

position is now ?

6559. *Dr. B. R. Ambedkar*: It matters because I want to ask what the exact position is. Section 52, sub-section 2 is : “No Minister shall hold office for a longer period than six months unless he is or becomes an elected Member of the Local Legislature.” All I wanted to suggest was that the Act does not contemplate the continued holding of a nominated member as a Minister. which would be the case if the suggestions in the White Paper were adopted, that a nominated Member of the Second Chamber would be entitled to be a Minister. With respect to the appointment of the Ministry, I want to draw your attention to the recommendation of the Sub-Committee on Provincial Constitution. They said: “The Sub-Committee is of the opinion that in the discharge of that function the Governor should ordinarily summon the Member possessing the largest following in the Legislature and invite him to suggest the Ministers and submit their names for approval.” Paragraph 67 says that he shall make “his best endeavours to select his Ministers in the following manner”—which I regard as a considerable departure from the recommendation of the Provincial Constitution Committee ?

*Sir Samuel Hoare*: I do not think there is any departure at all. The Committee said ‘ordinarily’, and this is, I imagine, what will ordinarily happen.

6560. *Dr. B. R. Ambedkar*: You do not think it would be necessary, in the interests of fostering collective responsibility, to impose an obligation upon the Government that he should follow a particular course in the formation of the Ministry ?

*Sir Samuel Hoare*: The Round Table Committee that Dr. Ambedkar quotes did not think so.

6561. *Dr. B. R. Ambedkar*: I thought that was the thing ?

*Sir Samuel Hoare*: You have just read a quotation from them saying “ordinarily” they thought so.

6562. *Dr. B. R. Ambedkar*: Or that they should do it —not “best endeavour” ?

*Sir Samuel Hoare*: It is a question of words.

6563. *Dr. B. R. Ambedkar*: The next question I want to ask is on the question of this ordinance power of the Ministers under Proposal 104. What I want to know is this : Why is it necessary to make a provision of this sort in the Constitution itself ? Would not it be possible for a Ministry in a Provincial Legislature to have an Emergency Act passed by the Legislature itself similar, for instance, to that of 1920 in this country, and to derive its powers from the Acts passed by the Legislature ? I am talking about No. 104 : Would not it be possible for the Provincial Ministry to have an Act passed by the Provincial Legislature giving them the necessary powers to act in a specified emergency ?

*Sir Samuel Hoare* : I should have thought this was essentially a power that every government must possess, namely, of taking emergency action when the Legislature is not sitting and particularly necessary in a country like India where there are great distances and where it may take some time to get the Legislature sitting.

6564. *Dr. B. R. Ambedkar*: I suggest the Provincial Ministry can get an Act passed from the Provincial Legislature defining the emergencies in which they may be called upon to act, and the Legislature may give them the powers. Why is it necessary to make a provision of this sort in the Constitution itself ?

*Sir Samuel Hoare*: Because I regard it as an essential power that a Government should have, and as we are dealing with the whole field of the Constitution it is the kind of power that ought to be inserted in the Constitution Act

*Dr. B. R. Ambedkar*: It is a power that is intended to be given to a responsible Ministry and it is, in the nature of things, that the responsible Ministry should draw its powers, whether emergency or otherwise, from the Legislature to which it is responsible.

*Lord Eustace Percy*: May I remind Dr. Ambedkar that the Act of 1920 in this country only regularized a power which Ministers frequently exercised in the past without legislation ? It has always been the practice in this country, that, subject to be a sequent Parliamentary indemnity, a Ministry can issue an Emergency Order.

*Dr. B. JR. Ambedkar*: That is all I ask.

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†6870. *Sir Hubert Carr*: No. 44 gives the Governor-General power in his discretion, “in any case in which he considers that a Bill introduced, or proposed for introduction, or any clause thereto, or any amendment to a Bill moved or proposed would affect the discharge of his ‘special responsibility’ for the prevention of any grave menace to the peace or tranquillity of India, to direct that the Bill, clause or amendment shall not be further proceeded with.” That, I understand, is only in the case of his special responsibility for the peace or tranquillity of India being threatened. Does any such power exist for him in the case of his other special responsibilities being threatened ?

*Sir Samuel Hoare*: No, I think not

6871. *Sir Hubert Carr*: For instance, (b) : “The safeguarding of the financial stability and credit of the Federation” ?

*Sir Samuel Hoare*: No ; it is limited to the special responsibility for grave menace to peace and tranquillity.

*Sir Malcolm Hailey*: I think I could give Sir Hubert the reason for that. It is a practical repetition of Section 67 (2a) of the existing Act which only refers to the safety and tranquillity in British India, and it has been repeated

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†Minutes of Evidence, Vol. II-B, 18th July 1933, p. 784.

almost in terms.

6872. *Sir Hubert Carr*: It is not considered necessary to give the Governor-General that power to prevent his responsibilities being threatened other than peace and tranquillity ?

*Sir Findlater Stewart*: No. He could, of course, refuse his assent to the Bill as passed by the House.

6873. *Sir Hubert Carr*: But he cannot stop the discussion ?

*Sir Findlater Stewart*: No.

*Dr. B. R. Ambedkar*: I would like to reserve my questions for the Secretary of State because they are questions of policy.

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†7016. *Dr. B. R. Ambedkar*: Arising out of the questions that were put by Mr. Morgan Jones regarding the pledges, you stated that no responsible statesman in this country has bound himself to time and pace. Is that so ?

*Sir Samuel Hoare*: Yes.

7017. *Dr. B. R. Ambedkar*: But I think there is a general agreement that the ultimate goal of India's Constitution is to be Dominion status ?

*Sir Samuel Hoare*: It has constantly been so stated.

7018. *Dr. B. R. Ambedkar*: So that on the question of the ultimate goal, there is really no dispute ?

*Sir Samuel Hoare*: That would be so, yes.

7019. *Dr. B. R. Ambedkar*: Now what I want to ask you is this : In view of that, would you be prepared to put this in the Preamble to the Government of India's Constitution that India would be Dominion status, leaving the question of the time and the pace to be determined by circumstances as they arise ?

*Sir Samuel Hoare*: I do not think here and now I would like to give a pledge as to What is or is not put in the Preamble of an Act of Parliament. I, myself, am prejudiced against Preamble of Acts of Parliament, for reasons good or bad, and I would rather say neither yes nor no to Dr. Ambedkar's question. It is a point that ought to be considered by the Committee. I would not regard it as a question of principle, one way or the other; I think it is essentially a matter for discussion. Upon the face of it, I am against these general declarations in Preambles.

7020. *Dr. B. R. Ambedkar*: I want to say this, that this is not a point in dispute now, and, in view of the fact that it would have a reassuring effect on the Indian people, it would be desirable to have this embodied in the Preamble to the Government of India Act ?

*Sir Samuel Hoare*: We must take note of what Dr. Ambedkar has said upon the point.

7021. *Dr. B. R. Ambedkar*: Now the next question that I propose to ask you is with regard to the date of the Federation : that in view of certain uncertain elements connected with the entry of the Princes into the Federation,

†Minutes of Evidence, Vol. II-B, 18th July 1933, pp. 797-805.

it was not desirable to give a date for the inauguration of the Federation. Now the point that I propose to put to you is this : What would you say to a proposal like this — I am making it as my own : Supposing you started the Federation without waiting for the Princes, and had a nominated bloc appointed by the Viceroy or the Governor-General, it may be officials or non-officials, it may be partly from officials and partly from non-officials, and then inaugurate your Federation, and then, as the Princes come in, eliminate the nominated bloc to make room for such Princes as begin to come in ? Have you any objection to a proposal of this sort ?

*Sir Samuel Hoare*: Yes, I have several objections to it. I think that perhaps, the strongest that occurs to me offhand is that it is a completely new one. Here for the last three years we have been considering no other kind of Federation than an All-India Federation, with the Princes adequately represented in it.

7022. *Dr. B. R. Ambedkar*: Quite true, but let me pursue this point ?

*Sir Samuel Hoare*: May I just finish my answer? Secondly, I would say, even apart from that every formidable objection, an objection that would mean that we should have to start all our discussions over again, there is the further objection that I do not see what is to happen supposing when you had got your nominated bloc, the Princes then do not come into the Federation at all.

7023. *Dr. B. R. Ambedkar*: I will put my next question. You want the Princes' representation as a stabilising element ?

*Sir Samuel Hoare*: No; more than that, Dr. Ambedkar; I would not restrict myself to that at all. I want the Princes' accession for a number of reasons. I believe, quite apart from the stabilising element of the Princes' representation, they can bring into the Government of India many very valuable influences.

7024. *Dr. B. R. Ambedkar*: But my point is this, I am not making this suggestion as a permanent part of the Constitution. I am making the suggestion for the transitional period until the Princes come in. I am only trying to get over the difficulty that you would say would arise if the Princes do not make up their minds to come in a stated period. I am only trying to get over the difficulty as to date ?

*Sir Samuel Hoare*: I quite see that. None the less, with the best will in the world, I do see the very formidable objections that I have just mentioned to a transitional plan of this kind.

*Nawab Sir Liaquat Hayat Khan* : In any case, if I might interject, had that not better be brought out when you meet again, in the event of such a contingency arising. It has been promised that when a contingency arises we meet again. I think a suggestion of that nature would be more appropriate then rather than now.

*Sir A. P. Patro*: You will not be there when it comes.

*Sir Samuel Hoare* : I have always thought that it is really a great mistake,

particularly for those who are really interested in setting up an All-India Federation, to concentrate upon setting up some kind of provisional government upon the assumption either that Federation is never coming into existence, or that Federation is only coming into existence in the very indefinite future. I believe myself that Members of the Committee and Indian Delegates who make proposals of that kind, although they do not wish the result of their proposals to be in the least what it will be, are really putting Federation further and further into the distance. I only go on repeating my own opinion, and I must rely upon my British and Indian friends to see that time after time it is not misrepresented by our enemies outside.

*Dr. B. R. Ambedkar:* May I pursue this a little further. Do you think Federation is more important, or responsibility is more important?

7025. *Sir Tej Bahadur Sapru:* Or neither?

*Sir Samuel Hoare:* I do not see the point of Dr. Ambedkar's question.

7026. *Dr. B. R. Ambedkar:* My point is this: If you are not prepared to consider any alternative for a transitional period the conclusion is that there can be no responsibility unless there is Federation?

*Sir Samuel Hoare:* Really now Dr. Ambedkar is raising issues that we have been discussing for three years. For three years we have assumed in every discussion we have had that these proposals are based upon a foundation of All-India Federation, and I am not prepared today, after three years of these discussions, to reopen this question.

*Dr. B. R. Ambedkar:* It is true. I do not want to pursue the matter. I am only suggesting an alternative for your consideration. I have two more questions to ask, but I do not know whether they will be within the ambit of the topic we are discussing. One is in relation to the qualifications of candidates for the Federal Upper Chamber.

*Archbishop of Canterbury:* I think that would more properly come under franchise, would it not?

*Dr. B. R. Ambedkar:* I would like to ask a question or two about financial safeguards.

*Archbishop of Canterbury:* I think that clearly comes within finance.

7027. *Dr. B. R. Ambedkar:* I want to ask a question or two about defence. You remember that the Sub-Committee on Defence in its report recommended that there should be a Military Council. I do not find any proposal in the White Paper dealing with that?

*Archbishop of Canterbury:* For the very good reason that we do not think that is a constitutional proposal. It is an administrative proposal.

7028. *Dr. B. R. Ambedkar:* Are you going to have it?

*Archbishop of Canterbury:* I have always myself been in favour of having in India something in the nature of the Committee of Imperial Defence here. I believe in actual practice it will be found to be necessary. It is very important to bring not only the Defence Ministers, and the Defence officials, in touch with Defence problems, but now that

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*Sir Samuel Hoare:* That is so.

7035. *Dr. B. R. Ambedkar:* Do you see any very great danger if the Legislative Assembly vote upon it, and the Viceroy had the power to certify, if he found any drastic cut was made?

*Dr. B. R. Ambedkar:* The next question is with regard to the appointment of the commander-in-chief. I do not find any specific proposals dealing with that in the White Paper. Section 19 of the Government of India Act merely states that commander-in-chief shall be appointed by His Majesty by warrant under the Royal Sign Manual.

7037. *Dr. B. R. Ambedkar:* Section 19(1) of the present Government of India Act says : “The Commander-in-Chief of His Majesty’s Forces in India is appointed by His Majesty by warrant under the Royal Sign Manual”?

7038. *Lord Irwin:* Is not the matter referred to in Proposal 6 at the foot of page 39 of the White Paper?

*Sir Samuel Hoare:* Yes, paragraph 6, page 39.

7039. *Dr. B. R. Ambedkar*: Paragraph 6 does not say how his appointment is going to be made — on whose advice ?

*Sir Samuel Hoare* : By the Crown.

7040. *Dr. B. R. Ambedkar*: On whose advice ?

*Sir Samuel Hoare*: The appointment is made by the Government here.

7041. *Sir Austen Chamberlain*: By His Majesty acting on the advice of Ministers at home ?

*Sir Samuel Hoare* : Yes.

7042. *Dr. B. R. Ambedkar*: I look up the other day the Debates in the Legislative Assembly dated the 17th February, 1921, and Sir Godfrey Fell described the circumstances under which the Commander-in-Chief was appointed in these terms : “The appointment of the Commander-in-Chief is made by His Majesty the King on the advice of the Cabinet, and the Cabinet naturally turns to the Chief of the Imperial General Staff, the highest military authority in the British Empire, for advice.” So the position is that the Commander-in-Chief under the present law or practice is appointed by the Cabinet on the advice of the Chief of the Imperial General Staff ?

*Sir Samuel Hoare*: He is not appointed by the Cabinet; he is appointed by the Crown, on the advice of the Prime Minister, or whatever it may be—the Secretary of State for India here.

7043. *Dr. B. R. Ambedkar*: The point I want to put to you is this : Do you think this practice is consistent with the new sort of Government we are contemplating, considering that Defence is to be largely a responsibility of the Indian people and the Indian Legislatures ?

*Sir Samuel Hoare* : I think it is quite inevitable with Defence a Reserved Department.

7044. *Dr. B. R. Ambedkar*: But it is also going to be a responsibility of the Indian people and the Indian Legislatures. How is the appointment of an important officer who is going to be in charge of a very important Department under the new Government, who is appointed not on the advice of the Secretary of State, not on the advice of the Governor-General, but on the advice of the Cabinet in consultation with the Chief of the Imperial General Staff, compatible with a Government whose Defence will be a responsibility of the Indian people ?

*Sir Samuel Hoare*: Surely, if Defence is a Reserved Department the Government to whom those Reserved Departments are responsible should make the appointment.

7045. *Dr. B. R. Ambedkar*: I can understand the Viceroy making this appointment; I can understand the Secretary of State making the appointment ?

*Sir Samuel Hoare*: That is what it comes to.

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†7125. *Marquess of Salisbury*: Your plan, as I understand (or I ought

†Minutes of Evidence, Vol. II-B, 20th July 1933, pp. 813-15.

to say the plan you prefer of three plans), was to add to the representation of the Princes already in the Assembly a proportion of the other Princes' representation on the same proportion as those already admitted. Is that so?

*Sir Samuel Hoare:* I do not know what Lord Salisbury means by saying "upon the same proportion as those already admitted."

7126. *Marquess of Salisbury:* I understand one of the States which came in would have say, 10 seats?

*Sir Samuel Hoare:* I see what Lord Salisbury means. I think very likely it would work out on those lines.

7127. *Marquess of Salisbury:* There is only one other question I want to put as regards the Provincial distribution, that is to say, the distribution of seats in the Provinces. He is aware, of course, that there is a great deal of difference of opinion on that. I am not going into the difference of opinion, as to whether the communities are properly represented in Bengal under the Poona Pact. I am not going into it; but I am going to put this question to the Secretary of State: Whether he has any statement at all to make upon that subject?

*Sir Samuel Hoare:* Upon the Communal decision of the Government?

7128. *Marquess of Salisbury:* In the case of Bengal, I am speaking especially?

*Sir Samuel Hoare:* No, I have nothing to add to the Memorandum that I circulated to the Committee and Delegates on the 26th May. upon the Government's Communal decision. The Government made it quite clear that they regarded their decision as final and they were only prepared to accept a variation if it was clear to them that the variation had been agreed by the accredited leaders of the various communities; and, as a Member of the Government, I am not prepared to add anything further to that statement of Government policy.

*Chairman:* Secretary of State, do you desire to hand in the Memorandum to which you have just referred?

*Sir Samuel Hoare:* Yes, the Memorandum is as follows:—

#### MEMORANDUM—COMMUNAL AWARD

I think it may be useful to my colleagues on the Joint Select Committee who have not been familiar with the developments leading up to the White Paper, if I give for their information a very brief account explaining the scope of what is known as the "Communal Award", the history of its origin, and why it stands, so far as the Government is concerned, on a different footing from the other proposals in the White Paper.

2. Both the first and second sessions of the Round Table Conference found progress much impeded through the failure among the Indian, delegates to reach mutual agreement both on the number of seats which the various great communities in India were to secure in the Legislature and on the method of election to those seats. The main issue as regards election

was whether separate electorates were to be maintained or the system of joint electorates with reserved seats ; employed. (For an explanation of these terms see paragraphs 149 and 150 of Vol. I of the Statutory Commission's Report). Repeated failure, after many attempts, to reach agreement on these problems had not only left this vital gap in the Constitution so far outlined, but was preventing some of the minority communities from proceeding any further with discussion of other aspects of the Constitution which had a communal bearing until they knew where they stood as regards their representation in the Legislatures.

3. Accordingly, in order to remove this obstacle to progress, the Government were very reluctantly compelled to give a decision on these points which was more or less of the nature of an arbitral award. The Government undertook to incorporate the provisions of the award in their proposals to Parliament. This award covered the composition of the Provincial Legislatures and the method of election to them. It was found impossible to isolate the more purely communal questions involved from such matters as the number of seats for special interests, and the size of the Legislatures. On such points, however, the Government had had the benefit of the advice of the Indian Franchise (Lothian) Committee. The award was issued on the 16th August, 1932, and presented to Parliament as Cmd. 4147.

4. Subject to an alteration in respect of the Depressed Classes explained further below, the provisions of the Award are reproduced on pages 91 and 93 of the White Paper (those regarding election on page 91 being a slightly abridged version).

5. The announcement prefaced to the Award contained the following very important passage : —

Paragraph 4. "His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to the revision of their decision, and will not be prepared to give consideration to any representation aimed at securing the modification of it which is not supported by all the parties affected. But they are most desirous to close no door to an agreed settlement should such happily be forthcoming. If, therefore, before a new Government of India Act has passed into law, they are satisfied that the communities who are concerned are mutually agreed upon a practicable alternative scheme, either in respect of any one or more of the Governor's Provinces or in respect of the whole of British India, they will be prepared to recommend to Parliament that alternative should be substituted for the provisions now outlined."

6. Since the Award there has been one important modification in respect of the representation of the Depressed Classes, the history of which is shortly as follows :

On the issue of the Award Mr. Gandhi expressed his intention to fast

against it in view of his objection to the provisions made regarding representation of the Depressed Classes, which, in his view, would have produced an artificial splitting of the Hindu community. In published correspondence the Prime Minister gave the reasons why the Government were unable to take the same view, but Mr. Gandhi remained unconvinced and began his fast. Negotiations now began, under Mr. Gandhi's auspices, between the representatives of caste-Hindus and representatives of the Depressed Classes led by Dr. Ambedkar. As a result an agreement was reached, now known as the Poona Pact, by which the number of the Depressed Classes seats in each province were increased above that recommended by the Communal Award, while a different system of election was substituted. The total number of Hindu seats (known technically as "general" seats) for caste-Hindus and Depressed Classes taken together remained the same under the Poona Pact as under the original Communal Award. The Government accepted the provisions of this Pact in modification of their Communal Award as being a mutually agreed practicable alternative under the provisions of paragraph 4 quoted above, and on this being announced Mr. Gandhi broke off his fast. The White Paper proposals on pages 91 and 93 incorporate the terms of the Poona Pact.

7. The position of the Government, therefore, as regards the proposals of the White Paper which cover the composition of Provincial Legislatures and the method of election thereto\* is that they themselves are specifically pledged not to recommend to Parliament any variation of these proposals except such as may be mutually agreed upon by the communities concerned, and they are also pledged as a Government not to participate in any negotiations for the purpose of reaching such a change. The Government interpret this pledge as covering the provisions of the Poona Pact which they have themselves accepted in the circumstances explained above.

8. The original Communal Award was concerned only with the Provincial Legislatures owing to the fact that corresponding provisions for the Centre could not very well be settled pending a decision on the numbers to be assigned in the Federal Legislature to British India and British Indian States respectively. The proposals in Appendices I and II of the White Paper, which should be read with paragraph 18 of the Introduction to the White Paper, now contain the Government's proposals on this subject. These proposals are in effect supplementary to the original Communal Award. The Government have, however, not given in respect to them a specific pledge similar to that contained in paragraph 4 of the original announcement quoted above. While, therefore, they are not anxious to see a fresh investigation *de novo* into these proposals for allocation between the communities of seats in the Central Legislature, they do not consider these proposals to stand as regards their own attitude, in exactly the same

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\*This does not cover Franchise.

position as the Provincial Communal Award, but they see the gravest objection to any change on two points, *viz.*, the allocation of one-third of the British India seats in the Federal Legislature to Muslims, and the percentages of the seats allocated to British India and the States respectively.†

9. To summarise, it will be clear from the above that the Communal Award has reference only to the composition of the Legislatures, and is not concerned with the whole of the manifold points in the Constitution which have a communal aspect (e.g. special responsibilities of Governors and Governor-General, relations between Centre and Provinces, fundamental rights, etc.) and also that in respect of the matters provided for in the Communal Award, the Government have clearly defined their position and the conditions upon which alone they would think it justifiable to depart from it.

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‡7231. *Sir Austen Chamberlain*: Is it the intention of the Secretary of State at sometime during our proceedings to make proposals of that kind to us ?

*Sir Samuel Hoare*: Certainly ; I think it is quite essential that in any Constitution Act, somewhere or other, there should be provision for constituent powers.

7232. *Dr. B. R. Ambedkar*: I may draw attention to similar provisions in the present Government of India Act. There are certain sections mentioned in an appendix.

*Sir Samuel Hoare*: It is I think following the lines of every Constitution Act and following the lines of the Government of India Act itself.

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7236. *Lord Salisbury*: I have read it as well as I can at the moment, but I have not been able to appreciate it fully ?

*Sir Samuel Hoare* : If Lord Salisbury will look at it again, always keeping in mind the fact that this is one of the questions which we have to consider and for which we have eventually to make some kind of provision in the Constitution Act, I think he will fully appreciate it.

*Dr. B. R. Ambedkar*: It is the Fifth Schedule to the Government of India Act : "The provisions of this Act which may be repealed or altered by the Indian Legislature."

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§7260. *Marquess of Zetland*: May I ask one supplementary question? With regard to those four constituencies which will return Depressed Class representatives, will they overlap territorially ?

†To prevent misapprehension, it may be explained that of the ten Governor-General's nominees in the Upper Chamber, it is intended that six should be from British India and four from the States.

‡Minutes of Evidence, Vol. II-B, 20th July 1933, p. 828.

§*Ibid.*, 21st July 1933, p. 832.

*Sir Samuel Hoare*: I do not think it has been worked out, but I think they will be chosen not to overlap. The whole area of Madras will be divided up into 15 areas ; 11 of these, as I see it, will be of the ordinary kind.

7261. *Dr. B. R. Ambedkar*: Fifteen will be general ?

*Sir Samuel Hoare*: I make 11 ordinary, making 19 in all; 11 single members and four double members.

7262. *Mr. Zafrulla Khan* : May I put one question to Sir Findlater Stewart to clear up one aspect of it ? I merely want to understand it. Supposing a panel of four is chosen and then they proceed to contest or this particular constituency reserved for them amongst themselves. One knows if a contest comes forward, everybody will vote who can vote in a general constituency, but supposing three of them say : “We do not wish to contest this election,” would it be possible for them to withdraw before the election takes place ?

*Sir Findlater Stewart*: It is an interpretation of the Poona Pact.

*Sir Samuel Hoare* : What does Dr. Ambedkar say?

*Dr. B. R. Ambedkar*: That is the view, that it is not obligatory upon all four of them to contest.

*Sir N. N. Sircar*: That is the view, but that is not the language used.

*Mr. Zafrulla Khan*: Another aspect is, are the Depressed Classes in any of these particular constituencies bound to put forward four candidates ? Supposing they put forward only one, will the terms of the Pact be complied with ? What does His Majesty’s Government understand the Pact to mean in that respect ?

*Sir A. P. Patro*: The purpose of preliminary election will be defeated. What is meant by preliminary election is electing four people for a seat ?

*Sir N. N. Sircar*: Dr. Ambedkar will vouch that I am putting the interpretation which was understood at the time of the making of the Poona Pact. It was understood that the Depressed Classes should have the liberty, instead of electing four, to elect one only. In that case, automatically the one got through.

*Dr. B. R. Ambedkar*: That is quite right.

*Mr. Zafrulla Khan*: If they put forward four, one could withdraw.

*Dr. B. R. Ambedkar*: Yes.

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†7488. *Sir N. N. Sircar*: May I get some facts before the Committee ? I am not putting any argument; I only want to put some facts so that the Committee can get them in a short compass. The communal decision is dated the 17th August, 1932 ?

*Sir Samuel Hoare*: August 16th.

7489. *Sir N. N. Sircar*: In my copy it is the 17th. One day does not matter. Under this award or decision the net result of that was, as regards the depressed classes, that they would vote in the general constituencies, and

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†Minutes of Evidence, Vol. II-B, 21st July 1933, pp. 858-63. Correspondence referred to in this discussion in paras 7488 to 7509 is printed at pp. 707-14 of this Book.

their number of seats would be 10, and the arrangement would come to an end after 20 years. To put it very shortly that was the decision ?

*Sir Samuel Hoare* : Yes.

7490. *Sir N. N. Sircar*: The other date is the 18th August, 1932. That is the date on which Mahatma Gandhi wrote his letter to the Prime Minister—(I am quoting the words):—threatening a fast and saying : “This fast will cease if the British Government will revise their decision and withdraw their scheme of representation for the depressed classes.” Mahatma Gandhi wrote this letter to the Prime Minister threatening a fast and the consequences. Does that date agree with your information ?

*Sir Samuel Hoare*: I have not got the dates here. I take it the dates are accurate.

7491. *Sir N. N. Sircar*: Will the Secretary of State accept this course ? May I put all these dates in my questions, and, if there is any mistake it can subsequently be pointed out either by communication or by some other means ?

*Sir Samuel Hoare* : Yes.

7492. *Sir N. N. Sircar*: I am giving the dates. On the 18th August that letter was written by Mahatma Gandhi to the Prime Minister. On the 8th September, 1932, the Prime Minister wrote back to Mahatma Gandhi pointing out that the Prime Minister’s scheme, that is to say, the communal decision, had not separated the depressed classes from the Hindu community. The point is the date ; on the 8th September the Prime Minister tried to reason with Mahatma Gandhi that nothing wrong had been done. On the 15th September, 1932, Pandit Madan Mohan Malaviya issued a notification in some of the newspapers calling a Conference to be held at Delhi on the 17th and 18th September. The invitation as it appeared in the Press was stated to be “To a few friends.” That is the 18th September, 1932. On the 16th September, 1932, another announcement was made by the same gentleman, Pandit Madan Mohan Malaviya, in the Press that the venue had been changed from Delhi to Bombay, and, on the 20th September, 1932, the fast which later on was described as the fast unto death, began. On the 24th September the condition of Mahatma Gandhi was announced to be very serious, and on the 25th September, 1932, the Pact was signed. These are the dates I am giving to you. You can subsequently either correct them or accept them ?

*Sir Samuel Hoare*: Yes.

7493. *Sir N. N. Sircar*: in my next question I am giving you some other dates, and I will not press for an answer if you are not prepared with an answer just now, but I am only indicating my case broadly because I shall call witnesses on these points to prove these facts. The Pact was signed at Poona on the 25th September, 1932. In this Pact there are many signatories. I do not want to read out all the names. There is no signatory representing the Bengal Hindus, and the very next day, on the 26th September, 1932, at Delhi, at 11 o’clock, the Home Member announced the acceptance of the

Pact by His Majesty's Government, and he said : "His Majesty's Government has learned with great satisfaction that an agreement has been reached between the leaders of the depressed classes and the rest of the Hindu community." That was the very next day it was announced in the Assembly. These are the dates if you will kindly check them. May I take it, judging by those, as also by your answers which you were pleased to give yesterday, that the Government here was under the impression that an agreement had been reached between the leaders of the depressed classes and the rest of the Hindu community ? That must have been your impression ?

*Sir Samuel Hoare*: I will answer your question when you have finished it.

7494. *Sir N. N. Sircar*: I have finished this question.

*Sir Samuel Hoare*: The Government, rightly or wrongly, have, under the terms of paragraph 4 of their original Communal Award, accepted the Poona Pact as an All-India agreement between the parties concerned, that is to say, between the depressed classes and other Hindus. Everyone in public life in India must have known that the negotiations from which the Poona Pact emerged were in progress, and it was to be presumed that any interested parties would take steps to secure that their views were not overlooked. It is perhaps not without significance (and I would draw the attention of the Committee to this fact) that no protest from Bengal seems to have come for a considerable time after the announcement of the Pact. Indeed, during the course of the discussions we received scores of telegrams in favour of the Pact; not a telegram against it, and, amongst those scores of telegrams, I remember offhand a telegram from a very distinguished Hindu in Bengal, Sir Rabindranath Tagore. I do not know when protests first began to be made in Bengal, and I cannot trace that any representations were made to His Majesty's Government until something like three months after their acceptance of the Poona Pact. The Government expresses no opinion on the merits of the Pact in relation to Bengal. They would, of course, be perfectly ready to accept any modification in respect of Bengal reached by mutual agreement between the parties concerned, but the Government, as a Government, is precluded by the terms of its original communal award, from itself taking part in any negotiations towards that end.

7495. *Mr. M. R. Jayakar*: What was the nature of the telegram sent by Sir Rabindranath Tagore ? Did he approve of the Pact ?

*Sir Samuel Hoare*: Urging the Government to accept the Pact.

*Sir Tej Bahadur Sapru*: May I, Sir Samuel Hoare, tell you and the Committee one thing with regard to this matter ? Both Mr. Jayakar and I happened to be in Poona for about four or five days during the progress of these negotiations. I have a very distinct recollection that telegrams were received from Bengali Hindus. I, personally, received a telegram from two or three important Bengali Hindus. I have not got those telegrams here, but I will further add that Sir Rabindranath did pay a visit to Mr. Gandhi

in jail at the time or shortly after the opening of the fast. That is my recollection. I am speaking subject to correction.

*Sir Hari Singh Gour:* He did.

*Sir Tej Bahadur Sapru:* There was some sort of ceremony held. I left Poona immediately after the signing of the Pact; all this happened after I left. Probably, Mr. Jayakar was there, and he will be able to make a statement.

*Mr. M. R. Jayakar:* I was not there when Sir Rabindranath Tagore called : I was not present in Poona.

7496. *Sir N. N. Sircar:* Is Sir Samuel Hoare aware that Sir Rabindranath Tagore is a Brahmin ?

*Sir Samuel Hoare:* I take it from Sir Nripendra Sircar that that is so. The indisputable fact, however, is that for many weeks we received almost countless telegrams and letters from India urging the acceptance of the Pact and not a single protest against it.

7497. *Sir N. N. Sircar:* I will not go into minute details, because I am waiting for evidence to be called upon this point, but have you scrutinised those telegrams ? Whether they were all coming from Congress people ?

*Sir Samuel Hoare:* They were all coming from Hindus, and I would not for a moment accept the suggestion that they came exclusively from Congress Hindus.

7498. *Sir N. N. Sircar:* As regards the sufficient protest not having been made at or about the time and telegrams coming from some people, may I put this situation to you. that when Mahatma Gandhi uttered that threat, it was not a question merely of a large section of the Hindu being ground down. Is it not right to say that was the position also of His Majesty's Government ?

*Sir Samuel Hoare:* That never entered into our minds at all.

7499. *Sir N. N. Sircar:* Let me put it to you, if it strikes you now in that way. When he said : "I am going to fast myself to death unless the British Government do this, that, and the other", you did not point out to him section 508 of the Indian Penal Code and say : "This is a crime but we propose now to let you out of jail." Was not that His Majesty's Government's understanding also, because of overriding considerations, because if the man had been allowed to carry out his fast, tremendous consequences might have arisen. Therefore, you not merely acquiesced in what was an offence under the Indian Penal Code, but your offer was that a man who ought to be kept in jail for other reasons, should now come out into the open. I am putting to you this ?

*Sir Samuel Hoare:* Sir Nripendra Sircar can rest assured that we did not in any way act under any sort of threat or in any atmosphere of emergency. The only aspect of the question to which we looked was this : Was the agreement reached an agreement such as we had contemplated under the communal decision judged by all the evidence that was available to us ?

Then, and for many weeks subsequently, it seemed to us quite conclusive that it was such an agreement.

7500. *Sir N. N. Sircar*: I think you are aware that a representation was made to the Prime Minister by a letter from me in December, 1932, enclosing certain telegrams which had come here in November from members of the Bengal Council ?

*Sir Samuel Hoare* : I am aware that Sir Nripendra Sircar has taken a very close interest in the question from start to finish.

*Sir N. N. Sircar*: I sent that letter on to the Prime Minister as requested by the Members of the Council, and you will find that before I sent to the Prime Minister this telegram of protest from the 25 Members of the Bengal Council, that Bengal are not represented, and so on, it was shown to Dr. Ambedkar, who sent a telegram to Bombay to find out what their reply to this telegram was. I thought it fair to show it to him, so that he could get his version from Bombay, and this is the reply which he got.

*Dr. B. R. Ambedkar*: I assure I did not do anything of the sort, if Sir Nripendra Sircar will forgive me. Sir Nripendra Sircar represented that he showed to me a certain telegram and asked me to get certain information about it from Bombay. I did not do anything of the sort.

*Sir N. N. Sircar*: I have got the copy which was handed over to me by Dr. Ambedkar, and I will read to you the reply which he got.

*Dr. B. R. Ambedkar*: It is not a reply ; it is an independent telegram sent to me.

*Sir N. N. Sircar*: The point is the contents of the telegram, which said that the Bengal Hindus are bound by reason of their default in not appearing at Bombay, that is to say, it was put on the ground that we were bound because we had not taken part in the Pact. I think you must have found that in the telegrams that were sent to the Prime Minister.

*Sir Samuel Hoare*: I think it is very unfortunate that those telegrams were only sent in December, and were not sent when the negotiations were actually in progress.

7501-2. *Dr. B. R. Ambedkar*: The telegram was in November. It was sent in December, because I was waiting for the replies, and so on, and the Bengal Council met for the first time after these negotiations in November. As soon as they met, 25 members sent this telegram, or representation, to the Prime Minister. I only wanted to point out to you that whatever may be said, it has been the case that Bengal has gone by default. The case of Bengal has never been made, even in that telegram. Now the next matter to which I draw your attention, is a very short one. Does Sir Samuel Hoare agree with the view that the situation which has been created as the result of the Poona Pact and the communal decision, will lead to very terrible and serious consequences in Bengal ?

*Sir Samuel Hoare*: No, I do not think.

*Sir N. N. Sircar*: I do.

7503. *Dr. B. R. Ambedkar*: Is it your opinion that if the vastly preponderating majority of seats of the Muhammadans, 119 seats, are reduced by 10 or 12 seats, that will lead to terrible consequences in Bengal ?

*Sir N. N. Sircar*: I do not accept the phrase, "vastly preponderating majority", nor do I think that the result will be disastrous.

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7509. *Dr. B. R. Ambedkar*: My Lord Chairman, may I have your attention for a moment to make a very brief statement with regard to a question or two that was put by Sir Nripendra Sircar, in view of the fact that he may not be here when my turn comes ? Sir Nripendra Sircar said that he got a telegram during the course of the Third Round Table Conference last year and that he showed it to me and that I made inquiries with regard to that telegram, and that I got a certain telegram in reply to that. The point that I would like to make clear so that Sir Nripendra may have an opportunity to correct me if I am mis-stating anything is this : The telegram which I got was not a telegram in reply to any inquiry that I made.

*Sir N. N. Sircar*: I may cut the matter short.

*Dr. B. R. Ambedkar*: I just want to say a word.

*Chairman* : Please let Dr. Ambedkar make his statement.

*Dr. B. R. Ambedkar*: The telegram to Sir Nripendra Sircar was published in the Indian papers and when the members of the Anti-Untouchability Board that was established by Mahatma Gandhi after his fast was over, learned that this telegram was sent to Sir Nripendra Sircar protesting against the Poona Pact, they, of their own accord, sent me the telegram to which Sir Nripendra Sircar has made reference. It was not in reply to any inquiry that I made. The next point I want to bring to the notice of the Committee is that when Sir Nripendra Sircar showed me the telegram he got from his Bengal friends protesting against the Poona Pact, he told me that all he was going to do was to send that telegram to the Prime Minister, without any comment, for his information. On the day before he left he very kindly sent me a copy of the letter which he addressed to the Prime Minister. In that letter I found that Sir Nripendra Sircar had not only forwarded the letter to the Prime Minister, but had urged upon the Prime Minister to make an inquiry as to whether the Bengal caste-Hindus were represented at the time when the Poona Pact was settled. In view of that I also immediately wrote a letter to the Prime Minister, a copy of which I shall present to the Committee when my turn comes, in which I also forwarded the telegrams which I had received, and I also stated that the fact mentioned in the telegram that the Bengal caste-Hindus were not represented when the Poona Pact was made was not correct to my knowledge, because I knew, as a fact, that several members from the Bengal caste-Hindus were present when the Pact was made, that they had had conversations with me and had presented me to come to terms. That is all I want to say at this stage.

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‡7533. *Sir Mirza Ismail* : What Lord Lothian said was that the Legislature which appoints the Government will appoint the members to the Upper House. Once these members are elected by the Legislature they cease to have any responsibility. They can express their own views, and they do not go and consult the Legislature on every point which comes up before the Federal Government. Once they are elected they are independent, but what the Federal Government would like to know would be the views of the Government of the Province.

*Dr. B. R. Ambedkar*: The Government of the day of the Province?

*Sir Mirza Ismail*: Of the day.

*Dr. B. R. Ambedkar*: And if there were a change of Government of the Province there would be a change of representation at the Centre?

*Sir Mirza Ismail*: At the Centre. If you want to prevent this extreme provincialism that is already developing in India this seems to me to be the best way of doing it. You have already the popular element in the Lower House; from the democratic standpoint there should be no objection to it because of the democratic Governments in the Provinces.

*Dr. B. R. Ambedkar*: Send them with mandates to vote on a particular issue.

*Mr. M. R. Jayakar*: If this scheme were adopted, would it not come to this, that although normally the life of the Provincial Legislature would end in five years and, as Mr. Zafrulla Khan pointed out, the life of the Upper House would be seven years, there must be necessarily one change in the personnel.

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‡7746. *Dr. B. R. Ambedkar*: I would like to ask the Secretary of State whether the Instruments of Accession that would be passed by the different States on entering the Federation would find a place in the Constitution Act?

*Sir Samuel Hoare*: The answer is : No, they would not.

7747. *Dr. B. R. Ambedkar*: How would it be possible, supposing a dispute arose in a Federal Court, for the Court to determine whether any particular subject which was the subject-matter of dispute was within the competence of the Federation?

*Sir Samuel Hoare*: I imagine—here I speak as a layman—they would take into account the treaty, just as they take into account treaties now.

*Sir Tej Bahadur Sapru* : Yes.

7748. *Dr. B. R. Ambedkar*: But it would not be part of the Constitution Act?

*Sir Samuel Hoare*: No; it would not be in the Constitution Act; neither are the treaties now in any Act of Parliament, yet (Sir Tej Sapru and other Indians will correct me if I am wrong) treaties have been constantly taken into account.

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† Minutes of Evidence, Vol. II-B, 25th July 1933, p. 899,

‡ *Ibid.*, p. 901,

*Sir Tej Bahadur Sapru:* Yes. Treaties are part of the municipal law everywhere.

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†8102. *Dr. B. R. Ambedkar:* May I draw the attention of the Secretary of State to the fact that under Proposal 70 of the White Paper, the Governor has the special responsibility to secure the execution of orders lawfully issued by the Governor-General ?

*Sir Samuel Hoare:* Yes.

8103. *Dr. B. R. Ambedkar:* If the Governor-General issued any orders with respect to finance which required the Provincial Governments to execute them, the Governor would see that they were executed ?

*Sir Samuel Hoare:* Yes; in the field of Federal taxation that would be so.

8104. *Dr. B. R. Ambedkar:* Any orders issued by the Federation which required that they were to be executed by the Provincial Government, there is a special responsibility on the Governor to see that those orders are executed ?

*Sir Samuel Hoare:* Yes, Orders issued by the Governor-General.

*Sir Hari Singh Gour:* Lawfully issued.

8105. *Dr. B. R. Ambedkar:* Lawfully issued, of course. Another question. In that section of the White Paper proposals which deals with the administrative relations of the Provinces and the Centre—I am speaking offhand—I think provision is made that whether the Provincial agency will be utilised by the Centre in carrying out the administration of Central subjects is a matter for the Province : it may employ its own agency ?

*Sir Samuel Hoare:* Yes, I have always hoped, judging from the experience of other Federations, that we should duplicate as little as possible administrations, and speaking generally, it is much better that the Provincial administration should carry out the directions of the Federation within the Federal field rather than that you should duplicate these administrations all over India.

8106. *Dr. B. R. Ambedkar:* What I was trying to point out was this. that if the Provincial Governments turned out to be recalcitrant and not amenable to the control of the Central Government, the Centre is not bound to employ the agency of the Province and can employ their own agency in the administration of Central subjects ?

*Sir Samuel Hoare:* That is so.

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‡8138. *Dr. B. R. Ambedkar:* I want to suggest that the standard of administration in Bengal is low because Bengal has not been able to raise sufficient revenue by reason of the Permanent Settlement. It is another way of stating the same thing ?

*Sir Samuel Hoare:* It is one of the reasons, but we have to accept the fact that the Permanent Settlement is there.

†Minutes of Evidence, Vol. II-B, 27th July 1933, p. 945.

‡*Ibid.*, 28th July 1933, p. 990.

*Dr. B. R. Ambedkar:* That is so.

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†8527. *Dr. B. R. Ambedkar:* Under the White Paper there is no means raising, say, one anna for Provincial purposes without raising in those circumstances another anna, which ex-hypothesis is not needed, for Federal purposes. The other hypothesis is that the Provinces do not need any more income-tax, but the Federal Government does and you then have to raise double the amount (assume that the percentage prescribed is 50 : 50) you have to raise two annas in order that the Federal Government may get one because, for every one it takes, it must give one to the Provinces, even though they do not want it?

*Sir Samuel Hoare:* I will take all these points into account. I would ask the members of the Committee to remember that there must be (whatever the arrangements) anomalies. I do not say exactly of the kind contemplated in the White Paper, but anomalies of some kind under any system under which the income-tax is shared between the Centre and the Provinces.

*Dr. B. R. Ambedkar:* May I draw the attention of the Secretary of State and Sir Austen Chamberlain to two points? Sir Austen said there is no provision for the Province to raise any income-tax if it wanted it for its own purposes. I wish to draw his attention to Proposal 139, and what appears in the brackets, "A prescribed percentage, not being less than 50 per cent, nor more than 75 per cent of the net revenues derived from the sources specified in the margin."

*Sir Samuel Hoare:* That is the income-tax—"exclusive of any surcharges imposed by the Provinces)." I take it from that the Provinces will have the right to levy a surcharge on the income-tax for their purposes.

*Sir A. P. Patro:* In addition.

8528. *Dr. B. R. Ambedkar:* That is Proposal 139?

*Sir Samuel Hoare:* That is so, and the Committee will see that we alluded to it at the top of page 30 of the Introduction.

8529. *Dr. B. R. Ambedkar:* May I draw the attention of the Secretary of State to a statement that he made just now, that with regard to the imposition of surcharges for Federal purposes on the income, I think he said the key to the position was the previous sanction of the Governor-General. I would like to draw his attention to the fact that Proposal 141 does not stipulate that the previous sanction of the Governor-General will be required to surcharges for Federal purposes. The previous sanction of the Governor-General refers to revenues assigned to the Provinces, namely, those enumerated in Proposals 138 and 139. Paragraph 141 is not made dependent on the previous consent of the Governor-General?

*Sir Samuel Hoare:* I think Dr. Ambedkar is quite right, and I must look into my answer in connection with the note I will circulate.

*Sir Akbar Hydari:* There is also Head 49 in the exclusively Federal heads

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†Minutes of Evidence, Vol. II-B, 28th July 1933, pp. 1002-03.