

I understand. That subject was the alternative of direct and indirect election ; and, as I understood Mahatma Gandhi's speech, he was in favour of adult suffrage, but he was also in favour of indirect election.

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†*Colonel Haksar*:I do not think that I need go on further. I would merely echo the words of our esteemed friend, Pandit Malaviya. If I might summarise what he said in that portion of his speech, it was this. The paramount consideration is to create a State in India in which no part will stand outside that State. The paramount consideration is to unite the country. If that be the paramount consideration, I say that that object should be achieved at all costs, and that nothing should be allowed to come in the way of the attainment of that object.

Dr. Ambedkar: Not at all costs—not at our cost!

Twenty-sixth Sitting—21st September 1931

HEAD 3

(Relations between the two Chambers of the Federal Legislature)

‡*Dr. Ambedkar*: There is one question I should like to put, if I may interpose at this point. Sir Tej said that, in the matter of Supply or Money Bills in general, the Upper House should have the right to make suggestions and references to the Lower House; but what happens if the Lower House does not accept the suggestions made ?

Sir Tej Bahadur Sapru: Then the Upper House is free to reject the Bill, but if a deadlock thus arises you can follow to the South African precedent and adopt their procedure.

Dr. Ambedkar: How can a deadlock arise if the Upper House has power only to make references or suggestions ?

Sir Tej Bahadur Sapru: It may reject the Bill completely.

Sir Muhammad Shaft: Then what is the substantial difference between an amendment which is referred back to the Lower House and a suggestion to the Lower House which is backed by power to reject ? What is the substantial difference between the two ? The final decision is to be by Joint Session of the two Houses.

Sir Tej Bahadur Sapru: In the first place, it is more consistent with modern practice.

Dr. Ambedkar: According to your suggestion there would be no vital difference between Money Bills and others except this, that with regard to a Money Bill the Lower House alone would have the right of initiation. In all other matters the two Houses would be equal ?

Sir Tej Bahadur Sapru: That, in effect, is what I have said.

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†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 205.

‡*Ibid.*, p. 207.

†*Mr. Zafrullah Khan:* My submission, therefore, is that, having regard to the proposed strength—though I do not know whether that relative strength will be maintained—it is only consistent with the views expressed so far that the majority required should not be a simple majority or even an absolute majority of the total number of Members of both Houses, but a higher majority than that.

Dr. Ambedkar: Would Mr. Zafrullah Khan permit either Chamber sitting separately to decide upon measures by a simple majority or would he require an actual majority of the Members in that case ?

Mr. Zafrullah Khan: A simple majority.

Dr. Ambedkar: Then I do not see why they should not decide questions by simple majority when they are sitting together.

Sir Muhammad Shaft: Because there is a difference of opinion between the two Houses.

Mr. Zafrullah Khan: Very often Members are not able to see the points of view of other Members; but one reason will be that the character of the two Houses will be different.

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‡*Sardar Ujjal Singh:* So far as money matters are concerned, I would like to give a few illustrations from present day federations. Take first the Dominion of Canada, a Member of the British Commonwealth. There, Sir, section 53, which has already been pointed out by various speakers, only says that —

“Bills for appropriating any Part of the Public Revenue, or for imposing, any Tax or Impost, shall originate in the House of Commons.” In Canada the powers of the two Chambers have not been definitely defined. The reason for this is that, under section 18, it is laid down that Canada will follow generally the British model. It says :

“The Privileges, Immunities, and Powers to be held, enjoyed, and exercised.....”

Dr. Ambedkar: That has no relevancy to this ; it is a privilege inside the House.

Sardar Ujjal Singh: I beg your pardon.

“The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons.....”

it does not mean the Members of the House of Commons.

Dr. Ambedkar: No, Sir. If you refer to the Preamble, you will see there that the Canadian Constitution lays down that the Canadian Constitution shall be similar to that laid down in the United Kingdom ; and you will see that the relations between the House of Commons and the House of

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 242.

‡*Ibid.*, p. 249.

Lords are to be the governing principle in Canada, but the privileges of the House of Commons in Canada are not affected there.

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†*Dr Ambedkar*: The views which have been expressed so far have struck one note which I think is common to all; and that is, that in regulating the relations of the two Houses in the future Constitution of India, there should be equality of status, equality of power, granted to them, except of course in such small and minor matters as the right of initiative with regard to Money Bills and the right of voting. Bearing that, the general consensus of opinion, I think, was that the two Houses should enjoy equality of position.

Now, in all humility and with all respect to the gentlemen who have spoken before me, I must say that I cannot agree with their views. The reason for the difference of opinion that exists between myself and them appears to me to arise from the simple fact that we take a totally different view of the functions and the purposes of the Second Chamber. I could quite understand the views of those gentlemen who propounded yesterday the proposition that the two Houses must enjoy co-equal powers if our Legislature were so constituted that each Chamber represented, to use ancient language, separate Estates of the Realm. If the Lower House were composed of classes which were not represented in the Upper Chamber, and if the Upper Chamber were composed of classes which were not represented in the popular Chamber, then there would be something to say for a view of the sort that was expressed yesterday. But, if our Legislature were constituted on the plan of what I call separate Estates of the Realm, I, for one, would not give my consent to a bicameral Legislature; for, speaking for the masses—I am a rival of Mahatma Gandhi in this respect—speaking for the masses, I could not consent to such a Legislature, and thereby consign their destiny to a government working under a system of this kind and thus to use an expression of the late Lord Asquith—functioning under a system of false balances and loaded dice.

As a matter of fact, the Houses of our Legislature, unless I am mistaken, are not going to be constituted on the basis of separate representation of separate Estates. If I understand correctly the composition of the future Legislature, I take it that the Lower Chamber will be a popularly constituted Chamber—a Chamber which will represent each and every class, each and every shade of public opinion. That being so, I submit that we cannot have a Second Chamber which would claim to be its rival or which could claim to have co-equal status. That being my view, I submit, Lord Chancellor, that so far as the question propounded in sub-head (ii) of Head No. 3 is concerned, I would answer it by saying that the decisive voice must be vested in the Lower Chamber.

Chairman: Would you put that in the constitution, Dr. Ambedkar?

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. 1, pp. 266-70.

Dr. Ambedkar: Yes, I think it could be done.

Chairman: It could be done ; but would you favour it being ?

Dr. Ambedkar: Perhaps you would be kind enough to give me time to deal with that later on. This must particularly be so in the case of Finance Bills. The Second Chamber, in my opinion, may have the power to make suggestions for the consideration of the Lower House, which the Lower House, may accept if it likes; but the Second Chamber shall not only have no power to initiate a Finance Bill, but it shall not have the power to amend it; and a Finance Bill must become law, as passed by the Lower House, even if it was rejected by the Upper House.

Now, I recognise that the proposal which I have made appears to be a very radical proposal—in fact, I think it might be described as a revolutionary proposal; but, My Lord Chancellor, if so, it is only because yesterday, when our learned colleagues Sir Tej Bahadur Sapru and Sir Muhammad Shafi dealt with this question, they did not refer to some of the most modern constitutions. It was a surprise to me that they should have confined themselves to drawing illustrations from the relatively ancient Constitutions of the Dominion of Canada, Australia or South Africa. The Canadian Constitution was framed in 1867, the Australian in 1901, the South African in 1909. I do not know why they did not consider the constitutional relations that exist between the House of Commons and the House of Lords here. I do not know why they did not consider the relations that exist, for instance, between the two Houses in Ireland ; nor do I quite understand why they forgot to consider the proposals of the Bryce Committee. If they had done so, I am sure that the surprise with which this proposal of mine has been received by members of the Committee would not have existed ; but, as they have not done so, I would venture to support my proposal by citing precedents for it. Now, my proposal is exactly the proposal that is embodied in the Parliament Act of 1911. There it is provided that, so far as a Money Bill is concerned, the House of Lords may consider, but the House of Commons is supreme ; and it is provided in the Act that when a Money Bill is considered and passed by the House of Commons it shall become law, notwithstanding the absence of consent of the House of Lords, provided His Majesty gives his Assent to the Bill. Again, My Lord, this is the relationship that is laid down between the two Houses, so far as Money Bills are concerned, in the Irish Constitution. Section 35 of the Irish Constitution says :

“Dail Eireann shall in relation to the subject matter of Money Bills as hereinafter defined have Legislative authority exclusive of Seanad Eireann.”

Then Article 38 says that —

“Every Bill initiated in and passed by Dail Eireann shall be sent to Seanad Eireann and may, unless it be a Money Bill, be amended in Seanad Eireann.”

and so on,

“but a Bill passed by Dail Eireann.”

and then the rest follows that Article.

The next authority that I would cite in support of my proposition is the recommendation of the Bryce Committee. Now, as all of us know, this was a most representative Committee—a Committee the membership of which was drawn both from the House of Commons and from the House of Lords—and the Committee came to the unanimous conclusion that at least so far as Money Bills were concerned, the provisions embodied in the Parliament Act of 1911 were right and proper.

Then, My Lord, I would cite a third authority in favour of this proposition. The Report of the Bryce Committee and the recommendations made by it were not shelved; they were considered by the Coalition Government of 1922. Resolutions were moved (I am glad to see that Lord Peel is here) showing what action the Government of the day was prepared to take upon the Report of the Bryce Committee. The Resolutions were placed before Parliament on the 11th July 1922. The Fourth Resolution reads as :

“That while the House of Lords shall not amend or reject Money Bills. The decision as to whether a Bill is or is not a Money Bill or is partly a Money Bill and partly not a Money Bill shall be referred to a Joint Standing Committee of the two Houses. The decision of which shall be final.”

The principle recommended by the Bryce Committee that Money Bill shall be the exclusive concern of the House of Commons was accepted and affirmed by these Resolutions. Let me here quote the speech made by Viscount Peel, then the Secretary of State for India, on these Resolutions. In moving the Resolutions he said that the Resolutions were a general sketch laying down principles only. He went on to say that the Second Chamber should not have equal power to or become a rival of the House of Commons nor have the power of dismissing Governments or making the Executive equally responsible to both Chambers.

I think that I have given sufficient authority in support of the proposition which I have placed before this Committee for its consideration.

Lord Peel : May I suggest that that was a Coalition Government?

Dr. Ambedkar : It was a Coalition Government

Lord Peel : In a Coalition Government you cannot say everything that you want to say.

Dr. Ambedkar : Your Lordship may have made mental reservations—I cannot say—but there it is. The Coalition Government was a Government in which more than one Party had joined. Therefore, the statement made in the name of the Coalition Government was a statement which had the support of more than one Party, including Lord Peel. I submit that I have cited sufficient authority to show that the proposition that I have placed before this Committee is not a revolutionary proposition.

Sir Tej Bahadur Sapru : May I ask Dr. Ambedkar if he will give a reference to any federal constitution to support his point of view ? England is not

a federation, and Ireland is not a federation.

Dr. Ambedkar: That is so.

Sir Tej Bahadur Sapru: The Bryce Committee had nothing to do with a federation.

Dr. Ambedkar: My reply is that unless your federal constitution was so composed that the Upper House exclusively represented some other interests not represented in the Lower Chamber, the proposition would stand. This has nothing to do with the form of the Government, whether it was unitary or federal.

Sir Provash Chnnder Mitter: I should like to ask one question. The House of Lords was a hereditary House. Was not the Irish Upper House one at that stage also ?

Dr. Ambedkar: I am submitting that even the House of Lords, which is a most ancient House, with all the dignity, traditions and privileges behind it, consented to this revolutionary change. What are the Indian States as compared with the House of Lords, if I may submit it with all due deference ?

H.H. The Maharaja of Bikaner: With all due respect to the great Peers of the British Realm, the States possess sovereignty over any territory which is not British territory, whereas even the most important Peers of the Realm and their estates are in a totally different position.

Dr. Ambedkar: The sovereignty is subject to the influence and power of the House of Lords.

Sir Muhammad Shaft: May I ask Dr. Ambedkar what are the privileges of the House of Lords ?

Dr. Ambedkar: Taking this position, the next thing that I would submit is that the constitution should contain a definition of what a Finance Bill is. It may be defined, as has been suggested, in the way in which it is defined in the Irish Constitution, which is not different from the one given in the Parliament Act of 1911.

The next point that I would submit, arising out of the matter, is that a Member in charge of a Bill should have the privilege of claiming that his Bill is a Finance Bill. If there is a dispute between the two Houses as to whether or not a Bill claimed to be a Finance Bill is a Finance Bill, I submit that the dispute should be resolved by the decision of a Joint Committee of both Houses, in which each House should be represented by a number of Members proportionate to its strength, and in which all parties should also be represented according to their strength.

Sir Maneckjee Dadabhoy: You want to make a departure from the existing practice.

Dr. Ambedkar: Very much so.

Mr. Zafrullah Khan: If the existing practice were satisfactory we would not be here.

Dr. Ambedkar: The next matter to which I want to come is non-financial

Bills. In the case of non-financial Bills I am prepared to modify the principle applicable to Finance Bills, but for only two purposes. First, the Second Chamber may have power to revise and amend non-financial Bills brought up from the Lower House, subject to the proviso that no amendment shall be made by the Second Chamber which is of a financial character. Secondly, the Second Chamber will have power to hold up, and to enforce so much delay (and no more) in the passing of a non-financial Bill into law, as may be necessary to prevent hasty action, or as may be needed to enable the opinion of the electorate adequately to be expressed upon it. In view of this, my answer to the question propounded in the sub-head dealing with non-financial Bills is that the Upper House should have the right to amend a non-financial Bill. If the amendments are accepted by the Lower House, well and good ; but if they are not accepted, then the constitution should provide that, if a non-financial Bill is passed three times by the Lower Chamber in three different sessions of its life, it shall become law, notwithstanding the opposition of the Second Chamber. Lastly, I submit that these relations between the two Houses should be embodied in law, and should not be left to convention. That is all that I have to submit.

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†*Dr. Ambedkar*: Is it your view, Mr. Gavin Jones, that the Constitutions of South Africa and Australia have defined the relations between the two Houses in the manner in which they have done because of the fact that they knew that they were drafting a Constitution for a Federal form of government ?

Mr. Gavin Jones: Yes, certainly.

Dr. Ambedkar: Then why is it that the Canadian Constitution did not lay down any rules regarding the relations of the two Houses ?

Sir Muhammad Shafi: Because the general rule is that the relations shall be the same as those of the House of Lords and the House of Commons.

Dr. Ambedkar: But the House of Lords and the House of Commons make a unitary government, not a federal government. I said this has nothing to do with unitary or federal form of government; and, if you will permit me to proceed, I will say that the various Dominions made the relations of the two Chambers in their constitutions what they were as they found them existing between the House of Lords and House of Commons at the time when they made their constitutions. They were not drafting them either for federal or for unitary. The Canadian Constitution said —

Chairman: You must give Mr. Gavin Jones a chance to speak, Dr. Ambedkar.

Mr. Gavin Jones: All that I would say is that the Australian Constitution is a federal constitution.

†Proceedings of the Federal Structure Committee and Minorities Committee, Vol. I, p. 281-82.