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MADRAS LEGISLATIVE COUNCIL
DEBATES

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THE MADRAS LEGISLATIVE COUNCIL.

Monday, the 26th April 1948.

The House met in the Council Chamber, Fort St. George, at 5-30 p.m., Mr. President (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Audit of temple accounts in the Andhra area.

* 81 Q.—SRI L. SUBBARAMA REDDI: Will the Hon. the Premier be pleased to state—

(a) how many auditors have been appointed to audit the accounts of the temples of every district in the Andhra area; and

(b) whether the Government have considered the desirability of appointing one auditor for every district?

THE HON. DR. T. S. S. RAJAN (on behalf of Hon. the Premier):—“(a) Nine auditors have been appointed to audit the accounts of the temples in the entire Andhra area. One auditor for each of the districts of Vizagapatam, East Godavari, West Godavari, Kistna and Nellore; two auditors for Guntur; one auditor for Cuddapah, Chittoor and Kurnool and one auditor for Bellary and Anantapur.

“(b) No.”

Inclusion of groundnut and sugarcane in the list of food crops.

* 82 Q.—SRI K. MANATHUNAINATHA DESIGAR: Will the Hon. the Minister for Food be pleased to state—

(a) whether the Government are aware, the groundnut and sugarcane are not included in the list of foodcrops that are required to be cultivated under the accelerated scheme of sinking new wells, issued by the Revenue Department in 1946;

(b) whether he has mentioned groundnut and jaggery as two important items of substitute food in his reply to the Budget debate in the floor of the Council on 6—3—1948; and

(c) what steps the Government propose to set right the anomaly?

THE HON. DR. T. S. S. RAJAN :—“(a) Food crops for purposes of the well subsidy schemes include not only paddy but also millets, pulses, vegetables including chillies, greens and fruit trees. Sugarcane is not treated as a food crop. Groundnut was not considered to be a food crop for the purpose of concessions under the well subsidy schemes. The Government have recently approved the proposal of the Board of Revenue that for purposes of the concessions under the well

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subsidy schemes, groundnut may be permitted to be raised as a mixed crop subject to the following conditions:—

- (i) one unmixed crop of paddy or irrigated ragi or other millet in heavy demand in the area, should be compulsorily raised per fasli,
- (ii) groundnut may be optionally permitted to be raised as a second crop, mixed with any suitable millet, and
- (iii) the raising of groundnut alone as a crop under the wells should be totally banned.

As this Province is surplus in jaggery and groundnuts, the Government do not consider it necessary that the benefit of these schemes should be extended to the cultivation of sugarcane and of groundnuts unmixed with millets.

“(b) Yes.

“(c) This does not arise in view of the answer given to clause (a) above.”

SRI K. MANATHUNAINATHA DESIGAR :—“ May I know, Sir, whether these two commodities have been recognized as food crops? Since this Province is a deficit Province, will the Government consider the desirability of including them also in food crops to be grown under the accelerated scheme? These commodities may be in surplus but the Province as a whole, is deficit in the matter of food.”

THE HON. DR. T. S. S. RAJAN :—“ I have already answered this question. The question was considered by this Government, and as a result of the consideration given to it, a modified plan for groundnuts and millets has been permitted in all those areas to be cultivated under the well subsidy scheme. The point at issue is this. These wells have been constructed as part of the Grow More Food Scheme, and their first essential requirement is that foodstuffs should be grown. Groundnut or sugarcane is not purely a food crop, they do not come under the Grow More Food Scheme. After the question of raising groundnut was raised in the Council, Government thought over the matter, and they have now sanctioned a mixed scheme, i.e., the raising of groundnut along with millets, but not groundnut alone to the exclusion of millets.”

SRI N. SANKARA REDDI :—“ May I know, Sir, whether sweet potatoes and onions, which are better foodstuffs than chillies, will also be included in the list? ”

THE HON. DR. T. S. S. RAJAN :—“ No, Sir. It cannot be done. It is the considered opinion of the Government that the well subsidy scheme must be entirely devoted for Grow More Food Scheme. It is not a question of which particular food is more valuable than others. It must be a food that is used by the large bulk of the population in that area. We

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cannot by any stretch of imagination argue that onion is a food crop, because it is not used as food but only as a condiment.”

SRI N. SANKARA REDDI :—“ I mean sweet potatoes, Sir.”

THE HON. DR. T. S. S. RAJAN :—“ Exactly so, Sir. Sweet potatoes also are not food products like millets or any other grain which is consumed by the population. It may be a famine food or it may be a substitute food. But it cannot be said that it is ordinary food raised in that area.”

SRI M. NARAYANA RAO :—“ Does it not come under vegetables, Sir? ”

THE HON. DR. T. S. S. RAJAN :—“ It may be classified under any head the hon. Member likes. We shall consider this when the question is raised whether we should include it under vegetables or not.”

SRI K. MANATHUNAINATHA DESIGAR :—“ Sir, are not sweet potatoes included in the list? ”

THE HON. DR. T. S. S. RAJAN :—“ Sweet potatoes are considered as substitute foodstuff particularly in view of the fact that there was an impending deficit of foodstuffs in the Province and when Government actually encouraged the growth of sweet potatoes. We even gave bounties for raising sweet potatoes. This question stands on a separate footing altogether from raising crops under the well subsidy scheme.”

SRI C. N. MUTHURANGA MUDALIYAR :—“ Have not Government promised to give bonus to people if they raised sweet potatoes in the off-season? If it is so, why not the promise of bonus be kept up? ”

THE HON. DR. T. S. S. RAJAN :—“ The question put relates to wells dug under the Grow More Food Scheme, for which subsidies have been given. All the other issues do not arise at all. The Government are still prepared to stand by their original commitment of giving Rs. 15 per acre to people who raise sweet potatoes during off-season.”

SRI C. N. MUTHURANGA MUDALIYAR :—“ Are the Government aware that this question of giving bonus has not been properly done and that it is being mismanaged? ”

MR. PRESIDENT :—“ This must form a separate question. (Sri K. Manathunainatha Desigar rose in his seat.) I think Government have restricted this Grow More Food Scheme only to grain crops (cereals) and not to other crops. I think the Hon. Minister may say so.” (Laughter.)

THE HON. DR. T. S. S. RAJAN :—“ I have already said so, Sir.”

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SRI N. SANKARA REDDI:—“What about chillies, Sir? They are classified as vegetables.”

THE HON. DR. T. S. S. RAJAN:—“I would rather say, Sir, that chillies contain one vitamin, and that is vitamin ‘C’, which is not contained in any other vegetable.”

District Panchayat Officers.

* 83 Q.—SRI B. BHIMA RAO: Will the Hon. the Minister for Local Administration be pleased to place on the table—

(a) a list of names of those appointed as District Panchayat Officers as from 1st May 1946, their qualifications, their caste or community and the districts to which they belong; and also the dates of their appointments; and

(b) a list of names of those appointed as Commissioners of Municipalities in the Province, with dates, their qualifications, their caste or community and the district to which they belong as from 1st May 1946?

THE HON. SRI K. MADHAVA MENON (on behalf of Hon. the Minister for Local Administration):—“(a) & (b) Two statements^a showing the necessary particulars are placed on the table of the House.”

Issue price of salt.

* 84 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Rural Development be pleased to state—

(a) what the present issue price of salt is in the fish-curing yards of the West Coast and the East Coast;

(b) whether the present rate is an enhanced rate and, if so, when the rate was enhanced;

(c) whether the Government are aware that the issue price of salt remained the same from 1924 to 1945;

(d) (1) what the reasons are for the enhancement in 1945 and (2) a further enhancement in 1947 and (3) that too only on the West Coast;

(e) how does the market price of salt compare with the issue price in the fish-curing yards;

(f) whether it is a fact that the fish-curing yards on the West Coast have been working at a profit since their inception;

(g) whether the Government consider the curing and sale of fish as a part of the “Grow More Food” Campaign?

THE HON. DR. T. S. S. RAJAN (on behalf of Hon. the Minister for Rural Development):—“(a) The issue price of salt in the fish-curing yards: In West Coast is Rs. 2-8-0 per maund and in East Coast is Rs. 1-14-0 per maund.

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“(b) The present rate of Rs. 2-8-0 on the West Coast is an enhancement over the rate of Rs. 1-14-0 fixed in the previous season. This rate came into force from 15th December 1947.

“(c) Yes. Sir.

“(d) (1) to minimize the anticipated loss to Government on account of the working of the fish-curing yards.

(2) The present market price of salt in the West Coast ranges from Rs. 2-4-0 to Rs. 4-4-0 per maund, while the market price of salt in the East Coast varies from Rs. 1-5-2 to Rs. 5-8-9 per maund. The rate was enhanced to mitigate the heavy loss incurred by Government in maintaining the yards.

(3) The estimated consumption of salt during 1947-48 season is 311,000 maunds on the West Coast as against the estimated consumption of 38,666 maunds in the East Coast. The rate has therefore to be increased in the West Coast fish-curing yards as a safeguard against the heavy loss anticipated which is estimated at Rs. 2,71,875 during the current season.

“(e) The market price of salt on the West Coast varies from Rs. 2-4-0 to Rs. 4-4-0 per maund while the issue price of salt has been fixed at Rs. 2-8-0 per maund on the West Coast.

The market price on the East Coast varies from Re. 1-5-2 to Rs. 5-8-9 per maund and the issue price of salt in the East Coast is Rs. 1-14-0 per maund.

“(f) No, Sir.

“(g) Yes, Sir.”

SRI R. SURYANARAYANA RAO:—“In view of the fact that the Government recognize that the development of fisheries is necessary and that fish is an article of food, why should not Government encourage the curing of fish by giving salt at a cheaper rate?”

THE HON. DR. T. S. S. RAJAN:—“The Government can do that only by a subsidy to the industry and not by reducing the price of salt.”

SRI R. SURYANARAYANA RAO:—“In view of the fact that fish is an article of food, is not a subsidy justifiable in these days?”

THE HON. DR. T. S. S. RAJAN:—“It is not a question of subsidy. The question raised was whether it should not be treated as subsidiary food. Of course Government will have to consider whether it can be treated as subsidiary food. The price of salt supplied has been debited to the fish-curing yards, which were working at a loss. Nearly two lakhs of rupees have to be made up, and that is why prices were put up. If the question raised refers to subsidiary food, that will have to be considered by the Government.”

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SRI R. SURYANARAYANA RAO :—“ Was not loss being incurred all these years? ”

THE HON. DR. T. S. S. RAJAN :—“ It is because they wanted to encourage the curing of fish. That encouragement has brought about greater consumption of salt and there was loss. That is why the loss is being made up by a higher price. If it is a question of treating fish as subsidiary food, food subsidies must be offered to it. The price of salt is not to be reduced.”

SRI R. SURYANARAYANA RAO :—“ May I know, Sir, whether the Government consider fish as food? ”

MR. PRESIDENT :—“ I take it that it has been answered.”

THE HON. DR. T. S. S. RAJAN :—“ We consider fish as food, Sir.”

DR. SIR A. LAKSHMANASWAMI MUDALIYAR :—“ Do the Government have appetite for fish? ”

THE HON. DR. T. S. S. RAJAN :—“ Government certainly have appetite for all foodstuffs, because we are lacking in food.”

MR. PRESIDENT :—“ I do not know if the hon. Member means any particular Member of the Government.” (Laughter.)

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—DRAFT NEW CONSTITUTION OF INDIA—cont.

5-45 P.M. SRI R. SURYANARAYANA RAO :—“ Mr. President, Sir, I must congratulate the Government for their decision to allow this House . . . ”

THE HON. DR. T. S. S. RAJAN :—“ Sir, we have got some urgent Government business—at least I have got—and I may not be able to sit here till the end of the debate. I suggest two things; the debate can go on till 7 or 7-30 or as long as the House wants but if the debate is not over by then and Members want to discuss it further, we will have to adjourn the debate till the next sitting. The other procedure which is open to this House is this. In case Members want to finish the discussion to-day itself, they will have to adjust their time for speeches. But if Members want a full discussion and more time, we may have to adjourn the debate till the next sitting of the Council. Whichever procedure hon. Members may choose, the Government are prepared to adopt.”

DR. SIR A. LAKSHMANASWAMI MUDALIYAR :—“ May I know when the next sitting of the House will be? ”

MR. PRESIDENT :—“ Nobody knows.”

HON. DR. T. S. S. RAJAN :—“ It will be some time in

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MR. PRESIDENT :—“ I just want to know whether in view of what the Hon. the Leader of the House has said, Ministers will be able to be present here to-day.”

THE HON. SRI K. MADHAVA MENON :—“ One of us will certainly be here.”

DR. SYED TAJUDDIN :—“ Since the subject is of paramount importance . . . ”

THE HON. DR. T. S. S. RAJAN :—“ I have no objection if hon. Members are prepared to carry on the discussion on the 29th because the Assembly is meeting on the 28th.”

DR. SIR A. LAKSHMANASWAMI MUDALIYAR :—“ In the course of my remarks, it may be that I may request the Government to appoint a Select Committee for this purpose. For the reasons which I shall state, a Select Committee should consider the matter and report to the Legislature with the suggestions or amendments they may have to put forward. When an important matter like this has been sent to us, it is up to us to put in concrete shape our suggestions in regard to the Constitution. I cannot see any other method except by referring this to a Select Committee and presenting the report of that Committee to the Legislature. I should like to know whether the Leader of the House considers such a possibility.”

THE HON. DR. T. S. S. RAJAN :—“ As I said at the beginning the Constituent Assembly which is a sovereign body has gone into this question and have arrived at decisions and placed them before the whole country. I may state that such opinions as our members wish to offer can be presented to the Constituent Assembly in two ways. They may be given by the elected members of the Constituent Assembly who represent the Madras Legislature in the Constituent Assembly. Even if we constitute a Select Committee and get that report, that report may have to be submitted to the members of this Legislature who are representing us in the Constituent Assembly to make such use as they think necessary. It is their responsibility and duty to present our views in the Constituent Assembly. About the appointment of a Select Committee for this purpose, I do not know whether the rules provide for the appointment of such a Committee.”

THE HON. SRI K. MADHAVA MENON :—“ A Select Committee cannot be appointed.”

MR. PRESIDENT :—“ I know rules contemplate Select Committees only on Bills. I am sure we can appoint an *ad hoc* Committee. We need not call it a Select Committee. If such an *ad hoc* committee is appointed, the report of the *ad hoc* committee can be considered by the House.”

THE HON. SRI B. GOPALA REDDI :—“ In the Assembly, we are following a different procedure altogether. Members are moving amendments and the amendments will be pressed to

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a division. Government are allowing that procedure to be followed there. On the 28th, there will be some voting on the amendments moved by the hon. Members, because that will give a clear view of the Assembly's opinion."

MR. PRESIDENT:—" May I know whether Government are allowing free voting? "

THE HON. SRI B. GOPALA REDDI:—" Government will remain neutral and allow members to exercise a free vote so far as this matter is concerned."

MR. PRESIDENT:—" I want to bring to the notice of the Leader of the House one thing. I think the attention of the House may better be focussed on particular important points instead of diffused speeches being made which will not go a long way in focussing attention. What does the hon. Dr. Lakshmanaswami Mudaliyar think? Would he like to press the question of a Select Committee being formed? "

DR. SIR A. LAKSHMANASWAMI MUDALIYAR:—" I think a Committee would be able to go into it much more thoroughly."

MR. PRESIDENT:—" It will take some time."

DR. SIR A. LAKSHMANASWAMI MUDALIYAR:—" I understand that the Constituent Assembly is going to meet only in July."

MR. PRESIDENT:—" We should have the discussion when the whole thing is fresh in our minds and so the discussion should not be relegated to June or July. What is the object of appointing a Committee after discussing it in this House? If hon. Members want a Committee to be constituted for this purpose, we must have it straightaway and after their report is received, we can discuss it here. I think it will be much better than speeches being made at this stage."

THE HON. DR. T. S. S. RAJAN:—" The idea of the Government is to give absolute freedom to the Members for expressing their opinions with regard to this subject. Therefore, it is up to the House to decide whether we can have a general discussion now or not. Government keep an open mind in this matter."

MR. PRESIDENT:—" Because the Government have no idea of forming a Committee, we shall wait till such Members who wish to give notice of amendments send in their amendments. We shall circulate those amendments to all hon. Members and meet on the 28th and 29th to discuss those amendments."

ABDUL LATIF FAROOKHI SAHIB BAHADUR:—" Are we not having a discussion now? "

MR. PRESIDENT:—" Such of the hon. Members who want to make speeches on the general principles may speak to-day. We shall sit till 7 or 7-30 to-day. I personally like to see that we meet

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on the 29th and go on with the discussion of the amendments. May I know what the feeling of the Government in the matter is? "

THE HON. DR. T. S. S. RAJAN:—" We shall continue the general discussion on the 28th and afterwards we shall take up definite amendments on the 28th and 29th."

THE HON. SRI K. MADHAVA MENON:—" It will be better if amendments are given to the President sometime before to-morrow so that they can be circulated."

MR. PRESIDENT:—" Some kind of general discussion can go on now. Such of those members who do not want to give notice of any amendments may speak now. I request hon. Members to give their amendments by to-morrow evening so that they may be circulated to the House. We will meet on the 28th and 29th for discussion on those amendments. Those who want to speak now in general on the Constitution may do so."

SRI R. SURYANARAYANA RAO:—" Can we do both, make general remarks at this stage as well as speak on amendments afterwards? "

MR. PRESIDENT:—" The hon. Member will not have another chance if he speaks now."

SRI R. SURYANARAYANA RAO:—" There are certain aspects that do not lend themselves to amendments. We would like to refer to them in the general discussion and then concentrate on such changes as are necessary when discussing the amendments."

DR. SIR A. LAKSHMANASWAMI MUDALIYAR:—" A general discussion now may help us to clarify our views and the hon. Members may then be in a position to suggest proper amendments."

MR. PRESIDENT:—" I have no objection. We will take the amendments separately afterwards."

SRI R. SURYANARAYANA RAO:—" Sir, I was about to say that we are very grateful to Government for giving us an opportunity to express our views on this important subject. Sir, you may remember Dr. Lakshmanaswami Mudaliyar moved his resolution seeking this privilege to the Legislature to debate on this subject for some reason, the Government took a hostile attitude and we had no doubt that a division of course would inevitably lead to the usual result. I am glad, Sir, wisdom had dawned on the Government and they feel . . ."

MR. PRESIDENT:—" The hon. Member need not attack the Government now that they have turned out good; he may comment on the Constitution." (Laughter.)

SRI R. SURYANARAYANA RAO:—" Sir, the first point to which I would like to refer is the declaration by the Hon. Dr. Ambedkar about the substitution of the word ' State ' for the word

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Republic. Sir, hon. Members of this House may be aware of the arguments which he has adduced for substituting the word 'State' for the word 'Republic'. The question centres round this point, whether India wishes to be within or without the British Commonwealth. The Constituent Assembly, advisedly perhaps, used the word 'Republic' instead of 'State', and the use of the word 'Republic' does not prevent India being on friendly terms with Britain and forming a treaty of friendship honourable to both countries. I do not know why Dr. Ambedkar is so anxious about the word 'State' being substituted. Recently, Sir, Burma has been declared a Republic and Burma has formed a treaty of friendship with Britain."

MR. PRESIDENT :—" Does Dr. Ambedkar state that the word 'State' should be substituted for the word 'Republic' ? "

SRI R. SURYANARAYANA RAO :—" He has issued a statement."

MR. PRESIDENT :—" The Constitution does not say so."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" He wants to move an amendment."

SRI R. SURYANARAYANA RAO :—" He has given notice of an amendment. It has appeared in the papers also. There may be a difference of opinion in this House but I am not going to give an amendment for substitution of the word 'State' for the word 'Republic'."

MR. PRESIDENT :—" What I say is this. Dr. Ambedkar may say that the word 'State' should be substituted for 'Republic', but his draft contains only the words 'Sovereign Democratic Republic'."

SRI R. SURYANARAYANA RAO :—" He wants to use the words 'Sovereign Democratic State'."

MR. PRESIDENT :—" It is not found in the Constitution."

SRI R. SURYANARAYANA RAO :—" It will have to come up for discussion before the Constituent Assembly. There is nothing wrong if we declare ourselves as a Republic and at the same time be on friendly terms with Britain by concluding treaties of alliance. There is also the example of the United States of America. They declared themselves as a Republic, and still the Anglo-American relations have always remained cordial. I want to draw the attention of the House to the fact that even though we declare ourselves to be a 'Republic', we may still be in spirit part of the Commonwealth of Nations and we can certainly be on friendly relations with the Commonwealth of Nations."

THE HON. SRI B. GOPALA REDDI :—" I may point out that there is a feeling that by being a Republic, we cannot be within the Commonwealth of Nations. For example, Ireland is a Dominion Republic now. Still it is within the Commonwealth of Nations."

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SRI R. SURYANARAYANA RAO :—" Even though Ireland is within the Commonwealth of Nations, when Britain declared War, Ireland remained neutral. Therefore, we do not exactly know the relations between Ireland and Britain. Perhaps it is only for the sake of argument that Dr. Ambedkar has wanted the use of the word 'State' for the word 'Republic'. I wish to point out that the word 'Republic' need not scare us away and we need not think that the word 'State' should be substituted."

" Sir, Article 3 deals with the formation of new States. It 6 p.m. says—

' 3. Parliament may by law—

- (a) form a new State by separation of territory from a State or by uniting two or more States or parts of States;
- (b) increase the area of any State;
- (c) diminish the area of any State;
- (d) alter the boundaries of any State; and
- (e) alter the name of any State

I quote this with reference to the demand for the formation of linguistic provinces or the division of the country on any other basis if not language. Such remarks as I have to offer on this question, I shall reserve when I speak on the amendment of my hon. Friend Mr. Govindacharyulu.

" Sir, under Citizenship Rights, the provisions are much more generous than those accorded to our nationals in other countries. A month's residence in India is enough to make a person apply for the citizenship of India. I do not know why, while Ceylon and other countries ask for a residence of five years and a declaration of intention to stay in the country, we should be so generous in regard to other nationals living in our country. The only saving provision is article 6 which says—

' Parliament may by law, make further provision regarding the acquisition and termination of citizenship and all other matters relating thereto.'

This clause should be so amended as to enable us to exercise the principle of reciprocity, if in any country our nationals are not properly treated. We recognize the right of every country to determine the composition of its population. We should also exercise the right to determine the composition of our population. The 'further provisions' should make it possible for persons to acquire citizenship more difficult instead of making it easier as proposed. That is a point on which our representatives in the Constituent Assembly may emphasize. South India is vitally interested in this matter. We are not given any citizenship rights in Ceylon, Burma and Malaya. They are imposing all kinds of restrictions on our nationals. We should adopt the principle of reciprocity and determine our line of action in regard to citizenship rights with reference to the attitude of those countries towards our nationals.

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"Sir, yesterday the hon. Member Mr. Bhima Rao referred to articles 7 to 27 on Fundamental Rights. In the course of his remarks he specifically referred to the communal ratio in the services. The Hon. the Finance Minister got up immediately and said that he did not agree with the hon. Member—if I am correctly representing him. Sir, he may not agree with him now, but he is bound to agree when this constitution is passed. He may now be introducing all kinds of compartments in regard to admission to services and admission to professional and arts colleges. But when this article is accepted, I am sure the Hon. the Finance Minister would not and cannot say 'Whatever might be the constitution of India, we shall follow our own line of action'."

THE HON. SRI B. GOPALA REDDI:—"I still hold, Sir, that there is no discrimination. Even if this constitution is passed, the Government is entitled to have its system of admissions to services, etc."

SRI R. SURYANARAYANA RAO:—"I wish, Sir, the Hon. Minister had heard me a little more. I am referring to article 296 where this principle has been modified to a certain extent. The article says—

'296. Subject to the provisions of the next succeeding article the claims of all minority communities shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connexion with the affairs of the Union or of a State for the time being specified in Part I of the first schedule.'

"Our Madras Province comes under the first schedule, Part I. I was only pointing out to the Hon. Minister that even the authors of the draft constitution have taken into account the claims of minority communities and have themselves laid down the necessary provisions. Nobody can question that the interests of the minority communities should be safeguarded. What anybody may question is the interests of the majority community being safeguarded. To that extent unfortunately, my hon. Friend Mr. Bhima Rao did not see this article 296. There is no difference of opinion between the Government and those who plead for equal opportunities for all. So far as minority communities are concerned, everyone is agreed in regard to provision of safeguards.

"Sir, article 11 deals with the abolition of 'untouchability'. It says—

'11. "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.'

The word 'Untouchability' is put in inverted commas, but it has not been defined in article 303 which is a section dealing with

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interpretation of terms. What is 'untouchability' has not been so far defined in any legal enactment. My friends of the Harijan Community feel that it would be advantageous to make it quite clear what it is they mean by 'untouchability'. As its observance is to be made an offence, it is better that it is defined.

"Sir, I come to article 22 to which I wish to draw the attention of the Hon. the Minister for Education. The first sub-section says—

'(1) No religious instruction shall be provided by the State in any educational institution wholly maintained out of State funds.'

Sir, I am surprised that my hon. Friend the Minister for Education has agreed to continue the system of religious education in the Muslim schools. He can anticipate what the draft constitution will be. I only draw his attention to this fact, because this section deals also with what is called the conscience clause according to which a child should not be compelled to attend religious instruction in any educational institution and religious instruction if it is proposed to be provided for should be given outside school hours."

MR. PRESIDENT:—"What exactly is the point of the hon. Member? The Constitution is not law yet."

SRI R. SURYANARAYANA RAO:—"I am only commending the provision to him, Sir."

MR. PRESIDENT:—"The hon. Member wants the Hon. Minister to accept it even now."

SRI R. SURYANARAYANA RAO:—"Yes, Sir."

"Then, Sir, I come to article 36, which says that every citizen is entitled to free primary education. I am pointing out these things because the fundamental principles have been well laid down and the value of this constitution is because of these fundamental principles which have been well laid down. I am not moving any amendments and I want to make only general remarks. Certain portions of the draft constitution are so well framed and so broad-based that they must be acceptable to all people.

"Sir, article 43 provides for the election of President and article 131 provides for the election of the Governor. This is the point on which I would like the House by means of an amendment to give its opinion. Under article 43, the President will be elected by the members of an electoral college consisting of the members of both Houses of Parliament, and the elected members of the Legislatures of the States. In the case of the Governor, the original suggestion was that he should be elected by the voters who vote at a general election for the Legislative Assembly of the State. A second suggestion has been made by which the Members of the Legislature sitting together will elect a panel of four persons, one of whom will be appointed or nominated by the President of the

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Union. As Mr. Narayana Menon said, I do not feel that either of these suggestions would be advantageous. The footnote at the bottom of article 131 says—

"Some of the members of the Committee are strongly in favour of this alternative, because they consider that the co-existence of a Governor elected by the people and a Prime Minister responsible to the Legislature might lead to friction and consequent weakness in administration."

This argument will apply with equal force to the method of selecting a panel of four names by the Members of the Legislature sitting together. Because, Sir, the party in power which commands a majority can always manipulate the elections so that at least the first two or three names may be the names of those whom the party favours. Invariably it happens so. In fact the first name will always be that. Naturally, the President will follow the usual custom when four names are suggested to him. We know what happens in the election of the Vice-Chancellor to the University."

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THE HON. SRI B. GOPALA REDDI :—"Is it not by means of the distributive vote?"

SRI R. SURYANARAYANA RAO :—"It is only by means of the single transferable vote. It often happens that only when one person is nominated; of course then there is no need for election. My contention is, the alternative proposed does not remove the defects which they pointed out with regard to the election of the Governor by the voters. I would leave it to the President of the Union to appoint a Governor and that Governor may be one who belongs to this Province or may be brought from outside this Province. Perhaps, people want one from outside the Province, because they want him to be the real constitutional head of the Province to keep the scales properly so that one group or the other which happens to be in a minority may not be affected by any action taken by the Governor and their interests are safe. I think, it was Mr. Narayana Menon that made the suggestion that it is better that the Union President is given the power to appoint the Governor of the Province."

MR. PRESIDENT :—"Without any help from anybody?"

SRI R. SURYANARAYANA RAO :—"Yes, Sir. Then we come to the question of the impeachment of the President and the Governor. At any rate, this is the first time I come across where the President and the Governor can be impeached. I feel, Sir, that it is not desirable, because if the Governor happens to take a line of action which is not to the interests of the party in power or he goes against the wishes of the party in power, they can easily bring in a motion of impeachment in the House and have it passed by a two-third majority. I refer to article 132 (b)."

MR. PRESIDENT :—"It is for going against the Constitution, not for anything else."

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SRI R. SURYANARAYANA RAO :—"Whether he has violated the Constitution or not is to be decided again by the Supreme Court in case of dispute. It is all a question of raising an issue and then the Governor will say, I did not violate the Constitution. The party in power will say that he has violated the Constitution; so the issue has to go to the Supreme Court and he has to render an account of his own stewardship as the Governor. I think all that is unnecessary. I think, after all, the powers given to the Governor are very limited under the Constitution. He is practically the constitutional head of the Province and he is not likely to violate the Constitution to such an extent. What may happen is, he may suspend the Constitution, but even then he can do it only for fifteen days. The President of the Union can interfere within fifteen days, he may either alter it, revoke it or confirm it according to the circumstances. That is all the extreme step which the Governor of a Province is competent to take. I do not think these impeachments are necessary. I think we begin our democratic life with impeachment. I feel it is not desirable."

"Another anomaly is the Vice-President of the Indian Union, though he is competent to act for the President even as long as six months, and within those six months a contingency arises, there is no provision to impeach him for whatever he may do within those six months. That is the anomaly I find."

MR. PRESIDENT :—"He is supposed to be acting as President."

SRI R. SURYANARAYANA RAO :—"Yes, Sir. He exercises all the powers of the President under the Constitution."

"Then, I come to the article dealing with the Council of Ministers. In regard to the Council of Ministers for the Union, the President has to constitute the Council of Ministers, I refer to articles 61 and 62 of the Draft Constitution :

* 61. (1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.

* 62. (1) The Prime Minister shall be appointed by the President and the other ministers shall be appointed by the President on the advice of the Prime Minister."

But, when we come to the Provinces, it is dealt with in article 143, where it has been provided that 'there shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions'. Sir, he is not bound to consult the Chief Minister before he appoints the Ministers because the instrument of instructions which is given here is only a reproduction of the existing instrument of instructions. He has the power to choose the Ministers, whereas under the Union according to the Constitution, the President chooses the Prime Minister and he advises the President as to who shall be his colleagues. I would like in the Provinces too that system were adopted. There is nothing wrong in that. Practically when we are working that system in our Province now why should it be different from the

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Centre afterwards. The Committee have only reproduced the present Government of India Act, section 61, and have not altered it so far as the Provinces are concerned.

"Then, I come to the joint sittings. If we happen to have a second House, according to the rules, it is the President of the Upper Chamber that presides over the joint sittings but they have altered it advisedly and they have even underlined it saying, that the presiding officer should be the Speaker of the Assembly. My point is, that the conception which the members of the Drafting Committee have of this second chamber evidently is different from what the authors of the Government of India Act, 1935, had. They gave it a higher place and that is why they wanted the President of the Council to preside over the joint sittings. The reason given here is, because the number of members in the lower House is larger than that in the other House, the Speaker of the Assembly should preside over the joint sittings. Sir, this is a matter, as members of this House, in which we are interested because if a second Chamber is to exist at all, will it occupy the same position as it occupies to-day?

"Then, there is Article 150 dealing with the constitution of the second Chamber. I do not know who is to prepare the panels, what are the qualifications for persons to get into those panels, who can be candidates and who can be voters and so on. It looks as though the authors of the constitution were not so keen in having a second Chamber at all. That is why they have not taken the trouble to tell us about the composition of the Upper House in precise terms. If our representatives feel that there should be a second Chamber we would like them to have the ideas, clarified, namely, how to bring the second Chamber, into existence, if one is to exist at all, how are the panels to be prepared, what are the qualifications to be prescribed for getting into a panel, and how are the elections to be held—are they to be separately held for each panel and what is to be the representation for each panel and so on. All these things have to be made clear. Personally, Sir, I am not at all worried whether there is a second Chamber or no second Chamber, but if one is to exist at all—that is perhaps a matter for amendment—it should be as far as possible is broadbased as the present Council is. It should not be by indirect election providing for one-third to be elected by the Legislative Assembly, but if it is possible some method of direct election may be provided. This may be the case in respect of the panels also making the qualification for getting into the panels as broadbased as possible so that the elected members really represent the panels from which they come in.

"Sir, there is another anomaly to which I would like to draw attention, especially as my hon. Friend, Mr. Gopala Reddi, is a Member of the Constituent Assembly. In article 63, the Attorney-General is appointed by the President, but he does not go out of office when the Ministry resigns. But for some reason the Advocate-General who is appointed by the Governor is asked to go out of office. He has nothing to do with the Ministry. He is

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appointed by the Governor as the Attorney-General is appointed by the President. I do not know why they wanted to make this distinction, because I believe, these law offices are not part of the Government. So far as our Province is concerned, I would like that point to be made clear. What was it that made the Drafting Committee suggest that in regard to the Advocate-General he should vacate office when the Ministry resigns, while in the case of the Attorney-General no such condition is imposed?

"Sir, the articles dealing with the Public Service Commission are practically a repetition of most of the existing sections and they are very satisfactory, because the Public Service Commission is going to be appointed by the Governor and the members do not go out of office when the Ministry resigns. They continue to function irrespective of the Ministry that is in office.

"I would like my hon. Friend, Mr. Gopala Reddi, to scrutinize carefully the lists that are given, namely, the Union list, the States list and the Concurrent list. Sir, I made an analysis of the lists. In list I, that is the central list, there are 59 subjects, but in the draft Constitution there are 91 subjects. We do not know which of those from the Provincial list have gone into the central list. Though it takes a lot of time, it will be very useful to know how they were selected. In regard to the States list, from 54 the items have gone up to 66, but I am not sure if they have not divided some of the subjects. As regards the Concurrent list, there is not much difference. It was 36 before and it is 37 now. So, Sir, I would like these lists to be scrutinized from the point of view of the Province, as to whether the centre is trying to administer subjects which are till now under the Provinces or which we feel the Provinces should have, but are now with the centre. A careful examination is necessary at least to see that there is no encroachment on the Provincial sphere.

"Then we come to the much-agitated question of the residuary powers. I feel after a reading of the various articles here, that it is the desire of the authors of this Constitution that the residuary powers should vest in the Centre. That is a very debatable point. At one time the Congress party agreed that they should vest in the Provinces though for a long time they were of opinion that in the interests of the Centre, it would be better to allow the residuary powers to the Centre, which should be a strong Centre. But, that is a matter that should be very carefully considered. There is a difference of opinion between legal experts, statesmen and others, but we would like that these should be carefully looked into and examined with a view to see how far the existence of residuary powers with the Centre, would retard the progress of the Provinces.

"Then I refer to the distribution of legislative powers. Here also a careful analysis is required, because it may be that under some clause we may be prevented from passing legislation of the kind which the Hon. Mr. Madhava Menon sponsored the other day except with the concurrence of the Centre. It is just possible that the Centre may say, 'Oh, no, it has to be done by us and you shall

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not do it. As Mr. Bhima Rao quoted we passed an Industrial Disputes Act which did not receive the assent of the Governor-General. So, Sir, the distribution of legislative powers should as far as possible, be definite, so that the Provinces may know how far they can go and the Centre may know, how far they should not go. Though I am in favour of a strong Centre, yet in the interests of the proper administration of the Provinces to manage their own affairs, there should be the least interference from the Centre. (Dr. Sir A. Lakshmanaswami Mudaliyar: Hear, Hear.) Sir, it is with that idea they must proceed to examine that chapter. It is a complicated chapter containing a number of articles and so it should be examined to see whether we can enjoy real Provincial Autonomy or whether we would be the leading strings of the Centre always. When a case of emergency arises, of course, the Centre can take full powers to intervene and pass any legislation in the interests of peace and good Government. In ordinary matters, should we be guided by the Centre, should we not have some freedom to arrange our own affairs suited to the conditions under which we live? This is a matter of very great importance. Sir, I do not know how you can table amendments to these clauses, because they are so complicated, unless we go through carefully and go on suggesting, omit this, add this and so on. It is a long list of distribution. There is an omnibus clause which says, 'No law made by Parliament shall be deemed to be invalid on the ground that it would have extra territorial operation.' I do not know what they mean by 'extra territorial operation'. I am at a loss to know what they mean. Of course, you cannot make any law affecting Pakistan. It may be, perhaps, encroaching upon the powers of the Provinces or the States in the Indian Union."

MR. PRESIDENT:—"Territorial' is the word used and the whole of the Indian Union is a territory, I think."

SRI R. SURYANARAYANA RAO:—"I do not know what they mean by 'extra territorial operation'. I am only quoting this to show that these clauses have to be carefully looked into. In this connection, I may say that the suggestion made by Dr. Lakshmanaswami Mudaliyar is the best, viz., since it is not possible for us to move amendments for each clause or for each sentence, it does not matter if a few people sit together and go through them very carefully and make suggestions—whether our suggestions are acceptable to the Constituent Assembly or not is a different matter. We feel we must do our duty and express what we feel in this matter in the interests of the good Government of this Province as well as of the Union. I think these things, as also the scrutiny of the list and the question of residuary and legislative powers also, can be done by a small committee—you may call it a select committee or an ad hoc committee of this House or even of outsiders—sitting and giving their views for the guidance of this Government and for the guidance of our representatives in the Constituent Assembly. Otherwise, Sir, it is difficult for our representatives to make themselves felt there. As I pointed out on another occasion, Sir, our

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representation has been decreased to a great extent and that few who still continue as our representatives must have something which they can put forward as the views of this Province. If you give them some guidance in regard to the views of our Province as most of us hold—though it may not be a unanimous view—and which are considered desirable, should be adopted in the interests of this Province, I think it will be of great help. In this view, I think, Sir, the suggestion made by Dr. Lakshmanaswami Mudaliyar may be accepted at the end of the debate, so that we may concentrate our discussion on those points."

* DR. SIR A. LAKSHMANASWAMI MUDALIYAR:—"Sir, my feelings of gratitude for the opportunity given to this Council to discuss the Draft Constitution Bill are such that I do not propose to enter into any other aspect of the question that was debated just a few months ago when I had the temerity to move a resolution requesting that the Government may approach the Constituent Assembly to favour us with an opportunity to discuss the Draft Constitution. At that time, I was severely criticized by no less a person than the Leader of the Opposition, who is not here to-day. He said that I was adopting dilatory tactics and that the result of the discussion of the Constitution Bill would be that a complete chaos would occur in the country, for if every legislature should give its opinion, the Constituent Assembly will not be in a position to carry through the scheme in as expeditious and efficient a manner as they would like. I particularly refer to the Leader of the Opposition because he held a view in a manner which completely upset me. There is nothing that the Leader of the Opposition does which surprises me. I am sorry I have to refer to him when he is not present here to-day, but I hope the Deputy Leader and the other members of his party will convey the information to him with my apologies for so doing. I raised this question because I felt that when you are drafting a Constitution for a country like this, for the first time, every aspect of the question should be carefully considered and every legitimate opportunity should be given, particularly to those bodies who will be asked to act according to the Constitution and to give effect to the provisions of the Constitution as framed by the Constituent Assembly. Nobody questions the sovereign right of the Constituent Assembly to frame a Constitution and all that we can ask even now is that we should be given an opportunity to place our views before the Constituent Assembly so that they may know that all that they have suggested or that their Drafting Committee has suggested, need not be the last word on the subject."

"Sir, there is another point that I had in my mind. I was criticized because I was supposed to weaken the Centre. I repeatedly affirmed that my whole object was to strengthen the Centre, because I believe in a strong Centre and that its strength can only be in proportion to the wholehearted co-operation that it receives from all the States and the constituent units and that no Centre can be strong if there are fissiparous tendencies creeping into

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the States and their views are not identical on most of the important questions. I envisage the possibility, which fortunately is not the case to-day, that the States and the Centre, while they may have a uniform ideology at present, may not always continue to have that same ideology. We are already seeing the signs of the coming times. I hope it will be far off before the signs materialize. But, in very many circumstances, we cannot ignore the fact that these signs are certainly signs which force themselves upon us. Supposing in one or more States the ideology happens to be different from the ideology of the Centre, what is to become of a Constitution where every power is concentrated on the Centre, where the Provinces have not much of the power, as I will show in the course of my remarks, or in the alternative as the Constitution is framed as the electoral franchise is envisaged, it is just possible that the Centre may be captured by an ideology, which may not at all appeal to the Provinces. Need I elaborate that point? Everybody in this House knows what I am referring to. Under those circumstances, that is with the powers given to the Centre in such an unequivocal manner, would it be possible for the Provinces to continue or would it be the case, as has happened in certain parts of Europe, that those ideologies would force themselves in many ways? It may be so subtle that the Provinces may have to tow the line into the Centre. I repeat we want a strong Centre, but the Provinces should have a certain amount of autonomy so that in case anything goes wrong either with the Provinces or with the Centre, there will not be too much of disillusionment prevailing in the country. Having said that, let me state frankly that this Draft Constitution is based more or less on the Government of India Act, 1935, and I think the authors of the Draft Constitution should be feeling very grateful to the authors of the Government of India Act, 1935, because most of the provisions have been almost wholly incorporated in the Draft Constitution of India. Where they have differed, I feel they have differed unfortunately to the prejudice of the Provinces concerned. As regards the legal aspects of it, my hon. Friend, the Leader of the Opposition, has complimented it and it is not for me to say anything further, but there are one or two points to which I shall refer later.

"The first thing they have done, after defining what is citizenship, is that they have gone on to deal with fundamental rights. I agree with my hon. Friend, Mr. Suryanarayana Rao, that they could have been more definite in defining fundamental rights. In all recent constitutions, fundamental rights have been incorporated but in some of the constitutions fundamental rights and duties of citizenship have also been incorporated. I wish, Sir, like the U.S.S.R. and Ireland, this Constitution had elaborated on the duties of citizens as well as their fundamental rights. It is true, in a negative form, they have emphasized the duties, that no citizen for instance shall disobey the laws regarding untouchability. I wish they made a positive contribution to what may be called rights and duties of citizens. I would submit very respectfully—and this is a contentious subject no doubt—that in dealing with these fundamental

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rights, the framers of the Draft Constitution have been very much concerned with the existing conditions in our country, but those conditions about which there is great deal of difference of opinion, I feel sure, will in course of time smoothen themselves to the satisfaction of all parties concerned. It is unfortunate they have included this under the fundamental rights and even during the course of the debate in this House, there has undoubtedly been enough evidence to show that the inclusion of fundamental rights is likely to be one of the greatest sources of friction between the Centre and the Provinces. Let me make this position quite clearly and candidly. Section 10 (1) says:

'There shall be equality of opportunity for all citizens in matters of employment under the State.'

Theoretically, a very good thing indeed which we should look forward to, but there may be Provinces in regard to which we may feel, under particular circumstances and in the present state of affairs, there is need for leeway to be made here and there. Sir, I am not a lawyer, but I must read out the section for your sake, so that you may appreciate whether there is point in it. The definition is so vague that it shall lead to friction 'there shall be equality of opportunity for all citizens.' Citizenship is defined in Part II so that anybody can claim equality of opportunity. Shall we say that in Assam, Orissa and not merely in the Madras Presidency there should be equality of citizenship for all citizens of India for appointment. It may be that the authors of the draft report had in view certain Provinces like Madras only in their mind—that they wanted equality of opportunity for all citizens in a state like Madras. The draft Act however makes no difference at all—citizenship being the common right of the whole of India, must necessarily be applicable to all the citizens and there should be equality of opportunity in matters of employment under the State for all citizens whether they hail from Assam or from Bengal or Bombay. My friends have rightly referred to section 23 (2).

'No minority whether based on religion, community or language shall be discriminated against in regard to the admission of any person belonging to such minority into any educational institution maintained by the State.'

It is true that it is not in consonance with section 37 which states: 16-45 P.M.
'The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation.'

What is meant by 'weaker section' is not quite clear and here is a fruitful source of friction between the State and the Centre which is an all-important point and if you look to the general preamble given by the Chairman of the Committee, the fundamental rights are one of those things which are to be decided by the Supreme Court and my hon. Friend Mr. Bhima Rao very rightly said that these fundamental rights can be taken up by any citizen to the Federal Court. The Committee has not attempted to make these rights as definite as possible since the courts may have to pronounce upon them. Here you are, at the very outset of your Constitution, considering things that are at present in existence,

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but providing for a fruitful source of litigation as between citizens and the State and as between the State and the Centre. I am expressing no opinion about this particular provision but I should like to state that it is not quite fair in certain circumstances that attention should be given only to certain aspects of the question. Sir, I am all-out for merit. I say that merit is being somewhat loosely used. In my old days as a student, I had only three or four persons in view whom I considered as having merit, whom I shall not name, but the generality of the people that have passed through universities were more or less of the same calibre. Their potential worth was unknown and unknowable and subsequently looking back over a period of forty years, I can see many of them who were un-promising, undoubtedly on what might be called merits, are to-day outstanding successes both in the national and international spheres of activity. Let me here quote from the book 'Discovery' by Dr. Gregory, a well-known scientist, which is a very scientific publication of transcendental importance. This question has been receiving attention in other countries also, so much so that a Committee was appointed by a Royal College of Fellows called the Hartog Committee which presented the report called 'The Examination of Examinations.' But let me read this from the book 'Discovery':

Success or failure at school or college supply no standards by which the promise of the future may be estimated. Originality of thought or achievement is not measurable by the same units as those of absorbing power of a prescribed pabulum, usually tested by a written examination. To be able to reproduce the words of others, or to shuffle mathematical symbols rapidly, may be creditable, but it is not to be compared with the power of originating ideas or devising new solutions to problems. A student may possess many examination certificates and yet be only a kind of text-book gramophone. Unless he acquires also the desire to see and do things independently he knows nothing of the scientific spirit which asks for new knowledge gained by individual inquiry.

The senior wrangler at Cambridge has often been an inferior man, from the point of view of productive mathematical science, to candidates lower on the list, because the examination tested merely the power of writing out the solutions of known classes of problems quickly and precisely. When Lord Kelvin was a student at Cambridge he produced several original papers in the higher branches of mathematics, yet he was beaten in the final examination and was placed second wrangler. The examiners themselves knew his great mathematical abilities, but the examination was a test of memory rather than of originality. Speaking of Kelvin (then named William Thompson), one of the examiners remarked to another "You and I are just about fit to mend his pens."

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I need not labour on this point any further. What I would beg of the framers of the Constitution to realize is that, while I do feel that conditions in this country should be assuaged as far as possible, it would be a great mistake on the part of the framers of the Constitution to put into the fundamental rights some of the present somewhat acute problems and not leave it to the Provinces to solve them in an amicable manner so that there may be peace and harmony in the Provinces themselves.

"Having made that point, let me go to the other provisions of the Draft Constitution. I see that under the provisions of this Constitution, there are certain powers with regard to the Governors. My friend, Mr. Suryanarayana Rao has referred to them. It seems to me that wherever there are alternatives, some decision should be given by this House as to which of the alternatives is to be accepted. It is for that reason that I suggested the possibility of a Committee of both Houses because it would be no good for this House to come to a decision on one alternative and the other House to arrive at another. To the terms and other conditions for the appointment of a Governor and also the qualifications for appointment as Governors, there are alternatives. One fundamental objection undoubtedly is that the Governor is given large powers. In fact when I was reading through these articles, I was reminded that section 93 was being re-enacted in spite of the horrifying terms in which it was described when it was exactly in practice. Whether such conditions should still prevail when democratic forms of legislature are being introduced, is one of the points on which it would be well for this Legislature to express an opinion. Sir, I was myself surprised at the provision for the Advocate-General of this State which reads—

'145. (1) The Governor of each State shall appoint a person who is qualified to be appointed a Judge of a High Court, to be Advocate-General for the State.

(3) The Advocate-General shall retire from office upon the resignation of the Chief Minister in the State but he may continue in office until his successor is appointed or he is re-appointed.'

Just imagine what it will come to in Bengal. They would probably have a new Advocate-General every six months and even in regard to the present Ministry, very nearly we would have had three even within the short time that this Council has been in existence. If they want to follow the British practice, they would have seen that it is not the Governor that appoints him but it is the Prime Minister of the State. If they had said that the Governor shall appoint an Advocate-General in consultation with the Premier of a State, that would have been a logical proposition, because it is one of the conditions . . .

THE HON. SRI B. GOPALA REDDI:—"It is implied. Consultation with the Premier is implied. Otherwise, they would have stated the Governor in his discretion as in the case of the Public Service Commission."

DR. SIR A. LAKSHMANASWAMI MUDALIYAR:—"If that is intended, I think it should be more clearly expressed. But I feel it is fundamentally good principle because when political parties

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- (2) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to States for the time being specified in Part II of the First Schedule as may be prescribed.

What is definite is that it will be prescribed and the amount that the provinces will get out of the taxes on income will vary from year to year. You may remember, Sir, that this was a great point of discord between the provinces and the Centre. You may also remember how reference to this had been made as the historic milch cow and the point was raised in the Legislative Assembly in the early twenties. Later on, on account of pressing complaints of the provinces, Sir Otto Niemeyer was appointed to look into the question of distribution of the Central and Provincial Revenues out of the taxes on income and I think—the Hon. Minister will correct me if I am wrong—50 per cent of the revenues collected by the Central Government was decided to be paid to the Provincial Government after meeting all the charges. Now, Sir, by this Draft Constitution at least for the next five years, one can, never be certain what percentage of income-tax will come to the province. You will see that there is in the report a note in the paragraph which says:

‘The Committee has not embodied in the Draft the recommendations of the Expert Committee on the Financial Provisions of the Constitution with regard to the distribution of revenues between the Union and the States, as the Committee is of opinion that in view of the unstable conditions prevailing at the present moment the existing distribution of such revenues under the Government of India Act, 1935, should continue for at least five years, after which a Finance Commission may review the position.’

The position is that note in the Draft Constitution is absolutely valueless and it would have been much better if they had incorporated it specifically in the Draft Act, that for the next five years the present condition of affairs will continue after which the Finance Commission may be appointed under the terms under which it has been suggested later on. Then, Sir, it is stated:

‘For the purposes of clause (2) of this article, in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to States for the time being specified in Part II of the First Schedule.’

This is very vague. I am afraid, under the present conditions the provinces which are already being depleted of much of their income which they used to have for various social problems and ameliorative work, would be in such a position that they will not be able to carry out any of the ameliorative measures that they may have in view.

‘Sir, section 266 makes a violent departure from the provision made even under the Government of India Act. It is, I think, under this section that the Hon. Finance Minister of the Government of India has given a threat, that in future any nationalization by the Provincial Government will be subject to taxation just as any industrial or business concern is subject to taxation. This is a very important section and I want to know if the attention

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come into power in a State, the Advocate-General who is the Chief Officer to advise them on all legal matters, should be a person who is in sympathy with the party in power and that is why in England, the Advocate-General and the Attorney-General generally change with the political party in power.

‘The other powers of the Governor, I shall refer to when I come to the Services Commission. It is noteworthy that the Governor has powers and the President has powers in many cases to give directions to the Public Service Commission. Not only that here is the provision.

‘264. (3) The Public Service Commission for the Union if requested so to do by the Governor of a State may, with the approval of the President, agree to serve all or any of the needs of the State.’

I can understand the Federal Public Service Commission being requested in specific instances but to state that they can supersede the State Public Service Commission and carry on all the functions of the State Public Service Commission, seems to me as an anomaly. I do not think it can be suggested that the Governor of a State will do it with the approval of the Prime Minister. It may be, there are certain circumstances under which the Governor of a province feels that he must get the result in one particular matter. In that case, of course the Governor may supersede the State Public Service Commission and requisition the Federal Public Service Commission. This is not a matter on which there would be a proper exercise of the functions of any Public Service Commission if this Damocles’ sword is always hanging over its head.

‘Sir, I now come to one of the most important chapters in this Constitution and it refers to the question of Finance. I am sure, my hon. Friend the Finance Minister would have very carefully studied these provisions and, I believe, he would have realized in what manner and to what extent the provinces are in a position to stand by themselves. Sir, I am sorry, in this connection, to note that the provisions of the Constitution Bill are at variance even with the provisions of the Government of India Act. I say, Sir, that these provisions are in contradiction to the specific provisions of the Government of India Act in particular respects. I would like to draw your attention to section 248.

‘248. Subject to the following provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, the expression “revenues of India” includes all revenues and public moneys raised or received by the Government of India and the expression “revenues of the State” includes all revenues and public moneys raised or received by the Government of State.’

Section 251 reads as follows:—

‘251. (1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2) of this article.

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of the Hon. the Minister has been drawn to the all-enveloping nature of this particular section. My Friend Mr. Daniel Thomas, a great enthusiast of nationalization schemes, is unfortunately unable to be present and I should like his personal attention to be drawn to this fact. It is provided here:

‘266. Subject as hereinafter provided, the Government of a State shall not be liable to Union taxation in respect of lands or buildings situated within the territory of India, or income accruing, arising or received within such territory:

Provided that—

(a) where a trade or business of any kind is carried on by or on behalf of the Government of a State, nothing in this article shall exempt that Government from any Union tax or the levy of a sum in lieu of such tax in respect of that trade or business or any operations connected therewith, or any income arising in connection therewith, or any property occupied for the purposes thereof;

I think legally it is absolute and it does not leave the smallest loophole even so far as the layman's point of view is concerned. Let me now turn to page 53 of the Government of India Act, 1935, and see what it has stated—

‘Provided that—

(a) where a trade or business of any kind is carried on by or on behalf of the Government of a Province in any part of India outside that Province or by a Ruler in any part of India, nothing in this sub-section shall exempt that Government or Ruler from any Federal taxation in respect of that trade or business, or any operations connected therewith, or any income arising in connection therewith, or any property occupied for the purposes thereof;

The difference is obvious. If the Madras Government carries on a business or trade in the Central Provinces or Bombay, they would be liable to taxation under the Government of India Act but under the proposed constitution, even if the Madras Government carries on the nationalization of bus traffic within their own territorial limits—about which I have still some doubt—they will be liable to taxation. It seems to me that under these circumstances, the best thing for the Government would be to nationalize and distribute profits in such a manner that they do not leave any income to be taxed by the Government of India. That is all that I would like to recommend to the Hon. Minister in charge of nationalization. This is a very unfair provision indeed and I think that every State ought to make it clear to the Government of India that they do not contemplate with equanimity such a burden being placed upon them which will absolutely prevent them from taking seriously any project of nationalization and to make a profit out of it. One important thing that was emphasized in regard to certain of the nationalization projects was that it would supplement the loss of revenue on account of the introduction of Prohibition as an accepted policy. I think the Hon. the Minister for Finance also made a reference to this in his Budget speech but here in this Draft Act you have the whole ground cut away under your feet and there is no question of the province being exempted from any such taxation. This, Sir, is an innovation which certainly ought not to be accepted by any province.”

THE HON. SRI B. GOPALA REDDI:—“Suppose we make the railways pay income-tax and get about fifty per cent of the income.”

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* DR. SIR A. LAKSHMANASWAMI MUDALIYAR:—“I am afraid, under the Constitution, the provinces will have very little power to do that. The railways have been taken as a Federal subject and all the income goes to the Federal Exchequer and it is kept separately. That is where friction will arise and that is where exactly the provinces will rebel against the Centre. That is why I give a warning to the Centre. Treat a province as you would treat your own children—with the same amount of sympathy. Do not just take it for granted that because you have got powers, you can work it to the disadvantage of the provinces concerned. After all, what is it that you want? Do you want the whole system which the British Government used to keep so much before our eyes as to tempt every one of us to pay homage to the deity presiding at the Centre or do you want to have that system, which is given to you by virtue of your own efforts to go on in your own manner? In that connection, I wish to state that the whole scheme and structure of the doles that we are given by the Government of India was unscientific, most unfortunate in its conception and unjustified in its results. Some years ago, when Sir Ardeshair Dalal, the then Commerce Member, came over to Madras—I believe it was in 1945—to discuss with the section 93 Government and the recommendation of the Committee regarding the Post-war industrial and other developmental plans, I raised the question, when he said that about sixty crores were going to be distributed to the Provinces, on what basis he proposed to distribute this amount—is it according to the taxed revenue of the province or is it according to the taxable revenue of the province? I hope hon. Members recognize the difference. Madras is the most heavily taxed of all provinces and if it is able to produce balanced budget owing to the misfortune of having Finance Ministers like my hon. Friend there, it does not get anything from the Centre. Other provinces like Bengal which are always deficit get from the Centre crores after crores. I do not mind if that is in a condition of emergency. But when it becomes a normal feature of some of the provinces to get these grants from the Government of India, I say that there must be a scientific method. The Government of India should lay down what are the taxes that must be reasonably expected of a Provincial Government and whether they come up to those reasonable expectations. The Madras Government has the General Sales-tax which yields some crores of rupees. The Government of India says, ‘You are solvent’ and they may one day even ask for a loan from the Government of Madras which may be written off in course of time. I give this warning to my hon. Friend to bear in mind that balanced budgets to-day are not considered good manners in financial circles. (Laughter.)

“I come, Mr. President, to the question of borrowing. Here, again, the provisions of the Government of India Act were far better than the provisions of the Constitution Bill. I confess that

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I am most disappointed in spite of the very brilliant names that are printed as the authors of the Draft Constitution. This is what the Draft Bill says:

'269. (3) A state for the time being specified in Part I or Part III of the First Schedule may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or its predecessor Government or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.

'A consent under this clause will be granted subject to such conditions as the Government of India imposes.'

Let me refer to the conditions of the old Act; there was no sort of restriction of the powers of borrowing except in regard to general policy and this also they do make themselves quite clear that they do not cause any restriction on the borrowing powers of the provinces. Here, Sir, not only are we not allowed to borrow in the foreign market—a position which I can understand because of exchange relationship and not merely on political considerations—but every loan that is to be borrowed by a Provincial Government is to be subject to the consent of the Government of India. The result of the control will be that if the Central Government is thinking of floating a loan themselves for their own purposes, they will simply ask the Provincial Government not to proceed with any borrowing. My Hon. Friend the Minister for Education brought in a Bill the other day in the hope that he will be able to raise large sums of money by way of loans for helping schools and colleges and other educational institutions. But let me tell him that under the provisions of the Draft Constitution, it will be easier for the camel to go through the eye of a needle than for the Provincial Government to get the consent of the Central Government. I say, Sir, that the restrictions on the financial matters of the Province are far too rigorous and ought certainly to be made lighter. Here again I respectfully invite your attention to the three sets of lists, the Union list, the Provincial list and the Concurrent list. I have stated on the last occasion that some items in the Union list were such as to prevent any initiative in regard to industrial expansion by the Provinces. While I entirely agree that in the event of an emergency and for any particular purpose the Centre should have an over-all control over the Provinces, it is not right that the Centre should control from the very beginning in anticipation the just endeavours of Provinces to expand industries and to utilize their resources towards that purpose. As I went through the whole of the report I saw many provisions which govern the rights of the centre as against the Provinces; I cannot help feeling that at every stage the suspicion is there that the provinces would somehow or other misbehave and that it is only the centre that can act properly. I do not know whether there is any justification for such suspicion; it may be here and there provinces may not have acted up to the mark but on the whole it cannot be said the previous history of the Provinces gives any room for this suspicion and this apprehension on the part of the Central Government. While the Draft Constitution is

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announced and the clarion call comes from house tops saying that the Provinces will have full provincial autonomy and the Centre will only be concerned with certain definite subjects and an over-all control, the position of the Provinces has become entirely different now. It is very much like the Constitution of South Africa. In the Dominion of Canada, the States were first given all the powers and the residuary powers were given to the Centre; in Australia, Sir, the Centre was given certain powers and all the residuary powers were conferred on the Provinces; in South Africa alone the Centre has practically everything and very little of the powers were given to the Provinces. In the Constitution as framed for India, I venture to submit, the Centre has got all powers and very little of the residuary powers have been given to the Provinces. We have been given the duties of looking after the health of the people, we have to educate everybody, to see that no person is unemployed that all the poor beggars are looked after and that old age pensions are given; in fact all the responsibilities of a modern state and all the functions of it are thrust on the Provinces while all the powers of raising the moneys out of which such benefits can be conferred on the people, have been taken by the Centre. Is this a state of affairs that one can envisage with equanimity? Why instead of this, should we not have a single provision saying that the State shall carry on such duties and shall conform to such standards as may be from time to time laid down by the Centre and shall take instructions from the Central Government on all occasions and in all subjects bearing on all aspects of human life. I think that one such provision would have been quite sufficient and the Centre could have retained all the powers in their hands. I wish to submit that I am in no mood to criticise this but I see clearly that there are more than one ground for friction, very serious friction, arising between the Centre and the States and I hope and trust that this Council and the Assembly would by whatever means in their power consider and make their opinion known, not through the representatives of the Province as the Leader of the House suggested, but through the Government of the Province so that it may be much more effectively placed for consideration before those who have to consider it. I thank you, Mr. President."

MR. PRESIDENT :—"What is the Government's view about the appointment of a committee?"

THE HON. SRI K. MADHAVA MENON :—"I think we agreed to have the amendments. I don't think there is any time for us to go into a committee."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—"I beg to submit that when we move amendments, they will be opposed not because they may deserve to be opposed but on account of party reasons and there will be no opportunity for us to express effectively what we feel about the need for the amendments."

MR. PRESIDENT :—"The hon. Member must have heard the Government say that they will allow freedom of vote to the members."

APPENDIX

[Vide answer to starred question No. 83 asked by Sri B. Bhima Rao at the meeting of the Legislative Council held on the 26th April 1948, page 346 supra.]

Clause (a)—I—Statement showing the names of District Panchayat Officers appointed from 1st May 1946.

Serial number and name of District Panchayat Officer.	Caste or community.	Qualifications, general and special.	District to which he belongs.	Date of appointment.
(1)	(2)	(3)	(4)	(5)
1 P. Nagabushana Rao ..	Hindu Non-Brahman.	M.A., Account Test	East Godavari.	17th January 1947.
2 K. Sheena Shetty ..	Do.	B.A., Account Test	South Kanara.	7th October 1946.
3 V. S. Gurunatha Iyer ..	Hindu Brahman	Do.	Tinnevely	12th March 1947.
4 P. Venkateswara Rao ..	Hindu Non-Brahman.	Do.	Kurnool	15th March 1947.
5 S. Palaniswami ..	Do.	Do.	Madura	20th March 1947.
6 S. K. Immanuel ..	Indian Christian	Do.	Tinnevely	23rd May 1947.
7 M. Surendranath ..	Hindu Non-Brahman (Ballava) (Backward).	B.A., B.L., Account Test ..	South Kanara	19th May 1947.
8 D. Venkatesratnam ..	Hindu Non-Brahman.	B.A., Account Test	Kistna	15th November 1947.
9 V. Chandra Reddy ..	Do.	B.A., B.L., Account Test ..	Nellore	8th December 1947.

Clause (b)—II—Statement showing the names of Municipal Commissioners newly appointed since 1st May 1946.

Serial number and name of Municipal Commissioner.	Caste or community.	Qualifications, general and special.	District to which he belongs.	Date of appointment.
(1)	(2)	(3)	(4)	(5)
1 L. Manickavasaga Nadar ..	Hindu, Nadar	S.S.L.C. (declared eligible), Account Test, Part I, for Subordinate Officers; passed Typewriting (Lower).	Rannad	27th July 1946.
2 K. R. Chandrasekhara Ayyar.	Brahman	S.S.L.C., Account Test, Part I, Commercial Book-keeping.	Salem	Do.
3 V. D. Adiswamyani ..	Indian Christian	B.A., passed Account Test, Revenue Test and Criminal Judicial Test.	Tirunelveli	7th August 1946.

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4 K. Samuel ..	Indian Christian	B.A., B.L., passed all the tests prescribed for Madras Police Subordinate Service, Passed Account Test, Part I, for Subordinate Officers.	West Godavari.	24th January 1947.
5 M. Muthuveerappan ..	Hindu Non-Brahman.	B.A., passed Account Test, Part I, for Subordinate Officers, passed Book-keeping Test prescribed for Local Fund Audit Department, undergone three months' training in Electricity Accounts at the Superintending Engineer's Office, Mettur Dam.	Coimbatore	10th February 1947.
6 Syed Ahmed Sahib ..	Muslim	M.A., trained as Panchayat Board Special Officer (Rendered war service).	Nellore	15th February 1947.
7 S. K. Immanuel ..	Indian Christian	B.A., Account Test, Part I, prescribed for Subordinate Officers.	Tirunelveli	From 17th February to 15th May 1947.*
8 G. Nagarathnam ..	Brahman	B.A.	Chittoor	25th February 1947.
9 V. P. Kanakaraj ..	Indian Christian	B.A., passed Account Test	Tiruchirapalli.	11th March 1947.
10 P. Raja Rao ..	Brahman	B.A., Account Test, Part I, for Subordinate Officers, Revenue Test, Parts I—III.	East Godavari.	18th March 1947.
11 K. Gopala Menon ..	Hindu Non-Brahman.	B.A., B.L., Account Test, Part I, for Subordinate Officers.	Malabar	27th October 1947.
12 B. Ramanobana Rao ..	Scheduled caste	B.A., Revenue Test, Parts I—III, Account Test, Parts I—II, undergone Survey training and served as Revenue Inspector for two years.	East Godavari.	28th February 1948.
13 S. Sathyanarayana ..	Hindu Non-Brahman.	S.S.L.C., undergone Training in Sanitary Inspector's Kistna Course.	Kistna	18th March 1948.

* Since appointed as District Panchayat Officer.

