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*ON THE BOMBAY PRIMARY EDUCATION ACT AMENDMENT BILL: 2

(Clause by clause reading)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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