of admission into State educational institutions. We have said that "no minority shall be precluded from establishing any educational institution which such minority may wish to establish". It is also stated there that whenever a State decides to provide aid to schools or other educational institutions maintained by the minority, they shall not discriminate in the matter of giving grant on the basis of religion, community or language. Sir, I cannot understand how there can be any objection to these rights which have been indicated in clause 18. At any rate, nobody who has supported the motion that this may be referred back to the Committee has advanced any argument that either these rights are in excess of what a minority ought to have or are such that a minority ought not to have them. Therefore, it seems to me a great pity that the labours of three Committees which have evolved these provisions should be so brusquely set aside simply because for some reasons people want that this matter should be referred back to the Committee. I do not know what objection my friend Mr. Munshi has to sub-clause (2) as it stands, but if it is necessary that this sub-clause may be referred back to the Committee, I certainly would raise no objection. That sub-clause may be referred back because I understand that we have limited this matter to State educational institutions and we have said nothing about those which are only State-aided. If that point needs to be further clarified the matter may be referred back, but, because there may be something to be said in favour of the reference back of sub-clause (2) I do not see that the same logic could be extended to the whole of the clause. I submit therefore that the clause as it stands, should be passed, barring sub-clause (2) which may, if necessary, be referred back to the Committee for consideration.

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***Mr. President :** Now, there are two clauses that had been referred to a committee of five. We may now take them up one by one. The new clause 3 may now be moved.

Report of the Union Constitution Committee
Clause 3

Mr. K. M. Munshi : I move that the following clause be substituted for the original clause :—

> "Every person both in the Union and subject to its jurisdiction, every person either of whose parents was at the time of such person's birth, a citizen of

*CAD. Vol. III. 2nd May 1947, p. 526.

the Union, and every person naturalised in the union shall be a citizen of the Union.

Further provision regarding the acquisition and termination of Union citizenship may be made by the law of the Union."

The reasons have already been given fully in the Report of the *Ad Hoc* Committee. I have nothing to add to it.

Sri K. Santhanam : Sir, I move that the following be added at the end of the first paragraph of this clause:

"Every person born or naturalised in India before the commencement of the Union and subject to its jurisdiction shall be a citizen of the Union."

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***Dr. B. R. Ambedkar** (Bombay : General) : Mr. President, Sir, I think there can be no doubt that the point raised by Mr. Santhanam is a point of great importance and we have to take this matter seriously. The difficulty that has arisen will be seen easily if one reads the very first sentence of the clause as drafted by the Committee. The draft says, "every person born in the Union". Obviously that has reference to future, those who will be born in the Union after the Union is formed. The question is this. What is going to be the position of people who are born in India, but who are born before the Union has come into being ? In my judgment, in order to cover that case, we shall have to introduce another clause. I am not suggesting an amendment, I am putting forth an idea. The new clause shall have to be something like this :

"All persons born in India, as defined in the General Clauses Act and who are residing in the Union and subject to the jurisdiction of the Union shall be citizens of the Union."

I think that a clause somewhat on these lines is necessary and it will cover the case of people who are born in India, who will be the subjects of the Union, when the Union comes into being. Without this clause, large numbers of people will be denationalised. They will have no nationality at all. I, therefore, suggest that it may be as well to send the whole clause back for further consideration.

Mr. President : A suggestion has been made that the whole clause be held over for further consideration.

Mr. R. K. Sidhwa : This is not a matter for lawyers only. This question has a bearing on every ordinary person.

Mr. President : The Advisory Committee will be free to consider it, and if it so feels, it can put forward any suggestions at the next sitting.

(Clause 3 was held over).

Clause 24

***The Honourable Sir N. Gopalaswami Ayyangar :** Sir, I move Clause 24:

> "24. The superintendence, direction and control of all elections, whether Federal or Provincial, held under this constitution including the appointment of election tribunals for decision of doubts and disputes arising out of or in connection with such elections shall be vested in a Commission to be appointed by the President."

The object of this clause, Sir, is to ensure as far as possible that elections in the country, Federal or Provincial, are conducted in an impartial manner. The idea is to set up a Commission appointed by the President under whose auspices all these various aspects of election activities and post-election activities will be regulated and controlled.

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†Dr. B. R. Ambedkar (Bombay : General) **:** Mr. Vice-Chairman, I think it is desirable that I should state to the House the origin of this clause.

Although this clause appears in the Constitution which deals with the Union, as a matter of fact this matter was dealt with by the Fundamental Rights Committee. The Fundamental rights Committee came to the conclusion that no guarantee regarding minorities or regarding elections could be given if the elections were left in the hands of the Executive of the day. Many people felt that if the elections were conducted under the auspices of the Executive authority and if the Executive authority did have power, as it must have, of transferring officers from one area to another with the object of gaining support for a particular candidate who was a favourite with the party in office or with the Government of the day, that will certainly vitiate the free election which we all wanted. It was therefore unanimously resolved by the members of the Fundamental Rights Committee that the greatest safeguard for purity of election, for fairness in election, was to take away the matter from the hands of the Executive authority and to hand it over to some independent authority. Although Clause 23 does not specifically refer to the details of the scheme that was considered in the Fundamental Rights Committee, I should like to state to the House that the Scheme that was in the minds of the members of the Fundamental Rights Committee was that there would be a Central Commission appointed by the President in order to deal with the elections throughout India. Although that was the scheme contemplated

*CAD. Vol. IV, 29th July 1947, p. 915.

†*Ibid.,* pp. 917-18.

that there should be a Central Commission appointed by the President to superintend, direct and control elections, it was never contemplated that there would be only one Commission sitting in Delhi or at some centre where the Central Government was seated. The scheme was that there would be one Central Commission which probably would deal with the elections to the Federal Parliament but that the Commission would have also subordinate to it a Commission in each Province or, if a Provinces was too small to have a single commission, for two or three provinces combined together, so that their affairs so far as elections were concerned, may be carried on by a Local Commission. From the very beginning the idea was that this thing should be decentralized. There should be one Central Commission for Federal election and there should be several Commissions for the elections conducted in the various Provinces. My submission is this that if that scheme comes into operation, the point which my friend Mr. Pataskar has in mind in moving the amendment would be gained, because so far as I understood from him, what he wanted was that there should be a local authority or a Local Commission which would deal and be concerned with elections in that Province. I think that was our intention although that scheme has not been mentioned in Clause 24. That undoubtedly was the matter we had in mind. However, if my friend Mr. Pataskar still persists in putting his amendment through, I would like to ask him one question which remains a matter of doubt when you read the amendment as drafted by him. He wants to omit the words 'all elections' and substitute the words 'all-Federal elections'. I have no very great objection to his amendment provided he satisfies me on one point. I want to ask him whether or not he accepts the principle—and after all what we are concerned with is the principle—what I want to ask him is this—does he accept the principle that elections should be placed in the hands of an independent body outside the executive ? If he accepts that, personally, as I said, I will have no objection if it is agreed by the House that a similar clause which is contained in Clause 24 be introduced in the Provincial Part of the Constitution. I have no desire for centralization. What we had in mind was that the elections should be taken out of the hands of the Government of the day.

[*The Cabinet Mission had recommended the setting up of an advisory committee on Fundamental Rights, Minorities etc. Accordingly, the assembly constituted the Advisory Committee under the Chairmanship*

of Sardar Patel by a resolution on 24th January 1947. The Committee consisted of 50 members in which Dr. Ambedkar was one. To facilitate its work, the Advisory Committee appointed the following four subcommittees.

1. *Fundamental Rights sub-committee.*
2. *Minorities sub-committee.*
3. *North-East Frontier Tribal Areas sub-committee.*
4. *Excluded and partially excluded areas (other than those in Assam) sub-committee.*

Dr. Ambedkar was a member of the first two sub-committees and took keen interest in their deliberations. He also submitted a memorandum to the Fundamental Rights sub-committee in which he gave concrete shape to his ideas. This memorandum was later published for wider circulation under the title 'States and Minorities, what are their rights and how to secure them in the Constitution of free India'.

The Constituent Assembly also appointed three other committees, namely (1) the Union Power Committee, (2) the Union Constitution Committee and (3) the provisional Constitution Committee. Prime Minister Pandit Jawaharlal Nehru was the Chairman of the first two committees while the third one was under the Chairmanship of Sardar Vallabh Bhai Patel. These Committees were set up by a resolution on 30th April 1947.

Dr. Ambedkar was member of the Union Constitution Committee. The report of the Committee was submitted to the President of the Assembly by its Chairman Pandit Nehru on 4th July 1947. The work done by Dr. Ambedkar in various sub-committees of the Assembly was considered very useful and convinced the Congress bosses beyond doubt that the legislation and solidification of freedom would not be easy without the services of Dr. Ambedkar. Consequent upon the partition of Bengal, Dr. Ambedkar ceased to be a member of the Constituent Assembly. The Congress Party which had earlier opposed tooth and nail his entry into the Constituent Assembly came forward and sponsored his candidature.

In his letter dated 30th June 1947, Dr. Rajendra Prasad, President of the Constituent Assembly requested Mr. B. G. Kher, the then Prime Minister of Bombay to elect Dr. Ambedkar immediately. He wrote, "Apart from any other consideration we have found Dr. Ambedkar's work both in the Constituent Assembly and the various committees to which he was appointed to be of such an order as to require that we

should not be deprived of his services. As you know, he was elected from Bengal and after the division of the Province he has ceased to be a member of the Constituent Assembly. I am anxious that he should attend the next session of the Constituent Assembly commencing from the 14th July and it is therefore necessary that he should be elected immediately".

Accordingly, Dr. Ambedkar was re-elected in July 1947 from Bombay as a member of the Constituent Assembly. Soon after, Prime Minister Nehru invited him to join the Cabinet he formed on 15th August 1947 on the eve of independence. Dr. Ambedkar accepted the invitation and became India's first Law Minister. On 29th August the Assembly unanimously elected him as Chairman of the Drafting Committee which was assigned the task of framing the Constitution. Dr. Ambedkar, who was a strong opponent of Congress had now become their friend, philosopher and guide in the Constitutional matters.—Ed.)

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SECTION TWO

August 14, 1947 to February 25, 1948