defend themselves. I do not know what judicial experience my honourable friend Dr. Ambedkar has. He may have some experience, but over 40 years' experience stands to my credit, and I can and do say that from the lowest to the highest tribunal, including the High Court, including the sub-courts, I have not been able to come across any communal bias in the decision of a case when the case comes before a judge. Therefore, I do demur to the proposition put forward by my honourable friend. I can understand the mentality of men of Dr. Ambedkar's persuasion—why they want even on the village bench a particulars community to be represented. That shows their mental attitude.

Mr. L. R. Gokhale (*Poona City*): The honourable member Dr. Ambedkar was here and I am sorry he has gone ..... I am surprised to find that the honourable members on the opposite benches who belong to the judiciary did not speak a word of protest when the sub-judges are maligned to their very face in this Honourable House.

Mr. B. S. Kamat: Before I come to his point, Sir, I must say that whether his services on this afternoon were requisitioned for a specific purpose for the occasion, or whether it was by a very happy coincidence that he came in this House,—I am not concerned which was the fact,—I do think that, taking Parliamentary practice as it is, it is not fair for a speaker to disappear from the House, to fit across like a comet from the horison without listening to the other side of the House. This is entirly contrary to Parliamentary etiquette and unsportsman-like in spirit .....

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Saturday, 11th February, 1933

†*Rao Bahadur G. K. Chitale (Ahmadnagar District): (While raising a point of order)* Sir, ... yesterday's attack of my Honourable friend Dr. Ambedkar on the Brahmin judiciary as a class is an instance which I have not yet met within any of these Councils though they have been exercising those rights for about 12 years. Under these circumstances, if it is open to slander a class, I should think that this side—the other side may note—it will make it a point to launch an attack on individual officers coming out of the minorities. I should therefore think, Sir, that an authoritative ruling

†B.L.C. Debates, Vol. XXXVII, pp. 339-40, dated 11th February 1933.

is absolutely necessary in this respect because I was really pained to see the treasury benches or the Government benches, in whose hands the honour of their own servants is concerned, were mute absolutely.

The Honourable Mr. R. D. Bell: Sir, ... Before therefore, the discussion goes any further, if there is to be any discussion, I think the House should know the exact words which the honourable member Dr. Ambedkar said.

Moulavi Sir Rafiuddin Ahmed: Sir, as this discussion will have a bearing on the presence of the honourable member Dr. Ambedkar, if this debate takes place when he is present here, that would be very relevant.

The Honourable the President: ..... The suggestion made by the honour able member Sir Rafiuddin Ahmed cannot be accepted and the House cannot wait till the honourable member Dr. Ambedkar is in the House, which is very uncertain factor. So that cannot be ; but in the meanwhile I think it would be preferable that we should go by the exact words of the speech and then the House will be in a better position to decide one way or the other.

Reads, 'what is reported to have said yesterday'.

The Honourable Mr. R. D. Bell: Mr. President, it must be the case that the Honourable Member Dr. Ambedkar has not yet seen the typescript of his speech and therefore fully share the regret expressed by the honourable member Mr. Kamat and yourself that he was present neither yesterday nor this morning in order to give himself, in fairness to himself the opportunity of explaining these words.

Then he defends how 'the Government have full and complete confidence in the Judiciary.'

The Honourable the President: I am glad that the Honourable the Home Member has made the statement. After the fullest statement made by the Honourable the Home Member the House has nothing further to take cognizance of.

I now add that it is certainly very objectionable and unparliamentary and unfair to any Department or service. I personally believe that honourable members who have the command of language, or believe that they have the gift of delivery may, in the flourish of the moment, go very much further than they should go, and regret afterwards at leisure. As the Honourable the Home Member pointed out evidently the honourable Member Dr. Ambedkar has not read the transcript of his statement yet. If he reads it, he would, I am sure feel, or ought to feel, as the whole House does. I myself would warn honourable members of this House that it is "highly unparliamentary to make a general condemnation, a wholesale of a highly respected service like the judiciary. I think the honourable member was wrong, and the point raised will be of considerable utility to the House for its guidance in future. I share the opinions expressed both on the Government side and the other side of the House (Applause).

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*ON VILLAGE PANCHAYATS BILL : 3

STATEMENT BY DR. AMBEDKAR RE : HIS SPEECH

Dr. B. R. Ambedkar: Mr. President, I crave your permission to offer my explanation with regard to the point of order that was raised by my Honourable friend Rao Bahadur Chitale on Saturday last as to the propriety of certain remarks that were alleged to have been made by me in the course of my speech on Friday last in connection with the amendment moved by my honourable friend Mr. Mitha. Sir, I was very anxious to offer this explanation on Saturday when the point was raised. But I could not obtain from the office, copies of the transcript of my speech and the statements made by honourable members in connection with the point of order. I was told by the office that it would not be possible for them to hand over the transcript to me before the Council rose. Consequently I was obliged to postpone my explanation till this hour.

I regret very much that this point of order should have been raised without first ascertaining whether I accepted the transcript as a correct record of what I said. It is one of the elementary principles of justice, I submit, Sir, in all humility, that no conclusion should be drawn, unless the facts on which it is going to be founded, are first ascertained. I am sorry I was not allowed the benefit of this rule. It was stated, on the basis of the argument urged by my honourable friend Mr. Kamat, that I was not entitled to this courtesy on the ground that my sudden departure on Friday, after making a speech, was a violation of the rules of Parliamentary etiquette. With regard to the rules of etiquette one must ever be ready to learn from the honourable member Mr. Kamat who as we all know belongs to that most ancient and honourable order of Indian politicians, the Liberals, and who has grown grey in Parliamentary life. In this particular case, I venture to say that the rule of etiquette relied upon cannot apply. If I have understood the rule correctly, it lays down that a member should not leave the House after his speech but should wait to hear the reply and it applies only when the member has in the course of his speech attacked another member of the House individually and personally. It does not extend in my opinion, to a case where a member has urged general arguments based on generally known facts.

*B.L.C. Debates, Vol. XXXVII, pp. 400-03, dated 13th February 1933.

So extended, I submit, Sir, that the rule would require that every member who has taken part in the debate must continue to be present at all times till the question is put and listen to every speech in the debate. I had not questioned the honourable member Mr. Kamat, or for the matter of that, any other honourable member of the House and as I had nothing to hear in reply I did not feel bound to sit, because I had an important engagement to fulfil. Another reason why I was not allowed the benefit of the rule of not condemning without hearing was that I was not a full-time member and that no body would be certain when I would be present. I bow to the opinion expressed therein. I must confess perhaps that I am more regular in my irregularity in attendance, although measured in terms of utility I do say that whatever work I have been able to do as a member of this House either inside or outside it will not fall below parity. Whether I am regular or irregular, that is not the point. The point is, in my opinion, why did not the honourable member raise the issue immediately while I was speaking ? If I understand the procedure correctly for raising a point of order, the procedure must be that a member who wants to complain must draw the attention of the President at the moment when the alleged violation of the order occurs. It is therefore strange to my mind that the aggrieved party should do nothing at the moment, sleep over the night, give vent to his grievances the next morning without notice, and then complain that the delinquent is not present in the box. A fair and correct procedure for the honourable member was to have immediately raised the point of order just when I was speaking or in fairness he was bound to give notice.

With regard to the substance of the point of order, I must state at once that I do not accept the transcript as a correct record of what I said. The transcript as it stands reads as if I was accusing the whole judiciary wholesale, which certainly was not my intention nor my purpose. The transcript reads—

> "The Brahmin Judge, when he sits to adjudicate upon issues between a Brahmin plaintiff and a Brahmin defendant, he decides as a mere Judge" etc.

This is incorrect, I was not referring to the case in which the Brahmins were parties to a dispute. I was referring to the cases in which the parties were Brahmins and non-Brahmins. Again the words "without a communal bias" after the words "decides as a mere judge" are left out Secondly, my important words of limitation have been left out from the sentence—

> "The judiciary has abused and prostituted its position."

What I said was that the judiciary has in such matters abused and prostituted its position. From these corrections it would be evident that I had no intention to pass any censure on the judiciary enbloc, nor did I intend to pass judgment on its conduct wholesale. Secondly I had no intention to pass any adverse remarks on Brahmins as such in the judicial service. Indeed, I go further and say that, when I referred to the Brahmin judiciary, it was not with a view to single them out for special condemnation. I was dealing with the issue generally and I used the Brahmins by way of illustration. That is evident from the fact that in the last of my speech, I speak of the judiciary in general without particularising any single

element in its composition. What is therefore important is for the purpose of the argument I was making, it was quite unnecessary for me to condemn the judiciary as a whole or to single out any particular element in it for special notice. I was replying to the point raised by the honourable member Rao Bahadur Chitale whether the judiciary has or has not communal bias. My reply to him was that as a consequence of the social system we were living under communal bias was a necessary consequence, I spoke of the Brahmin judge by way of illustration, because I was replying to an opponent who happened to be a Brahmin. If my opponent was a non-Brahmin or a Mahomedan, I would not have hesitated to refer to them. I do not know, Sir, whether you think that a statement alleging that the judiciary exhibits communal bias in communal cases is an unfair statement. I leave it to you and this House. All that I would say is that it is a premise which is recognised even by the Criminal Procedure Code. We have a section in the Criminal Procedure Code which permits parties to ask for a transfer on the ground that the judge has bias. We have a provision in the Criminal Procedure Code which prohibits a judge from entertaining a case in which he has interest. Secondly, this view, namely, that the judiciary has bias, may exhibit a communal bias in the issues of a communal character is recognised in the Bill itself. Most of the honourable members will remember that the Bill was originally based on the principle that the whole of the village bench should be the elected panchayat. It was in the course of the first reading I urged that it was not a proper principle to base the constitution of a judiciary and in response to that I believe a change was made in that part of the judiciary should be nominated. I regard that, Sir, as an evidence of the fact that communal bias is there. Lastly even the honourable member who raised the point of order seems to recognise what I am saying in his speech on the point of order. He threatened the Honourable the Home Member in these ominous words : "If the Honourable Home Member did not repudiate me," the honourable member would make it a point to launch an attack on individual officers coming out of the minority communities—a performance which he could not enact, unless he was certain of the existence of the facts I have referred to. The thing that pained my honourable friend is not the point I was making but the particular illustration I gave. If I had illustrated my point by citing a Mussalman or a non-Brahmin, the point of order would not have been raised. Probably I would have been lavishly praised. That is all I have to say.

After the statement on 13th February 1933 by Dr. Ambedkar, the Honourable the President explained the criticism in Ambedkar's speech, discussed etiquettes in the Council, the merits of the speech, and concluded : —

> "I have nothing further to say. The explanation given by the honourable member must be accepted, that it was not a general condemnation of the whole of the judiciary that he meant, but that it was an attempt to point out that there were instances in which communal bias had appeared in judicial courts also."

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24

*ON VILLAGE PANCHAYATS BILL : 4

Dr. B. R. Ambedkar: Sir, may I have a word of explanation ? I have not followed what you said. I understood you to say that at the third reading of a Bill an honourable member could not oppose the Bill on a point, if that point was not taken or if he was defeated on that point at the second reading. Am I correct ? If a point was not taken at the second reading, or if on a particular issue, at the second reading, a particular member or a minority was defeated in this House, the same minority could not oppose the third reading of the Bill on the same point. Is that it, Sir ?

The Honourable the President: No, no. The honourable member was not here when I gave my ruling when for the first time the occasion arose some days ago in this session. I shall repeat it for his benefit. The honourable member, as a constitutional lawyer, knows very well that there are three readings given to a Bill. There is the first stage of the Bill, namely, the first reading, when the principles of the Bill are discussed. After that, if the Bill is referred to a select committee, the House is in a position to criticise the Bill as it emerges out of the select committee, or if it is not referred to a select committee, at the second reading when the Bill is taken up clause by clause, changes are made. All those steps that honourable members have got to take they can take at the second reading. Now there may be other honourable members like the honourable member himself. He was not present perhaps throughout the second reading of this Bill. He now comes at the third reading. He can oppose the Bill if the features of the Bill as it passed from the first reading to the second reading have been changed at the clause by clause reading stage and he takes objection to it. Then he can oppose the third reading at the third stage, pointing to certain features which have come into existence at the second reading which are objectionable to him. That is all. Otherwise, the three stages would lose their significance. At the close of each stage, when the question is put, honourable members who _are opposed to the measure can oppose it at every stage, provided they confine themselves at the first reading to the principles, at the second reading to the details, and at the third reading to the changes in the various aspects of the Bill which have been made since and which are objectionable. That is my ruling, I do not prevent any honourable member from opposing the third reading. For instance, there was the honourable member Rao Saheb Kulkarni. He had tabled several amendments which were defeated, and he

*B.L.C. Debates, Vol. XXXVII, pp. 2197-98, dated 24th March 1933.

has opposed the third reading on those very grounds again. He said that he opposed the Bill because it does not go far enough, that he had tabled amendments which were defeated or not taken into consideration, and that he now, at the third reading, opposed it because it is not quite satisfactory from his point of view. Similarly, any honourable member, whether he has tabled any amendments or not, can oppose it at the third reading, but he must confine himself to the changes made or not made in the second reading, and not go back to the first reading and evoke the same discussion over again as regards the general principles, for which the proper time was the first reading stage.

Dr. B. R. Ambedkar: I suppose, Sir, your remarks are confined to the use of the arguments, and not the points. I shall put it in a different manner. Suppose, for instance, I take my own case. I oppose the Bill on certain principles. I say that the principles on which this Bill is based are wrong, and that the House by a majority carried the Bill is against me and against those honourable members who share my views. Am I not entitled to oppose the third reading of this Bill because the Bill retains the principles which I opposed at the first reading ?

The Honourable the President: No, that is my ruling. The honourable member cannot do it, and he would not be within his rights to do it, because he had opportunity to do that before the third reading.

Dr. B. R. Ambedkar: Going a bit further, suppose I was also defeated at the second reading of the Bill, and the House still carried the Bill with the original principles embodied in it, would I not be entitled to oppose the third reading of the Bill, on the ground that the provisions to which I am opposed are still retained in the Bill ?

The Honourable the President: No, I will stick to my ruling. He cannot do it, because he had his views laid before the House and the majority decided against him. We are now at the stage of the third reading. Otherwise, the three stages would have no significance.

Dr. B. R. Ambedkar: After your ruling, Sir, the only thing for the minorities who have opposed the Bill at all stages is to vote against it. Otherwise, it would be that if the majority decided that it was a good thing and the minority opposed it, the minority would have no opportunity of recording its objection.

The Honourable the President: That is perfectly right. The minority is entitled to vote against the third reading of the Bill. They can go to a division and record their vote against it. But to raise a debate on matters which have been decided at the first reading would be wrong.

Dr. B. R. Ambedkar: Exactly, Sir. Your proposition does not lead to the conclusion that our rights are debarred.

The Honourable the President: No, that is right.

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*ON LOCAL BOARDS ACT AMENDMENT BILL : 1

Dr. B. R. Ambedkar (*Bombay City*): Mr. Speaker, having signed the Poona Pact, I am, of course, entirely out of court in discussing the subject of separate electorates. Therefore, I am not going into that part of the Bill which deals with the method of representation to be devised for the different minorities for which provision is made in this Bill. Perhaps, it will be justifiable for me if I mention from what angle of vision I look at this very thorny question of joint versus separate electorates. Sir, the way I look at it is this. What is to be the effect of joint electorates, supposing that it was introduced for the different minorities ? What will happen, as I see, is this. One day in five years when the elections will come, a Hindu and a Mahomedian may go together to a common polling booth. I do not see what else can happen, as a result of joint electorates. (Interruption). Please allow me to go into the rest of the five years. When there are no elections, the Mahomedan community—I am taking that as an illustration— will believe in a separate life, a compartmental life to itself. I do not see that, as a result of joint electorates, the Mahomedans and the Hindus will come to live together in the same chawl. I do not see, as a result of joint electorates, that Mahomedans and Hindus will begin to inter-marry. I do not see, as a result of joint electorates, Hindus and Mahomedans will inter-dine. Sir, I take this opportunity to say deliberately that, if we want to build up unity, it is not by devising a day, however sacred that day may be, when both Hindus and Mahomedans will come to the same polling booth. If we want really to devise some means to build up unity, what we should do is to break up the social barrier. I say that in this matter the lead has to be taken up by the Hindu community, because they are a very exclusive community. If other communities live a separate life, it is because the Hindu community regards certain interests as its own interests and the fault is entirely due to the Hindu community. I say, therefore, deliberately that there is no use playing with this problem by putting forth a scheme which is ineffectual and which will have no operation except for one day which may come in the course of five years or three years. There is no use ; and nothing will happen as a result of this. You may try it. I request my Mahomedan

*B.L.A. Debates, Vol. 2, pp. 326-29, dated 18th January 1938.

friends to grant them this opportunity and see if any particular protection will give an opportunity for the two communities not to remain apart. I cannot hold a brief for separate electorates having signed the Poona Pact.

I will turn now to the other aspects of the Bill and begin by saying that the Bill, so far as it goes, certainly marks a stage in advance from where we are standing. But there is nothing which I find in the Bill itself. It is an empty shell. It contains nothing. But for the speech of the Honourable Minister giving what be proposed to do with regard to the reorganisation of local bodies, we would certainly have known nothing from the Bill as it is. All that the Bill says is that the Government will be given the power to make rules for this and for that. Beyond that, what is there in the Bill ? If the statement of objects and reasons was not attached to this Bill, we would not have even known what was the principle Government were going to adopt in providing for representation of the different minorities. I say it deliberately that the questions are constitutional questions. It is not a question of carrying ordinary legislation into effect where it has been the practice now, almost sanctified, that Government should be allowed to carry out the policy by rules. We are delegating part of our authority to Government to do something. We are delegating part of our taxing power to them. We are delegating to them the authority of making elective representation. I submit most deliberately that it is a constitutional question and as such ought to be settled in all its details in this House and ought not to be left to the sweet will of the executive. Take the example of the Government of India Act. What does this Bill deal with ? This Bill deals with franchise, deals with the communities that are to get representation, deals with constituencies and deals with the method of voting. Look at the Government of India Act. What does it do ? Has it left the number of seats to the minorities to the sweet will of the executive ? Has it left the question of dividing constituencies to the sweet will of the executive ? Has it left the method of voting to the sweet will of the executive ? Nothing of the kind. All that has been done by Orders in Council which are as much part of the Government of India Act as the Government of India Act itself. It is necessary that we should do things in the way in which constitutional things are required to be done. This is my first submission with regard to this Bill.

As regards other matters, the first thing I should like to know from the Honourable Minister in charge of the Bill is this. He has very graciously said in the statement of objects and reasons that the principle which he wishes to follow in allotting seats for the different minorities is the principle of population. I am grateful to him for that. But I do want to ask him that, if that is the principle on which he proposes to allot seats for the different minorities, why he should not embody the principle in the section itself. What guarantee is there that we will get the benefit of the principle stated in the statement of objects and reasons ? We do not want charity. We want our rights which we do not want to leave to the sweet will of the executive.

We want it to be definitely laid down by law. The second thing with which we are materially concerned is the question of system of constituency. I am most concerned about my honourable friend who could not come in as an M.L.A. I want to know what the system of constituency is in the matter of constitution of these boards. Is it to be a single member constituency or is it to be a plural member constituency ? Nothing is stated even in the statement of objects and reasons. Why is that ? If the executive wishes that hereafter they should adopt the system of single member constituency, then we ought to know, because that would decide whether we are to vote for this Bill or vote against it. That has not been done.

The third thing with which I am most concerned is the question of voting system. Is the voting system to be cumulative system of voting or is it to be distributive system of voting ? That again has not been made clear. I like all these matters to be made clear and definite on the floor of the House. I hope the Honourable Minister will reply to all the querries I have made and embody those principles I have mentioned in the Bill itself, so that we may know what our rights are. In this Bill everything is sought. to be done by rules, but the Honourable Minister does not even propose to place these rules on the floor of the House, so that the House may know what exactly the executive has done. That is the least bit that can be done with regard to this Bill. I do not want to repeat what I have already stated. I regard it as solely and purely a constitutional question. It is a question of according a constitution for the local authority which is endowed with legal authority to do certain things, even to penalise the people by tax. Surely, before we can give these powers to the executive, the executive should agree to place on the floor of this House what they have done by way of using the powers which they ask us to confer upon them. I content myself with these remarks at this stage.

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*ON LOCAL BOARDS ACT AMENDMENT BILL : 2

Dr. B. R. Ambedkar: Sir, I would like to ask whether the mover of the amendment has voted in this division, if you can tell from the report that has been submitted to you ?

The Honourable Mr. B. G. Kher: May I know whether it is the right of any honourable member to know in what particular way a person has voted?

Dr. B. R. Ambedkar: The reason why divisions are called is because not only the House but the public at large should know how members have voted.

The Honourable the Speaker: I cannot be expected to read the list of all members who have voted, just for the information of one honourable member.

Dr. B. R. Ambedkar: This House is entitled to know on which side the honourable mover of the amendment has voted, because I think I may say that the House is entitled to know whether any particular member has abused the process of this House.

The Honourable the Speaker: I think that, in the light of what has fallen from the honourable member Dr. Ambedkar, before I give out the name, I must clarify the position and it is this ; that the mover of the amendment, Mr. Phadake, moved his amendment from the point of view of abolition of separate electorates for the Muhammadan community. The same amendment was tabled by the honourable member Mr. Chundrigar with the object of doing away with the option which the Bill proposes to give to the Muhammadan community keeping intact the separate electorates. So, in this particular instance what has happened is that though the amendments in form and wording, of both these honourable members have been the same, the object of each was different It was only an accident that the honourable member Mr. Phadake's amendment came to be taken up for discussion and therefore the honourable member Mr. Chundrigar was not able to move his amendment. If the honourable member Mr. Chundrigar's amendment had been moved, the honourable member Mr. Phadake's amendment would not have been moved, and perhaps the difficulty which

*B.L.A. Debates, Vol. 2, pp. 501-02, dated 22nd January 1938.

the honourable member Mr. Phadake might be deemed to have been placed in at present, might have been felt by the honourable member Mr. Chundrigar. So, with this explanation, I think I shall say, on referring to the division list, whether the honourable member Mr. Phadake has voted at all and, if so, whether he has voted for the Ayes or for the Noes.

Mr. Ismail I. Chundrigar: May I clear a possible misunderstanding, Sir ? It is not correct to say that I did not move my amendment. As a matter of fact, Sir, you ruled that it was not necessary for me to move my amendment as an amendment in the same words was already moved by the honourable member Mr. Phadake.

The Honourable the Speaker: I did not intend to say that the honourable member Mr. Chundrigar declined to move or that he was not anxious to move his amendment. Not that. He was anxious to move ; but it has been the practice in this House that when the same motion is moved by a number of members, only one moves it for the sake of convenience ; not that Mr. Chundrigar declined to move it.

Now, I find that the honourable member Mr. Phadake, the mover of the amendment, I again repeat, with the object of the abolition of separate electorates, and having found that his first amendment was lost and that separate electorates do continue, has voted against the amendment.

Dr. B. R. Ambedkar: I would like to ask one more question and ask your ruling in the matter, whether it is open to a member of the House, who has moved an amendment, to vote against it.

The Honourable the Speaker: I think the point to my mind is obvious. It is always open to a person to change his mind up to the last (Laughter).

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†*Dr. B. R. Ambedkar (Bombay City):* I am very sorry, but I think I cannot help saying that this is a matter on which the wishes of this group ought to have prevailed with Government. Nobody would have been hurt, the interests of the country would not have been injured if the amendment moved by my honourable friend Mr. Gaikwad had been accepted. In view of the fact that Government wishes to use its majority in a tyrannical manner, I am afraid we must show our dissatisfaction by walking out in a body and not participating further in the day's proceedings.

The Honourable Mr. B. G. Kher: I hope the honourable member (Dr. Ambedkar) will give me an opportunity of saying a few words.

It is a very sad commentary that feeling in this country, where even the slightest question of caste or creed is concerned, is so very touchy. As the honourable the Leader of the Independent Labour Party knows, since a long time an attempt has been made to take away from currency in our language the words "Asprishya", because the very idea is a reminder of the most painful associations, of what has been universally now admitted to be a stain on Hinduism. I quite agree with the honourable member Mr. Gaikwad

†B.L.A. Debates, Vol. 2, pp. 510-12, dated 22nd January 1938.

that by merely changing the name we will not achieve this abject. The present section is an attempt in that direction. To remove the question of untouchability. We tried an alternative expression; we wanted to say "Parishishta Varga". But "Parishishta Varga" is the translation of the English expression "Scheduled class", and we thought that "Parishista Varga" would be a very inappropriate expression to introduce into the Marathi language. If instead of using the English expression "Scheduled Classes", we wanted to have a synonym for that expression, we had to accept this expression "Parishishta Varga" as the only alternative to denote what class was meant. I can quite understand, feeling as they do, that they do not like any attempt to differentiate them from the rest of the Hindus, but even for the purpose of legislation, to achieve this result even for bettering the condition of this class, we have to designate them as apart from the other Hindus—we may call them Asprishya or by any other name, and the fewer the expressions we use to differentiate and classify as different such a large body of Hindus the better ; but I know that since the last 4 or 5 years the word "Harijan" has now gained a currency in the whole if not in the whole of the country, at least in many parts of the country. This is an attempt to substitute a word for the expression "scheduled class" which ought to have met with the approval of the honourable member, the Leader of the Independent Labour Party. It is extremely unfortunate that he does not look at this question in that light, but if he suggests as alternative which is suitable for the expression "scheduled class", I do expect it will be possible to spare his feelings. In the alternative, I do appeal to him, at any rate, to read into this section no desire to hurt the feelings of a large class of people, who are unfortunately known as "untouchables", but merely a desire to recognise an expression which has, for such a long time, gained currency would appeal to him not to see in the word "Harijan" and in the definition, an attempt to cast any reflection on his community.

Dr. B. R. Ambedkar: Sir, as you have ruled that this is not an occasion for making speeches, I will not make any speech. All that I will say is this that I am not in a position to suggest any better name, but I must say that the name "Harijan" has now become practically equivalent to the term "Asprishya"; beyond that there is nothing remaining in that name, and I would think that if the Honourable the Prime Minister had felt in the same way in which we feel that the word "Harijan" has now become identical with the expression "scheduled class" then it was his duty, for the moment, to have withdrawn that word, and later on he could have discussed the matter with us with a view to find out some alternative term. His arguments, however, have not carried any conviction to us. I will, therefore, leave the Hall.

(Dr. B. R. Ambedkar and other members of the Independent Labour Party then walked out of the House.)

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*ON SMALL HOLDERS' RELIEF BILL : 1

Dr. B. R. Ambedkar: Sir, I am afraid whether I shall be able to finish all that I have to say on this bill within the ten minutes allotted to me by you. However I will try my best and will be very brief.

This bill proposes to solve the two problems which affect the agriculturists of this presidency. One is the problem of scattered farms and other is the problem of small farms. I do not think that any honourable member who has listened to the speech of my honourable friend the Settlement Commissioner will deny that the scattered farms are an evil and that that evil should be cured as far as possible. I agree with him that there are a great many disadvantages in having scattered farms and so far that part of the bill is concerned I agree that there should be consolidation. Coming to the question of small farms I must say that I differ from the honourable mover of the bill on the question that small farms are unprofitable. Sir, the honourable member Mr. Anderson loaded us almost with figures showing how small the existing farms were and what were the difficulties that were dependent upon the smallness of the farms. I admit there are difficulties in the existence of small farms but I do not admit that small farms are necessarily unprofitable or uneconomic. I do not understand what is the definition of the word "uneconomic" as it is used by the honourable mover of the bill or the honourable member the Settlement Commissioner. Sir, as I understand the term I should like to state that whether the farm is economic or uneconomic does not necessarily depend upon the size of the farm. It depends and in fact it varies with what we call in economics other factors of production. It varies with labour. It varies with capital. If a farmer has got for instance the means to employ increased labour and if he has not got any very large capital to invest then I submit that if this farm is small it would not be proper to call it uneconomic on that account. That being my position, Sir, I would have very much liked to hear from the mover of the bill and also, from the Settlement Commissioner that in our country we have a plethora of capital and that we had large agricultural equipment for a highly efficient sort of production. If they had shown that was the case then we could have agreed with them that the small farms made production

*B.L.C. Debates, Vol. XXI, pp. 607-10, dated 10th October 1927.

uneconomic in so far as they prevented the utilization of the equipment we had to the best advantage. But, Sir, I must confess that the honourable member the Settlement Commissioner has altogether omitted to touch that point. I should have liked to hear from him that the farmer had an enormous amount of capital, that they had ploughs and cattles in large numbers and that they could not employ all that because their farms were too small. So far as I have been able to work out the problem I find that instead of the capital available at the disposal of the farmer being very large and being for instance wasted because his holdings were small, the situation is just the opposite of what we are led to believe. I find, Sir, in the Madras Presidency we have for instance one plough for three acres ; in the Bombay Presidency we have one plough for 6 acres. In the Punjab there is one plough for every two acres. I am reading from the official figures. These are the figures regarding the capital equipment of the farmer and taking the position which I am taking namely that whether a particular farm is economic or uneconomic is dependent not upon the size of the farm but upon whether it is commensurate with the capital which the farmer possesses, I am inclined to think that under the present circumstances it is better to further reduce the farms. That will be my logical position and I am not afraid to face it. I do not therefore understand what is the use of enlarging the farms if, for instance, the farmer has not got the wherewithal to cultivate the land. I do not understand how the increasing of the area of the soil to add anything to any produce if he has not got the necessary labour and capital to cultivate the land.

Then we have also got to remember one fact that ours is an agricultural country and that our soil is exhausted. We have been cultivating it for thousands of years and no matter what efforts we may take we cannot raise the productivity of our soil to the same level as for instance in America where the soil is virgin. We must reckon with that fact. That being so, Sir, the salvation lies not in increasing the size of farms, but in having intensive cultivation that is employing more capital and more labour on the farms such as we have. I therefore think, Sir, that that part of the bill which deals with the enlargement of the farms is altogether uncalled for. But assuming that these two things are necessary namely that we must consolidate our holdings and that we must also enlarge our farms I think it is necessary to look into the methods that are proposed to be employed by this bill more carefully than has been done by the mover of the bill. Now, Sir. the methods which are chiefly employed in this bill are first, control of partition of the immovable property and, secondly, the sale of consolidated holdings. Now, Sir, I do not think that there can be any dispute on the point that if these two methods are adopted, a large part of our agricultural population will be landless, and I do not think that it is in the best interests of the country that the poorer classes should be further pauperised in this manner. Sir, I should like to point out that although the Hindu Law is very defective

in many ways yet the Hindu law of inheritance has been one great saviour of the people. Sir, the social and religious autocracy established by the Hindu Dharma has kept a large mass of the people in perpetual thraldom. If their lot is tolerable under this thraldom it is because the Hindu law of inheritance has prevented the creation of plutocracy. Sir, we do not wish to add economic slavery to social thraldom. Let men be economically free if they are not socially free. I am therefore totally opposed to the abrogation of that just and equitable system of inheritance. At this stage I should like to make one humble suggestion to the honourable mover of this bill. I am prepared to give my support to the first reading of this bill provided he is not wedded to the method of consolidation and enlargement of holding as provided in the Bill. I think, Sir, the better method is to introduce co-operative agriculture for standard areas and to compel owners of small strips included therein to join in cultivation without destroying private ownership. If this is done, if some provision for this is made in the bill, then I would certainly support the bill. (Mr. F. G. H. Anderson indicated dissent). The honourable member Mr. Anderson, the Settlement Commissioner shakes his head. But I can tell the honourable member, that the method which I am suggesting is not my own, but is a system which is prevalent in Italy, in France, and is being followed in parts of England with great advantage. In this connection, Sir, I would earnestly suggest to the Honourable the Leader of the House to give his most careful consideration to what Mr. Otta Rothfeld says in his book; "Impressions of the Co-operative Movement in France and Italy." I would quote a paragraph from it here:

> "As a whole the movement is one with vast potentialities. It has been imitated in France since the war, with good results and in Rumania a similar type of co-operation is almost revolutionizing the husbandry of the country. It is possible that in. co-operative cultivation in common, a solution might be discovered to those problems of Deccan poverty stricken unimproved cultivation which centre round the disputed issues of the "uneconomic holding" and "excessive sub-division of property."

Such a solution at any rate would avoid that revolutionary interference with traditional rights of succession that is so often recommended by light-hearted reformers of non-farming classes and would not bring in its train those consequences in the way of limitation of families which may be anticipated if legislation interferes to disinherit younger children.

So, it will be seen, Sir, that such a system has been actually tried elsewhere and with success. I would conclude by saying that, if the Honourable the Leader of the House is prepared to consider all these suggestions carefully and will not object to any amendments that may be suggested in the select committee on the ground that they are of principle, and is not wedded to the method of consolidation and enlargement of holdings as proposed in the bill, then I have no objection to supporting the first reading of the bill.

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28

*ON SMALL HOLDERS' RELIEF BILL : 2 (Minute of Dissent)

Proceedings of the Council of the Governor of Bombay

BY THE SECRETARY TO THE LEGISLATIVE COUNCIL

OF THE GOVERNOR OF BOMBAY

LEGISLATIVE COUNCIL OFFICE

Council Hall, Poona, 10th July 1928

No. 894.—With reference to the footnote to the Report of the Select Committee on Bill No. XVI of 1927 (An Act to prevent the excessive subdivision of agricultural land and to promote the consolidation of such land) published at pages 34-49 of the *Bombay Government Gazette,* Part V, dated the 30th June 1928, it is notified that Dr. B. R. Ambedkar, M.L.C. has signed the report of the Select Committee subject to a minute of dissent shown below :

(Minute of dissent by Dr. B. R. Ambedkar, M.L.C.)

1. Part I of this bill starts with the assumption that for the purposes of profitable cultivation it is necessary to have bigger farms than what we have now. I am not at all satisfied that this assumption is correct. But assuming that it is correct the main question every one shall be required to satisfy himself about before giving his assent to this part of the bill is "does the bill solve the problem of creating large farms out of the existing small farms in such manner that no serious objection can be raised to it ?"

2. The mechanism employed by the bill to maintain the standard unit once it is laid down in two-fold. First it severely penalises the owners of farms smaller than the standard so that ownership of a small farm shall to him become a burden instead of a benefit. Secondly it prohibits the ownership of small farms in that it provides that in future small farms shall not come into existence at all. As an instance of the latter one may refer to the restrictions on partitions. It is therefore obvious that in the mechanism adopted by the bill the rights of ownership of people are at stake.

3. I object to this mechanism on three grounds. Firstly because it affects the rights of property. If the arrangement was state ownership and

**The Bombay Government Gazette,* Part V pp. 64-65, dated July 12, 1928.

state management of lands the invasion of rights of property would not be a matter of such anxious concern. But the arrangement is such that there will be the aggrandisement of some landlords at the cost of the rest. There is no doubt in my mind that the effect of the mechanism adopted in the bill will be to reduce some landowing farmers into landless labourers. Just how many will find themselves in this predicament it is difficult to imagine. Everything will depend upon how large the standard farm will be. If the standard be much above the actual it will affect a large class than will be the case if the standard approximated the actual. The magnitude of displacement that will take place is an unknown quantity and will become known only when the standard becomes defined. But as majority of farmers are owners of small farms the fear is general. The opposition to the bill mainly arises from this fear and I am not prepared to say that the opposition is groundless. I cannot view with equanimity a prospect of such a revolutionary change in the economic basis of society.

4. The second ground of my objection to the mechanism of the bill is that it will be infructuous and will largely leave things as they are. The neighbouring owners of a small farm are given the right of pre-emption the object of which is to bring about a combination of contiguous small farms. But this right of pre-emption will come into operation only when the owner wants to sell and only when the neighbour is willing to accept the terms of the owner. The occasion for pre-emption may not arise ; for owner of small farm (I am referring to old fragments) may continue to hold it. On the other hand the occasion for pre-emption may arise but it may fail because no neighbour is able to accept the terms of the owner. In either case the existing small farms will continue indefinitely in spite of the desire to bring about the combination of small farms at an early date.

5. Apart from all this I think that the mechanism of Part-I of the Bill overshoots the purpose which the bill has in view. The purpose of the bill is to have larger farms under single cultivation than is the case now. Now I feel that if we can combine small farms owned by different owners for cultivation we ought to stop there and not attempt to bring them under the ownership of a single individual unless it was proved that single ownership was necessary for combine cultivation. I am certain that the establishment of co-operative farms of standard size will give us all that we want under the bill and will save from destruction the small farm-owners. Under this scheme the ownership of a farmer will remain intact, except to the extent that he shall not be at liberty to cultivate it unless he agrees to combine it with a contiguous farm or farms so that the total area so cultivated shall be equal to or exceed the standard unit. Such a covenant if it were made to run with the land will do away entirely with the necessity for the restrictions which the bill seeks to impose on transfers and partitions. For, whoever acquires the fragment he will not be able to disturb the arrangement for the cultivation of the co-operative farm. By reason of the covenant the transferee

will be obliged to cultivate the farm in common. The co-operative farm will be like a shareholders' company in which the company remains even though the shareholders change. The scheme is simple in its operation and avoids the evils of the present bill.

6. I do not see what objection there can be to such a plan. As a matter of fact such a system is actually working in many European countries and particularly in Italy. But it is unnecessary to go so far afield to seek support for the scheme I have outlined above. I am fortunate enough to be able to say that the bill itself in part accept the plan I have sketched above. A reference to clause 19 of the original bill which corresponds to clause 21 of the bill as amended by the Select Committee will show that no new fragment shall be cultivated unless it is combined with another contiguous farm. This I submit is nothing but the co-operative plan which I have suggested above. The only difference between myself and the Select Committee is that it restricts the co-operative plan to the new fragments; while I propose to apply it to all fragments. As between us I think I am right, when I say that it is for the Select Committee to justify why the plan satisfies the case of the one and not of that of the other. I see nothing to justify this distinction between the old and the new fragments.

7. For the reasons given above I cannot support Part I of the bill although I am not opposed to its aims and objects. Regarding Part II, I have no objection to raise, now that it is confined purely to consolidation. I may however say this that under my scheme separate provision for consolidation would be unnecessary. A co-operative farm would be both a large and a consolidated holding.

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29

*ON SMALL HOLDERS' RELIEF BILL : 3

Dr. B. R. Ambedkar (*Bombay City*): Sir, I would like to ask one question, because I am finding some difficulty in understanding Rule 19. This is undoubtedly a matter which, in the first instance, has to be decided by the Speaker as to whether a particular amendment or a particular Bill needs previous sanction. Clause (2) says that, if in the opinion of the Speaker, the matter requires previous sanction, the Speaker "shall as soon as may be after the receipt of the notice, refer the Bill or the amendment to the Governor and the notice shall not be placed on the list of business unless the Governor has indicated to the Speaker that the previous sanction required has been granted." Clause (3) deliberately states :

> "If any question arises whether a Bill or amendment is or is not a Bill or amendment which cannot be introduced or moved save with previous sanction the question shall be referred to the authority which would have power to grant previous sanction if it were necessary, and the decision of that authority shall be final."

The question that is contemplated in clause (2) to arise is between the Speaker and the member who has given notice of an amendment or Bill. If the member who has given notice of an amendment or a Bill feels that his Bill or amendment does not require previous sanction clause (3) gives him the right to refer the matter to the final authority, the Governor. Therefore, it seems to me—I will frankly say, I have not moved any amendment and am not, therefore, directly concerned—that the matter is so important that, if you would not mind, it should be discussed on the floor of this House. Our rights to bring in Bills is so limited by the Government of India Act that, if we are not given the benefit of the few sections there are which give us the right essential to us, though little, this House will be very greatly handicapped in trying to do its bit in the matter of bringing legislation which is vital. Therefore, I would really like to know whether you are of opinion that under Rule 19, the Speaker is the final authority and that there is no right of appeal to the authority which is vested with the power of giving previous sanction.

If you permit me, I shall refer to section 299, sub-section (3) of the

*B.L.A. Debates, Vol. 2, pp. 617-19, dated 24th January 1938.

Government of India Act in the light of the Bill for which permission has been asked by my learned friend. If I understand this Bill, technically it can be spoken of as a remedial measure.

The Honourable the Speaker: Let us keep clear of two issues. One issue that has been raised by the honourable member Mr. Parulekar is in regard to the interpretation of Rule 19 as to whether, when a question arises as between a member and the Speaker, the Speaker is the final authority. That is one issue. I have stated what my interpretation of Rule 19 is. As regards the question whether a particular amendment tabled by the honourable member Mr. Parulekar does or does not require sanction under section 299(*3*), it is an independent question. I have already intimated to the honourable member that I do not propose to have any discussion in this House over the question of his amendment. I have already come to a conclusion on that. I am prepared to hear the honourable member, if he advances any argument on the interpretation of sub-rule (3) of Rule 19.

Dr. B. R. Ambedkar: Unless I am permitted to point out that the Bill cannot come within the purview of sub-section (*3*) of section 299 of the Government of India Act, it is futile for me to argue on the interpretation of Rule 19(3). If I am to convince you that Rule 19(3) does give a member aggrieved whose amendment has been rejected, the right of appeal to the Governor, then my submission is that section 299(*3*) will have to be considered. If you are not prepared to allow me to argue whether this Bill really does come within the mischief which is sought to be prevented by sub-section (*3*) of section 299 of the Government of India Act, it will be quite useless for me to argue. Reading sub-section (*3*) of section 299 of the Government of India Act, it seems to me that the Bill will have to be postponed until a member who is aggrieved has obtained the final sanction, because it has precluded the member from discussing the most important provisions of this Bill. It is shelving the whole question. If I am given the opportunity, I will show how. I have applied my mind to it. Neither this Bill nor the amendment tabled by my honourable friend Mr. Parulekar or members of my party can come within the proviso of sub-section (*3*) of section 299. If you permit me. I will do it in two minutes.

The Honourable the Speaker: So far as the individual amendments are concerned. I have already decided one way. Now, if, without any reference to any particular amendment, or any ruling I have already given in regard to it the honourable member wishes to say how the entire Bill is out of the scope of section 299, that will be a different question, and I am prepared to give him a hearing on that question.

Dr. B. R. Ambedkar: I am obliged to you, Sir.

Sir, as I was saying, this Bill is a Bill which might be called purely a remedial measure. A person may obtain a decree from a court. That decree means that he has got certain rights as against a certain person. All that this Bill says is that whatever rights that person may have acquired as

a result of a decree against a debtor or against any other person, those rights shall not be enforced until a certain date is reached, namely, 31st of March 1939. I understand that to be the gist of the Bill. Therefore, this measure deals with the enforcement of rights ; it has nothing to do with the extinguishment or modification of the rights. That is my first submission. I would make a distinction between extinguishment or modification of a right which a person has got and the delaying or suspension of the enforcement of that right.

Secondly, sub-clause (3) of section 299 is confined to the extinguishment or modification of rights in land. Now, this measure does not confine itself to the execution of rights in respect of land; it extends also to debts and the eviction of tenants.

The distinction that I am seeking to make is this : that the suspension of the enforcement of a right is something very different from the extinguishment or modification of that right. The object of the Bill being merely to suspend such rights as the parties may acquire through decrees given by the courts, it is not a Bill which can be said either to extinguish or modify rights in land. Consequently, I submit that both this Bill and amendments which do not extinguish or modify rights in land would not come within the mischief of section 299(*3*).

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†Dr. *B. R. Ambedkar:* Supposing His Excellency were to accord sanction to such of the amendments as have been submitted to him, would you postpone the consideration of the Bill ? His Excellency may grant his sanction to the amendments just as he has done in the case of the Bill. In that event, what would happen ?

The Honourable the Speaker: I will certainly be glad to see that every amendment tabled gets a full chance of being discussed on the floor of the House and that no amendment is shut off on the ground of want of sanction. That is why I referred to the difficulty experienced by me when members sent in amendments at 12 or 1 O'clock today, when the Bill was before them for a long time. That is the difficulty which I have been feeling. That is the reason why I said that amendments should be tabled as early as possible. There are three honourable members who have tabled amendments today. It is difficult to scrutinise them all and to decide whether any of them requires sanction. There might be scope for honest difference of opinion. So I do not know whether in respect of all the amendments tabled now, it would be possible for me to waive notice. But, so far as the previous amendments are concerned, I will certainly try and see that the members do get an opportunity to move them.

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†B.L.A. Debates, Vol. 2, p. 621, dated 24th January 1938.

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*ON THE BOMBAY POLICE ACT AMENDMENT BILL : 1

Dr. B. R. Ambedkar (*Bombay City*)*:* Sir, I beg to move the following amendment to the Bill placed before us:

After sub-section (*2B*) the following shall be inserted, namely :—

"(*2C*)(*i*) The Provincial Government may, if satisfied that the peace or public tranquility in the City of Bombay or in any part thereof is disturbed or is likely to be disturbed in consequence of a conflict between different communities or sections thereof or gangs or factions, declare, by proclamation (hereinafter referred to as "the proclamation of emergency") in the *Official Gazette* that an emergency exists.

(*ii*) A proclamation of emergency—

(*a*) may at any time be revoked by a subsequent proclamation, and

(*b*) shall cease to operate at the expiration of one month, unless before the expiration of that period has been renewed.

(*iii*) After the Provincial Government has issued under clause (*i*) a proclamation of emergency, the Commissioner of Police, whenever it appears to him that the presence, movements or acts of any person in the City of Bombay is or are causing or calculated to cause danger or alarm, or that a reasonable suspicion exists that designs, calculated to disturb peace or public tranquility are entertained by such person, may by beat of drum or otherwise, as he thinks fit, direct such person so to conduct himself as he shall deem necessary in order to prevent the disturbance of the peace or remove himself to such place or places, by such route or routes, and within such time, as the Commissioner of Police shall prescribe

(*iv*) Any person aggrieved by an order made by the Commissioner of Police under clause (*iii*) may appeal to the Provincial Government within ten days from the date of such order.

(*v*) Subject to the appeal under clause (*iv*), an order made by the Commissioner of Police under clause (*iii*) shall be final.

(*vi*) Nothing hereinbefore contained in this section shall require any police officer to disclose to the person against whom an order is made under clause (*iii*) or to the Court the sources of his information or any fact

*B.L.A. Debates, Vol. 3, p. 2425, dated 27th April 19

the communication of which, might, in the opinion of the Commissioner of Police, lead to the disclosure of the identity or name of any informant.

(*vii*) Any order passed by the Commissioner of Police under clause (*iii*) or by the Provincial Government under clause (*iv*) shall not have any effect after the proclamation of emergency has ceased to operate."

After sub-clause (2), the following sub-clause shall be added, namely: —

(3) In sub-section (*3*) for the words, brackets, figure and letter "or (2A)" the following shall be substituted, namely : —

"(2A) or (2C)".

Question proposed.

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†*Dr. B. R. Ambedkar:* Sir, before I proceed to deal with the merits of the amendment which I have tabled, I think it would be desirable if 1 tried to show to the House the necessity of this amendment. The Honourable the Home Minister, in introducing the Bill, has stated that the City of Bombay and its citizens are a prey and a victim to certain undesirable characters who tyrannize and molest the weaker section of the community, and the weaker section of the community has neither the determination or the desire to go to a court of law and obtain a conviction and punishment of such dangerous characters ; and consequently, he thinks that it is necessary to arm the Commissioner of Police in the very interests of the people who are being molested by these dangerous characters, so that he should take action against him. Sir, I readily agree with what he said, that the danger to which he has referred is a very real one.

If the House would allow me to say so, I am very familiar with the kind of evil to which he has referred. I have spent a very great part of my life in what I may call the underworld of Bombay City. I have lived from 1911 to 1933 in the Improvement Trust chawls among labourers and the lower classes, and I know perfectly well, more than the Commissioner of Police or the Honourable the Home Minister, how these poor people are molested by what are called mavalis and dadas, how utterly impossible it is for these victims of their to obtain any redress, because they themselves, for fear of further molestation, would not go to court of law and seek to get a conviction. I therefore think that the Bill that has been brought forward is thoroughly justified by the circumstances of the case. But I felt that there was another danger to which the citizens of this city were subjected and for which he had made no provision in this Bill. Sir, the necessity to which I refer is the necessity arising out of what are called communal riots. I have here some figures relating to the communal riots that have taken place in the City of Bombay. Between the year 1851 and 1938, there have been altogether 9 communal riots in the City of Bombay. The first riot took place on the 17th October 1851. That riot was between the Muslims and Parsis. The second riot took place in the year 1874 ; that was also between the

†B.L.A. Debates, Vol. 3, pp. 2430-33, dated 27th April 1938.

Muslims and the Parsis. The third riot took place in 1893 and it was between the Hindus and Muslims. The fourth was in 1929 that was also between the Hindus and Muslims. The fifth took place in 1932 ; the sixth in 1933 ; the seventh in 1936; the eighth in 1937 ; and the ninth on the 17th April 1938. All these were riots between the Hindus and Musalmans. In the riot of 1893, there were 80 persons killed, 60 temples were destroyed, 7 mosques were destroyed and 27 durgas were destroyed. I have not got the figures for the others. In the riot of 1929, 51 persons were killed; in the riot of 1932, 300 persons were killed and more than 300 were wounded. In 1936, 61 persons were killed and 550 were wounded. In the year 1938—I have not the exact figure—12 persons were killed and more than 120 were wounded. The rapidity with which these riots have taken place is also interesting and important which the House should bear in mind. As I told you, the first riot took place in 1851 ; the second riot took place within 23 years of the first riot ; the third took place after 19 years of the second riot ; the fourth riot took place 36 years after the third riot ; the fifth riot took place within 3 years of the fourth ; the sixth riot took place within one year of the fifth ; the seventh riot took place within 3 years of the sixth ; the eighth riot took place within one year of the seventh ; and the ninth riot took place within less than one year of the eighth. Now, Sir, those of us who are conscious of these facts and who know the responsibility will agree that some remedy has to be found for this constant suspension of civilisation, the annual blood baths in which these two communities are indulging. I do not wish to enter into the reasons, the causes of these riots ; whether they are political, whether they are religious or whether they are economic is a matter of no concern to us. The stark fact that a Muslim, without caring for anything goes and stabs a Hindu, and a Hindu, without caring for anything, stabs a Mahomedan is a calamity which we could never tolerate. I think the time has arrived when some measure ought to be forged whereby the authorities in the country will be able to deal with the menace effectively and expeditiously.

Referring to the merits of this amendment, the first thing I should like to draw the attention of the House to is that clause 3 of my amendment gives the Commissioner of Police the power to remove any person within the limits of the Bombay Presidency, if the Commissioner of Police has reasons to believe that the person is acting in such a manner that his presence, his movements, or his acts are responsible for the riot. That is the main aim of the Bill. Now, I fully agree that this clause in this Bill itself seems to impose a restriction upon the particular individual. But, Sir, I can say this. I come from a class which needs liberty more than any other class in society. I am by profession a lawyer and I understand the importance of liberty ; but, with all that hankering for liberty, which is in me by reason of the interests of the class to which I belong and also by reason of the fact that I am by profession a lawyer, I cannot help saying that there are occasions when, in order to protect the liberty of the large mass

of the people, the liberty of the hooligans, the criminal sections in the society, can be suspended. I have no hesitation on the point. The only thing, therefore, which worries me and which ought to worry the members of this House is this. Are there any safeguards laid down in order to see that this arbitrary power which we are now giving to the Commissioner of Police will not be misused. That is the only question I submit with which this House, having regard to the necessity of the occasion, could be concerned.

Now, Sir, my submission to the House is that there are ample provisions of safeguard in this amendment Therefore, I will briefly refer to those safeguards. The first safeguard is this. Under this amendment, the Police Commissioner could sever in practice, without the knowledge of the Legislature or the public at large, begin to exercise this arbitrary power. He can never do it, because, as honourable members will see, this power of the Police Commissioner will commence and will vest in him, so to say, only after the emergency proclamation is issued. Before the emergency proclamation is issued, or before the emergency has been declared, the Commissioner of Police will not be able to exercise this power. That is one thing we have got to bear in mind with regard to the provision contained in this amendment. These powers will become operative only after the emergency proclamation is issued and this has a certain advantage from the point of view of the Legislature. It is this. If the Government issued a proclamation of emergency without any justification, then this House will have an opportunity to move an adjournment motion and condemn Government for having wrongly issued the emergency proclamation. This, I submit, is a control which this amendment gives to the Legislature in order to see that this power is not abused. The second advantage which this amendment gives is this. It may be that Government issue the proclamation of emergency and refuse to cancel or revoke the proclamation of emergency so that the Commissioner of Police begins to use the powers and continues using them, notwithstanding the fact that the emergency has ceased to exists ; as against this, there is a provision made in this to which I should like to call the attention of the House. By this very amendment, the proclamation will cease after one month, unless Government renew it, so that there is again an ample safeguard provided here that, after one month, the power shall cease to operate.

Another safeguard to which I should like to draw the attention of this House is sub-clause (*vi*). which is very important. Although this amendment gives the Commissioner of Police, the power to deport a person who, in his judgment, is causing communal riots, this order of deportation has a limitation to be appended, and that limitation is that as soon as the proclamation of emergency ceases to operate, the order automatically expires, so that a person who has been deported by the Commissioner of Police can return to Bombay. That again, I say, is a further safeguard.

Another safeguard to which I should like to draw the attention of the House is that as against the order of the Commissioner of Police there is

an appeal provided to the Provincial Government. I agree that there may not be much in this, but still, as far as it goes, there it is.

Now, with regard to the other amendments that have been moved, just one or two things I should like to say. I think my honourable friend the Home Minister will agree that yesterday, when we drafted clause (*i*) of this amendment, it was agreed on all sides that this section was not to be used for labour troubles or for any other troubles, except those arising out of disturbances caused by communities in the sense of religious communities, or sections of communities having religious differences, or factions. All this, in my judgment, was confined to purely communal riots. And I am perfectly prepared to be satisfied with the assurance given by the Honourable the Home Minister that it is intended not to be applied to any other. But if gentlemen in this House desire that there should be no lacuna left, no loophole left for the executive to use the provisions of this section for any other purpose than those for which it is intended, I am perfectly with them in order to make the meaning clear.

With regard to the word "presence", I must say that I cannot support the amendment that the word "presence" should be omitted. The word "presence" must remain. I will give an illustration. A sadhu comes to Bombay; he is a persona grata with one community, he is not a persona grata with another community. A fakir comes to Bombay ; one section venerates him, another section repudiates him. A communal riot starts on that account. Would it not be necessary that the very presence of this man should be removed from the City of Bombay in order that the riots may be quelled ? This, no doubt, may be an extreme illustration, but an extreme illustration is the only way of testing the validity and the effect of the power we give. Therefore, I submit, Sir, that the word "presence" is very necessary and should be retained in the Bill.

With regard to the other amendments, I have an open mind, because our intention is that the Bill should not apply to any riots other than communal. With these words, I move my amendment, and I hope the House will accept it.

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†*Dr. B. R. Ambedkar (Bombay City)*: Sir, I am very glad to find that the amendment which I have moved has found support from many honourable members of the House who have spoken on the first reading of the Bill. I do not think the Honourable the Leader of the Opposition opposed my amendment although he had a great deal to say with regard to the Bill itself. My honourable friend, Rao Bahadur Chitale, has supported the amendment and the opposition of my friend Mr. Jamnadas Mehta, if I may say so, was not fundamental, but was tactical. In view of this, it is not necessary for me really to make any very lengthy reply to the comments that have been made, but there are only two matters to which

†B.L.A. Debates, Vol. 3, pp. 2471-73, dated 27th April 1938.

I would like to refer. This is admittedly an emergency measure and as an emergency measure, it does involve a considerable amount of restraint upon the liberty of the individual.

Sir Ali Mahomed Khan Dehlavi: I wish to correct the honourable member. I do not know what authority the honourable member has to say that this is an emergency measure, which is not admitted by the Honourable the Mover.

Dr. B. R. Ambedkar: I am only replying with respect to my amendment. My amendment is an emergency amendment and, as I have admitted in my speech, it does involve a restraint on the part of the individual. I would like to submit in connection with this that if those gentlemen who have spoken in regard to my amendment enlarging and emphasising the fact that it does involve restriction, I would respectfully invite their attention to refer to the Defence of the Realm Act that was passed in the time of war in England and to the Defence of India Act that was passed in India. Both of them were emergency measures and if any one of those gentlemen were to refer to the provisions of the Act, I am sure they will find that this amendment is a very mild amendment and let it be remembered further that this emergency legislation, for instance, the Defence of the Realm Act and the Defence of India Act lasted for over four years. The Defence of Realm Act in England was passed in 1914 and was not repealed till 1919 and the powers given to the police officers—I happened to be in England then as a student—were certainly much vaster than the powers that are given under this amendment. Therefore, having regard to the emergency, I submit that the powers that are given to the Police Commissioner cannot be said to be unduly wide.

Now, with regard to the other matters, namely, that this is a permanent measure, I would like to draw the attention of the House to the provisions contained in section 102 of the Government of India Act and which are very pertinent and very relevant on this occasion. Sir, section 102 of the Government of India Act is exactly what this amendment proposes to do. There too, the Governor-General has been given the power in his own discretion to issue a proclamation of emergency and during the period of that proclamation, the Governor-General is entitled to pass whatever law, by means of ordinances that may be necessary for the maintenance of peace and order .....

Sir Ali Mahomed Khan Dehlavi: Which the country does not approve of.

Dr. B. R. Ambedkar: Well, it is contained in the Government of India Act. Similarly, there is a provision in the same section that the emergency proclamation shall last for six months. I will read the relevant provisions :

> "Notwithstanding anything in the preceding sections of this chapter, the Federal Legislature shall, if the Governor-General has in his discretion declared by Proclamation (in this Act referred to as a 'Proclamation of Emergency') that a grave emergency exists whereby the security of India is threatened, whether by war or internal disturbance, have power to

make laws for a Province or any part thereof with respect to any of the matters enumerated in the Provincial Legislative List."

Sub-clause (4) says :

"A law made by the Federal Legislature which that Legislature would not but for the issue of a Proclamation of Emergency have been competent to make shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respect to things done or omitted to be done before the expiration of the said period."

Therefore, my submission to the House is that we are really not doing anything that is unusual having regard to the Defence of the Realm Act and the Defence of India Act and having regard to the provisions contained in section 102.

There was one comment which my honourable friend Mr. Jamnadas Mehta made that although my desire was to confine these emergency powers to communal conflicts and communal riots, the language used in this amendment is not such as would, in the end, confine the operation of this amendment to communal riots. His argument was that the word "community" does not necessarily mean religious community and that it is used as commercial community, industrial community and labour community and secondly, the Government will use its powers for the purpose of invoking this legislation even in labour disputes.

Now, my first submission on that point is this, that this part of the proclamation is certainly not going to be the subject of bearing the interpretation because it is a matter to be determined by the Government in its own discretion. It is not going to any court and the emergency proclamation is not going to be a question in a Court of Law as to whether it has been properly invoked or not, all that the court will be concerned in finding is whether a proclamation has been issued. Whether the proclamation has been properly issued or not would be a matter for Government and this Government would be amenable to this House if the Government uses its power to make a proclamation for purposes which are not intended either by Government or myself or any members of the Opposition.

The other thing that I would like to submit is this that I admit that the word "community" is used popularly in a wide sense, but before I came here I did refer to the Oxford Dictionary in order to satisfy myself, because I am myself more anxious than Mr. Jamnadas Mehta is, that this measure should not be extended to labour disputes.

Mr. Jamnadas M. Mehta: As anxious, not more.

Dr. B. R. Ambedkar: If you will allow me to say, I am more anxious. Therefore, I say that if you can suggest a better language I am perfectly prepared to accept any change that you propose, but so far as I am able to understand the word and so far as any help can be derived from a standard dictionary, I have no doubt in my mind that the word "community" does mean basically—apart from the extended use to which

every word becomes subject—I have not the least doubt in my mind that the word "community", etymologically and basically is used only in the sense of religious community. The derivation seems to be those who are in communion. Communion is a religious word. A person ceases to be in communion when he is ex-communicated by a religious authority, he ceases to be inside the community. That is the origin of the word. I am perfectly satisfied that this is not a word which can be so used as to bring in labour or strike or other situation. As I say if my learned and honourable friend thinks that this is not enough and, that another word is necessary, I am perfectly prepared to help him in that matter.

With these words, I sit down.

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†*Dr. B. R. Ambedkar:* Sir, I find that my amendment as has been submitted does not contain a very material part which I intended to be a part of it, because I was proceeding on the draft that was given to us at the time of the conference. If you will allow me to supplement my amendment, it will be complete. The amendment is as follows:

In clause 2, sub-clause (1)(*i*). substitute the following for sub-clause (*a*) beginning with the words "that the presence", etc. namely: —

> "(*a*) that any person within the limits of the city of Bombay is by habit engaged in unlawful activities which are a menace to the residents of the city and who is so desperate and dangerous as to render his being at large in the City hazardous and who is habitually engaged in the commission of offences involving force or violence or any offence punishable under Chapter XII, XVI or XVII of the Indian Penal Code, and when in the opinion of the Commissioner witnesses are not willing to come forward to give evidence in public against such person ; or."

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‡*Dr. B. R. Ambedkar:* Sir, before I say what I have to say in support of the amendment which I have moved, it is perhaps necessary for me to make two preliminary observations. The first observation that I would like to make is this. The reason why I support the Bill brought forward by my honourable friend the Home Member, seeking to amend section 27 of the Act, is this. Much has been said in the course of the debates yesterday that the amendment gave more powers to the Commissioner of Police than the original section 27 did. Now having applied the Bill as a whole, I have not the slightest doubt in my mind that the amended section 27 will be of a much milder character than the section 27 as it stands today.

Therefore, I agreed to the suspension of the orders and to help the Honourable the Home Minister in getting this legislation pass through.

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†B.L.A. Debates, Vol. 3, p. 2497, dated 27th April 1938.

‡B.L.A. Debates, Vol. 3, pp. 2499-2501, dated 27th April 1938.

The second observation I should like to make is this. At the parties conference where we had a discussion with regard to this amendment, I did say that I would support the measure which was agreed to at the time when we discussed the various proposals. My honourable friend the Home Minister might say that, having taken that view at the time of the conference, it was not open to me to come forward with an amendment now. It is that which I would like to explain. Sir, when I agreed with the Honourable the Home Minister to support him, the amendment was confined to the principle underlying the Bill. The principle underlying the Bill, if I understand it correctly, is this. There are certain persons in the City of Bombay who are committing crimes and whose character is such that by reason of the terror they strike against their victims, the victims themselves do not come forward to give evidence in a court of law. Therefore, a regular trial could not be had. That is the principle, as I said, of this Bill. To that principle I stick. I am not deviating from that principle. All that I am seeking to do is to confine the category of persons against whom action can be taken by the Commissioner of Police without resorting to a regular trial by reason of the fact that the informants are not prepared to come before a Court of Law. Therefore, my view is that my amendment is an amendment of detail and not an amendment of principle.

Now, Sir, turning to the amendment, the first thing I should like to draw the attention of the House is this. The wording as it stands is that:

> "that the presence, movements or acts of any person in the city of Bombay is or are causing or calculated to cause danger or alarm or a reasonable suspicion that unlawful designs are entertained by such person."

It will be noticed that the language is of the mildest character. Secondly, it seems to me that the person who does a single unlawful act which has the consequence of causing danger or alarm or reasonable suspicion can be taken hold of by the Commissioner of Police and deported under the powers we are giving. I am sure that was not the intention of the Honourable the Home Member nor was it ever my intention. If I understand correctly the view point of the Honourable the Home Minister, he said in the opening speech that in seeking powers under the amendment he has proposed that his main object is to get hold of pucca mavalis, to use his own words. If I understand the words "pucca mavali" my feeling is that a pucca mavali is a person who habitually does something which is dangerous and desperate and who habitually indulges in unlawful activities. If that is the intention of the Honourable the Home Minister he should have no objection in seeking that the intention he professed on the floor of this House is embodied in specific terms in the law itself. It is, therefore, from that point of view I have sought to amend his language by emphasising that the person must be doing all these things by habit :

> "that any person within the limits of the city of Bombay is by habit engaged in unlawful activities which are a menace to the residents of the

city and who is so desperate and dangerous as to render his being at large in the city hazardous and who is habitually engaged ....."

The rest of the amendment is like that of the honourable member Mr. Pataskar I take it the Honourable Minister has no objection to that amendment being an official one.

What I have sought to do is nothing new. I have taken the wording from section 110 of the Criminal Procedure Code. Section 110 of the Criminal Procedure Code gives power to the police to prosecute a man before a Presidency Magistrate or District Magistrate if he is by habit a robber. I have taken the wording from sub-section (*a*) of section 110 and sub-section (*f*) of section 110. It might be argued that under section 110 of the Criminal Procedure Code, even if a person is by habit a robber and even if a person is a desperate and dangerous character action cannot be taken against him without a trial. Why do you want to take action against him, because he is in the city of Bombay ? That kind of argument may be used. My justification for that is that we are dealing with cases where persons are not prepared to come before a court of law to give evidence and that is the reason why I have consented to give the Commissioner of Police the power of an extra-judicial and extra-legal kind. In giving such powers it is necessary to restrict and define the category of persons against whom action can be taken. My submission is that the House will do well in defining the class by saying that the person must be doing unlawful acts by habit and not by accident. With these words, I commend my amendment to the House.

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31

*ON THE BOMBAY POLICE ACT AMENDMENT BILL : 2

Dr. B. R. Ambedkar (Bombay City): Sir, I am sorry to find that my amendment, as worded by me, has created a wrong impression, a totally different impression from what I wanted to have by my amendment I would like to say one thing at this stage. I do not think this is an occasion on which any one of us should really stand on dignity. And I would like to say this over again, because I think the occasion is a very important occasion. Sir, I also like to say this that the Honourable the Home Minister has not taken into consideration, in making his reply that we have already amply empowered him to deal with cases of emergency and the powers which we have given him by my amendment which is so wide in character that he can deal with persons who have merely entertained designs in their minds and I beg to remind him of that. Therefore, Sir, having armed him with the most extensive powers possible to deal with an emergency, it is perfectly proper for members on this side to adopt, if I may say so, a somewhat carping spirit in giving him powers for normal occasions. He has totally forgotten that the amendment with which we are dealing now is an amendment which gives powers for normal occasions. It does not deal with abnormal situations, and therefore I do not see any conceivable case in which the Police Commissioner exercising the power that we are giving him under my amendment would not be able to deal with the situation. I therefore submit that it would be in the interest of the public and in the interest of all sections concerned, that my amendment should be accepted. Sir, I do say that this is a very important occasion and the Bill deals with so important a subject, namely, the liberty of the citizen that I think it is one of the most eminent occasions on which, as far as possible, there should be agreement on all sides. I therefore appeal to the Honourable Home Minister not to stand on dignity, as I am not standing on dignity at all, and to accept this amendment.

Sir, I accept the amendment of my honourable friend Mr. Chundrigar and also the amendment of my honourable friend Mr. Bhole.

The Honourable Mr. K. M. Munshi: It is not a question of standing on dignity. We went into every word, considered the implications of every

*B.L.A. Debates, Vol. 3, pp. 2509-12, dated 28th April 1938.

suggestion. After that there was no question of a person habitually engaged.

Dr. B. R. Ambedkar: Better thoughts come again some times.

The Honourable Mr. K. M. Munshi: Sir, as I said, there is no question of dignity. The question is of difference of opinion, because if in every case we have to find out whether a man engaged is habitually engaged and not a man who is about to engage for the first time, he would escape. It would reduce the section to nullity and the Police Commissioner or the Government would also be reduced to a worse position than they are in under the existing section.

Dr. B. R. Ambedkar: My honourable friend must understand that no member on this side is opposed to taking powers to deal with gangs. In fact, the Opposition says : "Retain gangs". If you want to have an amendment to deal with gangs. I am prepared to support it; I have not the least objection. I remember that the Leader of the Opposition said that power should be given to deal with gangs. But you are wanting power to deal with individuals and, therefore, we are putting these restrictions. If we are to deal with gangs, by all means, let somebody bring in an amendment and I for myself would support it, provided it is a reasonable amendment. Here, you are dealing with individuals.

Sir, if you like, we might adjourn for a short time and have a discussion.

Mr. S. H. Jhabvala: Sir, you see this shows the utility of a select committee I proposed.

The Honourable Mr. K. M. Munshi: Sir, I am quite willing, but it is no use adjourning for such a thing. I am trying to convince the honourable mover of the amendment that by putting the word "habit" there, he has reduced the operation of this section practically to a nullity. I cannot consider it further, unless he is willing to drop the word "habit". If he wants to keep the word "habit" in the section, then the section becomes more or less useless. That is why, I say it is no use adjourning. There is no common ground.

Sir Ali Mahomed Khan Dehlavi: That describes the pucca mavali.

The Honourable Mr. K. M. Munshi: A pucca mavali is not necessarily a person engaged habitually in unlawful activities. He may be a mavali in the sense of a bully or a dada. Members are putting something in my mouth which I never said. When I said "pucca mavali" I did not say a person habitually engaged in unlawful activities. That is what you are attributing to me.

Sir Ali Mahomed Khan Dehlavi: Sir, I should like to say that when the Honourable Minister said "pucca mavali" we at once understood that there were a number of classifications of mavalis in his own mind.

The Honourable Mr. K. M. Munshi: That I agree ; there may be a series of mavalis.

Dr. B. R. Ambedkar: Surely, the Honourable Minister does not want to deal with the case of a man who has done once a certain thing.

The Honourable Mr. K. M. Munshi: I gave the honourable member the

instance of the gang which came down from Calcutta. There were 11 persons who had not committed an offence, but who were about to engage in certain unlawful activities. They had not been convicted in Calcutta in spite of the vigilance of the Police there. Some of them were persons who were—

Dr. B. R. Ambedkar: If the people have been committing offences in Calcutta, they would be habitual. It does not mean that one should habitually commit an offence in Bombay.

The Honourable Mr. K. M. Munshi: They were not convicted for carrying on unlawful activities.

Dr. B. R. Ambedkar: May I draw the attention of the Honourable Minister to the wording of my amendment? It is "; .....who is so desperate and dangerous as to render his being at large in the City hazardous ....." A member of a gang would come under this.

The Honourable Mr. K. M. Munshi: If the honourable member will have patience, I will tell him. The man may not be desperate as I gave you the Instance of the leader of the very coterie which I mentioned. He was perhaps moving there in Calcutta in a motor-car. He was a European and was accepted in good society in Bombay, but he was not a desperate character in the sense that he took a lathi and ran about in the streets.

Dr. B. R. Ambedkar: But the word dangerous is there.

The Honourable Mr. K. M. Munshi: Now, Sir, what is meant by the word "dangerous"—

Dr. B. R. Ambedkar: I have taken the words used in the section and I am sure they are perfectly intelligible words.

The Honourable Mr. K. M. Munshi: Sir, the words "dangerous and desperate" are intended for bullies who are running amok and threatening people or proving dangerous in the physical sense of the term. They would not apply to the head of a counterfeiting gang.

Dr. B. R. Ambedkar: But there is a separate chapter altogether which deals with that, namely, Chapter XVI of the Indian Penal Code, which I have omitted.

The Honourable Mr. K. M. Munshi: But you have stated "habitually engaged".

Dr. B. R. Ambedkar: Sir, I may mention to the House that the words which I have now proposed will restrict the scope of the section only to the persons of a certain type and will not include the large number of cases of persons who would be included even by the present section as it stands.

The Honourable Mr. K. M. Munshi: Sir, as the honourable member himself has admitted that the words restrict the scope of the Bill, and if that is the case, there would be no meaning in having this Bill at all. If it is going to water down the section to such an extent, it becomes a useless weapon for the purpose for which it is designed. Therefore, it is not possible for me to accept the amendment.

The Honourable the Speaker: I have now to put the amendment and

the amendments to the amendment to the House. I will first take up the amendments to the amendment. So, I will first put Mr. Bhole's amendment to the amendment of Dr. Ambedkar. Need I read it ? (Honourable Members : No). So, I will now put the question.

Question put.

The Honourable the Speaker: The Noes have it.

Dr. B. R. Ambedkar: Sir, it was only a question of expressing the intention. It is not an amendment of substance at all.

The Honourable the Speaker: It is not, and, after all, the amended amendment of the honourable member Dr. Ambedkar will have to be put to the House at the end. So, it makes really no difference either way. I shall take the voices again.

Amendment put, and agreed to.

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†*Dr. B. R. Ambedkar (Bombay City):* Sir, I rise to support the amendment which has been moved by my honourable friend Mr. Chundrigar. The amendment requires that, before the Police Commissioner takes any action on the material in his possession, he should produce the person, whom he wants to expel, before the Magistrate and place the material before him and shall not take any action, unless the Magistrate is satisfied. Obviously, that amendment is intended as a further safeguard in order to see that no arbitrary action is taken by the Commissioner of Police. Now, Sir, whether this amendment which is by way of a safeguard asks something which is more than due to those persons or whether it is something that is unnecessary, is a matter which I think can be better understood if one institutes a comparison. Now, I take the case of the revolutionary, those who indulge in revolutionary crime. It is obvious that these persons who are intended to be dealt with by the present amendment to the Bill are certainly not so great a source of danger as the revolutionary. Obviously, therefore, they certainly need a far greater safeguard. a far greater protection, than the revolutionary. Now, let us stop for a moment and ask what are the safeguards that did exist in the law of India as against revolutionary criminals ? I do not want to go into the past history of the matter but I have before me the report of what is called Sedition Committee that was appointed by the Government of India in 1913. The terms of reference do say "to report upon the existence of revolutionary movement in India, to examine the difficulties that arise in dealing with criminal conspiracies and to suggest measures for bringing such offenders to book." It is unnecessary for me to go into the revolutionary crime in India which has been dealt with exhaustively by the Committee. What is relevant for the purpose is the safeguard that was suggested by the Sedition Committee.

The House might be interested in knowing the composition of this

†B.L,A. Debates, Vol. 3, pp. 2533-34, dated 28th April 1938.

Committee. Therefore, I may mention the names of the gentlemen who constituted this Committee : Mr. Justice Rowlatt, Judge of the King's Bench Division, Sir Basil Scott, Chief Justice of Bombay, Diwan Bahadur C. V. Kumaraswami Sastri, Judge of Madras High Court, Sir Verney Lovett, Member of the Board of Revenue, United Provinces and Mr. C. P. Mitter. The Committee consisted of a large number of persons who were judiciary minded. It is a fact that during all the period that Government of India wanted to deal with revolutionary crime, they have accepted the principle that the revolutionaries, before they are punished, must be tried by a tribunal. They were never dealt with by judicial action. The point was that the tribunal consisted of persons who were engaged in the executive of the Government of India. The Committee says in paragraph 182 :

> "While, however, we recommend in substance the procedure established under the Defence of India Act, we think the constitution of the tribunals as provided by these Acts should be altered. It seems to us inadvisable that these tribunals should to any extent be composed of persons not already members of the judiciary but selected by the executive for the purpose of the specific case. Nothing that we have seen suggests that the special tribunals hitherto appointed have been unfair towards the accused, but we think the objections in principle cannot be overlooked. Moreover, as the right of appeal is taken away, the tribunals should be of the highest strength and authority."

If this safeguard is necessary for the purpose of seeing that nothing that is harsh and nothing that is unjust is done to revolutionaries, I submit every man of common sense will think that a far greater safeguard is necessary for dealing with persons contemplated in this Bill. After all, what is it that the amendment asks ? The amendment does not ask that a tribunal consisting of Magistrates should be appointed in order to investigate the allegations made by the Police Commissioner against a person whom he wants to send out of the city. Nothing of the kind is asked for. Nor does the amendment demands that the material, when placed before the Magistrate, shall be investigated into as though it were a trial. The amendment does not require that the Police Commissioner, when he places the material before the Magistrate, shall disclose the name of the informants. Nothing of the kind is asked for. The amendment is of the mildest character. It does not require the Magistrate to sit in judgment over the material of the Police Commissioner. All that it says is this, that the Magistrate may look into it and give a certificate that it is a satisfactory case in which the Police Commissioner may, if he chooses, act. Now, Sir, by all standards, I am prepared to say that this is the mildest kind of safeguard that could be provided and ought to be provided. I submit, Sir, that in view of the fact that the amendment of the honourable member Mr. Pataskar has now been carried and the powers of the Police Commissioner are more unlimited than they would have been if my amendment had been carried, it

becomes all the more incumbent upon the opposition as well as upon the whole House to see that this little safeguard—I call it a very little safeguard—is provided in this Bill, in order to see that the Police Commissioner does not act in an arbitrary way.

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32

*ON THE BOMBAY POLICE ACT AMENDMENT BILL : 3

Dr. B.R. Ambedkar: What I would like to submit is this. What we have done by accepting the amendment of the honourable member Mr. Pataskar is this. We have laid down as a direction to the Commissioner of Police the cases in which he can exercise the power that are given to him. The direction is that he shall exercise his powers only in cases where in his opinion witnesses are not willing to come forward to give evidence in the public against the person. That is a direction given to him, that he has to exercise the power given to him only in cases where in his opinion witnesses for reasons of safety are not willing to come forward to give evidence. In sub-clause (2), the Bill lays down a certain procedure which the Commissioner has to follow, and it is this. Firstly, the Commissioner has to give particulars of the charge ; secondly, the Commissioner has to give an opportunity to the man to explain the charge ; and thirdly an opportunity has to be given to the man to bring his witnesses. This sub-clause (6) deals with the right of a criminal court to question the order passed by the Commissioner of Police. What does this section do ? This section merely says this : that the court shall have authority—I am putting it positively—to see whether the procedure prescribed under this Bill has been followed or not. The first thing that the Commissioner is asked to follow by way of procedure is, to present the particulars of the charge ; secondly, he must give an opportunity to the person to explain the charge ; thirdly—a matter which was omitted in the original, but which was part of the judgment of the High Court—that the Commissioner must have material before him. That has now been added by the amendment moved by the honourable member Mr. Pataskar. Now, my submission is that we have also added by the clause that we have passed that this power should be exercised only in those cases where witnesses for reasons of safety are not willing to come forward. What the honourable member Mr. Bhole's amendment seeks to do is to add one more ground on which the High Court quash the order. As the sub-clause is now worded, the High Court could quash the order if the particulars of the charge were not presented to the man, if an opportunity was not given to him to explain the allegations

*B.L.A. Debates, Vol. 3, pp. 2586-87, dated 29th April, 1938

against him or his witnesses were not examined, and lastly—according to Mr. Pataskar's amendment—there was no material before the Commissioner of Police upon which he could have passed his order. What the honourable member Mr. Bhole seeks to add is that the condition that has been laid down in part (I) of the amendment of the honourable member Mr. Pataskar, namely, that witnesses are not willing to come forward to give evidence shall also be one of the grounds on which the magisterial court could quash the order. Therefore, it is not a limitation upon the authority of the Magistrate. There is a procedure prescribed, and all that the clause says is, that the High Court or the magisterial court shall see that all these kinds of procedure are followed by the Commissioner of Police. The honourable member Mr. Pataskar does not seek, nor does anybody here seek, that the High Court or the magisterial court shall sit in judgment over the question whether the material was reliable. All that is needed for it to see is that the Commissioner had material. Similarly what the honourable member Mr. Bhole seeks to do is that the court should see that the Commissioner of Police had really taken into consideration the fact whether witnesses were prepared to come. The honourable member Mr. Bhole's amendment does not seek to give the High Court or the magisterial court the power to sit in judgment over the question as to why the witnesses were not prepared to come. The High Court or the magisterial court is not to sit in judgment over that question and say "These are grounds on which nobody ought to be satisfied". The finality of judgment is with the Commissioner of Police. What the amendment of the honourable member Mr. Bhole seeks to do is to bring into this clause a condition which we have imposed by passing the amendment of the honourable member Mr. Pataskar, which is a procedural condition, so as to make the Bill a complete whole. There is no conflict between the amendment we have passed and the honourable member Mr. Bhole's amendment. All that is necessary is to add the words "in the opinion of the Commissioner", and I move it.

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†*Dr. B. R. Ambedkar:* May I explain, Sir ? The position, briefly is this We have given certain powers to the court under renumbered sub-section (*7*); when a person is brought before a Magistrate for breaking the order of the Commissioner, the Magistrate has power to see that the proper procedure was followed. One of the things that the Presidency Magistrate has to see is whether the Commissioner had material before him. Now, this clause says that when the matter comes up before the Presidency Magistrate, the Commissioner or some other person will have to go into the witness box in order to inform the court that he had some material on which he could act. This clause says that in giving this evidence either the Police Commissioner or some other officer whom he may depute shall lead to the identity of a person or the identity of a property. I am explaining the place of sub-

†B.L.A. Debates, Vol. 3, pp. 2598-99, dated 29th April 1938

clause (8); the place of sub-clause (8) is that it comes into operation when the order is being considered by the Magistrate to see whether it is proper or not, that is to say, whether it was passed according to the procedure. One of the things that the Magistrate has to see is whether there was material before the Commissioner, because that is one of the conditions ; and in proving what the material was, the question may arise whether the Magistrate will have the right to compel the Commissioner of Police to disclose all information, including such as would lead to the identity of the person or property. This clause says that while giving evidence the Commissioner of Police may withhold such information as he may have and, which would lead to the identity of the person or property. That is the place of sub-section (*8*).

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†*Dr. B. R. Ambedkar:* Sir, I would like to move this amendment, namely : —

For the words "hereinafter appearing" the following words shall be substituted : —

> "and for the purpose of dealing with habitually dangerous characters and for the purpose of preserving public peace and tranquillity during communal riots."

That is the amendment which I wish to move.

The Honourable the Speaker: I was just referring to the amendment of the honourable member the learned Doctor in which he had moved for the application of this Act to habitual offenders. I am inclined to the view that even this part of the amendment will be out of order in view of the decisions taken by the House.

Dr. B. R. Ambedkar: Sir, I would like to submit that the Bill, which is now before the House, has two-fold purposes, namely, one purpose is to deal with communal riots and therefore I submit that that part of my amendment which refers to communal riots is perfectly in order. The Bill also deals with certain provisions which are intended or calculated to deal with what in the terms of the Honourable the Home Minister, are regarded as mavalis and which I submit is translated by the words "habitually dangerous characters". My amendment is merely intended to make clear the two-fold purpose which this legislation has in view. One purpose is to deal with communal riots and the other purpose is to deal with what are called "mavalis". I submit, therefore, that my amendment is in order. If, however, that is objectionable, I am prepared to use the words "for the purpose of controlling the activities of "mavalis".

The Honourable the Speaker: The difficulty about that will be that the word "mavali" is not defined in the Act. It is not an expression which is defined in any Act

Dr. B. R. Ambedkar: Sir, my submission is that the preamble is not

†B.L.A. Debates, Vol. 3, pp. 2630-34, dated 29th April 1938.

going to be the subject matter of judicial interpretation. The preamble merely contains a rule of guidance for the purpose for which we are to use this Act and I therefore submit that even though the word "mavali" has not been judicially interpreted, it is a term which is so well-known today to both the Honourable the Home Minister and the Commissioner of Police that I think there should be no difficulty about it

The Honourable the Speaker: The amendment is to be divided in two parts—one referring to habitual offenders, as the honourable member has stated, is the one which he is prepared, I understand, to drop.

Dr. B. R. Ambedkar: No, I am prepared to split it into one dealing with persons who are either dangerous characters or mavalis, and the other I submit is a direct reference to the amendment which gives the emergency powers.

The Honourable the Speaker: The other I can see. If divided into two parts, then about the first, I think that even the expression used "mavalis" will not .....

Dr. B. R. Ambedkar: Then my amendment will be this : —

> " for dealing with persons who are dangerous characters". I am prepared to take away the word "habitually". The preamble is intended to make clear our intentions.

Mr. Jamnadas M. Mehta: I submit, Sir, that the learned Doctor's amendment should be held perfectly in order, because it is now realised that the whole Bill has two intentions; one to deal with an emergency and the other to deal with characters which are described in the Act The preamble must express what the House has enacted ; otherwise the preamble will be incomplete and will not express what the object of the Bill is.

The Honourable the Speaker: I am not considering any technical objection. I am only considering how the phraseology would express what has been stated in the Bill and what has been passed by the House.

The Honourable Mr. B. G. Kher: May I suggest to the honourable member that the word "dangerous" is vague ? It must be "dangerous to society", "danger to the city" or something to that effect. We are accustomed to receive telegrams "so and so dangerous, start immediately". The word "dangerous" by itself is vague.

Dr. B. R. Ambedkar: I may suggest "for the purpose of dealing with persons who are a danger to the residents of the City of Bombay for preserving the peace and tranquillity during the riots".

The Honourable Mr. K. M. Munshi: You have left out "factions and gangs" during riots. The words of the section are "between communities, factions and gangs".

Dr. B. R. Ambedkar: We can put it this way : "for preventing disturbance of public peace and tranquillity by reason of conflicts between communities and sections thereof, and gangs and factions".

The Honourable the Speaker: This is what I have taken down : "for the purpose of dealing with persons who are a danger to the City of Bombay and for preventing disturbance of public peace and tranquillity by reason

of conflicts between communities and sections thereof, or gangs or factions."

The Honourable Mr. K. M. Munshi: "And for other purposes hereinafter mentioned".

Dr. B. R. Ambedkar: What other purposes ?

The Honourable Mr. K. M. Munshi: "And other purposes hereinafter mentioned".

Dr. B. R. Ambedkar: What are the other purposes ?

The Honourable Mr. K. M. Munshi: There are various procedural purposes also.

Dr. B. R. Ambedkar: Then, I will make it clear by saying "and for prescribing the procedure for dealing with such cases".

The Honourable the Speaker: Is that all necessary in the preamble ? We should not make it cumbersome.

The Honourable Mr. K. M. Munshi: There is the question of immigrants also in the Act. And so, "other purposes hereinafter mentioned" is necessary.

Mr. Jamnadas M. Mehta: "Hereinafter" is not necessary.

Mr. S. V. Parulekar: We may adjourn till tomorrow, so that we may arrive at an agreed wording.

The Honourable the Speaker: It seems there is agreement as to the substance, and now it is only a question of phraseology. The amendment now moved being accepted in substance, it may be incorporated in the Bill at this stage, and later on, at the third reading any verbal amendments necessary may be made.

The Honourable Mr. K. M. Munshi : Sir, may I have the final word ? I do not want to miss these immigrants.

The Honourable the Speaker: This is what is being proposed by the honourable member Dr. Ambedkar :

> "Instead of the words 'hereinafter appearing' substitute :
>
> 'for the purpose of dealing with persons who are a danger to the City of Bombay and for preventing disturbances of public peace and tranquillity by reason of conflict between communities and sections thereof or gangs or factions, and for certain other purposes hereinafter appearing'."

The Honourable Mr. K. M. Munshi: I accept the amendment

Dr. B. R. Ambedkar: May I know what other purposes there are ?

The Honourable Mr. K. M. Munshi: For dealing with immigrants.

Dr. B. R. Ambedkar: The immigrant is an object and not a purpose.

The Honourable Mr. B. G. Kher: The question is that immigrants who come into the city with certain diseases have to be dealt with. It is not the object of the preamble to describe all purposes seriatim. "Certain other purposes hereinafter appearing" clearly means the purposes embodied in the Bill itself. No other purpose can be brought into the Bill.

The Honourable the Speaker: Are the words "for certain other purposes" to be taken out ?

Sir Ali Mahomed Khan Dehlavi: They must disappear, because we are dealing with section 27 only and not the Act as a whole.

The Honourable Mr. B. G. Kher: If you do not want it, we are willing to take it out.

The Honourable the Speaker: The consensus seems to be that the word "hereinafter" should remain. The amendment would then read : In place of the words "hereinafter appearing", substitute the following :

> "of dealing with persons who are a danger to the City of Bombay and for preventing disturbance of public peace and tranquillity by reason of conflict between communities ....."

The Honourable Mr. B. G. Kher: May I suggest that the phrase should be "public peace or tranquillity" and not "public peace and tranquillity" ? So also, "by reason of conflict between communities or sections."

The Honourable the Speaker: "..... disturbance of public peace or tranquillity by reason of conflict between communities or sections thereof or gangs or factions, and for certain other purposes hereinafter ..... "

Sir Ali Mahomed Khan Dehlavi: "Or for certain other purposes"; I think we agreed to that ?

The Honourable Mr. K. M. Munshi: I will agree to anything.

Mr. R. A. Khedgikar: Are we not to be given a chance to examine the wording ? We have not, fully understood it.

The Honourable the Speaker: I am now reading the final draft. It is open to correction, in case I have committed any mistake.

Mr. S. V. Parulekar: Will you give us an opportunity of studying the amendment before we make up our mind about it ? The amendment is very long, and we do not know the implications of it just now. So, we should be given an opportunity to study it. It may be taken up for discussion.

The Honourable the Speaker: As I stated, the preamble, after all, merely tries to give a summary, and a very general summary, of what is following,

Dr. B. R. Ambedkar: It is a direction to the executive authority.

The Honourable Mr. B. G. Kher: We are willing to accept anything that you propose.

Mr. Jamnadas M. Mehta: Anything that will shorten this discussion will be welcome ! (Laughter)

The Honourable the Speaker: It is therefore that I am suggesting the final wording as it seems to have been agreed to. I am reading the whole amendment again ; honourable members will please hear it patiently :

> "In place of the words 'hereinafter appearing', substitute the following :
>
> 'of dealing with persons who are a danger to the City of Bombay and for preventing disturbance of public peace or tranquillity by reason of conflict between communities or sections thereof or gangs or factions and for the purposes hereinafter appearing'."

Mr. Jamnadas M. Mehta: "Other" must be there.

The Honourable the Speaker: "And for other purposes".

Dr. B. R. Ambedkar: "Such as dealing with immigrants".

The Honourable the Speaker: After all, lawyers know as to how a preamble is construed and what importance is attached to it so far as the construction of the sections is concerned. If I may be permitted to say so, I do not think this point is really such as to be such a debatable point as that.

Mr. Jamnadas M. Mehta: "Other" must be there, because those which are mentioned previously are also purposes.

The Honourable the Speaker: "And for other purposes hereinafter appearing".

Mr. Jamnadas M. Mehta: That will do.

The Honourable Mr. K. M. Munshi: I accept the amendment.

The Honourable the Speaker: So then, I take it that this will be the wording. (Interruption). The phraseology is taken from the sections themselves.

Dr. B. R. Ambedkar: I accept it.

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33

*ON THE CITY OF BOMBAY MUNICIPAL ACT AMENDMENT BILL

Dr. B. R. Ambedkar (Bombay City, Byculla and Parel): Sir, I rise to support the amendment moved by the honourable member Mr. A. V. Chitre. Sir, the amendment is that in addition to the 4 councillors who are to be elected by the workers' delegates there should be two councillors elected by the municipal workers. Now, the reason why I think this amendment ought to be supported is this. There is no doubt about it that the municipal workers are directly interested in the administration of the Municipal Corporation. They are under the authority of the Municipal Commissioners, they are under the authority of the various officers employed by the municipality under whom they are working. Now, Sir, having regard to the municipal constitution, there is one thing which is clear and abundantly clear and that is that these municipal workers have no right of redress against any order that may be passed by their superior officers. Their position is certainly very much different from the position of the ordinary civil servant who is working under the Government of Bombay. For instance, any civil servant, whether he is employed in the provincial service or subordinate service, has a right of appeal given to him in the case of any order passed to his prejudice. There is no such provision in the Bombay Municipal Corporation. Any order may be passed by any officer against any municipal worker and that worker has no right of redress. One of the advantages this amendment will give to the municipal workers is that any order that may be passed by any officer under the Bombay Municipal Corporation, could be ventilated through their representatives on the floor of the Corporation and certainly this amendment will enable them to get some redress. They do not possess this advantage under the present constitution.

The Honourable Minister in charge said that we are now providing for adult franchise and, because we have provided for adult franchise, it is not necessary to provide any representation for organised labour. I am sure the Honourable Minister has not paid efficient attention to what provisions he has introduced in the Bill which is before us. What I would like to ask the Honourable Minister is this, whether in his opinion adult franchise is the

*B.L.A. Debates, Vol. 3, pp. 2807-08, dated 3rd May 1938.

sovereign remedy which the municipal workers can depend upon for obtaining sufficient representation. In that case, there is no necessity to provide for the representation of four councillors for labour. There is no need to provide for the representation of the Bombay Chamber of Commerce, the Indian Merchants' Chamber and the Millowners' Association, because they can find representation through the ordinary channels of election. If adult franchise is sufficient for securing representation to labour, obviously the provision that is made for the four councillors to be elected by the delegates is unnecessary. Therefore, it is open to argument that the reason why it is provided that four places should be elected by labour is due to the fact that he is conscious of the fact that labour will not secure representation through the ordinary channels of election, although there may be adult franchise. If there is a necessity of providing representation for labour through labour constituencies then I submit that it is for better reason for providing special representation for the municipal workers who are far more interested in the constitution and working of the municipality than labour in general. I submit on this ground that this amendment ought to be supported by this House.

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*ON PROHIBITION

Dr. B. R. Ambedkar: Sir, I realise that the feelings of this House on the matter of prohibition run very high ; not that I do not share those feelings, but for other reasons I do not wish to be harsh to the Honourable the Minister for Excise. I realise that he is a new man for the office. I realise also that it is a very wrong place for a man to be in. I congratulate him on the courage he has shown in accepting the place which another honourable member of this House thought it better to leave.

I rise to speak on this subject simply because I feel that what has fallen from the Honourable the Minister for Excise during the last two or three days has left the impression on me that he will fall into the bad old ways, which are the established ways of this department. In course of the interpellation that we had the other day, to my mind, he made somewhat an extraordinary statement. He stated that he opened a shop somewhere near the borders of the Nizam's Dominions because the Nizam had opened a shop in our territory. Sir, I do not think that is an argument which a Minister who has accepted the policy of prohibition ought to advance in this House. That argument amounts to something like this ; that because a dacoit has committed dacoity and carried away some booty which the Honourable the Minister for Excise could have done himself that he himself is entitled to commit the dacoity. Sir, a wrong committed by one does not justify another to commit a similar wrong. The best policy for my honourable friend the Minister for Excise to adopt was to remonstrate with His Exalted Highness the Nizam for having opened shops near our territories. Instead of doing that he has placed the interest of revenue over and above the interests of the people of this Presidency.

It seems to me that my honourable friend the Minister for Excise looks only to revenue exclusive of every other consideration. In the course of the debate on the budget he also made a statement which I think ought to be taken seriously into consideration. In reply to certain criticisms which I offered he said that in judging of the policy of the Excise Department we ought to take into consideration the amount of consumption of liquor in the presidency and not the amount of money that is raised by the Excise

*B.L.C. Debates, Vol. XIX, pp. 838-40, dated 10th March 1927.

Department. He gave us certain figures to show that the people of Bombay were not drinking as much as the people of the other provinces in India. I have not had the time to look into those figures, but I think we may accept the figures as they were given by the Honourable the Minister for Excise. But I think, Sir, that my honourable friend will admit that while people are drinking less of licit liquor, the manufacture of illicit liquor in this presidency has been on the increase. So, if we take into consideration the fact that although drinking of licit liquor is decreasing, drinking of illicit liquor is on the increase, the result that we get is that the consumption is not less. Of course we have not got the actual figures of illicit manufacture, but I believe the fact is admitted, I think the Honourable the Minister for Excise will be first to urge it, that illicit liquor is increasing. So, on the whole we are not gainers, because the only result is that people are drinking less of licit liquor and more of illicit liquor. The question that then arises is, why is the manufacture of illicit liquor increasing in this presidency ? So far as I am aware, there has been no official reply to this question. But I venture to give a reply for it for what it is worth. I think, Sir, the increase in the manufacture of illicit liquor in this presidency is entirely due to the high tariff on country liquor. Now, it is an admitted principle of political economy, not only a principle which is embodied in text-books, but I believe it is also a principle which is acted upon and known to every housewife that when the price of a certain commodity rises, then, there is always a tendency on the part of the people to substitute another commodity in its place which is equally serviceable and which costs less. We all know, for instance, that when sugar rises in price people will substitute gul in place of sugar and if coffee was to rise in price people will consume more of tea. Applying the same principle to this case, I submit, Sir, that the increase of illicit drink in this presidency is entirely due to the high tariff on country liquor. My honourable friend the Minister for Excise will therefore pay a little more attention to this aspect of the question. If he is really a believer in prohibition he must regulate his tariff. If he does not regulate the tariff, I submit that although he may succeed in controlling the consumption of licit liquor, he will give a direct incentive to the increase in illicit liquor.

The other point that I wish to speak of is as regards the policy of prohibition. I was glad to hear from my honourable friend the Leader of of the House in reply to certain arguments urged by my honourable friend Mr. Murzban, that prohibition is now the accepted policy of Government, and that Government under no circumstances would go back on the policy resolved upon by the Legislative Council. But, Sir, I was a little disappointed when, as I believe, he sidetracked us a little from the real issue before us. He told us that the issue before the House was, what method we should adopt in bringing about prohibition, whether we should adopt the method of rationing or whether we should adopt the method of local option. Sir, in my view the two methods, making allowance for minor details, are more

or less equally efficient. Whether you adopt the policy of rationing or whether you adopt the policy of local option, makes no difference in the situation whatsoever, because the effect of either is to control the supply of liquor that will be put on the market. Whether you do it by not supplying more to the shop-keepers or whether you do it by not opening shops at all, the result is the same. But, Sir, the question is how far we can go on in advancing the policy of prohibition and that question, I think, my honourable friend the Leader of the House has not taken into account. I feel, Sir, that the problem of prohibition, whether you will be able to carry it out to a successful issue or not, entirely depends upon the financial solution of the question, upon how we will manage to make good the losses we are bound to incur as a result of our new excise policy. I think we on this side of the House would have liked to hear a good deal from the Honourable the Leader of the House as to the kind and method of taxation that he has in contemplation. Sir, I think although there might be differences of opinion in this House, we at least on this side feel that we are not opposed to the additional taxation, provided of course the Government will use the taxes for nation-building proposes. We are certainly opposed to additional taxation if Government are going to use the taxes merely to maintain the Government, merely to govern. But if they are going to make life happy, and not merely try to make life possible, then, I think we on this side are certainly willing to support any tax. The honourable member the Leader of the House tried to repudiate the charge of insincerity that was made against Government. Sir, I think no Government ought to make any promise as regards carrying out a policy of prohibition unless it has made up its mind as to how it will make good the loss of revenue. Unless therefore my honourable friend has got the courage—that is far more important than mere conviction—unless he has the courage to tax the people who have not been taxed so far, people who have better capacity to bear the burden, I think it is no use his trying to incur the odium of making a promise and not carrying it out. The best thing for the Honourable the Leader of the House would have been to bring forward a proposal for taxation and to test the sincerity of this House as regards the policy which it has been asking him to pursue. I think the House understands as well as anybody that this policy is going to cost money, and it was the duty and interest of my honourable friend the Leader of the House to have obtained from the House an assurance that it was willing to meet the cost of the policy it was so strenuously enforcing upon him. With these remarks I beg to resume my seat.

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*ON MATERNITY BENEFIT BILL

Dr. B. R. Ambedkar: Sir, I rise to support the first reading of this bill. And in doing so I just wish to reply to a few points that have been raised in the course of this debate against this bill. The Honourable the General Member, in speaking against the bill, first of all, pointed out that this is not an accident—accident as we understand it under the Workmen's Compensation Act, and, therefore, the principle of the Workmen's Compensation Act cannot be extended to the women who would be entitled to get the benefit under this particular bill. I admit, Sir, that this is not an accident. But it does not follow from that, that women are not entitled to get the benefit which the proposed bill desire to confer upon them. The principle on which this bill is based is altogether biased. There is absolutely, I believe, unanimity on this proposition that the pre-natal conditions which affect the mother are an important factor in the bill and the subsequent bringing up of the child. I do not think anybody will controvert that proposition. And I believe, therefore, Sir, that it is in the interests of the nation that the mother ought to get a certain amount of rest during the pre-natal period and also subsequently, and the principle of the bill is based entirely on that principle. That being so, Sir, I am bound to admit that the burden of this ought to be largely borne by the Government. I am prepared to admit this fact because the conservation of the people's welfare is primarily the concern of the Government. And in every country, therefore, where the maternity benefit has been introduced, you will find that the Government has been subjected to a certain amount of charge with regard to maternity benefit. But that being so, Sir, I am not prepared to admit that the employer who employs a woman, under such circumstances, is altogether free from the liability of such benefit in the interests of the woman and the reason for this is this. There is no doubt that an employer employs women in certain industries because he finds that there is a greater profit to be gained by him by the employment of women than he would gain by the employment of men. He is able to get *pro rata* larger benefits out of women than he would get by employing men. That being so, it is absolutely reasonable to say that to a certain extent at least the employer will be liable for this kind of

*B.L.C. Debates, Vol. XXIII, pp. 381-82, dated 28th July 1928.

benefit when he gets a special benefit by employing women instead of men. I, therefore, say that although there ought to have been some liability imposed on the Government in the matter of maternity benefit, I think the bill is not altogether wrong if it seeks to impose the liability under the present circumstances on the employer. I, therefore, support the bill on that account

It is stated that this bill is applied only to factories and not to other industries or to the agricultural occupation. The reply to that is very simple. It is to those industries where the conditions are such that they particularly affect the health of a woman that this principle is extended. In agriculture and other occupations the women are not exposed to those dangers or to those factors which obtain in factories and which affect the health of the women working in those factories. That is the reason why, for instance, such legislation is usually confined only to factories. The same may be said, for instance, with regard to the Workmen's Compensation Act. That Act applies to accident which may arise in factories in the course of the employment of labour for this very reason, and you will find that legislation is confined only to factories and not to other occupations.

Now, in respect of the burden on industries, the Honourable the General Member said that it will result in the reduction of wages. I am not certain whether it will result in a reduction of wages. Even if it does, it will mean that the burden on the industries will to a certain extent be shifted elsewhere and the Honourable the General Member ought therefore to have no objection on that ground. If this bill is passed, my submission is that the burden will probably be shifted on to the consumer and if it is shifted on to the consumer, the society as such ought not to object to pay the larger price for the produce in order that the producers who produce it may be benefitted.

Then, it is said that it is unjust to confine this bill to the Bombay Presidency only and that it ought to be extended to the whole of India, and that other Presidencies and provinces in India ought to be put on a par with the Bombay Presidency. My submission to you, Sir, is this. Suppose that this bill is applied to the whole of British India, what is there to prevent somebody rising up and saying, "Why should this bill be confined to India only and not to other countries ? India will be put at a disadvantage with respect to the other countries of the world and therefore let us wait till the whole world adopts the principle of this bill and then we may all be on a par with each other". I submit that there is no substance in this argument and I think, therefore, the benefits contemplated by this bill ought to be given by this Legislature to the poor women who toil in our factories in this Presidency.

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*ON PUNISHMENT OF WHIPPING

Dr. B. R. Ambedkar: Sir, after having heard my honourable friend the Honourable Mr. Bell, who is in charge of this Bill, and the honourable member the Remembrancer of Legal Affairs, I do not think that there remains any necessity for arguing a case for the necessity of this measure ; nor does there remain, in my opinion, any necessity for arguing the question whether whipping is a proper punishment. That we have had very serious riots in the city of Bombay and often in the mofussil, which have been a disgrace to Indian society and Indian civilization, no honourable member, I am sure, can dispute. That whipping as a method of punishment is on the Indian statute book is itself sufficient argument against those who say that we are making a new departure. Consequently, Sir, the only point that remains for discussion in my humble judgment, is whether the provisions of the Bill, as they are framed, go beyond the necessities of the occasion. That seems to me to be the only point that survives for discussion.

Sir, having read the Bill, having applied my mind to clause 2 of the Bill, which is the substantive clause, I find some difficulty in agreeing to the provisions as they are worded in clause 2. That clause as it stands says that the provisions of section 4 of the Whipping Act shall apply to every offence of rioting which may come within sections 146 and 148 of the Indian Penal Code. Now, Sir, I was under the impression that this measure was contrived and devised for the special purpose of dealing with what are called communal riots. Riots, Sir, may be of various sorts ; the purpose, the motive, the occasion may be different. We may have a riot arising out of an industrial strike in the city of Bombay; we may have a riot which is occasioned by a casual fracas between poor people who assemble together for asserting a certain right over certain properties which they may, however illegally but in their honest belief, think belong to them. Sir, this House ought to know that the offence of rioting really arises out of an offence of unlawful assembly. An unlawful assembly becomes a riot when that assembly uses force. That is the definition given in section 146 of rioting. Now, an unlawful assembly, although it may not be an offence which we can overlook, is certainly not such a serious offence as to invite such a terrible punishment

*B.L.C. Debates, Vol. XXXVII, pp. 652-53, dated 18th February 1933.

as whipping. Consequently my view is this, that if we are to introduce this punishment of whipping, we ought to amend clause 2 in such a manner that it shall become applicable only to those riots which may be said to arise out of a communal fracas and not to any other riots. The clause as it is, I submit, is worded so broadly as to embrace almost any riot, which may be occasioned by anything which may be of a very passing character or which may be so normal in human affairs that we really ought not to extend this punishment to such cases. And the Indian Penal Code, I submit, has very wisely provided the ordinary forms of punishment for ordinary offences of rioting. If this Bill is a necessity it can be a necessity only for the special purpose of dealing with a communal riot and for no other purpose. If my honourable friend the Home Member is prepared to alter the wording of clause 2 in such a manner that this punishment can be made applicable only to offences arising specially out of communal riots, he will have my support. That is all that I have to say on this occasion.

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*ON MINISTERS' SALARIES BILL

Dr. B R. Ambedkar (Bombay City, Byculla and Parel): Mr. Speaker, I rise to make a statement, and I use the word "statement" very advisedly. I am not moving an amendment to the Bill which has been proposed by my honourable friend the Prime Minister, nor do I propose to carry this matter to a division. The Ministers' Salaries Bill, I think, ought to have been an agreed measure, and it need not have been carried through, as the Ministry proposes to do, by a purely party vote. That course the Ministry has not chosen to take, and I am therefore bound to make this statement with the simple object of lodging a protest against the principle of the Bill. Notwithstanding what the Prime Minister has said in moving this Bill—and no doubt every member of this House will feel a greater degree of respect for him for the sincerity with which he spoke and for the high principles he has enunciated regarding the conduct of Ministers—taking the view of the situation as a practical man, looking at things from a practical point of view, I do not think that I can accept the standard salary for Ministers which has been laid down in this Bill.

Sir, before I explain the reasons why I think that this should not be a standard salary for the Ministers, I would like to place before the House some figures relating to the salaries which are paid to Ministers outside India and also to Ministers in India, so that the House may at the outset be able to realize what a great departure we are making from the standard that exists today. I have here with me a few figures which I have collected. In the Irish Free State there are 11 Ministers ; every one of them is paid a salary of £ 1,700 per annum, which according to my calculation comes approximately to Rs. 2,000 a month. In South Africa there are 13 Ministers, 2 without portfolio. The Prime Minister is paid £3,500 per annum ; the other Ministers are paid £ 2,500 per annum, which according to my calculation comes to Rs. 2,900 per month. I have not been able to gel the figures for Australia, but the figures for Canada are as follows : The Prime Minister gets $ 19,000 per annum ; there are 16 Ministers in Canada altogether, and the Ministers get $ 14,000 per annum, which includes $ 4,000 for sessional allowance. In New Zealand there are 12 Ministers. The Prime

*B.L.A. Debates, Vol. 1, pp. 247-54, dated 23rd August 1937.

Minister there gets £ 1,800 plus a residence, and a Minister gets £ 1,370 per annum which includes £ 200 for house allowance, so that the salary for the Minister comes to Rs. 1,500 per month.

Coming to India and leaving aside for a moment the salaries that were paid before the new Government of India Act came into operation, and taking the salaries that were fixed for the interim Ministers—and nobody could say that the interim Ministries were not Ministries which were, to some extent at any rate, responsible to public opinion—these are the figures which I find from a table submitted to Parliament. In Madras, the Prime Minister was paid a salary of Rs. 3,000, and each of the Ministers was paid Rs. 2,500 plus a house. In Bombay the salary was Rs. 4,000 for the Prime Minister, and for the Ministers Rs. 3,500 each. In the United Provinces each Minister including the Prime Minister was paid Rs. 2,500. In the Central Provinces the Prime Minister was paid Rs. 3,000, and each Minister was paid Rs. 2,250. In Bihar the Prime Minister was paid Rs. 2,500 and a Minister was paid Rs. 2,000. In Orissa the Ministers were paid Rs. 1,000 each.

Now, Sir, compare these figures with the figures proposed in the Ministers' Salaries Bill. There can be no doubt that there is a great departure from the prevailing standard. It seems to me that the difference is not merely a difference of degree but is a difference of kind, and I submit a difference of kind is a difference of principle. What are the considerations that ought to prevail in the fixing of the salary of a Minister ? In my judgment, Sir, there are four considerations which ought to prevail. The first is the consideration of the social standard of the Ministers, who are undoubtedly the social leaders of the community ; secondly, considerations of competency ; thirdly considerations of democracy ; and, fourthly, considerations of integrity and purity of administration. I am not prepared to push the first consideration to any unreasonable length. Personally, I should have thought myself that the Ministers of the country, who are the first citizens of the country, should lead a life which is cultured, which cares for art, which cares for learning, and which ought to be a model for the rest. But if our friends do not care to consider that aspect of the case, as I say, I am prepared to leave it out of consideration altogether. But surely the consideration of competency, the consideration of democracy and the consideration of integrity could never be overlooked in fixing the salaries of Ministers. I do not know what view the Honourable the Prime Minister takes of the duties and functions of the Ministers. If the view is that the Ministers are to do nothing more than go about and unfurl flags and receive salutes from crimson clad ladies forming guards of honour, then that is a different proposition. In my view, and I want to emphasise it with all the emphasis I am capable of, if there is anything we expect from the Ministry, it is competency. I have no doubt in my mind that of the three organs of the State, the legislature, the executive and the judiciary, the executive is the

main spring of action. It is the executive which is to study the problems that are facing the country ; it is the executive which is to show what solutions can be proposed for solving those problems ; in short, Sir, it is the executive that must be the brain trust, if we are to solve the various problems with which we are faced and to get the best out of this constitution.

The question that arises in my mind is this, whether the salary that is proposed is a salary which is capable of inviting men who are capable and who have the necessary competence to face the problems and suggest remedies. Looking at the question dispassionately in the light of the circumstances which I see prevalent in this country, I cannot give, Sir, an affirmative answer. First of all, there is this fact to be considered, namely, that there are other walks of life in which the prizes are far greater than the prizes which have been provided for the Ministry. Many people who have competence, who have ambitions, will seek other walks of life rather than come to the Ministry and have the responsibility of the Ministry. I could have understood if the ministry was legislating that nobody should receive a salary of more than five hundred in any walk of life. If they had done so, things would have been otherwise. But they are not doing so. They are driving away competent men in other walks of life. This is one aspect of the matter. The second aspect to be considered is this. Looking at the situation in India, I cannot help saying that the intellectual class from which you can draw men who are competent enough to undertake the responsibility is very very small. Sir, in this country, on account of the social system which has been prevalent and which the British regime has not been able to damage very much, education was confined to a small class. Education has never been the privilege and the opportunity of many. In fact, under the Chatur Varna it is only one class who could take education and the rest were debarred. Consequently, a large mass of the people are absolutely so situated that they cannot throw forth leaders who can be taken in the Ministry to carry on the administration. Therefore, my submission is that the salary is not a salary which can invite competent people to carry on the administration.

Now, Sir, coming to the question of democracy, what will be the effect of the salary ? I would not mince matters. I would straightway say that the consequence of this salary will be this : Either there would be people who do not care for money, who have private means but who want to capture political power in order that they may use that political power for the advancement of their own class or their own community. That would be one consequence. The other consequence would be that men who cannot make any money in other walks of life will get into the Ministry. There can be no other consequence. (Laughter.) My friends may laugh, but I have no hesitation in saying that that will be the consequence of this Bill. There can be no greater disaster if what I apprehend comes true. We want that the

political power which is given under the Government of India Act should not be cornered or monopolised by a few who have money and who do not care for salary. Nor do we want in the interest of the masses that the power should go into the hands of incompetent people.

Coming to the other question, namely, the integrity and purity of administration, a friend of mine who is Congress-minded said one thing which I would like to repeat on the floor of this House. He said that if the Governor were to give him a contract for the supply of Ministers, he would very readily undertake the contract and also give something to the Presidency of Bombay for giving him that contract. I think, Sir, that remark is very pregnant. There are hotels in Europe who pay to the managers to allow them to wait. That shows what possibilities there are open to people who are not kept above temptation to pick something which they cannot get by way of pay. I am not saying anything in regard to the present Ministry, because we are discussing the principle of the Bill, not at all personalities involved. Even with higher salaries I admit, and readily admit, that you can never buy the dishonesty of a dishonest man. Pay him any salary you like, if he is dishonest, he will be dishonest. That is, however, not the consideration. The consideration is whether you cannot fix your salary in such a way that the Minister will be kept beyond temptation. Sir, we have had in this province a salary of Rs. 4,000 and a salary of Rs. 3,000, and yet there were scandals relating to the administration. If even with salaries of Rs. 3,000 and Rs. 4,000 it is not possible to avoid scandals. I fear very much a salary of Rs. 500 may produce far greater scandals than have been produced in the past. In this, the question that arises for consideration is not merely whether the salary is adequate. But my view is that it is not the close of the argument. The problem of salary has to be considered from two points of view. From the standpoint of the individual the consideration is one of adequacy. From the standpoint of the State the consideration is a consideration of safety and purity of administration. A man may say that a particular salary is an adequate salary for him. But it does not follow that you should not consider whether from the public point of view it is a safe salary. Lowest standard is not necessarily a safe standard. I believe my friends opposite will have, when they give contracts, to enter a clause that contracts shall not be given merely because the tenders are the lowest. Just as we do not give contracts to persons simply because their standards are the lowest, similarly we cannot allow persons to serve as ministers merely because they are prepared to accept the lowest salary. We have to consider the other side of the question whether the contractor who is offering the lowest tender is capable of discharging the obligations of his task. Therefore, I am suggesting that, though the Honourable Minister may say that Rs. 500 salary is good enough, it does not dispose of the argument. The House has to consider whether on this basis it can expect and hope to have an administration which is free from corruption may possibly arise.

Now, Sir, I should like to read to the House a small extract from the report that was made by the committee appointed by the House of Commons in the year 1920 in order to suggest the principles on which the salaries of the Ministers ought to be fixed. This is what the committee observe :

"There are probably few subjects open to more varieties of opinion than the precise amount of salary suited to any given office of Government ; and the Committee disclaiming all pretensions to any infallible rule on a question necessarily so vague, will nevertheless submit some preliminary observations upon the general principles by which they have been governed in the conscientious discharge of an ungracious duty.

"It is impossible not to recognise in its fullest extent the principle, that the people have a right to have their service done at the smallest possible, consistent with its efficient performance. Whether public servants sit in Parliament or not, the principle is the same. The only justification for taxes of any sort, is either necessity or evident public utility. If, notwithstanding the consecutive gleanings of different committees of the House, any sinecures are still existing no time should be lost in abolishing them ; and it will be seen in the course of this report, that the Committee have not failed to do their duty by more than one case of this description.

"If any offices are overpaid they should be reformed. If any can be united with others with benefit to the public this useful species of economy should not be neglected and several suggestions of this sort will be found in the evidence which it is not within the powers given to the Committee to follow up. In short, all departments of Government should be watched with the same view to economy in general which any individual would apply to the management of his own affairs.

"It is almost unnecessary to observe that these general principles do not lead to the absurd conclusion, sometimes imputed to them, that a willingness to accept low pay is any qualification for office. Economy, to deserve the name must be rational; and no consideration of more money can be set in competition with the paramount evident necessity of securing for offices of great trust and confidence the highest class of Intelligence and Integrity. It has been frequently observed, and the observation being founded on truth and reason should never be lost sight of that offices in a free country should not be put beyond the reach of men of moderate fortune. If salaries should be fixed too low a monopoly would be created in the hands of the wealthy, the power of selection by the Crown would be most injuriously restricted, and the public would be deprived of the services of men of limited means, educated with a view to the pursuit of liberal professions, a class furnishing more than any other the talents and industry suited to official life.

"It should be further considered, that the higher offices of Government require an entire devotion of the whole time and attention of those who fill them ; that their own private affairs must necessarily be neglected ; and that if care should be taken on the one hand to avoid the scandal of private fortunes amassed at the public expense, it is neither for the interest nor for

the honour of the country, on the other hand that they should be ruined in its service."

I submit, Sir, that these are principles which any ministry who cares for the service of the country and for the purity of the administration, ought to bear in mind. And I do not think that the present ministry in fixing the salary of Rs. 500 has shown any regard to the principles which I have read out

Now, Sir, what are the principles that have been suggested for the salary that has been fixed in the Bill ? The one thing I have heard often said is that the salaries ought to be in accord with the income of the people. I ask the question, if that is so, can it be said that Rs. 500 salary is in accord with the income of the people ? What is the income of the people ? I have here figures given in the "Harijan"—I suppose a standard authority—from which I may quote.

The Honourable Mr. B. G. Kher: I am glad you read it.

Dr. B. R. Ambedkar: I do always read it. According to the figures given here, the income per head in the United Kingdom is £ 50 per annum ; in the United States of America, £ 100 ; in France, £ 40 ; in Australia, £ 70 ; in Canada, £ 75 ; in India, £ 4. (*The Honourable Mr. B. G. Kher:* Hear, hear.) Now, Sir, if all this is done on the principle that the salaries ought to be in accord with the income of the people, then I do not understand how it can be suggested that the salary of Rs. 500 a month is in accord with the £4 income of the people of this country. Surely, if my honourable friend is basing the Bill which he has placed before us, on this principle, namely, that the salary should be in accord with the income of the people, then Rs. 500, I submit, is a most extravagant sum to take for the ministry ; it ought to be less than Rs. 100 ; it ought to be Rs. 75, as was suggested. If they are honest, if they want to fix this sum as a matter of justice and not to placate the people, then why not be logical in your honesty ? Why fix a sum which is out of all proportion to the income of the people ?

The second thing that has been suggested in justification of the low salary is that the ministers ought to live in such a manner that they should look as though they were of the people, that there should be no distinction between ministers on the one hand and the private citizens on the other. Sir, if this is the object of the ministry, that all distinctions should be abolished, that they should look as though they were of the people, that the people should have full confidence in them as though they belong to the people, then, my submission is that this is not the method of winning the confidence of the people. Sir, in this country, the cleavages, social and religious, are far greater than they exist anywhere else in the world. We have here—I am speaking of this presidency for the moment—we have the division of Brahmins and non-Brahmins ; the division of the touchables and the untouchables—I am confining myself again to the Hindus—we have the division of Maharashtrians *versus* Gujaratis ; we have the division of Gujaratis *versus* Kanarese. And add to all that the difference between the Hindus and the Mahomedans. If you want to create confidence

in the administration, then, I submit that the proper way of doing it is not for the ministers to go about in the streets half clad, showing their anatomy ; or smoking bidis in place of cigarettes ; or going in third class or in bullock carts. Nobody is going to be deceived by these things. If you want to gain the confidence of the people, then, I submit that the only way of doing it is to constitute your Government, your ministry, your civil services, in such a way that it does not become the monopoly of any particular class or any particular community. (Cheers.) We shall watch what the ministry is going to do about it. But if they want to pretend that they are going to create confidence by doing these, what I might call, puerile things, then, I submit it is an attempt that is doomed to failure.

Then, Sir, the ministry has come forward with what might be called an act of renunciation on their part It reminds me of the conduct and the way of life of medieval monks. The medieval monks when theystarted their careers as monks were required to take the three vows—the vow of celibacy, the vow of chastity, and the vow of poverty.

I do not know whether my honourable friends have taken the vow of celibacy. (Laughter) I suppose it is too late for them now to do it. I do not know whether they have taken the vow of chastity. But if they have and if they break it, it is certainly not a matter of grievance for this House. But they certainly have taken the vow of poverty, as I see from this Bill. Can they keep this vow ? The medieval monks very seldom succeeded in maintaining their vow of chastity, but they always succeeded in maintaining their vow of poverty. Why was it so ? That was because the monks had no families ; they were single, solitary individuals, with no obligations to any one. The ministers in this respect stand in a different situation altogether. They have certainly large responsibilities arising out of their families and their children. I cannot see how they can succeed in keeping up to their vow of poverty. I wish them success, but I doubt very much whether they will be able to do it.

Mr. A. V. Chitre: They will be drawing their dividends ?

Dr. B. R. Ambedkar: Now. Sir, there is one other matter which I would like to speak about. Is there any necessity for this Bill ? Personally myself, I do not think that the Bill is a necessary Bill. Nobody can compel the Honourable Ministers to take more than what they desire. And surely, without bringing in the Bill, and allowing the salaries fixed by the Governor to remain at the figure at which they are fixed, they could take Rs. 500 and return the rest either to the State or to the Party chest, whichever they liked ? Why is it they do not do that ? Why is it that they are bringing in this Bill ? And that is where the catch comes in. I venture to say that this Bill is not put forth out of any pious motive : there is a strategy behind it. That strategy is this, that they should always remain in the saddle and nobody else should take their places.

The Honourable Mr. K. M. Munshi: You are welcome !

Dr. B. R. Ambedkar: This reminds me of how at the Round Table Conference the Conservative Party was trying to strengthen its provision by introducing certain clauses in the Government of India Bill which could have no other purpose except to restrict the freedom of action of the Labour Party. Many of us used to question them as to why they wanted certain clauses to be introduced into the Government of India Act which apparently had no justification. They could give no reply, but everybody knew that what they were doing was really to forestall the Labour Government should it ever come into power, and prevent it from undoing what the Conservative Party wanted to do. If my learned friends want to adopt that policy, they are welcome to do so. We cannot prevent them. All I want to say is that this is a misuse of their power.

Let me at this stage make it clear, because I am likely to be misunderstood, that when I am protesting at the salary of Rs. 500 as being too low. I am not at all suggesting that the salary of Rs. 4,000 or Rs. 3,000 which was suggested by the Interim Ministry was a standard salary. Nobody need draw that conclusion, because I am not going to say that Rs. 4,000 or Rs. 3,000 is a proper salary. I bind myself to no figure. All I say is that Rs. 500 is not a proper salary for a Minister. The statement I have made will no doubt leave me open to the criticism that I am suggesting an extravagance. But I do not feel any embarrassment in making the suggestion that the salary ought to be more than that fixed in the Bill. I am certainly not a recipient of the salary, if it was increased ; and, so far as I can see the future, I do not think that I shall ever be a recipient of it.

The Honourable Mr. B. G. Kher: Do not despair.

Dr. B. R. Ambedkar: Well, I need not answer my learned friend. But his policy is what it is ; he certainly has deliberately excluded members of the Scheduled Classes from his Cabinet.

The Honourable Mr. K. M. Munshi: They may not like Rs. 500 !

The Honourable the Speaker: Order, order.

Dr. B. R. Ambedkar: I do not feel any embarrassment in making this proposal, because I am not going to be a recipient of this salary. My motives are motives purely of public policy. Dr. Johnson said that patriotism was the last refuge of scoundrels. He could very well have said that politics also was the last refuge of scoundrels. And it is because I do not want that politics in India should become the last refuge of the scoundrel that I have risen to speak.

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†Dr. *B. R. Ambedkar (Bombay City):* Sir, I would just like to say a word to my honourable friend the Prime Minister, whether the whole of the difficulty could not be solved by putting in a lump sum rather than putting in all these different items. I am only suggesting it to him whether we could not then say that a consolidated salary of so much—Rs 750 per

†B.L.A. Debates, Vol. I, p. 279-80, dated 23rd August 1937.

month should be paid to a Minister. I am only suggesting for his consideration whether that would not solve the difficulty.

The Honourable Mr. B. G. Kher: Sir, I thought I had made clear what we had done in Poona, where there were four Government residences available. In Bombay also there will be Government residences available. Those Ministers as also the Speaker and the President who will get accommodation in Government bungalows will not need and will not be paid any allowances. There is no question of consolidating the allowances with salary. For residences which are available from the Government and which they occupy they do not get an allowance. If they have their own houses, whether they choose to occupy them or not is entirely left to them. But for the purposes of a house allowance, we consider that Rs. 100 per month is a reasonable provision. That being the position, I do not think it will be possible to consolidate the salary with the allowance. The arrangement that we have followed in Poona seems to have worked well ; the arrangement in Poona was to divide the Government residences available, and I can assure the honourable member Dr. Ambedkar that we are now accommodating in one. Government bungalow two or three Ministers where including the out-houses formerly only one Minister used to occupy it in solitary dignity. If we do the same thing in Bombay, after providing residences for the Ministers as also for the Honourable the Speaker and President, there will be some Government residences perhaps available for letting. Therefore, more retrenchment will follow as a result of the arrangement that we have in view.

Dr. B. R. Ambedkar: I am only trying to point out a way out of the difficulty which has been raised, namely, that the word "allowance" does not occur in the section of the Government of India Act which refers to the salaries of the Ministers. In order, therefore, not to give rise to any contention that an allowance has been fixed in addition to salary which may not be permissible under the Act, what I am suggesting to my honourable friend is that he might consolidate the whole thing and call it salary and drop the word "allowance" arid thereby get out of the difficulty. Of course, we have yet to know from the Advocate-General whether the point raised has any substance in it.

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*ON PROBATION OF OFFENDERS BILL

Dr. B. R. Ambedkar (*Bombay City*)*:* Mr. Speaker, Sir, one notices that there is not much enthusiasm for this Bill because one does not see the same competition that is observable when other Bills are before the House, and when I rise, although I am desirous of making reference to only one section, I also confess that I do not feel any very great enthusiasm for this Bill, and that, I submit, is very natural, because the Bill does not touch any problem which can be said to be either grave or urgent. It touches a very small problem. The Bill, I am told, follows very closely an English statute. I do not know whether the English people who are made subject to the statute which is taken as a model for this Bill have derived any benefit which may be called to be considerable, but I trust that the Honourable the Home Minister has examined the position carefully and has evidently come to the conclusion that the benefit arising from this Act in the country in which it is now prevailing, is certainly so considerable that we ought also to follow it by similar legislation in our province.

Sir, I have nothing to say with regard to the detailed provisions contained in the Bill, and I say at the outset that reading the Bill as it is, I think there are principles embodied in this Bill to which I can lend my support. There is only one clause about which I feel some trouble and which I would like to place before the Honourable the Home Minister for his consideration, and that clause is clause 6. Clause 6 seems to me to embody a principle which may become in its operation somewhat oppressive, to use a very mild expression. The latter part of clause 6 says :

> "and if the offender is under the age of sixteen years, and it appears to the Court that the parent or guardian of the offender has conduced by his neglect or in any other way to the commission of the offence, the Court may order payment of such damages or compensation and costs by such parent or guardian."

It seems to me that this may rightly involve a great deal of oppression as against the parent or guardian. My learned friend the Honourable the Home Minister will agree that the words "neglect" and "negligence" are

*B.L.A. Debates, Vol. 2, pp. 425-26, dated 20th January 1938.

the vaguest of the vague words, and it is very difficult to give any positive definition of what is negligence and what is not negligence. If I may refer to what happened during the course of the Civil Disobedience Movement, I think it will give an analogy by which it might be possible for my honourable friend to realise the difficulty which I feel. I believe it is true— I will stand corrected if I am told that I am wrong—that during the Civil Disobedience Movement many civil servants who were in the service of the State and whose children had taken to the Civil Disobedience Movement, were brought under disciplinary action on the ground that they had not justified their duty to the State by seeing that the children did not follow the movement which was subversive of the Government of the day. I think I am right in saying that members who are now sitting opposite did take great objection to that principle, because, if I understand them correctly, their contention was that no parents could be responsible for the conduct of their children, especially if the conduct involved the holding of a certain opinion which may differ very legitimately from the opinion of their parents. My submission is that a child may develop criminal proclivities notwithstanding the fact that the parent has been as careful and as dutiful as ordinarily parents are; and unless the word "neglect" or "connivance" or "conducing" is properly defined, it seems to me that this Bill may lead to consequences which would be far greater than those which probably the Honourable the Home Member himself intends.

My honourable friend Mr. Bramble, who undoubtedly, as one sees from the speech that he made, has devoted special attention to the study of this problem, has pointed out that the English law contains certain anomalies, and that if the English law is to be taken as our model, we ought to take this occasion in order to see that the anomalies which are found in the English law are not introduced in the legislation that we are passing. I have every reason to believe that the statement that he has made is based upon the deepest study, and if that is so and the prestige of the Government does not come in the way, I would join in the request made by the honourable member Mr. Bramble that this Bill could very well be referred to a select committee, where all the points that may be raised either in favour of certain principles or against may be threshed out, so that the Bill may become as perfect as we in this House can make it. With these remarks, I support the first reading of the Bill.

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*ON TOBACCO DUTY ACT AMENDMENT BILL

Dr. B. R. Ambedkar (*Bombay City*)*:* Sir, I should like to submit in reply to what the Honourable Leader of the House has suggested, that unless you uphold the principle that there is such a thing as waiver or estoppel, the discussion that my honourable friend Mr. Jamnadas Mehta wants to raise will be quite relevant under the rules of the House. With regard to the point raised by the Honourable Leader of the House, what I should like to submit is this, that the House may easily take the view that they have granted sufficient funds and more shall not be granted. I submit that would be a complete answer to the point raised by the Leader of the House. Therefore, there can be no estoppel or waiver on the ground that the House has granted supplies by adopting the other taxes which were discussed previously under the head "Finance Bill".

Then, Sir, the point I should like to raise is this. I think the issue is whether this is a Finance Bill or a Bill which merely regulates the administrative machinery for raising the tax. If this were a Bill merely providing for the machinery for raising the tax and laying down the mode and method of raising the tax, then I could quite understand the relevancy of the ruling to which you have referred. But it seems to me, looking to the statement of objects and reasons which is appended to the Bill, that this Bill is from beginning to end treated by the Government as a Finance Bill. The main object of the Bill is to raise additional revenue. The change in the machinery is merely secondary—to provide an instrument for raising the additional revenue. Additional revenue for the purpose of meeting the deficit caused by the prohibition policy of Government is the principal aim of this Bill. I shall just refer to one or two passages in the statement of objects and reasons:

> "Tobacco is subject to substantial taxation in most countries. It is absolutely essential to develop this source of revenue in order to meet part of the loss caused by the new prohibition or anti-drink policy. In Bombay City duty on tobacco is levied under the Tobacco Duty (Town of Bombay) Act, 1857. Under the said Act there is already a substantial

*B.L.A. Debates, Vol. 3, pp. 336-37, dated 5th March 1938.

maundage fee; but the licence fee is nominal, and there is a great demand for licences which are frequently sublet. The Bill provides for raising the licence fee in Bombay from Re. 1 to Rs. 25 or Rs. 50, ..."

That of course, leaves no doubt that this Bill is fundamentally a Finance Bill and not a Bill for the purpose of laying down a machinery for raising the tax. That is my submission. If it is a Finance Bill, then I submit, that the House has the right to discuss whether they should grant the supply to Government or not. With regard to the other point raised by the Honourable Leader of the House in regard to waiver, my submission is that it is perfectly open to the House to say : "Part of the supply we shall grant ; the rest we shall not."

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*ON INDEPENDENCE OF JUDICIARY

Dr. B. R. Ambedkar (*Bombay City*): Mr. Speaker, Sir, I rise to support this motion. Speaking as I do on this motion at almost the fag end of the debate and realising the fact that some time must be left for the Honourable the Home Minister to make his reply, I propose to be very brief in the statements that I want to make to this House.

Sir, the first thing that I should like to state, speaking for myself, is that the act which is the foundation of this censure motion certainly does not come to me as any matter of surprise. I look upon this as the culmination of a series of activities, which undoubtedly amount to law-breaking activities which the Government is guilty of ever since it has taken office. It is only part of a series, one act in the drama that is proceeding : we do not know when it will come to an end. The first act to which I should like to make a reference is certainly the act undertaken by the present Government of restoring the lands that were confiscated from the Bardoli peasants. (Interruption.) I suppose I shall have a hearing, because my time is limited.

The Honourable the Speaker: Order, order. Will the honourable member resume his seat ?

I am afraid if the discussion is to be carried on these lines, it would be opening up an interminable field. The point at issue is not whether the Government does or does not deserve condemnation for any of their past acts, but whether the particular act which is the subject-matter of the present motion is or is not deserving of condemnation. The motion is taken as relating to a definite matter of urgent public importance, and the definiteness, which has been the reason for the motion being allowed, has to be followed in the course of the debate also. Otherwise, the very object of the discussion will be frustrated. I would, therefore, request the honourable member to confine himself to the definite act that is before the House.

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*B.L.A. Debates, Vol. 3, pp. 420-24, dated 7th March 1938.

Mr. Jamnadas M. Mehta of Railway Unions moved an adjournment motion seeking adjournment of the House to draw public attention to the Government interference with the independence of Bombay High Court The Government had suspended the sentences of two prisoners named Jadhavji and Dhirajlal after the High Court had rejected the application of prisoners.

Dr. B. R. Ambedkar: May I make this submission. Sir, there is a distinction between a reference by way of analogy and argument and going into the merits. If I were going into the merits of the restoration of the Bardoli lands, I would certainly be subject to the objection you have taken. But I do say, subject to your ruling, that I am not out of order in saying that this act is the culmination of a series of activities of the Government and in referring to one of the past acts of Government without going into the pros and cons of it. I agree to finish by 5-30.

The Honourable the Speaker: It is not a matter of the honourable member agreeing to finish it by a certain time. What I feel is that, there being a definite matter and the honourable member having been given leave of the House for discussing a certain definite matter, even a reference to other matters may tend to introduce other subjects. I, therefore, feel that I would not be right in permitting references to other subjects even in general terms. I have no desire to curtail the liberty of any member ; I do want all the points that can be urged in this matter to be brought out but I do not want to allow any references to other matters, which may be sins of commission or omission. It is not that I am anxious to finish earlier and therefore wish to exclude reference to those matters. The Honourable member is entitled to have his full say on the point before the House.

Dr. B. R. Ambedkar: In view of that, I am bound to confine my remarks to the matter before the House.

Now, Sir, with regard to the matter before the House, what I should like to state is this, that, first of all, we are not in possession of the facts of the case, except what we have learnt from the newspapers. We have no definite data, and I am informed that although an appeal was made to the Honourable the Home Minister, to let the House know exactly what the facts were, he has not done so. Therefore, I, along with other members of the House, am certainly suffering under a handicap. It may be that in the end, when the facts are disclosed, it will be found that this debate was either unnecessary or premature. But if the debate turns out to be futile and unnecessary, the blame for that must necessarily fall upon the shoulders of the Honourable the Home Minister, because it is he who has declined to take the House into his confidence and to state exactly what has happened. If he had done so, probably the honourable mover of the motion might have taken it back, probably other members might have said that they did not want to take any part in the debate. But, as I said, if this debate turns out ultimately to be a futility, the fault will be his.

Relying upon the facts as we have come to know from newspaper reports, what is the point that arises for consideration ? It is said that the High Court had rejected the application of these men. The question is, why did the Minister allow it ? The point it seems to me is a very narrow point,

namely, whether there was any justification which the House could accept as reasonable for suspending the sentence passed upon the two convicts. The Honourable the Home Minister might say that the High Court does not possess the powers of suspension and therefore it is quite irrelevant to urge whether the High Court wisely or unwisely refused to suspend the sentence. That is not the question. The question is whether the authority, the prerogative, vested in the Government for suspending, commuting or reducing sentences on prisoners who have been lawfully convicted has been properly exercised. The question is whether the discretion has been properly exercised. Now, Sir, in order to find out whether the exercise on the part of the Honourable the Home Minister of this prerogative has been properly exercised, it is necessary to eliminate certain probabilities. First of all, on the facts as they appear from newspaper reports, it is clear that these people, who indulged in this act of gambling on a vast and a colossal scale, were certainly not poverty-stricken people who were driven to these nefarious acts of gambling for the purpose of earning their bread. That certainly is not the case. From the facts as reported, these people were rich Banias. They possessed enormous capital ; they had several companies or head offices in different parts of the city, in different parts of India, and they were carrying on their trade on a colossal scale. There could be, therefore, no justification in this particular case that they were unfortunate people who, by reason of their poverty, by reason of their adverse circumstances, were compelled to resort to acts of gambling. That is not the excuse that one can find, because the facts are totally opposed to that kind of inference. Secondly, there has been nothing suggested, at any rate in the reports that have appeared and in the application that was made in the High Court, that there was any other ground for this suspension. There is nothing to show that these two convicts were ill or suffering from any disease ; there is nothing to show that there was any domestic calamity befalling their families which needed their freedom. That also we do not know from the facts before us, and that inference, again, has to be eliminated. Thirdly, the possibility that might be suggested was that they wanted to make an appeal to a higher tribunal. As against that hypothesis, it is quite well known, and the Home Minister knows it far better than I do—he is a much greater lawyer than I can pretend to be—that the Privy Council has laid down in hundreds of cases that they shall not admit any appeal from a criminal court in India unless it is shown that in the course of the trial, not the ordinary provisions of the Criminal Procedure Code, but the principles of natural justice have been violated. They have, in their own judicious way, absolutely limited the scope and the authority for entertaining criminal appeals. And there is not the ghost of a suggestion in this case that either the Chief Presidency Magistrate or the High Court, before whom the trial and the appeal respectively were conducted, was in

any sense guilty of violating the provisions of the Criminal Procedure Code or the principles of natural justice. I do not see any other circumstance which *prima facie* could make me believe that there was a reasonable cause which could have induced the Home Minister to suspend the sentence passed upon these people.

Then, Sir, I submit that there has never been a precedent at any rate to my knowledge, of ordinary convicts having their sentences suspended for any reason by any of the Home Members who have preceded the present Home Minister. And certainly no Government has ever accepted illness or a private difficulty as sufficient cause for the suspension of sentences which have been judicially passed by the highest tribunal in the province. It is, therefore, I submit, a most scandalous affair, unless some reasonable explanation is coming forth, that a Home Minister should have gone over the head of the High Court and suspended the sentence. He well knows—at any rate we know from facts that have appeared in the papers—that an application was made by the advocate who appeared On behalf of these accused in the High Court. The advocate made an application for the grant of special consideration for these people while they were in jail, namely, that they should be treated as B class prisoners. I am also told that an application was made by the advocate who appeared on behalf of the appellants that their sentences should be suspended for the time being Both these applications were rejected. The very same applications—at any rate, one of those applications has been granted by the Home Minister. Sir, there could be no surer way of bringing law and order into contempt than the act of which the Home Minister is guilty. I have no hesitation in pronouncing that opinion. I would like to ask the Honourable the Home Minister whether an act of this kind which *prima facie,* on its very face, does not bear a satisfactory explanation which could carry conviction to the mind of the people, is not likely to create a suspicion about the integrity and honesty of the administration of this Province. Sir, I would also like to ask a further question in this connection and that question I want to put to the Honourable the Prime Minister. The question is this : Was this order passed with the knowledge of the Prime Minister ? Was this order passed with the knowledge of the Cabinet or was it passed only by the Honourable the Home Minister ? Sir, I ask these questions for a very great reason. We are entitled to suppose, although we have no positive evidence on this point that under the new Act the Congress Cabinet is working as a collective body with a collective responsibility; and, therefore, I am entitled to presume that this matter was placed before the whole of the Cabinet and if not before the whole of the Cabinet, at any rate, before the Prime Minister who, in the eye of the people, is the person who is solely responsible for the administration of this Province. I am particularly bound to make this

reference and ask these questions because I treat this as a very grave matter. Suspension of sentence passed upon a convicted person is certainly a violation of the law and I submit that so grave an act involving such serious consequences to the administration of justice, to the welfare of the people of this Province, could not have been carried out without the knowledge of the Prime Minister. I am presuming this and I would like to know whether my presumption is correct and I hope I will receive an answer to my questions. (Applause.).

Mr. W. S. Mukadam : May I know, Sir, whether any drink is allowed in the House ? I bring to your notice one fact that when the Town Planning Act was being discussed, I raised a point of order when Mr. Mirams was speaking and Sir Ibrahim Rahimtulla gave a ruling that no drink was allowed in the House. Then Mr. Mirams asked whether water was allowed, and the President said that even water was not allowed.

The Honourable the Speaker: I think it is better to have the convention of having nothing in the House by way of a drink, by which I mean pure water and nothing else. (Laughter.).

Mr. W. S. Mukadam: Mr. Mirams asked the question whether water was allowed in the House or not, and the President said that even water was not allowed.

The Honourable the Speaker: The Honourable member (Mr. Mukadam) raised a point of order with reference to "drink" which is capable of many meanings and therefore I restrict myself to the meaning of the word "drink" in the sense of drinking water. I believe the honourable member (Mr. Mukadam) raised the point with reference to the honourable member Dr. Ambedkar who had just a sip, before his speech, to keep him up.

Dr. B. R. Ambedkar: Sir, may I explain ? I am suffering from indigestion. Under medical instructions, I do not take any food for two days—Saturday and Sunday, and on these I am not allowed to drink water even. My condition on Monday is, therefore, of great exhaustion, and, unless I had taken a sip of water, I could not have made a speech. If I have offended against the rules of etiquette of the House and against decency, I apologise to the House.

The Honourable the Speaker: Now that the honourable member Dr. Ambedkar has given an explanation, I do not think anything more remains to be done in this matter, except the removal of glass from the table. (Laughter).

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41

*ON CREATION OF A SEPARATE KARNATAK PROVINCE

Dr. B. R. Ambedkar (Bombay City, Byculla and Parel): Sir, I am entirely in agreement with what has been stated by my honourable friend Sir Ali Mahomed Khan Dehlavi and I think the view that you have come to on this point, if I may say so with respect, is correct. I should like to draw your attention to Rule 22, sub-rule (2), which reads :—

> "The Speaker may disallow any Resolution or part of a Resolution on the ground that it relates to a matter which is not primarily the concern of the Provincial Government, and if he does so, the resolution or part of the resolution shall not be placed on the list of business."

I submit, therefore, that this resolution deals with a problem which is not primarily the concern of this provincial Government in so far as it recommends that certain areas which are now a part of the Madras Presidency shall be separated, which I submit is beyond the jurisdiction of a Provincial Government. But, Sir, coming to section 290, to which reference has been made by my honourable friend Mr. Jog, I should like to draw your attention to the fact that that section 290 of the present Government of India Act is analogous to section 52A of the Government of India Act of 1919. Comparing section 52A of the Government of India Act, 1919, with section 290, one finds a very radical and a very deliberate change made. Under the old Act, section 52A laid down that if any new Province was to be created, it was permissible for the local Legislature to pass a resolution to that effect and to communicate it to the Governor-General, because, Sir, as you will recall, under the old Act of 1919, the authority to create new Provinces was vested in the Governor-General, and before the Governor-General could take any initiative under section 52A, it was open to the Provincial Legislature to pass resolutions conveying their sentiments on this matter. Section 290, as I stated, involves a deliberate change. It takes away the power from the Governor-General of constituting new Provinces from the old. It gives the power to the Secretary of State, practically to His Majesty in Council Secondly, it takes away the power of initiative from the local Legislature. The power of initiation, as I see under section 290, is given to

*B.L.A. Debates, Vol. 3, pp. 1692-93, dated 4th April 1938.

the Secretary of State. After the Secretary of State decides to constitute new Provinces, then before tabling an Order in Council to that effect, he is required, an obligation is imposed upon him by section 290, to consult the Legislatures affected by the order. It is then only that it would be permissible for any Provincial Legislature to discuss a resolution of that sort, notwithstanding the fact that the resolution affected areas which were not included within the Province. If this resolution was referred by the Secretary of State to this House, I submit then and then only it would be permissible for this Legislature to consider whether Karnatak should be separated and certain areas which are not part and parcel of this Province should be incorporated in it or not. Unless that step has taken place, unless the matter has been approached by the Secretary of State, I submit this Provincial Government, the Provincial Legislature cannot deal with a resolution which evidently deals with a problem which is beyond the scope and authority of this Legislature and beyond the scope and authority of this Provincial Government I submit therefore that the view which you have taken is a perfectly proper view both under the rules and also under section 290 of the Government of India Act.

The Honourable the Speaker: I would like to have one point made clear. I dropped the suggestion so far as the inclusion of the words "Madras and Coorg" are concerned. The argument advanced by the honourable member Dr. Ambedkar seems to go further and says that any resolution dealing with the creation of any new Province or changing the boundaries of any Province cannot be taken up at all in any Provincial Legislature, because the Legislature has not got the power to take the initiative in that respect. That is what I understand the argument comes to.

Dr. B. R. Ambedkar: Yes, Sir.

The Honourable the Speaker: His point of order then really makes no difference between the inclusion of Madras and Coorg. If nothing can be discussed, then the inclusion of Madras or Coorg makes no difference. His point goes to the very root of it. There is one difficulty in that connection : the power of initiation is given under certain limitations or rather it is to be exercised under certain limitations. But a Legislature expresses its opinion with a view to move the Government which has got the power to initiate proceedings. Is there anything in section 290 which debars a Legislature from making a request for taking the initiative ? It is not that this Legislature by its resolution or its action is going to initiate proceedings in the sense of an actual separation. If the word "initiative" is used, in another sense, it will initiate by making a request. But is it debarred even from making a representation under the terms of section 290 ? On that point, I am afraid I am not inclined to agree with the learned Doctor.

Dr. B. R. Ambedkar: I take exactly the same view, that this House is debarred. The fact that explicitly or expressly the power to take the initiative has been given to the Secretary of State in itself would show that the initiation has been taken out from the Legislature, and I say, comparing

section 52A of the old Act with section 290 of the present Act, the situation seems to be absolutely clear. This fact was considered at the time by the Simon Commission and by the Round Table Conference, and they came to the conclusion that the only Provinces which satisfied the conditions for separation were Orissa, Sind and North-West Frontier Province. They did not leave the initiative to the Provincial Legislature.

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†*Dr. B. R. Ambedkar (Bombay City):* Mr. Speaker, Sir, I rise to oppose the resolution moved by my honourable friend Mr. Jog. The subject of this resolution is undoubtedly a matter of great moment. I wonder how many members of this House will be prepared to consider this resolution, without importing into the discussion any sentiment or feeling. I think I, as representing the Scheduled Classes, probably have an advantage over other members of the House. If I may say so, I do not say figuratively but as a matter of most genuine feeling, that we representing the Scheduled Castes take no pride either in being Maharashtrians or Gujaratis or Karnatakis. For reasons which I need not enter into on this particular occasion, there are very many reasons why we think that this is not our land. However, I am using the argument in order to show to the House that by circumstances, I am capable of taking a dispassionate view, at any rate I am making a very serious attempt to take a dispassionate view, of the situation that has been presented to us by this resolution. Sir, it would be necessary and desirable for members of this House to bear in mind one fact which I think is of supreme importance. This Presidency of Bombay was, before the Act came into operation, composed of four different units—Gujarat, Maharashtra, Karnatak and Sind. This joint family has not been of recent origin. Karnatak, Maharashtra and Gujarat have been together for the last 115 years. Sind was with us for nearly 90 years. Sind has been separated. It is a matter past which we need not dig up now. I mention this fact that we have been living together for the last 115 years only to emphasise the fact that those who want that this unity be sundered, that these three parts which are together be now separated, must consider this matter in a much more serious way and not on grounds which are purely sentimental.

The first thing I propose to consider is this. Our friend who has moved this resolution has given expression to the view that the proposition is only a part of the larger whole, the ideal being the unification of all Karnatak people, that this resolution is merely a step in that direction. Now, Sir, the question that I would like to ask on this aspect is this. Is it likely that this ideal, if my honourable friends will allow me to say this dream, could be realised, the ideal of all the Kanarese speaking people coming together ? I have no doubt that this is a dream which can never come true, and the reason for my saying so is this. In a book which has been circulated, at

†B.L.A. Debates, Vol. 3, pp. 1717-23, dated 4th April 1938.

any rate I have been fortunate in securing a copy of it, and which is called "A case for the unification of Karnatak"—I take it that it is a publication of the association which is responsible for this move—I find a statement on page 22 from which it is quite clear that a portion of the Kanarese-speaking people are included within the boundaries of Indian States. Having regard to this fact, the question I would like to ask my honourable friends who are supporting this motion is this : Is it possible to get out from the jurisdiction and sovereignty of the Indian States the Kanarese-speaking people so that they can become part of the autonomous Kanarese-speaking Province ? I agree and grant that it is possible for the authorities who are responsible for the administration of British India to persuade the Madras Presidency or other administrations which are subject to British law to part with such territories which consist of Kanarese-speaking people, so that all of them will be consolidated together under one common administration. But I fail to understand how it would be possible for any body to get Kanarese-speaking people who are now living in Indian States, as it is, to have their allegiance transferred from the States to any British Indian Province. The only conceivable situation in which I think that issue can be successfully thought out would be the transfer of some territory from British India to the Indian States in exchange for the territory occupied by the Kanarese-speaking people. Now, I wonder whether any body of people who are living under the constitution given by the Government of India Act would be prepared to go within the jurisdiction of the Indian States, so that the Indian States may agree to transfer the Kanarese-speaking people from their domain ? I see no prospect and, therefore, I ask those of the honourable members who are in charge of this resolution to consider if my submission is correct, namely, that it would be only possible for them to fully realise their ideal, namely, to have all the Kanarese-speaking people included in one common autonomous Government : Is it worth-while for them to separate a few Kanarese-speaking people occupying a few districts in British India and constitute it into an autonomous Province ? If I may say so what is the use of taking a step, if we know before hand that the step is not going to lead to the ultimate goal ?

Therefore, I will now turn to the second consideration. If it is not possible to realise the ideal of unifying all the Kanarese-speaking people by bringing them under one common autonomous rule, the question that arises in my judgment is this : Has there been any handicap, has there been any difficulty. in the matter of Kanarese-speaking people recouping or having all the advantages which justice can give them in this what I may call, the polyglot administration ? I personally do not see that the Kanarese-speaking people are suffering any handicap in the matter of administration in this polyglot province.

Now, Sir, I have examined this question from two different points of view. First of all, I take the question of the distribution of offices under the new Government. Have they suffered in that way ? Have they obtained less than what was due to them ? The second thing that I take by way of test is this : Have they obtained less representation in this House than what they are

entitled to ? Now, Sir, I take these figures, and, in taking these figures, I am leaving out of consideration composite territories, such as, for instance, the City of Bombay, which is really neither wholly Marathi-speaking nor wholly Gujarati, nor wholly Kanarese. I am leaving such areas aside; I am also leaving out of consideration the seats that are assigned to special interests, and I find these figures. So far as population is concerned, the Marathi-speaking population numbers 9,868,795—in Marathi-speaking, of course I include everybody, Hindus, Mussalmans and Scheduled Castes ; I am only taking the linguistic basis—the Gujarati-speaking population number, 3,422,139 ; and the Kanarese-speaking people number 3,266,223. Now, the position regarding seats in this House is this. On a purely population basis, taking that the 81 seats which have gone to the Marathi-speaking people as the standard, as the norm, by which to judge, I find that the Gujarati-speaking people should have got 27 seats. The Kanarese-speaking population, according to the book that is circulated, is 12 per cent. of the total, and on that basis, they were entitled to 21 seats. How many scats have been obtained by them in fact ? The Gujarati-speaking people have obtained 31 seats, when, as a matter of fact, they were entitled only to 27 seats. The Kanarese-speaking people have received 28 seats, when, as a matter of fact, they were entitled only to 21.

Now, coming to the offices. Taking the two Houses together there are 16 places. Now, on the basis of the ideal number of seats which each section was entitled to on the basis of its actual population, the Marathi-speaking people were entitled to 196, the Gujarati-speaking people were entitled to 3.3, and the Kanarese-speaking people were entitled to 3.1. Taking the distribution of offices on the basis of the actual number of seats obtained, irrespective of the question whether that was the right quota or not, the Marathi-speaking people's quota was 9.3, the Gujarati-speaking people's quota was 3.6, and the quota of the Kanarese-speaking people was 3.1. As a matter of fact, what has been the distribution of offices ? Six have gone to the Marathi-speaking people; 6 have gone to the Gujarati-speaking people. and 4 have gone to the Kanarese-speaking people.

Sir, as I said, I take no pride in being a Maharashtrian, but the fact remains—and when I use it, I do want to caution the House that I am not citing it by way of complaint, that is not my object; I am citing it merely to point out a fact—the fact remains that the minority people, namely, the Gujarati-speaking and the Kanarese-speaking people, have not been done any injustice either in the matter of seats or in the matter of offices. Before this matter was discussed in this House, I told my honourable friend Mr. Jog quite plainly that if he proved to my knowledge and to my conviction that the Karnatak people suffered in any way—either they did not receive adequate and just representation in this House or that they did not receive sufficient representation in the Cabinet—they could always depend upon my support. I am always prepared to do this. But, Sir, taking these figures—I have devoted the greatest care to the study of this subject; these are figures

quoted from official data—speaking for myself at any rate, I do not see that the Karnatak people have suffered in any way by their remaining within the presidency of Bombay.

Now, Sir, coming to the other argument, the question, which, I think is important, and which not only I on this side but those friends who are responsible for this resolution are bound to consider, is the financial question. Is it possible for this newly constituted Kanarese-speaking province to maintain financially the standard of expenditure which is accepted in modern times by every civilized Government ? That, I think, is a very important question. Friends on the other side who have spoken in support of the resolution have drawn the attention of the House to a complaint that in the past Karnatak has suffered enormously by negligence on the part of the Government of this province.

The Honourable the Speaker: I would only just invite the attention of the honourable member to the time-limit

Dr. B. R. Ambedkar: If you, Sir, ask me .....

The Honourable the Speaker: I do not like to interrupt the honourable member in the middle of an argument, but I would only remind him of the time limit for speeches, so that he might put forward his arguments in a nutshell.

Dr. B. R. Ambedkar: With regard to this question of finance, what I should like to say is this. In the book which has been circulated, we have been given certain figures. In Appendix B we are told that the total expenditure of the new Kanarese-speaking province would be about 2 crores, and the total revenue would be 2,57 lakhs. Now, I do not know how far the figures given in this appendix include what are called the overhead expenses of carrying on the administration of a province. What I find here are merely sums under certain heads of revenue and expenditure. I do not find anywhere here the expenditure that would be necessary to be incurred on paying a salary to a Governor; to his private staff; to the Secretaries; to the Ministers, to a Director of Public Instruction, who would be necessary ; to an Inspector-General of Police ; to a health officer—all those superior officers who are necessary for keeping the administration on the run.

Mr. V. N. Jog: You will find these figures in Appendix B in the other book.

Dr. B. R. Ambedkar: May be But, Sir, assuming now for a moment that this is going to be the budget, and as framed here there is to be a surplus of some 5 or odd lakhs, the question that I would like to ask is this : Is this revenue going to be sufficient for providing all that a modem administration must provide ? If my honourable friend were to acquaint himself as to what the revenue of the Bombay Municipality is, he will find that the revenue of the new Province will not be even half the revenue of the Bombay Municipality. The revenue of the Bombay Municipality is Rs. 4 crores, and even with the 4 crores the Bombay Municipality is not able to do all that a modern Government should. I really ask—and I am very serious

in saying this—whether this is no consideration which ought to prevail. My learned friend has quoted in the course of this debate a speech delivered by the Prime Minister of Orissa where he has stated that he was very glad that all the limbs have been brought together. I wonder what my honourable friend would say if I stated to him that it is not quite so important to bring limbs together as to provide food for them. This is a question which has to be considered. Sir, I do say and I say that with, all the emphasis, it is a most heart-rendering thing in this country to see these people cut up into small bodies with revenue no more than that of an ordinary local board. The separation of the Province might satisfy the ambitions of a few people who want to figure as the heads of the Province but what about the rest of the population who need to be fed, who need to be clothed, who need to be housed ? None of us can tolerate this kind of thing. I do say that with all emphasis. Sir, after all, what are these districts ? Two of these districts are famine-stricken. The whole of Bijapur is a famine-stricken district The whole of Bellary also I am told is famine-stricken. What revenue does he expect to get from the famine-stricken area ? Merely by separating from the Bombay Presidency is that going to be a milch cow ?

Then there is another question to which I advert and it is this : I being a member of a minority, I am bound to consider these things from the standpoint of the minority. I am very glad that several members who spoke in favour of the resolution did give us an assurance that the interests of the Muhammadans and the interests of the Harijans will be looked after. But I do want to say this, that along with dismemberment of these Provincial areas there is going to be a dismemberment of the minorities. I cannot forget the fact that in the Karnatak we have only two seats. I am sure that those members of the Scheduled Classes who come from the Karnatak must be feeling that their strength lies in the fact that there are 13 members from other parts of the Presidency to look after them. What is to happen to them ? I am sure, for instance, the Muhammadan community has got about 8 seats from the Karnatak.

Sir Ali Mahomed Khan Dehlavi: Only four.

Dr. B. R. Ambedkar: Very well. I won't argue as I am rather pressed for time. But we cannot allow this kind of dismemberment. It is very good for the members of the majority community to say that they will be generous and they will be kind. We cannot depend upon their generosity and upon their kindness. We want rights and rights cannot be given in a generous way. To a community which after all on a purely population basis forms only a microscopic minority, even supposing they were prepared to give weightage, what weightage could they give to a population which is about a few lakhs ? This is one of the points on which I oppose this resolution. This dismemberment I am not prepared to accept Our strength lies in a polyglot administration. I do not want to say, but I have my fears that if Karnatak is created as a separate Province, it would be a Province of all the Lingayats against everybody else. I am not mincing matters, but if, for instance, there

was separation there would be a combination of the Marathas against the Kanarese, we don't want this kind of thing—and there cannot be a common. front which we at present enjoy.

Then there is one other thing I would like to draw the attention of the House to—and with this I want to close—and that is I know there are people probably who would not agree with me but that is my conviction that the British, whatever they may have done in the course of history, whatever they may have failed to do—and there are many things which they have failed to do, which their self-interest probably did not permit them to do—have done two things which I am generous enough to admit as being two monuments of their rule in this country which will survive even when they go away. The one thing that they have done for us is a common code of law. You can travel from Kashmir down to South India and know that murder is the same thing whether you commit it in Kashmir, Punjab and the North-West Frontier Province, or whether you commit it in Rajah-mundry in Madras. You know what Transfer of Property means ; you know what evidence means wherever you go. Sir, I say such a thing we did not have. The other thing that the British have done is that they have given us a common Central Government Such a thing we did not have before. The importance of this fact of having a. common Central Government is not probably realised by all But I think it is a very crucial fact If today we are on the way of building a common nation, a spirit of nationality, a feeling that we are all one, it is due to the fact that we have a common Government ; it is due to the fact that we realise that we are citizens of a common Government.

Sir, I would plead with the members of this House that they should do nothing whereby they would impair these two advantages which we have secured. Personally myself I say openly that I do not believe that there is any place in this country for any particular culture, whether it is Hindu culture, or a Muhammadan culture, or a Kanarese culture or a Gujarati culture. There are things we cannot deny, but they are not to be cultivated as advantages, they are to be treated as disadvantages as something which divides our loyalty and takes away from us our common goal. That common goal is the building up of a feeling that We are all Indians. I do not like what some people say, that we are Indians first and Hindus afterwards or Muslims afterwards. I am not satisfied with that, I frankly say that I am not satisfied with that. I do not want that our loyalty as Indians should be in the slightest way affected by any competitive loyalty whether that loyalty arises out of our religion, out of our culture or out of our language. I want all people to be Indian first, Indian last and nothing else but Indians and therefore, I say, that this is a resolution which directly runs counter to this ideal. Sir, this is an ideal which we ought to cherish very zealously. I can quite understand that in a country like America, in a country like Germany, in a country like Europe, where the feeling of oneness is solidified, where there is no need to make anybody feel that he is not

a German to tolerate anything that is of a separatistic character, but where the feeling that we are Indians is still in its embryo, is only beginning to ripen, to allow other loyalties, feeling of culture, feelings of nationality to grow simultaneously—I say deliberately—is the greatest crime that we can commit and I, for myself, will not be a party to it and I strongly, very strongly, oppose this resolution. (Applause.)

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42

*ON THE ASSEMBLY PROCEDURE

Dr. B. R. Ambedkar (*Bombay City*)*:* Sir, with regard to this amendment I would like to draw your attention, first of all, to section 73, sub-clause (2), in the Government of India Act and my first submission is that this rule, in view of section 73 sub-clause (2) would be *ultra vires* of this House. Section 73 says thus :

> "(1) Subject to the special provisions of this Part of this Act with respect to finance Bills, a Bill may originate in either Chamber of the Legislature of a Province which has a Legislative Council.
>
> (2) A Bill pending in the Legislature of a Province shall not lapse by reason of the prorogation of the Chamber or Chambers thereof."

I submit, therefore, in view of the provision contained in sub-clause (2) of section 73, it is not competent for this House to make a rule that a Bill shall lapse after two Sessions or even after the lapse of one year, as has been suggested by the amendment suggested by my honourable friend Mr. Gupte. That is my first submission with regard to this rule.

My second submission with regard to this rule is that this rule is inconsistent with rule 19 already passed by this House. Rule 19 says : —

> "On the prorogation of a Session, all pending notices shall lapse except those in respect of questions, statutory motions, motions for amendment of Rules, motions the consideration of which has been adjourned to the next Session, under Rule 34, and Bills which have been introduced."

Therefore, motions with regard to Bills have been saved by rule 19, Rule 19 does not apply and my submission is that in view of the fact that the House has already passed rule 19, it cannot now proceed to adopt either rule 103 or the amendment that has been suggested.

My third submission is that assuming that this House has the authority to pass this rule and the amendment proposed, notwithstanding the fact that there is a clear provision of sub-clause (2) of section 73 of the Government of India Act and notwithstanding the fact that this House has already passed rule 19, it seems to me that this rule is really unnecessary. This rule says that "if no motion is made"; I find no definition of the word

*B.LA. Debates, Vol. 4, pp. 1062-65, dated 10th September 1938.

"motion" anywhere here. What I would like to submit is that no person would be in a position to make another motion unless the Bill is called on by the Secretary. That means that the Bill must be on the agenda. Secondly, it must be on the order paper; and thirdly, it must be called on by the Secretary. My submission is that no member who is in charge of a Bill should be penalised by this motion as be would be unless the Bill has been called on by the Secretary ; otherwise my submission is that there would be no default.

The Honourable the Speaker: That would be more or less an argument upon the merits of the rule.

Dr. B. R. Ambedkar: That is what I said. This was the third consideration. The first two were .....

The Honourable the Speaker: I think I may first dispose of the first two and then the honourable member may address his argument with regard to the difficulties as an argument on merits.

Two points have been raised, the first of which is that it is not competent for this House to frame a rule of this type in view of the provisions of section 73 of the Government of India Act. I had considered this aspect because this objection was suggested by the Honourable the Prime Minister when rule 103 was taken up for consideration last time. Sub-clause (2) of section 73 provides that a Bill pending in the Legislature shall not lapse by reason of the prorogation of the Chamber or Chambers. It is undoubtedly provided that it shall not lapse by reason of prorogation, but it does not mean, therefore, that a Bill can never lapse for reasons other than prorogation. What the rule purports to provide is that after a certain period, irrespective of prorogation or otherwise, a Bill shall lapse. There may have been possibly some room for doubt if the phraseology had been "two complete Sessions". But when a specific period is sought to be provided, namely, a period of one year, as under this rule, as is now proposed, a Bill may lapse even while the Session is going on. So prorogation of a Session is not the reason for the lapsing of a Bill under the rule as proposed.

I am not dealing with the merits. I am only dealing with the constitutional aspect. The rule as proposed requires that although a Bill may be shown on the agenda and the House may be in Session, still the moment the period of one year is completed, it will automatically lapse without the Session being prorogued. Therefore, to my mind, sub-clause (2) of section 73 of the Government of India Act, is not a bar to the making of a rule as proposed by the amendment.

Then the second objection is raised as regards—

Dr. B. R. Ambedkar: May I draw your attention to one fact, Sir ? My submission is, if the word "only" was there, then the construction you propose to put upon it would be proper.

Dr. B. R. Ambedkar: Sir, with regard to the amendment proposed, what I would like to submit is this. I have not heard any particular reason

as to why there is a necessity of making this rule 103. What harm would there be if a Bill did remain on the agenda without it having been discussed ? If it could be shown that some harm or some inconvenience would be caused by the Bill remaining on the books of the House without it being discussed, then I can quite understand that some necessity was there for a provision such as the one that is contained in rule 103, but I have not heard anything as to what harm and inconvenience would be caused. And my second submission is that this rule as it is framed, and also the amendment, takes away the right of a member to continue the Bill although there is no default on his behalf. The wording is "if no motion is made". That is what the wording is. But my submission is that a member may not be in a position to make a motion because the Bill has not been reached, because the Bill has not been on the agenda or because it has not been called out or for various other reasons, and I think it would be a great hardship if a member was deprived of moving a particular piece of legislation simply because by reason of other exigencies and other reasons he has not been able to make a motion with regard to the Bill. And, therefore, I think that unless some such further amendment is added such as "even though called on by the Secretary", I think this rule would involve a great deal of hardship and I, therefore, oppose the amendment in the terms in which it has been moved.

The Honourable Mr., B. G. Kher: Sir, the situation is rather complicated because the honourable member was not here either when the rule was moved or when the amendments, including the one which he now wishes should be adopted, were fully discussed in a committee. Before, therefore, I apply myself to reply to his objections, I should like to know what those who have discussed this rule with me have to say because only last night the amendment was agreed upon by all. The honourable member Mr. Ali Bahadur Khan was there and he had put before the House an identical amendment, namely, add the words "though called upon to do so". That is the honourable member Ali Bahadur Khan's amendment and we all discussed the merits of the several proposals and came to the conclusion that ultimately this was the best solution. The constitutional objection which the honourable member pointed out was also present to our minds. Our misfortune is that the honourable member comes to the House only occasionally and then not knowing of the situation he is not in a position to take up the thread of the events that have happened before. I do not, therefore, propose to address myself to the merits of what he has suggested by way of adding to the amendment that has been moved. I would only give him the principle which has made it necessary to include this rule in the present rules and also point out that, in the old rules as they stand, we had a similar provision. It says :

> "If the member in charge makes no motion with regard to the same

during two complete sessions, the Bill shall lapse, unless the Assembly on a motion by that member in the next session makes a special order for the continuance of the Bill.".

Dr. B. R. Ambedkar: Does the Honourable the Prime Minister remember that that was consistent at the time, because there was no such provision as I have pointed out in the old Government of India Act ?

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*ON THE INDUSTRIAL DISPUTES BILL

Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, Sir, I rise to oppose the first reading of this Bill. In rising to speak I am very much conscious of the handicaps under which I am labouring. I regret I have not been here to listen to the speeches that have been made by my predecessors who have spoken on the Bill. It is a misfortune which unfortunately I have not been able to escape. My work elsewhere has not permitted me to be here and to benefit myself by listening to points made by the previous speakers. I am also labouring under the handicap that so many speakers have preceded me and the debate has gone on for such a long time that I am wondering whether there is anything left for me to say at this fag end. But I take courage, if I may say so, that in a Bill of such a character, so vast, so extensive—it has 84 clauses—there might be much on which even a member rising to speak at the fag end may find something to say. My honourable friend Mr. Jamnadas Mehta, I think, very correctly described that this Bill was of such a vast character that even if Sheshashayi were to undertake to write about it and even if the ocean was available as ink and the earth as paper to write upon, he would probably not find it sufficient to cover the whole Bill. Knowing these limitations I propose to be very concise.

In order that this Bill may be understood, I think it is necessary to read its provisions in the light of the previous legislation. I believe and I think it will be readily agreed that the importance of the clauses of this Bill will not be apparent unless we compare and contrast its provisions with the provisions of the previous legislation. The last clause of the Bill makes it amply clear that this Bill is intended to replace the Bombay Trade Disputes Conciliation Act of 1934, and the question therefore that primarily arises for consideration is whether any case has been made out by the Prime Minister, who is in charge of this measure, for the change which he is now introducing by this Bill. The Act of 1934 was intended to provide a machinery for conciliation. The principle of the Act of 1934 was voluntary conciliation. Now this Bill introduces a change, namely,

*B.L.A. Debates, Vol. 4, pp. 1330-59, dated 15th September 1938.

that the conciliation shall be compulsory, and the question, I submit, that arises for the consideration of the House is whether any case has been made out for altering the voluntary provision of the Act of 1934 and giving it a compulsory character.

Now, taking the year 1934 and the conditions as they were in that year as the standard by which to measure the necessity for introducing compulsion, I desire to refer to certain facts which are relevant and important. The first fact that I would like to draw the attention of the House to is this, that the original Bill introduced by the Honourable Sir Robert Bell in 1934, which subsequently became the Act, contained provisions for compulsory conciliation. But at the time of the introduction of the Bill, at its very initial stage, the mover of that Bill was impressed by the fact that the circumstances existing in the year 1934 did not require compulsion in the matter of conciliation, and consequently, he of his own accord, at the very outset, at the first reading of the Bill, in his opening speech made a proposal that he was going to bring forward an amendment in order to substitute the word "may" for the word "shall". That, I submit, is proof of the fact that in 1934 the Honourable Sir Robert Bell did not feel any necessity for introducing compulsion in the matter of conciliation. There was in the House at the time when that Bill was introduced my honourable friend Mr. Saklatvala, who represented the Bombay Millowners. He too in the year 1934 did not demand compulsion in the matter of conciliation. On the other hand, in the speech which be delivered at the first reading of the Bill, he was lukewarm in his support of the Bill, for he went to the length of saying that the Bill normally was unnecesary. That was the view point that he had taken, and with regard to conciliation, he did not certainly press or demand any compulsion in the matter at all. What was happened between the year 1934 and the year 1938 which compels this House to alter the provisions of that Act, changing voluntary conciliation into compulsory conciliation ?

Now, in order to make out a case for compulsion, the Prime Minister started by giving us certain figures of strikes that have taken place in this country, in order to make out that the strikes that have taken place in this country, were so frequent and of such a grave character that the necessity had now arisen for changing the voluntary provision into a compulsory one. Now I have examined the figures of the strikes, the number of work-people involved and the number of working days lost. I have no hesitation in saying that I stand unconvinced by what the Honourable the Prime Minister seemed to say as a result of the figures relating to strikes. Turning our attention to the strikes that have taken place in the City of Bombay, I have here the March number of the *Labour Gazette* published by the Labour Office. On page 541 this number gives the figures of the strikes that have taken place in the Province of Bombay. From 1921 to 1937, it gives in column one the number of trade disputes. Secondly, it

gives the number of work-people involved ; and, thirdly, it gives the number of working days lost. Running one's eyes over these figures, I am sure any one would be able to see for himself that the industrial disputes far from increasing are diminishing year after year. For instance, in the year 1921, the industrial disputes in Bombay were 103 ; in 1922, there were 143 ; in 1923, there were 109 ; and between 1924 and 1927, they had fallen to 50, a drop of 50 per cent. Then, you get 1928 and the figure rises to 144. From 1929 to practically 1937, it varies between 88 and 53. I admit that the number of strikes that have taken place is no criterion for judging the amount of disturbance and dislocation that might have taken place in the industry. I find from the figures which are given in this table that there are cases in which although the number of strikes is small, the number of people involved is comparatively great and the number of hours lost are also comparatively great. But then taking the number of working days lost as the criterion, which is the only criterion, I find that the worst year was the year 1928 which resulted in 24 million working days being lost. The second worse year was 1925 when 11 million working days were lost ; and the third one was 1929 when 8 million working days were lost. But once you proceed further, beyond the year 1929, it will be found that the number of work-people involved and the number of working days lost and the number of strikes that have taken place after 1934, there is certainly nothing in the situation, so far as I am able to see, which can be said to create a situation which would cause anxiety to any Member of Government. The only bad year seems to be 1937 when 897 working days were lost. That is nothing as compared to the previous year. I am told that this happened because there was a general strike in the City of Ahmedabad which lasted for 15 days. My first submission, therefore, is this. No case has been made out by Government and by the Honourable the Prime Minister which would induce, at any rate, this part of the House, at any rate induce me to consent to so radical a change in the provisions of the Act of 1934. So much for the necessity of introducing compulsory conciliation.

Turning to the other provisions of the Bill, the provision to which I wish to advert are the provisions relating to strikes which undoubtedly are the most important, which this part of the House, at any rate the party I represent, stoutly oppose. Now, the Bill makes strikes under certain circumstances illegal. The provisions declaring strikes illegal are contained in clause 62 of the Bill which is the most important clause in it. It says :

> "62. (1) A strike shall be illegal if it is commenced or continued—
>
> (*a*) in cases where it relates to any industrial matter mentioned in Schedule I, before the standing orders relating to such matter and submitted to the Commissioner of Labour under section 26 are settled by him or by the Industrial Court, as the case may be, or before the

expiry of one year from the date on which such standing orders come into operation under section 26 ;

(b) without giving notice in accordance with the provisions of section 28 ;

(*c*) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change ;

(*d*) in cases where notice of the change is given in accordance with the provisions of section 28 and where no agreement in regard to such change is arrived at, before the statement of the case referred to in section 34 is received by the Registrar ;

(*e*) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the completion of such proceedings ;

(*f*) in cases where a submission relating to such dispute or such kinds of dispute is registered under section 43, until such submission is lawfully revoked ; or

(*g*) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the completion of such proceedings".

Then, in order to make this clause effective, the Bill prescribes certain penalties for indulging in illegal strikes. These clauses are 66 and 67. Clause 66 says :

"Any employee who has gone on strike or who joins a strike which has been held by the Industrial Court to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months or with fine or with both.".

Section 67 says :

"If any person instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which has been held to be illegal by the Industrial Court, whether such strike or lock-out has commenced or not, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months, or with fine or with both.

Explanation.—For the purposes of this section, a person who contributes, collects or solicits funds for the purpose of any strike or lock-out shall be deemed to act in furtherance of such strike or lock-out".

Now, Sir, it has been said that these clauses are justifiable, because there is no such thing as a right to strike, and the Bill, therefore, in penalising what the labourers call the right to strike is certainly not contravening any rules of ethics or any rules of jurisprudence. Sir, my first

concern in this speech will be to refute that argument and repudiate that position. Now in order that I may make my position clear, I will begin from some very elementary propositions. First of all, let me make clear what we understand by the word "strike". What does it mean ? It is better, I think, to understand the meaning of the term "strike". In plain, popular language, a strike is nothing more than a breach of contract of service. When a worker strikes, all that it means is that he commits a breach of contract of service : there is nothing more in it, and nothing less in it. And the next question that I propose to raise is this : how is this breach of contract of service dealt with by the law as it stands today on the Indian Statute Book? Does the Indian law recognise this right to strike or not ? And, if it does, in what way ; and, if it punishes, in what way does it punish it ? Sir, here again, I will begin with an elementary proposition, and that elementary proposition is this : that an act or an omission may be a civil wrong, or it may be a crime. And the first question that I propose to raise—I really wish to deal with this matter exhaustively, because I do not want to leave any doubt at all as regards my position in this matter—the first question I propose to raise is : is breach of contract of service a civil wrong ? The answer that the law gives is : Yes, it is a civil wrong. What are the remedies for an aggrieved person who has suffered this civil wrong? That would be the next question to follow on. There again the answer is that the present law provides two remedies for an aggrieved person whose contract has been broken by a workman, and those are damages and specific relief. Now, although the law does provide these two remedies, namely, damages and specific performance wherever there is a civil wrong, there is one provision which applies particularly to contracts of service. Whenever a man breaks a contract of service all that the aggrieved party is entitled to is damages ; he can never seek specific relief, and the court can never give relief whereby it can compel a man to perform the contract of service which he has entered upon. All that the aggrieved party would be entitled to is damages. Sir, that is the position as far as breach of contract of service is concerned as a civil wrong. For this civil wrong the employer can get nothing more than damages.

Looking at this breach of contract of service as a crime, the question is : Is it a crime ? What has been the provision of the Indian law so far as breach of contract of service is concerned ? Sir, it is necessary, in the interest of clarification, to give to the House a little bit of history as to how this matter has been treated by our Indian law. The Indian law which first dealt with breach of contract of service was Act XIII of 1859 ; it was called the Workmen's Breach of Contract Act. This was passed in 1859, soon after the Mutiny or during the course of the Mutiny. I shall presently give to the House the reasons why this legislation was passed. Then, there

are provisions in the Indian Penal Code which also deal with this matter, namely, breach of contract of service as a crime, and those sections are 490, 491 and 492. With regard to Act XIII of 1859, that Act was of a limited application. It applied to artificers and artisans ; it applied to cases where artificers and artisans had taken advances from their employers and had subsequently refused to perform the obligations they had undertaken. It was dictated by the necessity of the circumstances. The British Government was faced with the Mutiny. During the period the Mutiny continued, the military engaged many artificers and many artisans to whom monies had been advanced in the expectation that they would render the service which they had undertaken to do, but by reason of fear or by reason of some other circumstances, those artificers and artisans went back to their native places and consequently were not in a position to perform the obligations that they had undertaken, although they had received an advance. It was to cover such cases that this Act of 1859 was passed. It is on record that although this Act was passed, which did make breach of service of contract a crime, it was very rarely put into operation ; it was really not a law which people were brought to suffer under. Sir, the subsequent history of this Act is also interesting. This Act, which stood as a formal statute from 1859, but which, as I said, was never put into operation, was amended in 1920 by Act XII of the Government of India. The amending Act introduced two very salutary principles in this Act One salutary principle that was introduced in this Act was that a magistrate, before punishing an artisan who had committed a breach of contract of service, was authorised to enquire into the equity of the contract, so that, if the magistrate came to the conclusion that the contract was inequitable, men, he was not authorised to punish the recalcitrant workman, notwithstanding the fact that he had taken an advance from his employer. That was the first change that was introduced by the Act of 1920. Then, the second salutary provision that was introduced by the Act of 1920 was that the magistrate was given the power to punish an employer who brought a frivolous complaint,—a provision which was not in the original Act.

Coming to the sections of the Indian Penal Code, the three sections to which I referred have an interesting history. Section 490 dealt with a breach of contract of service during a voyage or journey. It was a section of a very limited application. It did not apply to all breaches of contract of service ; it applied only to seamen who went on a voyage or a journey. Obviously, it was very necessary to make an exception of this kind in the case of service of seamen, on whose continued service the success and safety of the voyage depended. The other section, section 491, related to breach of contract on the part of an attendant in supplying the wants of helpless persons. It applied, for instance, to an ayah who had contracted to take care of a helpless child ; it applied to a servant who had undertaken to supply he needs of a man who was lame and who could not look after

himself. That was section 491. Then, section 492 covered a case of breach of contract of service at a distant place to which the servant was conveyed at the expense of the master. These were the three provisions that were enacted when the Indian Penal Code came into operation. Now, Sir, what has been the history of these three sections ever since they were enacted? The history is this, that by Act III of 1925 the Central Legislature has repealed section 490 and section 492. Those sections no longer apply, and the breaches of service which were crimes under them are no longer crimes at all. The only section, therefore, that remains is section 491 of the Indian Penal Code. So that, so far as the law now stands in India, the only breach of contract of service that can involve penal consequences, as distinguished from damages, is section 491 ; and I do not think that any member of the House would cavil at this provision if he knows that it is really intended to cover the case of a person who is a helpless person and who cannot look after himself.

Now, Sir, taking stock of all that I have stated so far relating to the legal position involved as a result of breach of contract of service, which, I say, is merely a popular description of that forbidding word "strike", what is the position ? The position is this. A breach of contract of service is not a crime, and is not punishable under the Indian Law except when the case falls under section 491. That means it is only a civil wrong ; it is not a crime. And, further, it is a civil wrong for which the remedy can only be damages and never a specific performance. I want to emphasise that. Now, the question which I am sure the House would like to consider with all the seriousness that it can command is this : Why is it that the Indian law does not make a breach of contract of service a crime ? And why is it that the Indian law does not provide for a specific performance ? Whatever answer other members of the House would choose to give, my answer is very simple. My answer is this, that the Indian Legislature does not make a breach of contract of service a crime because it thinks that to make it a crime is to compel a man to serve against his will ; [and making him a slave (Hear, hear.)] To penalise a strike, therefore, I contend, is nothing short of making the worker a slave. For what is slavery ? As defined in the constitution of the United States, slavery is nothing else but involuntary servitude. And this is involuntary servitude. This is contrary to ethics ; this is contrary to jurisprudence. Sir, the framers of the Indian Penal Code were very much concerned, when they drafted the provisions to which I have just referred, namely, sections 490, 491 and 492, as I see from the head-note here ; they evidently had great qualms of conscience, and they were wondering whether they would be right in enacting even the small provisions contained in sections 490, 491 and 492. This is what the framers of the Indian Penal Code said with regard to Chapter XIX, which is headed "Of the Criminal Breach of Contract of Service":

> "We agree with the great body of jurists in thinking that, in general, a mere breach of contract ought not to be an offence, but only to be the subject of a civil action. To this general rule there are, however, some exceptions. Some breaches of contract are very likely to cause evil such as no damages or only very high damages can repair, and are also very likely to be committed by persons from whom it is exceedingly improbable that any damages can be obtained. Such breaches of contract are, we conceive, proper subjects for penal legislation."

With all the great survey that they had made of the different kinds of acts of omission which could be penalised, they found that the only acts of omission which could be penalised, consistently with the provisions of ethics and jurisprudence, were these three provisions, and nothing more.

Now, Sir, it has been said that there is no such thing as the right to strike. My reply is that this statement can come from a man who really does not understand what a strike is. If members are prepared to accept my meaning of the word "strike" as being nothing more than a breach of contract, then I submit that a strike is simply another name for the right to freedom ; it is nothing else than the right to the freedom of one's services on any terms that one wants to obtain. And once you concede the right to freedom, you necessarily concede the right to strike, because, as I have said, the right to strike is simply another name for the right to freedom. A sort of ridicule is sought to be poured upon it by saying that this is something like the divine right of kings. Sir, I would only say in reply that a poetic phrase or a picturesque description does not dispose of an argument ; I have never seen that result anywhere—certainly not in courts of law. If you accept that the right to freedom is a divine right, then I contend that the right to strike is a divine right (Hear, hear.) I go further and say that because ten people or twenty people or two hundred people simultaneously declare a strike, that cannot make any difference in the situation so far as the law is concerned.

I know, Sir, that some will point out section 120A of the Indian Penal Code and I am going to deal with that matter before I leave this subject Now, Sir, section 120A of the Indian Penal Code is a section which deals with conspiracy. I wonder if members opposite wish to argue from it that there is no right to strike because a strike by a body of workers is a conspiracy. If they do, I would like those gentlemen opposite who rely on section 120A as a ground for submitting that there is no right to strike for a body of workers, to prove that a strike is a conspiracy. Unless they prove that a strike is a conspiracy section 120A will not apply, and I contend that a strike is not a conspiracy.

An Honourable Member : Who says it is applicable ? It is a matter of public utility.

Dr. B. R. Ambedkar : I am coming to the question of public utility later on.

Sir, unfortunately we have no decided cases in India. My research is not rewarded with a case where strikers have been hauled up under section 120A

on the ground that it was a conspiracy. But I find some support from the English law on the subject, which also deals with strike in its aspect of conspiracy, and I will read to the House a short passage from a book called "The Legal Position of Trade Unions" by Scholosser. I read the passage at p. 76 : —

> "Strikes, therefore, and similar combinations to better the conditions of labour, are not in themselves unlawful at common law. There is no foundation for the proposition that strikes are *per se* illegal or unlawful by the law of England. It is true that occasional dicta are to be found to the effect that combinations to better the conditions of labour are unlawful at common law, but the courts have never accepted the law thus laid down, and eminent judges have expressed views to the contrary. Throughout the seventeenth and eighteenth centuries no court treated combinations to better the conditions of labour as being contrary to common law, and none of the series of legislative enactments, resisting attempts of workmen to better the conditions of labour, purported to declare or rest upon the common law. If we accept an *obiter dictum* by Grose, J., in Rex *v.* Mawbey, there were no judicial dicta in support of the suggested proposition until after the Legislature swept away all those statutes by the Combination Act of 1925. Conclusions as to the common law which first appear in recent times, and are based upon an accepted principle of earlier date, are to be looked upon with great suspicion. Ever since 1824 the weight of authority is against this doctrine. Strikes *per se* are combinations"

This is an important part of the judgment :

> "neither for accomplishing an unlawful end, nor for accomplishing a lawful end by unlawful means. The law is clear that workmen have a right to combine for their own protection, while the combination is to obtain a benefit which by law they can claim. The power of choice in respect of labour and terms, which one may exercise"

This is the point I was trying to emphasise :

> "and declare singly, many, after consultation, may exercise jointly, and they may make simultaneously declaration of their choice, and may lawfully act thereon for the immediate purpose of obtaining the required terms.
>
> The maintenance of a strike is not necessarily illegal, and if a strike has taken place, in breach of contract, but the broken contracts have expired, those who help to maintain the strike by supporting the workmen after their current contracts have expired in a refusal to enter into new contracts of service on new terms, are not doing anything illegal.
>
> Thus combinations"

This is the point to which I wish to draw the attention of the House, because it has a direct bearing on section 120A of the Indian Penal Code, "which result in injury to another may be unlawful, when the object of the

combination is injury" the words are "when the object of the combination is injury":

> "and if the injury is effected, an action may lie for conspiracy. The question to be decided in each individual case is, haw far the resulting injury is ancillary to a legitimate combination and how far the combination exists for the purpose of injury."

Therefore, my submission is that in order to bring strikes under section 120A what would be necessary for the prosecution to prove is that the purpose of the strike was to cause injury. If injury merely resulted from the strike, that would not make the strike an unlawful combination within the meaning of section 120A. Therefore, my first contention is this that this Bill, by penalising a strike, is reducing the workers to a state of slavery and nothing else.

The Bill really, in my judgment ought to be called "The Workers' Civil Liberties Suspension Act". That would be the proper title for it. Some have got the impression that, after all, the suspension is only for two months—until the conciliation proceedings are terminated—and after that the workers would be at liberty to strike if they wish. Sir, I would like to say that this would be a very wrong impression. My contention is that the provisions of this Bill, when they are set in operation, will bring about perpetual slavery and the workers will never be able to strike. Let us look at the provisions. First of all, the Bill provides that when the Act comes into operation, there is not to be any strike at all for one year. Whether conditions are such that a reasonable worker would accept them or whether conditions are such that no reasonable worker would accept them, for one year there is complete slavery. The workers are bound down to the terms mentioned in the Second Schedule. There is no escape, there is no going away from that position. What happens after the first year is over ? What happens is this. You have got to give notice ; that takes away a part of the time during which you cannot strike. Then after notice is given, time is allowed for reply. During the period of reply you cannot strike. Then, conciliation proceedings commence. They may last for two months, if the parties are fortunate, if the parties are reasonable ; but the Bill provides that the term may extend to four months. Therefore, from the date of the origin of the grievance of the workers, for four months and practically 25 days—I will stand corrected if my calculation is wrong because I have not gone into the details—the worker must do nothing. He must not talk, he must not deliver a speech, he must not organise, he must do nothing. All mobilisation, included a word or a speech or an action is penalised during this period. Suppose that no conciliation is effected during this long period of four months and 25 days—I submit a long period of gestation—what is to happen ? The worker is allowed only two months to strike after the conciliation period is over. I do not know whether my honourable friend the mover of the Bill thinks that two months is a sufficiently long period for the demobilised forces of labourers to mobilise for action. I have been an active worker in the

labour field. I cannot say that I am a fieldman and I therefore do not know what are the difficulties which a person who is organising the workers for strike will have to meet. But looking at the situation from such experience as I possess as an observer in the City of Bombay, I have not the slightest hesitation that two months would be the most inadequate period for a body of labourers who have been held at bay so to say, for four months and 25 days to mobilise their forces in order to strike. If they do not strike within two months, what happens ? What happens is this that they are deemed in law to have accepted the situation. If they again raise their head and find out new grievances, the law says you shall again wait for four months and 25 days and allow conciliation to go on. Wait and see what we do. Wait and see, for four months and 25 days. Again if nothing happens at the end of four months and 25 days, if you think you can strike, do so within two months. If you do not and after two months you raise another grievance, you shall have to wait again for four months and 25 days. Sir, I would like to know whether such an endless cycle of don'ts would not produce complete slavery, perpetual slavery, of the workers for all time. If this is not a Bill for introducing slavery amongst workers, I would like to know what sort of Bill would introduce slavery. So much with regard to the provisions of the Bill which relate to strike.

Now, Sir, it will be necessary and I say very instructive to compare the provisions of this Bill, in so far as they relate to strike, with the provisions contained in Trade Disputes Act of 1929. That is an Act which also imposes certain limitations upon the right to strike and it would be, therefore, very instructive to compare the provisions contained in that Act with the provisions contained in this Bill, so that the House may be in a position to realise in what direction we are moving, whether we are moving in the direction of slavery. Sir, the Act of 1929 imposes certain limitations upon the right of the workers to strike and it would be enough if I refer to two of its sections. That Act of 1929 penalises a general strike for political purposes. That is section 16 of the Act and the other section which is more relevant for my purpose is section 15 which penalises a strike without notice. Apparently there does appear to be some sort of similarity between the Act of 1929 and the present Bill in so far as this Bill also penalises a strike without notice. But, Sir, beyond that the one Bill is as different from the other as chalk is from cheese. The one has nothing to do with the other and, comparatively speaking, I have not the slightest hesitation in saying that this Bill is reactionary and retrograde, and that the author of this Bill is a far greater Tory than the author of the Act of 1929.

Sir, let us compare the provisions of section 15 of the Act of 1929. As everyone who is acquainted with the subject knows, that section 15 of the Act of 1929 is restricted to public utilities. What that Act penalises is not all strikes, but strikes in what are called public utility services and this, I submit, is a fundamental difference between this Bill and the Act of 1929.

Now, Sir, the question that I would like to ask is, is this departure from the position taken in 1929 any way justifiable ? And I think it would be desirable if I begin by stating what was the position of the Congress Party in 1929 when this Bill was placed before the Central Assembly. Now, Sir, I have taken the trouble to hunt up and read the report of the Select Committee which was appointed by the Central Legislature to consider the provisions of the Bill which ultimately became the Act of 1929 and confining my attention to the two contestants, if I may say so, the bureaucracy, I use the terms which are familiar on the other side, the bureaucracy, on the one hand and the Congress Party on the other, what were the points of contention there when this Act of 1929 was on the anvil ? I find that the points of difference were these two. Government wanted that public utility services should be left to be defined by them at their discretion. They did not want to give in the Act itself a definition of what was a public utility nor were they prepared at the time *to* enumerate what, in their opinion, were the public utility services. They said that a public utility and its importance depended upon the circumstances of the case. It may vary according to times and circumstances. A service which may not be a public utility at one time may be a public utility at another time and they felt that in the interests of society as was conceived and understood by them it was necessary that the situation should be left in a flux undefined to be defined at the discretion of the Government. Now the Congress stood for two things at the time. The one thing it stood for was that nothing should be left to the discretion of the bureaucracy, that it could not be persuaded to bureaucratic purposes and therefore the Congress Party took the attitude that no discretion ought to be left with the Government. Whatever public utility was to be brought within the purview of section 15 ought to be stated clearly in the Act itself. The second position which the Congress Party took in the year 1929 when the Bill came up was this. They said that the category of a public utility was too large and that a strike should not be made illegal only because it related to a public utility serivce. The position that they took was that it should be confined to what is called “social security services”. That was the position in 1929. In this contest Government gave up on one point. They agreed that a public utility should be defined in the Act and therefore you will find, Sir, that section 2 of the Act, which is an interpretation clause, has got a definition of what is a public utility and you have got there a public utility enumerated, Government not having any discretion to add to it or to take anything out of it. With regard to the other position, namely, narrowing the category of service to which the illegality of the strike was to be confined, Government did not yield. Government said that their formula that it should be extended to public utility services must stand and the Congress Party did not succeed, but that does not really matter for my argument, because my argument is this that in 1929 the Congress Party stood for restricting the illegality of the strike to social security services. Sir, I want to read from the report of the select

committee some of the minutes which members of the Congress wrote. I believe the honourable member Mr. Jamnadas Mehta was a member of the Congress then, but I am not sure.

Mr. Jamnadas M. Mehta : I have maintained that attitude even today.

Dr. B. R. Ambedkar : This is, Sir, from a minute written by Mr. Jamnadas Mehta, Mr. M. S. Sesha Aiyangar, Mr. S. C. Mitra and Mr. V. V. Jogiah :

> "The fundamental objections to the Bill as it emerges from the Select Committee remain unaffected. We feel that clauses 15 and onwards, far from settling trade disputes, will only multiply them ; they will embitter relations between the employer and the employed and will, as all experience of similar legislation testifies, be utilised by the authorities for crushing political propaganda unpleasant to the bureaucracy. If the object of the Bill is to develop and foster genuine trade union movement in the country, clause 15 and onwards will surely defeat that object."

That was the position that they took that no strike ought to be penalised even though it was applied to public utility services. The minute of dissent proceeds :

> "……. . But having failed in that object we are obliged to append this minute of dissent. Up to clause 14 the Bill is a genuine attempt towards settlement of trade disputes by means of courts of inquiry and boards of conciliation. We believe that so far as that portion of the Bill is concerned, it emerges from the Select Committee considerably improved and strengthened. Almost all the changes that have been made in the Bill up to that clause have served to make it more equitable and just. Of course we leave out of account the definition of the 'public utility services' in clause 2(*g*). That definition is consequential to clause 15 and should therefore be considered along with it. We believe that this clause is a great danger to friendly relations between the employers and the employed. A public service may be a 'utility service', but it does not therefore follow that a strike in such services without notice ought to be visited with criminal prosecution. It is true that a lock-out in such services has been made an offence also, but that does not affect the argument against making a strike a penal offence. We cannot understand why a strike in a postal, telegraph or telephone service or for the matter of that in any Railway service should be made a crime. No doubt such a strike is inconvenient and interferes with our ordinary comforts, but it is monstrous to claim that if any body of men refuses to minister to our comforts if any to claim that body as criminals especially when the strikers feel that these comforts and conveniences can only be satisfied by their own degradation and misery. Can it be seriously contended that the Frontier Mail and similar luxurious services are so vital to society that strikes thereon should be made illegal ?"

I commend these last few lines to my honourable friends opposite. Then the quotation goes on :

> "For the Legislature to give sanction to so iniquitous a doctrine as the one which is embodied in clause 15 is to proclaim to the world that the

mass of mankind ought to remain wage slaves and that they would strike only on the pain of being clapped into jail. We are most anxious to promote the industrial advancement of our country but not by methods of coercion as proposed under this clause. We grant that services like the supply of water, light and sanitation are absolutely essential to the very existence of society and that any strike in such services should be discouraged by all legitimate means, not because they are 'public utility services' but because they are 'social security services' ; and as no man could be permitted to have interest against the very existence of society, we are not opposed to any legislation against making strikes in the 'social security services' illegal ....."

Sir, that was the position the Congress members took then. Sir, I would also like to read an extract from the minute of dissent appended by Mr. Kunzru. He is a Liberal. I emphasize that because you would be able to know what even moderate men who did not profess the principles and policies of Congress said in 1929. This is what he says :

"Clause 15 which deals with strikes in public utility services renders a strike in violation of the terms of services without previous notice illegal. If it was attempted to make sudden strike penal only in services where stoppage of work without adequate notice would endanger human health or life, the case for such action would theoretically be clear, however difficult the enforcement of the law might be in practice. But the definition of a public utility service in spite of the deletion of that provision by the Select Committee which would have vested Government with a discretionary power to declare any service a public utility service still includes services sudden strikes in which, whatever the inconvenience they may cause, cannot involve danger to life. However undesirable sudden strikes may be in any undertaking, there is no ground for making them penal where they do not affect the safety of the community. It may further be pointed out that sudden strikes in services which affect the existence of the community have been remedied by the provinces. Besides strikes, if resorted to in breach of contract, can be severely dealt with under the Indian Penal Code ....."

That was the attitude of Mr. Kunzru. I too agree in the proposition, that the right to strike without notice should be restricted, but it should be restricted only in case of service which are not public utility services but social security services. Now, Sir, that is in perfect consonance with the English legislation. In this connection, I would like to draw the attention of the House to what is called the Emergency Powers Act of 1920. It was passed by the British Parliament a year or two after the War was over. There too Government was given power to make regulations to deal with emergencies. I will just read one or two sections from that Act. Section 1 says :

"If at any time it appears to His Majesty that any action has been taken or immediately threatened by any person or body of persons of

such a nature and on so extensive a scale as to be calculated to be interfering with the supply and distribution ..... ."

I desire to draw the attention of the House to these particular words :

"of food, water, fuel or light or with means of locomotion, to deprive the community or any single portion of the community of the essential services ..... ."

"His Majesty may, by proclamation declare that a state of emergency exists."

Then section 2 says :

"Where a proclamation of emergency has been made, and so long as the proclamation is in force, it shall be lawful for His Majesty's Court, to make regulations for securing the essentials of life to the community, and these regulations may confer or impose on a ..... . Government ..... . such powers and duties as His Majesty may deem necessary ..... ."

The point to bear in mind is that all this is confined to cases of essential to public safety and life of the community. This has always been the view taken, that if you want to restrict the right to strike and to make it illegal, then you must do it only in relation to services on which the sustenance of the life of the community depends. Now, it is obvious that this Bill extends to every trade and every industry. I do not wish to say anything with the object of making fun, but I should like to illustrate my point by saying that, supposing tomorrow the Indian women—I hope they do not—adopt the fashion of painting their lips and some manufacturer who had a nose for money started an industry for making lip-sticks for supplying their needs, and if under this Act the workers went on strike, its provisions would fall upon their head like the sword of Damocles. Can anybody seriously maintain that the lip-stick industry is essential to life, that the right to strike should be curtailed because some women are deprived of the pleasure of having the usual paint on their lips ? Sir, this Government has not only let go by the board the attitude that it took in 1929, of restricting the penalty to strikes in social security services, but they have beaten the bureaucracy by going beyond the provisions of the Act of 1929. The bureaucracy had at least the sense, if I may say so, the responsibility, to realise that the right to strike was so important that it should not be penalised beyond the four corners of what was covered by public security ; and here is a Bill which, I would like to repeat, would make a strike in the lip-stick industry penal.

All this, for what? What are we to gain by all these trials and tribulations which they are trying to impose upon these poor workmen ? The result, as I see, is to wait at the table of some gentlemen, whom the Bill calls the conciliator, for 4 months and 25 days. Beyond that I see nothing. The Honourable the Home Minister said that one of the reasons why this Bill has been introduced was because the State was taking upon its own shoulders to collective bargaining. I think he said something to that effect. If I am wrong, I hope he will correct me.

The Honourable Mr. K. M. Munshi : No ; not taking upon its shoulders collective bargaining, but regulating collective bargaining.

Dr. B. R. Ambedkar : Regulating collective bargaining. I shall be very candid. What is the use of these regulations ? There are heaps of regulations in the Civil Procedure Code. Is the litigant interested in them ? The litigant is interested in the result of his suit. With all the formalities, with all the provisions and procedure, who is to give notice, what is to happen after notice, who is to draft the written statement and all other things—the hungry workman is not interested in them in the least.

The Honourable Mr. K. M. Munshi : Therefore, repeal the Civil Procedure Code ?

Dr. B. R. Ambedkar : I do not say anything of the kind. What I am saying is, with all the provisions that they have got, they should have bucked up, they should have had the courage and said "we shall compulsorily arbitrate, whether you agree to it or not". (Interruption.) It is another matter whether I agree or not. If you had taken up that attitude, I could have certainly understood it, because the position then would have been this, that at the end of 4 months and 25 days you would have been certain of some tangible result.

An Honourable Member : That would have been slavery to the wage earner.
Dr. B. R. Ambedkar : You have enough, and you need not have been abashed for going a step further in this Bill. (Interruption).

The Honourable the Speaker : Order, order.

Dr. B. R. Ambedkar : Therefore, Sir, what is all this for ? You have to go through several stages—a Registrar, a Conciliator, and a Board of Conciliators if both parties agree. It is only a case of securing appearances before certain amiable gentlemen who will talk sweetly to different people and bring about probably a good temper, if a hungry man who wants some thing can be said to be in a good temper. I do not see anything in it. This is, in my judgment, absolutely a futility, an utter futility which can have no tangible result at all. The only tangible result of this will be that this delaying process for 4 months and 25 days will disable the worker from going on strike ultimately. Here again, I would like to draw the attention of the House to the contrast that exists between the Bombay Act of 1934 and the present Bill. Sir, when the Bill of 1934 was on the anvil, it was suggested that a strike should be prohibited during the period of conciliation. There was a proposal to that effect. But that proposal was rejected by the Honourable Sir Robert Bell. It was even pressed upon him that if a strike was not prohibited, at least picketing ought to be prohibited, but he refused even to be a party to that. (An Honourable Member : No, no.) As there is a challenge, I will read a portion of his speech. This is what he says on page 180, Vol. XL, of the Bombay Legislative Council Debates :

> "I wish to refer to one matter connected with the subject of picketing. In clause 15 you will see that provision is made for preventing picketing

of conciliation proceedings and also for preventing molestation of any individuals in order to prevent them 'from carrying on their usual work or business during a conciliation proceeding connected with such work or business'. In other words, it was the intention of Government that after conciliation proceedings began, picketing at the mill should not be allowed. Even if a strike is already in progress, it was intended that picketing in the mill premises should be stopped. If the two parties intend to come to a settlement, it was considered that this would be a desirable measure. On the other hand, we have no prohibition against the employees locking out the mill hands. It is considered in some quarters that the right of picketing is something like a sacred right and, after full and careful consideration, we have decided to move an amendment to omit the words in clause 15 which prevent picketing at the mill gate."

That was the position that he took, and, Sir, I do seriously contend that if a strike was permitted conciliation would be more probable. That is an aspect which I think has not been considered at all. Why should an employer be ready to conciliate when he knows that he has got 4 months and 25 days to mobilise his forces, when he knows that within the 4 months and 25 days no worker can mobilise, no worker can prepare, and when he knows further that the time within which to go on strike is limited only to two months ? There is no incentive, there is no pressure, there is no urge on the employer, in circumstances of this kind, to come to terms ; and if the honourable mover of the Bill is of opinion, and his object is, that this conciliation machinery should fructify, should result in some sort of tangible good which would be acceptable to both the parties, then I submit that the proper procedure to adopt is the procedure adopted by Sir Robert Bell, namely, to permit the strike to go on, in other words, to continue the provisions of the present Act. But, Sir, here the Government is not even prepared to take the position which a bureaucrat took. The position that was taken up by a bureaucrat was that a strike need not be prevented while a popular Government, which claims to be elected on Labour votes, which does not stand by the position taken by one whom they always regarded as a bureaucrat, with no interest for Labour and no interest in the welfare of the country. If this democracy—well, it might be, but I do not say it is democracy—a democracy which enslaves the working class, a class which is devoid of education, which is devoid of the means of life, which is devoid of any power of organisation, which is devoid of intelligence, I submit, is no democracy but a mockery of democracy. So much for the main provisions of the Bill.

Then, Sir, there are certain other provisions of the Bill to which I wish to advert, and these provisions are contained in clauses 4 to 20. Looking at the clauses, they refer to four different topics. They refer to different clauses of unions,—qualified unions, registered unions, representative unions. Sir, I had the opportunity of reading the previous draft of this Bill. That previous draft had a different phraseology, such as horizontal unions, vertical

unions, diagonal unions and perpendicular unions. I am glad that that phraseology has been dropped. I was never strong in mathematics, and certainly knew very little geometry, and I think for the small mercy that we have got for the change of phraseology it would be proper if I rendered my thanks to the honourable mover and those who have prepared the present Bill. The second thing with which these clauses deal is the terms and conditions and the procedure with regard to the registration of the different classes of unions. Thirdly, the terms and conditions and the procedure for these recognised unions or registered unions to be declared representative unions, and fourthly, the conditions for the registration of a union and for the cancellation of its declaration as a representative union. Now, Sir, I have been considerably at a loss to understand what practical connection these clauses have with the main provisions of the Bill. The main provisions of the Bill are, firstly, compulsory conciliation and, secondly, penalty for strikes during conciliation proceedings. To my mind, I do not see any organic connection between these clauses and the other clauses in dealing with these two topics which are the main purposes of the Bill. And, referring to the title of the Bill, I found that rather than disclosing the purpose it tries to conceal it. The Bill has a title which says "A Bill to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and for certain other purposes". Sir, what are the other purposes ? And why have they not been specified in the title of the Bill ? Is it something of which one need feel ashamed ? I do not know. Either there is some practical connection between the two parts of the Bill or there is not ; if there is, that ought to have been disclosed, and if there is no organic connection, then the logical conclusion is that these sections ought to be deleted from the Bill. But, Sir, my search has been rewarded by the discovery that there is an organic connection between the two. What that organic connection is, will be readily seen by reference to clause 75 of the Bill. Clause 75 of the Bill says :

> "No employee shall be entitled to appear in any proceedings under this Act except through the representative of employees."

Sir, this clause is the most fundamental and I say this is the most destructive clause of all trade unionism in India. Who is a representative of employees who is entitled to represent labour in conciliation proceedings ? No one will have any *locus standi* in any negotiations for the settlement of an industrial dispute, no matter what his qualifications may be, unless he falls within the definition of what is called by this Bill as a representative of employees, and it is for the purpose of defining who is a representative of labour my honourable friend has introduced clauses 4 to 20 in the Bill. They all hang on this section. The important question, therefore, is who is a representative of employees under this Bill ?

Now, Sir, under this Bill, there are two categories of unions which will have the right to represent labour. The first is a union which has 20 per cent. of the workers as its members, or rather not less than 20 per cent of

the workers as its members, and recognised by the employer. Secondly, a union whose membership is more than 50 per cent. can represent labour in the conciliation proceedings. These are, therefore, the two categories of unions which alone have the right to represent labour. Now, Sir, my honourable friend the Minister chooses to call them "representative unions"—both of them. I disagree with his terminology. I think a spade ought to be called a spade. Calling a spade a spade, what I submit is this : there are, no doubt, two kinds of representative unions under this Bill, but the important point to note is that one is a slave union and the other a free union. Sir, there is no exaggeration and there is no violence done to language if I say that a union which can have *locus standi,* a legal existence, a right to represent and a right to speak, only if it secures the prior approval of the employer is a slave union and not a union of freemen. I wish he had used the word "approval"; the word "recognised" is very inappropriate ; the proper definition should have been "a union approved by the employer", as we would then have seen in plain term what we are asked to give our sanction to.

Now, Sir, what I do not understand—and my honourable friend will explain it to me—is why he has made registration under this Bill a condition precedent for a union to obtain a representative character. I find great difficulty in understanding these provisions in the Bill. Sir, the provision as it stands today is this. There is a Trade Unions Act passed by the Government of India in 1926. It is called the Trade Unions Act. The Bill does not repeal that Act ; in fact, that Act remains, and further this Bill insists that any union before it can be registered under the provisions of this Bill must be registered under that Act. That is clear from the definition of a union given in this Bill. I will presently tell the House why this has been done. I find that there is some design behind it. The position is, therefore, this : a union has to have two-fold registration, registration under the Act of 1926 and registration, under the new Act. It seems to me that it would be better if I adverted to the advantages which registration under the Act of 1926 gives to a union which is registered under it, so that we may know what is it that this Bill gives in addition or whether there is anything which this Bill takes away. Applying my mind to the effect of registration of a union under the Act of 1926, these are the results that follow. The union becomes a corporation with a right to sue and to be sued. As a corporation it has certainly a right to represent its members ; otherwise, a corporate entity has no meaning. Secondly, as the House will realise, under the Government of India Act, 1935, a union registered under the Act of 1926 gets the right of political representation, that is to say, a union registered under the Act of 1926 can elect members to this House, and there are honourable members in this House who will bear testimony to that fact. Similarly, members of unions which are registered under the Act of 1926 have the right also to send representatives to the Bombay Municipal Corporation. Now, Sir, the question that arises is this.

If registration under the Act of 1926 gives the unions the right to represent, where is the necessity of requiring further registration under this Bill ? If a union registered under the Act of 1926 is competent to send members as representatives of the whole labour body to speak in this House, to vote in this House, where is the necessity of requiring registration under this Bill ? I should like to have an answer to that question later on. What the Bill does is a very queer thing, which again I am not able to understand. A union registered under the Act of 1926 will not have, under the House to realise the anomaly of the position. A union registered under the Act of 1926, while it is competent enough to represent workers in the Legislature, is not competent under this Bill to represent labour before the Conciliator. Why is this anomaly ? The Bill does not merely create an anomaly. I say it takes away a privilege from the unions which are registered under the Act of 1926.

In this connection, I should like to draw the attention of the House to what used to take place under the provisions of the Bombay Act of 1934. When conciliation proceedings started, members who know the provisions of that Act will remember, under section 9 the labourers were represented by delegates. That was the provision in that Act. This is the wording of section 9 :

> "On receipt of notice under section 8, the parties to a trade dispute shall within the time specified in the notice or within such time as may be fixed by the Conciliator in this behalf, appoint delegates in such manner as the Conciliator may direct."

Therefore, labour, in conciliation proceedings under the Act of 1934, was represented by delegates. How were these delegates chosen ? Who were the parties who were entitled to choose those delegates to represent labour before the Conciliator, under the Act of 1934 ? Sir, I have gone to the rules made under this Act, and a reference to the rules will show that the parties who were entitled to elect delegates were the registered trade unions, the unions registered under the Trade Disputes Act of 1926. That is provided by rule 3 of the rules made under the Bombay Act of 1934. It is, therefore, clearly established that up to this moment a union which was registered under the 1926 Act of the Central Legislature, by reason of the fact that it was a corporation, had the right to represent workers in all places and at all junctions. Constitutionally, by the Government of India Act of 1935, they have been given the right to represent labour in the Legislatures, and the Bombay Act of 1934 specifically recognised that the trade unions registered under that Act, namely, the Bombay Act of 1934, were the only bodies entitled to send delegates before a conciliator. Sir, my first complaint is that this Bill takes away a valuable right which the unions had and gives it to whom ? It gives it to slave unions, as I am going presently to show. If it was given to free unions, I would not mind at all. Then, Sir, why is it—this is an important point to understand—why is it that the unions registered under this Bill are also required to be registered under the Central

Act of 1926 ? Sir, it is nothing else but a piece of carpet—bagging, as the Americans say. My honourable friend wants that the unions which will be formed under this Bill should not only get the right to represent before a conciliator but should also walk away with the political representation which the unions registered under the Act of 1926 now possess. It is a snatching policy.

And all this endowment of political and economic power, for whose benefit is it ? I repeat again that it is for the benefit of the slave unions. Of course, if my honourable friend thinks that there is nothing wrong in having unionism based upon the principle of approval of the master, I have no quarrel. It is his philosophy of life ; it is not mine. If he thinks that a man who is enslaved is a free man, it is his view ; if he thinks that in order that we may have peace in industry the worker ought to be chained to his master, as he will be, it is for him ; I have no quarrel. But, for myself, I am not prepared to accept that position. We do not want mere peace, and I repudiate the peace, the kind of peace that we are asked to have. (Mr. S. V. Parulekar : Hear, hear !) Certainly, it is the peace of a man who has a contended belly and whose stomach, touches his buttons. I do not want that kind of peace.

The question that I am interested in is this. I am prepared to take a charitable view of the matter, and I want to know whether this charitable view will fructify and produce anything. It may be, as my honourable friend says, that there is no unionism in India ; it may be that there are people who are spoiling the growth of unions. I am surprised that he should still entertain the fear of members of the communist party, who were a thorn in the side of the Congress before, but who have now walked in—they avow peace, they avow truth, they avow non-violence, and they have even paid four annas, as I understand,—why, I ask, should he have any fear now of anybody spoiling the game of peaceful development of labour ? Supposing it to be so, let us see how all this will end. If my honourable friend can satisfy me that there will come a time when what I call the slave unions will ripen into free unions, I probably might reconsider my attitude again. But I have not the slightest hesitation in saying that there will never be free unions at all ; and that is because the conditions that he has imposed upon free unions are so impossible that they could never be fulfilled. What is the condition for a free union ? The condition is that you must at all times show that on your roll you have got 50.1 per cent. membership ; that is the condition. Twenty per cent., not enough ; 25 per cent., not enough ; you must always show the mathematical proportion of 50.1 per cent. if you want to be free. Sir, the question I should like to ask is this : Is this a reasonable condition ? The laws of the Romans, if I may use the analogy, began with enslavement. There was a provision for manumission, as we technically say. The slave ultimately became emancipated and became a free man, a civis. Applying the same analogy, I say that we begin with slavery, because the approval and the recognition are nothing

less than slavery. But is there any provision for manumission ? And if there is such a provision, is it a reasonable and a possible condition which workers can be expected to satisfy ? The condition is that you must show 50.1 per cent. membership of the total number of workers then and then alone you can escape the chains and the throes and the punishment of your master. Is that a possible condition ?

Now, Sir, we, who have been what my honourable friend probably likes to call misguided fellows, have been asked to turn our attention to the ideal situation that exists in Ahmedabad. We are asked to take a leaf out of that Ahmedabad book and to follow that ideal. I am prepared to do that. As I study the example it becomes necessary to ask this question : is there any possibility, under this Bill, of even the Ahmedabad Majoor Mahajan becoming a free union ? I cannot see any hope of that union becoming a union of free workers. Ahmedabad is certainly a most ideal place ; as the Royal Commission has pointed out, there does not exist anywhere in India such an ideal institution. There, there are employers who belong to the same religion as the employees, barring a few Mahomedans, who are weavers, and who are outside the union ; the workers speak the same language as their masters. Cultural unity there exists in abundance. Therefore, whatever fissiparous tendencies, whatever recalcitrant tendencies, that one might expect in other situations do not exist there. On top of that, there is the great personality of the Mahatma, to whom every recalcitrant may refer and bow, and fall in line no matter what his personal grievances may be. The Ahmedabad Majoor Mahajan has grown under such auspices. It has had a life of more than two decades ; I am told it has been in existence for eighteen years. What is the state of that union ? I have got figures here in this book, called the Labour Gazette for May 1938, and on Analysis I find this to be the situation at Ahmedabad. I am taking only the textile industry. The total number employed in the Ahmedabad textile industry is 90,000. What is the total number of workers who are included in the union ? The Majoor Mahajan, as everybody knows, is a federation of five different unions ; and the total number is 22,000. That is on the first of May 3938. Sir, that works out—I am a poor mathematician, I will stand corrected if somebody rectifies my figures—that works out, according to me, at 21 per cent. of the total ; that is to say, the union membership is 21 per cent. of the total number of workers in the textile industry. Applying that test, as I said, even to Ahmedabad, can anybody say that the Ahmedabad Majoor Mahajan, if it were to apply for registration today, could do without the approval of the employers ? No.

(The House re-assembled after recess at 2-30 p.m.)

Dr. B. R. Ambedkar : Mr. Speaker, Sir, before recess I was trying to emphasise that under the conditions prescribed in this Bill there is no possibility of any free union growing up in this country and I illustrated what I wanted to say by reference to the position of the Ahmedabad mill workers' union, and I showed that even under the most propitious conditions

that exist in Ahmedabad, it would not be possible for the Majoor Mahajan there to be a free union, entitled to recognition under the Act without securing the approval of the employer. Sir, this is really such an impossible condition that it would be impossible to realize it even in such an industrially organised country as England. Unfortunately, in all the books to which I had access, we get a set of figures showing the total membership of different unions in the country, but we do not get anywhere, along with it, figures showing the total number of persons employed in the different industries in the country : and, consequently, it is not quite easy to find out what is the total percentage of the workers in England who can be said to be members of the unions in the country. But I have here a small book by Mr. Walter Citrine published in the year 1926. Every one who is familiar with the trade union movement in England, will know that he occupies a very important position in the trade union movement and his book, therefore, may be taken to be an authoritative statement on the issue with which we are concerned. He has shown that at the end of the year 1924—the figures are unfortunately not very recent—the position in England was this that the total number of persons employed in the different industries was 18 millions, while the total number of persons who were members of the unions, both males and females, was only 3,531,000. That means that it certainly was not more than about 30 per cent. Now, if that is the state of affairs in a country like England where labour is so well organised, where the industry is so widespread, what can we expect in a country like India ? I therefore submit. Sir, that this condition, which the Bill imposes, is an impossible condition and no kind of an organisation of labour, which I am able to visualise even for 10 or 20 years, will be able to muster itself so strong as to show at all times on its record a membership which would be as much as 51 per cent. Consequently, the conclusion is irresistible that the only kind of labour union that will be representing labour in the conciliation proceedings in the strike will be none other than the slave union recognised by the masters.

Now, Sir, there are two other questions, to which I wish to draw the attention of the House, and they are also very important questions. The first question is this. What is to be the effect of the Bill on the growth of the trade union movement in India ? From that point of view, I submit that the most important section in the Bill is clause 8, sub-clause (*a*). Now, that clause lays down a principle, which, as I will try and show, is of the roost unusual character. The clause says "the Registrar shall not register more than one union in any local area in respect of any industry or occupation, as the case may be". In other words, what the Bill provides is this. It says to the workers that if they want to organise into a trade union they can have only one union in one industry or occupation, as the case may be. In other words, what the Bill provides is this. It says to the workers that if they want to organise into a trade union they can have only one union in one industry or in one occupation in a certain defined local

area. Now, Sir, my contention is that is a provision in the Bill which, I am sure, will prevent unions growing up in this country. First of all, what I would like from the Honourable the Mover of the Bill to know is this. Is this principle applied anywhere in any other part of the world ? Now, Sir, I have studied the conditions of tirade union organisation in so far as Great Britain is concerned, and I am prepared to cite an authority of a person who is eminently versed in this field to prove that certainly in Great Britain the law makes no such provision at all. In fact, the English law has left it to the workers to organise on any lines that they choose to adopt. There is no rule as such that the union must be confined to one industry, that the union must be confined to one occupation. There is no rule that the union must cover a particular area. On this point I would like to draw the attention of the House to a passage in a recent book called "The Employment Exchange Service of Great Britain" by Chegwidden and Myrddin Evans, and this is their conclusion. I am reading from page 30 :

> "All the workers in a particular industry are not necessarily organised in the same union but may belong to several different unions : in some cases organisation is on a district basis, in others on an occupational basis, and a section of workers in a particular industry may even belong to the union which normally caters for workers in another industry or to a general labour union. In a number of cases sectional unions are federated either in a federation or union covering the whole or the greater part of the particular industry concerned, or in a federation or union covering members of the same or similar occupations in different industries, or any federations of general labour unions."

This shows that in England there can be general labour unions. That is to say, workers working in different industries may join together and form a union. That is what is meant by general labour union. One labourer may have no connection with another so far as the industry or so far as the occupation is concerned. There may be a general union. This author also says that in England persons belonging to different industries may form one union. A man may be, for instance, a minor. He may become a member of some other union which has nothing to do with mines. Therefore, in England, the law has left entirely to the workers to decide in what manner, under what circumstances, they will organise. All that the law has taken care of is to see that the union does not become an unlawful body. All that the law has taken care to see is that the union before it is registered has certain objects which the law regards as lawful. Beyond examining the objects of the union, the English law certainly does not see whether the union is organised in a particular way or is not organised in a particular way and I do not understand why this principle should not be imported in this country. I have not seen the justification and I do not know what is the reason for the principle that is being introduced now in this Bill.

Sir, is it possible to have a union of all labourers in one industry or in

one occupation ? Now I am sure that it is not possible and for this reason. As everyone knows, a trade union may have three different purposes or three different objects. A trade union may have purely what are called trade union purposes, that is to say, purposes connected with the promotion of their particular interests as workers, wages, hours of work, promotions in industry and so on. Those are called purely trade union objects. In addition to that a trade union may have what are called social objects conferring certain benefits, giving old age pension, giving unemployment benefit to these members, providing pensions for their widows. These are recognised in England as social purposes. In addition to that a trade union may have a political purpose. A purpose, the object of which is to promote a particular line of politics, which the union thinks is best suited for the protection of its economic and its social position. Now, Sir, the question that I want to ask is this. Is it possible for all persons who are employed in a particular industry to be agreed upon all these three purposes ? I cannot see that in all cases it would be possible to give an affirmative answer and I propose to discuss the matter in some detail in order to show why we cannot have an affirmative answer. Let me take a case like this. There is a body of people working, say for instance, in the textile industry in Bombay and I shall be very particular in this matter because I want to emphasise my point. There are certain Mahomedan members, workers in a mill industry. They are anxious to become members of a trade union. But the other persons who are non-Muslims desire that the workers of the union should follow the Congress line of politics. There are Muslim members who are prepared to join the union but who prefer to follow the politics of the Muslim League. How are they, the two bodies of people, to unite together unless one of the two parties is prepared to drop its political programme ? Take another illustration. There are certain workers belonging to the untouchable community. They are prepared to be members of a certain union, but they also insist that the union ought to promote certain social objects and social purposes for the benefit of the community from which they are drawn. They desire that certain ether facilities may be provided and the workers from other classes do not agree with them. How is a union to be formed ? I do not understand. I do not understand why, therefore, you should impose a condition which makes things so impossible of achievement I should have thought that the proposal which is included in this Bill is as wise or as prudent as it would be if a Health Officer were to lay down that you shall build a house of a particular kind, you shall have a door only facing the south, no door facing the north, you shall have only a particular kind of window, a house not higher than a particular height, a house which has only a particular kind of elevation. Either you build a house which conforms to these rules or you live on the street. That is the kind of alternative that this Bill presents to the workers. What would be the evil if the matter of the organisation of labour is left to the will of the worker ? Why are you concerned with it ?

I do not understand. Why is it and what is it that you will get by bringing all persons working in one industry in one particular union ? I fail to understand. On the other hand, my view is, as I submitted, that if you make these impossible conditions, people will not care to form unions at all. The Mahomedans who prefer, and I think we must all agree to allow them the liberty to choose their politics, if they prefer that there will be no use in having a trade union if their trade union is not able to follow the policy laid down by the Muslim League, they may not have any union at all. In the same way if the untouchables feel that if they are not allowed to make some provision for the education of their children and other amenities pertaining to their classes, they would rather not have it, what is the situation that you are creating thereby ? The situation that you are creating is you are compelling people not to have any union at all and I submit therefore, that this is a provision which is fraught with great mischief.

Then, Sir, the second point that arises out of the provisions 4 to 20 is this. What is going to be the effect of this Bill on the stability of the trade union movement ? Supposing that some kind of trade union which could ultimately aspire to be free from the control of the master does grow up, is there any guarantee under the provisions contained in this Bill that that union will remain as a functioning union? So far as I have been able to study the provisions of this Bill that a union once registered will continue to enjoy that registration. Clause 10 is the most dangerous clause. That clause will always be hanging like a sword upon a union : Though registered, its life will always be in jeopardy and it can never be certain that while it has a legal existence today, it will not continue to have a legal existence tomorrow, because under the provisions of this clause its registration may be cancelled at any time provided certain circumstances happen, and once a registration is cancelled, the whole structure which might have been built up with enormous industry, with enormous energy, will simply have been washed away. Now, Sir, there is a further mischief, if I may say so, which is contained in this Bill. It is this that the cancellation of the registration of a union is left to a rival union or to an employer, which means that there will be mutual rivalry, mutual jealousy and a cut-throat competition, if I may say so, between the different trade union men in order to destroy a rival union. A trade union therefore which is once registered under this Bill, in order that it may enjoy a perpetual existence, shall have to show at all times that it had 51 per cent. membership of the total number of workers. Sir, I again ask the question : Is it possible for any union to show that it will have 51 per cent. membership of the total number of workers employed ? It will be interesting. I believe, if I show to the House how trade union membership fluctuates from year to year and I give these figures which I have taken from the figures of Great Britain. In the year 1892 the total membership of trade unions was 1,576,000. In 1910 it was 2,565,000. In 1920 it was 8,346,000 but in 1934 it fell to 4,441,000. There was a drop in ten years of 50 per cent. of the membership of trade unions.

Take the figures of the particular industry. In agriculture in the year 1920 the total membership was 210,000. In 1932 it was only 33,000. It fell from 210,000 to 33,000. In the coal-mining industry in 1920 the membership was 1,115,000. In 1932 it fell to 554,000. In the metal industry the figures in 1920 were 1,172,000. In 1932 the membership was 527,000. In the building trade the number of members in 1920 was 563,000. In 1932 it fell to 275,000. In the transport and general labour the total membership was 1,685,000 in 1920 while in 1932 it fell to 660,000. Taking the membership of the trade union congress in 1920, the total membership was 6,505,000 while in 1932 it was only 3,613,000 members. Sir, if in a country like England, where trade unionism may be said to be like the breath of the nostrils to a workman, the trade union membership fluctuates by 50 per cent. within a decade, I cannot understand how any man can expect any body of organisers of trade unions in this country of ours to maintain on its rolls at all times a membership of 51 per cent. If the membership falls by 1 per cent., the union stands to have its registration cancelled. The whole show will have to be wound up. I ask is this a reasonable condition, is this a condition which could ensure the growth of the trade union movement ? If every trade union which is registered stands to have its registration cancelled and stands in fear of it from day to day, what prospect is there of trade unionism growing in this country ?

Then, Sir, another regrettable feature which is a matter of serious consideration. Under this Bill, a person who is given the right to have the registration of a union cancelled may not apply for the registration of his own union. I can quite understand the reasonableness of the proposal if the right to have the registration cancelled was given to members of a union who were in a position to get themselves registered by reason of the fact that they had a larger membership. I could quite understand that position, but a reference to clause 10 of the Bill will show that a person need not be in a position to have his own union registered, that is to say he may not have at his command 51 per cent. membership of the members employed in the industry. All that is necessary for this mischief-monger is to prove that having regard to the roll of the employer and having regard to the roll of the union the percentage has fallen below 50 per cent. As I said, under industrial conditions where work fluctuates, labour fluctuates, it is impossible to fulfil this condition.

Then, Sir, there is another provision to which I think it is necessary to draw the attention of the House. What is to happen to a union whose registration has been cancelled ? Can it again apply for registration ? The answer is No. Clause 54 of the Bill gives power to the Industrial Court to declare under certain circumstances that the union had forfeited its registration. It says :

> "If in any proceeding under this Act, the Industrial Court finds that the registration of any union or the declaration of any union as a qualified union or as a representative union was obtained under a mistake,

misrepresentation or fraud, or that such union has contravened any of the provisions of this Act, the Industrial Court may direct that the registration of such union or the declaration of such union as a qualified union or as a representative union shall be cancelled."

Now, turn to clause 8, which contains a direction to the Registrar as to what rules he has to observe in the matter of registration the House will see that what I am stating is absolutely correct. Clause 8 reads thus :

"On receipt of an application from a union for registration under section 7 and on payment of the fee prescribed, the Registrar shall hold such enquiry as he thinks fit and if he is satisfied that such union fulfils the conditions necessary for registration specified in section 7 and is not disqualified from registration under the Act."

That is also one of the conditions prescribed by clause 8, that a union must not have been disqualified under clause 54. Now the question that I would like to ask is this. Why is it that there should be this perpetual disqualification ? I can quite agree that there may be a disqualification for a temporary period. It may be possible to argue that persons who have obtained a registration by reason of fraud, by reason of misrepresentation, should be on probation for some time. I can quite understand the reasonableness of a proposal of that sort But I do not understand the reasonableness of a provision which says that because a man was guilty of fraud or misrepresentation, he should be perpetually debarred from even coming before the Registrar and obtaining the registration of his union. Sir, let me refer in this connection to the provisions which we have in the Government of India Act 1935. We, the members of the House, have to face certain disqualifications which are enacted in the Government of India Act. We know that persons cannot stand for election because they suffer from disqualification, that certain persons even though they are elected cannot become members of the Legislature because they are disqualified. I was one of those who were about to be disqualified, but the Government, it is said, came to my rescue and managed to save my seat for me ; otherwise, I would have been disqualified. But the point that I am seeking to make is this, that the disqualifications contained in the Government of India Act are certainly not perpetual. Those disqualifications are temporary. Once the disqualification passes off by efflux of time the member becomes qualified to seek election and become a member of this House. If this is the principle that is embodied in the Government of India Act, if the disqualification of members who are supposed to be free from all moral taint, to have no kind of moral turpitude in them so that they may exercise their rights, their privileges and duties in an honest manner in this House, are not permanent, I ask why the disqualification of persons who are organising labour should be permanent I see no answer to it As a matter of fact, I would say that this provision really nullifies the decision of the Full Bench of the Calcutta High Court. I am sorry, as I came in a hurry, I am not in a position to lay my hands exactly on the report. But there is a case. It may be within

the knowledge of many members, at any rate of those who are dabbling in labour politics, that in Calcutta when the Emergency Powers Act was brought into operation a certain union was declared to be illegal by the Registrar because it was managed by communists. That was perfectly legal so far as the Emergency Powers Act was concerned, but those gentlemen, the communists, who were in charge of the union were not going to be defeated in that way. They devised another plan and that plan was to present another application for registration under a new name. The Registrar who smelt a rat in it, because he found that the man whose registration was cancelled was the same man who brought this application, said, "I must wait and make an enquiry." So, he made an enquiry into the personnel and composition of the management of this new union which had brought forth the application for registration and found that the gentlemen whose union was cancelled by him were the same gentlemen who had brought this application for registration. He said, "You are the same gentlemen. I will not grant you registration." They went to the Calcutta High Court, and the Calcutta High Court held that it was none of the business of the Registrar to enquire into the personnel of the management. What all the Registrar was entitled to do was to examine the object for which the union was formed and to examine whether seven persons have signed the application, but beyond that he had no concern. That was the position under the old law, that is to say, that persons who were once disqualified could go and obtain registration without there being any hitch by the law placed in their way. This Bill puts a perpetual hindrance in the way of people who want to organise labour, simply because they happen to have committed some kind of misrepresentation or fraud. This is all that I really wanted to say on the provisions of this Bill.

Of course, it may be pointed out that this Bill introduces equality of treatment between the labourers and the employers, because, just as this Bill penalises the strike of workmen, it also penalises the lockout by employers. I do not think that this position can be substantiated, because I do certainly find one or two cases where there is a differentiation made between the employer and the employee. For instance, I refer to the question of notice under clause 28. The employer is required to give notice for any change (1) in standing orders, (2) in regard to industrial matters mentioned in Schedule II. When you come to the employee, the employee is required to give notice of any change in the standing orders and in any industrial matters, not necessarily confined to Schedule II. That is certainly not an equality of position. With regard to the appearance, the employer is certainly not penalised if he does not appear. But the worker can be compulsorily represented if the union does not appear. If there is nobody there is the labour officer, who can represent labour and the agreement made after conciliation may bind labour also, although labour has repudiated the conciliation and was not prepared to have its interests represented by that officer. These are trifling things. Apart from this, what I am trying to urge

is this. Sir, what we want is not equality, what we want is equity. What I want to urge before this House is this. Equality is not necessarily equity. (Interruption). I am going to prove it. In order that it may produce equity in society, in order that it may produce justice in society, different people have to be treated unequally. Why go far ? Take the case of income-tax. I am a student of finance and so this illustration comes to my mind readily. Why do we have progressive income-tax ? Why don't we tax all people alike ? The reason why we tax the rich at a higher rate and the poor at a lower rate is because the taxable capacity of the two is different. In a case like that equality would produce the greatest inequity. Take an ordinary case. Suppose, in a household, there are several persons of whom one is sick. In order that the sick person may get out of sickness and in order that he may become better, we give chicken soup to him, but we do not give chicken soup to the others. No one would blame the mother of the household if she gave chicken soup to the sick member and denied it to the other adult members who are enjoying robust health. What we want is equity. This equity cannot be produced, if we propose to treat the strong and the weak, the rich and the poor, the ignorant and the intelligent on the same footing. If my honourable friend wishes to treat the two classes equitably, then this Bill will not suffice. He will have to introduce some other provisions into the Bill and I would like to ask whether he is prepared to introduce such provisions in the Bill.

What is happening today in this industry of ours ? I am sorry I have to make a plain breast of what I feel on this occasion. We have mills in Bombay City managed by Parsis. There are mills there managed by Gujaratis. There are mills in Bombay which are managed by Jews or by Europeans. I visited all these mills in my younger days when some members of my family were working there. I used to carry their bread to the mills where they were working. Recently also I visited some of the mills though not often times. The most surprising thing about all these mills is that they have been made the heaven for the cousins of the Managers. Hundreds of useless people are employed in higher grades simply because they are related to the managing agents in some way. You go to a Parsi mill, you will see hundreds of Parsis employed whether they are wanted or not. Go to a mill managed by Gujaratis. You will see hundreds of Gujaratis employed whether they are wanted or not. Go to a mill managed by Jews. You will see hundreds of Jews employed, whether they are wanted or not. The best part of the earning of the workers are taken away by the managers in order to feed these people who are employed in the mills, whether they are efficient or not, or whether they are wanted or not. All these people who are controlling the industry float the capital and bloat it up by all sorts of paper transactions. When the worker says that he gets less wages, the man controlling the industry says. "It is my capital". All this is bogus capital, stock exchange capital, bolstered up by speculators. A good part of the earning of the industry is swallowed by these people. From the little

balance that is left, the workers are asked to eke out their existence. If the Honourable the Prime Minister wants to introduce equity, let him make the workers' wages the first charge on the profits of industry. I do not understand why the mill owners or, for the matter of that, any owner of any industry, should not be required by law to present his budget annually. Government is required to present its budget every year ; annually we get a budget of Government in which Government say how many Ministers are employed, how many chaprasis are allowed to the Ministers, how many superintendents are there in departments, how many clerks, this, that and the other. This House is in a position to understand whether the establishment is excessive or not This House gets to know whether the money is spent properly or not. Why is it that a millowner or, for the matter of that, the owner of an industry, who gets his earning, not entirely by his capital but also by the sweat of another man, be not compelled to give the details of his management ? This is a very fair demand to make. The advantage would be this. Once a budget of that kind is presented by the owner of an industry, the workers would be in a position to realise and scrutinise whether the balance that is left to be divisible among the labourers is fair or whether the employer has taken an undue portion of the total profit. What is the use of having a conciliation board and asking the employers to produce their account books when the employee is not placed in a position to scrutinise what is really the state of affairs ? If the procedure I suggest is adopted, I am sure about it that there will be less labour troubles, the conciliation would be more effective and there will be more industrial peace. If the Honourable the Prime Minister wants to treat labour and capital on a footing of equality in the sense in which I have suggested, namely, that there should be equity, then there is no basis for equity in the provisions of this Bill. Secondly, there is no basis for equality between capital and labour because the Government in any dispute is always on the side of employers. This is clear from the use of the police Government makes in strikes. The police force is maintained out of public fund, out of the taxes we all bear. It is intended for the benefit of all. Surely, no Government is entitled to use this police force merely because a strike by the workers results in a breach of peace. What is further necessary is to show that the breach of peace, has been caused by one particular section of the industry. If the breach of peace is caused by some unreasonable demand made by labour, you may be justified in using police force against them. If on the other hand the breach of peace is broken by something which has been done by the employer which does not stand to reason, and which is contrary to justice and equity, then Government have no right to use the police force against the workers. Real equality between employers and employees can be brought about only by incorporating these two provisions. The employer must be compelled to disclose his budget and the Government must cease to use the police force against the workers merely because there is breach of peace. Without this there can be no equality between capital and labour

as to bargaining power. Will you do it ? If you do this, you will lose case with the employers. If you don't, you cannot be the friend of labour. The Bill as it is, I am sure about it, should not be passed. It only handicaps labour. Labour may not now know what this Bill does. But when the Bill comes into operation and the labourer stands face to face with the Bill he will say that this Bill is bad, bloody and a brutal Bill. Sir I cannot be a party to it. (Applause).

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*ON DISTURBANCES ENQUIRY COMMITTEE'S REPORT

Dr. B. R. Ambedkar (Bombay City) : I will try to finish within five minutes because I have not much to say. Mr. Speaker, Sir, if I rise to speak on this cut motion it is not because I think I am called upon to meet what the Committee has been pleased to say about myself. There is neither the time nor, in my judgment, any necessity for me to advance any pleading in respect of the position that I took with regard to this strike and I will, therefore, leave that matter aside. If I rise to speak, it is because I think that the speeches which have been delivered by the two honourable members of this House who preceded me gave me the impression that they would result in side-tracking the attention from the principal issues with which we are concerned as a result of this report. In my judgment, there are three questions that we have to consider—certainly two. It is to ask these three questions to the Home Minister that I have risen to speak. I accept for what it is worth the finding of this Committee that there were disturbances, for the sake of argument.

Mr. Jamnadas M. Mehta : They were not findings but they were found for the Committee.

Dr. B. R. Ambedkar : Whatever it may be, what the Committee has reported is this and it is reported in very definite terms. Paragraph 84 says :—

> "The attitude and actions of the crowd were solely responsible for the firing. We are of opinion that the ultimate responsibility for the disturbance at the Elphinstone Mill, which resulted in firing and consequent casualties, must rest on the members of the Council of Action, who, by their intensive propaganda, invited the illiterate workers to resort to violence to make the strike a success.".

As I said, I am not going to examine the correctness of this finding. I think if one wanted to examine the correctness of the finding, one could say a great deal, because speaking for myself I certainly find that the evidence on which this finding has been based and the number of the speeches alleged to have been delivered by the persons who were members

*B.L.A. Debates, Vol. 5, pp. 1724-27, dated 17th March 1939.

of the Council of Action and they have all been given in the body of this report practically from page 10 onwards, do not in my judgment support this finding. As I stated, I am taking this as a finding of fact for the sake of argument and the question that I am going to ask to the Honourable the Home Minister is this : Does he believe that this report is true ? If he says that this report is true, is he prepared to prosecute the members of the Council of Action for having aided and abetted this violence ? Speaking for myself, inasmuch as I was connected with this Council of Action, I am prepared to take my trial. Let any man who has the courage, who has the confidence, who believes in this evidence, come forward and prosecute me. I am prepared to take my trial and suffer what punishment the law might inflict upon me. That is my first question. The second question that I am going to ask the Honourable the Home Minister is this, and that is again based upon a finding of the Enquiry Committee which, as I said, I am going to accept for the sake of argument. I thought that the principal question with which this Committee was concerned was the question of justification of the firing. The Committee has stated that the firing was justified, that there were reasons for the firing. The Committee, I believe, has also reported that without firing the violence could not have been curbed, in other words, that the firing was just sufficient for the purpose. As I said, I am taking that finding as true for the purpose of my argument. I am also asking therefore another question to the Honourable the Home Minister. Is he prepared to prosecute the police officers who indulged in this firing in an ordinary court of law and get the finding given by this Committee sustained by a Judge and a Jury? Sir, I like to point out to this House that so far as the law is concerned, there is no difference between an ordinary citizen and a police officer or a military officer, and I would like to read for the benefit of the House a short paragraph from a very classical document which I am sure my honourable friend the Home Minister knows, namely, the Report of the Featherstone Riots Commmitee. In one passage it says :—

> "Officers and soldiers are under no special privileges and subject to no special responsibility as regards the principle of the law. A soldier for the purpose of establishing civil order is only a citizen armed in a particular manner. He cannot, because he is a soldier, excuse himself if, without necessity, he takes human life. The duty of magistrates and police officers to summon or abstain from summoning the assistance of the military depends in like manner in this case. A soldier can only act by using his arms. The weapons he carries are deadly. They cannot be employed at all without danger to fife and limb, and in these days of improved rites and perfected ammunition without some risk and endangering distant and possibly innocent bystanders. To call for assistance against rioters from those who can only interpose under such grave conditions

ought, of course, to be the last expedient of the civil authority."

And so far as the law of this country is concerned, this is the law. To put it very briefly, to put it in the language of that great writer on constitutional law Professor Dicey, the law is this that if a police officer or if a military officer does not obey the command of his officer when he is told to fire, he may be hanged by a court martial and if he obeys it and kills an innocent man, he will be hanged by a judge and a jury. His case must stand by the necessity of the circumstances. His case must stand on whether he has used excess of force. What I want to argue is this. Here is a committee which has justified the conduct of the police. The only thing that I am asking my honourable friend is this : If he believes in this document which has been written by three able and honourable men, if he has confidence in it, why does he not sanction prosecution against those people if that is true ? If there is a jury which can accept that there was a necessity and if there is a jury which can accept that there was no excess, well and good. Let us have a verdict of a judge and jury, and I put it this way that if he does not do this, if he does not prosecute the members of the Council of Action, if he does not prosecute the police officers, then this report has no greater value than a fiction or a novel written by the Three Tailors of Tooley Street. (Laughter).

And, Sir, there is the third question I want to ask, namely, and this is for information. Sir, I am informed and very reliably informed and I put this information to the Honourable the Home Minister that the Manager of the Spring Mill in the vicinity of which the firing took place at 6-30 or so on that day sent a sum of Rs. 200 to be distributed as reward among the police officers who took part in this firing. I do not know whether the Honourable the Home Minister is aware of this fact, but I know this is a fact and if he calls for information from his department, I am sure he will know that this is a fact. Now, Sir, if this is a fact that Rs. 200 were sent by the Manager of the Spring Mill to the Government with a specific direction that the amount was to be distributed as rewards among the police officers who took part in the riot or in the firing on that particular day, that took place in the vicinity of the mill, Sir, I like to ask whether it is not jusifiable to say that the firing was resorted to not because there was violence but because the Mill Manager told the police officers to do their job thoroughly. This is a very scandalous state of affairs, and I want the Honourable the Home Minister to take this fact very seriously, because if this is a fact, this police force is a police force maintained by the State not to do justice between classes but it is a police force to side with hirelings and side with assassins to be used by the capitalist class for the purpose of putting down the agitation of workers.

Sir, this affair fills me with horror, and it reminds me of what was

told by a very able civilian in the course of his evidence before the Joint Parliamentary Committee. I refer to the evidence of the late Sir, Edward Thompson, who was for some time Governor of the Punjab and for some time a member of the Viceroy's Executive Council. On his retirement he started an organisation in England in order to support the cause of Indian home rule. As everybody in this House knows, at the time when the Round Table Conference met, the civilians who had gone back—from here were divided into two groups—one group opposed to Indian home rule, and the other supporting Indian home rule. Sir Edward Thompson was one of those who led the group in support of the Indian claim. As a member of that group, he came before the Joint Parliamentary Committee to give evidence and to support his point of view, namely, as to why India should be given home rule. We were all very pleased that at any rate a section of the Indian civilians should come forward honestly and wholeheartedly to support the Indian cause. But I frankly say that I was horrified by the argument that he advanced. What was the argument that he advanced ? The argument that he advanced was this. He said, "I am an Irishman. I live in Southern Ireland. I have witnessed the rebellion that took place in Southern Ireland during 1916 and onwards". The one thing that convinced him, he said, in favour of Irish home rule was this : So long as the rebellion was going on, no Englishman could shoot an Irishman, however violent his action was, because if an Englishman shot an Irishman, the whole Irish country went up in arms. He said that as soon as home rule was granted, it was possible for Cosgrave to shoot Irishmen, and nobody rose in rebellion against it. He said that one advantage that the Englishman would have from home rule to India would be that the Indian Ministers would be able to shoot Indians without any qualms. This is exactly what is happening. This is not the only occasion when disturbances have taken place.

The Honourable the Speaker : I would remind the honourable member of the time-limit.

Dr. B. R. Ambedkar : I am much obliged to you, Sir ; I will finish in a minute.

As I said, this is not the only occasion when disturbances have taken place. If my honourable friend will search the official files, he will find that there have been plenty of occasions prior to this when the disturbances were far greater. Take a single illustration—the occasion when the Prince of Wales visited this country. What was the magnitude of the disturbances that took place then ? Take the riots that took place in 1928-29 ; what was the magnitude of the disturbances that took place then ? Disturbances are no doubt very unfortunate, but they could never be otherwise. The only question is this : Whether, in maintaining peace and order, we shall not have regard for freedom and for liberty. And if home rule means nothing

else—as I am thinking, it can mean nothing else—than that our own Minister can shoot our own people, and the rest of us merely laugh at the whole show or rise to support him because he happens to belong to a particular party, then I say home rule has been a curse and not a benefit to all India. (Applause).

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*ON PARTICIPATION IN THE WAR : 1

Dr. B. R. Ambedkar : Sir, I rise on a point of order. My point of order relates to the last part of the resolution which reads as follows : —

> "This Assembly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India."

Sir, I rely on rule 75 of the Bombay Legislative Assembly Rules which deals with the form and contents of resolutions. The rule reads as under : —

> "Subject to the restrictions contained in these Rules, a resolution may be moved on a matter of general public interest :
>
> Provided that no resolution shall be admissible which does not comply with the following conditions, namely :—
>
> (*a*) it shall be clearly and precisely expressed and shall raise one definite issue.....".

My submission is that the last part of the resolution is not only not definite, but is certainly most ambiguous. The part of the resolution which I refer to says that "the situation in India has not been rightly understood by His Majesty's Government". My submission is that the House is entitled to know in what respect the Government of India has not rightly understood the situation in India. In that respect this part of the resolution is ambiguous. One of the fundamental principles which govern all decisions of the House is that the House ought not to leave the interpretation of any part of the decision that it takes to anybody outside it. The House ought definitely to say what it decides, and on that point I rely upon a precedent which has been referred to in the Digest of Rulings of the Presidents, Bombay Legislative Council, at page 148. Ruling No. 24 reads as follows : —

> "A resolution must be definite and not ambiguous. Neither the Council nor the Government ought to be a party to an ambiguous resolution which makes its meaning not quite clear."

I made a reference to Volume IV (1921), page 772 in connection with this ruling, and I find that this ruling arose out of an amendment moved by the honourable member Sir Dhanjishah Cooper to a resolution which referred

*B.L.A. Debates, Vol. 7, pp. 1968-69, dated 25th October 1939.

to the distribution of irrigation water, and his amendment suggested certain remedies to be applied "as far as practicable". A point of order was raised that this was an ambiguous amendment and it was disallowed. My submission is that the case I am referring to, so far as this resolution is concerned, is governed by this ruling and, therefore, should be declared out of order.

The Honourable Mr. B. G. Kher : I submit that the rule to which my honourable friend referred has no application at all here. The rule only says that the resolution should be clearly and precisely expressed. My resolution says that "this Assembly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India." The question, therefore, is and the definite issue is : does the statement which has been made on His Majesty's behalf correctly represent the situation in India ? That is the definite and precise issue, and there is no vagueness in it. I submit further that it is one definite issue as is contemplated by Rule 75(a). Therefore, the objection raised by the honourable member has no application here. I can quite understand the ruling given about "as far as practicable", because that may mean anything. Here we are referring to the statement—that statement is not an unknown matter, that statement is before the House—and—

Dr. B. R. Ambedkar : I might invite the attention of the Honourable the Prime Minister to the fact that the wording is that "the situation in India has not been rightly understood" ; and my submission is that the House is entitled to know in what respect the Government of India has not rightly understood the situation.

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†*Dr. B. R. Ambedkar (Bombay City) :* Sir, I beg to move the following four amendments. My first amendment is this :

The Honourable the Speaker : I am taking it as one amendment.

Dr. B. R. Ambedkar : Sir, I beg to move—

Delete the words—

> "and have further in complete disregard of Indian opinion passed laws and adopted measures curtailing the powers and activities of the Provincial Governments".

The Honourable Mr. K. M. Munshi : Sir, on a point of order, with regard to your last ruling that the four amendments of the honourable member Dr. Ambedkar should be treated as one amendment. It may be possible for the House to accept one part of this amendment and not the others. Then, difficulty will be created if it is taken as one.

The Honourable the Speaker : Even though it is taken as one amendment, when putting it to the vote it may be divided in two parts. If that is the desire of the House, I shall certainly do so.

†B.L.A. Debates, Vol. 7, p. 1972, dated 25th October 1939.

Dr. B. R. Ambedkar : Further—

After the words "entitled to frame her own constitution" add the following :—

"and that the British Government will agree to give effect to such constitution on being satisfied through the representatives appointed by the minor communities, that the constitution so framed safeguards the life and liberty of these communities".

After the words "governance of India" add the following : —

"it being premised that such action shall not be in derogation of the fundamental right of the said communities to have a voice through their accredited representatives in the machinery established for the governance of the country".

Delete the whole portion beginning with "including arrangements" and ending with "in regard to India".

Question proposed.

The Honourable the Speaker : The resolution as it is sought to be amended will read thus :—

"This Assembly regrets that the British Government have made India a participant in the War between Great Britain and Germany without the consent of the people of India. This Assembly recommends to the Government to convey to the Government of India and through them to the British Government that in consonance with the avowed aims of the present war, it is essential in order to secure the co-operation of the Indian people that the principles of democracy be applied to India and her policy be guided by her people ; and that India should be regarded as an independent nation entitled to frame her own constitution and that the British Government will agree to give effect to such constitution on being satisfied through the representatives appointed by the minor communities, that the constitution so framed safe guards the life and liberty of these communities, and further that suitable action should be taken in so far as it is possible in the immediate present to give effect to that principle in regard to present governance of India, it being premised that such action shall not be in derogation of the fundamental right of the said communities to have a voice through their accredited representatives in the machinery established for the governance of the country.".

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†*Dr. B. R. Ambedkar :* Sir, I rise to a point of order. My submission is that this amendment is out of order, and I again rely upon sub-clause (*a*) of rule 75 at page 20. Sub-clause (*a*) says that a resolution shall be clearly and precisely expressed and shall raise one definite issue. I emphasise the words "one definite issue". My submission is that if this amendment becomes a part of the resolution, then the whole resolution will offend against sub-clause (*a*) of rule 75, because in that event the resolution

†B.L.A. Debates, Vol. 7, p. 1976, dated 25th October 1939.

will be covering more than one definite issue. Although the resolution, as it is, deals with, as has been pointed out by speakers before me, four or five different matters, it might be conceded that all these four or five different matters arise out of one issue and that issue is with regard to the war policy and the declaration demanded by this country ; but the question raised by this amendment, which relates to a matter of confidence in the Ministry, I submit, is a definite, distinct and separate issue and cannot be validly held to be a part of the resolution so as to be in conformity with the provisions of sub-clause (*a*) of rule 75. Sir, I will also invite your attention to the ruling given on this point which is reported at the page 148 and which is No. 23. It is as follows :—

> "A resolution must not suffer from the vice of involving two definite issues totally different and distinct from each other."

This is a ruling which is reported from Volume II of 1921, page 1425. In that case, a resolution was moved with regard to the women's franchise, and on a point of order it was contended that although the resolution was one it raised two definite issues. One was the right of women to vote and the other was the right of women to sit in the House, and the President at that time ruled that as the resolution involved two definite issues it was out of order. My submission is that for the same reason this amendment, if adopted, would make the resolution out of order.

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†*Dr. B. R. Ambedkar :* No. The question of resignation of the Ministry is a matter for the party. It is not a matter for the House. It is just a matter for the party whether they should stick to office or should not. It would be quite another matter if the Ministry state that the people of this country should not participate in the war. On that point the House can express its opinion. My submission is that the suggestion made by my honourable friend is not before the House—I do not know whether such an amendment to delete the words "while recording its fullest confidence in the Ministry" is coming or not. I am speaking on the amendment as it is now, and my submission is that in the terms in which the amendment stands now, it offends against sub-clause (*a*) of Rule 75. I will make my submission when the other amendment is before the House.

The Honourable the Speaker : The point of order was that by this amendment more issues than one are sought to be raised in the resolution as it originally stands. Therefore, the honourable member's objection is not restricted to those words only "while recording its fullest confidence in the Ministry".

Dr. B. R. Ambedkar : That is what I stated. It is to the whole of the thing.

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†B.L.A. Debates, Vol. 7, p. 1978, dated 25th October 1939.

46

*ON PARTICIPATION IN THE WAR : 2

Dr. B. R. Ambedkar (Bombay City) : Mr. Speaker, Sir, at the outset I must mention that I am somewhat chilled at the decision that you have taken that you will not allow more than 45 minutes for any particular member who happens to be in the position of a leader. You also repeated the same just now ; and having regard to the notes that I have before me, I am afraid that I must begin by asking your indulgence for some extension of time. I might tell you that my request is not of an extraordinary character. There is a precedent. We all know the story in *Mahabharata* about king Yayati. He happened to marry in his old age a young girl by name Devyani. After marriage he found that there was so much discrepancy between the ages of the couple that unless some period was added to his youthful life, the marriage would be of no use at all. Turning round he began to find out whether there was any charitable soul who would consent to deduct a part of his life and add the period to his own. He could find no one. Fortunately, his son Pururava who was a very dutiful son, much younger and who needed all his youth to himself, came forward and offered a part of his life to that of his father. Sir, I would assure, you that those who are sitting behind me—and, if I may say, my relations with them are those of sons and father—have all agreed to have some deduction made from their time in order that that may be added to mine. But I know that unless you bless the bargain and sanction it, the addition cannot be made. It may be that this addition may not be necessary, but should the events turn out that the addition is necessary, I will proceed in the hope that you will sanction it ultimately.

Sir, turning to the resolution which the Honourable the Prime Minister has moved, I cannot help saying that this resolution to my mind, seems to be improper and inopportune. This resolution asks the House to demand a certain declaration, and further proceeds to invite the House to sanction a certain procedure in case those demands are not met. First of all, I want to know who made these demands ? Obviously, the demands which have been made to His Excellency the Viceroy were not made by this House.

*B.L.A. Debates, Vol. 7, pp. 2018-35, dated 26th October 1939.

The Honourable the Prime Minister did not think this House to be a worthwhile place for him to table the demands in the name of the country and to have the backing of this House before they were sent to His Excellency the Viceroy. The demands, as we know now, were presented by what the Honourable the Prime Minister will call his "High Command" and which I say is nothing but a vigilance committee appointed to check the bold actions of the ministers. (Laughter). My submission is, that this was the proper place where the demands ought to have been placed. He did not choose to do so. If they were tabled they were passed at the back of this House by somebody unknown to the constitution and unrecognised by this House, and after having done that, he now quietly comes to the House and says : "Well, the thing has been bungled ; come to our rescue." I submit that this is a most insulting procedure.

The second thing which I have to say about this resolution is, that this resolution asks for a declaration in certain terms. Now, Sir, it seems to me that a certain kind of declaration has been made by His Excellency the Viceroy. That declaration was known to the people of India on the 18th of this month ; some seven clear days have now elapsed after that. Now all that the House, in all propriety, could do is to express its opinion that that declaration is not a satisfactory declaration ; but the resolution does not do that. Although there is a declaration ; the Honourable the Prime Minister has worded his resolution without in any way expressing whether that declaration is acceptable or not, or whether some other declaration ought to be made or not. The whole thing seems to sound trivial. Sir, I do not wish to proceed in that strain, because my honourable friend the Prime Minister has requested the members of the Opposition to treat this resolution as though it was a non-contentious matter. But I would say that it is very seldom that a dog gets a chance to eat a dog, and such a resolution is one which shows that a dog can eat a dog. However, I am prepared to respond to the invitation of the Honourable the Prime Minister and treat the resolution and the amendments which have been tabled in a non-contentious manner.

Sir, as I am going to make some comments upon the resolution as such, and also upon the amendments, I would like at the outset to show to the House in what respect I agree with the resolution. In so far as the resolution says that India has been made a participant in the war between Great Britain and Germany without the consent of the people of India, I am in wholehearted agreement with it. In fact, I would have gone a step further because the position is really very anomalous. Here we are tied down to the chariot wheel of the British Cabinet. The British Cabinet controls the foreign policy of the Empire. In the making of the foreign policy this country has no voice. In the declaration of war this country has no voice. In the settling of peace terms this country has no voice.

Probably an invitation might be extended to some members from the public to go to Versailles or to some other place, where the peace is signed, in order to sign their names on the document. Beyond that, this country, I am sure, will not have any place. That is certainly a most anomalous position. I say that India has a greater right to participate in the foreign policy of Great Britain, a far greater right than the Dominions have. As the Honourable the Prime Minister referred in the course of his speech, under the Statute of Westminister it is open to a Dominion to declare herself to be neutral and to exempt herself from the consequences of a war for the outbreak of which she was not responsible. Unfortunately, we have at present no Dominion Status. We have no right to declare ourselves to be neutral. Without our will and without our consent we are dragged in this slaughter ; and I say that, if this is the case, we have a far greater right than any Dominion possesses in order to insist that we shall be consulted all along. Therefore, so far as that portion of the resolution is concerned, I give my full support.

There is one other matter also to which I would like to make a brief reference. Although this country has been involved in the war without her consent, as the resolution rightly says, this country from the standpoint of defence, is in a most defenceless condition. Supposing the question of defence of this country arose, then where is the army? Where is the navy ? Where are the aeroplanes that can protect this country ? As a member of the Round Table Conference, I remember we fought for one principle, and that principle was that the defence of India should be recognised as the responsibility of Great Britain and Indians should be taught to defend themselves. I am sorry to say that so far as I have been able to observe the defence policy of the Government of India, they have not taken any satisfactory measures along that line. I see nothing in their policy so far as the fulfilment of that principle is concerned. Therefore, I think that also is a legitimate part of the complaint which India could make. Now these are the points on which I agree with the Government ; but I am sorry to say that there my agreement ends.

Sir, as you know, I have tabled in all four amendments. They are three, but they are in fact four. I propose to take together the two amendments which deal with the rights of the minorities, and I will take the other amendments separately. I do not propose to read the amendments again to the House, because I want to economise time. The House fully knows what the amendments are. The Honourable the Prime Minister ended by drawing the attention of the House to the principle embodied in the constitution of the United States. He read a passage from the constitution of the United States which referred to democracy, to life and liberty and to pursuit of happiness. And he commended that those of us who are sitting on the Opposition benches should have a regard for that ancient and

very human document which embodied the principles of democracy. Sir, I would on my part, take the liberty to remind the Honourable the Prime Minister of the condition of affairs relating to South America. He referred to North America, and I shall be referring to South America—they are countries which are very near each other. My honourable friend the Prime Minister, I am sure, will recall the fact that when the Spanish American colonies such as Brazil and others separated from the Spanish empire, they also thought of framing their own constitutions. They did not know how to frame their own constitutions. Consequently, they sought the assistance of a man whom I am sure the Honourable the Prime Minister is familiar with. What they did was this—they referred the matter to Jeremy Bentham. Jeremy Bentham must be known to every lawyer, if not to the outside world. Jeremy Bentham was a great legislator ; he was a man who indulged in formularies ; he was a man who indulged in symmetrical classification of things ; he wanted to reform the English law on the basis of pure rationalism. The South American colonies thought that a man who believed in nothing but applying reason and who believed in doing things a priori was a proper person who would be asked to frame a constitution for themselves. They sent emissaries with briefs, I believe, marked, as they usually are for counsel, to draft the constitution. There were innumerable colonies in South America, all spilt out of the old Spanish empire. Jeremy Bentham jumped at the opportunity of drafting constitutions for these new countries in South America. He took great pains and framed the most elaborate documents. I see the Prime Minister laughing, because he knows the facts. And, Sir, they were shipped all these documents, constitutional documents framed by Jeremy Bentham, were shipped over to South America, for the protection of the life and liberty of the people and for the intonement, if I may say so, of the democratic principle. When they went there, they were tried by the South American people for a few years. And afterwards every constitution that was framed by Jeremy Bentham broke to pieces, and they did not know what to do with the surplus copies that had arrived ; and all the South American people decided that they should be burnt publicly.

Sir, the point that I want to emphasise is this, that a constitution, like a suit, must fit. A constitution which does not fit is no constitution—it cannot be a constitution. For instance, the coat which the Honourable the Home Minister, with his slim body, is wearing could not fit on the corpulent structure that I carry. (Laughter). Could it ? Would a suit made for a man with a hunch-back fit a normal man's back ? (Laughter). Can a shoe which fits a man who can place his feet firmly and straight on the ground fit a man who has a crooked leg? It cannot. Therefore, in talking about democracy, we must talk about fitting theories to facts. Now, the point that I am going to elaborate is this : Would the principle of democracy suit the

people of India ? My honourable friend the Prime Minister has not enlightened us by enunciating what he regards as the principles of democracy. But I take of that what he means by democracy is majority rule, because unless we all accept majority rule as the fundamental working principle, there can be no political democracy. Obviously that is the root, that is the basis, that is the line from which we must proceed to discuss this question.

Now, Sir, I think everybody will agree with one observation that the Leader of the Opposition made, namely, that in this country, the facts being what they are, there is one thing which is unalterable ; and that one thing which is unalterable is this, that the Hindus will remain in a majority, and the Muslims and the Scheduled Castes will remain in a minority, that, I submit, is an incontrovertible fact, a fact which whether we believe in one thing or other, we must all accept. Now the question, to my mind, is a very simple question, and I am going to deal with it purely from the standpoint of what are called the untouchable people of this country. To begin with, I will ask the House to note the relative position that we shall occupy under this democracy. Under this democracy which the Prime Minister wishes to be established in this country one thing, as I said, will be unalterable, namely, that there will be a Hindu majority, and, scattered all throughout this land, scattered all throughout every village there will be a small appendix, if I may use that expression a few clusters of huts, a few mud-houses of people who are called untouchables. In every village you will have in juxtaposition a colony consisting of Hindus, and a Maharwada or a Chambharwada or a Bhangiwada or whatever you like to call it attached to that colony. That will be the unalterable fact.

Now, my honourable friend asks me to submit to democracy. Well, I think he will allow me to say that my answer to this question would depend upon how this majority behaves towards me. Is this majority a tolerant majority ? Does this majority recognise equality, liberty and fraternity ? Will this majority permit me to live, to breathe, to grow ?

The Honourable Mr. B. G. Kher : Of course, it will.

Dr. B. R. Ambedkar : What is the attitude of the majority ? That is the only question that will have to be considered. My honourable friend said "Yes". But let us look to the facts. I am not going to travel into past and ancient history ; I propose to begin with the year 1929. The House knows that in the year 1929 the Bombay Legislative Council, by a resolution, appointed a committee to enquire into the grievances of what are called the Depressed Classes and the Aboriginal Tribes. That committee was presided over by an officer, named Mr. Starte, who was in charge of the criminal tribes. I was a member of that committee ; my colleague, Dr. Solanki, was a member ; the rest were Hindus. I would mention particularly one person, who happened to be a member of this

committee, and that was Mr. Thakkar, because I know that my honourable friend the Prime Minister will far more readily accept the testimony of Dr. Thakkar than of myself. Now. Sir, what was the attitude of the majority of the Hindus towards the depressed classes in the year 1928 ? I will just take your permission to read one paragraph from this report. Para. 102 of this report says :

> "Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.
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> The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land and boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence, sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street."

That was the condition in 1928. The question I should like to ask is this : Has there been any change since 1928? Now, Sir, so far as evidence is available to me, I have no hesitation in saying that the situation has not only not changed, but has worsened. I will give a few illustrations in order to support my contention.

The first thing I would refer to is the election of 1932 that took place

to the Legislative Council. As my honourable friend the Prime Minister would recall, in 1932 the Congress boycotted the legislature. They refused to fight the elections. Now, Sir, the Congress in 1932—I stand to be corrected if the date is wrong ; I quote it from memory—

An Honourable Member : It was 1930.

Dr. B. R. Ambedkar : 1930 ; the Congress in 1930 adopted various devices to scare away people, to persuade people not to participate in the elections. Sir, I should like to remind the House that that was the year in which the civil disobedience movement had also begun. And, if I mistake not, according to Congressmen, that is a momentous year, because it was the year in which the Dandi March took place. Sir, what were the slogans that were used by Congressmen in 1930 in order to prevent the people from joining the legislature ? One slogan used by these people was this, so far as I remember : Council may jana haram hay. But that was not all. The other slogan was this : Council may kon jayaga ? Dhed jayaga ; Chamar jayaga. These were the slogans that Congressmen had used. (Interruption). Please. If my honourable friends want evidence, I will produce unimpeachable evidence. And I may say in this House that the slogan was so insulting that even the *Times of India* felt it necessary to write an editorial about it. Now, Sir, the point that I was illustrating was this : that Hindus, even of the Congress persuation,—who say that they have forgotten caste, who say that they have forgotten religion, who say that they have forgotten untouchability—, Hindus even of the Congress persuasion used that slogan. If, Sir, the pick of the nation as I see here, the best informed, the most enlightened part of the Hindu community, is capable of expressing this kind of abomination towards a community so helpless, so downtrodden, what can you expect from the orthodox to whom the law of Manu is far greater than the law passed by my honourable friend the Prime Minister ?

Sir, let me take another case. I am taking mostly cases from Gujarat, for a very deliberate reason, because I am told that that is the most enlightened part of our presidency. The instance I am speaking of now comes from a village called Kavita in Dholka taluka in the Ahmedabad district. Let us all be particular about it. In this case, the facts were these. On a certain day, a certain Brahmin of the village had assaulted certain members of the untouchable community resident in Kavita. My honourable friend may note that these facts are taken from the *Harijan,* the last word on it.

The Honourable Mr. B. G. Kher : I had been to that place ; I know the incident. The honourable member need not quote it.

Dr. B. R. Ambedkar : The facts were these. A certain Brahmin assaulted certain members of the untouchable community in that village. Thinking in their impudence, if I may say so, that it was possible for these untouchables to have a Brahmin prosecuted and punished, they took it into their heads to go to the District Police to lodge a complaint against

the assailant. In the meantime, what had happened was this. On the day on which the male members of the untouchable quarters had gone out, an invasion of the quarters of these untouchables took place by caste Hindus of the village. Their houses were demolished, their roofs were thrown out. Finding that the male members were not present to receive blows, all these gentlemen lay in wait till evening thinking that these people would return at night. Some women who had come to know their plan sneaked out of the village and met the male members half way at night and told them that it was most dangerous to come to the village, because their life was not safe. These people spent the night outside the village and did not return. The next day, they came back in a scattered manner without being noticed, and managed to come to the village. They found that all their huts were demolished. Subsequently, they came to know that the village had declared a boycott. They were not allowed to purchase anything from the village Bania. Not only that, the villagers went further, purchased tins of kerosine oil and poured it into the watering place from where these people used to get their water. Then, they felt that something ought to be done. They thought, ill-advised as they were, they should have recourse to law. They went again and lodged a complaint. Some Congress friends of theirs intervened. What did they do ? Did they help these poor untouchables to vindicate their rights ? No. They persuaded them to withdraw the complaint and submit quietly. The distressing part of the whole business is here. What wrong have these untouchables of Kavita done ? Why were they persecuted in this manner ? For no other reason but this. The untouchables of Kavita persisted in sending four of their children and admitting them in the school where they should be admitted according to the orders of Government.

The next case to which I am coming is the case of a Bhangi boy who had the misfortune to be appointed a talati. His name is Parmar Kalidas Shivram. With your indulgence, I propose to read what Parmar Kalidas Shivram said at a public meeting in Bombay under the chairmanship of Mr. Indulal Yagnik at which I was also present. I was tremendously moved on hearing the story. I asked him to give me in writing the whole thing. I have merely translated what he has given to me in writing. This is the story :

> "I passed the vernacular final examination in 1933. I have studied English up to the 4th Standard. I applied to the Schools Committee of the Bombay Municipality for employment as a teacher but I failed as there was no vacancy. Then I applied to the Backward Class Officer, Ahmedabad, for the job of a Talati and I succeeded. On the 19th February 1938, I was appointed a Talati in the office of the Mamlatdar of the Borsad taluka in the Kaira district.
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> Although my family originally came from Gujarat I had never been in Gujarat before. This was my first occasion to go there. Similarly, I did

not know that untouchability would be observed in Government offices. Besides, in my application the fact of my being a Harijan was mentioned, and so I expected that my colleagues in the office would know before hand who I was. That being so, I was surprised to find the attitude of the clerk in the Mamlatdar's office when I presented myself to take charge of the post of Talati.

The Karkun contemptuously asked, "Who are you ?" I replied, "Sir, I am a Harijan." He said, "Go away, stand at a distance. How dare you stand so near me. You are in office, if you were outside I would have given you six kicks. What is this audacity to come here for service !" Thereafter he asked me to drop on the ground my certificate and the order of appointment as Talati. He then picked them up.

While I was working in the Mamlatdar's office at Borsad I experienced great difficulty in the matter of getting water to drink. In the verandah of the office there were kept cans containing drinking water. There was a waterman in charge of these water cans. His duty was to pour out water to clerks in office whenever they needed it. In the absence of the waterman they could themselves take water out of the cans and drink it. That was impossible in my case. I could not touch the cans for my touch would pollute the water. I had, therefore, to depend upon the mercy of the Waterman. For my use there was kept a small rusty pot. No one would touch it or wash it except myself. It was in this tin that the waterman would dole out water to me. I could get water only if the waterman was present. This waterman did not like the idea of supplying me with water. Seeing that I was coming for it he would manage to slip away with the result that I had to go without water and the days on which I had nothing to drink were by no means few.

I had the same difficulties regarding my residence. I was a stranger in Borsad. No caste Hindu would rent a house to me. The untouchables of Borsad were not ready to give me lodgings for the fear of displeasing the Hindus who did not like my attempt to live as a clerk. Far greater difficulties were in regard to food. There was no place or person from where I could get my meals. I used to buy 'bhajias' morning and evening, eat them in some solitary place outside the village and come and sleep at night on the payment of the verandah of the Mamlatdar's office. In this way I passed four days. All this became unbearable to me. Then I went to live at Jentral, my ancestral village. It was six miles from Borsad. Everyday I had to walk twelve miles. This I did for a month and a half.

Thereafter the Mamlatdar sent me to a Talati to learn the work. This Talati was in charge of three villages, Jentral, Kanpur and Saijpur. Jentral was his headquarters. I was in Jentral with the Talati for two months. The headman of the village was particularly hostile and offensive. Once he said, "You fellow, your father, your brother are sweepers who sweep

the village office and you want to sit in the office as our equal ! Take care, better give up this job."

One day the Talati called me to Saijpur to prepare the population table of the village. From Jentral I went to Saijpur. I found the headman and the Talati in the village office doing some work. I went, stood near the door of the office and wished them good morning, but they took no notice of me. I stood outside for about 15 minutes. I was already tired of life and felt enraged at being thus ignored and insulted. I sat down on a chair that was lying there. Seeing me seated on the chair the headman and the talati quietly went away without saying anything to me. A short while after, some people began to come to the village library. I could not understand why an educated person should have led this mob. I subsequently learnt that the chair was his. He started abusing me in the worst terms. Addressing the Ravania, that is, the village servant, he said, "Who allowed this dirty dog of a bhangi to sit on the chair ?" The Ravania unseated me and took away the chair from me. I sat on the ground. Thereupon the crowd entered the village office and surrounded me. It was a furious crowd ranging with anger, some abusing me, some threatening to cut me to pieces with a dharia and I implored them to excuse me and to have mercy upon me. That did not have any effect upon the crowd. I did not know how to save myself. But an idea came to me of writing to the Mamlatdar about the fate that had befallen me and telling him how to dispose of my body in case I was killed by the crowd. Incidentally, it was my hope that if the crowd came to know that I was practically reporting against them to the Mamlatdar they might hold their hand. I asked the Ravania to give me a piece of paper which he did. Then with my fountain pen I wrote the following on it in big bold letters so that everybody could read it :—

"To the Mamlatdar,

Taluka Borsad.

Sir,

Be pleased to accept the humble salutations of Parmar Kalidas Shivram. This is to humbly inform you that the hand of a mean death is falling upon me today. It would not have been so if I had listened to the words of my parents. Be so good as to inform my parents of my death."

Now, I will refer to certain instances showing the behaviour of the majority towards the Scheduled Castes. One is the case from the Kekatnim-bhore village, taluka Jamner. It is as follows :—

"The Depressed Class people of this village have given up observance of any Hindu festival and have adopted a clean mode of living. One holiday they were asked by the caste Hindu to provide for their Holi cowdung from the fields. The Depressed Class people did so. But they did not have Holi and hence they did not provide for fire to the caste Hindus. Therefore the Hindus rushed into their colony, beat them in

their homes and have declared severe boycott on them and have made their life miserable.".

Another case is a case from Vadali village in Jamner taluka. In that village a marriage procession of the Depressed Class people was not allowed to pass through the common gate of the village. The procession was broken and the caste Hindus did not allow the marriage ceremony to be performed on the same day. The Depressed Class people were socially boycotted.

Then there is another case from Manded in Amalner Taluka. In Manded the Depressed Class people held a conference and passed a resolution supporting abandonment of bad habits and to take to a clean mode of life. Some of the caste Hindus did not like the idea. They killed one small pig and put it into the drinking water of the Depressed Class people. This process was repeated twice. The Depressed Class people are now socially boycotted and harassed. Many of the Depressed Class people have vacated their places due to harassment.

Sir, I do not wish to repeat *ad infinitum* cases which show how intolerant this Hindu majority is so far as the untouchables are concerned. I may say that I will take not only a day but probably a month in order to recount all the material that I possess.

Now, the next question that I ask is this : What protection do the Scheduled Castes get as against this harassment? On that point before I make my submission to the House, I would like to draw the attention of the House to the composition of the administration of this country. I have only figures for the Bombay Presidency with me but, in my judgment, these figures are the typical ones ; they would be true not only of this province but they would be true of any part of India. How is the administration of this presidency manned? This is how it is manned. I am taking the figures given by the Government themselves ; they are not my own figures. I am taking, first of all, the Scheduled Castes and the Revenue Department. So far as the District Deputy Collectors are concerned, they are 33 and there is only one person belonging to the Scheduled Castes. There are hundred mamlatdars in this province ; out of these hundred mamlatdars there is only one from the Scheduled Castes. There are 34 Mahalkaris, but there is none from the Scheduled Castes. There are 246 Head Karknns, but there is none from the Scheduled Castes and, coming to the number of clerks in the Revenue Department, they total 2,444. Of them, persons belonging to the Scheduled Castes are just 30.

Now let us take the Public Works Department. In the Public Works Department there are 829 clerks. In this number of 829 clerks the Scheduled Caste people are just seven.

In the Excise Department there are 189 clerks. Of them, the Scheduled Castes can claim not more than three.

Coming to the Police Department, according to the figures given, the

total number of sub-inspectors is 538. In this number of 538 the untouchables are only two. It is, therefore, obvious that the composition of the administration is entirely Hindu. No question on that point at all.

I would further draw the attention of the House as to how the position of the Scheduled Castes stands in comparison with the other minorities in this province. In the Revenue Department, so far as the district deputy collectors are concerned, out of 33, 8 are Muslims, 3 are Christians and only 1 belongs to the Scheduled Castes. Out of the 100 mamlatdars, 30 are Muslims, 3 Christians and 1 belonging to the Scheduled Castes. Out of 34 Mahalkaris there are 4 Mohomedans, 3 Christians but no man from the Scheduled Castes. Out of 246 Head Karkuns, 17 are Mohomedans, 7 are Christians but no one from the Scheduled Castes. Out of the total number of 2,444 clerks, there are 283 Mohomedans, 61 Christians, 58 backward class people and 30 Scheduled Caste people. In the Police Department, out of 538 sub-inspectors, 106 are Mohomedans, 17 are Christians, 6 are backward class people and only 2 are untouchables. In the Public Works Department out of 829 clerks, 41 are Mohomedans, 28 Christians, 7 Backward Classes and 7 untouchables. In the Excise Department out of 189, 13 are Mohomedans, 19 Christians and 3 untouchables.

Therefore, Sir, the position with which we must start at the outset is that the Hindus are not only in a majority so far as the population is concerned, but the Hindus are in a majority so far as the administration is concerned. And the question that I want to ask the Honourable the Prime Minister is this. I think I have shown, I trust to his satisfaction, that the Hindu majority must undoubtedly be reckoned as a hostile majority. He nods his head. He is welcome to his own conclusions. I shall not quarrel with him. But that is the position. How do the untouchables fare in the matter of protection against this harassment? I want to take again a few cases to show that the whole of the administration, manned as it is by the caste Hindus, is certainly hostile to the untouchables ; that they do not wish, that they do not desire, and they do not care for justice when the parties to the quarrels are the caste Hindus on the one side and the untouchables on the other.

Now, the first case to which I want to refer is this. I am giving the number, so that my honourable friend may make inquiries. It is a judgment in Criminal Case No. 191 of 1938 on the file of the Magistrate of the First Class, Sangamner. In this case 7 Hindus were charged under offences falling under section 147, i.e., rioting, 323, 341, 452, 454 and 149 of the Indian Penal Code. The facts were briefly these. The complainant was an untouchable coming from the village which is called Vadgaon Langda. His case was that on a certain day, the villagers in a body of 200, armed with sticks, lathis and other instruments invaded the Mahar quarters and assaulted not only men but also the women. The hurts were grievous hurts.

They were in hospital for several days. Fortunately for them the police took up the case as a cognizable case, which they were bound to do on account of the fact that the hurt was a grievous hurt. These nine people were prosecuted in the court of the First Class Magistrate of Sangamner. The evidence was led by the Police. There was ample medical evidence to show that hurt was caused, and yet what happened ? And, if I may say, these nine accused felt so convinced of their guilt that they had actually sent word to me that they were prepared to compromise the matter by paying Rs. 300 to the Mahar men and women who were assaulted. In my poor judgment, I advised the Mahars not to compromise, but to allow the law to take its course. And what did the law do ? What did the Magistrate do ? To the surprise of everyone, what the Magistrate did was that he acquitted all the accused.

Dr. K. B. Antrolikar : Sir, is it competent to the honourable member to offer comments on the judgment of a Magistrate ?

Dr. B. R. Ambedkar : Certainly. I am stating facts.

The Honourable the Speaker : I was just considering the point. But I wanted to hear the facts which the honourable member, was stating. I do not think it will be proper on his part to criticise the judgment of the Magistrate ?

Dr. B. R. Ambedkar : Sir, I am not criticising. I am only stating the facts. I am stating how much protection we get. It is to give a notion as to the protection that the untouchables get, that I am submitting this to the House. I am not challenging the judgment in any way. What I am saying is this : that these people, who felt in their heart of hearts that they were guilty, and were prepared to compromise by paying Rs. 300 by way of compensation, were ultimately acquitted by the Magistrate. And the point that I want to emphasise is this : Why was this assault committed ? Why ? The reason why the assault was committed was simply this, that the untouchables had the audacity to make an application to the Magistrate that some forest lands should be given to them. That was the offence that these poor people had committed. Another case to which—

The Honourable the Speaker : I would not like to "chill" the honourable member, to use the honourable member's own expression, but I may only remind him that he has already taken one hour. He will take some more time, I am sure. But if he goes into the minor details of the cases which he is citing then I think another hour would not suffice, and I am anxious to see that the debate comes to a conclusion much sooner.

Dr. B. R. Ambedkar : Sir, I just want to refer to two other matters in order just to complete my argument. Another case where the untouchables feel that the officers of the State have failed in giving them the protection to which they are entitled, is the case which comes from a village called

Akushi. Now, in this village what had happened was this. This village is in the Wai taluka in the Satara district. The facts are very simple. In that village there was some trouble between the untouchables and the touchable Hindus. The untouchables and the caste Hindus were at loggerheads. But the untouchables decided that on the *Ekadashi day* they should go for what is called *deo darshan*. The caste Hindus, who had proclaimed a boycott against them, did not want the untouchables to go for *deo darshan*. Notwithstanding this, the untouchables went. The result was that the Patel of the village, in combination with the other villagers, assaulted the untouchables who went to *deo darshan*. As usual, the untouchables filed a complaint against the Patel of the village. The position was this : The Patel knew that he was guilty. A summons was issued. He went away and would not take the summons. Then the summons was pasted on his door. He absconded for three months. Ultimately he came back and the law took its course. Even in this case the learned Magistrate, who tried the case, thought it fit to acquit the accused person who had absconded for three months knowing full well that he was guilty.

The other case to which I would make a brief reference is a case which comes from the Poona district from the village of Thatwadi in the Mulshi Peta. In that case what had happened was this. This is an inam village. Somebody had cut some two or three trees of the inamdar. The inamdar lodged a complaint with the police saying that some Mahars, without mentioning anybody, had cut his trees and had stolen the wood. The police officer who made the investigation prosecuted four persons in the court of the magistrate. Now what happened was, that in the course of the prosecution, the pleader who appeared for the accused persons called for the Public Prosecutor to produce the fabricated first information and entered the names of the four Maharas as accused persons although originally no mention of any name was there. Fortunately, the Mahars were acquitted, but the fact remains that even the police officers who are supposed to give protection to these untouchables go to the length of fabricating evidence in order to involve them in such cases.

Sir, I will not mention any more instances now. I think this story is a sickening one ; is certainly sickens me. I know that the Hindus as a whole care nothing. They laugh at it. They only think that the problem in this country is the problem between the Hindus and the Muslims. I want to tell them that this is a far more serious problem and not only the Hindus, but even the State has not taken sufficient care of these people. If any argument was needed in support of the two amendments which I have tabled, namely, that in any constitution that is going to be framed the untouchables must have adequate safeguards, I think the arguments that I have now submitted to the House would be more than sufficient. I know that there is a certain amount of response on the other side. Two amendments have been tabled

by the Honourable the Home Minister. I must tell him frankly that I am not in a position to accept those amendments, and I shall tell the House presently why I cannot accept his amendments in preference to mine.

The first amendment of the Honourable the Home Minister is to the effect that the constitution shall provide adequate safeguards for the protection of the minorities. The position that I take is very simple and it is this : Not only we must have safeguards, but the safeguards must be to our satisfaction. That is the fundamental point. The Honourable the Home Minister evidently supposes that he is a trustee for the untouchables and that as a trustee he could enact certain provisions in the constitution which according to him, must suffice for the protection of the rights of the minorities. Now, I at once want to say that I repudiate that position. Nobody is my trustee ; I am my own trustee. They may make their constitution, but we shall claim our right. Whatever provisions they may make relating to our safeguards must be certified by the accredited representatives of the Depressed Classes that they are adequate. Their definition of adequacy will not satisfy me, and that is why I am not in a position to accept the first amendment moved by my learned friend.

With regard to the other amendment, no doubt the Honourable the Home Minister is prepared to meet half way. He is prepared to recognise that the minorities should have a voice in the governance of the country. There again I find that there is a certain amount of difference between him and me. My second amendment has been most deliberately worded. I have taken particular care to use the words "fundamental right," and I want to explain my position to some extent as to why I have used the expression "fundamental right". The one thing that I have realised in the course of the working of the constitution is this : Whether we admit it or not, the political system of this country is reflective of what we call the *chathur varna.* In that system, the theory was this : that the *Kshatriya* must rule ; that the Brahmin must advise ; that the Vaishya must trade but the Sudras or the Adi Sudras must serve. That was the position in olden times. I find in politics the position has changed to some extent. The Vaishya no longer trades. If he trades he trades in politics only. (Laughter). One thing has, however, remained unalterable, and it is that the Sudras shall have no part in the governance of this country. As I observe conditions in this country, as I observe the political constitution of the different cabinets that have been formed all throughout India, I notice that while we untouchables are Sudras or Adi Sudras socially, the Congress Government—if not the Congress Government, the exigencies of the situation—are such that it will ultimately lead us to become political Sudras. I will not tolerate it. I will shed the last drop of my blood to uproot that position. (Loud cries of "hear, hear"). I will not tolerate it if to the social dominance, the economic dominance and the religious

dominance which the Hindu exercises over me, is added the political dominance also. I will certainly not tolerate it. I repeat again that I will never allow it. We shall fight tooth and nail against politics being perverted for the purpose of establishing an oligarchy of a ruling class. I will not allow that. I repeat, I cannot allow a constitution which will mean liberty for them and empire over me. I will not allow a constitution in which I am not free and I am not an equal partner. Never will I allow that. Sir, I know these are strong words. But I want to remind the Honourable the Prime Minister that these words are not stronger than the words that were used by Ulstermen in connection with Ireland. I know that in this country when a man belonging to a minority community stands up to fight for the rights of his community, the whole crowd comes out against him, dubs him as communal, dubs him as an anti-Indian and dubs him as a tool acting in the hands of some bureaucrat working for the destruction of this country. Sir, I want to caution this crowd which is taking this attitude ; I say that the attitude that the minorities in this country are taking is far better, far nobler, than the attitude that Ulstermen took. What was the attitude of Ulstermen ? I remember reading the proceedings of a conference which was held at the instance of the late King Edward VII at Buckingham Palace in order to bring together the Southern Irish Nationalists and Ulstermen. The question was whether Ulster should be brought under the majority rule of the Southern Irishmen. What were the proposals made by the Nationalists in Southern Ireland to Ulstermen ? Many people probably might not be aware of that history. Those who are will know that Mr. John Redmond, who was the leader of the Irish Nationalist Party, did his level best in order to induce the Carsonites to come under the constitution. He said : "You can have any amount of weightage you like ; I do not mind." Let us not live under the belief that weightage is being talked of only in India ; weightage was talked of a great deal in Ireland, and Redmond was prepared to give weightage to Ulstermen. He was prepared to give power in the constitution to some officer to prevent any kind of discrimination being made against Ulstermen. A further provision that the Irish Nationalists were prepared to make for Ulstermen was this, that if after 10 years the Ulster people found that the Southern Irishmen—who undoubtedly would be in a majority—abused their powers and maltreated and persecuted the Protestants of Ulster County, the Ulstermen had the right to go out of the constitution. Sir, they were tremendous provisions. What was the reply of the Ulstermen to this offer? The reply that the Ulstermen gave to Redmond was this : "Damn your safeguards. We do not want to be ruled by you." Are we saying that? Would I not be entitled to say, in view of the stories that I have recounted, "Damn your safeguards. I do not want to be ruled by you ?" I am not saying that. What I am saying is this : "Give me my safeguards, which I think are necessary ;

and you can have your democracy." I am sure that is a position which no man can quarrel with.

I would say one word in the end. I know my position has not been understood properly in the country. It has often been misunderstood. Let me, therefore, take this opportunity to clarify my position. Sir, I say this, that whenever there has been a conflict between my personal interests and the interests of the country as a whole, I have always placed the claim of the country above my own personal claims. (Hear, hear). I have never pursued the path of private gain. If I had played my cards well, as other do, I might have been in some other place. I do not want to say anything about it, but I did not do it. There were colleagues with me at the Round Table Conference who, I am sure, would support what I say—that so far as the demands of the country are concerned, I have never lagged behind. Many European members who were at the Conference rather felt embarrassed that I was the enfant terrible of the Conference. But I will also leave no doubt in the minds of the people of this country that I have another loyalty to which I am bound and which I can never forsake. That loyalty is the community of untouchables, in which I am born, to which I belong, and which I hope I shall never desert. And I say this to this House as strongly as I possibly can, that whenever there is any conflict of interest between the country and the untouchables, so far as I am concerned, the untouchables' interests will take precedence over the interests of the country. I am not going to support a tyrannising majority simply because it happens to speak in the name of the country. I am not going to support a party because it happens to speak in the name of the country. I shall not do that. Let everbody here and everywhere understand that that is my position. As between the country and myself, the country will have precedence ; as between the country and the Depressed Classes, the Depressed Classes will have precedence—the country will not have precedence. That is all that I would say with regard to these two amendments of mine.

Now, with regard to the other amendments, I do not propose to detain the House at all. I was rather surprised at the remarks made by the Honourable the Prime Minister with regard to a part of the resolution which says that whatever arrangements are to be made they should be made with the consent of the Provincial Governments. I knew that he was not aware of the amendment which is being moved by my honourable friend Mr. Mukadam, because, I see, those parts are to be deleted. Therefore, I will not make any comments upon that part of the resolution, although I must say that on principle I do not agree with this part of the resolution.

Now, Sir, before sitting down I would like to say one or two words with regard to the other amendments that are before the House. In doing so, I would advert first to the amendment moved by the honourable member the Leader of the Opposition. With regard to that amendment, I would

request the Prime Minister to note one thing which I think he has failed to note. It is true that the Leader of the Opposition in his amendment says that democracy has failed. But, Sir, the point that I wish the Prime Minister to note in making his comment upon the amendment of the Leader of the Opposition is this. We see now that he is opposed to democracy ; but, Sir, he may not be opposed to self-government. After all, democracy, autocracy, republicanism—these are all forms of government ; they all come under self-government. So long as the honourable member the Leader of the Opposition does not take the view that this country is not entitled to self-government, I think too much blame ought not to be attached to the unfortunate language that has been used. After all, he is with us.

And I do not understand my honourable friend the Prime Minister insisting upon democracy as the only solution. I remember reading the speeches of the leaders of the Honourable the Prime Minister at the Tripuri Congress. Unfortunately, the volume which I had with me I forgot to bring today. So much the better, because I could save time. But I think at the Tripuri Congress the friends of the Honourable the Prime Minister, Pandit Govind Vallabh Pant, Mr. Rajgopalachari, Pandit Jawaharlal Nehru and all of them were singing the praises of Mussolini and Hitler—

The Honourable Mr. Morarji R. Desai : When ?

Dr. B. R. Ambedkar : I will quote chapter and verse if it is wanted. In fact I wanted to bring the book, but I forgot to bring it.

The Honourable Mr. B. G. Kher : I was present there, and I heard the speeches. What the honourable member says is not correct.

Dr. B. R. Ambedkar : I am sorry, I have not got the volume with me now. If I had it, we could have decided the issue right now.

The Honourable the Speaker : There is no time for that now.

Dr. B. R. Ambedkar : All that I am saying is this, that so long as people in India have self-Government, whether the self-Government takes the form of democracy, whether it takes the form of autocracy, or whether it takes some other form, it is a matter of detail, about which there ought to be no quarrel. And, therefore, my submission is this : that in judging of the resolution, which, as I said, is somewhat unfortunately worded, his intention should not be misconstrued.

With regard to the amendment moved by the Congress Party, join with the Prime Minister in saying that they ought to be felicitated on the amendment that they have moved, and I agree with the main basis of their resolution. There is one amendment, however, to which I cannot lend any support, and that is the one which is to the effect that the House approves of the intention of the ministry resigning—or something like that. Now, Sir, what I should like to say is this. My honourable friend the Prime Minister would agree—he is as good a politician as any politician can be—that this is really a matter for their party caucus. It is not a matter for

the House to decide. Whether the ministry should go out or should not go out is entirely a matter for their party to decide. Why does he want my sanction for his going out?

The Honourable Mr. B. G. Kher : I do not want it.

Dr. B. R. Ambedkar : Why does he need it ? I put to him another conundrum. Suppose I bring an amendment to say that the ministry shall not come back unless I invite them, will he accept it ? I am sure he would not tie himself down in that manner. If you want my sanction for going out, it will be some honour to me if you will also make your re-entry dependent on my sanction. But you will not do that, and I feel bound in conscience to oppose that amendment.

Sir, I thank you for the indulgence you have given me. (Applause).

The Honourable the Speaker : I would repeat my appeal to curtail the time. The honourable member Dr. Ambedkar has taken an hour and a half. I hope other honourable members will now curtail their time.

Dr. B. R. Ambedkar : I apologise, Sir.

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*ON PARTICIPATION IN THE WAR : 3

The Honourable Mr. B. G. Kher : I shall try and finish as soon as you like.

Sir, I will not go over the entire ground which the honourable Doctor has covered. I agree with him : I concede the correctness of what he says about the wrongs done to Harijans, because it is not necessary for my purpose to deny all those instances of wrongs which are done to the members of his community in this country. Those indeed are the wrongs which we have tried to remedy to the best of our ability for a long, long time.

The honourable member did not say what the remedy was ; in that his long speech was lacking. As has been pointed out by other speakers, whether it is the judgment in the Sangamner case or the hundred and one cases which he has read out here, the only remedy is that we must have a proper form of government, and that form of government can only be democracy in this country with due safe-guards for the minorities—a point which we concede. Sir, we are thankful to the honourable member for pointing out to us that he did not say, like the Ulstermen, "Damn your safe-guards ; I do not want to be governed by you." He was not going to say that, and I appreciate it. But I cannot appreciate the statement which he made—and which he believes in—in all sincerity. He said : "As between me and the country, the country has precedence." I support him in this and I shall quote every word of what he has said. I have known the honourable member's life and career intimately, and I can say that this is absolutely correct. He has always been willing to subordinate his personal advancement for the cause of the country. He goes on to say, "as between the depressed classes and the country, the depressed classes have precedence with him."

Dr. B. R. Ambedkar : Certainly.

The Honourable Mr. B. G. Kher : He said that ; he does not deny that. My quarrel is with that statement of his. Because the part can never be greater than the whole. The whole must contain the part.

Dr. B. R. Ambedkar : I am not a part of the whole ; I am a part apart.

*B.L.A. Debates, Vol. 7, p. 2130, dated 27th October 1939.

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APPENDIX I

*ON MEASURES FOR BIRTH-CONTROL

Mr. P. J. Roham (Ahmednagar South) : Sir, I beg to move—

> "This Assembly recommends to Government that in view of the urgent need of limiting the family units, Government should carry on an intensive propaganda in favour of birth-control among the masses of this Province and should provide adequate facilities for the practice of bith-control."

Question proposed.

Mr. P. J. Roham (Addressed the House in Marathi) : The educated class has, by this time, fully realized the necessity of birth-control and fortunately the leaders in our country also are unanimous on this point. Pandit Jawaharlal Nehru, Sir Ravindranath Tagore and Mrs. Sarojini Naidu, know very well the importance and the urgency of the movement for birth-control and are in favour of contraceptives. Babu Subhash Chandra Bose, the President of the Indian National Congress, said in his presidential speech :

> "If the population goes up by leaps and bounds, as it has done in the recent past, our plans are likely to fall through."

Even Mahatma Gandhi has written long ago as follows :

> "I must not conceal from the reader the sorrow I feel when I hear of births in this land."

Very few have an adequate idea of the immense loss sustained by children born of persons who are handicapped either physically, mentally or financially. The parents as well as the society also suffer very much. The prevention of the births of such children would considerably reduce the death-rate among mothers who succumb to child-birth and its concomitant diseases, lower infantile mortality, improve public health by removing the many diseases due to want of even the prime necessaries of life felt by many persons, check the offences perpetrated by persons suffering from intense poverty and would bring about an all-round uplift of society by affording full scope to its spiritual advancement.

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*Speech delivered by Shri P. J. Roham. He has expressly stated that the speech was based in all respects on the points drawn by Dr. Ambedkar for his own speech and that Dr. Ambedkar is the father of this speech. Shri Roham further states that he was complimented by Dr. Ambedkar for almost reproducing the speech which, he had contemplated to deliver in the Assembly, but he could not do so owing to his inability to attend the Assembly on that day, i.e. on 10th November 1938.

B.L.A. Debates, Vol. 4 (Part 3), November 1938. pp. 4024-38.

The present keen struggle of life renders timely marriage impossible for many and thus exposes them to various diseases and habits. Many women become invalid for life and some even lose their lives by the birth of children in their diseased condition or in too great numbers or in too rapid succession. Attempts at abortion, resorted to for the prevention of unwanted progeny, exact a heavy toll of female lives. Unwanted children are often neglected by their mothers and hence they become nothing but a burden to society which is further deteriorated by the addition of defective progeny from diseased persons. Birth-control is the only sovereign specific that can do away with all these calamities. Whenever a woman is disinclined to bear a child for any reason whatsoever, she must be in a position to prevent conception and bringing forth progeny which should be entirely dependent on the choice of women. Society would in no way profit by the addition of unwanted progeny. Only those children who are welcomed by their parents, can be of social benefit and hence every woman must be enabled to resort to prevention of conception quite easily.

Poverty is the root-cause of immorality. The following passage from the essay read by Prof. Dr. Tondler before the Congress at Vienna in 1933 would show the evil consequences of insufficiency of living accommodation. The professor said, "On the average every family gets one room in Germany, two and a half rooms in France and three rooms in England. Seventy-five thousand families had no tenements of their own in Berlin in 1925. The result is that children sleep with the adults not only in the same room but also in the same bed. Many children lose their lives by the overcrowding in insanitary dwellings. Whole families are stricken with veneral diseases. Girls have to succumb to sexual intercourse even before they are mature. Sexual connections often take place between parents and their children and brothers and sisters. The boys learn to commit thefts and the girls become prostitutes. The same condition prevails at Vienna. In 1919, out of the tenements let out, 10 per cent. had only one small room ; 37 per cent. had one big room and 23 per cent. had one small room and one big room. Out of the children between the ages of fourteen and eighteen who maintained themselves, twenty per cent. had no separate beds of their own. Towns and villages fare even worse."

In our country, the same condition prevails in cities like Bombay. A few exceptions apart, it is observed that virtue is palsied where poverty prevails. Further on it will be shown how it is well-nigh impossible to uproot poverty without the aid of birth-control. The aphorism, बुभुक्षित : किम् न करोती पापम् ,is well known.

When we have thus realised that birth-control is the *sine qua-non* for every progress, we must consider the means to attain that end. To be satisfied with only that much of sexual enjoyment that is necessary for getting the desired number of children and to banish sexual thoughts from one's mind when progeny is not required, is one of the ways. The use of modern contraceptives is the other way. As for the first way, it must be

remembered that while continence in the unmarried state may be possible, it is nothing but displaying ignorance about human nature to expect that young and healthy married couples, living together and fond of each other, can observe continence for years together. The cases of strong-willed persons, whose minds are not affected in the presence of objects of enjoyment, apart, there is no doubt that ordinary human beings are bound to fall a prey to the influence of enticements. Is it not strange, therefore, that this fact, which is as clear as daylight, is denied by some.

Self-control has been proved to be absolutely useless for birth-control from the experience of several countries and ages. Even the advocates of continence cannot claim that ordinary persons will be able to eschew sexual intercourse altogether throughout their lives. The laying aside of continence even for a single day every year may lead to an annual conception. Even, if we assume that self-control enables certain persons to bring about birth-control, we cannot draw the conclusion that others will be able to follow them. It is necessary to remember that just as appetite for food differs in the case of different persons, so sexual appetite also varies from person to person.

Strict observance of certain rules laid down in Hindu scriptures necessitates the neglect of the ideal of family-limitation. For instance, verse 8, Chapter 54, of "Vishnu Smriti" enjoins sexual intercourse on certain specified days.

Sir, honourable members have received a pamphlet written by Mrs. Sarojini Mehta, M.A., I am not going to read the whole pamphlet, but will quote only a few passages from it :

> "Whenever the subject of birth-control is broached, the burden of our opponents' song is that continence (Brahmacharya) is the sovereign specific for our country and that it is better to leave Westerners to be blessed by their own artificial remedies. I humbly supplicate these honourable persons to state the grounds upon which they hold this view. It is stated that our people are spiritualistic, while Westerners are materialistic. It has now become well-nigh nauseating to hear this parrot cry repeated. In what way are our people spiritualistic ? Have our people renounced the world and become ascetics ? Can mere repetition of certain catch-phrases like "All this is delusion." "One must abandon attachment to worldly life", turn people into spiritualistic ? Does not every one of our villages possess Shylocks ready to demand their pound of flesh from poor and innocent debtors ? Are there not bankers mean enough to devour the deposits of widows ? Have we not scoundrels who are debased enough to leave stranded helpless widows whom they themselves have misled ? Can we claim that our society is without men who have discarded their chaste and devoted wives and taken to prostitutes ? I am completely at a loss to understand how a society can be called spiritualistic, in which many are ruined by matrimonial transactions that amount to virtual sales of brides and bridegrooms, in which a person refusing to give an absenquial feast to his

caste-people is out-casted, in which men are planning their second marriages while their first wives are burning on funeral pyres, in which even old fogies of sixty years can marry girls of twelve on the strength of monetary bribes and in which the treatment offered to widows is worse than that given even to the beasts. Western materialism cannot be held responsible for the rotten state of our society discribed above. On the contrary it is those who have come into contact with western materialism who are trying their best to remedy these evils, though their efforts are proving nothing but a cry in the wilderness."

Further on, in another paragraph, she says :

"The conduct of Indraraj towards Ahilya, of Parashar Rishi towards Satyawati and of Suryadev towards Kunti would make those perpetrators liable for rigorous imprisonment in this age of Kali but that being considered to be Satya Yug, we not only connive at these delinquencies but raise books containing such descriptions to the status of 'Sacred Books' and insist that they must be prescribed as test-books in the curriculum for children. How many lessons on continence can pupils find in the Mahabharat, the Bhagwat and the Puranas ? How can an age, that never knew what continence was, inspire us to observe that virtue ? How is it possible to consider that age to have observed continence in which there were incidents like the story of King Dushyanta, who first misled an innocent and guileless girl living in the hermitage of a sage and then discarded her when she was pregnant ? When one considers the number of children born to certain persons mentioned in very ancient narratives, a doubt naturally arises in one's mind as to whether the people in those days ever dreamt what continence was. How can one believe that continence was observed in those times when one considers that Sagar begot sixty thousand sons and that there were a hundred Kowrawas, twenty-seven daughters of Daksha Prajapati and several other such instances ? Continence was paid scant respect in bygone days. It can actually be seen that in these days it is kept at a distance everywhere. The birth-rate of our country is not falling lower than that of any 'materialistic' country. Brahmacharya cannot be observed even where the life of a woman, already the mother of many children, is jeopardised by an additional delivery. It is neglected even in the families of paupers, dying of hunger, where the addition of even a single individual to the family would be nothing short of a calamity. Even in these days of unemployment, when it is practically impossible to find outlets for sons, additional children are born even in middle class families every year or year and a half. In castes, in which the usage of dowry prevails, parents express much grief at the birth of a daughter, kill her at the very outset or bring her up most negligently so that she may die a natural death. They, however, never resort to continence to avoid the chances of girls being born. In spite of all these instances we go on proclaiming that continence alone is the ideal for our country ! Of what

> earthly use is such conduct ? We have to take into account the state of things actually existing before our eyes. There are no chances of making any improvement in our condition by mere talk of ideals."

Dr. K. B. Antrolikar : Sir, all that may be taken as read, because every member has received it.

Mr. P. J. Roham : Sir, I have made it clear that I am not going to read the whole of it. I request my honourable friend Dr. Antrolikar to have patience. *Mr. P. J. Roham :* She continues :

> "If, therefore, they have got the country's welfare at heart, they ought to try their level best to popularise continence by founding associations for the purpose of carrying on the work systematically, just as the birth-controllers are doing to popularise contraceptives. If, however, they are either unwilling or unable to do anything in this matter, the hands of the champions of contraception will be strengthened."

As a doctor has wisely remarked, if men had to bear the pangs which women have to undergo during child-birth none of them would ever consent to bear more than a single child in his life.

It is wrong to hold that because the ideal of large families is before society up to this time nobody wishes to limit his family. Human beings, who earnestly desire to be saddled with large families, are rare. Ordinary persons do want to limit their families and do not even flinch to have recourse to diabolical methods such as abortion, infanticide, etc. Such attempts are witnessed everywhere. From an account published by "The People's Tribune" in 1934 it is found that in 1933 over 24,000 dead bodies of little infants were picked up in the street of Shanghai alone and the same state prevails throughout most of China. It is bitter and terrible poverty that makes the parents expose their infants. In the light of such instances, it is futile to hope that ordinary persons will be able to avoid progeny merely through self-control. It is, therefore, established that there is no go without recourse to modern contraceptives. To deny the necessity of those remedies is to show one's preference for abortions, infanticides, etc.

Some people think that they would be losers if the numbers in their particular race, religion, or region are lessened. They are afraid that their adversaries would thereby be enabled to gain ground over them. In the first place, it is necessary to remember in this connection that the rate of increase of a population does not necessarily dwindle down as soon as family limitation is resorted to. That rate is dependent not merely on the birth-rate but chiefly on the survival-rate. The experience of several scientists from different places has proved that the higher the birth-rate, the higher is the death-rate also and no sooner the birth goes down, the death-rate also declines. The result is that not only is the survival-rate not adversely affected but very often it even rises. Dr. Maria Stopes has found from the experience gained in "The Mothers' Clinic" that the

greater the number of conceptions the higher is the rate of maternal and infantile mortality. Similar is the experience of other scientists. Dr. J. M. Munro, M.D., F.R.F.P.S., says in his book "Maternal Mortality and Morbidity" :

> "The strongest argument in favour of limiting the family is that by the fourth birth the mortality-rate very nearly approaches that of the first birth, looked upon generally as the most serious and dangerous. After the fourth birth, the mortality rate steadily and markedly rises with each successive pregnancy and parturition. The same applies to still-births and neo-natal deaths."

Due to excessive child-mortality, the rate of growth of the population of Countries like India is not equal to that of countries like England though the birth-rates in countries of the former type are higher than those in the latter type. The birth-rate of England is nearly half that of India. Yet we find that the population in England increased by nearly 23 per cent. between 1901 and 1931, while the population in India rose by only 17 per cent. in the same period. This will show that even for a rapid growth of numbers, the better way is to adopt the practice of birth-control and thus cut down infantile mortality.

It must also be remembered that for modern wars comparatively few persons are necessary. An army, well-equipped with modern materials for warfare, can route an army much greater in number than itself, if the latter one is not so well-equipped. In the former world war, countries of low birth-rates vanquished those with high birth-rates.

In the world, we can witness many societies that are small in numbers but distinguished in respect of wealth, culture etc. In our country, the Parsee community is an illustration on this point. To hanker after quantity is, therefore, not a very profitable ideal. The aphorism, वरमेको गुणीपुत्रो न च मुर्खशतान्यपि, is well known.

After this, it is worth while keeping in mind that it is principally poverty that is at the root of the animosity between different races, societies and countries. When poverty will be uprooted, the root-cause of much of such hatred will be eradicated and then nobody need be afraid of molestation from others.

The example of Western nations shows us that modern contraception is utilised by persons of all races, religions and strata. For instance, it is found that the notion that the Roman Catholics are against birth-control is unfounded. France is a Roman Catholic country and still it is notorious that the birth-rate in that country is quite low. The following ten countries had the lowest birth-rates in 1932 : —

Sweden	...	...	...	14.5
Germany	...	...	...	15.1
Austria	...	...	...	15.2
England and Wales	...	...	...	15.3

Norway	...	...	...	16.3
Australia	...	...	...	16.4
Switzerland	...	...	...	16.7
New Zealand	...	...	...	17.1
United States	...	...	...	17.3
France	...	...	...	17.3

Among the three lowest countries are Austria, which is entirely Catholic, and Germany, which is one-third Catholic.

The following figures, the birth-rates of important cities, illustrate the very point. They are all for 1927 or 1928 : —

London	...	...	...	16.1
Cologne	...	...	...	16.0
Geneva	...	...	...	14.6
Milan	...	...	...	14.5
Turin	...	...	...	13.2
Prague	...	...	...	12.5
Munich	...	...	...	12.0
Vienna	...	...	...	10.6

With the exception of London, all the above towns are solidly Roman Catholic, yet they all have a lower birth-rate than London. Three of them are in Mussolini's Italy.

It will be thus seen that the fear, that other communities will neglect birth-control and will thus become stronger in numbers, is altogether a baseless one.

Speeches of statesmen, who are responsible for wars, clearly show that economic difficulties, due to pressure of population, are at the root of most of the modern wars, Bernhardt, the Kaiser, Hitler, Mussolini and Gooring have often stressed this point in no ambiguous words. For instance, Adolf Hitler says in his book, Mein Kampf :

> "Through the mad multiplication of the German people before the war, the question of providing the necessary daily bread came in an ever sharper manner into the foreground of all political and economic thought and action."

Further on he says :

> "Only an adequate amount of room upon this earth secures to a nation the freedom of its existence—The National Socialist movement must endeavour to do away with the disproportion between our numbers and our territory ..... Ground and territory must be the object of our foreign politics." (pp. 728-35).

In his recent historic speech, delivered on the 12th of September 1938, Hitler says :

> "They expect Germany, where 140 persons are squeezed into a square kilometre, to keep her Jews, whereas the powers with only a few persons per kilometre do not want them ....."

Similarly Mussolini has said :

"We are hungry for land, because we are prolific and intend to remair so." (From "Foreign Affairs", October 1926).

"Italy demands that her indisputable need of sun and land shall be recognised by all other nations. Should they fail to do so. Italy will be forced to take matters into her own hand." (From "Sunday Times", November 14, 1926).

The Deputy Speaker : The honourable member has exceeded the time-limit.

Mr. B. K. Gaikwad : Sir, may I know what is the time-limit ?

The Deputy Speaker : Half-an-hour.

Mr. B. K. Gaikwad : On a point of information, Sir. The honourable member who moved the last resolution (Mr. Shrikant) spoke, I believe, for more than an hour.

The Deputy Speaker : Extension of the time is within the discretion of the Chair.

Mr. B. K. Gaikwad : Can that indulgence not be given to other resolutions ?

Mr. P. J. Roham : Sir, I do not wish to take much time of the House, but I have still some more points to make and request you to kindly allow me some more minutes.

It is, therefore, obvious that all those who stand for permanent world-brotherhood, must discountenance every attempt at increase of numbers and must try their best to limit populations by means of birth-control.

The fear that birth-control propaganda will fail to filter down to the masses and the result of the movement will thus be dysgenic instead of eugenic, is also groundless. The experience gained in Western countries establishes the fact that the lower classes do take advantage of contraceptives as soon as they are made cognizant of them, the need being greater in their cases. The masses in our country, though illiterate, are intelligent enough to know in what their own interest lies and hence there is no doubt that they will fully utilise this invention also as soon as they are made aware of its existence. Vasectomy would be found to be useful in the case of such persons and hence Government and municipalities must provide facilities in this respect in their hospitals, etc.

The late principal Gole has clearly shown in his book "हिंदु धर्म आणि सुधारणा" that even villagers have many virtues and it is really they that replenish the supply of good citizens.

The opponents of this movement try to show its futility by pointing out the examples of France, Germany and Italy but they forget that we cannot follow these countries unless it is proved that their attempts at the increase of their populations are justified. In the first place, it must be kept in mind that the birth-rates of these nations are much lower than the birth-rate of our country. Our birth-rate is 35 whereas in 1936 the birth-rates of Italy,

France and Germany were 22.2, 15 and 19 respectively. In 1900 the birth-rate in Germany was 35.6 but in 1933 it came down to 14.7. Italy and France also have their birth-rates much reduced since that time. In England the birth-rate was 33.9 in 1851-55 but in 1931 it was lowered to 15.3. Our birth-rate is practically stationary for the last fifty years and hence it would be unwise for us to imitate the efforts of other countries towards raising that rate.

It is quite natural for imperialists to lament the slackening of the rate of increase of the people of their race and it is not surprising that they should raise cries like "Renew or Die". It is, however, strange to see that those cries should make even some educated persons suspicious about the benefits of birth-control. An article, "Renew or Die", by Sir Leo Chiozza Money in "The Nineteenth Century and After" for February 1938 will illustrate the point. This writer has assumed that white leadership is necessary for the good of all humanity and has raised a cry to arrest the decline in the number of the white people. Now, in the first place, many will refuse to admit that white supremacy has benefitted the world and secondly few educated persons will be prepared to go to the length of maintaining that the decline in the number of white people will bring down any calamity upon humanity. Besides this, the postulates of this person are all wrong. He has taken it for granted that the birth-rate in England will gradually become lower and lower and that in the year 2,035 the population of England will be reduced to 4,400,000 (44 lacs). But the facts are that the birth-rate in England is increasing instead of going down. In 1933 it was 14.4 but in July 1938 it becomes 15.3. Similarly whereas the writer has estimated that the population of England and Wales in 1940 would be only 40,700,000, the actual figure for 1937 there was already 41,031,000 and it is increasing at the rate of 190,000 people per year. These facts will show that one must take the precaution of not being misled by such articles.

Emigration is sometimes suggested as a remedy for finding an outlet to over-population but that remedy also is not very promising. Compulsion in emigration, amounting to transportation is out of question. Very few persons have the courage and the inclination necessary for leaving one's own country, endeared to one's heart by reminiscences of childhood and the presence of relatives and friends and made agreeable by a suitable climate and other factors and to repair to a distant land in which there is the danger of the climate being found to be an unsuitable one and in which the inhabitants are different from oneself in language, customs and manners. Generally, people willing to emigrate are those who are fit to be good citizens and who are able and energetic. It is really a loss to the motherland that such people should emigrate. These persons can easily maintain themselves in their own country but ambition impels them to try to better their lot by going to distant lands. Emigration is practically useless in the case of persons who are handicapped either physically or mentally or

financially and it is really these people that stand in need of help. Considered from the point of the necessary capital alone, this remedy cannot afford relief to many persons.

Besides this, it must be kept in mind that sparsely populated countries are unwilling to accommodate others because they require elbow-room for their own increasing progeny. Canada is a colony in the British Empire mainly inhabited by Englishmen but it is notorious that the Canadians refused to allow English labourers, who had gone there for seasonal work, to settle in their land. Wars are occasioned by the attempts of populous countries to force their entrance in sparse regions. An illustration on the point, which is quite recent and near to us, is afforded by Burma. The cause underlying the recent communal riots there was mainly the suspicion in the minds of the Burmans that Indian marred their material progress. Compared to over-populated countries, regions of sparse populations are very few, Japan, Italy, Germany, China, India and many other countries are over-populated. It is not possible to find adequate room for emigrants from all these lands.

One more point in this connection is also worth mentioning. Emigration cannot solve the population problem of a country permanently. Like air, expanding population has a tendency to fill up vacuum immediately, leading to the recurrence of the former condition and hence it is obvious that there is no go without birth-control.

Some think that as soon as child-marriages are given up and late marriages are introduced, the increase in population will be checked. But this belief also is an unfounded one. In the first place, years must elapse before the ages at which girls are married would be sufficiently raised in our country. The years of greatest fertility in the case of girls are those between 18 and 22. In Western countries, women marry after this period. That is, they marry when their time of greatest fertility is over. When we notice the difficulties in the enforcement of the Sarda Act, fixing the minimum age of marriage of a girl at 14, we can easily see that it is almost useless to hope that in the near future women in our country will postpone their marriages up to 22 and population will be checked thereby. Mr. P. K. Wattal has drawn the following conclusions from the fertility-enquiry conducted specially in connection with the 1931 census.

(1) That girls married at ages below twenty give birth to a smaller number of children than girls married at ages above twenty.

(2) That the survival-rate of children born to mothers married at ages below twenty is much less than that of children born to mothers married at ages above twenty.

These conclusions show us that even when late marriages would come into vague generally, there is no chance of population being appreciably checked thereby. More children would live upto mature ages and hence there is a chance of an increase and not a decrease in the rate of growth of our population.

Dr. G. S. Ghurye, Ph.D., University Professor of Sociology, Bombay, says in his article, "Fertility Data of the Indian Census of 1931" in the "Journal of the University of Bombay" (Vol. III, May 1934) : —

> "If the above tentative conclusion about the co-relation between fertility and the age of woman at marriage should prove to be correct, then with the increase in woman's age at marriage which is quite essential, there would be an increase in the fertility or marriage. As it is, I believe our population is very large and Our increase undesirable and to help its increase at a greater rate would be suicidal. With our efforts to raise the women's age at marriage, therefore, there must also be carried on an intensive campaign for control of birth."

It must not, moreover, be forgotten that prostitution is encouraged by people being unable to marry at proper ages and other evil consequences also follow thereby. It is, therefore, necessary to resort to birth-control if marriage at a proper age is aimed at.

The view is held that economic independence of women will lessen the growth of population but it also does not hold water. Economic independence has no power to free a person from the clutches of Eros. Few women can observe perfect continence throughout their lives and hence this remedy would be found to be fruitless. Even now, women of the lower classes are actually helping their families with their own earnings but that fact does not seem to help family-limitation to any extent.

Some persons hold the view that though birth-control may be necessarily on medical and hygenic grounds, still it is not required for solving economic difficulties. They maintain that our country has got much scope for economic and agricultural development and efforts in these directions would raise the standard of life of our people appreciably. On close examination, however, this view also is found to be quite untenable. Want of sufficient capital and rich customers would prevent any material development of our industries. Similarly, insufficiency of fertile lands, rain-fall and manures stand in the way of any substantial increase in our agricultural production. Except in Assam, there is very little fertile land that has not yet been brought under cultivation. In Burma, there is even now sufficient suitable land awaiting cultivation and it was the figure of such land from that province that misled certain people into the belief that India has even yet sufficient fertile virgin land. In our province, 86.4 per cent. of the cultivable land has already been brought under the plough and it is doubtful whether even a fraction of the rest of the land is of any value. According to the Report of the Royal Commission on Indian Agriculture much of such land is worthless. A great portion of the agricultural land in our country has become barren through incessant cropping and want of sufficient manures.

Through the excessive growth of population, our country suffers from deficiency of forests and pasture-lands. In Canada 34.3 per cent. of cultivable land is reserved for pasturage. This proportion is 21.5 in France,

18.3 in Italy, 14.3 in Germany but in our country it is only 1.6. These figures will show to what strait our cattle is forced. Cast our glance in whatever direction we may come across mere skeletons of cattle. Though our people pride themselves upon their humanitarianism, they have, in their struggle for land, unjustly deprived the dumb creatures of much of their pasturage and brought it under tillage. Our agriculture, therefore, is suffering from insufficiency of useful cattle and organic manures like cow-dung, and hence it is very difficult to effect many appreciable improvements in it. Some persons point out the large produce per acre of rice in Japan and China and hold out the hope that there is scope for materially increasing our produce of that crop. There are grounds, however, to doubt the correctness of the figures of the production of rice in those countries. Count Karlo Sforra, former Minister for Foreign Affairs for Italy, contributed an article styled "The conflict between China and Japan" to a recent number of the "International Conciliation," a monthly published from New York. It is stated therein that from 1900, there is an appreciable decrease in the rice production per acre in Japan. There is considerable evidence to show that figures about agriculture in Japan are not reliable. Besides this, notice also must be taken of the facts that Japan is blessed with plenty of timely and all-the-year round rainfall and abundance of manures due to her extensive forests and also with a climate ideally suited to her rice crops ; combination of advantages rarely witnessed anywhere else. Although it may be admitted that self-rule may effect some betterment of the lot of our masses, no lasting and appreciable improvement in the economic condition of our people can be hoped for unless the growth of our population is deliberately checked. As has been already explained, with every opportunity afforded for its expansion, population begins to grow rapidly and thus nullifies all the advantages secured through great efforts. Hence, experience has made many scientists to hold the view that unless precaution is taken to regulate population growth by means of birth-control along with efforts to improve the economic condition of the people there cannot be any substantial and permanent rise in the standard of life of the masses.

The fact, that mere self-rule is powerless to effect an all-round improvement in the condition of a people, is demonstrated to the hilt by the examples of many independent nations. Although, through various reasons, including a low birth-rate, the economic condition of the inhabitants of countries like England and America is superior to that obtaining in this country—poverty prevents many of our countrymen from obtaining a nourishing food—still it is far from satisfactory. Even there, many find it difficult to maintain a standard of life necessary for perfect health. According to President Roosevelt one-third of the inhabitants of America do not get sufficient nourishing food. One of the reasons for this is that even there birth-control is not practised to the extent to which it is necessary. There is plenty of fertile land per head in countries that are newly settled and hence the

people there get more nourishing food than that obtained by persons in thickly populated nations. Here are the figures of consumption per head per annum in Australia and Italy :

			Australia	*Italy*
Milk and its products (gals.)		...	102	23
Meat (lbs.)	...	...	202	35
Fruit (lbs.)	...	...	104	40
Sugar (lbs.)	...	...	107	18
Wheat (lbs.)	...	...	297	351

Every article of food except wheat is consumed in far greater quantities in Australia than in Italy.

Out of the nations of the old world, countries like Holland that have their birth-rates much reduced through birth-control, are much happier than the rest.

In the Bombay Presidency, the amount of milk available per head per day is only one and a quarter "tolas". According to authorities on nutrition, every individual must get on an average at least one pint of milk per day.

The main object of the movement for birth-control is to bring about a state of things wherein every country will have its birth-rate suitably reduced so that it would thus be able to maintain its population decently with the aid of its own produce.

Some are under the impression that modern scientific discoveries have solved the problems of food for mankind and that it is only mal-distribution that is at the root of the present economic difficulties. Fair distribution of property would, in their opinion, bring about plenty everywhere. There is no doubt that in many places injustice prevails in the division of property and every impartial public worker must take all steps to secure justice for wronged persons in this respect. It is, however, necessary to remember that mere equal distribution will never be able to bring about a permanent and material amelioration of the condition of the masses unless growth of population is controlled by means of family-limitation.

Land being the chief source of all wealth, there cannot be plenty for all unless plenty of fertile land falls to the share of each individual. Agricultural experts like Sir Damiel Hall and Prof. East have pointed out that about two and a half acres of cultivable land are needed to support one individual on the western European standard. But in all old countries, people have to. maintain themselves on land much less than this. In India, there is only three quarters of an acre of cultivable land for each individual and, as has been already pointed out, according to the opinion of the Royal Commission on Agriculture, much of the uncultivated land in this country is practically useless.

The view that the advent of chemical fertilisers has solved the problem of manures is also not a sound one. Artificial manures cannot be used at each and every place.

Rao Bahadur D. L. Sahastrabudhe, M.Ag., M.Sc, retired Agricultural

Chemist to the Government of Bombay, wrote in his article in "Sahyadri" for October 1936 as follows : —

> "Experience has shown that artificial manures cannot be utilised everywhere. Organic manures like cow-dung must accompany the use of chemical fertilisers. Otherwise, artificial manures do not prove to be congenial to the crops. Similarly the crop that is to be manured with chemical fertilisers must have plentiful supply of water to prevent an injury to it.
>
> Besides this, it must be noted that the two chief fertilisers are nitrates and phosphates and neither is of much use without the other. The supply of phosphates, however, is very limited. Sir Federick Keeble says :
>
> 'Nearly all the soil of the world are famishing for phosphates. (Fertilisers and Food Production) (1932), p. 221. Professor Armstrong says :
>
> 'The solution of the nitrogen problem by Crookes has brought us nearer to destruction rather than saved us, by hastening the depletion of irreplaceable phosphatic stores.'."

Almost all places are suffering from inadequacy of forests and as a result thereof there is also a shortage of water and manures.

The present Congress Government are trying to uplift the masses of this Bombay Presidency (hear, hear). But all their efforts will go in vain if the population-problem is not tackled by means of birth-control.

The Deputy Speaker : The Honourable Member may now bring his remarks to a close.

Mr. P. J. Roham : Yes, Sir. Dr. Radhakamal Mukerjee has in his book. 'Food Planning for 400 Millions", states :

> "Unless some check is placed upon population-growth, any other remedy tends to be only temporary, as in the latter country (China), for population will rapidly rise again to the maximum number of persons the land will support. As population outruns faster the educational facilities that may be provided, while the taxable capacity hardly increases, it is clear that the pressure of population cannot be viewed merely in relation to the food-supply. An expanding population makes readjustments more and more difficult. A rational family planning and education of the masses in birth-control, must be accepted as the most effective means of combating population-increase."

Bombay is the gateway of India and this movement also entered this country through that very gate. It would be in the fitness of things, therefore, that it should also be nurtured in this very province. Few people get an opportunity for doing acts that would immortalize their names. Birth-control movement has afforded such an opportunity to our provincial government and it is hoped that they will not let it slip but will fully utilize it to the benefit of themselves and the people.

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APPENDIX II

QUESTIONS ASKED BY Dr. B. R. AMBEDKAR AND REPLIES GIVEN BY THE GOVERNMENT

Government Service : Selection Board

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether there is any selection board constituted for the purpose of selecting candidates applying for the vacancies in the Provincial and Subordinate Services of the Government of Bombay ;

(*b*) if so, the names of the members who constitute that Board ?

The Honourable Sir Chunilal Mehta : No single Board exists for selecting candidates for the Provincial and Subordinate Services of the Government of Bombay. For certain of the Provincial Services selection committees have been constituted. Appointments to the Subordinate Services are made by the heads of offices under powers delegated to them or by the Local Government.

Dr. B. R. Ambedkar : Will the Honourable Member state whether he can give the names of the members of the Committees constituted for the Provincial Services ? He says that for certain of the Provincial Services selection committees have been formed.

The Honourable Sir Chunilal Mehta : I am afraid I cannot carry the names of the members in my head. If the honourable member gives notice, I shall supply the names. But I think there is not a fixed list of members of these committees ; they change, I believe, every year or from time lo time.

(B.L.C. Debates, Vol. XIX, p. 325, dated 28th February 1927)

Acquisition and Improvement of Land for Village Sites

Dr. B. R. Ambedkar : Sir, I rise to a point of information. I do not exactly understand the object for which this amount is provided in the present budget. I should like to know from the Honourable Member in-charge whether it is expended for the purposes of establishing new settlements of villagers who are dissatisfied with their own village sites, or whether the amount is spent for providing amenities to the villagers, or for what purpose. There is certainly no information given either in the

Blue Book or the White Book to enable new members like myself understand the exact purpose of this amount. I, therefore, hope that some enlightenment will be thrown on this subject.

(B.L.C. Debates, Vol. XIX, p. 421, dated 1st March 1927)

Superintendents of Land Records

Dr. B. R. Ambedkar : Sir, I do not think that much argument need be wasted on this motion. The motion is based upon the ground that these superintendents who are provided in the budget at a cost of Rs. 35,800 do work which ordinarily in the course of things can be done and discharged by the deputy collectors. The only answer to this argument is that the deputy collectors are not in a position to do this work. The reply given by the honourable member, the Settlement Commissioner, does not seem to me to touch on that aspect of the question. Nobody here in this House disputes that the work done by them is useful work necessary in the interest of society, but, Sir, the point and the important point is whether such work cannot be done by deputy collectors. If the reply to that is in the affirmative, then Government has no case at all, and I should like Government to clear that point in order to enable new members like me to decide one way or the other.

(B.L.C. Debates, Vol. XIX, p. 453, dated 3rd March 1927)

Deputy Collectorship : Application of Mr. M. K. Jadhav

Dr. B. R. Ambedkar : Will Government be pleased to state—

(i) Whether Mr. M. K. Jadhav, B.A. (Hons.), Bombay, applied for one of the three posts of Deputy Collector recently filled up by the Revenue Department of the Government of Bombay ?

(ii) Whether they were aware that he belonged to the depressed classes ?

(iii) The reasons why his application was rejected ?

Honourable Mr. J. L. Rieu : (i) Yes.

(ii) Yes.

(iii) Government regret that they are not prepared to state the reasons why Mr. Jadhav or any other individual candidate was not selected.

Dr. B. R. Ambedkar : Did Government apply the rule of 50 per cent. reserved posts for depressed classes in Government service when filling up the appointments ?

The Honourable Mr. J. L. Rieu : The rule does not apply at all. It applies to clerical staff only.

Mr. W. S. Mukadam : Will Government be pleased to give us the names of the candidates selected ?

The Honourable Mr. J. L. Rieu : The honourable member will find it from records.

Dr. B. R. Ambedkar : Is the exclusion of Mr. Jadhav consistent with

the policy of Government of encouraging the depressed classes ?

The Honourable Mr. J. L. Rieu : It is not inconsistent with it.

(B.L.C. Debates, Vol. XIX, p. 545, dated 5th March 1927)

Admission of Depressed Classes to Public Places

Dr. B. R. Ambedkar : Will Government be pleased to state what steps they have taken to carry into effect Mr. Bole's resolution to throw open to the depressed classes all public places in this presidency ?

The Honourable Sir Ghulam Hussain : Attention is invited to the Press Note No. P-117, dated the 29th September 1923 (copy below for ready reference) issued by the Director of Information.

Press Note No. P-117, dated the 29th September 1923

(With the Compliments of the Director of Information, Bombay)

THE UNTOUCHABLE CLASSES

GOVERNMENT AND COUNCIL RESOLUTIONS

At the last session of the Bombay Legislative Council, on the motion of Mr. S. K. Bole, a resolution was passed recommending that "the untouchable classes be allowed to use all public watering places, wells and dharamshalas which are built and maintained out of public funds or are administered by bodies appointed by Government or erected by Statutes as well as public schools, courts, offices and dispensaries."

In pursuance of this resolution Government have directed their officers to give effect to it as far as it relates to the public places and institutions belonging to and maintained by Government. The Collectors have been requested to advise the local public bodies to consider the desirability of accepting the recommendation made in the resolution. The Bombay and Karachi Port Trusts, the Bombay City Improvement Trust and the Municipal Corporation have also been requested to give effect to the resolution with regard to the places under their control.

Dr. B. R. Ambedkar : Is the honourable member aware that the depressed classes in several places are prevented from taking advantage of the public places provided by the public bodies, by the ordinary villagers in the villages ?

The Honourable Sir Ghulam Hussain : Not to my knowledge.

(B.L.C. Debates, Vol. XIX, p. 546, dated 5th March 1927)

Assistant Educational Inspector for Depressed Classes

Dr. B. R. Ambedkar : Will Government be pleased to state—

(i) Why Mr. G. G. Kamble was reduced from his post of Extra Assistant Educational Inspector for the Depressed Classes ?

(ii) Whether the said post has been abolished ?

(iii) If so, why ?

The Honourable Dewan Bahadur Harilal D. Desai : (i) Mr. Kamble was reverted because he failed to justify his existence, there being no real improvement in the schools placed under his charge.

(ii) Yes.

(iii) The post was abolished because the control of primary schools having been transferred to the local authorities under the Bombay Primary Education Act, 1923, there was no longer any necessity for Government to continue to maintain it.

Dr. B. R. Ambedkar : Does not Government think it necessary that the benefit of a special assistant educational inspector should be extended to the depressed classes schools ?

The Honourable Dewan Bahadur Harilal D. Desai : In the first instance, Government created the special post. The schools have now been transferred to the local bodies, and if Government find it necessary to make such an appointment, they will consider the matter.

(B.L.C. Debates, Vol. XIX, p. 604, dated 7th March 1927)

Judgments of Mr. Fleming, City Magistrate

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether their attention has been drawn to the judgments delivered by Mr. Fleming, City Magistrate, Poona, in the two recent criminal cases (i) Emperor *v.* Baburao Fule and (ii) Emperor *v.* Javalkar and others in both of which the accused were charged under section 500 of the Indian Penal Code ;

(*b*) whether they are aware that Mr. Fleming has delivered contradictory judgments on a common point of law involved in both the cases, viz., whether the complainant is an aggrieved person within the meaning of section 198 of the Criminal Procedure Code ;

(*c*) whether they have called for an explanation from Mr. Fleming as to why he delivered such contradictory judgments ;

(*d*) whether they propose to take any steps against Mr. Fleming in this connection ?

The Honourable Mr. J. E. B. Hotson : (*a*) to (*d*) The remedies provided by the law are open to any person who considers himself aggrieved by a magistrate's judgment. Government could not without gross impropriety express an opinion in this House on the points to which this question refers.

Mr. S. K. Bole : The answer is given only to (*b*) and not to (*a*), (c) or (*d*).

The Honourable Mr. J. E. B. Hotson : The answer is to all four parts of the question.

Mr. S. K. Bole : The question in (*a*) is "whether their attention is drawn to the judgments delivered by Mr. Fleming" but there is no answer to that.

The Honourable Mr. J. E. B. Hotson : I think, it is implied. The attention of Government has been drawn to them.

Mr. S. K. Bole : Again, in (*b*) the question is "whether they are aware that Mr. Fleming has delivered contradictory judgments" but there is no answer to that.

The Honourable Mr. J. E. B. Hotson : Yes, the reply is there, "Government could not without gross impropriety express an opinion in this House" etc.

Mr. S. K. Bole : What is asked is whether they are aware.

The Honourable the President : The word "contradictory" implies and asks for opinion, and therefore that reply.

(B.L.C. Debates, Vol. XIX, p. 1147, dated 16th March 1927)

Assault by Mulki Patil on a Mahar (Chikhardi)

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that the Mulki Patil of the village Chikhardi in the Sholapur District committed an assault on Arjuna Lala Mahar for refusing to do his private work and fractured his skull ;

(*b*) whether it is a fact that Arjuna is now being treated for his injury at the Civil Hospital, Barsi ;

(*c*) if so, what steps they have taken against the Patil ?

The Honourable Mr. J. L. Rieu : The information has been called for.

(B.L.C. Debates, Vol. XIX, p. 1147, dated 16th March 1927)

Harassment of Mahars (Sholapur)

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that the Gaonkaris of the villages of (i) Ralerass, (ii) Pangaon, (iii) Pangri, (iv) Uple Dumala, (v) Ambegaon and (vi) Surdi in the District of Sholapur have been acting in conspiracy to stop the ryots and shop-keepers of their respective villages from having any dealings with the Mahars of their villages and have assaulted the Mahars of their villages and have in some cases outraged the modesty of the Mahar women and have gone to the length of throwing filth in the water-courses used by the Mahars because the Mahars in these villages have in their efforts at self-improvement given up the carrying of the carcasses of dead animals ;

(*b*) what steps they propose to take to protect the Mahars from such tyranny.

The Honourable Mr. J. E. B. Hotson : The information is being obtained.

(B.L.C. Debates, Vol. XIX, p. 1298, dated 17th March 1927)

Accident on the Ulhas River

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether their attention has been drawn to the leading article published in the *Pratiyogi,* dated the 13th February 1926, and the extracts of statements

of the people of Badlapur published in the *Pratiyogi,* dated the 12th June 1926 ;

(*b*) if so, whether they still withhold the permission to prosecute as asked for ?

The Honourable Sir Cowasji Jehangir : (*a*) Government have noticed a summary of the article published in the *Pratiyogi,* dated the 13th February 1926, but not the extracts of statements of the people of Badlapur published in the issue of the paper of 12th June 1926.

(*b*) Yes.

(B.L.C. Debates, Vol. XX, p. 759, dated 27th July 1927)

Public Service : Depressed Classes

Dr. B. R. Ambedkar : Will Government be pleased to give the following information regarding the strength of the depressed classes in the public service :—

District	Department	Number of depressed classes employed	
		As peons	On the staff

The Honourable Sir Chunilal Mehta : The information has been called for.

(B.L.C. Debates, Vol. XX, p. 847, dated 27th July 1927)

Watandar Mahars : Remuneration

Dr. B. R. Ambedkar : Will Government be pleased to give the following information for each village in the Presidency :—

Village	Total population	No. of officiating mahars	Remuneration to officiating mahars estimated from all sources, in rupees			Total remuneration
			From inami and	From Baluta	Government salary	

The Honourable Mr. J. L. Rieu : As the time and trouble involved in obtaining the information would be out of all proportions to its possible utility from the public point of view. Government regret that they are not prepared to collect it. If the Honourable Member will select a small number of typical villages for this enquiry, Government will consider whether it is practicable to supply the information he desires in regard to them.

Dr. B. R. Ambedkar : It is not a fact that the information asked for in this question is obtainable from the watan proceedings of every village ?

The Honourable Mr. J. L. Rieu : In any case I would call the honourable member's attention to the fact that this question would have to be sent to

every village in the Bombay Presidency. The labour and time involved in collecting this information would be enormous.

(B.L.C. Debates, Vol. XX, p. 1065, dated 27th July 1927)

Officiating Watandar Mahars

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether there are any rules governing the number of the officiating Watandar Mahars in the villages in the different parts of the presidency ?

(*b*) if so, whether they will publish them or refer to them ?

The Honourable Mr. J. L. Rieu : (*a*) and (*b*) There are no rules on the subject. The appointment of officiating Watandar Mahars is governed by the provisions of section 64 of the Bombay Hereditary Offices Act.

Dr. B. R. Ambedkar : Is the Honourable Member aware that discretion is left to the Collector under section 64 in exercise of which he can make rules regarding officiating Watandar Mahars ?

The Honourable Mr. J. L. Rieu : I am aware of that.

Dr. B. R. Ambedkar : Is the honourable member aware that in a certain village 16 Mahars are officiating as Watandars ?

The Honourable Mr. J. L. Rieu : If the honourable member gives notice I will make enquiries.

(B.L.C. Debates, Vol. XX, p. 1207, dated 27th July 1927)

Bridge on the Ulhas River at Badlapur

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether the consideration of the question of constructing a low level causeway on the river Ulhas at Badlapur in the Thana District has not yet been finished ;

(*b*) whether the whole correspondence including the Commissioner's and the Collector's reports thereon would be placed on the Council Table ;

(*c*) whether they are aware that a high level bridge instead of a low level causeway is absolutely necessary ?

The Honourable Mr. J. L. Rieu : (*a*) No. But it is hoped that a conclusion will soon be reached.

(*b*) Government are not prepared to place the correspondence on the table.

(*c*) No.

(B.L.C. Debates, Vol. XX, p. 1472, dated 27th July 1927)

Forest Land for Cultivation : Grants to Depressed Classes

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) the total extent of forest land given for cultivation in each district of this Presidency in the years 1923, 1924, 1925 and 1926 ;

(*b*) how much of this was given to the Depressed Classes in each district in the years mentioned ?

The Honourable Mr. G. B. Pradhan : (*a*) and (*b*) A statement furnishing the required information is placed on the Council Table. The area shown in the statement is for each forest division of the Presidency.

Statement of forest land given out for cultivation during 1923, 1924, 1925 and 1926

	Forest Division	Total extent of forest land given out for cultivation			
		1923	1924	1925	1926
	Northern Circle	Acres	Acres	Acres	Acres
1	Panch Mahals	660	7,536	....	9
2	Surat	1,175	1,152	3,558	....
3	North Thana	191	171	....	5
4	West Thana	339	330	295	....
5	East Thana	21,463	2,237	2,810	3,733
6	West Nasik	3,080	432	1,817	256
7	East Nasik	8,493	2,714	2,100	2,482
	Central Circle				
1	East Khandesh	186	401	1,756	1,872
2	North Khandesh	....	1,325	1,660	1,815
3	West Khandesh	90	51	235	560
4	Poona	1	1	70	36
5	Ahmednagar	4,254	55	86	88
6	Satara	3,516	252	473	285
	Southern Circle				
1	Northern Division, Kanara ..	22	....	....	7
2	Eastern Division, Kanara ..	105	137	33	7
3	Southern Division, Kanara ..	26	40	31	37
4	Western Division, Kanara ..	133	70	59	5
5	Central Division, Kanara ..	13	6	1	....
6	Belgaum	668	719	2,006	2,717
7	Dharwar	346	25	154	132
	Sind Circle				
1	Sukkur	1,841	2,577	1,330	1,888
2	Shikapur	1,399	1,256	1,066	928
3	Larkana	4,321	3,143	4,838	5,300
4	Hyderabad	549	1,782	2,071	2,396
5	Karachi	92	1,093	1,789	3,084

Statement of forest land given out for cultivation during 1923, 1924, 1925 and 1926—contd.

	Forest Division	Land given to the Depressed Classes				Remarks
		1923	1924	1925	1926	
	Northern Circle	Acres	Acres	Acres	Acres	
1	Panch Mahals	227	1,446	..	9	
2	Surat	1,175	1,152	3,558	..	
3	North Thana	191	171	..	5	
4	West Thana	339	330	295	..	
5	East Thana	21,463	2,237	2,810	3,733	
6	West Nasik	2,927	411	1,727	243	
7	East Nasik	8,493	2,714	2,100	2,482	
	Central Circle					
1	East Khandesh	..	30	91	101	
2	North Khandesh	..	1,325	1,660	1,815	
3	West Khandesh	40	37	90	340	
4	Poona	..	..	..	..	
5	Ahmednagar	55	..	..	..	
6	Satara	..	..	..	..	
	Southern Circle					
1	Northern Division, Kanara ..	..	..	..	..	No applications were received from persons of Depressed Classes during these years.
2	Eastern Division, Kanara ..	..	..	..	..	
3	Southern Division, Kanara ..	20	38	28	36	
4	Western Division, Kanara ..	..	..	..	..	No applications were received from persons of Depressed Classes during these years.
5	Central Division, Kanara ..	..	..	..	..	
6	Belgaum	45	104	23	664	
7	Dharwar	..	..	..	..	Do.
	Sind Cir					
1	Sukkur	..	..	..	..	There are no Depressed Classes in Sind who do agricultural work.
2	Shikapur	..	..	..	..	
3	Larkana	..	..	..	..	
4	Hyderabad	..	..	..	..	
5	Karachi	..	..	..	..	

(B.T.C. Debates. Vol. XX. pp. 1472-74. dated 27th July 1927)

Tobacco Licence

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether one Narayan Sakharam had applied to the Superintendent of Excise, Tobacco Department, for licence to sell tobacco ;

(*b*) whether his application was refused although the applicant was a military pensioner and was recommended for licence by the Officer Commanding the 117th Rajputs ;

(*c*) the reasons why his application was refused ;

(*d*) whether the application was refused on account of the fact that the applicant belonged to the depressed classes ;

(*e*) whether they make any caste discrimination in the matter of issuing licences ?

The Honourable Mr. J. L. Rieu : (*a*) Yes.

(*b*) Yes.

(*c*) Tobacco licences are only granted to persons in really indigent circumstances who are unable to earn a livelihood by any other means. The person referred to by the honourable member was reported to be quite fit to earn his livelihood in other ways. He was therefore refused a licence.

(*d*) No.

(*e*) No.

Dr. B. R. Ambedkar : Is this in accordance with the rules laid down by the department in the matter of tobacco licences ?

The Honourable Mr. J. L. Rieu : I do not think that there are any specific rules on the subject, but that is the practice.

Dr. B. R. Ambedkar : May I know whether this particular question refers to the honourable member's department or to the department under the Excise Minister ?

The Honourable Mr. J. L. Rieu : This refers to the Revenue Department. Tobacco licences are given out by the Collector of Bombay.

(B.L.C. Debates, Vol. XXI. p. 57. dated 29th September 1927)

Forest Lands, Nasik : Applications of Mahars

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether they are aware that the Mahars of the village of Pimplad in taluka Nasik had applied to the Collector for forest land ;

(*b*) whether they had asked for survey number 220 in the village of Pimplad ;

(*c*) whether, that being refused, they had asked for survey number 202 in the village of Rajur-Babula ;

(*d*) whether, that being refused they had asked for survey number 71 in the village of Rajur-Babula ;

(*e*) whether it is a fact that even this last application has been rejected ;

(*f*) the reasons for this persistent refusal to consider favourably the applications of these Mahars ?

The Honourable Mr. G. B. Pradhan : (*a*), (*b*), (*c*), (*d*) and (*e*) Yes, as it had already been granted to another individual.

(2) Survey No. 202 of Rajur is pasture forest incharge of the Revenue Department. It is sold annually for grazing to the villagers, and it cannot be granted for any other purpose, as the remaining grazing area available in the village is not sufficient for their requirements.

(3) For the same reason Survey No. 71 of Rajur-Babula which is assigned for Kuran (grazing ground) could not be granted to the Mahars.

I may add that 11 survey numbers of Pimplad and Rajur-Babula comprising of nearly 200 acres of land were the only lands available for being given out for cultivation. They were therefore put to sale at an upset price 12 times the assessment and it was ordered that none but the Mahars, Bhils and Kolis should bid. The condition was imposed specially to exclude unfair competition by moneyed people. The papers of the sales recently sanctioned show that two Kolis and three Mahars of Pimplad and one Koli and three Mahars of Rajur-Babula are the purchasers.

(B.L.C. Debates, Vol. XXI, p. 219, dated 1st October 1927)

Grazing Grounds, Thana District

Dr. P. G. Solanki on behalf of Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether their attention has been drawn to the information published on pages 372 and 417 of the Vividha Jnana Vistar of the year 1926 ;

(*b*) if so, whether they intend to take steps to order such varkas or grass lands to be free from assessment ;

(*c*) whether they intend to let open the forest lands of the village of Badlapur in the Thana District for agricultural and grazing purposes as the income from those forest lands is comparatively very small ?

The Honourable Mr. J. L. Rieu : (*a*) Only when the Honourable Member gave notice of this question.

(*b*) No.

(*c*) No.

(B.L.C. Debates, Vol. XXI, pp. 269-70, dated 1st October 1927)

Forest Lands for Depressed Classes

Dr. P. G. Solanki on behalf of Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether they are aware of the enormous extent of unemployment prevailing among the depressed classes ;

(*b*) whether in view of the fact that many occupations are closed to the depressed classes owing to the system of untouchability, they intend to consider the question of forming settlements of the depressed classes wherever tracts of forests lands are available as has been done by the Mysore Government ;

(*c*) whether they intend to give preferential treatment to applicants from the depressed classes for forest lands ?

The Honourable Mr. G. B. Pradhan : (*a*) No.

(*b*) Such settlements have already been formed in the three Khandesh Divisions, and the feasibility of forming further settlements will be considered if applications are made and suitable lands in forests are available.

(*c*) Application from depressed classes for forest lands will be favourably considered, but no promise of preferential treatment can be held out.

(B.L.C. Debates, Vol. XXI, pp. 269-70, dated 1st October 1927)

Deccan Agriculturists' Relief Act : Repeal

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that they are contemplating the introduction of a bill to repeal the Deccan Agriculturists' Relief Act ;

(*b*) if so, whether they have ascertained the views of the agricultural population whose interests are bound to be affected by such a step ;

(*c*) whether they are aware that the Royal Commission on Agriculture has expressed the opinion that the operation of the Usurious Loans Act, 1918. has not been successful ?

The Honourable Mr. J. R. Martin : (*a*) and (*b*) The question of amending or repealing the Deccan Agriculturists' Relief Act has been postponed till the question of legislation in connection with agricultural indebtedness recommended by the Royal Agricultural Commission can be taken up as a whole.

(*c*) Yes.

(B.L.C. Debates, Vol. XXIV, p. 287, dated 29th September 1928)

Government Servants : Salaries and Pensions

Dr. B. R. Ambedkar : Will Government be pleased to state the total amount they paid out in 1927-28 (or any other year previous to it for which figures are available)—

(*i*) as salaries to their permanent servant in the subordinate and clerical services ;

(*ii*) as pensions to servants who were in their subordinate and clerical services ?

The Honourable Mr. G. B. Pradhan : (*i*) Figures of the cost of permanent and temporary establishments are not separately available. The total amount expended by the Provincial Government during 1925-26 on the salaries of their subordinate establishments was Rs. 296 lakhs excluding the cost (amounting to about Rs. 25 lakhs) of the menial establishments.

(*ii*) Government regret that they are unable to furnish the information asked for as separate figures for different classes of establishments are not readily available.

(B.L.C. Debates, Vol. XXIV. p. 287. dated 29th September 1928)

Government Servants : Starting Pay of Graduates

Dr. P. G. Solanki on behalf of Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that Mr. S. K. Bole had put a question in the Council asking for information about the starting pay of Graduates in the City of Bombay ;

(*b*) whether it is a fact that Government replied that Graduates were started on Rs. 90 except those serving in the Lower Grade in those offices, where the establishments are divided into "Upper and Lower Grades," and that Government issued Government Resolution, Finance Department, No. 1140, dated 25th March 1925 directing the Heads of Departments accordingly ;

(*c*) whether it is a fact that inspite of the abovementioned Government Resolution directing the Heads of Departments to start Graduates on Rs. 90 in the City of Bombay, the Collector of Bombay starts Graduates on Rs. 60 only in the departments under him, even though there are no Upper and Lower Grades in those departments ;

(*d*) whether Government are aware that Graduates start on Rs. 70 in the mofussil ?

The Honourable Mr. G. B. Pradhan : (*a*) Yes.

(*b*) Government replied that all Heads of Offices in Bombay were authorised to pay an initial salary of Rs. 90 to all graduates except those in the Lower Division in those offices in which the establishment is divided into Upper and Lower Divisions. Orders to the above effect were issued in Government Resolution, Finance Department, No. 1140, dated 25th March 1925.

(*c*) Under the orders referred to by the Honourable Member Government have authorised their Heads of Offices to start graduates, except those in the Lower Division in those offices in which the establishment is divided into Upper and Lower Divisions, on an initial pay of Rs. 90 per mensem in the revised time scale. According to the above orders the Collector of Bombay gives an initial pay of Rs. 90 per mensem to a graduate where he thinks that a graduate clerk is absolutely necessary whereas in other cases graduates are given rates of pay ranging from Rs. 60 to Rs. 90 according to the importance of the work assigned to them.

(*d*) Yes.

(B.L.C. Debates, Vol. XXV, p. 685, dated 28th February 1929)

Land Acquisition : Mulshi Dam

Dr. P. G. Solanki on behalf of Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether the lands of the Mahars of Mohari and Wadgaon, taluka Haveli, district Poona, were acquired by Government on account of the Mulshi dam ;

(*b*) the rates at which the lands were acquired ;

(*c*) whether the price of the lands was paid to the Mahars of these villages ?

The Honourable Mr. J. L. Rieu : (*a*) Yes.

(*b*) Rs. 50 per acre for Jirait land and Rs. 550 per acre for Gadi (rice) lands.

(*c*) The lands being service inam, the sums awarded were credited to Government and an annual cash allowance calculated at 5 per cent. of the total amount of the compensation was sanctioned for the watandar Mahars.

(B.L.C. Debates, Vol. XXV, p. 767, dated 1st March 1927)

Grants-in-aid to Local Boards

Dr. P. G. Solanki on behalf of Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that the question of grants to Local Boards has been kept pending for nearly 3 years by the Director of Public Instruction ;

(*b*) if so, who is responsible for the delay ;

(*c*) what steps, if any, Government propose to take in the matter ?

The Honourable Moulvi Rafiuddin Ahmed : (*a*) If the honourable member refers to grants by Government on account of primary education the provisional grants made yearly to district local boards or local authorities are often in excess of the actual amount shown to be due after audit. The final adjustment of these yearly grants are made later when audit objections have been met.

(*b*) Does not arise.

(*c*) No alteration of the existing procedure is contemplated.

(B.L.C. Debates, Vol. XXV, p. 1092, dated 7th March 1929)

Bombay Municipal Corporation—Morland Road

Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) whether it is a fact that the Bombay Municipal Corporation has not completely re-constructed Morland Road even once during the last 15 years, and, if so, the reasons therefor ;

(*b*) whether Government intend to take any steps in the matter ;

(*c*) whether it is a fact that the matter was represented to the Police Authorities and to the Municipal Corporation through representations and in the Press ?

The Honourable Dewan Bahadur Harilal D. Desai : (*a*) It is not a fact that the road has not been repaired during the last 15 years. During the period 1914 to 1921 the whole road was repaired regularly and in 1920-21 the entire length was repaired and the surface dressed with a paint coat of tar at a cost of Rs. 11,640-15-3. Since 1922 substantial repairs have not been carried out, but extensive patching of the road surface has been frequently done. The Corporation has given its consent to the re-construction of the road with sheet asphalt on cement concrete foundations and the work will be taken in hand in due course.

(*b*) No.

(*c*) Complaints have been made to the Corporation.

(B.L.C. Debates, Vol. XXV, p. 1092, dated 7th March 1929)

Secondary Schools : Grants-in-aid

Dr. P. G. Solanki for Dr. B. R. Ambedkar : Will Government be pleased to state—

(*a*) the reasons why the question of reorganising the basis of assessing annual grants to Secondary Schools was not considered last year ;

(*b*) whether there are any schools in the Presidency that have deserved special consideration from Government in point of receiving regular grants-in-aid ;

(*c*) whether in assessing grants to Secondary Schools the Director of Public Instruction is invariably guided by the inspection reports of the Educational Inspectors ? If not, what is generally his standard of distributing annual grants to Secondary Schools ;

(*d*) whether the Educational Department observe, in order to maintain the departmental standard of efficiency, some basis on which the aided Schools are' expected to spend per capita annually, and the Government on the other hand are expected to share the corresponding cost ? If so, what is the minimum ratio between the cost to the Government and the institution according to the basis ;

(*e*) the minimum number of years after which a Secondary School is given registration by the Education Department ;

(*f*) the number of Secondary Schools of over 5 years' standing that have not yet been permanently registered for grant-in-aid ?

The Honourable Moulvi Rafiuddin Ahmed : (*a*) Government were generally satisfied that the basis on which grants to Secondary Schools are assessed is sound.

(*b*) Yes.

(*c*) Grants are assessed according to the principles laid down in the Grant-in-aid Code. In framing his estimate of the extent to which a particular school satisfies the requirements of the Grant-in-aid Code, the Director of Public Instruction is invariably guided by the reports of the Inspecting staff. The question in the latter portion does not therefore arise.

(*d*) No definite standard of expenditure per capita is observed in assessing expenditure for grant. The system laid down in the Grant-in-aid Code provides for grants at the rate of one-third of the admitted expenditure being given to all schools which satisfy the requirements, subject to the funds allotted for the purpose permitting.

(*e*) No minimum number of years is prescribed. Owing to lack of funds the registration of additional schools has been suspended.

(*f*) About 110 schools.

(B.L.C. Debates, Vol. XXVIII, pp. 585-86, dated 27th February 1980)

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APPENDIX III

UNIVERSITY REFORMS COMMITTEE

(Refer Chapter 7. page 48)

*QUESTIONNAIRE

Of University Reform in Bombay Presidency

(The Bombay Government appointed a Committee to look into the problem of reform of the Bombay University. This Committee consisted of 13 members with Sir Chimanlal H. Setalvad, Kt. as its Chairman. Dr. Ambedkar was not a member of this committee but he was one of the 321 persons to whom the committee sent its questionnaire of 54 questions. Dr. Ambedkar replied only some of the questions which he considered worth replying. The questions replied by Dr. Ambedkar are alone reproduced here to be followed by his evidence.—*Editor*.)

1. What in your opinion should be the aim and function of University education in the Bombay Presidency ? Do you consider that the existing system of University education in this Presidency affords the young Indians of this Presidency adequate opportunities of attaining this aim ? If not, in what main respects do you consider the existing system deficient ?

2. Do you consider that the defects pointed out by you mainly lie in or spring from (*a*) the spirit and methods of instructor or pupil ; (*b*) the conditions of education, antecedent to the students' entrance of the University ; or (*c*) the administrative or educational machinery of the University ?

3. How far in your opinion has the University promoted knowledge of, and mutual interest in and sympathy for, the history and culture of the different communities in this Presidency ? Can you suggest means by which this can be further promoted ?

II. Secondary and Intermediate Education

(Questions 4-7)

4. Do you consider the training and attainments of students coming out of our High Schools sufficient preparation for entering upon University

*Report of the Committee on University Reform appointed by Government, 1925-26, pp. 226-31.

education ? If you consider this preparation inadequate, have you any suggestions for the improvement of the present conditions ?

5. Do you consider the creation in this Presidency of (*a*) a new set of institutions in intermediate between High Schools and University ; (*b*) a new Board of Secondary and Intermediate Education such as was proposed by the Calcutta University Commission necessary or desirable ? If so, how should such institutions and such a Board be constituted and financed ?

6. If you consider intermediate institutions, with or without an Intermediate Board, unnecessary or undesirable, how without them could the level, range and effectiveness of existing High School education in this Presidency be improved ?

7. How may the University best secure the maintenance of efficiency in the institutions that send students to it for admission ?

III. Functions of the University of Bombay

(Questions 8-24)

(*a*) *Teaching* (Questions 8-13)

8. In what directions is it necessary and practicable as well as advisable, in your judgment, to extend the function of the University of Bombay so as to make it predominantly a teaching University ?

9. Do you consider that the University should, in addition to postgraduate teaching take any direct part in under-graduate teaching ? If so, how would you reconcile and co-ordinate the teaching functions of the University with those of the existing teaching institutions ?

10. If you do not consider the University should take any direct part in under-graduate teaching, how by proper co-ordination would you utilise to the best advantage the existing facilities for under-graduate study ?

IV. Additional University in Bombay Presidency

(Questions 25-30)

25. Is it desirable to constitute any additional Universities within the Bombay Presidency ? What Centres of higher education in the Presidency do you consider—

(*a*) ripe for immediate expansion into Universities,

(*b*) likely to be ripe in the near future, and on what grounds ?

28. How would the institution of additional Universities affect the existing University of Bombay ? How would you secure co-operation, co-ordination, and reciprocity between the University of Bombay and the new University ? What arrangement do you suggest for the period of transition ?

VII. Constitution

(Questions 36-40)

36. What defects do you find in the constitutional machinery of the University of Bombay ?

37. What should be the strength, composition, duration of office, method

of constituting and powers and functions of the Senate ? Who, if any, should be *ex-officio,* life, and nominated members of the Senate ? How does your method of constituting the Senate secure the representation of all interests and communities ?

38. Do you consider that it is necessary or desirable to decentralise the powers and functions hitherto exercised by the Syndicate of the Bombay University ? If so, what powers or functions would you remove from the Syndicate and to what new or existing bodies of the University would you assign them ? How should the Syndicate so reorganised and any new bodies you may propose be composed ?

39. What functions and powers would you assign to the Faculties and Boards of Studies ? How should these bodies be constituted and appointed ?

III. Functions of the University of Bombay

(Questions 8-24)

(*c*) *Prescribing Courses and Examining* (Questions 16-19)

16. How in your opinion has the University been discharging the functions of (*a*) conducting examinations, (*b*) prescribing courses of study, and (*c*) appointing text-books ? Would you suggest any modifications in the exercise of these functions ?

17. How far can University examinations be profitably replaced or supplemented by other means of testing proficiency, intelligence and competence ?

18. On what branches of study should the Bombay University undertake the teaching immediately and in the near future ?

19. In considering the extension of the teaching functions of the University of Bombay and bearing in mind the special requirements of the people of Bombay, would you suggest the institution of any more faculties e.g. of Fine Arts or Technology so as to make the scope of the University broader, more liberal and more comprehensive ?

(*d*) *Post-Graduate Courses and Degrees* (Questions 20-21)

20. When the Bombay University further develops its teaching functions, what should be the duration of studies for post-graduate degrees ? How would you award such degrees, whether by examination, thesis, original research or a combination of one or more of these ?

21. Do you wish to institute any new degrees *honoris causa* and, if so, on what grounds would you have them awarded ?

(*e*) *Promoting Research* (Questions 22-23)

22. How Can the University best encourage and guide independent investigation of Indian and especially Bombay's problems, whether historical, economic, sociological, industrial, or other ?

23. Is there any need for the creation of a University Press and Publication Department ? How might such Department be organised and financed ?

(*f*) *Appointing University Teachers* (Question 24)

24. In a Bombay Teaching University what should be the method of

selecting and appointing University Professors, Readers, Lecturers etc. ? What qualifications are requisite in them ? What range of salaries do they require ? What should be the conditions regulating their appointment and tenure of office ?

IV. Additional Universities in Bombay Presidency

(Questions 25-30)

30. What principles or policy should be followed by (*a*) the Bombay University, (*b*) any new University within this Presidency in permitting the opening of any new College or Institution, constituent or affiliated ?

V. Relation of the University and the Public

(Questions 31-34)

31. How far do you consider the curricula of the Bombay University satisfy the needs of Agricultural, Industrial, Professional and Public-life in the Presidency, and especially in the City of Bombay ?

32. Can you suggest method of promoting cordial relation and co-operation between the University and other public bodies whether industrial, commercial, professional, municipal or Government ?

33. What measures should be taken to bring the University and its working into closer relation with the industrial and commercial life and interests of the City ?

34. What should be the extent and purpose of the University's contribution to the education of the adult non-collegiate population ? How should the University organise extension lectures, vacation terms and other measures to this end ?

VI. Relation of University and Government

(Question 35)

35. What should be the relation of the Government of India and of the Government of Bombay to the University of Bombay and to any new Universities that may be created ? What modifications, if any, do you think necessary in the existing powers of the Chancellor and of Government to control University finance, legislation, appointments of University Officers and Teachers and membership of University bodies ? What should be the relation, if any, of the Director of Public Instruction and the Minister in charge of Education to the University ?

VIII. Curricula

(Questions 41-44)

41. Are you generally satisfied with the subject and curricula at present prescribed for the various University Examinations ? If not, can you indicate the changes you desire ?

42. Are you in favour of establishing (*a*) an absolute or (*b*) a greater differenciation of the pass and honours courses ? How would such differenciation affect the Colleges and Students ?

43. Would you approve of an absolute exclusion of science from the Arts Courses ? Do you approve of the present dissociation of Literature and Arts from the study of science ?

44. Do you consider the existing courses for the Bachelor's and Master's degree provide a sufficient variety of options and satisfactory combinations and correlations of Courses of Study ?

IX. Use of the Vernacular

(Questions 45-46)

45. To what stage and to what extent do you consider the vernacular, can and should be used to replace English as the medium of instruction and examination *(a)* in Bombay, *(b)* in any newly constituted University ? What safeguards do you suggest to secure that the standard of English required by students does not suffer from such replacement ?

46. What do you consider the best method of promoting the scientific study of the Vernaculars of this Presidency and for encouraging the production of good vernacular literature of all kinds ?

XIII. Special Communities

(Question 52)

52. Do you consider any special measures are required for the promotion of University education in any particular community ?

*WRITTEN EVIDENCE BY DR. B. R. AMBEDKAR

Question 1: I agree with the Inspectors of the Board of Education in England that the aim and functions of University Education should be to see that the teaching carried on there is suited to adults ; that it is scientific, detached and impartial in character; that it aims not so much at filling the mind of the student with fact or theories as at calling forth his own individuality, and stimulating him to mental effort; that it accustoms him to the critical study of the leading authorities, with perhaps, occasional reference to first hand sources of information, and that it implants in his mind a standard of thoroughness, and gives him a sense of the difficulty as well as the value of reaching at truth. The student so trained should learn to distinguish between what may fairly be called matter of fact and what is certainly mere matter of opinion. He should be accustomed to distinguish issues, and to look at separate questions each on its own merits and without an eye to their bearing on some cherished theory. He should learn to state fairly, and even sympathetically, the position of those to whose practical conclusions he is most stoutly opposed. He should become able to examine a suggested idea, and see what comes of it, before accepting it or rejecting it. Without necessarily becoming an original student he should gain an insight into the conditions under which original research is carried on. He

*University Reforms Committee-Written Evidence No. 103, pp. 1-17, dated 15th August 1924.

should be able to weigh evidence, to follow and criticise argument and put his own value on authorities.

I see no reason why the aim and functions of the University Education in the Bombay Presidency should be different. Judged by the quality of the students it turns out it must be said that the existing system of University Education in this Presidency has totally failed to realize the aim and functions of University Education.

Question 2 : It is possible that this failure springs partly from the spirit and methods of the instructor, partly of the pupils and partly from the conditions of education antecedent to the students' entrance to the University. In my opinion, however, the failure springs mainly from the administrative and educational machinery of the University. Before a University can be in a position to fulfil the aims and functions of University Education it must be so organized that it becomes essentially a place of learning, where a Corporation of Scholars labour in comradeship for the training of men and the advancement and diffusion of knowledge. In the light of these remarks it will be obvious that the Bombay University in the first place is no true University. It is not a Corporation of Scholars. It does not undertake the training of men and it is not directly interested in the advancement and diffusion of knowledge. On the other hand, the Bombay University in respect of its administration and educational machinery is what a University ought not to be. It is a Corporation of Administrators. It is only concerned with the examination of candidates while the advancement and diffusion of knowledge is outside the ambit of its interests.

Question 3 : The University of Bombay has not promoted knowledge of and mutual interest in and sympathy for the history and culture of the different communities in this Presidency. A purely examining University that does not concern itself with inculcating the love of learning cannot achieve this object. And it seems to me that the only way of success along this line is first of all to convert the University into a Teaching University.

Questions 4-7 : I do not feel I am competent to answer these questions satisfactorily. I agree that a great deal depends upon what kind of "stuff" the University gets from the high schools. How to get the right kind of stuff is a problem with every University. But I cannot understand why a University should be required to enter upon the control of high schools in order to compel them to produce the required kind of stuff. I know of no University that has undertaken this responsibility. All that the Universities do is to hold their own entrance examination whereby they select the kind of stuff they want by their test papers. I do not see why the Bombay University should be called upon to do more.

Questions 8-10 : There are in my opinion two distinct problems that must arise in any attempt that may be made for converting the University of Bombay into a Teaching University. They are (*i*) how to convert it into a Teaching University and (*ii*) how to organize its teaching. With the first

problem I will deal when I come to questions 36-40. Here I will deal with the second problem. In the Incorporation Act of 1857 no provision was made for allowing the University to undertake teaching functions. The Act of 1904 for the first time described the University as being incorporated for the purpose (among others) of "making provision for the instruction of students", a phrase which might seem to have been intended to include undergraduates in putting into practice this clause all the older Universities have followed the University Commission which recommended that the Universities might justify their existence as teaching bodies by making further provision for advanced courses of study. As a result of this we find today that the undergraduate teaching has been separated from the postgraduate teaching, the former being taken up by the University and the latter left to the colleges.

I am totally opposed to any such sharp division between post-graduate and undergraduate training. My reasons are as follows : —

(1) The separation of post-graduate work from undergraduate work means the separation of teaching from research. But it is obvious that that where research is divorced from teaching research must suffer. As has been well observed by the Commissioners of 1911 on University Education in London.

> "69. Teaching will, of course, predominate in the earlier work, and research will predominate in the advance work ; but it is in the best interests of the University that the most distinguished of its professors should take part in the teaching of the undergraduates from the beginning of their University career. It is only by coming into contact with the junior students that a teacher can direct their minds to his own conception of his subject, and train them in his own methods and hence obtain the double advantage of selecting the best men for research, and getting the best work out of them. Again it is the personal influence of the man doing original work in his subject which inspires belief in it, awakens enthusiasm, gains disciples. His personality is the selective power by which those who are fittest for his special work are voluntarily enlisted in its services and his individual influence is reproduced and extended by the spirit which actuates his staff. Neither is it the few alone who gain ; all honest students gain inestimably from association with teachers who show them something of the working of the thought of independent and original minds. 'Any one', says Helmholtz, who has once come into contact with one or more men of the first rank must have had his whole mental standard altered for the rest of his life'. Lectures have not lost their use and books can never fully take the place of the living spoken word. Still less can they take the place of the more intimate teaching in laboratory and seminar, which ought not to be beyond the range of the ordinary course of a university education, and in which the student learns, not only conclusions and the reasons supporting them, all of which he might get from books but the actual process of developing thought, the working of the highly trained and original mind."

"70. If it is thus to be desired that the highest university teachers should take their part in undergraduate work and that their spirit dominate it all, it follows for the same reasons that they should not be deprived of the best of their students when they reach the stage of post-graduate work. This work should not be separated from the rest of the work of the University, and conducted by different teachers in separate institutions. As far as the teacher is concerned it is necessary that he should have post-graduate students under, him. He must be doing original work himself, and he often obtains material assistance from the co-operation of advanced students. Their very difficulties are full of suggestions, and their faith and enthusiasm are a pay source of refreshment and strength. He escapes the flagging spirit and and the moods of lethargy which are apt to overtake the solitary worker. There can be no question of a higher class of teachers than the professors of the University, or the whole position of the University will be degraded. On the other hand, a university teacher of the highest rank will naturally desire to have as his post-graduate students those students whom he has already begun to train in his own methods, though his laboratory or seminar will, of course, be open to students who come from other universities, and to some perhaps who come from no university at all, as well as to some who come from other teachers of the University of London. There must be a great deal of give and take, and students may often gain by studying under more than one teacher of the same subject ; but that is an entirely different thing from separating the higher work from the lower. We do not think it would be possible to get the best men for University Professorship it they were in any way restricted from doing the highest work or prevented from spreading their net wide to catch the best students."

"71. It is also a great disadvantage to the undergraduate students of the University that post-graduate students should be removed to separate institutions. They ought to be in constant contact with those who are doing more advanced work than themselves, and who are not too far beyond them, but stimulate and encourage them by the familiar presence of an attainable ideal."

The disastrous consequences which follow to advanced research work where it is separated from teaching have become patent at least to me. It is a notorious fact that many Indian students who have returned with post-graduate degrees from the University of London and other universities have been failures in the sense that they have failed to master their subjects although some of them occupy the highest posts in the educational line. The reason for this is to be found in the fact that their under-graduate training was utterly insufficient for advanced research work. The Committee will remember that post-graduate training is very modern in its origin and conception. There were men at Cambridge and Oxford who did a great deal of excellent work although those universities did not have post-graduate departments. Even now the men at the head of post-graduate departments

at Oxford, Cambridge and London are only graduates and yet they are doing their work of directing post-graduate research remarkably well so as to attract students from all parts of the world. The reason is that their undergraduate training was of a high order. I am, therefore, bound to emphasise that the University must undertake the training of the undergraduates if it intends to rear a structure of a sound system of post-graduate work.

(2) Secondly, the assumption by the University of direct responsibility for teaching in the post-graduate sphere by its own staff which is regarded as a great reform tends to produce the unhappy effect of placing the university staff in antithesis and in opposition to the college staff which feels that its status is unreasonably reduced by the formal and practically permanent limitation of the colleges to an inferior sphere of work.

(3) Thirdly, the establishment of a distinct University Professoriate for post-graduate work is a sheer waste of the resources of the University and can be easily avoided by a proper husbanding of the resources of the colleges. In our system of University education the colleges are the only places of learning. But they are at present the property of separate bodies and the management of each college is vested in a separate governing body. The income derive from a college goes to its own fund. If there is any surplus after the necessary expenses it only serves to swell this fund. Each college teaches the same subjects as the rest and is so to say a 'pocket' university obliged to maintain a competent staff to teach all the subjects and to provide separate libraries and laboratories for their own use. Autonomous as these colleges are none of them is financially a wealthy institution to be able to engage a first class and adequate staff and to provide a first class and adequate equipment in the form of libraries and laboratories. Owing to their slender resources the college staff is handicapped and overburdened. Being obliged to teach too many subjects specialization becomes impossible and a college professor under these circumstances has neither the inducement nor the opportunity to become the master of a small branch of a great-subject. As an inevitable result of this system of autonomous self-sufficing colleges we have scattered here and there poor professoriates, poor libraries and poor laboratories. But because the existing resources seem insufficient when looked upon as attached to or dissipated among the different colleges it does not follow that the resources of the colleges in the aggregate are not great enough to cope with the teaching of the post-graduate and undergraduate work of the Bombay University. Take for instance the resources of the colleges situated in the City of Bombay for the purpose of teaching economics.

We have in the City of Bombay the following colleges providing training in Economics for the B.A. Course of the Bombay University :—(1) Elphinstone College, (2) Wilson College, (3) St. Xavier's College and (4) Sydenham College, There are two men teaching economics at the Elphinstone, two at the Wilson, two at the St. Xavier's and some six or so at the Sydenham

College. Together there are about 12 men in the City of Bombay engaged in the teaching of economics. I know of no university in the world which has such a large number of men engaged in the teaching of one subject and yet all this plethora of professors is running to waste merely for the want of a better organization. And the University instead of attempting to stop, this waste had added to it by the appointing of two more professors of its own to the existing lot.

It is however obvious that if these colleges could be induced to pool their teaching and library resources it would not only produce a strong specialized professoriate but it will produce a professoriate adequate to deal with both undergraduate and post-graduate work and thus obviate the waste of university resources on the two university chairs of economics. To bring this about one has only to arrange that these twelve men do combine together to distribute among themselves the work of carrying out the economics curriculum of the University and agree to lecture to all students taking that course irrespective of the colleges in which they are enrolled. The same plan could be easily adopted in organizing the teaching of other subjects in the colleges in the City of Bombay. The only difficulty probably in the way of this plan is of the students having to run from college to college to attend these lectures. This difficulty can be easily met. I should say that all lectures on Political Science shall be delivered at the Sydenham College. All lectures on Philosophy and Psychology shall be delivered at the Wilson College and all lectures on Literature and languages shall be delivered at the Elphinstone College. By this arrangement the frequent run of students between colleges will be entirely obviated. The colleges should be declared to be halls of lectures on a particular subject and the lectures while remaining on the foundations of their respective colleges will coalesce together so as to form a homogeneous group and will have rooms at the college which is assigned for the subject they will be dealing with, and which will contain the portions of the libraries of the colleges on that particular subject.

I agree that University should be a centralized institution and if the plan of a new University were to be laid down *ab integro* it would be better to rule out the type in which a university was to be composed of affiliated colleges. But it must be recognized that universities cannot be sown broadcast and that where a number of institutions of collegiate status have come into being they cannot be lightly abolished in order to promote the success of centralizing institution. Under the plan I have outlined neither the standard of university education nor the independence of colleges is sacrificed. Administratively the colleges remain independent. Educationally they become integral parts of the University. In short the position becomes somewhat like the position at Oxford and Cambridge where the university is the colleges and the colleges form the university. Such an organization makes the most of the existing colleges and eliminates the waste.

Question 25 : My scheme of organizing University Education applies only

to those centres where the colleges are situated in close proximity. If this scheme is to be utilized on a large scale the first thing to do is to control the location of colleges so that they shall be established in close proximity. In other words it is necessary to prevent adventurous educationists from opening individual autonomous colleges in all sorts of unseemly and unpromising towns. When one recalls the waste, duplication and dissipation of resources involved in the existence of such separate and scattered colleges one is surprised to see that such anarchical situation should have been tolerated so far. I regard it a great piece of good fortune for the Bombay Presidency that the growth of these isolated colleges has not as yet become so rank and wild as in Bengal. But steps must be taken at once to counteract the establishment of scattered colleges at random if the standard of University Education is to be maintained. For this purpose I should lay down the centres of University Education in this Presidency and should not allow any college to be started at any other place. In my opinion the following places should be marked as actual or potential centres of University Education : —

I—Bombay.	VI—Hyderabad (potential).
II—Poona.	VII—Dharwar (potential).
III—Ahmedabad.	VIII—Sangli (potential).
IV—Surat (potential).	IX—Nasik (potential).
V—Karachi	X—Amalner (potential).

Having defined the centres of University education the next thing to do is to organize the teaching at those places. At most of the above University centres there is as yet only a single college providing education in Arts. Only in Bombay and Poona are there groups of colleges in close proximity. There the problem of University teaching can be easily solved by permutation and combination of the various college staffs into departments. At those centres where there are as yet only a single isolated college the problem of providing education of the university type can be solved in two ways (1) by allowing the foundation of new colleges in close proximity of the existing ones for the purpose of teaching one particular subject or (2) by recognizing the existing college as a university and to allow it to expand by starting new departments of study. The former plan seems to be easier of success. But the latter would be better from the standpoint of efficiency. By adopting this policy, instead of having a number of colleges scattered through the different parts of the Presidency to meet the educational demands in those parts of the Presidency we would be able to have other universities in other parts of the Presidency to meet the educational demands in those parts. By this we may not have achieved the ideal of a centralized university. But we may at least be achieving the next best, of having all the colleges which are affiliated to a university situated in the university town in close proximity of one another to combine together in intellectual co-operation and make the university so to say a living personality.

Question 28 : Bombay and Poona are the only places ripe for immediate expansion into universities and I suggest that these be at once incorporated into separate universities. Ahmedabad is likely to be ripe in the near future. It has already an Arts College and a Science Institute and may be converted into a University.

Pending the establishment of universities in the centres marked above the three universities of Bombay, Poona and Ahmedabad should have an external side like the University of London whereby arrangements could be made to grant degrees to students of the other colleges appearing at their examinations.

If the future universities to be established in this Presidency shape themselves into centralized institutions then the problems raised in these questions will not arise. For, then, the university will be in full control of its staff and teaching arrangements. But I will assume that our future universities will be a cluster or constituent colleges independent in their organization. At any rate it will be so of the new universities of Bombay and Poona. Under the scheme of having constituent colleges, the colleges will still continue to be places licensed by the university to provide University education. The plan of inter-collegiate teaching will remove the waste duplication and dissipation of resources by the constituent colleges. But will that arrangements be sufficient to ensure that the standard of university education will be maintained at a high level. That depends upon the standing of the teaching staff engaged in imparting University education. At present the teachers are attached to the colleges and their pay and status are regulated by the authorities governing the colleges. But the colleges do not seem to be making the appointments solely from the sense of obtaining the most qualified persons nor regulating their grades, tenure, pay and promotion in such a manner as to open a career to the best and most qualified member of the staff. The whole educational work carried on by Government is entrusted to the educational services in the three grades of which are included all the administrative and inspecting officers, and all the teachers in Government colleges and schools from the most responsible to the most junior. As in all services the principle of seniority is so deeply rooted that it has become a sacred convention that all superior posts should go by seniority. The principal drawback of this system so far as the work of University education is concerned is that rewards are regulated not by depth of scholarship but by the length of service. Teachers of a college who are subject to be transferred from place to place as is the case with the members of the Government service cannot but feel that the body corporate which claims their loyalty and obedience *is* not the college but the service and more often than not their ambition is directed to securing service promotions than that of creating a school of learning with which their names will be identified. The invidious distinction drawn between the I.E.S.

and P.E.S. is another weakness of the service system in that it tempts even the very junior members of the former to regard themselves as the superior of the most senior and distinguished members of the latter. This introduces an element of friction among the members of the college staff rendering difficult that free and friendly co-operation which is so indispensable to promote the intellectual life of any educational institution. Last but by no means the least in importance is the fact that under the present circumstances the professors in the Government colleges by reason of their being servants of the Government have lost the confidence of their students. The students instead of regarding their professors as their intelectual leaders regard them as the agents of Government and the professors receiving no response from their students drudge on without kindling their interest and winning their allegiance. In the colleges maintained by Missionary bodies the leading members of the staff are European Missionaries. The rest of the staff consists of Indian teachers. The distinction between the I.E.S. and P.E.S. is reproduced there on a small scale though it is not quite so emphasized as to produce open friction. In the private colleges maintained by Societies, such as the Deccan Education Society all the members of the staff are the members of the Society. The staff here is therefore more homogeneous and has nothing in its organization to lead to any cleavage. But the constitution of these colleges restricts them to the appointment of men who care to become life members of the Societies which control them. I cannot speak very definitely about the prospects offered by these private colleges but it is certain that they are very poor even when compared with the lowest grades in the Government colleges and indeed they are so poor that they cannot attract men of moderate attainments unless the same can afford to maintain a large margin of disinterestedness. But it is not the private colleges alone that fail to procure proper persons to fill their vacant posts. Even Government colleges with the best of prospects seldom succeed in hitting upon the right sort of a person. The reason is that neither have any proper machinery for making a judicious selection. In the case of Government colleges it is the Director of Public Instruction or the Secretary to Government that makes the choice. But as a matter of fact they are the most inexpert people for this task. Similarly the appointments in the private colleges are mostly in the hands of the heads of the colleges and they too are incapable of making proper choices. The fault lies in not recognizing that to assess the merits of a person one must belong to his kind. It will take an economist to judge an economist.

Quite apart however from these difficulties and drawback there is no possible means of bringing a University staff thus recruited by the different colleges into a due relation, as regards either its members or its distribution, to University needs. The University might find itself supplied with half a dozen professors of one subject and without a single in another equally

important branch of knowledge. University organization cannot proceed on these lines, and the difficulties described above can be removed only by placing the appointments of all teachers of the University in the hands of the University itself acting through the Academic Council (*see* constitution of the new University) or at least by giving the University an effective voice in their appointment.

I therefore propose that the collegiate branch of the Educational Service should be separated from the Administrative branch and should be placed under the University with proper safeguards. In other words the teachers' posts at the different colleges should be converted into chairs attached to and supported by certain foundations in the present case by the private colleges and Government. But the appointments to these chairs should be controlled by the University.

I attach the greatest importance to the control of the University over the appointment of its teaching staff. Hitherto the University of Bombay has attempted to maintain the standard of University education by means of its power to test it by a rigid system of examination. The result has been a gradual lowering of the calibre of its graduates. This is principally to be attributed to the egregious error committed by the fathers of our University education in not at all recognizing that the only means of maintaining the standard of University education are the rigid exclusion of students who are unfit for University studies and the existence of a body of highly qualified and productive teachers, organized in departments adequately equipped. In other words they attempted to maintain the standard of the University degrees without attempting to maintain the standard of the teachers and the taught. When events are moving us in the direction of making the University of Bombay a teaching University, it must be clearly realized that "the power to control teaching is of more importance than the power to test it by granting degrees". A University cannot become a teaching University unless its academic affairs, i.e., teaching and examination are left to the uncontrolled discretion of those engaged in teaching. But it will be fatal to the standard of a University degree if the University reposed such a large trust in a body of teachers in whose calibre it has no confidence. I therefore propose that the University should have the power of purse over the colleges. All Government grants to the colleges should be made through the University, so that the University will have a voice in the appointment of the staff of teachers and their equipment in the matter of libraries and laboratories.

Questions 36-39 : If a University as a corporation of learning is to serve the community, then its constitution must provide (*a*) for a body which will keep it in touch with all varied requirements of the community ; (*b*) for a body which will give the University a statesman-like guidance in the provision and also in accommodation of means to ends so as to bring about

a working comprise between the possible misconceptions of the public and the possibly too narrow outlook of the scholar ; and (*c*) for a body of scholars engaged in the work of teaching to give an authoritative direction to the academic business of the University.

I want to impress upon the Committee that a University does not become a teaching University merely by engaging in the work of teaching through the agency of its own staff. That is not the criterion of a teaching University. A University may undertake teaching and yet may not be a teaching University. Whether or not a University is a teaching University depends upon whether or not the scholars engaged in the work of teaching have the authoritative direction of the academic business of the University in their hands. If it is in their hands then the University is a teaching University. If it is not in their hands then the University is not) a teaching University. A teaching University is a teachers' University.

I am led to make these preliminary remarks because I feel that the Committee in inviting answers to its questions on the constitution is motivated by the desire to obtain such suggestions as will help to make the University of Bombay a teaching University. The existing constitution of the University of Bombay does not provide in any adequate or clear cut manner any of the three bodies I have said to be necessary for a University to function properly. The Senate of the University is not sufficiently representative of the life and interests of Bombay. The Syndicate has not the responsibilities and powers which should devolve upon the Executive Council of a great University and often has devolved upon it duties which it is absolutely unfit to perform. While the teaching staff which is really the heart of the University has practically no voice, let alone authoritative direction, in the academic affairs of the University.

To make the University of Bombay a teaching University I would first of all proceed to the constitution of faculties. For this purpose I will take it that my scheme of inter-collegiate teaching between the colleges situated in the City of Bombay is adopted. Under that scheme the several studies pursued in the colleges will naturally have to be grouped into Departments, e.g., Economics. History, Politics, Administration, Law, Literature, Languages, Chemistry, Physics, etc. It will be admitted that students are receiving at a University their final systematic preparation for one or other of the several occupations of life for which a University education is necessary at any rate, the most advantageous preliminary.

To succeed in this it is necessary to group together certain branches of knowledge which students pursue. Not only do the needs of students require such a grouping but the needs of the teachers point in the same direction, for it is obvious that certain studies have a closer relation between them and there is a greater similarity in the point of view from which they are approached. These forces emanating from the teachers and the taught have

led everywhere the grouping of the several departments of study into what are called Faculties. I suggest therefore that the Departments in the new University of Bombay should be grouped into Faculties and the Faculties should be made the basis of the University organisation if our University is to be a teaching University. A faculty should consist, either wholly or mainly of the Professors and Assistant Professors of the subjects comprised within the Faculty ; and of such other teachers and officers appointed by the University as the Faculty may co-opt. The Vice-Chancellor should *ex-officio* be a member of every faculty. A Faculty should have the power to make Regulations—

(i) to appoint Committees consisting of the Faculty together with other persons to act as Board of Studies and for other purposes ;

(ii) to determine generally the conditions for the award of degrees, diplomas, and other distinctions within the purview of the Faculty ;

(iii) to determine generally the course of study to be pursued by students of the University in the subjects within the purview of the Faculty ;

(iv) to determine generally the method and manner of teaching and examination with regard to the subjects within the purview of the Faculty.

I must say again that if the Faculties are to be entrusted with the powers set out above and the teachers are to be freed from the restrictions imposed by a common syllabus of instruction and a general quasi-external examination, it is necessary to make sure that the teachers are worthy of the trust imposed in them.

The Faculties should be the constituent bodies of the University. Having constituted our Faculties to take charge of the academic and educational work of the University, we must constitute a Central Governing Body to take charge of the administrative work of the University. This body should correspond to the existing Senate of the Bombay University but should be entirely different in character and composition. In my opinion the Senate as a supreme governing body should be comparatively a large body mainly non-professional in character but including representatives of graduates and the teachers. The advantages of such a mode of government are obvious. By mean of a large Senate a number of influential citizens, chosen because of their individual capacity, and of representatives of the great interests of the town, municipal, administrative, commercial, legal, scientific, etc., and of members of Legislative Council, the Assembly and the Council of State are brought into touch with the University and serve as channels between the University and the community as a whole. Such a Senate will be able to ask for support to the University with greater authority and success and the whole city will feel interested in the success of the University.

But the Universities Commission of 1902 regarded it as a fault of the system and reported that the Senates of the Universities were too bulky in

numbers (in 1900 the Senate of the Bombay University consisted of 305 fellows) and incapable of exercising proper control in educational matters. That Commission did not understand that the proper function of the Senate was not to control the education but to keep the University in touch with all the varied requirements of the community. That being the function of the Senate it must necessarily be large and varied in its composition. I propose that the Senate of the University of Bombay should be composed of 150 members. One of the most important changes effected under the Universities Act of 1904 was the provision that two-fifths of the Ordinary Fellows should be associated with the profession of teaching. As a preventive of the system in which Fellowships were bestowed by way of compliment without due regard to the qualifications of the recipient this proviso was a salutary proviso. But in view of the proposal I advocate of giving greatly increased statutory powers to the Faculties, I do not think that the teachers in the University need more representation on the Senate than is sufficient to enable each of the Faculties to have a spokesman. I, therefore, propose to restrict the representation of the teachers to the Deans of the Faculties. The rest of the Senate should be composed of persons in the political or commercial world and interest in education may be able to render the University substantial service.

The chief function of the Senate would be legislation—

(1) to make statutes affecting the Government of the University and pass resolutions,

(2) to confer all honorary degrees,

(3) to approve of the admission of constituent colleges or University departments,

(4) to institute any new degree, diploma, or certificate,

(5) to decide disputes between Faculties.

Having provided for the two bodies one to look after the Government of the University and the other to take charge of the academic business of the University, we have now to provide for third body charged with the provision and also the accommodation of means to ends. In other words there must be a Central Executive of the University. This body should correspond to the existing Syndicate of the Bombay University but should be entirely different in character and composition. The Syndicate appears, both as to its composition and the conditions of its work, the least satisfactory of all the University bodies. As a supreme executive the Syndicate should have the custody and use of the Common Seal, the management of the whole revenue and property of the University and (except as otherwise provided) the conduct of all the affairs of the University. But instead of this the work of the Syndicate has been extended over a wide field of business much of which might be conveniently entrusted to other and more appropriate bodies. The existing system concentrates in a so-called executive

the work rather of discussion than of deliberate decision. I, therefore, propose to abolish the Board of Accounts and transfer its functions to the Syndicate which shall have power to determine—

(1) The finance, investments and accounts of the University.

(2) The amount and payment of fees to be exacted within the University, or in relation to the enjoyment of privileges therefrom.

(3) The terms and mode of appointment, tenure of and removal from office, duties, emoluments, allowances, salaries and superannuation allowances of the officers of the University, including its professors, teachers, registrars, librarians and permanent servants.

(4) The tenure of office and terms and manner of appointment and the duties of the Assessors, Examiners and Examining Board.

(5) The provisions and tenure of fellowships, scholarships, prizes, rewards, and pecuniary and other aids.

(6) The provision, maintenance, and supervision of halls, hostels or other premises for the residence of students.

(7) The admission of students as under-graduates of the University.

(8) To deal with the real and personal property of the University.

(9) To provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University.

(10) To borrow money for the University and to mortgage University property if necessary.

(11) To enter into, vary, carry out and cancel contracts on behalf of the University.

(12) To entertain, adjudicate upon and if thought fit redress any grievances of the officers of the University, the professors, the teaching staff, the graduates, under-graduates and the University servants who may feel aggrieved otherwise than by an act of the Senate.

(13) To regulate the Government grants to the constituent colleges.

These three bodies, the Senate, the Syndicate and the Faculties should be constituted by the Act of Incorporation and together they are enough to supply all the necessary organs of a great teaching University. But there seems to be a want for one more body for the new University of Bombay, particularly for the transition period that is bound to be very long before the mother colleges at the centre of University education ripen into Universities pending which they must remain affiliated to one or other of the newly organized teaching Universities in this Presidency. But even if this problem of making provision for the transition period was not there, the need for a fourth body in the management of a great teaching University would be felt nonetheless.

The plan of organization I have proposed is based more or less on the principle of separation of powers. The centre of legislative power is the Senate. The centre of executive power is the Syndicate and the centre of

academic power is the Faculty. But if these separate powers are exercised independently and without any co-ordination, the result is bound to be injurious to the best interest of the University. A Faculty is here taken as the basis of University organization and is given complete autonomy in prescribing courses of study and arranging the teaching of and the examining work. But provision must be made for the control of all matters not expressly assigned to the Faculties, the settlement of matters affecting more than one Faculty, and for a final decision when differences arise between one Faculty and another. There is not only a need for a body for co-ordinating the Faculties but there is also a need for a body for co-ordinating the Faculties and the Syndicate, otherwise the Syndicate by the exercise of its executive powers may seriously interfere in the academic freedom of the Faculties. The control of the purse must ultimately mean the control of all else and it is therefore necessary to ensure that the Syndicate shall not take any action having a direct educational bearing on the University as a whole without consultation with a body representative of the teaching staff as a whole. Thus whether as a feature of the transition period or as a permanent feature of University organization there is a clear necessity for the establishment of a fourth body in the act of incorporation. That body I propose to call the Academic Council. Its functions will be partly advisory and partly executive.

Its executive functions would include the determination by regulation or otherwise of all matters relating to—

(1) The quorum to be required at meetings of the Faculties or at meetings of any Committees appointed by the Faculties.

(2) The duties and powers of Advisory and other Boards, including Boards and Committees to be appointed by the University jointly with any other University or Body touching any educational matter.

(3) The qualifications for honorary degrees and distinctions to be awarded by the University and the means and steps to be taken relative to the granting of the same.

(4) The visitation of affiliated colleges.

(5) The affiliation and disaffiliation of colleges.

(6) The tenure of fellowships, scholarships, exhibitions and pecuniary and other aids.

(7) The discipline to be enforced in regard to the graduates and undergraduates in so far as they come within the jurisdiction of the University.

(8) The removal from membership of the University of graduates and under-graduates and the withdrawal of degrees, diplomas, certificates and distinctions, subject to an appeal to the Senate. The advisory functions of the Academic Council shall be as follows :

(*i*) The Syndicate shall not make any decision in regard to any matter relating to the organisation, improvement, and extension of University

education, both under-graduate and post-graduate without first inviting and receiving a report thereon from the Academic Council.

(*ii*) The Syndicate shall not issue general directions to the Faculties, or review any act of any Faculty or of any Committee or Board of a Faculty, other than the election of an officer or representative of such body, upon the appeal of any other Faculty or give directions for their future action without first inviting and receiving a report thereon from the Academic Council.

(*iii*) The Syndicate shall not make any appointment to the teaching staff without first inviting and receiving a report from the Academic Council.

The composition and strength of the Senate, the Syndicate and the Academic Council should be the same as proposed by the Calcutta University Commission for the new Calcutta University. I think it might be better to change as well the nomenclature and call the Senate, the Court and the Syndicate the State of the new University. I also propose that the Viceroy should be the Visitor of the University.

Question 16 : The University of Bombay may have been discharging the functions of (*a*) conducting examinations, (*b*) prescribing course of study, and (*c*) appointing text-books very well. But the University never seems to have paid attention to the pernicious effect of all this on the teacher and the taught. How to secure freedom for the University teacher to teach as he thinks best and not to restrict him by a hard and fast syllabus is a problem which should be in the forefront of the problems to be solved by this Committee. If freedom for the teacher can be obtained then freedom for the learner will follow. For this purpose the teachers of the University ought under proper safeguards to have entire control of the education and examination of their students and the University ought to be so constituted as to make this possible.

Question 17 : Besides examination, students' work in colleges ought to be taken into account. For the higher degrees there should be thesis and oral examinations.

Questions 18 and 19 : The University of Bombay should have the Faculties of Engineering, Agriculture, Fine Arts, Technology and Music to make it a complete University.

Question 20 : The duration of studies for post-graduate degrees should be four years (I am speaking only for social sciences). There should be two stages of two years each. At the end of the first stage the candidate should be entitled to the M.A. degree. He should specialize in one subject only which should be the subject of his major interest. The test should consist of a written examination accompanied by an essay of some 75 type-written pages showing his familiarity with the art of using original sources and commenting upon them. At the end of the second stage the candidate should be entitled to the Ph.D. degree. There the test would include an oral

examination and a thesis of a respectable size fit for publication. The thesis will embody the investigations of the candidate in a particular field lying within the scope of the subject he had taken at the M.A. as being of major interest to him. Beside this the candidate will present himself for an oral examination in two subjects to be known as subjects of minor interest which will be allied to the subjects of his major interest. This arrangement will allow specialization with a broad base.

Question 21 : It may be well to have a few such degrees.

Question 22 : By means of subventions, studentships and fellowships.

Question 23 : Most essential to have a University press and publication department. Without this the post-graduate work will be considerably hampered.

Question 24 : See answer to questions Nos. 11-13.

Question 30 : Bombay University should confine itself to Bombay. New Universities should open their own departments. But if the new University is to be composed of colleges, then each college must confine itself to the teaching of one subject only.

Questions 31-33 : See answer to questions Nos. 36-39.

Question 34 : Spread of education should be a proper function of the University. But this cannot be achieved unless the University adopts vernacular as the medium of instruction which in the present circumstances is a far cry.

Question 35 : Government should have no control over the academic affairs of the University which must be entirely entrusted to the Faculties. But Government should have some control over the legislative and administrative affairs of the University. This they should have by means of nominations to the Court and the Senate of the University.

Questions 41-44 : I should leave these questions to the newly constituted Faculties. My opinion is that the curriculum even of the Honours Course provides a poor fare to the students.

Questions 45-46 : I hold a very strong affirmative view on the use of vernacular as a medium of instruction. But I feel that the problem cannot be solved unless Indian public opinion decides which vernacular it selects for common intercourse.

Question 52 : I think special measures are required for the promotion of University education among the Backward Classes and particularly the Depressed Classes.

Before closing my replies to the questionnaire I beg to express my surprise at the absolute disregard the Committee has shown in the matter of organizing a good Library. I cannot see how any University can function without a first rate library attached to it.

15th August 1924.

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PART II

Dr. Ambedkar with the Simon Commission (Indian Statutory Commission)

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A

REPORT ON THE CONSTITUTION OF THE GOVERNMENT OF BOMBAY PRESIDENCY

PREFACE

I regret that I have not been able to agree in the tenor of the report prepared by my colleagues on the committee or to accept the more important of the conclusions on the matters falling within the scope of our inquiry. I have therefore submitted this separate report containing my own views and recommendations. The bulk of my report has exceeded that of my colleagues. It might perhaps have been possible, by including in my report nothing more than formal answers to the questions raised to limit its bulk. But I felt there was a question to which an answer could be given without some general explanation of the principles on which the answer was based or also the report could not be properly understood. I have therefore set aside all considerations of brevity which would have exposed me to the criticism that the recommendations in the report were not supported by a sufficient amount of reasons and arguments and have allowed the report to grow to the size it has reached.

SECTION I

REDISTRIBUTION OF THE AREA OF THE PROVINCE

1. The area of the Bombay Presidency which extends over 1,223,541 square miles may be divided into four distinct linguistic divisions : (1) Maharashtra, (2) Gujarat, (3) Karnatak and (4) Sindh. The people of these divisions have beeen associated together under one administration for a long period. Gujarat, Maharashtra and Karnatak have been parts of the Bombay Presidency for last 110 years, while Sindh was joined to the Presidency 85 years ago. From this Confederacy, Karnatak and Sindh are now demanding that they be separated from the Presidency. The argument urged in favour of separation states that the Province does not represent a natural unit that not only it does not meet the test of unity of race or language but that it is actually built up by a deliberate fragmentation of homogeneous groups and their amalgamation with other heterogeneous groups. This, it is said, is an evil. For it is urged that the fragmentation involves a smothering of their distinctive cultures, while their amalgamation with other bigger groups makes them politically helpless.

2. In the case of Karnatak this argument has no doubt some force. That Karnatak has been dismembered into various small parts which have been linked up with other non-Karnatak areas for administrative purposes thereby causing a severence is true. Nor can it be gainsaid that the part united with the Presidency of Bombay has politically suffered by being under-represented in the Bombay Legislative Council. Notwithstanding all this, I am opposed to the separation of Karnatak from the Bombay Presidency. The principle of one language one province is too large to be given effect to in practice. The number of provinces that will have to be carved out if the principle is to be carried to its logical conclusion shows in my opinion its unworkability. Nor can it be made workable by confining it to cases “where the language is a distinct cultural language with a past and a future” and “where there exists a strong linguistic consciousness.” For the simple reason that every language which has a past if given an opportunity will have a future and every linguistic group of people if they are vested with the powers of government will acquire linguistic consciousness. I am aware that this may involve the sacrifice of Kanarese culture although I am not sure that that would be an inevitable consequence of the continuance of the present arrangement. But even if

that be the consequence I do not think it is a matter for regret. *For, I am of opinion that the most vital need of the day is to create among the mass of the people the sense of a common nationality the feeling not that they are Indians first and Hindus, Mohamedans or Sindhis and Kanarese afterwards but that they are Indians first and Indians last.* If that be the ideal then it follows that nothing should be done which will harden local patriotism and group consciousness. The present heterogeneous character of the province has this much in its favour that it provides a common cycle of participation for a polyglot people which must go a great deal to prevent the growth of this separatist feeling. I think that an arrangement which results in such an advantage should be conserved. I am therefore opposed to the demand of Karnatak for separation.

3. My colleagues have summarily dismissed the claim of Karnatic for separation on the ground that no witness appeared before the conference to support the same. I do not regret it in view of the fact that I and my colleagues agree in our recommendation regarding it. But it is a surprise to me that my colleagues should have in the case of Sindh come to a different conclusion. For I think that as compared to Karnatak, Sindh has no case. There can be no two opinions regarding the fact that Sindh has gained substantially by its incorporation in the Bombay Presidency. Having been separated by long distance, Sindh instead of being made a subordinate member of the household has been accorded the superior status of a neighbour associated with on the most honourable terms. In so far as her affairs have been administered by a Commissioner who is next to the Governor, Sindh must be said to have preserved the dignity of her independence. She has been allowed to retain her ancient and customary code of laws. Seldom has she been subjected to any new law passed for the Presidency proper unless the same was deemed to be specially conducive to her benefit. Her tribunals are entirely independent of the tribunals of the Presidency. Her public service is virtually separate from the Presidency Public Service and is manned by her own people. Her being linked to the Presidency cannot be said to have worked to her financial detriment. On the contrary she has been able to ride on the broad shoulders of the Presidency at a speed which would have been beyond her own capacity. It is her incorporation which has enabled her to draw so largely upon the great resources of this Presidency. Nor can Sindh be said to have failed to secure the consideration and attention from the Government which is due to it. Indeed since the introduction of the Reforms, Sindh has exercised an influence on the Government of Bombay out of all proportion to its magnitude. Given these facts it is difficult to understand what more is to be gained by separation when Sindh has all the advantages of separation without the disadvantages of incorporation.

4. It is also evident that all the communities of Sindh have not joined in making this demand. The evidence such as was placed before the joint Conference of the Commission and the Committee disclosed a sharp

cleavage between the Moslems and the Hindus of Sindh, the former favouring separation and the latter arraying themselves in opposition to it. On an examination of the history of Sindh public opinion regarding this question I find that the politically minded people of Sindh as a body took up the question of the status of Sindh only in 1917. After the announcement of August, 1917, the Sindis held a Special Conference in November, 1917, to consider the place of Sindh in the coming Scheme of reforms. The Honourable Mr. G. M. Bhurgri, the leading Mohamedan citizen of Sindh, was the Chairman of the Reception Committee, while the President of the Conference was a Hindu gentleman, Mr. Harchandrai Vishindas. The Conference had before it four alternatives, namely : (1) Formation of Sindh as a separate Province, (2) Sindh and Baluchistan to form one province, (3) Sindh to go with the Punjab and (4) Sindh to remain with Bombay. It is noteworthy that this Special Conference turned down three of these four alternatives including the proposal to form Sindh into a separate province. Not only did the Conference reject the proposal of a separate province but in its resolution supported by Hindus and Mohamedans urged for a closer incorporation between Sindh and the Presidency by reducing the position of the Commissioner of Sindh to that of the Divisional Commissioner in the Presidency. The deputation consisting of Hindus and Muslims which waited upon the Secretary of State, Mr. Montague, and the Viceroy, Lord Reading, was, it is said, emphatic in its declaration that Sindh did not wish to be a separate Province. The same attitude towards this question was uniformly maintained by members of both the communities at subsequent sessions of the Conference which met in 1918, 1919 and 1920. Since 1920 the question has not been considered by the Conference owing to its being swayed by the movement of non co-operation. From this survey it is clear that it is the Mohamedans who have changed front and it is they who have departed from an agreed point of view and that the demand far from being a united demand is a sectional demand originating from the Mohamedan Community only.

5. Before any sympathy can be shown to such a sectional demand, one must be satisfied that the purpose for which separation is sought is a proper one. Now although, the Mohamedan deputation which put forth this demand and the Hindu deputation which opposed it, both did their best not to reveal the real object of the demand and the real objection to its fulfilment. All the same those who knew the reality, must have felt that the contending factions had not placed all their cards on the table. But this purpose must be made clear so that it may be considered on its own merits and I propose to do so to the best of my information. On the 20th of March 1927, there were put forth what are known as the "Delhi Muslim Proposals," by prominent members of the Muslim Community as the terms for an *entente cordiale* between Hindus and Muslims. According to these proposals it was demanded (1) that Sindh should be made into a separate Province, (2) that the North-West Frontier Province should be treated on

the same footing as other provinces and (3) that in the Punjab and Bengal the proportion of Muslim representation should be in accordance with their population. A glance at the above proposals is sufficient to indicate that the object of the scheme is to carve out as many Provinces with a Mohamedan majority as possible out of the existing arrangement. At present Punjab and Bengal are two Provinces with a bare Muslim majority. The proposals by demanding that in those provinces representation should be proportionate to population seeks to make the communal majority of the Muslims a political majority so that a Mohamedan Government will be assured in those provinces. Baluchistan and N. W. F. Province have an overwhelming Muslim majority. But they are as yet out of the pale of responsible Government with the result that the Mohamedan majority is not a ruling majority. The aim of the proposals is to rectify this anomaly so that they will make four Provinces with a Muslim majority with sure chances of forming a Muslim Government. The demand for the formation of Sindh which is predominently Muslim in numbers into a separate Province is to add a fifth to the list of Muslim provinces contemplated by the scheme. Now what is the purpose behind the formation of these Mohamedan Provinces ? In the eyes of the Mohamedans themselves it has the same purpose as communal electorates. For the authors of the scheme say that they are prepared to give up communal electorates and agree to joint electorates in all provincial legislatures and in the Central Legislature provided their proposal of Mohamedan Provinces was agreed to. By parity of reasoning it follows that the object of carving out Mohamedan Provinces is to protect the Muslim minorities ; since that was the object of communal electorates. The scheme on the surface does not show how the creation of Muslim provinces is going to protect the Muslim minorities against Hindu majorities in Provinces in which the Hindus predominate. Indeed the scheme seems to weaken the position of the Muslim minorities by taking away the protection they receive or believed to receive from communal electorates. But if we probe into it we can see that the scheme is neither so innocent nor so bootless as it appears on the surface. At bottom it is an ingenious contrivance for the protection of Muslim minorities. For if the Hindu majority tyrannized the Muslim minority in the Hindu Provinces the scheme provides a remedy whereby the Mohamedan majorities get a field to tyrannize the Hindu minorities in the five Mohamedan Provinces. It is a system of protection by counterblast against blast; terror against terror and eventually tyranny against tyranny. That is the purpose behind the whole scheme and also behind the demand for the separation of Sindh. Lest there should be any doubt on this point I wish to remove it by directing attention to the Report of the Nehru Committee in which they say : "we agree that the Muslim demand for the separation of Sindh was not put forward in the happiest way. It was based on communalism and tacked on irrelevently to certain other matters with which it had no concern whatever." That the Nehru Committee should have fought shy of

disclosing the real grounds of separation is a circumstance which raises the presumption that the purpose as known to the Committee must have been otherwise than laudable. But if we are to consent to it, it is better to know the worst about it. I will therefore raise the curtain and let Maulana Abdul Kalam Azad reveal the same. Addressing the Muslim League at its recent session at Calcutta in a speech which must be admired for its terseness and clarity he said — "That by the Lucknow pact they had sold away their interests. The Delhi proposals of last March opened a door for the first time to the recognition of the real rights of the Musalmans in India. Separate electorates by the pact of 1917 only ensured them Muslim representation, but what was vital for the existence of the community was the recognition of its numerical strength. Delhi opened the way to the creation of such a state of affairs as would guarantee to them in the future of India a proper share. Their existing small majority in Bengal and in the Punjab was only the census figure but the Delhi proposals gave them for the first time five provinces of which no less than three (Sind, N. W. F. and Baluchistan) contained a real overwhelming majority. If Muslims did not recognise this great step they were not fit to live (applause). There would be now nine Hindu provinces against five Muslim provinces and whatever treatment Hindus accorded in nine provinces Muslims would accord same treatment to Hindus in the five provinces. Was not this a great gain ? Was not a new weapon gained for the assertion of Muslim rights ?" (Hindustan Times, 3rd January, 1928). No one who is not interested in misunderstanding the plain meaning of simple English can mistake the real purpose of the demand for the separation of Sind. It is obvious that the real purpose has very little to do with the destiny of Sind. It is part of a larger scheme designed for the protection of Muslim minorities and is based upon the principle that the best way of keeping peace is to be prepared for war.

6. Knowing the real purpose of the demand the question is should it be sympathised with ? I, for one, am unable to sympathise with it and no person I venture to say who has at heart the interests of good administration will consent to it. It will no doubt be said as is done by the Nehru Committee which has expressed itself in favour of separation that "the manner of putting it forward does not necessarily weaken the merits of a proposal." I take exception to this position. I hold that the manner discloses the motive and that motive, far from being a small matter, is important enough to change the face of the situation. For it cannot be gainsaid that the main force which sets an institution in motion and also fixes its direction centres round the motive which brings the institution into being. The motive that lies behind this scheme is undoubtedly a dreadful one involving the maintenance of justice and peace by retaliation and providing an opportunity for the punishment of an innocent minority, Hindu in Mohamedan provinces and Mohamedan in Hindu provinces, for the sins of their co-religionists in other provinces. A system must stand self-condemned which permits minorities to be treated in their own provinces as hostages

rather than as citizens, whose rights are subject to forfeiture, not for any bad behaviour chargeable to them but as a corrective for the bad behaviour of their kindred elsewhere. And who can say that the grievance leading to such a forfeiture will always be just and substantial ? As often as not, a grievance is one at which one merely feels aggrieved so that any act be it great or trivial against a minority may be made to serve as a *causus belli* for a war between the Provinces. The consequences of such a scheme are too frightful to be contemplated with equanimity. That the Hindus get the same chance to tyrannize the Muslims in Hindu provinces does not alter for the better the character of the scheme which contains within itself the seeds of discord and disruption. The scheme is so shocking that if the Mohamedans cannot feel secure without it I for one would prefer that Swaraj be deferred till mutual trust has assured them that they can do without it. The Nehru Committee argues that "a long succession of events in history is responsible for the distribution of the population of India as it is today"—and that in creating communal provinces "we have merely to recognize facts as they are." This is no doubt true. But the point remains whether we should create such admittedly communal provinces at a time when the communal feeling is running at full tide and the national feeling is running at its lowest ebb. There would be time for creating such provinces when the Hindus and Mohamedans have outgrown their communal consciousness and have come to feel that they are Indians first and Indians last. At any rate this question should wait till both have come to feel that they are Indians first and Hindus and Mohamedans afterwards. On these grounds I dissociate myself from the sympathy shown by my colleagues towards the question of the separation of Sindh.

7. It will be noticed that I say nothing about the financial difficulties that lie in the way of separating Sindh from the Presidency. That is not because I do not attach importance to them. I do. But my view is that they alone cannot be decisive and if I have not alluded to them it is because I hold that the objections which I have raised to the separation of Sindh will survive, even when the financial objections are met or withdrawn.

SECTION II

PROVINCIAL EXECUTIVE

CHAPTER 1

DUAL VERSUS UNIFIED GOVERNMENT

8. My colleagues have recommended that the subject of Law and Order should be continued as a reserved subject for five years after the new regime has come into operation. I would not have cared to differ from my colleagues if their recommendation had involved nothing more than a short period of waiting to allow the Council an opportunity of settling down to its work. But unfortunately their recommendation involves more than this and is accompanied by a proviso that "after that period it should be left to the decision of the Legislative Council with the concurrence of the Upper House and of the Governor to decide that the subject should be transferred." I am unable to agree to this recommendation which means the continuance of dyarchy for an indefinite period. Such a recommendation cannot be supported except on the assumption that dyarchy is a workable system of Government and that as it has been successfully worked in the past it can be expected to work in future. This assumption is in my opinion quite untenable.

9. Many things have been pointed out as being responsible for the unsatisfactory working of dyarchy as a form of Government. It is true that the Transferred side of the Government was hampered by certain checks which were introduced by way of safeguards. The subjects transferred to the control of the ministers all related to the well-being of the people, as distinguished from subjects relating to the maintenance of law and order. Indeed the subjects were transferred largely because they were of that character. As a matter of policy, therefore, the finances of the Presidency should have been in the hands of a minister. For it is obvious that no policy has any chance of reaching fruition unless the Finance Department found the ways and means required for the same. This could be expected of the Finance Department only if it belonged to the Ministerial side of the Government. But it did not. Section 45A(*3*) provided for the constitution by rules under the Act of Finance Department and for the regulation of the functions of that department. The department as constituted is neither a Transferred nor a Reserved one but was common to both sides

of the Government. Yet as rule 36(1) of the Devolution Rules laid down that the Finance Department should be controlled by a member of the Executive Council, that department was virtually converted into a Reserved Department. Having been placed into the hands of the Executive Councillor, not responsible to the legislature, it is only natural that the department should be on the Reserved side and the head of the department more or less identified with the work of the reserved departments to the disadvantage of the Ministers. The position assigned to the Governor in relation to the Transferred subjects was another factor which worked to the detriment of the transferred side of the Government. Under section 52(*3*) it was laid down that in relation to the transferred subjects the Governor shall be guided by the advice of his ministers, unless he sees sufficient reason to dissent from their opinion. But the common complaint has been that the Governors instead of reducing their interference to exceptional occasions of fundamental difference claimed that in law the ministers were merely their advisers and they were free to reject their advice if they thought fit to do so. This perverse interpretation made the position of the ministers worse than the position of the Executive Councillors. For, the Executive Councillors could not be overruled in ordinary cases except by a majority of votes. While under the interpretation put by the Governors upon section 52(*3*) Ministers were at the mercy of the Governor and were without the protection enjoyed by the Executive Councillors. There was another thing which also helped the aggrandizement of the powers of the Governors as against the ministers and which tended to cripple the activity of the latter. The Instrument of Instructions issued to the Governor charged him to safeguard the interests of all members of the services employed in the Presidency in the legitimate exercise of their function and in the enjoyment of all their recognised rights and privileges. The duty was confined only to the question of the safeguarding of the interests of the services. But the Governors placed a wider interpretation on this instruction and insisted that all matters relating to the services including the question of their appointments, posting and promotions in the Minister's department should be under the charge of the Governors. In Bombay the Governor claimed this right even with regard to the services functioning under the Executive Councillors and to make it known that the Governor has this power; the ordinary form "the Governor in Council is pleased to appoint" was changed to "Governor is pleased to appoint". The position assigned to the Secretary of a Ministerial Department also helped to weaken the authority of the minister and to increase the autocracy of the Governor. For, in all cases, where the Secretary differed from the decision of the ministers, he was permitted to approach the Governor over the head of his political chief and get his decision altered by the fiat of the Governor.

10. All this undoubtedly had an adverse effect on the satisfactory working of dyarchy. But what I wish to guard against is the inference often drawn that in the absence of these factors dyarchy could have been

a workable system of Government. For I maintain that dyarchy is in itself an unworkable system of Government. Fortunately for me I am not alone in holding this opinion. The Government of Bombay, some members of which individually support the continuance of the system of dyarchy, has itself condemned it in 1919, as an unworkable system in words which are worth quoting : "A reference to the records of Government will show that there is scarcely a question of importance which comes up for discussion and settlement in any of the departments of Government which does not require to be weighed carefully in the light of considerations which form the province of another department of Government. The primary duty of the Government as a whole is to preserve peace and order, to protect the weak against the strong, and to see that in the disposal of all questions coming before them the conflicting interests of the many different classes affected receive due attention. And it follows from this that practically all proposals of importance put forward by the Minister in charge of any of the departments suggested for transfer……will involve a reference to the authorities in charge of the reserved departments……there are few, if any, subjects on which they (the functions of the two portions of the Government) do not overlap. Consequently the theory that, in case of a transferred subject in charge of a Minister, it will be possible to dispose it off without reference to departments of Governments concerned with the control of reserved subjects is largely without foundation."

11. The dualism due to division of subjects is but one of the inherent defects which makes dyarchy unworkable. There is also another. Under it, it is not possible for the Executive to act as a unified body with a common policy. Such a unity can be secured only by a common allegiance arising out of a common mandate. Ministers who are appointed from the legislature are bound to feel a real obligation towards that body that indeed is the reason why they are appointed and they would not serve their intended purpose unless they felt such obligation But every link that binds them to the legislature works only to separate them from their official colleagues with the result that the dualism inherent in dyarchy tends to come to the surface. Once this dualism has established itself between the two halves of government — and the many instances in which Ministers and Executive Councillors have opposed each other by speech and vote in open Council prove its possibility — government must become impossible. This dualism in dyarchy is kept in check by a coalition But this coalition is a forced and artificial union between two parties with totally different mandates and can easily lead to an impasse. That such an impasse has not occurred in the Bombay Presidency does not negative this inherent defect in dyarchy. It only throws in clear relief that in this coalition the ministers had surrendered themselves to the Councillors.

12. Notwithstanding these inherent defects, there are people who hold that dyarchy has been successfully worked in this Presidency. That view can be agreed to only if it means that the Governor was not obliged to

suspend the constitution or to bring into operation the emergency powers given to him by the Government of India Act. This is true. But the question is not whether dyarchy worked. The question is whether it worked as a responsible form of Government. For it must not be overlooked that in 1919 there were many other alternative forms of Government competing with dyarchy for acceptance. There was the Congress League Scheme and there was the Scheme by heads of the Provinces, to mention no others. But all these schemes were rejected in preference to dyarchy because they failed to satisfy the tests of responsible government. Any estimate of the working of the dyarchical system of Government must therefore be based upon that supreme consideration alone. If we bear this fact in mind and then attempt to evaluate the working of dyarchy, the conclusion that in this province dyarchy has been a failure is beyond dispute. Responsible government means, that the Executive continues to be in office only so long as it commands a majority in the House. That is the essence of the doctrine of ministerial responsibility. Now if we apply this test to the working of dyarchy in the Bombay Presidency and take into account the occasions on which the Council divided on motions relating to the transferred subjects, we find a most unedifying spectacle that the ministers have been defeated time and again on the floor of the House and yet they have continued in office as though nothing had happened. This lamentable tale is told by the following table : —

Year		Total No. of Divisions	No. of divisions in which Government were neutral	No. of Government defeats	No. of Government defeats if official block is eliminated	No. of Government successes	No. of ties
1921	..	3	..	2	2	1	..
1922	..	17	..	4	8	9	..
1923	..	4	1	1	2	1	..
1924	..	19	..	10	14	5	1
1925	..	30	1	..	11	18	..
1926	..	3	..	..	1	2	1
1927	..	26	..	3	10	16	..
1928	..	2	..	1	1	1	..

These figures show that in 1921 out of three divisions the ministers were defeated on 2 ; in 1922 out of 17 on 8 ; in 1924 out of 19 on 14 ; in 1925 out of 30 on 11 ; in 1926 out of 3 on 1 ; in 1927 out of 26 on 10 ; in 1928 out of 2 on 1. Notwithstanding this there has never been a case in this Presidency of a minister having resigned. With these facts before us it is impossible to agree to any conclusion which implies the dyarchy has worked as a responsible system of government.

13. It is of course open to argument that if the ministers did not resign it is because the Council did not intend by these divisions to indicate want of confidence ; otherwise it would have refused supplies to the ministers whom it had discredited by its adverse vote. That the Bombay Legislative Council was too effete to impose its will effectively upon the ministers is a fact too well known to need mention. Its division into cliques and factions, its vicious way of following men rather than principles, made it a toy in the hands of the executive, so much so, that the House as a whole failed to exercise even the selective function which any popular House conscious of its power is expected to fulfil. Any popular House, howsoever dominated by the executive, will not tolerate the candidature of any member of the House for office unless he shows that he has some power of speech, some dexterity in the handling of a subject, some readiness of reply and above all some definite vision which can constitute the basis of a rational policy of social and economical betterment. Even in England where the dominance of the cabinet is as complete as it could be, no Prime Minister in filling the subordinate offices of Government will choose men who have not shown themselves acceptable to the House of Commons. The Legislative Council of Bombay was incapable even of this, with the result that the choice for political office did not always fall on the best man available. But supposing that the Council being better organised, had imposed its will more effectively on the executive. What would have been the result ? Would it have made dyarchy work as a responsible form of Government ? My answer is emphatically in the negative. For, any effective action on the part of the legislature against the Executive can produce only one result, namely, it will lead to the use by the Governor of the emergency powers of suspension and certification, which are entrusted to him under the Act. That this is the inevitable result of strong action on the part of the legislature is the testimony of all provinces where the constitution has been suspended. But to admit this is to admit that the moment the Council begins to assert its power to the fullest extent dyarchy must crumble unless jacked by the emergency powers of the Governor. It is therefore obvious that in either case dyarchy fails. It fails by the inaction of the legislature as in the Bombay Presidency. It fails as much by the action of legislature as in Central Provinces. In the one case by reason of the weakness of the legislature the executive gets the freedom to be irresponsible. In the other case the legislature by force of action compels the Governor to keep into being an irresponsible executive.

14. Many have suggested that dyarchy would have worked better if the Governor has chosen to conduct himself as a constitutional head in accordance with the provisions of Section 52(*3*) and the advice given by the Joint Parliamentary Committee. I do not share this view. First of all there is no foundation of facts to support the contention that the Governor was bound to act as a constitutional head. It is often forgotten that though the dyarchical form of government was selected as being a responsible form of government implying that the Governor in relation to the ministers was to

be a constitutional head. But the Joint Report made it quite clear that he was not to be reduced to that position. They expressly stated, "We do not contemplate that from the outset the Governor should occupy the position of a purely constitutional Governor who is bound to accept the decision of his ministers. We reserved to him the power of control because we regard him as generally responsible for his administration". Nor did the Joint Parliamentary Committee recommend that he should work as a constitutional Governor. The Committee distinctly stated in paragraph 5 of their Report that the Ministers will be assisted and guided by the Governor who will accept their advice and promote their policy whenever possible. This is far from saying that the Committee intended him to function as a constitutional head. Indeed such an intention would be inconsistent with the provisions of the Act under which the Governor's dictatorial powers were expressly reserved and nothing that is said in the Joint Report or in the Report of the Parliamentary Committee nullifies their use ; so that if the Governor has himself governed and has not allowed the ministers to govern through him it is no fault of his. But granting that the Governor should have acted as a constitutional head, the question again is, would it have made dyarchy workable as responsible form of government ? My answer to this question is also in the negative. For, as I see the situation, if you take away the power of the Governor and make him a constitutional head, you thereby expose the existence of the reserved side of the Government to an attack from a popularly elected chamber. From this peril the reserved side deprived of the protection of the Governor has only one escape and that is to consent to be ruled by the wishes of the Council. In other words, if you remove them from the leap of the Governor, you have no other alternative except to place them on the same footing as the transferred side. But this is only another way of stating that if the desire is to reduce the position of the Governor to that of a constitutional head you must first put an end to dyarchy.

15. So far I have argued against the view that dyarchy is not a system which is made unworkable by certain other factors and in support of the view that owing to its inherent defects, it is not only unworkable but it is incapable of being worked as a responsible form of a government. Of course dyarchy with complete dualism involving the functioning of two separate governments and two separate legislatures, in one the legislature is subordinate to the executive and in the other the executive is subordinate to the legislature, is free from the criticism which has been urged above against the system of dyarchy-with-dualism such as is in operation. But the alternative of dyarchy-with-dualism was rejected by the Government of India in 1919 and is open to the same objections which apply to the system of government that was established by the Morley-Minto Reforms and which have never been so forcibly voiced as in the Montagu-Chelmsford Report A return to such a system at this stage in the evolution of political life in India is unthinkable and I therefore refrain from saying anything on

a possible recourse to such a system. The only alternative left is to discontinue dyarchy and transfer all subjects to the control of the ministers.

16. So far the general grounds of my opposition to the recommendations of my colleagues who have given their sanction to the continuance of dyarchy have been stated. I now proceed to state my grounds of objection to the continued reservation of the particular subject, namely law and order. The principal reason urged against the transfer of law and order to the charge of a minister is that being subject to the wishes of the electorates and being removable by an adverse vote of the Council the minister will not be able to administer the department impartially. The inevitable consequence of such a situation, it is feared, will be that the services working in the administration of that department will be placed in a false position. Never knowing when they will be supported and when they will be censured, the uncertainty will paralyse their action to the grave detriment of peace and good government It is further urged that in view of the series of Hindu-Moslem riots which have, of late, become so very common we ought not to transfer law and order to the control of a minister who is subject to the vagaries of public opinion and who is likely to be swayed by communal prejudices, Hindu or Moslem.

17. To be frank this argument has produced no effect upon me although my colleagues seem to have been considerably impressed by it. It is one of the stock arguments of bureaucracy. To admit its force is to accept that bureaucratic government is the best form of government Unfortunately bureaucratic government has been known to India too long for anybody to be deceived by any such argument It is so extravagant that its acceptance would involve the negation of all responsible government Whatever its antecedents, responsible government, it must be recognised has come to stay in India. Any change time can bring along with it must be in the direction of expansion of the principle. Any Plan therefore which hinders the broadening of this basic principle must create a serious conflict between the Government and the people. Nor does it appear to me that there exists any ground why we should needlessly give rise to such a conflict by acting upon the bureaucratic argument For, in my opinion, the fear that the ministers will succumb to the clamour of their followers in the House or that their followers will be malevolent in their attitude is not backed by experience and in so far as it is, it does them a great injustice. The suspension of the Local Boards and Municipalities which had been captured by the non-co-operators in 1922 at a time when Mr. Gandhi was in the plenitude of his power gives us hope to say that ministers can be trusted to act independently of the wishes of the electorates when such an action is demanded of them. Members of Government will I am sure testify that the Bombay Legislative Council has invariably acted with the necessary restraint which consciousness of responsibility always brings with it. But even if one is compelled to admit that the House may not keep itself unruffled on occasions of communal feeling and communal clash

this is no argument against transfer. For one may point out in reply that no community whatever its attitude towards another has any vested interest in disorder such as will induce its accredited representatives to be so irresponsible as to lead them to work against peace and goodwill. The fear therefore which operates on the mind of those who support the reservation of law and order is merely the fear of the unseen, unknown and the untried. My colleagues in not recommending the transfer are no doubt adopting a most cautious course. But I am not certain that they are thereby following the wisest course. For, there is such a thing as too much caution which prohibits the liberty to make an experiment which the wisest course must demand in order to find out whether or not the fear is real. The very same fear of the unknown which is now urged against the transfer of law and order was urged in 1919 against the transfer of the subjects now entrusted to the control of the ministers. But they were all brushed aside by the Secretary of States and the Government of India who both consented to take the leap in the dark. I prefer to adopt the same course with respect to law and order.

18. But there is another reason why if we are to make the experiment it is wise that we should make it without delay. It is obvious that the transfer of a subject brings in its wake an increase in the number of Indians employed in the services. It is possible that the Indians might be less efficient, at any rate, less experienced than the European members of the staff. To postpone the transfer of law and order is therefore to increase the dangers incident upon every transitional stage. Consequently it is much the safest to take the step at once and emerge through that stage while the experienced trained civil servants, who could be relied upon to loyally assist in working the new constitution with as little dislocation as possible, are still with us. Fortunately for me this suggestion comes from a very important authority, in fact it comes from an experienced civil servant, who supplied his views in a note to Mr. Barker who has reproduced the same in his book on the "Future of Government of India and the I.C.S.".

"I propose to state," says Mr. Barker, "the lines of such criticism, as it is advanced in a Note written by an experienced civil servant……In the first place it is urged by the author of the Note that the maintenance of law and order, and matters concerned with land revenue and tenancy rights, ought to be transferred." "These departments," he urges, "are administered under Government by the strongest and most able branch of all the services in India—the Indian Civil Service. The principles of their administration have long been laid down, and are well understood. The service has great tradition behind it which will ensure that, mat administration will get the best assistance and most outspoken advice……It is admitted that the people of India are quiet and easily governed people, though occasionally liable to excitement over things affecting their caste or religion. The task of maintaining law and order is not therefore a very difficult one……the argument that land revenue and tenancy questions affect the interest of the masses rather than

of the classes who will be represented in the Legislature (and therefore, on the fifth of the canons mentioned above, should not be transferred) is absolutely inconsistent with the franchise and electorate scheme which has been put forward for the Provinces……The convinced advocate of the compartmental system who is afraid to transfer some at any rate of the departments concerned with law and order and with revenue administration admit that he is afraid of his own scheme. I, though I am not an advocate of dyarchy, should not be afraid to make the experiment, because I should hope to find among the Ministers that common sense, goodwill, and forbearance which are essential to the success of any scheme, dyarchical or not."

19. I quite realise the anxiety of the minorities in respect of the transfer of law and order. But it is somewhat difficult to understand how they expect to gain by its reservation. There will be no difference between a bureaucrat in charge of law and order and a minister from the standpoint of personal bias if the bureaucrat is to be an Indian. If he is to be a European, then the most that can be said of him is that he will be a neutral person. But this is hardly an advantage. For, there is no guarantee that a neutral person will also be an impartial person. On the contrary a person who is neutral has also his interests and his prejudices and when he has no such interest he is likely to be ignorant. The European personal of the bureaucrat is therefore a doubtful advantage to the minorities who are anxious for the reservation of law and order. What however passes my comprehension is the failure of some of the representatives of the minorities to realise the great advantage which the ministerial system gives them as against the bureaucratic regime. For the best guarantee which the minorities can have for their own protection is power to control the actions of the executive. The bureaucratic system is impervious to this control. If it protects the minorities it is because it likes to do so. But if on any occasion it chooses not to take action the minorities have no remedy. In other words, a minister can be dictated to ; but a bureaucrat may not even be advised. This it seems to me is a vital difference between the regime of the bureaucrat and the regime of the minister. Personally myself, I do not see how the minorities will lose by the transfer of law and order and I say this, although I belong to a minority whose members are treated worse than human beings. My view is that in a Legislature where minorities are adequately represented, it is to their advantage that law and order should be transferred. For, such transfer gives them the power of control over the administration of the subject which is denied to them under reservation. I think the minorities should consider seriously whether there is not sufficient truth in the statement that a rogue does better under the master's eye than an honest man unwatched ; and if they do I think they will realise that they can with good reason prefer inferior officers, over whom they can exercise an influence, to the most exemplary of mankind entirely free from such responsibility.

20. There is however another and a more important reason why Minorities prefer reservation to transfer. It is because their representation

in the Legislature is so small as to make them inconsequential. From the standpoint of the minorities, the choice obviously is between reservation and no representation on the one hand and transfer and adequate representation on the other. Here again the second alternative must be deemed to be more beneficial than the first. It would therefore be more in the interest of the minorities to insist on adequate representation than to persist in opposing the transfer of law and order. But, if the fear of mal-administration in the department of law and order to the prejudice of the minorities cannot be allayed by the grant of adequate representation to the minorities, I am prepared to add a proviso to my recommendation to the effect that if a minority of say 40 per cent, in the Legislative Council should decide by a vote that law and order be a reserved subject, it shall then be withdrawn from the list of transferred subjects. I make the proposal in preference to that of the Majority, because I hold that some day the subject shall have to be transferred if the principle of responsible government laid down in the Pronouncement of 20th August, 1917, is to be made good and that the proposal while it does not come in the way of giving effect to it immediately it does not preclude the possibility of cancelling the transfer, if experience shows that the fears entertained about it are well founded.

CHAPTER 2

THE EXECUTIVE IN WORKING

21. The introduction of a unified government based on ministerial responsibility gives rise to four important questions. Of these the first pertains to the stability of the executive, the second to communal representation in the Executive, the third to the enforcement of the responsibility of the Executive and the fourth to the mutual relation among the members of the Executive.

22. Regarding the first question it is said that owing to the communal bias of the members of the legislature, the legislature is bound to be composed of groups. With attachment to community more pronounced than loyalty to principles, the ministry may find itself resting on uncertain foundation of communal allegiance measured out in proportion to communal advantage so that if communities choose to transfer their allegiance according to their will and without reference to principles, ministries may crumble as soon as they are formed. To prevent such an evil it is proposed that the ministry might be formed from a panel of men chosen by the various groups in the Council and once it is formed it should be made irremovable during the lifetime of the Council. I recognise that the fear of an unstable executive may come true. But I do not think that it calls for a remedy or a remedy of the kind suggested. India is not the only country with the group tendency manifesting itself in the Legislature. The French Chamber of Deputies is a more glaring instance of the group tendency involving frequent disruption of the ministeries. All the same the French

have felt that the situation, bad as it is, is not so intolerable as to call for a remedy. But assuming that what is anticipated comes true and the situation becomes intolerable, I am convinced that the remedy is not the right one. That the remedy will immensely weaken the responsibility of the ministers is beyond dispute. What, however, I am afraid of, is that the scheme instead of making for the coalescence of the groups will only serve to harden and perpetuate them; so that the remedy far from curing the disease will only aggravate it. The true remedy appears to me to lie along the line of reconstruction of the existing electorates.

23. I am totally opposed to the recognition of communal representation in the executive of the country. Under it, the disease will break out in its worst form in a most vital organ of the governmental machinery. It will be a dyarchy or triarchy depending upon the number of communities that will have to be recognised as being entitled to representation in the cabinet, it will no doubt be a communal dyarchy somewhat different from the political dyarchy which we have today. But that will not make it better than political dyarchy. The defects inherent in the one are inherent in the other and if the aim of constitutional reconstruction is a unified government, dyarchy in its communal form must be as summarily rejected as dyarchy in its political form. Indeed there is greater reason for the rejection of communal dyarchy than there is for the rejection of political dyarchy. For under political dyarchy the possibility of a Government based on principle exists. But communal dyarchy is sure to result in a Government based on class ideology.

24. It is a cardinal principle of the constitutional law of Great Britain and the self-governing Dominions that every minister is amenable to the law Courts. Indeed it is owing to this wise principle that British subjects at home and in the Dominions are secure in person and property against ministerial wrong doing. India alone stands in strange contrast with Great Britain and the Dominions in the matter of legal responsibility of the Executive for illegal acts. During the course of a better conflict between the judiciary headed by Sir Iliajah Impey and the Executive backed by Warren Hastings, the Executive in India as early as 1780 secured for itself immunity from the control of the Courts. That immunity has been continued to it ever since and now finds its place in sections 110 and 111 of the Government of India Act. Such an immunity was tolerated because it was local and not general. For it was provided that members of the Executive who could not be prosecuted in India were liable to prosecution in England for illegal acts done in India. This system of accountability if it was remote was none the less efficacious because under the old regime almost every member of the Executive by reason of the fact that he was a European returned to England. The composition of the Executive has now undergone a change. It is largely Indian in personnel and as the chances of any one of them going to England are so rare their liability can never in fact be enforced. The situation as it now stands provides no remedy either immediate or remote

against wrongful acts of ministers. To allow the situation to continue, is to destroy the very basis of constitutional government. I therefore recommend that sections 110 and 111 of the Government of India Act should be amended so as to allow all British subjects, whether Indian or European, the right to resort to the Courts in respect of illegal acts ordered by ministers. Such a change in the law was urged in 1919 in respect of ministers. But it was not then accepted because its acceptance, it was thought, would introduce an invidious distinction between Ministers and Executive Councillors. With the introduction of full responsible government in the Provinces, this objection does not survive.

25. I hold so strongly to the view of enforcing legal responsibility of ministers for illegal acts that I propose that the constitution should provide for the constitution of a tribunal composed of the Legislature or partly of the Legislature and partly of the Judiciary before which ministers may be impeached for acts unlawful in themselves or acts prejudicial to the national welfare. I am aware that owing to the introduction of ministerial responsibility impeachment has fallen into disuse. But I feel that ministerial responsibility in India is only in the making and until the Legislature and the Executive have become conscious of its implications it is better to provide a more direct means of curbing the extravagances of power in the hands of men who are unused to it and who may be led to abuse it by excessive loyalty to caste and creed. A safeguard is never superfluous because it is not often invoked.

26. In determining the relationship between the members of the executive—whether each should be liable for his acts only or whether each should be liable for the acts of all, in other words, whether the liability should be individual or joint — is a question on which no one can dogmatise. All the same I am for joint responsibility. I am aware that under it the Legislature is practically helpless in the matter of punishing a delinquent minister. With joint responsibility the legislature will not be able to dismiss a minister of whose acts it disapproves ; it will not be in position even formally to censure him, unless it is prepared to get rid of his colleagues as well. This no legislature functioning with a parliamentary executive date do. For if it does, and overthrows the executive, the executive will also overthrow the Legislature by asking for a dissolution. Notwithstanding this defect, I am in favour of joint responsibility and for two reasons. In a modern state the function of the executive as an administering body applying legislation has become a secondary function. Its main function is to determine policy and submit proposals to the Legislature. Indeed so necessary is the function that the usefulness of the Legislatures would be considerably diminished if the executive failed to perform it. But in order that the executive may perform the function of policy-making, there must be a unity of outlook among its members. Such a unity of outlook will not be possible without complete coherence in the executive. Joint responsibility, it appears to me, can alone ensure such coherence. Second

reason why I recommend joint responsibility is because I fear that the principle of individual responsibility will, never permit the growth of a common political platform transcending the boundaries of caste and creed. It will perpetuate groups and the Presidency will for ever be condemned to a rule of Government by Coalition of groups which by their readiness to form new combinations, will plague the administration with instability and which by their preference for a policy of menoeuvres to a policy of ideas, will fatally affect the integrity of the work of the administration. Under joint responsibility although a party may be a collection of units of varying views yet members of each unit, not only shall be forced to do the best they can to formulate a unified policy but will be compelled to be bound by it. The habit of submitting to a party programme which is wider than the group programme will furnish a kind of education, the need of which must be keenly felt by all who know the conditions of India.

27. How to secure joint responsibility is a matter of some importance. To do it by express terms of law will leave no liberty either to the Head of the administration or the Legislature to dismiss a minister without dismissing the whole of the executive. It is therefore better to leave it to convention. The question how to make the convention operative still remains. It seems to me that if instead of the Governor choosing the ministers, the task was entrusted to one of the ministers to choose his colleagues, a cabinet so formed is bound to function on the basis of joint responsibility and would yet leave room for getting rid of an individual minister without changing the whole personnel of the government I therefore suggest that the Governor should be instructed not to undertake directly the task of appointing individual ministers but to choose a chief minister and leave to him the work of forming a government.

28. My colleagues have recommended that there should be 7 ministers to take charge of the administration of the Presidency. I am unable to concur in the recommendation in so far as it fixes the number of ministers. It may be that the future government of the Presidency might be able to do with less than 7 or may feel the necessity for having more than 7 to make no mention of having to appoint ministers without portfolios for satisfying the personal ambitions of members of the Legislature without whose support it may not be possible to carry on the government of the Province. Under these circumstances the wisest course seems to me to leave the question of the number of ministers open to be determined by the Legislature of the day.

CHAPTER 3

THE POSITION AND POWERS OF THE GOVERNOR

29. Under the existing constitution the Governor of a Province does not occupy a well defined position. He has not the position of a constitutional head representing the Crown in the Province without any responsibility for the government of the Province. Nor is his position such as to invest him

with a complete direction of the affiairs of the Province. His position partakes of both. Such a position for the Governor which makes him play the double role of an autocrat and a constitutional head is not a very happy position either from the standpoint of the Governor or from the standpoint of smooth working of the governmental machine. Whatever the nature of the difficulties of the position of a Governor was made to occupy it was quite consistent with the type of the constitution that was introduced in 1919. As the constitution did not grant full responsible government the Governor was naturally not reduced to the position of a constitutional head. On the other hand, as the direction of the affairs of the Provinces was in some departments at any rate, transferred to responsible ministers, the Governor was not permitted to retain his former position as an irresponsible head. The change in the position of the Governor was thus based on an intelligent principle of reducing the executive powers of the Governor in direct ratio to the advance made towards responsible government. Following the logic of the principle laid down in 1919, of making the position of the Governor to accord with the transfer of responsibility, I recommend that the Governor of the Province should be reduced to the position of a constitutional head. Indeed no other position for the Governor can be thought of, which will be compatible with the system of full responsible government.

30. Regarding his powers he shall have in his capacity as representing the Crown in the Executive of the Province the power to make appointments to the Cabinet. In the same capacity, he will have the ultimate power of giving or refusing sanction, to any order proposed by the minister in any matter pertaining to any branch of the administration. As representing the Crown in the Legislature he will have in dealing with Bills passed by the Council the power (1) to assent, (2) to reserve assent pending signification of His Majesty's pleasure and (3) to refuse assent.

31. The exercise of these powers given to the Governor must of course be made conditional upon the formula that it must be with the advice of ministers responsible to the Legislature. This does not mean that he will not have the discretion to disagree with his ministers. Far from that being the case, he will retain the liberty not merely to tell his ministers that he does not approve of their policy but actually to dismiss the ministers who persist in a policy to which he is opposed. For there cannot be any obligation on a constitutional head compelling him to follow a minister responsible to a Legislature. The essence of his obligation is to follow the general wish of the electors and if he appears to follow the minister it is because a minister is supposed to represent the will of the electors. But there may be occasions when he may have reasons to doubt that the minister correctly represents the Will of the general electorates. Consequently not only do the constitutions of all responsible governments recognise this possibility but they actually provide him with all possible means of ascertaining what the Will of the electorates is. For that purpose the constitution of every responsible government permits

the Governor to dismiss the ministers and appoint others who agree with him in the hope that the Legislature will support them. If the Legislature refuses support to the new ministers, the constitutions of all responsible governments permit him another resource that of an appeal to the electorates in the hope that they might support him. These resources the Governor of the Province must be allowed. But it is also necessary to bear in mind that no constitution gives him larger powers than these. If after the ascertainment of the Will of the electorates, it is found that the decision has gone against him the constitution of every responsible government leaves him no other alternative but to yield, abdicate or fight. The Governor of a Province must be content with these resources. Under no circumstances can he have independent powers of action such as he has under the present constitution to certify measures not passed by the Legislature, sanction expenditure refused by the legislature or suspend the constitution by dismissing the ministers and assuming the direction of affairs himself. What is necessary therefore for making the Governor a constitutional head is to take away his powers of certification and suspension and thus make it impossible for him to act independently of ministers responsible to the Legislature.

32. The precise language of the Section in which the obligation of the Governor to act on the advice of the minister is a matter of some moment. Section 52(*3*) which deals with this seems to be too vaguely worded. It is too indefinitely worded to secure the desired end. Instead of stating that the Governor shall act on the advice of his ministers it would be better if the Section stated that no order of the Governor shall be valid unless it is countersigned by a minister. The obligatory force of such language is obvious. Accordingly I recommend such a change in the language of the Section.

33. Along with the definition of the powers of the Governor, the place of the Governor in the Executive must also be defined. Being relieved from the responsibility for the direction of affairs the function of the Governor becomes supervisory rather than executive. His main business will be to see that those on whom the responsibility will now fall do not infringe the principles enunciated in the constitution for their guidance. In order that he may, perform this function, he must be independent of local politics. That independence is absolutely essential to unprejudicial supervision. The best way of keeping him independent is to keep him away from the executive. Nothing will undermine public confidence in his impartial judgment so much as a direct participation by the Governor in political controversies Nor can it be doubted that his association in the public mind with the controversies between the Legislature and the Executive will have any other result. If the Governor is to discharge his functions in a manner that will be regarded as fair it is very important that he must be above party. For that purpose he must be emancipated from the Executive as he has been dissociated from the Legislature. I therefore recommend that it should be provided that the Governor shall not be a part of the Executive nor shall he have the right to preside over it. The meetings of the Executive shall be summoned and presided over by the Prime Minister without any intervention of the Governor

SECTION III

PROVINCIAL LEGISLATURE

CHAPTER I

FRANCHISE

34. My colleagues have recommended that the franchise in urban areas should remain as it is and that in rural areas the land revenue assessment should be halved. I am unable to agree to this. My colleagues have treated the question of franchise as though it was a question of favour rather than of right. I think that such a view is too dangerous to be accepted as the basis of political society in any country. For if the conception of a right to representation is to be dismissed as irrelevant; if a moral claim to representation is to be deemed as nothing but a metaphysical or sentimental obstruction ; if franchise is considered a privilege to be given or withheld by those in political power according to their own estimate of the use likely to be made of it, then it is manifest that the political emancipation of the unenfranchised will be entirely at the mercy of those that are enfranchised. To accept such a conclusion is to accept that slavery is no wrong. For slavery, too, involves the hypothesis that men have no right but what those in power choose to give them. A theory which leads to such a conclusion must be deemed to be fatal to any form of popular Government, and as such I reject it in toto.

35. My colleagues look upon the question of franchise as though it was nothing but a question of competency to put into a ballot box a piece of paper with a number of names written thereon. Otherwise they would not have insisted upon literacy as a criterion for the extension of the franchise. Such a view of the franchise is undoubtedly superficial and involves a total misunderstanding of what it stands for. If the majority had before its mind the true conception of what franchise means they would have realised that franchise, far from being a transaction concerned with the marking of the ballot paper, "stands for direct and active participation in the regulation of the terms upon which associated life shall be sustained and the permit of good carried on." Once this conception of franchise is admitted, it would follow that franchise is due to every adult who is not a lunatic. For, associated life is shared by every individual and as every individual is affected by its consequences, every individual must

have the right to settle its terms. From the same premises it would further follow that the poorer the individual the greater the necessity of enfranchising him. Form in every society based on private property the terms of associated life as between owners and workers are from the start set against the workers. If the welfare of the worker is to be guaranteed from being menaced by the owners the terms of their associated life must be constantly resettled. But this can hardly be done unless the franchise is dissociated from property and extended to all propertyless adults. It is therefore clear that judged from either point of view the conclusion in favour of adult suffrage is irresistible. I accept that conclusion and recommend that the franchise should be extended to all adults, male and female, above the age of 21.

36. Political justice is not the only ground for the introduction of adult suffrage. Even political expediency favours its introduction. One of the reasons why minorities like the Mohamedan insist upon communal electorates is the fear that in a system of joint electorates the voters of the majority community would so largely influence the election that seats would go to men who were undesirable from the standpoint of the minority. I have pointed out in a subsequent part of the report that such a contention could be effectively disposed of by the introduction of adult suffrage. The majority has given no thought to the importance of adult suffrage as an alternative to communal electorates. The majority has proceeded as though communal electorates were a good to be preserved and have treated adult suffrage as though it was an evil to be kept within bonds. My view of them is just the reverse. I hold communal electorates to be an evil and adult suffrage to be a good. Those who agree with me will admit that adult suffrage should be introduced not only because of its inherent good but also because it can enable us to get rid of the evil of communal electorates. But even those whose political faith does not include a belief in adult suffrage, will, I am sure, find no difficulty in accepting this view. For it is only commonsense to say that a lesser evil is to be preferred to a greater evil and there is no doubt that adult suffrage, if it is at all an evil, is a lesser evil than communal electorates. Adult suffrage, which is supported by political justice and favoured by political expediency, is also, I find, demanded by a substantial body of public opinion. The Nehru Committee's report, which embodies the views of all the political parties in India except the Non-Brahmins and the Depressed Classes, favours the introduction of adult suffrage. The Depressed Classes have also insisted upon it The Sindh Mohamedan Association, one Mohamedan member and one Non-Brahmin member of the Government of Bombay, have expressed themselves in favour of it. There is thus a considerable volume of public opinion in support of adult franchise. My colleagues give no reason why they have ignored this volume of public opinion.

37. Two things appear to have weighed considerably with my colleagues in their decision against the introduction of adult suffrage. One

is the extent of illiteracy prevalent in the country. No one can deny the existence of illiteracy among the masses of the country. But that this factor should have any bearing on the question of franchise is a view the correctness of which I am not prepared to admit. First of all, illiteracy of the illiterate is no fault of theirs. The Government of Bombay for a long time refused to take upon itself the most important function of educating the people, and, when it did, it deliberately confined the benefit of education to the classes and refused to extend it to the masses.*

38. It was not until 1854, that Government declared itself in favour of mass education as against class education. But the anxiety of Government for the spread of education among the masses has gone very little beyond the passing of a few resolutions. In the matter of financial support Government always treated education with a most niggardly provision. It is notorious, how Government, which is always in favour of taxation refused to consent to the proposal of the Honourable Mr. Gokhale for compulsory primary education, although it was accompanied by a measure of taxation. The introduction of the Reform has hardly improved matters. Beyond the passing of a Compulsory Primary Education Act in the Presidency there has not been any appreciable advance in the direction of mass education. On the contrary there has been a certain amount of deterioration owing to the transfer of education to local authorities which are manned, comparatively speaking, by people who being either indifferent or ignorant, are seldom keen for the advancement of education.*

39. In the case of the Depressed Classes the opportunity for acquiring literacy has in fact been denied to them. Untouchability has been an insuperable bar in their way to education. Even Government has bowed before it and has sacrificed the rights of the Depressed Classes to admission in public schools to the exigencies of the social system in India. In a resolution of the year 1856 the Government of Bombay in rejecting the petition of a Mahar boy to a school in Dharwar observed :

> "The question discussed in the correspondence is one of very great practical difficulty…..
>
> "1. There can be no doubt that the Mahar petitioner has abstract justice in his side; and Government trust that the prejudices which at present prevent him from availing himself of existing means of education in Dharwar may be are long removed.
>
> "2. But Government are obliged to keep in mind that to interefere with the prejudices of ages in a summary manner, for the sake of one or few individuals, would probably do a great damage to the cause of education. The disadvantage under which the petitioner labours is not one which has originated with this Government, and it is one which

*Lest this fact should be regarded as a fiction, I invite attention to the extracts from the Report of the Board of Education of the Bombay Presidency for the year 1850-51. (These extracts are printed at the end of this report as Appendix at pages 402-06.—*Editor*)

Government cannot summarily remove by interfering in his favour, as he begs them to do."

The Hunter Commission which followed after the lapse of 26 years did say that Government should accept the principle that nobody be refused admission to a Government College or School merely on the ground of caste. But it also felt it necessary to say that the principle should "be applied with due caution" and the result of such caution was that the principle was never enforced. A bold attempt was, no doubt, made in 1921 by Dr. Paranjpye, when he was the Minister of Education. But as his action was without any sanction behind it, his circular regarding admission of the Depressed Classes to Schools is being evaded, with the result that illiteracy still continues to be a deplorable feature of the life of the Depressed Classes.

40. To the question that is often asked how can such illiterate people be given the franchise, my reply therefore is, who is responsible for their illiteracy ? If the responsibility for illiteracy falls upon the Government, then to make literacy a condition precedent to franchise is to rule out the large majority of the people who, through no fault of their own, have never had an opportunity of acquiring literacy provided to them. Granting that the extension of franchise must follow the removal of illiteracy what guarantee is there that efforts will be made to remove illiteracy as early as possible ? The question of education like other nation-building questions is ultimately a question of money. So long as money is not forthcoming in sufficient amount, there can be no advance in education. How to find this money is therefore the one question that has to be solved. That a Council elected on the present franchise will never be in a position to solve the problem is beyond dispute. For the simple reason that money for education can only be provided by taxing the rich and the rich are the people who control the present Council. Surely the rich will not consent to tax themselves for the benefit of the poor unless they are compelled to do so. Such a compulsion can only come by a radical change in the composition of the Council which will give the poor and illiterate adequate voice therein. Unless this happens the question of illiteracy will never be solved. To deny them that right is to create a situation full of injustice. To keep people illiterate and then to make their illiteracy the ground for their non-enfranchisement is to add insult to injury. But the situation indeed involves more than this. It involves an aggravation of the injury. For to keep people illiterate and then to deny them franchise which is the only means whereby they could effectively provide for the removal of their illiteracy is to perpetuate their illiteracy and postpone indefinitely the day of their enfranchisement.

41. It might be said that the question is not who is responsible for illiteracy; the question is whether illiterate persons should be given the right to vote. My answer is that the question cannot be one of literacy or illiteracy : the question can be of intelligence alone. Those who insist on literacy as a test and insist upon making it a condition precedent to enfranchisement in

my opinion, commit two mistakes. Their first mistake consists in their belief that an illiterate person is necessarily an unintelligent person. But everyone knows that, to maintain that an illiterate person can be a very intelligent person, is not to utter a paradox. Indeed an appeal to experience would fortify the conclusion that illiterate people all over the world including India have intelligence enough to understand and manage their own affairs. At any rate the law presumes that above a certain age every one has intelligence enough to be entrusted with the responsibility of managing his own affairs. The illiterate might easily commit mistakes in the exercise of the franchise. But then the Development Department of Bombay has fallen into mistakes of judgment equally great which though they are condemned, are all the same tolerated. And even if they fall into greater errors it may still be well that they should have franchise. For all belief in free and popular Government rests ultimately on the conviction that a people gains more by experience than it loses by the errors of liberty and it is difficult to perceive why a truth that holds good of individuals in non-political field should not hold good in the political field Their second mistake lies in supposing that literacy necessarily imports a higher level of intelligence or knowledge than what the illiterate possesses. On this point the words of Bryce might be quoted. In his survey of "Modern Democracies" he raises the question how far ability to read and write goes towards civic competence and answers thus : "Because it is the only test practically available, we assume it to be an adequate test. Is it really so ? Some of us remember, among the English rustics of sixty years ago shrewd men, unable to read but with plenty of mother wit, and by their strong sense and solid judgment quite as well qualified to vote as are their grand-children today who read a newspaper and revel in the cinema……The Athenian voters……were better……fitted for civic franchise than most of the voters in modern democracies. These Greek voters learnt politics not from the printed and, few even from any written page, but by listening to accomplished orators and by talking to one another. Talking has this advantage over reading, that in it mind is less passive. It is thinking that matters, not reading, and by thinking, I mean the power of getting at facts, and arguing consecutively from them. In conversation there is a clash of wits, and to that some mental exertion must go……But in these days of ours reading has become substitute for thinking. The man who reads only the newspaper of his own party, and reads its political intelligence in a medley of other stuff, narratives of crimes and descriptions of football matches, need not know that there is more than one side to a question and seldom asks if there is one, nor what is the evidence for what the paper tells him. The printed page, because it seems to represent some unknown power, is believed more readily than what he hears in talk. He takes from it statements, perhaps groundless, perhaps invented, which he would not take from one of his follows in the workshop or the counting house. Moreover, the Tree of Knowledge is the Tree of the Knowledge of Evil as well as of Good. On the Printed Page Truth

has no better chance than Falsehood, except with those who read widely and have the capacity of discernment. A party organ, suppressing some facts, misrepresenting some others, is the worst of all guides, because it can by incessantly reiterating untruth produce a greater impression than any man or body of men, save only ecclesiastics clothed with a spiritual authority, could produce before printing was invented. A modern voter so guided by his party newspapers is no better off than his grandfather who eighty years ago voted at the bidding of his landlord or his employer or (in Ireland) of his Priest. The grandfather at least knew whom he was following, while the grandson, who only reads what is printed on one side of a controversy may be the victim of selfish interests who own the organs which his simplicity assumes to express public opinion or to have the public good at heart. So a democracy that has been taught only to read and not also to reflect and judge, will not be better for the ability to read."

42. It seems to me that too much is being made out of the illiteracy of the masses in India. Take the English voter and inquire into his conduct as a voter and what do we find ? This is what the Times Literary Supplement of August 21, 1924, says about him :

> "The mass of the people have no serious interest. Their votes decide all political issues, but they know nothing of politics. It is a disquieting, but too well-founded reflection that the decision about tariff reform or taxation or foreign policy is now said by men and women who have never read a dozen columns of serious politics in their lives. Of the old narrow electorate of eight years ago probably at least two-thirds eagerly studied political speeches on the question of the day. Today not five per cent, of the voters read either debates or leading articles. The remnant, however remarkable, is small. Democracy as a whole is as content with gross amusement as Bottles was with vulgar ones, and like him it leases his mind to its newspaper which makes his Sundays much more degrading than those which he spent under his Baptist Minister. This is the atmosphere against whose poisonous gases the schools provide in vain the helmet of their culture."

43. Surely if British Democracy — say the British Empire is content to be ruled by voters such as above, it is arguable that Indians who are opposed to adult suffrage are not only unjust and visionaries but are protesting too much and are laying themselves open to the charge that they are making illiteracy of the masses an excuse to pocket their political power. For, to insist that a thorough appreciation of the niceties of political creeds and the ability to distinguish between them are necessary tests of political intelligence is, to say the least, hypercritical. On small political questions no voter, no matter in what country he is, will ever be accurately informed. Nor is such minute knowledge necessary. The most that can be expected from the elector is the power of understanding broad issues and of choosing the candidate who in his opinion will serve him best. This, I make bold to say, is not beyond the capacity of an average Indian.

44. The other thing which apparently weighed with my colleagues in refusing to accept adult suffrage is the analogy of the countries like England. It is argued that the extension of the franchise from forty shilling freehold in 1429 to adult suffrage in 1832 there were less than 500,000 persons who had the right to vote in the election of members of Parliament; that it was not until the Reform Act of that year that the number of voters was increased to nearly 1,000,000 ; that no further step was taken to lower the franchise till the passing of the Act of 1867 which increased it to 2,500,000 ; that the next step was taken 17 years after when the Act of 1884 increased it again to 5,500,000 ; and that adult suffrage did not come till after a lapse of 34 years when People's Representation Act of 1918 was passed. This fact has been used for very different purposes by different set of peoples. A set of politicians who are social tories and political radicals use this in support of their plea that the legislature can be given full powers although it may not be fully representative and in reply to this argument of their opponents that the transference of power to a legislature so little representative will be to transfer it to an oligarchy. By others in support of their plea that in the matter of franchise we must proceed slowly and go step by step as other nations have done. To the second group of critics my reply is that there is no reason why we should follow in the foot steps of the English nation in this particular matter. Surely the English people had not devised any philosophy of action in the matter of franchise. On the other hand, if the extension was marked by such long intervals it was because of the self-seeking character of the English ruling classes. Besides, these is no reason why every nation should go through the same stages and enact the same scenes as other nations have done. To do so is to refuse to reap the advantage which is always open to those who are born later. To the other section of critics my reply is that their contention as a fact is true, that Parliament did exercise full powers of a sovereign state even when it represented only a small percentage of the population. But the question is with what results to the nation ? Anyone who is familiar with the history of social legislation by the unreformed Parliament as told by Lord Shaftesbury certainly will not wish the experiment to be repeated in this country. This result was the inevitable result of the restricted franchise which obtained in England. The facts relied upon by these critics in my opinion do not go to support a government based upon a restricted franchise is a worse form of government in that it gives rise to the rule of oligarchy. Such a result was never contemplated by the authors of the Joint Report. Indeed they were so conscious of the evil that in paragraph 262 of their Report they were particular enough to say that among the matters for consideration the Statutory Commission should consider the working of the franchise and the constitution of electorates, including the important matter of the retention of communal representation. "Indeed we regard the development of a broad franchise as the arch on which the edifice of self-government must be raised : for we have no intention that our reforms should result merely in the transfer of powers from a bureaucracy to an oligarchy."

45. What is however the remedy for preventing oligarchy ? The only remedy that I can think of is the grant of adult suffrage. It is pertinent to remark that the members of the Ceylon Commission of 1928 who like the authors of the Joint Report were conscious that "the grant of a responsible government to an electorate of these small dimensions would be tantamount to placing an oligarchy in power without any guarantee that the interests of the remainder of the people would be consulted by those in authority" and who felt it "necessary to observe that His Majesty's Government is the trustee not merely of the wealthier and more highly educated elements in Ceylon but quite as much of the peasant and the coolie, and of all those poorer classes which form the bulk of the population" and who held that "to hand over the interests of the latter to the unfettered control of the former would be a betrayal of its trust," came "to the conclusion that literacy should not remain as one of the qualifications for voters at election of State Council." They said "the development of responsible government requires, in our opinion, an increasing opportunity to the rank and file of the people to influence the Government and the franchise cannot be fairly or wisely confined to the educated classes." If adult franchise can be prescribed for Ceylon the question that naturally arises is why should it not be prescribed for India ? Similarity in the political, social, economic, and educational conditions of the two countries is so striking that to treat them differently in the matter of franchise is to create a distinction when there is no real difference to justify the same. Analogy apart and considering the case purely on merits it is beyond doubt that of the two if any one of them is more fitted to be trusted with the exercise of adult it is the people of India and more so the people of the Bombay Presidency wherein the system of adult suffrage is already in vogue in the village panchayats.

CHAPTER 2

ELECTORATES

46. The existing Legislative Council is composed of 114 members, of whom 26 are nominated and 86 are elected. The nominated members fall into two groups (*a*) officials to represent the reserved half of the Government and (*b*) the non-officials to represent (1) the Depressed Classes, (2) Labouring Classes, (3) Anglo-Indians, (4) Indian Christians and (5) the Cotton Trade. Of the elected members (1) some are elected by class-electorates created to represent the interests of the landholders, commerce and industry, (2) some by reserved electorates for Maratha and allied castes and the rest, (3) by communal electorates which are instituted for the Muhammadans and the Europeans. The question is whether this electoral structure should be preserved without alteration. Before any conclusion can be arrived at, it is necessary to evaluate it, in the light of considerations both theoretical as well as practical.

Nominated members

47. Against the nominated members it is urged that their presence in the Council detracts a great deal from its representative character. Just as the essence of responsible self-government is the responsibility of the Executive to the Legislature, so the essence of representative government lies in the responsibility of the legislature to the people. Such a responsibility can be secured only when the legislature is elected by the people. Not only does the system of nominated member make the house unrepresentative, it also tends to make the Executive irresponsible. For by virtue of the power of nominations, the Executive on whose advice that power is exercised, appoints nearly 25 per cent, of the legislature with the result that such a large part of the house is in the position of the servants of the Executive rather than its critics. That the nominated non-officials are not the servants of the Government cannot go to subtract anything from this view. For the nominated non-official can always be bought and the Executive has various ways open to it for influencing an elected member with a view to buy up his independence. A direct conferment of titles and honours upon a member, or bestowal of patronage on his friends and relatives, are a few of such methods. But the nominated non-official members are already in such an abject state of dependence that the Executive has not to buy their independence. They never have any independence to sell. They are the creatures of the Executive and they are given seats on the understanding, if not on the condition, that they shall behave as friends of the Executive. Nor is the Executive helpless against a nominated member who has the audacity to break the understanding. For, by the power of renomination which the Executive possesses, it can inflict the severest penalty by refusing to renominate him and there are instances where it has inflicted that punishment. Like the King's veto, the knowledge that this power to renominate exists, keeps every nominated member at the beck and call of the Executive.

48. Another evil arising from the system of nomination must also be pointed out. The nominated non-official members were to represent the interests of certain communities for whose representation the electoral system as devised, was deemed to be inadequate just as the nominated official members were appointed to support the interests of government. The regrettable thing is that while the nominated officials served the interests of government, the nominated non-officials failed to serve the interests of their constituents altogether. Indeed a nominated non-official cannot serve his community. For more often that not the interests of the communities can only be served by influencing governmental action, and this is only possible when the Executive is kept under fire and is made to realise the effects of an adverse vote. But this means is denied to a nominated member by the very nature of his being, with the result that the Executive, being assured of his support, is indifferent to his cause and the nominated member, being denied his independence, is helpless to effect any change in

the situation of those whom he is nominated to represent. Representation by nomination is thus no representation. It is only mockery.

49. Another serious handicap of the system of nomination is that the nominated non-officials are declared to be ineligible for ministership. In theory there ought not to be limitations against the right of a member of the legislature to be chosen as a minister of an administration. Even assuming that such a right is to be limited, the purpose of such limitation must be the interests of good and efficient administration. Not only that is not the purpose of this limitation but that the limitation presses unequally upon different communities owing to the difference in the manner of their representation and affects certain communities which ought to be free from its handicap. Few communities are so greatly in need of direct governmental action as the Depressed Classes for effecting their betterment. It is true that no degree of governmental action can alter the face of the situation completely or quickly. But making all allowance for this, no one can deny the great benefits that wise legislation can spread among the people. All these classes do in fact begin and often complete their lives under a weight of inherited vices and social difficulties, for the existence of which society is responsible, and of the mitigation of which much can be done by legislation. The effect of legislation to alter the conditions under which the lives of individuals are spent has been recognised everywhere in the world. But this duty to social progress will not be recognised unless those like the Depressed Classes find a place in the Cabinet of the country. The system of nomination must therefore be condemned. Its only effect has been to produce a set of eventually subordinate the care of the constituents to the desire for place.

Elected members

50. *Class Electorates*—These class electorates a heritage of the Morley-Minto Reforms. The Morley-Minto Scheme was an attempt at make-believe. For under it the bureaucracy without giving up its idea to rule was contriving to create legislatures, by arranging the franchise and the electorates in such a manner as to give the scheme the appearance of popular rule without the reality of it. To such a scheme of things, these class electorates were eminently suited. But the Montagu Chelmsford Scheme was not a make-believe. It contemplated the rule of the people. Consequently it was expected to suggest the abolition of such class electorates. Owing, however, to the powerful influence, which these classes always exercised, the authors of the Report were persuaded to recommend their continuance, which recommendation was given effect to by the South-borough Committee. Whatever the reason that led to the retention of these class electorates, there is no doubt that their existence cannot be reconciled with the underlying spirit of popular government. Their class character is a sufficient ground for their condemnation. In a deliberative assembly like the legislature, where questions of public interest are decided

in accordance with public opinion, it is essential that members of the Council who take part in the decision should each represent that opinion. Indeed no other person can be deemed to be qualified to give a decisive vote on the issues debated on the floor of the house. But the representatives of class interests merely reflect the opinions one might say, the prejudices of their class, and should certainly be deemed to be disqualified from taking part in the decision of issues which lie beyond the ambit of the interests of their class. Notwithstanding their class character as members of legislature they acquire the competence to vote upon all the issues whether they concern their own class or extend beyond. This, in my opinion, is quite subversive of the principle of popular government. It might be argued that representatives of such class interests are necessary to give expert advice on those sectional issues with which the unsectional house is not familiar. As against this, it is necessary to remember that in a democracy, the ultimate principle is after all self-government and that means that final decision on all matters must be made by popularly elected persons and not by experts. It is moreover not worthy that the advice of such people is not always serviceable to the house. For, their advice invariably tends to become eloquent expositions of class ideology rather than careful exposition of the formulae in dispute.

51. Assuming, however, that it is necessary either to safeguard the interests of these classes or to tender advice to the house on their behalf, it is yet to be proved that these interests will not secure sufficient representation through general electorates. Facts, such as we have, show that they can. Taking the case of the Inamdars, though they have been given three seats through special electorates of their own, they have been able to secure 12 seats through the general electorates. Indeed by virtue of the solidarity which they have with other landholding members of the Council, they felt themselves so strong in numbers that only a few months back they demanded a ministerial post for the leader of their class. Besides, it is not true that without class-electorates there will be no representation of the interests of these classes in the Council. Such interests will be amply safeguarded by a member belonging to that class, even if he is elected by a general constituency. This will be clear if we bear in mind that a member taking his seat in the legislature, although he represents directly his constituency, yet indirectly he does represent himself and to that extent also his class. Indeed, from the very nature of things this tendency on the part of a member, indirectly to represent himself, although it might be checked, controlled and over-ruled, so surely manifests itself that it throws, and must necessarily throw, direct representation into the background. No one for instance can believe that a European gentleman representing a Chamber of Commerce will only represent the interests of commerce and will not represent the interests of the European community because he is elected by a Chamber of Commerce and not by the general European community. It is in the nature of things that a man's self should be nearer

to him than his constituency. There is a homely saying that a man's skin sits closer to him than his shirt and without any imputation on their good faith so it is with the members of the legislature. It is the realisation of this fact which has led the English people who at one time wished that the shipping trade, the woollen trade and the linen trade should each have its spokesman in the House of Commons, to abandon the idea of such class-electorates. It is difficult to understand why a system abandoned elsewhere should be continued in India. It is not necessary in the interests of these classes and it is harmful to the body politic. The only question is whether or not persons belonging to the commercial and individual classes can secure election through the general constituencies. I know of nothing that can be said to handicap these classes in the race of election. That there is no handicap against them is proved by the success of Sardars and Inamdars in general election. Where Inamdars and Sardars have succeeded there is no reason why representatives of commerce and industry should not.

52. *Reserved Electorates*—Three objections can be raised against the system of reserved electorates. One is that it seeks to guarantee an electoral advantage to a majority. It is true that the Marathas and the allied castes form a majority in the Marathi speaking part of the Presidency both in population as well as in voting strength and as such deserve no political protection. But it must be realised that there is all the difference in the world between a power informed and conscious of its strength and power so latent and suppressed that its holders are hardly aware of that they may exercise it. That the Marathas and the allied castes are not conscious of their power, is sufficiently evident if we compare the voting strength of the Marathas and the allied castes in those constituencies wherein, seats are reserved for them, with the rank of their representatives among the different candidates contesting the elections. In every one of such constituencies the Maratha voters, it must be remembered, have a preponderance over the voters of other communities. Yet in the elections of 1923 and 1926, out of the seven seats allotted to them, they could not have been returned in three had it not been for the fact that the seats were reserved for them. It is indeed strange that the candidates of a community which is at the top in the electoral roll, should find themselves at the bottom, almost in a sinking position. This strange fact is only an indication that this large community is quite unconscious of the power it possesses, and is subject to some influence acting upon it from without.

53. The second ground of objection, urged by the members of the higher classes who are particularly affected by the system of reserved seats, is that it does an injustice to them in that it does not permit them the benefit of a victory in a straight electoral fight. It is true that the system places a restriction upon the right of the higher classes to represent the lower classes. But is there any reason why "the right to represent," as distinguished from "a right to representation," should be an unrestricted right'? Modern

politicians have spent all their ingenuity in trying to find out the reason for restricting the right to vote. In my opinion there is a greater necessity why we should strive to restrict the right of a candidate to represent others. Indeed, there is no reason why the implications of the representative function should not define the condition of assuming it. It would be no invasion of the right to be elected to the Legislature to make it depend, for example, upon a number of years' service on a local authority and to rule out all those who do not fulfil that condition. It would be perfectly legitimate to hold that that service in a legislative assembly is so important in its results, that proof of aptitude and experience must be offered before the claim to represent can be. admitted. The argument for restricting the rights, of the higher classes to represent the lower classes follows the same line. Only it makes a certain social attitude as a condition precedent to the recognition of the right to represent. Nor can it be said that such a requirement is unnecessary. For aptitude and experience are not more important than the social attitude of a candidate towards the mass of men whom he wishes to represent. Indeed, mere aptitude and experience will be the cause of ruination if they are not accompanied and regulated by the right sort of social attitude. There is no doubt that the social attitude of the higher classes towards the lower classes is not of the right sort. It is no doubt always said to the credit of these communities that they are intellectually the most powerful communities in India. But it can with equal truth be said that they have never utilised their intellectual powers to the services of the lower classes. On the other hand, they have always despised, disregarded and disowned the masses in belonging to a different strata, if not to a different race than themselves. No class has a right to rule another class, much less a class like the higher classes in India. By their code of conduct, they have behaved as the most exclusive class steeped in its own prejudices and never sharing the aspirations of the masses, with whom they have nothing to do and whose interests are opposed to theirs. It is not, therefore, unjust to demand that a candidate who is standing to represent others shall be such as shares the aims, purposes and motives of those whom he desires to represent

54. The third objection to the system of reserved electorates is that it leads to inefficiency inasmuch as a candidate below the line gets the seat in supersession of a candidate above the line. This criticism is also true. But here, again, there are other considerations which must be taken into account. First of all, as Professor Dicey rightly argues, "it has never been a primary object of constitutional arrangement to get together the best possible Parliament in intellectual capacity. Indeed, it would be inconsistent with the idea of representative government to attempt to form a Parliament far superior in intelligence to the mass of the nation." Assuming, however, that the displacement of the intellectual classes by the candidates belonging to the non-intellectual classes is a loss, that loss will be more than amply recompensed by the natural idealism of the backward communities. There

is no doubt that the representatives of the higher orders are occupied with the pettiest cares and are more frequently concerned with the affairs of their own class than with the affairs of the nation. Their life is too busy or too prosperous and the individual too much self-contained and self-satisfied for the conception of the social progress to be more than a passing thought of a rare moment. But the lower orders are constantly reminded of their adversity, which can be got over only by a social change. The consciousness of mutual dependence resulting from the necessities of a combined action makes for generosity, while the sense of untrained powers and of undeveloped faculties gives them aspirations. It is to the lower classes that we must look for the motive power for progress. The reservation of seats to the backward Hindu communities makes available for the national service such powerful social forces, in the absence of which any Parliamentary government may be deemed to be poorer.

55. *Communal Electorates*—That some assured representation is necessary and inevitable to the communities in whose interests communal electorates have been instituted must be beyond dispute. At any rate, for some time to come the only point that can be open to question is, must such communal representation be through communal electorates ? Communal electorates have been held by their opponents to be responsible for the communal disturbances that have of late taken place in the different parts of the country. One cannot readily see what direct connection there can be between communal electorates and communal disturbances. On the contrary it has been argued that by satisfying the demand of the Mohamedans, communal electorates have removed one cause of discontent and ill-feeling. But it is equally true that communal electorates do not help to mitigate communal disturbances and may in fact help to aggrevate them. For communal electorates do tend to the intensification of communal feeling and that they do make the leaders of the two communities feel no responsibility towards each other, with the result that instead of leading their people to peace, they are obliged to follow the momentary passions of the crowd.

56. The Mohamedans who have been insisting upon the retention of the communal electorates take their stand on three grounds.

57. In the first place they say that the interests of the Mohamedan community are separate from those of the other communities, and that to protect these interests they must have separate electorates. Apart from the question whether separate electorates are necessary to protect separate interests, it is necessary to be certain that there are any interests which can be said to be separate in the sense that they are not the interests of any other community. In the secular, as distinguished from the religious field, every matter is a matter of general concern to all. Whether taxes should be paid or not, if so, what and at what rate; whether national expenditure should be directed in any particular channel more than any other; whether education should be free and compulsory ; whether Government lands should

be disposed of on restricted tenure or occupancy tenure ; whether State aid should be granted to industries ; whether there should be more police in any particular area ; whether the State should provide against poverty of the working classes by a scheme of social insurance against sickness, unemployment or death; whether the administration of justice is best served by the employment of honorary magistrates, and whether the code of medical ethics or legal ethics should be altered so as to produce better results, are some of the questions that usually come before the Council. Of this list of questions, is there any which can be pointed out as being the concern of the Mohamedan community only ? It is true that the Mohamedan community is particularly interested in the question of education and public service. But there again it must be pointed out that the Mohamedan community is not the only community which attaches particular importance to these questions. That the non-Brahmin and the depressed classes are equally deeply interested in this question becomes evident from the united effort that was put forth by all three in connection with the University Reform Bill in the Bombay Legislative Council. The existence of separate interests of the Mohamedan community is therefore a myth. What exists is not separate interests but special concern in certain matters.

58. Assuming, however, that separate interests do exist, the question is, are they better promoted by separate electorates than by general electorates and reserved seats ? My emphatic answer is that the separate or special interests of any minority are better promoted by the system of general electorates and reserved seats than by separate electorates. It will be granted that injury to any interest is, in the main, caused by the existence of irresponsible extremists. The aim should therefore be to rule out such persons from the councils of the country. If irresponsible persons from both the communities are to be ruled out from the councils of the country, the best system is the one under which the Mohamedan candidates could be elected by the suffrage of the Hindus and the Hindu candidates elected by the suffrage of the Mohamedans. The system of joint electorates is to be preferred to that of communal electorates, because it is better calculated to bring about that result than is the system of separate electorates. At any rate, this must be .said with certainty that a minority gets a larger advantage under joint electorates than it does under a system of separate electorates. With separate electorates the minority gets its own quota of representation and no more. The rest of the house owes no allegiance to it and is therefore not influenced by the desire to meet the wishes of the minority. The minority is thus thrown on its own resources and as no system of representation can convert a minority into a majority, it is bound to be overwhelmed. On the other hand, under a system of joint electorates and reserved seats the minority not only gets its quota of representation but something more. For, every member of the majority who has partly succeeded on the strength of the votes of the minority if not a member of the minority, will certainly be a member for the minority. This, in my opinion, is a very great advantage which makes

the system of mixed electorates superior to that of the separate electorates as a means of protection to the minority. The Mohamedan minority seems to think that the Council is, like the Cardinals' conclave, convened for the election of the Pope, an ecclesiastical body called for the determination of religious issues. If that was true then their insistence on having few men but strong men would have been a wise course of conduct. But it is time the community realised that Council far from being a religious conclave is a secular organisation intended for the determination of secular issues. In such determination of the issues, the finding is always in favour of the many. If this is so, does not the interest of the minority itself justify a system which compels others besides its own members to support its cause ?

59. The second ground on which the claim to separate electorates is made to rest is that the Mohamedans are a community by themselves ; that they are different from other communities not merely in religion but that their history, their traditions, their culture, their personal laws, their social customs and usages have given them such a widely different outlook on life quite uninfluenced by any common social ties, sympathies or amenities; that they are in fact a distinct people and that they do so regard themselves even though they have lived in this country for centuries. On this assumption it is argued that if they are compelled to share a common electorate with other communities, the political blending consequent upon it will impair the individuality of their community. How far this assumption presents a true picture, I do not step to consider. Suffice it to say, that in my opinion it is not one which can be said to be true to life. But conceding that it is true and conceding further that the preservation of the individuality of the Mohamedan community is an ideal which is acceptable to that community one does not quite see why communal electorates should be deemed to be necessary for the purpose. India is not the only country in which diverse races are sought to be brought under a common Government. Canada and South Africa are two countries within the British Empire where two diverse races are working out a common system of government. Like the Hindus and the Mohamedans in India, the British and the Dutch in South Africa and the British and the French in Canada are two distinct communities with their own distinctive cultures. But none has ever been known to object to common electorates on the ground that such a common cycle of participation for the two communities for electoral purposes is injurious to the preservation of their individualities. Examples of diverse communities sharing common electorates outside the Empire are by no means few. In Poland there are Poles, Ruthenians, Jews, White Russians, Germans and Lithuanians. In Latvia, there are Latvians, Russians, Jews, Germans, Poles, Lithuanians and Esthonians. In Esthonia, there are Germans, Jews, Swedes, Russians, Latvians and Tartars. In Czechoslovakia, there are Czechs, Slovaks, Germans, Magyars, Ruthenians. Jews and Poles. In Austria, there are Germans, Czechs and Slovenes; while

in Hungary there are Hungarians. Germans, Slovaks, Roumanians, Ruthenians. Croatians, and Serbians. All these groups are not mere communities. They are nationalities each with a live and surging individuality of their own, living in proximity of each other and under a common Government. Yet none of them have objected to common electorates on the ground that a participation in them would destroy their individuality.

60. But it is not necessary to cite cases of non-Moslem communities to show the futility of the argument. Cases abound in which Mohamedan minorities in other parts of the world have never felt the necessity of communal electorates for the preservation of their individuality against what might be termed the infectious contagion of political contact with other communities. It does not seem to be sufficiently known that India is not the only country where Mohamedans are in a minority. There are other countries, in which they occupy the same position. In Albania, the Mohamedans form a very large community. In Bulgaria, Greece and Roumania they form a minority and in Yugoslavia and Russia they form a very large minority. Have the Mohamedan communities there insisted upon the necessity of separate communal electorates ? As all students of political history are aware the Mohamedans in these countries have managed without the benefit of separate electorates ; nay, they have managed without any definite ratio of representation assured to them. In India, at any rate, there is a consensus of opinion, that as India has not reached a stage of complete secularisation of politics, adequate representation should be guaranteed to the Mohamedan community, lest it should suffer from being completely eclipsed from the political field by the religious antipathy of the majority. The Mohamedan minorities, in other parts of the world are managing their affairs even without the benefit of this assured quota. The Mohamedan case in India, therefore, overshoots the mark and in my opinion, fails to carry conviction.

61. The third ground on which it is sought to justify the retention of separate communal electorates of the Mohamedans, is that the voting strength of the Mohamedans in a mixed electorate may be diluted by the non-Mohamedan vote to such an extent that the Mohamedan returned by such a mixed electorate, it is alleged, will be a weak and instead of being a true representative of the Mohamedans will be a puppet in the hands of the non-Mohamedan communities. This fear has no doubt the look of being genuine, but a little reasoning will show that it is groundless. If the mass of the non-Muslim voters were engaged in electing a Mohamedan candidate, the result anticipated by the Mohamedans may perhaps come true if the non-Muslims are bent on mischief. But the fact is that at the time of general election there will be many non-Mohamedan candidates standing for election. That being the case, the full force of all the non-Muslim voters will not be directed on the Mohamedan candidates. Nor will the non-Mohamedan candidates allow the non-Mohamedan voters to waste their votes by concentrating themselves on the Mohamedan candidates. On the contrary, they will engage many voters, if not all, for themselves. If this

analysis is true, then it follows that very few non-Mohamedan voters will be left to participate in the election of the Mohamedan candidates, and that the fear of the Mohamedans of any mass action against Muslim candidates by non-Muslim voters is nothing but a hallucination. That the Mohamedans themselves do not believe in it is evident from what are known as the "Delhi" proposals. According to these proposals, which have been referred to in an earlier part of this report, the Mohamedans have shown their willingness to give up communal electorates, in favour of joint electorates, provided the demand for communal Provinces and certain other concessions regarding the representation of the Muslims in the Punjab and Bengal are given to them. Now, assuming that these communal Provinces have no purpose outside their own, and it is an assumption which we must make, it is obvious that the Mohamedan minority in any province must be content with such protection as it can derive from joint electorates. It is therefore a question as to why joint electorates should not suffice without the addition of communal Provinces when they are said, to suffice with the addition of communal Provinces. But this consideration apart, if there is any substance in the Muslim view that the watering of votes is an evil which attaches itself to the system of joint electorates, then the remedy in my opinion does no lie in the retention of communal electorates. The remedy lies in augmenting the numbers of the Mohamedan electors to the fullest capacity possible by the introduction of adult suffrage, so that the Mohamedan community may get sufficiently large voting strength to neutralise the effects of a possible dilution by an admixture of the non-Muslim votes.

62. All this goes to show that the case for communal electorates cannot be sustained on any ground which can be said to be reasonable. What is in its favour is feeling and sentiment only. I do not say that feeling and sentiment have no place in the solution of political problems. I realise fully that loyalty to Government is a matter of faith and faith is a matter of sentiment. This faith should be secured if it can be done without detriment to the body politic. But communal representation is so fundamentally wrong that to give in to sentiment in its case would be to perpetuate an evil. The fundamental wrong of the system, has been missed even by its opponents. But its existence will become apparent to any one who will look to its operation. It is clear that the representatives of the Muslims give law to the non-Muslims. They dispose of revenue collected from the non-Muslims. They determine the education of the non-Muslims, they determine what taxes and how much the non-Muslims shall pay. These are some of the most vital things which Muslims as legislators do, whereby affect the welfare of the non-Muslims. A question may be asked by what right can they do this ? The answer, be it noted, is not by right of being elected as representatives of the non-Muslims. The answer is by a right of being elected as the representatives of the Muslims ! Now, it is an universally recognised canon of political life that the Government must be by the consent of the governed. From what I have said above communal electorates are a violation of that

canon. For, it is government without consent. It is contrary to all sense of political justice to approve of a system which permits the members of one community to rule other communities without their having submitted themselves to the suffrage of those communities. And if as the Mohamedans allege that they are a distinct community with an outlook on life widely different from that of the other communities, the danger inherent in the system becomes too terrible to be passed over with indifference.

63. Such are the defects in the existing structure of the Council. It was framed by the Southborough Committee in 1919. The nature of the framework prepared by that Committee was clearly brought forth by the Government of India in their Despatch No. 4 of 1919 dated 23rd April, 1919, addressed to the Secretary of State in which they observed :

> "2. Before we deal in detail with the report (of the Southborough Committee) one preliminary question of some importance suggests itself. As you will see, the work of the Committee has not to any great extent been directed towards the establishment of principles. In dealing with the various problems that came before them they have usually sought to arrive at agreement rather than to base their solution upon general reasonings."

64. My colleagues have not cared to consider the intrinsic value of the framework as it now stands. They have no doubt recommended that the system of nominations should be done away with and in that I agree with them. But excepting that they have kept the whole of the electoral structure intact, as though it was free from any objection. In this connection I differ from them. As I have pointed out, the whole structure is faulty and must be overhauled. I desire to point out that the object of the Reforms are embodied in the pronouncement of August, 1917, declares the goal to be the establishment of self-governing institutions. The electoral structure then brought into being was only a half-way house towards it and was justified only because it was agreed that a period of transition from the rule of the bureaucracy to the rule of the people, was a necessity. This existing electoral structure can be continued only on the supposition that the present system of divided government is to go on. The existing system of representation would be quite incompatible with a full Government and must therefore be over-ruled.

65. There is also another reason why the present system of representation should be overhauled. Representative government is everywhere a party government. Indeed a party government is such a universal adjunct of representative government that it might well be said that representative government cannot function except through a party government. The best form of party government is that which obtains under a two-party-system both of ensuring stable as well as responsible government. An executive may be made as responsible as it can be made by law to the legislature. But the responsibility will only be nominal if the legislature is so constituted that it could not effectively impose its Will on the executive. A stable government requires absence of uncertainty. An executive must be able to plan

its way continuously to an ordered scheme of policy. But that invokes an unwavering support of a majority. This can be obtained only out of a two-party-system. It can never be obtained out of a group system. Under the group system the executive will represent not a general body of opinion, but a patch-work of doctrines held by the leaders of different groups who have agreed to compromise their integrity for the sake of power. Such a system can never assure the continuous support necessary for a stable government since the temptation to reshuffling the groups for private advantage is ever present. The existing Council by reason of the system of representation is, to use the language of Burke, "a piece of joinery so crossly indented and whimsically dovetailed, a piece of diversified mosaic, a tessellated pavement without cement, patriots and courtiers, friends of government and open enemies. This curious show of a Legislature utterly unsafe to touch and unsure to stand on" can hardly yield to a two-party-system of government, and without a party system there will neither be stable government nor responsible government The origin of the group system must be sought in the formation of the electorates. For, after all, the electorates are the moulds in which the Council is cast. If the Council is to be remodelled so that it may act with efficiency, then it is obvious that the mould must be recast.

66. In making my suggestions for the recasting of the electoral system I have allowed myself to be guided by three considerations : (1) Not to be led away by the fatal simplicity of many a politician in India that the electoral system should be purely territorial and should have no relation with the social conditions of the country, (2) Not to recognise any interest, social or economic, for special representation which is able to secure representation through territorial electorates, (3) When any interest is recognised as deserving of special representation, its manner of representation shall be such as will not permit the representatives of such interest the freedom to form a separate group.

67. Of these three considerations the second obviously depends upon the pitch of the franchise. In another part of this Report I have recommended the introduction of adult suffrage. I am confident that it will be accepted. I make my recommendations therefore on that basis. But in case it is not, and if the restricted franchise continues, it will call for different recommendations, which I also proposed to make. For the reasons given above and following the last mentioned consideration I suggest that—

I. If adult suffrage is granted there shall be territorial representation except in the case of the Mohamedans, the Depressed Classes, and the Anglo-Indians.

II. If the franchise continues to be restricted, all representation shall be territorial except in the case of the Mohamedans, the Depressed Classes, Anglo-Indians, the Marathas and the allied castes and labour.

III. That such special representation shall be by general electorates and reserved seats and of labour by electorate made up of registered trade unions.

68. From these suggestions it will be seen that I am for the abolition of all class electorates, such as those for (1) Inamdars and Sardars, (2) Trade and Commerce, whether Indian or European, (3) Indian Christians, and (4) Indusry ; and merge them in the general electorates. There is nothing to prevent them from having their voice heard in the Councils by the ordinary channel. Secondly, although I am for securing the special representation of certain classes, I am against their representation through separate electorates. Territorial electorates and separate electorates are the two extremes which must be avoided in any scheme of representation that may be devised for the introduction of a democratic form of government in this most undemocratic country. The golden mean is the system of joint electorates with reserved seats. Less than that would be insufficient, more than that would defeat the ends of good government. For obvious reasons I make an exception in the case of the European community. They may be allowed to have their special electorates. But they shall be general electorates and not class electorates

CHAPTER 3

DISTRIBUTION OF SEATS

I. Distribution of seats among the minorities

69. The quota of seats assigned by my colleagues to the different minorities is given below in the tabular form:

Minority	No. of seats out of 140		
	General	plus	Special
I. Europeans	2		5
II. Anglo-Indians .., ...	2		Nil
II. Indian Christians ...	1		Nil
IV. Depressed Classes ...	10		Nil
V. Mohamedans	43		2

70. From this table it will be seen that in distributing the seats among the different minorities, my colleagues have not acted upon any uniform principle. Nor does it appear that they have striven to do justice to the minorities concerned. This is clear if we compare the treatment given by my colleagues to the Mohamedans with the treatment they have given to the Depressed Classes. Mohamedans form 19 per cent, of the population of the Presidency. My colleagues have proposed to give them over 31 per cent, of the total representation provided for the Legislative Council. The Depressed Classes on the other hand who form according to the most conservative estimate 8 per cent, of the total population of the Presidency are allowed only 7 per cent, of the total seats in the Council. The reasons for this discrimination are difficult to comprehend. Of the two minorities the Mohamedan minority is undoubtedly stronger in numbers, in wealth and in education. Besides being weak in numbers, wealth and education, the

Depressed Classes are burdened with disabilities from which the Mohamedans are absolutely free. The Depressed Classes cannot take water from public watering places even if they are maintained out of public funds ; the Mohamedans can. The Depressed Classes, by virtue of their untouchability, cannot enter the Police, the Army and the Navy, although the Government of India Act lays down that no individual shall be denied his right to any public office by reason of his caste, creed or colour. The Mohamedans have not only an open door in the matter of public service, but that in certain departments they have secured the largest share. The Depressed Classes are not admitted in Public schools even though they are maintained out of public money; there is no such bar against the Mohamedans. The touch of a Depressed Class man causes pollution; the touch of a Mohamedan does not; that trade and industry are open to a Mohamedan while they are closed to a man from the Depressed Classes. The Mohamedan does not bear the stigma of inferiority as does a man from the Depressed Classes with the result that the Mohamedan is free to dress as he likes, to live as he likes and to do what he likes. This freedom the Depressed Class man is denied. A Depressed Class man may not wear clothes better than the villagers even though he may have the economic competence to pay for its cost. He must live in a hut. A Depressed Class man may not make much display of wealth and splendour even on ceremonial occasions and may certainly not take the bridegroom on a horse in procession through the main streets. Any act contrary to the customary code or beyond his status is bound to be visited by the wrath of the whole body of villagers amongst whom he happens to live. The Depressed Class man is far often subject to the tyranny of the majority than the Mohamedan is. The reason is that the Mohamedan who has all the elementary rights of a human being accorded to him, has no cause for quarrel against the majority, except when a religious issue comes to the front. But the position of the Depressed Class man is totally different. His life which is one incessant struggle for the acquisition of the rights of a human being, is a constant challenge to the majority which denies him these rights. The result is that he is constantly in antagonism with the majority. This is not all. If on any occasion the Mohamedan is visited by the tyranny of the majority, he has on his sides the long arm of the Police and the Magistracy. But when the Depressed Class man is a victim of the tyranny of the majority, the arm of the Police or of the Magistracy seldom comes to his rescue. On the contrary it works in league with the majority to his detriment, for the simple reason that the Mohamedan can count many of their kith and kin in the Police and the Magistracy of the Province ; while the Depressed Classes have no one from them in these departments. And be it noted that the Depressed Classes have not merely to bear the brunt of the orthodox Hindu force. It has also to count against the Mohamedans. It is ordinarily supposed that the Mohamedan is free from social prejudices of the Hindus against the Depressed Classes. Nothing can be a greater error than this. Leaving aside the urban areas,

the Mohamedan in the rural parts is as much affected by the poison as the Hindu. The fracas that took place at Harkul, a village in the Mangaon Taluka of the Kolaba District, is an instance in point. In this district the Depressed Classes launched a campaign of social elevation and resolved to give up certain unclean practices which have marked them out as persons of inferior status. The Hindus of the district, who had formerly preached to these people the abandonment of these unclean practices as a necessary condition of their uplift, turned upon these poor people and tyrannised them by bringing to bear upon them a social and economic boycott. But it was never expected that the Mohamedans of the district would follow their Hindu neighbours. On the contrary it was the hope of the Depressed Classes that in their struggle with the touchable Hindus the Mohamedans would act as their friends. But these hopes of theirs were dashed to pieces. For, it was soon found that the Mohamedans, although they did not observe untouchability, were as much infected as the Hindus with the noxious belief that the Depressed Classes were born to an inferior social status and that their attempt to raise themselves above it by giving up their unclean habits was an affront and an insult which required to be put down. As a result many were the fights that took place between the Mohamedans and the Depressed Classes of the district, in one of which, at Harkul, a Depressed Class man actually lost his life.

71. It is therefore clear that the problem of the Depressed Classes is far greater than the problem of the Mohamedans. The Mohamedans may be backward in the race, although they are so forward that in education at least they are second only to the advanced Hindus. But they are certainly not handicapped, so that with effort and encouragement they can hope to rise. The Depressed Classes, on the other hand, are not merely backward, they are also handicapped, so that no effort or encouragement will enable them to rise unless the handicap is first removed. That being the difference between the two, whatever degree of political power that may be necessary for the Mohamedans to change their backward state, the Depressed Classes will require twice as much if not more to do so. Yet my colleagues have reversed the proportion of their representation. The Mohamedans, who are 19 per cant, and who form a strong minority, are given 31 per cent, of seats in the Council, while the Depressed Classes, who form 8 per cent, of the population on the most conservative estimates, are given only 7 per cent. of the seats in the Council which, in fact, is 1 per cent. less than their population ratio.

72. There is a view that the problem of the Depressed Classes is a social problem and that its solution must be sought for in the social field. I am surprised that this view prevails even in high quarters. I am afraid that those who hold this view forget that every problem in human society is a social problem. The drink problem, the problem of wages, of hours of work, of housing, of unemployment insurance are all social problems. In the same sense the problem of untouchability is also a social problem. But the

question is not whether the problem is a social problem. The question is whether the use of political power can solve that problem. To that question my answer is emphatically in the affirmative. True enough that the State in India will not be able to compel touchables and untouchables to be members of one family whether they liked it or not. Nor will the State be able to make them love by an Act of the Legislature or embrace by order in Council of the Executive. But short of that the State can remove all obstacles which make untouchables remain in their degraded condition. If this view is correct, then no community has a greater need for adequate political representation than the depressed classes.

73. My colleagues nowhere explain why the Mohamedan minority should get 12 per cent, more than its population ratio and why the Depressed Classes should not get even the share that is due to them on the basis of their population. It is noteworthy that the Mohamedan witnesses who pleaded for the excess of their representation did not claim it on the ground, as one might have expected, that it was necessary to ensure their progress or their well-being. Their only ground was that the Mohamedans were the descendants of a ruling class and that they required this excessive representation because without it, they feared that the community would suffer in importance and influence. From this it will be seen that the Mohamedan claim for such excessive representation proceeds not on the basis of adequacy but on the basis of supremacy. I am strongly of opinion that in any democratic form of government all communities must be treated as of equal political importance and that there should be no room left for any one community to claim that it is *uber alles*. When anyone said that his community was important and should receive fair and adequate representation the claim was entitled to the sympathetic consideration of all. But when any one urged that his community was specially important and should therefore receive representation in excess of its fair share, the undoubted and irresistible implication was that the other communities were comparatively inferior and should receive less than their fair share. That is a position to which naturally the other communities will not assent. The earlier therefore the Mohamedan community is disabused of this extravagant notion, the better it will be for the future of the community. For there is no benefit in an advantage which not being willingly conceded by the other communities has perpetually to be fought for. On the contrary it may result in positive harm to the Mohamedan community by sowing the seeds of estrangement and perhaps of positive antipathy between it and the other communities concerned.

74. The Mohamedan's is not the only case of a ruling class which has suffered a fall in its position. The French in Canada and the Dutch in South Africa are other instances where a class fell from its position of a ruling class to that of a subject class. But neither the French in Canada nor the Dutch in South Africa put forth claims to extravagant representation in order to be able to maintain their former position as rulers. Nor

is such a consideration shown to the Mohamedan minorities in other parts of the world. The Mohamedan minorities in Albania, Roumania, Greece, Bulgaria are the remnants of what was once a ruling race. Yet in none of these countries have they claimed a royal share of representation. The Mohamedan claim for representation according to the influence is not only not heard of but is quite foreign to the system of representative government. The landowners, the capitalists, and the priests have an immense influence in every society, but no one has ever conceded that these classes should be given an immense share of representation. There is therefore no reason why the Mohamedan claim should be recognised when claims of similar nature have been dismissed elsewhere.

75. Whatever may have been their position before the advent of British rule in India—and there again it must not be forgotten, that if the Mohamedans have ruled India for five centuries, the Hindus have ruled for countless centuries before them and even after them — the safest course is to proceed on the basis that as a result of the British conquest all communities stand on a common level and pay no heed to their political past. Such an attitude far from being unjust will be perfectly in keeping with the sentiments expressed by the Law Commissioners who drafted the Indian Penal Code in their address to the Secretary of State. Therein they observed :

> "Your Lordship in Council will see that we have not proposed to except from the operation of this Code any of the ancient sovereign houses of India residing within the Company's territories. Whether any such exception ought to be made is a question which, without a more accurate knowledge than we possess of existing treaties, of the sense in which those treaties have been understood, of the history of negotiations, of the temper and of the power of particular families, and of the feeling of the body of the people towards those families, we could not venture to decide. We will only beg permission most respectfully to observe that every such exception is an evil; that it is an evil that any man should be above the law ; that it is still greater evil that the public should be taught to regard as a high and enviable distinction the privilege of being above the law ; that the longer such privileges are suffered to last, the more difficult it is to take them away; that there can scarcely ever be a fairer opportunity of taking them away than at the time when the Government promulgates a new Code binding alike on persons of different races and religion; and that we greatly doubt whether any consideration except that of public faith solemnly pledged, deserves to be weighed against the advantages of equal justice."

76. These are words of great wisdom and I am sure that words of greater wisdom have not been uttered for the guidance of those in charge of the public affairs of India. Nor is their wisdom restricted to the occasion on which or the purpose in relation to which they were uttered. I have no doubt that they apply to the present occasion with equal if not greater force. Indeed using the language of the Law Commissioners, I am led to say that it is an evil that the constitutional law of the country should recognise that any one

community is above the rest ; that it is a still greater evil that sections of public should be taught to weigh themselves in the scales of political importance in such a manner as to lead one to look up to and the other to look down upon ; that the longer such notions are suffered to last the more difficult it is to eradicate them and that there can scarcely ever be a fairer opportunity for dispelling them than at the time when Parliament promulgates a new code of constitutional law binding alike on persons of different races and religion.

77. Equal treatment of all the minorities in the matter of representation is only a part of the problem of the representation of minorities. To determine a satisfactory quantitative measure for the distribution of seats is another and a more important part of the problem. But this is a most controversial question. Of the two opposing theories one is that the representation of a minority should be in a strict proportion to its population. The other theory which is strongly held by the minorities is that such representation must be adequate. I do not think that the arithmetical theory of representation can be agreed to. If the Legislative Council was a zoo or a museum wherein a certain number of each species was to be kept, such a theory of minority representation would have been tolerable. But it must be recognised that the Legislative Council is not a zoo or a museum. It is a battle ground for the acquisition of rights, the destruction of privileges and the prevention of injustice. Viewed in this light a minority may find that its representation is in full measure of its population yet it is so small that in every attempt it makes to safeguard or improve its position against the onslaught of an hostile majority it is badly beaten. Unless the representation of minorities is intended to provide political fun the theory of representation according to population must be discarded and some increase of representation beyond their population ratio must be conceded to them by way of weightage.

78. To recognise the necessity of weightage is no doubt important. But what is even of greater importance is to recognise that this weightage must be measured out to the minorities on some principle that is both intelligent and reasonable. For it must be recognised that the minorities under the pretext of seeking adequate protection are prone to make demands which must be characterised as preposterous. To avoid this we must define what we mean by adequacy of representation. No doubt adequacy is not capable of exact definition, but its indefiniteness will be considerably narrowed if we keep before our mind certain broad considerations. First of all a distinction must be made in the matter of minority representation between adequacy on the one hand and supremacy on the other. By supremacy, I mean such a magnitude of representation as would make the minority a dictator. By adequacy of representation I mean such a magnitude of representation as would make it worth the while of any party from the majority to seek an alliance with the minority. Where a party is compelled to seek an alliance with a minority, the minority is undoubtedly

in the position of a dictator. On the other hand where a party is only drawn to seek an alliance with the minority, the minority is only adequately represented. The first thing, therefore, that should be kept in mind in the matter of the allotment of seats to minorities is to avoid both the extremes—inadequacy as well as supremacy. These extremes can in my opinion be avoided if we adopt the rule that minority representation shall, in the main, be so regulated that the number of seats to which a minority is entitled will be a figure which will be the ratio of its population to the total seats multiplied by some factor which is greater than one and less than two.

79. This principle, it is true, merely defines the limits within which the representation of a minority must be fixed. It still leaves unsettled and vague with what this multiplier should vary. My suggestion is that it should vary with the needs of the particular minority concerned. By this method we arrive at a principle for measuring out the weightage to the minorities which is both intelligible and reasonable. For, the needs of a minority are capable of more or less exact ascertainment. There will be general agreement that the needs of a minority for political protection are commensurate with the power it has to protect itself in the social struggle. That power obviously depends upon the educational and economic status of the minorities. The higher the educational and economic status of a minority the lesser is the need for that minority of being politically protected. On the other hand the lower the educational and economic status of a minority, the greater will be the need for its political protection.

80. Taking my stand on the sure foundation of the principle of equality on the one hand and the principle of adequacy on the other I feel I must demur to the allotment of seats proposed by my colleagues to the different minorities. My proposal is that out of 140 seats the Mohamedans should have 33 and the Depressed Classes 15. This gives the Mohamedans 23 per cent. and the Depressed Classes 10.7 per cent. of the total seats in the Council. By this, the Mohamedans get nearly 4 per cent. and the Depressed Classes 2 per cent. above their respective population ratios. This much weightage to the respective communities is, in my opinion, reasonable and necessary and may be allowed. Besides my proposal has one thing in its favour and that is, it keeps the ratio of Mohamedan representation unaltered. In the present Council, the Mohamedans have 23 per cent. of the total representation. As a result of my proposal they will have the same ratio of representation in the new Council.

81. In view of the fact that some people disfavour, I do not say oppose, the degree of representation I have allowed to the Depressed Classes, I think it is necessary that I should clear the cloud by additional explanation. There is no doubt that the initial representation allowed to the Depressed Classes was grossly unfair. The authors of the Joint Report expressly stated (paragraph 153) "we intend to make the best arrangements we can for (the) representation (of the Depressed Classes)". But this promise was thrown to the wind by the Southborough Committee which was subsequently

appointed to devise franchise, frame constituencies and to recommend what adjustments were needed to be made in the form of the proposed popular Government as a consequence of the peculiar social conditions prevalent in India. So grossly indifferent was the Southborough Committee to the problem of making adequate provision for safeguarding the interests of the Depressed Classes that even the Government of India which was not particular in this matter, felt and called upon in paragraph 13 of then Despatch on the Report of the Southborough Committee to observe : "We accept the proposals (for non-official nomination) generally. But there is one Community whose case appears to us do require more consideration than the Committee gave it. The Report on Indian Constitutional Reforms clearly recognised the problem of the Depressed Classes and gave a pledge respecting them. The castes described as 'Hindus—others' in the Committee's Report though they are defined in varying terms, are broadly speaking all the same kind of people. Except for differences in the rigidity of their exclusion they are all more or less in the position of the Madras Panchamas, definitely outside the part of the Hindu Community which is allowed access to their temples. They amount to about one-fifth of the total population, and have not been represented at all in the Morley-Minto Councils. The Committee's Report mentions the Depressed Classes twice but only to explain that in the absence of satisfactory electorates they have been provided, or by nomination. It does not discuss the position of these people of their capacity for looking after themselves. Nor does it explain the amount of nomination which it suggests for them. Paragraph 24 of the Report (of the Franchise Committee) justified the restriction of the nominated seats on grounds which do not suggest that the Committee were referring to the Depressed Classes. The measure of representation which they proposed for this Community is as follows :

Province	Total population in millions	Population of Depressed classes in millions	Total Seats	Seats for the Depressed Classes
Madras	39.8	6.3	120	2
Bombay	19.5	.6	113	1
Bengal	45.0	9.9	127	1
United Provinces	47.0	10.1	120	1
Punjab	19.5	1.7	85	....
Bihar and Orissa	32.4	9.3	100	1
Central Provinces	12.0	3.7	72	1
Assam	6.0	.3	54	....
	221.2	41.9	791	7

These figures speak for themselves. It is suggested that the one-fifth of the entire population of British India should be allotted seven seats out of

practically 800. It is true that in all the councils there will be roughly a one- sixth proportion of officials who may be expected to bear in mind the interests of the Depressed ; but that arrangement is not, in our opinion, what the Report on Reforms aims at. The authors stated that the Depressed Classes should also learn the lesson of self-protection. It is surely fanciful to hope that this result can be expected from including a single member of the Community in an assembly where there are 60 to 90 Caste Hindus. To make good the principles of paragraphs 151, 152, 155 of the Report we must treat the out-castes more generously. . . . . ."

82. Even the Joint Select Committee recognised that the Depressed Classes were unjustly treated in the matter of representation by the Southborough Committee. For the Committee in its Report felt bound to observe that "the representation proposed for the Depressed Classes is inadequate. Within the definition are comprised, as shown in the Report of the Franchise Committee, a large proportion of the whole population of India. They think that the Government of India should, as it advises, be instructed to give such classes a larger share of representation by nomination, regard being had to the numbers of Depressed Classes in each Province, and after consultation with the Local Governments. This representation should, if necessary, be in addition to, but not in diminution of, the general electorate." All this of course was of no avail and the wrong done by the Southborough Committee to the Depressed Classes remained unredressed. The present is not an attempt to give excessive representation to the Depressed Classes. It is only an attempt to rectify the wrong done. Nor can it be said that in suggesting the measure of representation it is open to the objection of being extravagant. For, even the Muddiman Committee which said that there was "a very general recognition of the fact that it is desirable that both these interests (i.e., the labouring classes and the Depressed Classes) should receive further representation" and expressed itself as being "in agreement with this view" proposed to give them 11 seats in a Legislative Council of 113. If 11 seats out of 113 was a reasonable allotment, then the allotment of 15 out of 140 must be admitted to be very moderate. The quota of 15 appears excessive only because the initial quota was small. Those who object to the quota of 15 because it is out of proportion to the existing quota forget that the initial quota of seats which they are adopting as the standard measure is neither just nor proper.

83. There is one other matter which needs to be cleared up. My colleagues in paragraph 16 of their Report in which they discuss the question of the allotment of seats to the Mohamedan community say, "Two of our members, Sirdar Mujumdar and Dr. Ambedkar, are of the opinion that this arrangement can stand only so long as the Lucknow pact stands as regards all provinces." My colleagues have misunderstood me and have therefore misrepresented me. What I wanted to point out was that as they had not justified communal electorates or the number of seats to be given to the Mohamedans it would be better if they stated in their report that this was

in pursuance of the Lucknow pact. The way in which my colleagues have reported me seems to suggest that I support the Lucknow pact. I take this opportunity to say that the suggestion is quite unwarranted.

II. Geographical distribution of seats

84. My difference with my colleagues is not confined only to the question of allotment of seats to the different minorities. It extends also to the question of distribution of seats among the different constituencies. One unpleasant feature of the Council as now constituted is the over- representation of some part and an under-representation of the rest. The enormous extent of the evil is made clear by the following figures :

	Area in Square miles	Population	Land Revenue demand for 1925-26	Seats in the Council at present
			Rs.	
Maharashtra	47,854	8,536,217	2,18,18,155	25
Gujarat	10,118	2,958,849	99,41,264	16
Karnatak	18,870	3,188,523	82,91,225	8
Sind	46,506	3,279,377	1,03,85,031	19

85. How glaring are the inequalities becomes evident from the above table. Taking population as the basis, Maharashtra and Karnatak are grossly under-represented. Adopting representation of Gujarat as the standard, Maharashtra ought to be allowed 48 seats and Karnatak 17. Even taking revenue as the basis of distribution, Maharashtra and Karnatak have undoubtedly been treated quite unfairly. For, on that basis also Maharashtra is entitled to 32 and Karnatak 15. This demand for equal electoral power is not a mere sentimental demand or a demand for exact electoral symmetry. It has also behind it ample theoretical justification. For, in a system in which the value of a vote is high in one constituency and low in another, it is open to objection that every member of the community has not an equal share with each of the rest of the people in the choice of their rulers. But even if the principle of exact equivalence of all votes be not treated as a fundamental principle of political justice, yet the differences of this kind do not fail to produce the evil consequences of the over-representation of one part of the country or one set of opinions or interests at the expense of the other. Experience has shown that the existing distribution of seats has unduly divided the centre of gravity of legislative and executive action to certain parts of the Presidency to the prejudice of other parts of the Presidency, with the result that the latter have unintentionally been deprived of an adequate share of consideration and attention from the Government. From this practical point of view the existing distribution of seats is a grievance, the justice of which cannot be denied. As matters now stand Karnatak and Maharashtra can never exercise in this Province that influence on the Government to which they consider themselves entitled by

reason of their numbers. This is a substantial grievance which must be keenly felt as indicated by the evidence from Karnatak. This grievance is bound to increase as the responsible character of the Legislative Council increases and with it the influence which it will exercise upon the conduct of public affairs. There is, therefore, too much reason to fear that instead of dying out, the bitterness of feeling will become more and more acute. It is, therefore, proper that at a time when we are overhauling the machinery of Government with a view to make it a representative and a responsible government, this grievance should also be redressed.

86. The evil of over-representation of some parts of this Presidency at the expense of other parts was due to the fact that the Southborough Committee acted quite capriciously and refused to follow any definite principle in the matter of the distribution of seats. I am glad to find that my colleagues have sought to follow a uniform principle in the matter of distribution of seats as far as possible. But my complaint is that they have taken the worst possible principle as the basis of the distribution of seats. Contributions to the exchequer, electors on the roll and population in the constituency are the three conceivable tests that can be adopted as the basis for the distribution of seats. Of these three the test of the electors is the most unjust and indefinite. In the first place where the franchise is so restricted as we now have, it means the rule of wealth. It means that if any particular area on any arbitrary test of property qualification does not produce the basic quota of electors it should go without representation. That this must be inevitable consequence of following the test of electors is clearly brought out in the distribution proposed by the Majority for the Depressed Classes, according to which the Depressed Classes of some parts have enormous representation while those of the other part of the Presidency have no representation at all. A theory which produces such an absurd result must be regarded as indefensible and must be ruled out. Revenue is a better test than the test of electorates. For it may be argued that the power to influence government should be commensurate with the revenue paid to Government. This test must even be rejected as being deceptive and inadequate, owing to the fact that as all revenue might not be paid when it is earned, it would be difficult to know the true revenue of a State. A constituency in which a large revenue is earned may suffer in distribution of seats because it is paid in another. But the most fatal objection to both these tests is that the State does not exist for the benefit of the electors or the tax-payers. Nor does the State limit its coercive action to them. Its jurisdiction extends over all the people who are its subjects irrespective of the question whether or not he is a tax-payer or an elector. From that it follows that the population is the only test for a just and proper distribution of seats. That is the test applied in England and in all countries which have a representative system of government, and I recommend that the seats for the Bombay Legislative Council should be distributed on that basis.

III. Other aspects of the distribution of seats

87. The want of principle which is noticeable in the distribution of seats among the minorities as proposed by my colleagues is also noticeable in the distribution of seats they have proposed between Capital and Labour, and between Landlords and Tenants. To capital as represented through Commerce and Industry they have given 11 seats, while to labour they give only four. To tenants they give none except what they can scrape through in the general election ; while to the landlords they give five. But this is not correct for if we take into consideration the Sind members and others from the Presidency, the seats to the landlords in the Council might easily come up to forty. Nor can I say that my colleagues have paid sufficient attention to the question of the proper distribution of seats between urban and rural areas. The Legislature is at present too much at the mercy of the rural classes and there is a great danger of governmental powers being exploited in the name of the agriculturists for legalising dangerous fads such as permanent settlements, cheap irrigation and free forests. If such fads are to be kept out of the statute book it is necessary to increase the representation of the urban classes whose representation is not commensurate with their ability or their contribution. It would have been better if my colleagues had left the task of a proper distribution of seats between the different parts of the Presidency to a separate Committee. I cannot say they have succeeded in doing justice to the weaker parties. I would suggest that a separate committee should be appointed to deal with this problem.

IV. Seats and residential qualification

88. Under rule 6(1)(*b*) of the Bombay Electoral Rules, a residential qualification is prescribed for candidates for election to the Legislative Council. The rule lays down that "No person shall be eligible for election as a member of the Council to represent a general constituency unless he has for the period of six months immediately preceding the last date fixed for the nomination of candidates in the constituency, resided in the constituency or in a division any part of which is included in the constituency." The rule has been interpreted in this Presidency to mean that actual or habitual residence in the constituency (and not merely a place of residence or occasional visits to it) is necessary before a candidate can stand for election from a particular constituency. Before I give my own opinion on this question I would like to state briefly the history of this restriction so far as this Presidency is concerned. Paragraph 84 of the Joint Report commented on the fact that a noteworthy result of the electoral system then existing was the large percentage of the members of the legal profession who succeeded at elections and went on to point out that so great a predominance of men of one calling in the political field was clearly not in the interests of the general community and suggested that in framing the new constituencies an important object to be borne in mind was to ensure

that men of other class and occupations found a sufficient number of seats in the councils and that it was possible that this could be done by prescribing certain definite qualifications for rural seats. The question was carefully examined by the Southborough Committee, who in paragraph 29 of their report referred to the fact that some of the local governments, namely, those of the United Provinces, Behar and Orissa and Assam did not press for the insertion of the residential qualification, while the Governments of Bengal, Bombay, Madras and the Punjab held that it would be detrimental to the interests of a large proportion of the new electorate to admit as candidates, persons who were not resident in the areas they sought to represent. The majority of the Southborough Committee were on principle opposed to the residential qualification, but they resolved, by way of a compromise, to impose the restriction in the Central Provinces. Bombay and the Punjab but not in the remaining provinces. The Government of India, in expressing their views upon the recommendations of the Southborough Committee, accepted those recommendations, but pointed out that the Committee's treatment of the question had placed them in some difficulty in that while the Committee accepted the views of some of the local governments in favour of the restriction, they discarded the views of some others who equally pressed for it. The Joint Parliamentary Committee on the Government of India Bill recommended that the compromise suggested by the Franchise Committee should be accepted. This was done and the residential qualification was imposed only in the Central Provinces, Bombay and the Punjab. I would point out that subsequent to this the residential qualification was done away with in the Punjab in the revision of the rules which proceeded the General Elections of 1923. The Punjab Government themselves in the opinion which they gave to the Muddiman Committee stated that for the first general elections the residential qualification wave the rural representatives an entry from which they had not been dispossessed, and there appeared to be no adequate reason for restoring the qualification. The position at present therefore is that Bombay and the Central Provinces are the only provinces in which the residential qualification still exists. In the Central Provinces the restriction is not interpreted as strictly as it is in this Presidency. It is, in my opinion, difficult to justify the retention of this restriction in this the most advanced Province in India when provinces much more backward have felt no necessity for it. The retention of this qualification is, in my opinion, to some extent responsible for the election of inferior men to the Councils and for the keeping out of the Councils men of position, ability and proved political capacity who are mostly found in the larger urban areas and who by the existence of the qualification are prevented from seeking election anywhere else if for some reason they are unable to secure election from their own residential area. I therefore recommend that the residential qualification should now be abolished so far as this Presidency is concerned.

CHAPTER 4

LUCKNOW PACT

89. I am aware that my recommendations regarding the substitution of joint electorates for communal electorates and the distribution of seats conflict with the terms of the Lucknow Pact in so far as they affect the representation of the Mohamedan community. The representation of the Mohamedan community as settled under the rules framed in 1919 was largely based upon what is known as the Lucknow Pact. This pact embodies an agreement arrived at in 1917 at Lucknow between the Moslem League and the Congress, the former acting on behalf of the Mohamedans and the latter on behalf of the Hindus. It gave to the Mohamedans communal electorates and a varying proportion of seats in the Provincial and Central Legislature. I realise that the views I have put forth on the representation of the Mohamedan community are subversive of this agreement, and I feel that it is incumbent upon me to state why I think that this agreement should be scrapped.

90. My first argument is that the settlement embodied in the Lucknow Pact is wrong settlement. This was admitted by all the local governments. The Government of India in their Despatch reviewing the recommendations of the Franchise Committee to the Secretary of State, reported : "We note that local governments were not unanimous in subscribing to the compact. The Government of Madras framed their own proposals for Mohamedan representation without regard to it. The Bombay Government, while adopting the compact, did not rule out from discussion a scheme of representation upon a basis of population. The Chief Commissioner of the Central Provinces was opposed to separate Mohamedan electorates and considered that the percentage proposed in the compact was 'wholly disproportionate to the strength and standing of the community.' The Chief Commissioner of Assam thought it was a mistake even from a Muslim point of view to give that community representation in excess of their numerical proportion." Nor did the Government of India differ from this view generally held by the Provincial Governments. Evaluating the results of the Lucknow Pact in the different Provinces, they observed, "the result is that while Bengal Mohamedans get only three-quarters and the Punjab Mohamedans nine-tenths of what they would receive upon a population basis, the Mohamedans of other Provinces have got good terms and some of them extravagantly good. We cannot ourselves feel that such a result represents the right relation either between Mohamedans in different Provinces, or between Mohamedans and the rest of the community". Sir William Vincent, in a note of dissent, went so far as to say, "In my view……we should proceed without regard to the details of the Lucknow Settlement to fulfil our own pledges to the Mohamedans in what we ourselves think is the best way."

91. The wrong in the Lucknow Pact is not so much that it treated the Mohamedans in the different Provinces in a dissimilar manner, providing for them generously in some and niggardly in others. This is comparatively speaking a small matter. The principal defect in the Lucknow Pact is that in allotting the seats to the Mohamedans it did not take into consideration the effect it will have upon other interests. The framers of the pact, as pointed out by the Government of India, failed to remember that whatever advantage is given to the Mohamedans is taken away from some other interest or interests. Sir William Vincent, too, was careful enough to point this out. He also said in his minute of dissent, "The compact meets with much more acceptance than criticism of the present time; but hereafter, when the value of votes and representation comes to be realised, it must be expected drat the interests which are hard hit by it will complain with some injustice that the Government of India should have endorsed it." The extent to which this prediction has been realised is remarkable, and the universal dissatisfaction that is felt with the result of the Lucknow Pact is more than sufficient testimony to show that settlement embodied in the Lucknow Settlement is a wrong settlement. Now there can be nothing improper in asking that what is wrongly settled shall be re-settled. Such a demand is bound to meet with opposition from the Mohamedan community. Having obtained representation on an extravagant scale, they are sure to take their stand on precedent and past rights. But as Thomas Paine pointed out, the error of those who reason by precedents drawn from antiquity respecting their rights is that they would not take that time to the starting point when no vested rights existed. If they did they would realise that rights, far from being immutable, are historical accidents and are therefore liable to readjustment from time to time. This must be so, for all political and social progress is based upon the maxim that wrong cannot have a legal descent and that what is not rightly settled is never settled.

This is not the only instance in which a pact like the Lucknow Pact is sought to be revised. The Act of Union between Ireland and England was also a pact of the same sort. It certainly had a far greater binding force than the Lucknow Pact. In fact it was regarded as a treaty which guaranteed to Ireland 100 seats in Parliament. All the same, Mr. Balfour's Government, when it found that the excessive representation granted to Ireland had become a positive wrong, did not hesitate to bring in a Bill in 1905 which would have had the effect of reducing the Irish seats by 30. That owing to the resignation of Mr. Balfour's Government the Bill did not become law is another matter. But the fact remains that a revision of the Irish Settlement in the matter of the representation was not excluded by the fact that the settlement was based upon an agreement between the two parties. Nor was Mr. Balfour agreeable to the view that such revision could be carried out only with the consent of Ireland. Indeed, he had launched upon the scheme of redistribution in the teeth of the Irish opposition. But it is not necessary to go so far a field to find a precedent when there is

one near at hand. The constitution of Ceylon had also given recognition to pacts and agreements between various organisations allowing communal representation and communal distribution of seats. But the Ceylon Commission of 1928 was emphatic in its view that "in any case, in considering afresh the whole problem of representation, private arrangements between races or groups, while worthy of attention, cannot take precedence of considerations in the interests of the Ceylon people as a whole." It had therefore no hesitation in revising the whole scheme of representation in Ceylon out of recognition. What is asked herein is no more than what is done elsewhere.

92. It is further to be remembered that the Lucknow Pact is valueless not merely because its terms, to use the words of Government of India, "were the result rather of political negotiation than of deliberate reason," but also because it was brought about by organisations neither of which had any real authority to speak in the name of those on whose behalf they purported to act. The All-India Muslim League was not entitled to speak for all Mohamedans, and that it was the view of the Government of India in their despatch on the Report of the Southborough Committee is abundantly clear. Regarding the Congress, it is indisputable that it is a body which does not represent the vast mass of the Non-Brahmins and the Depressed Classes. A pact arrived at by organisations which are not constituent assemblies of the mass of people may bind themselves, but they certainly cannot bind the generality of the people. To give the pact an authority as though it was treaty negotiated between duly empowered plenipotentiaries of different States is to assume in the League and the Congress an authority which they did not possess. It has become necessary to assess the binding force of the agreement because of the view taken by the Government of Bombay that, "Any change in the direction of abolishing separate electorates must, however, be based on agreement between the two communities, and cannot be forced on the Mohamedans against their wish. The question is also an All-India one and can hardly be dealt with on different lines for each Presidency. The Government of Bombay adhere to the view which they had expressed in 1916 that communal electorates are not acceptable to them and that their abolition is desirable, if it can be secured with the consent of both parties as in the case of the Lucknow Pact." In my opinion this is an attitude which is as irresponsible as it is dangerous. It is irresponsible because it involves the surrender of the right of Parliament to decide in the matter. That the Government of India thought it wise not to "ignore" the pact, which in their opinion represented a genuine attempt on the part of the two communities upon so highly controversial a subject and "on behalf of the larger community at least a subordination of their immediate interests to the cause of unanimity and united political advance," is true. But that is far from saying that the Government of India or any other authority held the view that on the question of Mohamedan representation

their position was merely to register the decision which the Congress and the League may by mutual negotiations make. Indeed, Sir William Vincent was careful to point out that "in this matter (the Government of India) cannot delegate (its) responsibility to Parliament into other hands."

93. The attitude taken by the Bombay Government is dangerous because, admitting that an error has been committed, it refuses to take upon itself the task of correcting it. I would have looked upon such an attitude as a pardonable sin if the error was not an error in the constitutional arrangement of the country. But unfortunately it is an error in the constitution, and, having found its lodgment in a most vital part thereof, it affects its working in a fatal manner. An error of such a character cannot be tolerated. A mistake in constitutional innovation directly affects the entire community and every part of it. It may be fraught with calamity or ruin, public or private, and correction is virtually impossible. The Government of Bombay practically takes for granted that all constitutional changes are final and must be submitted to, whatever their consequences. Doubtless this assumption arises from a fateful renunciation that in these matters we are propelled by an irresponsible force on a definite path towards an unavoidable end towards destruction. But I am glad to find that the Government of India in accepting the pact did not concede that its terms as embodied in the Act should stand unaltered. Far from leaving the matter shrouded in ambiguity, they made it quite clear that the arrangement was not to stand beyond the first Statutory Commission. In their Despatch on the Report of the South-borough Committee they said : "Before we deal in detail with the Report, one preliminary question of some importance suggests itself. As you will see, the work of the Committee has not to any great extent been directed towards the establishment of principles. In dealing with the various problems that came before them they have usually sought to arrive at agreement rather than to base their solutions upon general reasonings. It was no doubt the case that the exigencies of time alone made any other course difficult for them. But in dealing with their proposals, we have to ask ourselves the question whether the results of such methods are intended to be in any degree permanent..... Whatever be the machinery for alteration, however, we have to face the practical question of how long we intend the first electoral system set up in India to endure. Is it to be opened to reconstruction from the outset at the wish of the Provincial Legislature or is it to stand-unchanged at least until the first Statutory Commission ? There are reasons of some weight in either direction. In the interest of the growth of responsibility it is not desirable to stereotype the representation of the different interests in fixed proportion; the longer the separate class and communal constituencies remain set in a rigid mould, the harder it will become to progress towards normal methods of representation. On the other hand, it is by no means desirable to invite incessant struggle over their revision." It is for the Commission to say whether the life of this error shall be prolonged. I have hopes that the Commission will not merely

say, "Well, we feel the force of the objections to principle of the communal system fully. But we cannot help as India has deliberately chosen her road to responsible government." For the Commission will realise that its duty to point out the right road and lead India on to it arises not merely out of a conscientious regard for what is right but also out of the moral obligation of the British authorities who are primarily responsible for pointing out in 1909 this wrong road.

CHAPTER 5

SECOND CHAMBER

94. My colleagues have recommended the institution of a second chamber as a part of the Provincial Legislature of this Presidency and have suggested a framework for its constitution. I am afraid my colleagues have not devoted sufficient thought to the difficulties pertaining to its construction. In the matter of its composition, a second chamber, if there is to be one, must be different than the first. In the matter of its powers, they must be such that a second chamber can work without impediment to the first chamber. It seems to me to be very difficult to constitute a second chamber which will satisfy both these conditions. A nominated second chamber is out of question. The Canadian Senate is a standing warning against the introduction of a nominated second chamber. It cannot have the moral authority of a popularly elected chamber to command respect for its decisions. Nor can it have the independence possessed by a popularly elected chamber to sit in judgment, as a revising chamber must, over the very executive which brings it into being. If the second chamber is an elective chamber then its working smoothly with the first will depend upon their respective franchise, times of election and their powers. If the second chamber is elected on the basis of a restricted franchise, it is sure to end in the raising of a small group from amongst the aristocracy into a governing class having a special degree of control over the destiny of the masses. Such a second chamber, far from being a revising chamber acting as a check upon the supposed rashness of the lower chamber, will be a chamber which, instead of putting a premium upon improvement in general, will put a premium upon the upkeep of vested interests. It would be dormant under a conservative administration and would be vigilant only under a radical one. When it ought to revise it will refuse, and when it ought to refuse to revise it will revise and may perhaps obstruct. If the two are elected on a uniform franchise, then the second will only be a replica of the first and will be quite superfluous. The same would be the result if the second chamber was elected simultaneously with the first. On the other hand, if the second chamber is elected at a different time than the first, then it is bound to unfeeble the executive and diminish its efficiency. For it would work as a hindrance to adequate policy making and may cause such a violent break in the policy of the executive as to lead to constant general elections.

If the two chambers are coequal in powers there are bound to be deadlocks, and the inevitable result of all deadlocks is an unhappy compromise, if not a total abandonment of the principle in dispute. On the other hand, if the powers of the second chamber are inferior to those of the first, it will not be able to control the supposed rashness of the first chamber and will thus fail to perform the purpose of its life.

95. In framing the constitution of a second chamber my colleagues have ignored all these difficulties. In doing so they have created a second chamber which, if I may say so, has all the faults and none of the virtues which a second chamber should have. In supporting the idea of a second chamber it seems to me that my colleagues have more or less followed the crowd psychology. A widespread existence of second chambers in historical times has given rise to the dogma of political science that a second chamber is a necessary accompaniment of a popular government. But it is forgotten that a two-chamber system which had its origin in England was a purely historical accident. That it found a place in the constitution of other countries was the result of the imitation of the superior by the inferior, and the virtue ascribed to it of serving as a brake on the rashness of the popular chamber is a subsequent invention of the human mind to justify the existence of what had become a universal fact. But it must be noted that this faith in the second chamber has been dwindling of late and that pre-war constitutions like Canada and South Africa and many post-war constitutions like those of Latvia, Lithuania, Esthonia and Yugoslavia have dispensed with the second chamber. This reaction has come about by the growing conviction that a government must be judged not by the symmetry of its structure, but by its practical achievement, by the content of actual service that it renders to the community and by the amount of well-being that it brings to the nation as a whole.

96. Looking at the institution of a second chamber from the utilitarian point of view, I refuse to accept that it can perform the function of a revising chamber. If to revise means to interpret the will of the electorates, I fail to understand how the second chamber is more likely than the first to be correct in its judgment as to what the electoral will is. My view is that the electorate and not the second chamber will be the best judge when such a question arises, unless we suppose that the members of the second chamber by virtue of their position have a greater presence than the members of the lower chamber. I deny that the second chamber possesses any such virtue. Indeed, a second chamber is not only as much likely to fail in correctly gauging the popular will, but its own interests in the matter are likely to give it such a personal bias one way or the other as to make it quite incapable of coming to an independent and rational judgment It is therefore better, safer and more reasonable to have a single chamber and to throw the responsibility of decision, when doubt arises, upon the electorate which chooses the chamber. Besides, if the idea underlying the second chamber is to delay the decision of the first chamber,

then this is already secured by the Governor having the power to refer back any particular measure which has been passed by the Legislature for reconsideration. If the Legislature does not reconsider, but passes it in original form, the Governor can still stop it by vetoing it. And if the Legislature does not abide by the decision of the Governor, it may compel him to submit the matter in dispute to the electorate by compelling the dissolution of the House. It is therefore obvious that what the second chamber can do or is expected to do, can be done by the Governor with his powers to veto, to refer back and to dissolve. If this is admitted, then a second chamber becomes a useless appendage to a popular chamber.

97. I am sure my colleagues would not have been led away by what exists in some other countries without applying the utilitarian standard if they had made sure that their assumption that a single chamber is likely to pass hasty and ill-conceived laws was based on sure foundations. It seems to me that the assumption is quite unfounded and displays a total ignorance of the working of modern politics. No piece of legislation in modern times is flung upon the Legislature as a surprise. On the other hand every legislative proposal before it is enacted into law goes through a long process of discussion and dissection at the hands of the public extending over a long period of years. Indeed, if the antecedent history of every measure which has found its place in the Statute Book were investigated it would demonstrate that the period that has intervened between the conception of the idea and its enactment into a law has varied more often on the side of length than on the side of brevity. Such being the case the assumption that a popular chamber acts hastily and therefore needs a brake upon its wheels is to prescribe for a disease which does not exist.

98. What however my colleagues are after is not a revising chamber but a governing caste. This is clear from the purpose assigned to it, from the franchise on which it is sought to be built and the powers which are proposed to be given to it I confess I am somewhat surprised that they should have thought that a devolution of powers on the Legislature must be circumscribed by the institution of a second chamber as an insurance against such powers being used to the detriment of a particular community, or a particular interest. For the desire really felt, as I understand it, is not that we should have a reform in which the centre or the balance of political power shall remain unchanged but that within certain limits it shall be surreptitiously shifted in the direction of the mass of the people. To attempt to circumscribe this devolution of power seems to suggest that my colleagues think that the most desirable kind of political reform is one which does not alter the balance of power amongst the different communities concerned. Persons who hold such a view in my opinion either do not know what political reform means or, knowing what it means, do not desire a reform which will disturb the *status quo*. As for myself, I make no mistake about the fact that the essence of all reforms is to change the balance of power among the different classes. If the lower classes gain, some

other class must lose. If each class remains with no more political power than before then there will have been no real reform. It is idle to suppose that either the lower classes or for the matter of that any class interested in reform will be satisfied with a measure, either because it is called political reform or because while proposing to change everything it contrives to keep things where they are. It would be much better to say in plain terms that the scheme of devolution of political power should be so conditioned that the flow of power shall stop with the classes and shall not reach the masses. I must however make it plain that I cannot be a party to any such scheme of reforms.

99. Granting that a second chamber is a necessity there is one supreme difficulty in the way of its formation. The authors of the Montagu-Chelmsford Report had in 1917 carefully considered the question of establishing second chambers in the Provinces. But taking all things into consideration they decided against the proposal. They said, "We see very serious practical objections to the idea. In many provinces it would be impossible to secure a sufficient number of suitable members for two Houses. We apprehend also that a second chamber representing mainly lended and monied interests might prove too effective a barrier against legislation, which affected such interests. Again, the presence of large landed proprietors in the second chamber might have the unfortunate result of discouraging other members of the same class from seeking the votes of the electorates. We think that the delay involved in passing legislation through two Houses would make the system far too cumbrous to contemplate for the business of Provincial Legislature. We have decided for the present therefore against bicameral institution for the Provinces." The objections raised to second chambers in 1917 hold good even today. I am quite certain that this Presidency has not at its command a sufficient number of eminent men to run both the Houses. A second chamber will sap the life of the first or the first will sap the life of the second. There is not enough material to build both. Under such circumstances it is better to have a single efficient chamber than to have two effective ones. For these reasons I oppose the institution of a second chamber in the Presidency.

CHAPTER 6

POWERS OF THE LEGISLATURE

100. *Power of appointing and removing the President.* — Prior to the reforms of 1919 the Governor who was the chief of the executive of the Province was the President of the Provincial Legislature. By the changes introduced in 1919 the Provincial Legislature obtained the right of electing one of its members as its President and to remove him from office. This was a valuable privilege. The exercise of this privilege was, however, made subject to certain restrictions inasmuch as the appointment of the President was made subject to the approval and his removal subject to the concurrence

of the Governor. These limitations are the remnants of the time when the Executive was supreme over the Legislature. They are not to be found in the constitution of the dominions. They are incompatible with the independence of the Legislature and must be removed. Granting that the President must be made independent of the executive, question is, must he also be made independent of the judiciary ? Section 110 of the Government of India Act defines the officers and the matters in respect of which they are exempt from the jurisdiction of the High Courts. The President of the Legislative Council is not included among the officers who enjoy this immunity. That being the case, the President of the Legislature is subject to the jurisdiction in respect of what he does as a President. That means that his conduct as a President is liable to be questioned in a Court of Law. It is feared that this opens a vast field to vexatious litigation involving great delay in the conduct of the business of the Legislature. This is sought to be remedied by granting exemption to the President from the jurisdiction of the Courts. I am opposed to this change and prefer to leave things as they are.

101. *Power of defining Privileges*.—No one will question the expediency of allowing a Legislature every power reasonably necessary to the existence of such a body, and the proper exercise of the functions which it is intended to execute. The position of the Provincial Legislatures under the existing law is very unsatisfactory. Beyond giving certain immunities to the members of the Legislature and barring the meagre powers given to the President by rule 17 of the Legislative Council Rules for expelling a disorderly member, the law gives no authority to the Legislature to vindicate itself against a wrong calculated to obstruct its work or lower its dignity. Such authority can no longer be withheld from the Legislature. I therefore recommend that the Provincial Legislatures like the Dominion Legislatures should be given the power within prescribed limits to define by law the powers and privileges which it thinks are necessary in its own interest.

102. *Power of regulating Procedure*.—The conduct of business in the Bombay Legislative Council is governed by Rules framed under Section 72D (*6*) of the Government of India Act supplemented by Standing Orders framed under Section 72D (*7*) of the same. In the framing of this code of procedure the Provincial Legislature has had no hand. The standing orders were made by the Governor-General in Council, though the Legislature had had the liberty to suggest amendments to them. But the Rules are framed under the provisions of Section 129A by the Governor-General in Council which expressly prohibits the Provincial Legislature from altering or repealing them. I am of opinion that the Provincial Legislature should have the power of regulating its own. procedure. The difficulty in giving such freedom to the Provincial Legislatures seems to arise from the fact that some of the Rules embody provisions which in other countries form parts of their constitutional law ; so that the power to amend rules virtually become power to alter the constitution. But this difficulty can be easily avoided if an attempt was made to enact such rules as section of the Government of

India Act. If this is done, the recommendation I have made can be easily given effect to and the Provincial Legislatures brought on a par with the Dominion Legislatures of Australia, South Africa and Canada.

103. *Power of Legislation*.—Section 80C of the Government of India Act provides that it shall not be lawful for any member of any local Legislature to introduce, without the previous sanction of the Governor, Lieutenant Governor or Chief Commissioner, any measure affecting the public revenue of a province, or imposing any charge on those revenues. This section is a serious limitation upon the powers of the Legislature. It is a relic of the days when the people had no voice in the administration of the affairs of the country. The retention of these powers will ill-accord with a Legislature supreme over the executive. This section must therefore be deleted. The Governor will still have the power of vetoing any legislation that will be passed by the Council. That power must suffice. More than that will not be consistent with the position he will have to occupy under a system of complete ministerial responsibility.

104. *Power of Appropriation*.—The Legislative Council under Section 72D may assent or refuse its assent to a demand or reduce the amount referred to therein either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed. This power is subject to certain important provisions. In the case of a demand relating to a reserved subject, the Governor has the power of over-ruling the decision of the Legislature if he certifies that the expenditure provided for in the demand is essential to the discharge of his responsibility for the subject. Another proviso limiting the powers of appropriation of the Legislature is contained in Section 72D, Clause (2)(*b*), by virtue of which the Governor has the "power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the Province, or for the carrying on of any department." These are also very serious limitations on the powers of the Legislative Council, and I suggest that they should be removed from the Act The powers given to the Governor under the first proviso are out of place in a Government which is fully responsible and in which the Governor is not charged with the direction of affairs. The safety and tranquillity of the Province will not be a special concern of the Governor any more than that of the responsible Executive. Consequently the power given by the second proviso to the Governor is unnecessary and should be taken away.

105. Another restraint on the financial powers of the Legislature is embodied in Section 72D(*3*). By virtue of this, the executive is not required to submit to the Legislature for its vote expenditure on certain specified heads mentioned therein. The result is that the Budget of the Province contains permanent appropriations to a large extent which the Legislative Council cannot touch. Theoretically speaking, every item of expenditure should be sanctioned each year by the Legislature. But the Budget, in almost every country, contains permanent appropriations which do not

require to be voted annually by the Legislature. Even in England there has grown up quite a list of permanent appropriations covering before the War in the aggregate about one-third of the total annual expenditure. Whether the Executive can or cannot be trusted to fix the amount and determine the character of public expenditure depends upon the stage of development at which people have arrived in their realisation of constitutional government. If the stage be such that there exists an uncertainty concerning the political rights of the Government and the people, it would not be safe to permit such permanent appropriations of public moneys without Legislative sanction as are contemplated by Section 72D(*3*). It is true that the foundation of responsible government in the Provinces is just being laid and the Provincial Legislatures have jealously to guard against the encroachments of the Executive. All the same, it must, I think, be recognised that the right of popular control over public affairs is recognised and will be under the new constitution fully conceded, so that under the various checks upon the arbitrary use of public authority the submission for annual sanction of every item of public expenditure need not be insisted upon. I do not therefore object to this scheme of permanent appropriations. But I object to their being made so by law, thereby curtailing the powers of the Legislature. Their being made a matter of law has had the effect of debarring the Legislature from even discussing the policy underlying the administration of non-votable items. The creation of non-votable items must be a matter of convenience. There ought to be no restraint about them on the Legislature by law.

106. *Power of controlling the Executive*.—Originally Provincial Legislatures under the reformed constitution of 1919 could control the Minister in three ways : (1) by legislation, (2) by refusing supplies, and (3) by refusing or reducing their salaries. The second and the third were the only two ways whereby the Legislature could control the administration by the Ministers. This control could normally be exercised only once a year, and was therefore insufficient. Consequently provision was made in 1926 for a motion regarding want of confidence in a Minister. These powers are sufficient for the Legislature to control the actions of a Minister and were in keeping with the idea that the Ministers were to be individually liable for their actions. The future Ministry will be based upon the principle of joint responsibility under which Ministers will stand together or fall together. There is nothing in the existing powers of the Legislature to indicate that it desires to dismiss the Ministry as a whole. I think provisions to this effect should be made by adding a new class of motion to be called "a motion of no confidence" as distinguished from the existing motion, which should be renamed as "motion questioning a Minister's policy in a particular matter". This was suggested by the Muddiman Committee but was not carried out.

107. *Power of altering the Constitution*.—The Provincial Legislatures are bound by the terms of the instrument which has created them. By virtue of that instrument they are made bodies with "plenary powers" possessing

a specific and defined power of government in their territory over all persons. The plenary powers of government do not per se carry a power to alter the constitution itself. There is a desire that the Provincial Legislatures should have the powers of a constituent Assembly to alter the constitution of the Province. There is much that can be said in favour of such a proposal. Parliament having consented to grant self-government to the people of the Province, it is as well that the people of the Province had the right to decide the form of government under which they liked to live. But it must be recognised that there are minorities who will not like their constitutional rights to be determined by the majority, as would be the case if the Provincial Legislatures were allowed the right to alter the constitution. This is the principal reason why the constitution of Canada gives no power to the Canadian Parliament to alter the constitution of Canada. There is, however, the example of South Africa, which shows that the powers of altering the constitution can be conferred on a Legislature without detriment to the position of the minorities. There is therefore no reason why the example of South Africa should not be followed. I recommend that the power of altering the constitution of the Province should be granted to the Provincial Legislature; provided that it shall have no power to alter the provisions regarding the representation of minorities in the Legislature.

108. What special procedure should be prescribed for passing such legislation is a matter which it is very difficult to decide. But it might, however, be stated that the mode of amending the constitution should be such as to make it sufficiently rigid to protect the fundamental rights of the citizens but which should at the same time leave it flexible enough to recognise that development is as much a law of life as existence and to secure deliberation before action and final decision in harmony with the principle of rule by majority. The safest course, it seems to me, would be to prescribe different procedure for different kinds of amendments to the constitution. For the more fundamental amendments the procedure should be more exacting than for amendments to less fundamental parts of the constitution.

SECTION IV

PROVINCIAL AUTONOMY

CHAPTER 1

PROVINCIAL GOVERNMENT IN RELATION TO THE GOVERNMENT OF INDIA

109. It is evident that the responsibility of the Executive would be of very little consequence if the Provincial Executive instead of being subordinate to the Provincial Legislature is subordinate to any other body outside the Province or if the Provincial Legislature instead of being supreme within its field is made subject to some other authority in the matter of the exercise of its powers. In other words responsible government must also be autonomous government. To render Provincial Government autonomous it is necessary to demarcate clearly the spheres of operation of the Provincial and Central Governments.

110. Prior to 1919 a Provincial Government was required under Section 45 of the Government of India Act, 1915, to obey the orders of the Governor-General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him, or as to which he requires information, and is under his superintendence, direction and control in all matters relating to the government of its province. This meant that the Provincial Governments had no acknowledged authority of their own in any of the matters which they administered; that whatever powers they exercised were powers which were delegated to them by the Central Government in the same way as a principal delegates his authority to his agent. By the Act of 1919 this relation of the Provincial to the Central Government was made subject to its provisions and rules made thereunder. Section 45 (*1*) (*b*) of the Act of 1919 provided "for the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments," while Section 45 (*3*) laid down that "the powers of superintendence, direction, and control local governments vested in the Governor-General in Council under this Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under this Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case

comes within the purposes so specified." The Act of 1919 therefore made two changes : (1) It gave the provinces authority of their own as distinguished from authority derived as agents of the Government of India. (2) It relieved them of their former obligation to obey the Government of India in regard to those subjects which were transferred to the control of the Ministers but retained its powers of supervision. From this it is clear that there may be a complete transfer of all the subjects to the control of the Ministers; but transfer will always be subject to the powers of supervision of the Government of India involving interference in the freedom of action by the Provincial Government. The question is whether these powers of supervision are necessary and if so whether any other form of relationship between the Provincial and Central Governments can be contemplated in which these powers will be so placed as not to conflict with the autonomy of the Province.

111. By the Act of 1919 and the Rules made thereunder the Provincial subjects are marked off from Central subjects. Notwithstanding this the Provincial Legislature have not been given freedom of action or finality of action in legislating upon Provincial subjects. The powers of Provincial Legislature are restricted in two different ways. In certain matters defined in Section 80A it cannot without the previous sanction of the Governor-General make or take into consideration any law although it might pertain to a matter lying within the Provincial field. In certain other matters Provincial Legislature may pass a law but if the law happens to fall within the purview of Section 81A and rules made thereunder its action becomes subject to the veto of the Governor-General. The combined effect of these two restrictions on Provincial autonomy can be easily understood. The question is whether any other system of relationship between the Provincial and Central Governments can be contemplated in which the powers of the Central Government will not conflict with the autonomy of the Province.

112. The provision regarding supervision by the Central Government over Provincial Government in the matter of administration of Provincial subjects and of previous sanction and subsequent veto by the Central Government of Provincial legislation regarding Provincial subjects is a feature which is not to be found in the constitution of any other country in which the functions of government are divided between two body politics, Central and Provincial, such as Canada, Australia and the United States. The provisions regarding previous sanction have found their way in the Indian constitution as a result of two erroneous suppositions. One is that it is not possible to demarcate functions exclusively. That assumption does not seem to be well-founded. For in Canada the constitution does divide the functions into two distinct classes (1) those which exclusively belong to the Central Government and (2) those which exclusively belong to the Provincial Government making each government absolutely autonomous in the sphere which is allotted to it. The second assumption is that in dealing with those functions which cannot be said to be exclusively Provincial

the only way open is to make their exercise subject to previous sanction and subsequent veto by the Central Government. This again seems to me to be an erroneous assumption. The constitution of Australia and the United States are examples where the constitutions have not divided the functions into two clear cut exclusive divisions as is done in Canada. By the scheme of division of powers and functions adopted by the Australian constitution there are certain matters over which the Central Government has exclusive powers. In certain other matters the powers of the Central Government are concurrent with those of the State Governments. But the matters of concurrent legislation are divided into two categories (1) in which the power of the Commonwealth Parliament operates by way of paramount legislation merely over-riding any exercise by the State of its own powers and (2) in which the Commonwealth has no paramount power. In the United States Governmental powers are distinguished into (1) Powers vested in the Central Government alone, (2) Powers vested in the State Governments alone, (3) Powers exercisable by either the Central Government or the States, (4) Powers forbidden to the Central Government and (5) Powers forbidden to the State Governments. Thus the constitution of Australia and the United States both recognise that there may be functions which cannot be said to exclusively belong to either. But neither of them have adopted the plan of assigning them to one government subject to the previous sanction and subsequent veto of the other government. I recommend that the scheme of division of functions and powers like that of Canada should be tried and failing that the scheme prevalent in Australia or the United States should be adopted. But in any case the provision of previous sanction and subsequent veto should be done away with.

113. The provision whereby the Central Government has been invested with powers of supervision over subjects which have been transferred to Provincial control is partly due to want of clear cut allocation of subjects between Central and Provincial and partly to an erroneous view of the responsibility of the Central Government for the administration of Provincial subjects. The power of supervision is sought to be justified on the ground that certain subjects are of importance for Central Government This reason will not survive a proper allocation of the subjects on the Canadian, Australian or American lines. The other justification for the powers of supervision is the view that the Government of India must be responsible for the peace, order and good Government of India as a whole and that it may discharge its own responsibilities, it must have the power of supervision. It seems to me that with the partition of functions there must follow a partition of responsibilities as well. If these responsibilities are partitioned and that of the Central Government confined to matters arising out of matters assigned to it, the necessity for supervision over Provincial Governments will vanish and I suggest that the clauses in the Government

of India Act which define the responsibilities of the Central Government should be amended accordingly.

114. While I am anxious to see that there should be established complete Provincial autonomy I am opposed to any change which will in any way weaken the Central Government or which will impair its national character or obscure its existence in the eye of the people. Holding this view I am against making the Central Government a league composed of a number of governments bound together to constitute for certain purposes a single body. The effect of such an arrangement is obvious. The league will exist only as an aggregate of governments, and will therefore vanish as soon as the governments decide to separate themselves from one another. Such a Central Government will last only as long as the component governments will desire it to last. The league being a confederacy of governments will have to deal with and act upon the governments only. With the individual citizen it will have very little to do. It will have no right to tax the individual, to adjudicate upon his causes or to make laws for him. Such a Central Government is bound to be the weakest government possible. My conception of the position of the Central Government will not permit me to reconcile myself even to such a form of relationship as is found in the American constitution in which the Central Government is a commonwealth as well as a union of commonwealths. It is true that under it the Central Government acts immediately upon every individual through its courts and executive officers. But it is equally true that the Central Government in the United States is a creature of the States. Having been called into existence by the States it must stand or fall with the States. The States retain all the powers which they have not expressly surrendered. The Central Government has no more powers than those that have been conferred upon it by law. Such a Central Government, howsoever stronger it may be than a Central Government in a league, will not in my opinion be strong enough for the needs of India. My view is that the national Government should be so placed as not to appear to stand by virtue of the Provincial Governments Indeed its position should be so independent that not only it should survive even when all Provincial Governments have vanished or changed into wholly different bodies but it should have the power to carry on provincial administration when a Provincial Government by rebellion or otherwise has ceased to function. Consequently on this aspect of the question I make the following recommendations : (1) That all residuary powers must be with the Central Government, (2) that there must be a specific grant of power to the Central Government to coerce a recalcitrant or a rebellious Province acting in a manner prejudicial to the interests of the country, (3) that all powers given to the Provincial Government in case of its non-functioning shall return to the Central Government and (4) that the election to the Central Legislature shall be direct.

CHAPTER 2

PROVINCIAL GOVERNMENT IN RELATION TO THE CROWN

115. For the purpose of securing Provincial autonomy it is not sufficient merely to lay down proper relations between the Provincial Government and the Central Government. It is also necessary to define the status of the Provincial Government. This is of practical importance principally in respect to their external relations. That the Provinces cannot have any international status goes without saying. But the question of their relationship with the Home Government stands on a different footing and cannot be easily disposed of. It is clear that whatever the nature of the relationship between the Provincial and Home Government it must be in keeping with the constitutional law of the country. The degree of independent political existence of a Province must determine the angle from which the problem is to be looked at. Are the Provinces to be treated so very devoid of independent political existence that they are to be treated as mere internal divisions comparable with the areas of local Government, unknown and unrecognised beyond India itself ? If so, that Imperial Government would know but one Indian authority, the Central Government, and would in all matters affecting India address itself to that Government and receive communications from or through it alone. On the other hand, have the Provincial Governments an independent political existence in the eye of the law ? If they can be said to have it, then the Imperial Government must recognise them and must in all provincial matters address them and must receive communication from them. Of these two possible bases of relationship there is no doubt that the latter is the more proper one. An independent political existence for the Provinces is now an accomplished fact. They have a sphere of activity in which they have an authority of their own. The whole scheme of reforms is opposed to the subordination of the Provincial Governments to the Central. The chief executive of the Province is not a nominee of the head of the Central Government. He is the representative of the Crown in the Province and not of the Governor-General. The constitution is a pluralistic constitution and there is nothing to suggest the view that while within India the constitution is to be treated as plural, conferring distinct powers on each, it is to be treated by the Imperial Government as a unitary constitution with a single responsible Government.

116. What are the matters in which the right of Provincial Governments to deal directly with the Home Government can be recognised ? Following the role prevalent in the case of the Australian Commonwealth that in matters in which the Crown is concerned solely in its capacity as part of the constitution of a Government, communications proceed directly between the State Governor and the Colonial Office without the intervention of the Governor-General, it must be claimed on behalf of the Provincial Governments that they shall have the right to deal with the Home Government directly without the intervention of the Central Government. The

matters in which it must have such a right must include the reservation, the allowance and disallowance of provincial legislation, the appointment and removal of Provincial Governors and their instructions, the amendment of provincial constitutions and other matters which exclusively belong to the Provincial Governments. What about matters which do not exclusively belong to either Government ? I suggest that in cases in which the Central Government has paramount power of legislation, the Central Government is the sole representative of India. But as to matters within concurrent jurisdiction of the Central and Provincial Government, the Provincial Government must have a right to direct representation.

117. To make the political existence of the Provinces as an entity independent of the Government of India a reality, the representation of the Crown in the Provincial Executive and the Provincial Legislature should be made more manifest than it is at present Under the existing law the Secretary of State has placed the Crown quite in the background and has in fact usurped its place. The office of the Secretary of State for India is analogous to the office of the Secretary of State for Colonies. But the two play quite different roles. The Secretary of State for Colonies occupies no place in the constitutional law of the Dominions. The constitutional laws of all the Dominions are emphatic in their declaration that their Executive and Legislative Government is vested in the Crown. Section 2 of the Government of India Act gives a definite legal status to the Secretary of State. So prominent is the position given to the Secretary of State that he has altogether eclipsed the Crown. Indeed, except for a passing reference in Section 1 there is no mention of the Crown anywhere in the Government of India Act. The reasons for this are no doubt historical and go back to the passing of the Regulation Act of 1773 when the East India Company disputed the right of the Crown to the possessions it had acquired in the East. Whatever be the historical differences the fact remains that the Dominion laws do not recognise the Secretary of State while the Indian law does. The result is that the Secretary of State for Colonies does not govern the Dominions. His duty is to advise the Crown to allow or disallow particular acts of the Dominion Governments. The Secretary of State on the other hand is not merely the adviser of the Crown. By Section 2 of the Government of India Act he has been given the fullest powers of government.

118. The provisions contained in Section 2 cannot be justified under any circumstance. They are derogatory to the position of the Crown and are a perversion of the true position of a Secretary of State. They gave a false picture of the position of the Provincial Governments. Whatever might have been the justification of the provisions in Section 2 before 1919 the changes introduced in that year have removed it altogether. The powers of government having been transferred to the people it is no longer possible to retain those powers in the hands of the Secretary of State. To do so would be to introduce a system of double government fraught with

the possibilities of serious conflict. I therefore recommend that section (*2*) of the Government of India Act should be deleted and two new sections of the following tenor should be added :—

(1) The Legislative power of the Province shall be vested in a Provincial Parliament which will consist of the King and a Council of the King and a Council of Representatives and which is hereinafter called "The Provincial Legislature".

(2) The Executive power of the Province is vested in the King and is exercisable by the Governor as the King's representative and extends to the execution and maintenance of the constitution and of the laws of the Province.

Sections of similar import regarding the position of the Crown in the Government of India should be added to Act of 1919. Such a change will not only help to place the Crown and the Secretary of State in their true position, but they will also help to bring the constitutional law of India in line with the constitutional law of the Dominions.

SECTION V

PUBLIC SERVICES

I. Reorganisation of Services

119. *Separation of Services.*—The present organisation of the public services in India is the outcome of the recommendations of the Aitchison Commission which inquired into the Public Service of India in 1886-87. Prior to the appointment of the Commission the great bulk of the civil posts of higher responsibility and emoluments were filled by recruits from Europe and that Commission was expressly directed to suggest measures which would "do full justice to the claims of natives of India to higher and more extensive employment in the Public Service" of their country. The Commission held the view that the Civil Service should be only "a Corps d'elite" and consequently recommended that the recruitment of officials in England should be substantially reduced and the higher appointments so set free transferred to a service locally recruited in India. As a result of these recommendations officers recruited in England formed Imperial Services and the officers locally recruited formed the Provincial Services. The conditions of appointments in regard to pay, leave and pension of officers belonging to the two services were to be fixed on independent grounds and were not necessarily to have any relation to each other. This division into Imperial and Provincial obtains in most of the Civil Services of the country which it is needless to detail. What is important to bear in mind is that the division was made to distinguish officers recruited in England and officers recruited in India and not as might be understood from the description, in order to distinguish officers placed under the Government of India and liable to serve all over India from officers placed under Local Governments and liable to serve only in specified provinces. For instance the officers belonging to the Provincial services in the Telegraph (Engineering) and the Survey of India are directly under the Government of India and not confined to any particular province while officers in the Imperial Service in the Education and the Police Departments are allotted to different provinces. In my opinion time has arrived when each Province should be free to organise its own civil service. For this the All-India character of the services must cease. There should be Central Civil Service recruited and maintained in response to its own needs by the Central Government to run various departments which are handed over

to it by the Government of India without imposing upon its members the liability to serve under any of the Provincial Governments. Similarly there should be a Provincial Civil Service recruited and maintained in response to its own needs by every Provincial Government exclusively for its own employment. This recommendation cannot be said to involve any substantial change in the system. For although members of the Imperial Service and Provincial Service are liable to serve in any part in India, their All-India character is only nominal. For the cases in which a member of the Civil Service whether Imperial or Provincial has been called upon to serve in a Province different from the one in which he was originally posted are few. Almost all of them continued to work to the end in the same Province in which they were placed in the beginning. That being the case the reform which I have suggested will involve no change. It will only recognise facts as they exist.

120. The grounds on which I press for this reform in the organisation of the Civil Service are many. First of all such a separation of the services into those which are Central in the sense that they are in the employment of the Government of India and those which are Provincial in the sense that they are in the employment of the Provincial Government has this immense advantage, namely that it is a reform which is eminently called for by the change in the character of the Provincial Government. If the present system was continued, ministerial responsibility would be difficult of realisation. Public Servants in India according to Section 96(B) of the Government of India Act no doubt hold their position during the pleasure of the Crown. But it must be remembered that the Act does not allow the Ministers the power to decide when His Majesty should be pleased to remove him from office. Although that power is given to the authority who appoints him yet the dismissed officer has been given a right of appeal to the Secretary of State. Not only the Minister has no right of dismissing an officer, but he cannot even punish him with impunity, because it is provided in the Act that if any officer appointed by the Secretary of State in Council thinks himself wronged by an order of an official superior in a Governor's Province he has a right to complain to the Governor and the Governor by the Act as well as by the instrument of instructions is bound to inquire and pass such an order as may appear to him just and equitable. These provisions must make any Minister, however strong he may be, quite helpless against a recalcitrant member of the Civil Service who refuses to carry out the policy for which the Minister is responsible to the legislature in accordance with its wishes. Ministerial responsibility requires that a Minister shall have power effectively to deal with an erring officer working under him. He must also have the power to decide how many officers he must have and to what particular post any of them might be appointed. The existing provisions do not permit him any of the powers he must stand in sore need of. This anomaly was recognised by the Lee Commission which was appointed soon after the reforms were introduced. That Commission

recommended that no further recruitment should take place in the transferred departments on an All-India basis and the personnel required for them should in future be recruited and appointed by Provincial Governments. As a result of this recommendation Provinces have been empowered to frame rule for the recruitment of officers who will take the place of the existing All-India Service Officers in these services operating in the transferred department when the latter vacate. The reform I have suggested is merely an extension of the same principle which the necessities of the case have compelled the authorities to accept. The extension cannot now be delayed for the reason that under a fully responsible system of Government the distinction between Reserved and Transferred will have vanished.

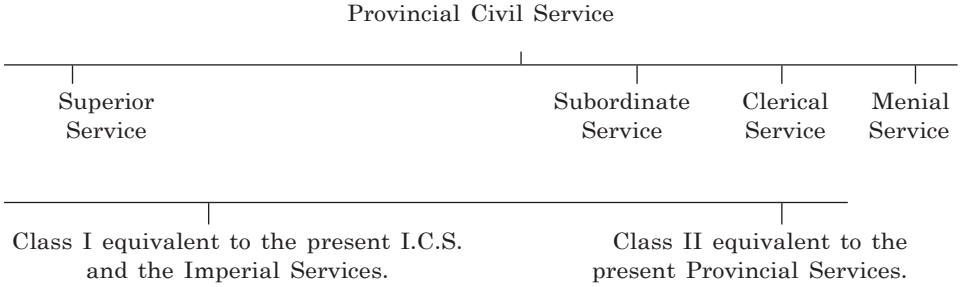
121. The second advantage of a separate and independent Provincial Civil Service will be the liberty it will give to the Provincial Governments to alter the cadre of the services belonging to the Province. The draw-back of the All-India system is that a Minister who is satisfied that there are several superfluous posts ordinarily held by the members of the All-India Service and a larger number the duties of which can be and in the temporary vacancies have been efficiently discharged by the more moderately paid officers of the Provincial Services, and who might therefore be convinced of abolishing such a post or transferring it to the cadre of a Provincial Service finds himself powerless to do so. For, under the Act he has no such power. All that he can do is to let such post remain in abeyance or to let an officer of the Provincial Service concerned officiate for a lengthened period. But even here his powers are limited. For, under the rules he cannot do this beyond fixed number of months without the sanction of the Secretary of State. This is a very serious limitation arising out of the All-India Organisation of the Services in that it prevents the attainment of the ends of economy for which the Reformed Council has been clamouring from its very inception.

122. These are not the only advantages of an independent system of Provincial Civil Service. The All-India character of the service imposes upon the provinces a uniformity in the conditions of employment in, relation to pay, leave allowances, promotions and pensions. I contend that such uniformity must work great hardships upon the resources of comparatively poor Provinces. They are obliged to pay more for the service than they can reasonably afford. Nor can it be said that uniform scale of salary in all Provinces is necessary to ensure equality in the standard of living. It is notorious that owing to differences in local conditions the same standards of comfort can be had in two different Provinces on quite different salary. If that is the case there is no reason why should uniformity in pay be enforced when such uniformity is either burdensome or unjust.

123. The requirement of uniformity in the conditions of service also arises directly out of the All-India character of the Civil Service and it will not vanish unless the service ceases to have that character. The constitution of an independent Provincial Civil Service is a means for accomplishing

this end and should be welcomed particularly when its accomplishment can reduce the cost of administration and give the Provinces full liberty to manage its own affairs. This of course means that the position of the Secretary of State *vis-a-vis* the Provincial Governments in the matter of recruitment to the public service must be radically altered. The Secretary of State instead of being the general employer and the Provincial Government indenting upon him for the number of hands necessary for work in their provinces, the Secretary of State in those cases where the recruitment in England is necessary should merely act as the agent of particular provinces concerned, on the terms prescribed by the Provincial Government and not on the terms formulated by himself. The Provinces should henceforth cease as authorities utilising the service of persons lent to them or found for them, so to say, by the Secretary of State. So long such a system continues the Secretary of State is bound to claim the powers which he now enjoys under Section 96B of the Government of India Act. Much is said by the Ministers against the powers retained by the Secretary of State over the Civil Service on the ground that they make responsible government impossible. That criticism is perfectly valid. But those who urged this criticism do not seem to be aware of the fact that these powers can be taken away only when the Secretary of State ceases to be the recruiting officer.

124. If this reform of separation of services is carried into effect, I should like to suggest the following classification of the Provincial Civil Service : —



125. *Recruitment Agency for the Provincial Civil Service.*—The next question that arises for consideration relates to the agency that should be in charge of matters pertaining to the recruitment to the Provincial Civil Service when the Secretary of State has ceased to perform that function. I accept that the Civil Service in order that it may be free from the evil effects of political influence and jobbery should be recruited and controlled by an authority independent of the Ministers. I am not, however, prepared to say that a Provincial Civil Service Commission could be instituted to take charge of this kind of work. On financial considerations alone the proposal seems to be too big. However, I agree with the suggestion that in every province there should be a full-time officer specially charged with the

consideration of service matters. He should be a liaison officer between the Public Service Commission and the Local Government.

II. Indianisation of the Services

126. (i) *Recruitment of Indians.*—The case for Indianisation was accepted by the Islington Commission in 1915. Its relation to the success of the Reforms was emphasised by the authors of the Joint Report and the Lee Commission gave effect to it by defining the proportion between the Indians and the Europeans in the different services. There is, therefore, no necessity to argue the case for Indianisation *de novo.* All that is necessary to say is that during the interval that elapsed between the appointment of the Islington Commission and the appointment of Lee Commission the angle of vision regarding this question had completely altered. In the days of the Islington Commission the question was, "How many Indians should be admitted into the Public Services ?" At the time of the Lee Commission it had become, "what is the minimum number of Englishmen which must still be recruited ?" I am glad to say that the Lee Commission gave full recognition to this altered angle of vision. What is now necessary is to determine the necessary changes in the principles which were taken by the Lee Commission for framing the proportions of Indians and Europeans so as to accelerate the pace of Indianisation. The consideration that should, in my opinion, govern the proportions is the requirement of a Department and the merits of qualified Indians to run them. If this consideration were adopted the proportions settled by the Lee Commission will have to be altered in favour of Indians in all departments except Law and Order, Forest and other Technical Departments.

127. (ii) *Payment of Indians.*—I press for Indianisation not only on its own merits but also because of its potential effects on the finances of the Province. For, I hope that Indianisation can be made to yield economy in administration. I have not been personally able to see why equality of pay to Indians and Europeans should be regarded as a necessary consequence of membership of an All-India Service. Looking to the question from the standpoint of merit I have been convinced that there is no logical justification for equal remuneration for both classes of public servants. One class consists of a body of public servants exiled from their own home and posted in a country thousands of miles away in which they do not think that they can properly educate their children or maintain their health. Conditions such as these which compel them to maintain dual establishments at a standard of living admittedly high are considerations which do not apply to those civil servants who have their domicile in India. In contrast to their European colleagues they are working in a country in which they are living free from the difficulties of dual establishments not exposed to ill-health owing to climatic considerations and accustomed to a comparatively low standard of living. The financial burden they are obliged to carry is obviously less pressing than is the case with their European colleagues. If this difference

between personal risk and sacrifices involved in the performance of their service is admitted, then in my opinion, there is no logical justification for paying them on the same basis. Indeed, if the total position of the two classes of public servants in India be compared then one thing is certain. That if the present salary of European officers is adequate then it is beyond dispute that the Indian officers are overpaid. If, however, the contention is that the Indian officers are not overpaid then it follows that the European officers are underpaid. Whichever view is taken the present practice of equal pay to Indians and Europeans gives rise to a position which is quite unsatisfactory. I have no hesitation in saying that under the present practice of equal payment whether or not the European is adequately paid his Indian colleagues is certainly overpaid. That being my view I am anxious to see that the scale of salary of public servants with Indian domicile is lower. This argument, I am sure, cannot fail to appeal to every Indian who examines the financial position of the different Provincial Governments and the serious embarrassments in which each is placed by reason of the high proportion of expenditure which is devoted to the payment of emoluments to public servants. There are some Indians I know who object to this principle of inequality in salaries. Be it noted that these objections come from those classes of Indians from which the Civil Service is largely recruited, and who claim to be the leaders of the country. Theirs is a contemptible little argument without any substance in it. It has no substance because inequality in status is not a necessary consequence of inequality in pay. It is contemptible because it is based on self-interest. I for myself am in favour of increasing Indianisation mainly because of the large promise of economy which it holds out.

128. (iii) *Indianisation and the claims of the Backward Classes.*—It is notorious that the Public Services of the country in so far as they are open to Indians have become by reason of various circumstances a close preserve for the Brahmins and allied castes. The Non-Brahmins, the Depressed Classes and the Mohamedans are virtually excluded from them. They are carrying on an intense agitation for securing to themselves what they regard as a due share of the Public Services. With that purpose in view they prefer the system of appointment by selection to the system of appointment by open competition This is vehemently opposed by the Brahmins and the allied castes on the ground that the interests of the State require that efficiency should be the only consideration in the matters of appointment to public offices and that caste and creed should count for nothing. Relying upon educational merit as the only test which can be taken to guarantee efficiency, they insist that public offices should be filled on the basis of competitive examinations. Such a system it is claimed serves the ends of efficiency without in any way prohibiting the entry of the Backward Classes in the Public Services. For the competitive examination being open to all castes and creeds it leaves the door open to a candidate from these communities if he satisfied the requisite test.

129. The attitude of the Brahmin and allied castes towards this question has no doubt the appearance of fairness. The system of competitive examination relied upon may result in fairness to all castes and creeds under a given set of circumstances. But those circumstances presuppose that the educational system of the State is sufficiently democratic and is such that facilities for education are sufficiently widespread and sufficiently used to permit all classes from which good public servants are likely to be forthcoming to complete. Otherwise even with the system of open competition large classes are sure to be left out in the cold. This basic condition is conspicuous by its absence in India, so that to invite Backward Classes to rely upon the results of competitive examination as a means of entry into the Public Services is to practise a delusion upon them and very rightly the Backward Classes have refused to be deceived by it.

130. Assuming therefore that the entry of the Backward Classes in the Public Services cannot be secured by making it dependent upon open competition, the first question that arises for consideration is, have the Backward Classes a case for a favoured treatment ? Unless they can make good their case they cannot expect any modification of the accepted principles of recruitment by considerations other than those of efficiency pure and simple. In regard to this important question I have no hesitation in stating that the Backward Classes have a case which is overwhelming.

131. First of all those who lay exclusive stress upon efficiency as the basis for recruitment in public services do not seem to have adequate conception of what is covered by administration in modern times. To them administration appears to be nothing more than the process of applying law as enacted by the legislature. Beyond question that is a very incomplete understanding of its scope and significance. Administration in modern times involves far more than the scrutiny of statutes for the sake of knowing the regulations of the State. Often times under the pressure of time or from convenience a government department is now-a-days entrusted with wide powers of rule-making for the purpose of administering a particular law. In such cases it is obvious that administration cannot merely consist in applying the law. It includes the making up of rules which have the force of law and of working them out. This system of legislation by delegation has become a very common feature of all modern governments and is likely to be on the increase in years to come. It must be accepted as beyond dispute that such wide powers of rule-making affecting the welfare of large classes of people cannot be safely left into the hands of the administrators drawn from one particular class which as a matter of fact is opposed to the rest of the population in its motives and interests, does not sympathise with the living forces operating in them, is not charged with their wants, pains, cravings and desires and is inimical to their aspirations, simply because it comes out best by the test of education.

132. But even assuming that administration involves nothing more than the process of applying the law as enacted by the legislature it does not in

the least weaken the case of the Backward Classes. For, officers who are drawn from a particular caste and in whose mind consciousness of caste sits closer than conscientious regard to public duty, may easily prostitute their offices to the aggrandizement of their community and to the detriment of the general public. Take the ordinary case of a Mamlatdar, administering the law relating to the letting of Government lands for cultivation. He is no doubt merely applying the law. But in applying he may pick and choose the lessees according to his predilection and very possibly may decide against lessees on grounds which may be communal in fact although they may be non-communal in appearance. Take another illustration of an officer placed in charge of the census department in which capacity he is called upon to decide questions of nomenclature of the various communities and of their social status. An officer in charge of this department by reason of his being a member of particular caste in the course of his administration may do injustice to a rival community by refusing to it the nomenclature or the status that belongs to it. Instances of favouritism, particularly on the grounds of caste and creed are of common occurrence though they are always excused on some other plausible ground. But I like to quote one which pertains to the Vishwakarmans of the Madras Presidency. It is related in their letter to the Reforms Enquiry Committee of 1924 in which they complained that "a Brahmin member of the Madras Executive Council Sir (then Mr.) P. Siwaswami Ayyar—when he was in charge of the portfolio of law, issued a Government Order objecting to the suffix 'Acharya' usually adopted by the Vishwakarmans in their names and seeking to enforce in its place the word 'Asry', which is weighed with common odium. Though there was neither necessity nor authority to justify the action taken by the law member, the Government Order was published by the law department as if on the recommendation of the Spelling Mistakes Committee. It happened to our misfortune that the non-official members of this Committee were drawn largely from the Brahmin community, who never knew how to respect the rights of their sister communities and never informed us of the line of action that they were decided upon. It was dealt more or less as the star in the dark."

133. This is inevitable. Class rule must mean rule in terms of class interests and class prejudices. If such results are inevitable then it must raise a query in the minds of all honest people whether efficient government has also given us good government ? If not, what is the remedy ? My view is that the disadvantages arising from the class bias of the officers belonging to Brahmin and allied castes has outweighed all the advantages attending upon their efficiency and that on the total they have done more harm than good. As to me remedy, the one I see is a proper admixture of the different communities in the public service. This may perhaps import a small degree of inefficiency. But it will supply a most valuable corrective to the evils of class bias. This has become all the more necessary because of the social struggles that are now going on in the country. The struggles between the

Brahmins and the non-Brahmins, between Hindus and Mohamedans, between Touchables and Untouchables for the destruction of all inequalities and the establishment of equality, with all their bitterness, cannot leave the judges, magistrates, civil servants and the police without being influenced in their judgment as to the right or wrong of these struggles. Being members of the struggling communities they are bound to be partisans, with the result that there may be a great loss in the confidence reposed by the public in their servants.

134. So far I have considered the case of the Backward Classes on grounds of administrative utility. But there are also moral grounds why entry into the public service should be secured to them. The moral evils arising out of the exclusion of a person from the public service were never so well portrayed as by the late Mr. Gokhale. In the course of a telling speech he observed, "The excessive costliness of the foreign agency is not however its only evil. There is a moral evil, which, if anything, is even greater. A kind of dwarfing or stunting of the Indian race is going on under the present system. We must live all the days of our life in an atmosphere of inferiority and tallest of us must bend in order that the exigencies of the existing system may be satisfied. The upward impulse, if I may use such an expression, which every school-boy at Eton or Harrow may feel that he may one day be a Gladstone, a. Nelson, or a Wellington, and which may draw forth the best efforts of which he is capable, is denied to us. The full height to which our manhood is capable of rising can never be reached by us under the present system. The moral elevation which every self-governing people feel cannot be felt by us. Our administrative and military talents must gradually disappear, owing to sheer disuse, till at last our lot, as hewers of wood and drawers of water in our own country, is stereotyped." Now what one would like to ask those who deny the justice of the case of the Backward Classes for entry into the Public Service is whether it is not open to the Backward Classes to allege against the Brahmins and allied castes all that was alleged by the late Mr. Gokhale on behalf of Indian people against the foreign agency ? Is it not open to the Depressed Classes, the non-Brahmins and the Mohamedans to say that by their exclusion from the Public Service a kind of dwarfing or stunting of their communities is going on ? Can they not complain that as a result of their exclusion they are obliged to live all the days of their lives in an atmosphere of inferiority, and that the tallest of them has to bend in order that the exigencies of the existing system may be satisfied ? Can they not assert that the upward impulses which every school-boy of the Brahmanical community feels that he may one day be a Sinha, a Sastri, a Ranade or a Paranjpye, and which may draw forth from him the best efforts of which he is capable is denied to them ? Can they not indignantly assert that the full height to which their manhood is capable of rising can never be reached by them under the present system ? Can they not lament that the moral elevation which every self-governing people feel cannot be felt by them and that their

administrative talents must gradually disappear owing to sheer disgust till at last their lot as hewers of wood and drawers of water in their own country is stereotyped ? The answers to these queries cannot but be in the affirmative. If to exclude the advanced communities from entering into public service of the country was a moral wrong, the exclusion of the backward communities from the same field must also be a moral wrong, and if it is a moral wrong it must be righted.

135. These are the considerations which lead me to find in favour of the Backward Classes. It will be noticed that these considerations are in no way different from the considerations that were urged in favour of Indianisation. The case for Indianisation, it must be remembered, did not rest upon efficient administration. It rested upon considerations of good administration. It was not challenged that the Indian was inferior to the European in the qualities that go into the make-up of an efficient administrator. It was not denied that the European bureaucracy had improved their roads, constructed canals on more scientific principles, effected transportation by rail, carried their letters by penny post, flashed their messages by lightning, improved their currency, regulated their weights and measures, corrected their notions of geography, astronomy and medicine, and stopped their internal quarrels. Nothing can be a greater testimony to the fact that the European bureaucracy constituted the most efficient government possible. All the same the European bureaucracy, efficient though it was, was condemned as it was found to be wanting in those qualities which make for human administration. It is therefore somewhat strange that those who clamoured for Indianisation should oppose the stream flowing in the direction of the Backward Classes, forgetting that the case for Indianisation also includes the case for the Backward Classes. Be that as it may, I attach far more importance to this than I attach either to Provincial Autonomy or to complete responsibility in the Provincial Executive. I would not be prepared to allow the devolution of such large powers if I felt that those powers are likely to fall in the hands of any one particular community to the exclusion of the rest That being my view I suggest that the following steps should be taken for the materialisation of my recommendations : —

(1) A certain number of vacancies in the Superior Services, Class I and Class II, and also in the Subordinate Services, should every year be filled by system of nomination with a pass examination. These nominations should be filled on the recommendation of a select committee composed of persons competent to judge of the fitness of a candidate and working in conjunction with the Civil Service officer referred to above. Such nominations shall be reserved to the Depressed Class, the Mohamedans and the Non-Brahmins in the order of preference herein indicated until their numbers in the service reach a certain proportion.

(2) That steps should be taken to post an increasing number of officers belonging to these communities at the headquarters.

(3) That a Central Recruitment Board should be constituted as a central agency for registering all applications for appointments and vacancies and putting applicants in touch with the offices where vacancies exist or occur from time to time. It is essential to put the man and the job in touch if this desire is to be achieved. The absence of such a Board is the reason why the efforts of the Government of Bombay in this connection have not achieved the success which was expected of them.

SECTION VI

SUMMARY OF RECOMMENDATIONS

SECTION I

There should be no separation of Karnatak or Sind from the Bombay Presidency.

SECTION II

Chapter 1.—There should be complete responsibility in the Provincial executive subject to the proviso that if members of the Legislature resolve to make it a reserved subject effect shall be given to their resolution.

Chapter 2.—Under no circumstances should the executive be made irremovable. There shall be no communal representation in the executive. Ministers should be amenable to courts of law for illegal acts. The constitution should provide for the impeachment of Ministers. There should be joint responsibility in the executive. The executive should be presided over by a Prime Minister and not by the Governor.

Chapter 3.—The Governor should have the position of a constitutional head. He should have no emergency powers.

SECTION III

Chapter 1.—There should be adult franchise.

Chapter 2.—The Legislature should be wholly elective. All class and communal electorates should be abolished except for Europeans. Reserved seats should be provided for Mohamedans, Depressed Classes and Anglo-Indians and to the Non-Brahmins only if the franchise continues to be a restricted one.

Chapter 3.—The Legislature should consist of 140 members. Of these Mohamedans should have 33 and the Depressed Classes 15. The under-representation of certain districts and the over-representation of others should be rectified on the basis of population. There should be a Committee to adjust seats between different classes and interests. The requirement of a residential qualification for a candidate should be removed.

Chapter 4.—Lucknow Pact is not a permanent settlement and cannot prevent consideration of the question arising out of it afresh and on their own merits.

Chapter 5.—There should be no second chamber in the Province.

Chapter 6.—The Legislature should have the power of appointing and removing the President, of defining its privileges and regulating its procedure. Sections 72D and 80C of the Government of India Act should be removed from the Statute. The Legislature should have the power to move "a motion of non-confidence". The Legislature should have the power to alter the constitution subject to certain conditions.

SECTION IV

Chapter 1.—There should be complete Provincial autonomy. The division of functions between Central and Provincial should be reconsidered with a view to do away with the control of Central Government now operating through the system of previous sanction and subsequent veto.

Chapter 2.—Within the limits fixed by the functions assigned to the Provincial Government the relations between that Government and the Home Government should be direct and not through the medium of the Central Government. Section 2 of the Government of India Act should be deleted as it obscures the position of the Crown in relation to the governance of India.

SECTION V

There should be a distinct Provincial Civil Service and the Secretary of State should cease altogether to perform the function of a recruiting agency. His functions regarding the Services may be performed by a Provincial Civil Service Commission or by an officer acting conjointly with the Public Service Commission of India. Indianisation of Services should be more rapid. Its pace should vary with the nature of the different departments of State. Indianisation should be accompanied by a different scale of salary and allowances. In the course of Indianisation of the services arrangement should be made for the fulfilment of claims of the backward classes.

17th May 1929 B.R. AMBEDKAR

APPENDIX

(Refer footnote on page 339)

Extracts from the Report of the Board of Education of the Bombay Presidency for the year 1850-51

System adopted by the Board based on the views of Court of Directors

"*Paragraph 5.* Thus, the Board of Education at this Presidency, having laid down a scheme of education, in accordance with the leading injunctions of Despatches from the Honourable Court, and founded not more on the opinions of men who had been attentively considering the progress of education in India, such as the Earl of Auckland, Major Candy and others, than on the openly declared wants of the most intelligent of the natives themselves, the Board, we repeat, were informed by your Lordship's predecessor in Council that the process must be reversed."

* * * * *

Views of Court on the expediency of educating the upper classes

"*Paragraph 8.* Equally wise, if we may be permitted to use the expression, do the indications of the Honourable Court appear to us to be as to the quarters to which Government education should be directed, and specially with the very limited funds which are available for this branch of expenditure. The Honourable Court write to Madras in 1830 as follows : ' The improvements in education, however, which most effectively contribute to elevate the moral and intellectual condition of a people are those which concern the education of the higher classes — of the persons possessing leisure and natural influence over the minds of their countrymen. By raising the standard of instruction amongst these classes you would eventually produce a much greater and more beneficial change in the ideas and the feelings of the community than you can hope to produce by acting directly on the more numerous class. You are, moreover, acquainted with our anxious desire to have at our disposal a body of natives qualified by their habits and acquirements to take a larger share and occupy higher situations in the civil administration of their country than has been hitherto the practice under our Indian Government.' Nevertheless, we hear on so many sides, even from those who ought to know better of the necessity and facility for educating the masses, for diffusing the arts and sciences of Europe amongst the hundred or the hundred and forty millions (for numbers count for next to nothing) in India, and other like generalities indicating cloudy notions on the subject, that a bystander might almost be tempted to suppose the whole resources of the State were at the command of Educational Boards, instead of a modest pittance inferior in amount to sums devoted to a single establishment in England."

* * * * *

Conclusion that no means exist for educating the masses

"*Paragraph 14.* It results most clearly from these facts, that if sufficient funds are not available to put 175 vernacular schools into due state of organisation, and to give a sound elementary education to 10,730 boys, all

question as to educating 'the masses', the 'hundred and forty millions', the 900,000 boys in the Bombay Presidency disappears. The object is not one that can be attained or approximated to by Government, and Educational Boards ought not to allow themselves to be distracted from a more limited practical field of action by the visionary speculations of uninformed benevolence."

Views of Court of Directors as to the best method of operation with limited means

"*Paragraph 15.* The Honourable Court appear to have always kept the conclusion which has been arrived at in the last paragraph very distinctly in view. Perceiving that their educational efforts to improve the people could only be attempted on a very small scale, they have deemed it necessary to point out to their different Governments the true method of producing the greatest results with limited means. We have already cited their injunctions to the Madras Government on this head (paragraph 7), and their despatch to the Government on the same date enforces sentiment of exactly the same import : ' It is our anxious desire to afford to the higher classes of the natives of India the means of instruction in European sciences and of access to the literature of civilised Europe. The character which may be given to the classes possessed of leisure and natural influence ultimately determines that of the whole people.' "

Inquiry as to Upper Classes of India

"*Paragraph 16.* It being then demonstrated that only a small section of the population can be brought under the influence of Government education in India, and the Honourable Court having in effect decided that this section should consist of the 'upper classes', it is essential to ascertain who these latter consist of Here it is absolutely necessary for the European inquirer to divest his mind of European analogies which so often insinuate themselves almost involuntarily into Anglo-Indian speculations. Circumstances in Europe, especially in England, have drawn a marked line, perceptible in manners, wealth, political and social influence, between the upper and lower classes. No such line is to be found in India, where, as under all despotisms, the Will of the Prince was all that was requisite to raise men from the humblest condition in life to the highest station, and where, consequently, great uniformity in manners has always prevailed. A beggar, according to English notions, is fit only for the stocks or compulsory labour in the workhouse ; in India he is a respectable character and worthy indeed of veneration according to the Brahminical theory, which considers him as one who has renounced all the pleasures and temptations of life for the cultivation of learning and undisturbed meditation on the Deity."

Upper Classes in India

"*Paragraph 17.* The classes who may be deemed to be influential and in so far the upper classes in India, may be ranked as follows : —

1st. The landowners and jaghirdars, representatives of the former

feudatories and persons in authorities under Native powers, and who may be termed the Soldier class.

2nd. Those who have acquired wealth in trade or commerce or the commercial class.

3rd. The higher employees of Government.

4th. Brahmins, with whom may be associated though at long interval those of higher castes of writers who live by the pen such as Parbhus and Shenvis in Bombay, Kayasthas in Bengal, provided they acquire a position either in learning or station."

Brahmins the most Influential

"Paragraph 18. Of these four classes incomparably the most influential, the most numerous and on the whole easiest to be worked on by the Government, are the latter. It is a well-recognised fact throughout India that the ancient Jaghirdars or Soldier class are daily deteriorating under our rule. Their old occupation is gone, and they have shown no disposition or capacity to adopt a new one, or to' cultivate the art of peace. In the Presidency the attempts of Mr. Elphinstone and his successors to bolster up a landed aristocracy have lamentably failed ; and complete discomfiture has hitherto attended all endeavours to open up a path to distinction through civil honours and education to a race to whom nothing appears to excite but vain pomp and extravagance, of the reminiscences of their ancestors' successful raids in the plains of Hindusthan, nor among the commercial classes, with a few exceptions, is there much greater opening for the influences of superior education. As in all countries, but more in India than in the higher civilized ones of Europe, the young merchants or trader must quit his school at an early period in order to obtain the special education needful for his vocation in the market or the counting house. Lastly the employees of the state, though they possess a great influence over the large numbers who come in contact with Government, have no influence, whatever, with the still larger numbers who are independent of Government; and, indeed, they appear to inspire the same sort of distrust with the public as Government functionaries in England, who are often considered by the vulgar as mere hacks of the state."

Poverty of Brahmins

"*Paragraph 19.* The above analysis, though it may appear lengthy, is nevertheless, indispensable, for certain important conclusions deducible from it. First, it demonstrates that the influential class whom the Government are able to avail themselves of in diffusing the seeds of education are the Brahmins and other high castes Brahmannis proximi. But the Brahmins and these high castes are for the most part wretchedly poor; and in many parts of India the term Brahmin is synonymous with 'beggar' "

Wealthy classes will not at present support superior education

"*Paragraph 20.* We may see, then, how hopeless it is to enforce what your Lordship in Council so strongly enjoined upon us in your letter of the 24th April, 1850,— what appears, *prima facie,* so plausible and proper in

itself — what in fact, the Board themselves have very often attempted, viz., the strict limitation of superior education ' to the wealthy, who can afford to pay for it, and to youths of unusual intelligence.' The invariable answer the Board has received when attempting to enforce a view like this, has been, that the wealthy are wholly indifferent to superior education and that no means for ascertaining unusual intelligence amongst the poor exist until their faculties have been tested and developed by school training. A small section from among the wealthier classes is no doubt displaying itself, by whom the advantages of superior education are recognised, it appears larger in Bengal, where education has been longer fostered by Government, than in Bombay, and we think it inevitable that such class must increase, with the experience that superior attainments lead to distinction, and to close intercourse with Europeans on the footing of social equality ; but as a general proposition at the present moment, we are satisfied that the academical instruction in the arts and sciences of Europe cannot be based on the contributions either of students or of funds from the opulent classes of India."

Question as to educating low castes

"*Paragraph 21.* The practical conclusion to be drawn from these facts which years of experience have forced upon our notice, is that a very wide door should be opened to the children of the poor higher castes, who are willing to receive education at our hands. But here, again, another embarrassing question arises, which it is right to notice : If the children of the poor are admitted freely to Government Institutions what is there to prevent all the despised castes — the Dheds, Mhars, etc., from flocking in numbers to their walls ?"

Social Prejudices of the Hindus

"*Paragraph 22.* There is little doubt that if a class of these latter were to be formed in Bombay they might be trained, under the guiding influence of such Professors and masters as are in the service of the Board, into men of superior intelligence to any in the community ; and with such qualifications, as they would then possess, there would be nothing to prevent their aspiring to the highest offices open to Native talent — to Judgeships, the Grand Jury, Her Majesty's Commission of the Peace. Many benevolent men think it is the height of illiberality and weakness in the British Government to succumb to the prejudices which such appointments would excite into disgust amongst the Hindu community, and that an open attack should be made upon the barriers of caste."

Wise observations of the Honourable Mount Stuart Elphinstone cited

"*Paragraph 23.* But here the wise reflections of Mr. Elphinstone, the most liberal and large minded administrator who has appeared on this side of India, point out the true rule of action. 'It is observed,' he says, 'that the missionaries find the lowest caste the best pupils ; but we must be careful how we offer any special encouragement to men of that description ; they are not only the most despised but among the least numerous of the

great divisions of society and it is to be feared that if our system of education first took root among them, it would never spread further, and we might find ourselves at the head of a new class, superior to the rest in useful knowledge, but hated and despised by the castes to whom these new attainments would always induce us to prefer them. Such a state of things would be desirable, if we were contented to rest our power on our army or on the attachment of a part of the population but is inconsistent with every attempt to found it on a more extended basis.' "

B

STATEMENT

concerning the state of education of the Depressed Classes in the Bombay Presidency

submitted by

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on behalf of the

Bahishkrita Hitakarini Sabha

(Depressed Classes Institute of Bombay)

to the

Indian Statutory Commission

29th May 1928

Damodar Hall
Parel, Bombay-12
INDIA

N.B.—**In this statement the expressions Backward Classes and Depressed Classes are used interchangeably.**

I. From 1813 to 1854

1. Education under the British Rule in the Bombay Presidency must be said to have begun with the foundation of the Bombay Education Society in 1815. That Society did not continue its efforts to the education of European children. Native boys were encouraged to attend its schools at Surat and Thana and at the beginning of 1820 four separate schools for natives had been opened in Bombay and were attended by nearly 250 pupils. In August of the same year further measures were taken to extend native education. A special committee was appointed by the Society to prepare school-books in the Vernacular Languages and to aid or establish vernacular schools. But the wide scope of the undertaking was soon seen to be beyond the aims of a society established mainly for the education of the poor; and in 1822 the committee became a separate corporation, thenceforth known as the *Bombay Native School-book and School Society* which name was in 1827 changed into the *Bombay Native Education Society*. The Honourable Mount Stuart Elphinstone was the new Society's first President. The Vice-Presidents were the Chief Justice and the three members of the Executive Council of the Bombay Government; and the managing committee consisted of twelve European and twelve native gentlemen, with Captain George Jervis R.E., and Mr. Sadashiv Kashinath Chhatre as Secretaries. The Society started its work with a grant of Rs. 600 per mensem from the Government. As early as 1825 the Government of Bombay had along side begun to establish primary schools at its own expense in district towns and had placed them under the control of the Collectors. To co-ordinate the activities of these two independent bodies there was established in 1840 a Board of Education composed of six members, 3 appointed by Government and 3 appointed by the Native Education Society. This Board was in charge of the Education Department till the appointment of the Director of Public Instruction in 1855.

2. On the 1st March 1855 when the Board was dissolved there were in the Presidency of Bombay under the charge of the Board 15 English Colleges and schools having 2,850 students on the Register and 256 vernacular schools having 18,888 students on the Register. In the same report it is stated by the Board :

> "24. In August [1855] we received a petition from certain inhabitants of Ahmednagar, praying for the establishment of *a school for the education of low castes* and engaging to defray one-half the teacher's salary, in accordance with the terms of the late rules. A school room had been built by the petitioners and the attendance of boys was calculated at thirty. The establishment of such a school was opposed to the prejudices of the richer and higher castes, and there was some difficulty in procuring a teacher on a moderate salary, but as the application was made in strict accordance with the conditions stated in the late notification on the subject, we readily complied with the request, and the school was opened in November. *We merely mention the subject, as it is the first occasion on which we have established a school for these castes."* (Italics not in the original).

3.The statement by the Board that this was the first occasion when a school for the low castes was established in this Presidency naturally raises the question what was the policy of the British Government in the matter of the education of the Depressed classes before 1855 ? To answer this question it is necessary to have a peep into the history of the educational policy of the British Government in this Presidency from 1813 to 1854. It must be admitted that under the Peshwa's Government the Depressed classes were entirely out of the pale of education. They did not find a place in any idea of state education, for the simple reason that the Peshwa's Government was a theocracy based upon the canons of Manu, according to which the Shudras and Atishudras (classes corresponding to the Backward classes of the Education Department), if they had any right to life, liberty and property, had certainly no right to education. The Depressed classes who were labouring under such disabilities naturally breathed a sigh of relief at the downfall of this hated theocracy. Great hopes were raised among the Depressed classes by the advent of the British Rule. Firstly because it; was a democracy which they thought believed in the principle of one man one value, be that man high or low. If it remained true to its tenets, such a democracy was a complete contrast to the theocracy of the Peshwa. Secondly the Depressed classes had helped the British to conquer the country and naturally believed that the British would in their turn help them, if not in a special degree, at least equally with the rest.

4. The British were for a long time silent on the question of promoting education among the native population. Although individuals of high official rank in the administration of India were not altogether oblivious of the moral duty and administrative necessity of spreading knowledge among the people of India, no public declaration of the responsibility of the state in that behalf was made till the year 1813 when by section 43 of the Statute 53 George IV chap. 155, Parliament laid down that " one of the surplus revenues of India a sum of not less than one lakh of rupees in each year shall be set apart and applied to the revival and improvement of literature and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of sciences among the inhabitants of British territories in India etc." This statutory provision however did not result in any systematic effort to place the education of the natives upon a firm and organized footing till 1823. For the Court of Directors in their despatch dated 3rd June 1814 to the Governor-General in Council, in prescribing the mode of giving effect to section 43 of the statute of 1813 directed that the promotion of Sanskrit learning amongst the Hindus would fulfil the purposes which Parliament had in mind. But what a disappointment to the Depressed classes there was when systematic efforts to place the education of the natives upon a firm and organized footing came to be made ! ! For the *British Government deliberately ruled that education was to be a preserve for the higher classes.* Lest this fact should be regarded as a fiction, attention is

invited to the following extracts from the Report of the Board of Education of the Bombay Presidency for the year 1850-51 :

"Paragraph 5th. Thus the Board of Education at this Presidency having laid down a scheme of education, in accordance with the leading injunctions of Despatches from the Honourable Court, and founded not more on the opinions of men who had been attentively considering the progress of education in India, such as the Pearl of Auckland, Major Candy and others, than on the openly declared wants of the most intelligent of the natives themselves, the Board, we repeat, were informed by your Lordship's predecessor in Council that the process must be reversed.

System adopted by the Board based on the views of Court of Directors.

"Paragraph 8th. Equally wise, if we may be permitted, to use the expression, do the indications of the Hon. Court appear to us to be as to the quarters to which Government education should be directed, and specially with the very limited funds which are available for this branch of expenditure. The Hon. Court write to Madras in 1830 as follows : '*The improvements in education, however, which most effectively contribute to elevate the moral and intellectual condition of a people, are those which concern the education of the higher classes—of the persons possessing leisure and natural influence over the minds of their countrymen. By raising the standard of instruction amongst these classes you would eventually produce a much greater and more beneficial change in the ideas and the feelings of the community than you can hope to produce by acting directly on the more numerous class. You are, moreover, acquainted with our anxious desire to have at our disposal a body of natives qualified by their habits and acquirements to take a larger share and occupy higher situations in the civil administration of their country than has been hitherto the practice under our Indian Government.*' Nevertheless, we hear on so many sides, even from those who ought to know better of the necessity and facility for educating the masses for diffusing the arts and sciences of Europe amongst the hundred or the hundred and forty millions (for number count for next to nothing) in India, and other like generalities indicating cloudy notions on the subject, that a bystander might almost be tempted to suppose the whole resources of the State were at the command of Educational Boards, instead of a modest pittance inferior in amount to sums devoted to single establishment in England.

Views of Court on the expediency of educating the upper classes.

"Paragraph 9th. The arguments adduced in the few last paragraphs appear to show that a careful examination of the real facts, and an analysis of the principal phenomena which have displayed themselves in the course of educational proceedings in the Presidency, would not be without their uses, if made with sufficient industry and impartiality to ensure confidence, and with a firm determination to steer clear of bootless controversy and all speculative inquiries. The present epoch, also, appears

Retrospect of Principal Educational facts during the last ten years necessary.

especially to command itself for such a retrospect, as in 1850 the second decenial period commenced, during which the Schools of the Presidency have come under exclusive control of a Government Board ; and it is obvious that as a considerable body of information ought now to have been accumulated, and as the majority of the present members have bad seats at the Board during the greater portion of that time, they would fain hope that by recording their experience, they may shed some light on certain obscure but highly interesting questions, which are certain to arise from time to time before their successors at this Board.

A uniform system developing itself spontaneously both in Bengal and Bombay.

"Paragraph 10th. We now proceed to give as minute a detail as comports with our limits, of the principal educational facts which have forced themselves upon our notice, and we think it will clearly appear, when those facts are duly appreciated, that many of the disputed questions, which arise in the Indian field of education, will be seen to solve themselves, and that a system is generally evolving itself in other Presidencies as well as in Bombay, which is well suited to the circumstances of the country, and which, as the growth of spontaneous development, denotes that general causes are at work to call it forth.

Statistics of education in Bombay.

Paragraph 11th. In the return on the following page, a comparative view is given of the number of schools and of pupils receiving education under Government at the period when the Establishments first came under the control of the Board, in 1840 and in April 1850. It shows, in the latter period, an addition of four English and 83 vernacular schools and a general increase in pupils of above a hundred per cent. The total number receiving Government education at present is 12,712 in the following proportions : —

English Education	...	...	1,699
Vernacular Education	...	...	10,730
Sanskrit Education	...	...	283

[comparison from tables : in 1840 there were 97 schools; number of pupils 5,491. In 1850, number of schools 185 and number of pupils 12,712.]

Same subject.

"Paragraph 12th. But the population of the Bombay Presidency is now calculated by the most competent authorities to amount to ten millions. Now on applying the rule of statistics deduced from the Prussian census as noticed in a former Report, (1842-43, page 26) a population of this amount will be found to containing fewer than 900,000 male children between the ages of seven and fourteen years and of course, fit subjects for school. It follows, therefore, that Government at this Presidency has not been able to afford an opportunity for obtaining education to more than one out of every sixty-nine boys of the proper school going age.

"Paragraph 13th. Further, it is admitted that education afforded in the Vernacular School is far from efficient. A great portion of the strictures of Mr. Willoughby's Minute is directed against the defective character and insignificant results of these schools. The Board, not only acknowledge this fact, but they have been studious to point it out prominently for many years past, and indeed, in the opinion of some competent observers, have drawn too unfavourable a picture of the vernacular schools. But what are the obvious remedies for the defects indicated ? Mr. Willoughby describes them very correctly : 'a superior class of school masters, normal schools, more efficient supervision, additions to the vernacular literature.' These are all subjects, however, which have occupied the attention of the Board for many years past, and as to which not a step can be made in advance without additional expenditure. But we are given to understand from the letter of your Lordship in Council that' it is not probable the Government will have the power, for a considerable time to come, to afford the Board additional pecuniary assistance.'

Same subject.

"Paragraph 14th. It results most clearly from these facts, that if sufficient funds are not available to put 175 vernacular schools into a due state of organisation, and to give a sound elementary education to 10,730 boys, all question as to educating 'the masses', the 'hundred and forty millions', the 900,000 boys in the Bombay Presidency disappears. The object is not one that can be attained or approximated to by Government; and Educational Boards ought not to allow themselves to be distracted from a more limited practical field of action by the visionary speculations of uninformed benevolence.

Conclusion that no means exist for educating the masses.

"Paragraph 15th. The Hon. Court appear to have always kept the conclusion which has been arrived at in the last paragraph very distinctly in view. Perceiving that their educational efforts to improve the people could only be attempted on a very small scale, they have deemed it necessary to point out to their different Governments the true method of producing the greatest results with limited means. We have already cited their injunctions to the Madras Government on this head (Para 7) and their despatch to the Government on the same date enforces sentiment of exactly the same import : '*It is our anxious desire to afford to the higher classes of the Natives of India the means of instruction in European sciences and of access to the literature of civilized Europe. The character which may be given to the classes possessed of leisure and natural influence ultimately determines that of the whole people.'*

Views of Court of Directors as to the best method of operation with limited means.

"Paragraph 16th. It being then demonstrated that only a small section of the population can be brought under the influence of Government education in India, and *the Hon'ble court having in effect decided that this section should consist of the 'upper classes', it is essential to ascertain who these latter*

Inquiry as to upper classes of India.

consist of. Here it is absolutely necessary for the European inquirer to divest his mind of European analogies which so often insinuate themselves almost involuntarily into Anglo-Indian speculations. Circumstances in Europe, especially in England have drawn a marked line, perceptible in manners, wealth, political and social influence, between the upper and lower classes. No such line is to be found in India, where, as under all despotisms, the Will of the Prince was all that was requisite to raise men from the humblest condition in life to the highest station and where, consequently great uniformity in manners has always prevailed. A beggar, according to English notions, is fit only for the stocks or compulsory labour in the work-house ; in India he is a respectable character and worthy indeed of veneration according to the Brahminical theory, which considers him as one who has renounced all the pleasures and temptations of life for the cultivation of learning and undisturbed meditation on the Deity.

Upper classes in India.

"Paragraph 17th. The classes who may be deemed to be influential and in so far the upper classes in India, may be ranked as follows :

1st. The landowners and jaghirdars, representatives of the former feudatories and persons in authorities under Native powers, and who may be termed the Soldier class.

2nd. Those who have acquired wealth in trade or, commerce or the commercial class.

3rd. The higher *employees* of Government.

4th. Brahmins, with whom may be associated though at long interval those of higher castes of writers who live by the pen such as Parbhus and Shenvis in Bombay, Kayasthas in Bengal, provided they acquire a position either in learning or station.

Brahmins the most influential.

"Paragraph 18th. Of these four classes incomparably the most influential, the most *numerous,* and on the whole easiest to be worked on by the Government, are the latter. It is a well-recognized fact throughout India that the ancient Jaghirdars or Soldiers class are daily deteriorating under our rule. Their old occupation is gone, and they have shown no disposition or capacity to adopt new one, or to cultivate the art of peace. In the Presidency the attempts of Mr. Elphinstone and his successors to bolster up a landed aristocracy have lamentably failed; and complete discomfiture has hitherto attended all endeavours to open up a path to distinction through civil honours and education to a race to whom nothing appears to excite but vain pomp and extravagance, of the reminiscences of their ancestors' successful raids in the plains of Hindusthan, nor among the commercial classes with a few exceptions, is there much greater opening for the influences of superior education. As in all countries, but more in India than in the higher civilized ones of Europe, the young merchants or trader must quit his school at an early period in order to obtain the special education needful for his

vocation in the market or the counting house. Lastly the employees of the state, though they possess a great influence over the large numbers who come in contact with Government, have no influence, whatever, with the still larger numbers who are independent of Government; and, indeed, they appear to inspire the same sort of distrust with the public as Government functionaries in England, who are often considered by the vulgar as mere hacks of the state.

Poverty of Brahmins.

"Paragraph 19th. *The above analysis, though it may appear lengthy, is nevertheless, indispensable, for certain important conclusions deducible from it. First, it demonstrates that the influential class whom the Government are able to avail themselves of in diffusing the seeds of education are the Brahmins and other high castes Brahmannis proxmi.* But the Brahmins and these high castes are for the most part wretchedly poor; and in many parts of India the term Brahmin is synonymous with 'beggar'.

Wealthy classes will not at present support superior education.

"Paragraph 20th. We may see then, how hopeless it is to enforce what your Lordship in Council so strongly enjoined upon us in your letter of the 24th April 1850,—what appears, *prima facie,* so plausible and proper in itself—what in fact, the Board themselves have very often attempted, viz. the strict limitation of superior education 'to the wealthy, who can afford to pay for it, and to youths of unusual intelligence.' The invariable answer the Board has received when attempting to enforce a view like this, has been, that the wealthy are wholly indifferent to. superior education and that no means of ascertaining unusual intelligence amongst the poor exist until their faculties have been tested and developed by school training. A small section from among the wealthier classes is no doubt displaying itself, by whom the advantages of superior education are recognized, it appears larger in Bengal, where education has been longer fostered by Government, than in Bombay, and we think it inevitable that such class must increase, with the experience that superior attainments lead to distinction, and to close intercourse with Europeans on the footing of social equality; but as a general proposition at the present moment, we are satisfied that the academical instructions in the arts and sciences of Europe cannot be based on the contributions either of students or of funds from the opulent classes of India.

Question as to educating low castes.

"Paragraph 21st. *The practical conclusion to be drawn from these facts which years of experience have forced upon our notice, is that a very wide door should be opened to the children of the poor higher castes, who are willing to receive education at our hands. But here, again, another embarrassing question arises, which it is right to notice : If the children of the poor are admitted freely to Government Institutions what is there to prevent all the despised castes—the Dheds, Mhars etc., from flocking in numbers to their walls* ?

Social Prejudices of the Hindus.

"Paragraph 22nd. *There is a little doubt that if a class of these latter were to be formed in Bombay they might be trained, under the guiding influence of such Professors and masters as are in the service of the Board, into men of superior intelligence to any in the community; and with such qualifications, as they would that possess, there would be nothing to prevent their aspiring to the highest offices open to Native talent*—to Judgeships, the Grand Jury, Her Majesty's Commission of the Peace. *Many benevolent men think it is the height of illiberality and weakness in the British Government to succumb to the prejudices which such appointments would excite into disgust amongst the Hindu community, and that an open attack should be made upon the barriers of caste.*

Wise observations of the Hon Mount Stuart Elphinstone cited.

"Paragraph 23rd. *But here the wise reflections of Mr. Elphinstone, the most liberal and large-minded administrator who has appeared on this side of India, point out the true rule of action. 'It is observed,' he says, 'that the missionaries find the lowest castes the best pupils; but we must be careful how we offer any special encouragement to men of that description; they are not only the most despised, but among the least numerous of the great divisions of society and it is to be feared that if our system of education first took root among them, it would never spread further, and we might find ourselves at the head of a new class, superior to the rest in useful knowledge, but hated and despised by the castes to whom these new attainments would always induce us to prefer them. Such a state of things would be desirable, if we were contented to rest our power on our army or on the attachment of a part of the population but is inconsistent with every attempt to found it on a more extended basis.' "*

5. It is, therefore, obvious that if no schools were opened for Depressed classes before 1855 in the Bombay, Presidency it was because the deliberate policy of the British Government was to restrict the benefits of education to the poor higher castes chiefly the Brahmins. Whether this policy was right or wrong is another matter. *The fact, however, is that during this period the Depressed classes were not allowed by Government to share in the blessings of education.*

II. From 1854 to 1882

6. In their Despatch No. 49 of 19th July 1854 the Court of Directors observed : "Our attention should now be directed to a consideration, if possible, still more important, and one which has hitherto, we are bound to admit, too much neglected, namely, how useful and practical knowledge, suited to every station in life, may be best conveyed to the great mass of the people who are utterly incapable of obtaining any education worthy of the name by their own efforts ; and we desire to see the active measures of Government more especially directed, for the future, to this object, for

the attainment of which we are ready to sanction a considerable increase of expenditure." This despatch is very rightly regarded as having laid the foundation of mass education in this country. The results of this policy were first examined by the Hunter Commission on Indian Education in 1882. The following figures show what was achieved during the period of 28 years :

Primary Education

1881-82

	No. of scholars at school	Per cent on total
Christians	1,521	.49
Brahmins	63,071	20.17
Other Hindus	2,02,345	64.69
Mohamedans	39,231	12.54
Parsis	3,517	1.12
Aboriginal and Hill Tribes	2,713	.87
Low caste Hindus	2,862	.87
Jews and others	373	.12

Secondary Education

1881-82

	Middle Schools		High Schools	
	No of scholars at schools	P.c. on total No. of scholars	No. of scholars at schools	P.c. on total No. of scholars
Christians	1,429	12.06	111	2.26
Brahmins	3,639	30.70	1,978	40.29
Other Hindus { Cultivators	624	5.26	140	2.85
Other Hindus { **Low castes**	**17**	**.14**	..	..
Other Hindus { Other castes	3,823	32.25	1,573	32.04
Mohamedans	687	5.80	100	2.04
Parsis	1,526	12.87	965	19.66
Aboriginal and Hill Tribes ..	**6**	**.05**	..	..
Others (including Jews etc.) ..	103	.87	92	.86

Collegiate Education

1881-82

	No. of scholars	P. c. on total No. of scholars
Christians	14	3
Brahmins	241	50
Other Hindus { Cultivators	5	1
Other Hindus { Low castes	0	0
Other Hindus { Other castes	103	21.3
Mohamedans	7	1.5
Parsis	108	21.5
Aboriginal and Hill Tribes	0	0
Others (including Jews etc.)	2	0.4

7. What do these figures show ? *They show that although mass education was the policy of the Government the masses were as outside the pale of education as they were before the year 1854 and that the lowest and aboriginal classes of the Hindus still remained lowest in order of education; so much so that in 1881-82 there was no student from that community either in the High Schools or in the Colleges of this Presidency.* What can this failure to bring the Depressed classes to the level of the rest in the matter of education be due to ? To answer this question it is necessary again to go into the history of the educational policy of the Government of this Presidency.

8. The Despatch of the Court of Directors of the year 1854, for the first time recognized after a lapse of full 40 years that the duty of the state was to undertake the education of the great mass of the people. But there were still die-hards who had great misgivings as to the wisdom of the principle laid down in that Despatch and who were agitating for a reversal of that policy. The fears of dire consequences to the British Rule arising from elevating the Backward classes above their station in life still haunted men like Lord Ellenborough, President of the Board of Control who in a letter to the Chairman of the Court of Directors dated 28th of April 1858 did not hesitate to strike the following note of caution :

> "Gentlemen : Many letters have been lately before me reviewing the state of education in different parts of India under the instructions sent by the Court of Directors in 1854, and I confess that they have not given me the impression that the expected good has been derived from the system which was then established, while all the increase of charge which might have been expected appears to be in progress of realization.
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> * * * * *
>
> "Paragraph 11. I believe we rarely, if ever induce parents of the lower class to send their children to our schools, and we should practically, if we succeeded in extending education as we desire, give a high degree of mental cultivation to the labouring class, while we left the more wealthy in ignorance.
>
> "Paragraph 12. This result would not tend to create a healthy state of society. Our Government could not offer to the most educated of the lower class the means of gratifying the ambition we should excite.
>
> "Paragraph 13. We should create a very discontented body of poor persons, having, through the superior education we had given to them, a great power over the mass of the people.
>
> "Paragraph 14. *Education and civilization may descend from the higher to the inferior classes, and so communicated may impart new vigour to the community, but they will never ascend from the lower classes to those above them; they can only, if imparted solely to the lower classes, lead to general convulsion, of which foreigners would be the first victims.*
>
> "Paragraph 15. *If we desire to diffuse education, let us endeavour to give it to the higher classes first.*

"Paragraph 16. These are but two ways of doing this — by founding colleges to which the higher classes alone should be admitted, and by giving in the reorganization of the army, commissions at once, to such sons of native gentlemen as may be competent to receive them."

9. This antipathy of the European officers towards the untouchable classes was finally corrected by the Secretary of State for India in his despatch of 1859 which again reiterated the responsibility of Government for mass education.

10. Singular as it may appear *the recognition by the Government of its responsibility for mass education conferred upon the Depressed classes a benefit only in name.* For, although, schools were opened for the masses in the various districts the question of the admission of the Depressed classes to these schools had yet to be solved. Such a question did practically arise in the year 1856. But the decision of the Government was not favourable to the Depressed classes as will be seen from the following extracts from the Report of the Director of Public Instruction for the Bombay Presidency for the year 1856-57 :

"Paragraph 177. *Schools for Low castes and wild tribes.* There are no low class schools established directly by Government, and the supreme Government has expressed disapproval of such schools. The ordinary schools entirely supported by the state are in theory open indifferently to all castes. In the course of observation of my Report 1855-56 the Government issued the following order : "*The only case as yet brought before Government in which the question as to the admissions of the pupils of the lowest class to Government schools has been raised, was that of a Mahar boy on whose behalf a petition was submitted in June 1856, complaining that though willing to pay the usual schooling fee, he had been denied admission to the Dharwar Government School.*

"On this occasion Government felt a great practical difficulty which attended the adjudication of a question in which their convictions of abstract right would be in antagonism to the general feelings of the mass of the natives, for whose enlightenment, to the greatest possible extent, the Government Educational Department has been established; and *it was decided as will appear from the Resolution* passed at the time with some hesitation, that it would not be right for the sake of a single individual, the only Mahar*

*Text of the Resolution passed by Government on the 21st July 1856 :—

1. The question discussed in the correspondence is one of very great practical difficulty.

2. There can be no doubt that the Mahar petitioner has abstract justice on his side ; and Government trust that the prejudices which at present prevent him from availing himself of existing means of education in Dharwar may be erelong removed.

3. But Government are obliged to keep in mind that to interfere with the prejudices of ages in a summary manner, for the sake of one or few individuals, would probably do a great damage to the cause of education. The disadvantage under which the petitioner labours is not one which has originated with this Government, and it is one which Government summarily remove by interfering in his favour, as he begs them to do.

who had ever come forward to beg for admission into a school attended only by the pupils of castes and to force him into association with them, at the probable risk of making the institution practically useless for the great mass of natives."

The proceedings of the Government of Bombay in this matter were noticed in the following terms by the Government of India, in a letter No. 111 dated 23rd January 1857 :

"Governor-General in Council thinks it very probable that the Bombay Government has acted wisely in the matter; but it desires me (i.e. Secretary to the Government of India) to say that the boy would not have been refused admission to any Government school in the Presidency of Bengal."*

On receipt of this letter it was resolved that Government of India should be assured that this Government would be most unwilling to neglect any means of rendering the schools throughout the country less exclusive than they practically are in the matter of caste; provided this could be effected without bringing the Government school into general disrepute, and thus destroying their efficiency and defeating the object for which they were intended. It was also determined that an enquiry should be made as to the practical working of the principle which was said to prevail in Bengal as affecting the general usefulness of the Government schools.

11. Inquiries as to the practice prevalent in Bengal revealed that the Bengal authorities contrary to the supposition of the Government of India had left it to the District Committees of Instructions to grant or refuse admittance to candidates of inferior castes, with reference to the state of local native feeling in each case. *The result of this was that the Depressed classes were left in the cold because the touchable classes would not let them sit at the fire of knowledge which the Government had lit up in the interest of all its subjects.*

12. Under these circumstances mass education as contemplated by the Despatch of 1854 was in practice available to all except the Depressed classes. The lifting of the ban on the education of the Depressed classes in 1854 was a nominal affair only. For, although the principle of non-exclusion was affirmed by the Government its practical operation was very carefully avoided; so that we can say that the ban was continued in practice as before.

The only agency which could take charge of the education of the Depressed classes was that of Christian missionaries. In the words of Mount Stuart Elphinstone they "found the lowest classes the best peoples". But the

*In a Despatch No. 58 dated April 28th, 1858 the Court of Directors passed the following order on this subject: "The educational institutions of Government are intended by us to be open to all classes, and we cannot depart from a principle which is essentially sound, and the maintenance of which is of first importance. It is not impossible that, in some cases, the enforcement of the principle may be followed by a withdrawal of a portion of the scholars; but it is sufficient to remark that those persons who object to its practical enforcement will be at liberty to withhold their contributions and apply their funds to the formation of schools on a different basis."

Government was pledged to religious neutrality and could not see its way to support missionary schools, so much so that no pecuniary grant was made in this Presidency to any missionary school in the early part of this period although the Educational Despatch of 1854 had not prohibited the giving of grants to missionary schools.

13. To find a way out of this *impasse* the Government adopted two measures : (1) The institution of separate Government schools for low caste boys, and (2) The extension of special encouragement to missionary bodies to undertake their education by relaxing the rules of grants-in-aid. Had these two measures not been adopted the education of the Depressed classes would not have yielded the results, most meagre as they were, at the stocktaking by the Hunter Commission in 1882.

III. From 1882 to 1928

14. After the year 1882 the year 1923 forms the next landmark in the educational history of the Bombay Presidency. That year marks the transfer of primary education from the control of Provincial Governments to the control of local bodies. It will therefore be appropriate to take stock of the position as it stood in 1923. The position of the different communities in the Bombay Presidency in 1923 in the matter of educational advancement may be summed up in a tabular form as follows :

Classes* of Population in the Presidency			Order in respect of population	Order in respect of education		
				Primary	Secondary	Collegiate
Advanced Hindus	..	..	4th	1st	1st	1st
Intermediate Hindus	..	..	1st	3rd	3rd	3rd
Backward Hindus	..	..	2nd	4th	4th	4th
Mahomedans	..	..	3rd	2nd	2nd	2nd

15. From this table one notices a great disparity in the comparative advancement of these different communities in the matter of education. Comparing these classes of people according to the order in which they stand in respect of their population and according to the order in which they stand in respect of their educational progress, we find that the Inter mediate class, which is first in order of population is third in order of college education, third in order of secondary education and third in order of primary education. The Depressed classes who are second in order of population, stand fourth i.e., last in order of college education, last in order of

*The Education Department of the Government of Bombay has divided the population of this Presidency for departmental purposes into four different classes. In one of them are put the Brahmins and allied castes, who are collectively called "Advanced Hindus". The Marathas and allied castes are put in a separate class called the "Intermediate Hindus". The rest of the population comprising the Depressed classes; hill tribes and the crimina tribes are placed in a class by themselves and are designated by the term "Backward class". To these three classes there is to be added a fourth class which comprises the Mahomedans of the Presidency and Sind.

secondary education and last in order of primary education. The Mahomedans who are third in order of population are second in order of college education, second in order of secondary education and second in order of primary education; while the "Advanced Hindus" who occupy the fourth place in order of population stand first in order of college education, first in order of secondary education and first in order of primary education. From this we can safely say that in this respect there has been no improvement over the situation as it stood in 1882 relatively speaking.

16. The above statement which is based upon the Report of the Director of Public Instruction, Bombay Presidency for the year 1923-24 merely reveals the disparity that exists in the educational advancement of the different communities. But the disparity in the level of education among the different communities would be a very small matter if it be not very great. We can form no important conclusion unless we know the degree of disparity. To make the position clear from this point of view the following table is presented :

TABLE

Classes of Population	Primary Education, Students per 1,000 of the population of the class	Secondary Education, Students per 100,000 of the population	College Education, Students per 200,000 of the population
Advanced Hindus	119	3,000	1,000
Mahomedans	92	500	52
Intemediate class	38	140	14
Backward class	18	14	Nil (or nearly one if at all).

17. The above figures give the lengths as it were by which each community is a head of the rests in the matter of primary, secondary and collegiate education. They reveal a range of disparity between the different communities in this Presidency which shows that the position of some of the communities in the matter of education is most shocking. *From the statistics as given above two facts stand out to be indisputable.* (1) *That the state of education of the Backward classes in this Presidency is deplorable. In the matter of population they occupy a place as high as second. But in the matter of Education they occupy a place which is not only last but which also is the least;* (2) *That the Mahomedans of the Presidency have made enormous strides in education; so much so that within the short span of 30 years they have not only stolen a march over other communities such as the Intermediate and the Backward class, but have also come close to the Brahmins and allied castes.*

18. What can this be due to ? To the policy of unequal treatment adopted by the Government must again be our reply to this ever present question. How unequal was the treatment of the two classes will be evident

from the following extracts from the Quinquennial Reports on Education. With regard to the treatment of the Mahomedans in the matter of education the following observations in the third Quinquennial Report (1892-96) are noteworthy :

> "Concerning the figures for Mahomedan Education in Bombay,..... the Director remarks that the increase would have been larger ' but for adverse circumstances'. It has long been recognized in Bombay that Mahomedans make a larger use of Public Institutions than the rest of the population..... On the general question of what has been done to encourage Mahomedan education, the Director writes :
>
> 'In the first place, a Mahomedan officer is appointed to every District, either as Deputy or Assistant Deputy Inspector; and we have three Mahomedan graduates as Deputies, at Kaira, Sholapur and Hyderabad, while a fourth has been drafted into the higher grades of the Revenue Department. There is thus not a District where the staff is out of touch with the Mahomedan population. Again at Bombay, Karachi and Junagadh [a Muhammadan State in Kathiawar], special efforts have been made to provide High Schools for Muhammadans with low fee rates, and smaller schools have been opened by other Anjumans (Muhammadan associations) elsewhere. The Department also provides for their benefit special standards and maintains special schools in certain localities, and reserves for them one-third of the Provincial and Local Boards scholarships. Then, there are the special scholarships founded by Khan Bahadur Kazi Shahbuddin [at one time Diwan of Baroda]; and in Sindh a certain number of food scholarships have been given by the heir of the Native State of Khairpur for students attending in Arts College. (I had great difficulty in filling these up last year, though they are of the value of Rs. 25 a month). In Primary schools, Muhammadans are very leniently treated in the matter of fees. They are encouraged to come to the Training Colleges by special rules which require from them an easier test than from Hindus ;..... The Joint Schools Committee at Bombay has lately made special efforts to encourage Muhammadan education by the appointment of a Muhammadan Deputy Inspector.....' "

19. Compare with this the observations regarding the education of the Depressed classes in the fifth Quinquennial Report (1902-07) :

> "*959*. Bombay—In the Central division of Bombay the low caste children are admitted free into schools and receive presents in the form of books, slates etc..... In Kathiawar only three children of the Depressed castes are receiving education. In the Southern division there are 72 special schools or classes of them, most of which are under unqualified teachers."

20. This unequal treatment has its origin in the recommendations of the Hunter Commission. How partial was the Hunter Commission to the Mahomedans will be evident if we compare the recommendations it made

in their behalf to those it made in the interests of the Depressed classes. With respect to the Mahomedans the Commission made seventeen recommendations of which the following are worthy of note : —

(1) that the special encouragement of Mahomedan education be regarded as a ligitimate charge on local, on Municipal, and on Provincial funds.

(7) that higher English education for Mahomedans, being the kind of education in which that community needs special help, be liberally encouraged.

(8) that where necessary graduated system of special scholarships for Mahomedans be established to be awarded (*a*) in primary schools and tenable in middle schools ; (*b*) in middle schools, and tenable in high schools; (*c*) on the results of Matriculation and. First Arts examinations, and tenable in colleges also.

(9) that in all classes of schools maintained from public funds a certain proportion of free studentship be expressly reserved for Mahomedan students.

(10) that in places where educational endowments for the benefit of Mahomedans exist and are under the management of Government the funds arising from each endowment be devoted to the advancement of education among the Mahomedans exclusively.

(11) that where Mahomedans exist, and are under the management of private individuals or bodies, inducements by liberal grants-in-aid be offered to them to establish English teaching schools or colleges on the grant-in-aid system.

(12) that, where necessary, the Normal Schools or classes for the training of Mahomedan teachers be established.

(14) that Mahomedan inspecting officers be employed more largely than hitherto for the inspection of primary schools for Mahomedans.

(17) that the attention of Local Governments be invited to the question of the proportion in which patronage is distributed among educated Mahomedans and others.

21. Everyone of these recommendations made by the Hunter Commission was necessary in the interests of the Depressed classes also. But when we come to analyse the recommendations made by the Commission in the interests of the Backward classes we do not find them directing that education of the Backward classes be regarded a legitimate change on Government funds, that scholarships and proceedings be reserved for them, that special inspecting staff be kept to look after their educational needs or that public patronage be given to them by way of encouraging the growth of education amongst them. All that we find the Commission saying is that (1) the principle that "no boy be refused admission to a Government College or School merely on the ground of caste," be now reaffirmed as a principle and be applied with due caution to every institution, not reserved for special

races, which is wholly maintained at the cost of public funds, whether provincial, municipal or local, (2) that the establishment of special schools or classes for children of low castes be liberally encouraged in places where there are a sufficient number of such children to form separate schools or classes and where the schools already maintained from public funds do not sufficiently provide for their education. As a matter of fact the recommendations made by the Commission for the Mahomedans were far more necessary in the interests of the Backward classes than in the interests of the Mahomedans. For even the Hunter Commission, presided as it was by a chairman of pronounced sympathies for the Mahomedans, had to admit that "the inquiries made in 1871-73 went to prove that except in the matter of the higher education there had been a tendency to exaggerate the backwardness of the Mahomedans." Notwithstanding this the only recommendations made by the Hunter Commission were the two mentioned above. Even these two recommendations made by the Commission regarding the Depressed classes were not calculated to do much good. They were bound to be futile. The reaffirmation of the principle even if it be for the fifth time was useless. For under the proviso inserted by the Commission the enforcement was to be avoided in practice. Similarly the opening of the separate schools for the Depressed classes was hardly possible which again was bound to be sterile. Separate schools involving additional expense could hardly be acceptable to a Government to which primary education was a task. Besides the proviso that such schools should be opened *where Backward classes were in large numbers* was sufficient to negative the recommendations simply because in rural parts the Backward classes can seldom be found to be living in one locality in large numbers.

22. It is difficult to understand why the Hunter Commission paid such a scan attention to the educational needs of the Backward classes. If it felt necessary to be generous towards the Mahomedans, it should have at least seen that it was just to the Backward classes who were far behind the Mahomedans in education, wealth and social status. Once the Hunter Commission had thrown the Depressed classes into the background they remained there and the Government never paid any attention to them. As an example of this neglect, attention may be drawn to the Resolution of the Government of India in the Department of Education dated Delhi the 21st February 1913. It was one of the most important resolutions ever issued by the Government of India in which they decided "to assist local Government by means of large grants from imperial revenues as funds became available, to extend comprehensive systems of education in the several provinces ". In that Resolution they were particular to point out to the Provincial Government the educational needs of " Domiciled community" and the Mahomedan community. But they had not a word to say in the whole Resolution about the Backward classes. The Bombay Government readily accepted the suggestion and appointed in 1913 a Mahomedan on Education Committee to make recommendations for the promotion of

education among the Mahomadans. One feels righteous indignation against such criminal neglect on the part of the Government particularly when it is realized that the large grants given by the Government of India after 1913 were given by way of fulfilment of the declaration made by His most Gracious Imperial Majesty the King Emperor in replying to the address of the Calcutta University on the 6th January 1912 in which he said :

> "It is my wish that there may be spread over the land a network of schools and Colleges, from which will go forth loyal and manly and useful citizens, able to hold their own in industries and agriculture and all the vocations in life. And it is my wish too, that the homes of my Indian subjects may be brightened and their labour sweetened by the spread of knowledge with all that follows in its train, a higher level of thought, of comfort and health. It is through education that my wish will be fulfilled, and the cause of education in India will ever be very close to my heart."

IV. From 1923 and after

23. The Reforms Act came into force in 1921. Education was made a transferred subject in charge of a minister and a rapid advance in education was naturally expected at his hands. The Backward classes had, however, their doubts as to whether any benefit would accrue to them from the transfer of education to the control of the ministers. Already they had suffered in the matter of education at the hand of the bureaucracy. In the first period of existence the bureaucracy did not permit them to receive the benefits of education. In the second period the bureaucracy did not help them to get education. All the same the bureaucracy was too much enlightened to deny the principle that the Backward classes had a right to education. The Backward classes were not prepared to predicate the same enlightenment of the Indian intelligentsia which was struggling to replace the bureaucracy. As the Indian intelligentsia had its roots in the part in which the Backward class had no recognized rights, the latter were apprehensive that the past may again be made to live in the present.

24. Unfortunately their doubts came true and it may be truly said that under the Reforms the Backward classes in the Bombay Presidency have fallen from purgatory to hell. This may appear to be a very strong commentary on the existing situation. But the situation for in Backward classes of the Bombay Presidency created by the Compulsory Primary Education Act (Bombay Act No. IV of 1923) can hardly be described in any other words. The Compulsory Primary Education Act is in a very important sense a "fraud". It was claimed for the Act, it was calculated to change the character of the primary education from being voluntary to compulsory. The Act does nothing of the kind. A reference to section 10 of the Act is sufficient to expose the "fraud". The system is as voluntary as it was before and will remain so indefinitely. For, not only there is no obligation to make it compulsory, but there is even no time limit fixed within which to fulfil the obligation. Apart from this the Compulsory Primary Education Act has

made a most extravagant change in the administrative machinery for the control of Primary Education. Hitherto the control and management of Primary Education was entrusted to the Provincial Government and the whole of the expenditure on primary education was defrayed out of Provincial revenues except a small grant by the Local Boards amounting to one-third of their revenue from certain defined sources. Under the Compulsory Primary Education Act the position is reversed. The control and management of Primary Education is now entrusted to District School Boards (which are committees of District Local Boards) and instead of the Local Boards giving grants to the Provincial Government the Provincial Government is required to give a grant to the District School Board. Such extravagant and wild was the spirit in which this change was conceived that the Act gives to these School Boards power to appoint its own executive officer—a privilege which is denied even to such an advanced Corporation as the Municipality of Bombay.

25. The Sabha think that this change is a most revoluntionary change and is bound to be detrimental to the best interest of the Presidency and particularly of the Backward classes. It must be borne in mind that the vital necessity of education has not been realized by all the classes of the population. The popular belief is that education is nobody's concern except that of the Brahmins. It is only a few, who have taken to politics, that care for the spread of education. The School Board must be drawn from the many uniformed villagers who being brought up in the tradition that education is the concern of the Brahmins only must be indifferent to it and are bound to be opposed to make it compulsory. Education if it is to be efficiently administered must for some time to come, remain with the Provincial Government under the direct control of the Legislative Council where the few politicals who know the necessity of education are likely to be. The transfer of education from the Education Department to the School Boards, therefore, means transfer from well-trusted quarters to unworthy hands. But if the transfer is harmful to the progress of education in general, it is detrimental to the interests of the Backward classes in particular. It must be borne in mind that although there may be some doubts as to whether the generality of the people do or do not believe in education, one thing is certain that they do not believe in the education of the Backward classes. As to the attitude of the higher classes towards the extension of elementary education to the lower classes of the community the Hunter Commission observed : " Several witnesses have replied that positive hostility is shown to the admission of low caste boys to school. A Madras witness mentions the case of a school for Cherumans, the ancient slave caste, being established at Calicut, but the Nayars and Tiyas used to waylay the boys as they went to school and snatch their books out of their hands..... *In our discussion on this subject it was brought to our notice that in some parts of the Central Provinces and of Bombay special objections were*

entertained by the rural communities to the instruction of low castes on the ground that education would advance them in life and induce them to seek emancipation from their present servile condition. In his report for the year 1896-97 the Director of Public Instruction, Bombay quoted a case in which the action of the Local Officers of the Kaira District in requiring the admission of low caste pupils led to five or six large schools being closed for years and to the huts and crops of the low caste people being burnt in one village and to the imposition of a heavy punitive post on that village for two years."

26. Such being the attitude of the rural communities, how can it be expected that the School Boards drawn as they largely will be from the rural communities will discharge, faithfully, their trust in the matter of the education of the Depressed classes ? To give the School Boards the control over the education of the Backward classes is to make the prosecutor the ruler. No wonder that Resolutions are passed by the Backward classes condemning the transfer of the control of Primary Education to the School Boards. It would have given some relief if the School Boards were manned by representatives of the Depressed classes in adequate numbers. But that is not the case. The representation of the Depressed classes in self-governing bodies from the Council down to the Local Boards has been planned by the Government after the manner of a curator who is not anxious to keep more than one specimen of each species in his Museum. Government nominates one member from the Depressed classes to the District Local Board out of some forty members and the School Board is directed to co-opt one member from the Depressed classes. In the principle of co-option there is always the danger of the wrong man being co-opted—a danger which the Depressed classes of East Khandesh have had to face in the recent School Board elections. But supposing the right man is co-opted, what can a single individual do in a hostile group of 15 which is the maximum strength of a School Board ?

27. If Government is sincere in the matter of promoting the education of the Depressed classes then there are certain measures which Government must adopt. The Sabha has its own convictions as to what Government should do in this connection and would like to state the same in the form of proportions as follows :—

(1) Unless the Compulsory Primary Education Act is abolished and the transfer of Primary Education to the School Boards is stopped, the Sabha fears that education of the Depressed classes will receive a great set-back.

(2) Unless compulsion in the matter of Primary Education is made obligatory and unless the admission to primary schools is strictly enforced, conditions essential for educational progress of the Backward classes will not come into existence.

(3) Unless the recommendations made by the Hunter Commission regarding the education of the Mohamedans are applied to the Depressed classes their educational progress will not be an accomplished fact.

(4) Unless entry in the public service is secured to the Depressed classes there will be no inducement for them to take education.

28. In making these comments upon the management of the educational affairs of the Presidency under the Reform in their bearing upon the Depressed classes the Sabha is not oblivious to the special provisions made for the education of the Depressed classes in the form of a few hostels and a few scholarships for higher education. But the Sabha begs to point out that it is useless to make provision for higher education of the Depressed classes unless steps are taken to ensure the growth of Primary Education. Besides there is no guarantee that such concessions will continue. On the other hand they that depend a great deal upon the policy of the particular Minister in charge of Education and upon the voting strength of the Depressed classes in the Legislative Council, both of which are uncertain factors and cannot be depended upon.

C

STATEMENT

concerning the safeguards for the protection of the interests of the Depressed Classes as a minority in the Bombay Presidency and the changes in the composition of and the guarantees from the Bombay Legislative Council necessary to ensure the same under Provincial Autonomy

submitted by

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on behalf of the

Bahishkrita Hitakarini Sabha
(Depressed Classes Institute of Bombay)

to the

Indian Statutory Commission

29th May 1928

Damodar Hall
Parel, Bombay-12
INDIA

I. Protection through adequate Representation

1. *Preliminary*.—The Sabha feels relieved of great anxiety by the decision of Parliament not to appoint an Indian on the Statutory Commission. The agitation for the appointment of an Indian would have been proper if the Commission had to consider a common Indian demand for self-government But the fact is that the Commission shall have to consider not one demand, but a variety of demands made by the different interests prevailing in the country. That being the case the agitation should have been for a representation of all such interests on the Commission. The Sabha desires to point out that nothing could have satisfied the Depressed Classes better than the appointment of Indians representing various interests in the country, including their own, on the Statutory Commission. The demand for representation on the Statutory Commission was not, however, of such a nature and the Sabha, therefore, could not feel at one with those who urged it. The Sabha, it is true, did not agitate as it should have done, in conformity with its own views, for the representation of the Depressed Classes on the Commission. But that was because the Sabha felt that it was too much to hope for in a country where those in charge of the affairs from the Viceroy downwards have cultivated the habit of recognising the noisy few and forgetting the dumb millions. To use the language of Burke, because half a dozen politicians, like grasshoppers under a fera, make the field ring with their importunate chink, whilst the masses, like thousands of great cattle, are reposing beneath the shadow of the oak, chew the cud and are silent, the Government of India imagines that the politicians who make the noise are the only inhabitants of the field—that, of course, they are many in number—or that, after all, they are other than the little, shrivelled, meagre, hopping, though loud and troublesome insects of the hour. But there was also another reason why the Sabha did not press for its views. In the opinion of the Sabha this exclusion of Indians from the Statutory Commission was no small mercy to the Depressed Classes. For, by their non-appointment the Depressed Classes are, at any rate, saved the prejudice that would have otherwise been caused to their case, which the Sabha has hereby undertaken to place before the Commission.

2. *Injustice done to the Depressed Classes in 1919*.—The Montagu Chemsford Report recognised fully (para. 151) that the existence of the social differences and divisions formed "a feature of Indian Society which is out of harmony with the ideas on which elsewhere in the world representative institutions rest" and the authors of the Report (para. 153) held that they "have to be taken into account and they must lead us to adjust the forms of popular Government familiar elsewhere to the special conditions of Indian life." In accordance with this, the authors of the Report, in order to pacify the Depressed Classes who had stoutly opposed the introduction of the Reforms, undertook to safeguard their interests as will be seen from the following statement in paragraph 155 of their Report in which they say : " We have shown that the political education of the Ryot cannot be very rapid and may be a very difficult process. Till it is complete he must be exposed to the risk of oppression by people who are stronger and cleverer than he is ; and until it is clear that his interests can safely be left in his

own hands or that the Legislative Council represent and consider his interests, we must retain power to protect him. *So with the Depressed classes, we intend to make the best arrangements we can for their representation in order that they too may ultimately learn the lesson of self-protection.* But if it is found that their interests suffer and that they do not share in the general progress, we must retain the means in our hand of helping them....."

3. The Sabha regrets that all these promises were thrown to the wind by the Southborough Committee which was subsequently appointed to devise franchise, frame constituencies and to recommend what adjustments were needed to be made in the form of the proposed popular Government as a consequence of the peculiar social conditions prevalent in India. So grossly indifferent was the Southborough Committee to the problem of making adequate provision for safeguarding the interests of the Depressed classes that even the Government of India which was not over-particular in this matter felt called upon in paragraph 13 of their Despatch on the Report of the Southborough Committee to observe : " We accept the proposals (for non-official nomination) generally. But there is one Community whose case appears to us to require more consideration than the Committee gave it. The Report on Indian Constitutional Reforms clearly recognised the problem of the Depressed classes and gave a pledge respecting them. The castes described as 'Hindus—others' in the Committee's Report though they are defined in varying terms, are broadly speaking all the same kind of people. Except for differences in the rigidity of their exclusion they are all more or less in the position of the Madras *Panchamas,* definitely outside that part of the Hindu Community which is allowed access to their temples. They amount to about one-fifth of the total population, and have not been represented at all in the Morley-Minto Councils. *The Committee's Report mentions the Depressed Classes twice, but only to explain that in the absence of satisfactory electorates they have been provided for by nomination. It does not discuss the position of these people or their capacity for looking after themselves. Nor does it explain the amount of nomination which it suggests for them. Paragraph 24 of the Report (of the Franchise Committee) justifies the restrictions of the nominated seats on grounds which do not suggest that the Committee were referring to the Depressed Classes.* The measure of representation which they propose for this Community is as follows :

Province	Total population in millions	Population of Depressed classes in millions	Total seats	Seats for the Depressed classes
Madras ..	39.8	6.3	120	2
Bombay	19.5	0.6	113	1
Bengal	45.0	9.9	127	1
United Provinces	47.0	10.1	120	1
Punjab	19.5	1.7	85	..
Bihar and Orissa	32.6	9.3	100	1
Central Provinces	12.0	3.7	72	1
Assam ..	6.0	0.3	54	..
Total ..	221.4	41.9	791	7

"These figures speak for themselves. It is suggested that the one-fifth of the entire population of British India should be allotted seven seats out of practically 800. It is true that in all the Councils there will be roughly a one-sixth proportion of officials who may be expected to bear in mind the interests of the depressed (?); but that arrangement is not, in our opinion, what the Report on Reforms aims at. The authors stated that the Depressed Classes should also learn the lesson of self-protection. It is surely fanciful to hope that this result can be expected from including a single member of the Community in an Assembly where there are 60 to 90 Caste-Hindus. To make good the principles of paragraphs 151, 152, 154 and 155 of the Report we must treat the out-castes more generously....."

4. The Sabha feels happy that it is not alone in its opinion as to the injustice done to the Depressed Classes by the framers of the Reforms Scheme of 1919. This opinion was also shared by the Muddiman Committee which was appointed two years afterwards to report upon the possibility of improving and enlarging the scheme of Reforms. That Committee admitted in its Report (Paragraph 64) that the representation granted to the Depressed Classes under the Scheme was inadequate.

5. *Extent of Representation that must be granted to the Depressed classes.*— What then should be the extent of the representation of the Depressed Classes which can be said to be adequate ? In the opinion of the Sabha the following scheme for the composition of the Legislative Council of Bombay assuming that Sind will be separated from the Presidency may be deemed to satisfy the demand of the Depressed Classes for adequate representation :

Composition of the Bombay Legislative Council

FOR

I. BOMBAY PRESIDENCY WITHOUT SIND

	Constituencies	Total No. of seats	Reserved for the Depressed classes	Reserved for Moha-medans	Reserved for Marathas and allied castes
	I. GENERAL				
	(*a*) URBAN				
1.	Bombay City North ..	5	1	1	
2.	Bombay City South ..	3	....	....	
3.	Ahmedabad City	3	1	1	
4.	Surat City	1	....	....	Same as now
5.	Sholapur City	3	1	1	
6.	Poona	1	....	....	
	(*b*) RURAL ..				
	Northern Division ..				
7.	Ahmedabad District ..	5	1	1	
8.	Broach District	4	1	1	
9.	Kaira District	5	1	1	
10.	Panchmahals District ..	4	1	1	
11.	Surat District	5	1	1	
12.	Thana District	5	1	1	

Constituencies	Total No. of seats	Reserved for the Depressed classes	Reserved for Moha-medans	Reserved for Marathas and allied castes
Central Division				
13. Ahmednagar District ..	5	1	1	
14. Khandesh East District ..	6	1	1	
15. Khandesh West District ..	5	1	1	
16. Nasik District	5	1	1	
17. Poona District	6	1	1	Same as now
18. SataraDistrict	6	1	1	
19. Sholapur District ..	5	1	1	
Southern Division ..				
20. Belgaum District	5	1	1	
21. Buapur District	5	1	1	
22. Dharwar District ..	6	1	1	
23. Kanara District	4	1	1	
24. Kolaba District	4	1	1	
25. Ratnagiri District ..	6	1	1	
Total of General ..	112	22	22	
II. SPECIAL				
26. Labour Unions	4			
27. University	3			
28. Europeans	4			
29. Millowners	2			
30. Commerce	2			
31. Agriculture	3			
32. Inamdars	1			
33. Officials	9			
Total of Special ..	28			
Grand Total ..	140			

which should be the strength of the Bombay Legislative Council.

6. In case it is decided to keep Sind as part of the Bombay Presidency the Sabha would like to propose the following scheme for the composition of the Bombay Legislative Council :

Composition of the Bombay Legislative Council

FOR

II. BOMBAY PRESIDENCY WITH SIND

	Constituencies	No. of seats	Reserved for Depressed classes	Reserved for Marathas and allied castes
	I. NON-MOHAMEDAN			
	(*a*) URBAN			Same as now
1	Bombay City North	5	1	
2	Bombay City South	4	....	

	Constituencies				No. of seats	Reserved for Depressed classes	Reserved for Marathas and allied castes
3	Karachi City	..	..	..	1	....	
4	Ahmedabad City	..	..	..	3	1	
5	Surat City	..	..	..	2	....	
6	Sholapur City	..	..	..	4	1	
7	Poona City	..	..	..	2	....	
	(*b*) RURAL						
8	Ahmedabad District	..	..	..	5	1	
9	Broach District	..	..	..	4	1	
10	Kaira District	..	..	..	4	1	
11	Panch Mahals District	..	..	..	4	1	
12	Surat District	..	..	..	4	1	
13	Thana District	..	..	..	4	1	
14	Ahmednagar District	..	..	..	4	1	
15	Khandesh East District	..	..	..	5	1	
16	Nasik District	..	..	..	4	1	
17	Poona District	..	..	..	5	1	
18	Satara District	..	..	..	5	1	
19	Belgaum District	..	..	..	4	1	
20	Bijapur District	..	..	..	4	1	
21	Dharwar	..	..	..	4	1	
22	Kanara District	..	..	..	4	1	
23	Ratnagiri District	..	..	..	5	1	
24	Eastern Sind District	..	..	..	2	....	
25	Western Sind District	..	..	..	2	....	
26	Sholapur District	..	..	..	4	1	
27	Kolaba District	..	..	..	4	1	
28	Khandesh West District	..	..	..	4	1	
			Total	..	86	22	
	II. MOHAMEDAN						
	(*a*) URBAN						
29	Bombay City	..	..	..	2		
30	Karachi City	..	..	..	2		
31	Ahmedabad City	..	..	..	1		
32	Surat City	..	..	..	1		
33	Poona City	..	..	..	1		
34	Sholapur City	..	..	..	1		
	(*b*) RURAL						
35	The Northern Division	..	..	..	2		
36	The Central Division	..	..	..	3		
37	The Southern Division	..	..	..	3		
38	Hyderabad District	..	..	..	2		
39	Karachi District	..	..	..	2		
40	Larkana District	..	..	..	2		
41	Sukkur District	..	..	..	2		

Same as now

	Constituencies	No. of seats	Reserved for Depressed classes	Reserved for Marathas and allied castes
42	Thar and Parkar District	2		
43	Nawabshah District	2		
44	Upper Sind Frontier	2		
	Total ..	30		
	III. SPECIAL			
45	Labour Unions	4		
46	University	2		
47	Europeans	4		
48	Millowners	1		
49	Commerce	1		
50	Agriculture	1		
51	Inamdars and Jaghirdars	2		
52	Officials	9		
	Total for Special ..	24		
	Grand Total ..	140		

which should be the total strength of the Council.

7. In either case the demand of the Sabha is for 22 representatives of the Depressed classes in a Council composed of 140 members. The Sabha desires to state emphatically that this much representation to the Depressed classes in a Council of 140 is only just. The Sabha is aware that some people are likely to call such a demand as a very large one. Such a view must however be deemed to be the result of prejudice against the Depressed classes. It cannot be said to be founded upon any definite reason. The Sabha thinks that an exact idea as to the population of the Depressed classes would be a sufficient corrective to views of this sort. *For, it must be admitted that population is a measure by which to evaluate the representation that is to be granted to any community.* The computation of the exact strength of the Depressed classes is therefore a matter of considerable importance. The Depressed classes of the Bombay Presidency have already suffered an injustice at the hands of the Southborough Committee in 1919. That Committee gave in its Report a grossly wrong figure* as to the exact -strength of the Depressed classes in the Bombay Presidency—a figure which was absolutely unwarranted by the Census of 1911. So small was the strength of the Depressed classes shown by the Southborough Committee that even the paltry suggestion of the Government of India to give two representatives to the Depressed classes in the Bombay Legislative Council failed to have any effect. Similar attempt is now being made in responsible quarters to whittle down the population of the Depressed classes. For instance,

*The figure given by the Southborough Committee and adopted by the Government of India in the Table given above was 577,516. According to the authority relied upon by the Southborough Committee the population of the Depressed classes in the Bombay Presidency in 1911 was 2,145,208.

Mr. Bajpai speaking on behalf of the Government of India in the Legislative Assembly on the 23rd February 1928 said "that the population of the Depressed classes in India was much exaggerated and that the real strength of the Depressed classes was only 28½ millions and not 60 millions" as used to be stated theretofore. The Sabha fears that the Commission may fall into the same error in which the Southborough Committee fell and may in consequence make proposals based upon such erroneous calculation. The Sabha therefore desires to draw the attention of the Commission to what the Director of the Census of India has to say in this connection. In Chapter XI of Volume I of the Census of India 1921 the Director observes :

"Paragraph 193. It has been usual in recent years to speak of a certain section of the community as the 'Depressed classes'. So far as I am aware the term has no final definition, nor is it certain exactly whom it covers. In the Quinquennial Review of the Progress of Education from 1912 to 1917 (Chapter XVIII paragraph 505), the Depressed classes are specifically dealt with the point of view of educational assistance and progress, and in Appendix XIII to that Report a list of the castes and tribes constituting this section of the community is given. The total population classed according to these lists as depressed amounted to 31 million persons or 19 p.c. of the Hindu and Tribal population of British India. There is undoubtedly some danger in giving offence by making in a public report social distinctions which may be deemed invidious ; but in view of the lists already prepared and the fact that the 'depressed' have especially in South India, attained a class consciousness and a class organization, are served by special missions, 'raised' by philanthropic societies and officially represented in the Legislative Assemblies, it certainly seems advisable to face the facts and to attempt to obtain some statistical estimate of their numbers. I. therefore, asked Provincial Superintendents to let me have an estimate based on Census figures of the *approximate* strength of the castes who were usually included in the category of 'depressed'. I received lists of some sorts from all Provinces and States except the United Provinces, whose extreme delicacy of official sentiment shrank from facing the task of attempting even a rough estimate. The figures given are not based on exactly uniform criteria, as a different view is taken of the position of the same group in different parts of India, and I have had in some cases to modify the estimate on the basis of the figures in the educational report and of information from the 1911 reports and tables. *They are also subject to the general deject which has already been explained, that the total strength of any caste is not recorded.* The marginal statement [reproduced below] gives, however, a rough estimate of the *minimum* numbers which may be considered to form the 'depressed classes' of the Hindu Community. The total of these provincial figures adds up to about 53 millions. *This, however, must be taken as a low and conservative estimate since it does not include* (1) *the full strength of the castes and tribes concerned and* (2) *the tribal aborigines most recently*

absorbed in Hinduism, many of whom are considered impure. We may *confidently* place the numbers of the depressed classes, all of whom are considered impure, at something between 55 and 60 millions in India proper....."

POPULATION OF THE DEPRESSED CLASSES IN INDIA

Provinces	000's omitted
Total	52,680
Assam	2,000
Bengal	9,000
Bihar and Orissa	8,000
Bombay	2,800
C. P. and Berar	3,300
Madras	6,072
Punjab	2,893
U.P.	9,000
Baroda	177
Central India	1,140
Gwaliar	500
Hyderabad	2,339
Mysore	932
Rajputana	2,267
Travancore	1,260

8. This cautious and considered estimate of the Director of Census must supersede all guesses and surmises regarding the strength of the Depressed classes in the different Provinces of India. It destroys the validity of the estimate of Mr. Bajpai. For, it has been arrived at after scrutinizing the figures that have appeared in the Provincial Educational Reports which Mr. Bajpai says have formed the basis of his statement. Its correctness must be admitted. For, as the Director says it was arrived at after a deliberate investigation. The Sabha must therefore insist upon the Statutory Commission accepting these figures in preference to any other. According to this estimate the *minimum strength of the Depressed classes in the Bombay Presidency is 28,00,000 souls* or *10.8 p.c. of the total population. On the basis of their strength alone the Depressed classes are entitled to 15 seats out of a total of 140.*

9. If the strength of a community was the only factor governing the extent of the representation to be granted to it, then the demand for the seven extra seats for the depressed classes would no doubt appear to be one for an unearned increment. *It must however be recognised that the strength of the community cannot be taken as the sole factor in determining matters of this sort. The standing of a community is no less an important factor to be taken into account in determining its quota of representation.* The standing of the community must mean its power to protect itself in the social struggle. That power would obviously depend upon the educational and economic status of the community. It follows from the recognition of the principle that *the lower the standing of a community the greater is the electoral advantage it must get over the rest.* There can be no two opinions that the standing

of the Depressed classes both educational and economical is the lowest in this Presidency. Consequently they are entitled to some electoral advantage over what they are entitled to on the basis of their strength. This electoral advantage must be greater in the case of the Depressed classes than in the case of any other community of equal strength and standing; because no community can be said to form a submerged class in the same sense in which the Depressed classes do. Nor can any class be said to be burdened with those grave disabilities which form the common lot of the Depressed classes and which prevent them from rising above their degraded station in life. This is one reason why the Sabha feels justified in asking for this increment in representation. There is also another reason which the Sabha thinks must justify the extra representation claimed by it for the Depressed classes. The representation of a minority, if it is to protect the minority, must also be effective. If not, it would be a farce. To escape this reproach it must be recognized that *if a minority is to be protected then there must be enough representatives of the minority to save it from being entirely submerged.* To put the same thing in the form of a proposition, the effectiveness of a minority representation depends upon its being large enough to have the sense of not being entirely overwhelmed. In claiming this extra representation the Depressed classes, the Sabha thinks, are entitled to invoke this principle in their favour, in common with the rest of the minorities in the country.

10. *Necessity for impartial treatment of all minority communities.*—These principles governing the extent of representation are those which have been laid down by the Government of India in their despatch reviewing the Report of the Southborough Committee. The Sabha desires to point out that the case of the Depressed classes was more deserving of the application of such principles than that of any other community that could have been thought of in the whole of India. In practice, however, the benefit of these principles was rigorously denied to the Depressed classes all throughout India and was literally showered upon a community like the Mahomedans holding a stronger and better position in the country than can be predicated of the Depressed classes. To point out one such instance of unequal treatment the Sabha would invite the attention of the Commission to the two following cases : —

Provinces	Moslem Population	Seats for Moslems	Depressed classes Population	Seats for Depressed classes
Central Provinces	574,276	11	3,060,232	2
Bombay Presidency	1,207,443	7	1,627,980	1

Howsoever indignant one may feel over the perpetration of such injustice to the Depressed classes the Government of India does not blush at it. For, it had avowedly enunciated those principles for the very limited purpose of applying them to the Mahomedans only. This was due, as everyone knows, to the distinction the Government of India made in the political importance of the different communities. The Sabha protests against this grading of the citizens of a country on the basis of their

political importance. There can be no safe and secure rule except the one that all communities are politically of equal importance. This invidious distinction is at the root of all the communal troubles and is destructive of the principle of equal opportunity. The introduction of this principle in the governance of India at the time when the 1st instalment of Reforms was granted by Parliament was disastrous to the interests of the Depressed classes. The Sabha is glad to find the present Secretary of State recognizing the existence of the Depressed classes as a problem for serious consideration in the decision that may now be taken With regard to the enlargement of the scope of the Political Reforms already introduced. But the Sabha is anxious to point out that such recognition would be of no consequence to the Depressed classes if it is not reflected in the changes that may now be introduced into the framework of the constitution of the country.

11. *Mode of representation.*—The Sabha is opposed to the principle of nomination and would insist upon the extension of the principle of election to the Depressed classes. Election is not only correct in principle from the standpoint of responsible Government, but is also necessary in practice from the standpoint of political education. Every community must have an opportunity for political education which cannot well be secured otherwise than by the exercise of the vote. It must be regarded as unfortunate that the Depressed classes who need such education, more than any other community, should be denied an opportunity to take their share in the rapidly developing political life of India. There is also another reason why election in the case of the Depressed classes is a necessity. Ministership is a very important privilege and the Depressed classes cannot afford to forego the same. No great benefit can come to them from the introduction of Political Reforms unless they can find a place in the Cabinet of the country, from where they can influence the policy of the Government This opportunity will be denied to them so long as they are denied the opportunity of electing their own representatives. For, under responsible Government nominated members must continue to be ineligible for office. A system of representation like that of nomination which deprives the Depressed classes of this right must stand self-condemned.

12. Two objections are usually urged against the application of the principle of election to the Depressed classes.

(*a*) *Difficulty in forming constituencies.*—This objection, the Sabha thinks, must be ruled out of serious consideration as not being honest. If difficulty in the matter of forming constituencies was a consideration which led Government to prefer nomination to election in the matter of the representation of the Depressed classes, it is difficult to understand how the Government ventured to apply the principle of election to the Moslems and the Europeans. These communities are not less scattered than the Depressed classes and no constituencies can be formed for them including the existing one, which cannot be condemned as absurd from a logical point of view. All the same, the Government of Bombay did abandon its aesthetic sense

and undertook to form as symmetrical constituencies for these communities when it found impossible to form symmetrical ones. All these difficulties in regard to the formation of the constituencies for the Depressed classes are, however, set at rest under the scheme of representation outlined by the Sabha. The problem being thus simplified, no objection ought now to be raised for the substitution of the principle of nomination by the principle of election.

(*b*) *Difficulty in getting a sufficiently large electorate.*—Will there be a sufficient number of electors in any constituency to make the election of the Depressed classes to the Council a real election ? By way of pointing out a difficulty in substituting election for nomination this question is usually raised and answered in the negative. The difficulty would no doubt be there if it is decided that the existing pitch of the franchise is not to be touched and so long as the pitch continues where it now is, the Sabha must admit that the number of electors among the Depressed classes will be very few. But the Sabha thinks that the existing pitch of the franchise is unjustifiable on every ground. It has turned responsible Government into a mockery. It means a Government of the whole Presidency of two crores of people by a minority of seven lakhs who happen to have the good fortune of being voters under the existing franchise. Such a state of things is clearly vicious and cannot be allowed to continue in future, if there is to be responsible Government, not merely in name but also in fact. It is to be regretted that the question of franchise does not seem to have been adequately pressed by the class that is most vocal in demanding Reforms. Democracy is alleged to be the aim of that class, but if the truth be told, in the words of the Government of Burma, "they are in favour of democratic institutions mainly because they are making an appeal to a democratic nation. They could not very well call for democracy and leave the *Demos* out. Their chief interests in the Reforms is centered in the powers that they expect to gain over the executive. The broad franchise and responsible voting in its true sense by the rural electors is not at all the central idea of their demand. As long as their own class will furnish the Legislative Councillors who will exercise the desired control, it is immaterial to them whether these represent few or many voters." Whether or not this is the correct diagnosis of the difference of the Indian politicians to the important question of franchise, the fact remains that the question of franchise occupies in Congress politics a very subordinate place as compared to the question of the transfer of powers. In the opinion of the Sabha, this attitude of the Congress politicians is a reversal of the true relationship between the question of the franchise and the question of transfer of power. It must be admitted that the dictum of the Government of India that the forces which now hold the administration together cannot be withdrawn before satisfactory substitutes are ready to take their place, must find acceptance in all quarters which are willing to look at things from a proper perspective. Now these substitutes must obviously be the electors ; it follows therefore that the degree and the kind

of responsibility which can be introduced into the Government of the country will depend upon the strength of the electors. So vital is this question of the franchise that upon its determination alone can depend the degree of the transfer of political power. What should be the franchise is therefore a most important question. In the way in which it is determined at present the Sabha wishes to point out that the principle aim of representative Government has been lost sight of altogether. *Franchise means the right to determine the terms of associated life.* Franchise can mean nothing else. If that is the meaning of franchise, then it follows that it should be given to those who by reason of their weak power of bargaining are exposed to the risk of having the terms of associated life fixed by superior forces in a manner unfavourable to them. If this is true, then the very exigencies of representative Government demand that the franchise, if the term is properly understood, must be fixed so low as to bring it within the reach of the large majority of the poor and the oppressed sections of society. Indeed adult franchise is the only system of franchise which can be in keeping with the true meaning of that term. The Sabha would, however, be content if the franchise for the Legislative Council is fixed at the same level as that for the Taluka Local Board in the rural parts and Rs. 3 rental per month in urban parts of the Presidency. The fear often entertained on the part of the Government that such a lowering of the franchise will bring in a large part of unintelligent people is without foundation. Large property is not incompatible with ignorance. Nor is abject poverty incompatible with high degree of intelligence. Property may as well dull the edge of intelligence. On the other hand poverty does and often must stimulate intelligence. Consequently the adherence of the Government to a high property qualification as an insurance against ignorance is nothing but a superstition, which is sedulously cultivated by the classes and fostered by the Government in order to deprive the masses of their right to the making of their Government.

13. *System of Election.*—Free election in general constituencies is, in the opinion of the Sabha, out of the question so far as the Depressed classes are concerned. On the other hand the Sabha does not wish to ask for Communal electorates. In its opinion, it would be sufficient if the Depressed classes are provided with reserved seals in the general constituencies. In the case of the candidates for election from the Depressed classes the Sabha would urge the total abandonment of the residential qualification and a partial relaxation in the condition as to deposit.

14. *Representation in the Assembly.*—The Sabha respectfully protests against the non-recognition of the right of the Depressed classes in the Legislative Assembly in 1919. The Government of India is still supreme in important matters which are directly under its control or under the Reserved half of the Provincial Governments. Even in respect of the Transferred subjects it continues to have the power of superintendence. It is, therefore, obvious that in the direction of such large powers the Depressed classes should have some voice and the Sabha would, therefore, claim that three members

from the Depressed classes of the Bombay Presidency should be elected to the Legislative Assembly by their representatives in the Local Legislative Council.

II. Protection through Guarantees

15. In addition to the demand for adequate representation the Sabha feels that it must also demand the inclusion of clauses in the constitution of the country and as a fundamental part thereof guaranteeing the civil rights of the Depressed classes as a minority in the Bombay Presidency. Such guarantees must cover the recognition of the following propositions concerning the interests of the Depressed classes : —

(1) That the education of the Depressed classes shall be recognized as the first charge on the revenues of the Province and that an equitable and just proportion of the total grant for education should be earmarked for the benefit of the Depressed classes.

(2) That the right of the Depressed classes to unrestricted recruitment in the army, navy, and the police shall be recognized without any limitation as to caste.

(3) That for a period of 30 years the right of the Depressed classes for priority in the matter of the recruitments to all posts, gazetted as well as non-gazetted in all civil services shall be recognized.

(4) That the right of the Depressed classes to the appointment of a special inspector of police from amongst themselves for every District shall be recognized.

(5) That the right of the Depressed classes to effective representation (as defined above) on the Local Bodies shall be recognized by the Provincial Government.

(6) That the right of the Depressed classes to appeal to the Government of India in cases of violation of these rights by the Provincial Government shall be recognized and the Government of India shall be given the power to compel the Provincial Government to conform to the law in the matter.

16. *Justification of such guarantees.*—It may be argued that as the Depressed classes have been given adequate representation in the Council, there can be no danger to their rights, as there can be in the case of an unrepresented minority. Why then should there be these guarantees ? The Sabha demurs to this much faith in the efficacy of a representative form of Government to effectively protect a minority from the tyranny of the majority. In this connection the Sabha would like to invite the attention of the Commission to the views of John Stuart Mill who has observed that "the notion that the people have no need to limit their power over themselves, might seem axiomatic, when popular Government was the thing only dreamt about or read of as having existed at some distant period of the past. . . .. It was now perceived that such phrases as self-Government, and the power of the people over themselves, do not express the true state of

the case. The people who exercise the power are not always the same people with those over whom it is exercised; and the self-government spoken of is not the government of each by himself, but of each by all the rest. The will of the people, moreover, practically means the will of the most numerous or the most active *part* of the people, the majority of those who succeed in making themselves accepted as the majority ; the people, consequently, may desire to oppress a part of their number; and precautions are as much needed against this, as against any other abuse of power. The limitation, therefore, of the power of Government over individuals loses none of its importance when the holders of power are regularly accountable to the community, that is to the "strongest party therein. This view of things, recommending itself equally to the intelligence of thinkers and to the inclination of those important classes in European Society to whose real or supposed interests democracy is adverse, has had no difficulty in establishing itself; and in political speculations the tyranny of the majority is now generally included amongst the evils against which the Society requires to be on its guard."

17. From this it is obvious that representative Government cannot altogether do away with the necessity of such guarantees for the protection of the interests of the minorities in a nation. Indeed it may safely be asserted that a representative form of Government far from being a means of affording protection to the minorities must be deemed to be so very inadequate for that purpose that its introduction without a system of guarantees being made a part thereof was looked upon as a most dangerous experiment. The postwar history of Europe abounds in such cases. The peace treaties between the allied powers and Zechoslovakia, Austria, Hungary, Rumania and the Polish German Convention relating to Upper Silesia with their guarantee clauses for the benefit of the minorities bear eloquent testimony to the fact that the minorities cannot depend upon the representative form of Government but must seek protection in the form of guarantees of their rights.

18. If representative Government is so weak when operating among European peoples, where the secularisation of politics has gone far further, how much weaker must it be in India where politics is nothing but theology in action. It is this theology against which the Depressed classes must seek to be protected. How destructive is this theology of true citizenship has nowhere been described so well as in the Note by the Hon'ble Sir Alexander Cardew, K.C.S.I., I.C.S., to the Government of India contained in the letter No. 1146 (Reforms) dated the 31st December 1918. The following extracts are made from that Note :

> "2. It may first be asked whether the democratic idea is in accordance with the prevailing philosophy of the people of India. The fundamental principle of the modern democratic State is the recognition of the value of the individual and the belief that as each individual has but one life, full opportunity should be accorded to each to attain his maximum development in that life. Neither of these propositions is accepted in the current philo-

sophy of India. This rather holds that the present life is for each only one of a series of existences; that the position of each individual in this life has been determined for him by his merit or demerit in previous births ; and that, therefore, his place in the social organism is irrevocably fixed and cannot be changed. It may therefore be safely asserted that the root notions of democracy run counter to all the ideas which for thousands of years have formed the common stock of popular belief in India.

"3. Closely connected with the doctrine, that each man's place in the present birth has been determined by his actions in the past existences is the institution of caste which has the effect of stereotyping and fixing unalterably the position of each individual in the social scale. Thus a man born a Brahman cannot be other than a Brahman and a man born Pariah can never be other than a Pariah. Equality of opportunity is impossible under such conditions and it is neither recognized nor desired by Indian public opinion.

"4. At the apex of the caste pyramid stands the Brahman. This caste, originally representing, at least in Southern India, a racial difference, has established through a long period of time its absolute supremacy over all other castes. The Brahman's claim to supremacy is based not only on race and intellect but also on the injunctions of religion. The sanctity of a Brahman's person and religious merit to be obtained by feeding him, paying for his education, providing money for the marriage of his daughters, endowing him with land, has been an established belief in India for centuries..... Brahmans possessed numberless privileges.....

"6. With such predominence in most walks of life, it is not surprising that the Brahman has easily secured control in politics. ..... No representative of the great Pariah community nor of the Christian community has ever sat, or would ever have a chance of sitting, for one of these constituencies. This experience strongly suggests that the political machine in the future as in the past will be under the control of the Brahmans, unless special measures are resorted to, to secure adequate representation of the other classes.

"8. Next to the Brahman *sed longo intervello* comes the great group of Hindu—castes, some higher, some lower, generally grouped together as non-Brahmans but all equally exclusive and largely antagonistic to one another. It is notorious that if a member of one of these castes attains to a position of influence he fills the offices in his gifts with his fellow castemen. The Standing Orders of the Government recognize this tendency and contain directions to counteract it. The joint report is not ignorant of this, for it says, ' there runs through Indian Society a series of cleavages of religion, race and caste which constantly threaten its solidarity.' These distinctions of castes do not merely threaten the solidarity of Indian Society—they prevent such solidarity from ever existing.

"9. Below both the Brahmans and the non-Brahman caste Hindus, come the low castes or more correctly the persons of no castes who number

in this Presidency [*i.e.* Madras] some ten millions of people. For convenience they may be referred to as the Panchama or Pariah community. These people are regarded, not merely as belonging to a lower class, but as conveying by their very presence an actual pollution which requires purificatory religious ceremonies.

"13. The difficulty of introducing democratic institutions into a society such as this, illiterate, divided into hard and fast castes, with Brahman at the top, with the various Non-Brahman Hindu castes in the middle and the low castes liable to be oppressed impartially by both, at the bottom must be very great. Nor does this difficulty seem to have been sufficiently realized by the writers of the Joint Report. *Surely the first essential of any scheme of reform is that adequate safeguard should he provided for the good government of the inarticulate masses of the population* ....."

19. If this is a correct description of the existing state of affairs then the Minorities of Europe cannot be said to have a better case for obtaining guarantees of their rights than the Depressed classes. *Many people in the world have fallen low by force of circumstances. But having fallen they are free to rise. The Depressed classes on the other hand form a solitary case of a people who have remained fallen because their rise is opposed to the religious notions of the majority of their countrymen.* Much was made before the Muddiman Committee by certain persons of the resolutions passed by the various Legislative Councils, throwing open wells, dispensaries and dharamshalas to members of Depressed classes and of the circulars issued by Ministers of Education requiring children of the Depressed classes to be admitted to schools in common with the rest. But what a mockery such resolutions and circulars are will be apparent to the Commission from the perusal of Annexure A to this statement. It will illustrate the attitude of the majority towards the Depressed classes as evidenced by incidents reported from time to time in the various newspapers in the country (item Nos. 1 and 10). From a perusal of these news items it will be realized that the Depressed classes cannot be employed in the army, navy and the police, because such employment is opposed to the religious notions of the majority (item No. 8). They cannot be admitted in schools, because their entry is opposed to the religious notions of the majority (item No. 12). They cannot avail themselves of Government dispensaries, because Doctors will not let them cause pollution to their persons or to their dispensaries (item Nos. 2 and 5). They cannot live a cleaner and higher life, because to live above their prescribed station is opposed to the religious notions of the majority (item Nos. 1 and 6). So rigorous is the enforcement of the Social Code against the Depressed classes that any attempt on the part of the Depressed classes to exercise their elementary rights of citizenship only ends in provoking the majority, to practice the worst form of social tyranny known to history (item Nos. 4, 7 and 11). It will be admitted that when society is itself a tyrant, its means of tyrannising are not restricted to the acts which it may do by the hands of its functionaries and it leaves fewer means of escape,

penetrating much more deeply into the details of life, and enslaving the soul itself. Protection against such tyranny is usually to be found in the Police power of the state. But unfortunately in any struggle in which the Depressed classes are on the one side and the upper class of Hindus on the other, the Police power is always in league with the tyrant majority (item No. 11), for the simple reason that the Depressed classes have no footing whatsoever in the Police or in the Magistracy of the country.

20. In view of this, it is unfair to the Depressed classes to be lulled into the belief that their interests would be safe in the hands of their countrymen, because some Councils have passed resolutions and some of the Ministers have issued circulars favouring the Depressed classes. The Sabha desires to caution the Commission against being lured into forming a better opinion of the Hindu majority from its best instances. Pictures of loving exercise of authority on one side, loving submission to it on the other, of superior wisdom ordering all things for the greatest good of the dependants are very gratifying to read. But such pictures would be to the purpose only if any one from the Depressed Classes denied the existence of good men in the Hindu society. Nobody among the Depressed classes doubts that there would be great and universal happiness under the government of a good Hindu. But the fact is that laws and institutions require to be adapted not to good men but to bad. From this point of view, it is safer to grant the minority the necessary protection by the inclusion of guarantee clauses than to leave it unprotected on the fanciful ground that the tyrant majority has in it a few good men sympathetic to the minority. Such guarantees may be looked down upon by persons other than the Depressed classes as being unnecessary ; but from the standpoint of the Depressed classes it is but an essential safeguard. There is such an enormous dread of the Reforms prevalent amongst the Depressed classes that they have from the very beginning opposed their introduction. So strong was their feeling against the Reforms that in one of the addresses presented to Mr. Montague the Depressed classes declared "we shall fight to the last drop of our blood, against any attempt to transfer the seat of authority in this country from the British hands to the so-called high class Hindus." Nothing can allay such fears as the system of guarantees can do. Government is based upon faith and not upon reason. If the Depressed classes can have no faith in the new constitution it is statesmanship to buy that faith if it can be done so with the concession of guarantees herein demanded.

ANNEXURE A

Item No. 1

(From the *Times of India* 8th February 1928)

NO UPLIFT FOR ANTYAJAS

As a landmark in the rapid progress of Indian social reform, a lecture delivered last month by Mahamahopadhyaya Pandit Ananta Krishna Shastri (Professor, Calcutta University) to an audience of Sanatanist (orthodox) Agrawal Marwadis of Bombay in the local Nara-Narayan temple, deserves to be rescued from unmerited oblivion. The subject of the discourse was "The way to uplift the Patits (i.e. 'fallen' untouchables)", and the chair was graced by Shri Jagadguru Anantacharya Maharaj of the new Vaishnav temple in Bombay. The lecturer proved by citations from the Shastras that the various castes have always been in existence and will continue so to exist till the end of all time. He added that those who talk of uplifting the "Fallen" (Antyajas) are merely talking, and that, in fact, there is no way of uplifting the Antyajas in the sense of getting them admitted into any of the four castes or taking them out of their present social position.

ORTHODOX GENEROSITY

The learned lecturer suggested the only possible way of uplifting the "unupliftable Fallen", namely, generously restoring to them some of their inalienable professions at present encroached upon by unthinking and unorthodox caste people. "In this 20th century," said the Mahamahopadhyaya, "people on getting up in the morning sit down to clean their costly shoes instead of performing their appointed morning ritual. Next they sit down to shave themselves. And instead of cleaning their teeth in the Swadeshi style (i.e., with twigs of babool, etc.), they sit down to rub powder on their teeth with brushes. By doing all these things they deprive Mochis (cobblers), Hajams (barbers), and tooth-stick sellers of their livelihood. Let everyone do his duty according to Dharma and rest content. This is the only way to bring about the uplift of the Antyajas,—let those who have deprived these Fallen people of their means of livelihood restore it to them."

Item No. 2

(From the *Times of India* 2nd March 1928)

ANTYAJAS IN INDIA

But, the patriots will protest, all this happened in British India, not in Indian India. Well, we know what happened to Balais only the other day in a big Central India Native State for wearing gold and silver ornaments and absurdly presuming to behave like touchable caste Hindus. And this is what the *Saurashtra* reports about the Antyajas in Baroda territory where the Maharaja himself sympathises so deeply with these unfortunates : "The order to admit Antyaja boys into Gujarati schools is on paper only. In nearly

95 per cent. of schools the Antyaja children are made to sit outside in the cold, heat or rain, and they are made to fetch cowdung, fuel, droppings, dust etc……. In April 1927 an Antyaja went to the Damnagar dispensary for medicine. The Doctor made him wait for twelve hours and then examined him—from a distance and gave him medicine—from a distance. This happened in the presence of an Antyaja member of the Baroda Legislative Assembly." And the *Pratap* of Surat tells us that when a teacher in the Navasari Antyaja Ashram took an ailing boy to the local hospital, the doctor in charge drove them both away with these remarkable words : "Get away ! This is not Gandhi Raj but Baroda Sarkar's Raj !"

Item No. 3

(From the *Evening News* 11th May 1926)

UNTOUCHABLE IN JAMBUSAR MUNICIPALITY

FOUR HINDUS RESIGN

A sensation has been caused in Jambusar at the election of an untouchable to the Jambusar Municipality. Four Hindu members have resigned, while the rest have promised not to touch the untouchable member and to bathe if ever they touched him.

Item No. 4

(From the *Bombay Chronicle*)

KOLABA DEPRESSED CLASS CONFERENCE

ROWDYISM OF UPPER CLASS HINDUS

The *Times of India* in its issue of the 24th gives a statement of the riot at Mahad. But as that statement is incomplete and fails to give a correct idea of what happened it is necessary to give a complete and correct account of the riot.

A Conference of the Depressed Classes of the Kolaba District was held at Mahad on the 19th and 20th instants *[i.e.* of March 1927] under the Presidentship of Dr. B. R. Ambedkar, Bar-at-Law. The attendance of the depressed classes was over 2,500 and great enthusiasm prevailed. But the work of the Conference was severely marred by a riot, the responsibility for which rests entirely upon the upper class Hindu residents of the town of Mahad. On the first day of the Conference after the President had delivered his address, several upper class Hindus addressed the Conference assuring the depressed classes that, they were willing to help them in all ways and urging that the depressed classes should not cultivate hatred of the upper class Hindus. In pursuance of this, the Subjects Committee drafted a resolution among others laying down what the upper class Hindus should do for the uplift of the depressed classes. In the Subjects Committee attention was drawn by some people to the fact that there was a great difficulty at Mahad for the depressed classes in obtaining water for drinking purposes and that this difficulty was felt not only by the resident depressed classes of Mahad but also by the depressed classes from villages who resorted to Mahad for private business or for the purposes of Government

work. So great was the scarcity that water worth Rs. 15 had to be bought each day to satisfy the needs of the Conference. The Municipality of Mahad had sometime ago passed a resolution declaring the tanks in the city to be open to the public but as it had not placed a board there, people feared to resort to them. The Subjects Committee, therefore, decided after taking the sense of the upper classes who attended the Conference in this matter, that the Conference should go in body to the Chowdar tank and help the depressed classes, in establishing their right to take water.

A FALSE RUMOUR

When, therefore, the Conference met on the morning of the 20th, and the first resolution which declared what the upper classes should do for the depressed classes was put before the Conference by members of depressed classes the President requested Messrs. Purushottam Prabhakar Joshi and Govind Narayan Dharya [as representatives of the upper classes] to speak on the resolution. With the exception of one clause in the resolution dealing with inter-marriages they both accepted the resolution. Having thus assured itself that there was general support behind it the Conference when the Session was over, went in body to the said tank. The procession was a most peaceful one and everything passed off quietly. But after about two hours some evil minded leaders of the town raised a false rumour that the depressed classes were planning to enter the temple of Vireshwar, whereupon a large crowd of riff raffs were collected all armed with bamboo sticks. The crowd soon became aggressive and the whole town at once became a surging mass of rowdies who seemed to be out for the blood of the depressed classes.

TWENTY WOUNDED

The depressed classes were busy in taking their meal before dispersing to their villages. When a large part of them had left the town the rowdies entered the kitchen where the depressed classes were taking their food. There would have been a regular battle between the two forces; but the depressed classes were held back by their leaders and thus a far more serious riot was averted. The rowdies finding no occasion for provocation began patrolling the main street and assaulting the members of the depressed classes who in stray batches were passing along on their way to their villages and committed trespass in the houses of several depressed class people and gravely assaulted them. In all, the number of wounded, among the depressed classes is supposed to be as large as 20. In this the attitude of the depressed classes was commendable whereas the attitude of many of the upper classes was unworthy. The depressed classes assembled vastly out-numbered the upper classes. But as the object of their leaders was to do everything in a non-violent and absolutely constitutional manner they set their faces against any aggression on the part of the depressed classes. It speaks a great deal in favour of the depressed classes that although the provocation given to them was immense they kept their self-control. The Mahad Conference has shown that the upper classes are not willing to allow the depressed classes to enjoy such elementary civic rights as taking water from public water-courses.

The most reprehensible part of the conduct of the upper caste Hindus in Mahad and Kolaba District was that messages were sent immediately to the different villages asking the upper class people there to punish the delegates of the Conference as soon as they returned to their respective villages. In obedience to this mandate assaults were committed on a number of Mahars returning from the Conference either before or after they reached their villages where the depressed classes have the disadvantage of being overwhelmingly out-numbered by the upper caste Hindus. The leaders of the depressed classes have appealed to the authorities for protection and the District Officials including the D. S. P. are making enquiries on the spot. It must, however, be stated that if the Resident Magistrate had not allowed two precious hours to pass without doing anything the riot would have probably been averted.

Item No. 5

(From *Young India* 5th May 1927)

MAN'S INHUMANITY TO MAN

(*By M. K. Gandhi*)

In another column will be seen an extract from *Navajivan* of a most disgraceful case of calculated inhumanity of a medical man towards the dying wife of a member of the suppressed class in a Kathiawad village. Sjt. Amritlal Thakkar who is responsible for giving the details of the case has withheld the names of the place and parties for fear of the poor suppressed class schoolmaster being further molested by the medical man, I wish, however, that the names will be disclosed. Time must come when the suppressed class people will have to be encouraged by us to dare to suffer further hardships and tyranny. Their sufferings are already too great for any further sufferings to be really felt. Public opinion cannot be roused over grievances that cannot be verified and traced to their sources. I do not know the rules of the Medical Council in Bombay. I know that in other places a medical practitioner, who refused to attend before his fees were paid, would be answerable to the Council and would be liable to have his name removed from the Council's list and be otherwise subject to disciplinary action. Fees are no doubt exactable; but proper attendance upon patients is the first duty of a medical practitioner. The real inhumanity, however, if the facts stated are true, consists in the practitioner refusing to enter the untouchable's quarters, refusing himself to see the patient, and refusing himself to apply the thermometer. And if the doctrine of untouchability can ever be applied in any circumstances, it is certainly applicable to this member of the profession which he has disgraced. But I am hoping that there is some exaggeration in the statement made by Sjt Thakkar's correspondent and, if there is none, that the medical practitioner will himself come forth and make ample amends to the society which he has so outraged by his inhuman conduct.

READ, REFLECT AND WEEP

There is a school for the children of the suppressed classes in a village in Kathiawad. The teacher is a cultured, patriotic man belonging to the *Dhedh* or Weaver (untouchable) class. He owes his education to the compulsory education policy of His Highness the Gayakwad and had been doing his little bit for the amelioration of his community. He is a man of cleanly habits and refined manners, so that no one can recognise him as belonging to the untouchable class. But because he had the fortune or misfortune of teaching the children of his own community in a conservative village in Kathiawad, everyone regards him as an untouchable. But unmindful of that he had been silently working away. There are some moments, however, when the most patient man living under intolerable conditions may give vent to agony and indignation, which are evident in the following letters from the schoolmaster. Every little sentence in it is surcharged with pathos. I have purposely omitted the names of the village and all the people mentioned in the letter, lest the schoolmaster should come into further trouble.

Namaskar. My wife was delivered of a child on the 5th instant. On the 7th she was taken ill, had motions, lost her speech, had hard breathing and swelling on the chest, and her ribs were aching painfully. I want to call in Dr.—, but he said 'I will not come to the untouchable's quarters. I will not examine her either.' Then I approached the Nagarsheth—and the Garrsia Durbar—, and requested them to use their good offices for me. They came and on the Nagarsheth standing surety for me for the payment of Rs. 2 as the doctor's fee, and on condition that the patient would be brought outside the untouchable's quarters, he consented to come. He came, we took out the woman who had a baby only two days old. Then the doctor gave his thermometer to a Musalman who gave it to me. I applied the thermometer and then returned it to the Musalman who gave it to the doctor. It was about eight O'clock, and having inspected the thermometer in the light of a lamp, he said: 'She has pneumonia and suffocation'. After this the doctor left and sent medicine. I got linseed from the market and we are applying linseed poultice and giving her the medicine. The doctor would not condescend to examine her, simply looked at her from a distance. Of course I gave Rs. 2 for his fee. It is a serious illness. Everything is in His hands !

II

The light in my life has gone out. She passed away at 2 O'clock this afternoon.

Comment is needless. What shall one say about the inhumanity of the doctor who being an educated man refused to apply the thermometer except through the medium of a Musalman to purify it, and who treated an ailing woman lying in for two days worse than a dog or a cat ? What shall one say of the society that tolerates this inhumanity ? One can but reflect and weep.

A.V. THAKKAR

Item No. 6

(From the *Times of India* dated 1-4-28 and 10-2-28)

TYRANNY OF HINDUS

RULES FOR BALAIS

Mode of life laid down

Last May high caste Hindus, viz., Kalotas, Rajputs, and Brahmins including the patels and patwaris of villages Kanaria, Bicholee Hafsi, Bicholi Mardana, and of about 15 other villages in the Indore district informed the Balais of their respective villages that if they wished to live among them, they must conform to the following rules :—1. Balais must not wear gold lace bordered pugrees ; 2. They must not wear dhoties with coloured or fancy borders ; 3. They must convey intimation of the death of any Hindu to relatives of deceased—no matter how far away these relatives may be living ; 4. In all Hindu marriages, the Balais must play music before the processions, and during the marriages ; 5. The Balai women must not wear gold or silver ornaments ; they must not wear fancy gowns, or jackets ; 6. Balai women must attend all cases of confinement of Hindu women ; 7. The Balais must render services without demanding remuneration, and must accept whatever a Hindu is pleased to give ; 8. If the Balais do not agree to abide by these terms, they must clear out of the villages.

BALAIS REFUSE COMPLIANCE

The Balais refused to comply ; and the Hindu element proceeded against them. Balais were not allowed to get water from the village wells; they were not allowed to let go their cattle to graze. Balais were prohibited from passing through land owned by a Hindu ; so that if the field of a Balai was surrounded by fields owned by Hindus, the Balai could have no access to his own field. The Hindus also let their cattle graze down the fields of Balais. The Balais submitted petitions to the Darbar against these persecutions ; but as they could get no timely relief, and the oppression continued hundreds of Balais, with their wives and children, were obliged to abandon their homes in which their ancestors lived for generations, and migrate to adjoining States, viz., to villages in Dhar, Dewas, Bagli, Bhopal, Gwalior, and other States.

COMPULSORY AGREEMENT

Only a few days ago the Hindus of Reoti village barely 7 miles to North of Indore City ordered the Balais to sign a stamped agreement in accordance with the rules framed against the Balais by the Hindus of other villages. The Balais refused to comply. It is alleged that some of them were beaten by the Hindus ; and one Balai was fastened to a post, and was told that he would be let go on agreeing to sign the agreement. He signed the agreement; and was released. Some Balais from this village ran up to the Prime Minister, the next day, i.e., on the 20th December, and made a complaint about the ill-treatment they have received from the Hindu villagers of Reoti. They were sent to the Subha of the District. This Officer, with the help of the Police, made inquiries at the village, and recommended that action be taken against

the Hindus under Sections 342 and 147 and against the Balais under Section 147, Indian Penal Code.

BALAIS LEAVE VILLAGES

CASTE TYRANNY

IGNORANCE OF LAW, A HANDICAP

There has been no improvement in the treatment of the Balais by the Hindu residents of certain villages. Balais, it has already been reported, have been ill-treated by the higher caste Hindus. From the Depalpur Pergana alone, Indore District a large number of Balais have had to leave their homes and find shelter in adjoining States. The villages from which Balais have been forced to clear out are Badoli, Ahirkheral, Piploda, Moof-khera, Pamalpur, Karoda, Chatwada, Newri Pan, Sanauda, Ajnoti, Khatedi, and Sanavda. Pamalpur village has been altogether deserted, and not a Balai, man, woman, or child, is to be found there. Nanda Balai, a resident of one of the above villages, it is alleged, was severely beaten by the Hindus of the village. In one village, the report goes, the Hindus burnt down all the dwellings of the Balais but the offenders have not yet been traced.

Balais are ignorant village folk, who are ignorant of legal procedure and think that if a petition is sent to the *Sirkar* all that is required will be done for them. They have not the knowledge, or the means and practice to pursue a complaint to its end ; and, as they, it is said in some cases, failed to attend or produce witnesses in support of their allegations, the Magistrate had no alternative but to dismiss their complaint.

Item No. 7

(From the *Bombay Chronicle* 25th February 1928)

ORTHODOXY RUN MAD

ALLEGED BARBAROUS TREATMENT OF "UNTOUCHABLES"

CRIME OF BEING MAHARS

Mr. Keshavaji Ranchhodji Vaghela from Ahmedabad has informed Dr. B. R. Ambedkar, President, Bahishkrit Hitkarini Sabha as follows :

One Bapoorao Laxman and his brother Kaurao have been residents of Ahmedabad during the last six years. They used to mix with some people from the Deccan belonging to Maratha caste, Kaurao's two sons viz. Damoo and Laxuman used to take part in the Bhajan parties of the Marathas. The latter, however, recently came to know that the brothers Damoo and Laxuman were Mahars by caste and in order to ascertain this, two Mahars employed on the Parcel Train between Surat and Ahmedabad were specially called to identify Damoo and Laxuman. After it was ascertained that Damoo and Laxuman were Mahars they were called at a Bhajan party at Kalupur, Bhanderi Pole, at midnight on the 11th instant. Asked as to what caste they belonged to, Damoo and Laxuman replied that they were Somvanshis. This reply enraged the Marathas who freely abused them for having defiled their persons and places. The Mahar brothers were also assaulted by the Marathas. One of the brothers had a gold ring on his person. It was forcibly taken

away from him and sold for Rs. 11. Out of this amount Rs. 6 was paid to the Mahars who had been called from Surat to identify the brothers. Damoo and Laxuman entreated the Marathas to allow them to return to their homes, the latter refused to do so unless a fine Rs. 500 was paid. On the Mahar brothers pleading their inability to pay such a heavy sum, one of the Marathas suggested that the Mahar brothers should be fined only Rs. 125. But then one of the Marathas opposed the proposal for fine saying that they should not be satisfied with fine, but should punish the Mahars severely for their crime of concealing their caste. Having decided upon the course, the Mahar brothers were detained and at about 9 O'clock in the morning they were subjected to barbarous indignities. Their mustaches in the left side and eyebrows on the right side were shaved, their bodies besmeared with soot mixed in oil and also with dirt, garlands made of old shoes were put around their necks, and one of them was asked to hold a broom in his hand and the other to hold a placard on which it was written that the punishment was meted out to the culprits for venturing to touch high caste people. The Mahar brothers were taken in procession consisting of about 75 people, a drum being beaten in the front.

A complaint has been lodged with the Police by the said two Mahar brothers. The accused in their statement have admitted that Damoo and Laxuman were treated in the alleged manner, but pleaded that, the complainants had willingly agreed to undergo the punishment. Obviously Damoo and Laxuman were helpless when they were abused, assaulted and threatened with severe punishment and actually subjected to barbarous indignities. This case has created a great sensation among the people belonging to the so-called untouchables castes and efforts are being made to give proper legal aid to the complainants.

Item No. 8

(Bombay Legislative Council Debates 1927, Vol. XX)

(Part XVI**,** p. 1373)

Police : Enlistment of Mahars

Dr. B. R. Ambedkar: Will Government be pleased to state whether there is any rule prohibiting the enlistment of the Depressed classes in the police constabulary force of the Presidency ?

The Honourable Mr. J. E. B. Hotson : There is no such rule.

Dr. B. R. Ambedkar: Will the Honourable Member please inform me why the Commissioner of Police for the city of Bombay refuses to appoint depressed class members in the police constabulary if there is no restriction ?

The Honourable Mr. J. E. B. Hotson : This opens up a very large subject, I can only say that there are practical difficulties which are known to every member of this House, and which stand in the way of the more extensive enlistment of these classes in the police. There is no prohibition against it.

N.B.—The practical difficulties referred to by Mr. Hotson are evidently difficulties arising **out** of untouchability.

Item No. 9

(Bombay Legislative Council Debates 1928, Vol. XXII)

(Part II, pp. 96-97)

Clerks in Government Service

Mr. R. S. Asarale: Will Government be pleased to state the total number in the clerical ranks in the offices of the various departments of [Government] ?

The Honourable Sir Chunilal Mehta: A statement giving the requisite information is placed on the Council Table :

	Marathas and allied castes	Muhammadans	Depressed classes	Advanced Hindus	Parsis	Christians and Jews	Others	Total
I The Secretariat.	31	11	..	268	38	81	11	440
II P. W. D.	6	..	..	64	8	10	3	91
III Collector of Bombay	3	8	..	28	..	4	1	44
IV Commissioner of Excise.	1	..	..	12	5	..	..	18
V Small Causes Court.	9	7	..	58	1	5	8	97
VI High Court.	4	15	..	125	22	23	9	198
VII Bombay Police Courts.	7	4	..	32	..	4	..	47
VIII Commissioner of Police, Bombay.		7	..	59	..	4		87

Item No. 10

(From the *Times of India* 30th May 1928)

THROUGH INDIAN EYES

"CHAMARDAS AND MAHARDAS"

How sincere the political lions are when they roar about the disabilities and hardships of the Untouchables, was clearly brought out at the Maharashtra Conference when the question of the removal of untouchability was adroitly shelved. Among the half dozen or so of protestants against this trick were men belonging to the *Swarajya.* One of them wrote in that paper an outspoken article, exposing the general Hindu outlook on the thorny problem,

which throws much light on what the Maharashtra Conference did. "While speaking to me the other day," says the writer about the Samata Sangha (Social Equality Society) of Poona, "a friend of mine said : 'Because people like you join them, these Chambhardas and Mahardas (contemptible Chamars and Mahars) become insolent' ..... . From this utterance one can realise what a terrible hatred of the Untouchable classes still exists among the upper classes."

RESOLUTIONS AND ACTS

The sad reformer continues : "Mahatmaji issued a proclamation that untouchability was a blot on Hindu dharma; Swamy Shraddhanand and Lala Lajpatrai have said all along that we shall never be able to win Swaraj if untouchability is not removed from Hindu Society ; during the last seven years resolutions for its removal are being adopted by the Congress; but what is the actual result of all these activities ? Utterances like the one given above are still coming out of the mouths of highly educated persons ! We pass resolutions in the Congress and the Hindu Sabha advocating temple entry of Untouchables and urging that public tanks, wells, etc., should be thrown open to them. But when the time for putting them into practice comes, we contemn the Untouchables, nay, we assault them and then proceed legally against them and send them to jail."

Item No. 11

RESOLUTIONS PASSED AT THE DEPRESSED CLASSES CONFERENCE HELD AT DAPOLI (District Ratnagiri)

1. *(a)* This Conference express indignation at the campaign of persecution carried on by the so-called high caste Hindus in this district against the depressed classes for the refusal on the latter's part to eat the meat of dead animals.

(*b*) This Conference is extremely grieved to find that the Police officers and Magistrates in the district systematically abuse the depressed class people instead of giving them protection against the tyranny and injustice to which they are being subjected by the so-called high caste Hindus through impounding the cattle of the former, committing assaults on them and making it impossible for them to obtain the necessaries of life in the bazars by observing a strict social bycott against them.

(*c*) This Conference appeals to the Government to take steps for having the usual *baluta* remuneration paid to the Watandar Mahars who have been deprived of the same by the high caste Hindu villagers owing to the former's refusal to eat the carrion and carry dead animals, beg alms and do other unclean things.

2. (*a*) Having come to know that in a number of villages it is the Police Patel who countenances the campaign of persecution against the depressed class people, this Conference requests the Government to take proper steps against such Police Patels.

(*b*) This Conference requests the Government to appoint in each district a special Police Inspector from amongst the depressed classes for the protection of these classes and to admit recruits from these classes in the police service.

(*c*) This Conference requests the Government immediately to quarter punitive police under the command of military pensioners belonging to the depressed classes, at the villages of Vadval, Matven, Tulsi, Degaon, Mandangad, Satara etc. at the expense of the so-called high caste Hindus residing in these villages in view of the fact that owing to harassment and social boycott and open assaults it has become impossible for the depressed classes to live in these villages.

3. This Conference is emphatically of the opinion that no further instalment of self-government be given to India except with proper safeguard for the interests of the depressed classes.

Item No. 12

(From the *Bombay Chronicle* dated 20-10-27)

MUNICIPAL SCHOOLS [IN THE CITY OF BOMBAY]

The Schools Committee has made itself ridiculous by taking fright at the little question of drinking "lotas" (pots). It seems that, in spite of the Corporation's resolution that there should be no caste discrimination in the Municipal Schools, "depressed" class children are given separate pots for drinking water. A sub-committee of the Schools Committee recommended that all children should be given the same pots. But the members of the Schools Committee gravely cogitated over this recommendation and entertained all sorts of fears. Some said that the change would be resented by the caste Hindus ; evidently, the resentment of the "low" caste Hindus does not count for much. Prof. V. G. Rao said that it was a revolutionary change and Mr. D. G. Dalvi, himself a well-known social reformer, added to these fears a legal one, that some parents might file a suit against the Committee. Ultimately the Schools Committee referred the question back to the sub-committee, which was tantamount to saying that the latter's recommendation was not acceptable to them.

A CALCULATED INSULT

The fears mentioned above are absurd, as every boy is expected to wash a pot well before using it, on sanitary and—if he is so minded—on caste grounds. That a pot once used by an "untouchable" boy becomes itself untouchable or unusable by the "high" caste Hindus in spite of its being washed clean, is a calculated insult to the unfortunate "depressed" classes, which we certainly did not expect the Schools Committee to countenance. Mr. Dalvi stated that in view of compulsory education in some Wards parents might file a suit against the Committee "for enforcing an obligation which was by no means a legal one". But nobody is under an obligation to

use the common pots in the schools. Those parents who are so over scrupulous may give their own pots to their children and thereby protect their "religion". As for the "depressed" classes the insult to them remains, whether they bring their own pots or betake themselves to other schools where better notions of justice prevail.

D

EVIDENCE OF Dr. AMBEDKAR BEFORE THE INDIAN STATUTORY COMMISSION ON 23rd OCTOBER 1928

INDIAN STATUTORY COMMISSION, POONA*

Dated 23rd October 1928

PRESENT

ALL THE MEMBERS OF THE COMMISSION, OF THE CENTRAL COMMITTEE (EXCEPT RAJA NAWAB ALI KHAN) AND OF THE BOMBAY PROVINCIAL COMMITTEE

Dr. B. R. Ambedkar (a member of the Bombay Committee) and Dr. P. G. Solanki (representing the Depressed Classes), called and examined.

Chairman : Just to remind my colleagues, the documents we should have before us are : Dr. Ambedkar's Statement on behalf of the Depressed Classes' Institute of Bombay and the Joint Memorandum of the Depressed Indian Association, Bombay, and the Servants of Somavamshi Society. Dr. Ambedkar has changed his seat, because he is acting for the moment as one of our witnesses. Dr. Ambedkar, of course, we know as a member of the Bombay Committee. I think, Dr. Solanki, you or your Association is responsible for the other document ?

Dr. Solanki : I concur in the document submitted by Dr. Ambedkar.

2. I should like you to begin, Dr. Ambedkar, by helping us as to the sort of number of depressed classes in this Presidency. Can you help us about that?

Dr. Ambedkar : I find that the depressed class population, as computed in the Memorandum submitted by the Government of Bombay is estimated at 1,478,390 as may be seen from page 3 of their Memorandum (Vol. VII).

3. Let us see. They say, "The depressed classes, which include mostly the Dheds, Mangs, Mahars and Holiyas, number, according to the Census

*Indian Satutory Commission, Vol. XVI. Selections from Memoranda and Oral Evidence, Part I, published by His Majesty's Stationery Office, London, 1930, p. 52-75. This Commission is popularly known after its Chairman Sir John Simon.

of 1921, 1,478,390 approximately." What do you say about that figure?

Dr. Ambedkar : As you will see. the figure I have given on page 39 of my Memorandum is about 28 lakhs.

4. You think the number should be about 2,800,000 ?

Dr. Ambedkar : Yes.

5. How does the discrepancy arise ?

Dr. Ambedkar : The first thing I should like to say is this, that the figures given by the Government of Bombay are taken, I believe, from the Census of India, 1921, Vol. 8, Bombay Presidency, Part II, the tables starting on page 176, while the figures which I give in my memorandum are from Chapter 11 of Vol. 1 of the Census of India, 1921. These are the figures estimated by the Director of Census, who has collected the figures of the different Provinces, and his computations, which I have taken bodily, are given on page 39 of my memorandum under the heading "Population of the Depressed Classes in India", and show the figures for the different Provinces, giving the population of the depressed classes in each. Now, as we see, there is this discrepancy between the two sets of figures. These figures of course, can never be exact, neither the Provincial nor the Central figures. In fact, if the Conference will refer to the remarks of the Director of the Census of India, which I commence quoting on page 39 of my memorandum, it will be seen that, after giving the total estimated population of the depressed classes he goes on to say (page 39 of memorandum, in italics)*, "This, however, must be taken as a low and conservative estimate since it does not include (1) the full strength of the castes and tribes concerned, and (2) the tribal aborigines most recently absorbed in Hinduism, many of whom are considered impure. We may confidently place the numbers of the depressed classes, all of whom are considered impure, at something between 55 and 60 millions in India proper." Then he gives the figures for each province.

6. Would you mind if I just try to clear my own mind, not by reference to precise figures, but by contrasting two conceptions ? It is manifest that if some authorities, speaking with the precision of Census returns, give a total like 1,478,000, and other authorities, also speaking with precision, give a figure like 2,800,000, the second authorities must be including people not included by the first ?

Dr. Ambedkar : That is so, and I should, therefore, like to point out to the Conference that the provincial figures do not include certain castes which are, as a matter of fact, untouchable castes.

7. May we put it like this ? See if I have it correct, and if I have not please tell me. I have been studying it as well as I can, although I have been looking forward to your help and that of Dr. Solanki. In one sense of the term, by "Depressed Classes" you might mean untouchables in the sense of persons who are Hindus, but who are denied access to the Hindu temples,

**See* para. 7, Quotation paragraph 193 at pages 436-37 of this book.

might you not ?

Dr. Ambedkar : Yes.

8. In another sense you might include in the "Depressed Classes" not only those people whom I have described, but also the criminal tribes, the hill tribes and other people who no doubt are very low in the scale, but who are not, perhaps, in the narrower sense untouchables from the point of view of the Hindus hierarchy ?

Dr. Ambedkar: Quite.

9. Is not that a possible view ?

Dr. Ambedkar : That is a possible view.

10. Is not that the real explanation of why in some connections you get a certain figure for the depressed classes, meaning untouchables, persons who are refused admission to the Hindu temples, whereas on the other hand you sometimes get a bigger figure which would include these criminal and hill tribes ?

Dr. Ambedkar : I do not think that is so in this case, because the figures I have given seem to have reference to the depressed classes as distinct from the hill tribes and the criminal tribes.

11. Let me point this out to you. I have before me these three figures. I have got a figure of 1,478,000 odd for untouchables taken from the Census of 1921, and made up of these Mahars, Dheds and other people. Then I have a long list of criminal tribes and so on, which adds up to 589,000—just over half a million. Then I have a third list of aboriginals and hill tribes—Bhils, and people of that sort—and they add up to another million. If you were to add the aboriginal and criminal tribes in with the first figure, you would get a total approximately like the larger figure you give of 2,800,000 ?

Dr. Ambedkar : The quotation I reproduce on page 39 of my memorandum from the remarks of the Directors of the Census gives me the impression that his figures are strictly for the depressed classes. My feeling is that the figures computed by the Director of the Census and referred to by him in the paragraph which I quote on page 39 of my memorandum are figures which apply only to the depressed classes.

12. ……. I see that the Director of the Census of India for 1921 says this : "It has been usual in recent years to speak of a certain section of the community as the 'Depressed Classes'—so far as I am aware the term has no final definition, nor is it certain exactly whom it covers." Then he refers to some educational criticisms. That is the passage you mean ?

Dr. Ambedkar : Yes, and "The total population classed according to these lists as depressed amounted to 31 million persons or 19 per cent. of the Hindu and tribal population of British India." That remark would appear to exclude the tribal people from the depressed classes.

13. I do not know. Anyhow, that is one possible explanation, and I think you agree a possible explanation is that the smaller figure is the figure of untouchables in the sense I have tried to define. I think you agree

that is a possible view. It is manifest that for many purposes those interested in trying to promote the advancement and elevation of those who are most depressed may very well include in their survey a wider number of persons, including the criminal and hill tribes. That is a possibility ?

Dr. Ambedkar : It is a possibility.

14. I should like to suggest to you another possible view. I do not know if it qualifies it. On page 39 of your document you point out, quite accurately, I think, that if you add the provincial figures together you get something like 55 to 60 millions in India proper ?

Dr. Ambedkar : Yes.

15. "India proper" there, I think, would include the Indian States?

Dr. Ambedkar : Yes, I thought of that, but I would point out one thing. He seems to exclude the Indian States, because he gives a separate figure for Baroda.

16. Perhaps he mentions one or two of the larger ones ?

Dr. Ambedkar : Probably. Qualification of the figures.

17. We do not, of course, want to spend too long on the statistical point, because, after all, whether the right figure to take is 1½ million or 2 millions or *2½* millions, it is obvious, it is a very large number of people, and they are people who deserve our very special consideration ?

Dr. Ambedkar : One point I wish to mention is this, that the figures from which the provincial figures are computed are in the table which deals only with the principal Indian castes. It is not an exhaustive table, and I find by going over the different castes which are mentioned in this table that it does not give any figures whatsoever for ten castes, which are undoubtedly castes. They are not included in the principal Indian castes.

18. What I was going to suggest, if it was agreeable to you both, was this. You have called attention to the main considerations with regard to the figures and, without fixing absolutely the right figures, I think it would be well to get rid of this figures point as quickly as possible and then we can get to the question of considering the position and treatment of these classes ; otherwise we may occupy a long time on arithmetic. I have asked what I want to put about it, and I am quite prepared to take it that if you apply a narrower test you may get a figure of 1½ millions, but that with a wider test you will get a figure of between 2 and 3 millions. I accept that from you, as I follow it ?

Dr. Ambedkar: Yes, with this qualification, that the Bombay figures do not include ten of the castes.

Chairman : We want to get to the real point, which is their representation. Is there anyone who wants to occupy time on this statistical point ? Are you content, Mr. Rajah, that we should take it the figures are something of that sort ?

Rao Bahadur Rajah : Which figures ?

Chairman : Do not you think we might proceed with the really important question, which is their representation, leaving it like this, that in the Bombay

Presidency the Census of 1921 gives a figure of 1½ millions, but it would appear that those are the depressed classes in the narrower sense I have mentioned, the untouchables from the point of view of religion, but that, as Dr. Ambedkar has pointed out, the official figures really show, if you take a rather wider but perfectly legitimate view, that the true figure may be between 2 and 3 millions. Is not that fair ?

Rao Bahadur Rajah: Yes, that is right.

Chairman : Does anybody want to add anything about that ?

19. *Colonel Lane Fox :* On which figure are the two memoranda which we have received based ? In each memorandum you ask for special representation for the depressed classes. You ask for adult suffrage in one memorandum, and you ask for special recruitment for the army and navy and so on. It is obvious it is a bigger thing if you ask for it for the aborigines and criminal tribes and so on. Are these privileges asked for the bigger figure or for the smaller ?

Dr. Ambedkar : I ask for them for the depressed classes.

20. For the aborigines and criminal classes also ?

Dr. Ambedkar : No. I do not think it would be possible to allow them the privilege of adult suffrage.

21. But you quote the bigger figure ?

Dr. Ambedkar : I am not accepting altogether the fact that the figure which I have given in my memorandum covers the aborigines and the hill tribes. I still hold to the view that on a fair computation the figure I have given is largely the figure for the depressed classes I admit only the possibility of the other view.

Chairman : There is only one thing I might add. Sir Arthur Froom may be able to confirm it. I notice the Muddiman Committee (Reforms Enquiry Committee, 1925) in the table subjoined to para. 64 of their Report, give the figure at 2,800,000.

22. *Sir Hari Singh Gour :* Dr. Ambedkar, would you regard "depressed classes" and "untouchables" as synonymous terms ?

Dr. Ambedkar : Yes.

23. In asking for special representation for the depressed classes you confine yourselves to the untouchables ?

Dr. Ambedkar : Yes.

24. You say that some aborigines are not untouchables'?

Dr. Ambedkar : In some parts they may be. I do not propose to speak on their behalf.

25. They are not untouchables. The criminal tribes are not untouchables ?

Dr. Ambedkar : Some of them are.

26. Some, but as a tribe they are not ?

Dr. Ambedkar : The criminal tribes have so little social intercourse with the rest of the Hindus that there is no basis for any definite opinion on that point, but if they did have such intercourse I think they would be regarded as untouchables.

27. There are certain classes which stand midway between touchability and untouchability ?

Dr. Ambedkar : I would rather say they were lower down than the untouchables.

28. No, higher up in the social ladder there is a class which is semi-untouchable ?

Dr. Ambedkar : I cannot say. My point is this, that with respect to the criminal tribes we have no data for forming an opinion as to whether they are untouchable or not, because there is very little intercourse between the main body of Hindus and the criminal tribes.

29. Leave out of account the criminal tribes and aborigines ; I am now dealing with the untouchables. Among the untouchables themselves there are degrees ; there are certain among them who may be regarded as only semi-untouchable ?

Dr. Ambedkar : (Both witnesses) No.

30. I will give you an example. What is the position of the Chambhar ?

Dr. Ambedkar : He is entirely untouchable.

31. As much as the Mahar ?

Dr. Ambedkar ; Yes.

32. Are you certain of that ?

Dr. Ambedkar : Yes, if you apply this test of common water, or of entering a temple.

33. No, by untouchability I mean whose touch will pollute a high caste Hindu ?

Dr. Ambedkar: Well, you can take entering a temple or taking water as a test.

Chairman: After all, we are engaged here primarily in a constitutional and political inquiry. Social customs and deep-rooted religious traditions are not things which are likely to be removed between night and morning by any commission; that is obvious enough. It really comes to this, that in one sense the depressed classes meaning the untouchables, will be those classes who are denied all access to Hindu temples, and who, it is suggested, are deprived very often of the use of schools, of dharmashalas and things of that sort. In addition to those, speaking politically and constitutionally, we shall all agree there are others, not very advanced in the scale of civilisation, such as Sir Hari Singh Gour has referred to—criminal tribes, hill tribes and so on—who are also inhabitants of India and as such demand our attention.

Sir Hari Singh Gour: The Hindus are divided into four castes. The Sudras cannot get into the temples . .....

Chairman: I think we all appreciate that. However, we are not engaged in making laws for the Hindu religion, but in considering the structure of the constitution of British India, which is a very different thing.

34. Taking that figure, what is it that you want to represent as the proper way in which the constitution of India, and more particularly the

constitution of the Bombay Presidency, should deal with these people ?

Dr. Ambedkar : The first thing I would like to submit is that we claim that we must be treated as a distinct minority, separate from the Hindu community. Our minority character has been hitherto concealed by our inclusion in the Hindu community, but as a matter of fact there is really no link between the depressed classes and the Hindu community. The first point, therefore, I would stress before the Conference is that we must be regarded as a distinct and independent minority. Secondly, I should like to submit that the depressed classes minority needs far greater political protection than any other minority in British India, for the simple reason that it is educationally very backward, that it is economically poor, socially enslaved, and suffers from certain grave political disabilities, from which no other community suffers. Then I would submit that, as a matter of demand for our political protection, we claim representation on the same basis as the Mahomedan minority. We claim reserved seats if accompanied by adult franchise.

35. And if there is no adult franchise ?

Dr. Ambedkar : Then we would ask for separate electorates. Further, we would like to have certain safeguards either in the constitution, if it is possible, or else in the way of advice in the instrument to the Governor regarding the education of the depressed classes and their entry into the public services.

36. May we just ask Dr. Solanki if he agrees in those points ?

Dr. Solanki: I agree with all the points.

37. Then we may take it that that is the view of both you gentlemen ?

Dr. Ambedkar : Yes.

38. Would it be convenient if I asked a question of two on these points as we go ? You claim that the depressed class, although included within Hinduism in a sense, should none the less be regarded from the point of view of the constitution as a distinct and separate community from others who are within Hinduism ?

Dr. Ambedkar : Yes.

39. Is that on the ground that in your view the depressed classes cannot expect to have their interests satisfactorily represented by the higher ranks of Hinduism ?

Dr. Ambedkar: That is one ground, but a matter of fact, really we cannot be deemed to be part of the Hindu community.

40. You come, I believe from an earlier set of inhabitants of this continent ?

Dr. Ambedkar : That is one view, I think.

41. It is supposed — we will not go into details — that you are pre-Aryan ?

Dr. Ambedkar : Well, I do not know. That is a view.

* * * * *

43. I only ask you the question because there are some very distinguished Hindu public men — I do not mention any names — who have undoubtedly exhibited a good deal of interest in the case of the depressed classes. There is no question about that ?

Dr. Ambedkar : Yes, there is a great deal of public talk.

44. I know ; but, at any rate, that is your view : You say you must be regarded as a distinct and separate community from the constitutional point of view ?

Dr. Ambedkar : Yes.

45. As regards representation, I notice that whether there is adult franchise, or whether there is not adult franchise, you seem to be abandoning any idea of nomination, you want election ?

Dr. Ambedkar : Yes.

46. Is that the view of both of you ?

Dr. Solanki : Yes.

47. That means, of course, that you have to make a list of voters ?

Dr. Ambedkar : Yes.

48. And you have to make sure that the man who comes to vote is the man on the list, and nobody else ?

Dr. Ambedkar : Yes.

49. Could you give me an estimate at all, Dr. Ambedkar, of what percentage of the population whom you call the depressed classes can read ?

Dr. Ambedkar : In a separate memorandum which I have submitted to the Commission on education in the Bombay Presidency I gave the figures.

50. I am afraid it is a very small proportion ?

Dr. Ambedkar : Quite.

51. After all, one of the complaints that are made is that they have not had as free access to schools as more fortunate people ?

Dr. Ambedkar : Quite so.

52. So it would mean, would it not, if it was done by election, that it would almost entirely have to be done by people voting who could not themselves understand the ballot paper ?

Dr. Ambedkar : Yes. That is true of the majority of voters even today.

53. True. Now, would you tell me how many reserved seats in the Bombay Presidency you would suggest classes ?

Dr. Ambedkar: In the scheme that I have prepared I say out of 140 we claim 22 seats.

54. What you suggest is that if the total number of members of the Bombay Council, all elected, was 140, then you think that the body for which you wish to speak should have 22 elective seats ?

Dr. Ambedkar : Yes.

55. And supposing, to take your other alternative, there is no adult franchise, then you are asking for separate electorates. Do you still want 22 seats ?

Dr. Ambedkar : Yes.

56. The only other thing I will ask you is this. I think Mr. Rajah probably will be glad to put a few questions himself to bring out the social condition. At present I think, in the Bombay Legislative Council there are two members, are there not, who are nominated to represent the depressed classes ?

Dr. Ambedkar : That is so.

57. You yourself being one of them ?

Dr. Ambedkar : Yes.

58. And Dr. Solanki being the other ?

Dr. Ambedkar : Yes.

59. Was that based on the Southborough Committee's Report ?

Dr. Ambedkar : Yes, I believe so.

60. I believe you gave evidence before the Southborough Committee ?

Dr. Ambedkar : Yes.

61. I have been reading your evidence before that Committee, and I was looking to see how many members you said there were of the depressed classes. I think you point out in your memorandum, in a note at the bottom of page 39, that the figure of the depressed classes given by the Southborough Committee for the Bombay Presidency was 5,77,000 ?

Dr. Ambedkar : Yes.

62. I think your view is that, that was an error ?

Dr. Ambedkar : Yes, a very large error.

63. Can you tell me, as a matter of fact, how they arrived at it ? Do you know at all ?

Dr. Ambedkar : They simply took, I think, a small table with regard to castes which cause pollution.

64. It was taking a still narrower definition of what constituted the depressed classes ?

Dr. Ambedkar : Yes.

65. *Mr. Hartshorn:* I notice in this note you say, after referring to the figure of the Southborough Committee of 5,77,000. "According to the authority relied upon by the Southborough Committee, the population of the depressed classes in the Bombay Presidency in 1911 was 2,145,000".

Dr. Ambedkar : In the Census.

66. That is the authority they relied upon ? That was what I wanted to know.

Dr. Ambedkar : Yes. The authority gave two different figures on two different pages, if I remember correctly. On one page they gave the smaller figure, and they took that up, and as soon as the Report of the Southborough Committee was published we protested against this estimate to the Government of Bombay.

67. *Chairman:* I think it is quite clear what the 2,100,000 was. It was the result of adding together in the Census of 1921 the figure given for the untouchables, which as I have said, was 1,478,000, and the figure given

for the criminal tribes, which was something like 623,000. Adding those two together, you would get the 2,100,000 ?

Dr. Ambedkar : Yes.

68. And it was leaving out the aboriginal and hill tribes. It must have been ?

Dr. Ambedkar ; Yes.

69. *Mr. Miller :* I should like to ask about the position in some of the Indian States. In Baroda and one other State, I think, where some special facilities are shown, are those special facilities anything beyond education facilities ?

Dr. Ambedkar : No, nothing beyond that.

70. Could you obtain service with the State ?

Dr. Ambedkar : I should think it would be very difficult.

71. You are particularly anxious to get appointments in the public service ?

Dr. Ambedkar : Yes, decidedly.

72. Why is that so ?

Dr. Ambedkar : On that point I should like to say this, that our experience so far as the administration of the law is concerned is very bitter. I wish to say most emphatically that in many cases the law is administered to the disadvantage of the depressed class man. I would like to give a concrete case of what actually happened in one of the districts, without, of course, mentioning names. The Bombay Government annually lets out its forest lands for cultivation to the villages on certain stated terms. Now we discovered that in the allotment of those forest lands the depressed class man, who was often a landless labourer or with very little land, and who was clamouring for some sort of economic stability, never came in for a share. The Mamlatdars, who were really in charge of distributing the lands, showed absolute favouritism to the caste Hindu as against the depressed class man. Last year in one district we organised and sent a deputation to the Assistant Deputy Collector of that district, placing before him our grievances with respect to these forest lands. He issued a circular to the Mamlatdars saying that the applications from the depressed classes should be considered. Now, some of the Mamlatdars, to show they were acting up to the circular, did give some lands to the depressed classes. But we found that they rather fooled us, if I may say so. What they did was, on paper they allotted a very large amount of land to the depressed classes and a very small amount of land to the caste Hindus, but when we came to see actually what was allotted to us we found that the land allotted to the depressed classes was all rocky and unfit for cultivation and the depressed class people would not take it for anything, and the land allotted to the caste Hindus though small, was all rich and fertile. Now I think that is a most fragrant abuse of the administrative power which is entrusted to the officials, and I personally attach far more importance to good administration of law than to more efficient administration of law.

73. *Chairman:* I imagine that the application of what you have told us, which is interesting, to our present inquiry is really this — because, of course, it is no part of the function of this Commission to interfere in day-by-day administration ?

Dr. Ambedkar : No.

74. You are using it as an argument to support your view that the depressed classes should have a full representation ?

Dr. Ambedkar : In the services.

75. That is your point ?

Dr. Ambedkar: That is my point. I will give some instances of what happens in judicial courts actually in this Presidency. I happened to defend a depressed class man in one of the courts, and, to my great surprise, I found that the man had to stand outside the court behind a little window, outside the wall, and he would not come in simply because, he said, "It is all right so far as you are concerned, but after you have left there will be terrible social ostracism if I enter the court"

76. It was the client who did not want to come in ?

Dr. Ambedkar : Who dare not come in.

77. What sort of social ostracism had he in mind ?

Dr. Ambedkar : The social ostracism would be that if he went back to the village there would be the boycott of the shop-keepers; nobody would sell him grain. The villagers would stop his dues as a village servant. He would not be allowed to come into the village. The depressed class people always live on the border of the village, not in the centre or in the midst

78. Your point would be that he was timid about coming into court on this occasion because he thought that afterwards the other people of the village, not his own lot but the others, the caste people, would regard him as having pushed himself in where he should not go ?

Dr. Ambedkar : Certainly—having exceeded the bounds of his social status.

79. That is a single case, is it ?

Dr. Ambedkar : I have had that experience but I think that the existence of a circular of the Bombay High Court to the effect that the depressed classes must be allowed entry in the courts indicates that that is often the case. There must be some reason for that circular.

80. *Mr. Miller:* The only other question, I want to ask is this. If you got these 22 seats in the Council do you think you could bring forward 22 suitable men ?

Dr. Ambedkar : Yes, I think so.

81. *Khan Sahib Abdul Latif :* Would you please enlighten the members of the Conference as to the fate of the minorities in the Bombay Council, when the official bloc is withdrawn for certain reasons ?

Dr. Ambedkar : I quite see that the fate of the minorities would be precarious. It has been precarious.

82. Did the honourable Minister belonging to the advanced class show

any consideration to the project, or the feelings of Mahomedans, non-Brahmins, or depressed classes ?

Dr. Ambedkar : No, not at all.

83. Do the minor communities stand any chance of getting through any legislation in the Bombay Legislative Council, or get any chance to move it?

Dr. Ambedkar : Their chances would be almost nil.

* * * * *

98. *Sardar Mujumdar:* Is it not a fact that different kinds of castes among the depressed classes are known as the depressed classes ; that is to say, there are different kinds of castes even among the depressed classes ?

Dr. Ambedkar : Yes, of course.

99. Can you give me approximately the number of those castes ?

Dr. Ambedkar : I think you will find them in the Census, the different castes enumerated as untouchables.

100. Can you give me any idea of the number of different castes ?

Dr. Ambedkar: About a dozen or so. The Census gives it.

101. How many castes are included in the depressed classes in Bombay ?

Dr. Ambedkar : Almost all the castes.

102. Then the members of the different castes are members of your organisation ?

Dr. Ambedkar : Quite ; it is a general body inclusive of all the depressed classes.

103. So that among the depressed classes are included ail those ?

Dr. Ambedkar : Yes.

104. Have you taken into consideration the claims of the Bhils and Wadias and other persons ?

Dr. Ambedkar : No.

105. What do you say about the protection of those minorities ?

Dr. Ambedkar : I think that they also should be allowed some protection by representation.

106. Do you not think that even among the backward classes there are certain communities, who are in a minority ?

Dr. Ambedkar : Yes.

106A. Then has the present constitution any provision to protect their interest ?

Chairman: Are these castes to which you refer refused admission to the Hindu temples ?

Sardar Mujumdar: No, they are allowed to go into them.

Chairman: This morning we are really considering the case of untouchables, and persons who are quite outside the Hindu temple scheme. I do not think we can go into the question of the backward classes, who would be admitted to the Hindu temples.

Sardar Mujumdar: What I submit is that there are various minorities

even amongst the backward classes. We are not concerned with the question of suitability; we are here to safeguard the interests of all the minorities.

Chairman: Certainly.

Sardar Mujumdar: It was from that point of view that I asked the question.

Chairman: Let me relieve you at once. India is full of minorities, and you have mentioned some of them; but this morning we are considering the body of people called the depressed classes.

Sardar Mujumdar: Very well, Sir.

107. *Syed Miran Muhammad Shah:* You have just said that you want representation in proportion to what the Mahomedans get ?

Dr. Ambedkar: Yes.

108. Do you want them because Mahomedans get them ? Do you see any justice in that ?

Dr. Ambedkar: I see justice in that, I do not quite accept the principle of representation of minorities according to population of the legislature as though it was a museum in which we have only to keep so many specimens of so many communities. A Legislative Council is more than a museum, it is a place where, for instance, social battles have to be fought, privileges have to be destroyed, and rights have to be won. Now, if that is the conception of a Legislative Council, I do not think it at all in the fitness of things to confine the minority to proportional representation according to population, that means you are condemning a minority to be perpetually a minority without the power necessary to influence the actions in the majority.

109. Would you be satisfied if the franchise was reduced to local boards in the rural areas ?

Dr. Ambedkar: Well, I would really insist upon adult suffrage. The lower the franchise the better, on that principle I would accept any lowering, out I certainly would not say I would be content with that.

110. Would you then extend adult suffrage to the aboriginal tribes and to the criminal and hill tribes ?

Dr. Ambedkar: Yes, I think so.

111. You would?

Dr. Ambedkar: Yes.

112. Or would you like to exclude them and give them nomination and yourselves adult suffrage ?

Dr. Ambedkar: I will say one thing. With regard to the criminal tribes, it might not be a good thing to give them adult suffrage, because by occupation they are a people who have more the interest of their own particular community in their mind, and they are not very particular as regards the means whereby they earn their living; but I do not think there is any harm in giving aborigines the right to vote.

113. They should be given the right to vote, or should their interests be

protected by nomination ?

Dr. Ambedkar: They should be protected somehow ; I do not much mind how. My feeling is that every man is intelligent enough to understand exactly what he wants. Literacy has not much bearing on this point; a man may be illiterate, none the less he may be very intelligent

114. Do not you think that this separate representation will lead to communal tension ? It is stated that communal tension is due to separate representation and separate electorates. Is that your belief ?

Dr. Ambedkar: Even assuming it does lead to tension I do not see how you can get rid of it. Whether it does lead to tension is questionable, but I do not see in any case how you can get rid of it, having regard to the fact that society is divided into classes and communities.

115. Do not you think it is the root cause of dissension ?

Dr. Ambedkar: I do not think so, but I do say this; as a result of communal representation, the leaders of the communities are less prone to compromise than they would otherwise be. That is my feeling, but I do not think it leads to communal riots, which are due, I think, to something very different

116. *Syed Miran Muhammad Shah:* Would you not suggest that by taking away the official bloc, non-officials may be nominated in order ?

Dr. Ambedkar: I do not want nomination.

117. *Major Attlee:* Are there members of the depressed classes working in industry, in the cotton mills and so on ?

Dr. Ambedkar: All of them. The depressed class men are all labourers.

118. You have not got my point; I am talking of industry. You have members of the depressed classes who work in villages, for the most part in certain occupations. But are there large numbers of the depressed classes engaged in industry ?

Dr. Ambedkar: A very large number.

119.You would have a very large number in a place like Bombay City?

Dr. Ambedkar: Yes.

120. Do they cease in any degree to be untouchable ?

Dr. Ambedkar: No, I should like to point out this. The depressed class man is entirely kept out of the weaving department, the most paying department. He can only enter departments like the throstle department and others.

121. Why?

Dr. Ambedkar: On account of untouchability.

122. When he is working there he is working alongside people of all castes?

Dr. Ambedkar: Not quite. The departments are discriminated according to castes. One department is entirely manned by the depressed classes;

another—say the weaving department—by Mahomedans and caste Hindus.

123. Do they take part in the trade unions ?

Dr. Ambedkar: Yes, they are beginning to do so.

124. With members of the classes above the depressed classes ?

Dr. Ambedkar: Yes.

125. I wanted to get this point from you. You put forward a claim for representation of the depressed classes on the basis of numbers. Now, we have claims put forward on a different basis altogether; on, say, the labour basis. You get a cross-division in that way, because a man can be a depressed class man and he can also be a labourer ?

Dr. Ambedkar: He is usually, if not always, a labourer.

126. That is rather a play on words, is not it ? I am speaking of capital and labour, of labour in big- industries, not of the ordinary un-organised labour. I am speaking of organised labour. How are you going to get over the difficulty ? If you are going to have representation by social status in one case and by industry in another, you are going to get a cross-division. How will you get over that ?

Dr. Ambedkar: There will be some provision for organised labour, and the majority of the depressed classes are labourers.

127. *Mr. Hartshorn:* I think, Dr. Ambedkar, you have made it pretty clear that you are in favour of adult suffrage. You say on page 41 of your memorandum, however, "The Sabha would, however, be content if the franchise for the Legislative Council is fixed at the same level as that for the Taluka Local Board in the rural parts and Rs. 3 rental per month in the urban parts of the Presidency." Have you formed any opinion, or are any statistics available to enable us to know to what extent the franchise would be extended on that qualification ?

Dr. Ambedkar: I may tell you that I am myself shaky about that statement. I do not mind admitting that. Such information as I have been able to gather from the depressed classes in the mofussils, however, leads me to believe that the existing taluka local franchise does produce a certain number of voters from the depressed classes.

128. I was not quite thinking of that. Could you tell us the increase in the number of persons who would become voters in the Bombay Presidency if this qualification rather than the present one were adopted ?

Dr. Ambedkar: I do not think I can give you any very definite information on this point.

129. May I revert to a question put to you by Major Attlee ? I gather the depressed classes work in the factories in isolation ?

Dr. Ambedkar: In isolation, yes.

130. They have their own shed and their own department ?

Dr. Ambedkar: Their own department; there are no sheds.

131. Whatever it is, they are separated from the other workers in the factory ?

Dr. Ambedkar: I would rather put it in this way, that certain

departments are exclusively assigned to the depressed classes and certain departments are departments into which they are not allowed to enter.

132. Certain kinds of occupations are forbidden to them ?

Dr. Ambedkar: In the mills, yes.

133. I think you said they are not allowed to go into the weaving department ?

Dr. Ambedkar: Yes.

134. If they became members of the same trade union, would the workers in the weaving department decline to allow them in ?

Dr. Ambedkar: They would decline to allow them in. If I may mention one thing, in the recent Bombay strike this matter was brought up prominently by me. I said to the members of the union that if they did not recognise the right of the depressed classes to work all the departments, I would rather dissuade the depressed classes from taking part in the strike. They afterwards consented, most reluctantly, to include this as one of their demands, and when they presented this to the millowners, the millowners very rightly snubbed them and said that if this was an injustice, they certainly were not responsible for it.

135. It is not altogether merely a case of the employers wanting to get cheap labour and confining certain departments to the depressed classes for economic reasons ?

Dr. Ambedkar: No, it is untouchability.

136. Would there be anything of this in the situation ? The better-paid Indian, say, declines to allow the untouchable to come into his department for fear that the effect of their lower wages would be to depress wages in his department ?

Dr. Ambedkar: No. There is no distinction on the basis of wages.

137. That does not come into it at all ?

Dr. Ambedkar: No, not at all.

138. It is merely a question of untouchability ?

Dr. Ambedkar: Quite so.

139. *Mr. Cadogan:* They can be members of the trade union ?

Dr. Ambedkar: Yes.

140. *Mr. Premchand:* Can you give me a strict definition of the classes who will be on a special register of the electorate as the depressed classes ?

Dr. Ambedkar: Castes which cause pollution.

141. Is the principle that the lower the standing of a community the greater the electoral advantage it should command over others, justifiable ?

Dr. Ambedkar: Yes.

142. If all minorities are granted additional seats, what then will constitute the majority ?

Dr. Ambedkar: If minorities put together make up a majority there is no majority and the question does not arise. There may be class distinctions among the minorities. I can quite conceive the Mahomedans in the Bombay Presidency being divided into two groups, one favouring the capitalists and

one the labourers.

143. Is not it true that people who are not politically minded or trained are frequently led astray by professional leaders ?

Dr. Ambedkar: I do not know. I have never been a professional leader, so I cannot say.

144. Would not the extension of the franchise to the large majority of the uneducated section of society be fraught with danger and render it liable to abuse ?

Dr. Ambedkar: No, I do not think so.

145. Can you tell me why it is not possible to admit members of the depressed classes to our present schools and colleges without the necessity for a charge on the revenue of the Province ?

Dr. Ambedkar: Because they are hopelessly neglected under the present system.

146. Why is not. it possible to admit members of the depressed classes to our present schools and colleges without the necessity for a charge on the revenues of the Province ?

Dr. Ambedkar: You should ask those who refuse what their reason for resfusal is.

147. Refusal of what ?

Dr. Ambedkar: To admit them.

148. To the colleges and schools ?

Dr. Ambedkar: Yes.

149. Do you know the Bombay Municipality has passed a rule now ?

Dr. Ambedkar: And you know also of the protest meeting which was held in Bombay.

150. There may have been a protest by one section, but the Municipality has removed all those restrictions ?

Dr. Ambedkar:. It remains to be seen how far they will stick to it at the next election.

151. But they have done it, you know ?

Dr. Ambedkar: Yes.

152. *Chairman:* Might we know what is the protest meeting to which he refers ?

Dr. Ambedkar: The position is this. Hitherto the Bombay Municipality has had separate schools for the depressed classes in the City of Bombay. Now, under the scheme of compulsory primary education, the Bombay Municipality is compelled to limit the number of schools and bring together the scattered children of the depressed classes into the schools of the caste Hindus as a measure of economy. Naturally, some provision has to be made for water and other amenities for the children who attend. The question arose whether there should be a distinction in the drinking arrangements, whether the untouchables should have separate pots for drinking from the caste Hindus. The Municipality passed a resolution saying "We cannot recognise untouchability in our own schools," and they issued a circular

that there should be no distinction as to drinking pots in their schools. This protest meeting was a meeting held under the presidency of an important Hindu leader of Bombay to protest against that kind of uniform arrangement being made, as being against the Hindu religion.

153. *Mr. Premchand:* Do you know the depressed classes are employed in the weaving departments of the Ahmedabad mills ?

Dr. Ambedkar: I did not know that.

154. I can tell you they are.

Dr. Ambedkar: There again I should like to say one thing, probably they are employed exclusively. I can quite conceive of a situation where, for instance, so many looms are exclusively handed over to the depressed classes. Today there is a proposal also in certain mills that the depressed classes should take charge of the whole of the weaving department, that the millowners should hand it over to them, but you cannot have part depressed classes and part caste Hindus.

155. *Chairman:* The difficulty is the mixture ?

Dr. Ambedkar: Yes.

156. *Sir Hari Singh Gour:* What is the view of your Institute in regard to the general scheme of constitutional reform ? Have you formulated any views at all on the subject ?

Dr. Ambedkar: I may tell you this. The depressed classes as such, of course, are not very much interested in constitutional questions ; they are more interested in obtaining the guarantees and protection they require, under whatever form of Government that may come to be. Therefore, I do not think that the depressed classes as such have any definite views as to the form of Provincial Government or the form of the Central Government; but, of course, I have my own individual views as a member of the depressed classes, without these being the views of the depressed classes themselves. It is on that account that nothing is said about the constitution in my memorandum.

157. I am aware of that, and that is why I asked you that question. What are your personal views ?

Dr. Ambedkar: So far as the Provincial Government is concerned, I am in favour of Provincial autonomy.

158. Qualified or unqualified ?

Dr. Ambedkar: I think there might be some safeguards with regard to the transfer of law and order. It is not that I object to the transfer of law and order; I am in favour of the transfer; but still I should like some safeguard. I am not certain today what it shoud be, but there might be with advantage some safeguard in that respect Barring that, I am in favour (speaking personally) of full Provincial autonomy.

159. What about the Central Government ?

Dr. Ambedkar: I think we might start with dyarchy there.

160. As regards adult suffrage, I suppose you are in favour of adult male and female suffrage ?

Dr. Ambedkar: Yes.

161. Do you think that is a practical proposition ?

Dr. Ambedkar: Very practical.

162. Do you think the masses have attained any degree of political consciousness, so as to be able to use that political suffrage with any advantage to their own community ?

Dr. Ambedkar: Speaking only on behalf of the depressed classes. I emphatically maintain that the depressed classes will exercise their vote in a most intelligent manner, speaking for the Bombay Presidency. Having regard to the fact that the canker of untouchability is before their minds every minute of their lives, and having regard to their being alive to the fact that political power is the only solvent of this difficultly, I emphatically maintain that the depressed class voter would be an intelligent voter.

163. Do not you think that, following the example of other countries, those who pay no taxes, having a political existence and possessing political power, will tax those who are already oppressed with heavy taxes ?

Dr. Ambedkar: I think that should be so. I do not see anything wrong in it.

164. You see no wrong in the exploitation of the tax paying community ? Is this your own opinion or the opinion of the Institute which you represent ?

Dr. Ambedkar: My own opinion. The Institute has said nothing about it here.

165. Do you think you reflect the general opinion of your Institute in conveying this view to the Commission ?

Dr. Ambedkar: I think that would be the view of all poor communities.

* * * * *

167. *Sir Hari Singh Gour:* In answer to the Chairman, you said the depressed classes must be regarded as a distinct community, a community distinct from the Hindu community. Do you apply that only for electoral purposes, or for all purposes ?

Dr. Ambedkar: They are distinct for all purposes, as a matter of fact

168. Would you class the depressed classes as real Hindus ?

Dr. Ambedkar: I do not care about the nomenclature. It does not matter whether I call myself a Hindu or a non-Hindu, as long as I am outside the pale of the Hindu community.

* * * * *

170. It makes all the difference in the world. If you were ..... outside the pale of Hinduism you would not be subject to Hindu law. You could not, for instance, contract a marriage under the Act 30 of 1923, which has completely abolished all castes so far as the marriage law is concerned between a Hindu and a Mahar, touchable and untouchable. Now, if you go out of that community, out of that social system, and call yourself a non-Hindu, you will be outside the pale of Hindu law to that extent ?

Dr. Ambedkar: It might be.

171. Then by what law would you be governed ?

Dr. Ambedkar: We are governed by the Hindu law, just as, for instance, the Khojas, who are Mahomedans, prefer to be governed by Hindu law so far as the devolution of property is concerned.

172. And you are under the Act 30 of 1923 ; you are under Hindu law ?

Dr. Ambedkar: I do not know what the depressed classes would think about marriage.

173. Would you kindly turn to your memorandum ? You say at page 39, and you also repeated it today in answer to my friend Mr. Kikabhai, "the standing of the community must mean its power to protect itself in the social struggle. That power would obviously depend upon the educational and economic status of the community."

Dr. Ambedkar: Quite.

174. It follows from the recognition of the principle that the lower the standing of a community, the greater electoral advantage it must get over the rest. Do you adduce this last sentence as a logical deduction from the premises, from the previous two sentences ?

Dr. Ambedkar: Yes.

175. You regard that as a logical deduction ?

Dr. Ambedkar: Yes, quite.

176. ..... I wish to draw your attention to the fact that you say :

"In addition to the demand for adequate representation, the Sabha feels that it must also demand the inclusion of clauses in the constitution of the country." Now, amongst these clauses you find things like this mentioned:

"the right of every depressed class to the appointment of a special inspector of police from amongst themselves" ?

Dr. Ambedkar: Yes.

177. Do you expect that an Act of Parliament should contain a clause to this effect, that the depressed classes in India shall have an inspector of police in every district from amongst themselves ?

Dr. Ambedkar: I really do not see anything strange in that

178. Supposing there was a provision to that effect relating to all communities (because if you have got certain constitutional guarantees it follows by necessary implication that other communities have an equal right), then you parcel out all the official posts and you parcel out all the other things amongst the various communities, and that is the constitution that you foresee for India ?

Dr. Ambedkar: I do not know that. I am only speaking for the depressed classes. May I just make one thing clear ?

179. May I just complete my sentence ? That is a contingency that does not arouse any apprehension in your mind ?

Dr. Ambedkar: Just let me explain before you go further. I think we must be very careful in using the word "minority". I do not think simply because a community happens to be a community composed of small numbers it is therefore necessarily a minority for political purposes.

A minority which is oppressed, or whose rights are denied or the majority, would be a minority that would be fit for consideration for political purposes.

180. Wherever you have these minorities in other countries, there is provision made, there is sometimes a minister for the protection of minorities. Have you thought about that ?

Dr. Ambedkar: Yes.

181. Supposing we gave you the protection—the protection might be given in any form, and if I may say so ?

Dr. Ambedkar: I am sorry to interrupt you—I do find that the new constitutions that have been framed after the peace for the various European countries composing the bulk of the Slavonic nations very largely embody this principle. I have devoted some special attention to this subject, if you will permit me to say so.

182. *Lord Burnham:* And carried out ?

Dr. Ambedkar: And made part of the Constitution.

183. And carried out in practice too?

Dr. Ambedkar: Carried out in practice ; and the point is this, that if a minority feels that the guarantee has not been fulfilled, it has the right of appeal to the League of Nations.

* * * * *

186. I am not quarrelling with the principle ?

Dr. Ambedkar: And I may say I am not very particular about the form.

187. If the details of the scheme which you have adumbrated were to be introduced into the constitution of 'this country, would it not lead to a perpetual class war ?

Dr. Ambedkar: It might, but that would depend upon the attitude of the majority.

188. Therefore you would not, as a sagacious statesman ?

Dr. Ambedkar: If you will permit me to say so, all these things, though I insist upon them, I admit to be provisions of a transitory character. I do contemplate and I do desire, the time when India shall be one ; and I believe that a time will come when, for instance, all these things will not be necessary ; but all that would depend upon the attitude of the majority towards the minority.

* * * * *

198. Now, you mentioned a case that you conducted on behalf of a member of the depressed class, who, from fear of social ostracism, stood outside near the window. What district was it ?

Dr. Ambedkar: Khandesh district.

199. Ordinary Magistrate's Court ?

Dr. Ambedkar: The stipendiary Magistrate's Court.

200. What caste was the Magistrate ?

Dr. Ambedkar: A Hindu.

201. He did not object to the accused coming into the court ?

Dr. Ambedkar: No. I say the accused himself would not come in.

202. The accused himself was terrorised by the past acts of the Hindus ?

Dr. Ambedkar: Yes.

203. The fear had been engendered in the minds of the depressed classes on account of the oppression of the caste Hindus that he would not get a square deal thereafter if he was to trench upon the limited rights which he had been given by the caste Hindus ?

Dr. Ambedkar: Yes.

204. *Sir Hari Singh Gour:* I think you will admit, Dr. Ambedkar, that during the last few years there has been a forward movement in the way of removing untouchability and removing all disqualifications from the path of the depressed classes ?

Dr. Ambedkar: Yes.

205. I admit that the reforms have not been commensurate with your desires and mind, but at the same time, we have to recognise that there is a growing feeling that there must be a consolidation of the Hindu people by removing all these barriers that stand between the caste and the non-caste Hindus. You recognise that ?

Dr. Ambedkar: Yes, there are speeches from the platform.

206. There are positive actions ?

Dr. Ambedkar: Speaking for my part of the country, the Bombay Presidency, I would rather hesitate to accept your proposition.

207. Therefore, I will give you examples. Every year, for instance, wherever there is a caste and no-caste society, Hindus hold annual dinners, and they all sit together for the purpose of making one class of people accustomed to the other class of people ?

Dr. Ambedkar: I am not aware of it in this Presidency.

208. I have attended several of them.

Dr. Ambedkar: In this Presidency?

Sir Hari Singh Gour: No, in Nagpur.

209. There is no such movement here ? *Dr. Ambedkar:* No.

210. But you admit that there is recognition of the fact that oppression and untouchability must go, and that every effort to suggest anything in that way receives sympathetic consideration from the caste Hindus, and particularly from the Reformers ?

Dr. Ambedkar. I would hesitate, again, to answer that.

Chairman: Would you agree, in order to get this witness's view of the facts, that I should ask two or three questions on your line ? *Sir Hari Singh Gour:* Yes Sir, certainly.

211. *Chairman:* Mr. Rajah would be, in many ways, the best person to do it, but I wish you would tell us your own view. Compare twenty years ago with now in the Bombay Presidency. How many years, if I may ask, have you been here ?

Dr. Ambedkar : Five or six years.

212. You have, of course, taken an interest in your own community since long before that ?

Dr. Ambedkar: Yes.

213. You can look back twenty years and give us some ideal ?

Dr. Ambedkar: Yes.

214. Let me take two or three things. First of all I imagine that there is no change at all so far as regards the admission of the depressed classes to the interior of a Hindu temple. That, of course, is a matter of religious practice and teaching. I do not criticise it, but there is no change at all ?

Dr. Ambedkar: No, there is no change at all in that respect.

215. What I want to know is this. Let us take two or three definite things in this Presidency. In the country districts, you have told us that as a rule the depressed classes, the untouchables, live in a place for themselves. Of course, we have seen it many times. Sometimes they five in a corner of the village, if it happens to be a Hindu village, and sometimes in a hamlet of their own. Now is there any change in the last twenty years as regards their living among the general communities ?

Dr. Ambedkar: No change.

216. We saw some of the villages the other day. We understand some of them can draw water from the river, but I suppose there are other villages that rely on wells ?

Dr. Ambedkar: Even in the case of rivers they can take water only from a portion of the river. A point on the river is appointed for them.

217. That is to say, the depressed classes will draw water at a point lower down than the caste Hindus ?

Dr. Ambedkar: Yes.

218. Now let us take the case of villages that rely on wells. It is not uncommon ?

Dr. Ambedkar: No, not uncommon.

219. I am anxious to know and I hope you will tell me quite frankly, is there in that respect any improvement in the last twenty years ?

Dr. Ambedkar: No.

220. Your attention has been called to the fact that there have been resolutions passed on this subject ?

Dr. Ambedkar: Yes, only resolutions.

221. It is suggested that untouchability sometimes goes to such a length that the actual contact with the man (or sometimes his shadow itself) is regarded-socially by those of the higher castes as a pollution ?

Dr. Ambedkar: Yes.

222. Is there an improvement in that respect ?

Dr. Ambedkar: There is an improvement in that respect.

223. I am glad to hear that. That is, whereas 20 years ago a caste Hindu who found himself in close contact with an untouchable would possibly think it his religious duty to purify himself, it is not viewed with so much

strictness now ; is that correct ?

Dr. Ambedkar: Yes.

224. Then, of course, as compared with twenty years ago I imagine that there are some members of the depressed classes who have in fact risen very much in the professional scale. Twenty years ago were there depressed classes who were practising at the Bar in Bombay ?

Dr. Ambedkar: No.

225. How many members of the depressed classes practise at the Bar now ?

Dr. Ambedkar: I am the only man.

226. I think we were told yesterday that in the list of voters for the Sardars and Inamdars there were two members of the depressed classes ?

Dr. Ambedkar: Only one. His position is different. His jagir was granted by the Peshwas for the services rendered on the battlefield. His title was not given by the British Government.

227. What one notices is that in India there is gradually being introduced the motor bus connecting the town with the village and I see them going along the road. Are those public vehicles open to the depressed classes ?

Dr. Ambedkar: Not in villages. There are a great many villages where the depressed classes are not allowed to travel in these buses

228. Who prevents them ?

Dr. Ambedkar: The driver would not take them.

229. One would expect the driver to take anybody who pays. Why does he not take them ?

Dr. Ambedkar: Because if he takes them the other people will not come into his car. For instance, the barber here would not shave my head even though I offer him a rupee.

230. *Rao Saheb Patil:* According to law the driver would be prosecuted if he refuses to take any passenger ?

Dr. Ambedkar: That can be evaded by saying that all seats are booked.

231. Are matters improving in that respect ?

Dr. Ambedkar: Yes, they are improving; but still there are numerous cases where the depressed classes would not be allowed to enter into these buses.

232. Let us take the depressed classes who are employed in the mills in Bombay. Some of them go in trams, I suppose. Do you suggest that they are not allowed to use the trams ?

Dr. Ambedkar: There was a case two years ago where a Bhungi was not allowed to board a tram.

233. When you speak of the case two years ago it suggests to me that it is rather exceptional than a rule ?

Dr. Ambedkar: I have seen, for instance, when I was travelling by the B.B. & CI. Railway hundreds of cases where the passengers obstructed the depressed classes coming into the compartments.

234. *Sir Hari Singh Gour:* With regard to the case of the Bhungi which you mentioned, are you sure if he was not properly attired and therefore be was not allowed to get into the tram ?

Dr. Ambedkar: I do not know about that.

235. Before a man gets into the tram he is not asked to which caste he belongs ; they only ask him whether he has got the fare, is it not ?

Dr. Ambedkar: But people can easily recognise him.

236. That is on account of his dress ?

Dr. Ambedkar: But he will be dealt with very badly when once he is recognised to belong to the depressed classes.

237. Apart from the question of caste there is also the question of costume ?

Dr. Ambedkar: Yes, but some of the members of the depressed class are very well dressed.

238. In the Bombay Presidency you have no such thing as to consider it a pollution to walk in the shadow of a depressed class member ?

Dr. Ambedkar: Yes, it exists in some parts of the Konkan and in Kathiawad.

239. It is on the wane ?

Dr. Ambedkar: Yes.

240. With regard to the Ambalal Sarlal School in Ahmedabad, has not his sister started the school for depressed classes ?

Dr. Ambedkar: That is the only honourable exception.

241. Is not the school maintained for the depressed classes from public funds ?

Dr. Ambedkar: I do not know that, but I know that that lady is taking interest in the elevation of the depressed classes.

242. *Chairman:* I understand it is an exceptional case ?

Dr. Ambedkar: Yes, it is quite an exceptional case.

243. *Dr. Suhrawardy:* In view of the instances of social ostracism and tyranny which you have just stated, do you not think that in a general election members of your community will be frightened out of the polling booths ?

Dr. Ambedkar: Yes, it may happen.

244. Also there is the further apprehension that the high caste-Hindus may refuse to come and participate in the elections where the untouchables go to record their votes ?

Dr. Ambedkar: They might; it is very difficult to say what might happen. We have cases, for instance, where the caste-Hindu members of district boards have left the premises because the depressed class members have claimed to sit at the table.

245. Do you not think that, in view of this state of affairs, it will be better for you to have a separate electorate because in practice it will mean a separate electorate even if you reserve your seats in a general electorates ?

Dr. Ambedkar: Yes.

246. *Rao Bahadur Rajah:* With reference to the question put by my friend, Sir Hari Singh Gour, regarding the costume of the depressed classes, did the barber refuse to shave your head because you were not well dressed ?

Dr. Ambedkar: No; it is because I belong to the depressed class.

247. Not on account of the dress you were wearing ?

Dr. Ambedkar: No.

248. With regard to another question put by another member of the Committee, may I ask you whether it is easy for a depressed class member in a village to file a suit against the owner of a bus because he has refused to take him ?

Dr. Ambedkar: It is not possible.

249. I understand that you have been taking very much interest in the uplift of the depressed classes. What has been your experience during your propaganda as to the help you receive in this work from the higher classes ? Do they help you to impress upon the depressed classes the need for greater sanitation, hygiene and such like things ?

Dr. Ambedkar: My experience, unfortunately, is rather very bitter in this matter. The depressed classes have been dubbed to be unfit for association because of certain unclean habits. That is the allegation of the upper classes. That is to say, they eat the meat of the dead animals and they are not clean, and so on. In this Presidency during the last two years I started a campaign to purify the depressed classes, so to say, and to persuade them to give up some of their dirty habits. But, to my great misfortune, I found the whole caste-Hindu population up against me when in a matter like this I expected the utmost co-operation from them. But when I began to analyse the basis of their opposition I found that they insisted upon the depressed class people doing the unclean things because giving up doing these things meant that the depressed classes were exceeding their social status and rivalling the upper class. For instance, in the Colaba and Ratnagiri districts the whole of the Mahar population have given up the eating of the meat of dead animals, but the tyranny and social oppression that is going on against them is simply unspeakable; there is a complete economic and social boycott. The lands they had been cultivating for years past have been taken away from them by their caste-Hindu landlords. Every sort of pressure, social and economic, has been brought to bear upon the depressed classes in order to compel them to resume their dirty habits. The officials, who are all caste-Hindus, give no protection to the depressed classes, whose condition has really become pitiable, and all this because they sought to give up their dirty habits. Instead of getting co-operation I find that the members of the upper classes are up against me, and they say "these evil habits of the depressed classes are all insignia of their inferiority and they must remain."

250. The other day we heard a witness say that there is not a single depressed class member on the sanitary boards. If what you have said

just now with regard to the higher castes is true, is there any good in the depressed class members, being on these boards so far as their sanitary improvement is concerned ?

Dr. Ambedkar: I think the depressed class people ought to be represented on every local authority.

251. You told us just now that in the courts in this Presidency witnesses belonging to the depressed classes have no access. I want to be clear on that point. Do you mean to say that the members of the depressed class are not admitted into some of the courts ?

Dr. Ambedkar: Yes.

252. And I understand you to say that in a case the man did not dare go into the court, is that so ?

Dr. Ambedkar: The thing is the depressed class man is looked upon by the caste people as having a particular station in life, he exceeds that station in life when he enters the court, and if he exceeded that station in life they would begin to harass him. The man, if he exceeded the social limits, would subsequently suffer at the hands of the caste people. My protection in that particular case was only temporary protection and he knew it would cease as soon as the case was over.

253. If you had not been there and if he attempted to go into the court, what would have happened to him ?

Dr. Ambedkar: I think the same thing would have happened to me when I tried to enter a temple in Bombay.

254. Coming to medical relief, will you kindly enlighten us as to the kind of medical relief the depressed class men are getting ?

Dr. Ambedkar: They are not allowed entry into the dispensary, unless the case is a very very serious one; such as, for instance, the non-admission would bring the officer's conduct to the notice of the higher authorities. Ordinarily the medicine is dispensed out

255. *Chairman:* I suppose you are talking of dispensaries in the mofussil ?

Dr. Ambedkar: Yes, Government dispensaries.

256. They are, of course, in the department of the Minister of Medical Administration ?

Dr. Ambedkar: Yes.

257. I imagine that the regulations of the Minister provide that these dispensaries are open to everybody who goes ?

Dr. Ambedkar: Yes.

258. But you say that in the mofussil in fact it does not work out like that ?

Dr. Ambedkar: No.

Dr. Solanki: The Hindu medical man who is orthodox always takes objection to examine a man belonging to the depressed classes. There have been instances in Gujarat where the men have actually died from the want of medical relief. I know of instances where doctors have actually

refused even to touch the patient when he was suffering from pneumonia. The doctor would hand over the thermometer to a Mahomedan who does not know how to hold the thermometer and the Mahomedan would hand over the thermometer to the patient. This is a fact and it has happened.

259. What is important, I think, as I said before and I may repeat it, is to get a true picture. The thing may happen occasionally. I want to know whether what you are describing is quite an exceptional thing due to some particular doctor's objection or whether you think it is an everyday happening ?

Dr. Solanki: Doctors who are orthodox do it.

260. The difficulty about this thing is that the objection that is taken by the medical man is an objection based on his own religious views ?

Dr. Solanki: Yes.

261. *Rao Bahadur Rajah:* Have these facts been brought to the notice of the authorities concerned ?

Dr. Ambedkar: Yes.

262. What was the action they took ?

Dr. Ambedkar: The reply the Minister gave was that we had belter depend on persuasion; that was the word he used.

Chairman: Would you do this for us, Rao Bahadur ? One hears of different aspects of this and I want to know the facts. What is the position about the depressed class children in the ordinary public schools in this province ? Would you ask the witness about that for me ?

263. *Rao Bahadur Rajah:* Will you kindly enlighten us as to the attitude of the schoolmasters or the Education Department or the managers of schools towards the children of the depressed classes ?

Dr. Ambedkar: There is a circular issued by Dr. Paranjpye when he was Minister of Education in this Presidency to the effect that children of depressed classes should be admitted in all schools. But our experience is that circular has not been carried out at all. It is true that in the report of the Director of Public Instruction it is stated that that circular has been carried into effect; but I beg to differ from that view. It is not a correct statement of facts as they exist today. There is an incident here at Poona which took place only a few days ago, at Deoo, where the children of the depressed classes were refused admission and when they insisted on it the village proclaimed social boycott against the depressed classes.

264. *Chairman :* The memorandum refers to that report ?

Dr. Ambedkar: Yes, that is not a correct statement of facts as I said. I beg to differ from that

265. *Rao Bahadur Rajah:* I understood from Mr. Griffith that in his view there are reasons why the depressed classes could not be taken into the police department as the duties of the police involved house searches and arrests. Supposing, for the sake of argument, that is true, would there be similar objection to the recruitment of the depressed class members to other subordinate and provincial services ?

Dr. Ambedkar: Find that there are so many objections raised.

266. You are a member of the Local Legislative Council ?

Dr. Ambedkar: Yes.

267. What is your experience as regards the attitude of the higher caste members of the local Council towards your community ?

Dr. Ambedkar: One cannot say it is favourable to the depressed classes.

268. What is the attitude of the Government towards the members of your community in your Provinces ?

Dr. Ambedkar: Very apathetic.

269. I suppose you have got honorary bench magistrates' courts in this Presidency. Are there any members of the depressed classes on these boards ?

Dr. Ambedkar: There are none and we are trying to get some on the bench of magistrates, but without effect. Perhaps it might be interesting to the Conference if I read in this connection a letter written by the Collector of the Khandesh district to a member of the depressed classes when he applied for an appointment on the bench. This letter also gives the reasons why he should not be appointed to the place, and it reads thus :

"The Collector has every sympathy with the aspirations of the depressed classes and is glad to recognise and appreciate Mr. Medhe's good work in the various fields of public activities ; but in his opinion time has not yet come when a member of the depressed classes can be given a seat on the bench of magistrates, and, until the Government makes some pronouncement favourable to the aspiration of the depressed classes in this Presidency he must regretfully express his inability to recommend such an appointment" This letter is dated 25th September 1928.

270. I am sure you will agree with me that appointments to these bodies have nothing to do with the progress of the communities ?

Dr. Ambedkar: Nothing.

271. The sole consideration should be whether the individual candidate can discharge his duties with a sense of responsibility ?

Dr. Ambedkar: Yes.

272. *Lord Burnham:* I understood you to say that of all the methods to protect the interests of the depressed classes, you preferred the universal suffrage ?

Dr. Ambedkar: I would rather say adequate representation in the Legislative Council.

273. I understand you to say you were in favour of universal suffrage ?

Dr. Ambedkar: Yes.

274. If you have not got that you go in for separate electorates ? Supposing you cannot get either, are you still in favour of the principle of nomination ?

Dr. Ambedkar: No. I would insist on our representative being elected.

275. If you cannot get the election on the terms proposed, you would prefer adult franchise ?

Dr. Ambedkar: Yes.

276. *Chairman:* You have spoken of your strong preference for the representation of the depressed classes being secured by the method of election. Are you satisfied, supposing the method was the method of election, that the result would be that you will get elected those who were really the best spokesmen for the depressed classes ?

Dr. Ambedkar: I believe so.

277. You do not feel anxious that influences which were really against the interests of the depressed classes will get to work ?

Dr. Ambedkar: I admit that and that is why I want adult suffrage.

278. You think that the influence will cease because of the adult suffrage ?

Dr. Ambedkar: That will be counterbalanced.

279. Supposing that a member of the depressed classes has the necessary qualification, does he vote in a general constituency ?

Dr. Ambedkar: He does.

280. Taking your case you will have a qualification to vote in some general constituency ?

Dr. Ambedkar: Yes ; I vote for the University constituency as also my friend.

281. How does the position stand about the paying of taxes ? A suggestion was made that depressed classes do not pay the taxes. Of course, it follows that, as regards the Customs duties and other indirect taxes which may raise the price of the articles, I suppose the depressed classes will have to pay the increased price like anybody else ?

Dr. Ambedkar: Yes. Also the depressed class men, particularly the Mahar community, is always in possession of some land of ordinary tenure or watan tenure at any rate, and they pay what is called the judi, that is the assessment, as anybody else.

282. I suppose that a good many Mahars follow the occupation of waiters in private service ?

Dr. Ambedkar: Yes, very few. But they mainly work in industries in the cities.

283. Take, for instance, a European private house or a club, they employ Mahars ?

Dr. Ambedkar: Yes.

284. Are those people qualified to vote in a general constituency or not?

Dr. Ambedkar: That will depend on the pitch of franchise.

285. As a rule the waiters would not have any qualification ?

Dr. Ambedkar: Yes, under the existing circumstances.

286. *Sardar Mujumdar:* Are you aware that saints from the depressed

classes arc revered by all classes, and high-class persons bow down before them as much as before such saints from higher classes ?

Dr. Ambedkar: There is only one case so far as I know.

287. But do they do so ?

Dr. Ambedkar: Yes, as they do the Mahomedan Pir.

288. Are you aware that untouchability is not observed in the Warkari Panth, i.e. the devotees of the God Vithoba at Pandharpur ?

Dr. Ambedkar: That is entirely incorrect.

289. Do you agree that there is a vast change during the last 25 years in the treatment accorded to the depressed classes, that the educated higher classes are trying to remove this evil of untouchability and mix with them quite freely and that there is a gradual change in the condition of the depressed classes and in the treatment accorded to them by the general educated public ?

Dr. Ambedkar: Yes, it is so, though the sympathy is only in words and is seldom translated into action.

290. Are you aware that in almost all villages the depressed class people are provided with wells meant only for their own use ?

Dr. Ambedkar: No.

291. Are there not such wells ?

Dr. Ambedkar: Not in every village.

292. Who are the depressed classes ? Will you please name the castes ?

Dr. Ambedkar: There is the census.

293. Do inter-marriages take place between the Mang and the Mahar castes ?

Dr. Ambedkar: No, the caste Hindus have spread their poison to the rest.

294. Do they dine together ?

Dr. Ambedkar: Yes, now-a-days. The movement for consolidation is going on and there is now a case of inter-marriage between a Mang and a Mahar.

295. Are there not two Inamdars in my constituency who belong to the depressed classes ?

Dr. Ambedkar: I do not know.

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*NOTE BY Dr. B. R. AMBEDKAR TO THE INDIAN FRANCHISE COMMITTEE (LOTHIAN COMMITTEE) ON THE DEPRESSED CLASSES SUBMITTED ON 1st MAY 1932

I. General

1. I have agreed to confine the term depressed classes to untouchables only. In fact, I have myself sought to exclude from the untouchables all those in whom there cannot be the same consciousness of kind as is shared by those who suffer from the social discrimination that is inherent in the system of untouchability and who are therefore likely to exploit the untouchables for their own purposes. I have also raised no objection to the utilisation of tests 7 and 8 referred to in the Committee's report for the ascertainment of the untouchable classes. But as I find that different persons seek to apply them in different ways, or put different constructions on them I feel it necessary to explain my point of view in regard to this matter.

2. In the first place it is urged in some quarters that whatever tests are applied for ascertaining the untouchable classes they must be applied uniformly all over India. In this connection, I desire to point out that in a matter of this sort it would hardly be appropriate to apply the same test or tests all over India. India is not a single homogeneous country. It is a continent. The various Provinces are marked by extreme diversity of conditions and there is no tie of race or language. Owing to absence of communication each Province has evolved along its own lines with its own peculiar manners and modes of social life. In such circumstances the degree of uniformity with which most of the tests of untouchability are found to apply all over India is indeed remarkable. For instance, bar against temple entry exists everywhere in India. Even the tests of well-water and pollution

* Report of the Indian Franchise Committee, Vol. I, Second Edition, pp. 202-11, The Indian Franchise Committee was constituted on the recommendations by the Franchise Sub-Committee of the Round Table Conference in December 1931. The Committee consisted of 18 members including Dr. Ambedkar. The Marquess of Lothian, C. H., Parliamentary Under Secretary of State for India, was the Chairman of this Committee.

by touch apply in every Province, altough not with the same rigidity everywhere. But to insist on absolute uniformity in a system like that of untouchability which after all is a matter of social behaviour and which must therefore vary with the circumstances of each Province and also of each individual is simply to trifle with the problem. The Statutory Commission was quite alive to this possible line of argument and after careful consideration rejected it by recognizing the principle of diversity in the application of tests of untouchability. On page 67 of Vol. II which contains its recommendations it observed : "It will plainly be necessary, after the main principles of the new system of representation have been settled, to entrust to some specially appointed body (like the former Franchise Committee) the task of drawing up fresh electoral rules to carry these principles into effect, and one of the tasks of such a body will be to frame for each province a definition of 'depressed classes' (which may well vary, sometimes even between parts of the same province), and to determine their numbers as so defined." Another point which I wish to emphasize is the futility of insisting upon the application of uniform tests of untouchability all over India. It is a fundamental mistake to suppose that differences in tests of untouchability indicate differences in the conditions of the untouchables. On a correct analysis of the mental attitude they indicate, it will be found that whether the test is causing pollution by touch or refusal to use common well, the notion underlying both is one and the same. Both are outward registers of the same inward feeling of defilement, odium, aversion and contempt. Why will not a Hindu touch an untouchable ? Why will not a Hindu allow an untouchable to enter the temple or use the village well ? Why will not a Hindu admit an untouchable in the inn ? The answer to each one of these questions is the same. It is that the untouchable is an unclean person not fit for social intercourse. Again, why will not a Brahmin priest officiate at religious ceremonies performed by an untouchable ? Why will not a barber serve an untouchable ? In these cases also the answer is the same. It is that it is below dignity to do so. If our aim is to demarcate the class of people who suffer from social odium then it matters very little which test we apply. For as I have pointed out each of these tests is indicative of the same social attitude on the part of the touchables towards the untouchables.

3. In the second place the view is put forth that in applying the test of "causing pollution by touch" for ascertaining the untouchable classes effect must be given to it in its literal sense—and not in its notional sense. In the literal sense untouchables are only those persons whose touch not only causes pollution and is therefore avoided, or if not avoided is washed off by purification. In the notional sense an untouchable is a person who is deemed to belong to a class which is commonly held to cause pollution by touch, although contact with such a person may for local circumstances not be avoided or may not necessitate ceremonial purification. According to those who seek to apply the test in its literal sense the conclusion would be

the so-called untouchables should cease to be reckoned as untouchables wherever conditions have so changed that people do not avoid the touch of an untouchable, or do not trouble to purify themselves of the pollution caused by their touch. I cannot accept this view which, in my opinion is based on a misconception. An individual may not be treated as an untouchable in the literal sense of the term on account of various circumstances. None the less outside the scope of such compelling circumstances he does continue to be regarded as an impure person by reason of his belonging to the untouchable class. This distinction is well brought out by the Census Superintendent of Bihar and Orissa in his Census Report of 1921 from which the following is an extract. Speaking of the relaxation of caste rules he says : "Such incidents however which we have only noticed amongst the upper and more educated castes that are aspiring to the upper ranks, are to be regarded not as sign portending the collapse of the caste system, but of its adjustment to modern conditions. The same may be said with regard to modifications of the rules about personal contact or the touching of what is eaten or drunk..... In places like Jamshedpur where work is done under modern conditions men of all castes and races work side by side in the mill without any misgivings regarding the caste of their neighbours. But, because the facts of everyday life make it impossible to follow the same practical rules as were followed a hundred years ago, it is not to be supposed that the distinctions of pure and impure, touchable and untouchable are no longer observed. A high caste Hindu will not allow an 'untouchable' to sit on the same seat, to smoke the same hookah or to touch his person, his seat, his food or the water that he drinks." If this is a correct statement of the facts of life then the difference between untouchability in its literal and notional sense is a distinction which makes no difference to the ultimate situation ; for as the extract shows untouchability in its notional sense persists even where untouchability in its literal sense has ceased to obtain. This is why I insist that the test of untouchability must be applied in its notional sense.

4. In the third place the idea is broadcast that untouchability is rapidly vanishing. I wish to utter a word of caution against the acceptance of this view, and to point out the necessity of distinguishing facts from propaganda. In my opinion what is important to be borne in mind in drawing inference from instances showing the occasional conuningling of Brahmins and non-Brahmins, touchables and untouchables is that the system of caste and the system of untouchability form really the steel frame of Hindu society. This division cannot easily be wiped out for the simple reason that it is not based upon rational, economic or racial grounds. On the other hand, the chances are that untouchability will endure far longer into the future than the optimist reformer is likely to admit on account of the fact that it is based on religious dogma. What makes it so difficult, to break the system of untouchability is the religious sanction which it has behind it. At any rate the ordinary Hindu looks upon it as part of his religion and there is no doubt that in adopting

towards untouchables in what is deemed to be an inhuman way of behaviour he does so more from the sense of observing his religion than from any motive of deliberate cruelty. Based on religion the ordinary Hindu only relaxes the rules of untouchability where he cannot observe them. He never abandons them. For abandonment of untouchability to him involves a total abandonment of the basic religious tenets of Hinduism as understood by him and the mass of Hindus. Based on religion untouchability will persist as all religious notions have done. Indian history records the attempts of many a Mahatma to uproot untouchability from the Indian soil. They include such great men as Buddha, Ramanuja and the Vaishnava saints of modern times. It would be hazardous to assume that a system which has withstood all this onslaught will collapse. The Hindu looks upon the observance of untouchability as an act of religious merit, and non-observance of it as sin. My view therefore is that so long as this notion prevails untouchability will prevail.

Having explained my views on general questions regarding interpretations and connotations of the system of untouchability, I proceed to offer some remarks on the question of the population of depressed classes in the three Provinces in which there is no unanimity of opinion.

II. Depressed Classes in United Provinces

5. Regarding the population of the depressed classes in the United Provinces five different estimates have been given to the Committee—

(1) estimate of the United Provinces Provincial Franchise Committee ;

(2) estimate given by Mr. Blunt in his note ;

(3) estimate given by the Census Commissioner;

(4) two estimates given by the Government of the United Provinces.

I make the following observations on these estimates :

6. I agree that Mr. Blunt's note carries great authority with it. It is based on the facts which came into his possession as a Census Superintendent for United Provinces in 1911. It has the added weight of the opinion of an informal Committee of non-official Hindus which I am told was appointed by the United Provinces Government to examine the correctness of the lists of untouchable castes in United Provinces drawn up by Mr. Blunt in his first draft. All the same I differ from Mr. Blunt in the following particulars :

(*i*) One is that Mr. Blunt has divided the three following single communities into two dichotomous sections, one touchable and the other untouchable :

		Touchable	Untouchable
(1) Bhoksa group	..	30,000	19,028
(2) Kori group	..	154,867	775,839
(3) Chamar group	..	2,000,000	4,187,770

(*ii*) The second point of difference is that he treats the Arakh group whose population is 110,032 as touchable when as a matter of fact that group forms a part of the Pasi community which is undoubtedly an untouchable community.

My contention is that the procedure adopted by Mr. Blunt is not in accordance with facts and is not warranted by the fundamental theory of Hindu social life. That the Kori group is simply a part of the Chamar group and as such is wholly an untouchable group is borne out by the views of Mr. Blunt himself as expressed by him in the report of the United Provinces Census of 1911 of which he was the Superintendent. I rely on the remarks made by him in paragraph 347 of the Census Report of 1911 where he has discussed the connection of the Kori to the Chamar. On the same Report he makes the following observations :

> "The relation between Kori and Chamar has already been referred to above. In Gorakhpur it appears to be closer still and it is said that there are no Koris there save Kori Chamars The Kori Chamar however drops the Chamar and tries to pass himself off as a Kori pure and simple, or even by slurring the word to make it sound like Koiri. A Khalasi in Gorakhpur district was severely beaten by the rest of his Hindu fellow servants for playing this trick and making them take water from his hands."

Regarding the Arakh group Mr. Blunt himself admits in his note that "as a whole these castes appear to be off-shoots of the important Pasi tribe" which he has treated as untouchable. Coming to the Chamar group Mr. Blunt's reasons for excluding 2 million Chamars from the category of untouchables are given by him on page 17 of his note. He says : "Oh the other hand many Chamars have taken to cleaner occupations such as those of saddler (zingar), cobbler (mochi), groom (syce) while the extension of the leather trade at Cawnpore and elsewhere has enabled many Chamars to become wealthy when they aim at social status much higher than that of their village brethren. Such Chamars are generally regarded as touchables and many change the caste name for something less ill-sounding, for instance, Koril, Aharwar, Jatiya, Dhusiya and especially Jaiswar." In my opinion to exclude, as Mr. Blunt has done, such Chamars as have taken to cleaner occupations or have become wealthy from the category of untouchables is a totally erroneous view. One of the characteristics of the system of untouchability and also of the caste system is that the social status of the individual rises or falls with that of the community to which he belongs. Once an untouchable always an untouchable has been the rule of Hindu social life. This is its cardinal feature and it is this which distinguishes it from the class system in which the social status of the individual rises or falls not with that of the community to which he belongs but with his own personal merits and demerits. Having regard to this fundamental and basic principle of Hindu social life, the division made by Mr. Blunt that some members of an admittedly untouchable caste are touchable must be discarded Indeed it is a contradiction in terms and does not seem to be in accord With the facts. It is not true that sections of the Chamar caste mentioned by Mr. Blunt have been

ted as touchable or allowed to enter temples or draw water from public wel . On the contrary, they have invented, according to Mr. Blunt's own

statement, new names for themselves to avoid being treated as untouchables. Mr. Blunt himself gives instances of this in his Census Report for the United Provinces for 1911. I quote the following extract from Part I :

> "A Jaiswar Chamar in the same way will never admit he is a Chamar but tries to pass his caste off as Jaiswar alone, a sub-caste of so many castes including Rajput. A syce once tried the trick on me and in Tundla in Agra district. I found a whole colony of Jaiswars who on enquiry proved to be descendants of Chamar regimental syces who had settled there."

If my contentions are accepted and if that part of the population of the untouchable communities which Mr. Blunt has treated as touchable is added to the total of untouchables then Mr. Blum's figures for untouchables in the United Provinces come to 11,476,214.

7. The Census Commissioner's estimate of the population of the depressed classes is 12.6 millions, and even if a stricter computation was followed and only 'list A' which includes untouchables only was accepted the population of depressed classes so understood would come up to a little over 11 millions—a figure which very nearly agrees with that of Mr. Blunt.

8. The Government of the United Provinces has given two sets of estimates. In its first report it gave the figure of 6,773,814. In its final report it agreed with the Provincial Committee that the population of castes which fell within the definition of causing pollution by touch came to only 459,000. Regarding the estimate of 6,773,814 given in its first report it is necessary to point out that this estimate is not an estimate of the population of untouchables in the United Provinces. So far as that point is concerned the Government of the United Provinces seem tacitly to accept the figures given by Mr. Blunt in his Note. The estimate of 6,773,814 given by the U. P. Government is an estimate of people who in its opinion require to be recognised for political protection. The merits of this procedure I have discussed below. All that I wish to do here is to repeat that this estimate of the U. P. Government is not an estimate of the total population of untouchables as such. The only comment I wish to make on the estimate given by the United Provinces Government in its final report is to place beside it the estimate which it gave to the Simon Commission In their note on the position of the depressed classes which is printed as an addendum at the end of their memorandum to the Statutory Commission they said : "Of the total Hindu population of the province nearly one-third, that is almost thirteen millions are regarded by orthodox Hindus as untouchables. A list of castes classed as untouchable, extracted from the U. P. Census Report of 1901, with the population of each is appended to this note..... *The social impurity attaching to the untouchable castes merely implies that a man of high caste will not take food or water from an untouchable, and if he touches or comes in close contact with such a person he must wash before eating or even before mixing with persons of higher castes."* It is clear from this that on the 16th of May 1928, on which the memorandum was

submitted, the population of persons who on the basis of untouchability as meaning causing pollution of touch was 13 millions. It is obvious that the definition given by the Chairman of our Committee is not different from the definition which obtained in U.P. and which is followed by the Government in 1928 in computing this total of 13 millions. I must therefore leave the United Provinces Government to explain the vast difference between the two estimates. I am, however, constrained to remark that these changes in the estimates of the untouchables in the United Provinces by the United Provinces Government are equalled by the changes in the views of the United Provinces Government regarding the method of representation of the depressed classes In their despatch on the report of the Statutory Commission written on 23rd August 1930 the Government of the United Provinces was the staunchest supporter of separate electorates for the depressed classes. In their first report to our Committee the Government came down to nomination from a panel while in their final report it recommended reservation of seats. It would be a disaster to the cause of the depressed classes if the views of a Government were to undergo such strange oscillations in regard to two such momentous issues as the population and representation of the depressed classes.

9. Coming to the estimate given by the United Provinces Provincial Franchise *Committee* I wish *to* draw attention to the following facts :

(i) The figures of the Census Commissioner, of Mr. Blunt and of the Government in 1928 all agree that the depressed class population meaning thereby those who cause pollution by touch is approximately between 11½ and 13 millions. It is therefore for the Committee to justify its surprisingly low estimate.

(ii) I am not at all certain that when the Committee says that the two depressed class members agree in its view and the majority of the Committee were ad-idem in respect of all the implications of the agreement At any rate, I am bound to point out that the opinion of Babu Ram Charan on this issue has no value. He belongs to the depressed class in the sense of the economically poor and educationally backward classes and not to the untouchable classes in the strict sense of the term.

(iii) The Indian Franchise Committee has adopted two tests for the classification of untouchables, temple entry and pollution by touch. The U. P. Provincial Franchise Committee has proceeded on the basis of only one test namely causing pollution by touch and that too in its literal sense and not in its notional sense.

(iv) In adopting our Chairman's definition of untouchability, which I must say he gave on his own responsibility, the Provincial Franchise Committee does not seem to have adverted to the clause "as it exists in the United Provinces".

10. There is another question of great importance which arises in connection with the method adopted both by Mr. Blunt and the U. P. Government in estimating the population of the depressed classes. The Indian

Franchise Committee has proceeded on the hypothesis that all those who fall under the two tests accepted by it must be treated as untouchables and must be reckoned as such for purposes of special representation. In the course of its investigation the Indian Franchise Committee found that as things stood in India, all depressed classes were not untouchables, and to include all untouchables irrespective of their economic and educational condition. Mr. Blunt and the Government of the United Provinces seem to make a distinction between "untouchables" and "depressed classes" out of quite a different sort. According to them all depressed classes are untouchables. All untouchables, however, do not belong to the category of depressed classes. This is just the reverse of the prevalent practice and the conclusions of the Indian Franchise Committee. The question is not one of mere nomenclature. It has far reaching consequences which go to affect the degree of representation. The United Provinces Government and Mr. Blunt do not take into their calculation all untouchables for the purposes of representation. They take into account only those untouchables who can be called depressed. The Indian Franchise Committee proceeds on the hypothesis that once the class of untouchables is ascertained by the application of the two tests it has accepted for the purpose the whole of the class of untouchables so ascertained must be taken into account for the purpose of representation without any further distinction between rich and poor, advanced and backward, educated and uneducated, which in my opinion is the correct procedure.

It is hardly necessary for me to say that I do not agree with the procedure adopted by Mr. Blunt and the Government of the United Provinces.

III. Depressed Classes in the Punjab

11. In connection with the population figure for the depressed classes given in the census of 1931 I wish to draw attention to two facts :

(1) The population of those who caused pollution by touch was according to the census of 1911, 2.8 millions while in the census of 1931 the population of untouchables is given as amounting to 1-3 millions.

(2) The census of 1911 gives a list of 23 castes which are deemed to cause pollution by touch. The census of 1931 mentions only castes as forming the untouchable population in the Punjab.

12. Why the total population of the untouchables and the list of castes included in that category should have shrunk so much between 1911 and 1931 I am not able to ascertain. It is however necessary to state that among the untouchables of Punjab there has been going on for some years past a strong movement called the Ad-Dharm movement the object of which is to separate from the Hindu fold and form themselves into a distinct community under the new name of Ad-Dharmis. Such has been the strength of the movement that the untouchables decided to return themselves as Ad-Dharmis instead of Hindus in the census of 1931, and the Government gave recognition to this feeling and allowed the Census Superintendent of Punjab to open a new category, of Ad-Dharmis. This, led in some parts of the

Punjab to riots between the Hindus and the untouchables. As a result the untouchables in some parts returned themselves simply as Ad-Dharmis without mentioning their respective castes, and in other parts where they were prevented from doing so returned themselves as Hindus under their caste names. I am mentioning these facts to show that the difficulties created in the enumeration of the untouchables and which are admitted by the Government of Punjab may be responsible for this shrinkage in the number and list of untouchables in the Punjab. The matter therefore requires to be carefully looked into.

IV. Depressed Classes in Bengal

13. In regard to the depressed classes of Bengal there is an important piece of evidence to which I should like to call attention and which goes to show that the list given in the Bengal Census of 1911 is a correct enumeration of caste which have been traditionally treated as untouchable castes in Bengal. I refer to Section 7 of Regulation IV of 1809 (A regulation for rescinding Regulations IV and V of 1806 ; and for substituting rules in lieu of those enacted in the said regulations for levying duties from the pilgrims resorting to Jagannath, and for the superintendence and management of the affairs of the temple; passed by the Governor-General in Council, on the 28th of April 1809) which gives the following list of castes which were debarred from entering the temple of Jagannath at Puri : (1) Loli or Kashi, (2) Kalal or Sunri, (3) Machhua, (4) Namasudra or Chandal, (5) Ghuski, (6) Gazur, (7) Bagdi, (8) Jogi or Nurbaf, (9) Kahar-Bauri and Dulia, (10) Rajbansi, (11) Pirali, (12) Chamar, (13) Dom, (14) Pan, (15) Tiyar, (16) Bhuinnali, and (17) Hari.

The enumeration agrees with the list of 1911 Census and thus lends support to its correctness. Incidentally it shows that a period of 100 years made no change in the social status of the untouchables of Bengal.

II. In connection with the three provinces, United Provinces, Bengal and Punjab, where there is disagreement on the question of the population of the Depressed Classes I desire to draw attention to the fact that the Indian Franchise Committee has proceeded upon two distinct tests for the ascertainment of the untouchable population, while the Provincial Governments and Provincial Committees have apparently followed one single test, namely, causing pollution by touch.

V. Nomenclature

14. The revision of the electoral rolls consequent upon the proposed changes in the constitution is a very good occasion for considering the question of having a proper and appropriate nomenclature for the depressed classes. I therefore propose to express my opinion on this question. There is considerable objection on the part of the communities which are now called “depressed classes” to the use of that term in describing them. Several witnesses who have appeared before the Committee have given

expression to this sentiment. Besides the term 'depressed classes' has led to a great deal of confusion in the census because it includes others who are not strictly untouchables. Secondly, it gives the impression that the depressed classes are a low and helpless community when as a matter of fact in every Province numbers of them are both well-to-do and well-educated, and the whole community is acquiring consciousness of its needs, is charged with ambition for securing a respectable status in Indian society and is making Stupendous efforts to achieve it On all these grounds the term 'depressed classes' is inappropriate and unsuitable. Mr. Mullan, the Census Superintendent of Assam, has brought into use a new term called 'exterior castes' to cover the untouchables. This designation has many advantages. It defines exactly the position of the untouchables who are within the Hindu religion but outside the Hindu society and distinguishes it from Hindus who are economically and educationally depressed but who are both within the pale of Hindu religion and Hindu society. The term has two other advantages. It avoids all the confusion that is now caused by use of the vague term depressed classes and at me same time is not offensive. Our Committee did not feel competent to make recommendation in this behalf. But as a representative of the depressed classes I have no hesitation in saying that until better nomenclature is found the untouchable classes should hereafter be described by the more expressive term 'Exterior Castes' or 'Excluded Castes' and not as depressed classes.

VI. Reservations

15. Before concluding this note I would like on my part to make the same reservation which my Muslim colleagues on the Committee have made namely that the allocation of seats to labour women, and other special interests must not affect the proportion of seats which the depressed classes have claimed in the Minorities Pact submitted to the Round Table Conference.

The 1st May 1932. **B. R. AMBEDKAR**

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Dr. Ambedkar with Mr. Muhammad Zafrulla Khan arriving at the House of Lords for the Third R. T. C. in 1932

Courtesy; India Office Library and Records, London

PART III

Dr. Ambedkar at the Round Table Conferences

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1

IN THE PLENARY SESSION

Fifth Sitting—20th November 1930

NEED FOR POLITICAL POWER FOR DEPRESSED CLASSES

**Dr. B. R. Ambedkar:* Mr. Chairman, my purpose in rising to address this conference is principally to place before it the point of view of the depressed classes, whom I and my colleague, Rao Bahadur Srinivasan, have the honour to represent, regarding the question of constitutional reform. It is a point of view of 43,000,000 people, or one-fifth of the total population of British India. The depressed classes form a group by themselves which is distinct and separate from the Muhammadans and, although they are included among the Hindus, they in no sense form an integral part of that community. Not only have they a separate existence, but they have also assigned to them a statute which is invidiously distinct from the status occupied by any other community in India. There are communities in India which occupy a lower and subordinate position; but the position assigned to the depressed classes is totally different. It. is one which is midway between that of the serf and the slave, and which may, for convenience, be called servile with this difference, that the serf and the slave were permitted to have physical contact, from which the Depressed Classes are debarred. What is worse that this enforced servility and bar to human intercourse, due to their untouchability, involves, not merely the possibility of discrimination in public life, but actually works out as a positive denial of all equality of opportunity and the denial of those most elementary of civic rights on which all human existence depends. I am sure that the point of view of such a community, as large as the population of England or of France, and so heavily handicapped in the struggle for existence, cannot but have some bearing on the right sort of solution of the political problem, and I am anxious that this Conference should be placed in possession of that point of view at the very start.

The point of view I will try to put as briefly as I can. It is this that the bureaucratic form of Government in India should be replaced by

* Proceedings of the Round Table Conference (hereinafter referred to as R.T.C.) (First Session), Government of India, Central Publication Branch, Calcutta, 1931, pp. 123-29.

a Government which will be a Government of the people, by the people and for the people. This statement of the view of the depressed classes I am sure will be received with some surprise in certain quarters. The tie that bounds the Depressed Classes to the British has been of a unique character. The Depressed Classes welcomed the British as their deliverers from age long tyranny and oppression by the orthodox Hindus. They fought their battles against the Hindus, the Mussalmans and the Sikhs and won for them this great Empire of India. The British, on their side, assumed the role of trustees for the depressed classes. In view of such an intimate relationship between the parties, this change in the attitude of the depressed classes towards British Rule in India is undoubtedly a most momentous phenomenon. But the reasons for this change of attitude are not far to seek. We have not taken this decision simply because we wish to throw in our lot with the majority. Indeed, as you know, there is not much love lost between the majority and the particular minority I represent. Ours is an independent decision. We have judged of the existing administration solely in the light of our own circumstances and we have found it wanting in some of the most essential elements of a good Government. When we compare our present position with the one which it was our lot to bear in Indian society of the pre-British days, we find that, instead of marching on, we are only marking time. Before the British, we were in the loathsome condition due to our untouchability. Has the British Government done anything to remove it ? Before the British, we could not enter the temple. Can we enter now ? Before the British, we were denied entry into the Police Force. Does the British Government admit us in the Force ? Before the British, we were not allowed to serve in the Military. Is that career now open to us ? To none of these questions can we give an affirmative answer. That the British, who have held so large a sway over us for such a long time, have done some good we cheerfully acknowledge. But there is certainly no fundamental change in our position. Indeed, so far as we were concerned, the British Government has accepted the social arrangements as it found them, and has preserved them faithfully in the manner of the Chinese tailor who, when given an old coat as a pattern, produced with pride an exact replica, rents, patches and all. Our wrongs have remained as open sores and they have not been righted, although 150 years of British rule have rolled away.

We do not accuse the British of indifference or want of sympathy. What we do find is that they are quite incompetent to tackle our problems. If the case was one of indifference only it would have been a matter of small moment, and it would not have made such a profound change in our attitude. But what we have come to realise on a deeper analysis of the situation is that it is not merely a case of indifference, rather it is a case of sheer incompetence to undertake the task. The depressed classes find that the British Government in India suffers from two very serious

limitations. There is first of all an internal limitation which arises from the character, motives and interests of those who are in power. It is not because they cannot help us in these things but because it is against their character, motives and interests to do so. The second consideration that limits its authority is the mortal fear it has of external resistance. The Government of India does realise the necessity of removing the social evils which are eating into the vitals of Indian society and which have blighted the lives of the downtrodden classes for so many years. The Government of India does realise that the landlords are squeezing the masses dry, and the capitalists are not giving the labourers a living wage and decent conditions of work. Yet it is most painful thing that it has not dared to touch any of these evils. Why? Is it because it has no legal powers to remove them? No. The reason why it does not intervene is because it is afraid that its intervention to amend the existing code of social and economic life, will give rise to resistance. Of what good is such a Government to anybody? Under a Government, paralysed between two such limitations, much that goes to make life good must remain held up. We must have a Government in which the men in power will give their undivided allegiance to the best interest of the country. *We must have a Government in which men in power, knowing where obedience will end and resistance will begin, will not be afraid to amend the social and economic code of life which the dictates of justice and expediency so urgently call for. This ROLE the British Government will never be able to play.* It is only a Government which is of the people, for the people and by the people mat will make this possible.

These are some of the questions raised by the Depressed Classes and the answers which in their view these questions seem to carry. This is therefore the inevitable conclusion which the Depressed Classes have come to : namely, that the bureaucratic Government of India, with the best of motives, will remain powerless to effect any change so far as our particular grievances are concerned. We feel that nobody can remove our grievances as well as we can, and we cannot remove them unless we get political power in our own hands. No share of this political power can evidently come to us so long as the British Government remains as it is. It is only in a Swaraj constitution that we stand any chance of getting the political power into our own hands, without which we cannot bring salvation to our people.

There is one thing, Sir, to which I wish to draw your particular attention. It is this. I have not used the expression Dominion Status in placing before you the point of view of the Depressed Classes. I have avoided using it, not because I do not understand its implications nor does the omission mean that the depressed classes object to India's attaining Dominion Status. My chief ground for not using it is that it does not convey the full content of what the Depressed Classes stand for. The Depressed Classes, while they stand for Dominion Status with safeguards, wish to lay all the emphasis

they can on one question and one question alone. And that question is, how will Dominion India function ? Where will the centre of political power be ? Who will have it ? Will the Depressed Classes be heirs to it ? These are the questions that form their chief concern. The Depressed Classes feel that they will get no shred of the political power unless the political machinery for the new constitution is of a special make. In the construction of that machine certain hard facts of Indian social life must not be lost sight of. It must be recognised that Indian Society is a gradation of Castes forming an ascending scale of reverence and a descending scale of contempt—a system which gives no scope for the growth of that sentiment of equality and fraternity so essential for a democratic form of Government. It must also be recognized that while the intelligentsia is a very important part of Indian society, it is drawn from its upper strata and although it speaks in the name of the country and leads the political movement, it has not shed the narrow particularism of the class from which it is drawn. In other words what the Depressed Classes wish to urge is that the political mechanism must take account of and must have a definite relation to the psychology of the society for which it is devised. Otherwise you are likely to produce a constitution which, however symmetrical, will be truncated one and a total misfit to the society for which it is designed.

There is one point with which I should like to deal before I close this matter. We are often reminded that the problem of the Depressed Classes is a social problem and that its solution lies elsewhere than in politics. We take strong exception to this view. We hold that the problem of the Depressed Classes will never be solved unless they get political power in their own hands. If this is true, and I do not think that the contrary can be maintained, then problem of Depressed Classes is I submit eminently a political problem and must be treated as such. We know that political power is passing from the British into the hands of those who wield such tremendous economic, social and religious sway over our existence. We are willing that it may happen, though the idea of Swaraj recalls to the mind of many of us the tyrannies, oppressions and injustices practised upon us in the past and fear of their recurrence under Swaraj. We are prepared to take the inevitable risk of the situation in the hope that we shall be installed, in adequate proportion, as the political sovereigns of the country along with our fellow countrymen. But we will consent to that on one condition and that is that the settlement of our problems is not left to time. I am afraid the Depressed Classes have waited too long for time to work its miracle. At every successive step taken by the British Government to widen the scope of representative Government the Depressed Classes have been systematically left out. No thought has been given to their claim for political power. I protest with all the emphasis I can that we will not stand this any longer. The settlement of our problem must be a part of the general political settlement and must not be left over to the

shifting sands of the sympathy and goodwill of the rulers of the future. The reasons why the Depressed Classes insist upon it are obvious. Every one of us knows that the man in possession is more powerful than the man who is out of possession. Everyone of us also knows that those in possession of power seldom abdicate in favour of those who are out of it. We cannot therefore hope for the effectuation of the settlement of our social problem. If we allow power to slip into the hands of those who stand to lose by settlement unless we are to have another revolution to dethrone those, whom we today help to ascend the throne of power and prestige. We prefer being despised for too anxious apprehensions, than ruined by too confident a security, and I think it would be just and proper for us to insist that the best guarantee for the settlement of our problem is the adjustment of the political machine itself so as to give us a hold on it, and not the will of those who are contriving to be left in unfettered control of that machine.

What adjustments of the political machine the Depressed Classes want for their safety and protection I will place before the Conference at the proper time. All I will say at the present moment is that, although we want responsible Government, we do not want a Government that will only mean a change of masters. Let the Legislature be fully and really representative if your Executive is going to be fully responsible.

I am sorry Mr. President. I had to speak in such plain words. But I saw no help. The Depressed Classes have had no friend. The Government has all along used them only as an excuse for its continued existence. The Hindus claim them only to deny them or, better still, to appropriate rights. The Muhammadans refuse to recognize their separate existence, because they fear that their privileges may be curtailed by the admission of a rival. Depressed by the Government, suppressed by the Hindu and disregarded by the Muslim, we are left in a most intolerable position of utter helplessness to which I am sure there is no parallel and to which I was bound to call attention.

Regarding the other question which is set down for discussion I am sorry it was decided to tag it on to a general debate. Its importance deserved a session for itself. No justice can be done to it in a passing reference. The subject is one in which the Depressed Classes are deeply concerned and they regard it as a very vital question. As members of a minority, we look to the Central Government to act as a powerful curb on the provincial majority to save the minorities from the misrule of the majority. As an Indian, interested in the growth of Indian nationalism, I must make it plain that I am a strong believer in the Unitary form of Government and the thought of disturbing it I must confess does not please me very much, This Unitary Government has been the most potent influence in the building up of the Indian nation. That process of unification which has been the result of a unified system of Government has not been completed and

I should be loathed to withdraw this most powerful stimulus in the formative period and before it has worked out its end.

However, the question in the form in which it is placed is only an academic question and I shall be prepared to consider a federal form, if it can be shown that in it local autonomy is not inconsistent with central unity.

Sir, all that I, as a representative of the depressed classes, need say on their behalf I have said. May I crave your indulgence to permit me as an Indian to say a word or two generally on the situation which we have to meet. So much has been said regarding its gravity that I shall not venture to add a word more to it, although I am no silent spectator of the movement. What I am anxious about is to feel whether we are proceeding on right lines in evolving our solution. What that solution should be rests entirely upon the view that British delegates choose to take. Addressing myself to them I will say, whether you will meet the situation by conciliation or by applying the iron heel must be a matter for your judgment for the responsibility is entirely yours. To such of you as are particular to the use of force and believe that a regime of LETTERS DE CACHET and the Bastille will ease the situation, let me recall the memorable words of the greatest teacher of political philosophy, Edmund Burke. This is what he said to the British nation when it was faced with the problem of dealing with the American colonies :

> "The use of force alone is but temporary. It may endure for a moment, but it does not remove the necessity of subduing again ; a nation is not governed which is perpetually to be conquered. The next objection to force is its uncertainty. Terror is not always the effect of force, and an armament is not a victory. If you do not succeed, you are without resource ; for conciliation failing, force remains, but force failing, no further hope of reconciliation is left. Power and authority are sometimes bought by kindness, but they can never be begged as alms by an impoverished and defeated violence. A further objection to force is, that you impair the object by your very endeavours to preserve it. The thing you fought for (to. wit the loyalty of the people) is not the thing you recover but depreciated, sunk, wasted and consumed in the contest."

The worth and efficacy of this advice you all knew. You did not listen to it and you lost the great continent of America. You followed it to the lasting good of yourself and the rest of the Dominions that are with you. To such of you as are willing to adopt a policy of conciliation I should like to say one thing. There seems to be prevalent an impression that the Delegates are called here to argue for and against a case for Dominion Status and that the grant of Dominion Status will be dependent upon which side is the victor in this battle of wits. With due deference to all who are sharpening their wits, I submit that there can be no greater mistake than to make the formula of logic govern so live an issue. I have no

quarrel with logic and logicians. But I warn them against the disaster that is bound to follow if they are not careful in the selection of the premises they choose to adopt for their deductions. It is all a matter of temper whether you will abide by the fall of your logic, or whether you will refute it, as Dr. Johnson did the paradoxes of Berkeley by trampling them under his feet. I am afraid it is not sufficiently realised that in the present temper of the country, no constitution will be workable which is not acceptable to the majority of the people. The time when you were to choose and India was to accept is gone, never to return. Let the consent of the people and not the accident of logic be the touchstone of your new constitution, if you desire that it should be worked.

2

COMMITTEE OF THE WHOLE CONFERENCE

†Comments on the Interim Report of Sub-Committee No. I (Federal Structure)—16th December 1930

‡*Dr. Ambedkar:* I should like to raise the point which my friend Mr. Joshi made before we adjourned. The Lord Chancellor, as the Chairman of this Sub-Committee, invited some of the delegates to submit any views they might have on these particular matters, and a few delegates including myself submitted a letter to the Chairman of the Sub-Committee, and expressed our wish that that letter should be submitted to the Sub-Committee for consideration. I do not find in the Report any reference to that letter, and I was informed by Lord Sankey that that letter was not placed before the Sub-Committee, but was sent to you, Sir, as Prime Minister. I do not think that that was quite a proper way of dealing with it. The letter was submitted to the Chairman of the Sub-Committee, for the Sub-Committee's use and it expressed certain definite views we held on the question of Federation. I am bound to make this comment because, speaking for myself, the Report as drawn up is so much at variance with the principles expressed in the letter that I find we shall have at some stage to raise a debate on this question, and I should like to know what steps the Lord Chancellor proposes to take.

Lord Sankey: I am very much obliged to Dr. Ambedkar for raising the point he has done, because I should have liked to have raised it myself, and it gives me the opportunity of saying a few words which I should have said at the beginning.....This is not a complete picture.....soon you are going to be presented with the complete picture, and Dr. Ambedkar, I shall want your assistance,.....Now with regard to the letter, Dr. Ambedkar, that you were good enough to send to me, I have considered it very carefully, and it will be vital to discuss it when we come to No. 6.§

† Proceedings of the R.T.C., pp. 193-95.

‡ Dr. Ambedkar was not the member of this Sub-Committee. He was nowever included as member of the Federal Structure Committee in the 2nd R.T.C.

§ Head No. 6 dealt with the constitution, character, powers and responsibilities of the Federal Executive.

Dr. Ambedkar : All I should like to know, if I may say so, is whether you will place that letter before the Committee. At what stage you may do so is a matter which I must leave to you.

Lord Sankey : One moment, Dr. Ambedkar. I am going to do a good deal more than that; I am not only going to place your letter before the Committee. I am going to draw the Committee's attention to it myself.

Dr. Ambedkar : I am obliged. That is enough for me.

Lord Sankey : One moment. I have not finished. When you are as old as I am, you will not be in such a hurry. Instead of having to do the job myself, I personally should very much take the gentlemen who presented the letter to come and do the job. If I have to do it myself, I shall not do it as well as you gentlemen would. But I will do this : not a word of the letter shall be left out; but it is not quite the time to consider it yet, because it must be considered at that important time when we come to No. 6.

Comments on paragraph 16 of the Report which dealt with Governor-General's special power

†*Dr. Ambedkar:* Sir, before you proceed, I should like to make it plain that the power given to the Governor-General to intervene to avoid serious prejudice to the interests of any section of the population must remain. The power must be embodied in the constitution in the same form as under section 93 of the Canadian Constitution.

Lt. Col. Gidney: Sir, I agree with and support everything that Dr. Ambedkar has said about the Governor-General having reserved power in such matters as he has mentioned.

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‡*Chairman:* Paragraph 34. I call on Col. Gidney.

Lt. Col. Gidney: I have one observation to make on this paragraph and I do so in conjunction with paragraph 29. Whereas in paragraph 29 a population ratio is to be adopted in estimating the representation of various communities in the upper chamber, in this paragraph 34, you use the word "possibly" which still further closes the door to minorities and special interests even to get a single representative in the upper chamber. I would suggest that that word "possibly" be deleted from this paragraph and the other words following, "and certainly in the Lower Chamber" be also deleted, as that the reconstructed paragraph will read :

> "Provision should be made for the representation in both chambers, however small this representation be"

I think all the minority communities have every entitlement to representation in the upper house, however small it be.

Dr. Ambedkar: I associate myself with what Col. Gidney has said.

(Paragraph 34 dealt with representation of special interests and of the Crown in Federal Legislature.)

† Proceedings of the R.T.C., p. 261.

‡ *Ibid.,* pp. 278-79.

3

IN SUB-COMMITTEE No. II (PROVINCIAL CONSTITUTION)

First Sitting—4th December 1930

†*Dr. Ambedkar:* I propose to divide my remarks under three heads : (l) provincial autonomy, (2) responsibility in the provinces, (3) provincial services. I make a distinction between provincial autonomy and provincial services. It seems to me that the question of provincial autonomy raises the definition of the relations of the provincial Executive and Legislature *vis-a-vis* the Central Government and the Central Legislature. The first remark I would offer with the attitude of those who hold that the time has arrived when the provincial Governments ought to be left with as complete an autonomy as is possible under the circumstances, and they should be free from such control as the Central Government now exercises. But, Sir, I cannot help making this further observation, that viewing the problem of provincial autonomy from the standpoint of the particular class I represent in this Conference and of the interests of India as a whole and the working classes in particular, I think that in any future constitution that we propose to devise for endowing the Provinces with provincial autonomy we must take into consideration certain facts which are bound to limit the character of that autonomy.

The first limiting factor in the provincial autonomy is that it must be made subject to such questions of a provincial character which are, although provincial in nature, also of an All-India character. The Provinces may have their say with regard to these subjects, and yet the Central Government should not be excluded from its jurisdiction with regard to them. For instances, I would like to draw an illustration from labour legislation, legislation affecting tenants and affecting agriculture. These, no doubt, in a country like India, must become provincial subjects yet I do not think they can be viewed entirely from such a small compass. They cannot be

† Proceedings of the Sub-Committee No. II (Provincial Constitution), Government of India, Central Publication Branch, Calcutta, 1931, pp. 18-22.

The terms of reference to this Committee were as under:—

(1) "The powers of the Provincial Legislature."

(2) "The constitution, character, powers and responsibilities of the Provincial Executive."

regarded as entirely provincial and without an All-India character. The Central Government must have some jurisdiction over subjects of this character, notwithstanding that it cuts across provincial autonomy.

Secondly, I should state that in dividing the powers of Government between the Central and the Provincial Governments in the future constitution of India with a view to giving the Provinces as complete an autonomy as possible, it will also be necessary that such powers as remain undefined must be left with the Central Government. Well, I do not think that there is no other view on that point. But I say that in the present situation in India, where the separatist tendency exists to such an extent as we all know it, where provincial and local parochialism is more dominant than national feeling, while we are building up a Federated India with complete autonomy of the units, we still have the problem of making India as a whole a strong and united country. I would make this further observation, namely, that I do not think that the reservation of powers in the Central Government is likely to affect the autonomy of the Provinces. The reservation of powers as interpreted by the Judicial Committee of the Privy Council in the case of Canada has not had this over-riding effect. It means a power that comes into existence in an emergency in a field not specifically allotted to the Provinces. I do not think that the Provincial autonomy should be really affected.

The second thing I should like to observe in connection with this question of Provincial autonomy is that that autonomy must be limited by the affording of protection for the interests of the minorities and of the Depressed Classes. As I visualise the situation in India as it. will result from the new constitution, I find there will be certain Provinces in which some communities will be in a majority, but in all the Provinces the Depressed Classes, whom I represent, will be in a minority. They will be in a minority in every Province. I cannot understand how we can at this state permit the Provincial majorities to have a complete uninterrupted and undiluted sway over the destinies of these poor people, without any right of appeal being given to the latter in regard to mal-administration or neglect of their interests. There must be some authority somewhere, over and above the Provincial Government, which will be in a position to intervene and rescue them from any adverse position in which they may be placed by the Provincial majorities.

These are the three things which, in my opinion at any rate must limit the autonomy of the future Provincial Governments of India.

Coming to the question of the character of responsibility in the Provincial Governments, my first observation is that the whole question of responsibility in the Provincial Legislature is entirely dependent upon the kind of Legislature that you are going to get in the Provinces. If the Legislature that you are going to get in the Provinces is a Legislature which is going to be a mirror of the whole population of the Province, if it is going to be

thoroughly representative and not merely representative as a museum is, where there are a few specimens of every species for the observation of the general onlooker; if every minority and every class which fears its existence will be jeopardised is placed on a position to make its influence felt, then I think in a Legislature of that sort there will be no harm in conceding the principle that Provincial responsibility may be introduced to the fullest extent. That is my first observation.

Making that a condition that the Legislatures shall be fully and adequately representative of all the classes, I see no objection to the subjects which are now reserved being transferred to popular control.

Coming to the question of whether the responsibility in the Provinces should be joint or should be individual I have not the slightest hesitation in saying that the responsibility not only should be joint but must be joint. I have been a member of Legislative Council, and I have seen how Ministries in the Provinces have worked. It has been a most painful experience for me, as it has been the experience, I believe, of many of those who have had the misfortune or the good fortune to be members of a Legislative Council, to find that Ministries have been working as a kind of loose confederation, without having any complete or unanimous view on a particular policy which they adopted. There have been divided counsels, and cases of Ministers not being very willing to support each other.

What has been the result? The result is this, that in no instance have we had any considered policy put forward by the Cabinet as a whole, worked out in detail and placed before the Legislative Council Things have been done by fits and starts, and I do not think we want our responsibility in future to be bungled in that fashion.

Turning now to the question of communal representation in the Cabinets, I must confess that I am not very much drawn to the suggestion which is often made that there should be communal representation in the Cabinet I am not, of course, oblivious of the fact; in fact, I am very conscious of it that if the minority communities are not represented in the Cabinet it is very possible, and even very likely, that in matters of administration which affect their daily lives their interests may be affected very prejudicially by the policy of Ministers whose dominant interest is communalism. I do not forget that for a moment, but my submission is that there is a better way of dealing with that sort of evil, and it seems to me that if the minorities could get constitutional and statutory guarantees laid down in the Constitutional Act itself against anything likely to injure their interests being done or left undone by the Cabinet, the danger which most of us apprehend from the fact that the Cabinets may be communally dominated, will vanish, and we shall not have much cause to insist on communal representation in the Cabinet

Although I am very desirous that the Chief Minister, whoever he is,

should recognise or should be made to recognise the interest of having most of the important minorities represented in the Cabinet, we cannot for the moment forget that, after all, a Cabinet office is a very responsible office. A Cabinet Minister has not merely to look after the interests of the minorities ; he has to see to the safety and interest of the Province as a whole. That demands ability and competence ; it does not merely demand a communal outlook, and it is from that point of view that I look at the matter. I should like to have the interests of the minorities and the Depressed Classes safeguarded in such a manner that constitutionally it would be impossible for Ministers drawn from the majority communities to do anything prejudicial to the minorities or to neglect their interests.

Coming to the question of the relations between the Governor and his Ministry, I think one thing is obvious, namely that no constitution, if it is really to embody full responsible Government and collective responsibility, can permit the Governor the power to interfere in the day-to-day administration of the country. That would run quite across the system of responsible Government and collective responsibility. The Ministry must be allowed to carry on the day-to-day administration on the basis of joint responsibility.

When we come to the question of the emergency powers which it is suggested should be left with the Governor. I find myself in a somewhat difficult position, because I do not understand exactly what is meant. Is it meant that when an emergency arises the Governor should simply dismiss the Ministry and have nothing to do with it, and should promulgate whatever laws, ordinances or measures he thinks are necessary to meet the situation, notwithstanding the fact that they are opposed by the Ministry? I do not know what is wanted. I can quite understand the Governor should have the absolute, undoubted and unrestricted power of dismissing a Ministry which he thinks is not acting in the best interests of the country, but I cannot understand how there can be responsible Government in a Province in which the Governor is allowed to do a thing without a Ministry. It is one thing to say that the Governor should have a Ministry with which he agrees in a particular emergency, but it is quite a different thing to say that when an emergency arises the Governor should simply disregard the Ministry altogether. I think this point will have to be worked out in some deal, for, as I say, I do not quite understand it.

Coming to the question of the Services, there is one observation I am bound to make. I quite agree in principle that with provincial autonomy the power of regulating the Services in a Province should belong to that Province, and that the Provinces should have full liberty to Indianise the Services as they desire and according to their means and circumstances. The observation which I feel bound to make, however, is this : I cannot forget that Indians are communal minded. We do hope it is only a hope that a time will come when all Indians will cease to look at problems from a communal

point of view in administrating matters which are left to their charge, but that is only a hope; it is not a fact The fact is that Indians do discriminate between class and class, community and community, in administering such discretion as is left to them in their administration of the law. That is a fact I cannot get over; it is a fact from which I have suffered immensely. My fear with regard to the future constitution of India is that having regard to the present position of the depressed classes, having regard to the fact that education is not widely spread amongst them, and having regard to the fact that there is hardly a single individual holding a gazetted post in the Bombay Presidency for instance,—

A Member: There is one.

Dr. Ambedkar : Yes, there is one, and that is the exception which proves the rule. You know how much trouble I had to get him in. I very much fear that this Indianisation may work out as a tyranny, and therefore, from my particular point of view, I should like to emphasise that at any rate for some time it will be necessary to maintain a British element in the Services. I do not say there should be no Indianisation, but I do say that, having regard to our interests, it should be rather slower than some people desire it to be.

These are the general remarks that I wish to offer from our point of view.

Third Sitting—8th December 1930

†*Dr. Ambedkar:* May I make a suggestion ? It seems to me this question of Second Chambers is so important that it cannot be discussed properly and adequately by being tacked on to the series of heads we are now discussing. In my opinion a special day ought to be allotted to this subject. I see very little connection between the subject of Second Chambers and that of the protection of minorities, or any of the other matters enumerated in items 1 and 2. It seems to me this is a very important question. I find nothing in this list of heads dealing with the composition of the Legislature ; if you were to add a head "Composition of the Legislature" we should have a proper opportunity of discussing the whole subject.

Chairman: I cannot see how you can separate this whole subject and split it up.

Dr. Ambedkar: The question of Second Chambers can certainly be separated from that of minorities.

Chairman: Not entirely. Whether there is to be a Second Chamber or not affects almost every other subject that comes up, the powers of the Governor *vis-a-vis* the Executive and the Legislature, the powers of the

† Proceedings of Sub-Committee No. II (Provincial Constitution), p. 56.

Legislature and so on. I think you had better let us go on, and if at the end we find the discussion has not been adequate, we will try to arrange for a further discussion on this subject by itself.

Fourth Sitting—9th December 1930

†*Dr. Ambedkar:* It may be, but I am taking these two communities for the moment because they are important. It seems to me that any argument which is based upon that fact is an argument which leads to a conclusion which will never enable us to transfer law and order. Therefore it seems to me that that is an argument which ought not to be adopted or accepted. It seems to me also that the noble Marquess assumes that although a Muhammadan or a Hindu will be in charge of the department of law and order, he will be entirely subject to the whims of the particular community to which he belongs. My submission, Sir, is this, that assumes that the future of political parties in India will be so constituted that they will be divided on religious lines and not on the lines of political or economic differences. As I view the situation it seems to me that in the future constitution of India the Executive will be so divided that we shall see less of the religious and racial distinctions coming to the surface and we shall find a Hindu Minister having a party and a following containing a large element of Muhammadans, and a Muhammadan Minister with a following of Hindus in his group. If that happens, and I take it is almost a certainty that it will happen, I do not understand how, for instance, a Hindu Minister who is in charge of law and order could administer law and order in such a manner as to offend the susceptibilities of a part of the group which supports him in office. It seems to me therefore that the fears so far as this particular aspect of the matter is concerned are rather unfounded.

The second thing which seems to be agreed upon more or less is this, that not only should the Executive be a unified Executive but that the responsibility of this unified Executive should be joint and not several. With these conclusions, Sir, I agree, but the points of difference that have arisen in the course of the debate to which we have listened largely relate to the composition of the Executive and it seems to me that there arise three different questions for our consideration in connection with the composition of the Executive. The first question is : should the Executive be confined to members of the Legislature or should it be open to individuals who are officials or non-officials and who are outside the Legislature? The second question is : should it consist of members of the minority communities ? The third question is : whether the Governor should have the responsibility of appointing the Ministers himself or whether he should appoint the Chief Minister and leave the matter of the selection of his

† Proceedings of the Sub-Committee No. II (Provincial Constitution), pp. 95-102.

colleagues to that Chief Minister.

Now, Sir, on all these three questions my answer is in the affirmative. Personally, I do not see why the membership of the Cabinet should be rigorously restricted and confined to the members of the Legislature. I also do not see why there should not exist some provisions whereby the Executive should not be made as representative as possible of all the communities that are represented in the Legislature. Thirdly, regarding the power of the Governor to compose his Ministry, it seems to me that we must admit that it is his prerogative right to constitute the Ministry and that you must have discretion left to him in the matter of selecting his men. But, Sir, when I say that I answer these three questions in the affirmative, namely, that the Executive need not be confined to the members of the Legislature, that some provision should exist whereby different communities may be represented in the Cabinet, and that the Governor should have left with him abundant discretion in order to form his Cabinet, I say when I make these admissions I make them subject to one supreme condition. That supreme condition is that however the Executive is composed, it shall abide by one principle, namely that it shall accept joint responsibility. If, for instance, this principle of joint responsibility is made obligatory upon the Executive, it seems to me that the importation of a foreign element into the Cabinet will not be a disturbing factor as it is supposed to be. If, for instance, the new-comer who does not belong to the Legislative Council comes into the Cabinet and accepts joint responsibility along with the Cabinet, I do not see any reason why such a procedure should not be permitted. It was pointed out that it may so happen that when a Ministry is censured and it goes out, the official or the one who does not belong to the Legislature will remain while the other members of the Cabinet will go out ; that when a new Ministry is formed, he will be again tacked on to the Ministry and that he will be perpetually in the Council. It seems to me with all respects that that is a somewhat fallacious view, because, unless the members who are drawn from the Legislature to form the Ministry are prepared to take him along with them and are prepared to bear the responsibility of his actions, they will not consent to work with when he accepts their advice and they accept his advice. If, for instance, a Prime Minister were so situated that he could safely take an outsider into his Cabinet and at the same time maintain the confidence of the House, I do not see why the Chief Minister should be prevented from having that privilege accorded to him.

In the same way, Sir, if, for instance, it was found possible that the Governor should have powers to see that the different minority communities are represented in his Cabinet, and if at the same time it is made perfectly clear that whoever is appointed to the Cabinet must accept joint responsibility with the others, then I submit there is no harm in allowing this sort of thing. It seems to me therefore that the point Which it is

necessary to emphasize is that the Governor may have the power which as I say belongs to him as of right to compose the Ministry in any way he likes provided that the Ministry does not violate in its operation the principle of its being, namely, that it is to work on the principle of joint responsibility.

Now the next question to which I will address myself, Sir, is how best to achieve this result, how best to bring out a responsible and unified Executive. It seems to me there are two ways open to us. One way is to define in the constitution itself the character of the Executive by law ; the other is to leave to convention the constitution of the Executive. Both these ways are adopted, as you all know. We all know that in the Dominions of Canada, South Africa and Australia, responsible Government of a unified character is entirely a matter of convention. Everyone of us knows that in the Canadian Act or in the Acts of South Africa or Australia the words "responsible Government" do not arise. It is not even mentioned in the Canadian Act, as I found to my great surprise, that the Ministers who are to advise the Governor are to be members of the Legislature, although as a matter of fact they are. On the other hand, as we know, in the constitutions of Ireland, Malta and Rhodesia this is a subject which is not left to convention, it is something which is incorporated in law. In Ireland we know that the Prime Minister is a creature of statute, the joint responsibility is also defined by law.

I therefore think that we shall have to make our choice between the two, and in making the choice I for one would be guided by two considerations. I fully realise that when a matter is left to convention it is possible that the convention may be wrongly worked, that it may be abused, and may be abused with impunity. The danger of matters being left to convention in a country like India seems to me to be greater because there are no parties in India which have a keen eye on the way in which the constitution works and we may have Ministers less interested in working the constitution in the right spirit than in maintaining their seats in the Cabinet. On the other hand it seems to me that where matters are defined by law it must necessarily take away all the discretion that must necessarily be left to a Governor. In a country like India where the political field with all its communal and racial difficulties is an absolutely uncharted sea, it seems to me that we must so contrive that sufficient discretion will be left with the Governor. My concrete suggestion therefore is this, that joint responsibility of the Executive should be prescribed by law and that everything else should be left to the discretion of the Governor, so that we shall have satisfied both the conditions : we shall have provided that whatever responsibility there is, is joint responsibility and that the composition of the Executive is at the same time not hampered in such a manner that the communities which do require to be represented in the Cabinet may be represented or that the necessity which Prime Minister may feel of

having a non-official, I mean an outsider, in his Cabinet is provided for. If we do that, if we insist by law, not leaving it to the discretion of the Governor, that the Executive shall be a joint Executive with joint responsibility, I think all other matters may be left without any fear of abuse to the choice of the Governor.

Now Sir, the next topic which I will take for consideration is that of the powers of the Governor *vis-a-vis* his Executive. The present relations between the Governor and the Minister, as well we all know, are defined in section 52, sub-clause 3. That clause says that in all transferred matters—and all matters will now be transferred, none being reserved—the Governor shall be guided by the advice of his Ministers ; and it adds a further proviso that if he sees sufficient cause to dissent from the advice of his Ministers he may cause action to be taken otherwise than in accordance with that advice. With all due respect to those who framed that clause, and they did it with the best intention of providing responsible Government, I cannot help saying that this clause as it now stands is a perversion of responsible Government; it makes responsible Government a matter of convenience, a matter which may be accepted and followed when it suits the Governor, whereas as a matter of fact what we want is that responsible Government should be a matter of obligation. If responsible Government means anything it means this, that in whatever action the Governor takes in any field he has the support of a Ministry which has the confidence of the House. That is a fundamental proposition which we cannot ignore. It does not of course mean that a Governor must always accept the advice of his Ministry; it leaves it open to the Governor to throw out the Ministry, to say he will not abide by their advice; but then if the Governor chooses to differ from his Ministry his obligation is not to act on his own initiative but to find some other Ministers who will support his action. So that the proposition is that at all times when the Governor takes action he takes action which is in conformity with the views of Ministers who have the confidence of the House. My submission therefore is that this clause, namely section 52, must be so altered as to make it plain that unless specific provision is made to the contrary by statute there may be cases which, I will come to a little later, the Governor shall always act upon the advice of the Ministers.

Now, Sir, I do readily agree that there may be cases in which it is necessary to provide the Governor with over-riding powers, powers in respect to which he will not be obliged to follow the advice of his Ministers but will have the right of independent action. Those cases are mentioned in paragraph 50, page 36 of Volume 2 of the Report of the Simon Commission. The first is that he should have over-riding powers in order to preserve the safety and tranquillity of the Province; secondly, he should have over-riding powers in order to prevent serious prejudice to one or more sections of the community as compared with other sections; and then lastly it mentions certain cases where the Governor may have fixed

upon him specific responsibility as apart from the responsibility of the whole of the Executive, in which case it says that he should also have over-riding powers.

With regard to these items my first submission is this, that if you are going to give the Governor to over-ride his Ministers to preserve the peace, safety and tranquillity of the Province, it seems to me you are taking away a very large part of responsible Government in the Provinces. After all, what we are striving for is that the Provinces shall be governed in all matters, including even the peace, safety and tranquillity of the Province, by a Governor on the advice of his Ministers ; and, if you reserve powers to the Governor to act contrary to their advice, it seems to me you are to a very large extent nullifying the powers of responsible Government. I should not, therefore, give the Governor over-riding powers in a matter of this sort, unless some way could be found whereby this large formula, which seems to me to eat-up the whole situation, might be very narrowly defined.

Coming to the other question, namely prejudice to one section of the community as compared with the others, my own view is that although this is a very salutary thing my preference is that such matters as are likely prejudicial to affect the interests of any particular community should be governed by statute ; it should not be left to the sweet will of the Governor. I say that for this very good reason. After all, a Governor has to keep in touch with a Cabinet which is supported by a majority in the Legislature. He can never work at cross purposes with the Cabinet ; the greatest amity must prevail between them, and I am not sure the Governor would always be so minded as to quarrel with a Cabinet which represented a majority in the House merely in order to protect a minority which, in his eyes, might not be very important. Although, therefore, I agree with the underlying suggestion there. I rather prefer that the interests of the minorities should be protected in a firmer manner than is suggested, and for myself I should be prepared to delete this clause.

Regarding the other items 3, 4 and 5, I agree that in cases of this sort the Governor must have over-riding powers, because they are cases where he personally is made responsible for the administration of those subjects.

Coming to the next subject, the powers of the Governor *vis-a-vis* the Legislature, I will divide my remarks under three heads. There is first of all budgetary legislation; secondly, ordinary legislation and thirdly, emergency legislation. The Governor has today powers of certification with regard to the provision for reserved subjects, and that will necessarily go with the abolition of anarchy. Secondly, the Governor has authority to authorise expenditure for the safety and tranquillity of the Province. It seems to me that if you are going to leave questions of peace and tranquillity to be settled by a responsible ministry, the Governor should not possess this power of authorising expenditure for the safety and tranquillity of the

Province. In the next place, he has the power of certifying Bills, which are of two sorts. He may certify that a particular Bill which is being discussed in the Legislature shall not be discussed because it affects the safety and tranquillity of the Province, and he has also the power to certify a Bill which is in the interests of the safety and tranquillity of the Province even though the Legislature may not desire to pass it in the ordinary course. It seems to me both these powers should go ; they will not be necessary in the future constitution of India.

He has also powers of previous sanction; certain subjects have to be previously sanctioned by him before they can be discussed, and in my opinion this power should go.

Sir Ahmad Sayed Khan: Discriminatory legislation ?

Dr. Ambedkar : That should be dealt with by Statute ; I should not leave it to the Governor. The Governor must have the power of veto, and in view of the fact that there will be no Second Chamber in those Provinces which do not want it, it is very necessary that the Governor should have the power of veto. The Governor today has also the power of returning a Bill to the House for reconsideration. This is a very useful power which exists in the constitutions of the various Dominions, and I think it should be retained. The Governor has also power to reserve a Bill for the consideration of the Governor-General and the cases in which he should do so are defined by Statute. That is a matter, I think which might be more conveniently considered when we consider the relations of the Provincial Governments to the Central Government, but I should like to make one observation on this subject. We should so endeavour to contrive our Provincial constitution that it will function independently, as far as possible of the interference of the Central Government in those domains which have been transferred to its control. We must make a constitution under which there will be no occasion for constant intervention by the Central Government, either administratively or legislatively by the reservation of Bills.

With regard to the question of safeguards for Law and Order and for minorities, I have already stated that Law and Order should be transferred, but I am prepared to make one suggestion, for what it is worth. In cases of emergency, when Law and Order are being jeopardised, I suggest the Governor should have power to pass orders finally, without respect to the advice of the Ministry, regarding the posting and transfer of Police officers. I think that is very necessary ; it is essential.

Sir Cowasji Jehangir: In case of emergency only ?

Dr. Ambedkar: Yes, but not in other cases.

Mr. Paul: Not in normal times ?

Dr. Ambedkar: Not in normal times, no, but in cases of emergency when a riot has taken place or a disturbance has occurred, it is very necessary that an impartial officer like the Governor, who is not swayed by what is happening in the Cabinet, should have the ultimate power to see

that people are not transferred from one place to another to suit one community or the other community when a riot is actually proceeding. It seems to me that it gives him sufficient power for the purpose of safeguarding the administration of Law and Order.

With regard to the question of minorities, it was suggested by some speakers that a Second Chamber would afford protection to minorities, and my friend Mr. Wood threw out the suggestion that I had not carefully considered the position of the Depressed Classes in relation to a Second Chamber. I should like to assure my friend that I have given the matter most careful consideration, and I thoroughly agree with my friend Mr. Paul that these Second Chambers, far from being a protection to minorities, will be really milestones round their necks.

There is one subject I did not touch on before, but which I should like briefly to mention now, namely, the relation of the Governor to his Cabinet. Should he preside over the Cabinet as a matter of right or should he not ? Should there be the system which prevails in this country where the Cabinet holds its meetings without the King being there, and if so what should be the means of communicating the results and decisions arrived at by the Cabinet to the Governor ? I do not know if that arises on this item ; if it does not, I will not waste time in discussing it.

Chairman: We have generally discussed the whole question, so that if you desire to continue I shall not object.

Dr. Ambedkar: In that connection I want to say one thing. The Simon Commission has suggested that a Cabinet Secretary should be appointed who would be of the same status as an I.C.S. Officer, and who would act as the liaison officer of the Cabinet to the Governor. In throwing out that suggestion the Commission says it has drawn on the practice that has now become prevalent in this country, namely, that the Cabinet now always has a Secretary, which formerly it did not have. I should like to submit, however, that it is one thing to say that the Cabinet should have a Secretary, but it is a totally different thing to say that that Secretary should have access to the Governor over the heads of the Ministers. In this country the practice does exist, probably, of appointing a Secretary, but I do not think any Cabinet or Prime Minister in this country would consent to that Cabinet Secretary having access to. His Majesty over the heads of the Ministers or over the head of the Prime Minister; such a thing would be intolerable. We know that in this country the Cabinet throughout all its history has laid emphasis on the fact that the persons who will be near to His Majesty should be persons who will bear the same complexion as the Ministry, and we know that that has been carried so far that even the Ladies of the Chamber who wait upon the Queen are required to be nominated by the Prime Minister and the Cabinet. The situation suggested, therefore, seems to me almost impossible. I do not think any Cabinet which is working on the principle of joint responsibility

will consent to have a Secretary of this kind attached to it.

On the other hand, if the Governor is given the power to preside over the Cabinet when it is discussing its policy, I doubt very much whether that will work, because although the Ministry may, and indeed must, communicate to the Governor the decisions at which it has arrived, I do not think the Ministry will consent to disclose to the Governor the reasons which have led it to come to those decisions. The reasons may be very particular and very delicate, and you all know that the Cabinet is very jealous not to let the Governor know the reasons why it has arrived at a particular decision. The explanation of that is that the Governor holds in his hands a tremendous power for undoing the Ministry for he may not agree to the Ministry's advice to dissolve the House, but may instead of being embodied in a Statute, the matter should be left to the Instrument of Instructions, which may provide that the Governor can attend if he desires to do so, but it should not be obligatory at all. On the other hand, it should be made obligatory for the Cabinet to communicate to the Governor all the recommendations at which it arrives at its meeting. That is all I desire to say on that point.

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†*Dr. Ambedkar:* We should like to say one thing on that point that the Second Chamber should not be constituted first, and then its abolition should be left to constitutional resolution requiring a certain majority. What we suggest is that if the situation is such that it should be left as a matter of discretion in certain Provinces, then first of all a resolution might be passed by the Provincial Legislature expressing its desire for a Second Chamber, and then that the Second Chamber shoud be constituted. It should not be first imposed on the Provincial Legislature by the constitution.

Fifth Sitting—15th December 1930

‡*Dr. Ambedkar:* Sir, I should like to make one or two observations on the amendment which the noble Marquess has moved. I should like to state at once that the position which he has taken up seems to me to be absolutely logical. In this report we are going to provide that certain interests and minority groups may be represented by nomination in the Legislative Council. At the same time we are also making provision in this report that the Governor shall be given an obligation to endeavour to secure that his Cabinet shall be representative of all interests and of all minorities. Now, Sir, unless you provide that in the making up of this Cabinet, the Governor shall also have the right to include members who represent certain important interests by nomination, it seems to me that you are creating an absolutely illogical position. Either you must provide

† Proceedings of Sub-Committee No. II (Provincial Constitution), p. 133.

‡ *Ibid.,* pp. 156-57.

that there shall be no nomination to the Legislative Council at all, that all interests, no matter how minute, shall be secured by election to the Legislative Council, or, if there is to be nomination then you must provide that a nominated member shall have the right to be in the Cabinet if his colleagues are prepared to work with him on the principle of joint responsibility. There is no escape from one or other of those positions.

Now, Sir, it is stated by friends who are sitting on this side that if we accept this principle, that a nominated member shall be a member of the Cabinet, or at least that there shall be no ban upon him, it will run counter to the principle of responsibility. I really cannot understand that position. These gentlemen who are saying it will run counter to the principle of responsibility are prepared to take the votes of nominated members. I am taking the report as it stands. I do not know what future amendments there will be. Supposing the report as it stands is carried, that there shall be certain members in the Legislative Council who shall be nominated. Is it the position of these gentlemen that their votes are illegal? If those who form the Cabinet who are drawn from the elected portion of the House can validly use the votes of members who are nominated to the Legislative Council, if those votes can logically become the basis of the policy of a Government, I cannot see how a member who is one of that nominated group should not become a member of that Cabinet. I fail altogether to understand it. If, as I say, they can take these votes of nominated members and utilise them for their own purposes. I cannot understand what objection there can be to the inclusion of a member from the nominated group in the Cabinet. I therefore say the position of the noble Marquess is perfectly logical. It seems to me we have to make a choice whether we shall make a provision of the sort suggested by the noble Marquess in his amendment, or whether we shall agree to the other proposal which my friends say they will move at a later stage, that there shall be no nominative element in the Legislative Councils at all. Personally I would much rather have the whole Legislative Council elected with no trace of nomination at all. From that point of view I am not very much in favour of the amendment suggested by the noble Marquess ; but if in this Committee or at any later stage nomination remains, then I think I shall have to agree with the noble Marquess and accept the amendment he has proposed.

Diwan Bahadur Ramachandra Rao: I must express my surprise at the speech to which I have just listened.

Dr. Ambedkar: You may, but you cannot have it both ways.

Diwan Bahadur Ramachandra Rao : He knows very well that even under the existing system nominated members are not eligible for appointment as ministers. Section 52 clearly lays it down that no minister shall hold office for a longer period than six months unless he is an elected member of the local Legislature.

Dr. Ambedkar: That is in the melting pot.

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Opposition to Co-option in Legislature

†*Dr. Ambedkar:* I am afraid I shall have to oppose this amendment. First of all, such experience of co-option as we have had in Bombay is not very encouraging. It has developed into the worst sort of scandal ; the amount of corruption and bribery that take place are such that I for one should not like to introduce this principle in the constitution of the Legislature of Bombay.

A further objection is this. If the various communities that do not find themselves elected at the polls are to get representation of a real sort, representation which is independent of the influence of any other community, I think co-option is a principle which is certainly not going to help them, for it may very well happen that when representatives of the various communities stand for co-option only those will be in fact co-opted as may happen to be subservient to and willing to play into the hands of the majority. It seems to me this would be worse than no representation at all, and I am afraid on that ground I must oppose the amendment. But I submit, Sir, that this Sub-Committee ought to make a recommendation that the future constitution of the Provincial Legislatures should be such that there should be no nominated members at all.

Diwan Bahadur Ramachandra Rao: That is far better, of course.

Dr. Ambedkar: That is my own view of the matter. I am certainly opposed to co-option.

Diwan Bahadur Ramachandra Rao: I agree that some statement that the Legislature should be wholly elected ought to be inserted in this report, and unless some such indication is given of the views of this Sub-Committee the nominated element will continue, though I believe it is the desire of most of our members that it should disappear. A statement to that effect ought to find a place in the report. I have no doubt whatsoever that everyone of us is quite alive to the evils of nomination, and we are anxious it should disappear as early as possible. Under these circumstances I am not prepared to support the amendment, and I would favour the proposal made by my friend, Dr. Ambedkar.

Chairman: What was the proposal ? I have no words here.

Dr. Ambedkar: We should say it is the view of the Sub-Committee that hereafter the Legislative Councils in the Provinces should be wholly elected.

Chairman: That is another amendment altogether, you will have to send it in writing if you want to move that.

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‡*Chairman:* I will take your decision on this point.

Raja Narendra Nath: I support Sir A. P. Patro. I think the power of

† Proceedings of Sub-Committee No. II (Provincial Constitution), p. 194.

‡ *Ibid.,* p. 196.

nomination should be strictly confined to the representation of interests which cannot be given by election.

Dr. Shafa'at Ahmad Khan: Yes.

Raja Narendra Nath: There may be in certain Provinces some communities, such as the one to which Dr. Ambedkar belongs, for which it would be impossible to arrange election.

Dr. Ambedkar: I should not have anything to do with a constitution which did not provide the franchise for my community.

Raja Narendra Nath: The franchise will have to be arranged on a very different basis if it is to be provided for the community to which Dr. Ambedkar belongs, and therefore a limited power of nomination should be provided.

Chairman: It seems to me the majority of the Sub-Committee is in favour of clause (*c*) as it stands in the Report.

COMMITTEE OF THE WHOLE CONFERENCE

†Comments on the Report of Sub-Committee No. II (Provincial Constitution)—16th December 1930

Mr. Chintamani opposed the institution of 2nd Chamber in Provinces. He said, it would be a costly luxury and not an institution of public utility. In U.P. demand for 2nd Chamber comes from a small section of the community, which according to Simon Commission, is over-represented in the Provincial Legislature. He therefore considered this proposed 2nd Chamber as absolutely unnecessary and undesirable either in U.P. or any other Province in India for any length of time, in whatever conditions Dr. Ambedkar said,— "I shall like to associate myself with the remarks which have just fallen from Mr. Chintamani".

Chairman :..... The discussion is now on paragraph *5*(*b*).

(This paragraph deals with the procedure of appointment of Ministers.)

Dr. Ambedkar: It was moved in the Sub-Committee that the word "elected" (Elected members of the Provincial Legislature) should be dropped in view of the recommendation made by the Committee in another part of the Report that probably some part of the Legislature might have to be composed of nominated members. It was then decided that if the Committee which would be constituted to discuss the composition of the Legislature came to the conclusion that there should be a nominated member, the word "elected" should be dropped.

Chairman: The word used is "ordinarily" ("The Ministers should ordinarily be drawn") I think that covers the point. It indicates the possible necessity of extraordinary action.

† Proceedings of the R.T.C., p. 314.

4

IN SUB-COMMITTEE No. III (MINORITIES)

Second Sitting—31st December 1930

†*Dr. Ambedkar:* Mr. Chairman, I am sure you will readily agree that the task which has fallen upon me to represent the case of the Depressed Classes is a heavy one. I think it is for the first time that the case of the Depressed Classes from the political point of view has come to be considered. The disabilities of the Depressed Classes were mentioned in almost every despatch that was recorded by the Government of India in connection with the political advancement of the country; but the despatches only mentioned the difficulties and never attempted to give any solution of those difficulties. The problem was just allowed to rest there. In view of that, and in view of other matters, namely, that in a Committee consisting of so many members we are only two to voice the grievances of 43 millions of people, and grievances which the Committee will agree are unparallel by the case of any other community that exists in India, I submit that the task is really an enormous one, and I should have expected more latitude in the matter of time allowed to me for presenting this case. But I anticipated that probably such would be the fate that would befall me, as it did, of course, at the Plenary Session ; and, in anticipation of that, I and my colleague, Rao Bahadur Srinivasan, thought it advisable to submit to this Conference a written memorandum‡ giving in clear-cut language what the Depressed Classes desire by way of political safeguards in the future constitution of India. That memorandum has already been submitted and circulated among the members of this Committee, and I hope everyone of them has received it. In view of this fact, that the case of the Depressed Classes is in the possession of the members of this Committee, I do not wish to ask indulgence from the Chairman for a larger period to present the case. I will therefore summarise, only to emphasize, what I have stated in the memorandum which is

† Proceedings of the Sub-Committee No. III (Minorities), Government of India, Central Publication Branch, Calcutta, 1931, pp. 73-80.

The terms of reference to the Sub-Committee were as under:—

"The provision to be made to secure the willing co-operation of the minorities and the special interests."

‡ The memorandum is appended at the end of this chapter as Appendix I, pp. 546-54.

already in the hands of the members of the Committee.

Sir, the first observation that I will make is this, that although there are various minority communities in India which require political recognition, it has to be understood that the minorities are not on the same plane, that they differ from each other. They differ in the social standing which each minority occupies *vis-a-vis* the majority community. We have, for instance, the Parsee community, which is the smallest community in India, and yet, *vis-a-vis* its social standing with the majority community, it is probably the highest in order of precedence.

On the other hand, if you take the Depressed Classes, they are a minority which comes next to the great Muslim minority in India, and yet their social standard is lower than the social standard of ordinary human beings.

Again, if you take the minorities and classify them on the basis of social and political rights, you will find that there are certain minorities which are in enjoyment of social and political rights, and the fact that they are in a minority does not necessarily stand in the way of their full and free enjoyment of those civic rights. But if you take the case of the Depressed Classes, the position is totally different. They have in certain matters no rights, and, where they have any, the majority community will not permit them to enjoy them.

My first submission to this Committee, then, is that it should realise that although, to use an illustration, the minorities are all in the same boat, yet the most important fact to remember is that they are not all in the same class in the same boat; some are travelling in "A" Class, some in "B" Class and some in "C", and so on. I have not the slightest doubt in my mind that the Depressed Classes, though they are a minority and are to that extent in the same boat as other minorities, are not even in "C" or "D" Class but are actually in the hold.

Starting from that point of view, I agree that, in some respects, the position of the Depressed Classes is similar to that of the other minorities in India. The Depressed Classes, along with the other minorities, fear that under any future Constitution of India by which majority rule will be established and there can be no shadow of doubt that that majority rule will be the rule of the orthodox Hindus—there is great danger of that majority with its orthodox Hindu beliefs and prejudices contravening the dictates of justice, equality and good conscience, there is a great danger that the minorities may be discriminated against either in legislation or administration or in the other public rights of citizenship, and therefore it is necessary to safeguard the position of the minorities in such a manner that the discrimination which is feared shall not take place.

From that point of view, however, what is asked is that the minorities shall have representation in the Legislature and the Executive, that they shall have representation in the public services of the country, and that the constitution shall provide that there shall be imposed on the future

legislatures of India, both Central and Provincial, certain limitations on their legislative power which will prevent the majorities from abusing their legislative power in such a manner as to enact laws which would create discrimination between one citizen and another. I say, this circumstance—this danger of discrimination is common to all minorities, and I, as a representative of the Depressed Classes, join with the demand which the other minorities have made in this regard.

Now, Sir, I will come to those circumstances which mark off the Depressed Classes and the other minority communities in India. I will at once say that the way in which the position of the Depressed Classes differs from the position of the other minority communities in India is this, that in the first place the Depressed Classes are not entitled, under present circumstances, to certain civic rights which the other minorities by law enjoy. In other words, in the existing situation the Depressed Classes suffer from what are called civic disabilities. I will give you just one or two illustrations, because I know I have not much time at my disposal.

Take the case of employment in the Police or in the Army. In the Government of India Act it is provided that no subject of His Majesty shall be deprived of the right of being employed in any public service by reason of his caste, creed or colour. Having regard to that, it is obvious that every member of the Depressed Class community who is capable, who is in a position to satisfy the test laid down for employment in any public department, should have the right to enter that public department. But what do we find ? We find this. If a Depressed Class man applies for service in the Police Department today, he is told point blank by the executive officers of the Government that no member of the Depressed Classes can be employed in the Police Service, because he is an untouchable person. In the case of the Military the same situation obtains. Up to 1892 practically the whole of the Madras Army and the whole of the Bombay Army consisted of members drawn from the Depressed Classes. All the great wars in the history of India have been fought with the help of sepoys drawn from the Depressed Classes, both in the Bombay Presidency and in Madras. Yet in 1892 a rule or regulation was made which debarred the Depressed Classes from entry into the Military Service, and even today, if you ask a question in the Legislative Council as to why this is done, the answer is that the bar of untouchability does create insuperable difficulties in the recruitment of these classes.

I am quite sure that this disability is as effective as it was imposed by law, and the section in the Government of India Act, which says that all His Majesty's subjects shall have free entry into employment provided they are otherwise fit, is altogether set at naught.

I can cite many other cases. For instance, there is the difficulty the Depressed Classes find in getting themselves accommodated in public inn when they are travelling, the difficulty they find in being taken in an omnibus

when travelling from one place to another, the difficulty they find in securing entry to public schools to which they have themselves contributed, the difficulty they find in drawing water from a well for the building of which they have paid taxes, and so on. But I need not go into all these cases. The one circumstance which distinguishes the position of the Depressed Classes from that of the other minorities is that they suffer from civic disabilities which are as effective as though they were imposed by law.

The second and, in my opinion, the most hideous distinction which marks the Depressed Classes is that the Depressed Classes are subject to social persecution unknown in any other part of the world. In that connection I want to read to the Sub-Committee a small extract from the Report of a Committee appointed by the Government of Bombay in the year 1928 to investigate into the position of the Depressed Classes. That Committee tried to find out whether there were any impediments in the way of the Depressed Classes enjoying such rights as the law gave them in common with other citizens of the State :

> "Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.
>
> "The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their lands, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of the necessaries of life by the village Bania. According to the evidence sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but

cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street.

> "We do not know of any weapon more effective than this social boycott which could have been invented for the suppression of the Depressed Classes. The method of open violence pales away before it, for it has the most far-reaching and deadening effects. It is more dangerous because it passes as a lawful method consistent with the theory of freedom of contact. We agree that this tyranny of the majority must be put down with a firm hand if we are to guarantee the Depressed Classes the freedom of speech and action necessary for their uplift."

A third thing which the Depressed Classes fear more than any other community is that whatever representation they may be granted in the new legislature, they will always be in a very small minority, and consequently, having regard to the apathetic attitude of the orthodox classes towards the Depressed Classes, there is always the danger of the interests of the Depressed Classes, being neglected altogether, or some action taken which may ultimately prove to be prejudicial to their interests.

As against these special circumstances which affect the Depressed Classes, we propose the following safeguards. First of all, we want a fundamental right enacted in the constitution which will declare "untouchability" to be illegal for all public purposes. We must be emancipated, so to say. from this social curse before we can at all consent to the constitution ; and secondly, this fundamental right must also invalidate and nullify all such disabilities and all such discriminations as may have been made hitherto. Next, we want legislation against the social persecution to which I have drawn your attention just now, and for this we have provided in the document which we have submitted by certain clauses which are based upon an Act, which now prevails in Burma. I need not go into that detail just for the moment. Then what we want is this, that liability of the executive officers of the Crown for acts of tyranny or oppression shall be made effective. Today under sections 110 and 111 of the Government of India Act that liability is not real. And lastly, what we want is a right to appeal against acts of neglect of prejudice to the Central Government and failing that, to the Secretary of State and a Special Department in the Government of India to take charge of our welfare.

This is, in general, the cases for the Depressed Classes, and the safeguards that they want. Let me just say a word or two as regards the most important of them—namely, their right to adequate representation in the legislature. Now, on the question of the granting of representation of the Depressed Classes, we are absolutely unanimous that that representation shall be by election and not by nomination. The system of nomination has

produced in the case of the Depressed Classes, results which we all say are abdominable. The system has been abused in a manner in which it was never expected that it would be abused, and it has never given the Depressed Classes the real and independent representation which they must have as their safeguard. Under no circumstances, therefore, will the Depressed Classes accept representation by nomination.

As to the question of joint or separate electorates, our position is this—that if you give us adult universal suffrage the Depressed Classes, barring a short transitional period which they want for their organisation, will be prepared to accept joint electorates and reserved seats; but if you do not give us adult suffrage, then we must claim representation through separate electorates. That is our position.

Now regarding the question of the number of seats, it is not possible, of course, for us to state definitely what that number should be, except to state that we will not tolerate any invidious discrimination. We insist upon equality of treatment. But the whole question, in my opinion, is entirely a relative question : it is a question that can be determined only in connection with and by taking into account, the seats that will be allotted to the other minority communities ; but I will make two observations in this connection. The first observation that I will make is this—that we, the Depressed Classes, demand a complete partition between ourselves and the Hindus. That is the first thing. We have been called Hindus for political purposes, but we have never been acknowledged socially by the Hindus as their brethren. They have taken to themselves all the political advantage with our numbers, with our voting strength, have given to them, but in return we have received nothing. All that we have received is a treatment which is worse than the treatment that they themselves have accorded to other communities whom they do not call Hindus. That must be the first thing, therefore, that we want to be done.

The second thing that I will say concerns the question of weightage. Now, this system—I will be plain, to my mind has been abused. I am not against the principle of weightage. I do not accept the principle that in all circumstances every minority must be confined to its population ratio. A minority may be so small that its population ratio may give a representation which may be wholly inadequate for the purpose of its protection. It may be a representation which may be of no consequence at all. If, therefore, you want to protect a minority adequately and really, then in certain circumstances the principle of weightage will have to be conceded. But the distribution of weightage must be subject to some uniform and intelligible principle. In our opinion weightage is to be conceded because a minority is weak, either in numbers, or because its social standing is low, or its educational standing is backward as compared with others, or because its economic strength is not sufficient to place it on a fighting par with other communities.

Member: Quite right.

Dr. Ambedkar: But I cannot understand, for instance, how weightage can be allowed on the ground of political importance, or loyalty, or services rendered either to the Empire or to the British Government. I think if we adopt that principle, we shall land ourselves in very difficult circumstances from which it will be difficult to extricate ourselves.

Regarding the question of the representation of the Depressed Classes in the Central Legislature. If you have again adult suffrage for the election of members of the Central Legislature, then, of course, the Depressed Classes will claim separate representation in the Legislature, such number of seats being allotted to them in conjunction with the seats allotted to other minorities. But if your representation is to be by a suffrage which is higher or much higher, based on property, and so much higher that the Depressed Classes will probably be entirely left out, then I am afraid the Depressed Classes will have to claim indirect election to the Central Legislature, carried on by electoral colleges composed of members of the Depressed Classes, in the Provincial Legislature, in Municipalities, and in district local boards. That is all that I have to say so far as the Depressed Classes are concerned.

Having said all that I need say let me add one thing in conclusion that this whole question of minority representation is really the crux of the whole situation, and if the majority community desire that all minorities should associate with them in having or in claiming, a constitution which will give India what they call Dominion Status, or what we prefer to call Government by the people, for the people and in the name of the people, then I am afraid that the majority community must see to it that all fears of the minorities are set at rest. Otherwise it may not be possible for us to take what I do not conceal from myself is the risk that most of us are taking in claiming Dominion Status.

Fifth Sitting—14th January 1931

†*Chairman:* The proposal that has just been made makes it impossible for us to go on and adopt the Draft Report that is in front of us, because, of course, it changes the whole circumstances. If you would be agreeable, I should propose to adjourn this Sub-Committee now, and I will also, you being agreeable, propose to remain in the Chair and to ask that those of you who are specially interested should meet and we must include Dr. Ambedkar.

Dr. Ambedkar: I am obliged to you, Sir.

Chairman: Oh, yes, we must include him and see whether by an exchange of opinions across the table we could not come to an agreement.

† Proceedings of the Sub-Committee No. III (Minorities), pp. 127-28.

Sir P. C. Mitter: I should like to join, Sir, in those discussions.

Dr. Ambedkar: We have heard just now these proposals and percentages being disposed of, but really it strikes me that if you add up all these they not only go over 100 per cent but they practically take no notice of many other communities that are existing in the Punjab and Bengal and in other places. If these communities, the Sikhs, the Muhammadans, the Hindus are going to appropriate 49 and 20 and so on, what is left for the other people? Are they to be taken into account or not? That is a very serious question, Mr. Prime Minister.

Lt. Col. Gidney: May I just raise my humble voice—it is a very small voice. I know—in this conflict? I support what Dr. Ambedkar has just said. Surely you are not going to take the political rupee and give 15 annas and 9 pies to the major communities, leaving 3 pies to be scrambled for by the other minorities. On behalf of the smaller communities I maintain we should have some say in this distribution.

Chairman: That is just the point. I think that we had better discuss this matter with a smaller body and a little but more informally.

Mr. Foot: And no notes taken ?

Chairman: And I shall remain in the Chair, you being agreeable, and see what can be done to straighten out the situation that has been opened up by the very hopeful suggestion made by Sir Muhammad Shafi.

Sixth Sitting— 16th January 1931

†*Chairman:* "The inclusion in the Constitution of declaration of fundamental rights safeguarding the cultural and religious life of the various communities and securing to every individual, without distinction of race," and so on, "the free exercise," and so on.

Raja Narendra Nath: I propose we say "the free and equal exercise".

Chairman: of his or her economic, social and civil rights".

Raja Narendra Nath: I do not think we want the "his or her". Cannot we say "the free and equal exercise of economic, social and civil rights by citizens" ? I do not insist on it.

Chairman : "equal" is of substance, but I do not think the other matters very much.

Raja Narendra Nath : I suggest we should say "free and equal exercise".

Chairman: As a matter of fact, that is a question from Dr. Ambedkar.

Raja Narendra Nath: The word "equal" was used in Dr. Ambedkar's speech.

Sir M. Shaft: I think "free" covers it.

Dr. Shafa'at Ahmad Khan: I think it should remain as it is.

Chairman: It says "and securing to every individual.....the free

† Proceedings of the Sub-Committee No. III (Minorities), pp, 129-31.

exercise". You cannot secure the equal exercise, because equal is an attribute of the individual who uses the rights.

Raja Narendra Nath: I mean equality in rights; equal rights.

Mr. Chintamani: I do not see the particular propriety of that objective "equal".

Raja Narendra Nath: It is used in Dr. Ambedkar's draft.

Chairman: You can secure to each individual the Free exercise of his rights, but if he does not exercise them in terms of equality that is his lookout, not the Government's.

Raja Narendra Nath: Very well.

Chairman: "his or her" can come out, I think.

Dr. Ambedkar: After the word "rights" at the end of the paragraph I should like the words "without discrimination" added.

Chairman: It says already "without distinction of race, caste, creed or sex".

Dr. Ambedkar: I should like the word "untouchability". You included there !

Chairman :..... "untouchability ! " you already have race and caste.

Dr. Moonje: I think it is all right.

Dr. Ambedkar: In order to explain things better I think that word might be included.

Chairman : Do not let us produce a document which people will laugh at on account of the way it is worded.

Dr. Ambedkar: I think we ought to make a distinction between caste and untouchability. Many people who have caste do not suffer from the difficulties of untouchability.

Raja Narendra Nath: Even the Muslims have caste.

Diwan Bahadur Ramachandra Rao: There is caste among the untouchables. "Caste" is a wider expression.

Mr. Foot: Unless an alteration which is substantial is proposed, I understand it is rather late to make an alteration at this stage.

Dr. Ambedkar: I should like to say "social and civil rights on account of untouchability or otherwise".

Chairman : Untouchability is a violation of social rights, and if you pile on words instead of making it more precise it has, as a matter of fact, an exclusive tendency ; it narrows the thing if you give a specific application to a general principle. If you keep your general principle sound you are much safer so far as its application is concerned than if you quote it as applying to the one particular grievance.

Dr. Ambedkar: That is true, but I do maintain that the question of interpretation will come in, and I should like whoever is going to handle this Report to understand that the Sub-Committee did mean not to impose any disability on account of untouchability.

Chairman : In a case like that, if there is any doubt about it, I will take the opinion of the Committee and settle it Do you persist, Dr. Ambedkar ?

Dr. Ambedkar: I am afraid, Sir, I shall have to. My dissent might be noted, that I do wish that this should be made clear.

Chairman : There is a suggestion made that the word "distinction" should be substituted by the word "discrimination", so that it will read "without discrimination as to race, caste" and so on.

Dr. Ambedkar: Yes, that would do it.

Chairman: That will be all right ?

Dr. Ambedker: That will be all right. I suggest at the end it should be "without discrimination".

Chairman: Quite then would you make that alteration please. Then it will read without discrimination.

Dr. Ambedkar: Yes.

Chairman: That is a good amendment: the other, I think, would have been a bad one.

* * * * *

†*Dr. Ambedkar:* Sir, as I understand, paragraph 3 summarises the demand put by the different communities before this Committee.

Chairman : Yes.

Dr. Ambedkar: In view of that, I should like to suggest that the other demands made by the Depressed Classes specifically in their own interests, on account of the fact that their position differs somewhat from the position of the other minorities, should be added. I do not mean to say that they should be added as an accepted proposition by this Conference, but for the sake of completeness those demands should be put in. I would therefore suggest the addition of the following paragraph to this paragraph after the word "rights" : "The Depressed Classes also urged that untouchability, with all its consequent disabilities, should be abolished by law, and that they should be guaranteed free and unfettered enjoyment of their rights ; and they also claim the right of appeal to the Governor-General and the Secretary of State in cases of prejudices or neglect of their interests."

Chairman: But you see, in so far as these suggestions can be made workable, they will come in in the details that will have to be worked out.

Dr. Ambedkar: I quite see that.

Chairman: Partly legislative and partly administrative.

Dr. Ambedkar: But what I would like to say is this, that in view of the fact that the paragraph tries to summarise what was put before this Committee by the different communities, what was put by the Depressed Classes, as something specifically for themselves, apart from what other communities needed, ought to come in by way of completion.

Chairman: But it says "without discrimination" and so on.

† Proceedings of the Sub-Committee No. III (Minorities), pp. 133-35.

Dr. Ambedkar: Mr. Prime Minister, you will excuse me ; it is one thing for the constitution to say that no man shall be discriminated against, and that every man shall be guaranteed the free enjoyment, and so on; but I know as a matter of fact that we are hard up against facts, and that people will not allow us to enjoy the rights which are given to us by the constitution. I am as certain of that as I am certain of my existence. I do not want merely a paper guarantee. The whole community will be against us, and we shall certainly never enjoy one-tenth of what is given to us. I therefore desire that the constitution should not only declare that we shall have specific rights that every community will have, but that the constitution should also provide ways and means by which we shall be protected in the exercise of those rights.

Chairman: The point is, supposing a legislature does not pass a law which will suit you, then the constitution has been broken.

Dr. Ambedkar: No. What I suggest is this : That in the memorandum which I have circulated I have suggested certain ways and means by which we think our rights could be protected in the matter of their exercise. The Committee here, for instance, may not agree that that is an appropriate way of doing it; the Committee may suggest that there are some other means of doing it. I am quite prepared and open for consideration of these other ways and means ; but what I want to submit is this, that this draft ought to report that the Depressed Classes did suggest that they were not satisfied with the mere declaration that they were placed on an equal footing with other communities : but they pressed in that rights be given to them by the constitution. I am not asking for anything more than that. That is by way of completion of the report. In the memorandum which I submitted, you will see I do recommend a certain procedure for that.

Mr. Foot: The only difficulty which occurred to me, with every sympathy for Dr. Ambedkar, was that if you begin to put in a statement of your position, it would have to be a very full statement. Already we have upon the notes the claim that has been made, and the sympathetic adoption of it here referred to again at the end of paragraph.

16. It seems to me perhaps there may be the risk that if you are going to put in any claim at all, you will not have it fully stated in this memorandum.

Dr. Ambedkar: I would just like to say as regards paragraph 16, the last two sentences refer to the Depressed Classes, and they are confined to the seats that are to be allotted to them. That is a different matter altogether. What I am stating is this, that the constitution may give me certain rights, but I know that 99 per cent of the people in India are not going to allow me to exercise those rights. What is the use of those paper rights to me unless the constitution provides that if anyone infringes my rights he is liable to certain penalties ? What I say is this. I do not press that the meeting should adopt my proposal. What I want is that the constitution should be made to complete as to cover what I have said on behalf of the

Depressed Classes on this Sub-Committee.

Chairman : We have every sympathy with your position, and are prepared to support it; but the difference between putting a paragraph in the constitution declaring for fundamental rights and the drafting of laws carrying out those fundamental rights is a real one. You cannot get into a constitutional declaration any details of a law which is going to enforce it. What you have got to do is, when you get your representation, when you get your declaration of rights, not in detail, in your constitution, then, as a representative of your people co-operating with the other people in the Legislature you have to produce the law which you think carries out the declaration in the constitution, because if you put anything more by way of detail into your constitution and the constitution is not carried out in that respect, then the constitution is not carried out at all. So you will never get on in that way.

Dr. Ambedkar: My submission is this. I perfectly agree with you that this declaration of fundamental rights is of no consequence. I attach no importance to it myself personally, because after all, what is important to an individual is not that his rights should be declared but that he should have the remedy in order to enforce those rights. That is the effective guarantee of the rights in the declaration, and therefore I want that the constitution should give me some means whereby I can get redress when I am wrong. It is no use merely saying that there is no "untouchability" and so on.

Chairman: As a matter of fact we have got the point clearly in our minds, so it need not be reiterated ; but what Dr. Ambedkar says is that a declaration in the constitution is not good enough for him unless it is enforceable by law. That is so. In order to make it enforceable by law, laws must be passed creating the penalties and the crimes—the crimes first of all, and the penalties. You cannot create a crime of this kind. I think, not safely—I am in the hands of Lord Reading; he is a lawyer, I am not—you cannot, in drafting a general introductory clause to your constitution, create by that a crime which gives you more rights than those that you can claim under the constitution. Under the constitution you have got certain rights given to you, and I am not at all sure what is the position. Supposing a Depressed Class person was actually persecuted in violation of this declaration, could he not move for some redress in the Courts ?

Lord Reading: Well, you have got to give him some remedy for it, of course. You must make it a misdemeanour.

Chairman : Can you do that in the constitution ?

Lord Reading: No, I do not think so. If you will forgive me for a moment I do not think Dr. Ambedkar was pressing for that. As I understand it, he wants us to make a definite statement that he had put the claim forward, that he was not satisfied merely with the declaration of

"free exercise" etc. What he wants also is that he drew special attention to the fact that that was no use to him unless he also had protection for an infringement of these rights, and he leaves it there. Then you have to consider what the remedy is hereafter. That is as I understood him.

Dr. Ambedkar: That is my position.

Discussion on paragraph 4 of the Report

Dr. Ambedkar: I wish to suggest an amendment to the second subparagraph of paragraph 4. After the words "Depressed Classes" I should like to have the words added "barring a short initial period". It would read "and would be acceptable to the Depressed Classes barring a short initial period".

Chairman: I understood you accepted it provided there was adult suffrage ?

Dr. Ambedkar: I said that for ten years we should have separate electorate whether there was adult suffrage or not.

Chairman: "And would be acceptable to the Depressed Classes after a transition period" ?

Dr. Ambedkar: Yes.

Chairman: Do you agree that makes it more accurate ?

Mr. Chintamani: Are we to delete the proviso "provided the franchise was based on adult suffrage" ?

Chairman: No, we cannot alter the speeches that were made. But what Dr. Ambedkar said—he will correct me if I am wrong—was that if there is to be no adult sutfrage then they must claim separate electorates, but if there is adult suffrage then, after a transition period, they would abandon them. I cannot allow the accuracy to be altered.

Discussion on paragraph 12 of the Report

Dr. Ambedkar: Sir, I should like to have the following words added to paragraph 12 in the beginning : "The minorities and the Depressed Classes were definite in their assertion that they would not consent to any self-governing constitution for India unless their demands were accepted." And then you can proceed : "There was general agreement with respect to recommendations," and so on. Speaking for myself, I think I made it very clear at the time when I delivered my speech in this Committee that unless we were assured that we were safe in the new constitution, we could give no consent to any constitution involving the principle of responsibility. If other communities do not care to join in this, it would go as my own statement on behalf of the Depressed Classes.

Lt. Col. Gidney : I join in that statement too, Sir.

Chairman: Of course, the statement as a matter of fact was made, and it was made in a representative way, not merely as an individual statement. But if that is put in in this report, you will observe the effect of it, that one or two of you will be able to say : "Our claims have not been satisfied." It is not a decision of this Committee, but it does put obstacles

in the way of anything being done unless everybody says they are satisfied with what is being done. Whether you think it is wise to take that statement, undoubtedly made to the Committee, and put it in such a position as to make it necessary to record it in the report which the Committee sends to the Conference, is for you to say. I do not object at all, as a matter of record.

Lord Reading: It is rather difficult to see what part it plays in this particular paragraph ; this is dealing with the Executive, and the only point which is mentioned about the new constitution is in regard to the successful working of it.

Dr. Ambedkar: My position is this, Sir, that speaking for myself, I do not merely make a statement, and I do not want the record merely to say that I made certain demands ; I want the report also to record the strength of feeling that is in my mind behind this ; that it is not merely a demand which I made merely to be accepted or rejected, but I said that the acceptance of these demands was conditional on the acceptance of this.

Lord Reading: I do not see how it can come in this paragraph at all.

Dr. Ambedkar: It may come in anywhere. As it was dealing with general agreements, I thought these few lines might come in appropriately at the top of this paragraph. If you do not think it is suitable, I have no objection.

Chairman: I do not think it can come in here ; I do not see how you can work that in here. You could raise it again. It is really what we should call in a Bill before the House of Commons a new clause and not an amendment to a clause 12.

Dr. Ambedkar: In the third line it reads in this way : "that the representation on the Provincial Executives of important minority communities, i.e. Hindus, Muhammadans and Sikhs, was a matter of the greatest practical importance....." My amendment is this, that we should delete the word "important", because I do not want any discriminations made between minorities and minorities, but you should not mention any minority by name, and that if you are going to do so, then you must mention all the minorities.

Dr. Moonje: That is exactly what I was going to say.

Chairman: As a matter of fact, the reason why these words were put in is that they are in the report to which reference is made. What is the amendment ? We are not going to put in anything that you do not agree with. "That the representation on the Provincial Executive of minority communities" ?

Dr. Ambedkar: Leave it there. Delete "Hindus, Muhammadans and Sikhs".

Chairman: Let us see what it means. It would then read : "that the representation on the Provincial Executives of minority communities was a matter of the greatest practical importance for the successful working", and so on.

Dr. Ambedkar: Yes.

Chairman : That means that every minority community, if it is 8, 9, 10 or 12, must have a representative upon the Executive.

Dr. Ambedkar: No; I would then add : "as far as possible leaving discretion to the Governor". I should not like any community to be specifically mentioned.

Lord Reading: Surely you must look and see what this says : "There was general agreement with the recommendation of Sub-Committee No. II (Provincial Constitution)." Then it goes on to quote it.

Dr. Ambedkar: It should not.

Dr. Moonje: My suggestion was a small one, but perhaps it might meet Dr. Ambedkar's point of view. It was on the same lines : "important minority communities, i.e. Muhammadans, Sikhs, Depressed Classes,". That was my small amendment.

Lord Reading: Then the others will have to come in.

Sir A. P. Patro: The Depressed Classes are not Hindus? Will you cut off the Depressed Classes ? With due respect, I say there are Depressed Classes who would simply revolt at the suggestion that they are not Hindus. In Southern India, if Dr. Ambedkar comes and says they are not Hindus, then I do not know what position Dr. Ambedkar will have in Southern India.

Dr. Ambedkar: We are not discussing that here.

Sir A. P. Patro: Therefore I say representation consistent with facts and experiences.

Chairman: I have referred to the report to which reference is made. "Hindus, Muhammadans and others" I am told was put in by way of illustration, and these words do not appear in the report.

Sir Muhammad Shafi: That is what I was going to say.

Chairman: Just one minute. The word "important" docs "that the representation on the Provincial Executives of important minority communities". Therefore "important" will have to stand.

Members: Yes.

Chairman : But "Hindus, Muhammadans and Sikhs" will have to go out; they have no business to be there.

Dr. Ambedkar: Just before you go from that. Sir, I should like to draw attention to the words "working of the new constitution and it was also agreed that on the same grounds Muhammadans should be represented on the Federal Executive". The words "important minorities" should replace the word "Muhammadans" there I mean, in keeping with what we are saying in the beginning.

Chairman: Oh, yes ! "It was also agreed on the same grounds"—

Dr. Ambedkar: "they should be represented also on the Federal Executive".

Chairman: "That important minorities should be represented on the

Federal Executive. On behalf of the smaller minorities a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives or that, failing this, in each cabinet, there should be a Minister specially charged," and so on. That is exactly what was put forward.

Lord Reading: Yes.

Chairman: Officially.

* * * * *

**Chairman:* As a matter of accurate recording, the use of the word "Muhammadans" is perfectly right.

Sir Muhammad Shafi: Federal stands on a special footing.

Chairman: "Muhammadans" stands.

Mr. Joshi: Yes, I agree to that.

Dr. Ambedkar: Then you must add to "Muhammadans", "and other important minorities".

Chairman: No, you cannot. That was the claim.

Dr. Ambedkar: May I not say so for myself? Speaking for myself, I speak on behalf of the Depressed Classes as well.

Mr. Joshi: It is not agreed. You did not make the claim.

Dr. Ambedkar: It is not a question of whether I did or not.

Chairman: Now, we are doing business, and it is two minutes to eleven.

Dr. Moonje: I would ask, instead of the word "agreed," that we should say, "it was also claimed that on the same grounds," and so on.

Sir Muhammad Shafi: No, no, it was agreed. That is a matter of fact.

Dr. Moonje: I do not know what took place in the Federal Structure Committee.

Sir Muhammad Shafi: The record shows it.

Dr. Moonje: But here, of course, I do not agree with that point.

Sir A. P. Patro: That is accepted, and it goes to the next paragraph.

Dr. Moonje: A claim was put in.

Chairman: The statement was made that the Muhammadans should be recognised, and to that, according to the minutes, there was an agreement, and that has just been lifted out of the records.

Mr. Joshi: The records of this Committee?

Lt. Col. Gidney: I made a distinct statement on this matter when we had this before the plenary session, and I made statement to this effect—that it is all very well for the larger communities to demand certain things, but the minorities wanted some representation.

Chairman: That is in.

Lt. Col. Gidney: This is only an alternative.

Chairman: Oh, no, it is not. The sentence gives an alternative, but it says the claim was made that there should be either representation of the

* Proceedings of the Sub-Committee No. III (Minorities), pp. 144-46.

minorities direct, or, failing that that is, if that is impossible then. . . . . .

Lt. Col. Gidney: That is all we want.

Rao Bahadur Pannir Selvam: "Failing this" might replaced by "if this should be found impossible".

Chairman: Yes, instead of "failing this", "if that should be found impossible". There is no reason why that should not be substituted, "if this should be found impossible".

Lord Reading: What is the difference ? We are spending time over interchangeable phrases, that is all.

Sardar Ujjal Singh: Make provision for any other communities in the Federal Executive, and insert the words "important minorities" there. We might make some provision, somehow or other, not necessarily, but provision must be there.

Chairman: May I bring you up against the hard facts of the situation. You cannot, on a Federal Executive, have every minority.

Dr. Ambedkar: Let me make my position clear. In the Provincial Constitution, what we have done is, we have placed an obligation upon the Governor to endeavour to do it. He is not tied down, but in the endeavour he should certainly be allowed the freedom to select even from other important minorities. We are not tying him hand and foot in the making of the Constitution. All we have done is that we place an obligation on him not to select, but we place an obligation upon him merely to make an endeavour. Surely that is not tying him down hard and fast, and I submit that after the word "Muhammadans" the words "other important minority communities" should come.

Chairman: No, we have passed that point. We are now at the second point.

Sir A. P. Patro: May I refer to paragraph 13 ?

Dr. Ambedkar: I would suggest that my dissent be recorded from paragraph 12.

Sardar Ujjal Singh: After the word "Muhammadans", "other important minorities" should be added.

Lt. Col. Gidney: Why close it to the other minorities ?

Chairman: I really must rule. As I have said already, we are not closing it to the other minorities. I am quite willing to discuss amendments on the words as they are, but really you must not raise false issues. This makes a claim that the other minorities shall also be represented, but if this should be found impossible—that alteration has been made—then there will be a Minister. That is an accurate record of the claims which were made. Paragraph 12 agreed.

Dr. Ambedkar: I think our dissent should be recorded.

Chairman: Very well.

[Paragraph No. 12 as adopted finally by the Sub-Committee No. III (Minorities).]

12. There was general agreement with the recommendation of Sub-

Committee No. II (Provincial Constitution) that the representation on the Provincial Executives of important minority communities was a matter of the greatest practical importance for the successful working of the new constitution, and it was also agreed that, on the same grounds, Muhammadans should be represented on the Federal Executive. On behalf of the smaller minorities a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives, or that, if this should be found impossible, in each Cabinet there should be a Minister specially charged with the duty of protecting minority interests.

†(Dr. Ambedkar and Sardar Ujjal Singh would add the words "and other important minorities" after the word "Muhammadans" in line 6.)

Discussion on paragraph 18 of the Report

‡*Chairman :* 17 is deleted. Now 18, which will then become 17. That this Report be presented to the Committee of the Whole Conference. Those in favour ? On the contrary ? That is carried. Then it will go to the Committee of the Whole Conference.

Dr. Ambedkar: Sir, there is my amendment.

Chairman: I beg your pardon; I am so sorry.

Dr. Ambedkar: I should like to have this amendment put in as a separate paragraph after 16.

Chairman: Make it the last paragraph ?

Dr. Ambedkar: Yes.

Chairman: Then that is the over-riding paragraph.

Dr. Ambedkar: My amendment is this : "That the minorities and the Depressed Classes were definite in their assertion that they would not consent to any self-Government constitution for India unless their demands were accepted."

Chairman : As a matter of fact that was said, and it was said in a responsible way ; it was not merely an individual expression of opinion.

Dr. Ambedkar: I think it should be in.

Mr. Joshi: I think labour cannot be regarded as a minority for that statement.

Chairman: I cannot rule it out.

Dr. Ambedkar: I would accept the words : "unless their demands are accepted in a reasonable manner".

Chairman: That makes it meaningless.

Dr. Ambedkar: Or "their reasonable demands are accepted".

Mr. Zafrullah Khan: Does anybody suppose that if the demands are met in a reasonable way they are going to be pleased ?

Mr. Foot: It is only the record of a claim.

Chairman: It is only the record of a claim. That paragraph should be added as paragraph 18, a new paragraph.

† Paragraph No. 12 as adopted after discussion in the Sub-Committee No. III.

‡ Proceedings of the Sub-Committee No. III (Minorities), p. 153.

APPENDIX I

A SCHEME OF POLITICAL SAFEGUARDS FOR THE PROTECTION OF THE DEPRESSED CLASSES IN THE FUTURE CONSTITUTION OF A SELF-GOVERNING INDIA

† Appendix to Report of Sub-Committee No. III (Minorities)

(Submitted by Dr. Bhimrao R. Ambedkar and Rao Bahadur R. Srinivasan)

The following are the terms and conditions on which the Depressed Classes will consent to place themselves under a majority rule in a self-governing India :

Condition No. I

EQUAL CITIZENSHIP

The Depressed Classes cannot consent to subject themselves to majority rule in their present state of hereditary bondsmen. Before majority rule is established their emancipation from the system of untouchability must be an accomplished fact. It must not be left to the will of the majority. The Depressed Classes must be made free citizens entitled to all the rights of citizenship in common with other citizens of the State.

(A) To secure the abolition of untouchability and to create the equality of citizenship, it is proposed that the following fundamental right shall be made part of the constitution of India :

Fundamental Right

"All subjects of the State in India are equal below the law and possess equal civic rights. Any existing enactment, regulation, order, custom or interpretation of law by which any penalty, disadvantage, disability is imposed upon or any discrimination is made against any subject of the State on account of untouchability shall, as from the day on which this Constitution comes into operation, cease to have any effect in India."

U.S.A. Constitution Amendment XIV and Government of Ireland Act, 1920, 10 & 11, Geo. V, Ch. 67, sec. 5 (2).

(B) To abolish the immunities and exemptions now enjoyed by executive officers by virtue of sections 110 and 111 of the Government of India Act, 1919 and their liability for executive action be made co-extensive with what it is in the case of a European British Subject.

This is so in all Constitutions, see Prof. Keith's remarks in Cmd. 207, p. 56.

Condition No. II

FREE ENJOYMENT OF EQUAL RIGHTS

It is no use for the Depressed Classes to have a declaration of equal rights. There can be no doubt that the Depressed Classes will have to face the whole force of orthodox society, if they try to exercise the equal rights of citizenship. The Depressed Classes therefore feel that if these

† Proceedings of the Sub-Committee No. III (Minorities), pp. 168-76.

face the whole force of orthodox society if they try to exercise the equal rights of citizenship. The Depressed Classes therefore feel that if these declarations of rights are not to be mere pious pronouncements but are to be realities of everyday life then they should be protected by adequate pains and penalties from interference in the enjoyment of these declared rights.

(A) The Depressed Classes therefore propose that the following section should be added to Part XI of the Government of India Act, 1919, dealing with Offences, Procedure and Penalties :

(i) *Offence of Infringement of Citizenship*

"Whoever denies to any person except for reasons by law applicable to persons of all classes and regardless of any previous condition of untouchability the full enjoyment of any of the accommodations, advantages, facilities, privileges of inns, educational institutions, roads, paths, streets, tanks, wells and other watering places, public conveyances on land, air or water, theatres or other places of public amusement, resort or convenience whether they are dedicated to or maintained or licensed for the use of the public shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine."

U. S. Statutes at arge. Civil Rights Protection Acts of April 9, 1866 and of March 1,1875 passed in the interest of the Negroes after their emancipation.

(B) Obstruction by orthodox individuals is not the only menace to the Depressed Classes in the way of peaceful enjoyment of their rights. The commonest form of obstruction is the social boycott. It is the most formidable weapon in the hands of the orthodox classes with which they beat down any attempt on the part of the Depressed Classes to undertake any activity if it happens to be unpalatable to them. The way it works and the occasions on which it is brought into operation are well described in the Report of the Committee appointed by the Government of Bombay in 1928 'to enquire into the educational, economic and social condition of the Depressed Classes (untouchables) and of the Aboriginal Tribes in the Presidency and to recommend measures for their uplift'. The following is an extract from the same :

Depressed Classes and Social Boycott

"102. Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.

"The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessities of life by the village Bania. According to the evidence sometimes small cause suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street.

"We do not know of any weapon more effective than this social boycott which could have been invented for the suppression of the Depressed Classes. The method of open violence pales away before it, for it has the most far-reaching and deadening effects. It is the most dangerous because it passes as a lawful method consistent with the theory of freedom of contact. We agree that this tyranny of the majority must be put down with a firm hand if we are to guarantee the Depressed Classes the freedom of speech and action necessary for their uplift."

In the opinion of the Depressed Classes the only way to overcome this kind of menace to their rights and liberties is to make social boycott an offence punishable by law. They are therefore bound to insist that the following sections should be added to those included in Part XI of the Government of India Act, 1919, dealing with Offences, Procedure and Penalties :

I. Offence of Boycott Defined

(*i*) A person shall be deemed to boycott another who—

This and the following legal provisions are bodily taken from Burma Anti-Boycott Act, 1922, with a few changes to suit the necessities of the case.

(*a*) refuses to let or use or occupy any house or land, or to deal with, work for hire, or do business with another person, or to render to him or receive for him any service, or refuses to do any of the said things on the terms on which such things should commonly be done in the ordinary course of business, or

(*b*) abstains from such social, professional or business relations as he would, having regard to such existing customs in the Community which are not inconsistent with any fundamental right or other rights of citizenship declared in the Constitution, ordinarily maintain with such person, or

(*c*) in any way injures, annoys or interferes with such other person in the exercise of his lawful rights.

II. PUNISHMENT FOR BOYCOTTING

Whoever, in consequence of any person having done an act which he was legally entitled to do or of his having omitted to do any act which he was legally entitled to omit to do or with intent to cause any person to do any act which he is not legally bound to do or to omit to do any act which he is legally entitled to do, or with intent to cause harm to such person in body, mind, reputation or property, or in his business or means of living, boycotts such person or any person in whom such person is interested, shall be punished with imprisonment of either description for a term which may extend to seven years or with fine or with both :

Provided that no offence shall be deemed to have been committed under this section if the Court is satisfied that the accused person has not acted at the instigation of or in collusion with any other person or in pursuance of or in collusion with any other person or in pursuance of any conspiracy or of any agreement or combination to boycott.

III. PUNISHMENT FOR INSTIGATING OR PROMOTING A BOYCOTT

Whoever—

(*a*) publicly makes or publishes or circulates a proposal for, or

(*b*) makes, publishes or circulates any statement, rumour or report with intent to, or which he has reason to believe to be likely to, cause, or

(*c*) in any other way instigates or promotes the boycotting of any person or class of persons, shall be punished with imprisonment which may extend to five years or with fine or with both.

Explanation.—An offence under this section shall be deemed to have been committed although the person affected or likely to be affected by any action of the nature referred to herein is not designated by name or class but only by his acting or abstaining from acting in some specified manner.

IV. PUNISHMENT FOR THREATENING A BOYCOTT

Whoever, in consequence of any person having done any act which he was legally entitled to do or of his having omitted to do an act which he was legally entitled to omit to do, or with intent to cause any person to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, threatens to cause such person or any person in whom such person is interested, to be boycotted shall be punished with imprisonment of either description for a term which may extend to five years or with fine or with both.

Exception.—It is not boycott—

(*i*) to do any act in furtherance of a *bona fide* labour dispute,

(*ii*) to do any act in the ordinary course of business competition.

N.B.—All these offences shall be deemed to be cognizable offences.

Condition No. III

Protection Against Discrimination

The Depressed Classes entertain grave fears of discrimination either by legislation or by executive order being made in the future. They cannot therefore consent to subject themselves to majority rule unless it is rendered impossible in law for the legislature or the executive to make any invidious discrimination against the Depressed Classes.

It is therefore proposed that the following Statutory provision be made in the constitutional law of India :

"It shall not be competent for any Legislature or Executive in India to pass a law or issue an order, rule or regulation so as to violate the rights of the subjects of the State, regardless of any previous condition of untouchability, in all territories subject to the jurisdiction of the dominion of India,—

(1) to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property,

(2) to be eligible for entry into the civil and military employ and to all educational institutions except for such conditions and limitations as may be necessary to provide for the due and adequate representation of all classes of the subjects of the State,

(3) to be entided to the full and equal enjoyment of the accommodations, advantages, facilities, educational institutions, privileges of inns, rivers, streams, wells, tanks, roads, paths, streets, public conveyances on land, air and water, theatres, and other places of public resort or amusement except for such conditions and limitations applicable alike to all subjects of every race, class, caste, colour or creed,

(4) to be deemed fit for and capable of sharing without distinction the benefits of any religious or charitable trust dedicated to or created, maintained or licensed for the general public or for persons of the same faith and religion,

(5) to claim full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by other subjects regardless of any previous condition of untouchability and be subject to like punishment, pains and penalties and to none other."

Condition No. IV

Adequate Representation in the Legislatures

The Depressed Classes must be given sufficient political power to influence legislative and executive action for the purpose of securing their welfare. In view of this they demand that the following provisions shall

be made in the electoral law so as to give them—

(1) Right to adequate representation in the Legislatures of the Country, Provincial and Central.

(2) Right to elect their own men as their representatives, (*a*) by adult suffrage, and (*b*) by separate electorates for the first ten years and thereafter by joint electorates and reserved seats, it being understood that joint electorates shall not be forced upon the Depressed Classes against their will unless such joint electorates are accompanied by adult suffrage.

N.B.—Adequate Representation for the Depressed Classes cannot be defined in quantitative terms until the extent of representation allowed to other communities is known. But it must be understood that the Depressed Classes will not consent to the representation of any other community being settled on better terms than those allowed to them. They will not agree to being placed at a disadvantage in this matter. In any case the Depressed Classes of Bombay and Madras must have weightage over their population ratio of representation irrespective of the extent of representation allowed to other minorities in the Provinces.

Condition No. V

Adequate Representation in the Services

The Depressed Classes have suffered enormously at the hands of the high caste officers who have monopolized the Public Services by abusing the Law or by misusing the discretion vested in them in administering it to the prejudice of the Depressed Classes and to the advantage of the caste Hindus without any regard to justice, equity or good conscience. This mischief can only be avoided by destroying the monopoly of caste Hindus in the Public Services and by regulating the recruitment to them in such a manner that all communities including the Depressed Classes will have an adequate share in them. For this purpose the Depressed Classes have to make the following proposals for statutory enactment as part of the constitutional law :—

(1) There shall be established in India and in each Province in India a Public Service Commission to undertake the recruitment and control of the Public Services.

(2) No member of the Public Service Commission shall be removed except by a resolution passed by the Legislature nor shall he be appointed to any office under the Crown after his retirement.

(3) It shall be the duty of the Public Service Commission subject to the tests of efficiency as may be prescribed—(*a*) to recruit the Services in such a manner as will secure due and adequate representation of all communities, and (*b*) to regulate from time to time priority in employment in accordance with the existing extent of the representation of the various communities in any particular service concerned.

Condition No. VI

REDRESS AGAINST PREJUDICIAL ACTION OR NEGLECT OF INTERESTS

In view of the fact that the Majority Rule of the future will be the rule of the orthodox, the Depressed Classes fear that such a Majority Rule will not be sympathetic to them and that the probability of prejudice to their interests and neglect of their vital needs cannot be over-looked. It must be provided against, particularly because, however adequately represented, the Depressed Classes will be in a minority in all legislatures. The Depressed Classes think it very necessary that they should have the means of redress given to them in the constitution. It is therefore proposed that the following provision should be made in the constitution of India :—

British North America Act, 1867, sec. 93.

"In and for each Province and in and for India it shall be the duty and obligation of the Legislature and the Executive or any other Authority established by law to make adequate provision for the education, sanitation, recruitment in Public Services and other matters of social and political advancement of the Depressed Classes and to do nothing that will prejudicially affect them.

"(2) Where in any Province or in India the provisions of this section are violated an appeal shall lie to the Governor-General in Council from any act or decision of any Provincial Authority and to the Secretary of State from any act or decision of a Central Authority affecting the matter.

"(3) In every such case where it appears to the Governor-General in Council or to the Secretary of State the Provincial Authority or Central Authority does not take steps requisite for the due execution of the provisions of this section then and in every such case, and as far only as the circumstances of each case require, the Governor-General in Council or the Secretary of State acting as an appellate authority may prescribe, for such period as they may deem fit, remedial measures for the due execution of the provisions of this section and of any of its decisions under this section and which shall be binding upon the authority appealed against."

Condition No. VII

SPECIAL DEPARTMENTAL CARE

The helpless, hapless and sapless condition of the Depressed Classes must be entirely attributed to the dogged and determined opposition of the whole mass of the orthodox population which will not allow the Depressed Classes to have equality of status or equality of treatment. It is not enough to say of their economic condition that they are poverty-stricken or that they are a class of landless labourers, although both these statements are statements of fact. It has to be noted that the poverty of the Depressed Classes is due largely to the social prejudices in consequence of which many an occupation for earning a living is closed to them. This is a fact which differentiates the position of the Depressed Classes from that of the ordinary caste labourer and is often a source of trouble between the two. It has also to be borne in mind that the forms of tyranny and oppression practised against the

Depressed Classes are very various and the capacity of the Depressed Classes to protect themselves is extremely limited. The facts which obtain in this connection and which are of common occurrence throughout India are well described in the Abstracts of Proceedings of the Board of Revenue of the Government of Madras dated 5th November 1882, No. 723, from which the following is an extract:

"134. There are forms of oppression only hitherto hinted at which must be at least cursorily mentioned. To punish disobedience of Pariahs, their masters—

(*a*) Bring false cases in the village court or in the criminal courts.

(*b*) Obtain, on application, from Government, waste lands lying all round the paracheri, so as to impound the Pariahs' cattle or obstruct the way to their temple.

(*c*) Have mirasi names fraudulently entered in the Government account against the paracheri.

(*d*) Pull down the huts and destroy the growth in the back-yards.

(*e*) Deny occupancy right in immemorial sub-tenancies.

(*f*) Forcibly cut the Pariahs' crops, and on being resisted charge them with theft and rioting.

(*g*) Under misrepresentations, get them to execute documents by which they are afterwards ruined.

(*h*) Cut off the flow of water from their fields.

(*i*) Without legal notice, have the property of sub-tenants attached for the landlords' arrears of revenue.

"135. It will be said there are civil and criminal courts for the redress of any of these injuries. There are the courts indeed ; but India does not breed village Hampdens. One must have courage to go to the courts ; money to employ legal knowledge, and meet legal expenses ; and means to live during the case and the appeals. Further most cases depend upon the decision of the first court; and these courts are presided over by officials who are sometimes corrupt and who generally, for other reasons, sympathize with the wealthy and landed classes to which they belong.

"136. The influence of these classes with the official world can hardly be exaggerated. It is extreme with natives and great even with Europeans. Every office, from the highest to the lowest, is stocked with their representatives, and there is no proposal affecting their interests but they can bring a score of influence to bear upon it in its course from inception to execution."

There can be no doubt that in view of these circumstances the uplift of the Depressed Classes will remain a pious hope unless the task is placed in the forefront of all governmental activities and unless equalization of opportunities is realized in practice by a definite policy and determined effort on the part of the Government. To secure this end the proposal of the Depressed Classes is that the Constitutional Law should impose upon the

Government of India a statutory obligation to maintain at all times a department to deal with their problems by the addition of a section in the Government of India Act to the following effect :—

"1. Simultaneously with the introduction of this Constitution and as part thereof there shall be created in the Government of India a Department to be in-charge of a Minister for the purpose of watching the interests of the Depressed Classes and promoting their welfare.

"2. The Minister shall hold office so long as he retains the confidence of the Central Legislature.

"3. It shall be the duty of the Minister in the exercise of any powers and duties conferred upon him or transferred to him by law, to take all such steps as may be desirable to secure the preparation, effectively carrying out and co-ordination of measures preventative of acts of social injustice, tyranny or oppression against the Depressed Classes and conducive to their welfare throughout India.

"4. It shall be lawful for the Governor-General—

(*a*) to transfer to the Minister all or any powers or duties in respect of the welfare of the Depressed Classes arising from any enactment relating to education, sanitation, etc.,

(*b*) to appoint Depressed Classes welfare bureaux in each province to work under the authority of and in co-operation with the Minister."

Condition No. VIII

Depressed Classes and the Cabinet

Just as it is necessary that the Depressed Classes should have the power to influence governmental action by seats in the Legislature so also it is desirable that the Depressed Classes should have the opportunity to frame the general policy of the Government. This they can do only if they can find a seat in the Cabinet. The Depressed Classes therefore claim that in common with other minorities, their moral rights to be represented in the Cabinet should be recognized. With this purpose in view the Depressed Classess propose :

That in the Instrument of Instructions an obligation shall be placed upon the Governor and the Governor-General to endeavour to secure the representation of the Depressed Classes in his Cabinet.

APPENDIX II

REPORT OF SUB-COMMITTEE No. III (MINORITIES)

These are some of the paragraphs of the Report related to the interests of Depressed Classes which have been approved by the Committee of Whole Conference on 19th January 1931

3. One of the Chief proposals brought before the Sub-Committee was the inclusion in the constitution of a declaration of fundamental rights safe-

guarding the cultural and religious life of the various communities and securing to every individual without discrimination as to race, caste, creed or sex, the free exercise of economic, social and civil rights (Dr. Ambedkar called attention to the necessity of including in the constitution sanctions for the enforcement of the fundamental rights, including a right of redress when they are violated).

4. Whilst it was generally admitted that a system of joint free electorates was in the abstract consistent with democratic principles as generally understood, and would be acceptable to the Depressed Classes after a short transitional period, provided the franchise was based on adult suffrage, the opinion was expressed that, in view of the distribution of the communities in India and of their unequal economic, social and political effectiveness, there was a real danger that under such a system the representation secured by minorities would be totally inadequate, and that this system would therefore give no communal security.

5. Claims were therefore advanced by various communities that arrangements should be made for representation and for fixed proportions of seats. It was also urged that the number of seats reserved for a minority community should in no case be less than its proportion in the population. The methods by which this could be secured were mainly three (1) nomination, (2) joint electorates with reservation of seats, and (3) separate electorates.

8. The discussion made it evident that the demand which remained as the only one which would be generally acceptable was separate electorates. The general objection to this scheme has been subject to much previous discussion in India. It involves what is very difficult problem for solution, viz. what should be the amount of communal representation in the various Provinces and in the Centre ; that, if the whole, or practically the whole, of the seats in a legislature are to be assigned to communities, there will be no room for the growth of independent political opinion or of true political parties, and this problem received a serious complication by the demand of the representatives of the Depressed Classes that they should be deducted from the Hindu population and be regarded, for electoral purposes, as a separate community.

12. There was general agreement with the recommendation of Sub-Committee No. II (Provincial Constitution) that the representation on the Provincial Executives of important minority communities was a matter of the greatest practical importance for the successful working of the new constitution, and it was also agreed that on the same grounds Muhammadans should be represented on the Federal Executive (Dr. Ambedkar would add the words, “and other important minorities” after the word “Muhammadans”). On behalf of smaller minorities, a claim was put forward for their representation, either individually or collectively, on the Provincial and Federal Executives, or that, if this should be found impossible in each

Cabinet, there should be a Minister specially charged with the duty of protecting minority interests.

13. As regards the administration, it was agreed that recruitment of both Provincial and Central Services should be entrusted to P. S. Cs., with instructions to recruit the claims of various communities to fair and adequate representation in the Public Services, whilst providing for the maintenance of a proper standard of efficiency.

16. It has also been made clear that the British Government cannot with any chance of agreement impose upon the communities an electoral principle which, in some feature or other, would be met by their opposition. It was therefore plain that, failing an agreement, separate electorates with all their drawbacks and difficulties, would have to be retained as the basis of the electoral arrangements under the new constitution. From this the question of proportions would arise. Under these circumstances, the claims of the Depressed Classes will have to be considered adequately.

18. The Minorities and Depressed Classes were definite in their assertion that they would not consent to any self-governing constitution for India unless their demands were met in a reasonable manner.

5

IN SUB-COMMITTEE No. VI (FRANCHISE)

Second Sitting—22nd December 1930

†*Dr. Ambedkar:* It seems to me that there are only two important questions which this Round Table Conference is going to consider. One question is whether India should have responsible Government, and the second question is to what people that Government should be responsible.

In the Plenary sessions we all joined in one chorus in demanding that India should have a responsible form of Government, and I for one, speaking on behalf of the Depressed Classes in that Plenary session, joined with my friends sitting opposite in demanding responsible Government for India. When I did so, however, I was under the impression that the Indian people who came to represent their country at this Round Table Conference were not only united in making a demand for responsible Government for India, but were also united in the view as to whom that Government should be responsible.

I am sorry to say, Sir, that I have been deluded. I find now that although some of our people would desire me and others to join them in their demand for Dominion Status, they do not join with us in demanding that the Government which will be set up under that Dominion Status shall be responsible to the people of India as a whole. I never thought there would be this division of opinion, and that I should have to stand up to defend the position we take.

Now, Sir, speaking on behalf of the Depressed Classes I cannot honestly consent to responsible Government or to Dominion Status unless I can be sure that the people for whom I speak are to have a place in that constitution. I must make that fact plain to all my friends. As an objection has been raised to the proposal for adult suffrage by some of my friends, I propose to deal with the arguments brought forward against it.

One of the arguments brought forward was that we should follow the precedent laid down in this country, that adult suffrage should be reached

† Proceedings of the Sub-Committee No. VI (Franchise), Government of India, Central Publication Branch, Calcutta, 1931, pp. 28-35.

The terms of reference to this Sub-Committee were as under :—

"On what main principles is franchise to be based for men and women."

by stages. It is suggested that we should follow the stages adopted in this country from 1832 to 1918. Those who take their stand on the political history of enfranchisement in this country seem to think that there was some philosophical course of action thought out by the English people in devising the steps that were taken by them in enfranchising the people from 1832 onwards, that they had decided before hand that they must enfranchise only a limited number of people in 1832 that otherwise it would be philosophically wrong ; that they should take the next step only in 1867, and not in 1866 ; that they should take the next step in 1884 and not in 1867. I do not know whether those who use that argument believe that there was any philosophic belief behind that fact. But I should like to point out to my friends, those who base their arguments upon this fact, that if you read the political history of England, you will find that not only was there no philosophical belief which determined the stages that were taken by the British people, but the question of franchise was treated in this country as a mere matter of party politics : that each party tried to extend the franchise because it thought that as a political catch-word it would influence and augment that party. Perhaps that will be news to my friend who used that argument, and, I must say, always uses it with satisfaction to himself, feeling that he is placing an insuperable obstacle in our path. We will be perhaps pleased to find that one of the great steps in the political enfranchisement of the people of England was taken by a Conservative Government in this country, and not by the Liberals or the Radicals.

The second thing I should like to point out to my friend is this. Does he really mean to tell us that because the franchise in this country was limited, that, therefore, the Government produced under that franchise was a good Government, a Government the object of which was the welfare of the people and the prosperity of the masses ? Is that the inference he wants to draw from that fact ? That because the franchise was limited, that, therefore, there was no trouble, and that everybody was satisfied in this country ? Surely that is not the case. If my friend will only take the trouble of reading the life of Lord Shaftesbury, and the social and political history of England, he will certainly find that the unreformed Parliament was not a blessing to anyone.

Thirdly, I should like to point out to my friend, if he really is serious and if he really believes what he says, that the people of India ought not be given adult suffrage, because they are not fit for it, that the only alternative for him is to go back to India and not to demand Dominion Status or responsible Government, for surely, if it is the view of the gentleman who puts forward this case that the Indian people are not fit to exercise the franchise, are not fit to take upon themselves the responsibilities of Government, then I do not understand in whose name he asks for responsible Government. Is it for this class ? Is it for himself ? For whom is it ? The only argument, as I understand

in favour of responsible Government and in favour of Dominion Status, is the assumption which must constitute the basis of any such argument, that the people of India are fit to undertake the responsibility of Government. If my friend does not believe that the Indian people are capable of exercising that responsibility, then the only conclusion is that the Indian people cannot have Dominion Status and cannot have responsibility.

The second argument that was brought forward was that, although adult suffrage may be an ideal, it cannot be brought into effect at the present moment, because we have not the machinery to give effect to it. Now I have great sympathy with that argument, but I should like to point out that there are considerations in opposition to that view. Let us understand what the franchise does really mean. Surely the franchise does not mean a mere matter of the ballot box, does not mean a mere matter of polling booths and the placing of polling officers there. The franchise means something more vital than that. Now, Sir, as I understand it, to me the suffrage and the franchise are nothing else but the right of self-defence; it means that you will create a legislature which will have the amplest power of passing laws which will affect the life, liberty and property of the people. Surely, if that is going to be the position, if your legislature is going to have that power of affecting your life in these most vital matters, then surely every individual who is going to be subject to that legislation ought to have the power to defend himself against laws which will probably in the circumstances invade his liberty, invade his life and his property. It is not a mere question of the ballot box ; it is not a mere question of polling booths.

May I put it in a different way ? If I understand the franchise, I understand it to be the right to regulate the terms of what one might call associated life in society; that is the essence of the franchise. When you give a man the franchise, what you mean is that you give him power to regulate the terms on which he will live in relationship with other individuals in society. Now, if that is the meaning of the suffrage, surely you cannot give the higher classes, the intellectuals as they are called, or the propertied classes, the power to regulate the terms of associated life, and leave the lower classes at their mercy. They, too, must have the power to regulate the terms of associated life. Just as the capitalist must have the power, if he is to have any constitution, to dictate how he shall live on terms of associated life with the labour, surely the labour is entitled also to have the power to regulate the terms on which he shall live with his capitalist master. It cannot be a one-sided bargain ; it must not be a onesided bargain. If you understand the franchise in the right sense of the word, then it seems to me the franchise is something which must be regarded as the inherent right of every individual in the State; and if you understand that the franchise is the inherent right of every man or woman who is capable of understanding it, then surely you cannot make an inherent right of a people dependent upon the convenience of your administration.

My friend used that argument, that we must not have adult suffrage because we shall not have polling booths and polling officers. I should like to remind him of what would be the situation if he were told that he had been wronged by an individual, that he had a good case which, if he brought it to the Court would certainly succeed, but that he could not be given redress because we had not sufficient judges in the High Court. How would he like that position? Surely, if the franchise is an inherent right, and if there are administrative difficulties in the effectuation of that franchise, then the remedy is not to curtail the franchise, but the remedy is to provide the necessary machinery, so that every man or woman capable of enjoying that franchise shall be in a position to give effect to it.

Sir, it seems to me that the difficulties of administering the franchise which have been placed before us arise from two different sources. We are told that the constituencies in India are very vast; and, surely, as 'we see from the Report of the Simon Commission, they are of a most fabulous character. It is said that if you increase the number of electors in the existing constituencies, as they exist today, the whole machinery will break down. My submission to this Conference is this : Surely this difficulty can easily be met. It seems to me this difficulty can be met in this way. It seems to me that the difficulty arises largely because of the composition and strength of your Legislative Councils today ; that composition is so very limited that you cannot help having the large constituencies that you have today. It seems to me that from the standpoint of numbers the existing strength of the legislatures in the Provinces is ridiculous. Let us have the figures for a moment before our mind's eye. I find on comparison that Madras, Bengal and the United Provinces have more or less the same population as France, Great Britain and Italy. The Madras Legislative Council consists of 132 members; the Bengal Legislative Council consists of 140 members ; the United Province Legislative Council consists of 123 members. On the other hand, France has a Lower Chamber which consists of 626 members ; Great Britain has somewhere over 600, and Italy has 560 members. Take, on the other hand, Bombay and the Punjab, which are more or less on a par in the matter of population. Bombay has 114 members ; the Punjab has 94. Bombay and the Punjab are more or less equal in population to Spain; if you take the Lower Chamber in Spain, you find it consists of 417 members. I know it is not in existence now, but that is another matter. It is a matter of constitution. In France it is in existence with a large number. Then take the Central Provinces in which the Legislative Council has 73 members. I find that the population of the Central Provinces is equal to that of Yugoslavia. Yugoslavia has 313 members. Assam has 53 members ; in population it is equal to Portugal, and Portugal has 146 members.

Now, surely if you are going to cramp these vast aggregations of people into Legislative Councils which do not exceed 140 in membership, you

are bound, as a result, to have very large constituencies. Why are you afraid of increasing the numbers in the Legislature ? I cannot understand it. If you are not afraid, and if you follow the parallels in other countries, then surely you can very easily reduce the size of the electorates, and thereby remove one of the difficulties that is said to exist in the matter of adult suffrage.

Then another difficulty which was pointed out was that it was said we should not have a sufficient number of polling officers. Now that difficulty to ray mind also does not seem to be of a very serious character. It seems to me that if all the college students in India could be drafted into the service of the electoral departments, this difficulty could be very easily solved. Some of my friends on the other side laugh at it, but I do not know why. I know, as a matter of fact, that in the census all college students, and school boys also, help the census department in carrying on the enumeration. If, for instance, the same system were adopted on the polling day, if all the college students were asked to help in this matter and I have not the slightest doubt that they would come to the rescue of the department, then surely we should have more polling officers than we need on the occasions of this sort.

It seems to me, therefore, that the difficulties of the situation are not insuperable. Let me point this out to my friends opposite who object to adult suffrage on this ground. It seems to me their position is of a somewhat curious character. Where a member of the British Delegation raises a difficulty, and says there are heaps of difficulties in the way of India, and, therefore, India must not have Dominion Status or responsible Government, the gentlemen sitting opposite would not allow the English gentlemen to take advantage of the difficulties; they would tell him at once : "Why, you bolster up difficulties to put down our claims. These are difficulties which surely can be met." Let me tell him that we on this side are also not prepared to allow you to take advantage of this difficulty. We say that if there are difficulties in the way of getting the power in our hands, those difficulties ought to be solved. We are not going to let you have the advantage of the situation.

Sir, so far I have dealt with the arguments which have been presented against adult suffrage. Now let me put one or two arguments which I think are in favour of adult suffrage, and which in my opinion, are more or less decisive. The first argument that I will put is this, that you cannot have in India any system of suffrage short of adult suffrage which will give equality of representation to all the castes and communities in India; there is no other system you can devise for India which will give that result. Take, for instance, the existence of constituencies. In Bengal and in the Punjab the Muhammadans form a majority of the population. You have in Sind also, as apart from Bombay, the Muhammadans in a majority. Now what is the state of the Muhammadan communities in these Provinces ?

I am putting this as a feeler : My Muhammadan friends may take their stand apart from this : I am putting it as a case. What is the position of the Muhammadan communities in these Provinces under the system of franchise that we have today. The Muhammadans in Sind form something like 70 per cent of the population ; and yet, if I am not very much mistaken, their voting strength is only 49 per cent. Take, for instance, again Bengal and the Punjab; there again the Muhammadans pre-dominate in population, and yet in the voting list they are in the minority. Take again the Depressed Classes ; under the existing franchise they are nowhere at all in the electorate. I think it is a most disgraceful thing to have a franchise of this sort. You have to remember one thing : that Indian society is composed of so many castes and creeds and those castes and creeds are not related to each other in what one might call the vertical perpendicular, so that if you chop-off this mass at any particular point you get a part which is representative of all the communities in an equal degree. On the other hand, if I may put it so, they are related in such a manner that the parallel grains are, so to speak, placed horizontally one on the other, so that if you chop at any particular point you get a part which is representative of one single community only or at the most two, and the rest are not represented at all. Now surely you do not want to create a system of political Government in which only some castes and some communities will predominate. Surely you do not want to create in India a South Africa where only some people will have the vote and the rest will not. I say, if you are interested in giving every man a vote, in giving every man the political franchise, so that he may work out his destiny, then you cannot have any other system of franchise in India than that of adult suffrage.

Now, let me give you another example. As I say, I am not opposed to female suffrage, and I am very obliged to our lady colleague, Mrs. Subbarayan, for supporting us in this matter. I will go with her whole-heartedly. Let roe point out one or two illustrations of what has been suggested by way of enlarging and broadening the franchise. It is suggested that there should be a franchise of literacy. I do not propose to call it a fancy franchise, but let me tell you what will be the effect of it. The effect of it would be this : that some communities would have their voting strength almost doubled, while other communities would stand where they are. Literacy in India is so unevenly distributed, that some communities would have all the increase of the franchise added to their stock, while other communities would remain where they are. Surely you do not want to create that sort of situation.

Therefore my submission is, that if this Conference and the members who are assembled round this table are true to their creed, believe that India must have responsible Government, and that Government must be responsible to the people, then I submit there is no alternative to adult suffrage.

Then, Sir, there is one more consideration that I would like to point

out, that seems to me to be a most decisive consideration in this matter. We all of us know that the question of joint versus separate electorate is a most thorny question ; it seems to me to be a very crucial question. May I point out to this Conference that, at least in my opinion, the question of joint versus separate electorates is inextricably bound up with the question of franchise. You will not ask any minority in India, you will not compel any minority in India, and you will not get the consent of any minority in India, to agree to joint electorates unless that minority has adult suffrage. I am not going to place myself under the thumb and authority of any majority Government, unless I am certain that I can exercise in the elections electoral power which is commensurate with my social power. Unless I know that every man and every woman in the Depressed Class community will be able to exercise the vote and to determine the destiny of the candidate who is going to represent the mass of people in the country, I certainly am not going to consent to joint electorates ; certainly not. I am not going to place myself in a minority position ; I am not going to allow the majority to select my candidate. No, under no circumstances. And I think what is true of my minority may also be true of the Muhammadans. I do not wish to say something that I shall have to say in another Committee, but the point is so relevant that I cannot help making a reference. You cannot in fairness ask the Muhammadans of Bengal or the Punjab to accept joint electorates unless you place them in a majority in the electorate. You cannot deny the franchise to the Muhammadans, make a minority of them in the electoral power, and then say, "Come along and have a joint electorate".

The decisiveness of this fact was acknowledged by the Nehru Committee and by three members of the Indian Central Committee.

Let me, before I conclude, make one or two remarks to my friends who will not give us adult suffrage. I made it plain at the beginning of my speech that we make the question of the grant of responsible Government to India not entirely dependent on this question. Although I know that my friend and I are only two in a Conference of 80 or 90, we represent 43 millions of people.

Diwan Bahadur Ramachandra Rao: Would Dr. Ambedkar accept the proposal of Lord Zetland ?

Dr. Ambedkar: We might accept the principle. But may I say that I am receiving hundreds of letters and telegrams on the subject I have brought forward. It is a crucial thing.

Sir P. C. Mitter: What about the Central Legislature? Does he want adult suffrage, and what size does he want the Legislature to be ?

Dr. Ambedkar: That will be a question to be decided later on. The Central Legislature, I think, ought to consist of 500 members.

Sir P. C. Mitter: And adult suffrage also?

Dr. Ambedkar: Yes.

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†*Sir Cowasji Jehangir:* All these suggestions, I may say so with due respect to the Begum, emanate from the feeling that the franchise is the foundation of the representation in the Councils. That is so in all countries.

But where we have introduced the principle of weightage for communities, that principle does not hold good.

Colonel Gidney : I will now make a concrete suggestion, and my concrete suggestion is this, that in adopting the scheme suggested by Lord Zetland we should go in for direct and for indirect election. So far as direct election is concerned, I suggest there should be no further broadening of the. franchise, and that the-present franchise should remain as it is.

Dr. Ambedkar: No.

Colonel Gidney: That is all right.

Sir Cowasji Jehangir: That should return a certain number of representatives to the Legislature, both for urban and for rural constituencies. A large number of the population will remain without the direct vote, and for that whole block of the population the franchise should be broadened. It should be on the basis of 25 per cent of the adult population, and they should return their representatives by the indirect system of election both in rural and urban areas. I make no distinction between the two. That will bring in industrial labour as well as agricultural labour.

Dr. Ambedkar: It will not bring in anything of the sort.

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‡*Dr. Ambedkar;* Sir, this morning I said what I need say regarding the question of franchise ; but, without prejudice of what I have stated this morning, I should like to examine the suggestions which are put forward before this Committee for the purpose of extending the franchise. I take it that this Committee is agreed that the ideal is adult suffrage. Some of us think that it ought to be realised immediately ; the rest of our friends think that it ought to be evolved by stages. We have therefore put before us two concrete suggestions. One suggestion is that we should adopt the system of instalment and increase the suffrage by a graduated scheme of 25 per cent addition to the existing voting list, say at an interval of a certain number of years. We have on the other hand the suggestion of our noble friend the Marquess of Zetland in which also effect is sought to be given to some realisation of this ideal of adult suffrage.

Now, comparing the two, I cannot help saying that I have a partiality for the suggestion of the noble Lord, although, as I say, I hold strongly that we must have undiluted adult suffrage. If it were a mere matter of choice between the two, I should certainly like to have a system which immediately lays the foundation of adult suffrage in preference to a system

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 68-69.

‡ *Ibid.,* pp. 72-73.

which gives some sort of suffrage to only a class of the people and postpones the fact of self-Government to a large mass for a time to come. But, having said that, I cannot, as I say, give whole-hearted support to the suggestion, because I find there are certain difficulties. But, because I think that probably the noble Marquess will come to our help in meeting the difficulties which some of us feel, I propose to make one or two observations. One thing I see : that if this system of indirect elections by groups is adopted, it seems to me the Depressed Classes probably will not fare better under that system. I say that for this reason : the Depressed Classes are scattered throughout India in small numbers in every village ; their life is practically dominated on all sides by powerful bodies of villagers who hold over them social and economic sway. It is possible, and I think it is also probable, that when this indirect election comes to be applied to them, such an amount of pressure may be applied by the village community on the Depressed Classes that, in exercising their vote, so to say, in the primary election, they may be compelled to select people who may not be their best representatives. That is a fear which I certainly have.

Another thing which I find is that if this system is to be adopted in preference to the graduated system of extending the vote by instalments, I do not understand why we should confine this to the propertied class or to any other Class ; I do not see why we should not extend the system in such a manner that adult suffrage should become the foundation of the system.

A Member: That is the intention.

Dr. Ambedkar : I am glad to hear that. With regard to the difficulties that have been suggested, that this would complicate the matter of separate electorates, I do not think it will, because with indirect election you can still maintain separate registers for such communities as may desire to have them. I do not think that will create any difficulty in the matter.

But, as I say, we cannot, for instance, give support to this principle unless we know really how this principle is going to work in practice, unless we know all the details about it. My concrete suggestion, therefore, is that this Committee should appoint a small Sub-Committee in order to consider this system and to report upon it, so that we may be better able, with full knowledge and information, to recommend this to a Franchise Committee that may hereafter be left to work out the system. It seems to me in its raw form, if the noble Lord will excuse my using that expression, it is somewhat difficult, and it is too much of a large order for anyone of us—speaking, at any rate, for myself to give out support to this principle.

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†*Mr. Basu:* But is it necessary to put a maximum figure at all, because the Franchise Committee will be there, they will have to consider it and go into details. I think we should put the minimum figure ; that is all that is required. As regards the maximum, they may decide as to what

† Proceedings of the Sub-Committee No. VI (Franchis), pp. 74-75.

the maximum should be.

Dr. Ambedkar : I should like to make the observation with regard to the first paragraph in your summarisation. I should like to have it stated in the paragraph which you have drawn up that the opinion of the Committee was that the extension of the franchise should be limited by considerations of administration and machinery. That was the only limitation that we thought should be put in.

Sir C. Setalvad : It is not merely administration ; there are other considerations as well.

Mrs. Subbarayan : What is practicable ?

Dr. Ambedkar: Practical means machinery. I mean the Committee might find that it was practicable with the present machinery that 50 per cent of the population should be enfranchised.

Mr. Zajrullah Khan: Do you mean 50 per cent of the total population ?

Dr. Ambedkar: Yes.

Mr. Zajrullah Khan : That would be slightly more than universal adult franchise.

Chairman : It is suggested that we should leave out the maximum. The whole thing is conditional on the expert Committee finding it practicable and desirable ; so that we need not have a maximum. Let us leave out the maximum. Does anyone wish me to read it again?

Mr. K. T. Paul: If you leave out 25 per cent, if it weakens our statement I would not agree to it.

Chairman: It does not weaken it.

Mr. Chintamani: Very often in these matters when a minimum is stated it comes to be a maximum in actual practice. If we indicate the figure 10 per cent in our Report, it will show the Franchise Committee that is appointed that we should be contented if they secure a maximum of 10 per cent. Those of us who mentioned the figure of 25 per cent did so as a sort of unsatisfactory compromise between the present position and adult franchise. I, for one, shall not be happy if you take it out.

Mr. Foot: Mr. Chintamani mentioned 25 per cent of the adult population ?

Mr. Chintamani: Of the total population.

Mr. Foot: I beg your pardon.

Mr. Joshi: Sir, I am very sorry to say that you should not put down in the Report that the suggestion is a unanimous one, because I for one would not agree to it, and I reserve to myself the right of re-opening the question of adult suffrage in the full Conference.

Dr. Ambedkar: That is my position too.

Mr. Joshi: It should be put down in the Report.

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†*Dr. Ambedkar:* It would be a second best, provided we knew it was going to work. (Universal adult suffrage.)

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 76-78.

Chairman: Subject to that, are the rest of the Committee agreed?

Sir C. Jehangir: I cannot agree to this figure, 25 per cent until we have the whole of the facts before us.

Chairman: We are suggesting that an expert Franchise Committee be set up.

Sir P. C. Mitter: Before we fully know the facts it would not be right for us to commit ourselves.

Chairman : It would not do for us to hand over our job to the expert Franchise Committee. We are in the unfortunate position of having to make some recommendation, and we cannot say that we recommend merely that somebody else should take over our job.

Sir P. C. Mitter: I am expressing only my own personal opinion. I suggest to the Franchise Committee that there should be an increase, as large an increase as possible, and I would not have objected to 10 or 20 or 50 per cent. If I know all the facts before hand on which to base an opinion.

Chairman: Would you like, Sir Provash, to put in such qualification as you desire, to the effect that any recommendation both as to maximum and minimum should be entirely subject to the discretion of the Franchise Committee ? I feel that we ought to give that Committee some guidance. However, we have got near enough now, and we will take an opportunity of speaking with you about this afterwards.

Mr. Chintamani: I do not know, Sir, whether you will agree to what I am about to suggest, but there is also before us an important proposal that the Franchise Committee should be asked to devise such qualifications as will ensure, as far as possible, the same proportion of voters to population in the different communities. This was proposed by the Simon Commission, and it has been supported by several local Governments. Could that be considered new ? If the Franchise Committee find it not possible they will reject it.

Chairman: I think it comes under the next head, namely, "general basis of franchise, (i) Should the franchise qualifications be the same for all communities in the same area ?" I call your attention to those words "in the same area". Do not let us embark now on the subject of women's suffrage or anything of that sort.

Sir P. C. Mitter: I thought from what you ruled that the special interests and communal interests came under the Minorities Committee.

Chairman: We shall very likely know more about that after tomorrow. For the moment we are discussing the general basis of the franchise, and whether the qualifications should be the same for all communities.

Diwan Bahadur Ramachandra Rao: You said that you would speak to the Prime Minister and let us know whether this matter came within the province of our Committee or of the other.

Dr. Ambedkar: I should like to make one proposal. Although the question of universal adult suffrage has been pointed out by certain members

of this Committee to be for the present not possible or practicable, it seems to me that it may be possible to have, at any rate, adult suffrage for the Depressed Classes. There is no reason why, for instance, all communities should have the same franchise—in fact, there may even be cases which we find in the practical affairs of life, that in order to reach equality of status, we may have to adopt, so to speak, methods of inequality. In the matter of treating the richer class as against the poorer, for example, we do enact certain special measures for the benefit of the latter. We tax the richer class at a higher rate than the poorer, the object being that the principle of ability to pay the tax may be realised in practice. I think that the same consideration might be applied to the Depressed Classes. If the object of the Committee is that all communities should be represented in equal proportion in the electorate, there is no reason why one class of people may not be treated differently from another class of people if a different sort of treatment is the only means available for the purpose. It seems to me that if, for instance, adult suffrage were applied to the Depressed Class and not to other communities, but other communities had a system such as Lord Zetland has suggested, it would not be in reality any difference at all, and it would not put any great pressure on the electoral machinery available in the Provinces, having regard to the peculiar position of the Depressed Classes, and having regard also to the consensus of opinion that no other system of franchise would give them the vote and without the vote there would be no solicitude expressed for them by any candidate who stands for the Legislature at the present time. I think that the Committee would not do any great harm if it recognised the application of this principle to the Depressed Classes.

Third Sitting—30th December 1930

†*Chairman:* We are now discussing the question of the educational qualification. I may just remind you that the second conclusion to which we came was this : "We recommend that in any given area the franchise qualification should be the same for all communities, but we desire that the Expert Franchise Committee, in making their proposals, should bear in mind that the ideal system would as nearly as possible give each community a voting strength proportional to its population and this Committee should so contrive their franchise as so far as practicable to bring about this result." I am afraid that is rather a counsel of perfection, but at the same time the only way in which we can possibly expect them to carry that out is if we give them a certain latitude ; that is manifest. Therefore, in considering all these questions of educational qualifications and so on, you have to remember that unless you authorise the Franchise Committee

† Proceedings of the Sub-Committee No. VI (Franchise), p. 94.

to take these into account, you are restricting and not enlarging their possibility of action.

Dr. Ambedkar: I should like, if I may, to ask one question with regard to the conclusion which you, Sir, have read out, and at which you said the Sub-Committee had arrived. Does that conclusion imply that the Franchise Committee will have the liberty to consider a variety of franchises for different communities, to arrive at the result that the voting strength shall be proportional to the strength of those communities ?

Chairman: I do not think that is it. We have to give guidance to the Franchise Committee ; they will fill in the details. We are, as it were, the architects, and they are the masons and builders.

Dr. Ambedkar: I understand that, but what I should like to know is whether that conclusion gives liberty to the Franchise Committee to have a different franchise for the different communities with the object of securing equality.

Chairman: No. The first sentence says that we recommend that in any given area the franchise qualification should be the same for all communities. We will now proceed with our discussion on the educational qualification.

* * * * *

†*Mr. Jadhav :* Would any Legislative Council have the power to go back after ten years and restrict the franchise? Some of them might wish to do that.

Chairman : Their powers would be powers of extension, not of diminution.

Dr. Ambedkar: I should like to say a word on this subject, without prejudice to the position we have taken all along. It seems to me that as compared with the alternatives which have been suggested, one by Mr. Joshi that there should be some law providing for automatic extension, and the other, the main proposal, that the matter should be left to the sweet will of the Legislatures, the recommendations made by the Simon Commission seems to me to be better and to be more readily acceptable from my point of view. It might be much better, as I say, to have some authority which will investigate at the end of a definite period exactly what has been the result of the working of the franchise up to that period. That body will be able to see what disparity there has been as between the different provinces. That body will be able to see what is the machinery existing at the end of the ten years, in order to cope with the elections if the franchise were to be altered, and that body, being impartial itself, will be able to deal with the rights of the mass of the people much more readily, in a much more just and equitable way, than the class-conscious people who may be installed as a result of the limited franchise which we are introducing today. For these reasons it seems to me that the proposals of the Simon Commission are better than the alternatives.

Sir Cowasji Jehangir: Who is to set that up ?

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 138-39.

Dr. Ambedkar : Just as Parliament in the Act suggested that there should be a Public Service Commission, so it could be suggested that there should be the appointment of a Committee.

Sir Cowasji Jehangir: By the Central Government ?

Dr. Ambedkar: Yes.

Chairman: I think I know enough now to draft a Report on this subject, but I should like to know what is your view—not that we shall here and now recommend that any Expert Franchise Committee or any other Committee should be set up after 15 years, say, but in view of possibility that one Province might extend its franchise much more generously than another, so that the whole thing might get out of step, ought we to contemplete the possibility of anybody being constituted to look into the matter then, to try and adjust things, or shall we merely content ourselves with leaving things to the Provinces, or ought we to follow Dr. Ambedkar's idea of a Committee ? We need not say that it has to come into being, or when it is to come into being, but that it might function if it came into being.

Mr. Basu : At any period when the Central Government desired to appoint a Committee.

Chairman: We will not say how it is to be appointed, but what do you say about the possibility of appointing such a body ?

Diwan Bahadur Ramachandra Rao : I think the Government of India should set up such a body, not that Parliament should set up such a body.

Dr. Ambedkar: What difference does it make?

Diwan Bahadur Ramachandra Rao: We are leaving great freedom in all these matters. I would like to eliminate parliamentary control. I should like to know what the proposal is. If you say that after a number of years it shall be competent for the Government of India to appoint a Committee to look into this question in the whole of the Provinces, I shall have no objection, but if it is a question of Parliament going into this question again in ten years, I object to it entirely. I have no objection to the Committee being appointed by which the franchise will be extended, but I should like that power vested entirely in the Government of India and to be exercised at its discretion whenever there is necessity for such a thing within a certain number of years, or after a certain number of years.

Dr. Ambedkar: How has it any bearing on the functions of this Sub-Committee whether this Committee is appointed by Parliament or by the Government of India?

Diwan Bahadur Ramachandra Rao: We are devoluting authority to India from Parliament, because in 1919 when this question came up before the Parliamentary Committee, I and several others with me contended that there should be devolution of questions like this to authorities in India ; and because such a step was not taken, we are now confronted with the accumulated complaints about franchise which are now being investigated and they could not be investigated because parliamentary permission

was required. Therefore I suggest that any step taken in that direction should be devolution of complete power to the Government of India, to be exercised at its discretion to go into the whole question of franchise in a certain number of years. That is a point upon which I really desire to lay some stress.

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†*Dr. Ambedkar:* It is now evident, at least to myself and some of my friends, that we shall have to record a note of dissent from certain propositions that will be placed before the Sub-Committee. Will it be permissible for us to submit to you a note of dissent on the various points, which you may be kind enough to append to the report, or will you allow us some other method?

Chairman: I do not think that up to the present any of the Sub-Committees have appended minority reports, as it were ; I think the report of the Sub-Committee has been one report, but has indicated on its face that certain members—naming them if necessary—have dissented.

Dr. Ambedkar: I should like, with your permission to point out one disadvantage which I see in that procedure. If we are not allowed to record our minute of dissent, you do not give us an opportunity to put our suggestions in a concrete form, which we should like to do if we may be allowed to do so. We are allowed the negative liberty of saying we do not agree, and that is all.

Chairman : I am not sure we cannot meet you. I think you have made your objection quite clear. What you want really is adult suffrage, and I think we have got a sentence in to indicate that certain members of our Sub-Committee—naming them—objected to this because they thought the system of adult suffrage was the only satisfactory system. That states the point.

Dr. Ambedkar: What we should do would depend on the report.

Chairman: Let us leave the difficulty until it arises, and then see if we cannot meet you. I think we can.

Fourth Sitting—1st January 1931

‡Draft Report—Point 4

4. *Extension of the Franchise:* While it was generally held that adult suffrage was the goal which should ultimately be attained, it was agreed that the basis of the franchise could forthwith be broadened and that a large increase was desirable.

Some difference of opinion existed as to the extent to which this was

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 147-48.

‡ *Ibid.,* pp. 149-50.

practicable in present circumstances, and it was realised that the Sub-Committee had not the necessary material to determine the precise limits of the advance. The Statutory Commission suggested such an increase in the number of electors as would bring that number up to ten per cent of the population. Some of our members thought that an increase to twenty-five per cent of the adult population was immediately practicable.

We recommend that an expert Franchise Commission should be appointed with instructions to provide for the immediate increase of the electorate so as to enfranchise not less than ten per cent of the total population and indeed a larger number—but not more than twenty-five per cent of the total population—if that should, on a full investigation, be found practicable and desirable.

We recommend that, in addition to providing for this increase the Commission should consider the introduction of a scheme by which all adults not entitled to a direct vote would be grouped together in primary groups of about 20, for the election of one representative member from each group, who would be entitled to vote in the Provincial elections either in the same constituencies as the directly qualified voters or in separate constituencies to be formed for them.

(Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar and Mr. Srinivasan regard these proposals as only "second best" and consider that the immediate introduction of adult suffrage is both practicable and desirable.

Sir Cowasji Jehangir, Sir P. C. Mitter and Mr. Basu do not assent to the maximum or minimum we have suggested, but desire the discretion of the Franchise Commission to be entirely unfettered.)

† Discussion on point 4 of Draft Report

Dr. Ambedkar: I beg to move an amendment to paragraph 4, namely. that in the second section, line 2, to add the following words after the word "practicable"— "with the electoral machinery available in present circumstances". It would then read "Some difference of opinion existed as to the extent to which this was practicable with the electoral machinery available in present circumstances."

Several Members: There are other grounds.

Dr. Ambedkar: That is my amendment. I leave it to the Chairman as the best judge to sum up the sense of the Committee, but the impression that was left upon my mind was that the majority of those who opposed universal adult suffrage as being practical politics for the immediate future did so mainly upon the ground that there was not sufficient electoral machinery in India to cope with the situation if everybody was allowed to vote.

Chairman : I do not think myself, Dr. Ambedkar, that was the sole ground on which the matter was put. It was one of the main grounds, but in

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 152-54.

recording the view of the Committee I do not think we should limit ourselves to saying that that was the sole ground. For instance, the difficulty of communications, and the lack of facilities for travel, and so on, were also very much stressed.

Dr. Ambedkar: I would rather like to have it made clear in the Report.

Mr. Joshi: You might put in some such words as "practical electioneering difficulties".

Sir Cowasji Jehangir: But there are other objections.

Mr. Joshi: We are talking of the general majority, and not of those people who do not want to vote on principle.

Chairman: I think what is already stated meets the point. After all, you and Mr. Joshi come in under the note at the end.

Dr. Ambedkar: I quite see that. Although we stand for the ideal, we may have to accept the second best, but we should like to have the second best as good as it can possibly be made. I think my point ought to be made clear, so that the expert Franchise Committee might consider it.

Chairman : I do not think that would meet the majority of the Committee. I think the majority of the Committee would rather feel that the words should not be qualified. Very well.

Now what about the next sentence beginning, "We recommend that an Expert Franchise Commission should be appointed with instructions to provide for the immediate increase of the electorate so as to enfranchise not less than ten per cent of the total population and indeed a larger number— but not more than twenty-five per cent of the total population—if that should, on a full investigation, be found practicable and desirable."

Dr. Ambedkar: I have an amendment on page 3. Instead of the words "but not" I should like to have the words "and even substituted".

Chairman: Many of us felt, and I am one of them, that an immediate increase of twenty-five per cent was straining it somewhat, and I do not think we should be asked to strain it further. Again, you come in under your reservation, Dr. Ambedkar.

Dr. Ambedkar: My second amendment is to strike out the words "and desirable". This matter, whatever increase is desirable or not, is really one which must be decided by this Committee. It cannot be decided by the Expert Franchise Commission. That Commission is to be appointed to devise ways and means to carry into effect the decisions we take. How much increase is desirable is certainly a matter which cannot be left to the competence of the new Franchise Commission. From that point of view I think it is necessary to drop these words.

Chairman : It is very difficult to separate what is practicable and what is desirable. "Practicable" is an elastic word. It may be a very difficult thing to achieve or it may be a comparatively easy thing to achieve ; but it may be possible of achievement and therefore you will say it is practicable. In considering the desirability, you can hardly shut out of your mind the

extent to which the thing is practicable. The two must come in together to a certain extent.

Dr. Ambedkar: We have decided that in our opinion an extension which covers twenty-five per cent of the population is desirable,

Chairman: You use such an elastic word as "practicable". That is the difficulty I feel. You cannot put the two words in completely water-tight compartments. What is practicable must react on what is desirable, and you use a very elastic word. I think it would be wiser to keep both there. We give a clear view of our indication by saying at the very outset that we look forward to adult suffrage as an ideal.

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†*Chairman:* We had better take it line by line. Will anybody interrupt if they have an amendment to propose : "We recommend that, in addition to providing for this increase, the Commission should consider the introduction of a scheme by which all adults not entitled to a direct vote would be grouped together in primary groups of about 20,"—then it is proposed to insert "or in some other suitable manner".

Is there any objection?

—"for the election of one representative member from each group, who would be entitled to vote in the Provincial elections either in the same constituencies as the directly qualified voters or in separate constituencies to be formed for them".

"(Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar and Mr. Srinivasan regard these proposals as only 'second best' and consider that the immediate introduction of adult suffrage is both practicable and desirable.)"

Dr. Ambedkar: I should like to say that Mr. K. T. Paul was also of the same opinion as ourselves.

Chairman: That will be noted.

Mr. Joshi: I propose that instead of the words "second best" the words "quite inadequate" should be substituted.

Chairman: That is really a matter for you gentlemen. If you prefer those words "quite inadequate" instead of the words "second best", that is a matter for you really. So it will read : "Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar, Mr. Srinivasan and Mr. K. T. Paul regard these proposals as quite inadequate and consider that the immediate introduction of adult suffrage is both practicable and desirable."

Mr. Jadhav: My name also should be added to that list.

Chairman: A note will be made of that. Then it goes on : "Sir Cowasji Jehangir, P. C. Mitter, and Mr. Basu do not assent to the maximum or minimum we have suggested, but desire the discretion of the Franchise Commission to be entirely unfettered." Obviously that is a matter for them to say what they want.

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† Proceedings of the Sub-Committee No. VI (Franchise), p. 159.

†*Chairman :* The minor communities are really protected, not so much by the number of voters as by the number of representatives they have, whether they have separate electorates or whether they have joint electorates with reservation. That is in the main their protection.

But in order to try to get a conclusion could not we say this, instead of using the words "each community"—Mr. Chintamani put it to me—"We desire that the Franchise Commission in making their proposal should bear in mind that the ideal system would as nearly as possible give the major communities a voting strength in proportion," and so on. I think that would do.

Sir C. Jehangir: "The two major communities."

Chairman : His point is, he does not want to confine himself to the major communities, but he wants to put it in this way that he is only recommending with regard to the major communities ; the Minor communities are not the subject matter of the recommendation at all. Cannot you meet him on that ?

Sir C. Jehangir: It is too dangerous. When you talk about separate electorate, we have no separate electorates and we do not want them.

Dr. Ambedkar : It means this, that in order to maintain the advantage of having a large existing electorate the suffrage should not be extended to the majority of the people. That is what it comes to, that in order that Sir Cowasji Jehangir should maintain the existing ratio of his population to the electoral strength the other people in the country should not be on the electoral strength.

Sir C. Jehangir: All I mean is that the smaller community should not be jeopardised.

Dr. Ambedkar: Your position is bound to be jeopardised in any lowering of the franchise, and if you feel that proportionately to the other voters your position goes down, then your safety lies either in trusting to the majority or in asking for separate electorates. But you cannot say : "Because we will be thrown down, we will sink, therefore other communities should not be given it." It comes to nothing else but that.

Sir C. Jehangir: I do not say that.

Chairman : I am afraid that we will have to take our conclusion. Bear in mind, if you will, that we are agreeing to adult suffrage as an ideal. We have passed that part of the report. I have suggested the words "would as nearly as possible give at least major communities".

First of all I will put it to the Committee that the words should remain as they are "give, if possible, each community". Who is against that ?

A note will be taken that Sir Cowasji Jehangir, Colonel Gidney and Sardar Ujjal Singh dissent from the latter part.

Dr. Ambedkar: If you want to place it before the Franchise Committee we should still like to say that in our view the principle of adult suffrage

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 171-72.

should be applied to the Depressed Classes.

Chairman: We have got that already.

Mr. Foot: Otherwise you would put an *addendum* to each paragraph.

Chairman: We cannot have that every time.

Mr. Jadhav: Brahmins and non-Brahmins and different communities in Bombay, Depressed Classes and all should be added.

Chairman: We cannot go into that.

(Dr. Ambedkar insists for recording his dissent from para. 13.)

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†*Mr. Foot:* There is only one point In view of the general objection based upon the claim for adult suffrage, need you have a note following each paragraph ? Would not there be a general note at the end embodying the objection taken by Mr. Joshi and his colleagues ?

Chairman: I think that would be better for you, I quite understand your position.

Dr. Ambedkar: I leave it to you.

Chairman: If I may say so, I think it might make you appear 10 be in rather a false position if, for instance, you appeared to be objecting to the women's vote.

Dr. Ambedkar: We have very good ground for doing that. We are quite prepared, in our minds, and we can meet whatever objection may be raised on that ground. We have no theoretical objection to women.

Mr. Jadhav: The maximum of 25 per cent will be taken up by women, and then there will be no necessity of any other lowering of the franchise.

COMMITTEE OF THE WHOLE CONFERENCE

‡Summary of the Report submitted by Sub-Committee No. VI (Franchise)—16th January 1931

(Some of the paragraphs related to Dr. Ambedkar's proposals)

The Sub-Committee recommended *vide:*

Para. 4: (1) that an expert Franchise Commission should be appointed with instructions to provide for the immediate increase of the electorate so as to enfranchise not less than 10 per cent of the total population and indeed a larger number—but not more than 25 per cent of the total population—if that should, on a full investigation, be found practicable and desirable,

(2) that in addition to providing for this increase, the commission should consider the introduction of a scheme by which all adults not entitled to a direct vote would be grouped together in primary groups of

† Proceedings of the Sub-Committee No. VI (Franchise), pp. 175-76.

‡ *Ibid.,* pp. 178-79.

about 20 or in some other suitable manner, for the election of one representative member from each group, who would be entitled to vote in the Provincial elections either in the same constituencies as the directly qualified voters or in separate constituencies to be formed for them.

(Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar, Mr. Srinivasan, Mr. K. T. Paul and Mr. Jadhav regard these proposals as quite inadequate and consider that the immediate introduction of adult suffrage is both practicable and desirable.)

Para. 7: The Sub-Committee was of opinion that the Franchise Commission should consider the possibility of framing a suitable educational qualification as an additional qualification for the franchise.

Para. 8: The Sub-Committee agreed that the existing Military Service qualification should be retained and recommended that the Franchise Commission should consider the extension of this qualification so as to include service in the Auxiliary and Territorial Forces.

Para. 9 : The Sub-Committee agreed that special qualifications should be prescribed for women and recommended that the Franchise Commission should devote special attention to this question in the light of all the evidence available including the recommendation of the Statutory Commission and the suggestion made in the Sub-Committee that the age-limit mentioned in the proposals of the Statutory Commission should be lowered from 25 to 21.

(Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar and Mr. Srinivasan dissent from the proposals in paragraphs 7, 8 and 9.)

13. The Sub-Committee considered it inadvisable to lay down any programme of automatic extension of the franchise. It preferred that it should be left to each Provincial Legislature to extend its franchise at its discretion, after a lapse of 10 years from the date of the introduction of the new constitution.

(Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar and Mr. Srinivasan considered that a preference of automatic extension of the franchise should be laid down.)

[*No comments by Dr. Ambedkar in the discussion. Comments in Committee of the Whole Conference (16th January 1931) on Report of Sub-Committee No. VI* (*Franchise*) *by Mr. N. M. Joshi.*]

Mr. Joshi: I want to make one point clear, on paragraph 9. It is said that Mr. Joshi, Mr. Shiva Rao, Dr. Ambedkar and Mr. Srinivasan dissent from the proposals in paragraphs 7, 8 and 9. I want it to be noted that we are not against the claims of women for some kind of qualification being created for them. Unfortunately, we had to take up the attitude which we did in the Committee, on account of the fact that the Committee fixed a certain limit to the total number of voters, being created, and in these circumstances it became our duty to protect the interests of the unenfranchised because if we accept the principle of giving votes to the

wives of those who are enfranchised, the limit of enfranchising those who had not the franchise is bound to be higher. On account of the special and difficult position in which we were placed we had to take up the attitude of not giving votes to the wives of those who are already enfranchised and thus depriving the unenfranchised of their rights. We are not against removing the disqualification of sex.

Chairman: Paragraph 9 noted

6

COMMITTEE OF THE WHOLE CONFERENCE

Comments on the Report of Sub-Committee No. VII (Defence)—16th January 1931

**Dr. Ambedkar:* What I want to do is to move an amendment to clause (2) of paragraph 4 of this Report to the following effect, that immediate steps be taken to see that recruitment to the Indian Army is thrown open to all subjects of His Majesty, including the depressed classes, consistently with consideration of efficiency and the possession of the necessary qualifications. I do not merely wish to have this matter recorded ; I wish to move it as a substantive amendment, so that the sense of the House may be taken on it. My amendment is very simple one ; it seeks to remove all discriminations between the different classes of His Majesty's subjects to enter Military Service. No doubt I move the amendment primarily with a view to protecting the specific rights of the depressed classes, but in doing so I am not asking the Committee to confer any favour, I am asking the Committee to see us realize in practice the principle recognized in the Government of India Act, that no subject of His Majesty shall be debarred from entering any Public Service by reason of his caste, creed or colour. In doing so, therefore, I do not think I am asking for any special favour.

I may point out to you, Sir, this amendment is on the lines adopted by the Service Committee. If you will refer, Sir, to the Report of Service Committee appointed by this Committee, you will find that the Service Committee did make a serious effort to see that all subjects of His Majesty had a fair and adequate chance in Public Services of the country, and that they not only enunciated certain fundamental rights protecting subjects of His Majesty from being debarred from entering any Public Service, but they went out of their way to make special recommendations, mentioning certain specific communities, such as the Anglo-Indians and the Depressed Classes.

But, Sir, this amendment is not merely in the interests of the depressed classes. I submit it is also in the interests of all communities and subjects of His Majesty. I think, Sir, that it is a great public danger that any

*Proceedings of the R.T.C. (First Session), pp. 379-80.

community in India should be allowed to monopolise any services in the country. I say it is a great public danger, because it not only excites a sense of superiority in these particular communities which have been placed in the position of advantage, but it also jeopardises the welfare of the people by making them dependent upon the protection afforded to them by certain specific communities, I therefore submit that as we are enunciating a new constitution for India, we ought to begin with a system which will permit every member of His Majesty's community to play such part as he is capable of by reason of his fitness in any Public Service of the country. And, if I may say so, Sir, the amendment which I am moving is only a logical consequence of the principle enunciated in this paragraph itself, because if you refer to sub-clause 1 of clause 4 you will see this:

> "The Sub-Committee consider that with the Government of the new political structure in India, the defence of India must to an increasing extent be the concern of the Indian people, and not of the British Government"

Now Sir, if that sentence has any meaning, that the defence of India should be to an increasing extent the concern of all the Indian people, it must be the concern of Indian people and not the concern of any particular community.

I therefore submit that this House do accept the amendment which I am proposing.

Dr. Moonje: With regard to Dr. Ambedkar's proposal that recruitment should be thrown open to all classes, I entirely agree with him provided the standard of efficiency is maintained.

Dr. Ambedkar: That is my amendment; I say that it shall be consistent with efficiency.

Sir Tejbahadur Sapru: I also associate myself with Dr. Ambedkar.

Mr. Basu: Mr. Chairman, I raise a point of order. This amendment overlaps a portion of the Department of the Services Committee which says, in clause 5(4) regarding membership of any Committee that castes, creed or race shall not be a ground for promotion or supersession in any public services.

Dr. Ambedkar: We excluded the Army for our consideration.

Mr. Thomas : Mr. Chairman, I do not think there is any need for the amendment. The paragraph was deliberately put in. "The Sub-Committee consider that with the development of the new political structure in India, the defence of India must to an increasing extent be the concern of the Indian people and not of the British Government alone." That does not say that the defence of India must be the special concern of any section in India. It was deliberately framed to cover that, and the word "Indianisation" is applicable.

Dr. Ambedkar: Yes, but I mean there may be Indianisation without there being the opportunity of men to all communities to enter Public Service. Indianisation may still mean the monopoly of some communities.

Chairman : The position is that, it will be noted.

7

IN SUB-COMMITTEE No. VIII (SERVICES)

Second Sitting—7th January 1931

******Dr. Ambedkar:* There is one thing which it seems to me necessary that this Sub-Committee should consider, whether this process of Indianisation should not be accompanied by some distinction in the matter of pay, pensions and other privileges of Indians as against Europeans in the Civil Service of the future. I think that is a point which this Sub-Committee must necessarily consider. I should therefore like to add to this paragraph "Should the Indian element be on a par with the European element in the matter of pay, pensions and other privileges".

Chairman: We will bear that in mind.

Then "(4) Who should be the recruiting authority for the recruitment of All-India Services under the new Constitution ?"

Sir Chimanlal Setalvad: You will have to add there the question of control, who shall recruit and who shall control.

Chairman: We will leave that for the moment.

Then "(5) Recommendations concerning the Civil Branch of the Indian Medical Service". That is quite at large. We can make what recommendations we like there.

Then "(6) The desirability of recommending that the question as to what conditions may be required to attract and retain future recruits of the right type should be referred to a technical Committee or Committees". It occurred to me that there are so many of these points, for instance, with regard to rates of pay, which we have to consider. You do not want to pay more than you need; on the other hand it is bad economy to pay people inadequate salaries when you do not get the right type of man. That is obvious

The point made as to the question of control seems to me to involve highly technical matters, calling for expert knowledge, so that I doubt whether this Sub-Committee is qualified to express any final opinion — I know I am not. I therefore purposely drafted item (6) of the agenda so that we might

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*Proceedings of Sub-Committee No. VIII (Services), Government of India, Central Publication Branch, Calcutta, 1931, pp. 44-46.

(Terms of reference to this Committee were : "the relation of services to the new political structure", which meant to include the ratio of British recruitment in the All-India Services.)

consider whether we ought not to say that there should be Commissions set up to determine this question. Can any of you say — I cannot — what rate of pay is necessary to attract the right type of people ? Is anybody prepared to say that he knows ? Or can anybody formulate what precise regulations should be made regarding control, if we are to cope with that topic ?

Sir Chimanlal Setalvad: I think the broad principle with regard to control should be dealt with here, namely, whether it should rest with the Secretary of State as at present or devolve upon the Government of India.

Dr. Ambedkar: The distinction of remuneration as between Europeans and Indians is a broad question which this Sub-Committee ought to decide. The particular principle whether the two elements in the Service should be treated on a par is certainly one for this Sub-Committee.

Sir Provash Chunder Mitter: If you want to have an All-India Service it is necessary to remember that conditions in the provinces are not the same. Unless you take evidence I cannot see how even broad generalisations can be made on the question of attracting the best men for the Services throughout India.

Sir A. P. Patro: We had a Committee to investigate whether there should be any retrenchment in the Services. It was a very independent Committee, but the result at which it arrived was that the rates of salaries should actually be increased in some respects. I think that this question should be considered by an independent Committee. Some of us, while strongly in favour of Indianisation, feel that in the interests of our own country there should be greater economy in the matter of the salaries of the Indian officers, but at the same time there should be sufficient attraction to such officers, enabling them to maintain their position and prestige in the country, and preserving them from temptation. As to what scale is adequate to keep the best men in the Service, this is not a matter which can be determined offhand, it is one which will require very careful consideration. These are vital questions affecting the efficiency of the Service. My respectful submission is that we should not burden ourselves with details at present

Sir Chimanlal Setalvad: With regard to control, I am afraid my remark was not quite understood. I only want to have the large principle settled, whether the control should be in Whitehall or in India.

Dr. Ambedkar: I should like to draw your attention to the report of the Ceylon Commission, which recommended the broad principle that there should be differentiation of salaries between the native of Ceylon and others.

Chairman: It may meet the point if we had at the end of Item (6) of the agenda, "and if so, whether any definite recommendation should be made for the guidance of such Committees".

Lord Zetland: The question which Sir Chimanlal Setalvad wishes to discuss will come up on Item (4). The control goes with the recruiting authority.

Chairman: We can add to Item (4) "and what general recommendations should be made as to control". I agree with Lord Zetland that the one is

a corollary of the other. The control goes with the recruiting authority. Will you, therefore, add to Item (6), in order to meet Dr. Ambedkar's point, "and is so, whether any definite recommendations should be made for the guidance of such Committees" ?

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†*Chairman:* We come now to Item (3) : "Should recruitment on an All-India basis continue for any of the following Services : (*a*) Indian Civil Service, (*b*) Indian Police Service, (*c*) Indian Forest Service, (*d*) Irrigation Branch of the Indian Service of Engineers." I pause here, and suggest that I rather gather the sense of the Committee to be "Yes" to (*a*), "Yes" to (*b*). and "No" to (*c*). May I take it that the answer is "Yes" to (*a*) and (*b*) ?

Mr. Shiva Rao: I think that all these Services should be provincialised. I do not think it would be satisfactory to work these Services on an All-India basis, and at the same time ensure a proper relationship between the Services and the Ministry.

Mr. Basu: The Indian Civil Service is a general service that is recruited, and there are bifurcations and trifurcations. After a period in the general service, some members, for example, go to Customs, some take the Judicial line and become Judges, and others remain in the Executive and Revenue Departments. Are we going to have a service which is not a specialised service, such as we ought to have from the very start ? It may be, as I pointed out in my general remarks, that with the new Constitution it will be necessary to recast the categories of services, instead of having one service, namely, the I.C.S. The I.C.S. has done good work in the past, but it is to some extent an anachronism, and may be more so within a short time. The question is whether by this kind of nomenclature we shall be tending to continue and perpetuate a state of things which does not fit in with the requirements of the present day.

Dr. Ambedkar: This question has to be considered from more than one point of view. There is, first of all, the point of view of Provincial autonomy. We are framing a Constitution in which we propose to give as large a degree of Provincial autonomy to the provinces as possible, and it seems to me that no province can be deemed to have Provincial autonomy if it has not the right to regulate the Civil Service that is going to work in its area. There is another and very important point of view, namely, finance. When we have an All-India Civil Service we have a fixed scale of pay. Salaries, remunerations, and other privileges are on a scale which is somewhat remote from what would be obtainable in the various provinces. A Civil Service that will not be costly to Bombay or Bengal may be costly to smaller and poorer provinces, like Assam, Sind, the North-West Frontier Province, and Punjab, and it may be that these provinces will feel themselves satisfied with a little less efficient service than the All-India basis would give them. Having regard to finance at their command, they may regard the brains and efficiency obtainable as quite sufficient for their purpose. Finally, I agree with Mr. Basu

†Proceedings of Sub-Committee No. VIII (Services), pp. 54-58.

with regard to specialisation. I do not understand how the passing of an examination like that of the I.C.S. can give any man the competence to serve in certain specialised Department. A man was passed his I.C.S. examination, with mathematics as a special subject, may be placed in the Department of Agriculture or in that of Indian currency. We ought to have a Service which not merely assures a certain standard of education in those who participate, but also allow for a certain degree of specialisation. It is necessary, in my view, that the All-India character of some of these Services should now cease, and the Provinces should be allowed liberty to cut their coats according to their cloth.

Sir A. P. Patro: The objection which has been raised by Dr. Ambedkar is a very relevant one.

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†*Chairman :* Mr. Basu's point of view on Dr. Ambedkar's remarks should clearly be considered. We should be careful to make it plain that in recommending recruitment for the I.C.S. we do not regard the I.C.S. as perfect, good though it is, or as a thing which must be continued for ever on exactly the same basis. It will be necessary to do whatever is possible to remould and recast it. Those of Dr. Ambedkar's school of thought suggest that the All-India Services should be done away with and small Provincial Services set up in their stead.

Dr. Ambedkar: I think that I should make my position clear. I hold, with the rest of the members of this Committee, that it is very necessary to have a European element in the Service, but I do not share the view of the noble Lord, Lord Zetland, when he said that if you make the Service provincial it will dry up the source of recruitment.

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‡*Chairman:* The suggestion is that we snould fix 1939, or any other date you like. There is no magic in a date. The suggestion is that we should fix some date, and make it plain that thereafter it is a matter for the Government of India to consider. That is the suggestion which I make in order to try to meet everybody.

Dr. Ambedkar: My view is that your recommendations should be applicable only to the Indian Civil Service and the Indian Police Service.

Chairman: I would agree to that, and I will make that plain.

Third Sitting—8th January 1931

§*Dr. Ambedkar:* Sir, I must say mat I do not hold a very strong opinion on the question as to whether there should be a Committee appointed or not, in order to give guidance to the future Government of India, but there are two matters upon which I do hold a very strong opinion. The first is that

†Proceedings of Sub-Committee No. VIII (Services), pp. 57-58.

‡*Ibid.,* p. 85.

§*Ibid.,* pp. 91-93.

I think the time has arrived when instead of having one common Indian Civil Service to men of all departments, we should have hereafter some provision made for the specialisation of Services in order that efficiency may be more greatly secured than it is now. I am not going to say anything as regards the capacity of the Indian Civil Service, because I think that it is generally admitted that it is a capable Civil Service, but, notwithstanding that, I do maintain that the kind of training that one gets in the Indian Civil Service is not sufficient for the discharge of certain duties in certain technical, or otherwise specialised, departments. Consequently it is necessary, that some reorganisation should take place in the Indian Civil Service in order that we may get greater efficiency in the Service. That is one thing upon which I feel very strongly. The second point upon which I feel even more strongly is that, although we are all agreed that there must be Indianisation in the Indian Civil Service and that there must be more rapid Indianisation in the Indian Civil Service than has been contemplated hitherto my submission to the Committee is that, looking at the problem from the standpoint of the Indian tax-payer, it is far more necessary that this Indianisation should not merely be a change in the personnel of the Service, but the Indianisation must be accompanied by some lowering of the burden on the Indian tax-payer. There must be some differentiation in the remuneration, the salary, the pay and the pensions, and other privileges of the Indian element of the Indian Civil Service as compared with what is granted to the European element of the Indian Civil Service. In this connection I should like to draw the attention of the Committee to the recommendations made by the Donoughmore Commission for the Constitution of Ceylon. At page 133, they recommend that the Ceylon Government should hereafter appoint a Salaries Commission, and with regard to that Salaries Commission they make a definite recommendation that there shall be a differentiation in the remuneration of the European element in the Ceylon Civil Service and the Ceylonese element in the Ceylon Civil Service. This is how they justify it : "On the merits of the case it is clear that there is no logical justification for remunerating both classes of public servants on the same basis. In one class are a body of men exiled from the temperate climate which is their birth-right and posted in a tropical country thousands of miles from their homes; a country in which it is impossible for them to bring up their children and from which it is essential for the sake of their own health that they should proceed on leave of absence at regular intervals ; a country in whose service they are compelled, not only to face all the difficulties involved in the maintenance of dual establishments, the risks to their health and the personal sacrifice of family ties, but also to preserve at considerable cost a standard of living and hospitality in keeping with their own traditions and those of a Service which, for over 125 years, has represented a great Imperial Power. Side by side with them are men living and working in

their native country, with their homes at band, subjected to none of the climatic difficulties and to only a part of the financial burden imposed on their European colleagues. It is obvious that the former class of public servants must be paid a salary sufficient to compensate them, over and above the actual value of the work performed, for the personal risks and sacrifices involved in its performance. There can be no logical justification for extending to the latter the compensation necessarily paid to the former." I think that these observations apply with equal force to conditions in India. If this Subcommittee accepts the two points that I am placing before them, namely, the necessity for diversification in the Indian Civil Service, and also the necessity for differentiation in the remuneration between the two elements in the Indian Civil Service, then I think that it is a necessary corollary that there ought to be somebody set up to advise the Government of India to carry into effect these recommendations. It is for those reasons that I support the suggestion that, after the new Constitution is brought into effect, the Government of India should be empowered to set up such a Committee as is recommended in head 6.

Chairman: May I say for the guidance of the Sub-Committee that, as our terms of reference are the relations of the Services to the new political structures, obviously we cannot go at great length into the question of salaries ? At present there is a differentiation in the pay of officials based upon what is called non-Asiatic domicile. I expect that you all know about this. The difference comes to this that those who have a non-Asiatic domicile get what is called overseas pay, which is an addition of about £ 300.

Dr. *Ambedkar:* I think that that really hardly touches the point. You can create differentiation by adding something to the European salary. That is no relief to the Indian.

Sir A. P. Patro: I think that the reasons given by Dr. Ambedkar necessitate a reply in the affirmative to the two questions propounded in head 6. I think that he has very strongly put the case of enquiry in the matter of Indianisation. The reference as it goes is, what conditions will be required to attract the right recruits ? That is a very important thing. If the Committee thinks that the present conditions should be altered and changed in order to attract the best men, then the Committee will consider that aspect of the matter, and, therefore, it will be necessary to have a Committee. The other feature is, that it is said that the future Government of India should have the right of looking into the matter, and considering what would be necessary according to the circumstances which may arise then, I fear that there is a notion that the future Government of India will be so radically altered that the Ministers would do everything that they could to revolutionize the existing system. The sooner that we forget that, the better for us, and then we would be more reasonable in our conception of these conditions of service.

After all, we know there is to be only a limited responsibility in the Centre. The responsibility of Ministers will be restricted. Therefore we

should consider from past experience that there should be some guidance to the future Government of India, which must not be allowed to start with a blank cheque. It is purely a business matter, and my reply would be in the affirmative to both parts of Item No. 6.

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†*Dr. Ambedkar:* I would point out a difficulty that will arise in the question of fundamental rights in the words which you are trying to introduce. The point is this. You are giving the Public Services a direction to recruit the Services so as to give due and adequate representation—whatever the words are. That means this: the Commission will have the right to choose between the different communities in order to make up the quota of the community which does not otherwise get into the Services. That means that they would have to exclude members of other communities in order to make good the claim of fair and adequate representation of other communities which have not hitherto been recruited in the Public Service and if you have this fundamental right given to every individual of every community, that certainly would embarrass the Public Services Commission, because a person who had a fundamental right of this sort may say : You are prejudicing me by preferring some other member of some other community. There seems to me to be the difficulty.

Sir Chimanlal Setalvad: May I point out that this enunciation of fundamental rights, about there being no disability by reason of religion, caste, or creed, is merely repeating the proclamation of Queen Victoria when the Crown took over the Government of India. It was incorporated in the proclamation then made.

Raja Narendra Nath: It does not solve the practical difficulty.

Chairman: May I suggest that as it seems to be that the fundamental right is already there, is it necessary to repeat the fundamental rights ? Would the Sub-Committee be satisfied if we accepted in our report the first two propositions which Sir Chimanlal has read, and not put in the declaration as to fundamental rights ?

Dr. Ambedkar: I would point out that we have not only to guard against the Public Services Commission being influenced by the local Government in the matter of making appointments. It seems to me that we have also to guard against the Public Services Commission abusing its own powers. I feel somewhat strongly on this point. The Public Services Commission is bound to be very limited in its personnel; we therefore cannot provide that the Public Services Commission in its personnel shall represent the different communities in the country. The Public Services Commission will have to be drawn from some communities, and human nature being as it is I fear the Public Services Commission might abuse its own powers.

Mr. Mody: What will be the remedy ?

Dr. Ambedkar: The remedy would be that the Legislative Council should

†Proceedings of Sub-Committee No. VIII (Services), pp. 111-13.

have the power to pass a resolution of want of confidence in the Public Services Commission, just as, for instance —

Sir Chimanlal Setalvad: That would defeat the whole object.

Dr. Ambedkar: If this means is not desirable, I shall welcome some other means and some other method on this point, but I do feel very strongly that it is no use having a Public Services Commission which may be interested in their own community and not in others.

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†*Sir Chimanlal Setalvad:* .....Having laid it down that the Public Services Commission shall secure a fair representation to the various communities, we would give power to the Governor, in his Instrument of Instructions, to see that such fair representation was secured.

Dr. Ambedkar: You might provide in clause 2 that this should be subject to such directions as may be given them by the Governor.

Sir Chimanlal Setalvad: That is giving too much power to the Governor. All you want to secure is a fair representation for the various communities ; you want to see that the fair representation which we have provided that the Public Services Commission shall allot is in fact secured.

Mr. Zafrullah Khan: How will the Governor see to that ?

Chairman : Major Stanley has been good enough to make this suggestion, which may be a *via media*. He suggests some words to this effect, that at the end of clause 2 we might insert : "This part of the duty of the Public Services Commissions shall be subject in the case of the Provincial Public Services Commissions to the periodic review of the Governor, and, in the case of the Central Public Services Commission, of the Governor-General, who shall be empowered to issue any necessary instructions to secure the desired result."

Dr. Ambedkar: Yes.

Sir Chimanlal Setalvad: That is all right; I am prepared to accept that.

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‡*Mr. Shiva Rao:* I want to suggest that we say that every member of the Public Services Commissions shall hold office during his good behaviour, and that the Chairman and other members of the Public Services Commissions shall not be removed from office except by the Governor-General on an address by the Central Legislature, and in the case of the Provincial Public Services Commissions by the Governor of the Province concerned on an address by the Provincial Legislature.

Chairman: Mr. Shiva Rao has suggested a new clause, and he puts the point quite clearly. We do not tie ourselves to language but the substance of it is that we should state as a new clause that office is to be held during good behaviour and that a member of the Public Services Commissions, whether Chairman or an ordinary member, is to be removable on an address of the

†Proceedings of Sub-Committee No. VIII (Services), pp. 121-22.

‡*Ibid.*. p. 124.

Legislature to the Governor or Governor-General as the case may be. Let us put that

Dr. Ambedkar: I support that.

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†*Dr. Ambedkar:* The position taken by Mr. Shiva Rao is that discretion in the matter of removal of members of the Public Services Commissions is to be vested entirely in the Governor or Governor-General. The fact the Legislature has passed a resolution by a majority will not *ipso facto* lead to removal, but the Governor or Governor-General will consider whether action should be taken or not

Raja Narendra Nath: I would not allow the Legislature to interfere at all in respect of appointments.

Dr. Ambedkar: A man may be corrupt, just as judges may be corrupt. Should there be no remedy at all ? Should there be no way of removing such persons ? We are removing patronage from the Ministers because we feel they may be corrupt, but the Public Services Commissions may be corrupt, and if we have no chance of removing any of their members what will the position be ?

Dr. Shafa'at Ahmad Khan: Dr. Ambedkar has admitted that a member of a Public Services Commission can be removed by the Governor, and if that is so what is the use of the address by the House ? It is very dangerous to have a Legislative body interfering in executive matters. We must keep the deliberative function of the Legislatures completely apart from the function of the Executive, and if we mix the two functions in a matter of this kind, where thousands of appointments may be at stake. I think we shall be inviting trouble and making the whole of the regulations regarding the Public Services Commissions completely useless and utterly futile.

Chairman: Would it be in accordance with the desire of the Sub-Committee—I think the criticism made is rather cogent — that we should insert a clause to the effect that any member of a Public Services Commission holds office during good behaviour and is removable by the Governor or Governor-General as the case may be ? (Agreed).

Sir Provash Chunder Mitter: So long as the Legislature is not specifically brought in, I am satisfied.

Chairman: Would that further amendment be in accordance with the wishes of the Sub-Committee ? (Agreed). We shall consider it at the report stage ; we are considering it provisionally now. Now we get to Colonel Gidney's point

Dr. Ambedkar: Before you proceed to Colonel Gidney's proposal when the draft was first read out there was a clause stating that a member of a Public Services Commission after he had ceased to hold office as a member of such a Commission should not be eligible for service under the Crown.

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†Proceedings of Sub-Committee No. VIII (Services), pp. 125-26.

†*Chairman:* At present I want to put before you what the suggestion is. Will you therefore please strike out the words "be placed under Provincial management", and insert instead the words "no longer be recruited on an All-India basis" ?

"and we do not think it necessary to make any special recommendation with regard to these two services.

" we recommend that recruitment on an All-India basis should continue for the Indian Civil Service and the Indian Police Service (Mr. Shiva Rao lissents—)" I do not know whether he is alone or whether there is anyone with him.

Dr. Ambedkar: My resolution is that except for the European element in hese two Services, the rest should be provincialised.

Chairman: I think that will have to be separately put in.

"(Mr. Shiva Rao dissent from this conclusion, and would desire that all Services be provincialised forthwith)." I suggest that we add here this : " some members are of opinion that recruitment for judicial offices should no longer be made from the Indian Civil Service."

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‡*Dr. Ambedkar:* I am in favour of both the Services being on a Provincial basis, but I am prepared to make an exception in favour of the European element in those two Services.

Mr. Zafrullah Khan: I agree with Dr. Ambedkar.

Sardar Sampuran Singh: I endorse the same view.

Chairman: I am much obliged. That will certainly go in.

Dr. Ambedkar: On page 2, in the paragraph beginning "No doubt such government if it requires", and so on, you have mentioned the question of the reorganisation and readjustment of the departments of Public Services, etc. May I know whether you will add also the question of the basis of salary, in view of the discussions that took place this morning ?

Chairman: That comes within those words, I think.

Fourth Sitting—9th January 1931

§Lord Zetland: No. You cannot withdraw the jurisdiction of the local Government, because the local Government admittedly must be supreme over its officers, but it could be laid down that that should be the practice which it is desirable to pursue. That, Sir, I think covers what I want to put before the Sub-Committee. The main point is to secure that the powers now vested in the Inspector-General by the Police Act of 1861 should be retained, and I put forward various other suggestions, such as the formation of a Police Council in a Province for the consideration of the Sub-Committee.

†Proceedings of Sub-Committee No. VIII (Services), p. 128.

‡*Ibid.,* p. 132.

¶Indian Civil Service and Indian Police Service.

§Proceedings of Sub-Committee No. VIII (Services), pp. 181-82.

Dr. Ambedkar: I want to ask one question for information, if you will permit me to do so. Does the noble Marquess desire that the position of the Inspector-General should be recognised by statute, or does he want the position as it now is under the Police Act to be maintained ? Does he want them to be recognised by statute as officers having certain statutory rights and obligations ?

Lord Zetland: Yes.

Sir Provash Chunder Mitter: By Parliamentary statute ?

Lord Zetland: That is right. The Inspector-General now has these powers by statute, namely the Police Act.

Dr. Ambedkar: That is a different thing to the Police Act, which of course would be subject to amendment by the local Legislature. The question is whether you want the position of the Inspector-General to be recognised as that of an officer performing certain duties, and as an officer not liable to interference by the Minister or by the local Government ?

Lord Zetland: That is the effect of it. That is my proposal. I think that the powers which are now vested in the Inspector-General should be retained.

Sir Cowasji Jehangir: By what authority—by the Police Act or by the Government of India Act ?

Sir Chimanlal Setalvad: It should be beyond the vote of the local Legislature or of any Legislature to alter the provisions of the Police Act.

Lord Zetland: Yes. I think that it should be the Act of the Federal Government.

Mr. Zafrullah Khan: That can be done by placing the Police Act in the list as one of the Acts which cannot be repealed, altered, or modified, by a Provincial Government without the consent of the Governor-General.

Dr. Ambedkar: That would be the position today, because the Act can not be amended with the previous sanction of the Central Government.

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†*Mr. Zafrullah Khan :* If I may add just this. Perhaps the members of this Committee are not all aware that both the Federal Structure Sub-Committee and the Joint Sub-Committee set up by Sub-Committees Nos. I and II have suggested quite a large number of enactments on comparatively unimportant subjects to be placed in that list under Section 80(*3*)(*h*) and if we put the Police Act under that it will not contravene any principles whatever.

Dr. Ambedkar: I am in general agreement with Mr. Zafrullah Khan. The reason why the Police Act is not placed in the Schedule today is that the subject is a reserved subject, therefore as a matter of fact the Government of India has a complete control over the Department of Law and Order; and when the Department of Law and Order comes to be transferred the position will be altogether different. I think it will be necessary to consider whether we should not at least for the transitional period, consider the necessity of certain safeguards at least for keeping such as they exist at the

†Proceedings of Sub-Committee No. VIII (Services), pp. 186-88.

present time. I personally am in favour of the suggestion that this Police Act should be included in the Schedule which requires today the previous sanction of the Governor-General or the Government of India.

There is another point to which I should like to draw your attention with respect to the question of the Police and the Department of Law and Order a point which I raised also in the Provincial Constitution Sub-Committee. This question has been considered, of course, from the standpoint of the responsibility of the future Provincial Governments. It seems to me that this question has also to be considered from the standpoint of the different minorities in the Provinces and the emergency occasions which may arise on occasions of communal trouble and such other emergencies. It seems to me that it is indeed a great safeguard for the minorities in the different Provinces to know which officer belonging to what community is going to administer law and order in that particular locality when a communal riot has taken place. We are all aware that all Police Officers are accused of partiality and of showing favour to one community or the other. There may not be sufficient justification for that accusation ; but there may be cases when there may be abundant justification for the partiality of the officers operating law and order in those particular localities. It seems to me that it is very necessary in the interests of the protection of the minorities that the transfer and posting of Police Officers should not be, at least in times of emergency, in the hands of Ministers. It may be that a Minister who may have a communal majority in the Province may on any particular occasion shift a Police Officer who may not favour the particular community to which he belongs.

Mr. Zafrullah Khan: Ordinarily the Inspector-General does it

Dr. Ambedkar: I know that in the Bombay Presidency a great row was created on account of the transfer of Police Officers. I do not know whether it was done under the Inspector of Police or by the Officer in charge; but I think that is a great safeguard which it is necessary to provide for in the future Constitution of India.

My specific proposal is this, that in cases of emergency, as a riot or communal trouble takes place, the Governor should have over-riding powers over the Minister in different localities with regard to the Police.

Fifth Sitting—12th January 1931

******Chairman :* Doctor Ambedkar, Mr. Zafrullah Khan, and Sardar Sampuran Singh are averse to further recruitment on an All-India basis for the Indian Civil Service, save in respect of the European element in that Service. Some members are of opinion that recruitment for Judicial Offices should no longer be made from the Indian Civil Service.

Dr. Ambedkar: Also the Indian Police Service, Sir.

Chairman: You want to put in, do you, "for the Indian Civil Service and

†Proceedings of Sub-Committee No. VIII (Services), p. 198.

the Indian Police Service" ?

Dr. Ambedkar: Yes.

Chairman: Does that apply to Mr. Zafrullah Khan ?

Mr. Zafrullah Khan: Yes.

Chairman: And to Sardar Sampuran Singh ?

Sardar Sampuran Singh: That is right.

Chairman: I am only purporting to record your views there, so I will put in the words "and for the Indian Police Service".

Sixth Sitting—13th January 1931

******Dr. Ambedkar:* I should like to have a new paragraph inserted after sub-paragraph (4) to this effect : "The Sub-Committee desires that a generous policy be adopted in the matter of the employment of the depressed classes in the Public Service, and it particularly recommends that the recruitment of the Police and Military, from which they are now excluded, should be thrown open to them.".

Mr. Chintamani: Are they excluded by rule, or merely as a matter of practice ?

Dr. Ambedkar: By rule. The Police Service Commission expressly lays it down that the depressed classes are ineligible.

Mr. Chintamani: If there are rules excluding the depressed classes from employment in particular Departments, such as the Police or Military, they are not rules which hold good over the whole country. There may be such rules in some Provinces, but not in all.

Dr. Ambedkar: If it is desired I would have my proposal end as follows: "and in particular recommends that they (the depressed classes) should not be excluded from any Department of the Public Service hereafter by reason of their untouchability".

Raja Narendra Nath: Surely clause (5)(*a*) covers that.

Sir Cowasji Jehangir: The position is that this community has been excluded on account of the impracticability of employing them. It is no good going into details here and now. If we had a separate section of the Police for the depressed classes, there would still remain the difficulty of members of such classes doing the work of policemen amongst a population which resented it. How this great disadvantage is to be removed is not clear. I cannot express any opinion. What has been done has been done with the greatest reluctance, as I think Dr. Ambedkar will admit. But I see no objection in expressing what Dr. Ambedkar wishes us to do even though it be merely pious. I am afraid that we have expressed the same opinion on hundreds of occasions, and nothing has come out of it. Dr. Ambedkar knows very well what orders have been passed, and how they have proved to be impracticable. Nevertheless, I support the inclusion of such a para-

*Proceedings of Sub-Committee No. VIII (Services), pp. 231-33.

graph as he proposes. We take the risk and know it may not be a practical proposition, but as you have said on a previous occasion, we cannot always be logical when we are aiming at an ideal.

Dr. Ambedkar: I am particularly anxious that the Police and the Military should be mentioned, because those are the Departments for which the members of the depressed classes would be most fit.

Chairman: The point is covered by paragraph (5) (*a*) and (*b*).

Dr. Ambedkar: In that way the question of the Anglo-Indian community is also included. I propose a new clause to follow clause (4). "The Sub-Committee desires that a generous policy be adopted in the matter of the employment of the depressed classes: in the Public Services, and in particular recommends that the recruitment to the Police and Military Departments, from which they are now excluded, should be thrown open to them."

Raja Narendra Nath : I have a suggestion to make, namely, that we should add : "No person shall be under disability or shall be prejudiced in any way for admission to any Service of the country merely by religion, caste or sex." I would have that as a special recommendation.

Dr. Ambedkar: That will come later.

Mr. Basu: I sympathise with Dr. Ambedkar's desire to see the disabilities under which his community suffers removed, and if there is in any Province any disability laid down by administrative rules, those rules should be done away with. But the way in which he has put this statement makes it much too general. For instance, in my Province, a great many posts are filled by members of the depressed classes. This is not a matter which greatly concerns my Province.

Dr. Ambedkar: I am prepared to insert some limiting words such as, "where they are at present excluded"

Raja Narendra Nath: There is no rule debarring their employment in the Police, but in practice they are not employed. Once a question was raised by a Member of the Council asking the Government why these people were not recruited for the Police and whether the practice was not in contravention of Section 96 of the present Government of India Act; the reply was not satisfactory. I think the addition of the words which I have suggested will help, and that also the expression of a general desire and general recommendation will also help. But let me tell you that the expression of a general sentiment would not be so effective as the insertion of the words which I have suggested.

Major Stanley: A specific reference to the Military Service is surely outside the scope of this Committee.

Mr. Mody: We have recommended that the requirements of the Army should be borne in mind.

Chairman: I suggest you would make it slightly less controversial if you said this, "And in particular recommend that the recruitment to all Services should be thrown open to them."

Mr. Mody: Yes, from which they are now excluded.

Chairman: I should not say that because that will raise a point of controversy. All you want to say is that recruitment to all Services should be thrown open to them.

Lieut.-Colonel Gidney : That there shall be no disqualification for such employment.

Chairman: May I point this out ? If we are to make this Report read intelligibly it is a little awkward if we have two consecutive paragraphs which seem to me to cover exactly the same ground, and therefore I would suggest to Dr. Ambedkar that if we have these words it is better that they should come after clause 5. We should make our general recommendations in clause 5, and then I suggest we should attach a paragraph at the end of clause 5 saying something of this sort : "In making this recommendation,"— that is to say the recommendation in clause 5 — "the Sub-Committee have particularly in mind the case of the depressed classes. They desire", and so on.

Dr. Ambedkar: Very well.

Chairman: We will discuss clause 5 first if you do not mind and see whether we ought to add some clause to that effect. Has anyone any observations to make on clause 5 as it is drafted ?

Raja Narendra Nath: That is what I said. I suggested after "disability" you should add "or shall be prejudiced in any way".

Chairman: I will put that later. We will take it subject to that point; we will come to that later.

Dr. Ambedkar suggests, having passed clause 5, that we should add these words, "In making this recommendation the Sub-Committee have particularly in mind the case of the depressed classes ; they desire that a generous policy be adopted in the matter of the employment of the depressed classes in Public Services, and in particular recommend that the recruitment to all Services, including the Police, should be thrown open to them." That is the amendment proposed by Dr. Ambedkar to be added on to the end of clause 5.

Those in favour of that please signify; those of the contrary opinion; it is carried.

8

IN THE PLENARY SESSION (GENERAL REVIEW)

Eighth Sitting—19th January 1931

DEMAND FOR SPECIFIC AND CONCRETE PROVISIONS FOR SAFEGUARDS OF DEPRESSED CLASSES IN THE FUTURE CONSTITUTION

**Dr. Ambedkar:* Mr. Prime Minister, the Round Table Conference has had to grapple with two most important questions which must arise in any attempt to organise the political life of a community. The problem of responsible government was one of them and the other was that of representative government.

On the question of responsible government in the Provinces I have very little to say. I accept the report of the Committee and subject to my dissents, I stand by it. But regarding the question of responsible government in the Centre I am afraid I take a different view. It would be dishonest to say that the report of the Federal Structure Sub-Committee does not contemplate change in the bureaucratic form of government as we know it today. But it would be equally dishonest for me to conceal from you my opinion that this change is shadowy and not substantial, and the responsibility is bogus and not real.

The Lord Chancellor told us that he had sown the seed and it was for us to tend the plant Sir, we are indeed very grateful to the Lord Chancellor for the great part he has played in this momentous Conference. Grateful as I am to him I am not sanguine that the plant he promises will grow. I fear the grain he has chosen for his seed is sterile and the soil in which he has cast it is not congenial to its growth.

I had submitted to the Lord Chancellor a statement† containing my views on the future constitution for Federal India. I do not know whether or not the Committee on which he presided considered it, for I do not find any reference to it in the report of the Committee on which he presided,

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*Proceedings of R.T.C. (1930-31), First Session, pp. 438-41.

†Lord Chancellor was the Chairman of Sub-Committee No. I (Federal Structure) of which Dr. Ambedkar was not a member. It seems, the statement referred to above was not considered.

I adhere to the views I expressed therein, and I cannot give my approval to a constitution which so largely departs from those views. Indeed if I were given a choice between the existing system and the cross-bred by the Committee I would prefer the existing one. But, Sir, if the constitution for the Central Government contained in the Report of the Committee satisfies Sir T. B. Sapru, who has been the friend, guide and philosopher of this Conference, if it is agreeable to Mr. Jayakar, who proclaimed himself the representative of the Youth of India, and if it pleases Sir A. P. Patro, who speaks, as he says, in the name of the Non-Brahmins of India, it is not for me to oppose. My attitude, therefore, is that of one who does not approve but who also does not obstruct. I will leave it to those who bless it to carry it through.

This attitude is all the more agreeable to me because I have no mandate from those whom I represent regarding the form of government. But I have a mandate and that is, while not opposing responsible government, to see that no responsible government was established unless it was at the same time accompanied by a truly representative government. It is when I look at the achievement of the Conference to find out how it has dealt with the question of representative government that I feel most disappointed. The franchise and the representation of the different classes in the Legislatures are the two pillars on which a truly representative government can rest. Everybody knows that the Nehru Committee had adopted adult suffrage and that that part of the constitution framed by it had the support of all political parties in India. When I came to this Conference I had thought that so far as the question of franchise was concerned the battle had already been won. But in the Franchise Committee I was completely disillusioned. I found to my great surprise that all those who had signed the Nehru Report had done so with mental reservations, so much so that it was difficult to persuade even the Indian Liberals to consent to enfranchise 25 per cent of the population for Provincial Legislatures. The franchise for the Central Legislature is no doubt an unknown quantity. But I have no hope that it will be such as to make the Central Legislature more representative of the people than the Provincial Legislatures are going to be. A franchise so limited must necessarily make the future government of India a government of the masses by the classes.

Regarding the question of the distribution of seats among the majority and the various minority communities we all know that there is a deadlock. The deadlock is largely due, in my opinion, to the mischief done in the past. I am sure that if the authorities in India had acted in the past on the principle of justice to all and favour to none, the problem would not have become so difficult of solution. The British Government set different values on different communities according to the political use they made of them and gave to many communities an extraordinary share of political power by denying it to the Depressed Classes in a measure which was their rightful due. In this matter the most aggrieved community is the

Depressed Classes, and I was hoping that this Conference would proceed on the principle that what is wrongly settled is never settled, and give to the Depressed Classes their rightful quota of seats by a revaluation of the old values. But this has not happened. The claims of the other minorities have already been acknowledged and defined. All that they stand in need of is alterations and amendments to bring them in conformity with the enlarged structure and increased scope of the new Government. Whatever be the alterations and amendments, no one will dare to furrow out the foundations that have already been laid down. The case of the Depressed Classes is totally different. Their claims have just been heard. They have not even been adjudged and I do not know how many of them will be admitted. To my mind it is not improbable that having regard to the helplessness of their position, the claims of the Depressed Classes for representations may be whitted down to satisfy the ever-increasing scramble by other communities who are manoeuvering not so much for protection as for power.

In view of this I am bound to make my attitude perfectly plain. As the rights of the Depressed Classes in the future constitution are not defined, any announcement that might be made on behalf of His Majesty's Government regarding the introduction of responsibility in the Centre as well as in the Provinces should make it clear that any advance in that direction must be on condition and subject to an agreement between the communities which would provide effective safeguards for the rights and interests of the Depressed Classes. I must emphasize the gravity of the situation and bring to your notice that no announcement will be acceptable to us unless the position is made perfectly clear in this behalf, and that failing this I and my colleague will be unable to accept the responsibility of participating in the further work of the Conference, and will be compelled to dissociate ourselves from it. Sir, in asking you to do so, I am not asking you to do more than give effect to your pledged word. The British Parliament and those who speak for it, have always stated that they are trustees for the Depressed Classes and I am sure that what they have been saying is not one of those conventional lies of civilization which we are all led to utter to keep human relations as pleasant as possible. In my opinion it is therefore the bounden duty of any Government to see that that trust is not betrayed and let me tell you, Mr. Prime Minister, that the Depressed Classes would regard it as the greatest betrayal on the part of His Majesty's Government if it were to leave us to the mercy of those who have taken no interest in our welfare and whose prosperity and greatness is founded on our ruination and degradation.

For saying so I will be called a communalist by the nationalists and patriots of India. I am not afraid of that. India is a peculiar country and her nationalists and patriots are a peculiar people. A patriot and a nationalist in India is one who sees with open eyes his fellowmen treated as being less than men. But his humanity does not rise in protest He knows that men and women for no cause are denied their human rights. But it does

not prick his civic sense to helpful action. He finds whole class of people shut out from public employment. But it does not rouse his sense of justice and fair play. Hundreds of evil practices that injure man and society are perceived by him. But they do not sicken him with disgust. The patriot's one cry is power and more power for him and for his class. I am glad I do not belong to that class of patriots. I belong to that class which takes its stand on democracy and which seeks to destroy monopoly in a very shape and form. Our aim is to realise in practice our ideal of one man one value in all walks of life, political, economic and social. It is because representative government is one means to that end that the Depressed Classes attach to it as great a value and it is because of its value to us that I have urged upon you the necessity of making your declaration subject to its fulfilment. You may tell me that the Depressed Classes have your sympathy. My reply is, for a stricken people what is wanted is something more concrete, something more defined. You may despise me for being unduly apprehensive. My reply is it is better to be despised for too anxious apprehensions rather than be ruined by too confident a security.

9

IN THE FEDERAL STRUCTURE COMMITTEE

Twenty-third Sitting—16th September 1931

HEAD 2

(*Questions connected with the Election of Members of the Federal Legislature*)

**Dr. Ambedkar:* My Lord Chancellor, I am speaking for the first time as a member of the Federal Structure Committee. Every new member, in availing himself of the very kind opportunity that you gave him for making a general statement of his position with regard to the problems which this Committee will have to face, has given expression to his sense of appreciation of the great services which you, Sir, have rendered to this Committee; and he has also added a proviso making it plain that the safety of his own community, or of the interests he represented, was a condition precedent to any consent that he might give to the establishment of responsibility in the Central Government. Lord Chancellor, if I do not follow my predecessors in this, it is not because I have no feelings to express on the matter. On the contrary, my feelings are very deep; and if I do not give expression to them it is because I prefer to obey the mandate that you gave us this morning, that all these matters shall be taken as understood.

With these few preliminary remarks I propose to submit my views on the various sub-heads included under Head No. 2. In doing so I do not wish to follow the order of the sub-heads as they are given in the Memorandum which has been circulated to us, nor do I propose to express my views on every item that has been included in that Memorandum. I will only touch upon the topics on which I think I have a definite opinion to express and a definite contribution to make.

The first thing that I propose to deal with is the subject of the composition of the Federal Legislature; and before I proceed with that subject let me make my position clear with respect to the question as to whether the Federal Legislature of future India shall be unicameral or bicameral. Now,

*Proceedings of the Federal Structure Committee and Minorities Committee (R.T.C. Second Session), Government of India, Central Publication Branch, Calcutta, 1932, Vol I, pp. 120-32.

I confess at the very outset that I have never been a believer in a bicameral system. I have never accepted that the Second Chamber has any utility at all; but I also agree that, although I have that conviction in me, there are many others who do not accept that position, and I know that in this Conference it will not be possible for us to convince them that a Second Chamber is not necessary. Secondly, I also feel that, if the relations of the two Chambers are properly regulated and there are ways by which the fangs of a Second Chamber could be clipped by proper safeguards so that it could be made safe for a democratic government in India—I do not wish to raise any objection to a bicameral system being introduced in India.

Having said that, let me turn to the question of the representation of the British Indian Provinces in the Federal Legislature of India. In doing that, the first question with which we are concerned and confronted is whether the representation shall be direct or whether the representation shall be indirect It seems to me that, so far as the Lower Chamber of the Federal Assembly is concerned, there can be no two opinions. It must be constituted by direct election. I am quite conscious of the fact that the Simon Commission, in dealing with this question, recommended that the Lower Chamber, instead of being constituted by direct election, should be constituted by indirect election ; and in support of that they observed that, as a matter of fact, there was no distinction between direct election and indirect election, and that indirect election was only direct election one step removed. Now, logically, perhaps that position is correct; but I submit that psychologically there is a great difference between direct election and indirect election. In my opinion, what is of the utmost importance is that the people of India should be impregnated with the sense that, in the last resort, they are responsible for the good government of the country. And I venture to suggest that, unless the Indian citizen is made to feel that it is he who can make or unmake the government, we shall never be able to succeed in establishing the true foundations of a responsible government in India. Now, if my suggestion is correct, then it follows that we must have some system of election whereby a direct contact will be established between the government and the citizens of the country ; and therefore I submit that the blind of an indirect election between the Central Government and the citizens must be removed, and they must be allowed to see the effect of their election upon the government of the country and upon their welfare. I can, under no circumstances, consent to a system which will not provide for direct election to the Lower Chamber of the Federal Assembly.

Coming to the constitution of the Upper Chamber, I approve of the method suggested by the Federal Structure Sub-Committee—namely, that it should be constituted by the method of indirect election in which the Provincial Legislative Councils will form the constituencies. I approve of the system because the election, instead of being carried out by the watertight methods of separate or communal electorates, will be carried out on the basis of proportional representation. Now, I think it is a great advantage in a country like

India, where, unfortunately, owing to various circumstances, we cannot avoid the separate representation of distinct communities—where we cannot ignore safeguarding the interests of various groups—to have in the constitution a Chamber which will be non-communal, a Chamber the members of which will have a mandate which will not be drawn exclusively from one particular community, but a mandate which will be broad-based. There is only one comment, however, that I would like to make on this proposal. I nave no objection to—indeed, as I have stated, I approve of—the system of proportional representation ; but there is one point which I think ought to be mentioned. All members of the Committee are aware that the minorities in India are not only anxious to have their interests and their communities represented in the various legislatures, but they are also insistent upon the fact that they shall get a certain minimum quantum of representation. Now, my fear is that, although proportional representation may give them some representation in the Upper Chamber, we do not know—for we can never be certain of the results of proportional representation—we do not know that the various communities will succeed in getting the quantum of representation which they want. I would therefore like to suggest that, to this recommendation of the Federal Structure Sub-Committee, a proviso something on the lines of Article 35 of the Austrian Constitution should be added. That proviso, of course, does not speak of the representation of the communities ; it speaks of the representation of political parties. But it can be easily made applicable to the representation of the communities. This is how the proviso reads :

> "The members of the Federal Council and their substitutes shall be elected by the Provincial Diets for the duration of their own legislative period according to the principles of proportional representation ; but at least one seat must fall to the Party having the second highest number of seats in the Provincial Diet or (if several parties have an equal number of seats) the second highest number of votes at the last election to the Provincial Diet. When the claims of several parties are equal, the matter shall be decided by lot."

I do not say that this could be taken bodily and adopted in the Indian Constitution; but that the principle enunciated there, that along with the institution of proportional representation there shall be a proviso which will guarantee a quantum of representation, may be adopted in the constitution.

Now, this is all I have to say so far as the representation of the Provinces of British India in the Federal Legislature is concerned. I come now to the other part of the subject, namely, the representation of the Native States in the Federal Legislature. This subject raises two issues for consideration. One is whether each and every State shall be represented individually or whether they shall be grouped for the purposes of representation; and the second issue Which arises out of it is how they shall be represented, whether by election or by nomination.

I take issue No. I. The Federal Structure Sub-Committee has recommended that this is a matter that can be left to the States themselves. With all respect

to the Sub-Committee, I beg to differ from their position. I do not think at all it is a matter for the States to decide. My view is it is a matter for the Federal Structure Committee to decide as to which units shall be recognised as units of the Federal Constitution which we are making. Just see what would be the result of leaving the whole thing to the Native States themselves. First of all I will assume that each State is represented in the Indian Federation. If that happens, my submission is that the Federation which we will have in India will be a mammoth Federation. Let us look at this comparatively. In the German Empire there were only 25 units of the Federal State ; in Australia we have only 5 ; in Austria 8 ; in Canada 4 ; in Switzerland 22 ; in the United States, the largest Federal State 48. In India, on the assumption I am making that every State is to be represented, we shall have a Federation which will have something like 570 units. Assume, on the other hand, that all the States are not represented in this Federation which we are contemplating and that only some States are to be represented; then the question which arises is : what is going to happen to the ideal which we have set before ourselves that in the new constitution which we are going to have every inch of Indian area should be represented ? What is going to happen to the States that are going to be left out in the cold ? That is a problem which we shall have to consider.

But, My Lord Chancellor, I have raised this question not because I am alarmed at the number of States that are going to be the units of the Indian Federation. The thing that disturbs me is this : are we going to recognise every Indian State as an independent unit of the future Federation of India, irrespective of the question whether the units so recognised are capable of bearing the burdens of modern civilisation; or are we going to admit into our Federation units which are going to be units of the utmost lowest possible vitality ? I am sure that when we are discussing this question of the Indian States, we are not quite aware of the multiplicity and variety of the circumstances which will be found in the different States; and, with your permission. My Lord Chancellor, I propose to read a small passage which gives a description of the existing Indian States. I am reading from a book called "The States and their People in the Indian Constitution" by D. V. Gundappa. Now this is really the position. He gives a table with which I do not wish to trouble the Committee ; I will read his comment :

> "From the foregoing tables, it will be seen that as many as 454 States have an area of less than 1,000 square miles; that 452 States have less than 1,00,000 population; and that 374 States have a revenue of less than Rs. 1 lakh. British India, with an area of 10,94,300 square miles and a population of nearly 222 millions, is divided into 273 Districts. The average area of a British Indian District is therefore 4,000 square miles and its average population about 8,00,000. If the suggestion were made that each District in British India should be constituted into a State, how ridiculous would it be considered ? Yet it is only some 30, among

the 562 States, that possess the area, population and resources of an average British Indian District Some of the States are so absurdly small that no one can help pitying them for the unfortunate dignity imposed upon them. As many as 15 States have territories which in no case reach a square mile ; while 27 others possess just 1 square mile. Fourteen States exist in Surat district, not one of which, according to the list of 1925, realised a revenue of more than Rs. 3,000 in the previous financial year. Three of these States could not boast of a population of 100 souls, and 5 of a revenue of Rs. 100."

The smallest revenue mentioned is Rs. 20 for the year.

H.H. The Maharaja of Bikaner: May I say that bears out what I said yesterday—that there is a confusion of thought in talking of these units of Indian States' territory as States or sovereign States ?

Dr. Ambedkar: No. There is none.

H.H. The Maharaja of Bikaner: And I am afraid that even this another from an Indian State, about whom Sir Mirza will be able to say more, has fallen into the same error.

Dr. Ambedkar: May be. With all respect to His Highness The Maharaja of Bikaner, I will ask this question : if he has a special definition of what a State is, and if he is going to follow that definition in the matter of admission of States into the Indian Federation, we should like to know what is going to happen to those who are excluded by the definition he has in mind.

H. H. The Maharaja of Bikaner: I think all that will be dealt with in due ours later.

Dr, Ambedkar: This Federal Structure Committee cannot blindly give to the States what they want.

H.H. The Maharaja of Bikaner: Nor can the States : we cannot sign a blank cheque either. We have to appreciate each other's difficulties.

Chairman: Dr. Ambedkar, perhaps you will help me with regard to that. You read a most interesting extract, which I followed with a very great care ; but I should like to ask you what are the conclusions that you draw from that extract.

Dr. Ambedkar: What I say is this—that this is a most critical occasion. I say so for this reason that once you accept the proposition that every State, whatever the attributes of the State may be, is entitled to become a member of the Indian Federation, then you give that State an independent right of existence for ever.

H.H. The Maharaja of Bikaner: It has that right now.

Dr. Ambedkar: That is so by the kindness of the British Government; but my submission is that this is a state of affairs which I for one am unable to contemplate or agree to, and for this reason. After all, no unit in these modern lays can exist on a scale such as modern civilisation demands unless it has sufficient resources at its command ; and it is no use trying to please the fancy of an Indian Prince simply because he delights to call himself a Prince by Jetting his State be a separate entity, irrespective of the considera-

tion whether his people can benefit by it.

H. H. The Maharaja of Bikaner: They are not called Princes.

Dr. Ambedkar: I submit that at any rate this Committee should lay down certain qualifications which a State must fulfil before it can be admitted into the Indian Federation.

Chairman: This is very interesting. Are you able to help us at all with regard to what the qualifications should be ?

Dr. Ambedkar: I would prescribe a certain area and a certain revenue as the tests. I cannot say offhand what the area should be and what the revenue should be; but I take my stand on the fact that, if the Ruler of a State wants his State to exist as an independent State and to become a part of the Indian Federation, he should be able to prove that his country has the necessary resources and capacity to give to its citizens a civilised life. That is the stand I take.

Sir Maneckjee Dadabhoy: Am I to understand from my friend's statement that he would not permit a small State with small territory and small income to come into the Federation ?

Dr. Ambedkar: Coming to the second part of the question, namely, the representation of the Indian State in the Federal Legislature, the Indian States have made it clear that they will come into the Indian Federation only if they are permitted to nominate their representatives to the Federal Legislature. Now, with all respect to the Indian Princes, I am afraid I cannot agree with them, and I must insist that their representation shall be by election. In making my submissions on this point, Lord Chancellor, the first thing I should like to point out is that, to my knowledge, there is no precedent in any constitution except one, which I am going to mention in a minute, where State Governments are allowed to nominate their representatives in the Federal Legislature. To recognise that a Unit of the Federation is entitled to representation in the Upper Chamber of the Federal Legislature is one thing; but it is a totally different thing from the other proposition, namely, that it is the Governments which should nominate their representatives to the Chamber. The two things are, in my opinion, totally distinct; and the only example I know in which such an arrangement was accepted and embodied in the constitution was the Constitution of the old German Empire, in which the Governments of the States were permitted to send their representatives to the Bundesrat. It may be that our brother Delegates on the other side of this table take their stand on this provision in the Constitution of the old German Empire. Before I proceed further I would just like to make this comment — that I am not sure if the Princes understand full well all the implications of this provision in the old German Empire. The representatives of the various States in the Bundesrat were no doubt regarded as ambassadors of the various States, working with definite instructions, but there was also this tremendous consequence flowing from it, namely, that the Bundesrat had the power to examine what might be called the credentials of the ambassadors. Not only that, but the Bundesrat had the power to

enquire into dynastic matters concerning the various Princes governing the German States, because it followed that, unless a Prince was lawfully recognised as the head of the State, his delegation had no right to sit in the Bundesrat. Now, I wonder whether the Princes who base their claim on this analogy.....

Colonel Haksar : They do not.

Dr. Ambedkar: I wonder if they would permit the Federal Legislature of India to have such powers as the Bundesrat possessed. But, Lord Chancellor, I am not going to discuss this question by referring to precedents or to analogies ; I am going to discuss this question on a totally different basis and by applying totally different tests. One thing we are all clear about is this, that we are framing a constitution for establishing a system of responsible government for India. And although we are discussing various matters, I, for one, can never forget that that is the principal objective and the principal task of this Committee. It follows from this that no concession can be made, no scheme can be adopted, if ultimately it is found that that concession or that scheme is going to compromise the system of responsibility or is going to whittle down the system of responsibility at which we are all aiming.

Now, applying that test, it follows that you cannot consent to the claim of the Princes for nomination of their representatives.

Colonel Haksar: In which House ?

Dr. Ambedkar: In either House; and for this reason. First of all, anyone who reads the Report of the Federal Structure Sub-Committee will find that not only do the Princes want to come into the Legislature, but they also want to be represented in the Central Executive of the country; and it is only right that the Princes should have that objective, because they would gain nothing by merely coming into the Legislature—their real gain consists in having a hand in the Executive of the country. Now, bearing that point in mind, what I say is this—that you have in the Federal Structure Sub-Committee laid down that the system of responsibility in the Central Legislature will be a system of collective responsibility. If the representatives of British India are going to come into the Federal Legislature by election, and if the representatives of the Indian States are coming into the Federal Legislature by nomination with definite instructions from those who will nominate them, I, for one, fail to understand how the system of collective responsibility—with divided mandates, with different instructions—is going to work in the future constitution of the country.

There is also another way in which the system of responsibility is going to be affected by the nomination of the Princes to the Federal Legislature. Sir Tej Bahadur Sapru yesterday very rightly condemned the existence of the official nomination bloc, and for the simple reason that, being at the beck and call of the Executive, the nominated bloc makes the Executive irresponsible to the Legislature. I think that is the gist of his argument for not supporting the official bloc. Now, the question that I wish to raise is

this : Are we quite certain that the Princes' nominees to the Federal Legislature will not play the part of the official speaking for myself, I will be quite candid and say that I am not certain about it; and I will make my position quite clear as to why I say that. We all know that the Princes carry on the administration of their States under what is called the system of paramountcy, and I think we all know that one of the incidents of the doctrine of paramountcy is that the Paramount Power claims the right of advising the Princes on the matter of important appointments.

H. H. The Maharaja of Bikaner: Not in all. It may be in one or two cases.

Dr. Ambedkar: Well, I can only say that that is what the Butler Committee stated.

Colonel Haksar: Did they ?

H. H. The Maharaja of Bikaner: Did they ? If they did they were wrong, as they were in some other respects.

Dr. Ambedkar: I think I am right at least, that is how I have understood it. Add to this the fact that paramountcy in the new constitution is contemplated to remain a reserved subject. Now, supposing the Political Department, which will be exercising the powers of paramountcy, claims the right to advise the Princes in the matter of nomination to the Federal Legislature, what is the effect ?

H. H. The Maharaja of Bikaner: It cannot and would not; and that would not be accepted by the States.

Dr. Ambedkar: What I say is this. Suppose the Political Department claims that the nomination of the Princes to the Federal Legislature is an important appointment, and as such the Political Department must exercise its right to advise the Princes—what happens ? So far as I am able to judge, so far as I am able to conjecture, the only result will be that the Princes' nomination will in fact be nothing less and nothing else than the official bloc replaced in another form.

Colonel Haksar: It does not happen.

Dr. Ambedkar: And now, at this stage, My Lord Chancellor, I would like to say one thing.....

Sir Maneckjee Dadabhoy: But you have not given us the solution of that problem.

Dr. Ambedkar: I say election, absolutely.

Colonel Haksar: Dr. Ambedkar, would you at some time or other give us the reference to the Butler Committee's Report ?

Dr. Ambedkar: I will try.

Colonel Haksar: Because you credit them with the assertion that the Political Department makes appointments in the important States.

Dr. Ambedkar: Well, Colonel Haksar, we will not wander into a controversy ; but if paramountcy is not brought into operation many other influences could be brought to bear.

Colonel Haksar: You are departing from your position.

Dr. Ambedkar: No, I am not. I will give you the reference.

Now, My Lord Chancellor, there is just this one observation that I would like to make, which I have no doubt made earlier, but I would like to emphasise it. Of course, we are all trying to work out a federal constitution for India as a whole. But I would also like to emphasise that we are not here merely for the purpose of getting a change in the form of Government; a change from a unitary government to a federal government.

Chairman : Some people say ; whatever be best administered is best.

Dr. Ambedkar: Yes, but I thought we were all agreed on the fact that the thing that is best administered is responsible government. Therefore, although I am willing to make any concession possible in order to bring this Federation into existence, I cannot be a party to any concession or any compromise, as I said, which will only give us the skeleton of federation without the soul, namely, responsible government.

Frankly speaking, I really do not understand why the Princes should oppose the principle of election. Even in the old German Empire, where the right of the federal units to be represented by their governments was conceded, it was also conceded by the States that the Lower Chamber, the Reichstag, should be constituted by election by the people of the States. I cannot see what objection there can be on their part, because all that popular election to the Federal Assembly in the Native States would involve would be the dividing up of their territory into so many constituencies. I could quite understand their objection if we were saying that they must have legislative institutions in their own territory which would control their own administration ; but we are not saying anything of the sort. All that we are saying is this: permit us to divide your territory into constituencies and let your people elect your representatives who will come and vote in the Federal Assembly, not to decide upon your particular matters, not to determine the affairs of your State, but to discuss the affairs of India as a whole. I certainly do not understand what objection there can be from the point of the native States.

Sir Maneckjee Dadabhoy: And in small States also ?

Dr. Ambedkar: If they accept the view which I am urging, that election to the Federal Assembly cannot disturb their own administration—cannot cause any prejudice to their own States—then I submit that, so far as the problem of the representation of the States in the Lower Chamber is concerned, it will be easy of solution. The problem of the representation of the States in the Upper Chamber, of course, will remain to be solved ; and if it is to be solved by a method which will not involve the representation of the States by nomination, I beg to suggest two alternatives for it. The first alternative that I would suggest is the adoption of the Norwegian plan, where you have one elected Chamber popularly constituted, and where that Chamber elects out of its own members a Second Chamber, so that you will avoid thereby the difficulty of the States having to nominate their representatives in the Upper Chamber. Or, if that is not acceptable, there is another solution which I think may be offered. That is that the Princes may suggest a panel of candidates from which representatives may be selected to the Federal Legislature.

H. H. The Maharaja of Bikaner: By whom ?

Dr. Ambedkar: By the Lower Chamber. But in any case I must make it plain, so far as I am concerned, that I shall not be a party to any system which permits the representation of the States by nomination.

Now, My Lord Chancellor, I will take up the other head of discussion, namely, representation of special interests.

Chairman: You have got to No. (*v*)—provision made for the representation by special constituencies of special interests.

Dr. Ambedkar: The first thing I would like to make clear is this I do not want the Depressed Classes to be treated as a special interest. I want the Depressed Classes to be treated as a separate community for political purposes in the same way as the Muhammadans or the Christians are treated. They must have the same right of representation, not only in the Provincial Legislative Councils, but also in both Houses of the Central Legislature.

Chairman: When you say the same rights, do you mean to say they are to have the same number as the others ?

Dr. Ambedkar: No; the numbers that they will be entitled to on the basis of the principle that may be adopted in common with all.

Chairman : You said the same. Thank you.

Dr. Ambedkar: Now I come to the other interests which have so far been recognised ; namely, Trade, Commerce, Landholders and Universities.

Dr. Shafa'at Ahmad Khan : Not Universities ?

Dr. Ambedkar: No, we have not got Universities. I am afraid I cannot give my consent to the representation of these special interests. First of all, I do not quite understand why, for instance, a landholder needs any special representation. I do not know what are the difficulties and disabilities from which he would suffer if he were to stand out in a general constituency and seek the suffrages of his people. There is nothing to prevent him from doing that. In all other countries—for instance, in England and all European, countries—no provision is made, I am sure, for the special representation of such interests as Trade, Commerce and Landholders; they are allowed to find their place through the general electorates, and I think the same system should be adopted in India. My further objection to making any special provision for the representation of these interests is this : first of all, these interests get themselves represented by a very, very narrow constituency ; it is almost by a clique. Now, if their voting power were confined to matters which concern them, the evil would be comparatively small. But they do not only come on the basis of this restricted constituency into the Legislative Council; they vote upon all and sundry matters that come before the Legislative Council. One of the things that I have noticed in the Bombay Legislative Council is this, that we have there constituencies for Trade and Commerce. Now Trade and Commerce in the Bombay Presidency have been the monopoly of a special community which I am sorry to say is the most orthodox community known to me.

Mr. Jayakar: Politically ?

Dr. Ambedkar: Socially. Now, such members get these easy pocket constituencies in order to get themselves into the Legislative Council. Then, if any progressive measure is brought forward, they come and side with the orthodox and thereby defeat the ends of freedom and progress. I therefore object to it. If any such provision were necessary, I would make this concession—that any such interest, for instance Trade, Commerce or Landholders, may have the right to be heard in the Legislative Assembly or the Upper Chamber whenever a Bill affecting their particular interest is being discussed. The right of audience may be granted, but there is no necessity for granting them membership of the Legislature or the power of voting on any Bill that comes before the Legislature.

With regard to Labour I would say this. I do not know whether my friend Mr. Joshi will agree with me or not; but my own view is that, if the system of adult suffrage comes into operation—and I hope that, with the help and support of Mahatma Gandhi we shall be able to carry it through in this Conference—then there may perhaps be no necessity for the special representation of Labour; but if we adopt a system of representation which keeps out a large body of the working classes from the constitution, so that they cannot control the Government and influence it for bringing about their welfare and their prosperity, then there would certainly be a necessity for making special provision for the representation of Labour, and I think that could be done by recognising the various unions as the electoral colleges for the purposes of such representation.

The next topic to which I propose to refer is the question of nominated members. I suppose—I am not sure—that the object of having a bloc of nominated members in the Federal Legislature is principally to give support to what are called Crown subjects, or what in the Provinces, under the Dyarchical System, were called reserved subjects. First of all I should like to make it plain that I have a great horror of this nominated bloc of officials. If there is any institution which, in my opinion, has absolutely destroyed the system of responsibility in the Provincial Governments, which was sought to be introduced by the Montagu-Chelmsford Reforms, it is this institution of the nominated official bloc. It is this which has perverted the whole system. It is this group which has made possible, in the Provinces, Government by a minority against a majority. It is this group which has made alliances with all sorts of people and groups—not necessarily groups which needed its help or support, but groups which were ready to sell themselves for petty gains. I have, as I say, the strongest objection to a nominated official bloc.

My next submission is that this nominated official bloc is really not necessary at all for the purpose of lending support to what are called the Crown subjects. In the Provincial Constitution, where we have now the system of reserved subjects, we have various methods of supporting and safeguarding these reserved subjects. First of all, under section 72-D, we have a person in charge of these reserved subjects who is non-removable

and whose salary is non-votable; secondly, the Governor has been given the power of certifying expenditure which he thinks is necessary for the purpose of safeguarding the reserved subjects; thirdly, the Governor has the power to certify Bills which he thinks are necessary for the purpose of maintaining the efficiency of the reserved subjects; and lastly, the Governor has the power to veto any Bill to which he has an objection. My submission, Lord Chancellor, is that the safeguards which I have just mentioned—namely, non-removability of the person in charge of the reserved subjects, the non-votable character of his salary, the power of certifying expenditure which the Governor possesses, the power of certifying Bills necessary for the safety of the reserved subjects, and the ultimate power of the Governor to veto a Bill—are quite sufficient, in my opinion, to maintain the integrity of what are called Crown subjects.

Sir Tej Bahadur Sapru: May I ask you one question at this stage ? You suggest there should be power of certification ?

Dr. Ambedkar: I do not suggest there should be power of certification; I will deal with that matter at a later stage. What I am saying is that these are other alternative methods which are provided in the constitution beside the nominated official bloc. That is my argument. My submission is that, when you have such abundance of legislative and executive powers in the Government to safeguard what are called Crown subjects, there is no necessity for having an official bloc in the Legislative Council at all.

Secondly, what I say is this, that by having a nominated official bloc you disguise and conceal the real character of what is occurring. There are many measures which the Legislative Council probably would not have passed if the nominated official bloc had not been there, and which the Governor would have been obliged to certify or carry through in some other way under his special powers; but, because of the presence of a nominated official bloc, you have the anomalous position of giving the appearance to the outside world that the Legislative Council is working normally on the basis of majority rule, when as a matter of fact, the decisions have been taken by a minority with the help of the official bloc. I submit, therefore, there is no use in the future constitution of India for this nominated official bloc.

There is one last subject to which I should like to refer, namely, the question of the Oath. This question, in my opinion, is a very big one; and it is a question which opens up another big question, namely, that of common citizenship for India. In the short time which I have at my disposal I do not think it will be possible for me to discuss the whole subject; and I would therefore request that a special occasion may be provided when this question can be thrashed out, because I hold the view that there can be no real federation unless there is common citizenship. It would be a misnomer to call a constitution a federal constitution if it did not provide for a common citizenship. This, as I say, is a point which I cannot develop at the moment because there is not sufficient time.

Twenty-fifth Sitting—18th September 1931

HEAD 2

(*Questions connected with the Election of Members of the Federal Legislature*)

†*Dr. Ambedkar:* I would like to ask Mr. Gandhi this question : The Congress has not considered at all the question regarding the nature of the Federal Legislature or the Federal Executive. The only question that the Congress has considered is whether it will be part of the British Empire or whether it will be independent. Consequently, what Mr. Gandhi said yesterday might be his own personal view. I should like to ask whether he was expressing his own personal view, or whether he claimed in that respect to represent the views of the Congress. Then I should like to ask him a second question. In so far as we know of the proceedings of the Congress which are open to the public, this question was not considered by the Congress to my knowledge. It may have been considered in secret by the Congress. Therefore, I ask the question. The next question is whether the question of indirect election to which, I think, he gave his support yesterday, was not put forward by Mrs. Annie Besant in the Home Rule Bill which was formulated, and whether that method of constituting the Federal Legislature was not definitely rejected by the Congress.

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II

‡Lord Chancellor, another point of view has been pressed (and very strongly) by Dr. Ambedkar; and as that may have some weight with some of the members on this side, I should like to refer to that as well. It has been suggested that, if the principle of election of State subjects were not guaranteed, there might be created a bloc which, in essence, will not differ very much from the official bloc; and. it was suggested that the Political Department in particular will play a great part in constituting that bloc. Sir, I have no hesitation in stating that the great body of public servants who constitute the Political Department are as conscientious and as fair as any other body of public servants anywhere in India or outside.

Dr. Ambedkar: Why do you want responsible government at all. if that is so ?

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IV

§*Dr. Ambedkar:* Why are you not similarly kind to Sir Samuel Hoare, and let him take his own time for introducing popular institutions in British India ? He will be grateful to you, I am sure.

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†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 175.

‡*Ibid.,* pp. 184-85.

§*Ibid.,* pp. 192-95.

Chairman: I do not think that we need discuss Sir Samuel Hoare's gratitude. That is a matter which is not before the Committee.

Pandit M. M. Malaviya: My friend, Dr. Ambedkar, forgets what I have said. I have repeated twice that I desire that the representative principle should be introduced into the States at once. I do not yield even to my friend, Dr. Ambedkar, in that desire ; but I recognise a difference between my desire and Dr. Ambedkar's desire and the right of the Ruling Princes to take time to consider when and how the representative principle may be introduced in their States.....

.....Now, My Lord, I want also to say that those of us who are impatient— and none can be more impatient, I will repeat, than myself— to see the principle of representative institutions introduced into the States, should remember.....

Dr. Ambedkar: May I point out, My Lord Chancellor, that we on this side have never said that representative institutions should be introduced into the States. All that we say is that there should be constituencies in the Indian States, similar to the constituencies in British India, for the election of the representatives to the Federal Assembly. I have never said that there should be popular Assemblies in the Native States to control the Native States as a condition precedent to the entry of the Princes into the Federation.

Pandit M. M. Malaviya: If Dr. Ambedkar thinks that he has not asked for representative institutions, I leave him to have that satisfaction. We should not think that, if members who will come to the Federal Assembly from the States will not be elected by some popular method, they will not be useful.....even if the representatives of Indian States do not come by popular election—which, I again repeat, I desire that they should—even then we may have some excellent representatives whose co-operation will be very valuable in our work.

Chairman: Summing it up quite briefly, you say that "rotten boroughs" do not always return rotten members.

Pandit M. M. Malaviya: I think Your Lordship. I wish I could imitate Your Lordship's epigrammatic way of putting things.

[Pandit Malaviya further suggested that the introduction of principle of representation should be left at the mercy of the India Princes. If they do it voluntarily, he is delighted] 'but' he concludes,

"then my recommendation to my British Indian friends would be, let us show patience and courtesy, let us hope that such institutions will be established in proper time, but let us not do anything to create unnecessary obstacles in the way of the establishment of that All-India Federation upon which now, as matters stand, our hopes so much depend."

Dr. Ambedkar: That is the same advice that is given to the Depressed Classes—that their salvation will also come in time.

Pandit M. M. Malaviya: My Lord, my friend, Dr. Ambedkar, is entirely mistaken and, I am sorry to say, not so well informed as I thought he would be.

Dr. Ambedkar: I should like to be enlightened.

Pandit M. M. Malaviya: I am not saying that the Depressed Classes should wait. In a criticism of the Montagu-Chelmsford proposals which I had the honour to publish when the proposed Reforms were first announced in 1918, I urged that, so far as the Depressed Classes were concerned, it is particularly a question of education, and I pleaded—and I still plead and the Congress has pleaded—for universal primary education. It has pleaded all the years of its existence ; and if the Government of India, which commanded all the resources of the country, had spent sufficient money on promoting primary education among the people, I am sure the words "Depressed Classes" would have been a matter of history by this time—long before this time. We have desired that they should receive elementary, primary education, that they should receive secondary education, that they should receive higher education. I have the honour to be the Vice-Chancellor of a University, the Benares Hindu University, and there a student of the Depressed Classes gets a seat exactly as a student of any other class does ; there is absolutely no distinction. And those who have received education give an excellent account of themselves, even, if I may say so, as my esteemed friend Dr. Ambedkar has given.

Dr. Ambedkar: I am still an "Untouchable" in society, although I am educated. Education has not raised me out of that.

Pandit M. M. Malaviya: I beg your pardon ; you are not an Untouchable ; you are a dear friend and colleague—a brother with whom your most orthodox friends have the pleasure to meet and work, and you know that they work together with you. Today there are more Brahmins working in the cause of the Depressed Classes than the representatives of any other class. I think that is a fact which my friend, Dr. Ambedkar, will admit.

Pandit M. M. Malaviya: .....will admit.

Now, the second point. My Lord, which I should like to touch upon is the question of direct and indirect election. I fear that the remarks which Mahatma Gandhi made yesterday in this connection were somewhat misunderstood..... When yesterday he spoke approvingly of Lord Peel's suggestion, the object, as I understood it, was to show that, it was felt that there were practical difficulties in the way of extending the franchise to all the adults in the country..... It was most certainly to introduce the principle of adult suffrage that Mr. Gandhi suggested that plan. He has not approved the idea that an indirect method of election should be adopted whereby the people should feel that they were kept out of the right to vote.

Sir Tej Bahadur Sapru: I listened with great attention and interest to Mahatma Gandhi's exposition of the principle of adult suffrage, but I am very much of the view that it is much lower than that recommended in the Nehru report. If I am wrong, will you please correct me ?

Sir Samuel Hoare: Pandit Malaviya, it would still be direct election. You are now making an argument in favour of adult suffrage. That was not the subject to which the Committee was addressing itself yesterday, so

I understand. That subject was the alternative of direct and indirect election ; and, as I understood Mahatma Gandhi's speech, he was in favour of adult suffrage, but he was also in favour of indirect election.

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†*Colonel Haksar:* .....I do not think that I need go on further. I would merely echo the words of our esteemed friend, Pandit Malaviya. If I might summarise what he said in that portion of his speech, it was this. The paramount consideration is to create a State in India in which no part will stand outside that State. The paramount consideration is to unite the country. If that be the paramount consideration, I say that that object should be achieved at all costs, and that nothing should be allowed to come in the way of the attainment of that object.

Dr. Ambedkar: Not at all costs—not at our cost!

Twenty-sixth Sitting—21st September 1931

HEAD 3

(*Relations between the two Chambers of the Federal Legislature*)

‡*Dr. Ambedkar:* There is one question I should like to put, if I may interpose at this point. Sir Tej said that, in the matter of Supply or Money Bills in general, the Upper House should have the right to make suggestions and references to the Lower House; but what happens if the Lower House does not accept the suggestions made ?

Sir Tej Bahadur Sapru: Then the Upper House is tree to reject the Bill, but if a deadlock thus arises you can follow to the South African precedent and adopt their procedure.

Dr. Ambedkar: How can a deadlock arise if the Upper House has power only to make references or suggestions ?

Sir Tej Bahadur Sapru: It may reject the Bill completely.

Sir Muhammad Shaft: Then what is the substantial difference between an amendment which is referred back to the Lower House and a suggestion to the Lower House which is backed by power to reject ? What is the substantial difference between the two ? The final decision is to be by Joint Session of the two Houses.

Sir Tej Bahadur Sapru : In the first place, it is more consistent with modem practice.

Dr. Ambedkar: According to your suggestion there would be no vital difference between Money Bills and others except this, that with regard to a Money Bill the Lower House alone would have the right of initiation. In all other matters the two Houses would be equal ?

Sir Tej Bahadur Sapru: That, in effect, is what I have said.

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†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 205.

‡*Ibid.,* p. 207.

†Mr. *Zafrullah Khan:* My submission, therefore, is that, having regard to the proposed strength—though I do not know whether that relative strength will be maintained—it is only consistent with the views expressed so far that the majority required should not be a simple majority or even an absolute majority of the total number of Members of both Houses, but a higher majority than that.

Dr. Ambedkar: Would Mr. Zafrullah Khan permit either Chamber sitting separately to decide upon measures by a simple majority or would he require an actual majority of the Members in that case ?

Mr. Zafrullah Khan: A simple majority.

Dr. Ambedkar: Then I do not see why they should not decide questions by simple majority when they are sitting together.

Sir Muhammad Shaft: Because there is a difference of opinion between the two Houses.

Mr. Zafrullah Khan: Very often Members are not able to see the points of view of other Members; but one reason will be that the character of the two Houses will be different.

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‡*Sardar Ujjal Singh:* So far as money matters are concerned, I would like to give a few illustrations from present day federations. Take first the Dominion of Canada, a Member of the British Commonwealth. There, Sir, section 53, which has already been pointed out by various speakers, only says that —

"Bills for appropriating any Part of the Public Revenue, or for imposing, any Tax or Impost, shall originate in the House of Commons." In Canada the powers of the two Chambers have not been definitely defined. The reason for this is that, under section 18, it is laid down that Canada will follow generally the British model. It says :

> "The Privileges, Immunities, and Powers to be held, enjoyed, and exercised....."

Dr. Ambedkar: That has no relevancy to this ; it is a privilege inside the House.

Sardar Ujjal Singh: I beg your pardon.

> "The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons....."

it does not mean the Members of the House of Commons.

Dr. Ambedkar: No, Sir. If you refer to the Preamble, you will see there that the Canadian Constitution lays down that the Canadian Constitution shall be similar to that laid down in the United Kingdom ; and you will see that the relations between the House of Commons and the House of

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 242.
‡*Ibid.,* p. 249.

Lords are to be the governing principle in Canada, but the privileges of the House of Commons in Canada are not affected there.

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†*Dr Ambedkar:* The views which have been expressed so far have struck one note which I think is common to all; and that is, that in regulating the relations of the two Houses in the future Constitution of India, there should be equality of status, equality of power, granted to them, except of course in such small and minor matters as the right of initiative with regard to Money Bills and the right of voting. Bearing that, the general consensus of opinion, I think, was that the two Houses should enjoy equality of position.

Now, in all humility and with all respect to the gentlemen who have spoken before me, I must say that I cannot agree with their views. The reason for the difference of opinion that exists between myself and them appears to me to arise from the simple fact that we take a totally different view of the functions and the purposes of the Second Chamber. I could quite understand the views of those gentlemen who propounded yesterday the proposition that the two Houses must enjoy co-equal powers if our Legislature were so constituted that each Chamber represented, to use ancient language, separate Estates of the Realm. If the Lower House were composed of classes which were not represented in the Upper Chamber, and if the Upper Chamber were composed of classes which were not represented in the popular Chamber, then there would be something to say for a view of the sort that was expressed yesterday. But, if our Legislature were constituted on the plan of what I call separate Estates of the Realm, I, for one, would not give my consent to a bicameral Legislature ; for, speaking for the masses—I am a rival of Mahatma Gandhi in this respect—speaking for the masses, I could not consent to such a Legislature, and thereby consign their destiny to a government working under a system of this kind and thus to use an expression of the late Lord Asquith—functioning under a system of false balances and loaded dice.

As a matter of fact, the Houses of our Legislature, unless I am mistaken, are not going to be constituted on the basis of separate representation of separate Estates. If I understand correctly the composition of the future Legislature, I take it that the Lower Chamber will be a popularly constituted Chamber—a Chamber which will represent each and every class, each and every shade of public opinion. That being so, I submit that we cannot have a Second Chamber which would claim to be its rival or which could claim to have co-equal status. That being my view, I submit, Lord Chancellor, that so far as the question propounded in sub-head (*ii*) of Head No. 3 is concerned, I would answer it by saying that the decisive voice must be vested in the Lower Chamber.

Chairman: Would you put that in the constitution, Dr. Ambedkar ?

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. 1, pp. 266-70.

Dr. Ambedkar: Yes, I think it could be done.

Chairman: It could be done ; but would you favour it being ?

Dr. Ambedkar: Perhaps you would be kind enough to give me time to deal with that later on. This must particularly be so in the case of Finance Bills. The Second Chamber, in my opinion, may have the power to make suggestions for the consideration of the Lower House, which the Lower House, may accept if it likes; but the Second Chamber shall not only have no power to initiate a Finance Bill, but it shall not have the power to amend it; and a Finance Bill must become law, as passed by the Lower House, even if it was rejected by the Upper House.

Now, I recognise that the proposal which I have made appears to be a very radical proposal—in fact, I think it might be described as a revolutionary proposal; but, My Lord Chancellor, if so, it is only because yesterday, when our learned colleagues Sir Tej Bahadur Sapru and Sir Muhammad Shafi dealt with this question, they did not refer to some of the most modern constitutions. It was a surprise to me that they should have confined themselves to drawing illustrations from the relatively ancient Constitutions of the Dominion of Canada, Australia or South Africa. The Canadian Constitution was framed in 1867, the Australian in 1901, the South African in 1909. I do not know why they did not consider the constitutional relations that exist between the House of Commons and the House of Lords here. I do not know why they did not consider the relations that exist, for instance, between the two Houses in Ireland ; nor do I quite understand why they forgot to consider the proposals of the Bryce Committee. If they had done so, I am sure that the surprise with which this proposal of mine has been received by members of the Committee would not have existed ; but, as they have not done so, I would venture to support my proposal by citing precedents for it. Now, my proposal is exactly the proposal that is embodied in the Parliament Act of 1911. There it is provided that, so far as a Money Bill is concerned, the House of Lords may consider, but the House of Commons is supreme ; and it is provided in the Act that when a Money Bill is considered and passed by the House of Commons it shall become law, notwithstanding the absence of consent of the House of Lords, provided His Majesty gives his Assent to the Bill. Again, My Lord, this is the relationship that is laid down between the two Houses, so far as Money Bills are concerned, in the Irish Constitution. Section 35 of the Irish Constitution says :

"Dail Eireann shall in relation to the subject matter of Money Bills as hereinafter defined have Legislative authority exclusive of Seanad Eireann."

Then Article 38 says that —

> "Every Bill initiated in and passed by Dail Eireann shall be sent to Seanad Eireann and may, unless it be a Money Bill, be amended in Seanad Eireann."

and so on,

"but a Bill passed by Dail Eireann. . . . . "

and then the rest follows that Article.

The next authority that I would cite in support of my proposition is the recommendation of the Bryce Committee. Now, as all of us know, this was a most representative Committee—a Committee the membership of which was drawn both from the House of Commons and from the House of Lords—and the Committee came to the unanimous conclusion that at least so far as Money Bills were concerned, the provisions embodied in the Parliament Act of 1911 were right and proper.

Then, My Lord, I would cite a third authority in favour of this proposition. The Report of the Bryce Committee and the recommendations made by it were not shelved; they were considered by the Coalition Government of 1922. Resolutions were moved (I am glad to see that Lord Peel is here) showing what action the Government of the day was prepared to take upon the Report of the Bryce Committee. The Resolutions were placed before Parliament on the 11th July 1922. The Fourth Resolution reads as :

> "That while the House of Lords shall not amend or reject Money Bills. The decision as to whether a Bill is or is not a Money Bill or is partly a Money Bill and partly not a Money Bill shall be referred to a Joint Standing Committee of the two Houses. The decision of which shall be final."

The principle recommended by the Bryce Committee that Money Bill shall be the exclusive concern of the House of Commons was accepted and affirmed by these Resolutions. Let me here quote the speech made by Viscount Peel, then the Secretary of State for India, on these Resolutions. In moving the Resolutions he said that the Resolutions were a general sketch laying down principles only. He went on to say that the Second Chamber should not have equal power to or become a rival of the House of Commons nor have the power of dismissing Governments or making the Executive equally responsible to both Chambers.

I think that I have given sufficient authority in support of the proposition which I have placed before this Committee for its consideration.

Lord Peel : May I suggest that that was a Coalition Government?

Dr. Ambedkar: It was a Coalition Government

Lord Peel: In a Coalition Government you cannot say everything that you want to say.

Dr. Ambedkar: Your Lordship may have made mental reservations—I cannot say—but there it is. The Coalition Government was a Government in which more than one Party had joined. Therefore, the statement made in the name of the Coalition Government was a statement which had the support of more than one Party, including Lord Peel. I submit that I have cited sufficient authority to show that the proposition that I have placed before this Committee is not a revolutionary proposition.

Sir Tej Bahadur Sapru: May I ask Dr. Ambedkar if he will give a reference to any federal constitution to support his point of view ? England is not

a federation, and Ireland is not a federation.

Dr. Ambedkar: That is so.

Sir Tej Bahadur Sapru: The Bryce Committee had nothing to do with a federation.

Dr. Ambedkar: My reply is that unless your federal constitution was so composed that the Upper House exclusively represented some other interests not represented in the Lower Chamber, the proposition would stand. This has nothing to do with the form of the Government, whether it was unitary or federal.

Sir Provash Chnnder Mitter: I should like to ask one question. The House of Lords was a hereditary House. Was not the Irish Upper House one at that stage also ?

Dr. Ambedkar: I am submitting that even the House of Lords, which is a most ancient House, with all the dignity, traditions and privileges behind it, consented to this revolutionary change. What are the Indian States as compared with the House of Lords, if I may submit it with all due deference ?

H.H. The Maharaja of Bikaner: With all due respect to the great Peers of the British Realm, the States possess sovereignty over any territory which is not British territory, whereas even the most important Peers of the Realm and their estates are in a totally different position.

Dr. Ambedkar: The sovereignty is subject to the influence and power of the House of Lords.

Sir Muhammad Shaft: May I ask Dr. Ambedkar what are the privileges of the House of Lords ?

Dr. Ambedkar: Taking this position, the next thing that I would submit is that the constitution should contain a definition of what a Finance Bill is. It may be defined, as has been suggested, in the way in which it is defined in the Irish Constitution, which is not different from the one given in the Parliament Act of 1911.

The next point that I would submit, arising out of the matter, is that a Member in charge of a Bill should have the privilege of. claiming that his Bill is a Finance Bill. If there is a dispute between the two Houses as to whether or not a Bill claimed to be a Finance Bill is a Finance Bill, I submit that the dispute should be resolved by the decision of a Joint Committee of both Houses, in which each House should be represented by a number of Members proportionate to its strength, and in which all parties should also be represented according to their strength.

Sir Maneckjee Dadabhoy: You want to make a departure from the existing practice.

Dr. Ambedkar: Very much so.

Mr. Zafrullah Khan: If the existing practice were satisfactory we would not be here.

Dr. Ambedkar: The next matter to which I want to come is non-financial

Bills. In the case of non-financial Bills I am prepared to modify the principle applicable to Finance Bills, but for only two purposes. First, the Second Chamber may have power to revise and amend non-financial Bills brought up from the Lower House, subject to the proviso that no amendment shall be made by the Second Chamber which is of a financial character. Secondly, the Second Chamber will have power to hold up, and to enforce so much delay (and no more) in the passing of a non-financial Bill into law, as may be necessary to prevent hasty action, or as may be needed to enable the opinion of the electorate adequately to be expressed upon it. In view of this, my answer to the question propounded in the sub-head dealing with non-financial Bills is that the Upper House should have the right to amend a non-financial Bill. If the amendments are accepted by the Lower House, well and good ; but if they are not accepted, then the constitution should provide that, if a non-financial Bill is passed three times by the Lower Chamber in three different sessions of its life, it shall become law, notwithstanding the opposition of the Second Chamber. Lastly, I submit that these relations between the two Houses should be embodied in law, and should not be left to convention. That is all that I have to submit.

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†*Dr. Ambedkar:* Is it your view, Mr. Gavin Jones, that the Constitutions of South Africa and Australia have defined the relations between the two Houses in the manner in which they have done because of the fact that they knew that they were drafting a Constitution for a Federal form of government ?

Mr. Gavin Jones: Yes, certainly.

Dr. Ambedkar: Then why is it that the Canadian Constitution did not lay down any rules regarding the relations of the two Houses ?

Sir Muhammad Shafi: Because the general rule is that the relations shall be the same as those of the House of Lords and the House of Commons.

Dr. Ambedkar: But the House of Lords and the House of Commons make a unitary government, not a federal government. I said this has nothing to do with unitary or federal form of government; and, if you will permit me to proceed, I will say that the various Dominions made the relations of the two Chambers in their constitutions what they were as they found them existing between the House of Lords and House of Commons at the time when they made their constitutions. They were not drafting them either for federal or for unitary. The Canadian Constitution said —

Chairman: You must give Mr. Gavin Jones a chance to speak, Dr. Ambedkar.

Mr. Gavin Jones: All that I would say is that the Australian Constitution is a federal constitution.

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 281-82.

Dr. Ambedkar: Certainly.

Mr. Gavin Jones: I will also say that Australia is one of the most democratic countries in the world.

Dr. Ambedkar: I quite agree.

Mr. Gavin Jones: If they found it necessary to have all these safeguards, I think that it is very advisable that we should have them in India.

Dr. Ambedkar: That is another matter. The point is whether Australia made the provision it did in this connection because it wanted a federal constitution. I say that they simply took their relations as they found them in England at the time that they drafted their constitution.

Twenty-eighth Sitting—23rd September 1931

HEAD 1

(*Strength and Composition of the Federal Legislature*)

******Dr. Ambedkar:* I do not propose to say anything on sub-heads (i), (ii), (iii) and (v). I agree with what my friend, Mr. Joshi, said this morning upon all those points except in one respect. I am not wedded to any particular figure regarding the composition of the two Chambers. In my opinion, a given figure ought not to be our starting point. The figure ought to be the resultant of all relevant considerations. I may also say here that my sympathies are in favour of a larger Chamber, because I think that a Chamber, being a deliberative body, ought to be constituted in such a manner that all interests can find their place in it, without any particular interest having to be cramped into it.

There is one argument that has been brought forward against a large Chamber namely that our Chambers must be business-like. I think there is some force in that argument, but I do not quite understand how the strength of the Chamber has anything to do with its business character. I should have thought that the business character and despatch of a Chamber depended less upon the numbers of which it was composed, and more upon the Standing Orders and the rules of business that it had framed for itself. Consequently, I would not limit it by that consideration.

The point with regard to which I propose to speak in particular is subhead (iv). Taking part (*b*) of sub-head (iv) first, it reads thus—

> "To what minimum extent must the adherence of Indian States be secured in order to justify the initiation of proceeding of the Federal Structure Committee a Federal Constitution ?"

It seems to me, with all respect, that that is a question which ought to be addressed to His Majesty's Government It is they who ought to tell us what number was, in their opinion, necessary before the Federation could be initiated.

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*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, pp. 344-46.

There is one question, the veil from which has not as yet been lifted. We are all told that the Indian Constitution of the future must be a Federal Constitution ; but no one has yet made it clear whether it is the view of those who assert that proposition that the entry of the Indian States is a condition precedent for the establishment of a responsible government in a federal form. It is a subject on which it is difficult for me to speak unless I know definitely what is the view of those who take their stand upon that proposition. If you wish me to answer that question, then I will do so for myself; and my answer is that we need not wait for the adherence of any prescribed number of States for the initiation of the Federal Constitution. I do not know that there would be any British Indian who would like to put the establishment of responsible government in cold storage until the Princes make up their minds to enter into the Federal Government of India. I therefore think that all that we need do for the initiation of the Federal Government of India is to put a clause in the Constitution to permit His Majesty, by Order in Council, to admit new States as they desire to come into the Federation. This is not something which is new. Such an arrangement finds a place in the Canadian Constitution, Sections 146 and 147, and in the Australian Constitution, Sections 121 to 124. The Canadian Constitution, Section 146, provided that, in the case of other units, which were not included in the Federation at the time when it was formed, in 1867, and which thereafter showed their willingness to enter into it, His Majesty could, by Order in Council, admit them as units of the Constitution. I think that it would be sufficient for our purposes to initiate the Federal Constitution with a clause of this sort. This would be consistent with the freedom of the Princes to enter or not to enter the Federation.

Coming to (*a*) of sub-head (*v*), we have had the suggestion from His Highness The Maharaja of Bikaner that the States joining the Federation, whether one or all or a few, should be entitled to exercise the whole of the voting strength that is assigned to them. In all humility, I submit that that is a proposition which to my mind is an astounding proposition. It is a proposition, if I may say so with due respect, without rhyme or reason. No justification has been made out for what I may call an extraordinary proposition of this character. What does it mean ultimately ? It means this—that a single Prince coming into the Federation and taking part in legislation affecting the destinies of subjects of British India, will be able to throw in, in his voting capacity, the whole of the power of the Native States, without the British Indians participating in the Legislature having any right to do anything to affect the destinies of the subjects of those Princes who do not choose to come into the Federation. It is a terribly one-sided arrangement. A Prince who chooses to keep outside the Legislature will, under this provision, be able to acquire and transfer his vote to a neighbouring Prince or his colleague and give him the power to affect the destinies of British

India. That, I submit, is something which is without justice and without equity in it, and it is something to which I, for myself, can never consent. The only right thing and the only proper thing, would be that the voting strength of such Princes as would be willing to come into the Federation should be confined to the particular quota of votes that will be assigned to them under the arrangements proposed by Sir Mirza Ismail. If a single Prince comes in, and if he has one representative, he will be entitled to one vote. If groups of Princes come in, and under the system proposed by Sir Mirza Ismail the group has got two votes assigned to it, the group will have to come as a group and will not have the power to exercise more than its two votes. The other arrangement would be one to which I, at least, would be unable to give my consent.

Thirtieth Sitting—25th September 1931

HEAD 4

(*Distribution of Financial Resources between the Federation and its Units*)

******Dr. Ambedkar:* I attach a very great deal of importance to the point which has been raised by Sir Muhammad Shafi. I hope that you will provide us with an opportunity, at least later on, to discuss this question—whether this recommendation made by the Federal Structure Sub-Committee of the division of subjects into "Central" and Federal should be incorporated in the Constitution. Another point which I would suggest for your consideration is whether it would not be proper first to consider that subject, and then to refer this matter to the Finance Sub-Committee, or whether you should have the Finance Sub-Committee and then consider this matter afterwards. That is a matter for your consideration. I should have thought that it would be much better for us to come to some conclusion, one way or the other, whether we retain this dichotomous division in the constitution, or whether we had not better hand over those subjects to the Sub-Committee for consideration.

Thirty-fourth Sitting—14th October 1931

HEAD 4

(*Distribution of Financial Resources between the Federation and its Units*)

Discussion on the Report of the Federal Finance Sub-Committee

†*Dr. Ambedkar:* My Lord Chancellor, we have heard the debate that has been going on for the last two days on the Report of the Finance Sub-Committee, and I am afraid that the debate has become somewhat wearisome and tiresome. I should not have intervened in this debate at all if I had

*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 418.

†*Ibid.,* pp. 529-34.

not found myself in disagreement with the majority of the recommendations made by the Sub-Committee.

The first problem with which the Sub-Committee has dealt is the problem of the division of resources between the Federal Government and the Units ; and, in making the recommendation which the Sub-Committee has made, it has proceeded upon certain principles applying to the division of resources as between the Federal Government and the Units. Those principles are referred to in paragraph 8 of the Report, and there it is suggested that a proper system of allocation of revenues between the Federal Government and the Units would be that "indirect" taxes should go to the Federal Government and "direct" taxes should go to the Units. Now, that is a principle to which I venture to take exception : and the first thing that I would say is this, that this is something which has no foundation in precedent at all. I have examined with much care the constitutions of most of the Federal Governments, and I find that there is no authority for the principle which has been enunciated in paragraph 8 of the Finance Sub-Committee's Report. Take, for instance, the Constitution of Canada, Section 91 and Section 92. There the scheme laid down is that the Provincial Governments in Canada are restricted to what are called "direct" taxes, but the Central Government is not restricted to "indirect" taxation. The liberty of the Central Government to have either a "direct" tax or an " indirect" tax is kept intact in Canada. If you take the Australian Constitution, Sections 86, 69 and 90, you will see that the same result is arrived at, although by a different method. These sections provide that the States shall not levy Customs and Excise. Of course, from that it does not follow that the Central Government in Australia can levy only Customs and Excise. There again the liberty of the Central Government in Australia to levy "direct" taxation is preserved intact. The Sub-Committee has made a reference to the fact that the system which it described in paragraph 8 of the Report prevailed in the United States until the 16th Amendment to the Constitution was passed in 1913. I beg respectfully to submit that that is an error. The United States Constitution, even as its very inception, never laid any limitation upon the power of the Central Government in the United States to levy " direct" taxation. If you refer to Article I, Section 2, of the United States Constitution, you will find distinct provisions stating that the Central Government in the United States shall have liberty to levy "direct" taxation. The only limitation that was put upon the authority of the Central Government in the United States to levy "direct" taxation, was that "direct" taxation, if levied at all, was to be apportioned amongst the various States according to population. The only provision that was made by the amendment of 1913 was that this limitation upon "direct" taxation on the part of the Central Government—namely, apportionment according to population—was abolished. But the right existed from the very start. Not only so, but it was exercised in 1864 by the United States,

and also in 1894. The only country which had for some time a system, which was in accordance with the proposition enunciated by the Committee, was Switzerland. There the Central Government was entirely dependent upon "indirect" sources, while the Cantons had the power to levy "direct" taxation. But I do not suppose that any member of this Committee would really be so bold as to draw a moral from the experience of Switzerland for the purposes of the Indian Federation. There would be no purpose in comparing, if I may say so, chalk with cheese. And, even there, the Swiss Constitution had to give up this system in 1915 and permit the Central Government to levy "direct" taxation on the citizens of the State. Consequently, in so far as this proposition is going to serve as a direction to the Expert Committee that is to be appointed, I am unable to give my concurrence to it.

Coming now to the actual division of resources proposed by the Sub-Committee in paragraph 10, of course, the only test that would be applied to this allocation is the test of adequacy. Is the allocation made in paragraph 10 such as to give both to the Central Government and to the Units the necessary adequacy of revenue ? Now, it is not possible to examine the scheme by that test, because—without meaning any offence to the Sub-Committee—the Report is absolutely bare of the necessary Budget Estimates that one would have to have before oneself in order to say whether the allocation is adequate or not. The division seems to have been based on the assumption that the welfare functions are largely Provincial, and that therefore the Provinces must get expanding sources of revenue. That, of course, is true in the main ; but, in so providing, it seems to me they have denied to the Federal Government both adequacy and elasticity in its fiscal system.

Take the revenue side of the proposals as contained in paragraph 10 of the Report of the Sub-Committee. You have first of all Customs as a source of revenue. Now, there are various factors on which the Customs revenue would be dependent. First of all, it would be dependent upon trade prosperity or trade depression. In times of depression it is obvious that exports would be reduced, and also the consuming power of the people, and to that extent imports would also be reduced ; and that would mean a direct reduction in the Customs revenue. Secondly, this source of revenue is largely dependent upon the particular kind of tariff policy that will be pursued in times to come. It may be that there may come into power in India a party which may believe in absolute protection, creating a dead wall against any imports of any sort from outside that are likely to compete with industry and products at home. If that happens—if imports are shut out by a policy of extreme protectionism—that would cut at the root of the Customs revenue. If, on the other hand, there comes a party in power which believes in free trade and no protection, that again will make the Customs revenue a very bare and slender source for the Federal Government to depend on.

And now, let us take the second source of revenue for the Federal Government—Opium. According to the Government of India's Despatch, I find the

Government of India say that we shall lose all our revenue on Opium exports, which amounts to about 2 crores, but shall still retain a small sum of 10 or 15 lakhs from the sale of medical Opium. That shows how meagre is this source of revenue for the Federal Government.

The third source of revenue which has been assigned to the Federal Government by the Sub-Committee is the Salt-tax. Now, as we all know, this source has been a matter of contention and has been dragged into the vortex of Indian politics ; and, if the Congress Party had its way, this tax would vanish altogether. Now, apart from the question of whether the Congress would succeed in removing the tax altogether, it is absolutely certain that this tax. which is so intimately bound up with the standard of living of the ordinary masses of the people in India, can never be depended on to give a very large source of revenue to the Federal Government.

Lastly, you have the Corporation tax, which is suggested by the Sub-Committee as a source of revenue for the Federal Government. I am informed that its yield is somewhere about 3 crores, so that obviously it is at the present moment a source of very small dimensions. It seems to me that, if we agree that industrialisation is a very important thing for the prosperity of India, and if we further agree that, for industrialisation, the incorporation of capital is also necessary, then I am afraid that we cannot increase this tax to any very large extent, for fear of penalising incorporation.

This is what I feel regarding the revenue side of the Budget. Coming to the expenditure side, the Sub-Committee has proceeded upon the view that the Government at the Centre will have very little to do except to defend. I do not agree that that can be the view of the function of any government in modern times. There was a time in history when people thought that the proper function of a government was to provide for nothing but anarchy plus the constable ; but I think we have changed. We believe that the government must provide the constable, but it must also provide welfare. It seems to me—this is my personal view, the view of other members may be different—that the Government at the Centre, for some time at any rate, will have to take upon itself certain welfare functions which to my mind are peculiar to India. I think, and I am going to propose elsewhere, that the Government at the Centre should take upon itself the burden of securing and helping, to some extent at any rate, the welfare of what we call the Depressed Classes. I want that the problem of the Depressed Classes, and the problem of removing Untouchability, should not hereafter be looked upon as a purely Local or Provincial problem. I want that it should be looked upon as a national problem in which the whole of India is interested. I want the Government at the Centre to take upon itself the duty of bringing the jungle tribes, which number probably as many as the Depressed Classes themselves, within the pale of civilisation. I want that Government to take

upon itself certain functions in respect of what are called the "backward tracts". In other words, my submission is that the Government at the Centre should take at least such welfare functions upon itself as will guarantee what I call the minimum of civilised life to every individual and to every community.

Then, again, there may be such afflictions as may affect the whole of India, or as may affect a particular Province and which yet may not be within the competence of that particular Province to deal with. Take, for instance, the curse of malaria. In some Provinces, it is a small malady. In some Provinces, I am told that it is eating into the vitals of the people. The Province may not be sufficiently strong, economically or financially speaking, to eradicate it. It may have to be treated as a national problem, and to that extent the national government will have to take a welfare function upon itself.

Again, the Sub-Committee does not seem to have taken into account the fact that, for certain peculiar reasons, apart from reasons which would be common to all the provinces, the Federal Government may have to give certain subventions, for instance, subventions to the North-West Frontier Province, for the peculiar burdens it may have to bear by reason of its special connection with Imperial problems. Similarly, new Provinces may come into being, and, in order that they may be sustained, the Federal Government may have to give them subventions.

Now, it seems to me that, if you take a broad view of the expenditure side, as I have tried to explain, and compare it with the revenue side as is proposed in this Sub-Committee's Report, it should not be at all an exaggeration if I said that the fiscal system which is adumbrated for the purposes of the Federal Government will be such as will enable it to keep its nose just above the water in ordinary times : and even that may not be so. What is absolutely certain is that, with any gust of adverse wind, it will sink.

Now, take the provisions suggested by the Sub-Committee in paragraph 21 regarding emergency—I ought to say grave emergency. Now, the recommendation made by the Sub-Committee is that the Federal Government should have power to call for contributions from all the Units of the Federation. The question that arises in my mind is, is this a safe and a sure method ? Is this a method which would be a dependable method in all circumstances ? As regards the willingness of the Provinces to pay contributions in a grave emergency to the Federal Government, a view was expressed yesterday by an esteemed colleague. He said that, if the Provinces were to help the Federal Government in a grave emergency with contributions, then the Provinces should have the discretion in determining whether an emergency has arisen or not. Now, I do not think that that is a view that will be accepted by all ; but that view is surely indicative of

one thing—namely, that the Provinces will not be willing co-operators in meeting the deficit of the Federal Government in an emergency that may arise. Could the States be depended upon to meet their share of the contribution in an emergency ? I have raised that question, but I do not know that I should give the answer. In any case it seems to me that it is not a dependable method. As to the solvency of the Provinces, we can be more or less certain. About the solvency of the States in an emergency, for emergency purposes, I, for one, could not be certain of that. Therefore, My Lord Chancellor, my conclusion is that, for the purposes of adequacy, for purposes of elasticity and emergency, the best course would be to widen and broaden the basis of the financial system of the Federal Government. Therefore, my proposal would be that the Income-tax should be treated as a common source of revenue both for the Federal Government and for the Provincial Governments, so that each Government will have the inherent right and authority to tap that source, whenever there is any necessity for it, without having to depend upon such contributions as are contemplated in paragraph 21.

Now, while I am dealing with this, I should like also to make certain observations as to the method of sharing this Income-tax. Before I do so, let me enunciate two propositions. The first is that in any allocation that we may ultimately agree upon between the Federal Government and the Units—I am speaking particularly of the Provinces of British India—we should so contrive matters that the Provincial finance shall be a self-contained system not dependent upon doles or upon contributions. Secondly, I should so contrive the Provincial system of finance that it would not be destructive of that sense of responsibility which every Executive must feel towards its Legislature.

Chairman: Do I rightly interpret your remarks, that it would be most important to get all the Provincial matters into order as soon as possible ? I quite agree with your laying down a canon with regard to Provincial finance, and I gather you mean that all these Provincial questions should be settled as soon as possible.

Dr. Ambedkar: They should be. My submission, following these two propositions, is that I would not approve of such a division of the Income-tax as would permit the Federal Government to fix the rate of taxation and to divide the yield between the Provinces, and itself. I would allocate the basis of taxation, one base to the Federal Government, and another to the Provincial Government. I want the system recommended by the Taxation Enquiry Committee introduced so far as the division of the Income-tax is concerned. I should allocate "personal income" to the Provinces, and the rest of it to the Federal Government, and the rate on "personal income" should be fixed by each Province, and not by the Federal Government, according to its own necessity.

Thirty-fifth Sitting—15th October 1931

HEAD 4

(*Distribution of Financial Resources between the Federation and its Units*)

Discussion on the Report of the Federal Finance Sub-Committee

******Dr. Ambedkar:* My Lord Chancellor, yesterday I pointed out that the fiscal system devised by the Sub-Committee for the Federal Government appeared to me to be inadequate and inelastic, that it was not equal to the strain which was likely to be put upon it by reason of any emergency, and that it was necessary therefore to alter the allocation of the revenues proposed by the Sub-Committee by making the Income-tax a common source of revenue for both. I also said that, in devising a scheme of allocation of resources, two propositions ought to be kept in mind. One was that the system of finance, whether Federal or Provincial, should be autonomous and self-sufficing; and, secondly, that it must not impair the sense of responsibility which the Executive must bear towards the Legislature. It will be obvious that those subventions or contributions are inconsistent with an autonomous and self-contained system of finance. They are bound to impair the sense of responsibility in the Executive towards the Legislature, and they are likely to make the Legislature indifferent to the Executive. Power to refuse supplies and power to refuse appropriation of supplies already secured from outside, are not equally efficacious methods of controlling the Executive and bringing it into conformity with the wishes of the Legislature. From this point of view, the problem of dividing sources of revenue becomes of immense importance. You may divide them in such a manner that the division will make each authority autonomous and self-sufficient, or you may divide them in such a manner that the fiscal system resulting therefrom would not be autonomous and could not be self-sufficient without adjustment by means of subventions and contributions.

In suggesting the particular method of dealing with the Income-tax as a joint head of revenue I have been guided largely by these considerations. There are two conceivable ways of dealing with the Income-tax as a joint source of revenue. First, you may adopt the method of what is called segregation of the source and division of the yield; and, secondly, you may adopt the method of appointment or partition of the source and division of the yield. Under the first method, the fixing of the rate will be within the exclusive jurisdiction of one of the two authorities, and naturally of the Federal Government. The Provincial Authority will only be a sleeping partner entitled to receive a share in the total yield of the tax. Under the second, both will have equal jurisdiction to fix their respective rates of Income-tax. A Province will fix its own Income-tax rate, to be operative within the Province; the Federation will fix an Income-tax rate, to be operative throughout the Units of the Federation. On the basis that the administration and the collection of

*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, pp. 534-40.

the Income-tax shall continue to be a Federal subject of administration, my view is that the second method ought to be adopted as the means of allocating the revenue. This would not be very different from the system which prevails in France, Belgium and various other European countries. Under this scheme there will be two Income-tax rates : (1) a Federal rate, fixed by the Federal Government from time to time according to its needs ; (2) a Provincial rate, fixed by the Provincial Governments from time to time according to the financial requirements of each. The tax as a whole will continue, as now, to be administered and collected by the Federal Government.

The advantages of this plan are obvious. First, it will do away with the system of doles and contributions and will help to make the financial system of each Unit autonomous and self-sufficient. Secondly, it will maintain the sense of responsibility of the Executive by compelling it to obtain the consent of the Legislature for fixing its rate of Income-tax as a means of securing its supply. Thirdly—and this is very important, I think—one Province will not be taxed for the benefit of another. Under the other system of the segregation of the source, with its single Federal rate for all Provinces and a division of the yield, the amount raised in a Province will not necessarily be the same as its share in its distribution; some Provinces may be giving more and receiving less. For these Provinces, such a system will be nothing else but a disguised method of taxing one Province for the benefit of another.

Now. the only objection that can be taken to the method I am suggesting arises from those who insist upon a uniform rate of Income-tax as being necessary for trade and industry. Uniformity of rate is, of course, something which is very desirable ; but it is easy to exaggerate the importance of it. India is as large as Europe. There is no uniformity of Income-tax rate in Europe and yet trade and industry are going on as well as anywhere else. Why should it be otherwise in India ? Then again, those who insist upon uniformity in the rate of Income-tax have to explain how they can reconcile themselves to facts, such as they exist, regarding the Land tax in India. There is no uniformity there at all. On the contrary there is a bewildering variety of rates of Land tax. In no two Provinces are the rates the same, nor is the system of taxation in any two Provinces alike. This objection, therefore, must not prevail against the method of treating the Income-tax which I have suggested with a view—with due respect to members of the Sub-Committee—to improving the allocation they have recommended. It meets the needs of all concerned in normal as well as abnormal times.

There is one statement which I made yesterday which I would like to withdraw. I said that my plan was the plan recommended by the Taxation Enquiry Committee. That was a slip due to an error which had crept into the notes which I had made for this discussion. I ought to have said that they considered it; they did not recommend it, although they did not see any insuperable objection to it.

The next point relates to paragraph 12 of the Sub-Committee's Report, where the problem of "residual powers" of taxation is dealt with. The Sub-Committee has anticipated that the decision will be in favour of the residual powers being vested in the Provinces. They have made, on that basis, the recommendation that the power to levy unscheduled taxes should be in the hands of the Units. The Sub-Committee gives no reasons at all why it came to that conclusion, but there is a passage in paragraph 12 which states that the Sub-Committee sees constitutional objections to making any other recommendation than the one that they have made. From this it-follows that the Sub-Committee's view is that, in any Federation, the residual powers of taxation must reside in the Units. Now, my submission is that this is not a necessary consequence of Federation at all. If you will refer to the Constitution of Canada, Section 91, paragraph 3, you will see that the powers of taxation given to the Central Government fn Canada, which is admittedly a federal constitution, are not limited by any such proviso as enters into the recommendation of the Sub-Committee. The paragraph I have just mentioned is the widest possible that can be conceived. It gives the most unlimited power that any Central Government can have in matters of taxation. But perhaps it might be suggested that I have taken a wrong example because, under the Constitution of Canada, the residual powers are with the Central Government and not with the Units. Let me take another example where the residual powers are left to the Units, namely, Australia. There the residual powers of taxation are not given to the Units but are left to the Federal Government. The Australian Constitution, Section 51, paragraph (ii), says that the Central Government shall have the power of taxation, but so as not to discriminate between States or parts of States. Now, that language again is the widest possible language that can be conceived; and it is even suggested that that power is so wide that the Federal Government in Australia can be said to have the power of controlling the taxation system of the States. Let me refer you to the Commentary by Moore on 'the Commonwealth or Australia,' of the first edition, where this point is dealt with. This is what he says with respect to the extent of the power of taxation given to the Australian Federation :

> "It has been seen that, on the establishment of the Commonwealth, the States are subject to the restriction, that they may not tax the property of the Commonwealth; that perhaps this extends to the ' instrumentalities of the Commonwealth' and that, on the establishment of uniform duties of customs, they may no longer impose duties of customs or excise, nor put any tax upon inter-State trade, commerce or intercourse. Further, discriminations injuriously affecting British subjects resident in other States are inoperative."

What follows is very important :

> "Finally, it has been suggested that tine Commonwealth Power to

make laws with respect to 'Taxation' may give very extensive powers of regulating taxation by the States."

This is a constitution where the residuary powers lie with the States; yet, in financial matters, the residuary powers are not with the States but with the Federal Government. Take the Constitution of the United States of America, Article I. There again, the residuary powers of legislation are with the States and not with the Federal Government, yet Section VIII of Article I of the United States Constitution provides :

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States ; but all duties, imposts and excises shall be uniform throughout the United States."

There again, you do not find any limitation whatever placed on the taxing powers of the Central Government in the United States. I therefore do not see any substantial reason, so far as constitutional law is concerned, for the kind of recommendation that the Sub-Committee has made.

My further submission, however, is that this question of whether the residuary powers of taxation should be with the Federal Government, or whether the residuary powers should be with the Provinces, is an entirely artificial question which has arisen in no other country. And the reason why it has arisen in India is because we have somehow introduced in our Devolution Rules of the present day a silly system—if I may be permitted to say so—of what are called schedules of taxation. This did not exist anywhere else and was never prescribed by any government or any constitutional authority that drafted a federal constitution. We are somehow not only dividing the spheres of taxation, but we are, by having these schedules, prescribing the particular method by which and the particular form in which, that power of taxation shall be exercised; I do not think that such a thing is at all necessary. First of all, it is going to stereotype the taxation system and is going to limit the ingenuity of future Chancellors of the Exchequer. I do not think that any Chancellor of the Exchequer would like to take upon himself the responsibility of managing a financial system in which his discretion was limited, not only in regard to his powers of taxation, but also in the choice of the particular taxes that he might levy.

My view, therefore, is that we should altogether delete from our constitution these schedules and simply divide the field of taxation by the method that is followed in other federal countries- by putting a simple limitation on the Provincial Governments that they shall not make use of Customs or such Excises as the Federal Government chooses to impose, and leave the rest of the field for both Governments to divide in the way they like. That is exactly what has been done, as I say, in other federal countries ; and I do not think, therefore, that it is at all necessary to introduce this principle of residuary powers of taxation in our constitution.

The next point I propose to deal with is the position of the States in Federal finance. When I turned to this part of the Report of the Sub-Committee, the first thing I naturally tried to find out was what head of revenue has the Federal Government gained from the States as an addition to its financial resources. I find that there is no additional resource given to the Federal Government by the States. As to Customs, it is obvious that this revenue was never the revenue of the States to which they had no claim, and under which, therefore, they have taken no additional burden upon themselves. As to Salt, it is a revenue the right to which is vested in the Indian Government and not in the States by reason of the purchase. As to Currency profits, they are due to the credit of British India. Regarding cash contributions and revenue of ceded territories, these have been the sources of the revenue of the Central Government, and would have been so even without Federation. It is obvious, therefore, that the States, by entering into the Federation, have surrendered nothing to which they can be said to have any rights. The only contribution that I see that they are making is in the form of a military force for the defence of India. Looking at the figure mentioned in the Report of the Committee which was appointed by the Government of India, I find that the total expenditure of this military force incurred by the States today is a paltry sum of 2 crores and 38 lakhs.

Another thing which I looked for in the Report was the comparative treatment accorded to the Provinces and the States in respect of the financial burdens of the Federation. When I saw this, I came to the conclusion that the Sub-Committee had thrown the principle of equality of burden to the winds. Just see how this inequality runs through the whole Report. First the Provinces are to bear both the "direct" as well as the "indirect" taxes of the Federal Government. The States are to bear only "indirect" taxes. The Committee does not even insist upon their accepting the Corporation tax. Not only are they not to bear "direct" taxes, but they are to be relieved of such "direct" taxes as they do bear at present, such as tributes and cash contributions. Secondly, the Provinces are prohibited from levying internal Customs, but the Staves are allowed to retain intact their right to levy those Customs, although it is admitted by the Sub-Committee that one of the objects of the Federation is to have freedom of commerce throughout the Federation, and although the Committee recognises that the continued maintenance of the right of the States to internal Customs is likely to impinge upon Federal receipts. Thirdly, the Provinces are required to pledge their revenues as a security for Federal loans ; but the States, although they are to be Units of Federation just as much as the Provinces, are to be free from the burden of this obligation.

One can quite understand the reasons for allowing the States the right to retain their internal Customs. One can see that, if they are compelled to take off internal Customs all at once, it will disarrange their financial stability. But one cannot understand why the Sub-Committee should have allowed the States the freedom from bearing direct burdens of the Federal

Government, nor can one understand the reasons which led the Sub-Committee to recommend that the States should not be required to pledge their revenues in support of Federal loans.

Now, Lord Chancellor, in ceremonial matters a discrimination between the Provinces and the States may be permitted. We may refuse to ourselves the honour of the salutes, and we may let the States have what they want in respect of that; but when it is a matter of the purse, I think we ought to follow the maxim that "business is business". If British India is making a sacrifice in the interests of Federation, it has an equal right to call upon all the other Units to make equal sacrifices in the interests of Federation; and I therefore urge that the following amendments to this part of the Committee's Report be made : —

(1) That the States must accept the right of the Federal Government to "direct" taxation. Until this is done there should not be remission of cash contributions and no consideration of ceded territory.

(2) A time limit should be fixed within which the States should be required to abolish their internal Customs by an appropriate change in their fiscal system which shall not injuriously affect the fiscal system of the Federal Government.

(3) The States must be required to pledge their revenues as security for Federal loans.

That is all I have to say, Lord Chancellor, on this matter.

Thirty-eighth Sitting—22nd October 1931

HEAD 4

(*Distribution of Financial Resources between the Federation and its Units*)

Discussion on the Report of the Federal Finance Sub-Committee

******Dr. Ambedkar:* I should just like to say one thing. Lord Peel said just now that there was general agreement regarding the principles enunciated in the Report of the Federal Finance Sub-Committee. Now, whatever may be the view of the other members of the Federal Structure Committee, I should for myself like to make this reservation, that I certainly do not agree with the principles enunciated by the Federal Finance Sub-Committee ; and I should for myself like to say that I have no objection to the appointment of this Committee, provided it is distinctly understood that the Committee has a right to suggest alterations and amendments of the principles, in order that the future financial system for the Federal Government may be a sound system.

HEAD 8

(*The Federal Court*)

†*Dr. Ambedkar:* Lord Chancellor, it seems to me that, in considering the

*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 685.

†*Ibid.*, pp. 689-702.

establishment of a Federal Court in India, there are three questions with which we are mainly concerned. The first question is the jurisdiction of the Federal Court; the second, the enforcement of the judgments and decisions of the Federal Court; and the third, the organisation of the Federal Court. I propose to offer a few remarks on each of these heads, and the first head that I propose to take for consideration is the jurisdiction of the Federal Court.

It is an accepted proposition that one of the functions of the Federal Court is to interpret the Federal Constitution. The distinguishing feature of a Federal Government, as contrasted with a unitary system of government, is that there is, in a Federal Government, a division of functions which constitutes the essence of Federation. There are two spheres, one allotted legally to the Federal Government and another allotted to the State or the Provincial Government; and the important thing in a Federation is to see that the one does not interfere in the sphere of the other. In order to see that there is, of course, the evident necessity of a Federal Judicature which will keep the two governments restricted to the spheres allotted to them. That is one purpose for which a Federal Court is necessary. But it seems to me that there is also a second purpose which a Federal Court of Judicature must perform. The Federal Court of Judicature is also what may be called a Court of international justice. One of the objects which has led many national governments to form a Federation is to see that disputes between different governments and different units which before the formation of the Federation, used to be decided by diplomacy, or by war, failing diplomacy, should be decided by judicial decisions of a Federal Court, to which they are all subjects. That is the view taken by the Supreme Court of the United States of America itself; and, with your permission, I would just like to read a small paragraph from one of the judgments of the Supreme Court of the United States of America reported in Louisiana v. Texas, 176, U.S.

Chairman : What is the date of that ?

Dr. Ambedkar: 1900. This is what Mr. Justice Brown said regarding the function of the Supreme Court :

> "In view of the solicitude which, from time immemorial States have manifested for the interests of their own citizens ; of the fact that wars are frequently waged by Stales in vindication of individual rights, of which the last War of Independence, the Opium War of 1840 between Great Britain and China, and the war which is now being carried on in South Africa between Great Britain and the Transval Republic, are notable examples ; of the further fact that treaties are entered into for the protection of individual rights, and that international tribunals are constantly being established for the settlement of rights of private parties—it would seem a strange anomaly if a State of this Union, which is prohibited by the Constitution from levying war upon another State, would not invoke the authority of this Court to raise an embargo which had been established by another State against its citizens and their

property. An embargo, though not an act of war, is frequently resorted to as a preliminary to a declaration of war, and may be treated in certain instances as a sufficient *casus belli*."

He goes on further to point out that there are many cases which may arise under a Federation which, in the event of the absence of Federation, would be decided by diplomacy or war ; and the Federal Judicature, therefore, in order to prevent such a catastrophe, must make ample provision for a wide jurisdiction of the Federal Court which would enable it to give justice in all such cases. Taking that standpoint, Lord Chancellor, I think that the scheme which was adumbrated in the observations which you were kind enough to address to the Committee the other day, regarding the jurisdiction of the Federal Court, is somewhat inadequate, if you pardon my saying so.

According to the observations which you made the other day, the judicial power is to extend to matters arising between Units of the Federation, State *versus* State, Province *versus* State, and the Commonwealth of India *versus* a State or a Province. I do not know whether the word "State" is used to refer to an incorporated body or to the State in its position of trustee, guardian or representative of the citizens. But, apart from that, it seems to me that the Federal Judicature must make provision for matters arising between one Unit and a citizen of another Unit. Take this case. Assume, that an Indian State, which becomes a Unit of the Federation, borrows money through the contemplated Loans Board in the open market. Assume, further, that a resident of the Province of Bombay subscribes to that loan ; and assume that the State fails to meet its obligation. What is the remedy ? Under the scheme, I do not see any provision made for the Federal Judicature to take due cognizance of a matter of this sort. Take another illustration. We have what are called the ceded territories in the possession of the British Government. The States are demandins that these ceded territories shall be returned ; or, if they are not returned, certain compensation shall be given to them. Suppose that in a ceded territory, the British Government has made a grant of land to a certain individual, and suppose that, after the rendition of the territory to the Indian State, the State Ruler also makes a grant of the same land to another individual. You have here a case where there is one subject matter of the same grant made by two different authorities to two different persons. What is the remedy for the adjudication of a dispute of this sort ? Is the Federal Court going to take cognizance of it or not ? Again, take the case of two persons between whom there is litigation, but who reside in different Units of the Federation. Which is the Court which is going to take cognizance of the case ? These are some of the matters which, I find, are not provided for in the observations that you addressed to us the other day.

Comparing the constitution suggested in your scheme for a Federal Court in India with the jurisdiction of the Federal Courts in Australia and in the

United States of America, I think the scheme entirely falls short of the necessities of a Federal Government. In Australia, under Section 75, the Australian High Court has jurisdiction in all matters (1) arising under any treaty, (2) affecting the consuls or other representatives of other countries, (3) in which the Commonwealth or a person suing or being sued on behalf of the Commonwealth is a party, (4) between States or between residents of different States, or between a State and resident of another State, and (5) in which a writ of mandamus or prohibition or injunction is sought against an officer of the Commonwealth. According to Section 76, it can also have jurisdiction with regard to matters (1) arising under the constitution or involving its interpretation, (2) arising under any laws made by the Parliament, (3) of admiralty and maritime jurisdiction, and (4) relating to the same subject matter claimed under the laws of different States. Turning to the Constitution of the United States, Article 3(2), the judicial power of the United States is said to extend (1) to all cases in law and equity arising under the constitution, the laws of the United States, treaties made or which shall be made under their authority ; (2) to all causes affecting ambassadors or other public ministers and consuls; (3) to all cases of admiralty and maritime jurisdiction ; (4) to controversies to which the United States shall be a party ; (5) to controversies between two or more States; (6) to controversies between a State and a citizen of another State (which of course subsequently has been abrogated by the eleventh amendment of the constitution); (7) to controversies between citizens of different States ; (8) to controversies between citizens of the same State claiming lands under grants of different States ; and (9) to controversies between a State or the citizens thereof and foreign States' citizens or subjects. My submission therefore is that, if this Federal Court is going to be federal in the real sense of the word—that is to say, if it is going to cover all cases of dispute between Units of the Federation or between citizens of the different Units—then the list must be revised and must be brought into conformity with the federal jurisdiction that has been given in countries like Australia or the United States.

Now, the next point that I wish to submit, Lord Chancellor, is this—that although India is going to be a federal country, yet India cannot be satisfied with the extent of jurisdiction which the Federal Courts in countries like Australia and the United States have at present. There are certain peculiar circumstances about India which do not obtain in those countries. Consequently, my submission is that the federal jurisdiction of the Federal Court in India must not only be in conformity with the federal jurisdiction of the Federal Courts in Australia and the United States, but it must have federal jurisdiction in matters relating to fundamental rights and the minority safeguards.

Chairman: Will you refer me to the fundamental rights clause in the U.S.A. Constitution ?

Dr. Ambedkar: Yes, I will.

Chairman: Just tell me where it is, if you do not mind. I know it so well, but at the moment I cannot put my hand on it.

Dr. *Ambedkar:* I am sorry. I have not got it.

Chairman: I was thinking of the clause which began about the privileges and immunities of free citizens in the various States—about the people of each Province and State having free ingress and egress, and that sort of thing. However, we will not waste our time because I cannot put my hand on it at the moment. Section 2 of Article IV is the one I was thinking of.

Dr. Ambedkar: My submission is this — that whatever may be the manner in which we define the fundamental rights, or whatever may be the manner in which we define minority rights, the important problem is to see that they are properly safeguarded. My reasons are these. The Federal Constitution which we are going to have is not going to be, with all the protests that some of us are making, a perfect Federation. We shall have probably a Federation between British India, with all the popular and representative institutions, and the Indian States with no popular and representative institutions in them. I am only imagining. Probably the results may be otherwise ; and, if so, nobody will be more happy than myself. But we shall have this situation, namely, that of a federation between a democracy and an autocracy; and we shall have, as I say, within British India, a government not of political majorities, but a government in the main of communal majorities. My view, therefore, is that the question of the protection of fundamental rights, and the question of the protection of minority rights, assume far greater importance in India than it can assume in any other constitution; and the duty absolutely to guarantee the fundamental rights, whatever they are, and the minority rights, whatever they are, becomes paramount. The best way of doing this seems to me to be to endow the Federal Court with a jurisdiction to hear matters arising out of them. That is my submission. Everywhere, whether a question arises regarding fundamental rights or minority safeguards, whether in British India or in a Native State, the Federal Court must have jurisdiction to hear them.

Chairman: Would you include cases of commercial discrimination ?

Dr. Ambedkar: Yes. If we all agree that it should be a fundamental right that there shall be no commercial discrimination, then it should come within the jurisdiction of the Federal Court, so much with regard to the jurisdiction of the Federal Court.

The next point that I wish to touch upon is with regard to the enforcement of the decisions of the Federal Court. The note which you have been kind enough to circulate, Lord Chancellor, does not suggest any legal measures for the enforcement of the decisions of the Federal Court. The matter, I understand, is to be left to the different States and to the different Provinces ; and you rather give us the admonition that we must not distrust the *bona fides* of the Provinces or the States, and that we must assume that they will faithfully abide by the decisions of the Federal Court and

give effect to them. Now, Lord Chancellor, I feel that we ought to follow the maxim which John Stuart Mill laid down, that if all men were good there would be no necessity for making laws ; but that we are obliged to make laws because we know that certain people are bad. So I rather take the view that the matter should not be left in this undecided manner and I say this, that I am strengthened in the attitude that I take up by the experience of the Supreme Court in the United States. If you will pardon me, I propose to draw the attention of the Committee to the history regarding the enforcement of the judgments of the Supreme Court. I should like first of all to draw your attention to the case of Chisholm *v*. Georgia, decided in 1793. The Supreme Court, under the federal jurisdiction which it had, granted a decree in favour of Mr. Chisholm for the recovery of a certain debt against the State of Georgia. But, as history shows, the State of Georgia rose in arms against the Supreme Court, and refused to honour the decree on the ground that it was an affront to a sovereign State ; and the judgment of the United States Supreme Court remained in abeyance — it was not executed. So much so that it was this attitude of the State of Georgia which led to the eleventh amendment, which took away the federal jurisdiction given to the Supreme Court of the United States as between a State and a citizen of another State. Another illustration is the case of Virginia *v*. West Virginia. After the Civil War there was a partition of the old State of Virginia into two States, Virginia and West Virginia. This occurred in 1861, and, as n part of this agreement, West Virginia agreed to pay a just proportion of the Public Debt incurred by the parent State prior to January 1st, 1861. This obligation was reaffirmed in the eighth article of the West Virginia Constitution. For forty years, Virginia did all in her power to induce, by friendly negotiation. West Virginia to settle the claim. All this Droved unavailing, and. in 1906, Virginia took the matter to the Supreme Court of the United States. West Virginia proved most obstructive, and first of all refused to submit to the jurisdiction of the Supreme Court. It took objection from 1906 to 1911 merely to the jurisdiction of the Supreme Court. Then, when the Supreme Court decided that it had jurisdiction, the Supreme Court appointed a Master to go into the accounts and to prepare a report. A report was prepared, and then again West Virginia took some three years in challenging that report. After that she asked for time for her Legislature to consider whether the obligation should be honoured. That dragged matters on until 1913. Then she asked for time to file a supplementary written statement after the report had been made and objections over-ruled. In 1915, all methods of obstruction having failed, the Court pronounced judgment. For four years. West Virginia refused to look at the judgment, but in 1919 she was persuaded to honour the debt.

Mr. Jinnah: Assuming that difficulty do exist, what do you suggest ?

Dr. Ambedkar: My suggestion is this. I must tell you that my feelings on the subject are really rather high ; and I do say this, that for a long

time to come there will be communalism and there will be provincialism, and I am not at all certain that, in all this turmoil of communalism, the judgments of the Supreme Court or the Federal Court — whichever you like to call it — are not likely to be flouted. As a member speaking for a minority, and as a member speaking for a minority which at present has no rights and which is claiming rights and which meets with opposition in every centres, I am not at all certain that a Provincial Government, backed by a communal majority in the Council, will readily consent to give effect to judgments and to decrees which may not be palatable to its own interests. This is my position. I take a very serious view of the matter and I do say that. Therefore, My Lord, I would suggest that we ought to make provision in the constitution that judgments and decisions of the Supreme Court shall have effect given to them, and I suggest that we should follow and adopt the provisions that are entered in the Australian Constitution. First of all, Sections 118 and 51, paragraph 25, of the Australian Constitution provide, of course, that faith and credit shall be given to all laws. That of course is nothing. It is found also in the Constitution of the United States. Then, with regard to the execution of decrees, you have in the Australian Constitution, under paragraph 34, power given to the Federal Legislature to legislate about matters which are incidental to other powers which are given to it. Then you have certain specific powers given in the Australian Constitution to the Central Government, for the enforcement of decrees and decisions. There is first of all Section 51, paragraph 24, whereby provision is made for inter-State service and execution of judgments as between States, the service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the Courts of the States. That is one thing. Then you have Section 78 in the Australian Constitution —

Chairman: " The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power."

Dr. Ambedkar: Yes, that is one; and as Your Lordship knows, by the Judicature Act, 1903, Part 9, the Federal Legislature in Australia has made definite provision as to how judgments and decrees shall be executed against the States. Then you have Section 120 of the Australian Constitution—

> "Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences and the Parliament of the Commonwealth may make laws to give effect to this provision."

I therefore submit that some specific power ought to be conferred upon the Federal Legislature whereby it can enforce the decisions of the Federal. Court.

Chairman: What sort of sanction are you thinking of ?

Dr. Ambedkar: I do not know what they would do ; but my submission is that the matter should not be left hanging in the air in this fashion. I was going to show Your Lordship, from certain extracts I have made, that judgments of the Supreme Court of the United States have been absolutely worthless by reason of the fact that they were obsessed by the fact that their judgments may not be executed but may be flouted. In one case, for instance, in the case of a Governor of Ohio State, they did make an order that a certain fugitive offender who had gone into the State of Ohio should be delivered by the Governor. The Governor refused to do so. Then the State of Kentucky asked for a writ of mandamus. The Court said : The Constitution does not give us power to execute our judgment; therefore we shall not give a writ of mandamus. That was so, although they had given a decision that the Governor was bound to deliver the fugitive. I could cite hundreds of cases in which the Supreme Court of the United States has refused to give relief simply because it was oppressed by the feeling that its judgments might not be enforced. Unless we have some sort of provision of this sort, I cannot see how the situation will be rendered safe.

Chairman: What sort of legislation ? Are you suggesting, for instance, that, if judgment was given against Bengal, you should put a bailiff into Bengal in some way ?

Dr. Ambedkar: I mean what I find in Section 78, that in the execution of civil decrees the Treasurer or the person who is in charge of the Treasury shall be bound to pay.

Chairman: Supposing he does not, what happens ?

Dr. Ambedkar: I suppose they will haul him up for contempt.

Sir Maneckjee Dadabhoy: Where will he be tried ?

Dr. Ambedkar: By the Federal Court, wherever it states.

Mr. Iyengur: Who is to execute the warrant of contempt ?

Dr. Ambedkar: The Federal Government by its own officers. I want the Federal Government to have that power. This was one of the implied powers in the United States ; and under Section 120 of the Australian Constitution, the Federal Government has the power to detain offenders against the federal law. Supposing a federal law was passed and a certain citizen of a State abrogated it and the Supreme Court passed judgment against him, and the feeling of the State was so great that they would not keep the man in jail, I suppose, under the power given in Section 120, the Federal Government would have its own prisons. If the Federal Government is to see that justice is done in all matters, it must have the power to see that judgments are executed. How it will do that is a matter beyond me to say now. All I say is that power should be given in the constitution to the Federal Government to see that judgments and decisions are made effective throughout India. It is not necessary for me to repeat that, if the remedy fails, the right also fails.

Mr. Jayakar: If a state of racial or communal warfare should prevail,

no remedy can be devised which may not become futile.

Dr. Ambedkar: It is not for me to answer that. I will take my own case. Suppose, in the Bombay Presidency, we have a Nasik Satyagraha, and suppose we have a fundamental right, which I claim in the first part of this Memorandum which I have submitted, namely, the right to enter the temple. Suppose the magistrate passes an order saying that we are creating a breach of the peace, and that, unless we desist from doing it, we shall be imprisoned. Suppose we go to the Federal Court under the jurisdiction which I say the Federal Court ought to have, and the Federal Court says that the magistrate was wrong. Suppose we come back to the Home Member for the execution of the order. The Home Member, if he is depended on the majority of the orthodox people, will say "I cannot do it," I want the Central Government to have some power to make its laws effective under such conditions.

Mr. Jinnah: I think there is a great deal of force in what you are saying— that in order to execute a decree or a warrant it must be backed up in the first instance by the Police, and, in the second instance, the final authority is the Military. How would you expect the member of your Federal Government in charge to execute that decree or warrant unless he had resort to the Military ?

Dr. Ambedkar: He may have. I am not putting any limitation upon him. I would give him the power that he thinks will be necessary for the purpose. It may come to that. I do not deny it; but what I say is this, that if you want to make sure of the protection of the people under the fundamental rights or under the minority rights, whatever they are, then I say the power must be vested, and for all purposes I say that the power must be vested in the Federal Government, to see that the decisions of the Federal Court are executed.

Mr. Jinnah: It is not only that the power should be invested, but there must be an instrument in their hands to enforce that power.

Dr. Ambedkar: Under this they will have the instrument.

Mr. Jinnah: Power may be vested in the Federal Government, but that power can only be enforced if you have the instrument to enforce it.

Dr. Ambedkar: The Army.

Mr. Jinnah: Quite right; and therefore what the Lord Chancellor has suggested is — and I think you have omitted to take notice of that — that, in the last resort, it will be the Crown who will be responsible for the enforcement of decrees and orders of the Federal Court. And it is stated there that the Crown will be responsible, because I understand upto the present moment that the position is this, that Defence is going to be a Crown subject. Am I right, Lord Chancellor ?

Chairman: Yes. That is the point.

Dr. Ambedkar: But the point I am making is this, that if you are dividing functions between the Federal Government on the one hand and the Provincial

Government on the other hand, then if you do not give the Federal Government the power, legislative or otherwise, to give effect to the decisions of the Supreme Court, it would not be able to do it. That is my submission.

Mr. Jayakar: But, at the same time, the difficulty will not end there. I mean, in the state of communal feeling which you are imagining, the difficulty will not end there.

Dr. Ambedkar: I quite agree that far more drastic measures will probably have to be adopted, and, as we know, in the Swiss Confederation even the military is used—at least, the power is given to the Swiss Federal Government to use the military for enforcing the judgment of the Federal Court in Switzerland. I do not wish to prescribe what means should be adopted, but what I say is this. The difficulty which arose in the United States, that the Federal Government had no power.

Chairman: I quite follow. Therefore, they would not take responsibility.

Dr. Ambedkar: Yes. That ought not to be the situation in India.

Lord Lothian: Is not there this distinction in America that the Federal Authority is able to proceed as long as it is against an individual; but this very question came up in the Convention, and they decided that the Federal Government could not proceed against a State, because one State can only proceed against another by an act of war, and they, therefore, did leave it to the good sense of the community to bring pressure on the State to fulfil the obligations. You can provide upto a certain point in dealing with the individual, but you cannot provide within a Federation for the proceeding of the Federal Government against a State Government except by embodying an act of war as part of your constitutional procedure; and that nobody will do. That is your difficulty.

Dr. Ambedkar: Well. I do not know; but, as I say, in the United States also the President has the power to use the military for suppressing rebellion.

Lord Lothian: And that becomes an act of war, and that has happened in the past

Dr. Ambedkar: That provision is embodied in the United States Constitution.

Mr. Jayakar: But, surely, the choice will lie between civil war and federal loyalty?

Dr. Ambedkar: That I perfectly realise. I am not denying the point that you are making. What I say is this, that we should not have the position that we have in the United States—that although there is a Federal Court there for the purpose of deciding disputes arising out of federal jurisdiction, there is no power in the Federal Government to make those decisions effective. What I mean is that our Federal Government or Federal Legislature should have such a power in the way in which the Australian has it.

Mr. Jinnah: The distinction is this, that in the United States the Federal Government is in charge and control of the military. You assume that your

Federal Government which you are proposing should take over the control and responsibility for the military at once.

Dr. Ambedkar: Well, if not now, later on.

Mr. Jinnah: What is to happen in the meantime ?

Dr. Ambedkar: As I said, that is another matter. The necessity for the employment of the military may not arise.

Mr. Jayakar: You will have to go to the Crown to ask for military help.

Dr. Ambedkar: Yes.

Mr. Jayakar: The Crown is the ultimate military authority.

Dr. Ambedkar: I do not think that takes away the point that I am making. The power ought to be given to the Federal Legislature. In the United States of America, people have been hanged by the States, although a writ of error has been issued by the Supreme Court.

Chairman: I have heard it said, with regard to English Common Law, that it is no use pulling up a plant repeatedly to have a look at the roots and to see whether it is growing. English Common Law will not stand that sort of thing, and you will find that no code of law will. You are putting very interesting legal conundrums; but the short answer is that anybody can make a thing unworkable, and it is no good always diving into the foundations to see if the foundations are all right. You must trust a good deal to the good sense of the people. It took about nineteen years in the Virginia case for people to come to a proper view. You may find that that may happen in your case. There may be these difficulties at first; but when you begin to work together, you will find a great many of them disappear. You cannot dig down to the foundations of your house every three weeks to see whether they are in order. You must trust people a little.

Dr. Ambedkar: My only reply is that we must see we do not lay our foundations on sand.

Coming to the third part of the subject, namely, the organisation of the Federal Court, I do not really want to say much on this because I agree with a great deal that has already been said. I should like, however, to make one observation, namely, that we should follow in this matter the Australian model, in so far as by that we should not only be able to get a Federal Court of Appeal for federal matters, but also a Supreme Court of Appeal for India as a whole, as they have done in Australia, whereby the Federal Court not only hears appeals from Courts which exercise federal jurisdiction but also hears appeals from Courts in matters which are outside the federal jurisdiction.

I would particularly point out that the Federal Legislature of India should be left free to invest the Courts in Indian States with federal jurisdiction, so that it may be able to utilise the agency of the State Courts in the Indian States. Federal jurisdiction should not be delegated merely to the High Courts of the Provinces, but certain selected State Courts, which to the knowledge of the Federal Legislature are functioning efficiently, may also

be selected as agencies for the exercise of federal jurisdiction in certain matters. The result of that, I think, will be very important. It will first of all raise the dignity of the State Courts; and, secondly, it will link up the State Courts with the whole judicial system in India, and will make our Federation a real Federation.

Mr. Jayakar: An appeal must lie to the Supreme Court, the Federal Court?

Dr. Ambedkar: I am coming to that. In that connection, what I would suggest is that the State Courts should consent to send their appeals to the Federal Supreme Court even in matters not affecting federal jurisdiction. If they do not, I suggest that we should keep the same open-door policy which has been adopted in the Australian Constitution. In the Australian Constitution, provision is made that the Federal Court or the High Court of Australia shall not be prevented from hearing appeals from the States' Courts. I would like to have that provision introduced into our constitution. Further, although we may not make it obligatory upon the States' Courts to send their appeals to the Federal Court, we should prevent the Federal High Court from hearing appeals in case the States subsequently decide to give appellate jurisdiction to the Federal Court from their decisions. As I say, I would again follow the model of the Australian Constitution by giving to the States the right to regulate the right of appeal from their Courts to the Federal Courts. They may not give the same rights of appeal as there maybe from British Provinces; they regulate it if they like.

Then there is just one thing I would like to say. That is with regard to the relation of the High Court to the Federal Government. At present the Indian High Courts are Provincial both for finance and for administration, except the High Court of Calcutta, which is, of course, Provincial for finance but Central for administration. Sir Tej Bahadur Sapru yesterday made the suggestion that the Indian High Courts should be Central for administration in all Provinces, and for financial purposes should be Provincial. As regards the suggestion by Sir Tej Bahadur Sapru that they should be Central for administration, I entirely agree with him ; but my reasons are somewhat different, and I should like to state them. He said there was a certain amount of nervousness on the part of Judges of the Indian Provinces that they are likely to be subjected to local political pressure, and that they would, therefore, like to be lifted from the local politics to the control of the Federal Central Government. Now, I do not think the High Courts in any country, for the matter of that, where there is representative democracy and responsible Government can be free from the influence of politics or the influence of party politicians.

Sir Tej Bahadur Sapru: I thought the theory of the law is that the English Courts are outside party politics.

Dr. Ambedkar: There are certain judicial posts in this country which are looked upon as political appointments, but that is another matter. Now, the

consideration I would like to place before this Committee is this. We are admitting to this Federation some 562 Indian States.

Mr. Jinnah : Are you ?

Dr. Ambedkar: I suppose that is the scheme ; at least that is the ideal we have placed before ourselves that all the Native States will come into this Federation. I think there is no dispute on this point, that a great many of the States, which will be part of the Indian Federation, are financially not strong enough to maintain a competent judiciary. I know of a case in the Bombay Presidency—I am citing a case with which I am acquainted. In Bombay there is a small Native State, the administration of which is run by a lady. In that State, so far as I know, there is only one officer. He acts as a Civil Judge ; he also acts as a Magistrate ; he also acts as a Sessions Judge. From him appeals go to the head of the State, and she is helped by the Diwan who is, so far as I know, a retired revenue official. Most complicated cases come before this tribunal, which is called, so to say, the Privy Council of that State ; and judgments are being given today by a Court so constituted. Now, I do not blame anybody for that. The point is that such a State is so small that it simply has not got sufficient revenue to maintain a competent Court.

Then there is another consideration, namely, that we may, even with respect to British India", go on creating new Provinces so small that they, again, may not be in a position to maintain, financially speaking, a High Court. The case happens even today. The Province of Assam cannot maintain a High Court. It shares a High Court with the Presidency of Bengal. My submission is this—that if we can improve matters in such a way as to help all these Native States which are small and financially weak to maintain a proper judiciary by allowing to utilise these High Courts which are now functioning in British India for the purpose of administering civil and criminal justice among their subjects, such a plan ought to be welcome. The fact is that, so long as a Provincial High Court is being entirely controlled by a Provincial Government, the States, which have no share in the control of the affairs of the Province, will not care to use the services of the High Court. If, on the other hand, the Provincial High Courts were made a Central subject, where all these States would undoubtedly be represented either directly or indirectly, then there would be more inducement—certainly much less objection on their part—to utilise these High Courts for the purpose of adjudication of civil and criminal disputes among their subjects. The result would be that we would considerably improve the judicial administration in the Native States, which are going to be a part of the future Government of India, without in any sense impairing the efficiency of the Provincial High Courts. On that ground, I suggest that the Provincial High Courts may, for the purposes of administration and also for purposes of finance, be made a Central subject. One of the reasons why the High Court of Calcutta is Central for administration is because it is not a Court exclusively for the

Presidency of Bengal. It is a Court which is a joint Court for the Presidency of Bengal and for the Province of Assam. It was for this reason that the Simon Commission recommended that the system should continue and be extended to other Provinces. That is the reason why I think this suggestion ought to be welcome.

That is all I have to say on this subject of the Federal Court.

Forty-fourth Sitting—2nd November 1931

Discussion on the Draft Third Report

**Dr. Ambedkar:* I should like to draw your attention to the last four lines of the paragraph. After stating, in the beginning, the recommendations of the Sub-Committee in paragraph 34 of their Second Report, Your Lordship stated :

> "We make no recommendation here relating to the first four of these interests, since the decision on this point is one for the Minorities Sub-Committee."

I do not think that Your Lordship means that the Committee is indifferent to the representation of those interests, nor, I think, does the opinion expressed in paragraph 34 of the Second Report mean this. What you mean is that you "cannot make any recommendation as to the extent or method of representation. I should therefore be obliged if you would amend the passage by adding, after the word "recommendation", the words—

> "as regards the extent or method of their representations."

Mrs. Subbarayan: You may remember that I spoke at one of our sittings on the possibility of securing some special provision for the representation of women in the Legislature, and suggested that the consideration of this matter should be deferred until the Minorities Committee published their Report. But, lest the point be overlooked, I should respectfully suggest that some reference to it be made here, and that the following words be added in line 9 of paragraph 28 ; after the word "interests", insert the words—

> "or to the representation of women in the Legislature."

Chairman: I am much obliged—I am sorry that we left it out—and I am also much obliged to Dr. Ambedkar. We will put in both those amendments. That was an oversight.

Mrs. Subbarayan: On a previous occasion, while recognising the valuable work done by many of the nominated members in the past on the Legislatures, I objected to nomination in the new constitution on principle. I feel that I object to it all the more when I find that the two Chambers may have co-equal powers. I quite agree with the Report that the services of persons of the elder statesman type are most valuable ; but I am also convinced that the system of nomination is unwise and undemocratic, and. therefore, that it will be better if the services of such persons too are secured

*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. 1, pp. 882-83.

through some system of election. If there is a system of nomination, I cannot help thinking that the whole object of this clause may be frustrated. and that the Ministry may only think of strengthening its own party in the Upper Chamber. Apart from this general objection, I would ask that, in paragraph 32, lines 7, 10, 19 and 22, the word "persons" be substituted for the word "men".

Chairman: I quite agree, Mrs. Subbarayan. In England we actually held, until about five years ago, that a woman was not a "person".

Mrs. Subbarayan: Perhaps they meant that she was something better !

Mr. Zafrullah Khan: In our General Clauses Act, it says that, whenever "man" is used, it includes "woman".

Mr. Iyengar: I desire to associate myself with what my friend, Mrs. Subbarayan, has said as regards nominated members. I also agree that it is very useful to have these elder statesmen in the Upper Chamber; but surely, if these elder statesmen are really wanted by the country, it would certainly be possible for them to come in by some constituency or other. I think the principle of nomination is vicious and we should get rid of it altogether.

Dr. Ambedkar: I should like to associate myself with what has fallen from Mrs. Subbarayan.

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†*Chairman:* We will say "should be adopted as a model for candidates for the Upper Chamber, taking into account any special provisions that may be required for women".

Dr. Ambedkar: I find considerable difficulty in subscribing to this part of paragraph 34—the Council of State qualifications taken as a model. It seems to me that it will entirely block the representation of the Depressed Classes.

Chairman: We must not do that.

Dr. Ambedkar: Liberty should also be given to the Franchise Committee to take this into consideration in framing their model rules.

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‡*Dr. Ambedkar:* I should like to say that the Committee should also consider the necessity of endowing the Central Government with powers to finance itself in emergency matters directly and independently, rather than be dependent upon contributions from the Provinces and States.

Lord Peel: All these points, of course, were considered from every point of view, and this was the result of a compromise between the different views. That is really all I can say on it at the present moment, I think.

Mr. Joshi: Lord Chancellor, I agree with Dr. Ambedkar's view.

Dr. Ambedkar: Lord Chancellor, I should also like to say that the fact-finding Committee, in apportioning the burden of the Federal Legislature

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 886.

‡*Ibid.,* pp. 899-900.

between British Provinces and Indian States, ought to consider the principle of equity of contribution as between the two.

Chairman: Lord Peel no doubt will consider that. I wish you would mention that again, if you would not mind, when we come to the full Conference.

Forty-fifth Sitting—4th November 1931

†*Chairman :* Now, that is the Report on which I want your comments. Will you kindly go back now to paragraph 52 ?

Dr. Ambedkar: May I just say this with regard to paragraph 52? Your Lordship will remember that, while we were discussing the jurisdiction of the Federal Court, I raised the point that the Court, besides having the jurisdiction to interpret the constitution and to see that neither the Provincial Governments nor the Federal Government intervene in the sphere of the other, should also have the jurisdiction to deal with matters arising out of the fundamental rights or the minority rights. I think I was supported in that also by Mr. Jayakar, and also, if I am right, by Mr. Sastri. Perhaps a note might be made to that effect in this paragraph.

Chairman; I am obliged to Dr. Ambedkar, but I am happy to be able to reassure him in this way—that when they are in the constitution, they will naturally fall within the domain of the Federal Court's interpretation.

Mr. *Jayakar:* That is included in the word "constitutional"

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‡*Chairman:* Now paragraph 62.

Dr. Ambedkar: I did not think there was unanimity regarding the location of the Court at Delhi. I should have liked that this matter should be investigated by some committee.

Mr. Jayakar: I made tine suggestion that it should be at a central place somewhere, not Delhi, but some place where the Court could work for the whole of the year, the climate being suitable for working during the whole year.

Mr. Zafrullah Khan: All sorts, of suggestions were made from different quarters, but I do not think that any single place had as much support as Delhi.

Chairman: Now, please, paragraphs 63 and 64.

Forty-sixth Sitting—16th November 1931

Discussion on Future Procedure

§*Dr. Ambedkar:* I should like to know what view Sir Tej Bahadur Sapru

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 908.

‡*Ibid.,* p. 922.

§ *Ibid.,* p. 979.

has regarding the relationship which should subsist between the Army Member and the Commander-in-Chief. Would the Commander-in-Chief be merely the head of the department under the control and supervision of the Minister or Member or would you give him certain powers with which the Army Member would not have the right to interfere ?

Sir Tej Bahadur Sapru: I am not prepared to go into details, but as I conceive the position of the Army Member he will deal with general questions of policy, financial and otherwise, but he will have no power to deal with technical or administrative matters relating to the Army and, if he is wise, even if he has such power he will not exercise it. I have no personal knowledge of the matter, but I appeal to my British colleagues here to say what exactly the position in England is with regard to the Army. The Secretary of State for War has probably no power to interfere with the internal discipline of the Army but deals with big questions of policy. I cannot forget one period of your Army history, the period of the -Duke of Cambridge.

10

IN THE MINORITIES COMMITTEE

Seventh Sitting—28th September 1931

**Chairman:* There are other minorities which are represented. If we adjourn, they will have to see if they can get their point of view made ready for expression. An adjournment would be useful only if those representatives of the other sections would use the adjournment period for the purpose of preparing something, and then handing in to me, in preparation for the next meeting, a list of names of those who would like to take part in the discussions. I am rather at a disadvantage this morning because nobody has handed in his name. If you would like it, I could conduct this Conference in such a way that you would break up in the course of two or three meetings. That is exactly what I am determined shall not happen. In order to be able to guide the discussion in a friendly and in a profitable way I should like to know who is going to speak, and what points of view are going to be put forward, so that the speakers might be called upon at the most helpful moment. The idea is not to suppress speeches at all, but, in order that the discussion shall proceed in such a way as to produce the maximum amount of good. If you do adjourn now, please remember that the others of you are coming to a bargain with me that you too will use this time for the purpose of making preparations for a statement which will be brief, to the point, and comprehensive, and, I beg of you, helpful. On that understanding, and with that bargain, will you adjourn ?

Dr. Ambedkar: I would like to say one word before we adjourn. As regards your suggestion — that while these negotiations are going on members of the other minority communities should prepare their case — I should like to say that, so far as the Depressed Classes are concerned, we have already presented our case to the Minorities Sub-Committee last time.

The only thing which remains for me to do is to put before this Committee a short statement suggesting the quantum of representation which we want in the different Legislatures. Beyond that I do not think I am called upon to do anything; but the point I am anxious to make at the very outset is

* Proceedings of the Federal Structure Committee and Minorities Committee, Vol, I, pp. 1337-38.

this. I have heard with great pleasure that further negotiations are going to, take place for the settlement of the communal issue. But I would like to make this matter absolutely plain at the very start. I do not wish that any doubt should be left on this question at all. Those who are negotiating ought to, understand that they are not plenipotentiaries at all; that whatever may be the representative character of Mr. Gandhi or the Congress people, they certainly are not in a position to bind us—certainly not. I say that most emphatically in this meeting.

Another thing I want to say is this—that the claims put forward by the various minorities are claims put forward by themselves irrespective of the consideration as to whether the claims that they have put forward are consistent with the claims of the other minorities. Consequently, any negotiations which take place between one minority on the one hand and the Congress or any other people for that matter on the other hand, without taking into consideration the claims which have been put forward by the other minorities can have no chance of success as far as I am concerned. I want to make that absolutely plain. I have no quarrel with the question whether any particular community should get weightage or not, but I do want to say most emphatically that whoever claims weightage and whoever is willing to give that weightage he must not give it— he cannot give it—out of my share. I want to make that absolutely plain.

Sir Henry Gidney : I want to say a very few words, I wholeheartedly associate myself with my friend Dr. Ambedkar. Representing a small community as I do, I fail to see where I come in this transaction. If the Congress on the one hand makes a settlement with the Muhammadans on the other hand, where do the other minority communities come in ? You ask us to settle our differences amongst ourselves and to present them individually. We have already done so. At the last Conference I submitted the minimum demands of the small community I represent. I want to make it abundantly clear that in making this new map of India all minorities should have the right of putting their own little spot on it and I do not see how we can if the settlement here is going to be entirely a Hindu-Muslim pact

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†*Chairman:* Do not let there be any misunderstanding. This is the body before which the final settlement must come, and the suggestion is merely that if there are minorities or communities that hitherto have been in conflict with each other, they should use a short time for the purpose of trying to overcome their difficulties. That will be a step, and a very important and essential step, towards a general agreement, but the agreement is going to be a general one.

Dr. Ambedkar: I have made my position absolutely clear.

† Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, pp. 1338-39.

Chairman: Dr. Ambedkar's position has been made absolutely clear ; in his usual splendid way he has left no doubt at all about it, and that will come up when this body resumes its discussions. What I would like to do is to get you all to feel that we are co-operating together for a general settlement; not for a settlement between any two or any three, but a complete settlement.

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†*Dr. Ambedkar:* I should like to suggest whether it would not be possible for you to appoint a small Committee consisting of members drawn from the various minority communities, along with the Congress representatives, to sit in an informal manner and discuss this problem during the period of the adjournment.

Chairman: I was going to make this suggestion. Do not ask me to appoint that Committee ; do it yourselves. I have invited you to get together. Could not you manage to hold an informal meeting amongst yourselves and talk the matter over, and then when you speak here you will speak with some sort of knowledge of the effect of what you are saying on others ? Could we leave it in that way ?

Dr. Ambedkar: As you like.

Chairman: That would be far better.

Eighth Sitting—1st October 1931

‡*Mr. Gandhi:* Prime Minister, after consultation with His Highness The Aga Khan and other Muslim friends last night, we came to the conclusion that the purpose for which we meet here would be better served if a week's adjournment was asked for. I have not had the opportunity of consulting my other colleagues, but I have no doubt that they will also agree in the proposal I am making. I have been having with my Muslim friends anxious conversations, and I had the pleasure of meeting some other friends also last afternoon belonging to the different groups or classes. We were not able to make much headway, but they too felt that the time at our disposal was too short even for exchanging views. I may say for myself that beyond this week's adjournment I would not press for any further adjournment, but I would report to this Committee what has been the result of the endeavour I shall be making during the week.

I let out no secret when I inform this Committee that His Highness and the other friends with whom I was closeted last night laid upon my shoulders the burden of calling representatives of the different groups together and holding consultations with a view to arriving at some final settlement. If this proposal of mine commends itself to you, Prime Minister, and to the

† Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 1340.
‡*Ibid.,* pp. 1340-45.

rest of the members of this Committee, I shall be glad. I know that His Highness will second this proposal, and let us all hope that at the end of the week it will be possible to report some sort of a settlement.

When I express this hope I do not wish to convey any impression that, because I express it, there is something that I know, and on which I am building that hope. But I am an irrepressible optimist, and often in my lifetime when the horizon has appeared to be the blackest, some turn has taken place which has given ground for hope. Whatever it may be, so far as human endeavour is possible, all that endeavour will be made. I have no doubt, by many members of this Committee to arrive at a settlement.

With these words I leave my proposal, that we adjourn our proceedings to this day in your hands for consideration.

H. H. The Aga Khan: I have pleasure in seconding the proposal.

Sardar Ujjal Singh: I rise to give my wholehearted support to this proposal, and I share the hope that by this means we may come to some understanding, given goodwill on both sides.

Dr. Ambedkar: I do not wish to create any difficulty in our making every possible attempt to arrive at some solution of the problem with which this Committee has to deal, and if a solution can be arrived at by the means suggested by Mahatma Gandhi, I, for one, will have no objection to that proposal.

But there is just this one difficulty with which I, as representing the Depressed Classes, am faced. I do not know what sort of committee Mahatma Gandhi proposes to appoint to consider this question during the period of adjournment, but I suppose that the Depressed Classes will be represented on this committee.

Mr. Gandhi: Without doubt.

Dr. Ambedkar: Thank you. But I do not know whether in the position in which I am today, it would be of any use for me or my colleague to work on the proposed committee. And for this reason, Mahatma Gandhi told us on the first day that he spoke in the Federal Structure Committee that as a representative of the Indian National Congress he was not prepared to give political recognition to any community other than the Muhammadans and the Sikhs. He was not prepared to recognise the Anglo-Indians, the Depressed Classes, and the Indian Christians. I do not think that I am doing any violence to etiquette by stating in this Committee that when I had the pleasure of meeting Mahatma Gandhi a week ago and discussing the question of the Depressed Classes with him, and when we, as members of the other minorities, had the chance of talking with him yesterday in his office, he told us in quite plain terms that the attitude that he had taken in the Federal Structure Committee was his full and well considered attitude. What I would like to say is that unless at the outset I know that the Depressed Classes are going to be recognised as a community entitled to political recognition in the future constitution of India, I do not know whether it will serve any purpose for

me to join the particular committee that is proposed by Mahatma Gandhi to be constituted to go into this matter. Unless, therefore, I have an assurance that this committee will start with the assumption that all those communities which the Minorities Sub-Committee last year recommended as fit for recognition of India will be included, I do not know that I can wholeheartedly support the proposition for adjournment, or that I can wholeheartedly co-operate with the committee that is going to be nominated. That is alt that I wish to make plain now.

Sir Henry Gidney (*Anglo-Indians*)*:* On behalf of the community which I have the honour to represent, I associate myself entirely with my friend Dr. Ambedkar. I also am in the unfortunate position of having been refused recognition by Mahatma Gandhi as far as a separate community is concerned. I may be wrong, but I am sure that Mahatma Gandhi will correct me if I am. Yesterday, when we met Mahatma Gandhi upon this matter, he impressed us in terms that left no doubt in my mind that as a community he and the Congress were not prepared to recognise us, and that the Lahore Resolution of the Congress indicated, almost at the behest of the Mahatma, that it was only possible to recognise two communities, the Muhammadans and the Sikhs, and that that was on traditional and historical grounds. Possibly it might be impertinence on my part to claim the same grounds for the recognition of my community. But I do ask the Mahatma to make it abundantly clear here before this meeting, before this committee is appointed, and before you, Sir, ask for an adjournment, that he will include in this committee representatives of those communities which have already received recognition on this committee.

Rao Bahadur Pannir Selvam (*Indian Christians*)*:* The statement made by Dr. Ambedkar is news to me. I was not aware until now that the Mahatma was not granting us any recognition. If that be so, I submit that our position here will be absolutely unnecessary. Since no recognition as a community in the political future is given to us, I am really unable to see what purpose will be served by our taking part in any committee that might subsequently be formed. I feel that I ought to put forward my case exactly in the same terms as Dr. Ambedkar and Sir Henry Gidney have stated theirs.

Dr. Moonje: I did not attach much importance or so much seriousness to the fact when I read in the papers that only two communities are to be recognised by Mahatma Gandhi in the Minorities Committee. I thought that perhaps it might be a kind of move to facilitate conciliation and understanding, and to smooth over difficulties, but I find from Dr. Ambedkar's speech, and from Sir Henry Gidney's speech, that they have taken the matter most seriously. Therefore, I should like to say, and bring it to the notice of the Committee, that even the Hindus in the Provinces of Punjab and Bengal are minorities, and have, therefore, to look after their own interests also. With this little explanation, I have no objection to the proposal of adjourning

for considering this question.

Sir Muhammad Shafi: I am afraid there is some misapprehension in the minds of some of my friends about the proposal which has been put forward by Mahatma Gandhi. As I understand that proposal, Mahatma Gandhi does not ask for the appointment of a Sub-Committee of this Committee, nor does he ask for the appointment of a committee in the ordinary sense of the term. What is intended is this, that each group constituting the whole of this Committee, including of course the Depressed Classes and the Anglo-Indian community, might select a few representatives, one or two or three from each group, who should meet together and consider, after an exchange of ideas, whether some settlement satisfactory to all cannot be arrived at and thus lighten the burden which rests upon the shoulders of the Minorities Committee as a whole. If that consummation can be arrived at, I am sure every sincere well-wisher of India's peaceful progress ought to be glad to contribute to the bringing about of that consummation. I am afraid the objection made by my friend Dr. Ambedkar is merely the result of a misapprehension as to the nature of the proposal made by Mahatma Gandhi and seconded by His Highness The Aga Khan. If after this explanation which I have ventured to submit, a unanimous decision can be arrived at in favour of the adjournment of this Committee for a week in order to enable us all to meet in a friendly spirit, in a spirit of co-operation, as sincere well-wishers for peaceful progress in our common motherland, I shall be very glad.

Mrs. Naidu: Mr. Prime Minister, as I do not represent either a minority or a special interest I am completely disinterested in the appeal I am going to make to the minorities and special interests not to raise difficulties and not to cross their bridges before they come to them. It is only in fulfilment of the appeal, Sir, which you made to us the other day, which coincide with our own sense of self-respect, with our own sense of duty in settling a domestic matter entirely without outside arbitration or intervention, that I want to make an appeal that we should settle our domestic quarrels, if there are any, and announce to you a reconciliation, if there must be a reconciliation, but at any rate a harmonious result, and I think that is the reason why Mahatma Gandhi has made this motion for an adjournment. I do not think that any single minority, however small, need have any apprehension. Every minority is as much a part of the nation as every majority, and I, for one, pledge myself to follow the exhortation given to me by one of the greatest statesmen in Europe, whose boast is that he built up an independent nation without an army and without money. He said to me two years ago : "Madame, keep your minorities happy ; you cannot build a nation without giving a sense of security to your minorities ;" and it is because we want to give this sense of security to the minorities and make them feel that they are an integral part of the nation that a majority community, speaking through the mouth of Mahatma Gandhi, and, if I may

say so, also a minority community, speaking through the mouth of His Highness The Aga Khan, are making an appeal that we shall not bring our small domestic quarrels before those who are not concerned primarily with them, but that we shall settle them ourselves, with equity, magnanimity and a sense of chivalry which is justice, and a sense of self-respect which does not permit outsiders to know of the differences within our own house.

That is my appeal, Prime Minister, and I hope it will be accepted by all the minorities and majorities present.

Dr. Ambedkar: I should like to make my position further clear. It seems , that there has been a certain misunderstanding regarding what I said. It is not that I object to adjournment; it is not that I object to serving on any committee that might be appointed to consider the question. What I would like to know before I enter upon this committee, if they give me the privilege of serving on it, is : What is the thing that this committee is going to consider ? Is it only going to consider the question of the Muhammadans *vis-a-vis* the Hindus ? Is it going to consider the question of the Muhammadans *vis-a-vis* the Sikhs in the Punjab ? Or is it going to consider the question of the Sikhs *vis-a-vis* the Hindus ? Is it going to consider the question of the Christians, the Anglo-Indians and the Depressed Classes ?

If we understand perfectly well before we start that this committee will not merely concern itself with the question of the Hindus and the Muhammadans, of the Hindus and the Sikhs, but will also take upon itself the responsibility of considering the Depressed Classes, the Anglo-Indians and the Christians, I am perfectly willing to allow this adjournment resolution to be passed without my protest. But I do want to say this, that if I am to be left out in the cold, and if this interval is going to be utilised for the purpose of solving the Hindu-Muslim question and the Hindu-Sikh question, I would press that this committee should at once grapple with the question and consider it, rather than allow both positions to be taken hold of by somebody else.

Mr. Gandhi : Prime Minister and friends, I see that there is some kind of misunderstanding with reference to the scope of the work that some of us have set before ourselves. I fear that Dr. Ambedkar, Colonel Gidney and other friends are unnecessarily nervous about what is going to happen. Who am I to deny political status to any single interest or class or even individual in India ? As a representative of the Congress, I should be unworthy of the trust that has been reposed in me by the Congress if I were guilty of sacrificing a single national interest. I have undoubtedly given expression to my own views on these points. I must confess that I hold to those views also. But there are ways and ways of guaranteeing protection to every single interest. It will be for those of us who will be putting our heads together to try to evolve a scheme. Nobody would be hampered in pressing his own views on the members of this very informal conference or meeting. We need not call it a committee. I have no authority to convene any committee or

to bring into being a committee. I can only act as a humble messenger of peace, try to get together representatives of different interests and groups, and see whether by being closeted in one room and by heart-to-heart conversation, we may not be able to remove cobwebs of misunderstanding and see our way clear to the goal that lies so hazily before us today.

I do not think, therefore, that anybody need be afraid as to being able to express his opinion or carrying his opinion also. Mine will be there equal to that of everyone of us; it will carry no greater weight; I have no authority behind me to carry my opinion against the opinion of anybody. I have simply given expression to my views in the national interest, and I shall give expression to these views whenever they are opportune. It will he for you, it is for you to reject or accept those opinions. Therefore please disabuse your minds, everyone of us, of the idea that there is going to be any steam-rolling in the Conference and the informal meetings that I have adumbrated. But if you think that this is one way of coming closer together than by sitting stiffly at this table, you will not only carry this adjournment motion, but give your wholehearted co-operation to the proposal that I have made in connection with these informal meetings.

Sir Hubert Carr: Mr. Prime Minister, my community has not been mentioned. It is a very small one ; but I would like to say that we welcome an adjournment or any other means which will assist a solution of this question which we recognise must precede the final consideration of other questions in which we are all vitally interested.

Dr. Datta: May I say I welcome this adjournment ?

Chairman: Then I shall proceed to put it. I put it on the clear understanding, my friends, that the time is not going to be wasted, and that these conferences—as Mr. Gandhi has said, informal conferences, but nevertheless I hope very valuable and fruitful conferences—will take place between now and our next meeting. I hope you will all pledge yourselves to use the time in that way.

Ninth Sitting—8th October 1931

**Chairman:* When we met last Thursday, by common consent we adjourned for a week in order to enable informal and unofficial consultations to take place, with a view of coming to an agreement. Perhaps our first business is to receive a report from those who conducted the negotiations. May I ask Mr. Gandhi to speak first ?

Mr. Gandhi: Prime Minister and friends, it is with deep sorrow and deeper humiliation that I have to announce utter failure on my part to secure an agreed solution of the communal question through informal

*Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, pp. 1356-58.

conversations among and with the representatives of different groups I apologise to you, Mr. Prime Minister, and the other colleagues for the waste of a precious week. My only consolation lies in the fact that when I accepted the burden of carrying on these talks I knew that there was not much hope of success, and still more in the fact that I am not aware of having spared any effort to reach a solution.

But to say that the conversations have to our utter shame failed is not to say the whole truth. Causes of failure were inherent in the composition of the Indian Delegation. We are almost all not elected representatives of the parties or groups whom we are presumed to represent; we are here by nomination of the Government. Nor are those whose presence was absolutely necessary for an agreed solution to be found here. Further, you will allow me to say that this was hardly the time to summon the Minorities Committee. It lacks the sense of reality in that we do not know what it is that we are going to get. If we knew in a definite manner that we were going to get the thing we want, we should hesitate fifty times before we threw it away in a sinful wrangle, as it would be if we are told that the getting of it would depend upon the ability of the present Delegation to produce an agreed solution of the communal tangle. The solution can be the crown of the Swaraj constitution, not its foundation—if only because our differences have hardened, if they have not arisen, by reason of the foreign domination. I have not a shadow of a doubt that the iceberg of communal differences will melt under the warmth of the sun of freedom.

T, therefore, venture to suggest that the Minorities Committee be adjourned *sine die* and that the fundamentals of the constitution be hammered into shape as quickly as may be. Meanwhile, the informal work of discovering a true solution of the communal problem will and must continue ; only it must not baulk or be allowed to block the progress of constitution-building. Attention must be diverted from it and concentrated on the main part of the structure.

* * * * *

Lastly, inasmuch as the only reason for my appearance at these deliberations is that I represent the Indian National Congress, I must clearly set forth its position. In spite of appearances to the contrary, especially in England, the Congress claims to represent the whole nation, and most decidedly the dumb millions, among whom are included the numberless Untouchables, who are more suppressed than depressed, as also in a way the more unfortunate and neglected classes known as Backward Races.

* * * * *

It seems to have been represented that I am opposed to any representation of the Untouchables on the Legislature. This is a travesty of the truth. What I have said, and what I must repeat, is that I am opposed to their special representation. I am convinced that it can do them no good, and may do much harm ; but the Congress is wedded to adult franchise. Therefore millions of them can be placed on the Voters' Roll. It is impossible to conceive that,

with untouchability fast disappearing, nominees of these voters can be boycotted by the others ; but what these people need more than election to the Legislatures is protection from social and religious persecution. Custom, which is often more powerful than law, has brought them to a degradation of which every thinking Hindu has need to feel ashamed and to do penance. I should, therefore, have the most drastic legislation rendering criminal all the special persecution to which these fellow-countrymen of mine are subjected by the so-called superior classes. Thank God, the conscience of Hindus has been stirred, and untouchability will soon be a relic of our sinful past.

Dr. Ambedkar: Mr. Prime Minister, last night when we parted at the conclusion of the meeting of the informal Committee we parted although with a sense of failure, at least with one common understanding, and that was that when we met here today none of us should make any speech or any comment that would cause exasperation. I am sorry to see that Mr. Gandhi should have been guilty of a breach of this understanding. Excuse me, I must have the opportunity to speak. He started by giving what were, according to him, the causes' of the failure of the informal Committee. Now, I have my own cause which I think were responsible for the failure of the informal Committee to reach an agreement, but I do not propose to discuss them now. What disturbs me after hearing Mr. Gandhi is that instead of confining himself to his proposition, namely, that the Minorities Committee should adjourn *sine die,* he started casting certain reflections upon the representatives of the different communities who are sitting round this table. He said that the Delegates were nominees of the Government, and that they did not represent the views of their respective communities for whom they stood. We cannot deny the allegation that we are nominees of the Government, but, speaking for myself, I have not the slightest doubt that even if the Depressed Classes of India were given the chance of electing their representatives to this Conference, I would, all the same, find a place here. I say therefore that, whether I am a nominee or not, I fully represent the claims of my community. Let no man be under any mistaken impression as regards that.

The Mahatma has been always claiming that the Congress stands for the Depressed Classes, and that the Congress represents the Depressed Classes more than I or my colleague can do. To that claim I can only say that it is one of the many false claims which irresponsible people keep on making, although the persons concerned with regard to those claims have been invariably denying them.

I have here a telegram which I have just received from a place which I have never visited and from a man whom I have never seen from the President of the Depressed Classes Union, Kumaun, Almora, which I believe is in the United Provinces, and which contains the following resolution :

"This Meeting declares its no-confidence in the Congress movement

which has been carried on in and outside the country, and condemns the methods adopted by the Congress workers."

I do not care to read further, but I can say this (and I think if Mr. Gandhi will examine his position he will find out the truth), that although there may be people in the Congress who may be showing sympathy towards the Depressed Classes, the Depressed Classes are not in the Congress. That is a proposition which I propose to substantiate. I do not wish to enter into these points of controversy. They seem to be somewhat outside the main proposition. The main proposition which Mr. Gandhi has made is that this Committee should be adjourned *sine die*. With regard to that proposition, I entirely agree with the attitude taken up by Sir Muhammad Shafi. I, for one, cannot consent to this proposition. It seems to me that there are only two alternatives—either that this Minorities Committee should go on tackling the problem and trying to arrive at some satisfactory solution, if that is possible, and then, if that is not possible, the British Government should undertake the solution of that problem. We cannot consent to leave this to the arbitration of third parties whose sense of responsibility may not be the same as must be the sense of responsibility of the British Government.

Prime Minister, permit me to make one thing clear. The Depressed Classes are not anxious, they are not clamorous, they have not started any movement for claiming that there shall be an immediate transfer of power from the British to the Indian people. They have their particular grievances against the British people and I think I have voiced them sufficiently to make it clear that we feel those grievances most genuinely. But, to be true to facts, the position is that the Depressed Classes are not clamouring for transfer of political power. Their position, to put it plainly, is that we are not anxious for the transfer of power; but if the British Government is unable to resist the forces that have been set up in the country which do clamour for transference of political power—and we know the Depressed Classes in their present circumstances are not in a position to resist that—then our submission is that if you make that transfer, that transfer will be accompanied by such conditions and by such provisions that the power shall not fall into the hands of a clique, into the hands of an oligarchy, or into the hands of a group of people, whether Muhammadans or Hindus ; but that that solution shall be such that the power shall be shared by all communities in their respective proportions. Taking that view, I do not see how I, for one, can take any serious part in the deliberations of the Federal Structure Committee unless I know where I and my community stand.

Mr. Gandhi: One word more as to the so-called Untouchables.

I can understand the claims advanced by other minorities, but the claims advanced on behalf of the Untouchables, that to me is the "unkindest cut of all". It means the perpetual bar-sinister. I would not seal the vital interests of the Untouchables even for the sake of winning the freedom of India.

I claim myself in my own person to represent the vast mass of the Untouchables. Here I speak not merely on behalf of the Congress, but I speak on my own behalf, and I claim that I would get, if there was a referendum of the Untouchables, their vote, and that I would top the poll. And I would work from one end of India to the other to tell the Untouchables that separate electorates and separate reservation is not the way to remove this bar-sinister, which is the shame, not of them but of orthodox Hinduism.

Let this Committee and let the whole world know that today there is a body of Hindu reformers who are pledged to remove this blot of untouchability. We do not want on our register and on our census Untouchables classified as separate class. Sikhs may remain as such in perpetuity, so may Muhammadans, so may Europeans. Will Untouchables remain Untouchables in perpetuity ? I would fear rather that Hinduism died than that untouchability lived. Therefore, with all my regard for Dr. Ambedkar, and for his desire to see the Untouchables uplifted, with all my regard for his ability, I must say in all humility that here the great wrong under which he has laboured and perhaps the bitter experiences that he has undergone have for the moment warped his judgment. It hurts me to have to say this, but I would be untrue to the cause of the Untouchables, which is as dear to me as life itself, if I did not say it. I will not bargain away their rights for the kingdom of the whole world. I am speaking with a due sense of responsibility, and I say that it is not a proper claim which is registered by Dr. Ambedkar when he seeks to speak for the whole of the Untouchables of India. It will create a division in Hinduism which I cannot possibly look forward to with any satisfaction whatsoever. I do not mind Untouchables, if they so desire, being converted to Islam or Christianity. I should tolerate that, but I cannot possibly tolerate what is in store for Hinduism if there are two divisions set forth in the villages. Those who speak of the political rights of Untouchables do not know their India, do not know how Indian society is today constructed, and therefore I want to say with all the emphasis that I can command that if I was the only person to resist this thing I would resist it with my life.

APPENDIX I*

PROVISIONS FOR A SETTLEMENT OF THE COMMUNAL PROBLEM PUT FORWARD JOINTLY BY MUSLIMS, DEPRESSED CLASSES, INDIAN CHRISTIANS, ANGLO-INDIANS AND EUROPEANS

Claims of Minority Communities

1. No person shall by reason of his origin, religion, caste or creed, be prejudiced in any way in regard to public employment, office of power or honour, or with regard to enjoyment of his civic rights and the exercise of any trade or calling.

2. Statutory safeguards shall be incorporated in the constitution with a view to protect against enactments of the Legislature of discriminatory laws affecting any community.

3. Full religious liberty, that is, full liberty of belief, worship observances, propaganda, associations and education, shall be guaranteed to all communities subject to the maintenance of public order and morality.

No person shall merely by change of faith lose any civic right or privilege. or be subject to any penalty.

4. The right to establish, manage and control, at their own expense, charitable, religious and social institutions, schools and other educational establishments with the right to exercise their religion therein.

5. The constitution shall embody adequate safeguards for the protection of religion, culture and personal law, and the promotion of education, language, charitable institutions of the minority communities and for their due share in grants-in-aid given by the State and by the self-governing bodies.

6. Enjoyment of civic rights by all citizens shall be guaranteed by making any act or omission calculated to prevent full enjoyment an offence punishable by law.

7. In the formation of Cabinets in the Central Government and Provincial Governments, so far as possible, members belonging to the Mussulman community and other minorities of considerable number shall be included by convention.

8. There shall be Statutory Departments under the Central and Provincial Governments to protect minority communities and to promote their welfare.

9. All communities at present enjoying representation in any Legislature through nomination or election shall have representation in all Legislatures through separate electorates and the minorities shall have not less than the proportion set forth in the Annexure but no majority shall be reduced to a minority or even an equality. Provided that after a lapse of ten years it will be open to Muslims in Punjab and Bengal and any minority communities in any other Provinces to accept joint electorates, or joint electorates

*This is printed as Appendix III in the original proceedings of the Federal Structure Committee and Minorities Committee, pp. 1394-99.

with reservation of seats, by the consent of the community concerned. Similarly after the lapse of ten years it will be open to any minority in the Central Legislature to accept joint electorates with or without reservation of seats with the consent of the community concerned.

With regard to the Depressed Classes no change to joint electorates and reserved seats shall be made until after 20 years' experience of separate electorates and until direct adult suffrage for the community has been established.

10. In every Province and in connection with the Central Government a Public Services Commission shall be appointed, and the recruitment to the Public Services, except the proportion, if any, reserved to be filled by nomination by the Governor-General and the Governors, shall be made through such Commission in such a way as to secure a fair representation to the various communities consistently with the considerations of efficiency and the possession of the necessary qualifications. Instructions to the Governor-General and the Governors in the Instrument of Instructions with regard to recruitment shall be embodied to give effect to this principle, and for that purpose, to review periodically the composition of the services.

11. If a Bill is passed which, in the opinion of two-thirds of the members of any Legislature representing a particular community affects their religion or social practice based on religion, or in the case of fundamental rights of the subjects if one-third of the members object, it shall be open to such members to lodge their objection thereto, within a period of one month of the Bill being passed by the House, with the President of the House who shall forward the same to the Governor-General or the Governor, as the case may be, and he shall thereupon suspend the operation of that Bill for one year, upon the expiry of which period he shall remit the said Bill for further consideration by the Legislature. When such Bill has been further considered by the Legislature and the Legislature concerned has refused to revise or modify the Bill so as to meet the objection thereto, the Governor-General or the Governor, as the case may be, may give or withhold his assent to it in the exercise of his discretion, provided further, that the validity of such Bill may be challenged in the Supreme Court by any two members of the denomination affected thereby on the grounds that it contravenes one of their fundamental rights.

Special Claims of Mussulmans

A. The North-West Frontier Province shall be constituted a Governor's Province on the same footing as other Provinces with due regard to the necessary requirements for the security of the Frontier.

In the formation of the Provincial Legislature the nomination shall not exceed more than 10 per cent of the whole.

B. Sind shall be separated from the Bombay Presidency and made a Governor's Province similar to and on the same fooling as other Provinces in British India.

C. Mussulman representation in the Central Legislature shall be one-third of the total number of the House, and their representation in the Central Legislate shall not be less than the proportion set forth in the Annexure.

Special Claims of the Depressed Classes

A. The constitution shall declare invalid any custom or usage by which any penalty or disadvantage or disability is imposed upon or any discrimination is made against any subject of the State in regard to the enjoyment of civic rights on account of Untouchability.

B. Generous treatment in the matter of recruitment to Public Service and the opening of enlistment in the Police and Military Service.

C. The Depressed Classes in the Punjab shall have the benefit of the Punjab Land Alienation Act extended to them.

D. Right of Appeal shall lie to the Governor or Governor-General for redress of prejudicial action or neglect of interest by any Executive Authority.

E. The Depressed Classes shall have representation not less than set forth in the Annexure.

Special Claims of the Anglo-Indian Community

A. Generous interpretation of the claims admitted by Sub-Committee No. VIII (Services) to the effect that in recognition of the peculiar position of the community special consideration should be given to the claim for public employment, having regard to the maintenance of an adequate standard of living.

B. The right to administer and control its own educational institutions, i.e., European education, subject to the control of the Minister.

Provisions for generous and adequate grants-in-aid and scholarships on the basis of present grants.

C. Jury rights equal to those enjoyed by other communities in India unconditionally of proof of legitimacy and descent and the right of accused persons to claim trial by either a European or an Indian Jury.

Special Claims of the European Community

A. Equal rights and privileges to those enjoyed by Indian-born subjects in all industrial and commercial activities.

B. The maintenance of existing rights in regard to procedure of criminal trials, and any measure or bill to amend, alter, or modify such a procedure cannot be introduced except with the previous consent of the Governor-General.

Agreed by—

HIS HIGHNESS THE AGA KHAN (Muslims),

DR. AMBEDKAR (Depressed Classes),

RAO BAHADUR PANNIR SELVAM (Indian Christians).

SIR HENRY GIDNEY (Anglo-Indians),

SIR HUBERT CARR (Europeans).

APPENDIX *I—contd.*

ANNEXURE

REPRESENTATION IN LEGISLATURES

Figures in brackets = Population basis 1931 figures and depressed percentages as per Simon Report.

	Stength of Chamber	Hindus			Muslims	Christians	Sikhs	Anglo-Indians	Tribal etc.	Europeans
		Caste	Depressed	Total						
Centre										
All India (1931)										
		(47.5)	(19)*	(66.5)	(21.5)					
Upper . .	200	101	20	121	67	1	6	1	....	4
Lower . .	300	123	45	168	100	7	10	3	....	12
		(48.9)	(13.4)	(62.3)	(34.8)					
Assam . .	100†	38	13	51	35	3	....	1	....	10
		(18.3)	(24.7)	(43)	(54.9)					
Bengal . .	200	38	35	73	102	2	....	3	....	20
		(67.8)	(14.5)	(82.3)	(11.3)					
Bihar and Orissa . .	100	51	14	65	25	1	....	1	3	5

*Represents percentage in Governor's Provinces of British India.

†Population figures exclude Tribal Areas.

APPENDIX *I—contd.*

ANNEXURE—contd.

REPRESENTATION IN LEGISLATURES

Figures in brackets = Population basis 1931 figures and depressed percentages as per Simon Report.

	Stength of Chamber	Hindus			Muslims	Christians	Sikhs	Anglo-Indians	Tribal etc.	Europeans
		Caste	Depressed	Total						
		(68)	(8)	(76)	(20)					
Bombay . .	200	88	28	116	66	2	....	3	....	13
On Sind being separated weightage of Mussulmans in Bombay to be on the same footing as to the Hindus in the N.W.F.P.										
		(63.1)	(23.7)	(86.8)	(44)					
C. P. . .	100	58	20	78	15	1	....	2	2	2
		(71.3)	(15.4)	(86.7)	(7.1)	(3.7)				
Madras . .	200	102	40	142	30	14	....	4	2	8
		(15.1)	(13.5)	(28.6)	(56.5)		(13)			
Punjab . .	100	14	10	24	51	1.5	20	1.5	....	2
		(58.1)	(26.4)	(84.5)	(14.8)					
U. P. . .	100	44	20	64	30	1	....	2	....	3
Sind and N.W.F.P. . .	Weightage similar to that enjoyed by the Mussulmans in the Provinces in which they constitute a minority of the population, shall be given to the Hindu minority in Sind and to the Hindu and Sikh minorities in the N.W.F.P.									

Explanatory Memorandum to Appendix I

1. The suggested details for community representation have not been agreed by the Hindus or the Sikhs, but the full representation claimed by the latter in the Central Legislature is provided for.

2. The proposed distribution of seats for the different minorities constitutes a whole scheme and the detailed proposals cannot be separated one from another.

3. This distribution of seats follows the principle that in no case is the majority community to be reduced to the position of a minority of even equality.

4. No representation is provided for Commerce, Landlords, Industry, Labour, etc. It being assumed that these seats are ultimately communal and that communities desiring special representation for these interests may do so out of the communal quota.

5. The allowance of 33½ per cent. representation to Muslims in the Central Legislature is based on the assumption that 26 per cent. shall be from British India and at least 7 per cent. by convention out of the quota assigned to the Indian States.

6. In the Punjab the suggested common sacrifice by the Muslims, Caste-Hindus and the Depressed Classes, would permit of a weightage of 54 per cent. being given to the Sikhs, giving them representation of 20 per cent. in the Legislature.

7. The proposals may be taken as being acceptable to well over 115 millions of people, or about 46 per cent. of the population of India.

APPENDIX II*

SUPPLEMENTARY MEMORANDUM ON THE CLAIMS OF THE DEPRESSED CLASSES FOR SPECIAL REPRESENTATION

By Dr. Bhimrao R. Ambedkar and Rao Bahadur R. Srinivasan

In the memorandum that was submitted by us last year dealing with the question of political safeguards for the protection of the Depressed Classes in the constitution for a self-governing India, and which forms Appendix III to the printed volume of Proceedings of the Minorities Subcommittee, we had demanded that special representation of the Depressed Classes must form one of such safeguards. But we did not then define the details of the special representation we claimed as being necessary for them. The reason was that the proceedings of the Minorities Sub-Committee came to an end before the question was reached. We now propose to make good the omission by this supplementary memorandum so that the Minorities

*For previous memorandum *see* Appendix to Proceedings of the Minorities Sub-Committee of the First Session of the Conference. This Supplementary Memorandum, dated 4th November 1931 is printed as Appendix VII in the original proceedings at pp. 1409-11.

Sub-Committee, if it comes to consider the question this year, should have the requisite details before it.

I. Extent of Special Representation

A. Special Representation in Provincial Legislature

(i) In Bengal, Central Provinces, Assam, Bihar and Orissa, Punjab and the United Provinces, the Depressed Classes shall have representation in proportion to their population as estimated by the Simon Commission and the Indian Central Committee.

(ii) In Madras the Depressed Classes shall have twenty-two per cent. representation.

(iii) In Bombay—

(*a*) In the event of Sind continuing to be a part of the Bombay Presidency the Depressed Classes shall have sixteen per cent. representation.

(*b*) In the event of Sind being separated from the Bombay Presidency the Depressed Classes shall enjoy the same degree of representation as the Presidency Muslims, both being equal in population.

B. Special Representation in the Federal Legislature

In both Houses of the Federal Legislature the Depressed Classes shall have representation in proportion of their population in India.

Reservations

We have fixed this proportion of representation in the Legislatures on the following assumptions : —

(1) We have assumed that the figures for the population of the Depressed Classes given by the Simon Commission (Vol. I, p. 40) and the Indian Central Committee (Report, p. 44) will be acceptable as sufficiently correct to form a basis for distributing seats.

(2) We have assumed that the Federal Legislature will comprise the whole of India, in which case the population of the Depressed Classes in Indian States, in Centrally Administered Areas, and in Excluded Territories, besides their population in Governor's Provinces, will form very properly an additional item in calculating the extent of representation of the Depressed Classes in the Federal Legislature.

(3) We have assumed that the administrative area of the Provinces of British India will continue to be what they are at present.

But if these assumptions regarding figures of population are challenged as some interested parties threaten to do, and if under a new census over which the Depressed Classes can have no control, the population of the Depressed Classes shows a lower proportion, or if the administrative areas of the Provinces are altered, resulting in disturbing the existing balance of population, the Depressed Classes reserve their right to revise their proportion of representation and even to claim weightage. In the same way, if the

All-India Federation does not come into being, they will be willing to submit to readjustment in their proportion of representation calculated on that basis in the Federal Legislature.

II. Method of Representation

1. The Depressed Classes shall have the right to elect their representatives to the Provincial and Central Legislatures through separate electorates of their voters.

For their representation in the Upper House of the Federal or Central Legislature, if it is decided to have indirect election by members of the Provincial Legislatures, the Depressed Classes will agree to abandon their right to separate electorates so far as their representation to the Upper House is concerned subject to this : that in any system of proportional representation arrangement shall be made to guarantee to them their quota of seats.

2. Separate electorates for the Depressed Classes shall not be liable to be replaced by a system of joint electorates and reserved seats, except when the following conditions are fulfilled : —

(*a*) A referendum of the voters held at the demand of a majority of their representatives in the Legislatures concerned and resulting in an absolute majority of the members of the Depressed Classes having the franchise.

(*b*) No such referendum shall be resorted to until after twenty years and until universal adult suffrage has been established.

III. Necessity of Defining the Depressed Classes

The representation of the Depressed Classes has been grossly abused in the past inasmuch as persons other than the Depressed Classes were nominated to represent them in the Provincial Legislatures, and cases are not wanting in which persons not belonging to the Depressed Classes got themselves nominated as representative of the Depressed Classes. This abuse was due to the fact that while the Governor was given the power to nominate persons to represent the Depressed Classes, he was not required to confine his nomination to persons belonging to the Depressed Classes. Since nomination is to be substituted by election under the new constitution, there will be no room for this abuse. But in order to leave no loophole for defeating the purpose of their special representation we claim —

(i) That the Depressed Classes shall not only have the right to their own separate electorates, but they shall also have the right to be represented by their own men.

(ii) That in each Province the Depressed Classes shall be strictly defined as meaning persons belonging to communities which are subjected to the system of untouchability of the sort prevalent therein and which are enumerated by name in a schedule prepared for electoral purposes.

IV. Nomenclature

In dealing with this part of the question we would like to point out that the existing nomenclature of Depressed Classes is objected to by members of the Depressed Classes who have given thought to it and also by outsiders who take interest in them. It is degrading and contemptuous, and advantage may be taken of this occasion for drafting the new constitution to alter for official purposes the existing nomenclature. We think that they should be called "Non-caste Hindus", "Protestant Hindus", or "Non-conformist Hindus", or some such designation, instead of "Depressed Classes". We have no authority to press for any particular nomenclature. We can only suggest them, and we believe that if properly explained the Depressed Classes will not hesitate to accept the one most suitable for them.

We have received a large number of telegrams from the Depressed Classes all over India supporting the demands contained in this Memorandum.

11

EVIDENCE TAKEN BEFORE THE JOINT COMMITTEE ON INDIAN CONSTITUTIONAL REFORM

Witnesses examined by Dr. B. R. Ambedkar

(1)

Sir Patrick James Fagan, K.C.I.E., C.S.I., F.R.A.S.. Mr. E. B. Loveluck, Mr. Wilfred Harold Shoobert, Mr. Eustace Arthur Cecil King, Mr. Henry Robert Harrop, Mr. Frederick Wynne Robertson, Sir Evans Cottan, Mr. Harold Lancelot Newman and Mr. Sale, on behalf of European Government Servants, Indian Police Association and Civil Engineers' Association.

*382. *Dr. B. R. Ambedkar :* You stated a little while ago that there is a great deal of hostility shown to the Indian Public Service by the Indian Press and by the politicians in India ?

Sir P. J. Fagan : Yes.

*383. *Dr. B. R. Ambedkar :* I would like to read to you a small extract from the Minute written by Sir Reginald Craddock, which is appended to the Lee Commission Report, on page 132, paragraph 10, a few lines from the bottom. This is the paragraph to which I want to draw your attention : "Several of those who have given evidence before us believe that the hostility from time to time shown by the new legislatures is entirely occasioned by the fact that the members of the All-India Services are imposed on them from outside, and that fresh recruitment for those Services will indefinitely prolong these vested interests ; but that, once control passes from the Secretary of State to the Government of India or to the Local Government in the transferred field as the case may be, all bias and animus will disappear." I want to know whether you agree with that statement ?

Sir P. J. Fagan : No ; I do not think we have sufficient grounds for agreeing with that statement. Of course, if it should turn out so, it would be good, but I am afraid the Associations have not sufficient grounds for agreeing with the statement that there would be a sudden change of attitude.

384. *Dr. B. R. Ambedkar :* Do not you think the very fact that you want to remain outside the control of the Indian Legislature, and the new

*Minutes of Evidence, Vol. II-A, 13th June 1933, pp. 69-70.

Government will itself be provocative enough to arouse public opinion against you ?

Mr. W. H. Shoobert : Sir, we do not want to remain outside the control. We only want our existing accruing rights, our pensions and our family pensions secured. We do not wish to be outside the control in the very least.

385. *Dr. B. R. Ambedkar :* Supposing, for instance, all the rights that may be agreed upon in this Conference as being legitimate rights of the Indian Civil Servants were guaranteed to you by Indian Legislatures by Acts passed by the Local and Central Legislatures. Would that give you sufficient protection ?

Sir P. J. Fagan : We are afraid of the financial situation.

386. *Dr. B. R. Ambedkar :* That is another matter : whether the Indian Legislature will be able to find the moneys on account of your services and other matters is another matter ?

Sir P. J. Fagan : Quite.

387. *Dr. B. R. Ambedkar :* But with regard to your conditions of service, what I want to press is, suppose they were regulated by the Acts of Indian Legislatures (by rules made by the Secretary of State in Council). Do you think that would give you adequate protection or not?

Sir P. J. Fagan : No.

Mr. W. H. Shoobert : Such Acts could be repealed by future extremist Governments.

388. *Dr. B. R. Ambedkar :* Supposing some provision were made for that, that there would be no sudden repeal of an Act ?

Sir P. J. Fagan : I think I may say that the Associations would certainly not regard that as sufficient protection.

389. *Dr. B. R. Ambedkar :* I want to make this point which you have made so much of, that there is so much hostility against you in India both on the part of the Press and the politician. Is not it the fact that you are asking for safeguards the result of which is to keep you entirely out of the purview of legitimate public opinion expressed in the Press as well as in the Legislature ?

Sir P. J. Fagan : No, I do not think it keeps us outside the purview. I should say certainly not. I certainly do not think that it would keep them out of the purview of healthy public opinion.

390. *Dr. B. R. Ambedkar :* I want to put this question to you again : Do not you think that if you were under the control of laws made by the Indian Legislature with the consent of the Indian Ministers you would get far better protection from the Indian Ministers themselves when you are attacked in the Press or by the public than you are likely to get if you remain outside ?

Sir P. J. Fagan : No ; I do not think the Associations would take that view.

391. *Dr. B. R. Ambedkar :* You just now read some extracts from the

Simon Commission Report in support of the statement you made just now. Is it not a fact that Sir John Simon was driven almost against his will to recommend the transfer of law and order simply because he came to the conclusion that to keep that as a reserved subject would expose the services operating in that Department to extreme criticism ?

Sir P. J. Fagan : That is again, I think, a subject that we would rather avoid. It is a very debatable subject and I believe there are very diverse opinions on the subject. I am not responsible for what Sir John Simon may have thought.

Dr. B. R. Ambedkar : Do you agree that that was the reason for its prevailing with the Simon Commission Report ?

Sir Austen Chamberlain : The witness has already asked to be excused from answering that question.

Dr. B. R. Ambedkar : I do not wish to press it if he does not wish to answer.

Sir Austen Chamberlain : Surely it is not a proper question to press the representatives of the Civil Service on. who come to speak to their own special position and claims, and not to take part in a discusssion about general reform in India.

Dr. B. R. Ambedkar : The reason Sir John Simon cites for the transfer of law and order was that reserving that Department outside the control of the Legislature and the Minister would expose the Department to far greater criticism from the Press and the public.

Viscount Burnham : As a member of the Statutory Commission, what Dr. Ambedkar has said is a most misleading account.

Dr. B. R. Ambedkar : Possibly I may have misread it.

(2)

Mr. Sachchidananda Sinha, Barrister-at-Law, M.I.C.

*****1985. *Dr. B. R. Ambedkar :* I want to ask you, first of all, a question about the special powers of the Governor, especially his power to take action in order to prevent a menace to peace and tranquillity. I want to draw your attention, if I may, to the position as it exists today with regard to the administration of the transferred subjects. Have you got the Government of India Act before you ?

Mr. Sachchidananda Sinha : Yes.

1986. *Dr. B. R. Ambedkar :* Will you just refer to Section 52 of the Government of India Act ?

Mr. Sachchidananda Sinha : Yes.

1987. *Dr. B. R. Ambedkar :* I do not want to take you to Section 45 of the Government of India Act which provides for the classification of subjects transferred and reserved ; that we know. I am dealing only with the question

*Minutes of Evidence, Vol. II-A, 22nd June 1933, pp. 256-58.

of control. If you take Section 52, sub-section (1) says : "The Governor of a Governor's Province may, by notification, appoint Ministers, not being members of his Executive Council", and so on ?

Mr. Sachchidananda Sinha : Yes.

1988. *Dr. B. R. Ambedkar :* Then we come to sub-section (3)—this is what it says : "In relation to transferred subjects, the Governor shall be guided by the advice of his Ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken other wise than in accordance with that advice" ?

Mr. Sachchidananda Sinha : Yes.

1989. *Dr. B. R. Ambedkar :* What I call your attention to is that this section does not say that wherever the Governor thinks there is a menace to peace and tranquillity, he shall overrule his Ministers ?

Mr. Sachchidananda Sinha : No.

1990. *Dr. B. R. Ambedkar :* Specific provision is not made in this section as it is now made in the White Paper ?

Mr. Sachchidananda Sinha : No, that is so.

1991. *Dr. B. R. Ambedkar :* If you refer to the Instrument of Instructions, which is issued to the Governor, in which he is told in what cases he should not Act upon the advice of the Ministers ?

Mr. Sachchidananda Sinha : I have not got a copy here.

1992. *Dr. B. R. Ambedkar :* You will find it in that book at page 269 ?

Mr. Sachchidananda Sinha : Yes, I have it.

1993. *Dr. B. R. Ambedkar :* On page 270, clause VI of the Instrument of Instructions says : "In considering a Minister's advice and deciding whether or not there is sufficient cause in any case to dissent from his opinion, you shall have due regard to his relations with the Legislative Council and to the wishes of the people of the Presidency as expressed by their representatives therein." In other words, the Governor, under the present circumstances, can over-rule the Minister and not accept his advice in the matter of transferred Departments, only if he came to the conclusion that the Minister had not the support of the Legislature or of the constituencies ?

Mr. Sachchidananda Sinha : That is so, I suppose.

1994. *Dr. B. R. Ambedkar :* What I want to say is this, if I may, for the sake of clarity : Under the existing system of administering transferred Departments, the Governor has not got his special veto which is now given under clause (*a*) of the powers given to the Governor, namely, to maintain peace and tranquillity ?

Mr. Sachchidananda Sinha : That is so.

1995. *Dr. B. R. Ambedkar* : Today, having regard to the fact that the Department of Law and Order is a reserved subject, he, of course, can take any action that he likes within the scope of that Department ?

Mr. Sachchidananda Sinha : Yes

1996. *Dr. B. R. Ambedkar :* But he cannot come to the Minister and

say : "I will not accept your advice, although you are dealing with a transferred Department, because the action that you propose to take will be a menace to peace and tranquillity" ?

Mr. Sachchidananda Sinha : No.

1907. *Dr. B. R. Ambedkar :* So, consequently, this is a retrograde provision ?

Mr. Sachchidananda Sinha : Undoubtedly.

1998. *Dr. B. R. Ambedkar :* Today the Minister can take any action he likes in his Department. Under the new scheme of the White Paper (assuming the White Paper goes through) every Department would be a transferred Department. The veto of the Governor arising out of his special power to maintain peace and tranquillity instead of being confined to one particular Department of Law and Order will spread itself over to every Department ?

Mr. Sachchidananda Sinha : Yes.

1999. *Dr. B. R. Ambedkar :* It would be, to that extent, a diminution of responsibility in every Department, although every Department would be a transferred Department ?

Mr. Sachchidananda Sinha : That is so.

Dr. B. R. Ambedkar : Now let me come to the question of the Services. You will see the Appendix 7 which enumerates them —

Viscount Burnham : On a point of order, my Lord Chairman, we have had this explanation of what are the present powers of the Governors of Provinces, but we are not told where it is laid down.

Dr. B. R. Ambedkar : I drew attention to Section 52(*1*) of the Government of India Act.

Viscount Burnham : On whose authority is this explanation given ?

Dr. B. R. Ambedkar : I do not know.

Viscount Burnham : Who authorises the explanation which you have given ?

2000. *Dr. B. R. Ambedkar :* That is my own interpretation of the Act and the Witness agrees with it. I refer to Section 52, and the Instrument of Instructions, which is part of the Act. Now coming to the question of the Services, Appendix 7, you will see there in that Appendix—I do not want to refer specifically to each point, that provision is made that the Secretary of State in Council shall retain all powers regarding classification and the regulation of the conditions of service ?

Mr. Sachchidananda Sinha : Yes.

2001. *Dr. B. R. Ambedkar :* May I refer you now to Section 96B, sub-section (2) ? This is how it reads : "The Secretary of State in Council may make rules for regulating the classification of the Civil Services in India, the methods of their recruitment, their conditions of service, pay and allowances and discipline and conduct." And further "such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or

to local Governments, or authorise the Indian Legislature or local Legislatures to make laws regulating the Public Services."

Mr. Sachchidananda Sinha : Yes.

2002. *Dr. B. R. Ambedkar :* So, under the Government of India Act as enacted, the intention was to transfer this power of making rules with regard to the emoluments and the conditions of service, to the Governor-General or to the Indian Legislatures ?

Mr. Sachchidananda Sinha : Or the Local Governments.

2003. *Dr. B. R. Ambedkar :* And the intention was that the conditions of service should be such as to be assimilated to the new system of government that was to be introduced in India ?

Mr. Sachchidananda Sinha : That seems to be the implication.

2004. *Dr. B. R. Ambedkar :* If, for instance, these provisions as they are laid down in Appendix 7 were enacted, the whole tendency which emanated from the Government of India Act of developing control over the Indian authorities would be arrested ?

Mr. Sachchidananda Sinha : That is why I say in my Memorandum that the proposals relating to the Public Services do not give satisfaction to India.

2005. *Dr. B. R. Ambedkar :* It is quite necessary, and it is in fact provided in the Government of India Act itself, that these powers are being exercised by the Secretary of State in Council, and may be delegated, under proper conditions, to the Indian Legislature ?

Mr. Sachchidananda Sinha : Yes.

2006. *Dr. B. R. Ambedkar :* If the White Paper proposals were enacted, this process of devolution would be arrested ?

Mr. Sachchidananda Sinha : Clearly.

2007. *Dr. B. R. Ambedkar :* Take, again, certain specific items in the Services' rights. Take, for instance, 14 on page 121, "Personal concurrence of the Governor, formal censure," and so on ; 15 : "Personal concurrence of the Governor with regard to posting ; 16 : Right of complaint to the Governor against any order of an official superior," and so on. Now these rights, as conditions of service, are really not final ; they are in their evolutionary stage. These were enacted because nobody was certain how the Minister would react ?

Mr. Sachchidananda Sinha : What is your question, Dr. Ambedkar ?

2008. *Dr. B. R. Ambedkar :* My question is this : Some of these Service conditions which are laid down, and to which I have drawn your attention, were enacted as an experimental thing in order to find out what exactly would be the ultimate result of the experiment between a popular Minister and the Civil Service ?

Mr. Sachchidananda Sinha : Yes.

2009. *Dr. B. R. Ambedkar :* They were not intended to be final ?

Mr. Sachchidananda Sinha : No, I suppose not.

2010. *Dr. B. R. Ambedkar :* And if they were enacted as they are, I again

say that the process of assimilating the conditions of the Civil Service to the responsible system of Government would be arrested ?

Mr. Sachchidananda Sinha : Yes.

2011. *Dr. B. R. Ambedkar :* I just want to ask you one question about this Central responsibility. You said in reply to a question by Sir Henry Gidney, that you were very keen on a date being fixed for the inauguration of the Federation ?

Mr. Sachchidananda Sinha : Yes.

2012. *Dr. B. R. Ambedkar :* On the other hand, as you are aware, it is urged that it is impossible to fix any specific date, because there are so many elements of uncertainty, namely, that the Princes may not come in, within the time prescribed, and you know also that in order to avoid that there are certain transitory provisions enacted in the White Paper. Now what I want to suggest is this, because I am anxious to get your opinion upon this point : Suppose the Federation were started immediately with a nominated bloc in the Central Legislature, partly of officials and partly of non-officials, pending the admission or the entry of the requisite number of Princes, so that the Federation may not keep on hanging until the requisite number of Princes come, would you have objection to that sort of system ?

Mr. Sachchidananda Sinha : I can express no opinion offhand, but the matter may be considered and examined. It is worth examining.

2013. *Dr. B. R. Ambedkar :* I want to get this point clear. I suppose you do not agree with the position that Federation of British India with the Indian Princes is a condition precedent to responsibility at the Centre ?

Mr. Sachchidananda Sinha : I do not desire to express any opinion. because I understand the proposals outlined in the White Paper were agreed to at the Round Table Conference.

2014. *Dr. B. R. Ambedkar :* What I am putting is this : Speaking apart from the White Paper, you do not say, or you do not agree, that British India can have Central responsibility only on one condition, that there shall be Federation ?

Mr. Sachchidananda Sinha : No, not apart from the White Paper.

Mr. Butler : Before we proceed further, my Lord Chairman, may I say that we cannot accept the interpretations given in these questions and answers of the present Government of India Act, in particular the limitations which have been assumed under the Instructions of the present Government, Clause VI and Section 52 of the present Government of India Act ?

(3)

Mir Maqbool Mahmood, Dr. P. K. Sen, Mr. K. M. Panikkar and Mr. B. Kak, on behalf of Chamber of Princes

*****3000. *Dr. B. R. Ambedkar :* Arising out of these questions, I want to put

*Minutes of Evidence, Vol. II-A, 27th June 1933, pp. 372-76.

the thing as I see it. You know in the White Paper there is one condition laid down for the inauguration of the Federation : that is the joining of a certain number of Indian States. Then for the transfer of finance an important condition is laid down, and that is the introduction of the Bank. What I want to ask you is this : Would the Princes be prepared to join the Federation if finance was not a transferred subject ?

Mir Maqbool Mahmood : I have no definite instructions on that question, but I do not think that, considering the trend of their discussions, they would be prepared to.

3001. *Dr. B. R. Ambedkar :* They would not be prepared to join the Federation if finance was not a transferred subject ?

Mir Maqbool Mahmood : I do not think so.

3002. *Dr. B. R. Ambedkar :* Coming to other matters, in the course of the evidence that you gave last time, Mir Maqbool, you stated that in case all the Princes did not join the Federation at once you would like to have a system introduced whereby those Princes who would join the Federation should be allowed to have the benefit vicariously of the votes of those who did not join. I have put it correctly ?

Mir Maqbool Mahmood : That represents only one aspect of the position.

3003. *Dr. B. R. Ambedkar :* That is the position you take?

Mir Maqbool Mahmood : That is half the truth, not the full truth. We contemplate two aspects of the position.

3004. *Dr. B. R. Ambedkar :* I know your Confederation ?

Mir Maqbool Mahmood : Not that : One is, that States which are entering will do so on the assumption that the States' position in the Federation would be 40 per cent. in the Upper House and one-third in the Lower House ; that is with regard to the States which entered, individually ; the other is in regard to those States which are outside, that they are also affected by the decisions of Federation. Those are the two aspects, and I understood your question referred to the second.

3005. *Dr. B. R. Ambedkar :* I just want you to concentrate your attention, if you please, on this point : I thought I understood from you, last time, that you wanted to lay down as one of the conditions, that if all the States did not enter the Federation at once in the beginning, and that if only some entered and other kept out. you would like a system of weightage, so to say, in which those Princes who entered the Federation would claim, or cast, votes vicariously, those which were the share of those which did not enter. That is the position ?

Mir Maqbool Mahmood : Yes.

3006. *Dr. B. R. Ambedkar :* Now what I want to ask you with regard to that, is this : What would be the position of those States which would not enter the Federation at the start, but whose votes were used by those who did enter *vis-a-vis* the Federation, with respect to taxation and with respect to Federal Legislation ? Would Federal Legislation be operative in

those States which did not enter, but whose votes were used ?

Mir Maqbool Mahmood : It would, substantially, be the same as it is now.

3007. *Dr. B. R. Ambedkar :* No ; my point is this : Would the Federal law be operative in those States which did not enter the Federation, but whose voting strength was used by States which did enter the Federation ?

Mir Maqbool Mahmood : In certain matters of taxation, it would apply in spite of it. In other matters it would apply by negotiation.

3008. *Dr. B. R. Ambedkar :* Would they be regarded as member States of the Federation ?

Mir Maqbool Mahmood : No.

3009. *Dr. B. R. Ambedkar :* They would not be? *Mir Maqbool Mahmood :* No.

3010. *Dr. B. R. Ambedkar :* And yet their votes would be used ?

Mir Maqbool Mahmood : Yes. In the same way as under Article 147 of the Canadian Constitution, Nova Scotia and New Brunswick exercised the votes of Edward Island in the Senate that the latter formed the Federation.

3011. *Dr. B. R. Ambedkar :* Now I want to ask some questions about nationality. I do not know which of you gentlemen would address yourself to that matter. I think it is common ground that the subjects of the Indian States are aliens, so far as British India is legally concerned ?

Mr. K. M. Panikkar : They are British protected people, but, in law, they are aliens.

3012. *Sir Hari Singh Gour :* They are not British subjects ?

Mir Maqbool Mahmood : They are not British subjects.

3013. *Dr. B. R. Ambedkar :* They come within what is known as the Foreigners' Act in British India ?

Mir Maqbool Mahmood : I do not think so.

3014. *Dr. B. R. Ambedkar :* You can take it from me, that they do. Anyhow, it is common ground, that they are not British subjects, and you do not propose, I suppose, to regularise the position which would be most compatible and consistent with All-India Federation, to have one common Indian nationality ?

Mir Maqbool Mahmood : That is not contemplated.

3015. *Dr. B. R. Ambedkar :* So I take it that the result of this will be that if the situation which obtains now continues, aliens (I mean subjects of the Indian States) would be entitled to the franchise, would be entitled to stand as members of the Federal and the Provincial Legislatures, and would be entitled to hold office of trust under the Crown, without being subjects of the Crown ?

Mir Maqbool Mahmood : That is possible, even now.

3016. *Dr. B. R. Ambedkar :* I know it is possible.

Mir Maqbool Mahmood : It has happened, even now.

3017. *Dr. B. R. Ambedkar :* But what I want to ask is this : Do you not regard that as an anomalous thing ?

Mir Maqbool Mahmood : We do not think so.

3018. *Dr. B. R. Ambedkar :* Can you cite to me any Constitution in which an alien is entitled to the franchise, is entitled to stand as a member of the Legislature, and is further entitled to hold office of trust ?

Mir Maqbool Mahmood : Even here our distinguished Delegate, Sir P. Pattani, was a member of the Executive Council.

3019. *Dr. B. R. Ambedkar :* I know that, but what I am trying to impress upon you is that that is an anomalous thing, something which is not found in any other Federation ?

Mir Maqbool Mahmood : I cannot cite an instance at the moment.

3020. *Dr. B. R. Ambedkar :* You think it is a very wide system in which a subject of an Indian State may hold an office of trust under the Crown, and yet may be subject to what is known as the Foreigners' Act ?

Mir Maqbool Mahmood : So long as he takes the Oath of Allegiance to the Constitution.

3021. *Dr. B. R. Ambedkar :* Do you think that would take him out of the purview of the Foreigners' Act ?

Mir Maqbool Mahmood : If it is necessary for you to reconsider that Act, you might do so.

3022. *Dr. B. R. Ambedkar :* That is the point I am putting. Would it, therefore, not be desirable to have a common Indian nationality ?

Mir Maqbool Mahmood : I am afraid we have not considered the legal implications of this position.

3023. *Mr. Jayakar :* Has this question of a common nationality been considered by the Princes at all ?

Mir Maqbool Mahmood : Yes.

3024. *Dr. B. R. Ambedkar :* And they do not approve of it ?

Dr. P. K. Sen : The Princes have not denied the allegiance of their subjects to the British Crown, subject to their allegiance to the Rulers of the States themselves. That is, a supplementary allegiance has always been considered in that sense, and therefore they have always been allowed, in Provinces of India the same privileges as British Indians.

3025. *Dr. B. R. Ambedkar :* I am talking about the legal position as it would be ?

Mir Maqbool Mahmood : I do not think, if I may say so with respect, that analogy would help us very much in a case of this kind, because the position as regards the States in India and their relationship with the Crown is undoubtedly unique, and you cannot, therefore, draw much help by analogies of that description ; but as a matter of fact, the question of nationality is preeminently important, and I dare say some proper solution could be arrived at after consideration, but it is hardly possible to give a definite answer with regard to the legal position and all the implications arising therefrom, in

evidence. I said that in a matter like this it is very difficult to derive any help from analogy. What is, or is not, present in other parts of the world will not very much help us, because the position of the States in regard to the British Crown is very unique and, therefore, we have it here (it may be anomalous) that whereas the State subject owes allegiance to his own Ruler, he also owes allegiance to the Crown, and in order to adjust the legal position and all the implications arising therefrom, the matter has got to be considered in all its bearings. It is hardly possible to give an answer in the course of evidence as to what should be the legal implications of such a position.

3026. *Mr. Jayakur :* Therefore, may I take it that no final and unalterable decision upon this point has been arrived at by the States ?

Mir Maqbool Mahmood : No.

3027. *Dr. B. R. Ambedkar :* I am satisfied that you regard the position as anomalous and worthy of consideration ?

Mir Maqbool Mahmood : It is, undoubtedly, worthy of consideration.

3028. *Dr. B. R. Ambedkar :* Now I want to ask you a question about this Federal Court. Will you look at paragraph 155 of the White Paper ? You will see there that there is no provision made for a Federal Court having any jurisdiction in a dispute arising between a citizen from an Indian State *versus* a British Indian Province, or a citizen of a British Indian Province *versus* an Indian State. Do you not agree that it is necessary to provide a forum whereby a British Indian subject having a cause of action arising out of a Federal law against an Indian Slate should have a forum wherein he could vindicate his right ?

Mir Maqbool Mahmood : As I understand the White Paper, it is contemplated that Section 155 would apply only to certain special cases where the parties are State and State, or State and Province, or State and Federation, or Province and Federation. As regards a particular individual having a cause of action against a British Indian Province or a State, there is really no provision that the Federal Court will have jurisdiction. It is evidently implied that the cause of action arises or the place of residence of the defendant, as is ordinarily the case according to the Code of Civil Procedure, will determine the forum where the litigation will take place.

3029. *Dr. B. R. Ambedkar :* That is not the question. The question is this : Whether the Federal Court would have jurisdiction ?

Mir Maqbool Mahmood : No, it is not contemplated that the Federal Court will have jurisdiction.

3030. *Dr. B. R. Ambedkar :* Supposing a dispute arises out of a cause of action out of a Federal Legislation, the ultimate forum, wherever the original suit may lie, certainly must be the Federal Court ? May we not first look at the original litigation, the suit itself ?

Mir Maqbool Mahmood : It evidently contemplates that the suit will lie, either in British India or in the State, as the case may be. Then we come to the question of appeal.

3031. *Dr. B. R. Ambedkar :* But the suit may be of such a large character that the jurisdiction may lie with the Federal Court itself ?

Mir Maqbool Mahmood : I do not think so.

3032. *Dr. B. R. Ambedkar :* All that I want to draw your attention to is this, that in the provisions contained in paragraph 155, there is no provision made for a private citizen to vindicate his rights arising out of Federal Legislation against a Native Indian State, or a citizen of an Indian State against an Indian Province ?

Mir Maqbool Mahmood : Evidently.

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3036. *Dr. B. R. Ambedkar :* Will you please refer to paragraph G of your Memorandum, Document 21, sub-paragraph (*c*) ?

Mir Maqbool Mahmood : Yes.

3037. *Dr. B. R. Ambedkar :* At the end of that paragraph you suggest that in case a particular State fails to enforce the decree of the Federal Court powers should be given to the Viceroy to do so ?

Dr. P. K. Sen : Yes.

3038. *Dr. B. R. Ambedkar :* Why do you want to give this power to the Viceroy and not to the Governor-General or to the Federal Ministry ? The Federal Court is part of the Federal Constitution ?

Dr. P. K. Sen : In the event of a particular order of the Federal Court not being carried out by the State unit, it seems that the appropriate person to see that it is carried out is the Viceroy.

3039. *Dr. B. R. Ambedkar :* Why Viceroy ? Why not the Governor-General or the Federal Ministry ? Why the Viceroy ?

Dr. P. K. Sen : Because the Viceroy is in touch with the State in his position as representative of the paramount power to see that a particular function which the State ought to fulfil is fulfilled.

3040. *Dr. B. R. Ambedkar :* No, I take a different view, and I want to put that view to you. The Federal Court is part of the machinery of the Federal Government, and it is the Governor-General who, under the White Paper proposals would be the person who would represent the Federation and not the Viceroy. The appropriate party therefore to have this power, if anyone is to have it, is the Governor-General and not the Viceroy ?

Dr. P. K. Sen : The question is whether the Governor-General as Governor-General, and as head of the Federal Executive, will be able to bring to book, if I may so use the expression, or, rather, to enforce the particular order in the State.

3041. *Dr. B. R. Ambedkar :* My point is that he should be able to do it, not the Viceroy. The Viceroy represents the Crown in relation to para-mountcy in these things ?

Dr. P. K. Sen : What is the sanction for the Governor-General ? We apprehend that it would be the Viceroy who would have that particular

relationship of control as representative of the paramount power to bring it into effect.

3042. *Dr. B. R. Ambedkar :* I do not know whether I have made myself clear. My point is that the Federal Court is part of the Federal Constitution ?

Dr. P. K. Sen : Undoubtedly.

3043. *Dr. B. R. Ambedkar :* And the head of the Federal Constitution will be the Governor-General and not the Viceroy ?

Dr. P. K. Sen : Yes.

3044. *Dr. B. R. Ambedkar :* Consequently, the enforcement of the decisions of the Federal Judiciary, which is part of the Federal Constitution, properly belongs to the Governor-General and not to the Viceroy, and there fore it is the Governor-General who ought to have the power of enforcement ?

Dr. P. K. Sen : All I can say is that it seems that the proper procedure would be for the Governor-General to proceed through the Viceroy.

3045. *Dr. B. R. Ambedkar :* I will not pursue that point further. Mr. Panikkar, in reply to a question put by Mr. Jayakar, you said that it would be necessary to have the prior consent of the Indian States before the subjects which are going to be reserved at the centre are transferred, especially the Army. Have I represented you correctly ?

Mr. K. M. Panikkar : Quite correctly.

3046. *Dr. B. R. Ambedkar :* Do I understand you to say that if the States assent, at the next time when a question for discussion arises, that the Army should not be a transferred subject, it would not be transferred ?

Mr. K. M. Panikkar : Presumably so.

(4)

Sir Michael O'dwyer, G.C.I.E., K.C.S.I.

*3356. *Dr. B. R. Ambedkar :* In your evidence I find that you make a very sharp distinction between what are called the intellectual classes, or intelligentsia and the masses. I want to ask you this : Do you make any difference in the situation when the intellectuals which you have in mind are drawn from one particular stratum of society and the situation in which the intellectuals are drawn from the different strata of society ?

Sir Michael O'dwyer : I do. I think if they are drawn from different strata they will have a wider outlook.

3357. *Dr. B. R. Ambedkar :* Do not you think in the present circumstances in India the intellectual class is really a composite class not merely drawn from the Brahmins but from the non-Brahmins, the Muslims, the Depressed Classes ?

Sir Michael O'dwyer : It varies very much in the different parts of India. In the North of India the intellectual classes are predominantly Hindu out-

*Minutes of Evidence, Vol. II-A, 29th June 1933, pp. 406-07.

side the Punjab, and are drawn from the higher caste-Hindus. In Madras, where education has been more widespread, the situation is different. It would be very hard to generalise.

3358. *Dr. B. R. Ambedkar :* The point I wish to put to you is this : You would not say, I am sure, that if the intellectual classes are drawn from the different strata of Indian society, that there would be the same dichotomy between them and the masses as would be the case if the intellectual classes were drawn from one single stratum ?

Sir Michael O'dwyer : I entirely agree with you, there would not be.

3359. *Dr. B. R Ambedkar :* Therefore I think it would logically follow that such an intellectual class could be trusted to take care of the masses from which they themselves are drawn ?

Sir Michael O'dwyer : I think so ; they would be more likely to do so.

3360. *Dr. B. R. Ambedkar :* I want to ask you another question : Is it not a fact that the existing Government rather fights shy of a legislative programme of social reform ?

Sir Michael O'dwyer : Yes, I think on the whole there is a hesitation to do anything which could be construed or misconstrued interference with religious usages.

3361. *Dr. B. R. Ambedkar :* Do you not agree that a large part of the inefficiency of the Indian people is really due to these social evils ?

Sir Michael O'dwyer : I think it has been largely due to that.

3362. *Dr. B. R. Ambedkar :* And, therefore a Government which fights shy of a programme of legislative reform in order to remove the causes of social inefficiency of the Indian people is a weak Government ?

Sir Michael O'dwyer : I would not say the Government fights shy. The Government hesitates until it feels it has a certain support of a mass of public opinion on its side. I think on that ground it supported the Survey Act.

3363. *Dr. B. R. Ambedkar :* Yes, but in the main its legislative programme has been very poor ?

Sir Michael O'dwyer : Yes, because legislation can never be too much in advance of public opinion in a country like India. When the Government first introduced legislation of that kind Mr. Tilak was at once up in arms, and said the Government was interfering with religion. The result was an agitation in the Deccan and massacres.

3364. *Dr. B. R. Ambedkar :* The Government was frightened by a single individual like Mr. Tilak ?

Sir Michael O'dwyer : It was not Mr. Tilak alone ; he had marvellous powers of carrying people with him.

3365. *Dr. B. R. Ambedkar :* Indians would not be afraid of Mr. Tilak ?

Sir Michael O'dwyer : I think they would. I think very few people would cross swords with Mr. Tilak. Lord Sydenham was one.

3366. *Dr. B. R. Ambedkar :* You said you would not transfer Law and Order for the moment. You would transfer all the other before you would

transfer Law and Order, and not make any change at the centre. Would you give us any idea of the interval you would like to elapse before Law and Order is transferred ?

Sir Michael O'dwyer : I would leave it. Let communal antagonism die down. When Ministers who have been given extended powers have used those powers in the Departments of Land Revenue, Irrigation, and others, and have shown that they are capable of being entrusted with further powers, and when the anti-British agitations which exist and terrorist gangs which exist in certain provinces have been got under, and when conditions are otherwise favourable, then I would favour a transfer of Law and Order.

3367. *Dr. B. R. Ambedkar :* You were asked whether there was any section of the Indian public which would be favourable to the sort of scheme which you propose. You said : Yes, there would be some sections in India which would accept that ?

Sir Michael O'dwyer : Yes.

3368. *Dr. B. R. Ambedkar :* I want to put this to you : Make the other assumption which is being put to you that there is no section in India which will accept that. I ask you to make that assumption ?

Sir Michael O'dwyer : Yes.

3369. *Dr. B. R. Ambedkar :* Then tell us what would be your next move, supposing you found that there was no section in India which was prepared to accept your proposal ; what would be the advice that you would tender to Parliament in that case ?

Sir Michael O'dwyer : I would go ahead on the lines I thought most suitable for the benefit of the people of India.

3370. *Dr. B. R. Ambedkar :* Your position is do what you think best and leave the Indians to accept or not accept ?

Sir Michael O'dwyer : Yes ; trusting in time that they will see that the restrictions imposed,.....

3371. *Dr. B. R. Ambedkar :* For the sake of argument make that assumption that ultimately, after sufficient waiting, you found no Indian section to accept your scheme, what would be the advice you would then tender to Parliament ?

Sir Michael O'dwyer : The advice I would tender to Parliament would be to go ahead with the scheme which you consider feasible and workable in the hope that the people in time will realise that your position is a natural one and will come round to accept a reasonable view.

3372. *Dr. B. R. Ambedkar :* I am sorry you are not following my question. My question is a very specific question ?

Sir Michael O'dwyer : I might abbreviate it in this way. I do not think people will maintain an unreasonable attitude for an indefinite period of time.

3373. *Dr. B. R. Ambedkar :* Supposing they thought the White Paper Scheme, or your scheme, was so bad that they would not touch it ?

Sir Michael O'dwyer : The King's Government must be carried on upon the best methods by which you could do it.

* * * * *

†3564. *Dr. B. R. Ambedkar :* My Lord Chairman, before Sir Michael O'dwyer leaves, may I point out one fact ? Sir Michael, in answer to a question put by Mr. Butler, made the point that the Simon Commission made the recommendation with regard to the Transfer of Law and Order ; it is Volume II of the Simon Commission Report, paragraph 369. This is the paragraph you had in mind, was it not, "In writing this Report we have made no allusion to the events of the last few months in India" ?

Sir Michael O'dwyer : Yes, that is it.

3564A. *Dr. B. R. Ambedkar :* But I should like to point out to you that most of us understood by the events referred to here, the events of the Non-Co-operation Movement by Gandhi and certainly not the communal riots that took place in India, such as at Cawnpore.

Viscount Burnham : I said that had reference to the communal riots. I understood it in the sense I mentioned, that they did not refer to the Civil Disobedience Campaign, or to the communal riots which were the result of them.

(5)

Mr. F. E. James, Mr. W. W. K. Page, Mr. T. Gavin-Jones, Mr. G. E. Cuffe, Mr. L. A. Roffey, Sir William McKercher and Mr. F. W. Hockenhnll

‡3882. *Dr. B. R. Ambedkar :* Just one or two questions. I want to ask Mr. James one question first. Does your Association accept the declaration that was made by Lord Irwin during his viceroyalty, on the 29th October 1929, which said that, according to the view of His Majesty's Government then in office, the logical evolution of India's political constitution was Dominion status ? Does your Association accept that declaration ?

Mr. F. E. James : I do not believe that that particular statement of Lord Irwin is contained in the White Paper.

3883. *Dr. B. R. Ambedkar :* Not, it is not ?

Mr. F. E. James : And my Memorandum deals with the proposals of the White Paper, but I do remember that at the time of that statement the Association made a pronouncement, and I would refer the gentleman to the newspaper files on which that pronouncement will be found.

3884. *Dr. B. R. Ambedkar :* Would you give us a summary of that pronouncement ?

Mr. F. E. James : I would not trust my memory to do that just now.

3885. *Dr. B. R. Ambedkar :* Let me put my point somewhat differently.

†Minutes of Evidence, Vol. II-A, 29th June 1933, p. 424.

‡*Ibid.,* 4th July 1933, pp. 476-77.

Do you accept the proposals laid down in the White Paper as the final form which the Constitution of India should take, or do you think there is some room for evolution further ?

Mr. F. E. James : I think the answer to that is to be found in paragraph 1 of the Memorandum.

3886. *Dr. B. R. Ambedkar :* That gives the answer, does it ?

Mr. F. E. James : That, I think, is the answer : "We consider the general scheme of the White Paper to be satisfactory as a whole and to form a reasonable basis on which to frame the future Constitution of India."

3887. *Dr. B. R. Ambedkar :* My question, if I may say so, was some what different. My question is this : Do you regard these proposals as the final form of India's political constitution ?

Mr. F. E. James : May I refer you to the third sub-paragraph of paragraph 1 of the Memorandum, in which you will find the following words : "The Council of the Association reserves the right to determine its final attitude to the constitutional scheme when the Report of the Joint Select Committee has been published and the Bill for the future Government of India based upon that Report is presented to Parliament."

3888. *Dr. B. R. Ambedkar :* Forgive me ; that, again, is not an answer to my question. My question is somewhat different. My question is this : Do you think that there is any more room for the advancement of the political status of India beyond the proposals as they are laid down in the White Paper ? Have I made myself clear ?

Mr. F. E. James : Yes. Obviously the White Paper leaves room for modification or changes in the future.

3889. *Dr. B. R. Ambedkar :* I used the word "advancement" ?

Mr. F. E. James : If you call it advancement, possibly.

3890. *Dr. B. R. Ambedkar :* I will not pursue that point ?

Mr. F. E. James : But we are now considering only the proposals of the White Paper.

3891. *Dr. B. R. Ambedkar :* In paragraph 52 you make the proposal that the Indian Legislatures should not have authority to effect the law of British Nationality, I quite follow that point. Then you go further on and say that it should not even have authority to prescribe what might be called Indian Nationality, on the analogy of the Canadian Act. I understand what you say. What I want to know is this. Do you want to put that as an absolute limitation which would prevent the Indian Legislature from constituting a status of an Indian National for any purpose whatsoever ?

Mr. F. E. James : No ; I think the paragraph is perfectly clear. We merely say that if India does desire to legislature in that way, India should not be permitted to do so to the exclusion of the European British Community in India.

3892. *Dr. B. R. Ambedkar :* I put it this way : Supposing, for instance, a case arose which is similar to that which arose in Canada and which gave

rise to that Act; supposing there was necessity for Indian representation on any international tribunal and India wanted that right of representation should be reserved to Indian British subjects of His Majesty or Indian subjects of His Majesty, would you not in that case allow the Legislature to pass a law providing for such a status being created on the analogy of the Canadian Act, or for the matter of that, the South African Act ?

Mr. F. E. James : The answer to that really is the last sentence of our paragraph. Perhaps Mr. Page will explain it in greater detail.

Mr. Page : I think, Sir, that you need be under no misapprehension that there is any such hidden meaning. The whole of our object as regards that paragraph is this, that the creation of what we may call an Indian citizenship should not affect, in our view, the rights of a British National as a British subject. What we really want to say is this, that we wish to preserve for all individuals of British nationality, while resident in India either temporarily or otherwise, all the rights to which an Indian subject of His Majesty similarly resident is entitled, and we wish to prevent the passing of any law, or the making of any regulation or rule, which would have the effect of restricting or taking away any of these rights. That is the whole object of that paragraph. We have not the slightest objection to the formation of an Indian citizenship.

Dr. B. R. Ambedkar : My Lord Chairman : Is it in order to put a similar question to Mr. Gavin Jones on the suggestions he has made, but if it is not, I will not pursue that point ?

Chairman : If Dr. Ambedkar ask my personal view, it is that perhaps the matter is not sufficiently important at this stage to justify the time taken.

(6)

Sir John Perronet Thompson, K.C.S.I., K.C.I.E., Sir Alfred Watson and Mr. Edward Villiers

*4659. *Dr. B. R. Ambedkar :* Just one question, Sir John Thompson. Yesterday you raised a question regarding making some provision for safeguarding the financial position of the Provinces, and, by way of illustration, you mentioned that under the present circumstances the water rate, which provides a very large part of the Provincial Revenue, is liable to be changed by Executive order—I think that is what you said yesterday ?

Sir John P. Thompson : Yes.

4660. *Dr. B. R. Ambedkar :* Is it not a fact that for a long time the Indians have been agitating that all this taxation which is raised by mere Executive order—and, as you know the Land Revenue is also raised by Executive order—should not be raised any further hereafter by Executive order, but should be raised by legislative enactments ?

Sir John P. Thompson : Certainly there has been an agitation to that effect, as regards Land Revenue. I am not quite sure how far that goes in regard to the Irrigation rates.

*Minutes of Evidence, Vol. II-A, 6th July 1933, p. 540.

4661. *Sir Tej Bahadur Sapru :* May I point out that in point of fact Land Revenue is not raised by Executive Order ? What he is probably thinking of is that Land Revenue settlements are effected by Executive Order ?

Sir John P. Thompson : Yes.

4662. *Dr. B. R. Ambedkar :* Yes ; and a recommendation was made that all these finances which are raised by Executive Order should no longer be raised by Executive Order but by legislation ?

Sir John P. Thompson : I do not know that.

Dr. B. R. Ambedkar : That has not been carried into effect.

(7)

Sir Charles Innes, K.C.S.L. C.L.E.

*5161. *Dr. B. R. Ambedkar :* Sir Charles, you laid considerable emphasis on Second Chamoers ?

Sir Charles Innes : Yes.

5162. *Dr. B. R Ambedkar :* The reason that you gave was that it would mitigate the necessity of the constant use of the special powers ?

Sir Charles Innes : No. I do not know that I said it would mitigate the necessity. I said that it would reinforce the special powers, and I hoped that the existence of the Second Chamber would make it unnecessary, or make it necessary very rarely, to use the special powers which nobody wants to be used.

5163. *Dr. B. R. Ambedkar :* It is not your position that you would substitute Second Chambers for the special powers ?

Sir Charles Innes : No.

5164. *Dr. B. R. Ambedkar :* The second question I want to ask you is this : I think this morning you stated that there was nothing unusual in these special responsibilities, and that you found them in some of the Constitutions of the Dominions ?

Sir Charles Innes : I said there was nothing new in safeguards. I think those were my exact words.

5165. *Dr. B. R. Ambedkar :* I want to put to you this : Is not there this difference between whatever safeguards there might be in the Constitutions of the Dominions and the provisions in the White Paper ? I am sorry I cannot put the question in a short form, because I have to give some explanation of the position as I understand it before I can put this question. I think under responsible government it is never understood (at least, I do not understand) that the Governor is absolutely bound by the advice given by the Ministry. He can refuse to take their advice if he thinks that he need not take it, but when I think the next step that he can take is to form another Ministry which will support him in the particular view which he takes. If that Ministry does not take the view that he takes he can dissolve the Legislative Council and have a new Legislature elected, and if he then

*Minutes of Evidence, Vol. II-A, 6th July 1933, pp. 573-74

finds that there cannot be a Ministry constituted from the new Legislature he must yield. Is not that so ?

Sir Charles Innes : Yes, that would, ordinarily, be the case, unless he thought it was so important that he should not do it.

5166. *Dr. B. R. Ambedkar :* Under the proposals in the White Paper is not there this vital difference, that under the White Paper proposal the Governor will be in a position to overrule any and every Ministry ?

Sir Charles Innes : Only in the exercise of his special responsibility.

5167. *Dr. B. R. Ambedkar :* He will never be bound by the advice of any Ministry ?

Sir Charles Innes : Just as on our side we are assuming that the Indian is going to work the constitution in a spirit of reasonable co-operation, so also I think you have to assume that the Governor is going to do his best to work the constitution in the spirit in which it was conceived.

5168. *Dr. B. R. Ambedkar :* Yes ?

Sir Charles Innes : I do not see why you should assume that the Governor will try to exercise these powers. I think every Governor will try to avoid exercising them as much as he possibly can.

5169. *Dr. B. R. Ambedkar :* I am trying to bring out the difference between the two positions as I see it : the special powers do not give the Governor the power to overrule a particular Ministry with whose advice he disagrees ?

Sir Charles Innes : I really do not know what you are driving at.

5170. *Dr. B. R. Ambedkar :* The point I want to put to you is this, that the special powers which are to be given to the Governor are not given in order that he may overrule a particular Ministry whose advice he does not accept ; but the powers are given so that he may overrule any Ministry ?

Sir Charles Innes : Exactly, because what he has got to do is to discharge certain special responsibilities. It is not a question of overruling a particular Ministry or not : it is a question of whether or not he has got to preserve that special responsibility.

5171. *Dr. B. R. Ambedkar :* That is a vital difference between the safe guards ?

Sir Charles Innes : That is exactly what I said : that the safeguards in India may have to be more precise and more defined because of certain facts. For instance, this communal trouble necessitates safeguards.

5172. *Dr. B. R. Ambedkar :* I am not asking whether there are any grounds for it. I am trying to point out that there is a difference ?

Sir Charles Innes : Yes.

(8)

Sir Edward Benthall, Sir Thomas Catto and Mr. G. L. Winterbotham, on behalf of Associated Chambers of Commerce of India

*6214. *Dr. B. R. Ambedkar :* Sir Edward, I want to ask you, first of all,

*Minutes of Evidence, Vol. II-A, 13th July 1933, pp. 640-42.

a question with regard to that part of your statement dealing with Federal Finance. I think (I do not know whether I am putting it correctly) you attach a great deal of importance to uniformity of taxation in India ? *Sir Edward Benthall :* Yes.

6215. *Dr. B. R. Ambedkar :* And on that account, you have made the suggestion that almost all sources of Revenue, as between the Centre and the Provinces, should be segregated at the Centre, and that the Centre should divide ? Is that not so ?

Sir Edward Benthall : Do we make that suggestion ?

6216. *Dr. B. R. Ambedkar :* I am summing it up generally, that you want that almost all the principal taxes, at any rate, should be levied by the Centre in order that there may be uniformity of taxation ?

Sir Edward Benthall : We did not go so far as to say that We desired uniformity, but we did not go so far as to say that all taxes should be levied by the Centre.

6217. *Dr. B. R. Ambedkar :* How would you otherwise have uniformity of taxation, if there was not one tax levying authority in India as a whole ?

Sir Edward Benthall : Some methods of co-ordination might be devised.

6218. *Dr. B. R. Ambedkar :* Suppose, for instance, we adopted the principle that a Province was to levy a surcharge on Income Tax for Provincial purposes, that would cut across the principle of uniformity ?

Sir Edward Benthall : Yes ; we are totally opposed to that.

6219. *Dr. B. R. Ambedkar :* Then again, you oppose terminal taxes ?

Sir Edward Benthall : We are opposed to them on principle, and we have suggested that any taxes which are likely to lead to inter-Provincial Customs duties or inter-Provincial barriers, should require Federal approval. That is the purport of our evidence.

6220. *Dr. B. R. Ambedkar :* That would ultimately mean that there would be segregation of the sources of taxation ; either the Province could not levy, or could levy only with the prior approval of the Centre ?

Sir Edward Benthall : There would be a third method of devising some scheme of co-ordination, I think.

6221. *Dr. B. R. Ambedkar :* I do not know. Have you any method to suggest as to how this co-ordination is to be brought about ?

Sir Edward Benthall : I think there are rules laid down at the present moment. Of course, at the present moment we are dealing with a unitary Government which lays down rules.

6222. *Dr. B. R. Ambedkar :* We want to look at this thing, surely, from the standpoint of the Provincial Autonomy which we are contemplating, and also of the responsible Government that we are introducing into the Provinces ?

Sir Edward Benthall : Yes.

6223. *Dr. B. R. Ambedkar :* Now I want to put this : From the stand point of Provincial Autonomy, it would be very difficult to realise this

Autonomy in practice if the Province is not to be free to devise its own method and system of taxation and has to go to the Centre every time ?

Sir Edward Benthall : Not every time, but in the case of these particular taxes which are likely to result in the stoppage of development of Indian commerce. May I just say this, that our intention in bringing forward these points was not to lay down any rules but to bring them to the notice of the Joint Select Committee, so that they might consider them.

6224. *Dr. B. R. Ambedkar :* Then I will put this generally : That you would recognise that in devising any system of finance as between the Centre and the Provinces, it is necessary to recognise that whatever system is adopted, it will not be incompatible with Provincial Autonomy and responsible Government, in the Provinces ?

Sir Edward Benthall : Yes. In answer to a previous question, I said there should not be more concurrent powers than are necessary, and we agree to that. The division of subjects and of taxation should be as clear-cut as possible, but, from the point of view of trade, we desire to point out how these provisions might lead to inter-Provincial Customs barriers.

6225. *Dr. B. R. Ambedkar :* Now I want to ask you a question about this Reserve Bank, referred to in paragraph 3. You say that the bank ought to be free from political interference ?

Sir Edward Benthall : Yes.

6226. *Dr. B. R. Ambedkar :* I suppose you will agree that political aid would be necessary for the bank in times of crisis ?

Sir Edward Benthall : It might be.

6227. *Dr. B. R. Ambedkar :* It might be necessary in a crisis, in order to support the bank to have the Government declare a moratorium ?

Sir Edward Benthall : Yes, it is customary I think, in the constitutions of all Reserve Banks to allow them ultimate power of intervention by the Government in case of a financial crisis, and I would not object to that in a Reserve Bank.

6228. *Dr. B. R. Ambedkar :* You would, therefore, permit, if the Government is to aid the bank in times of crisis, either by way of a moratorium or by way of advancing money in order to stabilise its reserves so that it could carry on, that it should have some influence over the bank, and its operations ?

Sir Edward Benthall : The Government, in some form of other, will appoint some of the officers of the bank and some of the Directors, but the Government should not appoint a majority of such Directors.

6229. *Dr. B. R. Ambedkar.* I want to make this point clear. I make this distinction : Political intervention, interference and influence. What is it that you would allow the Government to have and what is it you would exclude the Government from ?

Sir Edward Benthall : To define that would mean drawing up the constitution of the Reserve Bank.

6230. *Dr. B. R. Ambedkar :* I will not pursue that. Now, with respect to Directors, what sort of a provision do you contemplate for excluding political influence ? Would you say, for instance, that a person who belonged to a political party in India was to be disqualified from being a Director ?

Sir Edward Benthall : No. To begin with, I would have a Shareholders Bank, and the shareholders nominating the majority of the Directors.

6231. *Dr. B. R. Ambedkar :* They may be politicians?

Sir Edward Benthall : Not politicians sitting in the Legislatures.

6232. *Dr. B. R. Ambedkar :* But they may be very actively supporting the Party fund ?

Sir Edward Benthall : If they were very actively supporting Party politics, they would not carry the financial confidence of the country.

6233. *Dr. B. R. Ambedkar :* But there will be no disqualification to such persons being appointed ?

Sir Edward Benthall : They would be very foolish if they tried to carry on the two things at once.

6234. *Dr. B. R. Ambedkar :* Now with respect to your comments on paragraph 122 of the White Paper. In paragraph 5, you make certain suggestions for including certain qualifications in Proposal 122 ? ,

Sir Edward Benthall : Yes.

6235. *Dr. B. R. Ambedkar :* I just want to read the last four or five lines of that paragraph : "but no law will be deemed to be discriminatory for this purpose on the ground only that it prohibits either absolutely or with exceptions the sale or mortgage of agricultural land in any area to any person not belonging to some class recognised as being a class of persons engaged in, or connected with, agriculture in that area." What I want to point out is this, that unless the words "without distinction of caste, creed or religion," are inserted in this latter portion, it will still be possible to make a discrimination within that class based on caste, creed or religion. You can have an agricultural class and within that agricultural class you can make a distinction between caste, creed or religion ?

Sir Edward Benthall : Yes. I should like the lawyers to consider that point.

6236. *Dr. B. R. Ambedkar :* The reason why I ask you is this, that you make certain suggestions with regard to the improvement of this clause by saying : 'if this proposal is to be effective, it will be necessary to include "domicile, continuity or duration of residence" in British India ?

Sir Edward Benthall : Yes.

6237. *Dr. B. R. Ambedkar :* You did not say that it should also exclude any distinction based upon caste, creed or religion ? That would have to be done if this paragraph is to be effective against any discrimination ?

Sir Edward Benthall : I think the point that we made in connection with the latter half of that paragraph is contained in our paragraph 6 under Section G. We did not want that to apply to prevent Europeans taking up

land, planters, and such people.

6238. *Dr. B. R. Ambedkar :* But, as I say, in order to effect your purpose, if it were necessary, you say that distinction shall not be based upon caste, creed, race or religion ?

Sir Edward Benthall : Yes ; it is a matter of legal draftsmanship.

(9)

Lady Layton, Mrs. O. Stracey and Sir Philip Hartog, on behallf of the British Committee for Indian Women's Franchise

*C67. *Dr. B. R. Ambedkar :* I would like to ask one question. I do not know whether you agree with me, but I suppose when you press for votes for women, I think you also desire that the franchise should be so devised that the women who will be brought upon the register will be drawn from all strata of Indian society, and not necessarily drawn, either from the upper strata or the middle strata or the lower strata exclusively ; that there ought to be some proportion of the women on the electoral roll to the communities from which they are drawn ?

Lady Layton : As far as is practically possible, certainly.

C68. *Dr. B. R. Ambedkar :* I mean, it is not your case that you want this mathematical ratio of 1 to 4 or 1 to 5, but apart from that ratio, you would also desire that all women from all sections should be on the register ?

Lady Layton : Certainly, as far as possible, we do want to feel that the urban and rural voters and the different sections will be adequately represented.

C69. *Dr B. R. Ambedkar :* You will also agree, I suppose, that if the education qualification or the property qualification were fixed higher, the result of that would be that you would be getting on to the electoral roll women drawn from one section of Indian society alone ?

Lady Layton : That is so. I would supplement that by saying that if it were administratively possible, we should welcome, and we have pressed in our Memorandum, that the wives of the lower property qualification should be enfranchised, and not only the wives of the higher property qualification.

C70. *Dr. B. R. Ambedkar :* What I am anxious to get at is this—whether you attach importance to the point which I am putting to you, namely, a well-proportioned distribution of the women's voting strength throughout the population, or whether you merely attach importance to the proportion of the man voter as against the woman voter ?

Lady Layton : Attach importance to both those factors but we think that the women's interests for the moment are sufficiently safeguarded on this particular question. If you have a sufficient number of women enfranchised in all the districts for them to represent the other women, the women who are not enfranchised, we would like to see it as low as possible and if

*Minutes of Evidence, Vol. II-C, 26th July 1933. p. 2276.

it is put at a certain place now we would like it to be moved as soon as practically possible. We ourselves would certainly wish to see it as low as possible. We would be prepared to ask for adult franchise, if it were practically possible, but we realise it is not administratively possible.

C71. *Dr. B. R. Ambedkar :* Might I put the same point in a somewhat different manner ? Of course, all women are interested in matters of social welfare ; that is quite true. The woman's point of view may be quite common, but you will also realise that schemes of social welfare are going to cost money, if they are to be put through and that would require taxation ?

Lady Layton : Yes, I quite appreciate it would.

C72. *Dr. B. R. Ambedkar :* And all women may not take the same point of view with regard to that ; they are likely to divide on the basis of the class to which they belong ?

Lady Layton : Yes, I can give you two answers to that. First of all, take the education point of view. If you have a certain amount of money to divide on education, women of every class would agree that it should be spent equally on men and women, whereas, if you have not got women with sufficient pressure to bear, you will still go on spending a great deal more on the boys than on the girls. In the first place, that is one of the things that has to be seen to. Also, I would say this : The women of all classes who are taking any active interest in welfare are pressing that there should be a larger proportion of finances spent on education. I think you could safely trust to the women of most classes to take that line at the present moment, but I should be very glad to see the franchise taken as near as possible, and that is why I do lay particular importance upon the literacy qualification. Any woman who is intelligent enough to be of any value to bring any pressure to bear at all can make herself literate within a reasonable period and if you have the literacy qualification, and any section of women feel strongly that the section of women which has the vote, is not taking the vote, they have the weapon in their hands, and it is for that reason that I have always been so strongly in favour of literacy, and it is for that reason that all the organised women of India are also, in favour of literacy.

C73. *Dr. B. R. Ambedkar :* I am satisfied, as long as you see my point of view. Sir Philip Hartog, I just want to ask you a question about literacy. We have really no information as to what the administrative difficulties are, as they are alleged to be, against! adopting literacy as a test for the franchise in the case of women, but what I understand the difficulties to be are these : First of all, it is suggested that there are no certificates available which would enable a registration officer, offhand, to satisfy himself that a woman falls within the category required under literacy, and therefore, would in the position to be put on the roll offhand. That being the case, we shaft have to adopt the procedure suggested in the proposals, that a village officer should

examine and his certificate should be countersigned by a tahsildar. I think the administrative difficulty that is suggested is this : How is a village officer to approach a woman in the village to find out whether she is literate or not ? Would you make it depend upon the woman who wants to get her vote having to approach and make an application ?

Sir Philip Hartog : I think that is the only possible way. She would have to have sufficient interest to say, either herself or through her husband : "I wish to be placed on the roll ; I am literate and am willing to be tested."

C74. *Mr. Butler :* How does that difter from application ?

Lady Layton : I do not think we have objected to application on the part of literacy in our Memorandum. We do not object. We think that the people who are already recognised as literate in any educational qualification that is admitted should be put automatically on the roll. Beyond that it must be a matter of application.

C75. *Dr. B. R. Ambedkar :* So really this objection raised on the basis of inquiries made in households, which might be objectionable, would not arise ?

Sir Philip Hartog : May I just say, it seems to me to be an appropriate point to make reference to two answers of the Secretary of State bearing directly upon the point which has been raised by Dr. Ambedkar. In answer to question 7437 the Secretary of State said : "In future, for future generations of girls or women, it will be a comparatively simple matter to adopt your educational registers and returns for electoral purposes, but in Provinces where that has not been done hitherto, there will be very considerable difficulty in doing it for the first election." Now, I should like to point out that if you read that with another answer of the Secretary of State, he says at page 817, question 7214 : "There will be no change for X years." In answer to the Marquess of Salisbury, he suggests that in the Act of Parliament he would say for X number of years there can be no alteration of the franchise. Consequently, it would be of little use to have a register for the second, third or fourth elections, if those second, third or fourth elections came within the period of X years. Let me take the question of number. The total number of literate women is estimated in the Lothian Report to be a million and a quarter. It is on page 86 of that Report. Of those, 3,45,000 are in Madras, with regard to whom there is no difficulty. That leaves over for the rest of India the relatively small number of 8,75,000. Now, if it was possible to put 3,45,000 Madras women on the rolls for one election, and that must have been done at some time or another, why is it impossible to put 8,75,000 women on the rolls for the whole of the rest of India ?

(10)

Rajkumari Amrit Kaur and Mrs. Hamid Ali on behalf of All India Women's Conference and two other Women's Associations

*C334. *Dr. B. R. Ambedkar :* Did you say there would be no difficulty about the Muhammadan households ?

*Minutes of Evidence, Vol. II-C, 29th July 1933, pp. 2314-21.

Mrs. Hamid Ali : The Mussulman never has an objection to taking his wife's name. As Sir Hari puts it, there is a certain feeling of delicacy, but I have never known any feeling of difficulty among Muslims to take their wives' names. It is true the women do not take their husband's name frequently, but they do it occasionally.

Rajkumari Amrit Kaur : It is in Hindu households, where the husband may object to taking the wife's name.

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C342. *Dr. B. R. Ambedkar :* I thought the point of the question raised by Sir Hari Singh Gour was not whether there was some mental objection on the part of the Hindu husband or the Muhammadan husband to give utterance to the name of his wife. I thought the point of the question was : Which one of the two, or anyone, would object to the sort of enquiry that a registration officer will have to make ?

Rajkumari Amrit Kaur : I do not understand what sort of enquiry the registration officer have to make.

Dr. B. R. Ambedkar : It will be, "Have you a wife ; if you have a wife, what is her name ?"

Sir Hari Singh Gour : And "How many wives have you got ?"

Dr. B. R. Ambedkar : Who would object to the sort of enquiry that will have to be made by the registration officer is the point of the question.

Marquess of Lothian : "Is she over 21" ?

Dr. B. R. Ambedkar : That is the sort of question.

C343. *Chairman :* The witness might care to interpose an answer now. Will you answer Dr. Ambedkar's suggestion, if you have any views ?

Rajkumari Amrit Kaur : Yes ; I can only say that I do not think anybody will have any objection to a question like that. I cannot understand the mentality that even prefers a question of this nature. It seems to me wholly incomprehensible.

C344. *Chairman :* Do you agree with that answer, Mrs. Hamid Ali ? Do you agree that there will be no difficulty ?

Mrs. Hamid Ali : I think it will depend on the way and the tone, in which a question like this is put. Ordinarily a question like that asked in good faith and with no evil intention would not be taken amiss by anybody at all.

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C346. *Dr. B. R. Ambedkar :* I want to ask (Mrs. Hamid Ali) one more question. You come from Bombay. You know that there are certain distinct wards which are exclusively Musselman quarters. From your experience do you really think it is possible for an election officer to enter these wards and make these enquiries ?

Mrs. Hamid Ali : As far as Bombay is concerned, yes. I do not think anybody would take objection in Bombay, because in Bombay we have municipal elections so often and people are trained to this kind of thing.

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C352. *Dr. B. R. Ambedkar :* I have not exactly followed what is stated in this supplementary statement No. 56 in regard to the representation of women in the Federal Assembly. It is said "We have repeatedly urged that we do not desire the communal virus to enter into our united ranks." You see that the proposal of the White Paper so far as the representation of women in the Lower House is concerned is not by communal electorates, but is by a general electorate by a single transferable vote ?

Rajkumari Amrit Kaur : Yes.

C353. *Dr. B. R. Ambedkar :* From that point of view I should have thought it could not be objected to on the ground of its being a communal electorate ?

Rajkumari Amrit Kaur : In the first place the seats in the Lower House of the Federal Assembly for Women are definitely to be on a communal basis. We have the Secretary of State's clear dictum on that point, in his evidence the day before yesterday or three days ago. In the Lower House of the Federal Assembly the reserved seats to which this indirect system of election refers are definitely to be on a communal basis.

C354. *Mr. M. R. Jaykar :* Your objection is to the reservation of seats on the communal basis ?

Rajkumari Amrit Kaur : Yes ; and further the indirect system of election to those seats by legislatures which must, in the very nature of the Constitution as proposed today, be on communal lines.

Miss Mary Pickford : May I just interpose here ? In the Secretary of State's reply when he said that the communal question was involved he was then referring to the women's seats on the Provincial Council of Bengal. It was not in reference to the seats in the Legislative Assembly.

C355. *Dr. B. R. Ambedkar :* That is what I thought If I may draw the attention of the witness to page 89 of the White Paper, Appendix II, I should have thought that that matter had been settled once and for all. You also refer to it. "Election to the women's seat in each of the provinces to which one is allocated will be by the Members of the Provincial Legislature voting by means of the single transferable vote"?

Rajkumari Amrit Kaur : Yes ; but my point is this. May I, then know if the Secretary of State in answer to Miss Pickford's question was referring to reserved seats on a communal basis for the Provincial Council of Bengal. May I understand whether the communal question does not enter into the reserved seats for women in the Lower House ? Are they to be reserved on a non-communal basis ? I should like to be clear on this point. I want to know on what basis these seats are to be reserved.

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C363. *Dr. B. R. Ambedkar :* Let me follow this further, because, to my mind, there is a certain amount of confusion, and I should like to get it cleared up. First of all, do you object to indirect election as such ?

Rajkumari Amrit Kaur : Yes.

C364. *Dr. B. R. Ambedkar :* You do ?

Rajkumari Amrit Kaur : Yes.

C365. *Dr. B. R. Ambedkar :* That is one objection?

Rajkumari Amrit Kaur : Yes.

C366. *Dr. B. R. Ambedkar :* You do not want the women representatives who are to represent women in the Federal Lower House to be elected by indirect election from the Provincial Legislative Council ?

Rajkumari Amrit Kaur : Most definitely not.

C367. *Dr. B. R. Ambedkar :* You want some sort of a direct constituency provided ?

Rajkumari Amrit Kaur : As we are against reserved seats, if they are reserved for us on a communal basis, of course, really this question as far as we are concerned does not arise, but we would, of course, want women to enter.

C368. *Dr. B. R. Ambedkar :* Let me put a question first to clear the ground. Do you want any seats to be reserved for women at all in the Lower House ?

Rajkumari Amrit Kaur : I have said that we would recommend for the time being until such time as adult suffrage is obtained through our organisations, the acceptance of reservation, provided it were definitely laid down that the women's seats would be on a non-communal basis, and through the means of joint electorates. That is the only condition on which we would accept it.

C369. *Dr. B. R. Ambedkar :* I quite follow two things. You want for the time being a certain number of seats reserved for women ?

Rajkumari Amrit Kaur : We have always been opposed to reservation.

C370. *Dr. B. R. Ambedkar :* The second thing I have understood from you — correct me if I am wrong — is that you do not want that provision for the representation of women in the Federal Lower House by any system of indirect election. That is the second point you have made ?

Rajkumari Amrit Kaur : Yes.

C371. *Dr. B. R. Ambedkar :* What I want to ask you is that .....?

Rajkumari Amrit Kaur : You say we want reservation, I have hold you we have always been opposed to reservation.

C372. *Dr. B. R. Ambedkar :* You do not want any reservation at all ?

Rajkumari Amrit Kaur : We have always said that we do not want reservation, but, as I say, if reservations are to be forced down on us as so many things have been forced down on us against our wishes, then the only conditions on which we would recommend the acceptance of reservation to our organisations would be definitely that they would be through a system of joint electorates and direct election, and if the seats were on a purely non-communal basis, that is to say, that we have the right to put on woman of our choice.

C373. *Dr. B. R. Ambedkar :* If the matter were left to your choice, you

would not want any earmarking of seats for women as such in the Federal Lower House ?

Rajkumari Amrit Kaur ; Certainly not.

C374. *Dr. B. R. Ambedkar :* If it is to be, then you would want it on a system of joint electorate and direct election ?

Rajkumari Amrit Kaur : Yes ; direct election and a non-communal basis.

C375. *Dr. B. R. Ambedkar :* Let me take the non-communal basis. Do you want this constituency for direct election to consist only of women in that particular constituency ?

Rajkumari Amrit Kaur : No ; we want men and women.

C376. *Dr. B. R. Ambedkar :* You want this constituency to be a sort of composite constituency, in which the voters will be both men and women ?

Rajkumari Amrit Kaur : Yes.

C377. *Dr. B. R. Ambedkar :* With this restriction that the candidate to be ultimately elected from that constituency would be a woman ?

Rajkumari Amrit Kaur : Yes ; that is to say, if a woman was to be elected to a reserved seat, it would naturally follow that it must be a woman.

C378. *Dr. B. R. Ambedkar :* How would you provide these direct constituencies for the Legislative Assembly ?

Rajkumari Amrit Kaur : As I say we have not got any constructive proposals on this because we have throughout been opposed to reservation. We would leave that to the discretion of the Committee, but if reservations were given to us, on the terms and the only terms on which we would accept it, we would leave it to the discretion of the Committee to form such constituencies as would be the most representative.

C379. *Dr. B. R. Ambedkar :* I thought you said in answer to a question that you objected to this indirect system of election provided in the White Paper for the representation of women in the Lower House of the Federal Legislature, because, in a certain sense, it would be, what shall I say, communally-minded ?

Rajkumari Amrit Kaur : Yes.

C380. *Dr. B. R. Ambedkar :* That the representatives in the various Provincial Councils would act in a communal manner in the exercise of their votes, and that is the ground of your objection ?

Rajkumari Amrit Kaur : I have already answered this question, have I not?

C381. *Dr. B. R. Ambedkar :* Yes ; I want to put one more question. Further, I see, and I want to get this matter clear, that you object to the indirect election that is proposed in the White Paper because you think that the representatives of the different communities in the Provincial Legislature will be communally-minded, and, therefore, communal considerations will be imported in that election ?

Rajkumari Amrit Kaur : May I give you the answer again? We object to indirect election first of all, because naturally we want direct election.

C382. *Dr. B. R. Ambedkar :* Yes. I follow that.

Rajkumari Amrit Kaur : That is the first objection. The second objection is that when this indirect election for us is proposed through the Provincial Councils, these Provincial Councils which are going to be on communal lines will naturally bring that communal question again to the women that they elect

Dr. B. R. Ambedkar : That is true, but I want to put a further question. I quite understand your objection that to have different representatives of the different communities in the Provincial Legisaltive Council would import a material consideration in the election of women.

C383. *Mr. M. R. Jayakar :* That is only one of your objections to the indirect election, but I understand another objection is also on the ground that it is indirect ?

Rajkumari Amrit Kaur : I have said so more than once.

C384. *Dr. B. R. Ambedkar :* The question is this. Take, for instance, your direct constituency, any constituency that you may like to take, for instance the City of Bombay. You will have in that constituency, which you would desire to be specially designed for the election of a woman representative in the Lower House, electorates of both men and women drawn from different communities ?

Rajkumari Amrit Kaur : Yes.

C385. *Dr. B. R. Ambedkar :* Do you mean to suggest that those voters who would take part in the election of a woman representative would be less communally-minded than the representatives of those larger communities in the Provincial Legislative Council who would be participating in the election of a woman candidate on the indirect basis ?

Rajkumari Amrit Kaur : Without doubt, because the communal question exists far more among the type which goes into the Legislature than it does among the masses of the people.

C386. *Dr. B. R. Ambedkar :* But I want to draw your attention to this fact, that these very electorates will be electing the men who will be the voters for the indirect election ?

Rajkumari Amrit Kaur : It may be so, but when it is a question of joint electorates and we are going to get the votes of joint electorates, the communal question will not exist there — it cannot exist — to the same extent that it does in a Provincial Council which has been elected by separate electorates and where the communal question is alive and must be very much alive.

C387. *Dr. B. R. Ambedkar :* Do you think that in the general electorate the men and women in India do not act in a communal manner ?

Rajkumari Amrit Kaur : Certainly not in the general mass.

C388. *Dr. B. R. Ambedkar :* Have you ever seen a poll going on ?

Rajkumari Amrit Kaur : Yes. We have had a very recent example in the case of one of the women members of our organisation who topped the poll

in Bombay with the joint electorates, and practically no women at all but all men : the Depressed Classes and everyone voting and she topped the poll. That is in a municipal election. Then there was not only her but another lady, and we have had examples in elections in Universities in Patna where women have been elected by men, and no difficulty on the communal question has arisen.

C389. *Dr. B. R. Ambedkar :* When the point is whether a woman will be elected, no doubt the communal feeling will be less in a direct election than it will be in an indirect election ?

Rajkumari Amrit Kaur : Certainly. Whenever the indirect election is going to be by means of the Council, it is going to be permeated by communalism.

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†C406. *Dr. B. R. Ambedkar :* In those Councils where they have actually been members I understand it has been by nomination ?

Rajkumari Amrit Kaur : Yes, there is no such thing as election.

C407. *Sir Hari Singh Gour :* To the Legislative Assembly they have never been nominated so far ?

Dr. B. R. Ambedkar : Never.

C408. *Dr. B. R. Ambedkar :* Is there a disqualification ?

Rajkumari Amrit Kaur : I think not.

Mrs. Hamid Ali : May I point out in connection with this that it is very lately that the Provinces have done away with the disqualification ?

Dr. B. R. Ambedkar : It has been done very, very recently ; in some Provinces so recently that they have scarcely had time for another election since the disqualification was done away with.

(11)

Mrs. P. K. Sen and Mrs. L. Mukerji

‡C588. *Dr. B. R. Ambedkar :* Is it to be inferred that these communal differences would very likely spread to the women if the women were to enter the professions ?

Mrs. L. Mukerji : I do not think so. I think that woman by nature is free from such communal feelings on account of her sex.

C589. *Dr. B. R. Ambedkar :* For instance, today the struggle or scramble for jobs and professional appointments is really confined to the men ?

Mrs. L. Mukerji : Yes.

C590. *Dr. B. R. Ambedkar :* Largely, because women in India are not earning members of the family ?

Mrs. L. Mukerji : I quite see your point.

C591. *Dr. B. R. Ambedkar :* Therefore, to take the case of education, if a large section of women along with men were entering that profession, and other professions as a result of education, or your own analysis, perhaps the thing would develop among women ?

†Mintues of Evidence, Vol. II-C, 29th July 1933, p. 2327.

‡*Ibid.,* p. 2354.

Mrs. L. Mukerji : It is quite possible. I cannot answer that point until we see the result.

C592. *Dr. B. R. Ambedkar :* I appreciate that, but I just wanted to put the point to you ?

Mrs. L. Mukerji : I feel in a future time, when our women will be in a position to go into the professions, that the communal business might die out altogether. I anticipate that.

Dr. B. R. Ambedkar : I hope so.

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†C610. *Dr. B. R. Ambedkar :* There is just one question I would like to ask you, Mrs. Sen. You have explained your views with regard to the representation of women in the Federal Lower House, and you have stated your objection *to* the provision made in the White Paper for indirect election ?

Mrs. P. K. Sen : Yes.

C611. *Dr. B. R. Ambedkar :* I do not find anywhere your views as to the provisions made for the representation of women in the Provincial Legislatures, except, of course, that you have expressed generally that you would not like any provision which savours of communalism ?

Mrs. P. K. Sen : Yes.

C612. *Dr. B. R. Ambedkar :* Have you anything to suggest on that ?

Mrs. P. K. Sen : I did not quite follow the question.

C613. *Dr. B. R. Ambedkar :* In the Provincial Legislatures several seats are provided which are to be filled by women ?

Mrs. P. K. Sen : Yes.

C614. *Dr. B. R. Ambedkar :* No detailed provisions are laid down in the White Paper as to how those seats are to be filled. It is Appendix III of the White Paper, on page 93, under "General", Madras, out of 152, 6 women ; Muhammadan, 29, including one woman. This is all the provision that exists in the White Paper, so far ?

Mrs. P. K. Sen : We would like to do away with all these communities, if you would give us six seats in each of the Provinces. That would be much better, and we should be able to fill these seats with the best women available.

C615. *Dr. B. R. Ambedkar :* Have you any other method by which these six seats could be filled up ?

Mrs. P. K. Sen : Yes ; capital city, for the Federal Assembly. I have already answered that question. It would be the same for the Provincial Assembly also. The capital city would be the constituent area ; it would be a small electorate. It would not mean so much expense, and women from all over the Provinces would be able to stand for the seats.

C616. *Dr. B. R. Ambedkar :* You would have one capital city to return six women in Madras ?

Mrs. P. K. Sen : No. They would have their separate constituencies

†Minutes of Evidence, Vol. II-C, 29th July 1933, p. 2355.

for different principalities of the Province.

C617. *Dr. B. R. Ambedkar :* The question I wanted to ask was how far you agree ? Would you be prepared, as a matter of concession to the communal sentiment of the various communities, that while making arrangements on the basis of a joint electorate for the return of such women in the Legislative Councils, to have a permission reserving a certain number of seats, for instance, for the Muslim women, keeping the total the same ?

Mrs. P. K. Sen : We are against communal reservation.

C618. *Dr. B. R. Ambedkar :* I can quite understand your objection to having a separate electorate of Hindu women to return five Hindu women and a separate electorate of Muslim women to return one Muslim woman. What I want to know is this : Whether you have also the same objection to a system in which both the Hindu women and the Muslim women would vote together in a common constituency — a joint constituency, with this reservation, that, at least, one seat would be reserved for a Muslim woman ?

Mrs. P. K. Sen : They would all vote for the Muhammadan lady.

C619. *Dr. B. R. Ambedkar :* I know that you would probably be so generous that you may give more. Would you be prepared to approve a reservation being made by law that just one should be reserved for a Muslim woman ?

Mrs. P. K. Sen : Yes ; that is already there, and we have to accept that.

C620. *Dr. B. R. Ambedkar :* That may be on the basis of separate electorate, it is not stared how it would be. Therefore, I wanted to get your opinion on the matter. The detailed provisions as to how these six seats in Madras are to be filled are not found in the White Paper ?

Mrs. P. K. Sen : That should be a joint electorate of men and women.

C621. *Dr. B. R. Ambedkar :* I do not know. At least Mr. Butler might be able to enlighten us as to how these six seats are going to be filled ?

Mrs. L. Mukerji : We do not, if it can be avoided, want any communal distinction.

Dr. B. R. Ambedkar : I quite follow you. I am asking you whether you would be prepared to moderate your objection, to this extent, that you would have a joint electorate with one seat reserved, so as not to disturb the communal balance.

Mr. Butler : I think that Dr. Ambedkar will find this at "The precise electoral machinery to be employed in the constituencies for the special women's seats is still under consideration."

Dr. B. R. Ambedkar : Therefore, I was asking whether these seats would be filled by separate electorates of women in the general constituency ; it is not made clear here. I do not know how it is done, because I find in the Table given on seats allocated under separate heads. Under "General", six women's seats, under "Muhammadan", one ; that rather gives me the impression that you would have a separate electorate of Muslim women only, so that the result would be that 28 would be men, and one a woman.

I do not know ; I seek for information upon the point.

C622. *Chairman :* I think we had better use this afternoon in getting information out of the witnesses. Will you return to the point ?

Mrs. P. K. Sen : It would not be at least a separate women's electorate.

C623. *Dr. B. R. Ambedkar :* If left to you, you might give them all the six, or more than that ?

Mrs. P. K. Sen : Quite.

C624. *Dr. B. R Ambedkar :* I mean, in view of the fear that there may be none ?

Mrs. P. K. Sen : Yes.

(12)

Discussion in Joint Committee on Poona Pact

**Sir N. N. Sircar :* May I make a short statement which probably will shorten matters ? I claim the right to put questions, if the Committee will allow it on the Communal decision, but, as a matter of fact, I do not intend to put in any questions relating to the dispute between the Hindus and Muslims, because that does not depend upon any facts that are going to be proved by any witnesses ; but I do want to ask the witnesses to give Your Lordships the facts relating to the Poona Pact. There are two more observations I may be permitted to make as regards Sir Annepu Patro's statement as to its being mixed up, and so on, that the decision itself makes it quite clear that the result of one Province is not connected with the result in any other Province. The decision itself says that any change can be made in one Province as distinct from any other Province. As regards my friend, Mr. Zafrulla Khan's statement, I only venture to submit this : At the Round Table Conference we were trying to find out what was the greatest measure of agreement. It was open to us to say : Unless I get 100 per cent. seats for Hindus, I will not take any further part. It is no good taking up that attitude. I beg of the Committee to enter into the merits of the question.

Dr. B. R. Ambedkar : May I say just a word ? I am glad that this wrangle if I may use that expression, on this side is going to be confined only to the Poona Pact, and that Sir Nripendra Sircar does not propose to reopen the question of the distribution of seats between Hindus and Muslims but might I say that the sentiments expressed by Chaudhari Zafrulla Khan with regard to the attitude of the Muslims were exactly the sentiments that I have been expressing from the very beginning when I commenced to take part in the Round Table Conference, and that I, too, consented to join in the deliberations on the understanding that the Poona Pact was an accepted proposition. I do not object, of course, to Sir Nripendra Sircar putting the facts before the Committee, because I know I will also get an opportunity to rectify any errors ; but so far as my own position is

*Minutes of Evidence, Vol. II-C, 31st July 1933, p. 1356-61.

concerned, I do not think that it would be possible for me to take any further part in the Proceedings of the Committee, if, for instance, the whole question was reopened with regard to the representation of the Depressed Classes.

Sir N. N. Sircar : I beg Your Lordship's permission to hand in at this stage the following letter from myself to the Prime Minister and a cablegram from Sir Rabindranath Tagore, dated 27th July, 1933 : —

LETTER FROM SIR N. N. SIRCAR TO PRIME MINISTER

St. James Court,
Buckingham Gate,
London, S.W.I.
14th December, 1932

My Dear Prime Minister,

I am forwarding to you as requested, certain telegrams. The first telegram from 25 members of Bengal Legislative Council reads as follows :

"Representation from 25 members of Bengal Legislative Council. Poona Depressed Classes Pact made without consulting Bengal Hindus. No Depressed Classes problem in Bengal as elsewhere in India, as found on careful examination by Lothian Committee. Ambedkar and others had no direct knowledge of Bengal conditions, where, alleged Depressed Classes suffer no political disability. Poona Pact introduces revolutionary change, cutting at root of normal progress of Hindu society in Bengal. Earnestly urge necessity for modifying Poona Pact as affecting Bengal, as Lothian Committee Scheme meets Bengal situation fairly. Show this Premier :

"B. C. Chatterji, S. M. Bose, Maharaja Dinajpur, Maharaja Cosim-bazar, Rajabahadur Nashipur, Narendra Kumar Basu, Syamaprasad Mukerji, Rai Bahadur Kamini Kumar Das, Satyendra Kumar Das, Keshabchandra Banerji, Haridhan Dutt, Satischandra Mukerji, Saratchandra Mitra, Anandamohan Poddar, Satischandra, Roychowdhary, Hanumanprasad Poddar, Kishorimohan Chowdhari, Satyakinkar Sahana, Khetramohan Roy, Debrai Mohashi, Santisekhareshwar Roy, Saratkumar Roy, P. Banerji, Surendraaiath Law, Saileswar Singh Roy."

2. I showed the above telegram to Dr. Ambedkar, who in his turn received telegram, copy of which reads as follows :

"Regarding Bengal. Hindu friends cable for revision of Poona Pact for Bengal. They defaulted twice, once before the Lothian Committee when they failed to give a list of Depressed Classes. Second when invited to Bombay September Conference nobody responded. Now they raise false cry, besides they are unjustifiably afraid of Namsudras appropriating all seats. Further Bengal Government depressed population figure is 103 lacs, *vide* Lothian Volume II, while we assumed for calculation of seats 75 lacs, *vide* Lothian, Poona Pact follows closely Lothian recommendations. Refer Mullick's note — Lothian Volume II. In Calcutta Thakkar found general

Hindu feeling in favour of Pact. Hence Pact approved by Cabinet can't be revised."

— Birla and Thakkar

3. I have received two further telegrams, viz :

"Birla's cable to Ambedkar. Birla not acquainted with conditions in Bengal and has absolutely no representative character there. Poona Pact in allowing 30 seats to depressed classes in Bengal, number being equal to seats allowed to Madras cannot be justified. Question to depressed classes in Bengal is certainly not at all acute and is absolutely different from that in other Provinces. Premier's Award on this question is utmost that Bengal can accept."

"Satischandra Sen, Bijoykumar Basu, Satyendrachandra Ghosh Maulik, Amarnath Dutt, Satyendrachandra Mitra, Satyacharan Mukherjee, Satyendranath Sen, Jagadischandra Banerjee, Naba Kumar Singh Dudhoria, Bengal Non-Mahomedan Representatives present in Central Legislature."

—Amarnath Dutt

"Bengal, M.L.C.S who wired previously state Birla Thakkar cabled misrepresentations. Bengal Representatives not invited to Conference leading to Poona Pact. Its terms astonished Bengal. Not being agreed, according Premier's formula, settlement cannot bind Bengal. Lothian Committee made enquiries which castes are untouchable and unapproachable in Bengal. Provincial Franchise Committee consisting Hindu Mahommedans correctly answer. Report Volume 2, Mullick's Note not placed before Committee, but prepared secretly. Mullick's classification of Bengal depressed different from other Provinces covering Subarnobaniks Sahas Mahishyas admittedly outside depressed category. Also England—returned Indians, Brahmo Samaj people, even Baidyas, Kayasthas contrasted against Brahmanas. Bengal Public life free from caste consideration. High caste Hindus elected a Namsudra against Chatterjee 1923 at Madaripur. Deshbandhu disregarded orthodoxy marrying Brahmin's daughter, but his following included all high caste people. Distribution of Namasudras *vide* Calcutta Gazette fourteenth July ensures their securing 20 reserved seats. Non-Namasudras alarmed at prospect. Namasudras Rajbansis rigidly exclude other depressed castes from social communion, and have less right to represent them, than high caste people who have worked for generation for their uplift. Poona Pact introduces political division Hindu Bengal, where none hitherto existed. Show Premier."

— Chatterjee and others

4. I left India in August last, I have no personal knowledge relating to the Poona Pact.

5. In your "Communal decision" it was stated, "His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to revision of their decision and will not be prepared to give consideration to any

representation aimed at securing modification of it which is not supported by all the parties affected."

6. Under your decision, the Hindus (including all alleged depressed classes) have been given 80 seats whereas Mahomedans get 119 seats, i.e. 50 per cent. more than Hindus. The European interests get 25 seats, viz. 10 per cent. of the total seats, while they do not form any appreciable fraction of even one per cent. of the population. Factors of position, influence, education, etc., have apparently been considered, and legitimately considered in case of Europeans—but of heads has been considered between Hindus and Mahomedans. The latter claim to constitute 54 per cent. by inclusion of infants below 21 years, for if adults are counted, Mahomedans have no appreciable majority, if at all.

7. Even if Mahomedans form 54 per cent. of the population, their getting 50 per cent. more than Hindus is explained by the fact of carving out of the special seats, 51 in number in disproportionately large share from the Hindus.

8. The nature of the Special Seats, which include 25 for Europeans, 4 for Anglo-Indians, 8 for Labour, clearly does not lend itself to the suggestion that Hindus can make up their proper share in the total from these seats.

9. I fully realise that having regard to the wording of your decision, arguments, however forcible, cannot be listened to by you, but with the best of intentions the decision operates very unfairly on Hindus—and that is all the greater reason why Bengal Hindus other than the Depressed Classes object to the whittling down of what has been given to them by your decision. I may be permitted to add that if for the sake of argument it is assumed that one community has got nearly 50 per cent. more than its share it is idle to expect that it will give up its unjustified gain from any abstract considerations of justice.

10. The matter involved relates solely to a question of fact, viz., did the people now complaining agree to the modification of your decision ? The laboured argument about agreement by alleged "defaults", it is submitted, has no force. In any case, it remains to be determined whether there has been such default, from which it can be concluded that Bengal non-depressed classes have agreed to alter your Award.

11. It is submitted that the matter is too important to be dealt with on the footing, that the telegram of Birla and Thakkar represent facts correctly—facts which have been disputed. Nor does any agreement follow, even if these facts are taken to be substantially correct.

12. In the interest of the party aggrieved, an enquiry as to the fact of the non-depressed classes in Bengal being parties to, or being bound by the Poona Pact, should be made—whether through the Government of India or Bengal, or any other responsible and neutral Agency, is a matter of detail.

I am forwarding a copy of this letter to Dr. Ambedkar for information

As I have to leave England very soon, any acknowledgment of, or reply to this representation may be kindly directed to be forwarded to —

Mr. Narendra Kumar Basu, M.L.C.,

Bar Association, High Court, Calcutta.

Yours truly,

(Signed) N. N. SIRCAR,

Member,

Indian Round Table Conference.

CABLEGRAM FROM SIR RABINDRANATH TAGORE

Dated 27th July, 1933

To Sir N. N. Sircar,

I remember to have sent a cable to the Prime Minister requesting him not to delay in accepting the proposal about Communal Award submitted to him by Mahatmaji. At that moment a situation had been created which was extremely painful not affording us the least time or peace of mind to enable us to think quietly about the possible consequences of the Poona Pact which had been effected before my arrival when Sapru and Jayakar had already left with the help of members among whom there was not a single responsible representative from Bengal. Upon the immediate settlement of this question Mahatmaji's life depended and the intolerable anxiety caused by such a crisis drove me precipitately to a commitment which I now realise as a wrong done against our country's permanent interest Never having experience in political dealings while entertaining a great love for Mahatmaji and a complete faith in his wisdom in Indian politics I dared not wait for further consideration not heeding that justice had been sacrificed in case of Bengal. I have not the least doubt now that such an injustice will continue to cause mischief for all parties concerned keeping alive the spirit of communal conflict in our Province in an intense form making peaceful government perpetually difficult.

— RABINDRANATH TAGORE

LETTER AND ENCLOSURES FROM DR. AMBEDKAR TO THE PRIME MINISTER

Imperial Hotel,
Russell Square,
London, W.C.I.
5th January, 1933

My Dear Prime Minister,

Sir N. N. Sirkar has been good enough to send me a copy of the letter, dated 19th December, 1932, which he addressed to you just before his departure for India, in which he has laid before you for your consideration certain telegrams received by him from the Caste Hindus of Bengal protesting against the application of the terms of the Poona Settlement between the Caste Hindus and the Depressed Classes of Bengal on the ground that the Bengal Caste Hindus were not represented at the Settlement.

I had also received telegrams on behalf of the other side. Of these I had shown to Sir N. N. Sircar one which had come from Messrs. Thakkar and Birla, who had acted on behalf of Mr. Gandhi in the course of the negotiations that resulted in the Poona Settlement and the text of which has been quoted by him in his letter. I did not, however, like to trouble you with them, firstly because His Majesty's Government, having accepted the Poona Settlement, the matter, in my opinion, was closed, and secondly because I was assured by Sir N. N. Sircar that he would do nothing more than forward the telegrams received by him for your information. But as Sir N. N. Sircar has not contented merely with forwarding the telegrams, but has urged that "the laboured argument about agreement by alleged default" used by Messrs. Thakkar and Birla in their telegram has no force and has ended with a plea "that any enquiry as to the fact of the non-depressed classes in Bengal being parties to, or being bound by the Poona Pact should be made ..... through the Government of India, Bengal or any other responsible and neutral agency," I feel called upon to place my views on the question raised by him.

My first submission is that assuming that the Bengal Hindus were not represented at the Poona Settlement it cannot for that reason alone make it inapplicable to Bengal. Paragraph 4 of the Communal Decision of His Majesty's Government under which they had provided for an agreement settlement to supersede the terms of their award did not, in my opinion, stipulate that in respect of an alternative scheme for the whole of British India—and the Poona Settlement, it must be remembered, was for the whole of British India—Caste and Depressed—province for province was a necessary condition for its acceptance. Indeed, I go further and say that such a stipulation is not postulated in the Communal Decision even for a settlement in respect of a single province. According to my reading of paragraph 4 all that is stipulated is that His Majesty's Government should be satisfied that the communities who are concerned are mutually agreed upon a practicable alternative scheme. Taking my stand on this interpretation of paragraph 4, I venture to say that the absence of the representatives of Bengal Caste Hindus cannot derogate from the applicability of the Poona Settlement to Bengal. If the contrary interpretation were true it would then be open to the Depressed Classes of Punjab, U.P. and Bihar and Orissa to repudiate the Poona Settlement, for they were not represented at all.

My second submission is that it is really not necessary to proceed on the assumption that the Bengal Caste Hindus were not represented as is alleged by the signatories to the telegram forwarded to you by Sir N. N. Sircar. I know for a fact they were represented and the statement of Messrs. Thakkar and Birla in their telegram that the Bengal Hindus did not respond to the invitation sent to them—a statement on the basis of which Sir N. N. Sircar has founded his plea for an enquiry is incorrect. What is more important to bear in mind is that these representatives of

Bengal were not merely present as silent spectators, they were active participants in the negotiations. I very well remember one of them came to me in Bombay accompanied by a Bengal Depressed Class youth of the Raja Party and had a private conference with me for nearly an hour and a half in the course of which he urged me to come to terms with the Caste Hindus on the basis of joint electorates. It is, therefore, quite untrue to say that the Bengal Caste Hindus were not represented, and the inaccuracy in the statement of Messrs. Thakkar and Birla must be attributed to the impossibility of keeping in touch with all the details of the negotiations which, having regard to the momentous character of issues involved, is quite excusable. I am sorry I am not in a position to give you the name of the Bengal Caste Hindu gentleman who had this conference with me. But I will let you have his name immediately after my return to India.

There is therefore no case for reopening the Poona Settlement on behalf of the Caste Hindus of Bengal. As for the Depressed Classes, their spokesman, Mr. M. B. Mullick, has cabled to me that they accept the Poona Pact. His telegram and the telegram of Messrs. Thakkar and Birla are enclosed herewith in original for your information. I am leaving for India next week. Any further communication which you may wish to have with me in connection with this matter may be sent to my address in Bombay, which I give below for ready reference.

Yours truly,

(Signed) B. R. AMBEDKAR.

Address :
Damodar Hall, Parel,
Bombay-12 (India).

COPY OF TELEGRAM DATED 1ST DECEMBER, 1932

1774. Delhi. 118.29.2020.

DLT Doctor Ambedkar, India Office, London.

Regarding Bengal Hindu friends cable for revision, Poona Pact for Bengal they defaulted twice one before Lothian Committee when they failed to give list of Depressed Castes second when invited to Bombay September Conference nobody responded now they raise false cry besides they are unjustifiably afraid of Namsudras appropriating all seats further Bengal Government depressed population figure is 103 lacs *vide* Lothian volume two page 263 while we assumed for calculation of seats 75 lacs *vide* Lothian Poona Pact follows closely Lothian recommendations refer Mullick's note Lothian volume two page 251 in Calcutta Thakkar found general Hindu feeling in favour of Pact hence Pact approved by Cabinet can't be revised.

— BIRLA AND THAKKAR

COPY OF TELEGRAM DATED 26TH DECEMBER, 1932

WLT Ambedkar, Indian Conference, London.

Bengal Depressed Classes accept Poona Settlement so do Hindus Council Hindus representation *malafide* perverse.—MULLICK.

(13)

Dr. B. S. Moonje, Mr. B. C. Chatterjee, Mr. J. Bannerjee, Mr. G. A, Gavai, Rai Saheb Meherchand Khanna, Mr. R. M. Deshmukh, Mr. Bhai Parmanand and Pandit Nanak Chand, on behalf of the Hindu Mahasabha

*8813. *Dr. B. R. Ambedkar :* I just want to ask one or two questions of Dr. Moonje, to start with. Dr. Moonje, you have been asked certain questions by Sir Nripendra Sircar about the meeting that was called by Pandit Madan Mohan Malviya in Bombay to discuss what could be done with regard to the question that was raised by the fast of Mahatma Gandhi. I just want to ask you one or two questions in order to bring out the details. You were present at the first conference which took place in Bombay under the presidency of Pandit Malviya on 19th September 1932.

Dr. Moonje : Yes.

8814. *Dr. B. R. Ambedkar :* At that meeting, as you know, a small Sub-Committee was appointed ?

Dr. Moonje : Yes.

8815. *Dr. B. R. Ambedkar :* Consisting of the representatives of the Depressed Classes and of the caste-Hindus, including Mr. Jayakar, Sir Tej Bahadur Sapru and others ?

Dr. Moonje : Yes.

8816. *Dr. B. R. Ambedkar :* That Sub-Committee went over to Poona to discuss the question ?

Dr. Moonje : Yes.

8817. *Dr. B. R. Ambedkar :* Because they thought it would be very desirable to be near Mahatma Gandhi when the matter was being discussed. The Poona Pact was arrived at Poona as a result of the deliberations of the Sub-Committee, in agreement with Mahatma Gandhi ?

Dr. Moonje : Yes.

8818. *Dr. B. R. Ambedkar :* Then the main Hindu Committee which had appointed this Sub-Committee met again in Bombay on the 25tb September ?

Dr. Moonje : It may be. I was not present

8819. *Dr. B. R. Ambedkar :* At that meeting the Pact was put to the vote and passed : is that not so ?

Dr. Moonje : I am glad that Dr. Ambedkar has given me an opportunity of explaining all the details.

8820. *Dr. B. R. Ambedkar :* Do you know that of your own knowledge ?

Dr. Moonje : I can give the details which I, personally, know.

*Minutes of Evidence, Vol. II-C, 31st July 1933, pp. 1425-34.

8821. *Dr. B. R. Ambedkar :* I just want to ask this question : I want to know whether you are aware that the Sub-Committee, after having finished its work in Poona, came back to Bombay and reported what it had done to the main conference of the Hindus which had appointed the Sub-Committee ?

Dr. Moonje : Yes ; it must have done.

8822. *Dr. B. R. Ambedkar :* I will put the question to Mr. Gavai, who I think was there. Mr. Gavai, you took part in the negotiations which resulted in the Poona Pact ?

Mr. Gavai : Yes.

8823. *Dr. B. R. Ambedkar :* I am not putting it in an offensive manner, but you at that time belonged to what is called the Raja-Moonje Pact Party ?

Mr. Gavai : Yes.

8824. *Dr. B. R. Ambedkar :* You were present in Poona ?

Mr. Gavai : I was.

8825. *Dr. B. R. Ambedkar :* When the Pact was signed, the Sub-Committee came back to Bombay and held a meeting under the presidency of Pandit Malviya and resolution was passed by the whole of that Committee, approving of the Poona Pact ?

Mr. Gavai : Yes,

Dr. Moonje : On these points that Dr. Ambedkar has asked me, may I not explain ?

Chairman : I think the Committee would prefer to hear the conclusion of Dr. Ambedkar's examination. We will hear your explanation afterwards, Dr. Moonje.

8826. *Dr. B. R. Ambedkar :* After the Sub-Committee was appointed and it went to Poona to discuss this matter with Mahatma Gandhi, there was a Session of the Hindu Mahasabha held at Delhi between 24th and 26th September, 1932?

Dr. Moonje : Yes.

8827. *Dr. B. R. Ambedkar :* Under the presidency of Pandit Malviya ?

Dr. Moonje : No. Under the presidency of Mr. N. C. Kelkar.

8828. *Dr. B. R. Ambedkar :* Mr. Ramanand Chatterjee was present at the meeting in Delhi ?

Dr. Moonje : Yes.

8829. *Dr. B. R. Ambedkar :* Raja Narendranath was also present at this meeting of the Hindu Mahasabha in Delhi ?

Dr. Moonje : Yes.

8830. *Dr. B. R. Ambedkar :* Is it not a fact that this Pact was ratified by the Hindu Mahasabha at the Delhi Session ?

Dr. Moonje : Yes ; there is no question about that.

8831. *Dr. B. R. Ambedkar :* Mr. Ramanand Chatterjee is the leading member of the caste-Hindus of Bengal ?

Dr. Moonje : Yes.

8832. *Dr. B. R. Ambedkar :* And also a very prominent member of the Hindu Mahasabha ?

Dr. Moonie : Yes.

Mr. J. Bannerjee : May I explain that he is not a caste-Hindu at all ; he is a non-caste-Hindu ; he is a Brahmo.

8833. *Marquess of Zetland :* I saw there was a misprint in the evidence before ; it is a very natural mistake. Sir Rabindranath Tagore was described as a "Brahmo" which is a very different thing from a caste-Hindu. In the evidence the word "Brahmo" became "Brahmin", which is one of the highest castes of Hindus there is. The same thing applies to Mr. Ramanand Chatterjee ; he is a Brahmo, not a Brahmin. Is that not so ?

Mr. J. Bannerjee : Yes.

8834. *Mr. Zafrulla Khan :* We on this side, who really do not know the details of this wish to understand it. Is it Brahmin or non-Brahmin, a question of birth, a question who is born a Brahmin ? Dr. Moonje is a Brahmin by caste, although he might give us his convictions so far as caste is concerned ?

Mr. J. Bannerjee : If he adopts a different religion, he ceases to be a Hindu.

8835. *Mr. M. R. Jaykar :* May I ask a question on this point ? You do not mean to suggest that because a man is a Brahmo, he ceases to be Hindu?

Mr. J. Bannerjee : He certainly ceases to be a Hindu by religion ; he is a non-Hindu. When he marries he has to describe himself as a non-Hindu.

8836. *Mr. M. R. Jaykar :* I am not speaking of the matter in connection with the law of marriage or anything of that kind, but do you say, as a Hindu, that if a Brahmin becomes a Brahmo in religion he ceases to be a Hindu or a Brahmin ?

Mr. J. Bannerjee : He ceases to be a Brahmin, certainly.

8837. *Dr. B. R. Ambedkar :* Dr. Moonje, apart from the question of whether Mr. Ramanand Chatterjee is a Brahmo or Hindu, he has been taking a very active part in the movement of the Hindu Mahasabha ?

Dr. Moonje : Yes.

8838. *Dr. B. R. Ambedkar :* He has been protagonist of the Hindu interest ?

Dr. Moonje : Yes.

8839. *Dr. B. R. Ambedkar :* Raja Narendranath comes from the Punjab ?

Dr. Moonje : Yes.

8840. *Dr. B. R. Ambedkar :* He is the President of the local Hindu Mahasabha ?

Dr. Moonje : He is President of the Hindu Mahasabha too. May I explain, my Lord Chairman ?

8841. *Chairman :* If you please ?

Dr. Moonje : I was called to the meeting in Bombay by Pandit

Malviya when the meeting took place and when the discussions were going on. I got up, Dr. Ambedkar will remember, and I said that when Mahatma Gandhi was not prepared even to grant reservation of seats to the Depressed Classes in joint electorates, it is not possible to any compromise on this question, in order that he may give up his fast. However, to our great relief, on the second day news came that Mahatma Gandhi was prepared to recognise the reservation of seats in joint electorates. I was greatly pleased. Then at a certain meeting, where the principle of the Poona Pact was being evolved. I distinctly told at that time Pandit Malviya that this principle of the Poona Pact which is being evolved is based upon separate electorates. I personally, and the Hindu Mahasabha as a body, have a fundamental objection to separate electorates, and I personally and the Hindu Mahasabha as a body will not accept this principle of the Poona Pact. Then of course I could not go to Poona, along with the other members, for carrying on the negotiations. Then, to my satisfaction, having come to know that Mahatma Gandhi was prepared to accept the reservation of seats, I said "The danger of Gandhi's life is over," and therefore I went to Delhi. In Delhi, when the session of the Hindu Mahasabha was in progress, we received the wire that Gandhi had accepted the Poona Pact and, naturally, everybody was anxious to save the life of Gandhi; and we passed a resolution in the Hindu Mahasabha—

8842. *Dr. B. R. Ambedkar :* Accepting the Pact ?

Dr. Moonje: Yes, accepting the Pact. But it must be understood here that on the spot, Raja Narendranath on behalf of the Punjab protested and protested in vain, but of course the majority of the whole House was at that time in fear and dread—

8843. *Mr. Zafrulla Khan:* Under the shadow of the fast ?

Dr. Moonje: That if the Pact was not accepted, Mahatma Gandhi's life would not be saved, and therefore they accepted the Pact. Those are all the details. One particular point is this : in our negotiations with Dr. Ambedkar during the First and Second Round Table Conferences, Dr. Ambedkar has agreed, I made an agreement with the Hindu Mahasabha that he was fully satisfied if, under a system of joint electorates, reservation of seats on the population basis would be granted to him. On one occasion, during the Second R.T.C. when Dr. Ambedkar thought that there was some ambiguity in this point. I suggested to him that a joint letter should be sent to the Prime Minister, signed by himself and myself, saying that the difference between the Depressed Classes and the Hindus were settled by this arrangement; that is, reservation of seats on the population basis in joint electorates with the Hindus.

8844. *Dr. B. R. Ambedkar:* To which I did not agree ?

Dr. Moonje: To which, at that time, Dr. Ambedkar did not agree ; but at the First Round Table Conference, Dr. Ambedkar did agree and, by his consent, the fact was announced to the American newspapers.

Dr. B. R. Ambedkar: I do not accept that.

8845. *Mr. M. R. Jayakar:* May I ask a question, Dr. Moonje ? You were speaking about the Hindu Mahasabha accepting the Poona Pact at Delhi ?

Dr. Moonje: Yes.

8346. *Mr. M. R. Jayakar:* Do you mean to say that the Hindu Mahasabha accepted the Poona Pact, not on its merits, but because of the satisfaction that Mahatma Gandhi's life was saved ?

Dr. Moonje : I have already said that when the Pact was being evolved I distinctly said that the principle under which the Pact was being evolved could be acceptable to me personally or to the Hindu Mahasabha as a whole because it was based on separate electorates.

Mr. Bhai Parmanand : May I add one word ? The Punjab Hindus have a similar feeling towards the Poona Pact as the Hindus of the Bengal. Raja Narendranath was opposed to it on the very day when the Hindu Mahasabha passed a resolution accepting it in a hurry. Within 48 hours of the acceptance of the Poona Pact at Bombay there was a Hindu protest in the open meeting. The Secretary of the Punjab Hindus also made a protest, and Dr. Gokalchand sent a Cablegram to the Premier here that the Punjab Hindus were opposed to it. The Hindu feeling is still opposed to it. There are articles in the newspapers, which I have not with me, that the Poona Pact has affected the Hindus of the Punjab very badly. Then one thing more, and that is that certain Scheduled Tribes of the Depressed Classes, who regard themselves recorded in the Census Report as Hindus, as Butwalas, Barawalas, Kabir-panthas and Domes have not been included among the Scheduled Tribes of the Depressed Classes. They are carrying on agitation on that behalf; the names of these Tribes are Butwalas, Barawalas, Kabirpanthas and Domes. They amount to about 50,000 population in the Punjab because they got themselves recorded in the Census Report as Oriyas. They are not mentioned in the Scheduled Tribes ; and they are creating this agitation in order to be included among them. So that shows a sort of prejudice against those Tribes of the so-called Depressed Classes amongst all those who describe themselves as Hindus. Therefore, my request to the Joint Select Committee is to look into this matter, and at least give them a right in the new tribes.

8847. *Mr. Zafrulla Khan:* His last point is not clear. These particular tribes whom you have mentioned want to be scheduled ?

Mr. Bhai Parmanand : Yes.

8848. *Mr. Zafrulla Khan:* And they have not been scheduled ?

Mr. Bhai Parmanand: This is another aspect—

8849. *Mr. Zafrulla Khan:* I want to clear the point up. Not exactly depressed as those who have been put in scheduled ?

Mr. Bhai Parmanand: My point is this, that simply because they have described themselves as Hindus in Scheduled Caste, they have been excluded from this right which has been given to the other tribes.

8850. *Mr. Zafrulla Khan:* The right to be scheduled ?

Mr. Bhai Parmanand: Yes.

Dr. Moonje: May I explain this point ?

As regards the Punjab and as regards Bengal the objection of the Hindu Mahasabha is that after careful examination, both by the people and the Lothian Committee, it was found that the question of depressed classes does not exist in Punjab, and the question of depressed classes in Bengal is not so insistent or is not so keen as to require any very great consideration.

It was this point which has been made a grievance, and my friend, Mr. Parmanand, says that these people are complaining that they are not included in the depressed classes because they have been made Arya Samajis. The point is that if the depressed class question in Punjab is to be created as a vested interest in separate electorates, then these depressed classes have a right to be included, which are now being scheduled as depressed classes. If that vested interest is not to be created then those people have no claim to be included in those depressed classes.

8851. *Dr. B. R. Ambedkar:* Might I ask one question : You object to the Poona Pact being applied to Punjab because, in your opinion, there are no depressed classes there ?

Mr. Bhai Parmanand: Not in the sense in which there are in most of other Provinces.

8852. *Dr. B. R. Ambedkar:* In some sense, are there or are there not ? Are there depressed classes in the Punjab or are there not ?

Mr. Bhai Parmanand: They are not Untouchables, they are not Unapproachables. No distinction is kept, and it is in the Report of the Simon Commission and the Government of India Report also that the distinction between caste-Hindus and the depressed classes does not exist in the Punjab.

8853. *Dr. B. R. Ambedkar:* Might I ask you this question? How do you reconcile yourself : Your first position is that there are no depressed classes and therefore, there is no provision for them, and your second complaint is that certain depressed classes are not included in the scheduled list?

Pandit Nanak Chand: I have dealt with this point, and I will give you an explanation. As far as unapproachability and untouchability is concerned, it does not exist, or if it exists, it is almost negligible ; there is very little. This is admitted by the Government officials, by the Sikhs, by the Mahommedans and by the Hindus, but certain classes have been scheduled as depressed classes and certain others of equal status, whether economically backward or otherwise, deprived of certain rights, namely, of purchasing land, and so forth, want to be scheduled along with those others because they are on the same social status.

8854. *Dr. B. R. Ambedkar:* You are very anxious that they should be included ?

Pandit Nanak Chand: I am not anxious ; they are anxious. I do not want anybody to be called a Depressed Class.

8855. *Dr. B. R. Ambedkar:* I want to ask a few questions of Mr. Chatterjee of Bengal. I think your main complaint is that the Bengal Hindus were not represented when this Poona Pact was evolved—is that it ?

Mr. B. C. Chatterjee: That is one of the complaints. My main complaint is —

8856. *Dr. B. R. Ambedkar:* I will take this for the moment because I want to exhaust one at a time. I think it was admitted by your colleague that there were members of the Bengal caste-Hindus present both in Bombay and Poona ?

Mr. B. C. Chatterjee: Yes.

Mr. J. Bannerjee: At Poona one caste-Hindu was present : that is what I have said.

8857. *Dr. B. R. Ambedkar:* Were not there dozens from other Provinces ?

Mr. B. C. Chatterjee: That may be.

Marquess of Zetland: Dr. Ambedkar, could not we solve the whole of this problem if you told us the names of the Bengal caste-Hindus who were there?

8858. *Dr. B. R. Ambedkar:* I am giving the names. These names were given in the course of the discussion that took place in the Bengal Legislative Council on the 14th March 1933.

Mr. B. C. Chatterjee: Will you kindly give the names ?

8859. *Dr. B. R. Ambedkar:* There was no contradiction at all on that point ?

Mr. B. C. Chatterjee: I was in England at the time.

8860. *Dr. B. R. Ambedkar:* I am quoting from speech of Mr. Mullick who represented the depressed classes in the Bengal Legislative Council. This is what he says ?

Mr. J. Bannerjee: He is a nominated member not an elected representative : I want to make that point clear.

8861. *Dr. B. R. Ambedkar:* He is a representative of the depressed classes ?

Mr. J. Bannerjee: And he has been defeated in a constituency before—twice before.

8862. *Dr. B. R. Ambedkar:* What difference does that make to the point I am dealing with ? I am on the point whether certain Bengal Hindus were present or not. This was a statement made in the proceedings of the Bengal Legislative Council in the course of a speech by a Bengal Depressed Class Member who advocated the Poona Pact : "We know that they were men like Swami Satyananda of the Hindu Mission. Babu Haridas Mazumdar,

M.A., B.L. of the Amrita Samaj, Babu Pramathanath Banerjee, M.L.C., of Midnapore, Babu S. C. Das Gupta of the Khadi Pratisthan, besides men like Pandit Malaviya, Sir Tej Bahadur Sapru, Mr. M. R. Jayakar, Mr. Rajgopalachari ?"

Mr. J. Bannerjee: Excepting one, none of them was present at Poona.

Dr. B. R. Ambedkar: That was a statement in the Council.

8863. *Mr. J. Bannerjee:* Will you permit me to go on ?

Dr. B. R. Ambedkar: Please answer when I ask a question.

Mr. J. Bannerjee: It is an incorrect statement.

8864. *Dr. B. R. Ambedkar:* I say this statement has not been contradicted by anyone in the Bengal Legislative Council ?

Mr. J. Bannerjee: I was present on that day. No speech was delivered, but something was read from paper, and it is quite possible that people missed those bits. A paper was read indistinctly.

8865. *Mr. M. R. Jayakar:* The proceedings of your Council are published, are they not ?

Mr. J. Bannerjee: Yes.

8866. *Mr. M. R. Jayakar:* Since the publication of those proceedings has there been any contradiction ?

Mr. J. Bannerjee: Yes ; immediately after the debate was held, as soon as we heard that certain names were given out, a contradiction was made in the newspapers.

8867. *Dr. B. R. Ambedkar:* I put it to you that not only were these men present at Bombay ?

Mr. J. Bannerjee: I am speaking of Poona.

8868. *Dr. B. R. Ambedkar:* I am talking first of all about Bombay. Not only were these men present at Bombay when the sub-committee was appointed, but they had conversations with me individually in my office and urged me to come to a settlement. This is a fact which I disclosed in an interview which I gave to the Bombay Times and which is published on the 17th March, soon after your legislative proceedings were announced ?

Mr. J. Bannerjee: The very next day I contradicted your statement and said that did not touch the point because three of those members had not, according to your own admission, gone to Poona, and were not present at the time of the Pact.

Mr. B. C. Chatterjee: I just want to say this, that it is nobody's case and I do not think it is Dr. Ambedkar's case—that these gentlemen were sent to Bombay, or a solitary gentleman who was present at Poona was sent there by the Bengali Hindus or anybody of Bengali Hindus ; they may have been there accidentally or may have been there because they wanted to see the Mahatma who was ill. Some actually went there for the glory of carrying his dead body in a procession.

8869. *Dr. B. R. Ambedkar:* I will put it to you that if that is the case that it was well known that, these men had left Calcutta for the

express purpose of attending the Malaviya Conference. That has been published in the "Liberty" ?

Mr. J. Bannerjee : They did not go there on authorisation by any public body in Bengal. They may have gone there on their own business or for some other reason. May I make an offer to Dr. Ambedkar; may T just say this ? We, in Bengal, feel it a great slur that there should be a suggestion that there are depressed classes in Bengal. The Bengali Hindus have been going on doing social work for over a century now in order to remove caste barriers and things like that. I ask Dr. Ambedkar to agree with this. The Lothian Committee very fairly formulated two characteristics, two criteria, for determining who are depressed classes, untouchability, unapproachability within a certain distance. I suggest that the Bengal Government should make an enquiry into who are untouchables and unapproachables, and if their number is ascertained we should be willing to give these people their proportion of representation on the Bengal Legislative Council on the basis of joint electorates.

8870. *Dr. B. R. Ambedkar:* I am not discussing joint electorates ; I am discussing this important point of fact when it was well known that certain Bengal caste-Hindus were going to Bombay to attend Malaviya Conference. I am quoting to you from the "Liberty" of the 17th September, 1932: it is a paper which is published in Calcutta. I find in column 4 on page 5 of the "Liberty" of that date this report written in broad headlines : "Swami Satyananda and others leave for Bombay. Swami Satyananda, Sjs. Haridas Majumdar and Jajneshwar Mandal of the Amrita Samaj are leaving for Bombay tonight to attend the Malaviya Conference." They were not going on any of their private business ?

Mr. B. C. Chatterjee: As far as I am concerned I have never heard of the gentlemen ; this is the first time I have heard of them ; certainly they have been hiding their light under a brushel as far as Bengal is concerned, and these gentlemen must themselves have sent the report just to advertise that they were going.

8871. *Dr. B. R. Ambedkar:* My point is that the public of Bengal was aware that certain members from the caste-Hindus were proceeding from Bengal to attend the Malaviya Conference, and if the public of Bengal thought that they were not representatives it was quite possible for them to send a message to Malaviya not to trust these people ?

Mr. B. C. Chatterjee: I submit it is most unfair to the public of Bengal to hold them to a paragraph that appeared casually in some column of the "Liberty".

8872. *Dr. B. R. Ambedkar:* I am only stating it as a fact that every body in Bengal ought to know ?

Mr. B. C. Chatterjee: Nobody reads the paper thorough like that. Nobody searches out particular columns to find out things like that. It never came to our notice.

Dr. B. R. Ambedkar: I will not press you further on that.

8873. *Sir Austen Chamberlain:* Does Mr. Chatterjee mean he was unaware that such a meeting was being held in Bombay ?

Mr. B. C. Chatterjee: We were aware that a meeting was being held, but we were completely unaware that anybody was taking it upon himself to go from Bengal to that meeting.

8874. *Sir Austen Chamberlain:* If you had these strong feelings on the subject and you were, in your opinion, the most representative body who could speak on behalf of those who held your views, why did not you send representatives when you became aware of the meeting ?

Mr. B. C. Chatterjee: We did not know what was happening there. We in Calcutta, honestly did not know what was happening there excepting that we heard the news of Mr. Gandhi's going to fast.

Mr. J. Bannerjee: We did not attach any great importance to it. The Malaviya Conference was not to dispose of the fate of the caste-Hindus of Bengal; therefore, nobody went there in any capacity whatever. The Poona Meeting was really important.

8875. *Sir Austen Chamberlain:* You were aware of the meeting, but you did not think it worth attending. That is the position ?

Mr. J. Bannerjee: I am afraid you are confusing the two meetings at Bombay and Poona. The Pact was signed at Poona and that was the important meeting to which the caste-Hindus were not invited. The meeting at Bombay was a sort of preliminary canter. We were justified in not attaching much importance to it.

8876. *Mr. Zafrulla Khan:* May I put this to you : I do not want to offend you in any way, Mr. Chatterjee, but it appears that, perhaps, the attitude of Bengal caste-Hindus was : " We are not concerned with this : perhaps it will come to nothing; if it helps to save the Mahatma's life well and good ; if it affects us in any way we can repudiate it afterwards" ?

Mr. B. C. Chatterjee: With great respect that was not so. I had the honour to be on the Provincial Franchise Committee and had the honour to co-operate with the Lothian Committee. We went into careful investigation as to who were the Untouchables. That is the whole point for investigation.

8877. *Dr. B. R. Ambedkar:* You are going away from my point. The reports of what was happening in Bombay and Poona were published regularly fully in the "Liberty" every day. Are you prepared to contradict that ?

Mr. B. C. Chatterjee : I am sorry to say I never read the "Liberty".

8878. *Dr. B. R. Ambedkar:* I brought the "Liberty". I purposely did not bring the " Statesman " because you would say it is an Anglo-Indian paper ?

Mr. B. C. Chatterjee: Why should I ? I cannot imagine myself saying that.

8879. *Dr. B. R. Ambedkar:* I brought it deliberately because I know it is a Hindu paper ?

Mr. B. C. Chatterjee: It is. It comes to my house. I read it occasionally.

8880. *Dr. B. R. Ambedkar:* I put it to you that the proceedings of the Malaviya Conference held on the 20th are given on full front page in "Liberty" ?

Mr. B. C. Chatterjee: I hear that from you.

8881. *Dr. B. R. Ambedkar:* You can see it for yourself. I will pass it to you ?

Mr. B. C. Chatterjee: I accept your word for it.

8882. *Dr. B. R. Ambedkar:* Similarly, what happened on the 21st is published on the front page fully in the issue of the 22nd ?

Mr. B. C. Chatterjee: I dare say.

8883. *Dr. B. R. Ambedkar:* So that anybody in Bengal would really know what was happening in Bombay and Poona. I will put to you one more point ?

Mr. B. C. Chatterjee: We thought before any decision of this weightly character could ever become applicable to public bodies in Bengal they would be invited to send their representatives to take part in the deliberations.

8884. *Dr. B. R. Ambedkar:* When the Sub-Committee was propounded there was no protest made against its composition ?

Mr. B. C. Chatterjee: They would have no right to.

8885. *Dr. B. R. Ambedkar:* If you refer to the "Liberty" of the 22nd September 1932, it contains the Report of the proposals I made to this Sub-Committee on the basis of which I was prepared to negotiate. Mr. Jayakar will corroborate me that I did propose certain things on the basis of which I was prepared to negotiate. In my proposals I had demanded 50 seats for the Bengal.

Mr. J. Bannerjee: Depressed Classes you mean ?

8886. *Dr. B. R. Ambedkar:* I mean Depressed Classes, and yet there was not a single statement of protest from the Bengal caste-Hindus either to Pandit Malaviya, who was supposed to negotiate the Pact on this basis, nor did you send anybody to Poona although you know I had made this demand which was published, as I say, in a most prominent place in the issue of the 22nd September ?

Mr. J. Bannerjee : I am sorry, but I am afraid we did not attach as much importance to Dr. Ambedkar's proposals as we ought to have done.

8887. *Dr. B. R. Ambedkar:* I am sorry, you are to suffer for it. I just want to ask you one or two questions about this. The announcement of His Majesty accepting the Poona Pact was made on the 26th September, 1932, in the Central Legislature in both Houses. That announcement by His Majesty's Government was acclaimed by everybody in the Central Legislature ; there was no protest made then by any member either in the Council of State or in the Legislature against the acceptance of this Pact. Is not that so ?

Mr. J. Bannerjee. : That may be so.

Mr. M. R. Jayakar: Bengal is represented in the Central Legislature.

Sir Hari Singh Gour: With reference to an imputation made by Dr. Ambedkar, that when Sir Harry Haig, the Home Member, made an announcement to the Legislative Assembly there was no protest from any member. I wish to draw the attention of the Joint Committee to the fact that it is not in accordance with the practice of the Legislative Assembly when an announcement of a decision by His Majesty's Government is made for any reference on any protest to be addressed by any member of the House.

8888. *Lieut. Colonel Sir H. Gidney:* I was in the House when the statement was made by Sir Harry Haig, and it was met by universal acclamation ?

Mr. Bhai Parmanand: I was also there, but there was no acclamation about it

Dr. B. R. Ambedkar: There was applause, if you will take a word as it was given.

8889. *Lieut. Colonel Sir H. Gidney:* I meant applause, yes ?

Mr. Bhai Parmanand: Some people might have done it.

Dr. B. R. Ambedkar: The whole statement is given in the Legislative Council proceedings for the 26th September 1932, Volume 5, No. 5, and the statement is concluded there is in brackets "applause". The same statement was made in the Council of State. What I want to put is this, is it not a fact that the following gentlemen represented caste-Hindus in the Legislative Assembly ?—(Naming). Then in the Council of State there are the following :—(Naming them.)

Mr. B. C. Chatterjee: My answer is that they did not realise the repercussions of the Pact and they are now unanimous in condemning it.

Mr. Bhai Parmanand: May I explain this point ?

8890. *Dr. B. R. Ambedkar:* I do not know that there is any explanation needed. They are members of the Assembly and they did not protest. With regard to the protests in the Bengal Province itself after the Pact in September 1932, there was a session of the Bengal Legislative Council in November, 1932 ?

Mr. B. C. Chatterjee: Yes.

8891. *Dr. B. R. Ambedkar:* There was no formal resolution moved in the Council protesting against the application of the Poona Pact to Bengali?

Mr. B. C. Chatterjee: No.

8892. *Dr. B. R. Ambedkar:* I am referring to the Report.

Mr. B. C. Chatterjee: 1 must reply to this question. The first thing we did was to get together all the influential Hindu members of the Council within a short time of the Council Meeting, and we decided that we should jointly .....

8893. *Dr. B. R. Ambedkar :* May I have an answer to my question, and then we can have an explanation. I want to know whether there was

any formal resolution moved in the Bengal Legislative Council in November Session which met immediately after the acceptance of the Poona Pact protesting formally against this. That is what I want to know, was there a. resolution ?

Mr. B. C. Chatterjee: Undoubtedly, I did put in a resolution protesting against the Poona Pact in the November Session, but I was induced to withdraw it by the joint representations of Mr. Rasik Biswas, a member of the Namsudras, an influential member, and Pandit Malaviya, but both of them assured me that they would get Dr. Ambedkar to hold another meeting and to revise the Poona Pact in view of the facts which are placed before them and they repeatedly requested me not to press it to a division in the Council without giving them this chance.

8894. *Dr. B. R. Ambedkar :* Was it moved ?

Mr. B. C. Chatterjee : They induced me to withdraw it and on the ground.

8895. *Dr. B. R. Ambedkar:* It was not moved ?

Mr. B. C. Chatterjee: I withdrew it.

8896. *Dr. B. R. Ambedkar:* It was not moved ?

Mr. B. C. Chatterjee: I say I withdrew it.

8897. *Dr. B. R. Ambedkar:* You had given notice of it?

Mr. B. C. Chatterjee: I gave notice of it, and, on the representation of Mr. Rasik Biswas and Pandit Malaviya, I withdrew it. I did not move it.

3898. *Dr. B. R. Ambedkar:* In the March Session of 1933, the motion that was discussed was a special motion. The ordinary motion which stood in the name of Mr. Shanti Shekhareswar Ray was not moved ?

Mr. J. Bannerjee: It could not be reached.

8899. *Dr. B. R. Ambedkar:* No priority was sought for it ?

Mr. J. Bannerjee: Priority was sought for it but priority could not be obtained. There was no time to reach it. Subsequently a special resolution was moved by me.

8900. *Dr. B. R. Ambedkar:* A month after that resolution was passed, in the March Session of 1933 in the Bengal Legislative Council, a public meeting was held in Calcutta in the Albert Hall, on the 21st April, 1933. It was presided over by one Mr. Samal, and that meeting passed a resolution condemning the attitude of the Bengal Legislative Council in protesting against the Poona Pact ?

Mr. J. Bannerjee : Very possibly.

8901. *Dr. B. R. Ambedkar:* The proceedings of that Committee are published in full in the "Liberty" of 22nd April, 1933. Is that a fact, or is not?

Mr. B. C. Chatterjee: Very possibly. I do not know myself. I was in England.

8902. *Dr. B. R. Ambedkar:* You said that the Bengal Government at the time the Poona Pact was accepted was somewhere in Darjeeling, and that no Hindu was consulted. You said that in answer to Sir Nripendra Sircar?

Mr. B. C. Chatterjee : Yes.

8903. *Dr. B. R. Ambedkar:* Will you tell what was the composition of the Bengal Executive in September, 1932 ? Who were its members, and what was communal composition ?

Mr. J. Bannerjee: There were three Bengali Members—no, two Bengali Hindu Members in the Bengal Government.

8904. *Dr. B. R. Ambedkar:* Is it your suggestion that the Bengal Government which had two Bengal caste-Hindu members on it did not approve of the Poona Pact ?

Mr. J. Bannerjee: I have nothing to suggest about the Government but I am quite sure that both the Hindu members of the Government had disapproved of it, and had emphatically protested against it.

8905. *Dr. B. R. Ambedkar:* With respect to the Central Executive you have said one Bengal Hindu was there, Sir B. L. Mitter. Is that so ?

Mr. J. Bannerjee: Yes ; I cannot say anything about Sir B. L. Mitter, but I would ask you to refer to the present member of the Viceroy's Executive Council.

8906. *Dr. B. R. Ambedkar:* It has been suggested by Sir Nripendra Sircar in the course of his examination that the whole thing was accepted by His Majesty in a sort of emergency created by the fast of Mahatma Gandhi. What I want to put to you is this : Is it not a fact that the first letter written by Mahatma Gandhi to the Government was not dated the 18th August, but was dated the 11th March, 1932 (that letter is addressed to Sir Samuel Hoare); it is practically five months before the letter referred to by Sir Nripendra Sircar, and that is what he says. That is before the Communal Decision was given, that is my point. This is his statement : "Dear Sir Samuel, you will perhaps recollect that at the end of my speech at the Round Table Conference when the Minorities' claim was presented I had said that I should resist with my life the grant of separate electorates to the Depressed Classes. This was not said in the heat of the moment nor by way of any rhetoric. It was meant to be a serious statement", and so on. Then he says "I have therefore respectfully to inform His Majesty's Government that in the event of their decision creating separate electorate for the Depressed Classes I must fast unto death." The threat to fast was not given in the letter of the 18th August, after the Communal Decision was given, but was given in the letter of the 11th March, 1932 ?

Mr. J. Bannerjee : Quite true.

8907. *Dr. B. R. Ambedkar:* And His Majesty's Government gave separate electorate to the Depressed Classes notwithstanding this threat in the letter of the 11th March ?

Mr. J. Bannerjee: Our complaint against the Pact is that it perpetuates every evil of separate electorates.

8908. *Dr. B. R. Ambedkar:* That is another matter. You had better say that to Mahatma Gandhi; I cannot discuss it ?

Mr. J. Bannerjee : The award of His Majesty's Government is much more acceptable to us than the Poona Pact.

8909. *Dr. B. R. Ambedkar:* I will ask you one or two questions about that. Your complaint is that the Poona Pact gives a larger number of seats to the Depressed Classes than were given in His Majesty's Government's Award. I want to draw your attention to the letter of the Prime Minister to Mr. Gandhi dated 8th September, 1932, and this is what he said. "The number of territorial seats allotted to Muslims is naturally conditioned by the fact that it is impossible for them to gain any further territorial seats and that in most Provinces they enjoy weightage in excess of their population ratio." I want to draw your special attention to this. "The number of special seats to be filled from special Depressed Class constituencies will be seen to be small and has been fixed, not to provide a quota numerically appropriate for the representation of the whole of the Depressed Class population, but solely to procure a minimum number of spokesmen for the Depressed Classes in the Legislature who are chosen exclusively by the Depressed Classes. The proportion of their special seats is everywhere much below the population percentage of the Depressed Classes ?

Mr. J. Bannerjee : Quite so, because it is expected that many of the Depressed Classes, especially in Bengal, will come in through the general constituencies.

8910. *Dr. B. R. Ambedkar:* What I want to draw your attention to is this : In giving the Communal Award and apportioning seats to the Depressed Classes His Majesty's Government and the Prime Minister have definitely admitted that those seats are not in proportion to the population ratio and were much below ?

Mr. J. Bannerjee : Quite true but at the same time, the Prime Minister there distinctly makes it clear that the number allotted to the Depressed Classes is less than their numerical proportion, because he specifically mentions the case of Bengal, because in Bengal many of the Depressed Class members would be sure to come in through general constituencies.

8911. *Dr. B. R. Ambedkar:* He never mentioned anything about Bengal, I can assure you ?

Mr. J. Bannerjee: Most certainly he has done so ; I have read the award carefully.

8912. *Dr. B. R. Ambedkar*. With regard to this, there was a session held — the seventh session of the Bengal Provincial Hindu Conference at Malda, somewhere between the 17th and 19th of September, 1932, under the presidency of Mr. Ramanand Chatterjee. Is that so ?

Mr. J. Bannerjee: Very possibly.

8913. *Dr. B. R. Ambedkar:* In the seventh session of the Bengal Provincial Hindu Conference at Malda ?

Mr. J. Bannerjee: Very possibly. I do not know ; I have no personal knowledge.

8914. *Dr. B. R. Ambedkar:* I want to read to you a resolution that was passed at this Bengal Provincial Hindu Conference, published in "Liberty" of the 19th September, 1932 : "This Conference appeals to the so-called Depressed Classes not to demand representation on the basis of separate electorates in the coming Constitution, and affirms its adherence to the Raja Moonje Pact and its readiness to concede representation to the Depressed Classes according to their population strength through joint electorate even if it means surrender to them of the majority of seats allotted to the Hindus ?

Dr. Moonje: May I reply to that question ? The resolution was passed. We stick to it, and my friend Mr. Chatterjee had made a sporting offer to Dr. Ambedkar. Is he prepared to see what his number would be according to the population basis, the Depressed Classes being defined as untouchables and unapproachables ? We art prepared to make this sporting offer to Dr. Ambedkar, and let the whole question be decided in Bengal and the Punjab as to what is the number of the Depressed Classes according to the definition that the Depressed Classes member is one who is untouchable or unapproachable. We make the sporting offer.

Dr. B. R. Ambedkar: I do not want to make the fate of my people the sport of party politics and I am afraid I cannot accept that offer.

* * * * *

†9269. *Dr. B. R. Ambedkar:* May I put a supplementary question ? Do I understand that you include the depressed classes also in your Hindu Mahasabha ? Do you claim to represent them ?

Dr. Moonje: My contention is that I represent also the depressed classes and my friend, Mr. Gavai, who is sitting by my side, is a representative of the Depressed Classes on the deputation of Hindu Mahasabha and it has never been proved whether I represent the majority or whether Mr. Gavai represents the majority among the Depressed Classes.

9270. *Dr. B. R. Ambedkar:* That is a different matter. I want to know, do you represent the depressed classes ?

Dr. Moonje: I represent the majority portion of the depressed classes also.

9271. *Dr. B. R. Ambedkar:* As far as I am concerned I absolutely disagree with that position. What does Mr. Gavai have to say ? I still repeat the fact that the Depressed Classes do not belong to the organisation that Dr. Moonje represents so far as his memorandum is concerned. I know as a matter of fact that the Hindus of the Punjab have repudiated it ?

Dr. Moonje: What?

Dr. B. R. Ambedkar: That part of your memorandum No. 57 has been repudiated by the depressed classes of the Punjab.

†Minutes of Evidence, Vol. 11-C, 31st July 1933, p. 1466.

(14)

Mr. M. K. Acharya, Mr. L. M. Deshpande, and Mr. J. L. Bannerjee, on behalf of the All-India Varnashram Swarajya Sangha

*10,753. *Dr. B. R. Ambedkar:* Mr. Acharya, do I understand you correctly, when I say that what you want is that the Legislature should not have competence to pass laws affecting what you call the fundamentals of religion ?

Mr. M. K. Acharya: Yes.

10,754; *Dr. B. R. Ambedkar:* And that before any such law is introduced you want a sort of previous sanction obtained from heads of religious institutions ?

Mr. M. K. Acharya: Yes.

10,755. *Dr. B. R. Ambedkar:* And, thirdly, that after it is introduced it should not become law until it is passed by a two-thirds majority ?

Mr. M. K. Acharya: Yes.

10,756. *Dr. B. R. Ambedkar:* I want to ask you this : This two-thirds majority is to be two-thirds majority of the Hindu members of the Legislature or two-thirds majority of the total Legislature ?

Mr. M. K. Acharya: Of each community sought to be affected. If it is only the Hindu community it would be only the Hindu members. If it is the Muslim community there would be the Muslim members also.

10,757. *Dr. B. R. Ambedkar:* Are you able to tell us in a defined form what you regard to be the fundamentals of your religion so that it may be possible for this Committee to know to what extent the Legislature can interfere and to what extent it cannot ?

Mr. M. K. Acharya: I am willing to give a very humble lecture on the fundamentals of religion if the Committee will hear me for three hours.

10,758. *Sir Austen Chamberlain:* You could not give us a formula that we could get into a reasonable number of words for the section of the Act?

Mr. M. K. Acharya: That is what I said. Dr. Ambedkar is now trying to heckle me into some kind of answer in three words. I cannot.

10,759. *Dr. B. R. Ambedkar:* I am not trying to heckle you ; I am trying to understand. For legislative purposes you must give the Committee some formula which could be put into the Act so that it would be possible, both for the Speaker of the House or the Governor, or whoever may be the deciding authority, and the Courts, to find out exactly whether a particular law passed by the Legislature is *ultra vires* of that Legislature ?

Mr. M. K. Acharya: I have suggested, I thought, a formula which is very workable and which I have in fact taken from some —

10,760. *Dr. B. R. Ambedkar:* You merely said they are fundamentals. You leave the whole matter undecided. What are the fundamentals ?

*Minutes of Evidence, Vol. II-C, 2nd August 1933, pp. 1605-08.

Mr. M. K. Acharya: The formula I suggested was this : Before a measure affecting religion is introduced the Governor or the Governor-General should refer it to the opinion of the recognised religious heads of organisations in that Province, and after getting their opinions, and probably after modifying them so as to bring it in accordance with their opinions, it might be introduced, and all that it is for the Governor or the Governor-General to decide.

10,761. *Dr. B. R. Ambedkar:* May I take from you that whether a certain piece of legislation affects the fundamentals of your religion or not is a matter which is to be decided by the heads of the religious institutions ?

Mr. M. K. Acharya: Certainly so. They are the competent judges to decide.

10,762. *Dr. B. R. Ambedkar:* Mr. Acharya, you are a Brahmin by caste ?

Mr. M. K. Acharya: Yes.

10,763. *Dr. B. R. Ambedkar:* Mr. Deshpande, you are a Brahmin by caste ?

Mr. Deshpande: Yes.

10,764. *Dr. B. R. Ambedkar:* Mr. Bannerjee, are you a Brahmin by caste ?

Mr. J. Bannerjee : Yes.

10,765. *Dr. B. R. Ambedkar:* Mr. Acharya, is not it a fact that in the Hindu religion nobody can be a priest unless he is a Brahmin by birth ?

Mr. M. K. Acharya: It is not a fact.

10,766. *Dr. B. R. Ambedkar:* You mean any Hindu in practice can officiate as a priest at any Hindu ceremony ?

Mr. M. K. Acharya: No, it does not mean that.

10,767. *Dr. B. R. Ambedkar:* That is my question?

Mr. M. K. Acharya: Please put it properly.

10,768. *Dr. B. R. Ambedkar:* Whether anyone who is not a Brahmin can officiate and perform any religious ceremony ?

Mr. M. K. Acharya: A very simple question. Every community, sub-community or class has got its priest from that community or sub-community. A Brahmin will not go to certain communities.

10,769. *Dr. B. R. Ambedkar:* 1 am telling you most respectfully that that is not a correct statement ?

Mr. M. K. Acharya: That is the truth, as far as I know.

10,770. *Dr. B. R. Ambedkar:* Does Mr. Deshpande know ?

Mr. Deshpande: It is so now.

Mr. M. K. Acharya: A Brahmin will not officiate for certain things.

10,771. *Dr. B. R. Ambedkar:* The heads of all religious institutions are Brahmins, are they not ?

Mr. Deshpande: No. In Bombay Presidency there is a very huge Mutt

which has property and all that is purely non-Brahmin.

10,772. *Dr. B. R. Ambedkar:* In the main?

Mr. Deshpande: Some are Brahmins ; some are non-Brahmins.

10,773. *Dr. B. R. Ambedkar:* Is it not a fact in Bombay Presidency?

Mr. Deshpande: There are others also, Lingayats.

10,774. *Dr. B. R. Ambedkar:* I do not want to confuse the issue. My question is this : As distinct from the Lingayats, the Jains, or the Buddhists (I am talking purely of the Hindus) is it not a fact that all these institutions are controlled by Brahmins ?

Mr. Deshpande: There are some which are controlled by non-Brahmins even in Bombay Presidency.

10,775. *Dr. B. R. Ambedkar :* There are very few ?

Mr. Deshpande : Yes, that would be accepted; but not that the whole of them belong to Brahmins.

10,776. *Dr. B. R. Ambedkar:* Now if your proposition was accepted, that the heads of these institutions should have the right to give previous sanction, it would simply mean that the whole of the destiny of the Hindu community would be in the hands of the Brahmins in charge of these institutions ?

Mr. M. K. Acharya: It will not mean that at all.

10,777. *Dr. B. R. Ambedkar:* Let me ask you a question or two about your representative character. Mr. Deshpande, in the Satara district there is a non-Brahmin party, is there not ?

Mr. Deshpande: Yes.

10,778. *Dr. B.* JR. *Ambedkar:* The non-Brahmins of Satara district would cover almost 90 per cent. of the population ?

Mr. Deshpande: Yes.

10,779. *Dr. B. R. Ambedkar:* There is a very strong antagonism between the Brahmins and the non-Brahmins in the Satara district ?

Mr. Deshpande: On certain points ; not on all.

10,780. *Dr. B. R. Ambedkar:* But on points of politics and social reform ?

Mr. Deshpande: On points of politics.

10,781. *Dr. B. R. Ambedkar:* On point of social reform ?

Mr. Deshpande: Not so much.

10,782. *Dr. B. R. Ambedkar:* Is it not true that the Brahmins and non-Brahmins have been struggling as to the equality in temples, so far as officiating is concerned?

Mr. Deshpande: In some districts they may have, but not in all.

10,783. *Dr. B. R. Ambedkar:* But is there not a strong cleavage between the two ?

Mr. Deshpande: Not so far as I know.

10,784. *Dr. B. R. Ambedkar:* But they are, anyhow, a separate entity, carrying on a separate political life ?

Mr. Deshpande: Yes, everybody has his own.

10,785. *Dr. B. R. Ambedkar:* And you still think a few Brahmins in the Satara district would represent the non-Brahmins ?

Mr. Deshpande: So far as I am concerned.

10,786. *Dr. B. R. Ambedkar:* Do you think that you and Mr. Jadhav, the leader of the non-Brahmins, would go together on most of these points in the Memorandum ?

Mr. Deshpande: I do not know about Mr. Jadhav; I know about mine.

10,787. *Dr. B. R. Ambedkar:* Do you dine together ?

Mr. Deshpande: Mr. Jadhav and myself, no.

10,788. *Dr. B. R. Ambedkar:* In the Madras Presidency there is a Justice party consisting of the non-Brahmins ?

Mr. M. K. Acharya: There was a party some years ago. I do not know if it is as active now.

10,789. *Dr. B. R. Ambedkar:* But it did exist for a year or two ?

Mr. M. K. Acharya: It existed for seven or eight years.

10,790. *Dr. B. R. Ambedkar:* There is again a very strong cleavage between the Brahmins and the non-Brahmins in the Madras Presidency ?

Mr. M. K. Acharya: Not a very strong cleavage upon what might be called religious questions at all.

10,791. *Dr. B. R. Ambedkar:* They have a separate organisation of their own ?

Mr. M. K. Acharya: I believe in the Justice party Brahmins are being admitted now.

10,792. *Dr. B. R. Ambedkar:* But hitherto they were not admitted ?

Mr. M. K. Acharya: They are admitting even Brahmins now and, therefore, they are changing.

10,793. *Dr. B. R. Ambedkar:* Would it be correct to say that you are only representing the views of the Brahmins ?

Mr. M. K. Acharya: Quite incorrect

10,794. *Dr. B. R. Ambedkar:* Now I want to ask you a question, Mr. Deshpande. In your Memorandum No. 64, I do not find any comment on the Poona Pact : Is that so ?

Mr. Deshpande: There is none.

10,795. *Dr. B. R. Ambedkar:* Is that true ?

Mr. Deshpande: It is true.

10,796. *Dr. B. R. Ambedkar:* Mr. Acharya, in your Memorandum No. 65, apart from this one line on page 3 : "It is upon its merits we condemn the Poona Pact," there is no reference to it ?

Mr. M. K. Acharya: That was quite enough, I thought.

10,797. *Dr. B. R. Ambedkar:* This joint production of yours is the latest thought, is it not ?

Mr. M. K. Acharya: Yes, it has come later than the others.

10,798. *Dr. B. R. Ambedkar:* After the evidence of the Hindu Mahasabha was given ?

Mr. M. K. Acharya: No, much before that.

10,799. *Dr. B. R. Ambedkar:* Why did not Mr. Deshpande put it before in your Memorandum, if as it is stated here, you had a mandate from your clients to condemn it ?

Mr. Deshpande: I did not think that it was necessary.

10,800. *Dr. B. R. Ambedkar:* There is just one other question I want to ask. You ask in your joint production, No. 72, full Provincial autonomy and Central responsibility ; I need not read that. Now, under paragraph 4. Franchise for Lower Chambers, you say : "The bulk of our countrymen are yet untrained in the habit of working representative institutions." The question that I want to ask you is this : For whose benefit do you ask for Provincial autonomy and Central responsibility, if you say your "country men are yet untrained in the habit of working representative institutions" ?

Mr. M. K. Acharya: I would ask the Honourable Gentleman to read the paragraph more carefully. The answer is there already.

10,801. *Dr. B. R. Ambedkar:* What is the answer?

Mr. M. K. Acharya: The answer is there, if you read it.

10,802. *Dr. B. R. Ambedkar:* What is the answer ?

Mr. M. K. Acharya: We say we are against the indiscriminate lowering of the franchise in the immediate future ; the indiscriminate lowering we condemn ; but making the lowering more discriminate, we are taking the next step immediately to urge Provincial autonomy and Central responsibility.

10,803. *Dr. B. R. Ambedkar:* But how can indiscriminate lowering of the franchise make your countrymen trained in the habit of working representative institutions ?

Mr. M. K. Acharya: That is what we say. Indiscriminate lowering will not train them.

10,804. *Dr. B. R. Ambedkar:* Therefore, raise it higher up ?

Mr. M. K. Acharya: No, the opposite of indiscriminate lowering is discriminate lowering.

10,805. *Dr. B. R. Ambedkar:* Confining it only to the Brahmins and the higher classes ?

Mr. M. K. Acharya: Discriminate lowering does not mean that. The White Paper says 38,000,000, I would be content with 20,000,000 or 28,000,000. That is not for confining them to this class and that class.

10,806. *Dr. B. R. Ambedkar:* You know in Malabar, there is a community called the Naiyadis ?

Mr. M. K. Acharya: Yes.

10,807. *Dr. B. R. Ambedkar :* I understand that under the social customs

prevailing there a Naiyadi cannot walk along the road ?

Mr. M. K. Acharya: He can walk along the public roads today.

10,808. *Dr. B. R. Ambedkar:* And if he wants to sell anything, or buy anything, he has to place his goods or articles that he wants to sell some 60 yards away from the street and call out from there ?

Mr. M. K. Acharya: That is not correct information, so far as I know.

10,809. *Dr. B. R. Ambedkar:* I give you that information?

Mr. M. K. Acharya: That is not correct; I may deny it. I have been for many years in Malabar, and I know Malabar better than my honourable friend.

10,810. *Dr. B. R. Ambedkar:* The point I am going to ask you is something further. Assume my facts are correct ?

Mr. M. K. Acharya: When they are incorrect, how can I assume that ?

10,811. *Dr. B. R. Ambedkar:* The question is this : Supposing a law was passed making it a crime for any Hindu to prevent a Naiyadi from walking along the public street in Malabar, would you say that would affect the fundamentals of your religion ?

Mr. M. K. Acharya: As the honourable gentleman presumes on wrong facts, there is no such custom and there is no such law. If there were such a custom and if there were any need for such a law, then that law would not conflict with any fundamental of religion.

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110,899. *Dr. B. R. Ambedkar:* I would like to clear up a matter. Mr. Acharya, you stated that Pandit Malaviya has repudiated the implications of the Poona Pact. I want to ask you a question on that : Is not it a fact that Mr. Gandhi says that the Poona Pact, apart from settling the political problem, imposed a certain obligation on the Hindus to abolish untouchability and to open the doors of the Hindu temples to the untouchables ?

Mr. M. K. Acharya: That is what Mr. Gandhi says, I think.

10,900. *Dr. B. R. Ambedkar:* Pandit Malaviya says that is not the case : that the Poona Pact does not impose any obligation on the Hindus to do that and it is therefore that he says he does not agree with the implications of the Poona Pact. Is not that the case ?

Mr. M. K. Acharya: Yes. That is so

10,901. *Dr. B. R. Ambedkar:* It does not touch the political side of the matter. Mr. Gandhi says the Poona Pact imposes an obligation on the Hindus to open the doors of the temples. Pandit Malaviya says there is no such implication at all ?

Mr. M. K. Acharya: Yes.

†Minutes of Evidence, Vol. II-C, 2nd August 1933, p. 1720.

(15)

Lieut.-Colonel C. E. Bruce, C.S.I., CLE., C.B.E., Lieut.-General Sir George Macmunn, K.C.B., K.C.S.L, D.S.O., Mr. F. F. Lyall CLE., Mr. Waris Ameer Ali I.C.S., Mr. O. C. G. Hayter, and Hon. Mr. Justice W. A. Le Rossignol.

†12,465. *Dr. B. R. Ambedkar:* Were there Ministers in India at the time when you were District Judge ?

Lt. Col. C. E. Bruce: There were, but they were not concerned with me ; I should say, not elected Ministers, but I am referring now to the future in this Memorandum when, as I understand, the proposed Constitution—

12,466. *Dr. B. R. Ambedkar:* I thought you were speaking from your experience ?

Lt. Col. C. E. Bruce: May I explain to you ? This refers to the future when the proposal is to place Ministers under elected Legislatures and responsible to elected Legislatures and liable to stand or fall with their Cabinets.

Sir Hart Singh Gour: Your words are prophetic.

(16)

Wing Commander A. W. H. James, M.P., and Dr. J. H. Hutton, C.I.E., I.C.S.

‡D29. *Dr. B. R. Ambedkar:* Cannot they plead tribal law as their customary law ?

Wg. Comdr. A.W.H. James: No, it is not recognised by the High Court

Dr. B. R. Ambedkar: The High Court would recognise any custom ?

Wg. Comdr. A. W. H. James: It is not necessary to establish that it is a Hindu or Muhammadan custom. If there is no law laid down in that sense, the custom would govern. Ordinarily, that would be the thing. I am not speaking with first hand knowledge.

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§D222. *Dr. B. R. Ambedkar:* Dr. Hutton, in reply to a question by Major Attlee, I think you stated that you would prefer that the administration of the excluded areas should be a Central subject, rather than a Provincial subject ?

Dr. J. H. Hutton: That is my own feeling.

* * * * *

D224. *Dr. B. R. Ambedkar:* I just want to turn to some other matters which have been discussed in your paper, I think you are proceeding upon the basis that these people should under no circumstances come within the purview of the new constitution ?

Dr. J. H. Hutton: That is so.

D225. *Dr. B. R. Ambedkar:* That is the hypothesis and the basis upon which you are proceeding ?

†Minutes of Evidence, Vol. II-C, 6th October 1933, p. 1612.

‡*Ibid.,* Vol. II-D, 16th October 1933, p. 2376.

§*Ibid.,* pp. 2388-90.

Dr. J. H. Hutton: I admitted that in some circumstances where they are very scattered living among other populations, it would be otherwise.

D226. *Dr. B. R. Ambedkar:* But in the main, that is the hypothesis upon which you are proceeding ?

Dr. J. H. Hutton: Yes, in the main.

D227. *Dr. B. R. Ambedkar:* What is the ideal that you have before you for these people ? I will crystallise my question so that you may answer it better.

Dr. J. H. Hutton: The minimum of interference by anybody.

D228. *Dr. B. R. Ambedkar:* Let me put it in the way I visualise the question. Is it your ideal that these primitive people should continue to remain primitive people without having anything to do with the affairs of the rest of India, or do you propose that the destinies of these people should be so regulated that in course of time they should cease to be an isolated part of humanity and take part in the public affairs of their country as the rest of Indians are doing now ?

Dr. J. H. Hutton: I think that the second is my ideal.

D229. *Dr. B. R. Ambedkar:* That they should not continue permanently as primitive people ?

Dr. J. H. Hutton: The question would have to be that, if possible, ultimately they should take a part in the life of their country.

D230. *Dr. B. R. Ambedkar:* That is what I say ?

Dr. J. H. Hutton: But it is possible that in some cases you might never be able to achieve that ideal.

D231. *Dr. B. R. Ambedkar:* Let us, first of all, ascertain what the ideals are ?

Dr. J. H. Hutton: Yes.

D232. *Dr. B. R. Ambedkar:* I am not introducing the religious question at all, whether they should be this or that ?

Dr. J. H. Hutton: No.

D233. *Dr. B. R. Ambedkar:* What you do point out is this : You do say, and I think it is your ideal, that they should become part and parcel of the civil society ?

Dr. J. H. Hutton: Yes.

D234. *Dr. B. R. Ambedkar:* And outgrow their tribal condition ?

Dr. J. H. Hutton: Yes, I think that is necessary.

D235. *Dr. B. R. Ambedkar:* Let me therefore proceed further. If that is the view, is it not desirable that there should be a common cycle of participation both for the civilised people of India and for these primitive people ?

Dr. J. H. Hutton: Not yet.

D236. *Dr. B. R. Ambedkar : So* that there may be a percolation of the ideas which are agitating the minds of the civilised part of Indian society into this primitive class of people ?

Dr. J. H. Hutton: I think the ideas will percolate without any difficulty.

D237. *Dr. B. R. Ambedkar:* How?

Dr. J. H. Hutton: What troubles me is that unless they are separated they are likely to be destroyed by too abrupt contact. That is what has happened nearly everywhere else in the world.

D238. *Dr. B. R. Ambedkar:* I do not know but I do want to submit to you for your consideration whether if, as you have admitted, that is your ideal, namely, that they shall some day become part of the Indian society, segregation, and so complete and so rigid a segregation as you propose, is the proper way for the realisation of that ideal ?

Dr. J. H. Hutton: I think it is the only possible one myself.

D239. *Sir Reginald Craddock:* Might I put a question ? There are various educational agencies going on in some of those tribes. Is not that the case ?

Dr. J. H. Hutton: Yes, certainly....

D240. *Sir Reginald Craddock:* Are they chiefly missions, or has the Government any schools ?

Dr. J. H. Hutton: The Government has a number of schools.

D241. *Sir Reginald Craddock:* That would be one of the points that you would refer to in connection with the improvement of these classes would not you ?

Dr. J. H. Hutton : I should.

D242. *Dr. B. R. Ambedkar:* I want to proceed a little further. I see from your paper (correct me if I am wrong) that you are troubled about two things. You think that a contact or incorporation, if I may use that term, of the educated or the advanced or the civilised Indians, and of the primitive people in one constitution is likely to result, first of all, in their exploitation by the advanced classes or shall I say, the civilised part of the Indian society ?

Dr. J. H. Hutton: Yes.

D243. *Dr. B. R. Ambedkar:* Secondly, I suppose I am right in summarising it thus, that you are afraid that sufficient attention will not be paid to them in the new Council ?

Dr. J. H. Hutton: Yes.

D244. *Dr. B. R. Ambedkar:* Let me put to you one question. I will take the case of their land. Is it not a fact that this question, namely, of keeping the land in, the hands of the primitive people as far as possible that they may not be rendered a class of landless labourers, is also the problem which is before many of the agricultural classes in India and that even for their protection it has become necessary to pass Acts like the Deccan Agricultural Relief Act in Bombay and the Alienation of Land Act in the Punjab and several other cases ?

Dr. J. H. Hutton: I believe such Acts have been passed.

D245. *Dr. B. R. Ambedkar:* My suggestion is this, that if these primitive

people are brought under the same constitution as the rest of India they would not be quite alone in their demand for keeping the moneylender out and seeing that the land remains in the hands of those who cultivate it. There would be many others who would have a similar demand to make in the Legislature. The point I want to make is that they would not be isolated ?

Dr. J. H. Hutton: The point which I should be inclined to answer was that the proof of the pudding was in the eating, and, as far as experience went, it has shown that they always have been done out of their land.

D246. *Dr. B. R. Ambedkar:* But, Dr. Hutton, would you mind making this distinction, that the Legislatures, as they are composed today, and as they were composed some time ago, are not going to be the same as the Legislatures that will be composed under the White Paper ?

Dr. J. H. Hutton: Yes.

D247. *Dr. B. R. Ambedkar:* You would have a certain amount of representation drawn from the general electorate who would favour the poorer classes. The experience of the last Legislatures would be no safe guide in a matter of this kind ?

Dr. J. H. Hutton: I would sooner be on the safe side and exclude them.

D248. *Dr. B. R. Ambedkar :* I do not know, but you are not prepared to deny the fact that they would have many friends in the Legislature ?

Dr. J. H. Hutton: I would not admit that. I should like to be convinced first that they would have many friends. There may be others with similar interests, but they would have very little in common with them individually.

D249. *Dr. B. R. Ambedkar:* Yes, but I mean so far as the general question of protection for a class similarly situated is concerned ?

Dr. J. H. Hutton: I can conceive that a Musselman cultivator in Sihat would demand the maximum of protection for himself and the maximum of non-protection for his neighbours.

D250. *Dr. B. R. Ambedkar:* Do you think the Legislature would go to the length of saying that certain laws which are necessary in the interests of Indians are not to be extended, and that the protection of those laws is not to be given to the primitive classes ?

Dr. J. H. Hutton: No, I do not think they would go as far as that.

D251. *Dr. B. R. Ambedkar:* How would the discrimination arise?

Dr. J. H. Hutton: I think the primitive classes might have extreme difficulty in obtaining the necessary protection. There is no guarantee with the depressed classes that the cultivator will obtain the necessary protection under the new constitution.

D252. *Dr. B. R. Ambedkar:* Quite true; I agree with you. There can be no protection that the other classes probably would not club together and prevent protection being given to some other minorities ? The fear is legitimate, but taking into calculation all the forces on the one side and all the forces on the other, the point I want to make to you is that the fear, that

one or two, or a few representatives of the primitive classes in the Provincial Council will feel that they are overwhelmed by the forces on the other side, is not quite justified by an analysis as I am presenting it to you of the composition of the future Legislatures as it will be under the White Paper proposal ?

Dr. J. H. Hutton: In view of the difference of race, I think it is possibly justified, at any rate in certain places.

D253. *Dr. B. R. Ambedkar:* Take the question again of education. I happen to know something about these primitive people in the Bombay Presidency. We have a backward classes ?

Dr. J. H. Hutton: Yes, I know.

D254. *Dr. B. R. Ambedkar:* We ourselves are not very far divided from them ?

Dr. J. H. Hutton: I know.

D255. *Dr. B. R. Ambedkar:* Educationally speaking, one could not really say that a good many people in India are in less need of education than the primitive or the backward people ?

Dr. J. H. Hutton: You could not say what ?

D256. *Dr. B. R. Ambedkar:* You could not say (take, for instance, the depressed classes) that bare educational need is less ?

Dr. J. H. Huttton: You could not say that it was less.

D257. *Dr. B. R. Ambedkar:* One could not say it ?

Dr. J. H. Hutton: No.

D258. *Dr. B. R. Ambedkar:* I have been sitting on the backward class board in Bombay, which is a composite board for the depressed classes and these primitive people ?

Dr. J. H. Hutton: Yes, in certain cases the primitive people are very much more educated.

D259. *Dr. B. R. Ambedkar:* Therefore, as I say, taking their educational need, in the Legislative Council, they would not find themselves isolated ?

Dr. J. H. Hutton: They might do.

D260. *Dr. B. R. Ambedkar:* You would desire that they should be completely excluded, and their need, such as education, which I think is the greatest need of these people should be met entirely by revenues supplied by the Governor under his special responsibilities ?

Dr. J. H. Hutton: Yes.

D261. *Dr. B. R. Ambedkar:* I want to put this to you : whether a Governor would at all go to the length of providing what he thought was a sufficient amount of funds for the education of the primitive classes if his Ministers did not support him ?

Dr. J. H. Hutton: That is a serious difficulty.

D262. *Dr. B. R. Ambedkar:* If there is something in the point that I have put to you, would not it be desirable that some representatives of these people should be in the Legislative Council so that a Minister may be

dependent upon their votes, and may be amenable to their wants ?

Dr. J. H. Hutton: An odd vote or two would not be likely to affect a Minister.

D263. *Dr. B. R. Ambedkar:* I do not say one or two. You may have a small number, but, assuming they have adequate representation in the Legislature, would not the Minister be dependent upon their votes, and, therefore, he might be more amenable to their wants ?

Dr. J. H. Hutton : Theoretically, but not in practice. Their numbers would be so small.

Dr. B. R. Ambedkar: In politics a single vote might turn the balance.

D264. *Lord Eustace Percy:* I thought Dr. Hutton's recommendation was that they should be excluded from the purview not only of the Province but of the Governor also, and that they should be administered from the centre. Is not that so?

Dr. J. H. Hutton: That is what I should, on the whole, prefer. I have stated in my memorandum that in the case of the proposals of the White Paper for the totally excluded areas in which the Governor acts as the agent of the Governor-General, the White Paper proposal is satisfactory. I do not say I should prefer it.

D265. *Lord Eustace Percy:* I thought from your proposals for setting up petty States that you intended that it should as far as possible be a central function ?

Dr. J. H. Hutton: My intention was that it should be central as far as possible, certainly.

D266. *Dr. B. R. Ambedkar:* Even in that case, the criticism I have offered would be equally applicable even if the subject was made central, because the Governor would have to certify the amount necessary for the administration of the subject and, if the Ministers in the Central Government objected to spending that amount of money, the conflict would still be there; it would only be transferred from the Provincial Field to the Central Field ?

Dr. J. H. Hutton: I am assuming the Minister would not have a word in it.

Dr. B. R. Ambedkar: But my point is that the Minister would have a word, because there would be other rival claims for the expenditure, and a Minister cannot be expected to be interested in primitive peoples who are not part of the Legislature.

Dr. Shafa'at Ahmad Khan: Would not the representatives of the primitive people in the Legislature generally combine with the depressed classes ?

D267. *Dr. B. R. Ambedkar:* That is what I am visualising, and, therefore, they would have many friends.

Dr. J. H. Hutton: I do not think the representation would be affected.

D268. *Dr. B. R. Ambedkar:* If I felt as pessimistic as you feel I should

at once say : "I do not want this constitution at all" ?

Dr. J. H. Hutton: But I do not, for the primitive tribes.

* * * * *

D284. *Major Attlee:* I do not think the Simon Commission recommended the forests from your point of view at all. The forests were recommended by the Simon Commission to be transferred ?

Dr. J. H. Hutton: No. I put that forward as a suggestion for the economical administration of an excluded area.

Lord Eustace Percy : Perhaps Dr. Hutton will deal with this difficulty, because I do not understand what a totally excluded area is in which the provincial forest official and the provincial forest policy prevails.

D285. *Dr. B. R. Ambedkar:* If I may say so, the area is not excluded, it is the people who are excluded ?

Dr. J. H. Hutton : No, the area is excluded, as I read the White Paper. Is there any definition of a totally excluded area in the White Paper ?

(17)

The Right Honourable Sir Winston Spencer Churchill, C.H. Member of the House of Commons

†14,681. *Dr. B. R. Ambedkar:* Mr. Churchill, the White Paper does not propose to establish Dominion Constitution ?

Sir Winston Churchill: No.

14,682. *Dr. B. R. Ambedkar:* Therefore I do not propose to trouble you with any questions with regard to the logical and metaphysical position, whether one could draw a distinction between Dominion Status as a ceremonial affair and Dominion Status as a Dominion Constitution. I propose to ask you just one or two questions with regard to the White Paper itself without confusing the issue by bringing in anything with regard to the distinction that you propose to make. May I draw your attention, therefore, to the debate that took place in Parliament on December 1st, 1931, when the Prime Minister moved the resolution; it was in these terms : "That this House approves the Indian policy of His Majesty's Government as set out in Command Paper No. 3972 — Indian Round Table Conference — presented in Parliament on the 1st December, 1931." That is the first White Paper-not the full scheme ?

Sir Winston Churchill: You mean the Prime Minister's speech ?

14,683. *Dr. B. R. Ambedkar:* The Prime Minister's speech.

Sir *Winston Churchill :* Quite.

14,684. *Dr. B. R. Ambedkar:* The Constitution adumbrated in the White Paper which was presented to the House included in the main the proposals which are contained in the White Paper as it is presented to the Joint Select Committee. There was to be Provincial responsible government

†Minutes of Evidence, Vol. II-C, 24th October 1933, pp. 1807-08.

in the Provinces with the transfer of Law and Order, and there was to be a sort of dyarchy at the Centre, in which Defence and Foreign Relations were to be reserved subjects. Is that right ?

Sir Winston Churchill: I find no need to interrupt you at this point.

14,685. *Dr. B. R. Ambedkar:* Then the next point I wish to ask about this. The Prime Minister made his object clear in moving this resolution in the House of Commons. I am reading his words : "the statement which I made to the Round Table Conference yesterday had the full authority of the Cabinet, and we now wish, having communicated that statement to the House, to ask the House by its vote to associate itself with that policy." That was the object of the Prime Minister in moving this resolution in the House of Commons. Now, as you know you moved an amendment to the resolution. That amendment was in these terms : "Mr. Churchill : I beg to move in line 3 at end to add the words, provided that nothing in the said policy shall commit this House to the establishment in India of Dominion Constitution as denned by the Statute of Westminster ; provided also that the same policy shall effectively safeguard the British trade in and with India from adverse or prejudicial discrimination, and provided further that no extensions of self-government in India at this juncture shall impair the ultimate responsibility of Parliament for the peace, order and good Government of the Indian Empire."

14,686. *Dr. B. R. Ambedkar:* The impression that I have formed, after reading this debate that took place in the House of Commons on the 3rd December 1931, was this, that if the Prime Minister had accepted your amendment you were willing to vote with the Government in support of the resolution moved by the Prime Minister. Is that correct ?

Sir Winston Churchill: I think it very difficult to say what would have happened in these hypothetical circumstances, but, undoubtedly it would have been a very great relief to the great mass of Conservative Members in the House of Commons if the Government had seen eye to eye with those who supported me in that amendment—a very great relief, and altogether more agreeable atmosphere would have followed immediately and would have been created.

14,687. *Dr. B. R. Ambedkar:* Fortunately for me, I do not think the matter is really hypothetical because I find you have taken a very definite attitude with regard to your amendment in the course of that debate and I want to call your attention to one or two statements you made in the course of your speech. I think the one fact which has puzzled me, I must admit, is that, first of all, according to the impression of most Members then present in the House, there was really no distinction between what the Government was asserting and what you proposed to state in your amendment. Is it not so ? Let me read a passage of yours. The point I want to make is this : A subject which has always puzzled me is this, that having read the statement of the Prime Minister and the amendment which you proposed to move on

that day in the House of Commons, I, at any rate, did not see any distinction, and that, I say, was your position as well, because I propose to read a passage which will make it clear. You say at column 234 : "I have finished and I am most grateful to the House for permitting me to intrude for so long upon their attention. What can we do but to preserve with our amendment. It is not a vote of confidence in His Majesty's Government" and this is the important point, "On the contrary, it merely asserts the principles which they themselves affirm and which both the Prime Minister and the Secretary of State have affirmed." So you yourself really saw no distinction between the proposals as put forth in the statement of the Prime Minister and the substance of your amendment ?

Sir Winston Churchill: Of course, I thought it was unfortunate that the Government did not take proper view of the proposal. I should have been very glad to get that amendment on the paper.

14,688. *Dr. B. R. Ambedkar:* Let me quote another passage of what you said on the same day. You said your second alternative to the Government on that day was that if your amendment was not accepted you would be content to vote with the Government provided the pronouncement of the Prime Minister was accompanied by the speech of the Secretary of State that was made on that day in the House of Commons ?

Sir Winston Churchill: Yes.

14,689. *Dr. B. R. Ambedkar:* My point is this : If that is your position, namely, that you were content to vote with the Government on that particular debate, provided the Prime Minister's announcement was accompanied by the speech made by the Secretary of State in the House of Commons, what I wish to understand from you is this : What is the difference between the White Paper as it is presented to this Committee and the statement of the Prime Minister combined with the speech of the Secretary of State ? Could you give us any difference that you see between the White Paper as presented to the Committee and the pronouncement of the Prime Minister as interpreted by the Secretary of State in the House of Commons ?

Sir Winston Churchill: In the case of a difference which arises in a Parliament or in a House of Commons between two sides of a debate, it is difficult for outsiders to appreciate what the difference was unless they understand all the circumstances which influence and affect our debates, but that there was a great and real difference between the amendment which I sought to have put upon the paper and the resolution which the Government passed over our heads is indisputable. There was a sharp difference. Each side naturally presents its case in the manner least likely to deter support, but the difference is there all the same and remains quite clear, and I do not suggest to Dr. Ambedkar that in justice to our Parliamentary institutions, he should remember that we still have a bica-

meral Parliament and that the debates in the House of Lords must be read in conjunction with those in the House of Commons.

14,690. *Dr. B. R. Ambedkar:* If I may say so respectfully, I wish to understand your position alone, irrespective of the position of the House of Lords or other members of the Party. You stated definitely that you would vote with the Government, provided the Prime Minister's statement was issued in conjunction with the speech made by the Secretary of State. The point which I wish to submit to you respectfully is this : Do you see any difference in the White Paper as presented to the Joint Parliamentary Committee, and the statement by the Prime Minister as interpreted that day by. the Secretary of State in the House of Commons ? If there is, of course, you have every ground to differ ?

Sir Winston Churchill: I can assure Dr. Ambedkar that I have never been in favour of a federal system being erected at this time at the Centre of India nor of transferring law and order in the Provinces, and nothing that I have ever said in this controversy is in conflict with that. *Dr. B. R. Ambedkar:* I have no more questions to ask.

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†14,945. *Dr. B. R. Ambedkar:* My Lord Chairman, may I ask a question with your permission ?

Chairman: If you please.

14,946. *Dr. B. R. Ambedkar:* I just want to ask you one question, Mr. Churchill. Do you make any distinction between responsible government and Dominion Status ?

Sir Winston Churchill: Oh, yes. Responsible government has many interpretations, many that we know in practice and we have seen. Responsible government may mean serious, real, important functions transferred to the discretion of a Provincial, or local body, or it may mean the various degrees of responsible government which have a technical understanding in the language of the Dominions and Colonial Offices, namely, Ministers responsible to the Assembly and so forth, but there are very considerable gradations in the history of our outlying Dominions and Empire in the exact form of institutions, which would be covered by the term "responsible government".

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‡15,147. *Dr. B. R. Ambedkar:* Would you agree that the masses should be given adult suffrage ?

Sir Winston Churchill: No.

15,148. *Dr. B. R. Ambedkar:* Why not ?

Sir Winston Churchill: Because I think it quite impracticable.

†Minutes of Evidence, Vol. II-C, 25th October 1933, p. 1833.

‡*Ibid., p.* 1849.

(18)

Lieut.-Colonel Sir Henry Gidney, M.L.A., I.M.S. (Retired), on behalf of the Anglo-Indian and Domiciled European Association of India

*16,241. *Dr. B. R. Ambedkar:* I realise from your Memorandum that you are very apprehensive of what may happen to your community under the new Constitution. I believe your apprehensions are shared by many other minorities. Therefore, the question I want to put to you is this : Would it serve any purpose which you have in view if a provision was made in the Constitution that there should be some officer or some Department in the future Central Government of India which was charged with the statutory duty of presenting to Parliament annually a Report on the moral and material condition of the various communities in India ? Do you think that proposal would be of any use to your community in drawing the attention of Parliament to anything that may have occurred in the course of the administration of various provinces affecting your material interests ?

Sir Henry Gidney: That proposal meets with my entire approval as the *ultima thule* of what would be the protection of minorities, but, as a preliminary canter to that the minorities, in my humble submission, demand protection not in so far as someone can report to the Houses of Parliament annually, but a practical protection.

16,242. *Dr. B. R. Ambedkar:* Let me make myself clear. What I am suggesting is not in substitution of what you are asking; it may be supplemental to what you are asking ?

Sir *Henry Gidney :* Yes.

16,243 *Dr. B. R. Ambedkar:* Do you agree with me that this opportunity, or this method of exposing possible abuses of power in itself serve as a check against any possible abuse ?

Sir Henry Gidney: I certainly think it would be a means of bringing to the Houses of Parliament anything in the way of a prejudicial effect on Communities.

16,244. *Dr. B. R. Ambedkar:* Not merely yours, but of many others ?

Sir Henry Gidney: Of all minorities.

Mr. Zafrulla Khan: What would Parliament be expected to do thereupon ?

Dr. B. R. Ambedkar: It would lie there. Parliament would take note of the various Governments. Not only should the Governor-General know, but Parliament should know how the various Governments are executing their responsibilities to the various minorities which are placed under their charge.

Sir Hari Singh Gour: And you would call that Provincial autonomy ?

Dr. B. R. Ambedkar: Yes ; I certainly would.

*Minutes of Evidence, Vol. II-C, 10th November 1933, p. 1996.

(19)

Mr. J. C. French and Mr. S. H. Mills on behalf of Indian Police

*16,904. *Dr. B. R. Ambedkar:* Mr. Mills, there is just one question I should like to ask you, because I am rather interested in getting your view of this matter. You stated somewhat emphatically that under the proposed Constitution in Bengal, Muslims and the Depressed Classes would be under the influence of the Congress ?

Mr. S. H. Mills: I think there is every chance of their being under the influence of the Congress —a percentage of them.

16,905. *Dr. B. R. Ambedkar:* You said about 20 of the Depressed Classes ?

Mr. S. H. Mills: Yes.

16,906. *Dr. B. R. Ambedkar:* I suppose it is not your suggestion that as it is today there are any Depressed Classes or there are any Muhammadans who are in sympathy with the terrorist movement ?

Mr. S. H. Mills: We have quite a large number of Depressed Classes who have been arrested as terrorists.

16,907. *Dr. B. R. Ambedkar:* From what community ?

Mr. S. H. Mills: We have had some from peculiar communities and there have been a number of Shahas ; then from Midnapore quite a number of the Depressed Classes have been arrested — particularly Midnapore.

16,908. *Dr. B. R. Ambedkar:* Shaha is not a scheduled caste of the Depressed Classes ?

Mr. S. H. Mills: No. In the Midnapore district there have been quite a number of the Depressed Classes who have been arrested.

16,909. *Dr. B. R. Ambedkar:* Now the next point that I want to draw your attention to is this : May I just put it ? Is it your experience, for instance, that a large community like the Namasudras in Bengal are in any way connected with the terrorist movement ?

Mr. S. H. Mills : Yes, they are.

16,910. *Dr. B. R. Ambedkar:* The next question that I want to ask you is this : You know that under the White Paper proposals the minorities of Bengal have separate electorates ?

Mr. S. H. Mills: Yes.

16,911. *Dr. B. R. Ambedkar:* Do you still think that, notwithstanding the separate electorates, the Congress will have any influence in the election of the members of these communities ?

Mr. S. H. Mills: I think it is highly probable.

16,912. *Dr. B. R. Ambedkar:* How would that influence be felt ?

Mr. S. H. Mills: Because the Congress having the terrorists behind them is very greatly feared in the Province, and that fear would tend to dominate them.

*Minutes of Evidence, Vol. II-C, 13th November 1933, p. 2043.

(20)

Secretary of state for India's Evidence before the Joint Committee on Indian Constitutional Reform

†The Right Hon. Sir Samuel Hoare, Bt., G.B.E., C.M.G., M.P., Sir Malcolm Hailey, G.C.S.L., G.C.L.E., and Sir Findlater Stewart, K.C.B., K.C.I.E., C.S.I.

‡6394. *Dr. B. R. Ambedkar:* I have not followed it I think even under Proposals 92 and 95, although the Legislature may be in Session, the Governor will not be bound to put his legislation before the Legislature if he so thinks ?

Sir Samuel Hoare: That is perfectly true. The Governor has full discretion.

6395. *Dr. B. R. Ambedkar:* The Governor has full discretion ?

Sir Samuel Hoare: Whether for ordinances or for legislation, on his own initiative.

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§6440. *Dr. B. R. Ambedkar:* I want to pursue this point a stage further. You said that would depend on the circumstances of the case. That was not the question of Sir Tej Sapru. The question is, is this Clause wide enough to give the power to intervene and say : "No, this will interfere with peace and tranquillity, and I will not allow you to introduce this legislation" ?

Sir Tej Bahadur Sapru: The Clause is merely wide enough to allow the Governor to take action if he is convinced that it will lead to a grave menace to the peace and tranquillity of the Province, not mere that he thinks such legislation is undesirable in the interests of one class or another.

6441. *Dr. B. R. Ambedkar:* If he comes to that conclusion this clause is wide enough for him to say : "I will not allow you to proceed with such legislation" ?

Sir Samuel Hoare: I can only say we have had in the United Provinces within the last two years the menace of very grave trouble indeed arising out of the agrarian situation, and dealing with the rental question. There was a stage then when, in my opinion, this clause would undoubtedly have applied, but it would have applied because there was threatening of actual risings of tenants in certain parts of the Province. I would not have held that it would have applied if it had been merely the case that one class or other would have been prejudicially affected by the Legislature.

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¶6533. *Dr. B. R. Ambedkar:* I want to know whether the Secretary of

†Sir Samuel Hoare was the Secretary of State for India, Sir Malcolm Hailey was the Governor of United Province, and Sir Findlater Stewart was the Permanent Under Secretary of India Office, London.

‡Minutes of Evidence, Vol. II-B, 14th July 1933, p. 729.

§*Ibid.,* p. 735.

¶*Ibid.,* p. 747.

State desires me to reserve any questions upon Second Chambers for the Provinces ?

Sir Samuel Hoare: I would suggest, so far as the Constitution of the Second Chambers goes (the membership), perhaps it would be better to take that with the franchise generally.

6534. *Dr. B. R. Ambedkar:* This franchise question ought to be excluded at this stage ?

Sir Samuel Hoare : Whatever the Committee thinks, I should have thought it came better into the franchise.

Dr. B. R. Ambedkar: I will not ask any questions of the Secretary of State.

Chairman: I think the Secretary of State's suggestion is a practical one. I hope you will not put questions at this stage.

6535. *Dr. B. R. Ambedkar:* I was going to ask the composition of the Second Chamber. Would it be better to reserve it ?

Sir Samuel Hoare: Yes, I think perhaps that would be better.

6536. *Dr. B. R. Ambedkar:* You said in the course of a reply to a question put last time, that you contemplated that in the Provinces the Ministers could be drawn from either Chamber, both the Lower and the Upper ?

Sir Samuel Hoare: Yes.

6537. *Dr. B. R. Ambedkar:* You remember that in the Second Chamber, as suggested in the White Paper, there are to be 10 nominated Members ?

Sir Samuel Hoare: Yes.

6538. *Dr. B. R. Ambedkar:* Is it the proposal that these 10 nominated members who will sit in the Upper Chamber will also be eligible for being Ministers ?

Sir Samuel Hoare: Yes, I would not draw any distinction between them and the others.

6539. *Dr. B. R. Ambedkar:* The nominated members would be eligible for being Ministers ?

Sir Samuel Hoare : Yes, certainly; that is how I conceive it to be.

6540. *Dr. B. R. Ambedkar:* In the present Government of India Act there is a distinct provision that any member who is a nominated member of the Provincial Legislature is not eligible for being a Minister ?

Sir Samuel Hoare: I take it from Dr. Ambedkar that is so.

6541. *Dr. B. R. Ambedkar*. I stand subject to correction, but I believe that is the position ?

Sir Samuel Hoare: Yes.

6542. *Dr. B. R. Ambedkar :* So you are really introducing the very important change by allowing nominated members in the Upper Chambers to be Ministers in the new Government ?

Sir Samuel Hoare: It is, of course, a very different kind of Government.

6543. *Dr. B. R. Ambedkar:* I am not going into the reasons, but I am only stating the facts ?

Sir Samuel Hoare : Yes. I think there is a great deal to be said for giving the Governor a free choice, always assuming, Dr. Ambedkar, that the Cabinet is collectively responsible and there would be no intention of imposing a Minister against the wish of the Cabinet in case of this kind.

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†6549. *Sir Tej Bahadur Sapru :* Is Sir Samuel right in conceding that the present Government of India Act makes a distinction between elected and nominated members for appointment as Ministers ?

Sir Malcolm Hailey: It was new to me, but I took it from Dr. Ambedkar.

Dr. B. R. Ambedkar: I used it in the sense that it must be an elected member within six months.

Sir Tej Bahadur Sapru : So far as I can see the Government of India Act makes no distinction between elected and nominated members for the purpose of appointment as Ministers. The Section which deals with that matter is Section 52.

Dr. B. R. Ambedkar: He has to get himself elected.

6550. *Sir Tej Bahadur Sapru:* I thought Dr. Ambedkar put it to Sir Samuel, and suggested that the Government of India Act makes a distinction between elected and nominated members in the matter of being Minister ?

Sir Malcolm Hailey: It only does so to the extent of laying down that a Minister shall not hold office for a longer period than six months unless he becomes an elected member.

6551. *Sir Tej Bahadur Sapru :* But if there is a nominated member there already, there is nothing to prevent you from appointing him Minister ?

Sir Malcolm Hailey: That is so.

6552. Sir *Tej Bahadur Sapru :* And that has been done ?

Sir Malcolm Hailey : Yes.

Sir Tej Bahadur Sapru: The law, as I understand it, is this: It is open to the Governor to appoint any outsider a Minister, provided that outsider gets elected to the Legislative Council within a period of six months. Similarly, it is open to the Governor to appoint a Minister from the block of nominated members who are already there. The Act does not make any distinction.

6553. *Mr. Zafrulla Khan :* Once a nominated member is appointed, does he continue to be nominated member all the time or must he seek election ?

Sir Samuel Hoare: No, I thought that was quite clear. A nominated member is treated just like anyone else.

Dr. B. R. Ambedkar: He cannot continue to be a Minister after six months unless he gets elected.

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‡6558. *Dr. B. R. Ambedkar:* May I read the section ?

Sir Samuel Hoare: Does it really very much matter with what the

†Minutes of Evidence, Vol. II-B, 14th July 1933, p. 748.

‡Ibid., pp. 749-50.

position is now ?

6559. *Dr. B. R. Ambedkar:* It matters because I want to ask what the exact position is. Section 52, sub-section 2 is : "No Minister shall hold office for a longer period than six months unless he is or becomes an elected Member of the Local Legislature." All I wanted to suggest was that the Act does not contemplate the continued holding of a nominated member as a Minister. which would be the case if the suggestions in the White Paper were adopted, that a nominated Member of the Second Chamber would be entitled to be a Minister. With respect to the appointment of the Ministry, I want to draw your attention to the recommendation of the Sub-Committee on Provincial Constitution. They said: "The Sub-Committee is of the opinion that in the discharge of that function the Governor should ordinarily summon the Member possessing the largest following in the Legislature and invite him to suggest the Ministers and submit their names for approval." Paragraph 67 says that he shall make "his best endeavours to select his Ministers in the following manner"—which I regard as a considerable departure from the recommendation of the Provincial Constitution Committee ?

Sir Samuel Hoare: I do not think there is any departure at all. The Committee said 'ordinarily', and this is, I imagine, what will ordinarily happen.

6560. *Dr. B. R. Ambedkar:* You do not think it would be necessary, in the interests of fostering collective responsibility, to impose an obligation upon the Government that he should follow a particular course in the formation of the Ministry ?

Sir Samuel Hoare: The Round Table Committee that Dr. Ambedkar quotes did not think so.

6561. *Dr. B. R: Ambedkar:* I thought that was the thing ?

Sir Samuel Hoare: You have just read a quotation from them saying "ordinarily" they thought so.

6562. *Dr. B. R. Ambedkar:* Or that they should do it —not "best endeavour" ?

Sir Samuel Hoare: It is a question of words.

6563. *Dr. B. R. Ambedkar:* The next question I want to ask is on the question of this ordinance power of the Ministers under Proposal 104. What I want to know is this : Why is it necessary to make a provision of this sort in the Constitution itself ? Would not it be possible for a Ministry in a Provincial Legislature to have an Emergency Act passed by the Legislature itself similar, for instance, to that of 1920 in this country, and to derive its powers from the Acts passed by the Legislature ? I am talking about No. 104 : Would not it be possible for the Provincial Ministry to have an Act passed by the Provincial Legislature giving them the necessary powers to act in a specified emergency ?

Sir Samuel Hoare : I should have thought this was essentially a power that every government must possess, namely, of taking emergency action when the Legislature is not sitting and particularly necessary in a country like India where there are great distances and where it may take some time to get the Legislature sitting.

6564. *Dr. B. R. Ambedkar:* I suggest the Provincial Ministry can get an Act passed from the Provincial Legislature defining the emergencies in which they may be called upon to act, and the Legislature may give them the powers. Why is it necessary to make a provision of this sort in the Constitution itself ?

Sir Samuel Hoare: Because I regard it as an essential power that a Government should have, and as we are dealing with the whole field of the Constitution it is the kind of power that ought to be inserted in the Constitution Act

Dr. B. R. Ambedkar: It is a power that is intended to be given to a responsible Ministry and it is, in the nature of things, that the responsible Ministry should draw its powers, whether emergency or otherwise, from the Legislature to which it is responsible.

Lord Eustace Percy: May I remind Dr. Ambedkar that the Act of 1920 in this country only regularized a power which Ministers frequently exercised in the past without legislation ? It has always been the practice in this country, that, subject to be a sequent Parliamentary indemnity, a Ministry can issue an Emergency Order.

Dr. B. JR. *Ambedkar:* That is all I ask.

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†6870. *Sir Hubert Carr:* No. 44 gives the Governor-General power in his discretion, "in any case in which he considers that a Bill introduced, or proposed for introduction, or any clause thereto, or any amendment to a Bill moved or proposed would affect the discharge of his 'special responsibility' for the prevention of any grave menace to the peace or tranquillity of India, to direct that the Bill, clause or amendment shall not be further proceeded with." That, I understand, is only in the case of his special responsibility for the peace or tranquillity of India being threatened. Does any such power exist for him in the case of his other special responsibilities being threatened ?

Sir Samuel Hoare: No, I think not

6871. *Sir Hubert Carr:* For instance, (*b*) : "The safeguarding of the financial stability and credit of the Federation" ?

Sir Samuel Hoare: No ; it is limited to the special responsibility for grave menace to peace and tranquillity.

Sir Malcolm Hailey: I think I could give Sir Hubert the reason for that. It is a practical repetition of Section 67 *(2a)* of the existing Act which only refers to the safety and tranquillity in British India, and it has been repeated

†Minutes of Evidence, Vol. II-B, 18th July 1933, p. 784.

almost in terms.

6872. *Sir Hubert Carr:* It is not considered necessary to give the Governor-General that power to prevent his responsibilities being threatened other than peace and tranquillity ?

Sir Findlater Stewart: No. He could, of course, refuse his assent to the Bill as passed by the House.

6873. *Sir Hubert Carr:* But he cannot stop the discussion ?

Sir Findlater Stewart: No.

Dr. B. R. Ambedkar: I would like to reserve my questions for the Secretary of State because they are questions of policy.

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†7016. *Dr. B. R. Ambedkar :* Arising out of the questions that were put by Mr. Morgan Jones regarding the pledges, you stated that no responsible statesman in this country has bound himself to time and pace. Is that so ?

Sir Samuel Hoare : Yes.

7017. *Dr. B. R. Ambedkar:* But I think there is a general agreement that the ultimate goal of India's Constitution is to be Dominion status ?

Sir Samuel Hoare: It has constantly been so stated.

7018. *Dr. B. R. Ambedkar: So* that on the question of the ultimate goal, there is really no dispute ?

Sir Samuel Hoare: That would be so, yes.

7019. *Dr. B. R. Ambedkar:* Now what I want to ask you is this : In view of that, would you be prepared to put this in the Preamble to the Government of India's Constitution that India would be Dominion status, leaving the question of the time and the pace to be determined by circumstances as they arise ?

Sir Samuel Hoare: I do not think here and now I would like to give a pledge as to What is or is not put in the Preamble of an Act of Parliament. I, myself, am prejudiced against Preamble of Acts of Parliament, for reasons good or bad, and I would rather say neither yes nor no to Dr. Ambedkar's question. It is a point that ought to be considered by the Committee. I would not regard it as a question of principle, one way or the other; I think it is essentially a matter for discussion. Upon the face of it, I am against these general declarations in Preambles.

7020. *Dr. B. R. Ambedkar:* I want to say this, that this is not a point in dispute now, and, in view of the fact that it would have a reassuring effect on the Indian people, it would be desirable to have this embodied in the Preamble to the Government of India Act ?

Sir Samuel Hoare: We must take note of what Dr. Ambedkar has said upon the point.

7021. *Dr. B. R. Ambedkar:* Now the next question that I propose to ask you is with regard to the date of the Federation : that in view of certain uncertain elements connected with the entry of the Princes into the Federation,

†Minutes of Evidence, Vol. II-B, 18th July 1933, pp. 797-805.

it was not desirable to give a date for the inauguration of the Federation. Now the point that I propose to put to you is this : What would you say to a proposal like this — I am making it as my own : Supposing you started the Federation without waiting for the Princes, and had a nominated bloc appointed by the Viceroy or the Governor-General, it may be officials or non-officials, it may be partly from officials and partly from non-officials, and then inaugurate your Federation, and then, as the Princes come in, eliminate the nominated bloc to make room for such Princes as begin to come in ? Have you any objection to a proposal of this sort ?

Sir Samuel Hoare: Yes, I have several objections to it. I think that perhaps, the strongest that occurs to me offhand is that it is a completely new one. Here for the last three years we have been considering no other kind of Federation than an All-India Federation, with the Princes adequately represented in it.

7022. *Dr. B. R. Ambedkar:* Quite true, but let me pursue this point ?

Sir Samuel Hoare: May I just finish my answer? Secondly, I would say, even apart from that every formidable objection, an objection that would mean that we should have to start all our discussions over again, there is the further objection that I do not see what is to happen supposing when you had got your nominated bloc, the Princes then do not come into the Federation at all.

7023. *Dr. B. R. Ambedkar:* I will put my next question. You want the Princes' representation as a stabilising element ?

Sir Samuel Hoare: No; more than that, Dr. Ambedkar; I would not restrict myself to that at all. I want the Princes' accession for a number of reasons. I believe, quite apart from the stabilising element of the Princes' representation, they can bring into the Government of India many very valuable influences.

7024. *Dr. B R. Ambedkar:* But my point is this, I am not making this suggestion as a permanent part of the Constitution. I am making the suggestion for the transitional period until the Princes come in. I am only trying to get over the difficulty that you would say would arise if the Princes do not make up their minds to come in a stated period. I am only trying to get over the difficulty as to date ?

Sir Samuel Hoare: I quite see that. None the less, with the best will in the world, I do see the very formidable objections that I have just mentioned to a transitional plan of this kind.

Nawab Sir Liaqat Hayat Khan : In any case, if I might interject, had that not better be brought out when you meet again, in the event of such a contingency arising. It has been promised that when a contingency arises we meet again. I think a suggestion of that nature would be more appropriate then rather than now.

Sir A. P. Patro: You will not be there when it comes.

Sir Samuel Hoare : I have always thought that it is really a great mistake,

particularly for those who are really interested in setting up an All-India Federation, to concentrate upon setting up some kind of provisional government upon the assumption either that Federation is never coming into existence, or that Federation is only coming into existence in the very indefinite future. I believe myself that Members of the Committee and Indian Delegates who make proposals of that kind, although they do not wish the result of their proposals to be in the least what it will be, are really putting Federation further and further into the distance. I only go on repeating my own opinion, and I must rely upon my British and Indian friends to see that time after time it is not misrepresented by our enemies outside.

Dr. B. R. Ambedkar: May I pursue this a little further. Do you think Federation is more important, or responsibility is more important ?

7025. *Sir Tej Bahadur Sapru :* Or neither ?

Sir Samuel Hoare: I do not see the point of Dr. Ambedkar's question.

7026. *Dr. B. R. Ambedkar :* My point is this : If you are not prepared to consider any alternative for a transitional period the conclusion is that there can be no responsibility unless there is Federation ?

Sir Samuel Hoare: Really now Dr. Ambedkar is raising issues that we have been discussing for three years. For three years we have assumed in every discussion we have had that these proposals are based upon a foundation of All-India Federation, and I am not prepared today, after three years of these discussions, to reopen this question.

Dr. B. R. Ambedkar: It is true. I do not want to pursue the matter. I am only suggesting an alternative for your consideration. I have two more questions to ask, but I do not know whether they will be within the ambit of the topic we are discussing. One is in relation to the qualifications of candidates for the Federal Upper Chamber.

Archbishop of Canterbury: I think that would more properly come under franchise, would it not ?

Dr. B. R. Ambedkar: I would like to ask a question or two about financial safeguards.

Archbishop of Canterbury: I think that clearly comes within finance.

7027. *Dr. B. R. Ambedkar:* I want to ask a question or two about defence. You remember that the Sub-Committee on Defence in its report recommended that there should be a Military Council. I do not find any proposal in the White Paper dealing with that ?

Archbishop of Canterbury: For the very good reason that we do not think that is a constitutional proposal. It is an administrative proposal.

7028. *Dr. B. R. Ambedkar:* Are you going to have it?

Archbishop of Canterbury: I have always myself been in favour of having in India something in the nature of the Committee of Imperial Defence here. I believe in actual practice it will be found to be necessary. It is very important to bring not only the Defence Ministers, and the Defence officials, in touch with Defence problems, but now that

Defence covers so very wide a field of the life of a nation we have found here it is of great value to have a Committee of some kind in which the appropriate Ministers can be had in for specific discussions, and there is a strong body, not only of civil opinion, but also of military opinion in India that is in favour of the development of some such Committee as this, but essentially it is an administrative question rather than a question that can be dealt with in an Act of Parliament.

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7033. *Dr. B. R. Ambedkar:* With regard to the reserved subjects, you do not propose to make that part of the budget votable ?

Sir Samuel Hoare: That is so.

7034. *Dr. B. R. Ambedkar:* That is opposed to the theory of Reserved Departments as it exists now under the Government of India Act ?

Sir Samuel Hoare: It is based upon all our previous discussions and I thought, although there was a good deal of discussion at the Round Table Conferences about certain features of Defence, there was a very general agreement upon the point that the monies should not be votable.

7035. *Dr. B. R. Ambedkar:* Do you see any very great danger if the Legislative Assembly vote upon it, and the Viceroy had the power to certify, if he found any drastic cut was made ?

Sir Samuel Hoare : I think it is better in a matter of this kind, in which the responsibility of the Viceroy is clear and unquestioned, that whilst opportunities should be given for discussion, the necessary expenditure should be non-votable.

Dr. B. R. Ambedkar: The next question is with regard to the appointment of the commander-in-chief. I do not find any specific proposals dealing with that in the White Paper. Section 19 of the Government of India Act merely states that commander-in-chief shall be appointed by His Majesty by warrant under the Royal Sign Manual.

7036. *Sir Tej Bahadur Sapru :* It is a curious accident that in the present Government of India Act there is no reference to the appointment of the commander-in-chief. All it does is to provide that if the commander-in-chief is a Member of the Executive Council he should take precedence over the other Members of the Executive Council. White Paper or not, it is intended to continue the appointment of a commander-in-chief.

7037. *Dr. B. R. Ambedkar:* Section 19(1) of the present Government of India Act says : "The Commander-in-Chief of His Majesty's Forces in India is appointed by His Majesty by warrant under the Royal Sign Manual" ?

Sir Samuel Hoare: Yes; that would probably go on in much the same way.

7038. *Lord Irwin:* Is not the matter referred to in Proposal 6 at the foot of page 39 of the White Paper ?

Sir Samuel Hoare: Yes, paragraph 6, page 39.

7039. *Dr. B. R. Ambedkar:* Paragraph 6 does not say how his appointment is going to be made — on whose advice ?

Sir Samuel Hoare : By the Crown.

7040. *Dr. B. R. Ambedkar:* On whose advice ?

Sir Samuel Hoare: The appointment is made by the Government here.

7041. *Sir Austen Chamberlain:* By His Majesty acting on the advice of Ministers at home ?

Sir Samuel Hoare : Yes.

7042. *Dr. B. R. Ambedkar:* I look up the other day the Debates in the Legislative Assembly dated the 17th February, 1921, and Sir Godfrey Fell described the circumstances under which the Commander-in-Chief was appointed in these terms : "The appointment of the Commander-in-Chief is made by His Majesty the King on the advice of the Cabinet, and the Cabinet naturally turns to the Chief of the Imperial General Staff, the highest military authority in the British Empire, for advice." So the position is that the Commander-in-Chief under the present law or practice is appointed by the Cabinet on the advice of the Chief of the Imperial General Staff ?

Sir Samuel Hoare: He is not appointed by the Cabinet; he is appointed by the Crown, on the advice of the Prime Minister, or whatever it may be—the Secretary of State for India here.

7043. *Dr. B. R. Ambedkar:* The point I want to put to you is this : Do you think this practice is consistent with the new sort of Government we are contemplating, considering that Defence is to be largely a responsibility of the Indian people and the Indian Legislatures ?

Sir Samuel Hoare : I think it is quite inevitable with Defence a Reserved Department.

7044. *Dr. B. R. Ambedkar:* But it is also going to be a responsibility of the Indian people and the Indian Legislatures. How is the appointment of an important officer who is going to be in charge of a very important Department under the new Government, who is appointed not on the advice of the Secretary of State, not on the advice of the Governor-General, but on the advice of the Cabinet in consultation with the Chief of the Imperial General Staff, compatible with a Government whose Defence will be a responsibility of the Indian people ?

Sir Samuel Hoare: Surely, if Defence is a Reserved Department the Government to whom those Reserved Departments are responsible should make the appointment.

7045. *Dr. B. R. Ambedkar:* I can understand the Viceroy making this appointment; I can understand the Secretary of State making the appointment ?

Sir Samuel Hoare: That is what it comes to.

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†7125. *Marquess of Salisbury:* Your plan, as I understand (or I ought

†Minutes of Evidence, Vol. II-B, 20th July 1933, pp. 813-15.

to say the plan you prefer of three plans), was to add to the representation of the Princes already in the Assembly a proportion of the other Princes' representation on the same proportion as those already admitted. Is that so?

Sir Samuel Hoare: I do not know what Lord Salisbury means by saying "upon the same proportion as those already admitted."

7126. *Marquess of Salisbury :* I understand one of the States which came in would have say, 10 seats ?

Sir Samuel Hoare: I see what Lord Salisbury means. I think very likely it would work out on those lines.

7127. *Marquess of Salisbury:* There is only one other question I want to put as regards the Provincial distribution, that is to say, the distribution of seats in the Provinces. He is aware, of course, that there is a great deal of difference of opinion on that. I am not going into the difference of opinion, as to whether the communities are properly represented in Bengal under the Poona Pact. I am not going into it; but I am going to put this question to the Secretary of State : Whether he has any statement at all to make upon that subject ?

Sir Samuel Hoare: Upon the Communal decision of the Government ?

7128. *Marquess of Salisbury:* In the case of Bengal, I am speaking especially ?

Sir Samuel Hoare: No, I have nothing to add to the Memorandum that I circulated to the Committee and Delegates on the 26th May. upon the Government's Communal decision. The Government made it quite clear that they regarded their decision as final and they were only prepared to accept a variation if it was clear to them that the variation had been agreed by the accredited leaders of the various communities ; and, as a Member of the Government, I am not prepared to add anything further to that statement of Government policy.

Chairman: Secretary of State, do you desire to hand in the Memorandum to which you have just referred ?

Sir Samuel Hoare: Yes, the Memorandum is as follows : —

MEMORANDUM—COMMUNAL AWARD

I think it may be useful to my colleagues on the Joint Select Committee who have not been familiar with the developments leading up to the White Paper, if I give for their information a very brief account explaining the scope of what is known as the "Communal Award", the history of its origin, and why it stands, so far as the Government is concerned, on a different footing from the other proposals in the White Paper.

2. Both the first and second sessions of the Round Table Conference found progress much impeded through the failure among the Indian, delegates to reach mutual agreement both on the number of seats which the various great communities in India were to secure in the Legislature and on the method of election to those seats. The main issue as regards election

was whether separate electorates were to be maintained or the system of joint electorates with reserved seats ; employed. (For an explanation of these terms see paragraphs 149 and 150 of Vol. I of the Statutory Commission's Report). Repeated failure, after many attempts, to reach agreement on these problems had not only left this vital gap in the Constitution so far outlined, but was preventing some of the minority communities from proceeding any further with discussion of other aspects of the Constitution which had a communal bearing until they knew where they stood as regards their representation in the Legislatures.

3. Accordingly, in order to remove this obstacle to progress, the Government were very reluctantly compelled to give a decision on these points which was more or less of the nature of an arbitral award. The Government undertook to incorporate the provisions of the award in their proposals to Parliament. This award covered the composition of the Provincial Legislatures and the method of election to them. It was found impossible to isolate the more purely communal questions involved from such matters as the number of seats for special interests, and the size of the Legislatures. On such points, however, the Government had had the benefit of the advice of the Indian Franchise (Lothian) Committee. The award was issued on the 16th August, 1932, and presented to Parliament as Cmd. 4147.

4. Subject to an alteration in respect of the Depressed Classes explained further below, the provisions of the Award are reproduced on pages 91 and 93 of the White Paper (those regarding election on page 91 being a slightly abridged version).

5. The announcement prefaced to the Award contained the following very important passage : —

Paragraph 4. "His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to the revision of their decision, and will not be prepared to give consideration to any representation aimed at securing the modification of it which is not supported by all the parties affected. But they are most desirous to close no door to an agreed settlement should such happily be forthcoming. If, therefore, before a new Government of India Act has passed into law, they are satisfied that the communities who are concerned are mutually agreed upon a practicable alternative scheme, either in respect of any one or more of the Governor's Provinces or in respect of the whole of British India, they will be prepared to recommend to Parliament that alternative should be substituted for the provisions now outlined."

6. Since the Award there has been one important modification in respect of the representation of the Depressed Classes, the history of which is shortly as follows :

On the issue of the Award Mr. Gandhi expressed his intention to fast

against it in view of his objection to the provisions made regarding representation of the Depressed Classes, which, in his view, would have produced an artificial splitting of the Hindu community. In published correspondence the Prime Minister gave the reasons why the Government were unable to take the same view, but Mr. Gandhi remained unconvinced and began his fast. Negotiations now began, under Mr. Gandhi's auspices, between the representatives of caste-Hindus and representatives of the Depressed Classes led by Dr. Ambedkar. As a result an agreement was reached, now known as the Poona Pact, by which the number of the Depressed Classes seats in each province were increased above that recommended by the Communal Award, while a different system of election was substituted. The total number of Hindu seats (known technically as "general" seats) for caste-Hindus and Depressed Classes taken together remained the same under the Poona Pact as under the original Communal Award. The Government accepted the provisions of this Pact in modification of their Communal Award as being a mutually agreed practicable alternative under the provisions of paragraph 4 quoted above, and on this being announced Mr. Gandhi broke off his fast. The White Paper proposals on pages 91 and 93 incorporate the terms of the Poona Pact.

7. The position of the Government, therefore, as regards the proposals of the White Paper which cover the composition of Provincial Legislatures and the method of election thereto* is that they themselves are specifically pledged not to recommend to Parliament any variation of these proposals except such as may be mutually agreed upon by the communities concerned, and they are also pledged as a Government not to participate in any negotiations for the purpose of reaching such a change. The Government interpret this pledge as covering the provisions of the Poona Pact which they have themselves accepted in the circumstances explained above.

8. The original Communal Award was concerned only with the Provincial Legislatures owing to the fact that corresponding provisions for the Centre could not very well be settled pending a decision on the numbers to be assigned in the Federal Legislature to British India and British Indian States respectively. The proposals in Appendices I and II of the White Paper, which should be read with paragraph 18 of the Introduction to the White Paper, now contain the Government's proposals on this subject. These proposals are in effect supplementary to the original Communal Award. The Government have, however, not given in respect to them a specific pledge similar to that contained in paragraph 4 of the original announcement quoted above. While, therefore, they are not anxious to see a fresh investigation *de novo* into these proposals for allocation between the communities of seats in the Central Legislature, they do not consider these proposals to stand as regards their own attitude, in exactly the same

*This does not cover Franchise.

position as the Provincial Communal Award, but they see the gravest objection to any change on two points, *viz*., the allocation of one-third of the British India seats in the Federal Legislature to Muslims, and the percentages of the seats allocated to British India and the States respectively.†

9. To summarise, it will be clear from the above that the Communal Award has reference only to the composition of the Legislatures, and is not concerned with the whole of the manifold points in the Constitution which have a communal aspect (e.g. special responsibilities of Governors and Governor-General, relations between Centre and Provinces, fundamental rights, etc.) and also that in respect of the matters provided for in the Communal Award, the Government have clearly defined their position and the conditions upon which alone they would think it justifiable to depart from it.

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‡7231. *Sir Austen Chamberlain:* Is it the intention of the Secretary of State at sometime during our proceedings to make proposals of that kind to us ?

Sir Samuel Hoare: Certainly ; I think it is quite essential that in any Constitution Act, somewhere or other, there should be provision for constituent powers.

7232. *Dr. B. R. Ambedkar:* I may draw attention to similar provisions in the present Government of India Act. There are certain sections mentioned in an appendix.

Sir Samuel Hoare: It is I think following the lines of every Constitution Act and following the lines of the Government of India Act itself.

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7236. *Lord Salisbury:* I have read it as well as 1 can at the moment, but I have not been able to appreciate it fully ?

Sir Samuel Hoare : If Lord Salisbury will look at it again, always keeping in mind the fact that this is one of the questions which we have to consider and for which we have eventually to make some kind of provision in the Constitution Act, I think he will fully appreciate it.

Dr. B. R. Ambedkar: It is the Fifth Schedule to the Government of India Act : "The provisions of this Act which may be repealed or altered by the Indian Legislature."

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§7260. *Marquess of Zetland:* May I ask one supplementary question? With regard to those four constituencies which will return Depressed Class representatives, will they overlap territorially ?

†To prevent misapprehension, it may be explained that of the ten Governor-General's nominees in the Upper Chamber, it is intended that six should be from British India and four from the States.

‡Minutes of Evidence, Vol. II-B, 20th July 1933, p. 828.

§*Ibid.,* 21st July 1933, p. 832.

Sir Samuel Hoare: I do not think it has been worked out, but I think they will be chosen not to overlap. The whole area of Madras will be divided up into 15 areas ; 11 of these, as I see it, will be of the ordinary kind.

7261. *Dr. B. R. Ambedkar:* Fifteen will be general ?

Sir Samuel Hoare: I make 11 ordinary, making 19 in all; 11 single members and four double members.

7262. *Mr. Zafrulla Khan :* May I put one question to Sir Findlater Stewart to clear up one aspect of it ? I merely want to understand it. Supposing a panel of four is chosen and then they proceed to contest or this particular constituency reserved for them amongst themselves. One knows if a contest comes forward, everybody will vote who can vote in a general constituency, but supposing three of them say : "We do not wish to contest this election," would it be possible for them to withdraw before the election takes place ?

Sir Findlater Stewart: It is an interpretation of the Poona Pact.

Sir Samuel Hoare : What does Dr. Ambedkar say?

Dr. B. R. Ambedkar: That is the view, that it is not obligatory upon all four of them to contest.

Sir N. N. Sircar: That is the view, but that is not the language used.

Mr. Zafrulla Khan: Another aspect is, are the Depressed Classes in any of these particular constituencies bound to put forward four candidates ? Supposing they put forward only one, will the terms of the Pact be complied with ? What does His Majesty's Government understand the Pact to mean in that respect ?

Sir A. P. Patro: The purpose of preliminary election will be defeated. What is meant by preliminary election is electing four people for a seat ?

Sir N. N. Sircar: Dr. Ambedkar will vouch that I am putting the interpretation which was understood at the time of the making of the Poona Pact. It was understood that the Depressed Classes should have the liberty, instead of electing four, to elect one only. In that case, automatically the one got through.

Dr. B. R. Ambedkar: That is quite right.

Mr. Zafrulla Khan: If they put forward four, one could withdraw.

Dr. B. R. Ambedkar: Yes.

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†7488. *Sir N. N. Sircar:* May I get some facts before the Committee ? I am not putting any argument; I only want to put some facts so that the Committee can get them in a short compass. The communal decision is dated the 17th August, 1932 ?

Sir Samuel Hoare: August 16th.

7489. *Sir N. N. Sircar:* In my copy it is the 17th. One day does not matter. Under this award or decision the net result of that was, as regards the depressed classes, that they would vote in the general constituencies, and

†Minutes of Evidence, Vol. II-B, 21st July 1933, pp. 858-63. Correspondence referred to in this discussion in paras 7488 to 7509 is printed at pp. 707-14 of this Book.

their number of seats would be 10, and the arrangement would come to an end after 20 years. To put it very shortly that was the decision ?

Sir Samuel Hoare : Yes.

7490. *Sir N. N. Sircar:* The other date is the 18th August, 1932. That is the date on which Mahatma Gandhi wrote his letter to the Prime Minister—(I am quoting the words):—threatening a fast and saying : "This fast will cease if the British Government will revise their decision and withdraw their scheme of representation for the depressed classes." Mahatma Gandhi wrote this letter to the Prime Minister threatening a fast and the consequences. Does that date agree with your information ?

Sir Samuel Hoare: I have not got the dates here. I take it the dates are accurate.

7491. *Sir N. N. Sircar:* Will the Secretary of State accept this course ? May I put all these dates in my questions, and, if there is any mistake it can subsequently be pointed out either by communication or by some other means ?

Sir Samuel Hoare : Yes.

7492. *Sir N. N. Sircar:* I am giving the dates. On the 18th August that letter was written by Mahatma Gandhi to the Prime Minister. On the 8th September, 1932, the Prime Minister wrote back to Mahatma Gandhi pointing out that the Prime Minister's scheme, that is to say, the communal decision, had not separated the depressed classes from the Hindu community. The point is the date ; on the 8th September the Prime Minister tried to reason with Mahatma Gandhi that nothing wrong had been done. On the 15th September, 1932, Pandit Madan Mohan Malaviya issued a notification in some of the newspapers calling a Conference to be held at Delhi on the 17th and 18th September. The invitation as it appeared in the Press was stated to be "To a few friends." That is the 18th September, 1932. On the 16th September, 1932, another announcement was made by the same gentleman, Pandit Madan Mohan Malaviya, in the Press that the venue had been changed from Delhi to Bombay, and, on the 20th September, 1932, the fast which later on was described as the fast unto death, began. On the 24th September the condition of Mahatma Gandhi was announced to be very serious, and on the 25th September, 1932, the Pact was singned. These are the dates I am giving to you. You can subsequently either correct them or accept them ?

Sir Samuel Hoare: Yes.

7493. *Sir N. N. Sircar:* in my next question I am giving you some other dates, and I will not press for an answer if you are not prepared with an answer just now, but I am only indicating my case broadly because I shall call witnesses on these points to prove these facts. The Pact was signed at Poona on the 25th September, 1932. In this Pact there are many signatories. I do not want to read out all the names. There is no signatory representing the Bengal Hindus, and the very next day, on the 26th September, 1932, at Delhi, at 11 o'clock, the Home Member announced the acceptance of the

Pact by His Majesty's Government, and he said : "His Majesty's Government has learned with great satisfaction that an agreement has been reached between the leaders of the depressed classes and the rest of the Hindu community." That was the very next day it was announced in the Assembly. These are the dates if you will kindly check them. May I take it, judging by those, as also by your answers which you were pleased to give yesterday, that the Government here was under the impression that an agreement had been reached between the leaders of the depressed classes and the rest of the Hindu community ? That must have been your impression ?

Sir Samuel Hoare: I will answer your question when you have finished it.

7494. *Sir N. N. Sircar:* I have finished this question.

Sir Samuel Hoare: The Government, rightly or wrongly, have, under the terms of paragraph 4 of their original Communal Award, accepted the Poona Pact as an All-India agreement between the parties concerned, that is to say, between the depressed classes and other Hindus. Everyone in public life in India must have known that the negotiations from which the Poona Pact emerged were in progress, and it was to be presumed that any interested parties would take steps to secure that their views were not overlooked. It is perhaps not without significance (and I would draw the attention of the Committee to this fact) that no protest from Bengal sees to have come for a considerable time after the announcement of the Pact. Indeed, during the course of the discussions we received scores of telegrams in favour of the Pact; not a telegram against it, and, amongst those scores of telegrams, I remember offhand a telegram from a very distinguished Hindu in Bengal, Sir Rabindranath Tagore. I do not know when protests first began to be made in Bengal, and I cannot trace that any representations were made to His Majesty's Government until something like three months after their acceptance of the Poona Pact. The Government expresses no opinion on the merits of the Pact in relation to Bengal. They would, of course, be perfectly ready to accept any modification in respect of Bengal reached by mutual agreement between the parties concerned, but the Government, as a Government, is precluded by the terms of its original communal award, from itself taking part in any negotiations towards that end.

7495. *Mr. M. R. Jayakar:* What was the nature of the telegram sent by Sir Rabindranath Tagore ? Did he approve of the Pact ?

Sir *Samuel Hoare:* Urging the Government to accept the Pact.

Sir Tej Bahadur Sapru: May I, Sir Samuel Hoare, tell you and the Committee one thing with regard to this matter ? Both Mr. Jayakar and I happened to be in Poona for about four or five days during the progress of these negotiations. I have a very distinct recollection that telegrams were received from Bengali Hindus. I, personally, received a telegram from two or three important Bengali Hindus. I have not got those telegrams here, but I will further add that Sir Rabindranath did pay a visit to Mr. Gandhi

in jail at the time or shortly after the opening of the fast. That is my recollection. I am speaking subject to correction.

Sir Hari Singh Gour: He did.

Sir Tej Bahadur Sapru: There was some sort of ceremony held. I left Poona immediately after the signing of the Pact; all this happened after I left. Probably, Mr. Jayakar was there, and he will be able to make a statement.

Mr. M. R. Jayakar: I was not there when Sir Rabindranath Tagore called : I was not present in Poona.

7496. *Sir N. N. Sircar:* Is Sir Samuel Hoare aware that Sir Rabindranath Tagore is a Brahmin ?

Sir Samuel Hoare: I take it from Sir Nripendra Sircar that that is so. The indisputable fact, however, is that for many weeks we received almost countless telegrams and letters from India urging the acceptance of the Pact and not a single protest against it.

7497. *Sir N. N. Sircar:* I will not go into minute details, because I am waiting for evidence to be called upon this point, but have you scrutinised those telegrams ? Whether they were all coming from Congress people ?

Sir Samuel Hoare: They were all coming from Hindus, and I would not for a moment accept the suggestion that they came exclusively from Congress Hindus.

7498. *Sir N. N. Sircar:* As regards the sufficient protest not having been made at or about the time and telegrams coming from some people, may I put this situation to you. that when Mahatma Gandhi uttered that threat, it was not a question merely of a large section of the Hindu being ground down. Is it not right to say that was the position also of His Majesty's Government ?

Sir Samuel Hoare: That never entered into our minds at all.

7499. *Sir N. N. Sircar:* Let me put it to you, if it strikes you now in that way. When he said : "I am going to fast myself to death unless the British Government do this, that, and the other", you did not point out to him section 508 of the Indian Penal Code and say : "This is a crime but we propose now to let you out of jail." Was not that His Majesty's Government's understanding also, because of overriding considerations, because if the man had been allowed to carry out his fast, tremendous consequences might have arisen. Therefore, you not merely acquiesced in what was an offence under the Indian Penal Code, but your offer was that a man who ought to be kept in jail for other reasons, should now come out into the open. I am putting to you this ?

Sir Samuel Hoare: Sir Nripendra Sircar can rest assured that we did not in any way act under any sort of threat or in any atmosphere of emergency. The only aspect of the question to which we looked was this : Was the agreement reached an agreement such as we had contemplated under the communal decision judged by all the evidence that was available to us ?

Then, and for many weeks subsequently, it seemed to us quite conclusive that it was such an agreement.

7500. *Sir N. N. Sircar:* I think you are aware that a representation was made to the Prime Minister by a letter from me in December, 1932, enclosing certain telegrams which had come here in November from members of the Bengal Council ?

Sir Samuel Hoare : I am aware that Sir Nripendra Sircar has taken a very close interest in the question from start to finish.

Sir N. N. Sircar: I sent that letter on to the Prime Minister as requested by the Members of the Council, and you will find that before I sent to the Prime Minister this telegram of protest from the 25 Members of the Bengal Council, that Bengal are not represented, and so on, it was shown to Dr. Ambedkar, who sent a telegram to Bombay to find out what their reply to this telegram was. I thought it fair to show it to him, so that he could get his version from Bombay, and this is the reply which he got.

Dr. B. R. Ambedkar: I assure I did not do anything of the sort, if Sir Nripendra Sircar will forgive me. Sir Nripendra Sircar represented that he showed to me a certain telegram and asked me to get certain information about it from Bombay. I did not do anything of the sort.

Sir N. N. Sircar: I have got the copy which was handed over to me by Dr. Ambedkar, and I will read to you the reply which he got.

Dr. B. R. Ambedkar: It is not a reply ; it is an independent telegram sent to me.

Sir N. N. Sircar: The point is the contents of the telegram, which said that the Bengal Hindus are bound by reason of their default in not appearing at Bombay, that is to say, it was put on the ground that we were bound because we had not taken part in the Pact. I think you must have found that in the telegrams that were sent to the Prime Minister.

Sir Samuel Hoare: I think it is very unfortunate that those telegrams were only sent in December, and were not sent when the negotiations were actually in progress.

7501-2. *Dr. B. R. Ambedkar:* The telegram was in November. It was sent in December, because I was waiting for the replies, and so on, and the Bengal Council rnet for the first time after these negotiations in November. As soon as they met, 25 members sent this telegram, or representation, to the Prime Minister. I only wanted to point out to you that whatever may be said, it has been the case that Bengal has gone by default. The case of Bengal has never been made, even in that telegram. Now the next matter to which I draw your attention, is a very short one. Does Sir Samuel Hoare agree with the view that the situation which has been created as the result of the Poona Pact and the communal decision, will lead to very terrible and serious consequences in Bengal ?

Sir Samuel Hoare: No, I do not think.

Sir N. N. Sircar: I do.

7503. *Dr. B. R. Ambedkar:* Is it your opinion that if the vastly preponderating majority of seats of the Muhammadans, 119 seats, are reduced by 10 or 12 seats, that will lead to terrible consequences in Bengal ?

Sir N. N. Sircar: I do not accept the phrase, "vastly preponderating majority", nor do 1 think that the result will be disastrous.

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7509. *Dr. B. R. Ambedkar:* My Lord Chairman, may I have your attention for a moment to make a very brief statement with regard to a question or two that was put by Sir Nripendra Sircar, in view of the fact that he may not be here when my turn comes ? Sir Nripendra Sircar said that he got a telegram during the course of the Third Round Table Conference last year and that he showed it to me and that I made inquiries with regard to that telegram, and that I got a certain telegram in reply to that. The point that I would like to make clear so that Sir Nripendra may have an opportunity to correct me if I am mis-stating anything is this : The telegram which I got was not a telegram in reply to any inquiry that I made.

Sir N. N. Sircar: I may cut the matter short.

Dr. B. R. Ambedkar: I just want to say a word.

Chairman : Please let Dr. Ambedkar make his statement.

Dr. B. R. Ambedkar: The telegram to Sir Nripendra Sircar was published in the Indian papers and when the members of the Anti-Untouchability Board that was established by Mahatma Gandhi after his fast was over, learned that this telegram was sent to Sir Nripendra Sircar protesting against the Poona Pact, they, of' their own accord, sent me the telegram to which Sir Nripendra Sircar has made reference. It was not in reply to any inquiry that I made. The next point I want to bring to the notice of the Committee is that when Sir Nripendra Sircar showed me the telegram he got from his Bengal friends protesting against the Poona Pact, he told me that all he was going to do was to send that telegram to the Prime Minister, without any comment, for his information. On the day before he left he very kindly sent me a copy of the letter which he addressed to the Prime Minister. In that letter I found that Sir Nripendra Sircar had not only forwarded the letter to the Prime Minister, but had urged upon the Prime Minister to make an inquiry as to whether the Bengal caste-Hindus were represented at the time when the Poona Pact was settled. In view of that I also immediately wrote a letter to the Prime Minister, a copy of which I shall present to the Committee when my turn comes, in which I also forwarded the telegrams which I had received, and I also stated that the fact mentioned in the telegram that the Bengal caste-Hindus were not represented when the Poona Pact was made was not correct to my knowledge, because I knew, as a fact, that several members from the Bengal caste-Hindus were present when the Pact was made, that they had had conversations with me and had presented me to come to terms. That is all I want to say at this stage.

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†7533. *Sir Mirza Ismail :* What Lord Lothian said was that the Legislature which appoints the Government will appoint the members to the Upper House. Once these members are elected by the Legislature they cease to have any responsibility. They can express their own views, and they do not go and consult the Legislature on every point which comes up before the Federal Government. Once they are elected they are independent, but what the Federal Government would like to know would be the views of the Government of the Province.

Dr. B. R. Ambedkar; The Government of the day of the Province ?

Sir Mirza Ismail: Of the day.

Dr. B. R. Ambedkar: And if there were a change of Government of the Province there would be a change of representation at the Centre ?

Sir Mirza Ismail: At the Centre. If you want to prevent this extreme provincialism that is already developing in India this seems to me to be the best way of doing it. You have already the popular element in the Lower House ; from the democratic standpoint there should be no objection to it because of the democratic Governments in the Provinces.

Dr. B. R. Ambedkar: Send them with mandates to vote on a particular issue.

Mr. M. R. Jayakar: If this scheme were adopted, would it not come to this, that although normally the life of the Provincial Legislature would end in five years and, as Mr. Zafrulla Khan pointed out, the life of the Upper House would be seven years, there must be necessarily one change in the personnel.

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‡7746. *Dr. B. R. Ambedkar:* I would like to ask the Secretary of State whether the Instruments of Accession that would be passed by the different States on entering the Federation would find a place in the Constitution Act?

Sir Samuel Hoare: The answer is : No, they would not.

7747. *Dr. B. R. Ambedkar:* How would it be possible, supposing a dispute arose in a Federal Court, for the Court to determine whether any particular subject which was the subject-matter of dispute was within the competence of the Federation ?

Sir Samuel Hoare: I imagine—here I speak as a layman—they would take into account the treaty, just as they take into account treaties now.

Sir Tej Bahadur Sapru : Yes.

7748. *Dr. B. R. Ambedkar:* But it would not be part of the Constitution Act?

Sir Samuel Hoare: No ; it would not be in the Constitution Act; neither are the treaties now in any Act of Parliament, yet (Sir Tej Sapru and other Indians will correct me if I am wrong) treaties have been constantly taken into account.

† Minutes of Evidence, Vol. II-B, 25th July 1933, p. 899,

‡ *Ibid.,* p. 901,

Sir Tej Bahadur Sapru: Yes. Treaties are part of the municipal law everywhere.

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†8102. *Dr. B. R. Ambedkar:* May I draw the attention of the Secretary of State to the fact that under Proposal 70 of the White Paper, the Governor has the special responsibility to secure the execution of orders lawfully issued by the Governor-General ?

Sir Samuel Hoare : Yes.

8103. *Dr. B. R. Ambedkar:* If the Governor-General issued any orders with respect *to* finance which required the Provincial Governments to execute them, the Governor would see that they were executed ?

Sir Samuel Hoare: Yes; in the field of Federal taxation that would be so.

8104. *Dr. B. R. Ambedkar:* Any orders issued by the Federation which required that they were to be executed by the Provincial Government, there is a special responsibility on the Governor to see that those orders are executed ?

Sir Samuel Hoare: Yes, Orders issued by the Governor-General.

Sir Hari Singh Gour: Lawfully issued.

8105. *Dr. B. R. Ambedkar:* Lawfully issued, of course. Another question. In that section of the White Paper proposals which deals with the administrative relations of the Provinces and the Centre—I am speaking offhand—I think provision is made that whether the Provincial agency will be utilised by the Centre in carrying out the administration of Central subjects is a matter for the Province : it may employ its own agency ?

Sir Samuel Hoare: Yes, I have always hoped, judging from the experience of other Federations, that we should duplicate as little as possible administrations, and speaking generally, it is much better that the Provincial administration should carry out the directions of the Federation within the Federal field rather than that you should duplicate these administrations all over India.

8106. *Dr. B. R. Ambedkar:* What I was trying to point out was this. that if the Provincial Governments turned out to be recalcitrant and not amenable to the control of the Central Government, the Centre is not bound to employ the agency of the Province and can employ their own agency in the administration of Central subjects ?

Sir Samuel Hoare: That is so.

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‡8138. *Dr. B. R. Ambedkar:* I want to suggest that the standard of administration in Bengal is low because Bengal has not been able to raise sufficient revenue by reason of the Permanent Settlement. It is another way of stating the same thing ?

Sir Samuel Hoare : It is one of the reasons, but we have to accept the fact that the Permanent Settlement is there.

†Minutes of Evidence, Vol. II-B, 27th July 1933, p. 945.

‡*Ibid.,* 28th July 1933, p. 990.

Dr. B. R. Ambedkar: That is so.

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†8527. *Dr. B. R. Ambedkar:* Under the White Paper there is no means raising, say, one anna for Provincial purposes without raising in those circumstances another anna, which ex-hypothesis is not needed, for Federal purposes. The other hypothesis is that the Provinces do not need any more income-tax, but the Federal Government does and you then have to raise double the amount (assume that the percentage prescribed is 50 : 50) you have to raise two annas in order that the Federal Government may get one because, for every one it takes, it must give one to the Provinces, even though they do not want it ?

Sir Samuel Hoare: I will take all these points into account. I would ask the members of the Committee to remember that there must be (whatever the arrangements) anomalies. I do not say exactly of the kind contemplated in the White Paper, but anomalies of some kind under any system under which the income-tax is shared between the Centre and the Provinces.

Dr. B. R. Ambedkar: May I draw the attention of the Secretary of State and Sir Austen Chamberlain to two points ? Sir Austen said there is no provision for the Province to raise any income-tax if it wanted it for its own purposes. I wish to draw his attention to Proposal 139, and what appears in the brackets, "A prescribed percentage, not being less than 50 per cent, nor more than 75 per cent of the net revenues derived from the sources specified in the margin."

Sir Samuel Hoare: That is the income-tax—"(exclusive of any surcharges imposed by the Provinces)." I take it from that the Provinces will have the right to levy a surcharge on the income-tax for their purposes.

Sir A. P. Patro: In addition.

8528. *Dr. B. R. Ambedkar:* That is Proposal 139 ?

Sir Samuel Hoare: That is so, and the Committee will see that we alluded to it at the top of page 30 of the Introduction.

8529. *Dr. B. R. Ambedkar:* May I draw the attention of the Secretary of State to a statement that he made just now, that with regard to the imposition of surcharges for Federal purposes on the income, I think he said the key to the position was the previous sanction of the Governor-General. I would like to draw his attention to the fact that Proposal 141 does not stipulate that the previous sanction of the Governor-General will be required to surcharges for Federal purposes. The previous sanction of the Governor-General refers to revenues assigned to the Provinces, namely, those enumerated in Proposals 138 and 139. Paragraph 141 is not made dependent on the previous consent of the Governor-General ?

Sir Samuel Hoare: I think Dr. Ambedkar is quite right, and I must look into my answer in connection with the note I will circulate.

Sir Akbar Hydari: There is also Head 49 in the exclusively Federal heads

†Minutes of Evidence, Vol. II-B, 28th July 1933, pp. 1002-03.

where definitely it is said : "Imposition and administration of taxes on income other than agricultural income or the income of corporations, but subject to the power of the provinces to impose surcharges" under the exclusively Federal heads.

Lord Eustace Percy: I do not think that exhausts it because all the evidence we have received, and all the evidence I ever heard in India was violently opposed to Provincial surcharges.

Dr. B. R. Ambedkar: That was the view of the business people, I am sure.

Lord Eustace Percy: It was the opinion of every single Indian to whom I had the opportunity of putting questions.

Dr. B. R. Ambedkar: No, indeed, they were not.

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8537. *Lord Rankeillour:* May I ask a question arising out of Dr. Ambedkar's. I think it is of some importance. With regard to the consent of the Governor-General, surely all Federal taxation will be subject to the consent of the Governor-General. It can only be on his initiation, and a resolution such as we have here, that any tax can be considered ?

Sir Samuel Hoare: Yes, but I think Lord Rankeillour really is confusing the two positions. There is the general constitutional position under which money votes originate with the initiative of the Crown. That position, of course, stands. I was contemplating the other position in which the Governor-General intervenes under some special obligation in the Indian Constitution.

8538. *Lord Rankeillour:* I felt sure that was the meaning, but the actual answer given to Dr. Ambedkar would seem to suggest that under paragraph 141 the Federal Legislature would have the power to act without the Governor-General's previous recommendation.

Mr. M. R. Jayakar: May I ask Lord Rankeillour's attention to Proposal 45, which deals with this question. "A recommendation of the Governor-General will be required for any proposal in either Chamber of the Federal Legislature for the imposition of taxation."

Lord Rankeillour: Yes, so I thought. I quite agree.

Dr. B. R. Ambedkar: That relates to the special power of the Governor-General, and that is made so because the taxes contemplated in paragraph 138 are not to go to the Central fisc, but they are to be distributed amongst the Provinces.

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†8575. *Dr. B. R. Ambedkar:* My Lord Chairman, may I just intervene for a moment for the purpose of asking for information, not for raising any controversy. The Committee knows that there is a certain amount of difference of opinion on the expression "existing and accruing rights". The Civil Service takes one view, the Law Officers of the Crown take another view, and I believe this Committee will have to give some sort of opinion

†Minutes of Evidence, Vol II-B, 28th July 1933, p. 1010.

upon that subject before the clause is drafted. I find exactly the same expression "existing and accruing rights" used in the South African Constitution of 1909, and I wonder whether it would not be possible for Your Lordship and the Secretary of State to obtain the Memorandum from the Dominions Office to find out exactly how that clause has been acted upon, and interpreted by the South African Government ?

Sir Samuel Hoare: I will certainly look into that suggestion. In any case, it is a question which we must deal with when we come to the Services. It is not quite the same question though that Sir Purshotamdas put to us.

8576. *Dr. B. R. Ambedkar:* No ; that is why I said I did not want to raise any controversy. I am simply asking for information as to whether that would not be possible as a sort of comparative view ?

Sir Samuel Hoare : Yes.

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†8633. *Dr. B. R. Ambedkar:* I would like to ask one question about the statement made by Sir Akbar Hydari on the application of paragraph 141. You said yesterday, Secretary of State, in making your brief observations on that statement that you were glad that the States bad accepted, at a certain point, to bear the burden of the Federal Government ?

Sir Samuel Hoare: Yes.

8634. *Dr. B. R. Ambedkar:* What I would like to know is this — you can give the answer now, or, if you like to refer to it later I have no objection— whether you agree that the stage which has been described by Sir Akbar Hydari is the stage at which the States should begin to bear the burden of the Federation ? He has, as you know, described certain stages through which the Federal finance must go before the States could be called upon to bear their share ?

Sir Samuel Hoare: Yes.

8635. *Sir Akbar Hydari:* Additional burden ?

Sir Samuel Hoare: There are really three burdens. There was first of all the burden of indirect taxation that they undertake from the start; secondly, there was the burden of the Corporation Tax, or the equivalent of the Corporation Tax that they undertake after a definite terms of years ; and, thirdly, there was the surtax that they undertake in the event of an emergency.

8636. *Dr. B. R. Ambedkar:* I thought he laid down certain conditions ?

Sir Samuel Hoare: He laid down certain conditions — Sir Akbar will correct me if I am wrong for the third of these burdens, namely, the surtax.

8637. *Dr. B. R. Ambedkar:* I wanted to know whether you agree that those were the appropriate conditions under which the Federation will resolve to surcharge ?

Sir Samuel Hoare: I think so. I do not want to tie myself down to the exact words, but I think, generally, that seems to me to be a fair basis of an arrangement.

†Minutes of Evidence, Vol. II-B, 28th July 1933, pp. 1018-20.

8638. *Dr. B. R. Ambedkar:* The next question I want to put to you, arising out of that, is this : that if that position is maintained or even the position as it is under Proposal 141 is maintained, would it not be the fact that the Federation will have to carry on its finances entirely on the basis of indirect taxation ?

Sir Samuel Hoare: Not entirely on the basis of indirect taxation.

8639. *Dr. B. R. Ambedkar:* To a very large extent ?

Sir Samuel Hoare: Obviously, to a large extent. Indirect taxation will then, as it does now, play a very prominent part in the Indian revenue.

8640. *Dr. B. R. Ambedkar:* What I want to put to you is this, Sir Samuel Hoare, that it will be more so under the Federation than it is now, for the simple reason that the British Indians would not consent to direct taxation, because the States will not consent, and, consequently both of them would rather go in for indirect taxation, to be borne by both apart, rather than agree to direct taxation, which would be borne by British India alone. From that point of view indirect taxation would be more and more forced upon them than is now the case ?

Sir Samuel Hoare: From the other point of view, I can imagine the States very often on the side of the less indirect taxation.

8641. *Dr. B. R. Ambedkar:* That is because they do not have their finger in the pie now. Would it be the same thing afterwards when, if they are opposed to indirect taxation they have to bear the brunt of the taxation ?

Sir Samuel Hoare: Dr. Ambedkar will also remember in this triangle of forces that the Provinces will have an interest in direct taxation, as they have a share in it.

8642. *Dr. B. R. Ambedkar:* Yes, that may be so, but the Province also will see that the Federation is not entirely a charge on Indian Revenue raised in British India. It is a pure matter of speculation, but I want to pay attention to what would be the drift of the finance under the Federation. If I may say so, the Federation would entirely have to build a tariff wall round itself in order to carry on ?

Sir Samuel Hoare: Dr. Ambedkar says it is a subject of speculation. I am inclined to agree with him, but I am not inclined, having assumed it is a subject of speculation, then to prophesy exactly what is going to happen.

8643. *Dr. B. R. Ambedkar:* I will leave it at that. The next question I would like to ask of Sir Samuel Hoare arising out of the same proposal, 141, is this : You said that the States will contribute an equivalent amount to the Federal Revenues on a sum to be assessed on a prescribed basis. Of course, you have explained this morning how the word "prescribed" is used, and I am not going to ask you any questions upon that, but what I would like to ask you is this. Is there any provision made in the White Paper to see that the sum assessed on this prescribed basis, which becomes payable by a particular State, will be ultimately paid to the Federation ?

Sir Samuel Hoare: It would then mean a default, would it not, on the part of a State ?

8644. *Dr. B. R. Ambedkar:* Yes, supposing the State does not pay. I am assuming only one case now, for the moment ?

Sir Samuel Hoare: The Viceroy then, I assume, could intervene.

8645. *Dr. B. R. Ambedkar:* The Viceroy, as you know, is outside the Federal Constitution ?

Sir Samuel Hoare: If Dr. Ambedkar will look at paragraph 129, he will see there : "The Governor-General will be empowered in his discretion to issue general instructions to the Government of any State-Member of the Federation for the purpose of ensuring that the Federal obligations of that State are duly fulfilled."

8646. *Dr. B. R. Ambedkar:* Yes. What I want to say is this. Paragraph 129, if I may make the distinction, only gives the Governor-General the power to give a direction. It does not give the Governor-General the power to take remedial measures, if the directions are not obeyed ?

Sir Samuel Hoare: The Act nowhere provides explicit sanctions in situations of that kind either for the Provinces or for the States.

8647. *Dr. B. R. Ambedkar:* For the Provinces it does, because the Governor has a special responsibility to see that the orders of the Governor-General are carried out and obeyed, and to that extent he will be directly under the control of the Governor-General, and so provision does there exist, so far as the relations between the Provinces and the' Centre are concerned, that his orders will be carried out ?

Sir Samuel Hoare: 1 think there is just the same sanction. Is there not, with the Governor-General and the States ?

8648. *Dr. B. R. Ambedkar:* No, if I may say so, as you explained on the Memorandum on the Instrument of Instructions if he disobeyed, the Governor could be recalled. There is no such provision in the relations between the States and the Centre ?

Sir Samuel Hoare: In each case the responsibility is the responsibility of the Governor-General at his discretion, that is to say, subject to his instructions from here.

Dr. B. R. Ambedkar: But my point is that just as the Governor would be subject to the power of the Governor-General with respect to the administration of the Province, the ruler of a State is not subject to the directions of the Governor-General beyond, I suppose, the administration of such matters which appertain to the Federation; that is with the Viceroy.

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8650. *Dr. B. R. Ambedkar:* But, as you said, the paramountcy will be assigned to the Viceroy, and not to the Governor-General ?

Sir Samuel Hoare: Yes, but nevertheless the result will be the same.

Mr. Zafrulla Khan: The Governor-General will formally make a request to the Viceroy and the Viceroy will thereupon act.

Dr. B. R. Ambedkar: May I ask another question arising out of the same ? There is another aspect of it. It is assumed that the States that would be liable to make this contribution would be solvent at the time when the contribution is called for. Is there any provision in the White Paper to see that the Governor-General whose finances would, to some extent, be dependent upon these contributions coming from the Indian States, has power to see that these contributories will be solvent on the days when the contributions fall due ?

Rao Bahadur Sir Kishnama Chari: What is the provision with regard to the Provinces ? Is there any such provision with regard to the Provinces ?

Dr. B. R. Ambedkar: Yes, the Governor can certify that a certain amount is due to the Federation and shall be paid, and it will be paid.

Mr. Zafrulla Khan: May I recall a suggestion I made during the preliminary discussions here that the Viceroy might ask the States who are units of the Federation to submit for his information every audited copies of their accounts ?

8651. *Dr. B. R. Ambedkar:* There is one more point, and I think the Secretary of State may give a combined answer. If you will refer to paragraph 146 dealing with the borrowing powers you will see there it is provided that the Federation may borrow upon the security of Federal revenues. The contributions to be made under Proposal 141 will be part of the Federal revenues which will be the security for the loans which the Federation will raise. Do you think it would sufficiently add to the credit of the Federation if part of the revenues which the Federation can call upon in order to give security for the Federal loans are left in this uncertain state both as to capacity to pay and the willingness to pay ?

Sir Samuel Hoare: I would have thought really that the contingency Dr. Ambedkar is contemplating is a contingency that is not very likely to arise often, and that, if it does arise, it is not the kind of contingency that is going substantially to alter the credit of the Federation. After all, these amounts taken altogether are very small amounts.

8652. *Dr. B. R. Ambedkar:* I do not know what they would be ?

Sir Samuel Hoare: And in the event of a single default.

8653. *Dr. B. R. Ambedkar:* I hope they will not be very small ?

Sir Samuel Hoare: I cannot imagine that that would make much difference to the credit of India.

Sir Akbar Hydari: Is not the financial position of the States, through the exercise of paramountcy, in a much better condition than that of the Provinces through the exercise of the special responsibilities of the Governor ?

Dr. B. R. Ambedkar: I thought the statement made by Sir Mirza Ismail yesterday disclosed a most pathetic state of affairs.

Sir Akbar Hydari : It was still a balanced budget by which he could pay up his tribute all right.

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†11,297. *Dr. B. R. Ambedkar:* My Lord Chairman, I would like to point out to the Secretary of State that the expression which we find in the Government of India Act—"existing and accruing rights"—is an expression which is also found in the South African Constitution Act. I was wondering whether it would not be possible for us to get a statement from the Dominion Office to find out exactly how that expression has been acted upon in South Africa ?

Sir Samuel Hoare : We made an inquiry upon this very point. Dr. Ambedkar, I think, did allude to it during the summer and I have asked the Dominion Office for the information. I have not yet got it, but I am told that the cases are separate and distinct. In the case of South Africa there is no promise of compensation at all.

Sir Manubhai N. Mehta: I think they have it in Australia as well.

11,298. *Dr. B. R. Ambedkar:* I simply wanted to know how the expression, "accruing rights", had been interpreted in South Africa by the South African Government. The expression is exactly the same ?

Sir Samuel Hoare: I will see if I can get it. I asked about South Africa and Australia as well.

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‡11,438. *Dr. B. R. Ambedkar:* There is nothing to prevent a Public Service Commission being appointed for one province or for two provinces ?

Sir Samuel Hoare: No ; we do make provision for that purpose.

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§11,526. *Dr. B. R. Ambedkar:* Might I intervene just for a moment to point out that the result to which Sir Malcolm Hailey has referred, namely, the denudation of the services of the local element, as soon as they are transferred to ministerial control is largely due to the fact that this transfer has also been accompanied by a reduction in the scale of salary. When a service has become provincialised the Minister has adopted a lower scale of salary than was obtainable formerly, and, consequently, the smaller scale of salary has not attracted European candidates ?

Sir Samuel Hoare: Yes ; they have substituted, in other words, 'Imperial' for 'Provincial' services.

Dr. B. R. Ambedkar: It is the salary that has made the difference—not the transfer.

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¶11,669. *Dr. B. R. Ambedkar:* Might I make a suggestion for consideration on this matter ? Instead of giving the right outright to the new entrant would it not be better for the Secretary of State to retain a discretion in his own hands which he may exercise in a genuine case where a man wants to

†Minutes of Evidence, Vol. II-B, 3rd October 1933, p. 1032.

‡*Ibid.,* p. 1056.

§*Ibid.*, p. 1058.

¶*Ibid.,* p. 1072.

retire because he has really been suffering under the new conditions, and does not really want to take advantage of this rule ?

Sir Samuel Hoare: We can consider a suggestion of that kind. 1 assume Dr. Ambedkar's suggestion refers to the new entrants ?

11,670. *Dr. B. R. Ambedkar:* Yes, I am talking of the new entrants. In that case the Secretary of State may retain in his own hands a certain amount of discretion which he may exercise in favour of a man who has genuinely proved to the Secretary of State and his advisers that the reasons of his retirement is discontent and dissatisfaction with the new conditions ?

Sir Samuel Hoare: I should like to consider a suggestion of that kind. The doubt that is in my mind is whether the mere fact that there is this discretion will take away the assurance from the mind of the parent, or the university, or the school from which the young man is coming, but I will consider it.

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†12,025. *Dr. B. R. Ambedkar:* I want to ask one question, Sir Samuel, on these provisions in general. The ultimate purpose of these previous sanction rules would also of course be achieved by the power of veto—the subsequent power of veto which the Viceroy, and the Governors have got; so, from that point of view, there is really not much to be gained by these provisions. I mean although the Viceroy may give his previous sanction he is not thereby bound to adopt the Bill when it is finally passed; he has the power of veto. So, from that point of view, there is not much to be gained by the rules of previous sanction, which could not ultimately be gained by the power of veto ?

Sir Samuel Hoare : I am not sure that I should agree with Dr. Ambedkar. The veto is a sanction of a somewhat different kind. It seems to me it is a bigger and more serious sanction. It comes after the Legislature has formally pledged itself to certain proposals ; I think therefore it is a more serious sanction.

12,026. *Dr. B. R. Ambedkar:* Apart from all that, so far as the main object is to prevent anything affecting adversely the special responsibilities of the Viceroy, the veto is an effective measure ?

Sir Samuel Hoare: I was just coming to that second consideration. The veto has a long history behind it, and judged by British experience generally, the veto becomes more and more in course of time something in the nature of a constitutional formality.

12,027. *Dr. B. R. Ambedkar:* But what I wanted to say was this. So far as I am able to judge the only distinction that one could draw between the effect of a previous sanction rule and ultimate veto is that the one, namely, the previous sanction, prevents discussion, while the veto does not. Is that not so ?

Sir Samuel Hoare: It is a difference.

†Minutes of Evidence, Vol. II-B, 5th October 1933, pp. 1118-19.

12,028. *Dr. B. R. Ambedkar:* That is a difference. Now, what I want to point out to you, Sir Samuel Hoare, is this : Surely if discussion is to be prevented because it is going to attack the special responsibility of the Viceroy, you will bear in mind that this previous sanction rule certainly cannot operate to prevent discussion, either in the Press or on the public platform outside the Legislature, and cannot even prevent a public demonstration on an issue that would legitimately be brought under a previous sanction rule, so the only thing really that would happen under this is that while the public and the Press may be free to agitate and to demonstrate on a matter covered by the previous sanction rule, the only body that would be muzzled would be the Legislature ?

Sir Samuel Hoare : That is one way of putting it; it is Dr. Ambedkar's way of putting it.

12,029. *Dr. B. R. Ambedkar:* Is it not a fair way of putting it ? Surely the Viceroy's previous sanction powers are not going to be so widely extended in their operation as to cover the prevention of any discussion of a matter subject to previous sanction, either in the Press or in public meetings, or anywhere else ?

Sir Samuel Hoare: I think these certainly will be discussion of that kind. None the less, I do think there is a difference between discussion in the Legislature, and the comparatively irresponsible discussion outside. Secondly, this sanction of the previous consent has been in operation for some time and it was accepted generally as a Part of the New Constitution at each of the Round Table Conferences. Thirdly, if Dr. Ambedkar will look at the categories set out in paragraph 119 he will see that for each of them there is a considerable demand for some kind of special precautions. For instance, if he will take the question of religious rights and usages ; there he must have noticed the very strong feeling that certain sections of the orthodox Hindus have upon the subject. He does not agree with them ; he thinks they are all wrong. At the same time, they do hold these views very strongly, and they would like questions of that kind excluded from the Indian Legislature altogether. Now, we have attempted to adopt a midway attitude between the two points of view and so on. With each of those categories I could make a similar defence, that there is a considerable body of opinion asking for some special precautions in these directions.

12,030. *Dr. B. R. Ambedkar:* What I was trying to drive at was this that while a member of the Legislative Council and a member of the Legislative Assembly may be free to discuss these matters outside in public, they will not be free to discuss them when they come inside the Legislative House. That is the only difference you are making by this previous sanction rule ?

Sir Samuel Hoare: They can have resolutions, but that is substantially the case.

12,031. *Dr. B. R. Ambedkar:* Now I just want to make one suggestion with regard to the point raised by Mr. Jayakar regarding the use of the

expression "religion and religious usages", because that is a thing in which I am so vitally concerned. I am just making the suggestion whether it would not be sufficient to use the expression "articles of faith" rather than the phrase "religion and religious usages" ?

Sir Samuel Hoare: I would have thought that articles of faith would have occasioned almost the same kind of controversy.

12,032. *Sir Hari Singh Gour:* More so ?

Sir Samuel Hoare: And the trouble of a new phrase of that sort, I would have thought, would have concentrated upon it more varieties of interpretation even than the old phrase.

12,033. *Dr. B. R. Ambedkar:* I suggest that as far as possible the word "usage" ought to be avoided ?

Sir Samuel Hoare: I will take note of what Dr. Ambedkar has said.

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†12,751. *Lord Rankeillour:* Secretary of State, on that would not it be possible for the Central Government to carry out the contemplated orders arising out of Federal legislation and to charge the Province with the cost ?

Sir Samuel Hoare: There is no machinery for getting the money.

12,752. *Lord Rankeillour:* But the money for the Provinces comes through the Central Exchequer, does it not ?

Sir Samuel Hoare: Income Tax would.

Dr. B. R. Ambedkar: I think the answer to Sir Austen Chamberlain's question may be given somewhat in this form. So far as the concurrent legislation is concerned, it is, I think, laid down in one of the paragraphs of the White Paper that any law in the concurrent field passed by the Federal Legislature will override a similar law passed by the Provincial Government. Consequently, if there was a conflict of law passed in the concurrent field between a law passed by the Centre and one passed by the Province, *ipso facto,* by the provisions of the White Paper itself the Federal Law will have an overriding force as against the Provincial Law.

Sir Austen Chamberlain: That is so. That is the point that I put earlier to the Secretary of State.

Dr. B. R. Ambedkar: That is I think the position so far as the legislation is concerned.

Sir Austen Chamberlain: So I understand.

Dr. B. R. Ambedkar: So far as administration is concerned, I think the position will be that the Federal Executive will have the authority to issue directions and instructions to the Provincial Government through the Provincial Governors with regard to the administration of a concurrent law passed by the Federal Legislature, and the Governors, I think, would be bound to obey them.

Marquess of Reading: That is exactly the point upon which the Secretary of State has given an answer in the negative.

†Minutes of Evidence, Vol. II-B, 10th October 1933, p. 1130.

Sir Hari Singh Gour: There would be the penal clause that he who runs an unauthorised paper will be punished.

Dr. B. R. Ambedkar: Might I give another example which comes to my mind ? Supposing for instance in a state of emergency the Central Government passes a Press Act under which provision is made that no paper may be started unless it deposits a certain amount of security. Now that sort of legislation is not going to affect any particular private individual. Supposing there is a paper in a particular province which is helping the Government of the day—a Party paper. Supposing that paper is influencing the Press Act passed by the Central Legislature, and supposing on account of that affiliation between the particular newspaper journal and the Government of the Province, the Government refuses to take any action against that particular paper, what is the position ? Surely no individual is affected in this particular case ?

Sir Hari Singh Gour: There would be the penal clause that he who runs an unauthorised paper will be punished.

Dr. B. R. Ambedkar: That is exactly the point.

Sir Austen Chamberlain: And has to have the information and all the machinery for reaching the Government.

Dr. B. R. Ambedkar: If he charges a particular officer to carry on the prosecution and the local government pays the expenses of that prosecution and does not make provision for it in the budget, what is to happen ?

Sir Samuel Hoare: I see all those difficulties. At the same time I cannot help seeing the difficulties on the other side. The case mentioned by Dr. Ambedkar is essentially a case of law and order, and law and order is a provincial subject and interest. The interest of the Federation is the interest of uniformity, but that does not affect the fact that primarily that case is a provincial case. If the argument suggested in Dr. Ambedkar's question and in Sir Austen Chamberlain's question, too, if I may say so, is pressed to its logical conclusion, it really does mean that the Federation will control the law and order in the Provinces, and that is directly contrary to the principles as at present drafted in the White Paper.

Dr. B. R. Ambedkar: I beg your pardon. My point is this, if I may submit it; either you must make law and order a purely provincial matter, a provincial concern which the Centre has nothing to do with, and then, of course, you can have the argument which you urged just now, but if you make it a matter of concurrent legislation, then I think the Federation must be in the position to see that the law is corrected.

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†13,129. *Dr. B. R. Ambedkar:* Secretary of State, I just want to draw your attention to the present position of the concurrent field under the Government of India Act. I am anxious to do so because it was suggested to you that under the present Government of India Act only certain subjects or parts of certain subjects are made subject to the Central Legislature.

†Minutes of Evidence, Vol. II-B, 12th October 1933, pp. 1178-81.

The point that I wish to draw your attention to is that, first of all, there are some Provincial subjects which are made specifically concurrent under Part II of Schedule I to the Devolution Rules ?

Sir Samuel Hoare: Yes.

13,130. *Dr. B. R. Ambedkar:* While subjects although they are made Provincial are controlled by the proviso that they are subject to the Central Legislature ?

Sir Samuel Hoare: Yes.

13,131. *Dr. B. R. Ambedkar:* I have made a computation that out of the 51 subjects which are included in Part II of the Schedule to the Devolution Rules, 14 are made expressly subjects to the Central Legislature, or to rules made by the Central Government or the Secretary of State. That is one thing. The second thing is this : That all Provincial matters are subject to concurrent jurisdiction by the Central Government under section 67, sub-clause (2) of the Government of India Act by previous sanction. Although any subject is regarded under Part II as a Provincial subject, it is none the less open to the Central Government to legislate upon the whole of that Central subject provided previous sanction is obtained from the Governor-General ?

Sir Samuel Hoare: Yes.

13,132. *Dr. B. R. Ambedkar:* On the side of the Provincial Government control is exercised by the Central Government on the concurrent field under section 80(*a*), whereby the local legislature of any Province may not with out the previous sanction of the Governor-General make or take into consideration any law for regulating any Central subject or regulating any Provincial subject which has been declared by rule or law as being subject to the Central expressly reserved to the Governor-General in Council by the law for the time being in force. That is the present position ?

Sir Samuel Hoare: Yes.

13,133. *Dr. B. R. Ambedkar:* That is practically all of the Provincial field as also the concurrent field provided the sanction of the Governor-General is obtained ?

Sir Samuel Hoare: Yes ; that is so.

13,134. *Dr. B. R. Ambedkar:* Now under the present proposals the whole thing is completely altered. I mean the concurrent power of the Central Legislature is proposed to be taken away in most of the matters ?

Sir Samuel Hoare: Except in the List 3, yes.

13,135. *Dr. B. R. Ambedkar:* I want next to draw your attention to List 3. I am sorry I lost my paper which I completed, but I think I am right in suggesting that a great many of the subjects included in List 3 are today either exclusively Central or concurrent ?

Sir Samuel Hoare: Yes ; I think it might be said that a number of them certainly are.

13,136. *Dr. B. R. Ambedkar:* Consequently it would be fair to suggest that under the present Government of India Act. Your Concurrent List has

always been treated as predominantly of All-India importance, under the Government of India Act as it is today, they being included either in the purely Central List or in the Concurrent List. My suggestion is that under the Government of India Act the field which is now concurrent was regarded in the Government of India Act as of All-India importance ?

Sir Samuel Hoare: Yes ; I think that generally is so. I think it is inevitable under a unitary form of Government.

13,137. *Dr. B. R. Ambedkar:* Quite so. My suggestion, therefore, Secretary of State, is this : That it would not be quite correct to say that a field of legislation which was under the Government of India Act regarded as of All-India importance is administratively to be hereafter regarded as purely provincial ?

Sir Samuel Hoare : No ; I should draw a great distinction between the conditions under a unitary form of Government and the conditions under a Federation in which the Provinces are autonomous. We are quite definitely changing the form of Indian Government from a highly centralised Government into a Federal Government.

13,138. *Dr. B. R. Ambedkar:* But I am only talking about the importance of the subject, a subject which, upto 1901, was regarded as of All-India importance, could not all of a sudden cease to be of All-India importance and become purely a local matter. I am aware that a great deal of concession has to be made for the new Provincial Government; the fact that the Government of India has upto now been regarded as more than of local importance has always to be recognised ?

Sir Samuel Hoare: I think it is very difficult to make such a comparison when it is admitted that the form of Government proposed is a very different type of Government. I think new conditions enter into the problem as soon as you move away from a unitary Government to a Government of Federation with autonomous Provinces.

13,139. *Dr. B. R. Ambedkar:* I will not press the point further, but I wanted to draw your attention to the fact that these subjects have hitherto been regarded as of more importance than purely Provincial subjects ?

Sir Samuel Hoare: I suppose, however, it would be fair to say that in most of them administration even under a highly centralised Government, has been Provincial.

13,140. *Dr. B. R. Ambedkar:* Yes ; subject to the control of the Centre ?

Sir Samuel Hoare: There again, I do not think that Dr. Ambedkar's comment upon my answer quite covers the whole field. It would not cover the transferred field in the Provinces.

13,141. *Dr. B. R. Ambedkar:* No ; that is so. Next, I want to draw your attention to Proposal 125 and to Section 45 of the Government of India Act. Section 45 of the Government of India Act is what is called the Obedience Clause, and lays down that a Provincial Government shall be under the superintendence or the control in all matters relating to the

Government and its Province and will also diligently and constantly inform the Government of India of its proceedings in all matters which ought in its opinion to be reported so as to give the required information. Now, what I would like to know from you, Secretary of State, is this. What is it that you wish to delete from the provisions and requirements of this Section 45 ? I see you do not want superintendence. That, of course, is obvious when the Provinces become autonomous. You want to retain direction only with regard to those matters which would be non-concurrent ?

Sir Samuel Hoare : Yes.

13,142. *Dr. B. R. Ambedkar:* And there is to be no control ? Now the question that I want to ask is this : Do you desire that the Central Government should be kept informed of what is happening under the field of Provincial administration, and do you desire that the Central Government should have the power to call for information will regard to the administration of any Provincial subject, so that it may inform itself of what is happening ?

Sir Samuel Hoare: No ; we do not have any such general intention. We assume that as soon as you set up a Federal Government you must then have a definite allocation of powers between the Federation and the units. In many respects, the clearer you keep that division, the less likely it is that responsibility should be blurred, and the less likely it is that there will be incessant between the two kinds of Government. Quite definitely, under our scheme—indeed, it is one of the basic principles of it—we now divide up these various duties between the Federation, the Provinces, and the Imperial Parliament.

13,143. *Mr. N. M. Joshi:* May I ask a supplementary question? As regards the point of information raised by Dr. Ambedkar, I want to ask you this: In some cases, the compilation of statistics relating to All-India will be valuable. Such, for instance, as figures of All-India as regards Education. At present, although education is a transferred subject, the Government of India issues an All-India Report. Will the future Government of India possess power to collect information as regards transferred and spend money upon the compilation of an All-India Report ?

Sir Samuel Hoare: Only within the specified Federal field ; anything outside the Federal field must be done by agreement.

Mr. N. M. Joshi: Education is not in the Federal field ?

Lord Eustace Percy: I am sure, Secretary of State, you are bearing in mind that in every Federation, for instance, in America, the research and statistical departments of the Federal Government go far beyond the Federal field.

13,144. *Mr. N. M. Joshi:* For instance, in America, they do publish an Educational Report for the Whole of the United States ?

Sir Samuel Hoare: Yes. If Lord Eustace will look now at Appendix VI List 1, he will see there that we have covered his point, that the Census and so on included in the Federal field, and there, I think, we must consider the

point of All-India statistics generally—statistics, that is to say, for the purpose of Federation.

13,145. *Lord Eustace Percy:* I do not understand quite why it is necessary to limit it in that way. There is no reason why a Federal Government should not publish information and why its information should be entirely confined to the Federal field. It is not so in any other Federation I have ever heard of ?

Sir Samuel Hoare: But, surely a Federal Government can only act for the purposes of Federation. A Federal Government has no *locus standi* outside the field of Federation.

13,146. *Lord Eustace Percy:* Of course, it cannot publish a report on the intellectual and moral progress of India if the Provincial Governments will not supply the information, I agree, but that hardly need be anticipated ?

Sir Samuel Hoare: I do not think there is any difference of opinion between Lord Eustace and myself; my comment was only directed towards keeping this kind of activity within reasonable limits. If a Federal Government constantly worried Provincial Governments for all sorts of information that had nothing to do with the Federal Government. Then, I can foresee constant difficulties arising between them.

13,147. *Dr. B. R. Ambedkar:* Might I give this instance which comes to my mind ? Supposing, for instance, in a particular Province, criminal proceedings are taken against a foreigner and reference is made by his Government to the Government of India with regard to the proceedings taken against this particular foreigner in a Province, and the Government of India needs information in order to deal with the subject. Would the Government of India be in a position to require the Provincial Government to furnish information with regard to that subject ?

Sir Samuel Hoare: Yes, and also to take action. It would come within the field of foreign affairs.

13,148. *Dr. B. R. Ambedkar:* I submit that law and order would be a transferred subject ?

Sir Samuel Hoare: That may be so, but foreign affairs have special reservation. This Clause 125, which you are discussing now, I think, would cover that. Foreign affairs is a Federal subject. Under the second paragraph of Clause 125 the Federal Government could give directions to the Provincial Government.

13,149. *Dr. B. R. Ambedkar:* I mean, you see the necessity of the Central Government obtaining such information as is necessary for its purpose ?

Sir Samuel Hoare: Certainly, and I accept the need.

13,150. *Dr. B. R. Ambedkar:* I thought I would draw your attention to it because I do not find the information in Proposal 125 ?

Sir Samuel Hoare: I think that presupposes obtaining the necessary information from the Provincial Government. It is intended to anyhow.

13,151. *Dr. B. R. Ambedkar:* Now, with regard to Proposal 114, there is a proviso tacked on to it that the concurrent power shall not be exercised so as to impose a financial burden. What I would like to know is this. If there is a dispute that a particular proposal does impose a financial burden, one party contending that it does not, another party contending that it does, now is this dispute to be resolved ? Largely and broadly, for instance, the Central Government proposes new service to be carried on by the new Provinces, one could draw the conclusion that such a thing would impose a financial burden, but there might be cases on the border-line where there might be a dispute ?

Sir Samuel Hoare: As the provisions stand at present, recourse would be to the Federal Court. That may not, however, be sufficiently comprehensive a method and, as I said the other day, we are considering the possibility of some kind of arbitral procedure to apply in cases that were not suited for settlement by the Federal Court.

13,152. *Mr. M. R. Jayakar:* It would fall at present under paragraph 155(i) ?

Sir Samuel Hoare: Yes, the Federal Court.

13,153. *Dr. B. R. Ambedkar:* There is just one more question I would like to ask you, Secretary of State, because I am not clear about it What I want to know is this : With regard to these administrative relations, first of all, is the Central Government bound to employ the Provincial Governments as its agents ?

Sir Samuel Hoare: Yes, in the concurrent field.

13,154. *Dr. B. R. Ambedkar:* It is bound to?

Sir Samuel Hoare: Yes.

13,155. *Dr. B. R. Ambedkar:* It cannot employ its own agents ?

Sir Samuel Hoare: It is our intention that the administration in the concurrent field should be Provincial.

13,156. *Dr. B. R. Ambedkar:* Subject to a question of whether its directions can be given or not—that is another matter ?

Sir Samuel Hoare: Yes.

13,157. *Dr. B. R. Ambedkar:* Then it would also follow that the Provincial Governments are bound to take up the work of the agency of the Central Government if they are called upon ?

Sir Samuel Hoare: Yes, under the Federal Law.

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†13,411. *Dr. B. R. Ambedkar:* Also the fact that the backward classes are included in the Communal Award by having a certain number of seats assigned to them. Would that not also bring them under the definition of "minorities" ? I mean if, as you said just now, the minorities would be those communities that are covered by and included in the Communal Award, I should imagine the Backward Classes also would be included in the Communal Award ?

† Minutes of Evidence, Vol. II-B, 17th October 1933. p. 1206.

Sir Samuel Hoare: I think after this discussion I had better look once again into this very difficult question of these comparatively small bodies of people scattered about outside the Excluded Areas, and perhaps Members of the Committee and the Delegates, will also think over the best way of meeting what appears to be a rather general desire.

13,412. *Dr. B. R. Ambedkar:* Might I draw your attention, Secretary of State, to the peculiar position occupied by the Criminal Tribes. The Criminal Tribes are more or less scattered in 'the general population. I am speaking of the particular experience of Bombay ; I suppose it is so in other Provinces. Now in order to protect the Criminal Tribes, which are, as I say, scattered in the general mass of the population, there is, I think, a Government of India Act called the Criminal Tribes Act. I am giving an illustration in order to suggest a method of protecting them. That Act gives the Governors some powers to make regulations with regard to the movements of these people and their interests. Would it not be possible for the Governor under paragraph 108 to pass some such regulation affecting the mode of living or protection of these people, although they may be scattered ?

Sir Samuel Hoare: It would only be possible under these clauses in the Excluded and partially Excluded Areas.

13,413. *Dr. B. R. Ambedkar:* What I wish to put to you is this : Would it not be open, for instance, to the Governor under paragraph 108, once he has got a definition of a person belonging to a tribal area or an aboriginal class, to make certain legislation affecting him whether he stayed in the Excluded Area or whether he stayed in the population, as is the case with the Criminal Classes ? The legislation of the Criminal Classes affects the members of the particular tribe no matter where he stays ?

Sir Malcolm Hailey; The Criminal Tribes Act is no longer a Government of India Act They have become matters of Provincial Legislation. The Criminal Tribes Act gives to the Local Government not specifically to the Governor, power to control the movements, to register and restrict in various ways persons who fall within the definition of Criminal Tribes as notified by the Local Government Therefore it would be difficult to apply that analogy to the extension of the special protection of the scattered aboriginals or Backward Classes. In any case, that is a matter which the local Legislature could undertake now of its own initiative. My point was that it gives no special power to the Governor as apart from the Local Government

13,414. *Dr. B. R. Ambedkar:* But under paragraph 108 the Governor could, for instance, by notification classify people as belonging to aboriginal or Backward Areas, and then pass legislation affecting them, no matter where they stayed ?

Sir Samuel Hoare: I do not think he could do that under paragraph 108. Under paragraph 108 he could only deal with people living in the scheduled territory.

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†13,530. *Dr. B. R. Ambedkar:* I want to ask you one or two questions to clear up the financial side of this problem. I want to ask a question, first of all, with regard to financing what are called the partially excluded areas ?

Sir Samuel Hoare: Yes.

13,531. *Dr. B. R. Ambedkar:* I take it that there would be a common budget, the provincial budget, in which the moneys provided for the partially excluded area would also be included ?

Sir Samuel Hoare: Yes.

13,532. *Dr. B. R. Ambedkar:* In that case, the whole budget, of course, would be open to discussion by the Legislature ?

Sir Samuel Hoare: Yes, subject to paragraph 109.

13,533. *Dr. B. R. Ambedkar:* I am coming to that. It is only when the Governor exercises his special responsibility under paragraph 70 that they would go outside the purview of the Legislature ? Is not that so ?

Sir Samuel Hoare: Yes, and paragraph 109.

13,534. *Dr. B. R. Ambedkar:* But ordinarily they would be part of the provincial budget ?

Sir Samuel Hoare: Yes.

13,535. *Dr. B. R. Ambedkar:* I want to ask a similar question with regard to the wholly excluded areas. I find that the special responsibility of the Governor under paragraph 70(*f*), is confined to partially excluded areas only?

Sir Samuel Hoare: Yes.

13,536. *Dr. B. R. Ambedkar:* That means that for the administration of the wholly excluded areas the Governor could not draw upon the provincial funds?

Sir Samuel Hoare: Dr. Ambedkar's very acute mind has discovered a gap in the White Paper. That is so.

13,537. *Dr. B. R. Ambedkar:* He could not draw upon them ?

Sir Samuel Hoare: As drafted he could not draw upon the provincial funds. It is an omission that we propose to set right in any final draft.

13,538. *Dr. B. R. Ambedkar:* Another paragraph is 49 to which I also want to draw your attention in this connection. There sub-clause (v) says that the expenditure required for excluded areas shall be the special responsibility of the Governor-General ?

Sir Samuel Hoare: Yes.

13,539. *Dr. B. R. Ambedkar:* Do I take it that in the administration of the wholly excluded area the Governor, who presumably would be the agent of the Governor-General, would have to depend upon such moneys as may be supplied to him by the Governor-General in the exercise of his special responsibility ?

Sir Samuel Hoare: No; the Governor himself will ask for the money from the Province.

† Minutes of Evidence, Vol. II-B, 17th October 1933, p. 1218.

13,540. *Dr. B. R. Ambedkar:* So you do propose to amend the provision dealing with the special responsibilities of the Governor to enable him to draw upon provincial funds for the administration of the wholly excluded areas also ?

Sir Samuel Hoare: Yes.

Mr. M. R. Jayakar: Does it not now fall under paragraph 96, sub-paragraph (*b*) : "The Governor will cause a statement of the estimated revenues", etc., and then you have given power to specify separately those additional proposals (if any), whether under the votable or non-votable heads, which the Governor regards as necessary for the fulfilment of any of his "special responsibilities". Special responsibilities include expenditure to be spent on the partially excluded areas.

13,541. *Dr. B. R. Ambedkar:* I am talking about wholly excluded areas ?

Sir Samuel Hoare: The point Dr. Ambedkar has raised deals with totally Excluded Areas and, by an error in drafting (it is nothing more than that) it would appear that the Provincial Governor, while he could draw upon the provincial funds for partially Excluded Areas, could not draw upon the provincial funds for the totally Excluded Areas. That is an omission in drafting.

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†13,722. *Dr. B. R. Ambedkar:* Might I ask just one question arising out of the questions put by Mr. Joshi. I just want to draw the attention of the Secretary of State to a difficulty which I feel. Under paragraph 109 as drafted the distinction made between the Excluded Area and the partially Excluded Area is on the basis that in the partially Excluded Area discussion is possible or the Governor has the power to disallow it, while in the case of an Excluded Area, the Governor is prohibited from allowing any discussion. My difficutly is this : Yesterday, I think in answer to a question by Major Attlee, you stated, Secretary of State, that the contribution which the Centre was bound to make to Assam in order to cover the deficit arising out of the Excluded Area there was not to be an earmarked amount but was to be part of the general revenues of the Province of Assam. I suppose I am correct in saying that that was what you stated ?

Sir Samuel Hoare: I think I left the question somewhat open as to whether it should be a specific grant or whether it should be merged in the general grant.

13,723. *Dr. B. R. Ambedkar:* The impression that I formed was that you said you did not think that it would be an earmarked amount ?

Sir Samuel Hoare: No. I think what I said, or anyhow what I intended to say, was that in the figures that we had been discussing we had assumed that it would be part of the general fund, but as to whether that was the best way of dealing with it I had an open mind.

13,724. *Dr. B. R. Ambedkar:* Very well. I will take another aspect of the thing. In answer to a question which I put you stated that *so* far as the

† Minutes of Evidence, Vol. II-B, 18th October 1933, pp. 1223-24.

financing of the Excluded Area was concerned you were going to rectify the omission in the White Paper and allow the Governor of the Province to draw upon the general fund of the Province of Assam for the expenditure that he was likely to incur under the Excluded Area ?

Sir Samuel Hoare: Yes.

13,725. *Dr. B. R. Ambedkar:* The difficulty that I feel is this, that if the Governor is to have the power to draw money from the Provincial Fund of Assam in order to carry on that administration in the Excluded Area, is it consistent with this provision in paragraph 109 that the Legislature should be altogether prohibited from discussing the affairs of the Excluded Area which is supposed to provide that money ?

Sir Samuel Hoare: I think Dr. Ambedkar does raise a difficult case. It is not a case in which a very large sum is involved, for this reason, that by far the greater part of the expenditure upon the totally Excluded Area of Assam will be found from Federal funds, but I think it may be assumed that there will be a sum in addition to that needed.

13,726. *Dr. B. R. Ambedkar:* As you said yesterday, in all these areas where there will be partially Excluded Areas the Budget would be a common Budget, unless, of course, the Governor certified an extra amount under his extra responsibility, in which case the Budget as a whole would be placed before the Legislature and open to discussion. I do not see how the difficulty would be got over ?

Sir Samuel Hoare: We had considered the advantage in a case of that kind of proceeding, say, by a contract but get over a period of years. What I am anxious to avoid are frequent discussions.

13,727. *Dr. B. R. Ambedkar:* I suppose the purpose could be best served by having a common provision for both, prohibiting discussion and allowing the Governor the power to prohibit it or disallow it, whichever he thought necessary ?

Sir Samuel Hoare: It was pressed upon us very strongly by the people working in these tracts that there was a great advantage in excluding discussions in the case of the totally Excluded Areas, but I have always seen the difficulty of the expenditure in Assam from provincial funds. I think the Committee and the Delegates might consider whether supposing there was a contract budget for a period of years when the contract was renewed there might then be a discussion; but even that (I say it so that the Committee should know the whole position) is contrary to the views of a good many of the experts.

13,728. *Dr. B. R. Ambedkar:* But I suppose the purpose of the experts and the purpose that you have in view would be very well served by having this power of the Governor to allow a resolution and discussion ?

Sir Samuel Hoare: What we wanted to avoid was the Governor constantly having to refuse discussions of this kind. It would put him into a difficult position, and we do not. contemplate in the case of totally Excluded Areas that there would be discussions, and we do not want to take any action

that would appear to permit discussions that we think would be harmful to the area ; that is what it comes to.

Dr. B. R. Ambedkar: I was only suggesting that the Governor's power would be adequate protection against that That is all I ask.

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†13,923. *Dr. B. R. Ambedkar:* Might I ask one question on that point ? As I understand it in the concurrent field there will be an appeal to the Privy Council from the decisions of the High Court ?

Sir Samuel Hoare: Yes.

13,924. *Dr. B. R. Ambedkar:* What I do not understand is this, if there can be an appeal to the Privy Council in an issue arising out of an interpretation of the concurrent law in the concurrent field, what difficulty can there be in allowing such an appeal to the Federal Court ?

Sir Samuel Hoare: One of our reasons anyhow is that we do not want to flood the Federal Court with an enormous amount of work and the demand for a very large number of Judges at the beginning.

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‡14,373. *Dr. B. R. Ambedkar:* Secretary of State, I just want to ask one question about paragraph 155. This para 155 relates to exclusive original jurisdiction of the Federal Court. I do not understand the distinction that seems to be made there. I find on reading paragraph 155 that you make a distinction in the matter of the exclusive original jurisdiction of the Federal Court on the basis that where the parties to the dispute are as there mentioned in sub-clauses (*a*) and (*b*), the exclusive original jurisdiction is given to the Federal Court, but the Federal Court cannot have an exclusive original jurisdiction if the parties are private individuals. Now the question I would like to ask is this. The issue in both cases is the same, namely, the constitution issue involving the interpretation of the Constitution Act. What I do not understand is this. Why there should be this distinction in the matter of an exclusive original jurisdiction of the Federal Court based on parties when the issue is the same ?

Sir Samuel Hoare: I think this is what usually happens with Federal Courts that the original jurisdiction is jurisdiction between units, and it is in the appellate jurisdiction that the individual comes into it as of right

14,374. *Dr. B. R. Ambedkar:* I mean, if the intention is that where, for instance, the interpretation of the Constitution Act is involved, the matter should at once go to the Federal Court, then I think there can be no distinction made whether the parties are parties which are units of the Federation or of individuals ?

Sir Samuel Hoare: I would have thought that this was one of the necessary working conditions of a Federal Court. I think if it had original jurisdiction in individual cases as well it would be entirely swamped with cases.

† Minutes of Evidence, Vol. II-B, 19th October 1933, p. 1247.

‡ *Ibid.,* dated 20th October 1933, p. 1292.

Dr. B. R. Ambedkar: But, all the same, the issue in both cases would be the same, namely, the interpretation of the Constitution Act. I can quite understand the distinction being based upon different causes of action, but where the cause of action is the same, or rather the plea is the same, namely, that there is a breach of the constitution, I do not see any justification in making this distinction based upon units and parties.

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†14,380. *Dr. B. R. Ambedkar:* Now there is another question which I wish to ask the Secretary of State, and it is this. I do not find any provision in the White Paper about it. Do not you think, Secretary of State, it is desirable that there should be provision made allowing private individuals to sue for a declaration that a particular act is unconstitutional, although he is not seeking any specific relief ? I mean, all the cases that you have provided for I find are cases in which some specific relief is asked for. It may be desirable that a private party, in order to safeguard his future, may like to test at once if he has any doubts whether the particular proposal made by the Federation or by a Province is unconstitutional so that he may safeguard his position for the future, although, at the moment, when he is filing the suit for the proceedings, he has no reason to seek any specific relief ?

Sir Samuel Hoare: I have some hesitation, not being a lawyer, in answering a question of that kind, but if I may give offhand the answer of a layman I would have said that it was extraordinarily difficult to allow a general right of that kind without any specific issue affecting the individual.

Marquess of Reading: May I make the observation that what you have said is really the law as it is applied in this country ? We do not allow these applications of what are called Qia timet, that is to say, merely a case of difficulty hereafter to get a declaration when there is no substantial dispute and the moment there is a dispute it can be done. We never allow it, and I do not think they do in India.

Sir Hari Singh Gour: No cause of action ; no right of suit.

Mr. Zafrulla Khan: Indeed there would be very great difficulties if such a provision were inserted in the Constitution. You would start a million suits being instituted in India the moment the Act was passed.

14,381. *Dr. B. R. Ambedkar:* I do not know whether everybody will exercise his right ?

Sir Samuel Hoare: It would be an excellent affair for the legal profession in India.

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‡15,741. *Dr. B. R. Ambedkar:* Just one question, Secretary of State, dealing with the exceptions in (c), "Special Powers" (Special powers of the Governor-General) as I understand, the position is this : Generally

† Minutes of Evidence, Vol. II-B, 20th October 1933, p. 1293.

‡ *Ibid.,* 7th November 1933 p. 1344.

speaking, the Legislature cannot pass a discriminatory Act. I am speaking quite generally ?

Sir Samuel Hoare : Yes.

15,742. *Dr. B. R. Ambedkar:* Administratively the Government of the day cannot discriminate unless it satisfies the Governor that there is no discrimination in fact ?

Sir Samuel Hoare: No.

Mr. M. R. Jayakar: The Governor-General.

15,743. *Dr. B. R. Ambedkar:* The Governor-General or the Governor, because the proviso refers to both. That is theoretically and generally the position, is it not ?

Sir Samuel Hoare: Yes.

15,744. *Dr. B. R. Ambedkar:* Now under sub-clause (*c*) the Governor-General will have the power to pass a legislative enactment making a discrimination if it came within the terms of this proviso. I mean, this power you give to the Governor not only for administrative purposes, but also for legislative purposes ?

Sir Samuel Hoare: It is the general power under Proposal 18 of the White Paper.

15,745. *Dr. B. R. Ambedkar:* Governing both ; so that the Governor may discriminate although the Government may not ?

Sir Samuel Hoare: For the prevention of any grave menace to peace and tranquillity.

15,746. *Dr. B. R. Ambedkar:* Yes ; Now I want to ask what is the import of this. I will put one or two specific illustrations to see if that is what you mean. I suppose under (his clause it would be possible for the Governor-General, by way of prevention of any grave menace, to say that certain persons shall not be employed in the Army. Would it be open to the Governor to do so under this ?

Sir Samuel Hoare: I suppose theoretically it would be, but the case would be very remote in connection with a grave menace to peace and tranquillity. I cannot, for instance, imagine putting the concrete case which is perhaps in Dr. Ambedkar's mind, a Governor-General saying that a proposal to start a unit endangered the peace and tranquillity of India.

15,747. *Dr. B. R. Ambedkar:* I am glad to hear that. That is what rather disturbed me ?

Sir Samuel Hoare: I am not saying whether from a military point of view it would be a good or a bad plan but I cannot see that this would come within the scope of this safeguard.

15,748. *Dr. B. R. Ambedkar:* Nor would it come within the special powers of the Governor in this clause to say that the Depressed Classes shall not be employed in the Police ?

Sir Samuel Hoare: No.

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INDEX

A

Aboriginal Tribes : 246, 418, 463, 471, 547, 718, 737-41.

Acharya, M. K. : 730-35.

Ad-Dharma : 418-19.

Administrative Report (Blue Book): 10, 27, 28.

Adult Franchise : 107, 465, 471, 476, 488, 534, 540, 555-61, 563-66, 568, 577, 614-15, 660, 663, 697, 701. 745.

Aga Khan, His Highness : 654-55, 657-58, 666.

Agra : 496.

Aharwar (Caste) : 495.

Ahilya : 266.

Ahmedabad : 22-24, 222, 248-49, 302-03.

Ahmedabad Majoor Mahajan : 222-23.

Ahmed, Maulavi Sir Rafiuddin : 116-17, 290-91.

Ahmednagar : 76, 81, 87, 408.

Aiyangar, M. S. Shesha : 213.

Akbar Hyderi, Sir : 712, 775-76.

Albenia : 353; 361.

Amalner : 302.

Ambedkar, Dr. B. R. :

In the Bombay Legislature—

Bills introduced on—

Hereditary Offices : 72-74, 90-93.
Khoti Abolition : 96-100.

Speeches delivered on—

Birth Control : 263-66.

Communal Disturbances : 233-37.

Hereditary Offices Act : 72-74, 90-93.

Industrial Disputes Bill : 201-32.

Judiciary : 183-87.

Karnatak Separation : 188-200.

Khoti Abolition : 101-03.

Local Boards : 123-28.

Maternity Benefit : 166-67.

Ministers' Salaries : 170-78.

Municipal Act : 161-62.

Police Act : 138-60.

Primary Education : 64-71.

Probation of Offenders : 179-80.

Prohibition : 163-65.

Small Holdings : 129-37.

Tobacco Duty : 181-82.

University of Bombay : 45-63.

University Reforms : 292-312.

World War-2, Participation of : 238-61.

Questions : 277-91.

With the Simon Commission—

Bombay Presidency Constitution—

Report by : 313-406.

Evidence of : 459-89.

Lothian Committee—

Note on Franchise by : 491-500.

Memoranda by—

on Depressed Classes Education : 407-28.

on Depressed Classes Safeguards : 429-58.

4t the Round Table Conferences—

In the Committee of Whole Conference—

Defence : 579-80.

Discussion of Reports on Federal Structure : 510-11.

Provincial Constitution : 528.

In the Plenary Session : 503-09, 596-99.

In the Sub-Committees on—

Minorities : 528-45.

Provincial Constitution : 512-27.

Services : 600-51.

Memoranda submitted : 546-56, 669-72.

Witnesses examined by—

Acharya, M. K. : 730-35.

Amrit Kaur, Rajkumari : 698-704.

Benthal, Edward : 692-96.

Bruce, C. E. : 736.

Churchill, W. S. : 742-45.

French, J. C. : 747.

Gidney, Henry : 746.

Hoare, Sir Samuel : 748-92.

James, F. E. : 736-41.

Layton, Lady : 696-98.

Michael O'dyer : 685.

Mir Mqbool : 679-85.

Moonje, B. S. : 714-29.

Sachchidananda Sinha : 675-79.

Sen, Mrs. P. K. : 704-707.

Ambegaon : 281.

America : *See* U.S.A.

Amrit Kaur, Rajkumari : 698-704.

Anantacharya, Sri Jagadguru : 447.

Anderson, Mr. F. G. H. : 129, 131.

Anglo-Indians : 344, 356-57, 400, 413, 579, 594, 655-58, 666, 710, 723, 746.

Annie Besant, Mrs. : 612.

Anti-Untouchability Board : 767.

Antroiikar, Dr. K. B. : 254, 267.

Antyaja : 447-48.

Arakh Group : 494-95.
Armstrong, Prof. : 276.
Aryan : 465.
Arya Samaj : 719.
Asarle, R. S. : 455.
Asquith, Lord: 617.
Assam : 2, 16, 33, 273, 369, 583, 647, 670, 789.
Atchison Commission : 389.
Athenian : 341.
Ati-Sudras : 256, 409.
Attlee, Major : 472-73, 736, 788.
Australia : 15, 170, 175, 269, 275, 379, 383-84, 519, 603, 622, 632, 637-38, 641, 643-44, 776.
Australian Commonwealth : 386.
Australian Constitution ; 618, 621-24, 632, 641-42, 646.
Austria : 27, 268,443.
Austrian Constitution : 602-03.
Autocracy : 259.
Ayurveda : 12.
Ayyar, Sir P. Siwaswami : 396.
Azad, Maulana Abul Kalam : 320.

B

Babu Ramcharan : 497.
Backbay Reclamation : 40.
Backward Classes : *See* Depressed Classes.
Badlapur : 283, 287.
Bahishkrit Hitakarini Sabha—
Memoranda: 407-58.
Bajpai, Mr. : 436-37.
Balais : 447, 452, 453.
Balfour, Mr. : 371.
Baluchistan : 318-26.
Bania: 110, 111, 247, 249.
Bannerjee, J. : 714, 716, 720-23, 726-31.
Bardoli : 183.
Barker, Mr. : 329.
Baroda : 447, 462.
Basu, J. N. : 565, 570, 574, 580, 583, 594, 711.
Belgaon : 77.
Belgium : 631.
Bellari : 194.
Bell, Sir Robert D. : 117, 168, 202, 216.
Benaras Hindu University : 614.
Bengal : 2, 16, 33, 319-20, 369, 404-05, 413, 419, 499, 560-62, 583, 700-13, 719, 721-22, 725, 728, 747, 764-67, 770.
Benthall, Sir Edward : 692-96.
Berar Committee : 85.
Berkeley, George : 509.
Berlin : 264.
Bernhardt : 269.
Bhagwat : 266.
Bhai Parmanand : 714, 718, 719, 725.
Bhangi : 249,482.
Bhangiwada : 246.
Bhoksa Group : 494-95.
Bhole, R. R. : 64, 148, 151, 154-55.
Bhurgi, G. M. : 318.
Bihar & Orissa : 2, 32, 33, 170, 190, 194 369, 712.
Bijapur : 194.
Birla : 709-13.
Birth Control : 257-76.
Biswas, Mr. Rasik : 726.
Blunt, Mr. : 494-98.
Board of Education, London : 296.
Bole, S. K. : 87, 279, 280-81, 289.
Bombay—
Chamber of Commerce : 162.
City : 22-25, 87, 138-39, 145-46, 150, 157-58,168,178,181-82,192, 203, 211, 230, 249, 300-03, 324, 339, 369-70, 404, 410, 422, 472, 475-76, 485.
Hereditary Offices Act : 72-95, 283.
Legislative Council (Debates) : 1-29, 316, 326, 328, 351, 356, 367, 378, 429, 433, 435, 441-42, 466-67, 470, 487, 526, 609.
Municipal Act : 35-37.
Municipality : 23, 36, 37, 161, 193, 219, 249, 279, 290, 475.
Native Education Society : 408.
Presidency : 2, 7, 15, 16, 27, 30-33, 47, 81, 85, 101, 140, 167, 171, 173, 193, 275, 297, 315-16, 318-24, 326, 330, 344, 367-68, 400, 403, 408, 413, 415, 420-21, 426, 429, 433, 437-38, 442, 464, 466, 469, 473-74, 477, 481, 485, 516, 527, 530, 547-48, 560, 576, 583, 637, 643, 647, 670, 699, 703-04, 714, 721-24, 731, 738, 740, 760, 766.
Primary Education Act, 1923: 64-71, 280.
Port Trust : 279.
Trade Disputes Conciliation Act, 1934 : 201, 202.
University : 45-63, 292-95, 302. 305-12.
Borsad : 249-51.
Bose, Babu Subhas Chandra : 263.
Brahmins : 109-10, 119-20, 394-97, 404-05, 414-15, 420-21, 426, 444-45, 452, 576, 614, 685, 709, 716, 731-34, 765.
Brahmo Samaj : 709-16.
Bramble, Mr. : 180.
Brazil : 245.
British Govt. : 77, 80, 195, 206, 240, 405, 408-09, 415, 447, 482, 504-05, 534, 580, 597, 604, 637, 665.

British Empire : 243, 342, 352, 361, 504, 534.
British India : 33, 167, 191, 361, 364, 461, 464-65, 503, 602-03, 606, 612, 623, 629, 634-35, 639, 665, 669-70, 679-83, 712, 759-60, 773.
British Parliament : 171, 214.
Brown, Mr. Justice : 635.
Bruce, C. E. : 736.
Bryce, James : 341.
Bryce Committee : 618-20.
Buckingham Palace : 257.
Buddha : 494.
Buddhists : 732.
Bulgaria : 353, 361.
Bundesrat : 605-06.
Burke, Sir Edmund ; 356, 508.
Burmah : 2, 7, 272-73, 532.
Burnham, Lord : 479.
Butler, Mr. : 679, 688, 698, 706.
Butler Committee : 607.

C

Cadogan, Mr. : 474.
Calcutta : 150, 229, 320, 713, 721.
Calcutta University : 311.
Calcutta University Commission : 293, 311.
Cambridge University : 299-301.
Canada : 15, 27, 170, 175, 272-73, 352, 360, 375, 379, 381, 383, 384, 513, 519, 603, 615-17, 689.
Canadian Constitution : 511, 618, 621, 623-24, 632, 681.
Candy, Major : 402-10.
Canpur : 495.
Cardew, Sir Alexander : 443.
Carr, Sir Hubert : 659, 666, 752-53.
Carson : 257.
Catto, Sir Thomas : 692.
Ceylon : 344, 372.
Ceylon Commission of 1928 : 344, 372, 582.
Ceylonese : 585.
Chainani, H. K. : 93.
Chamardas : 455-56.
Chamars : 248, 494-96, 499.
Chamberlain, Sir Austen : 675, 723, 730, 757, 770, 779-80.
Chamber of Commerce : 347.
Chambharwada : 246.
Chatterji, B. C. : 714, 720, 722-27, 729.
Chatterji Ramanand : 715, 728.
Chaturvarna : 256.
Chegnidden, Mr. : 224.
Chhatre, Sadasheo Kashinath : 408.
Chikodi, R. R. : 55, 86,108.
China : 267, 272, 274, 635.
Chinese Tailor : 505.
Chintamani, Mr. : 527, 536, 575, 593.
Chitale, Rao Bahadur G. K. : 114, 118, 120, 142.
Chitre, A. V. : 161, 176.
Christianity : 663.
Christians : 253, 494, 609.
Christian Missionaries : 419.
Chundrigar, Mr. Ismail I. : 126, 127, 148, 151.
Churchill, Sir Winston : 742-45.
Citrine, Mr. Walkar : 223.
Civil Disobedience Movement : 180, 688.
Cologne : 269.
Commander-in-Chief : 651, 756-57.
Commonwealth Parliament : 384.
Communal Award : 711-12, 728, 758-68, 785-86.
Communal Riots : 139-40.
Communion : 145.
Congress : *See* Indian National Congress.
Congress League Scheme : 325.
Conservative Government (British) : 558.
Conservative Party (British) : 177.
Cooper, Sir Dhanjishah : 237.
Coorg : 189.
Cottan, Sir Evans : 673.
C. P. & Berar : 23, 32, 33, 84, 171, 326, 369-70, 426, 560, 670.
Craddock, Sir Reginald ; 673, 738.
Criminal Tribes : 41, 461-63, 468, 471.
Croatians : 353. Crown : 174, 334, 335, 386-90, 401, 551, 587, 610, 611, 643, 681-83.
Cuffe, G. E. : 688. Czechs : 352.
Czechoslovakia : 352.

D

Dadabhoy, Sir Maneckjee : 605, 607-08, 620, 642.
Dahelvi, Sir Ali Mahomed Khan : 143, 149, 159, 188, 194.
Daksha Prajapati : 266.
Dalvi, D. G. : 457.
Dandi March : 248.
Darjeeling : 726.
Dastur, Mr. : 60.
Datta, Dr. : 659.
Deccan : 75, 131.
Deccan Agriculturists' Relief Act : 288.
Deccan Education Society : 304.
Defence of India : 579-80, 643, 755-57.
Defence of India Act : 143, 144, 152.
Defence of Realm Act (England) : 143-44.
Delhi : 320, 354, 650, 763-64.
Democracy : 245, 259, 342, 440, 443.
Denmark : 27.

Depressed Classes—
Depressed Classes : 41, 42, 44, 50, 51, 107, 108, 110-14, 127, 177, 190, 192, 194, 246-47, 250-53, 256, 258, 278-79, 282-83, 288, 312-13, 338-40, 344, 356-60, 363-67, 372, 394-400, 409, 414-15, 418-46, 455-59, 464-500, 503-09, 513-15, 528-34, 537-57, 562-65, 568, 576, 579, 593, 597-98, 609, 613-14, 627, 649, 652, 655-62, 665-72, 685, 704, 708-14, 717-20 724-29, 740-41, 747, 759-64, 785-86, 793.
Depressed Classes Conference : 448, 449, 456-57.
Depressed Classes Institute : 459.
Depressed India Association : 459.
Desai, Diwan Bahadur Hiralal D : 280, 290.
Desai, Morarji Ranchhoddas : 19, 259.
Desai, Rao Saheb Dadubhai : 4.
Deshmukh, R. M. : 714.
Deshpande, L. M. : 730-34.
Devyani : 242.
Dharavi : 10.
Dhariya, Govind Narayan : 449.
Dharwar : 302, 339, 418.
Dhed (Caste) : 248, 405, 414, 451, 459, 461.
Dholka : 242.
Dhulia (Caste) : 499.
Dhusia : 495.
Dicey, Professor : 235, 349.
Dikshit, M. K. : 115.
Dom (Caste) : 499.
Dominion Status : 248, 505-08, 534, 557-61, 608, 742, 745, 753.
Dushyanta, King : 266.
Dutch : 352, 360.
Dyarchy : 324, 326, 332, 610, 743.

E

Earl of Auckland : 402, 410.
East India Company : 361, 387.
East Khandesh : 76, 87.
East, Prof. : 275.
Education Commission, 1883 : 43.
Education Minister : 39-44, 45, 52, 54, 57, 58, 67, 340, 445.
Ekadashi : 255.
Ellenborough, Lord : 417.
Elphinstone College : 47, 300, 301.
Elphinstone Mill : 233.
Elphistone, Sir Mount Stuart : 404, 405. 408, 413-15, 419.
Emergency Powers Act of 1920 : 214, 229.
England : 105, 114, 143, 209, 223-26, 264, 268, 271, 274, 326, 333, 343, 367, 371, 389, 392, 403, 410, 413, 558, 609, 619, 649, 660, 726.
Esthonia : 352, 375.
Esthonians : 352.
Eton : 397.
Europe : 19, 114, 173, 195, 230, 389, 403-04, 410-13, 443, 445, 631, 657.
Europeans : 330, 332, 344, 347, 357, 393-96, 439, 443, 488, 581-82, 585, 590, 609, 663, 666, 695, 710.
European (countries) : 19, 29, 134, 258.
European Missionaries : 304.
Eustace Percy, Lord : 742, 752, 783-84.
Evans, Myriddin : 224.
Excluded Areas : 670, 786-89.
Excluded Castes : 500.
Exterior Castes : 500.

F

Fagan, Sir P. J. : 673-74.
Featherstone Riots Committee : 234.
Federal Court in India : *See* Supreme Court.
Federal Structure Committee : 510, 543. 600, 603-04, 609, 655.
Federal Structure Sub-Committee : 510-11, 591, 596, 601-02, 606, 624.
Feldman : 28.
Fell, Sir Godfrey : 757.
Finance Minister : 1-4, 7-16, 19, 21-28, 30-32, 34, 35, 39.
Fleming, Mr. : 280-81.
Foot, Mr. : 335, 338, 366, 376.
Fox, Colonel Lane : 463.
France : 27, 264, 268-69, 270-71, 273, 560, 631.
Franchise : 337-44, 441, 473, 475, 487-88, 540, 555, 557-62. 564-66, 576-78, 681-82, 696-97, 734, 749, 755.
Franchise Committee (Indian) : 364, 365, 369, 370, 431, 567-77, 597, 649.
Ambedkar's note to ; 419-500.
French : 360.
French Chamber of Deputies : 331.
Fundamental Rights : 554-55, 587, 639, 643.

G

Gaekwar, Sir Sayajirao : 451.
Gaikwad, B. K. : 127, 270.
Ganapati : 49.
Gandhi, Mahatma : 222, 263, 328, 450, 456, 610, 612,614-15, 617, 653-62, 681, 711-17, 721, 723, 728, 735, 759-60, 763-67.
Gandhi Raj : 447.
Gavai, G. A. : 714-15, 729.
Gavin Jones, Mr. : 621-22, 688.
Gazur (Caste) : 499.
Geneva : 269.
German Empire : 603, 605, 608.
Germans : 352-53.
Germany : 240, 264, 268, 270-72, 274.

Ghurye, Dr. G. S. : 273.
Gidney, Sir Henry : 511, 535, 540, 543-44, 564, 575, 589, 595, 653, 656, 658, 666, 725, 746.
Gladstone : 397.
Gokalchand, Dr. : 718.
Gokhale, B. G. : 339, 397.
Gokhale, L. R. : 116.
Gole, Principal : 270.
Gooring : 269.
Gour, Sir H. S. : 463-64, 476, 480, 483, 681, 699, 725, 736, 765, 769, 779-80, 791.
Governor : 8, 92, 175, 236, 317, 322-27, 334-36, 376-79, 382, 386-88, 400, 515-23, 542, 588-89, 611, 665, 675, 684-85, 691-92, 730-31,741, 749-50,761,769,774, 777-80, 786-89, 792.
Governor-General : 143, 188, 378, 382-84, 386, 409,419, 499, 511, 537, 554, 588-91, 665-66, 731, 741, 746, 752, 754, 757, 761, 769-71,774-75.
Govt. of India Act, 1919 : 11, 69, 72, 188, 387-90, 401, 530, 532, 546-48, 554, 579, 591, 675, 678.
Govt. of India Act, 1935 : 13, 124, 136, 143, 171, 173, 177-78, 188-91, 197, 198, 220, 228, 332-33, 335, 358, 378.
Great Britain : 7, 27, 224, 226, 240, 244, 332, 560, 635.
Greece : 353, 361.
Griffith, Mr. : 486.
Gujarat : 49, 75, 248-49, 316, 366.
Gujarati : 49, 175, 190, 192, 194, 230, 447.
Gundappa, D. V. : 603.
Gupte : 197.

H

Haig, Sir H. G. : 725.
Hailey, Sir W. M. : 748, 750, 752, 776, 786.
Hajjams : 447.
Haksar, Colonel : 606, 607, 615.
Hall, Sir Daniel : 275.
Hamid Ali, Mrs. : 698-99, 704.
Hamill, Professor : 47, 51, 52, 60, 63.
Hari (Caste) : 359.
Harijan : 128, 131, 175, 194, 250, 261.
Harrop, H. R. : 673.
Harrow : 397.
Hartog, Sir Philips : 696-98.
Hartshorn, Mr. : 467, 473.
Hastings, Sir Warren : 332.
Hayter, O. C. G. : 736.
High Court : 17, 80, 81, 84, 109, 116, 154, 155, 184-86, 378, 560, 646, 736.
Hill Tribes : 461-62, 468, 471.
Hindus : 29, 41-44, 49, 108, 110, 116, 123, 128, 140, 175. 192, 194, 246-55, 317-21, 328, 350-52, 358-61, 364-65, 370, 397, 404, 417, 431, 436, 444-56, 460-66, 470, 473-84, 491-94, 496-500, 503-04, 517, 529, 533, 541, 555, 656-58, 661-62, 669, 672, 699, 706-07, 709-23, 725-27, 729, 731-32, 735-36, 759-60, 764-67.
Hindu Colony (Dadar) : 25.
Hinduism : 127, 437, 465, 476, 494, 498, 500, 663.
Hindu Law : 477-78.
Hindu Scriptures : 265.
Hitler, Adolf : 259, 269.
Hoare, Sir Samuel : 612-14, 727, Examined : 748-93.
Hockenhull, F. W. : 688.
Holiyas (Caste) : 459.
Home Minister : 9,10, 117, 120,139, 142, 145-50, 156-57, 169, 179, 183-86, 214, 233-35, 256.
Home Rule : 236-37, 612.
Hopkinson, Sir Alfred : 59.
Hotson, Mr. J. E. B. : 280-81, 454.
House of Commons : 174, 326, 348, 541, 615, 618-21, 742-45.
House of Lords : 617-21, 745.
Hungary : 353.
Hungarians : 353.
Hunter Commission : 340, 416, 422-24, 428.
Hussain, Sir Ghulam : 279.
Hutton, Dr. J. H. : 736-42.
Hyderabad : 302.

I

Imprey, Sir Uijah : 332.
Incorporation Act of 1857 : 298.
Independent Labour Party : 127, 128.
India : 25,101,114, 143,151,164,170, 171, 175, 221, 237, 240, 257, 268, 272, 275, 328, 333-34, 341, 345, 349, 352, 361, 374, 385, 389, 394, 403, 405, 457, 462, 471, 478-79, 482, 491, 504, 509, 512-13, 519, 529-30, 540, 546, 554, 559, 561, 570, 598, 602, 606, 622-27, 631, 644-46, 655, 674-75, 685-87, 690-93, 695, 698, 704, 708-09, 737, 743, 751, 754-55, 758,771.
Indian Army : 530, 579-80.
Indian Christians : 344, 357, 655-58.
Indian Civilization : 168.
Indian Civil Service : 69, 70, 109, 329, 523, 581-95, 674.
Indian Liberals : 597.
Indian Merchants' Chamber : 162.
Indians : 317, 332, 393-94, 398, 581-82, 737, 739.
Indianisation : 393-94, 398, 401, 515-16, 580-81.

Indian National Congress : 9, 22, 105, 173, 186, 225, 248, 249, 263, 276, 370, 372-73, 451, 612, 627, 653, 655-63, 747, 765.
Indian Nationality : 195, 196.
Indian States : 462, 468, 604-07, 622-23, 637-39, 645-47, 650, 680-84, 760, 775.
Indian Statutory Commission (Simon Commission) : 190, 343, 373-74, 407, 429-30, 492, 496, 520, 523, 527, 560, 572, 577, 648, 670, 742, 758.
Indore : 452-53.
Indra, God : 266.
Innes, Sir Charles : 691-92.
Ireland : 257, 343, 371, 519, 620.
Irish Constitution : 618, 620.
Irish Free State : 15, 27,170.
Irish Nationalist Party : 257.
Irish Settlement : 371.
Irvin, Lord : 688, 756.
Islam : 663.
Islington Commission : 393.
Italy : 134, 270-71, 272, 274-75, 560.
Iyengar, Mr. : 642, 649.

J

Jadhav, Bhaskar Rao : 49, 59, 60, 569, 576, 577, 733.
Jadhav, Mr. M. K. : 278.
Jagannath Temple : 499.
Jaglia : 75.
Jains : 732.
Jairamdas : 57.
Jaiswar Chamar : 495-96.
Jalgaon : 87.
Jalia (Caste) : 495.
James, A. W. H. : 736.
James, F. E. : 688-90.
Jamner : 251, 252.
Jamshedpur : 493.
Japan : 274.
Jayakar, M. R. : 597, 609, 64246, 650, 682-83, 685, 700, 711, 714, 716, 718, 724-25, 764-65, 779, 785, 792.
Jehangir, Sir Covasji: 282, 522, 564, 567-70, 573-75, 591, 593.
Jentral (Village) : 250.
Jeremy Bentham : 245.
Jervis, Captain George : 408.
Jews : 230, 269, 352.
Jhabwala, S. H. : 149.
Jinnah, Mr. Muhammad Ali : 640, 643-47.
Jog, V. N. : 188, 190, 192-93.
Jogi (Caste) : 499.
Johnson, Dr. Samuel : 177, 509.
Joint Electorates : 555, 758.
Jones, Mr. Gavin : 621-22, 690.
Jones, Mr. Morgan : 753.
Joshi Bill : 80.
Jo'shi, N. M. : 510, 543, 566, 572-77, 610, 649, 738, 788.
Joshi, Purushottam Prabhakar : 449.
Junagadh : 422.
Justice Party : 733.

K

Kaira District : 249.
Kaiser : 269.
Kak, Mr. B. : 679.
Kalal (Caste) : 499.
Kale, Rao Bahadur R. R. : 109, 115, 116.
Kali Goddess : 266.
Kamat, B. S. : 111, 116-19.
Kamble, G. G. : 279.
Kanarese : 175, 190-93, 195, 317.
Kappur (Village in Gujarat) : 250.
Karachi : 279, 302, 422.
Karandikar, S. L. : 102.
Karbhari, M. M. : 109.
Karnataka : 75, 189-90, 193-94, 316-17,
366-67,400. Kashmir : 195.
Kathiawar : 451, 483.
Kavita (Village) : 248-49.
Kayasthas : 404, 413.
Kazi Shahabuddin : 422.
Keikar, N. C. : 715.
Kekatnimbhor : 251.
Kentchuky State : 642.
Khan, Alibahadur : 192.
Khandesh : 288.
Khansaheb, Abdul Latif : 469.
Khan, Sir Liyaquat Hayat : 754.
Khan, Dr. Shafa'at Ahmed : 527, 589, 609.
Khan, Sir Syed Ahmed : 522.
Khanna, Meherchand : 714.
Khedgikar, R. A. : 159.
Kher, B. G. : 64, 67-68, 126, 157-59, 175, 177-78,199, 239, 246, 248, 259, 260-61.
Khojas : 478.
Khot : 97-99, 101-03.
Khoti System : 96-103.
Kikabhai, Mr. : 478.
King Edward VII : 257.
Kolaba : 77, 101, 102, 259.
Kolis : 287.
Konkan : 483.
Kori Group : 494-95.
Kowravas : 266.
Krishnamachari, Sir : 75.
Kshatriya : 256.
Kulkarni : 75, 78, 121.
Kurnaon : 661.
Kunti : 266.
Kunzru : 214.

L

Labour Party (British) : 177.
Lady Layton : 696-98.
Lajpatrai Lala : 456.
Lakhmichand, Shrirajma : 87.
Latthe, A. B. : 36, 37, 39.
Latvia : 352, 375.
League of Nations : 27, 479.
Lee Commission : 70, 390, 393,673.
Legislative Council : 322, 331, 356-57, 362, 367-68, 431, 471-73, 514, 518, 524-25, 560, 587, 601, 609-11, 691, 676, 705, 740.
Also refer Bombay Legislative Council.
Le Rossignol, W. A. : 736.
Liberates : 105, 558.
Liberty—Newspaper : 722-24, 729.
Lingayats : 194, 732.
Lithunians : 352, 375.
Local Self-Government Minister : 47, 104-08,110-13,123-25.
Loli (Caste) : 499.
London University : 56, 299, 300.
Lord Lothian : 644, 768.
Lothian Committee : 708-09, 713, 719, 722-23, 759.
Loveluck, E. B. : 673.
Lovett, Sir Verney : 152.
Lucknow Pact : 320, 365-66, 370-74, 400.
Lyall, F. F. : 736.

M

Macmum, Sir George : 736.
Madras Army : 530.
Madras City : 130, 171, 189, 364, 369, 530, 551, 560, 670, 686, 761.
Madras Presidency : 2, 16, 32-33, 188, 195, 445, 698, 705-06, 733.
Mahabharat : 242, 266.
Mahad Conference : 448-50.
Mahar : 75-87, 253-55, 281-83, 286-89, 339, 405, 410, 413, 418, 450, 453-54, 457-61, 464, 477, 488-89.
Maharaja of Bikaner : 603-08, 620, 623.
Maharashtra : 190, 316, 366.
Maharashtrians : 175,190.
Mahardas : 455-56.
Maharwada : 246.
Malabar : 734-35.
Malaviya Conference : 722-23, 735.
Malaviya, Pandit Madan Mohan : 613-15, 714-17, 724-26, 763.
Malta : 591.
Manchester University : 59.
Mangaon : 359.
Mangs : 459, 489.
Manu : 248, 409.
Marathas : 41, 195, 344, 348, 356, 420, 453-54.
Marathi : 348.
Marquess of Lothian : 699.
Martin, Mr. J. R. : 288.
McKercher, Sir William : 688.
Mehta, Chunnilal : 277, 282, 455.
Mehta, Jamnadas M. : 23, 37, 57, 65, 66, 69, 142, 144.
Mehta, Manubhai N. : 776.
Mehta, Mrs. Sarojini : 265.
Mein Kampf : 269.
Midnapore : 747.
Milan : 269.
Mill, John Stuart : 442.
Miller, Mr. : 468-69.
Millowners' Association : 162.
Mills, S. H. : 747.
Minorities Pact : 500.
Mir Maqbool Mahmood : 679-84.
Mirams, Mr. : 187.
Mirza Ismail, Sir : 624, 768, 776.
Mitha, Mahomed Suleman Cassum : 113, 114-15, 118.
Mitra, S. C. : 213.
Mitter, B. L. : 727.
Mitter, Sir P. C. : 152, 535, 563, 567, 574, 582, 591, 620.
Mochis (Caste) : 447.
Mody : 587, 594.
Mohammed Shafi, Sir : 657, 662.
Mohri (Caste) : 289.
Money, Leo Chiozza : 271.
Montague : 318, 327, 377.
Montague Chemsford Reform : 6, 69, 430, 610, 614.
Morey, Keshaorao : 68.
Morley-Minto Council : 384:
Morley-Minto Reform : 327, 384, 431-32.
Moonje, Dr. B. S. : 536, 541-42, 580, 656, 714-17, 729.
Muddiman Committee : 365, 369, 381, 432, 445.
Mujumdar, Sirdar : 365.
Mukadam, W. S. : 258, 278.
Mukerjee, Mrs. L. : 704-05.
Mukerjee, Dr. Radha Kamal : 276.
Mullan, Mr. : 500.
Mullick, M. B. : 713-14, 720.
Mulshi Petha : 255, 289.
Munich : 269.
Munro, Dr. J. M. : 268.
Munshi, K. M. : 45, 46, 49, 51, 61-62,
148-50, 157-60, 176-77, 216, 239.
Murzban, Mr. : 164.
Muslim Conference : 46.

Muslims: 29, 38, 41-44, 50, 110, 113-14, 120, 123, 126, 139-W, 175, 192, 194-95, 222, 225-26, 246, 253, 256, 317-21, 328, 338, 344, 350-63, 370-72, 503-04, 507, 517, 529, 536, 541-44, 561-63, 609, 653-55, 658, 662-63, 665-66, 669, 685, 699, 706, 707, 710, 719, 736, 739, 747, 760.
Muslim League : 225, 226, 272-74, 320.
Mussolini : 259, 269, 270.
Muzumdar, Sirdar, G. N. : 80, 88.
Mysore : 287.

N

Naidu, Mrs. Sarojini : 263, 657.
Naiyadi (Caste) : 735.
Namsudras : 499, 708, 713, 726.
Narayan Sakharam : 286.
Nariman, K. F. : 50.
Nasik : 76, 286, 302.
Nasik Satyagraha : 643.
National Socialist (Germany) : 269.
Navasari Antyaja Ashram : 448.
Navy : 358.
Nayars : 426.
Nehru Committee : 319-21, 338, 563, 597, 614.
Nehru, Jawaharlal : 259, 263.
New Brunswick : 681.
Newman, H. L. : 673.
New South Wales : 15.
New York : 274.
New Zealand : 15, 170, 269.
Nizam of Hyderabad : 163.
Non-Brahmins : 41, 105, 109-10, 119, 120, 175, 338, 372, 394-97, 400, 444-45, 576, 597, 685, 716, 732-33.
Non-Co-operation Movement : 688.
Noor Mahomad : 61.
North America : 245.
North West Frontier Provinces : 190, 195, 318-20, 583, 628, 665.
Norway : 27, 269,
Nova Scotia : 681.

O

O'dwyer, Sir Michael : 685-88.
Ohio State : 642.
Opium War of 1840 : 635.
Orissa : 712.
Oxford University : 299-301.

P

Page, Mr. W. W. K. : 688, 690.
Pahaljani, B. G. : 50.
Paine, Sir Thomas : 371.
Pan (Caste) : 499.
Panchamas : 431, 445.
Pandit Nanakchand : 714, 719-20.
Panikkar, K. M. : 679, 681, 685.
Pant, Pandit Govind Vallabh : 259.
Paranjpe, Dr. : 78, 340, 397, 486.
Parashar Rishi : 266.
Parishishtha Varga : 128.
Parliament (British) : 343, 349, 362, 371-72, 381, 409, 430, 439, 478, 570, 687, 689, 742, 744-46, 758-60.
Parmar, Kalidas Sheoram : 249, 251
Parsis : 139, 140, 230, 529.
Parulekar, S. V. : 136,158,159, 221.
Pataskar : 147,152, 154-55.
Patel, Vallabh Bhai : 18.
Patil, Dewan Bahadur D. R. : 109-10.
Patil, Raosaheb : 75, 78, 482.
Patna : 704.
Patro, Sir A. P. : 526, 542-44, 582, 584, 597, 707, 754.
Pattani, Sir P. : 682.
Paul, K. T. : 522, *566,* 574, 577.
Peel, Lord : 614, 619, 649.
Pennir Selvam, Rao Bahadur : 344, 656, 666.
Peoples' Tribunal : 267.
Peshwas : 482.
Peshwa's Government : 409.
Petit, J. B. : 107.
Phadke : 126, 127.
Pickford, Miss Mary : 700.
Pirali (Caste) : 499. Poland : 352.
Poles : 352
Poona : 23, 24, 280, 289, 302-03, 721-24.
Poona Pact : 108, 178, 707-18, 725-28, 733-35, 760-68.
Pope : 352.
Prabhus : 404.
Pradhan, G. B. : 106,107, 284, 287-89.
Pradhan, R. G. : 106-07, 284, 287-89.
Prague : 269.
Pratiyogi (Newspaper) : 281.
Premchand, Mr. : 474.
Primary Education Committee : 30,
Prince of Wales : 236.
Privy Council : 80, 81, 115, 185, 513, 647, 790.
Protestants : 257.
Provincial Autonomy : 382-84, 385-88, 398, 401, 429, 476, 512-13, 693-94, 734.
Punjab : 2, 16, 32-33, 236, 318-20, 354, 369, 498-99, 560-563, 583, 656, 663, 670, 686, 712, 716-19.

P. S. C. : 393, 401, 776.
Puranas : 267.
Pururava : 242.

Q

Queen Victoria : 587.

R

Radicals : 558.
Rahimullah, Sir Ibrahim : 42, 187.
Rajadhyaksha, G. S. : 74.
Raja, M. C. : 462-63, 467, 480, 484, 486.
Raja-Munje Pact : 715, 729.
Raja Narendranath : 526-27, 535-36, 587, 589, 593-95, 716.
Rajgopalachari, C. : 259.
Rajputs : 452.
Rajur-Babula : 286-87.
Ramanuja : 494.
Ramchandra Rao, Diwan Bahadur : 525-26, 563, 567, 570.
Ramoshi : 75.
Ranade, M. G. : 397.
Rankeillour, Lord : 771, 779.
Rao, Prof. V. G. : 457.
Ratnagiri : 77, 101-02.
Ray, S. S. : 726.
Reading, Lord : 318, 539, 541, 544, 780, 791.
Redmond, Mr. John : 257.
Revenue Minister : 37, 79, 86-89, 102.
Rhodesia : 519.
Rieu, Mr. J. L. : 86-87, 90-91, 278-83.
Robertson, F. W. : 673.
Roff, L. A. : 688.
Roham, P. J.—On Birth Control : 259-76.
Romans : 221.
Roman Catholics : 268, 269.
Roosevelt, President : 274.
Rothfield, Mr. Otta : 131.
Round Table Conference : 114,144, 177, 190, 236, 244, 258, 491, 500, 679, 714, 756, 778.
Rowlatt, Mr. Justice : 152.
Royal Commission on University Education in London : 56.
Royal Sign Manual : 756.
Rumania : 131, 353, 361, 443.
Rumanians : 353.
Russia : 352-53.
Ruthenian : 352-53.

S

Sadler Commission : 48, 49.
Sagar Rishi : 266.
Sahastrabuddhe, Raosaheb D. L. : 275.
Saijapur : 250-51.
Saklatvala : 202.
Salisbury, Lord : 757-58, 761.
Samaj Samata Sangh : 456.
Samuel Hoare, Sir—Examined : 748-92.
Sangamner : 53, 54, 261.
Sankey, Lord : 510-11.
Sanskrit : 409.
Sapru, Sir Tej Bahadur : 580, 597, 606, 611, 614-15, 618-19, 646, 651, 691, 711, 714, 748, 750, 755-56, 764-65, 768-69.
Sarda Act : 272.
Sardar Sampuran Singh : 590, 592, 593.
Sardar Ujjal Singh : 544-45, 575, 616, 655.
Sastri, C. V. Kumarswami : 152.
Satara : 77, 109, 255, 732-33.
Satyavati : 266.
Sayyad Miran Mohammad Shah : 471-72.
Scheduled Castes : *See* Depressed Classes.
Scholosser : 209.
Scot, Sir Basil : 152.
Scotland : 56.
Second Chamber : 374-77, 516, 522-24, 527, 601, 617-20, 691, 748-49, 751.
Secretary of State : 69, 70, 188-89, 329, 355, 361, 370, 387-88, 392, 401, 418, 532, 537, 582, 619, 651, 698, 673-74, 677, 757, 779.
Sedition Committee : 151, 152.
Sen, Mrs. P. K. : 679, 682-85, 704-07.
Separate .Electorates : 555, 670, 717-19, 727, 747, 758.
Serbians : 353.
Servant of India Society : 25.
Servants of Somvanshi Society : 459.
Setalvad, Sir Chimanlal H. : 292, 566, 581-82.
Sforra, Count Carlo : 274.
Shaft, Sir Muhammad : 535, 542-43,615-16, 618, 620-21, 624.
Shaftsbury, Lord : 343, 558.
Shaha (Caste) : 747. Shanghai : 267.
Shastri, Divan Bahadur : 650.
Shastri, Pandit Anant Krishna : 447.
Shastri, Srinivas : 397.
Shenvis : 404, 413.
Shiva Rao : 572, 574, 577, 583, 588-90.
Sholapur : 77, 281.
Shoobert, W. H. : 673-74.
Shrikant : 270.
Shudras : 256, 409.
Shylock : 265.
Sikhs : 54M2, 655, 658, 663, 669, 719.
Sind : 33, 105, 109. 316-20, 400, 420, 562, 583, 665, 670.
Sindhis : 317.

Sindh Mohmedan Association : 338.
Sinha, Sachchidananda : 675-79.
Simon Commission'—*See* Indian Statutory Commission.
Simon, Sir John : 675, 688.
Sircar, Sir N. N. : 707-08, 711-12, 714, 726-27, 762-67.
Slovaks : 338, 352, 353.
Social Service League : 25.
Solanki, Dr. P. G. : 246, 287, 289-90, 459-60, 465-67, 485-86.
Somvanshis : 453.
South Africa : 170, 352, 360, 375, 379, 381, 519, 615, 635.
South African Constitution : 618, 621, 772, 776.
South America : 245.
South Australia : 15.
Southborough Committee : 355, 363-68, 372-73, 431, 435, 438, 467.
Spanish American Colonies : 245.
Spanish Empire : 245.
Spelling Mistakes Committee : 396. Spring Mills : 235.
Srinivasan, Rao Bahadur : 503, 528, 572, 574, 577, 669.
Stanley, Major : 588, 594.
Starte, Mr. : 246, 531.
St. Xavier : 47, 300-01.
Stewart, Sir Findlater : 748, 753, 762.
Stopes, Dr. Maria : 267.
Stracy, Mrs. O. : 696, 700.
Subbarayan, Mrs. : 562, 566, 648-19.
Supreme Court : 635-38, 641-50, 665, 683-85, 790.
Surat : 302, 408.
Surdi : 281.
Surhawardi, Dr. : 483.
Swami Shraddhanand : 456.
Sweden : 268.
Swedes : 352.
Switzerland : 269, 603, 626, 644.
Sword of Damocles : 215.
Sydenham College : 47, 300, 301.
Sydenham Lord : 686.

T

Tagore, Sir Rabindranath : 263, 708, 711, 716, 764-65.
Tartars : 252.
Taxation Enquiry Committee : 3, 8, 629-31.
Thakkar, A. V. : 247, 450-51, 709-13.
Thana : 76, 101, 287, 408.
That Wadi : 255.
Thompson, Sir Edward : 236.
Thompson, Sir John P. : 690-91.
Thomas, Mr. : 580.
Thorat : 87.
Three Tailors of Tooley Street : 235.
Tilak, B.G. : 686.
Tiyas (Caste) : 426, 499.
Tondler, Prof. : 264.
Trade Unions Act, 1926 : 219.
Transval Republic : 635.
Tripuri Congress : 259.
Turin : 269.

U

Unani Hakims : 10.
United Kingdom : 171, 615.
United Provinces : 32-35, 171, 369, 436, 494-99, 527, 560, 712, 661-70, 712.
U. S. A. : 28-29, 110, 175, 195, 244, 274, 383-84, 508, 603, 624, 633, 638, 642-43, 645.
U. S. Constitution : 624, 633, 638, 641.
U. S. Supreme Court : 635, 640, 642-43.
Union of South Africa : 2,15,16, 32, 33.
University Act of 1904 : 46.
University Commission of 1902 : 46, 298, 307.
University Reform Committee : 48-49, 59, 60, 297.
Ulster : 257, 261.
Usurious Loans Act, 1918 : 288.

V

Vadali (Village) : 252.
Vaghela, Keshaoji Ramchandra : 453.
Vaishnava Sect : 494.
Vaishya : 256.
Vakil, Mr. Pestan Shah N. : 106.
Vakil, R. J. : 113.
Varnashram Swarajya Sangh : 730.
Verginia : 645.
Versailles : 244.
Verthanias : 75.
Vethias : 75.
Viceroy : 242, 243, 311, 684-85, 757, 774-78.
Viceroy's Council : 236.
Vice-Chancellor : 59, 60, 307.
Vienna : 264, 269.
Village Panchayat Bill : 114-22.
Villiers, Sir Edward : 690.
Vincent, Sir William : 370, 371, 373.
Vireshwara Temple : 494.
Viscount Burnham : 675, 677.
Vishindar, Mr. Harcharanrai : 318.
Vishnu Smriti : 264.
Vishwakarmans : 396.
Vithoba of Pandharpur : 489.
Vividh Dnyan Vistar : 287.

W

Wadgaon : 289.
Wales : 56, 268, 271.
Warkari Panth : 489.
Waris Amir Ali : 736.
Watan Act : 75, 77, 79, 80, 82-83, 85.
Watandars : 94, 282-83, 457.
Watson, Sir Alfred : 690.
Wattal, P. K. : 272.
Wellington, Lord : 397.
West Khandesh : 76.
White Paper : 629, 689, 700, 701, 705, 734, 739-44,749, 755-60, 770, 789, 792.
Willes, Mr. G. : 4.
Willougby, Mr. : 412,
Wilson College : 47, 300-01.
Winterbotham, G. L. : 692.
Wood, Mr. : 523.
World War-2 : 240.
Workmen's Breach of Contract Act : 205.

Y

Yayati : 242.
Yagnik, Indulal : 249.
Yugoslavia : 353, 375, 560.

Z

Zafrullah Khan, Mr. : 566, 588, 590-93 616, 620, 649-50, 707, 716-19, 723, 746, 762, 775, 791.
Zetland, Lord : 564, 582, 590-91, 716, 720, 761.
Zorastrian : 29.

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