

Political and Civic Status
of
Indians in Ceylon

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TO THE

Memory of India's Jawans

Who have bravely laid down their lives in the
Defence of the Mother-land during the
treacherous invasion by the Chinese.

“We cannot break the golden chain of centuries with which the Great Lord Buddha bound us together by his sublime teaching of Immortality of Boundless Love.”

—K. P. Kesava Menon

FOREWORD

I congratulate the author for publishing this book which was originally submitted in the form of a Thesis to the Agra University for his Doctorate Degree. The ties between India and Ceylon are as old as the history of the two countries. Dr. Gupta has covered a vast canvas and has taken into consideration all the aspects that confront the Indian citizens who have now either migrated or settled down in Ceylon. The book throws a new light on the subject and will be of interest not only to those who have an academic interest in the subject but also to the general reader who is interested in political problem relating to Indians abroad.

Institute of Social Sciences,
Agra University,
February 11, 1963.

R. N. Saksena
Director

PREFACE

Since the dawn of written history, India and Ceylon have been linked together by indissoluble ties of culture and civilization. Apart from temporary conflicts during the monarchical period of Ceylon's history, their relation have been singularly free from territorial ambition and political complexities of the present century. Although the distance of the Palk Strait, separating the two countries is almost negligible, India with its vast potentialities in man-power and material resources has been a good and friendly neighbour, has helped Ceylon in all her emergencies and given her succour in the economic development during the British period—a period during which Ceylon not only acquired economic prosperity but also secured for her a pivotal position that she now occupies in the strategy of the Indian Ocean.

India's attitude towards Ceylon has been particularly happy in more respects than one. There is, however, one problem that threatens to become a source of irritation and stands in the way of cordial relations between the two countries. It is the problem of the persons of Indian origin in the Island. With the object of promoting friendly relations between the two countries, the author has made an objective study of the problem of the political and civic status of persons of Indian origin in Ceylon, for he is convinced that without a satisfactory solution of this problem, there is not much possibility of the continuance of the usual cordial relations between India and Ceylon.

The material on the subject of the present study is scarce in India. The author was, therefore, obliged to undertake a journey to Ceylon, but surprisingly enough in Ceylon also (as he found later), the material was neither copious nor to be found in one place. Accordingly, he not only made use of the documents in the Government Archives of Ceylon at Nuwara Eliya, but also travelled to most of the important library towns and several plantation estates to collect information on the subject. He took the opportunity of meeting Indian and Sinhalese leaders and workers and acquired a first-hand knowledge of the problem from those who were qualified to throw light on it.

The book deals with the Indo-Ceylonese problem from its inception to 1952 and was written in that year. Hence the political events relate upto that year only. The later events *i. e.*, from 1953 to the present-day will, if incorporated in the book, greatly enhance its value.

I acknowledge with thanks my indebtedness to Dr. A. L. Srivastava, M. A., PH. D., D. LITT., Professor Emeritus of History, Agra University, Agra under whose scholarly supervision this work was submitted as a Ph. D. thesis in Political Science and unanimously approved by the Board of examiners, Agra University. The author is also thankful to Sri S. Thondaman, M. P., Ceylon for his wise counsels and for providing various facilities during his stay in Ceylon and to Dr. Gopi Nath, M. A., PH. D., Lecturer in Political Science, Agra College, Agra for kindly preparing the Index.

'SARASWATI-SADAN',
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BABU LAL GUPTA

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History of Immigration

For a proper appraisal of the study of the political and civic status of Indians in Ceylon, it is but natural to know something of the constitutional and the immigration history of that country. The modern constitutional development of Ceylon may be regarded as having commenced with the British occupation of the island in 1798 and more particularly with the cession of the Kandyan provinces in 1815, after which the whole of the island came under British occupation. Indians* had been emigrating to the island from times immemorial and it is a recorded historical fact that the gospel of Buddhism was brought to Ceylon by Mahinda, son of the Great Asokā, the Emperor of India (273 B.C.—232 B.C.). Under the circumstances, the intercourse between the two countries was natural; but the immigration in the island to the extent that it commenced during the British administration of the country was unknown and that for obvious reasons.

The 19th century England had great ambitions for world markets and trade and the British capital which lay dormant in their own country wanted some outlet for profitable investment abroad. The enterprise of the Britishers coupled with their initial success in possessing a sizable navy were great factors in combating successfully the Portuguese and Dutch competition in many of the Eastern countries. And once they gained hold of a certain territory, its economic development for the investment of the British capital was a natural corollary. It was under such circumstances that the British colonial possessions came into being and the history of the British Empire is but a history of the British colonial system since the beginning of the 19th century.

Ceylon at that time had almost been a neglected country as far as the exploitation of its natural resources was concerned. The

* Ceylon was ruled by Chola and Pandya kings of Southern India from 1017 to 1505 when the Portuguese arrived in Ceylon, and Ceylon Tamils, who occupy the Northern and Eastern Provinces of Ceylon and are regarded as part and parcel of Ceylonese population are the descendants of Indian settlers of those centuries. G.C. Mendis : *The Early History of Ceylon*, Chapters IV & V, pp. 65-112.

Portuguese and the Dutch had at best succeeded in subduing only the maritime provinces and the interior of the country remained under the suzerainty of the Ceylon monarchs. The island was thus not developed to its fullest extent. The people eked their living by cultivating patches of lands, mostly growing rice for their needs. There was hardly any education in the modern sense of the word. The people, therefore, were happy and contented as far as bare necessities of life were concerned; but this contentment had made them docile and when the British occupied the country, they found them quite unfit for the stupendous task of the exploitation of a tropical country, and naturally fresh avenues of securing the necessary human power for undertaking the reconstruction of the country were tapped. The abolition of slavery by Great Britain in 1834 and by the French National Assembly in 1849 created in the manumitted Negro labour a tendency towards becoming uneconomic and hence the African slaves were altogether ruled out. The British administration in Ceylon thereafter tried hard to introduce the Chinese with a view to agricultural colonisation, but for various reasons could not succeed in their attempts. Firstly, there were difficulties of transporting the Chinese from long distances. Secondly, according to the expert opinion and experience two of the Chinese require as much food to keep them as three 'malabars', who lead a frugal life as compared to the former so that an Indian comparatively can be more economical. The following relevant description from a Despatch* will clearly bring out the comparative advantages of employing an Indian as against a Chinese :—

“Mr. Johnson, the Secretary in the Foreign Department at Hong Kong who possessed a perfect knowledge of Ceylon as well as of the Chinese labourers, did not hesitate to say that two of the latter required as much food to keep them as three 'malabars' and that a Chinaman must have certain luxuries of which the 'malabar' deprived himself, if he was to be kept contented and in good working condition. Moreover, he must be brought here either at the expense of his master or of the Government in the first instance. It is evident that he would be a more expensive labourer than the 'malabar' even granting that he would perform a greater quantity of work. The 'malabar' would come over here of his own free will during the season when his labour was not in demand and would return to his own country, carrying his savings with him, as soon as the demand for his services

* *Torrington's Despatch to Secretary of State for Colonies, No. 155 Miscellaneous, dated Colombo, November 12, 1847. (National Archives of Ceylon, Nuwara Eliya.)*

ceases, or the longing for home called him back to his native village.

Mr. Johnson laid great stress upon the absolute hopelessness of any attempts to induce the wives and families of China-men, to accompany them into foreign lands or to follow their fortunes afterwards even when their success had been thoroughly established."

Thus the Britishers completely failed to induce either the African slaves or the Chinese to come to Ceylon for agricultural exploitation of the island. They had, however, invested enormous sums of money with the help of the local labour, but for the success of getting continued supply of cheap labour for earning handsome dividends, their only hope lay in the South Indians. If the latter were not forthcoming, the Britishers had a chance of not only losing their precious investments but the hope of future advancement and exploitation of the colony was in great jeopardy. As the Ceylon Governor wrote to the Secretary of State for Colonies :

"The great object of the colonial Government should be to create a permanent and indigenous supply of labour within the island and if this was not to be effected by stimulating the inert and contented Cingalese, another expedient is still open by holding out such encouragement as may induce the Indian labourers to settle permanently in Ceylon."*

The British Administrators had thus been very keen not only in getting cheap labour, but they had clearly foreseen the desirability of keeping a steady supply of labour for successful exploitation of Ceylon's resources. The English Head of the Colony had been constantly keeping his mother-country informed of the latest developments in his Despatches to Secretary of State for Colonies :

"In looking to the prospects and future advancement of the colonies," wrote he, "we cannot close our eyes to the fact that the extensive operations now in progress, the large investment of capital, the resort of settlers† and the application of European energy to convert the forest of the interior into productive plantations, are all dependent on a steady supply of labour; they

* *Emerson Tennent's Despatch to Secretary of State for Colonies*, No. 6 Miscellaneous, Colombo, April 21, 1847. (National Archives of Ceylon, Nuwara Eliya.)

† It seems the Britishers wanted to create Belts for colonising Europeans in Asia as they had attempted colonisation of the Himalayas also. B. H. Hogson: *Colonisation of the Himalayas*, No. XXVII, p. 1. (Selection from the Record of the Government of Bengal, Calcutta, 1857.)

have been undertaken on that expectation and their success or defeat must be contingent on its realisation.”*

It was under such circumstances that the Indian came into the lime-light, although the famines and probably over-population in South India too greatly helped the Britishers in their attempts to get a cheap and steady supply of labour, and it is these circumstances which may be taken into consideration while assessing the contribution the Indians have made towards the economic development of Ceylon. Initially, the British began investing money in the Coffee plantations which flourished enormously so much so that the period 1855 to 1880 is often known as “Coffee era” in Ceylon due to the great coffee plantation activity of those years. It was during the period—1837 to about 1880—that Indians not only made available lands for coffee plantations, but major reconstruction of the country otherwise was also mainly due to them. The construction of railways and the network of roads for the transportation of agricultural produce from the interior of the island to ports was entirely their creation, with of course, the genius of the Britishers. The clearance of vast jungles of Ceylon, the swamps with which the country was all round studded and the attendant benefits were all due to the energy of the Indians. And during this period there was hardly any semblance of popular form of Government over which the indigenous population or the Indians had any control. During this period of stress and strain the Indians were transported from India’s shore for employment abroad and although the Indian Government (India was governed without any semblance of popular control) was very much solicitous of the welfare of Indians but the character of the Governments in the two countries was very much similar and they acquiesced with each other keeping in mind the interest of the British capitalists.

The Indian Government, however, could not be so callous towards Indians as to have ignored their interests completely. The first regular recruitment of Indians appears to have been made in 1837, and when in 1839 recruitment was attempted on a more extensive and systematic scale, the Government of India intervened and by Act 14 of 1839 prohibited emigration. Indian Government had known the evils of the indentured labour in countries other than

* *Emerson Tennent’s Despatch to Secretary of State for Colonies, No. 6 Miscellaneous, Colombo, April 21, 1847. (National Archives of Ceylon, Nuwara Eliya.)*

Ceylon and they feared that labour recruited for Ceylon might percolate to other countries through engagements entered in Ceylon.

The ban was not welcome to Ceylon Government since they wanted a regular and steady supply of labour for coffee plantations. Negotiations were, therefore, soon started with the Indian Government for the lifting of the ban and on the initiative of the Indian Government, Ceylon passed an Ordinance* in 1847 prohibiting Indians in Ceylon from entering into contracts for service abroad. India in response lifted the ban on emigration to Ceylon by passing an Act in 1847 on the plea "that the island of Ceylon, geographically and socially considered, was analogous to the countries subject to the East India Company."@

The Government of India from the early days had thus insisted on its prior approval before any changes in the laws of Ceylon affecting Indian labourers were introduced, and in fact the principal Ordinance No. 13 of 1889, entitled Estate Labour (India) Ordinance, was referred† to the Government of India before being introduced into the legislature of Ceylon.

Early in this century the position of Indians who emigrated to different colonies was a matter of grave concern to the people and Government of India. Indians atleast could have voiced the grievances of their countrymen abroad through their elected representatives in the Indian Legislature and in 1916 Pt. Madan Mohan Malaviya introduced a motion in the Central Legislature†† in regard to the abolition of the indentured system of recruitment and Lord Hardinge, the then Viceroy of India, made a historic announcement of the Government's intention to abolish all emigration of indentured labour. One fruitful result of the persistent efforts of the Indians for the amelioration of the conditions of their compatriots abroad was that besides focussing attention of world opinion on this pernicious system of recruitment with its attendant abuses of almost reducing Indians to the position of serfdom, it resulted in the appointment of various commissions of enquiry to probe into the conditions of Indians abroad and it was in pursuance of such a policy of Indian Govern-

* Legislative Enactment—1938, Chapter 246.

@ Report of the Controller of Indian Immigrant Labour 1929, para 63.

† The Immigration Ordinance of 1941, The Registration Bill 1941 and the Legislative Bills of 1947.

†† Indian Debates.

ment that Messrs. N. E. Marjoribanks and A. K. G. Ahmad Tambi Markkayar were sent to Ceylon on the initiative of Madras Government to report on the conditions of Indians there.

The efforts of the Indian people continued unabated in this behalf and they pressed the Indian government to clearly define the objectives of their policy in regard to emigration to foreign countries. The Emigration Act of 1922 passed by the Indian Legislature is a landmark in the history of emigration to foreign countries, because it enunciated in clear terms the possible status of Indians that it should be in the event of their agreeing to serve abroad. During the debates that were held in the Indian Legislature, none was more significant in this respect than the speech of the Hon'ble Sir B. N. Sarma, member of the Viceroy's Executive Council, who introduced the said Bill with the words :—

“We were asked to send labourers to Fiji, British Guiana and other places; we stipulated that we could not contemplate such measures unless and until the Governments concerned issued ordinances which distinctly proclaimed the perfect equality of status of Indians with the other classes of His Majesty's subjects in these countries. To that policy the Government of India adhere now and propose to adhere to-morrow and it is because they follow that policy, they readily and willingly sought the co-operation of the legislature and have introduced the Bill.”*

It was thus clear that the emigration of the Indians was allowed on the express stipulations of preserving perfect equality of Indians with the rest of the indigenous population. The above is a definite statement of the policy of the Government in very unambiguous terms and a different interpretation given to it will be contrary to facts and a distortion of reality.

If refutation or repudiation of such a policy comes from any responsible quarters that is only to be regretted. For it was Ceylon which took the initiative of sending a mission to India to negotiate a settlement of the emigration of Indians to Ceylon. India had been happy that because of enduring foundation of Geographical proximity, and similarity of culture and ethnic origin, it had further contributed something towards helping the island in the economic development by allowing labourers to emigrate there, but only when the mission had assured the Indian Government perfect equality of treatment to Indians.

* Indian Assembly Debates, 1922.

When, therefore, any repudiation of the understanding given by Ceylon came to the forefront, the responsible British opinion in Ceylon asserted itself to place an emphatic protest. His Excellency Sir Andrew Caldecott, the Governor of Ceylon placed on contemporary record in 1941* “a schedule of certain matters in respect of which undertakings have been given by His Majesty’s Government and by the Government of Ceylon to the Government of India together with references to the latest statements made in relation to such undertakings.” I will quote relevant portions from the schedule in regard to immigration, municipal franchise and legal rights etc.

1. Restriction of immigration of Indians—paragraph II 2 of a memorandum sent by the Governor of Ceylon to the Viceroy and Governor-General of India on the 22nd August, 1921.

“Any restriction by means of passport regulations or by Law on the immigration of other classes of Indians, (*i.e.* other than recruited Indian Labourers) *e.g.* traders, tourists, professional gentlemen, etc.

.....There are no restrictions on the immigration of the classes mentioned or of any Indian as such. There are legal restrictions on the immigration of destitutes, vicious persons and stowaways irrespective of nationality.”

2. Municipal Franchise—Paragraph 16 of a letter dated the 27th July 1922 from the Colonial Secretary, Ceylon, to the Secretary to Government of India, Department of Revenue and Agriculture, (Emigration).

“.....as regards the Municipal Franchise members of the resident Indian Community enjoy equally all the privileges of the indigenous population and they are entitled, if elected, to hold seats on local municipal bodies.”

3. Legal Rights—Paragraph 25 of Information relating to Ceylon for publication under rule 17 R of the Indian Emigration Rules sent to the Government of India for approval on 4th April, 1929.

“Legal and Social position—25. Indians in Ceylon have the same legal rights as members of the local population and they can acquire and hold land.”

* Ceylon Sessional Paper XIV—1941, pp. 5-8.

Quoted by Sri M.S. Aney, the member for Indians Overseas, in the Central Legislative Assembly on 17th Nov. 1941, p. 886 of Legislative Assembly Debates, Vol. IV, 1941 (Manager, Govt. of India Press, 1942)

Note :—The statement of information was approved by the Government of India on the 1st July 1930 and a copy (with Tamil or Telugu translation) has since been furnished to every assisted immigrant before leaving India.

Besides the above, Annual General Report of the colony for many years after the passing of the Indian Emigration Act states* :—

“In addition to the special representation given to Indians in the Legislative Council they have in Ceylon all the ordinary legal rights enjoyed by other British subjects and some special legal privileges as well.” (Para 84)

and again:

“Connected with political and legal rights are the rights of association and combination. There is no legal or other obstacle to the exercise of such rights but there are no Indian Labourers’ Unions or the like in Ceylon.” (Para 88)

It is necessary in this connection to understand the minds of the statesmen who have been trying to resolve differences in connection with the Indo-Ceylon Dispute. It is almost a truism to say that if the Governments of the countries do not have pious intentions towards keeping the agreements entered into by their predecessors then the Governments will themselves be a mockery and no reliance can be placed even on historical documents. It was in this connection that Pt. Jawaharlal Nehru, the Prime Minister of India wanted to silence those who had intended to repudiate such engagements on flimsy grounds. He asserted :

“One of the conditions for emigration to other countries to which the Government of India have always attached the utmost importance from the very beginning of Indian Emigration has been that an emigrant labourer should be given facilities to settle in the country to which he emigrates on equal terms with members of the indigenous population.”†

And the above words had provoked the Prime Minister of Ceylon to say:—

“I do not think that I misrepresent the “facts of History” when I state that Indian Labour did not come to Ceylon to settle down permanently in this country, but primarily to seize the opportunities for employment which the coffee, tea and rubber plantations so generously offered. It is no reflection on independent

* Administration Report of the Controller of Indian Immigrant Labour for 1927, Part I—Civil (P), P. 16, Government Printer, Ceylon 1928.

† Correspondence exchanged between the Government of India and Ceylon regarding the grant of rights of citizenship to Indians resident in Ceylon, 1947-48. Letter No. 268/48-S dated July 17, 1948. (Manager of Publications, Delhi)

India that there was a time when a number of her sons were made, under an arrangement which a foreign power in India made with foreign capitalists in Ceylon to leave India in search of employment and earn fair livelihood abroad, nor can independent Ceylon be held responsible for the unsatisfactory conditions under which emigration took place then." (Para 2)

"It cannot, however, be pretended that it was any ardent desire to develop Ceylon that persuaded Indians to leave their country for this. It was rather the lack of opportunity for employment in the village and its offer on very reasonable and attractive terms in this island that drew them away from the soil and home, to which they were so much attached and brought them in large number to Ceylon." (Para 7)

"It is clear therefore that Indian labourers migrated to this island primarily, I should even say solely, for employment on Estates." (Para 8)*

The emigration of the Indians continued as heretofore even after the passing of 1922 Act and it was only in the early thirties that the Ceylon Government in the wake of neo-nationalism and the world depression began to view the immigration of Indians with apprehension. True it is that Ceylon like every other country felt the tremors of the economic depression with its consequent effects on the economic life of the country. There was dearth of employment and the Government actually felt the agitation carried on by the public to open new avenues for relief. But the question of unemployment could not easily have been solved only by turning out of jobs the Indians who had been employed in Ceylon for the past several years. To make the matters worse a non-official resolution was introduced in the State Council formed under the Donoughmore reforms to the effect : "In view of the fact that thousands of people are thrown out of employment and are in acute distress, and on the verge of starvation, the Government do take steps to secure immediate relief of distress and evolve schemes to provide employment" and the mover of the resolution reported:

"I have figures here which show that in the year 1929, 262 Business Houses closed down, of which 40 were firms; that in the year 1930, 292 Business Houses closed down and of these 112 were firms and that upto August 1931, 241 Business Houses closed down, of which 117 were firms. In other cases hundreds of people were turned out and even the Government, the biggest

* Correspondence exchanged between the Government of India and Ceylon regarding the grant of rights of citizenship to Indians resident in Ceylon, 1947-48. Letter No. E-A-10/3/A, dated August 17, 1948, pp. 33-35.

employer of labour, have turned out several hundreds from the Government Factory, the Railway and the P. W. D.”*

The Hon’ble Minister for Labour and Commerce, Ceylon, appointed an informal committee to report on the unemployment in Ceylon. The report, inter alia, suggested some useful proposals to ease this problem. Settlement of the unemployed@ on the land, reform of the existing educational system and engagement of Sinhalese Labour on estates were some of the few suggestions. But close upon this report the Ceylon Government hit up a new plan to ease the situation. They decided to retire compulsorily all the non-Ceylonese daily-paid workers in Government employment.

“It was required that all non-Ceylonese daily-paid workers who had been granted Government employment or re-employment after a non-condonable break on or after April 1, 1934 should be given one month’s notice from July 1, 1939, of the termination of their services under Government *i.e.* their last working day was July 31, 1939.”†

The Indian Government thought that the Ceylon Government had acted unfairly to the Indians as all these steps were contrary to the undertakings given by Ceylon. This resulted in strained relations between the two Governments and the Government of India, therefore, imposed a ban on the emigration of unskilled labourers to Ceylon. The Indian people were much agitated over the hasty action taken by the Ceylon Government and they sent their non-official emissary, Pt. Jawaharlal Nehru to study the situation and it was due to his foresight and depth of statesmanship which brought about the birth of the Ceylon Indian Congress in 1939. The Organisation, as I will relate later on, has since grown from strength to strength and it has been in the fore-front for championing the cause of Indians resident in the Island. Its membership has embraced all the estates where Indians work and it has organised a net-work of Trade Unions for the benefit of workers—Indians and Sinhalese alike.

This in short is the history of immigration of Indian Settlers in Ceylon and as the method of recruitment have an important

* Debates (State Council of Ceylon), Session 1931, September 9, 1931, p. 190 (Hansard, Ceylon Government Press, Colombo, 1931).

@ Sessional Paper VII—1937, October 1936 (Government Record Office, Colombo, 1937).

† Sessional Paper XVIII—1940, p. 5.

bearing on the life and status of an emigrant, I shall devote a brief space in detailing its chief characteristics.

Ever since the beginning of systematic Indian labour emigration to Ceylon in 1839 recruitment had been conducted by Kanganies—Indian Labourers—who had seen service in the island and who visited the main-land for the specific purpose of finding labourers for colonial employment. It is no exaggeration to say that methods of recruitment decide once for all the role which the emigrant has to play in the land of his destination. Before tracing out the historical survey, I wish to point out that the Kangany system from the very beginning involved the family principle in recruitment and it is necessary to keep this in mind in view of the later developments culminating in the passing of the Citizenship Act by Ceylon Government in 1948. An assertion was made by Hon'ble D. S. Senanayake, Prime Minister of Ceylon in one of his letters to Pt. Jawaharlal Nehru that the Indians in Ceylon could not all be granted citizenship rights because they did not come to Ceylon for a permanent residence and that they had no abiding interest in the country. To quote his actual words :

“I may say that when Indian Labour came to work on estates in Ceylon, they came with the certainty of employment on very favourable conditions and the hope of repatriation at the end, and certainly not, in the spirit of settlers prepared to face the risks of true pioneers.”*

Similar views were expressed by Mr. S. W. R. D. Bandaranaike, a member of the Ceylonese Delegation, which visited New Delhi in 1940 for the Exploratory Conference. He asserted:

“I am refuting the idea that these labourers were originally brought over, or came over, particularly for our benefit; the idea that they have converted the wilderness of Ceylon into a paradise, as a certain gentleman representing the Ceylon Indian Congress Delegation has stated here. That was not the case. They did not come with our will or desire. They were brought over not merely for economic reasons but partly for political reasons—from the point of view of the British Government.”†

He added :

“Then we turn to the actual position of the Indians we find

* Correspondence exchanged between Governments of India and Ceylon in 1947-48, Letter dated 17th August, 1948 from Mr. Senanayake to Pt. Jawaharlal Nehru, p. 37, para 7. (Manager of Publications, Delhi.)

† Indo-Ceylon Relations Exploratory Conference, December, 1940, p. 7. (Manager, Government of India Press, New Delhi, 1941.)

this peculiarity there: that the Indian settlers in Ceylon, to a vast extent, in the case of the large majority of them, do not appear to consider Ceylon as their own country in the sense of identifying their interests with Ceylon.”@

The Prime Minister of India Pt. Jawaharlal Nehru thought that the views expressed by Hon'ble D. S. Senanayake were due to the wrong “interpretation of the History of Indian Immigration in Ceylon.”††

The Ceylon Labour Commission of 1908 described the system of recruitment in the following manner:—

“This system is.....of a purely patriarchal character, in its origin and principles. The Kangani, or the labour Headman, was in the beginning, and still is, in a large number of the older and more solidly established estates, the senior member of his family group composed of his personal relations, to whom may be added other families drawn from villages in Southern India from the vicinity of which he and his relations also come. The labour force thus formed is subdivided into a number of smaller—groups, each under its patriarch, the sub or silara-Kangani; and the family principle is further manifested in the groups which are under these minor Headmen, a man with his wife and children, and it may be one or more close relations assuming joint responsibility for advances made to them and holding their earnings in some sort in common.”*

Though the Kangany system of recruitment has essentially remained the same from the very beginning, there have been changes in the control of recruitment from time to time. This can roughly be divided into three major periods :—

1. The period when the employer through individual efforts and with funds at his disposal was able to get labourers uncontrolled by either the Government of India or of Ceylon. The period lasted from 1837-1904. During this period, the Kangany was sent by the employer with adequate funds to recruit workers from Southern India. It was a period of great hardship for the workers as the Kangany often used unfair means in the transportation of workers and mis-appropriated the money saved in transporting the workers to ports. Often the labourers had lengthy marches to the east coast

@ Indo-Ceylon Relations Exploratory Conference, December, 1940, p. 8. (Manager, Government of India Press, New Delhi, 1941.)

†† Correspondence exchanged between Governments of India & Ceylon in 1947-48, Letter no. 1252-PM dated September 8, 1948 from Pt. Jawaharlal Nehru to Mr. D. S. Senanayake.

* Dr. Lanka Sundram: *Indians Overseas*, p. 22.

and at ports suffered detention for several days. Later on the Ceylon Government provided certain facilities and amenities to workers.

2. Coast Agency—When the planters found that the abuses in the recruitment had assumed vast proportions and specially when large cash advances were required to be paid, they combined and created an Agency called the Coast Agency for the purpose of financing and supervising recruitment for such of the planters as elected to become the members of the Agency. From 1904 there began to operate two sets of Kanganies in India, one uncontrolled and the other controlled by the Agency. Though the conditions of the workers improved appreciably, yet through illegal recruitment they suffered miseries as usual, in varying degrees.

3. Then owing to the pressure of public opinion, the Government of India had to pass legislation in 1922 stopping emigration to all colonies, which did not satisfy certain conditions. It was made imperative from March 5, 1923 (the date on which the Indian Emigration Act 1922 as also Emigration Rules made thereunder came into force) that all persons assisted to emigrate should have their passages paid by a common fund to be created by levying a cess on every plantation estate requiring Indian labourers.*

Kangany and repercussions on the economic condition of the workers.

The Indian labour force on an estate in Ceylon consists of several gangs of varying size upto 25 or 30 persons, each of which gang is under a Headman, himself—an Indian immigrant, called a Kangany. There may be several Kanganies on larger estates, who may be placed under one or more Head Kanganies. The Kangany supervises the work of his gang in the field. The Head Kangany practically controls all the domestic affairs of his gang; he settles the disputes and deals with all minor complaints and grievances. He is an intermediary between the estate superintendent and labourer in all financial matters excepting in regard to the payment of his wages.†

The system has obviously many advantages to the planters in as much as the estate manager is saved a good deal of time and trouble by having to deal only with one person—the Kangany and further he can hold the Kangany responsible for the debt of the member,

* K. Natesa Aiyar : *Indo-Ceylon Crisis*, pp. 15-18.

† Marjoribanks and Marakkayar: *Report on Indian Labour emigrating to Ceylon and Malaya*, p. 5.

who either died or absconded. But as far as the labourer himself was considered, the disadvantages far outway the advantages accruing to him.

We know that with the boom in tea cultivation, and employment of labour all the year round, there was a keen competition for getting efficient labour. Large advances were freely offered through the Kangany, but the consensus of opinion is that the larger share out of this money went into the pocket of the Kangany himself and that a meagre fraction was actually paid to the workers. Many witnesses of experience bore testimony to this effect before the Ceylon Labour Commission in 1908. But recruitment by Kangany and the system of advances known as 'Tundu' led the labourer into chronic indebtedness and serfdom, and it almost determined for all times to come his position as a unit in the social and political life of the country of his adoption.

The travelling expenses of the recruit from his home until he arrived on the estate for employment in Ceylon were advanced to him by the Kangany. This debt was subsequently increased by further loans for marriage, festive occasions or credit purchases. The cumulative amount of debt was such a staggering figure that the worker could never dream to pay it back in full and his helplessness for non-payment resulted in the inferior status he acquired, and he hardly took any interest in matters social and political and indeed in any problem of importance facing the country of his adoption. He was in a way tied down to the estate and could hardly be expected to voice his feeling before the Kangany, who took full advantage of the indebtedness of the workers. Not only this, the Kangany was able to transfer the workers from estate to estate as he wished by obtaining from the employer a document, the Tundu, stating that he was prepared to discharge his workers on payment of their liabilities to him (*i.e.* the sums advanced to them) the amount of which was duly noted in the document. If the Tundu* was accepted by any other employer and the debt specified thereon being discharged with or without an additional cash payment to the Kangany, the group of workers was transferred from one estate to the other. Such was the helplessness not only of the worker himself but also of employers, who were eager to recruit labour for planta-

* For a specimen of the document known as Tundu, kindly refer to Appendix I. The specimen has been taken from Marjoribanks' and Marakkayar Report, p. 47.

tion and the Kangany took full advantage of the situation of those times.

This will incidently also shed a light on the problem whether these labourers had gone there only for temporary occupation. The following apt illustration will clarify the position :—

“If the debt due (through the Kangany) to an estate by each labourer of a gang of, say, 20 averaged Rupees 30, the Kangany might ask for Rs. 10 more per head. If he got it, the debt against each labourer would be Rupees ten more in the book of the estate, though the extra Rupees ten might not all, or any of it, reach the labourer. If the Kangany was refused the further advance, he would demand and get his Tundu for himself and the twenty labourers, the total debt being put down at Rupees 600 and he would hawk this round till he got a superintendent to give him, say, Rupees 750. Of this, Rupees six hundred would go to the Superintendent of the first estate who would thereupon discharge the Kangany and his gang of 20 labourers, and the balance of Rupees 150 would be taken by the Kangany ostensibly to give to the labourers; but, whether it reached them or no, their debt in the books of the new estate would now average Rs. 37/8/- (Rupees $750 \div 20$).”*

These transactions were legally recognised; but in 1908, the Ceylon Labour Commission recommended the abolition of the Tundu system and after the adoption of a resolution for its abolition by the Planters' Association in 1921, it was abolished in the same year by the Tundu Prohibition Ordinance.**

To check the evils resulting from the above practice, various measures were devised by the Ceylon Government which introduced in 1902 a system known as the Tin-Ticket system. These tickets are little discs of tin punched with a letter and two numbers. The letter denotes the district, the first number is the number of the estate in the official register of the estate and the second number is a serial to denote the particular labourer for whom it is used. These tickets may be purchased at any Government Kacheri in Ceylon by an estate superintendent at Rs. 2.50† per hundred. The superintendent may give them to his recruiting Kangany or send them to the Ceylon Labour Commissioner at Trichinopoly. They give one to each labourer proceeding to that particular estate and

* Marjoribanks and Marakkayar Report, p. 6, para 18.

** Legislative Enactments of Ceylon, Chap. 113.

† A decimal system of coinage prevails in Ceylon, a Rupee consisting of 100 cents.

on arrival of the labourer at the Ceylon Government quarantine camp, the labourer presents his ticket to the camp superintendent and he is thereupon entered in a register and neither he nor the kangany has to make any further payment in cash on account of either food or transit charges from the camp to the estate. All these charges are borne in the first instance by the Ceylon Government and the cost of transit (Railway and Steamer Fare) is, at concession rates, recovered subsequently from the estate along with half the cost of the food charges of the labourer in the quarantine camp and on the subsequent journey. The other half of the cost of feeding is borne by the Ceylon Government, who also defray all other expenses of the quarantine camps.

Attempts have also been made through legislation to check the evils of indebtedness. In pursuance of the recommendations of the Ceylon Labour Commission 1908, an Ordinance was issued in 1909, which provided that the wages shall be paid monthly into each labourer's hands and the payments will be certified by Superintendents and information furnished to the Government Agents under heavy penalty for default. It further provided that no employer shall employ any labourer other than a boy or girl who has been born in Ceylon and has not previously been employed on an estate unless he has received in respect of such labour—

(a) A discharge ticket, which is a document giving particulars of the labourer and of his last employment and also of his indebtedness to his last employer, or

(b) In the case of newly imported labourer, a certificate issued by the government quarantine authorities at Mandapam or Ragama (for labourers coming from Tuticorin),

and (c) A certificate issued by the Police magistrate.

It was intended to meet the case of labourers not employed on an estate for three years previous to date or of labourers whose last employer refused or neglected to issue discharge tickets, though a severe penalty was provided for such refusal or neglect.

This chronic indebtedness made the labourer almost a serf dancing to the tune of the Kanganies' wishes, fair or unfair and he could hardly pay the amount of debt in his life time. "The average debt of a labourer in Ceylon is estimated by planters of experience to be about Rs. 70. In individual cases the figure is much larger.

We have seen Tundus where the debts per labourer averaged over Rupees 200.”*

The emigration of unskilled labour to Ceylon continued under the provisions of Emigration Act of 1922 until the autumn of 1939 when the Government of Ceylon began a policy of discharging non-Ceylonese daily-paid workers employed in Government Departments. On 1st of August 1939, the Government of India placed a ban on emigration of all unskilled labour from India to Ceylon, whether employed by Government or by private employers.

The above relates to the immigration of unskilled labour. There is another class—that of traders and skilled labourers, who are not so numerous as to constitute a major political problem, but who are all the same regarded as a considerable menace to Ceylonese Commercial Interests.

All this leads to one irresistible conclusion; that the system or recruitment** in vogue or pursuit by the employer had features in abundance, which seriously impaired the future of the labourers. The real master of the whole situation was the Kangany, who took full advantage of the ignorance or backwardness of the labourers and who with almost uncanny cleverness loaded them with debts, which besides having an adverse economic effect, relegated the labourers to the position of serfs quite unfit to take an effective part in the day-to-day problems of the country of their adoption. Not only this, generations after them could not rise for lack of opportunities owing to the economic backwardness of their parents and probably this was one of the great factors why they could not identify themselves with the indigenous population of the country and got assimilated in the masses. This had serious repercussions in Ceylon and it constituted a major cause in bringing about estrangement between India and Ceylon—countries, which could contribute a great deal to the civilization of Asia, nay of the whole world once they lived in amity and contentment.

* Marjoribanks & Markkayar Report 1917, p. 10, para 31.

** The Mistri system in Burma, where the labourer was under contract to the mistri, had possessed some of the worst features of the patriarchal principle of the Kangany system and was as obnoxious and pernicious as the latter in economic incidence.

Dr. Lanka Sundaram: *India in World Politics*, pp. 187-190.

CHAPTER II

Franchise

Ceylon is a country of various races and communities, which differ from each other in many important characteristics—those of religion, customs, language and day-to-day mode of life. The Sinhalese as a race predominate the country and number 4,620,507 while Ceylon Tamils, who mostly inhabit the Eastern and Northern part of the island known as Jaffna number 733,731 and Indian Tamils, with whom this study is concerned number 780,589.* Besides the above, Ceylon Muslims (Ceylon Moors and Indian Moors) numbering 409,183 and Burghers and Eurasians numbering 41,926 form other important minorities in Ceylon. In Ceylon, as in other countries, the constitutional problem has been essentially a problem of reconciling the demands of the minorities for an adequate voice in the administration of the country so that their racial or religious or other important traits might not suffer from an unsympathetic or prejudiced majority, and the minorities everywhere have been most anxious to have certain safeguards incorporated in the body of the constitution. The distribution of political power between the various communities is determined by the extent of franchise and by the method of representation, and the clamour for political power in excess of the numerical strength of a particular minority can only be met by the tact and genius of constitution-makers or by an enlightened majority ready to sacrifice the interests of an individual or group in comparison to the interest of a nation or a country.

The constitutional history of Ceylon has been such a smooth evolutionary process that excepting for some far-reaching changes made by the Donoughmore Commission in 1929, there have been hardly any constitutional changes of magnitude as we come across in the constitutional history of India or any other country, where the ruling party has been ousted by a revolution of the

* The population figures have been taken from Census of Ceylon 1946, Vol. I, Part I (General Report), p. 151.

whole population. For if one probes deeper into the constitutional history of Ceylon two very important factors come to light. Firstly, the present constitutional position of the island has been attained not by a revolutionary fervour of the nation but by a group of persons who by petitions or tact or statesmanship have been able to convince the administrators of their untenable position in a world, which professes to be democratic and specially after witnessing the horrors of two world wars, and secondly the nationalistic movements in India for wresting political power from the hands of the Britishers have had a tremendous influence on the upsurge of nationalism in Ceylon and though the Indian movements did not generate in Ceylon such a revolutionary wave as to have involved the whole nation in the liberation movement, yet they exercised a tremendous influence on the minds of the British administrators to assess public opinion in the face of world events and thus eventually to have agreed to grant a substantial measure of self-government. For it was not a mere accident that the Minto-Morley Reforms of 1910 in India were followed by a grant to Ceylon of an elective principle in the constitution, however, limited it might have been. Nor was it a mere chance that soon after the Montagu-Chelmsford Reforms of 1919 in India, Ceylon had been granted far-reaching reforms under the constitution of 1920. The non-co-operation movement of 1921, and 1930 and the "Quit India" movement of 1942 in India exercised powerful influence in the direction of securing for Ceylon a wide autonomy in administrative and constitutional spheres. Ceylon ought therefore for ever remain grateful for the sacrifices of Indians across the Palk Strait. It is in the light of such historical circumstances and facts that the Indo-Ceylonese problem should be viewed, for only then will each side be in a position to appreciate the other's viewpoints and be able to contribute substantially towards the solution of the problem.

After the surrender of the Dutch to the British in 1796, their maritime settlements were administered by the English East India Company as part of the Madras Presidency until 1802, and only after 1815 was the island of Ceylon put under officials appointed by and responsible to the Governor. In 1823 Colebrooke Commission suggested far-reaching changes in the administration of the island but his suggestions were so revolutionary that they had to wait for a period of ten years before they could be put in practice. Besides the Executive Council of five members, a Legislative Council of

15 members with an official majority, but including nominated element of Ceylon's population, was established. Thus a beginning had been made in constitutional Government in which the Ceylonese had a share. The Indian immigration started in 1839; and hence the question of the status of Indians did not arise at this stage.

The fundamental principles of the constitution of 1833 survived till 1910. During this period of three-quarter of a century, persistent efforts were made to secure reform of the constitution particularly in regard to the demand for representative government. But the colonial office resisted the demand on the plea that any system of suffrage would place power in the hands of Europeans and Burghers to the disadvantage of the great majority of Ceylonese. The population sometimes made frantic efforts to overthrow the Government by force, but due to lack of unity they fell a prey to the superior force of arms of the administrators. These efforts of 1848 were said to have been great revolutionary forces of the populace, which wanted to unburden the yoke of the foreign masters. But the ruthless martial Law and the proclamation that the movement was that of a few misguided elements of plunderers and marauders crushed the revolutionary element, and the Governor was glad to inform the Secretary of State for Colonies—

“The crisis was one of those in which hesitation or doubtful measures would have been profitless or inexcusable, and I can have no hesitation in attributing to the military authorities the utmost desire to tamper justice (28 individuals have been condemned to transportation for different periods, 18 have been condemned to death and 66 have been condemned to various higher grades of punishment, Para 6 of the Despatch) with mercy, and I am fully convinced that a stern sense of duty under very trying circumstances, compelled them to adopt those vigorous measures, which could alone lead to the tranquilization of the country and the general security of Her Majesty's subjects in the Kandyan country.”*

Hon'ble Mr. S. W. R. D. Bandaranaike expressed similar sentiments at the time of the Exploratory Conference of 1940, when he declared—

“After a rebellion that took place in what is known as the Kandyan provinces of Ceylon, the lands of the Sinhalese were

* *Torrington's Despatch to Secretary of State for Colonies*, No. 185 Misc., Dated Colombo, October 14, 1848. (National Archives of Ceylon, Nuwara Eliya.)

to a great extent confiscated and taken over—partly confiscated and partly taken over under a peculiar ordinance called to be Waste Lands Ordinance which declared that all land belonged to the Crown, throwing the onus on the occupier to prove positively that the land belonged to him. Under the terms of this ordinance as well as by confiscation after the rebellions of 1840 and 1845, the lands were confiscated and a definite policy was adopted by the British Government of, perhaps, creating a situation where the possibility of such rebellions in future would be reduced to a minimum.”@

A considerable number of Indians had immigrated into Ceylon due to the coffee plantation boom upto 1880 and thereafter for the tea plantations, but under the constitution then prevailing *i. e.* upto 1910, the Indians were at par with the Ceylonese as far as the question of distribution of power was concerned, because under the autocratic system of Government, every element of the population was excluded from a share in the administration. Due to pressure of popular will, eventually, a new departure was made in 1910. In a Legislative Council of 11 official and 10 unofficial members, four of the latter were to be elected—2 Europeans, one Burgher, and one other Ceylonese. There was, however, no question of representation of Indians by election under the reforms then suggested. But a very important event in the constitutional history of the island took place in the election of a Ceylonese member to the Legislative Council, although its significance was not very widely understood. The elected seat went to a Tamil although Ceylonese electorate then could have returned a Sinhalese. If the same spirit had been continued, the island probably would have attained independence long before and any constitutional crisis in the history of the island would have been unknown. As it happened, the consolidation of the Nation could not be properly secured due to the disunity in the ranks of various important elements, which constituted the population and in such an atmosphere, the Britishers played their own significant role in magnifying those differences to a degree where unity to forge a united will of the people would have been impossible. For although the educated Ceylonese were clamouring for elected majority, the Governor of the island, Sir H. E. McCallum, in his Miscellaneous Despatch No. 346 dated Ceylon, May 26, 1909 to the Secretary of State for Colonies had

@ Sessional Paper IX—1941, p. 6. (Government Record Office, Colombo, 1941.)

been belittling the significance of an elective principle in the election to the Legislative Council.

“The vast majority of the native* population”, writes he, “have never evinced any desire to vote for these representatives; to many of them a vote would be meaningless; and the power to record a vote is a privilege which very few of them, I am convinced, would be capable of exercising with judgment or intelligence. An objection of even greater moment, if possible, is to be found in the fact that the class of persons who would be likely to present themselves as candidates for election would be in no sense truly representative of the native masses. They would be drawn exclusively from the ranks of those natives who have received a European training and education, and they would be able to speak with authority for that small class alone. Moreover, I am of opinion that the introduction of the elective principle would speedily lead to the creation of a class of professional politicians, to whom self-advertisement and agitation would be essential necessities of existence, whose election campaigns would cause unrest and distraction among the ignorant masses, whose minds are hardly attuned to appraise at its proper value the worth of promises and statements made upon the hustings, and it certainly not be disputed that their presence on the Council would contribute neither to the despatch of business nor to the tranquility of the colony.” (Para 34)

“..... Accordingly any claim which this class of the native population may put forward to a title to speak for those from whom their whole training and education has sought designedly to divorce them is, in my opinion, altogether inadmissible. In other words, the Oriental who has studiously forced himself during all the most malleable years of his life to discard the native tradition in favour of that of the European, who has consciously taught himself to think as Europeans think, to adopt theories of life and Government which are the exclusive product of the European intellect, character and civilisation, has got something which may or may not be of profit to him, but it must be recognised that he has at the same time ceased to be in any sense a typical Oriental and thereby has forfeited his right to speak with authority on behalf of the typical orientals who form the immense bulk of his fellow-countrymen. This is a point which, I venture to think, is in danger of being over-looked when questions such as the present are under discussion, and unless it be kept steadily in mind, the granting of what, on the face of it, might be thought to be more liberal political institutions may, in actual practice, result in giving to a small and peculiar class of the native population, alien in training, education, civilization, and interests to the bulk of the people, rights and privileges which it is fondly

* As different from Indians.

imagined are being bestowed upon the natives of the land as a whole.”* (Para 35)

But even in the face of such trenchant criticism of the Governor, the Secretary of State for Colonies could not help appointing a commission to report as to what further steps be taken to associate more effectively those elements in the population, who were so vehement in putting forth their demand for direct election to the Legislative Council of the Island. The elective principle was conceded to, but the commissioners recommended the keeping of separate register of voters for the Burgher and Ceylonese communities. It must, however, be borne in mind that Indians as such had not been given any elected seats in the Legislature, although their number had by this time swelled considerably. The Ceylonese register of voters was mainly to be based on literacy qualifications and women were denied any right to vote.

The agitation for further reform of the constitution was greatly stimulated by events such as the enunciation of principles of future British Policy towards India in 1917. The Constitution of 1920 is a landmark in the constitutional development of Ceylon for besides other substantial concessions granted, the 23 non-official members of the Council were to be in a majority in a Council of 37 members. Eleven persons were to be elected on a territorial basis, but Indians were conceded only one seat by nomination. The general qualifications for a voter were†—

“No person shall be qualified to have his name entered on any register of voters in any year if such person—

- (a) is not a British subject; or
- (b) is a female; or
- (c) is not of the age of 21 years; or
- (d) is unable to read and write English, Sinhalese, or Tamil; or
- (e) had not resided in the electoral district to which the register relates for a period of one year prior to the thirty-first day of July in such year; or
-
- (h) does not possess one of the following qualifications, viz:—
 - (i) A clear annual income of not less than Rs. 600;

* Papers relating to the Constitutional History of Ceylon, 1908-1924 (Government Printer, Ceylon 1927), pp. 9-10, paras 34-35.

† The Ceylon (Legislative Council) Order-in-Council, 1920, para 24; (Papers relating to Constitutional History of Ceylon, 1908-1924.)

- (ii) The ownership of immovable property, either in his own right, or in right of his wife (but not as lessee or usufructuary mortgagee), situate within the electoral district to which the register relates, for a period of one year prior to the thirty-first day of July in such a year, the value of which, after allowing for any mortgage debts thereon, is not less than Rs. 1,500;
- (iii) The occupation as owner or tenant for the period of one year prior to the thirty-first day of July in such year of any house, warehouse, counting-house, shop, or other building (hereinafter referred to as qualifying property), situate within the electoral district to which the register relates, of the annual value of not less than—
- (a) Rs. 400/- if situated within the limits of any Municipal, Local Board, or Sanitary Board, Towns or of any urban District Council;
- (b) Rs. 200/- if situated elsewhere;
-”

We will thus see that the franchise mainly related to literacy and property qualifications and if these tests were applied to the Indian community, only an insignificant number would have been enfranchised, because majority of the Indians were workers on estates and besides being illiterate did not possess the property qualifications demanded from other class of voters.

The next step towards constitutional advance was made in 1923 when by the Ceylon (Legislative Council) Order-in-Council, a new Legislative body was constituted consisting of 12 officials, and 37 non-officials. The only important change as far as the Indians were concerned was that instead of one, two Indians were to be nominated by the Governor to represent the Indian Community, and the term “Indian” was defined in the constitution as follows:—

“The term “Indian” means any person who is a native of British India or of the territories of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India, and is a resident of Ceylon, but is not domiciled therein.”*

And the only important change made in the qualifications of

* The Ceylon (Legislative Council) Order-in-Council, 1923 as amended in 1924, p. 233. (Papers relating to the Constitutional History of Ceylon, 1908-1924).

voters related to section XXVI-(i) (e) given in the aforesaid order where a voter's period of residence in an electoral district was now to be six months instead of one year under the 1920 constitution.

This constitution did not prove workable and the new Legislative Council was formally inaugurated only near the close of the year 1924. Persistent demands were made for the widening of the franchise and for more share in the governance of the country. The Secretary of State, therefore, announced the appointment of a special commission, known as the Donoughmore Commission, which revolutionised the whole concept and basis of government in Ceylon and recommended far-reaching changes so far as the extension of franchise was concerned.

The Donoughmore Commissioners not only recommended complete abolition of communal representation, but they further decided that "literacy should not remain as one of the qualifications for electors at elections for the State Council."* But the Commissioners were on the horns of a dilemma, because responsible opinion in Ceylon—Sinhalese as well as Tamil—favoured the grant of responsible government, but were against the extension of franchise. The Commissioners were aware of the backward character of social and industrial legislation in Ceylon and the plight of the working classes. The number of registered voters in 1924 was 204,997 which worked out to be 4% of the total population of five millions. Therefore leaving aside even the question of the modern principle of political equality which is inherent in the concept of democratic and electoral institutions, they decided to widen the basis of franchise on consideration of expediency and they could not have possibly recommended the grant of further responsible government to Ceylon unless that government were to be made fully representative of the great body of the people. They had a firm belief that for putting an end to the corruption and manipulation in elections, the larger electorate acts as a stumbling-block and a serious deterrent to the machination of those political groups, which by virtue of mature political experience or education benumb the political faculties of the less experienced or the less educated.

Further, they came to the irresistible conclusion, looking to the social and political conditions then prevailing in Ceylon, that

* Donoughmore Report (Reprint), p. 87. (Government Publications Bureau, Colombo.)

only by the exercise of the vote can the illiterate and ignorant masses in Ceylon feel that they had a voice in the governance of the country. Nor was this all. They thought that the indirect result of such an exercise would prove a great factor in the political education of those, but for whose labour 'nothing resembling the manifold advantages which have accrued to the Island from the production, first, of coffee and later of tea and rubber could possibly have been gained.'* They, therefore, examined in greater detail the basis or the factors, which had prompted the adoption of the suffrage qualifications at the last revision of the constitution together with all those new factors, the emergence of which had indicated a desire in the populace to demand a greater share in the government of the country.

The retention of the literacy qualifications was the most contentious clause, which had found place in the previous constitution. Conflicting arguments for and against were put forward by the witnesses. It was argued by one set of witnesses, that the electorate should be intelligent and should understand the pros and cons of the political questions before the country and it was, therefore, desirable that the electors should be able to read newspapers and form their opinion by reading political literature. Those against literacy qualifications thought that the average countryman with his 'horse sense' was wiser than the city-folk and that a mere ability to read and write was no sure test or evidence of the possession of political sagacity or acumen to judge the political issues before a country. Indeed the Donoughmore Commissioners were very much sympathetic towards the members of the Indian community for they opined that if a literacy test were to be imposed it "would produce a mere handful of electors as by reason of their low birth and lack of opportunity they are very largely illiterate."

"We would hesitate", wrote the Commissioners, "before recommending the imposition of any qualification which would deny to these humble people the political status of their more fortunate fellows and the opportunity of escaping from conditions some of which are incongruous in any country with established democratic institutions."†

As has been stated earlier, the Commissioners had in mind

* Sessional Paper III—1938, Edward St. J. Jackson: Report of a Commission on Immigration into Ceylon, p. 24.

† Donoughmore Commission Report—p. 86. (Government Publications Bureau, Colombo.)

not only the contribution made by the Indian immigrant population towards the economic development of the island and the conditions under which they worked on tea and rubber estates at altitudes "where Sinhalese have hitherto been unwilling to work in large numbers."* ; they knew their economic plight, which had reduced them to a very inferior position in the social life of Ceylon. They, therefore, admitted that:

"In view of the economically helpless position of these Indian immigrant workers, their large numbers, and their utter lack of organisation, it was decided at the last revision of the constitution that two Indian communal representatives should be members of the Legislative Council.....In considering whether the retention of these two members on a communal basis is desirable or necessary, it has to be remembered that on the one hand, the British planters naturally tend to regard their relationship with their estate workers primarily from an industrial point of view, while the Ceylonese members of the Legislative Council, on the other hand, including a number who are themselves planters, just as naturally, do not feel any great responsibility for an element in the population that is largely alien and for this reason not viewed with any enthusiasm."@

They did not view with favour any of the suggestions which wanted to alter the minimum age for voters, or the retention of property, income, or literacy qualification. They, therefore, recommended the adoption of manhood suffrage with three possible exceptions:

1. That the minimum age for women be 30 years,
2. That the privilege of voting be confined to those, who apply for registration of their names,
3. A qualification of five years' residence in the island (allowing for temporary absences not exceeding eight months in all during the five year period) should be introduced in order that the privilege of voting be confined to those who have an abiding interest in the country or who may be regarded as permanently settled in the island.

The above exceptions were made partly to meet the wishes of those, who did not favour a big step in enfranchising the whole population of the Indian immigrant labour and partly to limit the actual voting

* Donoughmore Commission Report—p. 95. (Government Publications Bureau, Colombo.)

@ *Ibid.* p. 96.

strength to a minimum commensurable with the extension of responsible government. As will be clear from the above, these were revolutionary changes and though they might not have been in accordance with the wishes of Indian opinion in Ceylon, the Indians were much appreciative of the sympathy shown by the commissioners in the just enumeration of their plight and the motive which had prompted them to make recommendations especially in regard to franchise. Under the 1923 constitution, as already described Indians with six months' residence in the respective electoral districts had, on the same basis as the rest of the population, a vote in territorial electorates as well as the additional right to elect two communal members in an All-Ceylon electorate. The Donoughmore Commissioners, however, imposed a qualification of five years' residence to be eligible for a vote. The Indians did not feel happy over this change, which had seriously and adversely effected them, but they acquiesced in to prove their bonafide in identifying them with the indigenous population in their aspirations.

The recommendations of the Donoughmore Commission were debated in the Legislative Council and it seemed that the scheme adumbrated by them did not have any chance of acceptance by Sinhalese opinion unless it was modified in material aspects. The Indians and certainly a vast majority of Indians were plantation workers—were mostly concentrated on up-country estates in the Uva, Sabaragamuwa or Central provinces and their number was in the neighbourhood of 7,00000. The Sinhalese feared that an unrestricted extension of franchise to Indians such as was proposed by Donoughmore Commission would seriously jeopardise the interests of the Kandyans and the Indians with their present number would easily swamp the Sinhalese votes in those areas, and Sir Herbert Stanley, the then Governor of the Island rightly remarked:

“The only large concentration of Indian labourers outside of one or two probable constituencies in Colombo is on up-country estates in Sinhalese, and especially Kandyan areas. It is intelligible, therefore, that the opposition to the wholesale enfranchisement of Indians should emanate principally from the Sinhalese community.”*

And Sir Stanley had further suggested a possible fear of the Sinhalese community for the latter feared a combination of the Cey-

* Sessional Paper XXXIV—1929, p. 13, para 32. (Government Record Office, Colombo, 1929.)

Ceylon Tamils and the Indian vote on "considerations of racial, linguistic and religious affinity."*

The Sinhalese, therefore, agitated for tightening up of the qualifications as far as the Indian vote was concerned and they demanded specifically that the test of past residence (5 years' residence as recommended by Donoughmore Commission) should be reinforced by a further indication of an intention to reside in Ceylon with a view to becoming a permanent element in the island's population.

Sir Stanley besides interposing a few prefatory general remarks on the Report in his Despatch to Secretary of State for Colonies deals comprehensively with the franchise question, as he being a man on the spot could considerably influence public opinion in England and the colonial office stationed there. He was aware that the Legislative Council while debating the recommendations of the Donoughmore Commission had passed a resolution favouring a literacy test over and above the qualification of residence. But he was confident that some of those who voted for the resolution voted for it because they thought it necessary that some positive resolution should be adopted. He said:

"The question of the enfranchisement of Indian labourers may probably have turned the scale in its favour by uniting in one camp some of those who saw in the universal application of a literacy test the only actually attainable means of securing the immediate exclusion of the Indians from the territorial franchise and some of those who saw in it the only actually attainable means of securing their eventual admission."†

Sir Stanley believed that in the then prevailing conditions of social life in Ceylon a literacy test would be a miserable failure on several grounds and especially on allegations of partiality indulged in by "minor functionaries"§ and the resultant ill-feeling engendered between various communities or castes.

Taking into consideration the views expressed by the vote of the Legislative Council as well as from the discussions he had individually or collectively with persons of important political opinion, Sir Stanley came to the conclusion that for a general acceptance of

* Sessional Paper XXXIV—1929, p. 13, para 32. (Government Record Office, Colombo, 1929.)

† *Ibid* p. 12, para 29.

§ *Ibid* p. 12, para 29.

the proposed constitution it was necessary to make certain modifications in regard to the franchise proposals as embodied in the recommendations of the Donoughmore Commission, and he, therefore, suggested that subject to special provision for the undomiciled, domicile should be made the standard test for securing a vote. He proposed that for domiciled and undomiciled alike the preliminary requirements to be a voter should be, (1) British nationality, (2) a minimum age of 21 years for persons of either sex, (3) the absence of mental disability or criminal antecedents and (4) the condition of residence for six months, of the eighteen months immediately preceding the preparation of the register, in the electoral district to which the register relates. In this way, he hoped that practically all Ceylonese, and quite an appreciable number of Indians and also a few Europeans would be entitled for registration. For the undomiciled he proposed two alternative qualifications in lieu of that of domicile. The first alternative would be compliance with the franchise conditions of the 1923 constitution, which mainly related to literacy and possession or occupation of property or enjoyment of an Income as has been stated earlier in this chapter. Thus Indians of the higher strata of society engaged either in commerce or professional work would be entitled to registration. The other alternative would be the production of a certificate of permanent settlement granted by some duly appointed officer.*

For these innovations, the Stanley Despatch as it is commonly known in the constitutional History of Ceylon, will remain a landmark so far as the status of Indians in the island is concerned. The Indians saw in his proposals all those traits, which discriminate between the various elements of population in a country and therefore they raised objections not only in regard to the manner of the acquisition of franchise rights in relation to those tests but they attacked the fundamentals of those proposals because they undermined the good relations subsisting between Sinhalese and Indians and also the very basis of social set-up in Ceylon. Not only this; his proposals in regard to the standard test of domicile for acquiring franchise seemed externally to be innocent, though the procedure for acquiring them was cumbersome; they inherently attacked that nobility of human relationship which could only subsist in an atmosphere of perfect equality of opportunities for various elements

* Ceylon Sessional Paper XXXIV—1929, Despatches relating to the Ceylon Constitution, pp. 13-14, para 35.

of population and without which racial arrogance so universally condemned by all right-thinking people would eventually show its wickedness in all its nakedness. For, 'domicile of origin' becomes not only the standard test of franchise, but in the peculiar circumstances of Ceylon history it becomes the very basis of denial of public opportunities for a section of the people; as in Ceylon various enactments define "Ceylonese" in terms of domicile of origin. Indians, therefore, could not reconcile themselves to what they thought was a pernicious but subtle move to exclude them from the very fabric of human society in Ceylon and which if left untouched would have encouraged the Ceylon politicians to relegate them to the position of serfs. They, therefore, feared that Sinhalese nationalism with which was inherently attached economic nationalism, would make Indians a special target of their wrath and would on one pretext or another exterminate them by the vast majority in Legislature which the proposals of Donoughmore Commission gave them on account of adult suffrage and which were being curbed for the Indians by the proposals of Sir Stanley in regard to standard test of domicile or for producing a certificate of permanent settlement both based on a five years' residence.

Let us examine the intricate formula suggested by Sir Stanley in regard to the domicile of origin. It may, at the outset, be pointed out that for a proper appraisal of the status of Indians in Ceylon, the one fact to be clearly borne in mind while examining the proposals put forward by various constitutional experts, is the illiterate and economically backward character of a vast majority of those, with whom this enquiry is mainly concerned. Coupled with these will naturally be lack of initiative, lack of opportunities and lack of organisation.

Dicey, that constitutional wizard of world fame, came to two rather unhappy conclusions in regard to the substance or definition of domicile. Firstly, that a satisfactory definition of domicile was from the very nature of things unattainable and secondly, that even if it were definable, every attempt to obtain a serviceable definition had ended in failure.* Mahatma Gandhi opines that the term domicile is a risky legal term of little political use and poses the question, "why should not the homely word 'resident' be used?"†

* A. V. Dicey : *Conflict of Laws* (ed. by J.H.C. Morris), Sixth Edition, 1949, p. 82.

† "*Harijan*"—June, 1939.

As the domicile of origin is a status attaching to a person at birth, one has obviously to prove that his father had a Ceylon domicile when he was born. Take an ordinary case. An Indian migrated to Ceylon 50 years ago. Obviously when he came to Ceylon his domicile was India. Suppose he had a son within a year and there was no opportunity for a change of domicile, the domicile of origin of the father would be fastened on to the son. That is, the son's domicile of origin would be India, although he was born in Ceylon and had lived in Ceylon for 50 years.

Another subsequent difficulty will be that the question of domicile of such children will arise only on their attaining the age of 21 years when they will be considered for getting their names registered as voters under the general qualifications prescribed for a voter. Probably the father is dead during that period and whether he regarded India or Ceylon as his home at the time of his birth would be impossible to find out or to prove. For, beside residence, intention must concur to prove domicile of origin, and the proof of intention involves "investigation of a miscellany of indicia, such as aspirations, fears, plans and verbal statements of the propositus, incapable of precise definition."*

Lord Passfield in his Despatch dated October 10, 1929, to the Governor of Ceylon was himself very much sceptical about the "domicile" test when he wrote: "The definition of "domicile" involves legal questions of much difficulty and complexity, and the qualification would hardly be suitable if it stood by itself."†

The procedure to obtain a certificate of permanent settlement is still more cumbersome and as has been stated earlier must be viewed in relation to the actual condition of the illiterate labourers, who were required to obtain a vote on the strength of its production. Firstly, a person is required to furnish a satisfactory evidence of five years' residence in the island. Secondly, he or she must make an attested declaration to the effect that he or she was permanently settled in the island or was residing within the island with the intention to settle therein, and thirdly, he or she must renounce the special protection by any government other than that of Ceylon or any statutory rights, privileges etc. which the residents of

* P. R. Ramchandra Rao : *India and Ceylon*, Madras—p. 40.

† pp. 24-25, para 10 of the Despatch referred to in the text. (Sessional Paper XXXIV—1929)

all races and communities were not entitled to. The above three conditions* to obtain a certificate of permanent settlement proved a deterrent for the illiterate masses to avail of the opportunity of getting them registered as voters on the strength of the production of the certificates. An Indian worker first of all by his very conservative nature will hardly like to travel distances and spend his hard-earned money for the sake of getting a vote which in terms of actual immediate benefit will be meaningless. Then it was hard to prove a residence of five years in the island and that too to the satisfaction of an officer because the records kept either by the planters or the Immigration authorities were wholly inadequate for the purpose of a legal proof, and it was probably because of these difficulties that the Governor had himself posed and answered the question: "What percentage of the Indian immigrant labourers, most of whom were regarded by the Donoughmore Commissioners as permanently settled in the island will be enfranchised under the proposals sent to Secretary of State for the Colonies?" And the answer was—

"The application of a test of five years' residence would, in any circumstances, necessarily leave a large number of Indian labourers unenfranchised. It would be open to the Governor to facilitate the representation of their needs and wishes in the State Council by an appropriate exercise of his power of nominations....."†

Another reason why the Indians did not take advantage of securing a certificate of permanent settlement was that children of certificated persons were not *ipso facto* entitled to a domicile of origin. They did not get a better status than their fathers and they had to undergo all the rigours of a test before an officer to get the certificate, and moreover they feared that the requirement of renunciation of all claims to privileges and the protection of the Indian Government, in the uncertain circumstances of proving to the hilt all the tests for acquiring a mere vote, was demanded from them with an ulterior motive of ousting them from the country on flimsy grounds. As has been stated before, all the circumstances must be taken into consideration while attributing motive of absence of any permanent interest on the part of Indian labourers.

Sir Stanley was so much influenced by the debates on franchise in the Legislative Council that he feared that the constitutional scheme

* Ceylon Sessional Paper XXXIV—1929, p. 14, para 35.

† *Ibid.* p. 13, para 35.

adumbrated by Donoughmore Commission had little chance of approval by Sinhalese opinion if substantial modifications as suggested by him were not accepted by the British Government and he frankly wrote to the Secretary of State :

“A constitution which in effect placed no restriction on the Indian franchise beyond the test of five years’ residence might, even if the Council accepted it, be expected to give rise to a political agitation likely to embitter future relations between Ceylonese and Indians and to do much more harm than could be caused by the adoption of the additional, not unreasonable, restriction which after very careful reflection, I venture to commend to your consideration*”.

The British Government was very much eager to secure the active co-operation of the Sinhalese for the acceptance of the reforms scheme by the Legislative Council and they acquiesced in the proposals suggested by the Governor with minor modifications. The Sinhalese saw in their successful agitation to curb the franchise rights of Indians not only a victory for their neo-nationalism, but were further stimulated in their demand for a substantial share in the governance of the country understanding fully well the strength of their number.

The Legislative Council accepted the reforms by a narrow majority and the proposals were enacted in the Order-in-Council 1931. There was a significant change as far as the use of appellation “Indians” was concerned. The definition of an Indian as such was not to be found in the Order-in-Council and could only be discerned in the composite definition of the terms ‘British subject’ and ‘British Protected person.’ The former term was defined to mean “any person who is a British subject under the provisions of the British Nationality and Status of Aliens Acts 1914-1922, and any person who has been naturalised under any enactment of a British Possession, and any person who is a British protected person”, and the latter term means “the person who is a native of the territories of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor-General of India or through any Governor or other officer sub-ordinate to the Governor-General of India and is resident in Ceylon.”

The general qualifications and the special qualifications as approved and modified by the British Government on the proposals

*Ceylon Sessional Paper XXXIV—1929, pp. 14-15, para 36.

of Sir Stanley and in deference to the wishes and opinions of the Sinhalese members of the Legislative Council were embodied in Articles* 6, 7, 8 and 9 of the said Order-in-Council and their relevant portions are:

“6. (1) No person shall be qualified to have his name entered or retained in any register of voters in any year if such person—

- (a) is not a British subject; or
- (b) was less than 21 years of age on the first day of August in that year; or
- (c) has not for a continuous period of six months in the eighteen months immediately prior to the first day of August in that year resided in the electoral district to which the register relates; or

.....

7. Any person not otherwise disqualified shall be qualified to have his name entered in a register of voters if he is domiciled in Ceylon or if he is qualified in accordance with Article 8 or Article 9 of this order; provided that, except in the case of persons possessing Ceylon domicile of origin, domicile shall not be deemed to have been acquired for the purpose of qualifying for registration as a voter by any person who has not resided in Ceylon for a total period of or exceeding five years.

8. (1) Any person not otherwise disqualified shall be qualified to have his name entered in a register of voters in any year if he—

- (a) is able to read and write English, Sinhalese, or Tamil, and,
- (b) has or holds one of the following qualifications, viz. :—
 - (i) The possession or enjoyment of a clear annual income of not less than Rs. 600, during a continuous period of six months.....
 - (ii) The ownership of immovable property....., the value of which, after allowing for any mortgage debts thereon, is not less than Rs. 1500;
 - (iii) The occupation as owner or tenant..... of any house, Warehouse, Counting House, shop or other building....., of the annual value of not less than—

* The Ceylon (State Council Elections) Order-in-Council, 1931 as amended by the Ceylon (State Council Elections) Amendment Orders-in-Council, 1934 & 1935. (Government Record Office, Colombo, 1935.)

- (a) Rs. 400 if situated within the limits of any Municipal, Local Board.....
- (b) Rs. 200 if situated elsewhere;
.....
9. (1) Any person not otherwise disqualified should be qualified to have his name entered in a register of voters if he is in possession of a certificate of permanent settlement granted to him.....
- (2) A certificate of permanent settlement.....shall be issued to any person who satisfies the officer authorised to issue the same that he has been continuously resident in Ceylon for a period of not less than five years, exclusive of temporary absences not exceeding a total of eight months during such period, and who makes and subscribes before such officer a declarationstating that he is permanently settled in Ceylon or is residing in the island with intent to settle therein, provided that during such time as any holder of a certificate of permanent settlement may be registered as a voter by reason of the possession of such certificate he shall not be entitled to claim any rights, privileges, or exemptions which under the law of Ceylon are not common to all British subjects resident in the island.....”

It was specially the provisions of Article 9 which excited much apprehension in India and the protests of the Government of India in regard to the modifications of the franchise qualifications as originally proposed by Donoughmore Commission evoked a promise from the Secretary of State for Colonies—Lord Passfield—to the effect :

“These proposals do not seem to His Majesty’s Government to involve any racial discrimination against Indians*.....”

And he supplemented his statement with the assurance :

“His Majesty’s Government wishes to make it clear that there is no intention of repealing or amending to the detriment of Indians any of the Laws of Ceylon affecting their position or privileges; nor of abrogating or lessening the powers and functions of the Agent of the Government of India or of the Controller of Immigrant Labour. It follows.....that any Bill diminishing or abrogating any of the existing conditions or privileges of Indian immigrants would fall in the category of those to which the Governor could not assent unless he had previously obtained the

* Telegram from Secretary of State for Colonies to Governor of Ceylon, dated June 10, 1930, Sessional Paper XVI—1930, p. 2.

instructions of the Secretary of State thereon or unless it contained a suspending clause.”*

As a result of the operation of the Ceylon (State Council Elections) Order-in-Council, 1931, the number of Indians registered as electors in that year rose to about 100,000, which meant that the increase was more than 700%. But the controversy over the franchise problem dragged on much to the amazement and harassment of both sides. The Indians' apprehensions were further aroused at the practical result which the so-called increase in the Indian electorate had brought about. Under the constitution of 1923, besides a territorial vote, Indians were assured of at least two seats in the Legislature through communal electorate in an all-Ceylon Indian electorate. The increase of electorate under the Donoughmore Constitution gave Indians only two seats and they, therefore, felt very much disappointed. Besides this, the cumbersome procedure to obtain a certificate of permanent settlement, resulted in the reduction of Indian electorate considerably, and they reiterated their protests against the undertaking given by His Majesty's Government on the representations made by the Government of India and they claimed that they were not a whit inferior to other classes of population and hence they wanted franchise to the Indian community on a footing of equality with other sections of the population. On the other hand, Sinhalese nationalism was on the ascendancy; they had become conscious of their power through the number of votes secured by the modifications of the Donoughmore proposals and they had for good or evil, a notion that the British Government in their anxiety to win over Sinhalese nationalism, would eventually co-operate with the majority community as they had done earlier by incorporating Sir Stanley's proposals regarding franchise in the Order-in-Council of 1931. They, however, thought that the elections Order-in-Council, 1931 was not framed in accordance with the assurances given to them by His Majesty's Government to modify the recommendations of the Donoughmore Commissioners and at any rate they were alarmed at the unusual increase in the voting strength of the Indian community, and specially the voting strength of the estate workers in up-country regions where the Sinhalese thought the Indians might

* Telegram from Secretary of State for Colonies to Governor of Ceylon, dated June 10, 1930, Sessional Paper XVI—1930, p. 2.

have a preponderant voice in no distant future. The number of electors in successive years had gone up thus*:

<i>Year</i>	<i>No. of Electors</i>	<i>Population</i>
1931	100,000	790,376
1936	145,000	—
1938	170,000	670,000
1939	225,000	—

Representations were made in 1938 by the Sinhalese to the Governor of the island that the administration of the regulations governing the Indian franchise was not properly implemented and it was against the spirit and intention of the undertakings given by the Government.**

As is clear from the foregoing pages, the Sinhalese had, from the very beginning, been very much insistent on limiting the votes of Indians and the Stanley proposals had to a very great extent served that purpose. No cleverer device could have been formulated to exclude the Indians than the one, which found way on the Statute Book in 1931. Further representations, however, were mainly made in 1938 to restrict the number of voters by administrative means and these the administrators readily agreed to put into practice.† The 'tightening procedure' was employed to see that only the most eligible voters might find their way on the Electoral Registers.

The next revision of the Registers took place in 1940 and the instructions were given that no evidence relating to the question of domicile was to be accepted unless it had been checked by a Registering Officer or an Enumerator and the actual presence of the prospective voter was made necessary for oral interrogation. The figures of registration of Indians specially of the Indian labourers in the up-country estates thus declined considerably. A ready deduction can be made from the following figures†† which relate to Electoral Districts where Indians formed a substantial majority:—

* Soulbury Commission Report (Cmd. 6677), p. 58, paras 210 and 213.

** *Ibid.* p. 58, paras 211 and 214.

† *Ibid.* p. 58, para 215.

†† Ceylon Sessional Paper VII of 1941, pp. 3-4, Revision of Electoral Registers 1940 and Sessional Paper IV—1942, p. 5.

<i>Electoral District</i>	<i>No. as revised in 1939</i>	<i>No. as revised in 1940</i>	<i>No. as revised in 1941</i>
Hatton	64,092	58,934	58,115
Talawakele	51,578	48,240	46,349
Nuwara Eliya	49,987	47,688	47,100
Bandarawela	52,420	49,492	48,117
Badulla	56,926	53,617	51,407
Ruanwella	48,813	47,257	46,608

Several causes contributed to this decline. First of all, the election to the State Council was due in 1941, but on account of the exigencies of World War II, it had to be postponed. The electors, therefore, were much apathetic in taking the trouble of going through the rigours of a cumbersome procedure to see their names on the electoral Registers. Secondly, there was an apprehension in the minds of the illiterate workers that the real purpose of a personal attendance at an enquiry was something else, probably their repatriation to India; and thirdly, the ban on emigration imposed by the Government of India in 1939 in regard to unskilled workers had also been a contributory cause in the reduction of Indian voters.

It will be significant to note that the second election to the State Council of 1936 returned only two Indians as in the previous election of 1931 and as the Government was aware that there had been a substantial reduction in the number of Indian voters due to the 'tightening up' procedure and other causes, they decided to nominate a third Indian to the State Council to give them extra representation. It will thus be seen that the total population of 659,311* on 31st December 1936 and about a lakh of other Indian residents in Ceylon were represented in the island's Legislature by three representatives—2 elected and 1 nominated, while in a Legislature composed of 50 elected members (the total membership of the Council was 58 elected and non-official nominated and 3 ex-officio members), the Sin-

* Annual Report of the Agent of the Government of India in Ceylon 1936, p. 1, para 4 (b).

halese had 39 members—much more than what their numerical strength in the island could possibly have entitled them to. Sinhalese members were, therefore, very much insistent on demanding loosening of control by the Britishers and thus gaining their ultimate objective of controlling the entire field of administration of the island.

The War had broken out in 1939 and the 1941 elections to the Council were impending. But as the War involved incalculable commitments in Europe, the postponement of the General Elections was inevitable. It was decided to postpone the elections by two years and the following announcement was made :—

“In view of the general dissatisfaction with the present constitution and of the questions that have arisen regarding cognate problems of franchise and delimitation of constituencies, an Order-in-Council will be enacted to enable the postponement for two years of the election which is due not later than next January under Article 19. The postponement is necessary in the present circumstances if careful decisions are to be reached on these questions before new elections are held.”*

The constitutional crisis deepened with the passage of time and the British Government on one pretext or another pronounced statements which were either new declarations of policy or elucidations of that which had been stated earlier and they postponed the general elections to the State Council, which should have taken place early in 1941 according to the constitution. The powerful political movements in India of 1942 were exerting a tremendous influence not only on public opinion in Ceylon but on British Isles too and so far as Ceylon was concerned, it was now not a question of amendment of the Donoughmore Constitution but a step forward—that of granting the Status of a full-fledged self-governing dominion. Ceylonese politicians were clamouring that the British Government was not sincere in carrying out assurances they had given earlier for constitutional advancement on the plea of War. The Secretary of State, therefore, clarified the situation by giving the following assurance in 1941 :—

“His Majesty’s Government have had under further consideration the question of constitutional reform in Ceylon. The urgency and importance of reform of the constitution are fully recognised by His Majesty’s Government, but before taking decisions upon the present proposals for reform, concerning which there has been so little unanimity but which are of such importance to the

* Soulbury Commission Report (Cmd. 6677) p. 25, para 78.

well-being of Ceylon, His Majesty's Government would desire that the position should be further examined and made the subject of further consultation by means of a Commission or Conference. The Board of Ministers will appreciate that this cannot be arranged under war conditions, but the matter will be taken up with the least possible delay after the war."*

The above statement was placed before the State Council, which expressed its strong dissatisfaction over this statement and they pointed out that the existing constitution had shown cracks in actual operation and particularly they showed their resentment and countenanced with disfavour the possibility of appointment of any further commission for enquiry to suggest proposals of reform because they thought that it would merely accentuate differences and breed ill-feeling between the various communities in the island.

The entry of Japan into the War in December 1941 further complicated matters and the life of the State Council was further extended by two years. In spite of this the movement for constitutional reform did not abate and the Board of Ministers, which entirely consisted of Sinhalese members of the State Council, continued pressing on for a declaration for the grant of a Dominion Status after the War. They took full opportunity of Sir Stafford Cripps's visit to India and posed the question before the Statesmen of England : If India can be promised a dominion status after the war, why not Ceylon be treated on the same footing and specially when the question of minorities in Ceylon is much less acute than that of India ? His Majesty's Government, therefore, made a very important Declaration (26th May 1943) which laid down principles of great significance and to which they wanted the proposed new constitution to conform. The important and significant provisions of the Declaration were† :

- “(1) The post-war re-examination of the reform of the Ceylon Constitution to which His Majesty's Government stands pledged, will be directed towards the grant to Ceylon by Order of His Majesty in Council, of full responsible Government under the Crown in all matters of internal Civil Administration.
-
- (5) The present classes of Reserved Bills in the Royal Instructions will be largely reduced under a new Constitution.

* Soulbury Commission Report (Cmd. 6677) p. 26, para 79.

† Hansard, 26th May, 1943, Columns 1555-1557.

Apart from measures affecting Defence and External relations, it is intended that these shall be subject to reference to His Majesty's Government :—

.....

- (b) have evoked serious opposition by any racial or religious community and which in the Governor's opinion are likely to involve oppression or unfairness to any community."

In addition to the clause (b) above, a serious limitation was placed on the unfettered wishes and whims of the constitution makers in Ceylon. They were to frame a constitution which had ultimately the possibility of being accepted by a three-quarters of the membership of the State Council.

The above declaration was a great step forward in meeting the aspirations of the Ceylonese for self-Government and also to meet the wishes of the minority communities in Ceylon, in which was also included the Indian community. The Draft of the constitution was completed by the beginning of February 1944 but during the course of its compilation, resentment in regard to its possible contents was expressed by the Government of India, who were naturally anxious about the quantum of representation and status of Indians resident in the island. The postponed elections to the State Council were due in early 1945, but as a General Election in Ceylon would have seriously dislocated Ceylon's war efforts, and as His Majesty's Government wanted to "provide full opportunity for consultation to take place with the various interests, including the minority communities, concerned with the subject of constitutional reform in Ceylon and with the proposals which Ministers have formulated", it was postponed for a further period of two years and the old State Council was to carry on.

The Ceylon Ministers were very much indignant at the reference made about the consultation of various interests and minority communities and they contended that His Majesty's Government had gone far beyond the terms of the Declaration of 1943 and they withdrew their scheme on the plea that His Majesty's Government had fundamentally departed from the assurances contained in the 1943 Declaration and had failed to carry out the undertakings given to Sinhalese community. This made the appointment of the Soulbury Commission in September 1944 a foregone conclusion. Its terms of reference were :—

“To visit Ceylon in order to examine and discuss any proposals for constitutional reform in the island which have the object of giving effect to the Declaration of His Majesty’s Government on that subject dated 26th May, 1943, and, after consultation with various interests in the island, including minority communities, concerned with the subject of constitutional reform, to advise His Majesty’s Government on all measures necessary to attain that object.”

The Commission invited submission of memoranda from individuals and Public Bodies and also heard evidence in Public in regard to the proposals for further reform and although the Ministers’ Scheme* had been withdrawn as a protest against breach of undertaking given by His Majesty’s Government to the Board of Ministers, it naturally “provided a most valuable basis for discussion and was of great assistance in focusing attention on the salient features of constitutional reform.”**

The main features of the Ministers’ Scheme related to the establishment of a legislature of approximately 100 members, 95 of them to be elected on a territorial basis and the rest nominated by Governor-General to represent any interest he might consider insufficiently represented. The Board of Ministers was to be replaced by a cabinet of 10 ministers, one of whom would be the Prime Minister, who in turn would appoint other ministers. As has been stated earlier, the Sinhalese had never countenanced with favour any scheme of communal representation and as His Majesty’s Government was eager to safeguard the interests of minority communities also, the Commissioners saw in the proposals regarding increased membership of the Legislature, at least a hope that such an increase “undoubtedly offered greater opportunity for the representation of the minority communities, and the principle of additional weightage for the minorities within a territorial system was recognised by combining the criteria of population and area in determining the electoral districts.”†

But there was a serious omission in the Ministers’ Scheme in regard to the question of franchise. They had thought that it lay within the legal jurisdiction of a legislature to deal with the question of franchise and there was, therefore, no need to incorporate into

* Ceylon Sessional Paper XIV—September 1944.

** Soulbury Commission Report (Cmd. 6677), p. 31, para 95.

† *Ibid.* p. 32, para 96.

the body of the constitution any provision relating to it. So far as the issue of domicile was concerned, the Ceylon Tamils, the next important minority community, which had serious misgivings about their representation in the legislature could not complain on the franchise issue, as they were the inhabitants of the land like the Sinhalese, and in regard to the Indian franchise, the Indians being aliens, could at best be dealt with by opening negotiations with the Government of India.

It must be said to the credit of the Government in Ceylon that they were very much alive to the question of the status of the Indians resident in Ceylon and especially after the warning* given by Pandit Jawaharlal Nehru, when he visited Ceylon in 1939 at the time of the dismissal of the Indian daily-paid workers.

The Ceylon Government wanted, however, to take full advantage of not only their big majority in the legislature, but they fully understood the helplessness of the British Government during the war. Ceylon was contributing magnificently towards the war effort; she had a commanding position in the Indian Ocean and for reasons of war strategy, England would not loosen grip on the harbour of Colombo. The British Government was well aware of the designs of the Japanese in this war, and Ceylon, therefore, struck at the question of Indians in Ceylon at a very psychological moment. The Indo-Ceylon Relations Exploratory Conference of 1940 was the outcome of such a move.

At the outset the Indian Delegation Leader, Hon'ble Sir G. S. Bajpai, raised a preliminary point of relegating the question of franchise in the background and wanted to know on what principles the economic and political rights of Indians resident in Ceylon were to be regulated, because he thought that certain agreed principles for guidance would considerably help in resolving differences on individual questions, such as franchise etc.

The Ceylon Delegation, led by its able leader, Hon'ble Mr. D. S. Senanayake, agreed to the suggestion, but he wanted to bring

* Pandit Nehru had said, "Aggressive nationalism is baneful. For better or for worse the world must change. Nineteenth century democracy was dying. They had to evolve a new democracy in a spirit of not merely nationalism but internationalism. Ceylon is a small country and India is big. If they thought in terms of conflict, in terms of aggressive nationalism, they would be unhappy. India's nationalism was not based on such an idea."

(H.M. Desai : *India and Ceylon*, p. ii.)

the peculiar circumstances of Ceylon before the Conference for the formulation of those principles and further to suggest certain solutions to overcome the difficulties before the two countries.

Those peculiar circumstances before Ceylon were mainly economic—the question of utter unemployment in the country—and it was, therefore, suggested by him that for the economic, social and political advancement of Ceylon, only a small number of Indians could be absorbed. That is what is known as the theory of ‘absorbable quantum’ of Indians in Ceylon. That theory hides in its womb the further intricate questions of future immigration, and the categorisation of Indians already resident in Ceylon. It was the latter point on which Ceylon wanted to have her say, and they divided Indians in two classes : (1) Those, who migrated to Ceylon as a place of occupation and had no intention to settle down in Ceylon, and by their mode of life or conduct always regarded India as their permanent home; and (2) Those, who settled down in Ceylon, made it their home and having given up all connections with India, would continue to have a permanent abiding interest in Ceylon, and as Mr. Bandaranaike later on said,* that principle of a permanent, abiding interest in the country must be related in actual practice to the particular circumstances existing in Ceylon, namely, the extraordinary difficulty of proving “permanent, abiding interest.” The crux of the whole matter boiled down to this : Some rigid test of proving the permanent abiding interest was necessary and that Ceylon did not belong to that category of countries, where only a simple test of say, a period of residence of five or ten years would suffice to give the residents all the privileges of citizenship. That rigid test was to be applied in the case of Indians in Ceylon because of the fear of the extermination of the people of Ceylon for whom the whole problem was one of stark survival.

Mr. S. W. R. D. Bandaranaike went as far as to suggest that the question of “absorption” would create other difficulties also. He said, “I would also point out that whatever else this “absorption” may lead to, it is definitely my opinion that it will mean the creation of a new minority in our country, one more addition to the number of minorities there. This “absorption” does not merely mean the extension of certain rights to the Indians in question : it will really mean the creation of a further minority with all the

* Ceylon Sessional Paper IX—1941, pp. 7-8.

minority problems to which I need not refer, considering that there is in existence in India that very same problem in an acute form. You will realise what that means.”*

Now there are certain reasonable standards of determining permanent settlement *e. g.* the application of the laws of domicile found in other countries—the ingredients of residence, plus intention to remain, as manifested by various facts—family life, the concentration of all interests, social and economic. Once the Indians had agreed to such suggestions, there was the fear of ousting them by administrative means and of nullifying the pious agreements between the two countries. The following remarks of Mr. Bandaranaike accentuated these fears in the minds of the Indian community:—

“This five million (referring to the total population of Ceylon) is divided into a number of minorities. One-sixth of the population, with the economic predominance which they have now, can very easily and quickly convert that position into one of political dominance.”**

Then another difficulty in Ceylon was that the question of franchise was unhappily mixed up with several other factors, which strictly speaking, did not fall within the category of political rights. These related to the economic competition. As is very natural in a colonial system of administration, the structure of society is mainly based on capitalistic economy and apart from any other consideration, the capitalistic class in Ceylon, which had monopolised political power for long, was very much fearful of losing that hold by conceding vote to the labouring class as a whole. The Indians constituted a very large percentage of that class, and the Ceylonese politicians raised the bogey of the submersion of the Sinhalese as a community under the weight of superior political power of the Indians once franchise was granted to them. That the fear of a socialistic economy dominated the minds of the Ceylonese leaders is clear from the following remarks of Mr. Bandaranaike :—

“Through political power which they will gain, which will be very undesirable to confer on those who are a class of persons without permanent interests in the country. That political power will be wielded in various ways to alter the economic structure.”†

* Ceylon Sessional Paper IX—1941, p. 7.

** *Ibid.* p. 11.

† *Ibid.* p. 14.

For the same reasons—the fear of socialisation of the society and administration—they did not wish to grant rights of franchise on the plea that the Indians would have the balance of power in their hands and might return a candidate, whom the official ruling class—the capitalistic class—did not approve as worthy of their label. Mr. Bandaranaike continued:†

“.....the conferment of franchise upon those who admittedly have no permanent interests—such as those to whom Mr. Senanayake referred—the conferment of political power on them may result in the exercise of that power against the interests of the other more permanent and established sections of the people. That is where the difficulty arises in this particular case. In the present State Council, although we have no communal representation as such, except for a few nominated members, there are 50 elected seats. Actually a large number of seats which are considered to be Sinhalese seats up-country, are more or less controlled by the Indian labour vote. I can tell you of many cases where although the Indians are not a majority in a particular constituency, yet they are in a controlling position. If two Sinhalese stand for election, the candidate who gets the support of the Indian vote gets the seat. This is a very important consideration that has come up in the State Council for discussion. That situation is going to get worse.”

The above reasons were responsible for the following definite proposals in regard to franchise put forward by the Hon'ble D. S. Senanayake:—

“Other persons†† of Indian descent, now resident in Ceylon; these will be entitled to the rights and privileges normally accorded to British subjects, and those within this class who possess a Ceylon domicile of choice (which must include 5 years' residence), are entitled to State Council franchise.....”*

“These will be entitled,” it was added, “on application to certificates of residence. Such a certificate will entitle the holder to reside and earn his living in Ceylon, subject to such conditions as may be set out in the certificate.”

The last exception really gave all the powers to the Government in regard to other rights barring that of franchise, and Sir Ramaswami Mudaliar, an Indian delegate to the Conference, exposed the real intentions of the Ceylon Government in these words—

† Ceylon Sessional Paper IX—1941, p. 14.

†† Those not possessing a Ceylon domicile of origin.

* Ceylon Sessional Paper IX—1941, p. 21.

“I have always understood that the right of franchise is only a method by which a citizen can guarantee to himself other fundamental rights. Otherwise it is meaningless. If a man has merely got the liberty of walking into a polling booth and casting his vote once in every 3 or 5 years, what is the benefit of that franchise? The right of franchise is not an end in itself. It is only a means to an end—what all constitutionalists considered as the unfailing means by which a citizen or individual granted the franchise can establish other rights. If you predicate in reference to the other rights that you can put any restrictions whatsoever, what is the value of this right of franchise? Why do you grant it at all?”*

The Indian delegation, therefore, saw in the suggestions of the Ceylon delegation discrimination in all spheres of rights to which Indians were legitimately entitled, and as the Ceylon delegation did not agree to any modification of their proposals, the Conference was unable to find a basis of agreement, and the Indian delegation refused to be a party to an arrangement by which, in the words of Sir G. S. Bajpai, “the Indian who has worked in Ceylon is to be thrown back into India as a squeezed lemon!”†

The informal conversations that had ended inconclusively at Delhi in November, 1940 were resumed in 1941 at Colombo on the invitation of the Ceylon Government and it was agreed at the very beginning of the Conference that unless an agreement was reached over the whole field of discussion, concurrence of views upon individual points should not be construed as effective agreement. The franchise question naturally came in for discussion. According to the agreed proposals, Indians were divided into two categories: (1) Indians entering Ceylon for the first time after the date when the Immigration Ordinance came into force, and (2) Indians resident in Ceylon prior to that date. As will be evident later on, the joint Report retained the existing qualifications, namely (a) Domicile of origin, (b) Domicile of choice, (c) Literacy and property qualifications and (d) Certificate of permanent settlement. As regards the domicile of choice, it was provided that proof of domicile of choice could only be established, after five years' residence to the satisfaction of a court according to the rules of English Law regarding the acquisition of such a domicile, and that registration should only be effected on production to the Registering authority of a certificate by a court to this effect.

* Ceylon Sessional Paper IX—1941, p. 46.

† *Ibid.* p. 47.

Qualifications to obtain a certificate of permanent settlement were :

- “(a) A declaration that the applicant had an intention to remain in Ceylon indefinitely,
- (b) Proof of means of livelihood,
- (c) If married, proof that his wife and minor unmarried children, if any, ordinarily reside with him; provided that no Indian who at the date of the agreement is registered as a voter, but whose wife by any personal law or custom is either precluded from joining or justified in refusing to join her husband in Ceylon, shall be treated as disqualified for the franchise by reason only of the fact that he is married and his wife does not ordinarily reside with him;
- (d) The prescribed period of residence prior to application to be seven years for persons who are married at the date of application and ten years for other persons; provided that such period of residence shall have been completed within four years from the date of agreement;
- (e) Continuous absence of more than one year prior to application to constitute a break in any qualifying period of residence and, after registration as a voter, to involve removal from the register.”*

The qualifications as set forth above were certainly more stringent than the existing ones. Under the existing law the applicant had to satisfy an authority of his 5 years' continuous residence in the island, but under the new proposals the period was extended to 7 and even to 10 years, and further the effect of requiring the period to be completed within four years from the date of agreement was to be that a person with less than 3 years' residence would never qualify for the vote unless he came under the literacy or property qualifications or he established in a court domicile of choice after completing 5 years' residence in the island.

As regards the future entrants, they must qualify for the vote on satisfying any of the following qualifications:—

- “(1) “A” class entrants to be entitled to be registered on satisfying the literacy and property qualifications, and after five years' residence on establishing a domicile of choice to the satisfaction of a court; and
- (2) “B” class entrants to be entitled to be registered only on satisfying the literacy and property qualifications.”†

* Ceylon Sessional Paper XXVIII—1941, Part III, Section B, p. 7, para (3).

† *Ibid.* p. 4, para 14.

The Draft Immigration Ordinance was sent to the Government of India in the year 1941 and according to its provisions the following classes of persons were deemed "A" class entrants:—

- (1) Persons of independent means;
- (2) Persons of religious occupation and students where maintenance is secured;
- (3) Persons who are dependants of persons domiciled in Ceylon or of immigrants referred to in category (1) or of persons of religious occupation referred to in category (2).

Persons of independent means were deemed to include—

- (a) Any person who is in possession of a capital of not less than Rs. 10,000.
- (b) Any person who, being a member of a liberal profession, had at his disposal a capital of not less than Rs. 5,000.

It is worth-while to examine the above clauses in the light of the prevailing circumstances in Ceylon. So far as the Sinhalese were concerned, they had a secure vote owing to adult franchise under the Donoughmore Constitution as subsequently amended by (State Council Elections) Order-in-Council; but the Bajpai-Senayake agreement, while dividing Indians into several classes, imposed on them conditions which were hard to be fulfilled by a large majority of the Indian estate workers and whatever political influence they wielded was sure to disappear if the agreement was implemented. The Indians in Ceylon viewed, in the provisions of the agreement, nothing but chains of slavery, and their extinction as a political factor in the country of their adoption. Fortunately, the Central Indian Legislature came to their rescue, as the agreement was not subsequently ratified by it and the provisions could not be put into effect or implemented. The question arises as to what circumstances led the leader of the Indian delegation acquiesce in a position so very different and at variance with the original stand he had taken at the Exploratory Conference of 1940? May be, the anxiety of a settlement with Ceylon was uppermost in the mind of the Indian delegation; but the exigencies of the war, the contribution Ceylon was making towards war effort and the possibility of using Ceylon as a spring-board for the allied onslaught on the Axis-powers might have been the contributory causes in effecting a settlement on the indirect advice of the British administration, which had such a sway in both the countries. The

representative character of the Indian delegation, therefore, came in for much trenchant criticism and when the agreed proposals were put forward in the Indian Legislature, where the Congress, representing the nationalistic opinion in India, was in a majority, the said proposals were thrown out by every section of public opinion inside the Legislature and Mr. Jamnadas M. Mehta declared—

“In point of fact, not one of the proposals made in the Joint Report is satisfactory and I am sure the country will not accept this Joint Report without considerable modifications.”*

Indeed, from the Indian point of view, much of the effort and reputation achieved at the Exploratory Conference of 1940 was brought to naught by the ‘agreed proposals’ of the 1941 Conference at Colombo, much to the satisfaction and hilarity of the Ceylon statesmen, who not only adhered to their original stand taken at Delhi but gained considerably by the 1941 agreement so far as their aspirations regarding the ‘absorbable quantum’ of Indians were concerned.

Then we witness the fast loosening grip of the British administration on both the countries (India and Ceylon) as there was a complete change in their political status. India gained complete independence on 15th August, 1947 and Ceylon gained ‘Dominion Status’ on 4th February, 1948, mostly through the recommendations of the Soulbury Commission. The main recommendations of the Soulbury Commission which were subsequently incorporated in Sections 29 & 37 of the Ceylon (Constitution) Order-in-Council, 1946, were** :—

- (1) “Any Bill relating solely to the prohibition or restriction of immigration into Ceylon shall not be regarded as coming within the category of Bills which the Governor-General is instructed to reserve for the signification of His Majesty’s pleasure; provided that the Governor-General may reserve any such Bill if in his opinion its provisions regarding the right of re-entry of persons normally resident in the island at the date of the passing of the Bill by the legislature are unfair or unreasonable.”

* Indian Legislative Assembly Debates, Vol. IV, p. 892.

Another member declared as below:—

“Sir, our Leader of the House is called *Loka Naik*—he stands for the self-respect of the people of this country. *Loka Naik* means the leader of the people. In the Ceylonese delegation there was a gentleman who called himself *Bandara Naik*. *Bandara Naik* means the leader of the monkeys; and what are his words about India? “I want to see the last Indian out of Ceylon and when I do that, I shall die happy”.

(p. 896 of the Indian Legislative Assembly Debates).

**Cmd. 6677, p. 64 and Ceylon Government Gazette (Extraordinary), No. 9554, dated May 17, 1946.

- (2) "Any Bill relating solely to the franchise shall not be regarded as coming within the category of Bills, which the Governor-General is instructed to reserve for the signification of His Majesty's pleasure."
- (3) "The Parliament of Ceylon shall not make any law rendering persons of any community or religion liable to disabilities or restriction to which persons of other communities or religions are not made liable, or confer upon persons of any community or religion any privileges or advantages which are not conferred on persons of other communities or religions."
- (4) "Any Bill, any of the provisions of which have evoked serious opposition by any racial or religious community, and which, in the opinion of the Governor-General, is likely to involve oppression or serious injustice to any such community, must be reserved by the Governor-General for His Majesty's assent."

From the above it would be evident that the Ceylon Parliament was competent to legislate on matters relating to immigration and franchise, and that a break or a limitation on its powers was placed only on matters detailed in paragraphs 3 and 4 above, namely questions involving imposition of disabilities or oppression on minority communities. The sovereign character of the Ceylon Parliament has often been doubted and the Acts passed by it have been challenged in courts of law, but in a strict legal sense, the Parliament of Ceylon is at least as sovereign* as parliament of any other self-governing dominion can be, and so far as Indians are concerned it took early steps to so define the status of a Ceylon citizen, as to have involved it in bitter constitutional controversies in and out of Ceylon. The question of franchise alone was not tackled as such hereafter, and depending upon the political strength that the Sinhalese had in the legislature, they opened conversations with the Government of India over the whole field of the status of Indians in Ceylon. Optimistic views were expressed for settling the Indo-Ceylon differences and as both countries had thrown off shackles of a foreign rule, there were indications that the Prime Ministers of both the countries would succeed in resolving differences and settling this question on a basis

* "These limitations on the power of the Ceylon Parliament show that it is not a sovereign legislature in the sense in which the term is commonly used: that is, it has not complete and unlimited legislative power. This does not imply any limitation on the sovereignty of Ceylon, for it is customary, in a democratic constitution, to impose limitations on legislative power. That power is in fact, though not in theory, vested in the majorities in the legislature for the time being, and it is considered dangerous not to limit it."

of mutual understanding and goodwill. Discussions took place between the two Prime Ministers at Delhi near the close of the year 1947, but as the conversations dealt with the whole question of citizenship and not merely franchise, their deliberations as well as subsequent correspondence would be exhaustively dealt with in the next chapter. Suffice it to say that no settlement could be reached between the two Prime Ministers over the question of status of Indians in Ceylon and the Ceylon Parliament put on its Statute Book, subsequent to breaking off negotiations, certain Acts relating to Indians in Ceylon, which aroused bitter controversies over the provisions of the Acts as well as their practical application. The legal battles have been fought not only in the highest courts in Ceylon but several of the cases filed by Indians challenging the validity and competence of the Ceylon Parliament to legislate on matters which fall within category (3) & (4) of the Soulbury Commission recommendations described on page 52 of this book have reached the Privy Council in England, which is still the Supreme Judicial Court to hear appeals from the judgements of the Supreme Court in Ceylon.

The Ceylon (Parliamentary Elections) Order-in-Council, 1946, which deals with matters connected with elections under the new constitution gives detailed qualifications of electors and so far as Indians are concerned defines "British Subject" as—

"British Subject" means any person who is a British subject according to the law for the time being of the United Kingdom, any person who has been naturalised under any enactment of any of His Majesty's dominions, and any person who is a citizen or subject of any of the Indian states as defined for the purposes of the Government of India Act, 1935."*

The qualifications of electors have been incorporated in sections 4, 5, 6 & 7 of the said Order-in-Council and the relevant text is :

- "4. (1) No person shall be qualified to have his name entered or retained in any register of electors in any year if such person—
- (a) is not a British subject, or is by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or State; or
 - (b) was less than twenty one years of age on the first day of June in that year; or

* Ceylon Government Gazette (Extraordinary) No. 9604, dated September 26, 1946.

- (c) has not, for a continuous period of six months in the eighteen months immediately prior to the first day of June in that year, resided in the electoral district to which the register relates; or,

- (2) For the purposes of this section, continuity of residence in an electoral district shall not be deemed to be interrupted by reason only of absence in the performance of any duty accruing from or incidental to any office, service, or employment held or undertaken by any person otherwise qualified to have his name entered on any register."
- "(6) (1) Any person not otherwise disqualified shall be qualified to have his name entered in a register of electors in any year, if—
- (a) he is able to read and write English, Sinhalese or Tamil, and
- (b) he has or holds one of the following qualifications, namely :—
- (i) the possession or enjoyment of a clear annual income of not less than Rs. 600 during a continuous period of six months immediately prior to the first day of June in that year;
- (ii) the ownership of immovable property otherwise than as lessee or usufructuary mortgagee, situate within the electoral district to which the register relates, during a continuous period of six months immediately prior to the first day of June in that year, the value of which, after allowing for any mortgage debts thereon, is not less than Rs. 1,500;
- (iii) the occupation, as owner or tenant, during a continuous period of six months immediately prior to the first day of June in that year, of any house, ware-house, counting-house, shop or other building (hereinafter referred to as qualifying property), situate within the electoral district to which the register relates, of the annual value of not less than Rs. 200, if situated within the administrative limits of any village Committee, or Rs. 400, if situated elsewhere :

Provided that the qualifying property need not be throughout the period of

qualification the same property, if the annual value is in no case less than Rs. 200 or Rs. 400 as the case may be, and if such property is in all cases situate within such electoral district as aforesaid.

.....”

“(7) (1) any person not otherwise disqualified shall be qualified to have his name entered in a register of electors if he is in possession of a certificate of permanent settlement granted to him :

(a) in accordance with the provisions of the Ceylon (State Council Elections) Order-in-Council, 1931, or

.....

(2) A certificate of permanent settlement.....shall be issued to any person who satisfies the officer authorised to issue the same that he has been continuously resident in the island for a period of not less than five years immediately prior to the issue of such certificate, exclusive of temporary absences not exceeding a total of eight months during such period, and who makes and subscribes before such officer a declaration, which shall be exempted from stamp duty, and which shall be substantially in the form B in the said Schedule, stating that he is permanently settled in the island or is residing in the island with intent to settle therein :

Provided that during such time as any holder of a certificate of permanent settlement may be registered as an elector by reason of the possession of such certificate he shall not be entitled to claim any rights, privileges or exemptions which under the law of the island are not common to all British subjects resident in the island.

(3) An officer authorised to grant a certificate of permanent settlement may require that the application of any person shall be supported by evidence on oath and may, for that purpose, administer an oath...”

The Ceylon Parliament also passed a law known as the Citizenship Act, No. 18 of 1948, which defined the status of a citizen of Ceylon. For the purpose of understanding the implications of its provisions, it is necessary to deal with them in detail. Section 4 prescribes qualifications for acquiring a status of a citizen of Ceylon for persons, either born in Ceylon or outside Ceylon before an

appointed date (in this case November 15, 1948) and Section 5 deals with persons either born in Ceylon or outside Ceylon after November 15, 1948, and citizenship may be acquired either by Descent or by Registration under this Act or under any other Act. We shall presently see that another Act, known as the Indian and Pakistani Residents (Citizenship) Act, No. 13 of 1949, was also enacted for Indians and Pakistanis, who possessed special residential qualifications.

The requirements of the provisions of the Citizenship Act were hard to be fulfilled by Indians as Section 4 required that a person born in Ceylon before 15-11-1948, would have the status of a citizen of Ceylon by descent if—

- (a) his father was born in Ceylon, or
- (b) his paternal grandfather and paternal great grandfather were born in Ceylon.

And for a person born outside Ceylon before the appointed date, he would have the said status if—

- (a) his father and paternal grandfather were born in Ceylon, or
- (b) his paternal grandfather and paternal great grandfather were born in Ceylon.

It might be stated in passing that as most of the Indians working on plantations in Ceylon migrated to the island with a view to permanent settlement after the boom in coffee plantations had died down *i. e.* near about 1890, the provisions of the Citizenship Act were impossible of compliance by Indians to acquire a status by descent. On other grounds too, namely under the provisions of Section 29 (2) (b) & (c)* of the Ceylon Constitution, Indians contended that the Citizenship Act was *ultra vires* of the legislature in Ceylon, as its provisions were repugnant to Section 29 (2) (b) & (c) namely,

“No law shall be passed by Ceylon Parliament if it—

- (b) makes persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable; or

* Ceylon Government Gazette (Extraordinary) No. 9554, dated May 17, 1946, p. 799.

- (c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions.”

The theory of ‘absorbable quantum’ had its culmination in the passing of the Ceylon (Parliamentary Elections) Amendment Act, No. 48 of 1949 which came into operation on 26-5-1950.

The franchise of Indians now became dependent on whether they were citizens of Ceylon and this easy expedient was devised by the amendment of Sections 3 & 4 of the Ceylon (Parliamentary Elections) Order-in-Council 1946. Section 2 of the Amendment Act of 1949 amended Section 3 and allowed deletion of the definition of “British Subject” and Section 3 of the same provided* :

Section 4 of the Principal Order, namely the Ceylon (Parliamentary Elections) Order-in-Council 1946 is hereby amended in sub-section (i) thereof, as follows :—

“(i) by the substitution, for paragraph (a), of the following paragraph :—

(a) is not a citizen of Ceylon, or if he is by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to any foreign Power or State which is not a member of the Commonwealth.”

and further Section 4 repealed Sections 5, 6 & 7 of the Principal Order and the following new Section was inserted† :—

“5. Every person not otherwise disqualified shall be qualified to have his name entered in a register of electors.”

The sum total of these various Acts passed by the Ceylon Parliament was that they sought to take away from Indians all vestiges of the franchise rights hitherto enjoyed by them in a limited scope and these steps seemed to be well-calculated for deprivation of even these rights in view of the fact that the last date for filing applications was August 5, 1951** and thus long before the last date statutorily fixed for filing applications to become citizens by registration and

* Ceylon (Parliamentary Elections) Amendment Act, No. 48 of 1949, p. 3.

† *Ibid.* p. 4.

** Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949, Section 5, p. 6. August 5, 1951 was a Sunday, and as Government Offices in Ceylon were closed on that day, it is to be seen as to what action the Ceylon Government took on applications filed on the next working day, i. e. August 6, 1951.

even before those applications were legally dealt with and determined by authorities concerned, the Ceylon (Parliamentary Elections) Amendment Act, No. 48 of 1949, was enacted and put into effect from May 26, 1950. This Act provides, *inter alia*, that no person shall be qualified to have his name entered or retained in any register of electors if he is not a citizen of Ceylon. In consequence whereof the annual revision of the electoral rolls in 1950 omitted almost all Indian names and by a stroke of parliamentary device almost the entire Indian community was disfranchised, and those who had enjoyed these rights for long and actually availed of them, were suddenly deprived of those rights with the result that constituencies, which had returned Indian members on the strength of the Indian electorate in the 1947 election to the House of Representatives, did not return a single Indian member to the Parliament in the elections held in May, 1952.

A very interesting case involving constitutional issues of great merit was filed by an Indian named G. S. N. K. Pillai of Yatiyantola, Ceylon. He was a qualified voter and his name appeared in the Electoral registers of electors of Ruanwella District from 1935 to 1941 and from 1942 to 1946,* and was also included in the registers prepared in 1947, 1948 and 1949 but at the revision undertaken in the year 1950 and in the list prepared therefor, his name was included in "List A".† The Registering Officer did not include his name on the ground that he was not a citizen of Ceylon as required by Ceylon (Parliamentary Elections) Order-in-Council, 1946 as amended by Ceylon (Parliamentary Elections) Amendment Act, No. 48 of 1949.

The main contentions of the petitioner were—

1. The Registering Officer erred in requiring the new qualifications sought to be imposed by Act 48 of 1949 and in rejecting his contention that the said Act 48 of 1949 was void and of no effect in law in as much as it was *ultra vires* of the legislature;

2. The said Act 48 of 1949 was bad in law in as much as it contravened the provisions of Section 29 (1), 29 (2) (b), 29 (2) (c) and 29 (4) of the Ceylon (Constitution) Order-in-Council, 1946.

* Affidavit dated March, 3, 1951 filed by Mr. Pillai in the court of Revising Officer, Electoral District 84, Ruanwella.

† These lists include the names of those who are not qualified voters.

3. Section 3 of the said Act 48 of 1949 was further bad in law and inoperative as it was based on Act 18 of 1948 which was itself void in law as it contravened Section 29 of the Ceylon (Constitution) Order-in-Council, 1946.*

The main arguments adduced in favour of the petitioner were that to test a legislation one had to see the consequence and the effect of such a legislation, and a court must be blind if it looked merely at the language of a provision and ignored its obvious purpose, effects and operation; and as the registration of birth became compulsory only in 1895, it was impossible to prove that the earlier ancestors were born in Ceylon, and further as the legislature had been unmindful of the prohibitions of Section 29 of the Ceylon (Constitution) Order-in-Council, 1946, the Acts—Citizenship and Parliamentary Election Orders—were *ultra vires* of the legislature.

It was argued for the opposite party that the electoral law was not static; that it was within the competence of the legislature either to enlarge it or narrow it, and that the effect meant the necessary legal effect and not the ulterior effect economically or socially, and in this case exclusion of a number of individuals from the rolls was only a social effect.

The Court observed that there was no declaration of fundamental rights in the Constitution of Ceylon as is found in the constitutions of America or India, and came to the conclusion that† :

1. "Considering the history of the Indian community in this island and the fact that they came in at various periods before they became domiciled, it cannot be denied that most of the Indians, if not practically all of them, will not pass the test of the Citizenship Act. If the effect of the Act is examined on the footing that it becomes operative, some remarkable facts emerge. A large number of the Indian community would be disfranchised, thereby reducing the electoral power of that community to send members to the legislature to voice their interests; and

2. "In Ceylon too voting has become one of the privileges of citizenship by the effect of Act 48 of 1949 and therefore the Citizenship Act directly and not incidentally affects the persons of the Indian community who are domiciled and had the vote before, by putting it beyond their power to be citizens of Ceylon

* Affidavit dated March 3, 1951, filed by Mr. Pillai in the court of Revising Officer, Electoral District 84, Ruanwella.

† Judgment delivered by Mr. N. Sivagnanasundaram, District Judge, Kegalla, dated July 2, 1951.

and thus disfranchising them. The legislature cannot have intended to take away those rights and privileges; on the other hand, it must have been the intention of the legislature when it enacted Section 29 (2) of the constitution, to preserve every legal right or privilege which persons of any community or religion practically enjoyed at the time of the new constitution and not to take them away by discriminatory legislation. It is not competent for parliament under the guise or the pretence or in the form of an exercise of its powers to carry out an object which is beyond its powers by trespassing on the forbidden field of section 29 (2)..... The purpose intended in enacting this legislation must be attained consistently with constitutional limitations and not by an invasion of the rights guaranteed by the constitution. There is no escape from the conclusion that instead of being in any true sense legislation to create the status of citizenship, the Citizenship Act together with Act 48 of 1949 is part of a legislative plan to reduce the electoral power of the Indian community.”

The case* was ultimately decided by the Supreme Court of Ceylon in favour of the Ceylon Government on legal issues and one of the judges wrote : ‘With the policy of the Act we are not concerned’.

The main argument adduced on behalf of the Crown was—

1. “If the language of the statute is clear and unambiguous, the practical effect and the motive for their enactment are irrelevant. The court is to ascertain the necessary legal effect of the statute and not the ulterior effect, economically, socially or politically.”

An apt illustration was cited by the Attorney-General, who argued for the Crown. He said that suppose there was a flood and only a particular community was involved in inundation, the other communities could not claim that a piece of legislation would be discriminatory, if it authorised relief only to flood-stricken people.

The main contention of the defence was that the language of the Statute might be innocent, but if the ‘veil’ was lifted by the practical effect of the legislation, the motive and intention of discrimination would become apparent. It may interest the reader to have an idea

* Application for a mandate in the nature of a writ of Certiorari: Crown v. N. Sivagnanasundaram, Revising Officer for Electoral District 84, and G. S. N. Kodakan Pillai, decided by a Bench of three judges on September 28, 1951 in the Supreme Court of Ceylon.

of the arguments and illustrations of the counsels of the petitioner from the following* :—

1. Suppose the legislature in Ceylon enacts a statute to the effect that only people living within certain latitude or longitude will have the franchise. The language of the statute is clear, but the effect of such a legislation will be that it will exclude the entire Ceylon Tamil community, who mostly occupy only the Northern and Eastern provinces of Ceylon.

2. Suppose the Government enacted a law exempting Jaffna peninsula from the tobacco tax. Nobody could on the face of it think that the Act is passed for the benefit of Jaffna Tamils, because several communities inhabit that peninsula; but in fact Jaffna Tamils were intended to be benefitted.

3. Suppose a tax is levied on all those who wear a felt hat. Nobody knew whether the intention of the Government was to restrict the import of foreign hats, but when one knew that the Burgher community was the only community, which wore felt hats, it was a clear piece of discriminatory legislation.

4. Suppose the Government enacted that all inhabitants in the island were to be cremated. Certainly the Muslims were not going to obey it, for although the language was clear and unambiguous, the Muslim community was the only community which was the target of discrimination.

5. Suppose the Government enacts to levy a tax on all those who grow a beard. The language is unambiguous, but the effect of the legislation would be that Sikhs who keep a beard would be discriminated as a community.

But the court clinched the issues in favour of the Government by declaring :

“If the effects of a controversial piece of legislation are weighed in a fine balance not much ingenuity would be needed to demonstrate how, in its administration, one community may suffer more disadvantages than another. To embark on an enquiry, every time the validity of an enactment is in question, into the extent of its incidence, whether for evil or for good, on the various communities tied together by race, religion, or castes would be mischievous in the extreme and throw the administration of Acts of the Legislature into confusion.”†

* The author had personally attended the Citizenship case in the Supreme Court of Ceylon and the arguments and illustrations cited reflect his own observations.

† Citizenship case judgment as cited on p. 60.

The electoral law is now a settled fact as an appeal preferred by Indian Settlers in the Privy Council against the judgment of the Ceylon Supreme Court has been decided in favour of the Government.

Let us examine the practical effect of the Acts passed by the Ceylon Government defining the status of a citizen of Ceylon and limiting the franchise rights to citizens of Ceylon alone by the amendment of the Ceylon (Parliamentary Elections) Order-in-Council by Act 48 of 1949. When the first Delimitation Commission under the Soulbury Constitution was appointed, the following direction was given to it by Section 41 (4) which reads as follows :—

“Where it appears to the Delimitation Commission that there is in any area of a province a substantial concentration of persons united by a community of interest, whether racial, religious or otherwise, but differing in one or more of these respects from the majority of the inhabitants of that area, the commission may make such division of the Province into electoral districts as may be necessary to render possible the representations of that interest. In making such division the commission shall have due regard to the desirability of reducing to the minimum the disproportion in the number of persons resident in the several electoral districts of the province.”†

On the basis of the above direction, the Delimitation Commission taking into account not merely population figures but their voting strength also carved out the following electoral districts‡ in which the Indians were in a position to return members of their choice :—

<i>Serial No.</i>	<i>Electoral District No.</i>	<i>Name of Electoral District.</i>	<i>Percentage of Indian Tamils to the total population of the Electoral District.</i>
1.	28	Nuwara Eliya	59
2.	29	Talawakele	79.5
3.	30	Kotagala	53.6
4.	31	Nawalapitiya	51.1
5.	32	Maskeliya	60.6
6.	76	Badulla	42.2 + 8.1% Ceylon Tamils
7.	79	Haputale	57

Apart from the above electoral Districts, Chapter VIII of the Delimitation Commission 1946 carved out the following electoral

† Ceylon Government Gazette (Extraordinary) No. 9554, dated May 17, 1946, containing the Ceylon (Constitution) Order-in-Council, 1946.

+ Ceylon Sessional Paper XIII—1946, Chapter VIII, pp. 21-22, para 61.

Districts* where Indian Tamils were to be found in substantial concentration and might influence the verdict of the electorate in favour of the candidate of their choice :—

<i>Serial No.</i>	<i>Electoral District No.</i>	<i>Name</i>	<i>Percentage of Indian Tamils.</i>
1.	2	Colombo Central (Multi-member constituency)	15.6
2.	17	Matugama	11.5
3.	18	Agalawatta	12.2
4.	19	Dambulla	13.8
5.	20	Matale	17.9
6.	21	Minipe	25.6
7.	24	Kandy	10.4
8.	25	Galaha	18.4
9.	26	Gampola	26.1
10.	27	Maturata	22.9
11.	75	Alutnuwara	21
12.	77	Bandarawela	26.6
13.	78	Welimada	17.1
14.	80	Buttala	13
15.	84	Ruwanwella	17.2
16.	85	Dehiowita	18
17.	86	Kiriella	12.2
18.	88	Nivitigala	17.7
19.	89	Balangoda	23.8

* Chapter VIII of Sessional Paper XIII—1946, pp. 29-30, 43-55 and 112-128.

As had been anticipated by the Delimitation Commission the elections held in 1947 for the House of Representatives, returned seven Indian members from the constituencies of their anticipation. As has been pointed out before, the [Soulbury Commission had recommended that Universal Suffrage on the then basis shall be retained and the qualifications for franchise as embodied in the Ceylon (State Council Elections) Order-in-Council as amended in 1934 and 1935 were the same as qualifications embodied in the Ceylon (Parliamentary Elections) Order-in-Council 1946, and as before a large number of Indians would have been entitled to vote.

The Electoral Registers were revised in 1947. Registers for 1948 and 1949, except for the Electoral District of Maskeliya in 1949, were not printed. The Registers were again revised and published in 1950, and it will be worth scrutiny to know the electoral effect on the Indian Community of the Ceylon (Parliamentary Elections) Amendment Act, No. 48 of 1949, which made contingent acquisition of franchise on acquiring the status of a citizen of Ceylon as defined under the provisions of Act 18 of 1948, from the following Table* :—

Electoral Districts	1947		1949		1950	
	Total No. of voters	No. of Tamil voters	Total No. of voters	No. of Tamil voters	Total No. of voters	No. of Tamil voters
1. Nuwara Eliya	24,368	14,705	—	—	9,279	319
2. Talawakele	19,298	16,534	—	—	2,914	244
3. Kotogala	17,379	10,101	—	—	7,738	137
4. Nawalapitiya	22,584	14,308	—	—	9,935	675
5. Maskeliya	24,425	17,591	22,303	15,289	8,691	203
6. Badulla	43,396	20,940	—	—	28,134	1291

* Figures have been taken from Electoral Registers published by Ceylon Government.

Electoral Districts	1947		1949		1950	
	Total No. of voters	No. of Tamil voters	Total No. of voters	No. of Tamil voters	Total No. of voters	No. of Tamil voters
7. Bandara-wela	14,314	4,361	—	—	13,935	275
8. Haputale	11,123	5,983	—	—	7,049	332
9. Ruanwella	29,178	7,223	—	—	25,926	396
10. Dehiowita	28,938	5,214	—	—	27,174	177
11. Balangoda	63,443	10,597	—	—	56,105	811

There were no extraordinary circumstances for extrusion of the Indian votes excepting that from 1950 revision, the Registering Officers called for particulars relating to citizenship.* It is evident from a study of the following figures† for the Electoral Districts in Ceylon, which did not show any marked difference in the total number of voters upto the revision of 1949, that there was an appreciable fall after 1950 revision so far as those electoral districts were concerned where the Indians had large concentration of their votes:—

Electoral District	No. of Electors at General Election	No. of Electors after 1949 revision	No. of Electors after 1950 revision
1. Colombo North	30,791	35,781	35,652
2. Colombo Central	55,994	62,571	58,368
3. Colombo South	31,864	34,755	32,922
4. Wellawatte-Galkissa	38,664	42,898	43,135

* G. S. N. Kodakan Pillai v. Assistant Registering Officer, in the court of N. Sivagnanasunderam, D. J., Kegalla (Ceylon).

† *Quarterly Bulletin of Statistics*, Vol. I, No. 1 and Vol. X, No. 17, Part 2.

Electoral District	No. of Electors at General Election	No. of Electors after 1949 revision	No. of Electors after 1950 revision
5. Ja-Eila	51,274	54,150	55,304
6. Negombo	55,642	59,353	60,603
7. Mirigama	55,474	58,981	56,766
8. Gampola	54,520	59,121	57,368
9. Attanagala	55,948	56,684	58,288
10. Kelanaiya	47,638	52,849	58,057
11. Avissawella	50,009	54,511	52,414
12. Kotte	45,754	46,515	47,444
13. Horana	51,108	53,596	53,950
14. Moratuwa	57,723	57,829	55,090
15. Panadura	53,479	54,398	56,398
16. Kalutara	51,031	41,341	51,264
17. Matugama	48,407	50,146	46,203
18. Agalawatte	35,805	48,158	36,093
19. Dambulla	26,388	28,012	30,102
20. Matale	37,847	39,112	29,263
21. Minipe	28,295	28,851	22,928
22. Wattegama	32,009	33,162	31,893
23. Kadugannawa	63,213	68,533	68,515
24. Kandy	32,119	33,160	27,803
25. Galaha	37,874	39,680	32,760

Electoral District	No. of Electors at General Election	No. of Electors after 1949 revision	No. of Electors after 1950 revision
26. Gampola	32,734	36,608	25,587
27. Maturata	28,708	31,296	26,719
28. Nuwara Eliya	24,295	24,692	9,279
29. Talawakele	19,299	18,505	2,914
30. Kotagala	17,092	17,876	7,738
31. Nawalapitiya	22,580	20,740	9,935
32. Maskeliya	24,427	22,303	8,691
33. Ambalangoda-Balapitiya	104,845	100,257	92,995
34. Baddegama	38,457	42,694	39,491
35. Udugama	36,893	38,484	38,230
36. Galle	40,840	47,000	43,740
37. Weligama	51,174	49,497	40,726
38. Akurassa	45,896	46,419	43,235
39. Matara	38,930	39,664	41,162
40. Hakmana	44,414	41,386	42,072
41. Deniyaya	29,542	34,207	32,840
42. Beliatte	570	40,382	41,543
43. Hambantota	31,811	32,651	37,044
44. Kayts	38,045	34,253	30,138
45. Vaddukoddai	37,334	39,399	34,130
46. Kankesantureai	38,871	39,149	38,433

Electoral District	No. of Electors at General Election	No. of Electors after 1949 revision	No. of Electors after 1950 revision
47. Jaffna	42,546	40,313	29,489
48. Kopay	32,999	34,122	32,903
49. Point Pedro	41,682	42,966	43,218
50. Chavakachcheri	26,877	29,501	30,687
51. Mannar	14,587	14,638	15,086
52. Vavuniya	11,099	12,230	13,083
53. Trincomalie	18,421	17,625	14,256
54. Muttur	16,649	17,593	16,898
55. Kalkudah	22,030	21,944	22,205
56. Batticaloa	27,409	27,361	24,925
57. Paddiruppu	22,358	22,816	23,457
58. Kalmunai	22,753	23,517	22,106
59. Pottubil	18,164	19,341	22,036
60. Puttalam	14,035	13,004	15,246
61. Nikaweratiya	29,808	41,364	34,241
62. Dodangaslande	34,275	43,228	36,506
63. Kurunegala	38,497	42,112	40,562
64. Dambadeniya	33,314	38,452	58,487
65. Wariapola	31,886	33,674	35,212
66. Dandagamuwa	33,767	33,941	34,291
67. Dingiriya	36,156	40,133	38,270

Electoral District	No. of Electors at General Election	No. of Electors after 1949 revision	No. of Electors after 1950 revision
68. Chilow	31,055	33,808	33,817
69. Nattandiya	34,025	37,283	35,932
70. Madawachchiya	11,400	13,123	13,350
71. Anuradhapura	11,581	16,112	13,563
72. Kalawewa	15,887	19,051	19,502
73. Horawapatana	12,751	13,934	14,531
74. Polannaruwa	5,838	11,378	14,982
75. Alutnuwara	16,487	19,821	16,166
76. Badulla	43,396	47,702	28,134
77. Bandarawela	14,311	16,634	13,985
78. Welimade	19,978	25,157	21,188
79. Haputale	11,125	12,952	7,019
80. Buttala	17,151	18,592	20,034
81. Mawanella	34,491	41,039	36,221
82. Kegalla	14,791	43,175	35,426
83. Dedigama	29,556	42,369	34,764
84. Ruanwella	29,177	35,391	25,926
85. Dehiowita	28,932	34,871	27,174
86. Kiriella	30,307	35,255	28,937
87. Ratnapura	23,961	37,803	27,578
88. Nivitigala	28,486	39,393	29,245
89. Balangoda	63,438	69,408	56,105

From the above figures it is clear that there has been an abnormal fall in the voting strength of Indians in those electoral Districts where they had a majority and from which they had returned members to Parliament. This fall in the number of voters mainly concerned Electoral Districts 28, 29, 30, 31, 32, 76 and 79.

The effect of the requirements of being a Ceylon citizen on the prescribed electoral qualifications can be further judged by taking into consideration the community-wise figures of the following Electoral Districts* which have been selected at random :—

ELECTORAL DISTRICT NO. 28—NUWARA ELIYA

Booth	1947			1950			DIFFERENCE				
	Sinh.	Tam.	Mus.	Sinh.	Tam.	Mus.	Sinh.		Tam.	Mus.	
							Incr.	Decr.	Decr.	Incr.	Decr.
A	381	1918	48	539	32	25	158	—	1886	—	23
B	858	343	73	445	35	47	—	413	308	—	26
C	661	871	61	335	46	9	—	326	825	—	52
D	621	433	171	366	36	54	—	255	397	—	117
E	413	1394	61	512	31	41	99	—	1363	—	20
F	874	773	104	396	35	29	—	478	738	—	75
G	35	1626	13	73	17	1	38	—	1609	—	12
H	1421	384	64	975	15	36	—	446	369	—	28
I	185	1399	14	282	17	13	97	—	1382	—	1
J	636	550	14	839	22	25	203	—	528	11	—
K	513	693	3	699	—	20	186	—	693	17	—
L	951	71	7	1119	—	5	168	—	71	—	2
M	623	438	8	831	3	5	208	—	435	—	3
N	237	1411	29	354	25	23	117	—	1386	—	6
O	170	1646	4	205	9	8	35	—	1637	4	—
P	201	1342	19	275	21	36	74	—	1321	17	—
Total	8780	15292	693	8245	344	377	1383	1918	14948	49	365
Grand Total	24765			8966							

Voters in 1947 — 24765 Sinhalese increase — 535
 Voters in 1950 — 8966 Muslims decrease — 316
 Tamils decrease — 14948

* The figures have been taken from official electoral lists published by Ceylon Government.

ELECTORAL DISTRICT NO. 30—KOTAGALA

Electoral District	1947		1950		D I F F E R E N C E			
	Sinh.	Tamils incl. Mus.	Sinh.	Tamils incl. Mus.	Sinh.		Tamils incl. Mus.	
					Incr. |	Decr.	Incr. |	Decr.
Polling Booth								
A	74	1251	129	23	55	—	—	1228
B	45	1429	217	78	172	—	—	1351
C	8	1148	122	13	114	—	—	1135
D	841	881	1094	10	253	—	—	871
E	38	1597	94	7	56	—	—	1590
F	1072	392	1382	29	310	—	—	363
G	305	421	554	69	249	—	—	352
H	793	230	1098	1	305	—	—	229
I	770	181	696	19	—	74	—	162
J	866	3	1082	—	216	—	—	3
K	276	1089	421	547	145	—	—	542
L	98	1063	126	1	28	—	—	1062
M	45	1098	73	16	28	—	—	1082
Total	5231	10783	7088	813	1931	74	—	9970
<i>Grand Total</i>	16014		7901					

Voters in 1947	16014	Sinhalese voters	1947	32.66%
Voters in 1950	7901	Tamil voters	1947	67.34%
Decrease	8113	Sinhalese voters	1950	89.70%
		Tamil voters	1950	10.30%

Decrease in Tamil voters including Muslims 9970

Increase in Sinhalese

1857

2377

ELECTORAL DISTRICT NO. 32—MASKELIYA

Electoral District	1947		1950		DIFFERENCE			
	Sinh.	Tamil incl. Mus.	Sinh.	Tamil incl. Mus.	Sinh.		Tamil incl. Mus.	
					Incr.	Decr.	Incr.	Decr.
Polling Booth								
A	793	764	1159	33	366		—	731
B	1179	385	1305	12	126		—	373
C	1050	24	1399	3	349		—	21
D	113	643	30	3	—	83	—	640
E	803	231	901	32	98		—	199
F	213	1115	299	17	86		—	1098
G	35	1185	68	16	33		—	1169
H	95	1004	118	11	23		—	993
I	48	1084	75	2	27		—	1082
J	30	1013	67	2	37		—	1011
K	52	1175	122	16	70		—	1159
L	346	1029	396	58	50		—	971
M	16	1608	68	3	52		—	1605
N	47	1421	175	13	128		—	1408
O	74	1125	115	21	41		—	1104
P	188	1306	213	20	25		—	1286
Q	24	1478	56	13	32		—	1465
R	13	971	33	9	20		—	962
S	1110	30	2069	18	959		—	12
Total	6229	17591	8668	302	2522	83	—	17289
Grand Total	23820		8970					

Voters in 1947	..	23820
Voters in 1950	..	8970
Decrease	..	14850
Decrease in Tamil Voters	..	17289
Increase in Sinhalese Voters	...	2439

Most of the Indians could not become citizens under the provisions of the Citizenship Act 18 of 1948 and as the applications for the Indians to register themselves as citizens under the Indian and Pakistani Residents (Citizenship) Act 3 of 1949 could not be disposed off by the Government, Indians were disfranchised *en mass* by a stroke of a parliamentary device. It was urged by the Government that the Indians themselves were mostly to blame for the non-disposal of the citizenship applications filed by them due to the boycott sponsored by the Ceylon Indian Congress for registering citizens of Ceylon, and it was only a few days before the last date for filing applications *i.e.* 5th August 1951, that most of the Indians filed applications when hardly any time was left at the disposal of the Government to determine the applications before the General Elections to include the names of qualified Indians on the electoral rolls.

The General Elections were impending and frantic efforts were made by Indians to file lakhs of claims before the Registering Officers for the inclusion of their names in the Electoral Registers to be used for the May 1952 General Elections. It must be borne in mind here that the parliament had passed a law that the General Elections would be held on the basis of certified Electoral Registers of 1950. Upto 31st of August 1951 only 1769* applications were accepted and 6199* Indians registered as citizens of Ceylon under the Indian and Pakistani Residents (Citizenship) Act No. 3 of 1949. According to the Ceylon Government such administrative procedure as was employed in the disposal of the applications was likely to take years to dispose off the entire lot of applications; but events took a very rapid turn and on the eve of dissolution of Parliament, Mr. D. S. Senanayake, the Prime Minister of Ceylon, died as a result

* Figures have been taken from the Office records of the High Commissioner for India in Ceylon, Colombo, September, 1951. The figures available on October 7, 1952 showed that only 35,000 out of 235,000 applications had been disposed of, thereby granting citizenship to only about 12,000 persons. The Satyagrah movement launched by Indian settlers in May 1952 and representations made by them subsequently, it seems, had stirred the Ceylon Government to expedite disposal of applications. Under a Governmental Scheme, all estates in the island are to be divided into 115 groups, each under one investigating officer who will deal with about 2,000 applications and the work will be taken up simultaneously over several estates, instead of one at a time.

(*Hindustan Times*, New Delhi, dated September 17, and October 6, 1952.)

The Ceylon Government thus hoped to carry out its promise of disposing off the applications by the close of 1954.

of a fatal fall from horse-back in March 1952. The clouds of impending General Elections were soaring high up and deepening in colour and the Parliament was dissolved without solving the Indian franchise problem.

The Government of India also sent a Note dated May 4, 1952 to the Ceylon Government to honourably resolve differences on the Indian question; but the new Prime Minister, Mr. Dudley Senanayake, the son of the former Premier, declined to intervene at this stage on the plea that any suggestion for the restoration of franchise rights to Indians would mean summoning of the dissolved parliament which step was beset with constitutional difficulties. But in conformity with the policy of Ceylon politicians to evade issues which require prompt attention, he promised to look sympathetically to the solution of the Indians' problem on the opening of the new Parliament. The peaceful Satyagraha sponsored by the Ceylon Indian Congress to focus public attention on the injustices perpetrated on Indians by taking away franchise right was dubbed as communists-inspired by some of the Ceylon politicians holding responsible position in the Government. The 142-day-old Satyagraha campaign was called off for two months after the members of the Ceylon Indian Congress Working Committee, the Action Council, and district representatives—26 in all—had ended their 24-hour fast at 6 p.m. on September 16, 1952 before the Prime Minister's office. But the suspension of Satyagraha had been decided upon not on any legalistic consideration but for the purpose of creating "an atmosphere of good-will for an amicable settlement of the points at issue", and in the hope that the Prime Minister of Ceylon might yet be persuaded to render justice to the Indian settlers after considering the Congress memorandum submitted to him.

The General Elections were, however, held in the last week of May, 1952 and as was anticipated or was a foregone conclusion in the face of Ceylon (Parliamentary Elections) Amendment Act 1949, the Indians lost all the seven seats held by them in the last Parliament and the Electoral Districts, where Indians had a preponderate vote previously, returned Sinhalese members to the House of Representatives on the strength of 1950 Electoral Registers. The 8 lakhs Indians resident in the island at present are represented in the present Parliament by a single nominated Indian member and the inside walls of the Parliament building echoed with the thundering Adjour-

ment motions* sponsored by political parties in opposition to the present Government on the police excesses perpetrated on peaceful Satyagrahis. What next, can appropriately be answered by the statesman-ship of the ruling party in Ceylon—U.N.P. so that the following observations of an Indian member of the last Parliament, may be falsified by a correct appreciation of Indians' difficulties in Ceylon :

“What does this democratic law, this democratic way of life which His Excellency speaks of and extols so much, mean ? Is it a democracy, in which 800,000 people have been, by the brute majority of the Government, deprived of the right to vote ? Is that the democratic way which this Government is talking about ? They say, they believe in the democratic way of life. How can they expect us to believe it when they deny to such a large number of people the democratic right of voting, of expressing their opinions and sending their own representatives to express them ?”†

* Contrast the attitude of the Indian National Congress, which favoured a course of reinforcing its moral support for the Satyagrahis in South Africa with monetary assistance, at the Indore Session held in September 1952, and the Ceylon campaign passed unnoticed. The circular letter addressed by the Indian National Congress to international organisations, including the Ceylon Indian Congress, Colombo, adds “The policy of the fascist Malan Government in South Africa—from the denial of political rights to the hateful ‘apartheid’ policy of segregation—represents a flagrant flouting of elementary human rights.”
(*Hindustan Times*, dated October 13, 1952.)

† Mr. A. Aziz's remarks on the opening sentence of Governor-General's Address to Parliament, Ceylon Hansard, Vol. 10, No. 3, Column 109, dated June 26, 1952.

CHAPTER III

Citizenship Rights

“O Serene ! O Free !

In thine immeasurable mercy and goodness

Wipe away all dark stains from the heart of the Earth.”—Tagore

So far as the citizenship rights of Indians are concerned, the British period of history in Ceylon *i. e.*, from 1802 to 1948, affords an interesting background to judge later events in the period when that control was replaced by what in the modern political phraseology is called “full responsible Government in all matters of internal civil administration” or for the matter of that a complete independent status. And in the peculiar circumstances of Ceylonese history during the British period, the problem of representation is of fundamental importance, particularly because Ceylon is composed of a number of communities differing from each other in race, religion, language, traditions and customs. As has been stated in Chapter I, the immigration of Indians, whose citizenship rights we are concerned with in this study, started in 1837 and it is from that date that one must trace the evolution of the system of representation in those Bodies—Legislative and Executive, which were the instruments of administration of the Crown colony. The problem of Indians did not come to the forefront upto the close of the 19th century, because admittedly Indians used to cross the sea in search of better employment in a period of boom in the planting industry and when prosperity showed an ebb, the natural course for them was to return to the mother-country with whatever savings they could amass during their sojourn in Ceylon. This outflux and influx is an interesting phenomenon in the immigration history of Indians in Ceylon and is a true indication of the prosperity or otherwise of Ceylon’s economy. But the evolution of the process of representation of other minority communities, which are regarded as part and parcel of Ceylon’s population, has tremendously influenced the course of events which have in turn reacted favourably or unfavourably upon the position of Indians, who after the close of 19th

century migrated to Ceylon not in search of employment but with a definite objective of making Ceylon as their home. Of the minority communities in Ceylon, the Ceylon Tamils, who trace their origin from South India and who form a majority of the population in the northern and eastern provinces of the island, have played a significant role in the constitutional and economic development of the island. On account of an initial advantage in the sphere of education, they have held their own in the learned professions, and in spite of their small numbers have manned highest posts in Public Services. The brain and industry of the Ceylon Tamils have amply been employed and proved invaluable in the governance of Ceylon.

It was in 1833 that representation was first introduced in the Ceylon legislature and since that date every community has vied with each other in looking through an angle of vision frankly communal to so manoeuvre the situation as to bring into the legislature the largest number of representatives of a particular community in order to secure the largest benefits to the members of that community and in such an atmosphere a spirit of true nationhood where the interest of the whole nation is a dominant idea is wholly absent for achieving an ordered political ambition. It is exactly such an atmosphere where a foreign power is apt to take advantage of the theory of *divide et impera* to perpetuate a rule where the capitalistic class has a complete sway on the raw materials of an undeveloped country and so it happened in the case of Ceylon much to the misery and starvation of the working class people who by their sweat and blood nursed the planting industries of the island for accumulating rich dividends to the British capitalistic class.

The Sinhalese, the majority community constituting about two-thirds of the population, were politically backward, though resentful of the manner in which power was snatched from them by the Britishers.*

Economic forces and circumstances exert an undiscernible influence and carve out a future for an individual or a nation and lack of economic prosperity is directly linked with the political backwardness of communities in a subject country, and so it happened

* Article 3 of Government Proclamation of November 21, 1818, Appendix to Donoughmore Commission Report (Reprint) 1928, p. 176.

in Ceylon that political consciousness was circumscribed by economic factors. As observed by Major G. St. J. Orde Browne, the Sinhalese could not attain that political maturity, which was attained by a Ceylon Tamil, because in contrast to the economic position of a Ceylon Tamil, a Sinhalese was "fortunate in being the inhabitant of a fertile and well-watered country; he had found existence easy in the past, and saw no reason why he should exert himself in distasteful conditions in order to obtain money for which he had no particular use."*

Under such circumstances, the Ceylon Tamils had an upper hand in the matter of quantum of political power bestowed in whatever degree by the constitutions granted to Ceylon from 1833 to 1930. It must be clearly understood at this stage, that the political power conceded to Ceylon in matters of legislative or executive functions was such an insignificant factor that it did not constitute a major threat to the security and political or economic rights of Indians, who were reasonably content with whatever was assigned to them under the Constitutions of 1920, 1923 and 1924. Such was the case with all the other minority communities, who in contrast with the Indians, had more than their share at least more than what their numerical strength entitled them to—in the governance of the island. To be exact, although the Indians had only two elected representatives in the legislature for a population of about 8 lakhs prior to the Donoughmore Constitution, the proportion of Ceylon Tamil members to Sinhalese varied from 1 : 2 to 2 : 3, and as a matter of fact this proportion of 1 : 2 in the allocation of seats to Legislative Council was agreed to in 1925 by the representative organisations of the two communities—namely the Ceylon Tamil Congress and the Ceylon National Congress.

It will thus be seen that the representation of the communities in Ceylon was communal in outlook and practice. A departure was made by the proposals of the Donoughmore Commission, in advocating a territorial scheme of representation, which came as a *volte face* to the minorities in Ceylon and which was regarded as a "political wind-fall to the Sinhalese majority." The scheme proposed by the Commissioners emerged with minor modifications in the shape of the

* Ceylon Sessional Paper—XIX of 1943; Report on Labour conditions in Ceylon by Major G. St. J. Orde Browne, p. 6, para 7.

Ceylon (State Council) Order-in-Council 1931, the provisions of which allocated 50* territorially elected seats as under:

Sinhalese (low-country and Kandyan)	39
Ceylon Tamils	8
Indian Tamils	2
Muslims	1
	50

In this way, the pre-1931 ratio of one Ceylon Tamil to two Sinhalese was changed to a ratio of nearly 1 to 5 in favour of Sinhalese, although the representation of the Indians remained unchanged. Therefore, in a House of 61 members (8 were to be nominated for representing unrepresented elements of the population as indicated by the election figures and 3 officers of state had no right of vote), the Sinhalese achieved their ambition of forming what in common political parlance is called 'brute majority' over the combined strength of other political groups in the island on a community-wise basis.

It was in anticipation of the fear of giving representation according to population strength to Sinhalese in contrast to either the representation enjoyed by them in the pre-1931 era or their political backwardness that the All-Ceylon Tamil Congress had advocated what in the constitutional history of Ceylon was known as the "fifty-fifty" formula or a scheme of "balanced representation". Their fears, amongst other things, were based upon sound political principles, the chief of which were†—

- (1) The domination of any particular community in a country with a conglomerate population would be prevented and self-government would become a reality for all racial communities in the island.
- (2) Purely territorial representation, which meant simply numerical representation, could only result in placing in power a permanent racial majority that no appeal to the electorate was capable of altering.

The above suggestions were, however, not accepted by the Commissioners, who wished to frame a constitution which had "in it the

* Ceylon : Report of the Commission on Constitutional Reform, Cmd. 6677, p. 67, para 252.

† Cmd. 6677, p. 68, para 255 (a) and (c).

seeds of a healthy and progressive advance towards parliamentary self-government", but as observed by the Soulbury Commission, the hopes of the Donoughmore Commission that communal tension would eventually disappear as a result of territorial representation remained unrealised and they frankly admitted:

"No Sinhalese has any prospect of election in the Northern and Eastern provinces where the Ceylon Tamils predominate, and in most of the Western and Southern portions of the island a Tamil, whether Ceylon or India, has little or no chance. Language alone is a handicap to such candidates, but the electors undoubtedly tend to vote on racial and, to some extent, on religious grounds.....The electoral reforms brought out into the open and gave intensified public expression to underlying and deep-seated communal dissension."*

Whatever may have been the intentions of the Donoughmore Commissioners or the effect of their recommendations, two things clearly emerge from the new scheme of reforms as far as Indians are concerned. Firstly, the additional burden of proving five years' residence for securing a vote was a retrograde step from the Indian point of view; and secondly, the political leaders of the majority community took a hint from this proposal of differential qualifications. They saw a great advantage which the abolition of the communal representation and grant of adult suffrage would give them, only if the Indians could be kept out of the way. They knew so well the advantage education had given to Ceylon Tamils and of their preponderance in the sphere of employment generally and in the administration in particular. They fully understood that the intransigence of the Ceylon Tamils had resulted in the demand of "fifty-fifty" representation which they thought could not have been put forward by them had Sinhalese taken advantage of their numerical strength. They were aware of the the advantages of the Ceylon Tamil community, and fearing their possible link-up with the Indian Tamils due to the common community of interests—those of religion, race and language—they did not want unity in the ranks of the two Tamil communities. Fortunately, the Donoughmore Constitution gave them advantages for which they had in their heart of hearts prayed for long, as they could not have by themselves forced the Ceylon Tamils to agree to a scheme which, in the face of the gentlemen's agreement between

* Cmd. 6677, p. 71, para 266.

the representatives of the Sinhalese and Ceylon Tamils in 1952, was not possible of acceptance by them. The emergence of Sinhalese community as the single largest community over the combined representative strength of all the communities in the legislature may be said to have sown seeds of that neo-nationalism in Ceylon, which has afterwards, step by step, linked political questions with economic problems and which sentiment has resulted in orienting their future policy on lines which have viewed Indians as aliens and have resulted in the enactments which besides curbing the political strength of the Indians, have hit them hard economically and socially. How to achieve their end in shutting out Indians politically from the island's political arena?—this has been the corner-stone of the Sinhalese policy or political philosophy. And their consistent endeavour from 1931 to 1948 in the British period of island's history and subsequently in the post-Independence era has been one continuous process for the liquidation of citizenship rights of Indians resident in that country; for prior to 1931 the Sinhalese as a community firstly had no substantial political rights themselves and secondly, they wished to acquire legislative authority statutorily under the patronage of the British administrators. It was their view that in any subsequent conflict with the minority communities, the British would prove a moderating influence and at least for safeguarding the interests of the British capitalistic class in Ceylon they would side the majority community, which frankly speaking had sent to Parliament representatives, who mainly represented the capitalistic class in Ceylon and, therefore, had between them an economic affinity in the wider sense of the word. The economic depression of 1930 and subsequent years has been made an excuse for the change in the outlook of Sinhalese politicians; but economic depression of those years did not cast its evil shadow on Ceylon alone; nor was its incidence an exclusive monopoly of that country. It was world-wide and its tremors were felt in every continent. It is a pity that the Ceylon politicians should attempt to conceal their real intentions inundating the entire community of working class Indians in particular and the urban trading class in general under the mask of economic depression. Due to the concentration of working classes in up-country estates, they constituted a major challenge to voting strength of the Sinhalese, while the urban classes were so scattered as to have been ignored as a political factor in the future setup of Ceylon. The economic depression, therefore, might have exercised a substantial influence

in shaping the future policy of the island, but politically the Sinhalese really wanted to remove the threat of Indian voting community or else to ostracise them in a way that while retaining the cream of Indian community for the benefit of the prosperous economy of the island, they be made an insignificant factor pursuing their economic avocations but not important enough to exercise any political rights.

The second chapter deals comprehensively with the problem of franchise, which has been a headache and an eyesore to the Sinhalese politicians in the context of Indians' demand for representation on population basis. The restriction of the franchise rights has affected the position of Indians in every walk of life and as will be described later, the Ceylon Government has devised a comprehensive plan for the categorisation of its nationals and the Indian Tamils have been assigned a position which derogates them from the status of a full Ceylon citizen.

This must, however, be said to the credit of the Ceylon politicians that their plan for squeezing out the Indians has been executed almost with the precision of a lathe and whatever steps they have taken and whatever field of rights they have assailed, the motivating force for that invasion has been to the detriment of political rights of Indians, for only the deprivation of political rights can make their voice ineffectual. Ceylon has been very fortunate in having a magnanimous neighbour in India, whose government and people have invariably displayed a spirit of non-interference in the internal affairs of that island although the latter has been dependent on India for the import of her essential food stuffs and India is a potential buyer of the chief agricultural products of Ceylon. Adequate appreciation of India's attitude has not been reciprocated by Ceylon and from the time the Sinhalese obtained an absolute majority in the legislature under the Donoughmore Constitution, they have consistently tried to assail Indians' position in every sphere of life.

The first and foremost question in any subject country with an agricultural economy is that of land which is supposed to be a national asset, and when the British took possession of the colony, their first concern was land for putting it under cultivation, and employing latest modern implements of agriculture. The British administration granted lands to the planters on ludicrously low

prices, and due to the boom in the coffee industry all the cultivable land was purchased by the capitalists so that in course of time, the Sinhalese peasant became almost landless. The tables shown in Appendices II-V are taken from the Despatches of the Governor of Ceylon to the Secretary of State for Colonies in regard to the administration of the island in the years 1871, 1872 & 1881 respectively and they afford an interesting example of a comparative study in prices at which the crown land was sold to European planters at a time when there was a boom in the coffee industry. If due care had been taken in the disposal of the crown land it would have fetched enormous prices.

The Ceylonese were naturally very much resentful at the past happenings, which had resulted in the alienation of land to foreigners, but at the time of introducing legislation in 1933 in regard to the colonization of crown land, they probably made a fundamental mistake in bracketing the Britishers, who were aliens and had been avowedly frank in their assertion of having only an economic interest in the island, with the Indians who had settled in Ceylon with the intention of making the island their permanent home. Not only this; there was another very big economic factor dividing the two. The Britishers belong to a capitalistic class, while the Indians mostly belong to the working class and as such in any scheme of colonization, they had not only an interest but on receiving a Governmental encouragement would have proved to be pioneers in the field of agriculture and would have been an asset to the country. Under such psychological circumstances, the Land Development Ordinance was introduced in the State Council in 1933. Nobody would dispute the principles underlying such a laudable scheme of land distribution, specially as it was designed to benefit the landless and the poorer classes of Ceylon. The only objection of the Indians was that in matters of such a benevolent scheme why, due to the past sins of the British capitalistic class Indians be equated with the Britishers, who in the words of Mr. G. C. S. Corea had indulged ruthlessly in a "systematic spoilation of land for the benefit of the capitalist class". Mr. Corea had shown his resentment while elucidating the principles of land laws during the British period thus:

"The history of the land laws of this country is indeed a very dark one of unparalleled avarice and unexampled spoilation. Necessary chapter and verse can be quoted which would bring

a blush of shame to the faces of those concerned in the administration of the land laws of the country from the time of the British occupation.

“.....These land laws, Sir, like the vampire, have used their claws and drunk the last drop of the life-blood of the people of this country by their fell designs.”*

It was in such an atmosphere of resentment that the majority of the Sinhalese members in the State Council wanted ruthlessly to do away with all those elements, which had in their estimation, been unfair to the indigenous population in the past. The provisions of the Land Development Ordinance should, therefore, be examined, keeping in view the moods and political whims of the Ceylon politicians, who had found an outlet in the State Council not only to redress their grievances but to do something positive in the domain of practical politics.

The obnoxious feature of the Ordinance as it affected Indians was that in the history of Ceylon administration it was probably the first time that they had been discriminated by the ingenious definition of the word “Ceylonese” which excluded a majority of them from the purview of the benefits of the land laws. The Indians upto that time had been included in the definition of the “British subjects” and protected as such and so were the indigenous population defined and extended privileges or rights. The privileges still remained intact, but the conferment of extra benefits on those, who in addition to British subjects were also termed as “Ceylonese”, brought about a discrimination against the Indians.

The word “Ceylonese” was defined as below in the ordinance:—

“Ceylonese” means a person of either sex domiciled in this island and possessing a Ceylon domicile of origin.†

In view of this an Indian has to prove not only that he is domiciled in the island and born in Ceylon but for a legal compliance with the above definition he has also to prove that his father had also been born in Ceylon. Apart from the objection of categorising the Indians as distinct from the indigenous population, it was impossible to prove that their fathers were

* Ceylon Hansard No. 49, dated October 19, 1933, pp. 2417 & 2419, (State Council Debates).

† Legislative Enactments of Ceylon : The Land Development Ordinance 1935 (1938 Revision), Chapter 320, Section 2, p. 1.

also born in Ceylon, looking to the history of immigration of Indians in Ceylon. As has been stated before, the flow of Indians into Ceylon for a permanent residence started only in the beginning of twentieth century and in view of this to require a person to prove in 1935 that not only he but also his father had been born in Ceylon was, barring a few exceptional cases, an impossibility.

Then according to section 8 of the Ordinance, the crown land to be reserved for alienation must be given for purposes strictly in accordance with the priority prescribed in that section *i. e.* it is only after all means have been exhausted to distribute land to "Ceylonese" (for all practical purposes "Sinhalese") that a category had been inserted in the section as under for alienating land to any other class:—

"(o) alienation to any persons whom-so-ever irrespective of the class or race to which they belong."*

It was clearly designed to put a veil on the motives of the legislation that such a clause had been inserted. After all when all is done, such a legislation regarding land fell within the category of Bills to be reserved for the signification of assent of the Secretary of State for Colonies and the Ceylon politicians were clever enough to insert the clause for shutting out all objections, which might be raised on account of discriminating between classes and races.

This scheme of alienating land was particularly meant for middle class Ceylonese and according to Section 171,† a middle class Ceylonese was a person whose annual income went upto Rs. 6000. In the face of such statutory provisions regarding income, it was rather bad politics for a politician of the eminence of the Hon'ble Mr. D. S. Senanayake, the Prime Minister of Ceylon, to have written to Pandit Jawaharlal Nehru that the "benefits under this ordinance are conferred chiefly on poor and landless Ceylonese, who have little or no means of maintaining themselves under present conditions in their villages."**

In contrast to this income of Rs. 6000 per annum of a middle

* The Land Development Ordinance (1938 Revision), Section 8 (o), p. 5.

† Ibid p. 39.

** Ceylon Sessional Paper XXII—1948, (Correspondence relating to the Citizenship status of Indians resident in Ceylon), Document No. 22, dated September 21, 1948, p. 49.

class Ceylonese who would have benefitted from the scheme under the Ordinance, think of the Indians in Ceylon who were supposed in 1947 to possess an adequate means of livelihood as one of the ingredients to obtain citizenship rights ! and Mr. Senanayake's assertion that the removal of legal restrictions on non-Ceylonese in regard to the Ordinance would be a matter of academic interest would hardly be appropriate, as a Ceylonese possessing an income of Rs. 6000 per annum would atleast be better than an Indian labourer possessing an adequate means of livelihood.

A Land Commission was appointed in 1927 and it was mainly after the Commission's report that the alienation and development of land for the benefit of the Ceylonese population really commenced, and the following provision as Section 161 was incorporated in the original bill. The said section was only a part of the recommendation of the Land Commission :—

“It shall be lawful for the Governor to make order that any facility, benefit, privilege or right given, conferred, enjoyed, or exercised to or by a Ceylonese or a middle class Ceylonese under this ordinance shall be extended to any other person or class of persons to be specified in such order and on such terms and conditions as the Governor shall consider necessary.”*

This was probably put as a preliminary to avoid any objection that might be raised on the ground of class or race discrimination, but when the ordinance passed on to the Committee stage it was altogether deleted† and the last hope of getting some justice through the highest authority in Ceylon vanished with such deletion.

The most objectionable feature of the scheme from the viewpoint of minorities was embodied in Section 172 of the Ordinance, which gave powers to Government to make regulation for the purpose of lending money to the grantees of lands out of the funds sanctioned by the State Council. If the benefits under the ordinance

* Debates (The State Council of Ceylon), No. 58, dated November 21, 1934, p. 2829.

† Mr. Stewart-Smith, M. C. S. observed during the debate: “By omitting this section 161, non-Ceylonese are definitely excluded from the operations of this ordinance, from its benefits, its rights and its privileges. Now, Sir, with all respect I am going to ask the Hon. Minister a simple question: Does not the exclusion of section 161 make this measure a piece of definitely racial legislation?But as I see it, the omission does bring this measure within what I regard as the forbidden ambit.”

(Ceylon Hansard No. 58, dated November 21, 1934, p. 2826.)

were to be given only to Ceylonese, where was the justice that the tax-payers' money be utilised for the benefit of a particular class and the rights and privileges of those whose tax contributions made the general pool be denied to them inequitably? But the majority of the Sinhalese in the legislature was insuperable and unsurmountable for taking into consideration the just rights and privileges of those, who had materially contributed towards the creation of that fertile land, which had once been barren and jungle belts. Mr. Senanayake, a sober and subtle Sinhalese politician that he was, might have carried convictions with the Europeans, who were equally affected with the Indians by the discriminatory and class legislation, by such words as these :

“About 80% of the tea estates in Ceylon is owned by European capitalists and we have agreed to preserve their interests by ceasing to plant any more tea in Ceylon, although there is ample land belonging to private individuals on which tea can be grown.”*

The Europeans might have been cajoled with the sweetness and serenity of these words; but where was the Indian and what was his future? Did he own any lands like the members of the European community? How could Ceylon politicians cajole him as they cajoled the Europeans by their sweet words? The unit—one of the teeming millions consisting of labourers who eked out their livelihood on the meagre wages of their hard-earned labour—might have been silently told to seek other avenues for purchasing lands other than crown lands and which he could still purchase from private parties; but as majority of the Indians belonged to the labour class, where were necessary funds to come from? And a great opportunity was thus missed or lost for remedying the evils of the present tension, for assimilation of Indians with indigenous population—the only effective solution in sight at present—would have made the Ceylonese nation great and contented once the Indians were given opportunity of owning lands side by side with the peasantry of Ceylon.

This vicious cycle of discriminatory mentality soon manifested itself in a series of Acts passed by the Ceylon legislature almost according to a plan and the Indians were, of course, a special target. The Sinhalese had taken it into their heads that for a successful

* Debates: The State Council of Ceylon, dated November 21, 1934, Volume No. 58, p. 2828.

achievement of their political aims, it was necessary for them to so curtail the economic rights of Indians as to make them feel exasperate and compel them to go back to India in desperation. The Ceylon politicians knew the character and the composition of the Indian population in Ceylon most of whom belonged to labouring classes and who were naturally most zealous to safeguard their economic rights in preference to political. Therefore in the era of Donoughmore Constitution *i.e.* from 1931 to 1946, a legislative plan was subtly executed for an invasion on economic rights of the Indians with a view to achieve political aims, and the concentration or the severity of those laws mainly fell on the poorer classes of Indians in Ceylon.

The question of unemployment in Ceylon dates back to the period of economic depression of the thirties of the present century, although "until 1930 or about that time, such unemployment as may be taken to have existed was on such a small scale that it attracted little attention and being almost entirely of short duration caused little real distress."* But during 1930-32 there was a severe trade depression and large number of men and women were thrown out of work. The following figures† will illustrate the extent to which the principal industries of the island were effected during 1924 and 1935 :—

Year	Lbs.	Value in Rs.	Average price	
			Rs.	cls.
1. Tea				
1924	204,931,217	214,965,806	1	5
1929	251,588,012	205,194,182	...	82
1930	243,107,474	182,038,751	...	75
1931	243,969,970	138,698,724	...	57
1932	252,823,755	107,692,146	...	43

* Ceylon Sessional Paper VII—1937 (Report of an Informal Committee appointed by the Hon'ble Minister of Labour, Industry and Commerce), p. 4.

† *Ibid.* pp. 4-5.

<i>Year</i>	<i>Lbs.</i>	<i>Value in Rs.</i>	<i>Average price</i>	
			<i>Rs.</i>	<i>cts.</i>
1933	216,060,773	117,909,769	...	55
1934	218,694,956	145,062,972	...	66
1935	212,153,102	145,763,782	...	69
2. Rubber				
1925	102,185,442	169,492,247	1	66
1929	180,632,140	86,630,874	...	48
1930	170,946,243	47,158,226	...	28
1931	138,004,736	19,841,665	...	14
1932	111,241,860	13,232,696	...	12
1933	142,317,027	22,995,245	...	16
1934	178,556,182	56,615,226	...	32
1935	120,478,543	38,393,614	...	31
3. Copra	<i>Cwt.</i>			
1926	2,419,398	39,848,478	16	83
1929	2,042,488	26,315,987	12	88
1930	1,812,601	18,028,725	9	95
1931	1,877,303	12,715,258	6	77
1932	913,987	8,284,294	9	6
1933	1,286,791	6,828,435	5	31
1934	2,109,379	9,244,405	4	38
1935	975,213	7,818,398	8	2

The impact of depression, therefore, was seriously felt during three years 1930-1932. But in view of subsequent allegations of aggravation of unemployment owing to the presence of the Indians, the following conclusions reached by the Informal Committee referred to before, after careful sifting of evidence of witnesses, who were competent to speak on the subject, and data furnished by them, were ample and effectual refutation of the allegations against the Indians :—

“(a) Fortunately for Ceylon the bulk of these (those thrown out of work) were Indian estate labourers, who returned to India and thus relieved the local Government of the necessity for providing for them. Over 100,000 left Ceylon in the years 1930-33.

(b) The general volume of unemployment was increased, perhaps unavoidably, by Government's policy of retrenchment. The total number of persons employed directly by the various departments was reduced from 69,287 in 1930 to 60,553 in 1933.”*

This mainly concerns rural unemployment and the question of urban unemployment which constituted an insignificant fraction of the former, certainly could not be relieved by axing a large number of daily-paid workers, who in spite of their long services were bundled out of Ceylon on payment of meagre sums of gratuity and travelling expenses. The extent of their poverty could be realised from the fact that before their departure they were advanced money to pay off their local debts. In this way, what was given them by one hand was taken away by the other and the Ceylon politicians laughed at the conservation of currency ! They were aware of the inferiority of the Sinhalese labourer to the Indian, but political considerations compelled them to ignore the economic loss that the country was likely to suffer as a result of their anti-Indian policy.†

A more subtle but a reliable remedy was thought of to put the blame on Indians in regard to the acute unemployment on various pleas, such as, undercutting in wages, unrestricted immigration of Indians into the island, etc. The Sinhalese politicians planned to

* Ceylon Sessional Paper VII—1937, p. 5.

† Ceylon Sessional Paper VII—1937, p. 6; Ceylon Sessional Paper III—1938; Jackson Report, p. 18. and Ceylon Sessional Paper XIX—1943, Major Orde Browne Report, p. 6.

restrict the immigration of Indians on such pleas for political motives, but they could have achieved their purpose only on economic pretences. Moreover, if ultimately restriction on immigration was decided on, it would serve two purposes : Firstly, shutting out of Indians in future years would localize the problem in Ceylon and they could, therefore, effectively deal with it, and secondly, the unemployment problem would be eased, if not completely eliminated.

Mr. Jackson was appointed* as a sole Commissioner "to enquire into and report generally on the immigration of workers, skilled and unskilled (including assisted estate labourers) into Ceylon from India and other countries and in particular to consider the following questions:—

- (a) The extent of such immigration and whether it is increasing or decreasing;
- (b) Whether such immigration has caused or is likely to cause unemployment or other economic injury to the permanent population of the island;
- (c) Whether any restriction or control beyond that already existing should be imposed on such immigration and, if so, what form such restriction or control should take".

His report on the above queries is an illuminating chapter in the fight of Indians for their just rights. As the Commissioner had taken pains to travel all over Ceylon for the purpose of finding out facts and as reliable and respectable witnesses had given evidence before him, the recommendations suggested by him might be taken to be reliable, accurate and trustworthy and also free from race prejudice. The report upset all the calculations of the Ceylon politicians, as it embodied frankly all those principles of human behaviour, the acceptance of which would have paved the way for a united Ceylon and non-acceptance of which as the later history revealed, besmirched the fair name of the island in the comity of Nations.

The Jackson report discusses the question of immigration on scientific lines and embraces all categories of Indian workers—urban

* He was appointed by His Excellency the Governor of Ceylon by a Commission dated the October 1, 1936.

and rural—who are said to have been the cause of the economic plight of Sinhalese workers.

Two of his significant remarks have in effect replied to the accusations of Ceylon politicians who in their unguarded language and temper wished to misrepresent the facts of history. His authoritative pronouncements are:—

1. “With regard to the past, I feel no doubt that it is broadly true to say that immigrant workers came to Ceylon for work for which Ceylonese were not available and for which, in the circumstances of the time, they could not have been made available by any action which employers could reasonably have been expected to take. So far from causing economic injury to the permanent population, immigrant workers made possible an economic and general advance which could not have taken place without them and in the benefits of which the great majority of the population, directly or indirectly, share today”.*

This was his definite view regarding the contribution that the Indians had made to the economic development of the island, and his negative approach to the question of unemployment threw the blame on the Sinhalese themselves, who thought “that certain types of labour are undignified or degrading for men of their race” (p. 18 of Jackson Report). Mr. Jackson’s definite conclusion was—

“The evidence of the absence or scarcity of Ceylonese in certain unskilled occupations,..... showed clearly, in my opinion, that the causes of those conditions were mainly to be found in long-established racial tradition and social habits, and in deep-seated prejudices and disabilities growing from the same roots.

“.....It seems more probable that the restriction of their customary means of earning their livelihood, during and since depression, left the majority baffled and helpless, and with little prospect of quickly discovering in themselves the enterprise necessary to new fields of employment or the readiness to shed those ancient prejudices which held them back”.†

The Commission dealt in detail with the labour in the port of Colombo with regard to the various type of work carried on there *e.g.* handling of coal, inward and outward cargo, loading of inward cargo and export cargo, and the findings were mostly a restatement

* Ceylon Sessional Paper III—1938, p. 32.

† Ceylon Sessional Paper III—1938, Part IV, p. 32.

of the inadequacy of the Sinhalese worker and his general apathy for harder type of work and work requiring stamina and endurance. The strike of 1928 initiated by Indian workers in the harbour for the assertion of their claims in regard to increment in pay resulted in raising the wages of all employees and it was a sufficient evidence of the fact that under-cutting in wages was not due to the immigrant worker. The general tendencies of the Sinhalese worker in the harbour *i.e.* inaptitude for certain type of work, his apathy to engage regularly in work assigned to him, lack of stamina and endurance etc. are generally applicable, *mutatis mutandis*, in all fields of occupation—Public Works Department, Government Railways, Municipal and Urban Councils, Trade and Business and their employment as domestic servants, shop assistants and estate worker etc. and the positive finding of the Commission was that restriction of immigration as a means of increasing the employment of Ceylonese in any sphere of labour was as undesirable and against the interest of the colony as the compulsory employment of percentage of Ceylonese.

In spite of these findings on matters of fact as reflected in the statistics given by the Commission and of the conclusions arrived at after close and careful scrutiny of past and present conditions in the island, the legislative plan to “squeeze out” Indians continued, and all manner of weapons were used not only to reduce their number by executive orders but by nullifying those pious agreements of service, which in every civilized society are least tempered with on account of race, community or religion. The findings of the Jackson Commission were thought to be trash and motives were attributed not only to the Commissioner but to the British capitalist class in England where the report was drafted. When all is said and done there was no rational answer to the query of the Ceylon politicians: Why a report of such an urgent nature took two years for writing, specially when all evidence was taken in Ceylon and all data collected there? Whatever the motives, the report is an admirable compilation of useful and weighty material and is an authoritative treatise on questions, which have aroused more than usual interest in Ceylon and which from Indian point of view is an effectual vindication of their rights and status in the colony as well as a thoughtful reply to the motives attributed to them for being a cause of unemployment in Ceylon.

The report was published in 1938, but soon after the Indians were to suffer a series of setback in the field of employment. The State Council passed a resolution in 1933 that no new appointment of non-Ceylonese be made in the Public Services. The wrath of the legislature soon manifested itself on daily-paid labour in 1939 when a scheme for the retirement of non-Ceylonese daily-paid workers in Government employment was evolved by the Government and even workers of long standing had to leave their jobs after a short notice.

A new departure was, however, made in defining a "Ceylonese" for the purpose of this scheme in contrast to the definition given in the earlier Land Development Ordinance. As might be recapitulated, there were three essential conditions before one was entitled to be a full Ceylonese—his domicile and his birth as well as his father's birth in the island. The requirements of such a character were hard to be fulfilled by majority of the Indians in view of the history of their migration to the island. In the Retirement Scheme under discussion, a new but a narrow interpretation was given to the word "Ceylonese", who would mean a person born in Ceylon, and in contrast a "non-Ceylonese" would mean a person not born in Ceylon.* Thus due to this wide interpretation, Ceylon-born children of estate workers and others were protected, but their number in the departments to be effected by this scheme was an insignificant one. It was further provided that a non-Ceylonese worker who had married a woman born in Ceylon of Ceylonese parentage and who was still living with her would be treated as a "Ceylonese", and for taking advantages conferred by this interpretation, the marriage must have been registered prior to 1939 to exclude all cases of precautionary marriages contracted solely to avoid discontinuance in service. As the scheme envisaged compulsory and optional retirement, it was provided that no worker be compelled to retire if he could prove that he had no home outside Ceylon and that he had no relatives in his native land. This entailed a cumbersome enquiry and even if the workers wanted to remain at their posts on pain of losing all connections with the land of their birth, the legal proof required proved a stumbling block in their way and their cases were rejected on flimsy grounds. Only an insignificant number could succeed in retaining their employment. The above require-

* Ceylon Sessional Paper XVIII—1940, p. 3, para 3.

ments besides achieving the main purpose of retiring as many persons as possible proved a pin-prick to others, who became very much apprehensive of government's intentions and in an atmosphere of uncertainty of tenure, they opted for a voluntary retirement, taking whatever benefits accrued to them under the circumstances. According to the statistics, Indians employed in the Railways, Port Commission and Public Works Department numbered 5157* out of a total of 6553 employed in other Government departments like Electrical, Agricultural, Irrigation and Postal departments etc. The scheme recommended two classes of retirement,—compulsory and voluntary. Workers with less than 5 years' continuous service *i.e.* those who had been granted employment in any department or re-employed after a break in service of more than a year on or after April 1, 1934 were included in the first category, and 1215 workers had to lose their jobs getting only a bonus of one month's pay. The voluntary class was further sub-divided into 2 sections. Workers with net service of between 5 to 10 years were allowed the option of remaining in employment on a clear understanding that any scheme of Government retrenchment in future would 'axe' the non-Ceylonese as against the Ceylonese and that the gratuity of two months' wages could be availed of by them if they indicated their decision to retire before 31st of December 1939. Out of 896 eligible for this class, 282 gave their willingness to retire. Workers with net service of 10 years and over without a break of a year or more ending after March 31, 1934 could retire on getting a gratuity of 3 months' wages and as many as 1039 out of 4232, who were eligible for this category showed their willingness to retire. The scheme proved its worth, from Ceylonese viewpoint, by positive results, because 2517† daily-paid workers actually retired from Government service. The indirect result of the scheme had far-reaching consequences on the prospective future workers, who lost all faith in Governmental intentions in regard to employ-

* Ceylon Sessional Paper XVIII—1940, Retirement Scheme, Appendix A—Non-Ceylonese, item (i) (b), p. 7.

The statistics given above include the number of non-Ceylonese daily-paid workers in Government employment on June 5, 1939, including—

(a) those who resumed work in June, 1939, after absence on leave of less than a month, and

(b) those engaged or re-engaged with special permission of Government since the beginning of the Scheme.

† Statistics relating to compulsory and voluntary retirement classes have been taken from Ceylon Sessional Paper XVIII—1940, Appendix A, items (ii)-(vi), p. 8.

ment of Indians in Ceylon. Every precaution was taken by the Government to make sure that the workers who left service would actually leave Ceylon and it was, therefore, arranged that all sums of gratuities should be paid to workers only on arrival at their native villages abroad.

The inequity of the scheme, whatever its legal implications may have been, was apparent from the fact that workers who had given the best part of their lives for the service of the island had to go back to seek new avenues of employment in totally unexpected circumstances on payment of a sum quite uncommensurate to the services they had rendered in the colony and whether the ambition of the Ceylon politicians was fulfilled or not in relieving unemployment in Ceylon could be best judged by the steps they subsequently took in retrenching people from Government Departments due to financial stringency necessitated by wartime conditions. The real motive of the step was to shut out all the new aspirants, who dared not come to Ceylon for employment due to the uncertain conditions of employment in the island. The scheme, however, achieved its immediate purpose of creating confusion in the minds of the Indians who were employed not only in Government Departments but also in private agencies and as the later events showed "Ceylonization" of services became a chief plank in the island's policy of recruitment.

This unprecedented action of the Ceylon Government moved the Indians every where and in this hour of ordeal for Indian settlers in Ceylon, the Indian people sent their unofficial emissary—Pandit Jawaharlal Nehru to probe into the condition of Ceylon Indians. As was expected Pandit Nehru's visit smoothed the tension prevalent in Ceylon and though the Government did not do any thing positive, his visit proved to be historic in the fight of Ceylon Indians, who took concrete steps to organize themselves and thus was the Ceylon Indian Congress—the sole champion of Indians' cause—born out of their agonies of 1939. Not only this; the Ceylon Government realised in their heart of hearts that the man, who was thundering in support of Ceylon Indians, was none else than the person to whose care the destiny of India would soon pass on for a generation. For although the Indian Nationalist movement had not achieved its purpose and the Indian leaders were languishing in prisons, it was clear that the world situation would compel Britishers to quit India and when that happened,

the nation's choice for the first Prime Ministership of the Republican India would fall on Pandit Nehru. The volume of non-official opposition in the Indian legislature was none too favourable for the Ceylon politicians and in their anxiety to relieve apprehensions aroused by their action of 1939, the Ceylon Government suggested to the Government of India that an Exploratory Conference be held to iron out differences in regard to the rights of Indians in Ceylon. The 1940 conference at Delhi between the representatives of the two Governments was the outcome of that anxiety. The series of conferences subsequently held in 1941 and 1947 will be dealt with later, as they comprehensively deal with citizenship rights of Indians in Ceylon, and it is necessary now only to discuss the various legislative enactments passed by Ceylon Government to curb the rights of Indians in fields other than political.

The Fisheries Ordinance No. 24 of 1940 was an enactment which by the definition of the word "Ceylonese" excluded the Indians from taking fish for profits* in Ceylon waters; but an exception was made in case a fishing licence was granted to any of them. The implication of such an optional prohibition was not only a curtailment of an economic right but as the provisions of the Ordinance referred to herein would show, such an optional prohibition was meant to check the wave of immigration, which could not possibly have been checked efficiently by any other procedure, and hence side by side with the curtailment† of an economic right enjoyed by Indians upto now, there was a political motive to restrict the entry of Indians in the island and probably the introduction of a full-fledged Immigration Bill in the State Council in 1941 was the outcome of such a motive, for which the Fisheries Ordinance was but in the nature of a precursor. A geographical factor, which probably can be obliterated to a certain extent by Nature alone, has kept the two countries apart only by a distance of about 22 miles of water strip, and the fishermen on both sides have unfattered freedom to enjoy Nature's bounties in

* "For profit" when used with reference to the taking of any fish, means the taking of such fish for the purpose of trade or sale vide section 27 (d) of the Ceylon Ordinance No. 24 of 1940, p. 10.

† Mr. G. A. H. Wille, the nominated member of the State Council said, ".....some almost imaginary dangers are provided against. The Hon. Minister of Local Administration said that there was fishing going on by Indians. The poor Indians are said to be now poaching in our waters, not only poaching on our lands."

(Ceylon Hansard, Vol. No. 51, dated July 7, 1939, p. 2407.)

eeking out their livelihood by catching fish. They come out in their little canopies and being a class of great enterprisers face the hazards of a tumultuous sea to earn a living. Such a right if allowed to remain unchecked for long had a possibility of a great danger to Ceylon—so the Ceylon politicians thought, and these poor people's rights were taken away by legislative enactments lest they should aid or abet the illegal immigration of Indians once the legislature passed laws to regulate the entry of Indians in Ceylon. Hence in future not only a fishing licence was required, but Sections 10 & 11* provided for a compulsory registration of fishing boats used for the purpose of taking fish in Ceylon waters and also forbidding to land any fish taken outside Ceylon waters excepting under an authority of a licence.

The term "Ceylonese" under this ordinance was defined† exactly in the manner in which it was defined under the Land Development Ordinance 1935 *i. e.* a person domiciled in Ceylon and possessing a Ceylon domicile of origin and the inequity of the Fisheries Law lay in the fact that under Section 5 of the Fisheries Ordinance, a "Ceylonese" as defined above or a Ceylonese company, which meant a company incorporated under any written law for the time being in force in Ceylon, was exempted from the purview of the said legislation. As the island did not enjoy a full measure of self-Government and as certain categories of Bills to be passed by the island's legislature were to be reserved for signification of assent of Secretary of State for Colonies, the Ceylon politicians were wise enough to pass only such legislation which seemed innocent not only to their British masters but also to the Indian Government and people, who were naturally most concerned at the fate of their compatriots abroad, and hence their legislative plan appeared seemingly to ameliorate the poorer classes in Ceylon—namely the landless peasantry and fishermen. But in fact the motive behind such legislation, as the later enactments showed, was not only pro-Ceylonese but definitely anti-Indian and therein lay the discriminatory character of all legislation passed by the Ceylon State Council with the help of a Sinhalese majority.

Next in succession was the Omnibus Service Licensing Ordinance No. 47 of 1942. As the legislative plan to curb the economic

* Ceylon Ordinance No. 24 of 1940, p. 4.

† *Ibid.* Section 27, p. 9.

rights of Indians for the achievement of a political aim was all-pervading, the Omnibus Ordinance hit what might in Ceylon be called "middle class" Indians or the "richer class," and besides the individual rights, the rights of a corporation or a company which the Indians might form for the protection of individual rights were seriously jeopardised by requiring that every road service licence issued to a company was liable to be revoked unless that company had at least 85%* of its share money subscribed only by Ceylonese and the "Ceylonese" as usual meant a person domiciled in Ceylon and possessing a Ceylon domicile of origin. The position of richer class of Indians who might in future aid any possible agitation by the poorer classes of Indians for the redress of their grievances, was made so untenable that they could not possibly be a big factor in aiding materially any organization of Indians. The restrictions imposed by the Ordinance were so stringent that by no combination of ingenuity and resources could the Indians benefit in a trade which had a lucrative future. The Commissioner appointed under the Ordinance and who had been entrusted with wide discretionary powers, had no such powers as far as revocation of a licence granted to a company not contemplated by Section 6 (3) was concerned, as Section 12 (1) provided :—

"The Commissioner shall revoke licence issued to a company if the conditions imposed by Section 6 (3) (requiring 85% of its share money subscribed by Ceylonese) are not observed in the case of that company"†

And the powers conferred by the Ordinance were arbitrary and absolute as no appeal lay against the insertion of the aforesaid condition (that of requiring 85% share money subscribed by Ceylonese) in any road service licence issued to a company‡.

* Section 6 (3) of Ordinance No. 47 of 1942, (Omnibus Service Licensing Ordinance), p. 4. The Sinhalese legislators further wanted to provide sufficient safeguards against the possible transfer of shares to foreign capitalists. Mr H. W. Amarasuriya, who took part in the debate on Omnibus Service Licensing Bill said, "These are not to be private companies, and in the case of public companies, transfers of shares are not controlled by the directors. Sufficient safeguards should, therefore, be introduced either when the prospectus is issued, or when the company is actually formed, against the possible transfer of shares to foreign capitalists. If that is not done, a time may come when the whole business which to-day is largely conducted by Ceylonese of moderate means, will have passed into the hands of outside capitalists". (Ceylon Hansard, Vol. No. 58, dated September 24, 1942, p. 2234).

† *Ibid.* p. 6.

‡ *Ibid* Section 6 (3), p. 4.

As has been stated before, the Ceylonese Government had taken an unilateral action in dismissing from service the Indian daily-paid workers in 1939. The Indian Government had authorised emigration of unskilled labour to Ceylon in 1923 under a notification issued under Section 10 of the Act of 1922, and they thought that the Ceylon Government's action constituted a breach of faith, and hence decided to withdraw the privilege extended to Ceylon in 1923 by revoking the notification referred to above and imposed a ban on the emigration of all unskilled labour from India to Ceylon whether employed by Government or by private employers with effect from August 1, 1939.

The Effect of the Ban

The effect of the ban was telling, and as Ceylon's economic position depended chiefly on plantations, their owners displayed anxiety for the removal of the ban. Notwithstanding Mr. D. S. Senanayake's declaration* to the contrary, it was to persuade the Government of India to remove the ban and save Ceylon from the economic break-down that a conference was convened at Delhi in 1940. The planters in Ceylon who were hit hard appealed to the Governor and he took the initiative and urged the Board of Ministers to agree to send a communication to the Government of India for meeting in a conference for the discussion of matters which required understanding or adjustment between the two countries. This is clear from the observations made by a member of the Ceylon Delegation in the State Council on Immigration Bill in 1941.

"There was no desperate need" he said, "on our part to come to an agreement. We did not want any particular thing from the Government of India. But His Excellency the Governor did want something and the planting interests did want something. There was nothing particular that we wanted from the Government of India that took us on that long journey. They wanted that ban removed. We were made a sort of cat's paw to perform that job".†

* Exploratory Conference Proceedings, 1940, p. 3. He said that his object was to remove the impression that his policy was anti-Indian.

† Mr. S. W. R. D. Bandaranaike's speech, Ceylon Hansard, Session of 1941, Vol. No. 11, dated March 20, 1941, p. 594.

The intention of the Ceylon Government may not be clear by the final outcome of the 1940 Conference, but as will be shown hereafter, the agreement arrived at the Colombo Conference in 1941 made it possible for Ceylon Government to quicken the pace of legislation effecting Indians resident in Ceylon. Ceylon's strategy concerning Indians in Ceylon had many facets. Side by side with the "whittling away" of economic and employment rights of Indians which had serious repercussions on their political and other rights, the Ceylon Government was endeavouring to so restrict their immigration into Ceylon as to make the Indian population in Ceylon quite an insignificant factor on the political plane. Firstly, the unskilled labour from India had constituted a vital element economically, and secondly the introduction of universal franchise had swelled their votes and they became an important political factor. The Ceylon Government, therefore, was anxious to limit their number for political reasons. The traders and skilled labourers by their small numbers did not constitute a political factor, but they were thought to be a considerable menace to Ceylonese commercial interests. Hence, the cry of the times was for the limitation of Indians in every walk of life.

The State Council of Ceylon for which elections were due in 1941 was in great hurry to do the last bit of service it had rendered in the awakening of Ceylon by arousing passions and as if to crown the fervidity of nationalism to so act that the "foreign" population be totally excluded from the island. The introduction of the Immigration Bill in the State Council to make provision for the regulation and control of the entry of non-Ceylonese into Ceylon was an article of faith with the Ceylon Government and the passage of the same through elected legislature would have been a consummation of an ideal for which Ceylon had put up a fight for a decade.

The Immigration Bill of 1941 was introduced in the legislature ostensibly for economic considerations, but as would be evident from the statements subsequently made by responsible politicians on the Government side, the aim of such a bill was political. Speaking in the debate on March 19, 1941 Mr. D. S. Senanayake averred :

"The object we have in view in this Bill is to make an attempt

to protect Ceylon and its inhabitants from being swamped by outsiders.”*

Swamped by outsiders—this feeling has been responsible for Ceylon Government’s action and policy in regard to Indians. For swamping in the ultimate analysis has a political complexion. The fear seems to have been only from the Indian population in Ceylon, for the number of other foreign element, such as Europeans etc., was insignificant and no other nation in the 1940s could have ever thought of exercising a ‘civilizing influence’ on Ceylon and thus swamping the indigenous population. Hence whatever may have been the professions of the Ceylon politicians in introducing this legislation, the ultimate aim of it was to curb the political strength of the Indians by so limiting their number that the indigenous population might not be swamped by them. Therefore, though the Bill aimed at regulation of entry of the members of all races and communities, its real character as judged by its possible incidence on Indians in fact was racial.

For one thing—let us examine as to why such a measure, which could not have been passed unchallenged by Indian members of the State Council and which had an economic motive behind it, was introduced soon after the expert verdict given by Sir Edward Jackson in 1938 in reply to a question posed to him in the terms of reference *i. e.* whether such immigration had caused or was likely to cause unemployment or other economic injury to the permanent population of the island? His findings were based on evidence given by Ceylonese witnesses and was supported by reliable and official statistics. He dived deep into the question in the spirit of a practical researcher and after examining the whole field of activity in which Sinhalese could secure employment, he came to the conclusion :

“At the present time the production, manufacture, and handling of the principal export crops of the island could not be carried on without them (Ceylon Indians); nor could the varied work of the reception and despatch of the great volume of traffic passing inwards and outwards through Colombo’s port. Their still essential place in the work of municipalities, of the railways, of the Public Works, and other departments of the Govern-

* Ceylon Hansard, Session of 1941, Vol. No. 10, dated March 19, 1941, p. 549.

ment and of Engineering and other private undertakings has already been shown in earlier part of this report.”*

One of the causes of unemployment in Ceylon, according to the Ceylon Government's version was an undercutting in wages by Indian workers so that the Sinhalese counterpart, who probably maintained a higher standard of life, was left helpless, but the real position was portrayed by Jackson's truthful revelations :

“Witnesses who thought that Indian servants should continue to be available said that the Indian did not accept lower wages, and was, if anything, rather more expensive than the Ceylonese, but that he gave a much higher return in work. He would, these witnesses said, do what he was asked to do, instead of either saying that it was not his job, or looking around for someone else whom he could order to do it. He was much less frequently absent from his work and had “fewer funerals to go to.” He was also more amenable to discipline and could not, when corrected, become either rude or sulky or walk out.....I concluded from the evidence that undercutting in wages, even if it exists at all, is no considerable factor in accounting for the employment of Indians as domestic servants.”†

This was in regard to urban worker. His conclusions in regard to the estate labour were :

“I repeat, therefore, that in my opinion there can be no sufficient confidence that any large number of unskilled Indian workers could now be replaced by Ceylonese to justify an attempt to bring about replacement by simply reducing the supply of Indian labour.”‡

In the face of such expert findings by an impartial Commissioner, who had been in Ceylon Government employ occupying the responsible position of Attorney-General—the irresistible conclusion in regard to the introduction of Immigration Bill was that its economic motive was in fact largely governed by political considerations. The Bill subsequently did not find place on the Statute Book of Ceylon as its passage was held in abeyance in the Committee stage. The Soulbury Report exposed its political character beyond any shadow of doubt when it accounted for its abeyance thus :

* Ceylon Sessional Paper III—1938 (Jackson Report), p. 32.

† *Ibid.* p. 31.

‡ *Ibid.* p. 31.

“The ban imposed by the Government of India prevented the Immigration of unskilled labour from presenting an immediate political problem to the Government of Ceylon.”*

Had the Ceylon Government necessary constitutional sanction to introduce a measure of such a controversial nature? The State Council of 1941 was constituted under the Donoughmore Constitution of 1931, which had granted substantial power to Sinhalese only in matters of internal civil administration, and the External affairs still lay in the domain of the Chief Secretary. Because of the categorisation of certain Bills, which could not find place on the statute book without the sanction of the Secretary of State for Colonies, the State Council did not constitute a sovereign legislature, and even if it embarked on a hazardous course of legislating on matters which did not come within its purview, the Royal Instructions to the Governor clearly reserved to the latter the right of reserving such Bills for the signification of the Secretary of State's assent. It was because the Immigration Bill was thought to be a breach of the undertakings given by Ceylon Government to the Government of India that the Governor of Ceylon sent a message to the State Council in February 1941 detailing therein the specific undertakings given to the Government of India in regard to the enjoyment of political and other rights by Indians, who were allowed to emigrate to Ceylon under the Emigration Act 1922. The Ceylon Board of Ministers replied by their letter dated February 28, 1941 that the so-called undertakings given to the Government of India in regard to the political rights etc. were “mere information conveyed to the Government of India of the actual position existing at the time, and can by no stretch of imagination be interpreted as undertakings binding us for all time.”† The Governor of Ceylon in his memorable reply, dated 15th March 1941, gave a rude shock to the ambition of Ministers, who in their attempt to nullify the pious agreements and undertakings wished to act unilaterally in matters which had extra-domestic bearing and jurisdiction. Sir A. Caldecott, the Governor while denying the charges of violating the Royal Instructions, wrote back—

“To maintain that the replies were mere statements of contemporaneous circumstance, and not undertakings as to the condi-

* Cmd. 6677, p. 61, para 228.

† Ceylon Sessional Paper XIV—1941, p. 5.

tions which emigrants would enjoy here, is to stultify both question and answer and to ignore the purpose of the Indian Emigration Act itself.”*

In the light of such statements of responsible administrators, the real motive of the Immigration Bill becomes crystal clear—it was political and contrary to the fundamental policy which the Government of India had followed in the past in regard to the emigration of Indians abroad. The draft Bill included provisions for the quota of labourers, for menials and for people to do conservancy work etc. This meant that Ceylon wanted Indians to be indentured in such a way as to require them to serve for a certain period and then to go back to India. In effect they were to be treated in the words of Sir Girja Sanker Bajpai like “squeezed lemons”. Once they had served their purpose, they were to be thrown away like rubbish, without attaining any status of self-respecting citizens of a free country. The Bill did not reach the Statute Book partly owing to the ban imposed by the Government of India in 1939 which restricted the entry of new comers into Ceylon, and partly on account of the Ceylon Government’s desire for entering into negotiations to settle the differences at a later date, possibly on the acquisition of a new political status by both the countries.

Mention should also be made of the Registration of non-Ceylonese Bill, which was introduced in the State Council immediately on the conclusion of the debate on Immigration Bill. This Bill, like the Immigration Bill, though lost in the labyrinth of the committee stage proceedings for reasons akin to those described above in regard to the Immigration Bill, by its very introduction in the legislature showed an all-pervading orbit of the contemplated action against that section of the population, which had identified itself with the interests of the island. The provisions of the Bill provided for the registration of all those persons who did not have a domicile of origin *i.e.* not only persons who entered the island recently were to be registered but also those who have lived here for a number of years were to be equated with the new comers in matters of registration. This cut at the root of the rights and privileges which one might normally infer had accrued to the people who had been in Ceylon for a long time and had every intention of settling down in the

* Ceylon Sessional Paper XIV—1941, p. 9, para 12.

island.* As might have been noticed, the purpose of the Bill was exactly in consonance with the views of the Ceylon delegation in 1940. They had proposed that all those persons of Indian descent, who had no Ceylon domicile of origin, would be granted certificates of residence which would only entitle them to reside and earn their living in Ceylon, subject to such conditions as might be set out on the certificates. The granting of such a limited economic right of pursuing an avocation at the mercy of the authorities was supposed to be humiliating and the Conference of 1940 foundered on this fundamental principle. The exact replica of the same intention lay at the bottom of the registration of non-Ceylonese, who might at a future date be asked to quit the island on one pretext or another. Whatever may have been the professions of Ceylon politicians in the past, in 1941 they made a comprehensive attempt to bring in political measures, designed to impair the political and civic rights of Indians in Ceylon, and although such measures did not find their way to the Statute Book for one reason or the other, these without doubt showed what was in store for the Indians in the post-independence era in Ceylon. As will be evident later, the inheritance of the trinity of laws in the shape of Ceylon Citizenship, Immigration, and Indian and Pakistani Residents Citizenship Acts can be directly traced to the steps which emanated in the State Council which had only restricted powers of legislation. The post-independence era, therefore, proved to be a period of great stress and storm for the Indian settlers in Ceylon, which due to the advantage of a Sinhalese legislative majority, passed laws that were discriminatory in conception and operation.

The Soulbury Commission (1944) was boycotted by the Ceylon Board of Ministers on the plea that the appointment of the Commissioners, who were asked to consult the various interests including the minority communities, was contrary to the assurances given by His Majesty's Government in terms of declaration of May 1943. The Ministers were of the opinion that the function of the Commission should have been solely limited to the examination of the Ministers' Scheme and that the minorities were protected by the requirement of a three-fourths majority of State Councillors. But the Scheme prepared by the Ministers in terms of 1943 declaration was a complete constitutional document of merit; it had been before

* Ceylon Hansard, Vol. No. 14, dated March 26, 1941, p. 716.

the public, who had occasion to study it from all possible angles of vision and naturally although the Ministers did not appear officially before the Commission, the latter took full advantage of the scheme formulated by them. In fact the recommendations of the Soulbury Commission in regard to the rights of the minorities were not only based on the Ministers' Scheme,* but they were almost exactly the same as were advocated by the latter, and therefore the Ceylon (Constitution) Order-in-Council 1946 and the subsequent deletion made by Ceylon (Constitution and Independence) Orders-in-Council 1946 and 1947 were mainly the work of the Ministers' brain. Under Article 40 (a) and (b) of the Ministers' Scheme of constitutional reforms, the Ceylon Parliament had been given power to legislate on matters connected with the prohibition or restriction of immigration into the island as also in regard to rights and privileges of citizenship, and the only safeguard for minority was contained in section 29 and section 37 (b) of the Ceylon (Constitution) Order-in-Council 1946,† and even the latter section was subsequently revoked by Ceylon (Constitution and Independence) Orders-in-Council 1946 and 1947.‡

When Ceylon had attained a new political status in 1948, its legislature, though not completely sovereign, was at least as sovereign as the Parliaments of other self-governing Dominions of the British Commonwealth. And so had India attained a new political stature when she gained complete independence in August 1947. There was thus a complete transformation of political status in the character of both the countries' Governments. Indeed India had conceded to Ceylon much earlier the right to determine the composition of her population and in fact the Bajpai-Senanayake Conference of 1941 was held keeping the above object in view. The Ministers' Scheme of 1944, the main recommendations of which were incorporated into the Soulbury Constitution, supplied what was absent in the recommendations of the Donoughmore Commission, and hence the Ceylon Government began that era of planned legislation, which by force of circumstances, had been abandoned in 1941.

Evolution of the Idea of Citizenship

As has been stated before, the cause of the first great rupture

* Ceylon Sessional Paper XIV—1944, Part II, Section 8, p. 11.

† Ceylon Government Gazette (Extraordinary), No. 9554, dated May 17, 1946, p. 799 and p. 802.

‡ Ceylon Sessional Paper III—1948 (The Constitution of Ceylon), p. 24.

in the relations of the two countries was the unilateral action taken by the Government of Ceylon in dismissing the daily-paid workers in 1939. Since that date the question of the status of the Indians resident in Ceylon has been in the forefront. The two great factors which have helped to focus attention on this problem are: Firstly, the injustice caused by the sudden dismissal of workers gave a hint to what was coming in future, and the Indians in Ceylon on their own initiative as well as on the advice of Pandit Jawaharlal Nehru when he visited Ceylon in 1939 as an unofficial emissary of the Indian people, organized themselves in a body to safeguard their interests and every injustice done to Indians by the Ceylon Government has been challenged by their organization. In this way the status of Indians remains a live problem. Secondly, the new political status acquired by Ceylon after 1939 has made her conscious of her strength and the Government has been trying to translate their conception of nationalism in terms of benefit only to the indigenous population to the exclusion of all those residing in Ceylon since long. Hence the opposing forces of nationalism and the effect of such nationalism being put in practice in the interests of a section of the people have been in clash since 1939, although its precursor is to be found in Sir Stanley's conception of domicile in regard to franchise qualification as also in the conception of "Ceylonese" as defined in the Land Development Ordinance of 1935. The "Ceylonese" as defined in that ordinance meant a person of either sex domiciled in the island and possessing a Ceylon domicile of origin. The idea of descent, though first originated in the franchise qualifications as suggested by Sir Stanley in 1929, and though the same was applied in a limited sense in regard to the rights in land in 1935, lay dormant during the period of Donoughmore Constitution. The principle, however, had been extended to Fisheries Ordinance of 1940 and Omnibus Service Licensing Ordinance of 1942. Apart from a limited application of this principle, its operation did not invade the whole field of rights of an Indian resident in Ceylon, and it was only in the post-independence era that the limited conception of the idea of descent covered the totality of rights or covered the whole personality of the Indians resident in the island.

The status of Indians in Ceylon, therefore, more precisely came to the lime-light in 1939 and specially when the Indian Government

took a retaliatory measure in banning all emigration of unskilled workers to Ceylon as a protest to the unilateral action taken in dismissing Indians. The capitalist class in Ceylon—Europeans, Sinhalese and possibly a few Indians—felt the impact of the ban due to the low production of the agricultural industries owned by them and not only European planters but Sinhalese politicians, who themselves belonged to a capitalist class were anxious for a solution of this problem from a capitalist point of view. The injustice had been done by them and the Ceylon Board of Ministers, therefore, expressed a strong desire to the Indian Government to meet in an Informal Conference at New Delhi in 1940 mainly to remove misunderstanding and to discuss questions that required adjustments or understanding between the two countries.

Exploratory Conference of 1940

The fundamental principle in these negotiations which started at New Delhi on November 4, 1940, related to the status of Indians resident in Ceylon and the primary question revolved about formulating principles, which should regulate their economic or political rights. The questions of franchise, of immigration and labour etc. were incidental or ancillary to this fundamental principle of the status of the Indians in Ceylon. That was the core of all those negotiations and on its solution depended the success or failure of the Conference. The Ceylon delegation started at the wrong end without fully grasping the implications of the fundamental principle involved, and without detailing their views on that question began raising the problem of economic difficulties which Ceylon was facing. Thus categorisation of Indians for the purpose of determining their absorbable quantum was the immediate problem, which in their estimation, should take priority over all other questions.

The procedure of determining that absorbable quantity, therefore, came to the forefront and this involved not only questions of economic rights that were then enjoyed in Ceylon by Indians; the whole history of immigration was involved in it. The Ceylon politicians were of the view that Indians came to Ceylon in search of employment without the intention of settling down in Ceylon or adopting it as their home. That is, they had only an economic motive behind all their activities in Ceylon and had no permanent interest in the country of their sojourn. One of the distinguished delegates from Ceylon even thought that the British capitalists

brought the Indian labour to Ceylon for political objectives and as a countermove to crush the spirit of nationalism of the indigenous population who had stood in rebellion against the Britishers for inequities perpetrated on them in the confiscation of their lands. Mr. Bandaranaike sketched the historical aspect denying any rights to Indians and by giving a new orientation to the trends of history hitherto unrevealed to common mind.

“The lands were confiscated”, he said, “and a definite policy was adopted by the British Government of, perhaps, creating a situation where the possibility of such rebellions in future would be reduced to a minimum. We have documents to show that that was the case. We have seen Despatches written by the Colonial Office at that time to the Governor definitely suggesting that people from Malabar should be brought to Ceylon and settled in those areas in order to prevent any further trouble. It was not a purely economic move. The labourers were brought over to crush the people of the country.”*

He, therefore, contended that the principle of an abiding, permanent interest in the country should in practice be rigorously applied to segregate a class of Indians in Ceylon, who could acquire Ceylon citizenship. Anyway, the ordinary test of a period of residence of 5 or 10 years prevalent in other countries for acquiring citizenship was definitely ruled out by Ceylon delegation.

The Indian delegation, on the other hand, wanted Ceylon to follow the example of other countries in conferring rights on Indians in Ceylon. The two propositions—one put from either side—evidently were irreconcilable and there was hardly any common ground between them. The definite proposals of the Ceylon delegation for acquiring full citizenship were : 1. Abiding interest, 2. Domicile in Ceylon, 3. Renunciation of citizenship of the country of origin. By imposing rigorous tests for “abiding interest”, the Ceylon Government thought that they could easily achieve their object of arriving at the absorbable quantum of Indians for conferring full citizenship rights and whatever number was left out *i. e.* majority of the remaining Indians could then be considered for acquiring certain restricted rights.

* Ceylon Sessional Paper IX—1941 (Indo-Ceylon Relations Exploratory Conference Proceedings), p. 6.

The definition of "permanent interest" for acquiring full citizenship, therefore, was considered to be a criterion which would categorise Indians for the acquisition of such rights over the whole field of rights. Mr. D. S. Senanayake, therefore, put forward the following proposal on behalf of the Ceylon delegation to confer citizenship rights on Ceylon Indians :—

(1) "Persons of Indian descent who possess a Ceylon domicile of origin *i. e.* those born in Ceylon, if legitimate, of a father having a Ceylon domicile of origin or choice, and if illegitimate of a mother having the domicile of origin or of choice in Ceylon. These will be considered Ceylonese and will be entitled to all rights and privileges of a Ceylonese".

(2) "Other persons of Indian descent—now resident in Ceylon—these will be entitled to the rights and privileges normally accorded to British subjects, and those within this class who possess a domicile of choice (which must include 5 years' residence), will be entitled to State Council franchise. But they will not possess certain privileges reserved to Ceylonese under certain enactments and regulations, such as (a) the grant of Crown land under the Land Development Ordinance 1935; (b) rights under the Fisheries Ordinance 1940; and (c) the right to apply for posts under the Ceylon Government.

These will be entitled on application to certificates of residence. Such a certificate will entitle the holder to reside and earn his living in Ceylon, subject to such conditions as may be set out in the certificate."*

The Indians were thus proposed to be divided into three distinct categories. Firstly, those who had either a domicile of origin or were descendants of those who had exercised a domicile of choice†, in the second generation, would have full citizenship rights, covering every field of rights. Secondly, all others would have to take certificates of residence on a specified date; and then of these, who have resided for 5 years in Ceylon and could also prove permanent interest in the country, would be entitled to domicile of choice, and they should be eligible for State Council franchise. They would, however, not receive rights to acquire Crown land, a fishing licence or Government employment. Thirdly, those who

* Ceylon Sessional Paper IX—1941 (Indo-Ceylon Relations Exploratory Conference Proceedings), p. 20.

† Domicile of choice can be ascertained by a person's conduct *i. e.* whether his family is residing with him; his principal interests are in the country; what does he do with his money he earns in Ceylon etc. etc.

could not acquire domicile of choice would still be entitled to reside and earn their living in Ceylon under conditions prescribed by the Government.

As against the above proposals, the Indian delegation wanted simplification of the stringent conditions proposed to be applied by Ceylon Government. Their counter-proposals were—

1. Full citizenship should be conferred on all Indians who could furnish proof of five years' residence in Ceylon and of permanent interest, but both these tests should be satisfied by some set of easily ascertainable facts. For example, to show a permanent interest—the fact that a married person lives in Ceylon with his wife and children should suffice to raise a presumption of permanent interest.

2. All other Indians should be entitled to engage or to continue to engage in any lawful vocation or calling which they now exercised or might hereafter exercise without discrimination.*

The Indian delegation thus wanted to merge the second category proposed by the Ceylon delegation into the first *i. e.* those who acquired domicile of choice should not only have State Council franchise, but be admitted to full citizenship like the persons in category first.

The position thus was that the Ceylon delegation wished to impose conditions or qualifications by which only a limited number of Indians were to be eligible for full citizenship. That is, they would not budge from their original position in regard to the determination of absorbable quantum which would have admitted only a small number of Indians to full citizenship rights and would have left out a vast majority of labourers on up-country estates. They had thus not only an economic motive behind their proposals; the political aspect was discernible even to the non-politician. The Indian delegation, on the other hand, wanted not only to bring into the orbit of full citizenship the majority of the working class Indians, but did not wish to witness the repetition of the human or inhuman drama of the events enacted in 1939. And thus the proposal in regard to the exercise of lawful avocation or calling without discrimination had a relationship with the past historical facts.

* Ceylon Sessional Paper IX—1941, p. 30. The same views appear on p. 46 of the Indian version of the Proceedings of the Conference, held in 1941.

The Ceylon delegation, moreover, had started the negotiations with a mental reservation. It was an open secret that their main objective was political, but they endeavoured to conceal it under cover of an economic necessity. The result was that under the impact of Indian delegation's proposals, the arguments put forward by Ceylon delegation could not gather strength and failed to maintain that sincerity which Mr. Senanayake had shown in his personal attitude and statements before the Conference. The proceedings, therefore, though started with the formulation of principles, could not gather coherence in their day-to-day advance and the favourable psychological atmosphere with which the conference had commenced its work soon deteriorated into a melancholy affair.

In an anxiety to meet or rebut the political motivation attributed to them, the Ceylon delegation in their generous moments put forward proposals for granting franchise rights to Indians, who could prove domicile of choice. Once they had conceded the right of franchise, the Indian delegation pressed for the inclusion of this category in the first category proposed by Ceylon delegation which would have opened the gates for entry of those Indians who could acquire domicile of choice and would thus enjoy full citizenship rights along with the first category, that is, those with a domicile of origin, over the whole field of rights.

It will be worth-while to note that the proposals of Ceylon delegation in regard to persons acquiring domicile of choice, gave wide discretionary powers to Ceylon Government to restrict rights in other fields. But right of franchise is a substantial right of a citizen. It is not an end in itself. It is only a means to an end, and all other rights to be enjoyed by a person flow from the possession of the franchise right. This established constitutional principle was lost sight of by the Ceylon delegation in the maze and plethora of arguments. It was probably due to the sulky atmosphere created by such unreasonable attitude of the Ceylon delegation that the conference ended without achieving those objects for which it was convened by the Ceylon Government. The proposals of the Ceylon delegation were thus tersely described by Sir Ramaswami Mudaliar—

“Really it can be summed up as follows:—The more Indians leave Ceylon, the better; and the sooner they leave, the better.”*

* Ceylon Sessional Paper IX—1941, p. 51.

As was anticipated the Conference ended without success because there was a disagreement not only on matters of principle but even on fundamental issues. Sir Girja Shanker Bajpai detailed the causes of its failure :

“In our opinion, or in our judgment, discrimination or pressure does not constitute a satisfactory basis for an agreed solution of the problem of the resident Indian people in Ceylon.”*

The problem of citizenship or the status of Indians in Ceylon remained a live problem in the context of national and international political situation of the forties of this century. The World War II had placed Ceylon on the map of international air and shipping routes. The demand for raw materials to be obtained from Ceylon *e. g.* rubber, tea etc., had to be met for the success of the allies. The constitutional position or status of Ceylon remained to be solved and the British Government had not only pressing problem of war at hand; they had at least the pretence if not the sincerity in regard to a satisfactory solution of the minorities' problem in Ceylon prior to the grant of substantial measure of self-government to the island. The Ceylon politicians, on the other hand, were anxious to take advantage of the world's political situation created by war, and there were other numerous pressing reasons for the solution of the Indo-Ceylonese problem. The pressure of the British capitalists for the removal of the ban imposed by Indian Government on emigration of unskilled labour to Ceylon, the dependability of Ceylon on India for the import of essential commodities—these and other considerations weighed with the Ceylon Government in their policy of negotiating once more for the solution of this vexed problem confronting the two countries.

Bajpai-Senanayake Conference of 1941

The concept of citizenship as such was not elaborated or improved upon the previous conception of domicile on which it was to be primarily based. The proposals of the 1941 Conference mainly dealt with the status of Indians generally because none of the parties interested in the Indo-Ceylonese problem, namely the Ceylon Government, Ceylon Indians and the Indian Government was interested in the settlement of an individual issue, important though it was, and the exigencies of the war situation demanded

* Ceylon Sessional Paper IX—1941, p. 55. An identical reference occurs on p. 88 of the Indian version of the Proceedings of the Conference.

the solution of the pressing problem rather than the solution of fundamental issues. The proposals, therefore, suffered from the view-point of a correct approach and though they seemed to embrace a comprehensive plan for the solution of these realities of the situation, they were in essence a mere catalogue of those points of conflict between the parties which had in fact originated at the Exploratory Conference of 1940. The Ceylon viewpoint remained the same as before i. e. their eyes were fixed as to how best to arrive at the 'absorbable quantum' of Indians resident in Ceylon. There was, however, a fundamental departure on the part of the Indian delegation in regard to policy and details. The Immigration Bill drafted by the Ceylon Government was in sight; its provisions generally and specially in regard to quota—internal as well as labour schedule—were revolutionary and the Indian Government was swayed much more in the interest of the traders rather than towards the vast bulk of working class Indians in Ceylon. The constitutional position of the two countries was in the process of being examined and re-examined by the agents of the British Government; the war situation was grim for the allies, and the culmination of the Indian nationalism was to find an outlet in the 'Quit India' movement of 1942. Such was the back-ground against which the Indian delegation, with the same person at its head as at the Exploratory Conference of 1940 who had elucidated the cobwebs in the proposals of the Ceylon delegation, had to battle at the conference. The subsequent decisions that the joint conference arrived at were not the yearnings of an independent soul; the proposals were rather circumscribed and limited by current political considerations, which formed a basis for an immediate solution of the difficulties between the two countries.

The decisions arrived at the Conference were, from the point of view of those whose interests were affected by them, definitely a climb-down from the original stand taken by the Indian Government. The Indian legislature subsequently refused to ratify the decisions and the politicians in the island enthused over their statesmanship and success, and the vociferations raised from the platforms of the political organisations in Ceylon told the Sinhalese community in clear terms that the Indians as a community, in future, would have only an insignificant voice in administration. Such irresponsible statements and rejoicings on their so-called political victory produced serious repercussions in the minds of Indians whose

agitation, probably, greatly influenced public opinion in India which nullified the decisions by the non-ratification of the terms in the Central legislature as described above. The political motive with which the terms of the conference were clothed was thus exposed by the rational reasonings of the Indians in Ceylon and the real character of the conference became known to all concerned.

The franchise provisions of the Conference have already been discussed in the second chapter. The Immigration terms, though couched in diplomatic language, had in effect a political bearing and the terms in regard to Quota, Registration and Status should, therefore, be examined in relation to immigration proposals, because it would be a correct approach to an understanding of the basic principles of the conception of citizenship in Ceylon. The conclusions of the Joint Conference in that restricted sense should in reality be regarded as an extension of that conception of citizenship, which had its origin in Stanley's Despatch and the elaboration found in the discussions of the Exploratory Conference of 1940.

Though Ceylon had not acquired a sovereign constitutional status in 1941, the discussions of the Joint Delegation proceeded on the assumption that each country had the right of determining the composition of her population and the immigration proposals of the Ceylon Government delegation were based on that hypothesis. The Indian Government delegation acquiesced in this view, as besides the political equity inherent in the assumption (it would have been an accepted political principle had Ceylon acquired an independent status in 1941), the Ceylon delegation had agreed in the view that there was a body of Indians in Ceylon, who by birth, and by long association, had so identified themselves with the island that their interests were no different from those of the indigenous population.*

The Joint Report contemplated further immigration of Indians to be governed by the draft Immigration Ordinance, which had been introduced in the Ceylon Parliament in 1941, and which was being discussed in the Standing Committee. One of the proposals of the Immigration Ordinance was that the entry of Indians in future would not be allowed, if in the opinion of the Minister concerned such an entry was against the interests of Ceylon, and of the permanent inhabitants of the island. This wide discretionary

* Ceylon Sessional Paper XXVIII—1941 (Report, to the Board of Ministers, of the Delegation appointed by the Board), p. 3, para 7 (b).

power entrusted to the Minister and in practice to be administratively exercised by junior staff would seriously effect the *bonafide* immigrants and except for the entry of the requisite number of labourers, who would be required for the estates, all other classes of Indians would be at the mercy or caprices of Ceylon's administering staff. Its aggravation can be imagined in relation to the operation of another specific provision, that is to say, discretion to refuse entry should be limited in the case of persons employed in positions of confidence or for specialized work.† As no explicit explanation of such terms, which could have been interpreted differently, was appended to the Joint Report, a possible implication* would be that when even the entry of specialized people depended on the discretion of the authorities, the discretion to refuse entry for other classes of Indians, who were not so privileged, was unlimited and the experience in other spheres of public activity showed that in fact the discretion was mostly applied adversely in the case of a claimant of a right when that claimant and discretion-exercising authority belonged to different races or whose interests were a subject-matter of a dispute.

In the case of Indians who were already in Ceylon, a reparation scheme was decided upon under clause (3) Section B@, although it was stipulated that one of the requirements of such a scheme should be its voluntary character. This in fact was a fundamental departure in the attitude of the Indian delegation, for upto now only undesirables, destitutes, etc., were liable to deportation under special Acts applicable to them. The right of Ceylon Government for retiring Indian daily-paid workers in 1939 was hotly disputed by the Indian Government in spite of the fact that the scheme envisaged payment of gratuities in addition to other concessions in regard to their journey back to India. The position of voluntariness as now envisaged, though seemingly unharmed, was a weapon or would prove to be a weapon of oppression in the context of Immigration history and the disabilities imposed on Indians regarding enjoyment of economic rights and the administrative rod would in fact drive out a substantial number of illiterate Indians. The ambition of

† Ceylon Sessional Paper XXVIII—1941, Clause (5) of Section A, Part I, p. 6.

* Memorandum of the Ceylon Indian Congress on the Joint Report of the delegations from India and Ceylon (October 25, 1941), p. 8, para 10.

@ Ceylon Sessional Paper XXVIII—1941, p. 6.

Ceylon politicians in regard to absorbable quantum would thus be greatly achieved consistent with their undertaking in regard to a body of persons, who in their opinion had identified themselves completely with Ceylon and were thus eligible for full citizenship rights. The Indians who already enjoyed substantial rights in Ceylon would be at the mercy of the provisions of Immigration Ordinance which would refuse entry to all classes of Indians whose interests were prejudicial to the interests of Ceylon and of the permanent inhabitants thereof—a term which included everything or rejected everything under the sun.

Not only this; it had a social aspect also. Ceylon could and would allow people, who were either plantation labourers or who, as would be seen in the next chapter relating to civic rights, would be conservancy labourers according to the requirements of the island. This smacked of an indentured system, which had relegated Indians in countries other than Ceylon, to the position of serfs. It would in effect create social problems where Indians would be looked down upon in terms of contemptuous behaviour. One has only to visit the sea-beach along the Galle Face Green in Colombo to witness the pitiable condition of Tamil Riksha-pullers where they are treated like slaves by the mounting passengers belonging either to Sinhalese or European race. The same evils of indentured labour were likely to emerge in practice in relation to clause (6) Section B, which provides—

“Unassisted unskilled labourers with less than 5 years’ residence in Ceylon on the date of agreement to have the right to re-enter Ceylon only if returning to employment under the same employer or to guaranteed employment of the same class.”*

This is in regard to unassisted, unskilled labourers. In fact the Indians have been categorised under about a dozen heads and the Joint Report restricts their right of re-entry in varying measure exempting persons with a Ceylon domicile of origin or of choice. Apart from grave objections in regard to administrative difficulty which Indians would in future experience, in proving the identity or domicile of different varieties, the Indian delegation failed to press a basic fact before the Conference *i. e.* that of the applicability of these eligibility clauses of the agreement to a population of about a million people. The enormity of the complicated

*Ceylon Sessional Paper XXVIII—1941, p. 6.

provisions would thus fall on the illiterate Indian masses as they alone would be victims of administrative harassment and in the context of conditions obtainable in Ceylon would only result in their deportation to India on one pretext or the other.

By a denial of re-entry to several categories of Indians already in Ceylon, the result from a long range of view will, in effect, be the deprivation of their economic or other interests lawfully acquired in Ceylon and it never entered their ken or they never visualised that any agreement would be retrospectively applied to the detriment of their interests. Such stringent clauses only smack of expropriation*, which in the modern democratic world fall short of the full meaning of democracy where interests of an individual are so guarded as to allow one the enjoyment of one's lawfully acquired assets with a proviso that such enjoyment does not encroach upon or invade the lawfully acquired rights of other individuals.

The quotas agreed upon by the delegates were a new feature of the Joint Report, and whatever may have been the intention of the delegates in regard to the control of future immigration and quotas prescribed for new entrants, the internal quotas contemplated were meant to severely restrict the rights of Indians living in Ceylon since long. The Indians who had resided in Ceylon for 3 years or more but less than 7 years on the date of agreement were permitted to complete the period of 7 years to become eligible for exemption from the quota legislation, but other Indians who were required to fall in line with clause (1) part II *i. e.* Indians possessing a domicile of origin or choice or a certificate of permanent settlement or having been resident in Ceylon for atleast 7 years on the date of agreement, were exempt from quota legislation. In view of the general provisions in part VI relating to domicile of origin or choice, which required a legal proof to the satisfaction of a court according to the rules of English Law regarding the acquisition of a domicile of choice, there could have been only a handful of Indians who would have acquired domicile of choice or would have proved their domicile of origin. The device thus agreed upon not only restricted the Indians, who chose to come back to Ceylon

* Memorandum of the Ceylon Indian Congress on the Joint Report of the Delegations from India and Ceylon (October 25, 1941), p. 13, para 19.

after the coming into force of Immigration Ordinance, but also affected those Indians who had lived in Ceylon and acquired economic and property interests during their sojourn in Ceylon.

Registration, which might have been a desirable feature in facilitating the administration of the clauses of the agreement arrived at, was vitiated by the very requirements of Indians alone being required to be registered. This in fact, besides being objectionable on racial grounds, created a class of Indians by themselves and the consciousness of the fact that legislation mooted by Ceylon Government in future would only be applicable to those registered, created in the minds of Indians an inferiority racial feeling and a feeling of uncertainty—that they alone were to be the targets of the special legislation to be enforced in future. The natural effect of such a consciousness was that all Indians in future began to wind up their interests in the shortest possible time to be saved from the rigours of future legislation. They had a feeling that an independent Ceylon was sure to apply to a section of the population rigorous tests which would deny citizenship rights to a large number of that population.

The status of those Indians generally, who had either a domicile of origin or choice or who possessed a certificate of permanent settlement, would be identical to the status of indigenous population with restricted rights in some fields *i. e.* in regard to Government employment or benefits of the Land Development Ordinance of 1935. With these restrictions *i. e.* requirement of domicile qualifications and the denial of employment under Government and denial to acquire Crown Land under the Land Development Ordinance, the Ceylon Government achieved their ambition through negotiations to separate a class of Indians who could in their judgment be conferred rights of full citizenship. This in essence was a triumph of their stand they had so consistently taken from the time they had visualised a scheme of saving the indigenous population from the swamping complex created by the so-called uncontrolled influx of Indian estate workers. This, they thought, had only saved Ceylon from economic ruin as revealed to them by the unemployment figures of the period of depression and subsequent periods especially in view of the rising figures of Ceylon's population. It was a subsidiary motive of their action. The political problem which would have acquired a new meaning and an enormity, if allowed to go unchecked, was solved in their estimation through the

instrumentality of persuasion and negotiation—an oft-repeated plea put forward by India for being employed in the affairs of the countries and so widely applied with success by Mahatma Gandhi in his mission to liberate the Indian continent from foreign yoke. Whatever else may have been the merits—the political merits of the agreement—the Ceylon politicians beat their counterpart in India with the same weapons which India had so proudly advocated for application to the solution of International disputes.

India from the inception of conflict had not agreed to the encroachments or restriction of the rights of Indians in Ceylon and the Exploratory Conference was a proof of it, if any proof of her stand regarding this problem was needed. Two years of vast political changes in the world brought her to a position when according to the views expressed by Indians in Ceylon, she agreed to the curtailment of rights, which was against the expressed stipulations of the British Government in Ceylon in regard to the enjoyment of rights by Indians. Indians had emigrated to Ceylon having a faith in the undertakings given by a legally constituted government and which undertakings, in all consitutional propriety and convention, should be honoured by any successor Government. It must be noted here that Ceylonese had only acquired a majority in the legislature but the island was still under the colonial department.

Agreeing to the restriction of rights in Crown Lands was a major political decision which the delegates had taken ostensibly under the plea of an ordinary economic right of an individual. It had repercussions, not in a restricted field alone, but on a closer examination on all aspects of the problem in the context of recent legislation in Ceylon; it marred the future possible solution of the Indo-Ceylonese problem—a solution which had been advocated in the past and was being advocated at present by all advocates on the Indian side. By agreeing to the restriction of rights in land, the assimilation of the working class Indians in Ceylon in the rural areas has been denied to them in perpetuity, and the fate of lakhs of labourers, even if all other rights are conceded to them (which in the context of present political situation is an impossibility) depend only on their pursuing their avocations as at present enjoyed by them, to the denial of all other rights enjoyed by self-respecting citizens of a free country. The Indians in Ceylon had, therefore, staked their all in persuading the Indian people and the Indian Government not to agree to the ratification of the agreed proposals. At

has been stated before, the Central Legislature in India refused to ratify the terms embodied in the Joint Report, for in its opinion, these did not contemplate any step towards the solution of the fundamental problem—that of enabling Indians to get a share in the rights of full citizenship in Ceylon.

Citizenship status in the Post-Independence Era.

Indian Government, therefore, suggested postponement of the negotiations during the war, because any settlement even if it could have been arrived at would certainly not have the concurrence of both the sides to the dispute, and it was desirable to avoid feelings of recriminations in the interest of an allied victory. It must, however, be noted that the Indian Government as such was dominated by persons who were not the real representatives of the people. The Indian National Congress had protested to the Government for dragging India into the war without the consent of the Indian people and the "Quit India" movement of 1942 was about to be launched. The Ceylon Government was in the same position, and though the British Government had promised Ceylon substantial reforms after the war, the Ceylon politicians were not satisfied with the promise made. The Ceylon Government agreed to postpone negotiations, and to avoid recriminations withdrew the Immigration Bill and the Registration Bill which had been introduced in the Ceylon Parliament in 1941. The Indian constitutional question was bound to be solved after the "Quit India" movement and the subsequent incarceration of the national leaders. The war ended in the victory to the allies, and the change in the political status of the two countries was inevitable. India became an independent country in August 1947 and close upon the heels, Ceylon became a Dominion in February 1948, although preliminaries in regard to Ceylon Independence Act were completed at the end of 1947.

The two Governments were thus better situated to deal with the problem—not on a piecemeal basis—but comprehensively covering every aspect of Indian endeavour in Ceylon. The concept of citizenship, which was as a matter of fact, treated as co-terminous with citizenship rights of Indians, was to be evolved in the new context of an independent status which Ceylon had acquired in 1948; but barring the new element of descent as the basis of citizenship, a close scrutiny of the citizenship defined in the principal Act of Ceylon Parliament revealed the same underlying

principles, which had earlier formed the basis not of citizenship as such but of citizenship rights to be granted to the working class Indians in Ceylon. The discussions of December 1947 which mainly concerned the citizenship rights of Indians in Ceylon revolved round a central theme which was by no means a new importation in the proposals as subsequently enunciated. They clearly outlined the mental attitude of the Ceylon politicians, who were eager to introduce legislation on similar lines in Parliament in furtherance of objectives they had so clearly envisaged from the time they had attained majority in the legislature. The chain of legislative enactments of the period 1931 to 1947 really reflects not isolated actions of a distorted or disjointed policy, but it was a policy of sustained and coherent action, which had one and only one motive, that of reducing the number of Indians now supposed to be a challenge to the electoral strength of the indigenous population. The proposals of the past conferences mainly concerned with the location and determination of the absorbable quantum of Indians and hence the natural question that arose in 1947 discussions was whether any advance had been made during the interval in regard to the 'exclusive' approach of the Ceylon Government concerning the Indo-Ceylonese problem. The intentions of the Ceylon Government which remained such a mystery and an enigma in the previous conferences were, however, made explicit in the discussions of 1947 and the negative approach that one came across in 1940 and 1941 was replaced by a positive and well-defined approach to the whole problem. Mr. Senanayake emphatically elucidated the 'advance' that he was able to make over the proposals of the previous conferences. He wanted not only to absorb those, who in his opinion had made Ceylon their home; he definitely wanted to prevent all those from acquiring status of a Ceylon citizen, who under the test to be rigorously applied could not prove their *bona fide* by conforming to the standard of qualifications that he had thought of for the eligibility of a citizenship status. His considered opinion was—

“In his view, a mere declaration of intention by an applicant for citizenship would not be sufficient, for in that case, it will be easy for political groups to induce persons to make such declaration even when no real intention was present. He was, therefore, anxious that mere declaration of intention should not be considered a sufficient test. It was necessary that application for citizenship should be dealt with by a court of law in order that the proceedings might be invested with sole-

mnity and the declaration of intention might not be made without real desire for citizenship.”*

Thus the procedure of acquiring citizenship took precedence over the actual qualifications to be prescribed for attaining a citizenship status. Pandit Jawaharlal Nehru wanted to do away with the formalities of proceedings in Civil Courts, taking into consideration the poverty and illiteracy of the persons to be affected. He considered that the procedure suggested by the Prime Minister of Ceylon would in practice exclude an appreciable number of Indians from acquiring citizenship. In his opinion the procedure to be applied should be simple and inexpensive. As regards qualifications, he considered residence for a prescribed period and the applicant's declaration of an intention to make Ceylon his home sufficient to make him eligible for a citizenship status. He knew that in view of an independent status acquired by the two countries, the acceptance of a new status in Ceylon would naturally debar persons to become Indian citizens. In substance, the proposals of the Prime Minister of India were not new, as exactly the same attitude was taken by the Indian delegation in 1940, although no detailed qualifications were put forward then; but before acceptance of such proposals as made by the Prime Minister of India a hindrance had to be cleared up before the Ceylon Prime Minister could even think of considering such proposals. The Indian delegation in 1941 had surrendered certain rights, which the Indians in Ceylon thought to be encroachments upon their fundamental rights, but though the joint proposals were not ratified by the Indian Central legislature the mentality of surrender still proved a stumbling-block in putting forward any new proposals. For once some ground is conceded, it is hard to go back on the agreed proposals and it was exactly this difficulty that had arisen before Pandit Nehru had made certain suggestions which harped back on the old proposals. The weakness of the Indian case in the face of the 1941 agreement became apparent when Mr. Senanayake wanted to make the agreed franchise qualifications of 1941 as the basis of citizenship qualifications. As has been stated before, the chief ingredients of the agreed franchise qualifications for Indians were—

1. A declaration of applicant's intention to reside in Ceylon indefinitely,
2. Proof of means of livelihood,
3. If married, the wife and minor unmarried children, should ordinarily be residing with

*Ceylon Sessional Paper XXII—1948, p. 6, para 5.

the applicant and 4. The prescribed period of residence was to be 7 years for married persons and 10 years for others with a proviso that the period of residence should have been completed within 4 years from the date of agreement. Exactly the same position was taken in 1947 by the Ceylon Government, knowing fully well the weakness of the Indian case in that these very qualifications were unanimously agreed upon by the Indian delegation in 1941. An additional element of conforming to the laws of Ceylon by the aspiring applicants for citizenship was, however, introduced. But apart from the question of an agreement over the actual period of residence, the most contentious proposal was the starting point for computation of the period of residence. Ceylon naturally wanted to count the period from 1941 ending with 1945 according to the proposals agreed upon in 1941 and their main argument was that since postponement of the negotiations was effected at the instance of the Indian Government, any subsequent agreement in regard to the period of residence should relate to the date of the old agreement. Pandit Jawaharlal Nehru was, however, anxious to face the realities of the situation in the present and to forget the bitterness of the past. His approach to the question might have been sound on principles, but in the context of hard realities of past political agreements, on which he himself had earlier based and advocated the case of Indians, who had been recruited on the basis of enjoyment of identical political and civic rights with the indigenous population and which basis was being denied by the Ceylon Government after attaining a parliamentary majority, it was not dictated by political foresight. Moreover, the acceptance of Pandit Nehru's proposals would have enlarged the scope for the entry of a substantial number of Indians who had migrated to Ceylon after 1940. It was in sharp contrast to the attitude of the Ceylon Government which had been endeavouring to restrict the number of Indians who were claiming citizenship rights. As the two Prime Ministers were eager to arrive at a settlement, the procedure of general discussions was given up and Ceylon Prime Minister's proposals were reduced to writing for the purpose of finding out common ground between the views of the two governments. It would be easier for a scientific study to discuss each point of Ceylon Prime Minister separately and then to assess the cumulative effect after the reactions of the Indian Government had been similarly studied side by side with the Ceylon Government

proposals. The first clause proposed by the Prime Minister of Ceylon was—

“A period of continuous residence of seven years for persons who are married and ten years for other persons preceding 31st December, 1941; provided that such period of residence shall have been completed prior to 31st December, 1945. Absence exceeding one year shall constitute a break of continuous residence.”*

Pandit Jawaharlal Nehru's objections to the above clause were two-fold. In his opinion, an unmarried person in Ceylon would have fewer contacts in India and would, therefore, be much attached to the country of adoption. For sentimental reasons, however, Mr. Senanayake thought the opposite to be true. The real objection was in relation to the date of computation of the period of residence. There was a fundamental difference in the approach of the two Prime Ministers. The Indian Prime Minister wanted to treat the negotiations on a *de novo* basis, while the Ceylon Prime Minister was insistent to relate the date of computation to the agreement of 1941 with exactly the same terms. His arguments were that the Ceylon Government had postponed consideration of the Immigration Ordinance of 1941 on the suggestion of the Government of India for the postponement of the negotiations, and to keep the *status quo* during the war period. He, however, had no objection to delete any reference to 1941, provided the period of residence was completed by the end of 1945. On the suggestion of the Prime Minister of India, he agreed to communicate his final reply to the objections made in regard to the qualifying period to be the same for married and unmarried person and also regarding the date of computation of the period of residence.

The second clause related to 'adequate means of livelihood'. In the opinion of the Prime Minister of India, the phrase connotated a very wide meaning and was susceptible of various interpretations, and in the context of illiteracy and poverty of the Indians, was sure to be detrimental to their interests in practice. He also observed that in a capitalistic system of economy as obtainable in Ceylon, there was necessarily to be a reserve of the unemployed and he posed the question whether the clause was intended to exclude persons who were temporarily unemployed owing to the depression

* Ceylon Sessional Paper XXII—1948, p. 7, para 11.

in some industries. In reply it was pointed out to him that besides destitutes and beggars, it was intended to exclude dependants of estate labourers, who although a drain on their purse, never wanted to make Ceylon their home. The Prime Minister of India wanted that no person who was employed or temporarily unemployed but employable should be precluded from citizenship. The Prime Minister of Ceylon agreed to consider the proposal.

The third clause : "If married, the wife and minor unmarried children, if any, should have ordinarily resided with him,"* was agreed to by them.

The fourth clause, which was an innovation, required an applicant to comply with the laws and customs of Ceylon. Mr. Senanayake had a specific example in mind of a Hindu having two wives in Ceylon, which under the Ceylon law would have invalidated a person for citizenship. The Prime Minister of India wanted to treat the customary law as apart from the statutory law—which suggestion the Ceylon Prime Minister agreed to consider in consultation with his colleagues.

The clause relating to avoidance of dual citizenship did not raise any objection, as it was appreciated on both sides that such a clause was a natural corollary to the acceptance by a person of the nationality of a particular country.

The real difficulty centered round the procedure for acquiring citizenship by qualified persons. Mr. Senanayake's proposal was that the applications be dealt with by law courts. Pandit Jawaharlal Nehru wanted to avoid the detailed and complicated procedure before a court, because in practice, that procedure was bound to exclude many persons with the necessary qualifications. He suggested a procedure which was followed in most countries for the purpose of naturalization of aliens. That is, an applicant should set out his qualifications in the application supported by an affidavit and also accompanied by a declaration of an intention to make Ceylon his home. It was only in exceptional cases that an applicant may be required to appear before a court. The Prime Minister of Ceylon agreed that a simple procedure be evolved for the purpose and he, therefore, wished all the suggestions to be

* Ceylon Sessional Paper XXII—1948, p. 8, para 19.

examined with a view to test their feasibility in the context of the conditions prevalent in Ceylon.

The proposed consideration of the objections raised in India by Pandit Nehru elicited a detailed reply from the Ceylon Government, but excepting for minor modifications, the fundamentals of the proposals of the Prime Minister of Ceylon remained unchanged. As would have been evident from the proposals and the objections, it was a duel, not so much on fundamental issues, as on the principles which should segregate that class of Indians, who could easily be absorbed in the general population. The political consideration which weighed with the Ceylon Government to formulate such proposals could be judged from the rigours of the qualifications and the procedure suggested for citizenship. The full assertion of the stand, which ought to have been taken by an independent country like India, could not be made by Indian Government, firstly because of the internal political situation in the country specially after the partition, and secondly the embarrassment due to the joint agreement of 1941, which had made Ceylon fully conscious of her strength after attaining a dominion status.

The only concession, therefore, made by Ceylon related to adequate means of livelihood where it was provided that the temporarily unemployed persons should find their way in securing employment within a period of two years* during which an applicant could apply for citizenship. In view of the vagueness of the terms relating to customary laws it was proposed to require an applicant to declare that he was not a party to a bigamous marriage or that the marriage did not fall within the prohibited degree of kinship.

Proposals in regard to procedure were set out in detail. Instead of the law courts being the deciding authority of an applicant's eligibility, a Commissioner appointed for the purpose would have the claim verified by an investigating officer, who after visiting the places of an applicant's residence would make a report of his findings to him. The Commissioner would be empowered to summon witnesses and compel production of documents, and would also hear objections made by anybody against enrolling the appli-

* Ceylon Sessional Paper XXII—1948, Document No. 6, p. 15, para 3 (2).

cant for citizenship. The order of the Commissioner was to be final, but it was further proposed that if the Government of India so desired, his order might be subject to a right of appeal. As will be evident from the above, the procedure proposed to be applied was not only cumbersome, but it also proved to be vexatious in the light of practical experience gained with reference to the Indian and Pakistani Residents (Citizenship) Act of 1949, which would be dealt with later on.

The reactions of the Government of India were conveyed to Ceylon Government in regard to each point, which did not reach the full length of requirement according to its conception of a simplified procedure as also in regard to qualifications. The illiterate and poor character of the majority of the Indian population in Ceylon was not properly appreciated in the proposals of the Ceylon Government and this in fact was the cardinal principle on which the Government of India wanted Ceylon to base any proposals if it sincerely wished to help Ceylon Indians to acquire citizenship. The Government of India had known the real intentions of the Ceylon Government; they were inherent in the proposals before them. But the Government of India could not aid or protect substantially the rights of Indians in Ceylon, because any drastic remedy would cast aspersions on the real intentions of the Government of India, and any active interference with the Ceylon legislation would be contrary to the avowed objects for which India had stood in the past and would certainly like to honour the sovereign territorial integrity of a neighbouring country. The Government of India wanted to secure as many concessions as possible through negotiations and it was, therefore, concentrating in putting forward arguments which any reasonable person would agree to, but which it knew would not be accepted *in toto* by Ceylon Government.

It, therefore, urged that the question of marriage with reference to period of residence was unnecessary. In majority of the cases a documentary proof of marriage or any other substantial evidence was hard to procure by Ceylon Indians and further, in regard to period of residence, it would be difficult for them to establish their claims as far back as 1935 due to the incompleteness of the employment records and thus a vast number of Indians in practice would be denied citizenship rights.

In regard to the question of 'means of livelihood', the Government of India still thought that the phrase was susceptible of various interpretations and would in practice exclude all those Indians, who owing to old age or industrial disability had retired from service, but continued to live in Ceylon being dependant on the pension granted by the previous employers and supplemented by their children's contributions.

The cumbersome procedure suggested by the Ceylon Government for acquiring citizenship by Ceylon Indians was in reality the main grievance of the Indian Government. Its contention was that it was unnecessary, at least in regard to estate workers, that their applications be scrutinized as a matter of course in view of the fact that licences to recruit labour were discontinued from 1935, and the Government of India had imposed a ban on the emigration of unskilled labour to Ceylon since 1939 and because of these two restrictions an applicant was necessarily resident in Ceylon and fulfilled the condition of 7 years' residence in the island as required of him before putting in an application. Moreover, the Indian Government wanted to cut off the number of spurious objectors and to avoid frivolity in the proceedings, it suggested for a compulsory monetary deposit by the objectors. Its third suggestion wanted an appeal to go to the Supreme Court of the island, for in its opinion that court was the only competent authority to interpret the constitution.

Meanwhile, the Ceylon Government had finalized two of the Bills—one relating to the status of a Ceylon citizen and the other for registration of Indian residents as Ceylon citizens. The sum and substance of the above two Bills was forwarded to the Indian Government, and the Ceylon Government requested it to send its reactions on the salient features and the qualifications embodied in the Bills keeping in mind the subject-matter of discussion that had taken place between the two Prime Ministers since December 1947.

The provisions of the Bill entitled, "The Indian Residents (Citizenship) Bill" were found to be thoroughly unsatisfactory from the Indian point of view, because the suggestions made by the Government of India were not fully appreciated and the Ceylon Government had not budged an inch from the original stand that it had taken in 1940 and 1941. The

application of the rigorous tests as embodied in the various sections of the Bill wanted to reduce the number of Indians considerably with a view to prevent them from becoming a so-called menace to the political and economic interests of the island. Three minor modifications were effected by the Ceylon Government on the basis of objections raised by India, but they did not touch the fundamentals of the policy or stand taken by Ceylon Government and which only related to the details in matters of qualifications and procedure. It will be immensely useful for a correct evolutionary study of the negotiations, if we recapitulate the concessions or modifications effected by the Ceylon Government in regard to acquisition of citizenship rights by Indians. The first related to limiting the scope of compliance with the laws and customs of Ceylon to certain actual disability or incapacity under the Ceylon law (bigamy or prohibited degree of kinship was meant); secondly, fixing a two-year limit for applying for registration, thus enabling the temporary unemployed but employable to secure some employment, and finally, in the simplification of the procedure in not requiring an applicant to go before a court of law and making Supreme Court of Ceylon as the competent authority to interpret the constitution, the last item being a suggestion of Indian Government which was accepted by Ceylon. Apart from these concessions, which had not satisfied the Government of India as they fell short of its ideal of non-discrimination, a significant observation was made by the Prime Minister of Ceylon in his correspondence to the Prime Minister of India. For a correct understanding of contemporary citizenship history in Ceylon, it is worth-while to reproduce the exact words, because they have an important bearing upon the economic rights of those Indians, who did not fall under the ambit of eligible Indians for citizenship and in the context of the denial of those rights, they constitute a significant political pronouncement. Mr. D. S. Senanayake had said—

“Those Indian residents who do not choose, or are not admitted to Ceylon citizenship, will still continue to be allowed to remain in the island as Indian citizens and to pursue their lawful avocations without any interference.”*

The situation after this statement considerably eased and a

* Letter No. EA/10/3/A dated June 22, 1948 from Mr. D. S. Senanayake to Pandit Jawaharlal Nehru *vide* Ceylon Sessional Paper XXII—1948, p. 33, para 3.

spirit of sweet reasonableness was evident in the correspondence that ensued for coming to agreed conclusions. This specially was the characteristic of the letters of Pandit Nehru. Beyond temporary lapses into the question of immigration history of Indians in Ceylon, on which the two Prime Ministers expressed diametrically-opposed views, the correspondence centered round another Bill—The Ceylon Citizenship Bill—which the Government of India thought differentiated fundamentally in regard to the rights to be enjoyed by the two sets of citizens, which the said Bill had envisaged. All means of coming to an agreed solution had been exhausted in regard to Indian and Pakistani Residents (Citizenship) Bill, and as the two Bills were to be introduced one after the other to bridge the hiatus which the Ceylon Citizenship Bill, if introduced singly, would have produced, the Prime Minister of India took an opportunity to discuss in detail the various provisions of the first Bill. His main suggestion was that a citizen by descent and a citizen by registration should not be discriminated, especially in respect of eligibility for franchise or for office, and subsequently certain minor suggestions were either accepted by the Ceylon Government or were to be considered when the Bill actually came for scrutiny in the committee stage. Mr. D. S. Senanayake took advantage of the conciliatory attitude adopted by Pandit Nehru (probably taking it to be his weakness) and as he wanted to proceed forthwith to enact the Bills into laws, he came out rather heavy in diabolically indulging in the past Immigration history of the Indians in Ceylon, and attributed wild charges and motives to the Indians, who in his estimation had been treated lightly in view of the past history. The real motive of the legislation as he wished to introduce in regard to the rights of Indians unfolded his inner-self, and the clamour of the economic motivation which had allegedly been the basis of such legislation affecting Indians, soon turned into the vociferation of a political angel, who wanted Sinhalese nation to be saved from the so-called political hordes of the Indian estate workers. Leaving aside the question of Sinhalese living in low-country areas, he raised the bogey of the exploitation of the Kandyans by the swamping complex—numerically and electorally, which haunted the Ceylon politicians from the time they had become conscious of their political strength during the operation of the Donoughmore Constitution. Mr. D. S. Senanayake said :

“The Kandyans, for instance, who have lost the best part of their territory to European capitalists now fear the loss of political power through over-whelming numbers of Indian

labour, who have nothing in common with the permanent residents, swamping them in electoral strength.”*

In such an atmosphere of bitterly adhering to his own conception of past historical facts, the interpretation of which should have been left to the serious study of students of history, the two politicians almost came to a clash and the past understandings arrived at gave way to different interpretation on points, which were supposed to be indisputable in the context of the current correspondence. For the words used by Mr. D. S. Senanayake that the “present proposal of the Government of Ceylon extends to Indians resident in the island full rights and privileges of Ceylon citizenship”† which were understood by the Prime Minister of India to cover the totality of rights, in fact excluded the Indians registered as Ceylon citizens from the benefits of the Land Development Ordinance (1935), the Fisheries Ordinance (1940) and the Omnibus Licensing Ordinance (1942) according to the views as expressed subsequently by the Prime Minister of Ceylon. The Prime Minister of India was naturally much disappointed with such a restricted interpretation of the rights of Indians and the political battle between two astute politicians ended without arriving at any agreed conclusions. The only remedy to save the Indians in Ceylon remained in an appeal to human conscience and fair play and Pandit Nehru wrote back with fervour in an appealing mood :

- “1. That, even at this late stage, you may find it possible to accept the suggestions that I have already made regarding the qualifications for citizenship by registration; and
2. an assurance that, in future, there will be no administrative or legislative discrimination against Indians who become citizens of Ceylon by registration.”+

Mr. D. S. Senanayake, subtle that he was, sought to put off the Prime Minister of India with a plea (he had already envisaged it in regard to the introduction of legislation affecting Indians in Ceylon) that citizenship by registration was not a status in perpetuity extending to future generation, who would automatically become natural-born citizens of Ceylon in the third generation. The Ceylon Government, therefore, proceeded with their plan of enact-

* Ceylon Sessional Paper XXII—1948, Document No. 19, p. 46, para 9.

† *Ibid.* Document No. 13, p. 33, para 3.

+ *Ibid.* Document No. 21, p. 48.

ing legislation regarding the thorny problem the solution of which has baffled the greatest minds of the present generation.

Ceylon Citizenship Act

Ceylon became a Dominion in 1948. The new political status demanded that the country should determine a status of its citizens, because the nomenclature of 'British Subjects' was now an insult to independent Ceylon. According to its authors, the Act only determined the status of a citizen without conferring any privileges or rights. True; but the Act should be considered in the light of what was to come later on, although its contents would have relevancy in regard to the restricted number of persons, who could qualify themselves for that status. The motive of defining the status of a citizen of Ceylon in the altered political status of the country will have to be given due consideration, but in the light of discussions, which were going on between India and Ceylon on the question of citizenship rights of Indians in Ceylon and in the face of the heterogenous character of Ceylon's population, its incidence or import will have to be adjudged in relation to the immigrant population of the island. For, as will be clear from the provisions of the Act, every section of the population of the island would fall under its orbit, but the abiding interests of the Indians, who had begun migrating to Ceylon in 1837 could be traced only to the beginning of the 20th century. Let us consider the principles first on which the Act was based. Did it take into consideration the principles, which other countries had followed in defining the status of a citizen? Did it accord to or was in consonance with the practices followed in other countries? As was expected, a long association between Ceylon and England should have naturally resulted in the formulation of the proposals either on the principles and practices of English laws or on the experiences of the laws of the countries of British Commonwealth. A study of the citizenship laws of other countries will reveal that the Ceylon Citizenship Act was the handiwork of the genius of Ceylon politicians in an exclusive sense, and its contents and the principles on which it was based had only a remote semblance to the corresponding laws of other countries. The Sinhalese, Ceylon Tamils, Burghers, Eurasians, Indian and Malay Moors were avowedly accepted as permanent elements of the population in view of the history of these communities. The only communities left were either the Euro-

peans or the Indians. Europeans had declared that they had only an economic interest in the island and were not eager to acquire citizenship rights. Their number was an insignificant one, to be exact 5,418 in 1946* as compared to 8,118 in 1921 and the decrease in their percentage was 33.3. Their number was dwindling and they were in the process of liquidation. The population of Indians was 780,589 in 1946 as compared to 602,735 in 1921 and their percentage of increase was 29.5. The Indians were on the 'march' and their number was considerable. Hence the only community which was aimed at, in the Citizenship Act, was the Indian community and, therefore, the Bill embodied a principle of racialism and exclusiveness and displayed a narrowness of outlook.

The principle of citizenship by birth or *Jus soli* is a fundamental principle in almost all countries. If one is born in Britain, he is *prima facie* a citizen of England unless it can be shown that he falls within a class of stated exceptions. The British Nationality Act, 1948, contains clause 4, which says :

"Subject to the provisions of this section, every person born within the United Kingdom and Colonies after the commencement of this Act shall be a citizen of the United Kingdom and Colonies by birth."†

A person born after the commencement of the above Act can be a citizen of the United Kingdom and Colonies by descent, only if his father is a citizen of the United Kingdom and Colonies at the time of the birth, and the descent eligibility in regard to the citizenship of the father has an intimate relationship with 'birth', as Section 5 of the British Nationality Act, 1948 further provides that a person shall not be a citizen unless—

"that person is born or his father was born in a protectorate, protected state, mandated territory or trust territory..... wherein His Majesty then has or had jurisdiction over British subjects."‡

Further, British citizenship by registration can be acquired by citizens of Commonwealth countries only by a year's continuous residence in the United Kingdom.ϕ

* The figures have been taken from "Census of Ceylon 1946", General Report, p. 151, Table 99.

† British Nationality Act, 1948 (Part 11 & 12 Geo. 6, Chapter 56), p. 3.

‡ *Ibid.* p. 3.

ϕ *Ibid.* p. 4.

Take the case of a Dominion like Canada, where very comprehensive regulations regarding citizenship have been framed. Part I, clauses 4 & 5* provide for the status of a natural-born Canadian citizen depending upon whether a person is born in Canada after or before the commencement of the Act. Clause 4 says—

“A person born, before the commencement of this Act, is a natural-born Canadian citizen :—

- (a) If he was born in Canada or on a Canadian ship and has not become an alien at the commencement of this Act; or.....”

Clause 5 says—

“A person, born after the commencement of this Act, is a natural-born Canadian citizen,

- (a) If he is born in Canada or on a Canadian ship; or.....”;

so that the principle of birth is a necessary ingredient.

The Act also provides for naturalisation of aliens. Clause 9 says—

“A person, other than a natural-born Canadian citizen, is a Canadian citizen, if,

- (a) That person was granted, or the name of that person was included in, a certificate of naturalisation and had not become an alien at the commencement of this Act; or.....”⁺

And Clause 22 prescribes rights and obligations of persons other than a natural-born Canadian citizen. It says—

“A Canadian citizen other than a natural-born Canadian citizen shall, subject to the provisions of this Act, be entitled to all rights, powers and privileges and be subject to all obligations, duties and liabilities to which a natural-born Canadian citizen is entitled or subject and, on and after becoming a Canadian citizen, shall, subject to the provisions of this Act, have a like status to that of a natural-born Canadian citizen.”[†]

The Ceylon Citizenship Act is altogether a different tale. The principle of acquiring citizenship through descent or *Jus Sanguinis*

* The Canadian Citizenship Act, 1950 (Department of Citizenship & Immigration), pp. 2-3.

+ *Ibid.* p. 4.

† *Ibid.* p. 11.

in the manner that is contemplated in Ceylon, is an innovation unheard of in the citizenship laws of any other country. Why has this principle of descent been applied in the case of Ceylon? The theory of absorbable quantum haunts at every step the Ceylon politicians take in regard to Indians in Ceylon and while so doing fall into pits of exclusiveness and the result is racialism, communalism, class-hatred and rank reactionism.

The spirit of exclusiveness displayed in the Act has almost been poetically portrayed in the following words of Dr. N. M. Perera, the Leader of opposition in the last Parliament:—

“I feel certain that the Prime Minister would gladly build a great Chinese Wall round this island if he could do it, to ensure that nobody from outside even peeped into this island.”*

A sustained piece of serious humour and hilarity !

Let us consider the Act from the working-class point of view because by the very nature of the principles on which the Act is conceived and by its contents, its incidence is to be felt by the working-class alone. What else can be the motive of the Government in operating a principle of descent in preference to a principle of birth or a principle of residence but that the incidence of its contents be on the immigrant population? Unfortunately, the working-class, which in fact will be de-citizenised, belongs to a different race than the Sinhalese and any charter of rights which is to be prescribed by the Government of an alien race necessarily includes irritation clauses. That is a psychological factor, and though there may be an absence in Ceylon of a determined mood to exterminate people as was found in Aryan Germany to deny citizenship to Jews, the result of such actions has been the strengthening of the reactionary forces which ultimately destroy the very structure which is sought to be perpetuated by a superiority complex. Germany waved the flag of the intrinsic superiority of the Nordic Whites; the basic rights of citizenship were denied to Jews. That theory of superior race crumbled under the resultant groans of the Jews and Germany was smashed to pieces with anti-Judaism dead and gone. It is 20th century history. That theory of superiority complex had a re-birth so to say in a diluted form in the Citizenship Act. The result might on the past analogy be diluted to that extent, but the fact remains that

* Ceylon Hansard (House of Representatives), Vol. 4, No. 11, Column 1685.

even to this day the Indo-Ceylonese problem remains unsolved; and whatever forces may be at work in aiding a failure, the principles of exclusiveness and the principles of racialism which are inherent in the Ceylon Citizenship Act have played not an inglorious part in that failure. The principles of exclusiveness or of restriction go to decide the social composition of the nationals of a country and also to determine the political complexion of large sections of people and in the last resort to determine the very nature of the State.* When that is done, the necessary corollary is as to who should be eligible to determine the nature of the State, and this compartmentalisation of the population into citizens and non-citizens raises the question of franchise. Not only politically, the non-citizens remain at a great disadvantage in the economic fields as well. For the right of employment in Government service, in quasi-government service or even in non-government institutions and Bodies will be enjoyed only by the citizens. Thus the possession of citizenship is a basis which decides once for all the very existence of the people. And who shall be the victims? The richer class or the working class? This depends largely on the contents of the Act, and what are the contents? A person born in Ceylon before the appointed day shall have the status of a citizen of Ceylon by descent, if (a) his father was born in Ceylon, or (b) his paternal grand-father and paternal great grand-father were born in Ceylon. That is the limit to which this theory of restrictions can take us to. In relation to working classes of Indians in Ceylon and in view of their immigration history, what percentage is going to be eligible for citizenship? First of all, the appointed date (which was 15th November 1948) is a huge hurdle which is going to deny the status of the citizen to generations that are to come after that appointed date. It is in a way a bar in perpetuity. The boom in the coffee industry almost lasted for 40 years, that is, from 1840 to 1880, and as described in chapter I, the labourers from India used to migrate to Ceylon only in the cropping season in the island after they were free from agricultural pursuits in India. A large percentage of the labourers used to return to India almost every year after the cropping season. Only after the 'blister bite' had destroyed the coffee plantations and the tea and rubber had taken its place, that the Indian labourer thought of permanently settling down in Ceylon. The tea and rubber plantations required the labourers through-

* Ceylon Hansard (House of Representatives) Vol. 4, No. 11, Column 1701.

out the year. The following figures will conclusively illustrate that a very small section of the population remained in Ceylon after the cropping season* :—

<i>Year</i>	<i>No. of immigrants landed</i>	<i>No. who returned to India</i>
1866	108,462	29,706
1867	51,807	47,846
1868	72,480	55,898
1869	72,962	55,989
1870	88,529	68,610
1871	95,289	74,955
1872	92,151	65,942
1873	102,164	83,731
1874	129,759	94,326
1875	93,796	102,939
1876	174,216	95,398
1877	190,715	96,078
1878	101,093	91,188
1879	76,897	80,750
1880	45,000	73,683
1881	53,037	63,240
1882	50,907	57,820
1883	39,204	52,962

* Governor's Despatch No. 314 Misc. dated 13-8-1889 to Secretary of State for Colonies (Ceylon Government Archives, Nuwara Eliya) and Mr. Peri Sundaram's affidavit in Nair's citizenship case in Supreme Court of Ceylon, dated August 20, 1951.

<i>Year</i>	<i>No. of immigrants landed</i>	<i>No. who returned to India</i>
1884	45,777	50,085
1885	47,794	48,863
1886	39,907	45,280
1887	72,660	55,121
1888	82,587	53,805
1889	61,735	52,619
1890	84,106	45,756
1891	103,149	60,042
1892	116,472	67,616
1893	91,676	73,181
1894	85,256	66,293
1895	123,611	99,673
1896	128,350	93,281
1897	153,075	109,213
1898	136,864	105,706
1899	68,393	81,629
1900	207,994	112,936
	3,287,874	2,512,160

The majority of the labourers had apparently left their families behind, intending to return to India at the end of their services. As these estate workers left their wives behind in India, the number of Ceylon-born persons, so far as this community was concerned, was

almost negligible upto the close of the 19th century. The following figures will be of considerable aid in making the position clear* :—

<i>Year</i>	<i>Indian Tamil population in Ceylon</i>	<i>India born Tamil population in Ceylon</i>	<i>Tamil Estate population</i>	<i>India born Tamil Estate population</i>
1911	530,983	430,853	513,467	359,974
1921	602,735	416,419	(Not separately given)	328,123
1946	780,589	Actual figures not given in Report.	665,853	(Born in Madras Province—Tamils as such not given.)

Thus the requirements of birth of two successive generations debar a majority of the working class from acquiring citizenship. For a person who migrated to Ceylon with an idea of a permanent residence in, say 1900, had been apparently born in India. The child (call him A) born to him in 1901 cannot acquire Ceylon citizenship because his father was not born in Ceylon as required under the Act. If the family circumstances permitted him and the Nature favoured him, there could be a possibility of birth of a child (call him B) to him at the age of 20 years *i. e.* A's child could be a Ceylon citizen at the time of his birth and could be eligible for franchise in near about 1940. B's child can be expected in near about 1942, so that considering the appointed date fixed under the provisions of the Act, only two generations of the person who migrated to Ceylon in 1900 can be eligible for Ceylon citizenship by descent, and thereafter the appointed date is a permanent bar. The complexities of the requirements of the provisions of other Acts would debar quite an appreciable number of eligible citizens and only a negligible number of persons—that ideal of Ceylon politicians—the absorbable quantum—will be able to acquire Ceylon

* Mr. Sangaralingam Muniyandipillai Subbiah's affidavit in Applications No. 368 and 369 (Citizenship case) in the Supreme Court of Ceylon.

citizenship. That is the effect of the requirement of descent for citizenship in preference to that of birth or residence and that exactly, in other words, is the denial of citizenship to a large number of people. In the context of hardship of the requirements of birth of himself and his father, the other eligibility qualifications—that of his paternal grand-father and paternal great grand-father having also been born in Ceylon in addition to one's own birth can admit hardly any cases for citizenship rights.

The Act also provides for persons born outside Ceylon before the appointed date (15th November 1948), but the simple principle of descent with a motive for restriction of citizenship runs through section 4(2) which says—

“Subject to other provisions of this part, a person born outside Ceylon before the appointed date shall have the status of a citizen of Ceylon by descent, if—

(a) his father and paternal grand-father were born in Ceylon, or

(b) his paternal grand-father and paternal great grand-father were born in Ceylon.”*

The only class of persons, who can easily claim citizenship by descent are the abandoned foundlings, (strange enough in a country where prostitution is prohibited by law) for section 7† of the Act confers status of a Ceylon citizen by descent on a newly born deserted infant of unknown and unascertainable parentage.

In the case of citizens by descent, the *onus* of proof is to fall on the person claiming citizenship, and this burden and the methods of proof are so devised that only persons of richer classes can prove their case and the poor classes of Indians who have neither the traditions nor the aptitude for registration of births will be hard hit. The Registration of Births Ordinance in Ceylon came into force after 1895 and even for that small class of Indians who had any chance of proving their eligibility, a legal proof of birth before 1895 had been a great hindrance to acquire citizenship.

Only in the nature of an exception to every rule is a Naturalisation clause inserted in the Act to operate in a manner that only

* Ceylon Citizenship Act, No. 18 of 1948, p. 4. (Government Publications Bureau, Colombo.)

† *Ibid.* p. 5.

rich people contributing substantially to Government election coffers can be registered citizens on a quota basis. Section 12 (i) (a) and (b) requires that the person to be conferred a status under this clause should be a person who—

- “(1) has rendered distinguished public service or is eminent in professional, commercial, industrial, or agricultural life, and
- (2) that he is, and intends to continue to be, ordinarily resident in Ceylon.”*

The working classes, who form a majority of the Indian population in Ceylon, certainly do not fall under the above category and only those, who can help the Government in election times or are otherwise an antidote to the activities of non-official organisations championing the cause of the poor classes have any hope of acquiring this limited right and the experience shows that such has been the case. The proprietor of the Eastern Silk Store in Colombo who owns considerable silk trade in Ceylon and is a regular contributor to Government funds and Shri S. H. Moosajee, the President of the Indian Mercantile Chamber of Ceylon—an organisation which looks mainly after the interests of the capitalist class of Indians in Ceylon have been registered as Ceylon citizens for the distinguished services rendered by them !

The Act also operates against the working classes by virtue of the wide discretionary powers invested in the Minister concerned so far as the loss of citizenship is concerned. Besides loss of citizenship of the country of origin, a person who is a citizen by registration shall cease to be a citizen of Ceylon if he is convicted—

- “(a) of an offence under the Act, or
- (b) of any of the offences against the State, specified in Chapter VI of the Penal Code, for which a sentence of rigorous imprisonment may be imposed.”†

The second requirement is a rigorous one and may operate even in cases of disagreement. The specified offences include bringing into hatred or contempt the Government which is lawfully established or creating feelings of hatred or contempt and enmity between different classes of His Majesty's Government.

* Ceylon Citizenship Act, No. 18 of 1948, p. 7. (Government Publications Bureau, Colombo.)

† *Ibid.* Section 22, p. 9.

This is analogous or is a just replica of Section 124-A of the Indian Penal Code. Anyone, who is acquainted with the history of the Indian Nationalistic Movement, will bear testimony to the small pretences for which distinguished Indian leaders like B. G. Tilak, Lajpat Rai, C. R. Das, Pandit Moti Lal Nehru, Subhash Chandra Bose and Pandit Jawaharlal Nehru were gagged and were not allowed to speak against the British administration in India while in fact they were only political adversaries of the British system of administration in India.

In Ceylon the discretionary powers operated prejudicially against the working classes who in defence of their rights wanted to strengthen their Trade Unions and the capitalist class in Ceylon which controls the Government acts in defence or perpetuation of a political system which by the very nature of the economic or political incoherence inherent in a capitalistic society, tends to be inimical or contradictive to one which is the ideal of the working classes. It is the "conviction of the proletariat that the structure of the Government, however democratic this may be in form, the repository of authority in society will be, not the government, but those who possess economic power by virtue of their possession of the means of industrial production."* The liberality in politics or administration, which ought to be the key-note in a progressive society, is thus denied in practice by a political party which arms itself with legislative authority even for an emergency. Hence, in the political constitutions of the progressive States the emergency powers have been so framed as to allow full scope for the growth of political parties. In Ceylon, where a group of three leftist parties formed the principal but an ineffective opposition in the last Parliament, the Knavesmire† incidents occurred due to wide discretionary powers being invested in the Government by a political party, which was supposed to be inimical to working class interests. The real situation in regard to the present conditions of labourers has been the subject of a memorandum submitted to the Governing

* C. E. M. Joad: *Introduction to Modern Political Theory*, pp. 96-97, (Clarendon Press, Oxford.)

† Privy Council Appeal No. 38 of 1947, *Sinnasamy Selvanayagam v. The King*. The Government of Ceylon acquired Knavesmire Estate under the Land Acquisition Ordinance for village expansion and for settling 243 selected tenants. The appellant, who was in occupation of rooms on the estate, was prosecuted for trespass and the lower court and the Supreme Court of Ceylon sentenced him to a term of imprisonment. The Privy Council reversed the decision upholding the worker's right.

Body of the International Labour Organization by Shri K. Rajalingham, an ex-M. P. whose life is dedicated to the workers' cause in Ceylon. He submits therein—

“Even if the workers on their own initiative form a Trade Union, the workers run the risk of victimization for Trade Union activities and not infrequently, the leaders of the movement are summarily dismissed without notice for such activities. Such a dismissal, to an estate worker, is not merely loss of employment but it involves the loss of his home. The estate superintendent calls upon the dismissed employee to immediately quit the accommodation provided for him on the estate, though he has no other place to go to and may have been resident on the estate for several years. Failure to quit renders the worker liable to persecution in a criminal court for trespass with the active assistance of the Ceylon Police Department. On conviction for trespass he and his family are liable to be summarily ejected from their quarters and they are then literally on the “streets”. It is difficult for such a worker to find alternative employment since any prospective employer invariably refers to the previous employer and the latter would characterise the employee as a “troublesome” person. Thus the fundamental rights of every worker, namely, freedom of association is denied to the estate worker in Ceylon.”*

Such are the actual conditions under which the worker has been victimised; and what are they due to? Several factors have contributed to such a deterioration in their condition and the discretionary powers have played their part in strengthening the forces operating against the interest of the working class. So, either the political opponents of the party in power may keep quite or they run the risk of the Government's displeasure for they have to quit the island after being sentenced to a term of imprisonment under the Ceylon Penal Code.

Therefore, from whatever angle we may examine the Act *i. e.* from its principles, its contents, its effects; it seems to operate against the interests of the working class in Ceylon. As for the possible political philosophy underlying this Act—of State being co-evalled with the nation—this out-moded theory† found its grave in the annihilation of fascism and whatever else might have been the motive

* Memorandum submitted to I. L. O., Geneva on August 28, 1951. It was considered by the I. L. O. Committee on Freedom of Association and it advised the Governing Body that questions such as civic, social and economic rights did not come under the scope of I. L. O.'s investigation *vide Hindustan Times*, New Delhi, dated August 24, 1952.

† Ceylon Hansard (House of Representatives), Vol. 4, No. 11, dated August 19, 1948, Column 1724.

of the Government, it was certainly not operating the principle consciously.

Practical Difficulties of the workers in regard to Citizenship Act.

The practical difficulties felt by the Indians mainly related to proving their births in Ceylon, as there was nothing like even a rudimentary system of registering births in that country prior to 1895. The compulsory registration of births started in the latter year. The practical difficulties need an explanation through an illustration. Suppose an applicant is 40 years of age; his father will naturally be of about 60 years of age *i.e.* the father's birth must have been prior to 1895 upto which year there was only an optional registration. In view of the illiterate character of the Indian population on estates and also because the system took several years before it took root in the ordinary life of a worker, the registration system did not become very much popular amongst estate workers. In view of the correct identity demanded by the citizenship qualifications, a legal proof could not in many cases be established, because the worker either himself changed his name or due to his employment on various estates, his birth could not be traced in records.

Where documentary proof could not be adduced, the workers were required to procure evidence of three citizens of Ceylon by descent who according to Regulations 11 (3) and 14 (4) framed under Section 25 of the Citizenship Act, must be—

- (1) "Intimately acquainted with and having a personal knowledge of the applicant and his family ; and
- (2) able from his personal knowledge and belief to vouch for the truth of the statements made by the applicant."*

Firstly, the psychological atmosphere in Ceylon is not conducive to procure evidence from the Ceylonese, who on account of Government policy fear to aid a non-Ceylonese. Secondly, it is practically impossible to procure any such person, as the estates were exclusively worked by the Indians. Had Ceylonese been available to work the plantations, there was hardly any need to import the Indian workers. Even if a few of them worked along with the Indians, they should now be of about 75 years of age and either they must have

* Ceylon Government Gazette (Extract) No. 9936 of January 7, 1949, p. 1.

found their places in the grave or in any case they were hard to be traced out.

The administrative partialities inherent in the Act proved to be a great annoying factor to the prospective applicants for citizenship. The Sinhalese as a community was automatically recognized for acquiring the status of a citizen, while it was incumbent on others to prove their eligibility. In view of the compulsory registration of births having been enforced since 1895 only, it was in Mr. Motha's words difficult even for the "Hon. Prime Minister to prove by documentary evidence that his father was born in this country."* In the case of illiterate Indian masses, they would have only pointed out to their fathers' graves as the only proof of their having been born in Ceylon. Majority of them, therefore, could only look towards other alternatives provided by the Government to acquire a second rate citizenship, which conferred rights in a restricted field.

The Immigrants and Emigrants Act of 1948

Before we deal with the Indian and Pakistani Residents (Citizenship) Act, under which Indians could have themselves registered as citizens, it is well to consider another Act—the Immigrants and Emigrants Act—if for no other purpose than to respect the time sequence in which it was taken up as an ancillary and a logical corollary to the Citizenship Act. The latter basis has been attacked in Parliament and out of it by Indians, whose opinion is that the Government acted in an unfair way to enact an Immigration Law before full opportunity was given to those affected adversely by the Ceylon Citizenship Act. For persons, who were not able to be citizens under the Ceylon Citizenship Act a hiatus or a vacuum was created for they would have been eligible for citizenship under the contemplated Citizenship Bill for Indians and their rights were thus considerably curtailed. Motives were also attributed to the Ceylon Government for 'squeezing out' Indians in furtherance of their well-settled policy regarding them. As will be evident from the practical working of the Immigration Law, Indians who were eligible for registration as citizens later on, had to leave their potential interests in Ceylon because they were required to be in India in emergent cases or for social contacts and

* Ceylon Hansard (House of Representatives), Vol. 4, No. 12, Column 1790.

the rigours of the Immigration Law would not permit them to take advantage of its provisions in regard to possession of permanent or temporary residence permits. Therefore the enactment of the Immigration Law before the enactment of the Indian Citizenship Law necessarily placed potential future Ceylon citizens in the category of aliens, for the former necessarily dealt with citizens and aliens alone. It should, however, be made clear that Immigration Law as such was not opposed by Indians or by any section of the minorities, who thought that such a law was not only necessary after Independence, but exactly in keeping with the sovereign status of a free country. The objections made, therefore, did not relate to the quantitative or qualitative restrictions which the Immigration Law imposed, but mainly related firstly to the manner in which it was brought forward for treating the Indians already in Ceylon as aliens, and secondly, to the apparent rigours of its contents and the complexities of the Regulations framed under it.

As may be recapitulated, the Prime Minister of Ceylon had given an undertaking to the Prime Minister of India in his correspondence with the latter, subsequent to the talks they had in December 1947, that Indians who were not eligible for registration as citizens due to the non-fulfilment of special residential qualifications or otherwise, would be allowed to carry on their avocations in Ceylon without any let or hindrance. For after all the Indian question revolved primarily about political considerations and the economic considerations had only a secondary importance. The prime question was to exclude the Indians from franchise and the Prime Minister of Ceylon seemed to score a victory at every juncture which the Prime Minister of India scaled down in regard to the franchise rights of Indians. It is against such a background and antecedents that the Immigration Law should be studied in regard to its contents and practical working.

There were only four possible courses open to Indians in Ceylon when the Immigrants and Emigrants Act came into force and they were fore-told of the impending Citizenship Bill for registering them as citizens. They could be citizens by registration under the Indian and Pakistani Residents (Citizenship) Act; they could acquire Permanent Residence Permits or Temporary Residence Permits or they could remain without all these and reside in Ceylon, but could not undertake a journey to India. Only the first alternative gave

them a franchise right in Ceylon and the other three classes were to be regarded as Indian citizens.

The Act and the Regulations framed under it divided Indians into two distinct categories—one satisfying a residence test of at least five years prior to November 1, 1949 and the other under five years. For acquiring a permanent residence permit the whole gamut of difficulties were even more rigorous than the ones subsequently felt by Indians for registration as citizens. The prime difficulty in the case of Immigrants and Emigrants Act and Regulations framed under it was that the language of the two was shrouded in such uncertain terms that every thing was either left to the discretion of their administrators or a very wide gap was deliberately left to harass them. Section 14 (3) (b) provided that—

“No temporary residence permit shall be refused in the case of a person who, being a British subject, was ordinarily resident in Ceylon for a period of at least five years immediately preceding the appointed date.”*

Why was a wide gap left for Indians with a residence shorter than five years when an express provision was given in the Act for persons possessing at least five years' residence? The reasons were obvious. It was left entirely to the sweet will of the Controller to grant residence permits to the second category, and discretion which often becomes a sole authority in such a situation seldom gives a liberal interpretation.† Thousands of Indians left the shore of Ceylon in 1949 and 1950, because for reasons beyond their control their presence was necessary in India and they were refused temporary residence permits to enter again. What other alternative was left to them? There had been sickness in their families in India, or death of a near relative or somebody's presence was necessary in a law court—these were pressing circumstances in a territory only 20 miles away from Ceylon. The administrative authorities took advantage of the silence of the law on the point and the careers of thousands of well-settled Indians were blasted on the caprice or whims of the administering authorities. This is in regard to emergent cases. The Act and the Regulations framed under it require a person to be 'ordinarily resident' in Ceylon for a specified period and to acquire

* Immigrants and Emigrants Act, No. 20 of 1948, p. 9. (Government Publications Bureau, Colombo.)

† K. G. Rao : *Indians in Ceylon* ('Hindu', Madras, dated May 31, 1950) and clause 4 of the Memorandum dated December 20, 1949 submitted by him to the Government of India, New Delhi.

a 'permanent abiding interest in Ceylon', but these words have nowhere been defined or their scope indicated. In the absence of such explicit definition the discretionary authority took ample advantage to the prejudice of the Indians, who had no other alternative, but to leave Ceylon in despondency.

Permanent residence permits were hard to obtain and the evidence called in support for the grant of applications and the ordeal of an enquiry were so vexatious and rigorous that only a few dozen cases out of thousands were considered fit enough for a grant. As will be evident from Form E included in the schedule to Regulations, no less than 38 questions were required to be correctly answered and the Controller had to be satisfied in regard to them before a permanent residence permit was granted. Often the evidence in support of a birth certificate or the marriage certificate was thought to be inadequate and the application was summarily rejected. Reasons such as the following were made excuses for the non-grant of a permanent residence permit because they lacked the ingredients of an abiding interest in Ceylon :—

- (a) A partnership may be dissolved or a directorship retired.
- (b) Employment is terminable with the customary one month's notice from either side.
- (c) Power of Attorney for managing of business may be withdrawn.*

A permanent residence permit, if luckily such a permit was granted, was issued for a period of ten years and there was no provision for automatic renewals. Such a lacuna was probably deliberately left to bring into play the uncertain vagaries of the discretionary authorities later on. This could be easily judged from parallel cases of the persons, who were granted temporary residence permits for shorter periods and were again required to put in fresh applications, which in the absence of any standardisation of rules and regulations governing the grants or otherwise, were never sure to be successful and the vexatious and uncharitable attitude of the administrative authority was ever so much malignant as to compel the respectable class to honourably retire rather than to submit to humiliations. One can understand the absence of mature political

* Clause 5 of the Memorandum on Immigration Regulations in Ceylon submitted by the Indian Mercantile Chamber of Ceylon to the Government of India on December 20, 1949.

experience in a young dominion like Ceylon, but it should not act to the detriment of one community only. Irrespective of their position or status in life, or sex or age, all applicants for residence permits were consigned to the heat of the burning sun and even taxpayers, ladies and children were not spared attendance in a queue for long hours and no substitutes for them were allowed although the entire evidence consisted of documents and there was hardly any need for a personal interrogation.* Assuming a family consisting of a husband, wife and children needed residence permits; not only the personal attendance of the husband as Head of the family was required, but the Controller's scheme envisaged personal appearance of each of them in a queue. The motive for such an action can only be inferred rather than found in black and white, and the resulting harassment led to voluntary exclusion of several eligible cases. What a psychological effect it had on others can be judged by the number of those who left Ceylon in desperation, winding up their assets and interests in that country. Evidence in regard to 'ordinarily resident', even if fool-proof was disregarded by inexperienced officials in the Immigration Department and even letters from employers or certificates issued by auditors and audit firms in regard to residence and means test were often not accepted as conclusive admissible evidence. Certificates from Divisional Revenue officers, which were issued on the strength of a personal verification by the village Headman; documents like M. O. receipts, Textile ration books, postal envelopes, vehicle licences, insurance policies and receipts for payment of premium, post office savings and bank pass books, certified copies of householders' lists, harbour passes, registered copies of legal proceedings, embarkation certificates, or even letters of respectable Ceylonese, could not very often prove the residence test required.† What can be the irresistible conclusion in face of such facts?—the larger number of Indians leave the shores of Ceylon the better it is for the solution of the Indo-Ceylon problem. Why had been such a stalemate allowed to remain in a country, which wanted to stand by justice to Indians? No indication of the admissible type of evidence was forthcoming and the various offi-

* Memorandum dated May 31, 1951, on the working of the Immigrants and Emigrants Act submitted by the Indian Mercantile Chamber of Ceylon, Colombo to Government of Ceylon, Section 1, clauses 1 (c) and 1 (i).

† *Ibid.* Section 2, clauses 2 (c), 2 (e) and 2 (h).

cially gave variable decisions on the same set of evidence. In quite a large number of cases appeals had been successful on the same data and evidence as given with the original application. The documents produced by the applicants were very often retained in the Immigration office without a receipt being granted and in the confusion and the turmoil that resulted out of unsystematic working of the department, several cases of deliberate negligence in regard to the loss of valuable documents were detected. The victim in each case was an Indian who was thus precluded from lodging an appeal in a rejection case. An absence of systematization of working procedure and a codification of healthy conventions and rulings rallied round to the disadvantage of the poor Indians and each departure of an Indian from Ceylon or the non-grant of a certificate of residence was thought to be a vital factor in the ultimate solution of Indo-Ceylon problem. Whether such harassment has really contributed to the promotion of goodwill between the two countries, only the posterity will give a suitable reply. The immediate effect of such a confusion in the working of the Immigration laws in fact lay heavily on the trading community, for the estate labourers had accepted the mandate of the Ceylon Indian Congress and had not applied for residence permits in view of their special residential qualifications being sufficient for registration as citizens once they wanted to take advantage of the Indian and Pakistani Residents (Citizenship) Bill subsequently passed by the Ceylon Parliament. Regulation 19 (b) requires that a competent authority may grant a permanent residence permit "to the spouse or minor child of the holder of a permanent residence permit, if such authority is satisfied that adequate means will be available for the maintenance of such spouse or child."*

In actual practice, however, the Controller always insisted on a separate application for spouse, proof of stay, evidence regarding marriage, personal appearance etc. and the applications were rejected on flimsy grounds as not fulfilling the means tests. Even when a permanent residence permit was obtained by a person, it did not give him any rights of franchise in Ceylon; he was not entitled to engage in any employment other than the employment specified in the permit; the permit ceased with the expiry of the period for which it was granted or on the cessation

* Ceylon Government Gazette (Extract), No. 10,039 of October 28, 1949, p. 1.

of the purpose for which it had been issued, and it did not give him a newcomer's registration in trade; so that the person holding it suffered from all the disabilities of a non-citizen of Ceylon. Imagine the stringent regulations to obtain it and the practical difficulties involved and the resultant benefits it conferred and compare them to the promises made by the Prime Minister of Ceylon in regard to permission being granted to follow fruitful avocations! What a dismal spectacle it makes of human relations in the context of political situations!

Conditions described above in regard to permanent residence permits applied *mutatis mutandis*, to temporary residence permits as well. Regulation 28*, however, prescribed only 30 days from the date of departure for the validity period, unless the permit had been endorsed by the competent authority as being valid for re-entry in Ceylon.

Persons possessing less than 5 years' residence in Ceylon were as a rule refused temporary residence permits. This acted inequitably on persons who had never thought that their economic interests would be threatened by the retrospective application of a law passed subsequent to their acquiring potential interests in Ceylon. Even the Bajpai-Senanayake Agreement provided for the completion of a qualificatory period for obtaining residence rights. It is rather amazing that the dawn of the era of independence in both countries witnessed a regression instead of an improvement in the position of Indians in Ceylon. It would have been a simpler affair, had gnawing uncertainties inherent in the Act were specifically amplified either by the amendment of the Act or by executive instructions issued to the Immigration Officers to administer the law on a planned basis. Even human considerations were wanting in the exercise of discretion. There were hundreds of cases of Indians who had their wives and families in India, but did not satisfy the residence qualification of at least 5 years' stay in the island. There was no bar in law for their continued stay in the island and they could not have been ousted from Ceylon because they had ample means of livelihood. It was natural for such people to aspire for a union with their families. The Act worked in this way—The Controller of Immigration insisted

*Ceylon Government Gazette (Extract), No. 10,039 of October 28, 1949, p. 2.

on such persons to first acquire a residence permit before they could be allowed to bring in their families. Naturally, such people were almost stranded in Ceylon even though they had an assured income to support their families in Ceylon.

Thousands of Indians, who had crossed over to India before the Immigrants and Emigrants Act came into force *i.e.* before 1st November, 1949, were at their wit's end when they were detained at the Mandapam Camp because they did not possess the necessary documents to re-enter Ceylon. It was certainly not due to their negligence that the documents were not with them, but untold miseries to innumerable people on both sides of the Palk Strait came in the wake of the promulgation of such laws which were not duly publicized in time for a correct compliance with their provisions. The result was that quite an appreciable number of Indians were refused entry in Ceylon.

Appeals were entertained against rejection of applications for temporary residence permits. Contrary to all canons of legal procedure, however, the applicants were not permitted to engage either proctors or were not allowed to bring in representatives of any associations, of which the applicants happened to be members and which had in their possession all relevant evidence in support of an application.* The whole procedure was made farcical when even the officers rejecting original applications sat in judgment over the same applications in appeal. All such anomalies were *ab initio* absurd and resulted in the miscarriage of justice to hundreds of Indian settlers in Ceylon who were bewildered at the administrative temper of the Immigration officials. The less said the better in regard to the grant of a visa to those persons, who happened to be in India and had necessary residential qualifications to re-enter Ceylon. Hundreds of such applications for permits were refused at Mandapam, because the authorities there wanted additional evidence before such a grant and further evidence could not be obtained by the applicants unless due opportunity was given to them to enter Ceylon for collection of material evidence in support of their applications. Cases of extreme harassment came to the notice of the author at the Mandapam Camp when even

* Memorandum dated May 31, 1951, on the working of the Immigrants and Emigrants Act submitted by the Indian Mercantile Chamber of Ceylon, Colombo to Government of Ceylon Section 2, clause 6.

priests were refused entry in Ceylon. Some vegetarian Hindu friends in Colombo complained to the author that they were not allowed to bring in any cooks to cook vegetarian food. Such persons were hardly available locally. This is Ceylonization with vengeance!

Effect of Ceylonization Agreement entered between the Minister of State and the Indian Mercantile Chamber of Ceylon.

An event of great significance, however, took place on December 1, 1950 when an agreement for a progressive Ceylonization in Mercantile firms was signed between the Minister of State (who is primarily charged to promote Ceylonization) and the President of Indian Mercantile Chamber of Ceylon, Colombo. It should, however, be noted that the agreement had no legal or quasi-legal force, since its provisions did not have a parliamentary sanction, and it was mainly in the nature of a gentleman's agreement. Although threats for the enactment of Ceylonization laws were uttered in Parliament by the Minister of State consequent upon the non-co-operation shown by European planters, a Ceylonization law still remained a fiction in Ceylon. According to Section 2 of the said Agreement* the signatories agreed that a non-citizen of Ceylon who had secured employment in Ceylon subsequent to July 1, 1948 be immediately discontinued from service, and in furtherance of that Agreement hundreds of Indians, who could remain in Ceylon, following their normal avocations, under the Immigrants and Emigrants Act 1948 (which came into force on November 1, 1949) lost their jobs. The verdict on the sacrifice of principles involved and on ruination of well-settled careers of Indians lie in the womb of posterity but its immediate repercussions are a test of the sincerity of the Government. Soon after came the demand from the Chamber for the grant of temporary residence permits to employees who had entered Ceylon before July 1, 1948, but who did not have the necessary residential qualification of five years for obtaining such a permit, and it was suggested by the Mercantile Chamber that for an over-all appreciation of the question of employment, the Ceylonization Agreement be read in conjunction with the provisions of the Immigrants and Emigrants Act of 1948.

* An agreement signed on Dec. 1, 1950 at Colombo between Mr. A. E. Goonesinha, Minister of State and Shri T. Pesumal, President, Indian Mercantile Chamber of Ceylon, on behalf of 9 Mercantile Associations.

Regulation 20 (b) (iv)* provided that a non-citizen could be granted a temporary residence permit, if the applicant's 'conduct of such trade or business will not be prejudicial to the interests of the permanent inhabitants of Ceylon'; so that according to the Agreement persons in excepted categories *i. e.* persons in special posts of confidence had a greater claim for the grant of a temporary residence permit in preference to new comers. This placed the Minister of State on the horns of a dilemma, but whatever might be the final decision, the Ceylonization Agreement seemed to steady the relations between the Government and the Indian vested interests in Ceylon. For one thing, the trading community being mostly concentrated in urban areas, seemed not to worry in the least in regard to acquisition of citizenship rights, and there was a meaning in the suggestion of the Mercantile Chamber for putting forth a solution in 1952 for abrogating franchise rights for Indians in preference to economic rights.† The whole political question in Ceylon concerned estate workers, who were supposed to be a challenge to the Kandyan voting strength in the plantation areas. The citizenship law especially enacted for them was the last straw on the camel's back, and the fury of the Indians emanated in the decision that the Ceylon Indian Congress took in boycotting registration.

The Indian and Pakistani Residents (Citizenship) Act of 1949.

The chequered history of Indian immigration in Ceylon can be traced to the hoary past; but its immensity and intensity, though dates back near about the middle of the last century, came into prominence only recently with the discriminatory legislation affecting the Indian interests in the island. It is an irony of fate that political leaders of the eminence of Pandit Jawaharlal Nehru and Mr. D. S. Senanayake have interpreted the history of the events of those years each in a different manner, with the result that they could discover little common ground. The result is an atmosphere in which even those Indians who have been able to acquire a status of a Ceylon citizen by descent, have been

* Ceylon Government Gazette (Extract), No. 10,039 of October 28, 1949.

† The Indian Mercantile Chamber of Ceylon, Colombo, submitted a Memorandum to the Indian High Commissioner in Ceylon in October, 1951, suggesting grant of Naturalised Citizenship Rights (without franchise rights) to all Indians with five years' residence in Ceylon.

The President of the Ceylon Indian Congress commented: "Rights without the franchise, like fish without fins, will be a monstrosity."
(Congress Information Service, Colombo, dated October 25, 1951.)

looked down upon in Ceylon with suspicion and the Indian Government, the Indian people and Ceylon Indians are no where near any state of satisfaction. What has made Ceylon adamant not to resolve the differences to the satisfaction of Ceylon Indians? They accept in clear language the contribution Indian settlers have made to the economic development of Ceylon. The pronouncements of the administrators and the notes of appreciation of Sinhalese leaders made in the last century in regard to Indian contribution to the prosperity of Ceylon have been preserved in the National Archives of Ceylon. Even Mr. D. S. Senanayake appreciated the difficulties of Indians in the first half of 19th century.

“Well, they came here,” said he, “and while coming here many of them died—one year something like 12,000, and the next year about 24,000, when they walked from Mannar through Matale to these various places.”*

What are the reasons then that are being advanced against grant of equal citizenship rights to Indians side by side with the indigenous population? They may be economic, social, racial, linguistic, religious or political. A lot of tax payers' money has been spent in collecting statistics of unemployment in Ceylon. Various commission and committees have aided the Government in suggesting remedial measures to check unemployment, and in the context of growing population of the island, the presence of Indians is genuinely and acutely felt. The Government, therefore, took drastic action in dismissing Indian daily-paid employees in 1939 to relieve unemployment. While the fact of unemployment in Ceylon is accepted, the question of unemployment is not an exclusive calamity on Ceylon alone. Even prosperous countries like America and England registered unemployment figures in millions. If the Indian alone is to be blamed in Ceylon for being a cause of unemployment, how are the unemployment figures of America and England to be accounted for in the absence of any racial minority communities in those countries? As Pandit Jawaharlal Nehru rightly remarked, a reserve of unemployed is the lot of every country where a system of capitalistic economy obtains, and Ceylon shuns a socialistic or a communistic State. Taking it for granted that unemployment in Ceylon is Indians'

* Ceylon Hansard (House of Representatives), Vol. 5, No. 7 dated December 12, 1948, Column 433.

creation, even the late Prime Minister of Ceylon did not want to drive away Indians out of Ceylon. It is what he said in one of his letters to Pandit Jawaharlal Nehru in 1948—

“Those Indian residents who do not choose, or are admitted to, Ceylon citizenship, will still continue to be allowed to remain in the island as Indian Citizens and to pursue their lawful avocation without any interference.”*

It will thus be clear that he did not in fact want to deprive Indians of their economic rights completely. His prime motive was to place a restriction for the enjoyment of full citizenship rights by Indians—a political motive in clear language.

The social reasons taken as a whole have not produced strained relations between Sinhalese and Indians, although it is rightly claimed that Sinhalese as an individual and as a member of a family possesses a higher standard of life than an Indian. Leaving aside exceptional cases of Port workers living in ‘Kitangies’ in Colombo, an average Indian lives a peaceful decent life with his family. Is there any harm in his living a frugal life as distinct from an extravagant life that an average Sinhalese lives? The Report of the Kandyan Peasantry Commission 1951 abounds in observations of prevalence of prostitution and social vices in Ceylon to a considerable degree—

- (1) “Marriages between grown-up men and girls of 11 and 12 years of age are stated to be common in this area..... In some cases the girl lives with about three or four men before she actually settles down as wife to one man”.†
- (2) “It would appear that husbands and parents deliberately look out for customers for their wives and daughters. This practice has arisen owing to poverty. Incomes of as much as Rs. 300 a month are said to be made by certain women.”@

Even elected Sinhalese members of a premier institution like the Colombo Municipal Council have been adjudged by a statutorily appointed commission of corruptly soliciting a sum of

* Ceylon Sessional Paper XXII—1948, Document No. 13, p. 33, para 3.

† Ceylon Sessional Paper XVIII—1951 (Government Publications Bureau, Colombo), p. 375.

@ *Ibid.* pp. 254-255.

Rs. 25 from a poor person* who obtained Rs. 100 out of the Mayor's Relief Fund for the purchase of wedding clothes for his fiancée and the bribe was demanded for purchasing a bottle of whisky!

Such isolated examples of proven social vices need not besmirch the fair name of Ceylon, where the moral conduct of men and women is as high as in any other civilized country. So also Miss Mayo's notoriety in depicting isolated moral lapses in 'Mother India' sent down reeling the mighty America by the exposers of utter nakedness of moral delinquencies revealed in 'Father India'. In spite of the crookedness of Miss Mayo, the Indian moral standard is a shining example which other nations would do well to emulate. So also in spite of 'Kitangis' in Colombo, whatever may be said of Ceylon Indians' frugality, the fact remains that social relations between Indians and Sinhalese have not been marred by an abnormal strain either in towns or villages.

A glaring fact, however, is noticeable in regard to the vast mass of Indians working in up-country estates. In spite of the peaceful mutual relations between Sinhalese and Indians, a proper assimilation or blending of population is hardly reflected in the modes of their daily lives. It is due to several causes, the most important being the motive behind the immigration policy of the last century. Indians live in dwellings provided for the employees on the campus of the estates and their character of employment hardly gives any scope of a free mixing with the Sinhalese villagers nearby. Then the Ceylon laws prohibit them to acquire land; so that a common community life is made impossible for them. In spite of such difficulties, if a plebiscite is taken in Ceylon, the Sinhalese will embrace the Indians as brothers. Any relegation of Indians to inferior position in Ceylon is, therefore, out of question on social grounds.

The racial, linguistic and religious grounds for the exclusion of Indians from full citizenship rights may have a basis in that the sympathies of the Ceylon Tamils—another important minority community in Ceylon, who are Ceylonese—have, on account of affinity of race, language and religion, espoused the cause of Indian Tamils. This sympathy has been manifest in a marked degree especially

* Mr. J. P. O. Dekker & Miss W. Karunaratne's case *vide* Report of the Colombo Municipal Council Bribery Commission, 1950, pp. 47-50.

from the time of the repudiation by Sinhalese of the 'balanced representation' which was agreed upon between these two communities in 1925. The era of legislative plan for the annihilation of the Indian Tamil dawned from the time of inauguration of Donoughmore Constitution, and the Ceylon Tamils, who on account of education had stolen a march over the Sinhalese in the pre-Donoughmore era, saw in the Sinhalese move against Indian Tamils a possible pointer of things to come for them on account of adult suffrage and abolition of communal electorate. The Sinhalese politicians, on the other hand, fear a combination of the two Tamils especially because of the Ceylon Tamils occupying the northern and eastern portions of Ceylon which offer vulnerability for an external invasion. Hence the common affinities between the two Tamils have been a strong motivating force with the Sinhalese politicians for the extinction of political rights of Indian Tamils in Ceylon. The legislation under observation on that score smacks of racialism with all the attendant evils that racialism brings.

Before passing on to a fuller examination of the contents of the Act, it is worthwhile to examine the Kandyan question which as alleged has cropped up due entirely to the presence of the Indians in up-country areas. If the Kandyans are landless today, is it due to Indian workers or the British capitalists or the Kandyan feudal chiefs? Dr. Colvin R. de Silva, whose historical researches are a landmark in the annals of Ceylon History observes—

“If on the one hand through Waste Lands Ordinance and the Forest Ordinances and such like legislation, the Imperialist Masters of this country deprived the Kandyan villager of his right to the adjacent pasture and forests lands, on the other hand, as any simple analysis and study of the history of the Partition Ordinance in its impact upon Kandyan provinces will show, you will find, Sir, that the lords of these lands were themselves the agency who through other laws and in more modern ways were depriving their peasantry of such rights as they had in the past.”*

Hence the Indian worker, at least in the opinion of an eminent historian is not the land-grabber. There is another aspect of the problem. Consciously or unconsciously, there is a wide spread belief in peoples' mind that the Kandyan areas lie only in the Central, Uva and Sabragamuwa provinces, where Indian workers are employed

* Ceylon Hansard, Vol. 5, No. 7, Column 451.

on tea and rubber plantations. The north-western province abounds in Kandyan areas, but hardly any Indian workers are found there. Who has created Kandyan problem in that province? Is the landless peasantry there a creation of the Indians? The reply to this pertinent question has been given by Mr. Subasinghe, an ex-M. P.—

“The problem of landlessness,” he writes, “in the Kandyan provinces, for a matter of that every where in this country arises not from the presence of a particular community of workers, but from the fact that large tracts of fertile soil in this country have been given over to people, whether they come from Europe or not it does not really matter, who are interested only in accumulating huge profits for themselves and not in giving anything to the Kandyan peasants or the Indian workers.”*

The whole question then revolved round political motivation in bringing forward such a legislation as the one under enquiry. In arriving at that conclusion, as already shown, the roughshod riding of the various schools of political thinkers over the events of past 125 years, played an important role. The Sinhalese politicians stressed the economic side of the question, while Indians gave emphasis on the permanent abiding interest in the country of their employment. Whatever interpretation may be placed on the historical side of the question, Mr. S. W. R. D. Bandaranaike, the leader of the House of Representatives in the last Parliament, honestly came out with the Government's intentions :

“This Bill”, said he, “certainly does not by its own provisions solve the question of land for the landless or any other similar issue. We admit that, but I will tell Hon'ble members what it does. It safeguards our interests against inevitable elimination. That is what it does.”†

The ‘inevitable elimination’ complex was further elucidated by the eminent Ceylon historian referred to on page 160 :

“It is in an effort in future to defend the political interests of this particular ruling clique that this Bill is designed in this way because too many times in the up-country allies of the Hon'ble Prime Minister have been rejected by the electorate, because

* Ceylon Hansard Vol. 5, No. 8., Column 548.

† *Ibid.* No. 8, Column 588.

the workers, not the Indians, predominate over a peasantry that has not yet been taught the elements of its politics, but will yet be taught by us.”*

It will thus be clear from the above that a denial of citizenship rights to a vast number of Indians was in effect to lay a basis for disfranchising them in future and the anticipation came out to be true when after the enactment of the Indian and Pakistani Residents (Citizenship) Act, the citizenship alone was made a criterion for the possession of a vote, and as referred to in Chapter II, the effect of such an amendment in the Parliamentary Elections Order-in-Council was that not a single Indian could be elected to the present Parliament and the Governor-General had to resort to his power of nomination in sending a lonely Indian to represent nine lakhs Ceylon Indians. This is benign democratic rule in the 20th Century !

Administrative setup for the determination of applications

As required by the provisions of the Act a Commissioner and a Deputy Commissioner, a number of Investigating officers and other office personnel have been appointed to administer the Act. The offices have been located in Torrington Square on the out-skirts of Colombo. There can hardly be any objection in an executive order of the Minister concerned to choose a person of his liking to be the Head of such an establishment, but as will be subsequently related a personal interview with the Commissioner on September 25, 1951 convinced the author that his selection was based more on his general anti-Indian fame in Ceylon rather than on account of any special qualification for the job. To have chosen a person out of the Executive cadre of Ceylon's Civil Service to administer an Act, which requires a person of a judicial frame of mind—was an initial error of judgment and the decisions taken by him on the applications of Indians have confirmed the view that he belongs to a die-hard class. The testimony of respectable Indians in Ceylon regarding his anti-Indian bias and a perusal of the Supreme Court's judgments against his decisions have confirmed the author in the view that he took of him on a personal interview that his out-look and actions are based more upon parochialism than on richness of 'saving common-sense'. To have empowered such a person to select his team was worse

* Ceylon Hansard Vol. 5, No. 7, Column 463.

still. Such appointments should, in all propriety, have been made by a Public Service Commission in Ceylon, but the Commissioner appointed his 'yes' men hardly taking into consideration academic or experience qualifications. He told the author frankly that qualified persons for the job were not available in Ceylon and he had to select persons in great hurry. The high-sounding appointments of 'Investigating officers' have been given by him to persons, who have not the intelligence even of an Indian matriculate. An enquiry in regard to proportional appointments community-wise elicited an answer that hardly two or three in a staff of hundreds were Tamils, and all others were Sinhalese. The Investigating officers were all Sinhalese quite unacquainted with the Tamil language and ignorant of the ways and modes of life of an average Tamil worker. The interrogation of a Tamil worker by such Investigating officers was mostly carried out through the Estate Superintendent, who as a representative of vested interests was inimical to the workers' cause, and in thousands of cases the workers' interests depended entirely on the caprice and whims of an unsympathetic Superintendent.

One of the most serious objections from a legalistic point of view and from the viewpoint of ultimate justice to an illiterate worker was to be met with in the administrative innovations, which were the creation of the Commissioner referred to above and were against the express words of the Statute. Section 18 of the Act under discussion refers generally to the duties of the Commissioner, and also makes provision for the matters, in regard to which no express provision is made in the Act. The relevant portions of the Section are :

- “(3) In the performance of his duties and the exercise of his functions under this Act, the Commissioner shall be subject to the general direction and control of the Minister.
- (4) In all matters for which no express provision is made in this Act, the Deputy Commissioner or each Deputy Commissioner, or each Investigating officer shall perform such duties and exercise such functions as may be assigned to him by the Commissioner with the general or special approval of the Minister.”

For any innovation not governed by the express language of the Act, the Commissioner has to act with the prior approval of

the Minister. At the time of author's visit in 1951 the Commissioner had devised a Form whose the particulars of which in regard to temporary or permanent residence were required to be filled in by a worker at the time of the Investigating Officer's visit for verification of facts under Section 8 of the Act. The various Forms forming part as schedules to Regulations do not mention anywhere any particulars in regard to temporary or permanent residence of a worker excepting that he has to mention his continuous residence in Ceylon during January 1, 1936 to December 31, 1945 and then a continuous residence from January 1, 1946 to the date of application (*vide* items V and VI of Form 1C).* The Investigating Officers are not empowered to have any Form signed by a worker for giving additional information not covered by an appropriate application form submitted by a worker. He is expressly authorised only to verify the particulars and statements set out in the application and furnish a report as to the nature of the investigations conducted by him, giving facts disclosed to him or discovered by him in the course of such investigation and he can sum up his conclusions as to the veracity of particulars or statements set out in the application. That is the orbit beyond which he cannot travel according to Section 8 of the Act, and for any extra responsibility to be entrusted to him, the Commissioner is required to take prior approval of the Minister concerned. The Minister, of course, is then required to report all his actions to Parliament for confirmation.

Such an innovation in devising a Form not given in the Regulations, the Commissioner entirely acted in violation of the express words of the Statute and his actions were *ultra vires*. The workers' cause suffered tremendously as the Investigating Officers invariably showed such workers to be temporary residents in Ceylon, obtained the thumb impression of the worker on the Form printed in English only and prepared grounds for the rejection of the application by the Commissioner on the plea that the worker being a temporary resident had no permanent abiding interest in the country. A very interesting mishap in this connection happened with a member† of Parliament, who refused to answer questions given on

* Ceylon Government Gazette (Extract) No. 10,004 of August 5, 1949, p. 6.

† Letter No. N. 3568, dated Colombo-7, June 19, 1951 from the Commissioner of Registration to Mr S. Thondaman, M. P., Wavendon Estate, Ramboda.

such a Form or to sign the Form itself, on the plea that such a Form was not contemplated by the Indian and Pakistani Residents (Citizenship) Act 3 of 1949 and that the questions were irrelevant and personal. The reply received from the Commissioner reveals his morbid mentality and shows to what extent Executive Officers in Ceylon can defy the express words given in a statute or care for a Minister. The relevant portions of the letter are given below :—

“Section 22 of the Act requires that the applicant or an ancestor of his should have permanently settled in Ceylon. There can, therefore, be no doubt that when a person makes an application for registration under the Act he necessarily invites questions from the Commissioner which are designed to ascertain whether he had in fact permanently settled in Ceylon. Visits paid to India by the applicant and other members of his family, and the purpose of each visit, property and business interests abroad as compared with those in Ceylon and declarations of intention made in one connection or another are relevant to this issue. For convenience a Form has been printed. An Investigating Officer cannot compel an applicant to sign it, but there can hardly be any doubt that the Commissioner himself has full legal powers to question an applicant on these points under oath.”*

For his logic in regard to the objections raised by the M. P. referred to above in respect of questions of a personal nature, the Commissioner's reply will remain a classic in the history of cases filed against the decisions in the higher courts. The relevant portion of the reply received was as under :—

“As regards the objection that the questions are personal, I can assure you that no advantage is being taken of the Act to pry into the personal history of applicants for the satisfaction of some morbid curiosity. When the point in issue is a personal one it can hardly be cause for surprise or indignation that the questions asked are personal. I have not, for instance, read of objection being taken by any responsible person to personal questions in a divorce case.”†

* Mr. S. Thondaman, an ex-M. P., was a member of the Council of Action, which conducted the non-violent 'Satyagraha' movement. He is the proprietor of Wavendon group of estates and is known as a 'Knavesmire' hero, having spent a considerable amount of his assets towards amelioration of workers' lot in Ceylon. His estates are a model for the latest type of workers' residences.

† Letter No. N. 3568, dated Colombo-7, June 19, 1951 from the Commissioner of Registration to Mr. S. Thondaman, M. P., Wavendon Estate, Ramboda.

Contents of the Act and practical difficulties of the Indians in complying with its provisions.

The possible contents of the Act were discussed between the Prime Ministers of India and Ceylon in 1947 but except for agreement on broad principles, no agreement on details could be arrived at even after a protracted correspondence in 1948. The Bill as passed by Parliament received Governor-General's assent on February 28, 1949 and the last date for filing applications under the Act was fixed as August 5, 1951. The Act was boycotted by the Indians in Ceylon for a period of 9 months *i. e.* from August, 1949 to April, 1950. A misapprehension should, however, be removed at this stage. According to the majority view of the Indians in Ceylon, the Act was a vicious piece of racial and class legislation and it seriously restricted the rights, which is an ordinary citizen's privilege to enjoy. The position taken by the Prime Minister of Ceylon in 1948 postulated similarity of privileges for citizens by descent and registration but under weight of political expediency or conviction he diverged from the original position and restricted similarity only to Public Services and franchise. He also gave an assurance that there would be no distinction between the two classes of citizens in future legislation, but refused altogether to remove any disability imposed on them by the existing laws, *viz.*, the Land Development Ordinance, the Fisheries Ordinance and the Omnibus Ordinance.* The Ceylon Indian Congress, however, did not protest against the offer of citizenship, but boycotted it against the harshness and rigours of the Act itself. It later rallied round the solemn promises of the Ceylon Government and to test their *bona fides* in the matter lifted the boycott and allowed its members to enrol themselves as citizens. A serious view has been taken of the long duration of the boycott in relation to late attending of the applications for citizenship. While it is a fact that most of the applications were filed towards the end of the two-year limit which the law imposed for filing applications and thousands of applications were filed in such great hurry that they lacked compliance with all the details of a legal requirement; but the cumber-someness of the procedure could be adjudged from another fact *i. e.*

* *Vide* p. 7 of Presidential Address delivered by Mr. K. Rajalingham, on April 22, 1949 at 'Sarojini Nagar', Hatton, at the Ninth Annual Session of the Ceylon Indian Congress; and Ministry of External Affairs and Commonwealth Relations, Government of India's booklet on Citizenship correspondence, 1948, Document 20, p. 37.

during the course of about one year that elapsed only 9,265 out of about 650,000 cases were disposed off upto July 15, 1952. The comparative aspects of the effect of the boycott and the administrative efficiency can be judged by the following:—

“Much has been said about the boycott of the Citizenship Act and the subsequent last minute rush to fill the application forms for citizenship. This, it has been argued, is the prime cause of the delay in the disposal of applications. Facts, however, disprove it. At the present rate of disposal even if there had been no boycott, at the most only 10,000 applications would have been disposed off. Further, in such matters, a rush towards the end is natural and human, and it was surprising for the authorities concerned not to have foreseen it and so to have remained unprepared.”*

The requirements to be proved for registration as a citizen are contained in Sections 6 and 22 of the Act. The interpretation clause as outlined in Section 22 defines an “Indian or Pakistani Resident”, who means a person—

- (a) “whose origin was in any territory, which immediately prior to the passing of the Indian Independence Act, 1947, of the Parliament of the United Kingdom, formed part of British India or any Indian State, and
- (b) who has emigrated therefrom and permanently settled in Ceylon, and includes—
 - † (i) A descendant of any such person; and
 - (ii) any person permanently settled in Ceylon, who is a descendant of a person whose origin was in any territory referred to in the preceding paragraph (a).”

The above definition involves two points: (A) that the applicant or his ancestor had his origin in the territory of India and emigrated therefrom; and (B) that the person emigrating has permanently settled in Ceylon.

Section 6 of the Act lays down the following qualifications, which Indian settlers in Ceylon should satisfy to become citizens:—

- (1) That the applicant is an Indian or Pakistani resident.
- (2) That he fulfils the special residential qualifications prescribed in Sections 3 and 4, namely uninterrupted resi-

* “*The Ceylon Indian Problem*” issued by Indian Information Services, High Commission for India, Colombo, May 1952, p. 3.

† Indian and Pakistani Residents (Citizenship) (Amendment) Act, No. 37 of 1950, Section 4 (2), p. 2.

dence of ten years for unmarried and 7 years for married persons, the period to be computed from January 1, 1936 or January 1, 1939 respectively and ending on December 31, 1945, and again a continuous residence from January 1, 1946 to the date of application.

- (3) That he is possessed of an assured income of a reasonable amount, or has some suitable business or employment or other lawful means of livelihood, to support himself and his dependants.
- (4) That his wife and each minor child dependant on him had been ordinarily resident in Ceylon, while being so dependant.
- (5) That he is free from any disability or incapacity in relation to Ceylon laws.

The interpretation clause and Section 6 referred to above both require an applicant to prove that he has permanently settled in Ceylon from a certain date. The effect of this is to require two redundant proofs of permanent settlement. In the first instance he has to prove permanent 'settlement' of himself and secondly, he has to prove his permanent interest in the country by complying to clauses (2) to (4) referred to above. The *ab initio* requirement and the subsequent one in relation to permanent interest almost require an applicant to comply with impossible conditions.

The first condition as referred to above in relation to Sections 22 and 6, namely, that an applicant is an Indian, is not a simple matter as it looks on the face of it. The author had asked the Commissioner in his interview with him whether he had come across any case where an applicant was found to be either a Burgher or a Sinhalese. The reply was in the negative. As is obvious, all Indians in Ceylon came from India but a legal proof to the satisfaction of the Commissioner was hard to obtain and the difficulty was ironically greater in respect of persons born in Ceylon because it was difficult to prove for them that their ancestors had migrated from Indian territory.

The rigorous special residential qualifications of a continuous residence of upto 14 or 15 years were hard to prove. Most of the estate workers rely on records maintained by the estates for proof of residence. Estates changed ownership very frequently and such

was the case especially during 1941 to 1951 when the vested interests foresaw their end in the legislative plan initiated by Ceylon Government to liquidate foreign interests. The Sinhalese community was much in evidence to purchase estates with money earned by them during war-time; and in some cases there was deliberate destruction of records to harm Indians. The author had occasion to study this problem in the Kurungala and Peradeniya area. No less than 21 estates passed hands between 1936 to 1951. The estates known as Augusta, Mahakande and Mt. Pleasant in the Peradeniya area had respectively 165, 300 and 400 Indian workers and out of these only 1, 10 and nil respectively were registered as citizens although they had resided there for long; but their records were either missing in parts or completely and documentary evidence was, therefore, impossible to obtain in such cases. In result, thousands of applications were rejected. Another difficulty felt was that records were only maintained for workers employed on the estates and not for dependants non-workers and it was impossible to obtain documentary proof of their continuous residence.

The 'permanent interest' in the country is a necessary ingredient of applicants' sincerity to acquire status of a citizen. The lack of it has been inferred by the Commissioner in innumerable ways, and hair-breadth distinctions have been made the cause of it, while interpreting the word of the law or the conduct of the applicants. The applicants' complaint is that in consonance with the spirit of the Act and its antecedents found in the correspondence between the Prime Minister of the two countries, they expected a liberal interpretation and inference at the hands of the administering authority. Instead flimsy grounds to the prejudice of the Indian settlers have been the cause of rejection of applications and the expectations of their leaders before the lifting of the boycott have been dismally belied. The following few cases* will bear testimony to the ways in which a worker's cause suffered owing to an unsympathetic and illogical interpretation of the Act :—

1. The frequency of visits to India during the period January 1, 1936 to the date of application has been understood to be a cause of lack of interest in Ceylon and applications rejected on that score.

* Memorandum dated July 16, 1952 submitted by the Ceylon Indian Congress to Hon'ble Mr. Dudley Senanayake, Prime Minister of Ceylon, items (1)-(12) of the Enclosure, pp. 3-5.

2. If the applicants reveal existence of any property in India during investigation, it is presumed to be a valid ground for rejection of applications. In view of the fact that applicants have to swear allegiance to Ceylon, it is ridiculous that an applicant, who might have inherited properties in India would act inimically while retaining his Ceylon citizenship. Form 8A* prescribed by Regulations framed under the Act, clearly lays down that a person on being registered as a citizen has to "swear that I absolutely and entirely renounce and abjure all allegiance to any foreign State of which I have been a subject or citizen, that I shall bear true faith and allegiance to the Constitution of Ceylon, and that I shall faithfully observe the laws of Ceylon and fulfil my duties as a citizen of Ceylon." In the face of taking such an oath of allegiance, is it the intention of the Ceylon Government that a citizen of Ceylon is debarred to own property in foreign lands? Then what about the Ceylon citizens, who will acquire or inherit properties in foreign lands subsequent to their registration as citizens? Will they be required to renounce citizenship, as such acquisition or inheritance of property may be taken to be a lack of interest in Ceylon?

3. Section 3 (3) of the Act regards an applicant's continuity of residence in Ceylon as valid if the interruption on any one occasion did not exceed twelve months in duration. The Act as amended by Act 37 of 1950 allows certain categories of Indians, who had overstayed the prescribed duration to be eligible for registration. It would be humane and acting in the true spirit of the objects of the Act, if persons who had overstayed for educational and health reasons, be also embraced either under a similar amendment or by executive instructions to the Commissioner who should be instructed not to reject applications on such grounds. As it is, the rejection of the applications for such technical reasons has unnecessarily created ill-feeling in the island.

4. The exchange control, enforced from June 1, 1948 had been a source of great harassment to Indian settlers in the island. Under the Estate Group Scheme, the estate workers were required to fill

* Ceylon Government Gazette (Extract), No. 10,204 of August 6, 1949, p. 18.

in a B Form which according to regulation 2* contained the following declaration :—

“I hereby declare that I am a.....
 (State country or Nationality)
national, *temporarily resident in Ceylon*, that I have been employed on this estate during the previous three months from today, and that the total amount of the remittances abroad made by me, or by my household, during the period inclusive of the remittances now applied for does not exceed altogether Rs. 60.”

As will be clear from the above, it was incumbent upon estate workers to declare themselves temporary residents if they wanted to take advantage of an expeditious way of remittance entirely free from a vexatious procedure, as the scheme was worked under the guidance of the Superintendent of the estate where the worker was employed. The other modes of remittances *e. g.* for getting a General Permit from the Exchange Controller, entailed a harassing procedure and the illiterate workers never thought that a financial transaction would be taken advantage of for political considerations. One amazing fact came to the notice of the author while examining the records of many an estates in Ceylon. An exact Tamil translation (most of the Indian workers in Ceylon belong to Tamil race) of the above-mentioned declaration, which was printed in English on the face of B Form appeared on its back. He did not come across a single declaration which had been signed or had a thumb impression of the worker on the Tamil script. It clearly proves that the workers were entirely ignorant that they were required to sign a declaration showing them as temporary residents in Ceylon. Little wonder then that one Sengan Kangany Sellamuthu of Kirimetiya Estate, Galaha, showed the author a letter dated August 30, 1951 received by him in regard to his application dated July 22, 1950, from the Commissioner containing a text as under :

“You have not proved that you had permanently settled in Ceylon. The contrary is indicated by the fact that in seeking to remit money abroad you declared yourself to be temporarily resident in Ceylon.”†

* Defence (Finance) Regulations 1948 in regard to Exchange Control.

† The author had seen the original letter with the Indian worker.

Unless a liberal interpretation of the law on the subject is given, the entire community of estate workers is threatened to be classified as aliens on such a flimsy ground.

5. It so happens that a worker is thrown out of employment for a short period and before he gets some job on another estate, the Investigating Officer appears on the scene and reports to the Commissioner that the labourer had no means of livelihood. The labourer on the date of application had an assured income, but in the interregnum possibly owing to his participation in the Trade Union activity, or to his ejection from the 'lines' on the Ceylon Government acquiring an estate for the settlement of selected families, or to his case being adjudicated upon by a Tribunal in a wage dispute, he might be temporarily unemployed. He is a healthy robust young man; he and his family have no other home except the one in Ceylon, but because he happens to be temporarily unemployed, he is threatened with the extinction of his political rights as well.

6. Section 6 (2) (ii) of the Act requires a male married applicant to prove that his wife had been ordinarily resident in Ceylon and that each minor child dependant on him was ordinarily resident in Ceylon while being so dependant. Even minors have often to eke out their livelihood by working on estates with their parents. The entire earnings of the family are pooled in a joint family. Any person who has visited a tea estate in Ceylon can witness the spectacle of little children being engaged in the various processes of tea growing and its manufacture. Beyond earning a 40 cents per day wage, the little children do not have any active interest in life. They forego the advantages of education howsoever meagre, and naturally live under the care of their parents, who had included the names of such minors in their own applications submitted for getting them registered as citizens. The Commissioner has, however, ruled that as such minors were not dependant on the fathers (the applicants) for their livelihood, they should have applied on separate application forms and hence they have been denied the status of a citizen. Whatever may be said of the Commissioner's executive fiat, his interpretation of 'dependant' from a legalistic angle, is bad and erroneous. 'Dependant' does not connote economics dependence

alone; the interaction of social forces is inherent in it and it is mainly socially structured and socially based. The minors were certainly under the care of the head of the family, who happened to be an applicant for registration, and to reject applications on that score was utter perversity and lacked depth of understanding of human nature and was wide the mark of the true spirit underlying the motives for the enactment of such a law.

7. 'Ordinarily resident in Ceylon' occurring in Section 6 (2) (ii) of the Act has been interpreted to mean that the wife of an applicant should have been resident in Ceylon from the date of her marriage or from January 1, 1939, whichever is later, and that each minor child dependant on him should have been resident in Ceylon from January 1, 1939 or from the date of the birth, which ever is later. This view of the Act is contrary to the express words in the Section referred to above and cannot be supported by any canons of construction of Statutes. The interpretation of the Supreme Court of Ceylon is contained in an illuminating judgment of Justice Hema Basnayake, who for his legal acumen and for his understanding of human nature is so well-known and his well-balanced pronouncements in interpreting the law of the island have received applause of the greatest of the legal luminaries in England, where the rule of the law is still regarded as the fountain of human conscience and liberty.

The facts of the case* are: One M.A.C. Badurdeen of Mardana, Colombo, who had resided in Ceylon since 1928, made an application on November 19, 1949 under the provisions of the Indian and Pakistani Residents (Citizenship) Act 3 of 1949, to the Commissioner for Registration that he be registered as a citizen of Ceylon. The applicant had married in 1938 in India and he had two children born in India in 1938 and 1945. It was not till March 1948, that his wife and children came to reside in Ceylon, although they used to visit the applicant occasionally. The applicant had thus the residential qualifications contemplated in Section 3 of the Act, but the Commissioner rejected the application on the plea that the wife and minor children should have been resident in Ceylon

* Mohideen Abdul Cader Badurdeen v V. L. Wirasinha, Commissioner for Registration; Case No. 1114 of 1950, decided by Supreme Court of Ceylon on May 18, 1951.

from January 1, 1939 or the date of her marriage or date of their birth and he set aside the plea of the applicant that a correct interpretation should be that wife and minor children should have been ordinarily resident only on the date of application.

Justice Hema Basnayake of the Supreme Court after taking into consideration the golden rule of interpretation that the words of a Statute must *prima facie* be given their ordinary meaning and seeking assistance from judicial dicta of the English Courts came to the conclusion that it was sufficient for the wife and minor children alike to satisfy the conditions of 'ordinary residence' at the *date of the application*. The last portion of his judgment is worth quoting:—

“The Section does not say that the period of residence here should be co-extensive with the period of dependence. The words are ‘while being so dependant’, not ‘during the period of dependence’. The words ‘while being so dependant’ connote a state and not a time. The eminent qualification is ‘ordinarily resident’. Considerations of time are involved in those words. Wife and minor children alike must satisfy the conditions of ‘ordinary residence’ at the date of application. The children have to satisfy a further qualification, viz., that during their period of ordinary residence they were dependant on the applicant.”†

The Government filed an appeal in the Privy Council against this judgment of the Supreme Court and a final determination* of the appeal was made on October 7, 1952 in favour of the applicant. The harassing and expensive character of the procedure entailed in determining the points in disputes like this has heavily told upon the purse of a worker and the intention and spirit of the Act in providing all proceedings to be free of stamp duty as provided in Section 19 have been nullified by the heavy expenses incurred in litigation for getting relief even in trifling matters such as the

† An authentic copy of the judgment of the Supreme Court was obtained by the author from the office of the Indian Mercantile Chamber of Ceylon, which had taken up the cause of one of its members, and the expenses of litigation were borne by special subscriptions and donations given by the members of the Chamber.

* Lord Oaksey said in his judgment: “There is no express provision in the Act that the husband’s permanent settlement in Ceylon must have been achieved in company with his wife and children or that the minimum period of uninterrupted residence required for the husband has any application to his wife or children.

(*Hindustan Times*, New Delhi, dated October 8, 1952.)

interpretation of the phrase 'ordinarily resident' as referred to above. The high cost in litigation of such a nature can be judged by the fact that the Government of Ceylon had to deposit a sum of Rs. 3,300 with the Registrar of the Supreme Court on account of security for costs of appeal and in respect of fees as required by paragraph 8 (a) of the Appellate Procedure (Privy Council) Order, 1921 made under Section 4 (1) of the aforesaid Ordinance. During the author's visit to Ceylon in 1951, the whole island was in the grip of litigation. Little did the late Prime Minister of Ceylon know that the procedure laid down by him would entail waste of enormous human energy (which ought to have been employed in some creative activity) and workers' hard-earned money. He had thought that the whole affair will be so simple and that was why he had declared—

“The whole procedure is so simple from the point of view of a labourer that an average estate clerk should be able to prepare his case and submit his application without any difficulty.”*

8. The technical and formal defects[†] in filing applications on a wrong Form (it must be noted that the Regulations prescribe 8 different forms and a form contains as many as 20 particulars to be filled in besides several affidavits) or omission of the applicants' signatures being attested by two witnesses have been made the cause of rejection of applications. A liberality shown in getting the original applications amended or having omissions rectified would go a long way to smoothen the strained relations between the Government and the Indian settlers.

9. A lacuna in the Regulations deprives a widow and minor children of an applicant of the citizenship rights in the event of the death of the applicant, who had included the names of his wife and children in the original application, before the investigation of the application. A humane consideration

* Ceylon Sessional Paper XXII—1948, Document No. 13, p. 36, para 4 (3).

† The Ceylon Government has recently authorised the Commissioner to entertain an application even though an appropriate form has not been used, provided necessary information is available in the actual form used or additional information is furnished to him within one month of the Commissioner's asking the applicant by notice to supply.

A further provision in the amended rules authorises the Commissioner to return the defective applications to applicants for the purpose of rectifying errors in regard to wrong signing or attestations in the original application.

(*Hindustan Times*, New Delhi, Dated October 22, 1952.)

of such a difficulty will go a long way in doing justice to the widow and minor children, as surely they were not only a victim of an act of *vis major* but man-made laws deprived them of their substantial rights.

10. The Prime Minister Hon'ble Dudley Senanayake nobly mitigated some of the grievances of the applicants on the representation of the passive resisters who had squatted in front of his office to focus public attention on the inequities perpetrated on Indian settlers by various Acts passed by the Ceylon Government. The redress has been affected in respect of the following two points†:—

- (i) "The applicants will no longer be required to prove their Indian origin.
- (ii) The minors, whose names were included in the original application by their parents, will no longer suffer from a disability on their attaining majority between the period of the date of application and the date of their final determination. The applications rejected on such a score will be considered as valid to that extent. This has been effected by executive instructions, as no need arose to amend the concerning Act."

The 'Satyagraha' movement launched by the Indian settlers in pursuance of the decision of the Annual Session of Ceylon Indian Congress held at Badulla in April 1952, had a two-fold aim in resolving the present dispute. The immediate aim was to seek redress of the difficulties felt by them in complying with the requirements of the Indian and Pakistani Residents (Citizenship) Act of 1949 after filing applications for registration. The long range policy relates to attacking the very fundamentals of the citizenship and franchise laws, which in their opinion, have relegated them to the position of serfs. The essential steps which they would like Ceylon Government to take for granting them full democratic rights have been elaborated in a Memorandum as under* :—

† *Vide* letter dated July 4, 1952 from Hon'ble Dudley Senanayake, Prime Minister of Ceylon in reply to the Ceylon Indian Congress Memorandum dated June 9, 1952.

* Memorandum submitted by Ceylon Indian Congress to Prime Minister of Ceylon on June 9, 1952 through a Council of Action consisting of three members.

- (a) "The law of citizenship should confer citizenship by birth on all persons born in Ceylon whether before or after the enactment of the Law. This is the practice in most countries including other Dominions of the Commonwealth.
- (b) Provision for citizenship of those not born in Ceylon should be on the basis of residence for a prescribed period. It is necessary that the law and procedure should be simple and capable of benefitting the large illiterate Indian population. Experience has shown that these conditions are not satisfied by the present Indian and Pakistani Residents (Citizenship) Act.
- (c) Franchise should be restored to potential citizens on the basis obtaining before 1948, until such time as they are granted citizenship."

As a matter of fact, the Indian settlers in Ceylon have taken a consistent view from the time of the inauguration of the Donoughmore Constitution that the comprehensive legislative plan of the majority community in restricting their citizenship rights invades the very fundamental and inalienable rights, which Bentham curiously called "rhetorical nonsense upon stilts". Basing their claims upon the Four Freedoms, they passionately believe in the universal Declaration of human rights*, which recognises the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice, and peace in the world. Ceylon, though not a member of the United Nations' Organization till 1951, had anyway to fall in line with the civilized world by affirming faith in the Charter of U. N. for the promotion of universal respect for and observance of human rights and fundamental freedoms. The cultural ties between India and Ceylon date back to the very dawn of civilization and in the spirit of renunciation so nobly exemplified in the person and life of the great teacher—Lord Buddha—let the two countries see real wisdom and path of enlightenment. There is no dictator more terrible than slavery. The sooner it is realised the better it is, for the ignorance of this basic fact is tantamount to being oblivious of a nobility — that we are God's creatures.

Exchange Control

A potential political weapon was employed by the Ceylon Government in the garb of an economic necessity to drive out

* Preamble to the Universal Declaration of Human Rights : a Discussion guide, United Nations, Lake Success, New York, pp. 1-2.

of Ceylon as many Indians as possible during the era of legislative harshness, which introduced in the lives of Indians in Ceylon a deep uncertainty. Exchange Control, which ought to have been meant to conserve foreign currency was ostensibly meant for considerations other than economic and this was discernible not only by the rigours of its administration but also by the practical results subsequently obtained. It was not a mere coincidence that the Exchange Control operated from June 1, 1948, a year which is notorious in the history of Ceylon for curbing the rights of Indian settlers. The reasons alleged for its introduction in 1948, existed with all their vehemence during the war years 1939-45, and the post-war period in fact was of lesser anxiety. But the comprehensive plan to oust Indians operated from all possible angles. Side by side with legislative curbing of their rights in Ceylon, Indian settlers were made a special target of economic harshness with a planned calculation. The Ceylon Government had in their possession financial statistical data to calculate with exactitude the sums of money, which Indians in previous years remitted to their dependants in India, and they had rightly struck at the right moment to so manoeuvre the situation that an Indian on being asked to tighten up his belt in remitting money to India thought it best to quit Ceylon rather than to see his dependants die of starvation in India. The real motive of the Ceylon Government in the introduction and operation of the Exchange Control has vividly been laid bare by the fact that its stringent regulations began to relax from the moment the last date for filing applications by the Indian settlers under the Indian and Pakistani Residents (Citizenship) Act expired on August 5, 1951, and thereafter Ceylon almost seemed to pass all of a sudden into an era of economic bliss. A reason for its promulgation under the Defence (Finance) Regulations rather than under the statutory provisions of a legislative enactment was meant to demonstrate an innocence of its impermanent character; but in fact a subsequent legislative amendment repealing its provisions in part or *in toto* would have pinned up the real intention of the Ceylon Government to their shoulders. Hence although the Controller of Exchange tried to make the following philosophical defence for its introduction, the Exchange Control operated in practice discriminately against Indian settlers in a way that thousands of them crossed over to

India in desperation leaving behind valuable assets. The Controller of Exchange moralised :

“Exchange Control, at best, is an irksome restriction. While most countries have the merit that they aim to adjust demand to suit supply scarcity and increase aggregate social welfare by promoting a more equitable distribution of goods in short supply, Exchange Control with its hand-maiden import control serves ostensibly to create scarcity. Although this is a function negative in character, it does never-the-less establish the necessary conditions for positive action in promoting national economic development. But to those affected by the restrictions, it is the negative aspect that is revealed and Exchange Control, therefore, appears to them as a serious infringement of the liberty of the individual.”*

This infringement of the liberty of the individual, however, should be considered taking him to be a member of a social group or society, and if that is to be the case, the Exchange Control had its repercussions not only in the life of an individual but its forces acted and reacted in a very wide domain. The whole history of its operation should be adjudged in relation to the peculiar circumstances of Indian settlers in Ceylon. There were almost $8\frac{1}{4}$ lakhs Indians in Ceylon comprising $6\frac{3}{4}$ lakhs estate labourers and $1\frac{1}{2}$ lakhs non-estate population. The Exchange Control operated in a very different way in relation to the above classification, and although in operation its rigours were less stringent on the estate labourers, they in fact were to be abundantly roped in dire situations from a political angle.

The scheme as applied to estate labourers was known as “G” (Group) Permit System. It was an adaptation† of the scheme which had been in operation for them since 1927, and it operated through the Ceylon Emigration Commissioner, Trichonopoly, with one important difference. Facilities for making remittances available under the scheme previously existent were confined to labourers working on estates subscribing to Ceylon Labour Commission, but under the new scheme all Indian labourers could remit money paying a small commission to cover cost of remittance. They had to fill in a Form B, and had necessarily to

* Administration Report of Controller of Exchange for 1948, Pt. 1—Civil (EE), p. 29.

† Annual Report of the Agent of the Government of India in Ceylon for the year 1948, p 19, para 99. (Manager of Publications, Delhi, India.)

declare themselves as temporarily resident in Ceylon under Regulation 2* as "a sterling area national permanently resident in Ceylon, is not entitled, as a rule, to make remittances regularly out of Ceylon."† The Regulations were so fluctuating in practice and erratic in conception that the remittal amounts permitted over and above the sixty rupees per quarter limit depended more on capricious discretionary decisions of the Exchange Controller rather than on any well-defined principles, and temporarily resident persons were required to perfect a Form 29 (EI/Ex. (2/49)) and had to satisfy a number of conditions, *viz.*, certificates from District Magistrates, proof of past remittances and accounts of incomes derived by dependants in India or Pakistan. The implications of declaring themselves as 'temporarily resident' for the purpose of remitting money to India came to be realised when the estate labourers, who had applied for citizenship were confronted by the Commissioner for Registration with a queer interpretation of the provisions of the Indian and Pakistani Residents (Citizenship) Act, for he had rejected their applications on the plea that 'temporary residents' could hardly have a permanent abiding interest in the country. Such a brazen-faced betrayal of men, who had braved malaria-ridden swamps and jungles infested with wild animals, to contribute to Ceylon's affluence and happiness, is unknown in the annals of world history.

The estate labourers, who wished to remit money in excess of Rupees sixty per quarter per household were required to apply on Form M, which was also meant for Indian settlers other than estate labourers. This Form contained no less than 25 vexatious questions—principal and subsidiary—and besides a labyrinthine questionnaire involving feats of memory concerning past records, it was required to be testified by an employer. The latter, in all fairness, could not vouchsafe for the correctness of statements made therein and once he gave the certificate, he came under the orbit of the law and could be made a potential witness against a labourer in connection with any subsequent proceeding regarding acquisition of citizenship rights, although the statements made on the Form pertained principally to a financial transaction. More than 50% of such applications for increased remittal could

* Defence (Finance) Regulations published by the Ceylon Government in 1948.

† *Ibid.* Regulation 2.

not secure an employer's endorsement and the applicants were victims of untold suffering and privations. Even those who were fortunate enough to get a general permit on the strength of Form M were again required to undergo the principal procedure under the Group Scheme and although Regulation 7* required in such a case for the relevant amendment of the language on Form B in regard to a temporary or permanent residence in Ceylon, one did not in fact come across a single instance of such an amendment on the examination of the records of the Kirimetiya, Wavendon Group and Devon Estates in Ceylon. On an enquiry in regard to such a glaring and wilful neglect of duty by the Superintendents of estates, they told the author that once such an amendment was made showing the labourers as permanently resident, they could not under the Defence (Finance) Regulations remit any money to India, as such an allowance would have militated against the basic conception of Exchange Control, and the political motive involved in the introduction of Exchange Control and its stringent administration became abundantly clear when advantage was taken by the Ceylon Government of the statements made in connection with a financial transaction to subsequently deprive the Indian settlers of their meagre citizenship rights under the Indian and Pakistani Residents (Citizenship) Act.

In regard to non-estate population of $1\frac{1}{2}$ lakhs, two schemes were in vogue in the initial stages : (1) a free scheme of remittances of Rs. 25 per head per month on the production of a Rice Ration Book. Mile-long queues of remitters before the Divisional Post Offices were a common sight and their hardships could be imagined when a lakh of them took advantage of this privilege and Ceylonese Postal staff indulged in unbridled corrupt practices to deprive the poor wage earners of a fair proportion of their hard-earned money. This scheme was, however, discontinued later, as it was found that out of Rs. 39 million† remitted annually to India for maintenance purposes, such a permitted exemption involved remittance of Rs. 37.3 million by non-estate population and only Rs. 1.7 million by estate-labourers, and a Permit System was introduced which brought down remittances to Rs. $7\frac{1}{2}$

* Defence (Finance) Regulations of 1942: A scheme approved by Controller of Exchange for remittances to India by persons employed on estates.

† Ceylon Finance Minister's statement dated July 1, 1949.

million* per year; (2) Permit System covered remittances over Rs. 25 per month. A Form 32 which became notorious by its vexatious questionnaire and containing almost impossible requirements to be fulfilled was subsequently explained by the Exchange Controller as applicable only to "those applicants who had not sent regular remittances previous to the introduction of control or thereafter, and generally only those persons whose income brought them within the income-tax range were required to complete the Form and furnish necessary evidence."@ The rigours and red-tapeism of the department of Exchange Control can be judged by the reference made by Shri K. Rajalingham, M. P.—

"There is blank despair writ large over the countenances of these poor men, and they are driven from post to pillar and from pillar to post in order to secure even the small measure of help which the department so grudgingly allows them."†

A blatant discrimination was also practised in relation to remittances allowed to Indians and U. K. nationals. The United Kingdom nationals number only 8,000 and out of these only 500 nationals made use of the concession permitting them to remit £50 a month. The total amount remitted on account of personal remittances, insurance premia and surplus funds of commercial concerns totalled about Rs. 28 million**, while the monthly outflow of funds to India calculated on the basis of remittances during the six months ending February 1949 came to as under:—

	<i>Rs. million</i>
Travel	2·15
Maintenance	3·25
Education	·06
Profits & Dividends	·27
Other invisible	·57
	6·30††

* *Vide* Memorandum dated December 20, 1949, Clause 5 submitted by Indian Mercantile Chamber of Ceylon to Government of India, New Delhi.

@ Press Interview given by Mr. M. U. Jayawardena, Exchange Controller, clarifying the Government position in regard to 'Hindu' (Madras) Article dated June 10, 1949.

† Presidential Address delivered by Shri K. Rajalingham at the Tenth Annual Session of Ceylon Indian Congress, held at "Mothanagar", Matale, on April 21, 1950.

** Finance Minister's statement dated Colombo July 1, 1949.

†† *Ibid.*

Thus the annual remittances amounted to Rs. 75 million for a population of 8 lakhs as against Rs. 28 million for the United Kingdom nationals numbering only 8,000. Such a discrimination was explained by the Ceylon Government under the shelter of subtle economic theories. The Finance Minister of Ceylon purported to say that such a difference in the permitted amounts of remittances existed between India and United Kingdom, because remittances to the latter were largely made up of interests, profits and dividends *i.e.* on account of imported capital, while remittances to India were largely a payment for imported labour except for the investments of the Chettiar community.* It was stressed that whatever capital Indians owned in Ceylon was not brought from India, but earned in Ceylon as a result of their trading activities or from employment. It was, however, forgotten that the rich dividends allowed to be remitted to United Kingdom were also earned by the blood, sweat and tears of Indian labourers and the administration of Ceylon was financed by their exertions.

The Exchange Control Regulations so adversely affected the insurance interests of the Indian insurers that many Indian Insurance Companies had to close their business and leave the island for good. The 'prior approval' clause was insisted upon in every set of regulations which were issued in such quick succession in an amended form that many a company found it impossible to adjust themselves in such an atmosphere and although the pretence of their issuance was amplification and clarification of the prevailing regulations, they in fact brought the companies within the purview of legal rigidity and severity and a *culpa levis* or a slight non-compliance resulted in legal action. One of the requirements to be satisfied by the companies in regard to policies payable in India was that the Indian proposers should declare that they were no more residents in Ceylon, having wound up their assets in the country and that such a declaration was to be countersigned by the Insurance Companies. This the companies were not in a position to endorse and the 'prior approval' clause and such other stringent regulations resulted in irreparable loss to Insurance Companies. The appeal† of the Indian Insurance Companies' Association (Ceylon)

* *Vide* statement dated July 1, 1949, of the Minister of Finance, Ceylon, explaining the Exchange Control Regulations in relation to adverse comments of Ceylon Indians.

† *Vide* their Memorandum to Controller of Exchange, Colombo, dated February 17, 1949, p. 2.

to the effect that "Insurance is still a commodity that has to be sold under great pressure and if the psychological moment when a party shows his willingness to insure is missed the opportunity for that company or that particular agent may never occur again," fell on deaf ears. Even the assignment of policies previously allowed to a non-resident wife could now be effected under Regulation 14 only to the Insurer from loan taken on the policy, and no consideration was given to a widow's woes when in the event of an assured's death, she had no course left but to take shelter of a court of law to establish her right to Policy moneys and the delay and expense involved in such a course added considerably to her hardships. Even a very wise and helpful suggestion* of the Association that money diverted to channels other than Insurance on account of Exchange Control's rigours will lead to inflation went unheard and the retrospective application of fast changing regulations resulted in unnecessary litigation when the policy-holders were in a sound position on the basis of contractual obligations entered by the companies, which suffered huge losses in business and litigation. The sound advice of Mr. S. H. Moosajee, President of the Indian Mercantile Chamber of Ceylon that "capital is a very shy bird and flies at the slightest stir"† could not find a response which it richly deserved, because the considerations for the introduction of Exchange Control and its operative period were not mainly based on economic principles; they were in the nature of a political inhibition largely directed against the Indian settlers. Whatever category may be examined, whether personal and miscellaneous remittances, import and export trade, insurance or capital transfers and dealings in securities etc., the hidden hand directed its claws only towards Indians, who in fact were made a prey of a Ceylonese political noose.

Ceylonization

Ceylonization as an active and a dynamic reality came in the wake of Ceylon's political freedom in the year 1948, although as a conception and as a plank in the Government's policy, its origin could be traced to the era of Donoughmore Constitution and its operative period might be said to begin with the prohibitive clauses

* *Vide* their Memorandum to Controller of Exchange, Colombo, dated February 17, 1949.

† Annual Report of the Indian Mercantile Chamber of Ceylon for the year 1949, p. XLIII.

debarring Indians from competing for Ceylon Government's service since 1935. As its repercussions were to be largely felt in the economic field, the Ceylon Government took precaution to introduce it on a persuasive basis rather than on the strength of a parliamentary sanction. Ceylon's economy is largely agricultural and its prosperity depends chiefly on the export of agricultural commodities, which have an extensive market in India. Ceylon's dependence largely on the import of food stuffs, cloth and other manufactured articles from India also compels the Government to move cautiously in the domain of economics. Leaving aside such weighty considerations, an enactment would have equally affected the European interests in Ceylon and such a step Ceylon could not take with impunity. Hence the Ceylon Government appointed a labourite member of their party to be the Minister of State in charge of the Ceylonization policy of the Government. The whole conception of Ceylonization from a short and long range of Government's policy is so erratic in conception that it has often been made a laughing-stock in the parliamentary debates, although in its practical results it has achieved a partial success from the Government point of view in that a large number of Indians have either left the country for good or they are in the process of liquidation. A policy which has been pursued by Government in relation to the Indian resident population prior to the adjudication of their claims on citizenship applications is not only hasty, but is wholly indefensible as prejudicial to Indian settlers' substantial rights and has resulted in untold hardships to innumerable families. What iota of faith will a Government's policy command which ignores so blatantly the rights, which were guaranteed under an enactment? It is no fault of Indian settlers to see that staff being meagre, the applications will be disposed off at a snail's pace, and if the Government was conscious of that inadequacy or incompetence, the only honourable course would have been to embark upon the policy of Ceylonization after the citizenship applications were finally approbated or disapprobated by the Commissioner for Registration.

The activities of the Minister of State resulted in various agreements with the representative organisations of traders and employers and mention should be made especially of the agreements made by him with the Indian Mercantile Chamber of Ceylon and Ceylon Estates Employers' Federation. As adverted to in

connection with Immigrants and Emigrants Act, every category of Indians who had means of subsistence in Ceylon could have remained in Ceylon enjoying the fruits of their labour with one possible hardship *i.e.* they could not go to India without securing a temporary or permanent residence permit. According to Clause 2* of the Ceylonization agreement, even those Indians who could not have been forced to leave the island under any of the enactments, were sacrificed at the altar of appeasement and it was expressly stipulated that every non-citizen, who secured employment in Ceylon for the first time after July 1, 1948 should be discontinued from employment immediately, excepting the child of the Proprietor or a Director of a limited liability company, and in implementing that agreement 200 youths@ were discontinued from service upto August 10, 1951 and 500 Ceylonese were employed upto July 31, 1950. In consideration of the alleged sacrifice of principles involved in terminating the services of the personnel, who had every right to remain in Ceylon, the Indian Mercantile Chamber of Ceylon demanded issuance of residence permits to those, who had entered service before July 1, 1948 but who had a residence of less than five years in Ceylon. The demand was made specially in view of the implications of clauses 1 (ii) (b) and 1 (ii) (c)† of the Agreement under which employment in special posts of confidence and for a category for which citizens of Ceylon were not available, could be offered to new entrants. The Chamber was sorely disappointed at the unresponsiveness of the Government in implementing the agreement in the the spirit in which it was entered into between the parties and the matter came to a head when one Mr. R. P. Mahtani, Manager and Attorney of M/s Indian Emporium, Colombo was refused a temporary residence permit and was fined Rs. 750 by a Ceylon magistrate for over-staying the period of visa and had to be deported from Ceylon, although his case was sponsored by the Chamber as falling under clause 1 (ii) (c) of the agreement. The honorary Secretary of the Chamber appealed to the

* Agreement entered into by the Minister of State, Ceylon, with the Indian Mercantile Chamber of Ceylon as representing several Merchants' Associations dated December 1, 1950.

@ Speech delivered by Mr. S. H. Moosajee, President, Indian Mercantile Chamber of Ceylon at Twenty-first Annual General meeting held on August 10, 1951, p. 6.

† Agreement between Minister of State and Indian Mercantile Chamber of Ceylon dated December 1, 1950, p. 1.

Minister of State to right the wrong in order to save "the disastrous consequences it may spell on the continuance of the agreement unless the breach is healed immediately by a stitch in time."†

The natural question that is asked in this connection is: why should such skirmishes occur in the face of the written word between the parties? Much has been said of the persuasive character of the agreements but behind the veil is hidden a network of events which almost border on coercion or violence. The spot-light on the question of Ceylonization was focussed by Mr. V. Ratnayake's motion in Parliament in 1948 calling for legislation to compel the foreigners to employ a minimum of 75% Ceylonese in the business establishments. The Government invited* the Chamber to express their opinion before a Select Committee of the Government Parliamentary Party specially for investigating the desirability of implementing the following Motions by legislation:—

- “(1) Necessary legislation should be introduced to compel all foreign traders and business establishments to employ a minimum of 75% Ceylonese in their business undertakings.
- (2) The estates owned by foreigners should employ Ceylonese as Assistant Superintendents, whenever such billets are available.
- (3) Not more than 25% of the net profits of foreign firms should be allowed to be remitted from this country.”**

The Chamber in their meeting with the members of the Select Committee as also before a Conference held on May 10, 1950 under the chairmanship of the Minister of Labour reiterated their stand that imposition of a legislative quota was undesirable and unnecessary as owing to free India opening up lucrative vistas for Indians to be employed in vast projects, there would be a dearth of suitable Indians in Ceylon and monopolistic government-

† Letter No. 60-856/51 dated August 1, 1951 from Hony. Secretary of the Chamber to Minister of State, Lotus Road, Colombo.

* Letter No. CGW/30 of December 20, 1948 from Secretary to the Minister without Portfolio and Chief Government Whip to Honorary Secretary, Indian Mercantile Chamber of Ceylon; circularised to members *vide* No. 60-1174/48, dated December 21, 1948 and also G. C. No. 2/49, dated January 15, 1949.

** *Vide* Mr. Ratnayake's Motions discussed between the members of the Select Committee and Chamber's representatives on January 19, 1949.

trading and encouragement of Ceylonese new-comers to trade and other prohibitive trade barriers imposed against Indians in the export and import of commodities would compel the Indian business establishments to have recourse to inevitable retrenchment of staff. It was, in author's opinion, the threat of the imposition of a legislative quota as revealed in the Ratnayake's Motions that brought about the Ceylonization agreement and in such a hotch-potch atmosphere, the Mahtani incidents would be the natural consequence of irrational and loose agreements. The agreement* in relation to estate employees stipulated a compulsory retirement at the age of 60 years and although the employees falling under the categories of clerical, technical, supervisory, medical and educational staff had 60.5%† of Ceylonese in April 1949, the planters were booed at the slow pace of Ceylonization ! In regard to Ceylonization in European firms, on the other hand, although the Minister of State was confident that a "subtle attempt to side-track the policy of Ceylonization was now being made by the European community",** and that they were "not at all concerned with the natural aspirations of the people for the improvement of the economic life of the country",** he could not make any headway with his dealings with the European community, who unlike the Indian community told him in clear language that Ceylonization would remain a phantasm unless Ceylon produced craftsmen, technicians, and business executives with a back-ground of a practicality found in the European personnel.††

The Ceylonization of import and export trade had serious repercussions on the future of Indian settlers in urban areas. The Ceylon Government began reserving import quotas for Ceylonese new-comers to trade since 1949, but as there was no allocation on a planned and a principled basis, the preference shown to Ceylonese new-comers unsettled the established trade, and several Indian firms were totally ruined. It was specially

* *Vide* Clause 3 (i) of the agreement entered into between Ceylon Estates Employers' Federation and Hon'ble A. E. Goonesinha, Minister of State and subsequently agreed to by Ceylon Estate Staffs' Union.

† *Vide* Circular No. Gnl. 40/49 dated April 23, 1949.

** Press Interview by the Minister of State, Ceylon *vide* 'Ceylon Daily News', dated August 30, 1951.

†† Comments made by Mr.C.G.C. Kerr of Steuart & Co., Colombo, on the statement of the Minister of State, 'Ceylon Daily News' dated September 1, 1951.

in the field of textiles that Indians suffered huge losses. The Import Controller assigned monopolistic quotas to Ceylonese new-comers in regard to Japanese textiles, but as the Chettiars were the principal bankers for new Ceylonese firms, the Government relaxed the ban and on the representation of the Indian Mercantile Community, the quotas were prescribed in the following proportions :—25% to established Ceylonese trade, 25% to non-Ceylonese established trade and 50% to Ceylonese new-comers.† For imports from Dollar countries a Ceylonese importer got double the quota of the Indian importer. The Government had also evolved a new plan to squeeze out middle-class Indians, who were supposed to be the back-bone of all movements and agitations launched on behalf of Indian settlers in Ceylon. They were thought to be responsible for contributing handsome financial aid to those Indians' organizations which had put up a stiff fight against inequities of racial and communal laws passed by Ceylon Government. The Indian traders enjoyed a monopolistic trade of importing red onions from India. The Ceylon Government, however, wanted to entrust this task to co-operative undertakings. When the scheme of co-operative societies seemed to fail, a Co-operative Wholesale Establishment (C.W.E), for a monopolistic trade in importing onions from India, came into existence with Government money and backing and the organization was entrusted the task of organizing a net-work of societies for a planned distribution of onions in the interest of the consumers. The Co-operative Wholesale Establishment, however, bungled and it proved incapable of importing the full quota, with the result that the prices of onions rose to exorbitant heights, and besides the ruin of the Indian business, the onions were not available for internal consumption for a fairly long time.* As a result of a Memorandum†† submitted by the Indian Mercantile Chamber of Ceylon to Minister of Food and Co-operative Undertakings, Ceylon, it is, however, hoped that private trade may have a share in the import of red onions from India. Such preference coupled with the recommendations of Ceylon Governments' Special Committee appointed in September 1950 to introduce a Trade Regulation Act for Ceylonization of

† Annual Report of the Indian Mercantile Chamber of Ceylon for 1949, p. 23.

* Speech delivered by the President of the Indian Mercantile Chamber of Ceylon at Twenty-first Annual General Meeting, held on August 10, 1951, p. 7.

†† Indian Mercantile Chamber of Ceylon's "News Circular", Vol. II, No. 3, June-August 1951, p. 4.

import trade have broken the backbone of Indians' lucrative trade and the Indian merchants are on the last lap of winding up their business in Ceylon.

The position of the export trade was none the better. The Indians were the principal exporters of scrap iron and non-ferrous metals like copper, lead, and brass. The export of such articles was banned by the Ceylon Government in October 1948 on the pretence that the articles were required to establish a Steel Rolling Mill. Twenty lakhs of rupees invested by Indians in this trade remained locked up for a considerable time and they suffered huge losses as neither the Government purchased the huge stocks nor allowed them to be exported in terms of contracts already entered.*

The pro-Ceylonese policy in matters of employment or trade is understandable in the context of a new political status granted to Ceylon in 1948, but the above examples, which singled out only Indians for encroachments or annihilation of their economic rights in practice worked as an anti-Indian policy. The Ceylon Government, however, do not come out in the open for a clear-cut bout and their moves against Indian settlers are externally innocent; but all the same they hit the Indians hard and knock them down egregiously. It seems to be the case of slow-poisoning of a patient, whose energies are bound to be sapped by stages for a sure and certain extinction. So whatever encomiums may be sung for the Indians' glorious contribution to the advancement of the island, their banishment from the country of their adoption has been consecrated by the noble and sacrificial spirit shown by them in making unyielding protests to the indignities heaped by the narrow nationalist Government of Ceylon, which has indulged in acts unworthy of a neighbour to the great Aryavart.

* Annual Report of the Indian Mercantile Chamber of Ceylon, 1949, p. 21.

CHAPTER IV

Civic Status of Indians in Ceylon

Local Institutions constitute the strength of free nations. A nation may establish a system of free government, but without municipal institutions it cannot have the spirit of liberty.

—Alexis de Tocqueville

The art of government is as old as humanity itself, although the structure of the institutions, which in fact are the instruments of administration in a particular age or era, reflects the spirit of those times and is indicative of the special traits of nativity not only of an individual or group at the helm of affairs in a particular Age but it reflects in a true sense the state of society which is regarded as a natural human evolution. This is true of all times, all peoples and all geographical units. The degree of skill as revealed in the structure of the institutions of Government is bound to differ or vary according to times but the basic ideas which gave birth to those institutions have endured since the inception of human civilization. The spirit of democracy—a special trait of 20th century—which is regarded as the *sine qua non* for the success of every form of human activity now, may well be regarded as the culmination of the actions of an individual or group of persons, who controlled the destinies and had a sway over big slices of population in the ancient times. Even in the monarchical period of Ceylon history, which lasted through centuries, and which historically speaking came to an end with the convening of the Kandyan Convention in 1815, the institutions of Government then organised by Ceylon kings, had all the traits of a democratic age although in structural form, in day-to-day activities and external appearance, they differed from the Governmental institutions of the present age, as do human faces the world over.

The most ancient local authority in Ceylon was the 'Ganasabhawa' or Village Council—a direct ancestor of the present-day village committees. Its functions—both administrative or executive

as well as judicial, were carried out through officers and committees appointed by the Ganasabhawa. But such a unit of local government comparatively placed more emphasis on the exercise of judicial functions than on the executive, partly because of the paucity of any other governmental machinery to settle day-to-day problems of the inhabitants and partly due to the innate qualities of the populace, which wanted least outside interference in their local problems. The difficulties of communication especially for the Kandyan people were a major factor in creating in them an insular mentality. The Ganasabhawa, therefore, became a part and parcel of one's life's activities and it constituted a vital link between the mutual relations of the inhabitants of a locality. The constitution of the Ganasabhawa and its multifarious functions have been elaborated as follows :—

“It consists of an assembly of the principal and experienced men of the village, who meet at an ambalam or shady tree or other central place upon the occurrence of any civil or criminal matter such as disputes regarding limits, debts, petty thefts, quarrels etc. and after enquiring into the case, if possible settle it amicably, declaring the party which is in fault, adjudge restitution or compensation and dismissing with reproof and admonition, their endeavours being directed to compromise and not to punishment.”*

Writers on Ceylon history like Sir Emerson Tennent and others have made extensive references to the existence of the local self-government institutions. Says Pridham :

“The lowest court of judicature was the Gamsabae, the village council, which was composed of the head of every family resident within its limits, however low his rank or small his property, and decided causes without expense : from this tribunal there was an appeal to the District Council or Rattasabae, which consisted of intelligent delegates from each village in the Pattoo or sub-division of a district, or as in some cases inferior magistrate.”†

Another form of local authority as stated above was the ‘Ratasabhawa’ or District Council, possessing more extensive powers and important functions than a ‘Ganasabhawa’ and it exercised a general superintendence over the activities of the village council. Generally

* Sir J. D’Oyly : *A Sketch of the Constitution of the Kandyan Kingdom (Ceylon)*, Government Printer, Colombo, 1929.

† Pridham : *Ceylon and the Dependencies*, Vol. I, p. 219.

speaking, most of the day-to-day administration was carried out by these two institutions and their relationship to the monarch and his subordinate administrative staff was of a feudal nature. The monarch was satisfied if besides regular payment of annual revenue, the populace owed allegiance to him and substantially aided him in times of military need with money and men. The whole system of administration during all those centuries of monarchical rule in Ceylon, was decentralised to that extent and the inhabitants of the dominion under his allegiance had a fair share in the administrative set-up. The ancient irrigation works in Ceylon—the creation of the people's genius, are a sufficient tribute to their sagacity acquired through the instrumentality of the Ganasabhawa.

However, for the purpose of collecting revenue and for enforcing the service-tenure system and *rajakariya* etc., a headman, in whose selection caste and birth were vital factors, ruled over the subdivision of the country. The system best suited a feudal administration in the times of Sinhalese kings. Ceylon came under the sway of the Portuguese in 1505 and later on under the Dutch rule which lasted upto the close of the eighteenth century. The foreign rule modified the Headmen system to suit their economy. But as the Portuguese and Dutch suzerainty extended only to the maritime provinces of Ceylon, the Headmen system continued performing its original functions assigned to it by the Kandyan kings. The British employed it during their reign, because it best suited a colonial system of administration. The abolition of 'service-tenure and *rajakariya* and establishment of law courts, however, reduced the perquisites and influence of a headman. As a matter of fact, large scale corruption had set in in the administration owing to the nefarious activities of the headmen, whose selection depended not on integrity and intelligence, but on birth and caste, so much so that during the British period, the institution of headmen fell into disrepute. The following dissent note given by Mr. M. M. Wedderburn and L. Nugawela Adigar in the Headmen Commission Report portrays the popular sentiment against the system :—

“The very existence of well-nigh so universal and vocal a conviction that the headmen system is irretrievably corrupt is sufficient for the purposes of shaping public policy if not for purposes of ideal proof. It is not as if the charge is isolated and occasional, spasmodic or recent. The complaint is long-

standing and persistent and the conviction is wide-spread and general.”*

The Headmen system, which was the mainstay of central administration during the reign of Sinhalese kings, lost its purity in the era of Portuguese, Dutch and British rule in Ceylon. So also other local self-government institutions decayed during the foreign rule, which employed the headmen system for only one administrative business, namely, the collection of revenue. The decentralisation in administration—a characteristic of the Sinhalese monarchical rule—gave way to centralisation in administration, and this is so evident during the first phase of the British rule. The British administration in Ceylon naturally tried to plant British institutions in Ceylon and when during the latter part of the last century certain local self-government institutions were created by statute, they were under the control of Central Government officers and were closely superintended by them.

It must, however, be admitted that the modern local self-government institutions in Ceylon are an exclusive creation of the British rule except for the village committees, which are the result of a long historical evolution. When the British took possession of the island in 1815, the local self-government institutions in Ceylon were in a very rudimentary and decayed stage and as happens under a colonial system of administration, not much thought was given for the proper apportioning of governmental powers to the chosen representatives of the people. The prime aim of the colonial system of administration—whether British, Dutch, Portuguese or any other label—was the exploitation of the natural resources of the colony for the benefit of investing personnel and the Government in a colony by the economic motive behind such an activity, necessarily keeps the reins of government in a body of persons, who are in fact the nominees of the capitalists. That precludes self-government not in any one department alone; its effects are all-pervading and it takes under its orbit the entire activities of the populace. The economic motive, therefore, centralises power in a few hands and excludes entirely the vast bulk of people. So it happened in

* Ceylon Sessional Paper II—1922 (Paragraphs 20-33) and Ceylon Sessional Paper XXVII —1935, p. 19, para 35.

Ceylon that the indigenous population, which had enjoyed self-government in villages during the rule of Sinhalese kings, was deprived of that self-rule during the initial period of the British regime. Not in matters of local self-government alone, the entire field of administration was a centralised one and probably the uprisings of the indigenous population in 1845 and 1848, which have been characterised by Britishers as the activities of a few unguided youths, opened the eyes of the British masters to the realities of the situation and whatever iota of self-rule either at the centre or in sub-divisions is traceable thereafter, seems to be the direct result of the dissatisfaction shown by the populace at the rigours of a centralised administration. For the Britishers took adequate steps thereafter to share the governmental powers with the indigenous population.

Ceylon which had no organised system of municipal administration till 1865, got its first democratic enactment in that year during the Governorship of Sir Hercules Robinson, although the franchise was restricted and the system of representation was partly by election and partly by nomination. The educated Ceylonese after receiving a modern education had realised the benefits of a democratic rule and they were to be accommodated anyhow for partaking in the benefits of self-rule. The resuscitation of village councils, which had been long neglected, was next taken up and the ordinance of 1871, and the amending ordinance of 1889 revived the old Ganasabhawa spirit but in reality the decentralised feature of the olden days, was wholly absent from the enactments of the latter part of 19th century. The free atmosphere of a Ganasabhawa, which was an elected institution of the inhabitants, was entirely absent from the village committees of the late 19th century. They had very limited powers and by statute were required to be presided over by an official chairman. Whatever form of local self-government in Ceylon exists to-day is, therefore, largely the result of the British rule which created the modern village committees. If the municipal institutions of the latter half of the 19th century were created for satisfying the self-rule urge of the educated Ceylonese, the recreation and development of the modern village committees, beside being the semblance of a benign foreign rule, took into consideration "the laws of political dynamics that Governments develop greater stability in their lower than in their upper compartments",* and

*W. B. Munro : *The Governments of Europe* (1931 edition), p. 551.

the Britishers were eager to satisfy the rural populace by installing institutions wherein they might find expression for their creative and constructive genius as of yore and be satisfied in the manner of a person who regains his lost treasures.

Besides the Municipal Council and village committees which catered for the needs of big cities and rural areas respectively, many other forms of local self-government came into existence at the close of the last century to meet the modern needs of an area, which differed in extent and population from the areas initially demarcated for the establishment of local self-government institutions. Due to the development first of coffee and then of rubber estates, small populations had sprung up in the neighbourhood of those estates to cater for the needs of persons employed thereat. The small towns, which comprised of boutique-keepers and other population, which in some way or the other had an abiding interest with the estates nearby, were in sore need for cleanliness. They were often visited not only by estate workers, most of whom were an alien population *i.e.* Indian workers but also by well-to-do persons, who owned those estates or governed them. The Britishers were, therefore, careful to keep the life-lines of island's chief products to be in fine gear. The Sanitary Boards, which were created in 1892, especially looked after the sanitary needs of those areas. They had limited powers initially but acquired importance in the first quarter of the present century when the island was on the road to get substantial constitutional advance. Subsequently, their sphere of influence was widened and they were authorised "to make and assess, with the sanction of the Governor, any rate or rates on the annual value of all houses and buildings of every description, and all lands and tenements;"..... provided that such rate shall not exceed the sum of six per cent per annum on such annual value*, and they could also levy a water-rate.† With the development of the modern local self-government institutions in the island, however, such Boards were considered to be inadequate for coping with the needs of a modern society and they were abolished in 1946. A more complete administration@ for larger towns came into existence in 1898 and the Local Boards, which had jurisdiction over a unit, had almost the

* The Small Towns Sanitary Ordinance (1938 revision), Chapter 197, Section 8, p. 5.

† *Ibid.* Section 12, p. 7.

@ Donoughmore Commission Report 1928 (Reprint) Chapter VII, p. 109.

same powers, which a Sanitary Board had for a group of units. With the advance in constitutional reforms, the local self-government in Ceylon also received a corresponding fillip and a still fuller scheme was ushered in 1920. The District Councils, known as Urban District Council and Rural District Council, were invested with the general administration, including control of public thoroughfares, public health, and local needs but had no jurisdiction over urban areas. The Donoughmore era (1931-1946) is conspicuous in the history of the island not only for constitutional advancement but the extension and consolidation of local self-government rule also has been undertaken during this period. For although the Select Committee of the old Legislative Council had attempted in 1926 the extension of local self-government rule throughout the island, the emergence of modern institutions have been the credit of the Donoughmore era, which placed the island on the road to social progress. The political programmes undertaken in that period, though frankly communal and controversial, did advance the cause of social progress generally. The old Urban District Councils gave way to Urban Councils in the post-independence era and the modern institutions in the sphere of local self-government rule and their consolidation in regard to powers and nomenclature were rendered simpler in form and less complex in the day-to-day administration. Besides the Municipal Councils the other institutions of local government comprise of Urban Councils, Town Councils and Village Committees, but for the purpose of this study emphasis should be laid on the first and the last named only.

As adverted to in Chapter I, Indian immigration in the island started in 1836 and the British administrators or estate owners brought the Indians to the island for the purpose of exploiting their labour in the development of the colony. The economic motive naturally, therefore, placed them in concentrated areas where first the coffee and later on the tea estates principally existed in up-country areas of the island. The problem of Indian settlers as it developed in the beginning of the present century did not raise any special problem beyond that of their employment instability. The concentration of political power in the British hands precluded any other problems springing up regarding them but when that power slipped from the Britishers and the Sinhalese got a legislative majority in the island's legislature consequent upon the grant of manhood suffrage in the 1930s, the concentration of Indians in up-country areas began to be suspected not in

terms of economic rights alone; the political and civic rights came to the forefront in view of their large number. The 'swamping theory' has been in evidence only from the time franchise rights have been granted to the Indian settlers. The political aspect in relation to the past and present legislative restrictions has been examined in detail in the last chapter. The question of civic rights in view of the concentration of Indian settlers on estates, which come under the jurisdiction of the village committees, is of first importance from more aspects than one. Leaving aside the question of justice, which the Indian settlers assert has been denied to them by preventing them from exercising franchise rights, the ultimate motive of a Governmental action in relation to the rights of minorities, can well be judged by the extent franchise rights are conceded in the lower rung of administration. The educative values of democracy can largely be determined upon the nature and spirit of local institutions and if Sinhalese are really sincere in conceding rights to potential and eligible Indian settlers in Ceylon, the village committees are the best places to infer their real intentions.

The village committees with attenuated powers came into being in 1871 and since that date a gradual transference of powers has been effected by amending ordinances. The Ordinance of 1889 widened their sphere of influence but the requirements of an official Chairman remained in tact. The political power, in the real sense of the word, came to Sinhalese hands only after 1920 and till then political and civic institutions in the island were under the real influence of the Britishers. The growth of these institutions from 1871 to 1920 was thus dwarfed by a foreign administration and the Sinhalese and Indians alike had no substantial share either in the Legislative Council or in local government institutions. The Ordinance of 1924 was the first real attempt in the sphere of rural local self-government in Ceylon but strangely enough the position of an Indian settler was made worse than before by including him amongst the "excepted persons", to whom the Act did not apply. In the 1871 Ordinance, the Indian was a native for all intents and purposes and it excluded only Europeans and Burghers. In the 1889 Ordinance, he was included in the definition of a "labourer" and was denied a right of vote. The Ordinance of 1924 further restricted his rights in relation not only to himself; his children and relatives were also excluded from the

enjoyment of a vote. An "inhabitant" (who was eligible for a vote) was defined to mean a male inhabitant, who was not an excepted person and was above the age of 18 years, and the definition of "excepted person" was :

" 'Excepted person' means persons resident in the colony and being (a) persons commonly known as Europeans, (b) persons commonly known as Burghers and (c) labourers as defined in Ordinance No. 13 of 1899, including any woman or child related to such labourer or any aged or incapacitated relative of such labourer."*

Hence the discrimination in matters of civic status, so far as Indians were concerned, started in the island as soon as the Sinhalese got substantial political voice in the Legislative Council. The era of self-rule in Ceylon not only witnessed restriction of rights of Indians in the political field; their civic rights were curtailed to a corresponding degree. The enactment of the Land Development Ordinance in 1935 clearly denied purchase of crown lands by non-Ceylonese and this had serious repercussions on their claims to civic rights in the village committees. If he could not acquire any land, how was an Indian to mix with the Sinhalese villager? If rights in land were to be extended to an Indian worker, no civilized government could deny him rights in village committees. Hence the Land Development Ordinance had an intimate relationship with the curbing of civic rights of Indians. The Amending Ordinance of 1938 excluded only Indians and the Europeans and Burghers, who were excluded in 1924, were mysteriously brought in. The usual pleas were that the Indian immigrants were exempted from village committee taxes, they had special privileges and an Indian Agent specially looked after them and that they were guaranteed a minimum wage under the Minimum Wage Ordinance. All such pleas were in fact devout assertions to prove that an Indian worker had no permanent interest in the island and that he was only concerned with the protection of his economic rights. Indians were actually exempted from village committee taxes while the Sinhalese villagers were required to contribute a commutation tax *i. e.* human labour for a certain number of days for constructing and maintaining village paths and irrigation works. During the coffee period *i. e.* 1830 to 1880, the communication system of the colony came into existence only on the initiative and money of the Estate owners and

**Vide* Section 12 of the Ordinance No. 9 of 1924.

the Sinhalese villager all the while enjoyed a happy life in his home. He, in fact, got corresponding gains after the opening of the communication system, as his produce could now fetch him a competitive market price. The Indian workers were thus rightly exempted from the village tax and the Sinhalese were rightly asked to be a helping hand in the maintenance of the communication system. The franchise rights in the village committees were unequivocally denied only to the Indians. The special privileges which were alleged to have been enjoyed by them were no more than conditions of labour for the protection of which the Indian government statutorily provided a machinery and whatever meagre facilities were provided to them were largely an inducement for the purpose of keeping a regular supply of labour force to develop the plantation estates. A significant factor, which has been an enigma to Indian workers, has been a severe blow to their cause. It was the refusal of the Agent of the Government of India in 1934 not to include the estates within the village committee areas when the Sinhalese were in a mood to do justice to Indian workers in conceding them franchise rights in the village committees. That refusal has been a potential weapon in the armoury of Sinhalese political diplomacy and on a mere assertion of the franchise rights by Indians, that weapon is let loose to silence them. Mr. Bandaranaike, who has been an architect of local self-government in the island, made the following assertion :—

“As late as 1933 or 1934, when the Agent of the Raj, Mr. Menon, wrote a memorandum on a proposal to extend the village committee franchise to Indian labourers, he categorically and definitely opposed it, stating that the Indian labourer had absolutely nothing in common with the people of the country, that they lived lives of their own, protected by laws of their own, that they did not mix with the villagers who lived in areas adjoining those estates. Mr. Menon strongly protested against any suggestion of identifying their interests with those of the people of the country by extending to them the village committee franchise.”*

The amending Bill of 1937 was clearly discriminatory as it excluded the Indian labourers from the enjoyment of franchise

* Ceylon Sessional Paper IX—1941 (Indo-Ceylon Relations Exploratory Conference proceedings, dated New Delhi, November 4, 1940), p. 7.

Mr. Bandaranaike had quoted Mr. K. P. S. Menon as saying : “They do not want this vote. That vote would not only cause hardship for them by being compelled to pay a tax, but it would definitely prove detrimental to the interests of the villagers themselves.”

(*Vide* Ceylon Hansard (State Council) Col. 4125, dated 9-12-1937).

rights and it was claimed by the representatives of Indians that the grant of franchise being a matter of principle, "all people who live within the jurisdiction of a democratic governing body should have a voice in the selection of those who will be responsible for matters which affect their lives and that the Indian estate labourers, particularly those who are permanent residents with abiding interests in Ceylon, should be granted the franchise and allowed to participate in the local self-government of the village areas and encouraged to identify themselves completely with the country of their adoption."*

The objection to their total exclusion from the right of franchise was taken on the ground that while the ownership of immovable property will necessarily involve the question of taxation under the extended powers granted to village committees, there will in effect be an injustice to the Indian worker as it will be an appropriate case of "taxation without representation". The estates were included within the village area and were under its jurisdiction for the purpose of payment of a land tax. The Indian workers were paid from estate funds, a payment which necessarily included a certain percentage as house rent. Hence a small portion of their salary is paid as house rent. It was such a line of argument that Mr. Ponnambalam took during the debate on the amending bill.

"Now, Sir," said he "in every country in the world, the most important test by which a person is placed upon a local government register as a voter for a local government body is whether he pays a local rate. Now Sir, these men do pay rates because they occupy houses for which they pay rent, and they would thus satisfy the definition of rate payer. And yet that type of person is deliberately excluded from the right to exercise the franchise."†

On account of a clear discrimination between a Sinhalese and an Indian worker, the Bill though passed by the State Council on December 10, 1937, was reserved by His Excellency the Governor for signification of His Majesty's pleasure. By a subsequent amendment in September 1938, the discrimination was sought to be effaced by the exclusion of all labourers resident on estates,

*Annual Report of the Agent of the Government of India in Ceylon for the year 1937, Chapter XII, p. 24, para 59 (b).

†Ceylon Hansard (State Council), December 8, 1937, Col. 1415.

whether they be Ceylonese or Indian, but in its practical effect, only the Indian worker suffered because the number of Ceylonese labourers resident on estates was a very insignificant one as compared to the number of Indian labourers and secondly the Ceylonese labourers, by virtue of their owning land in the villages, were still entitled for a vote in the village committees. The position at present is that by virtue of Section 12(c)(i) of the Village Communities Ordinance (Chapter 198), the Indian labourers are excluded from the village committee franchise, although the estates on which they work lie within the jurisdiction of the village committees and are thus subject to their laws and are liable to pay a land tax* at 50 cents an acre per annum. A person of either sex is qualified to vote who—

- (a) "is a British subject; and
- (b) is not less than 21 years of age on the first day of January of the year in which the election is held; and
- (c) is resident in that ward, and has been so resident for a continuous period of not less than six months during the eighteen months immediately preceding the date fixed for the nomination of candidates for that election:

Provided, however, that no person otherwise qualified under this section to vote at such election shall be entitled or permitted to vote, if such person—

- (i) is a labourer, or Kangany in-charge of labourers, employed on any plantation and in occupation of any building on the plantation provided by the employer for the accommodation of any such labourer, or kangany, or is the spouse or a child or a dependant of any such labourer, or kangany and living with him in any such building on any such plantations."†

The qualification for election as a member of a village committee depends on the possession of immovable property of the value of not less than Rs. 200 or of an income of not less than rupees sixty per annum but the further qualification that one should be able to read and write the Sinhalese, the Tamil or the English language will altogether exclude an Indian labourer, even if he is granted franchise rights in terms of the present qualifications for

* Village Communities Ordinance (Chapter 198), Section 45 (3) (b), p. 29.

† *Ibid.* Section 12, p. 8

The law relating to election of members of local authorities was consolidated by Ordinance No. 53 of 1946, and a voter's qualifications similar to the ones in (i) above appear in Section 6, (6) (a) (i) of the Ordinance of 1946, p. 4.

being elected as a member, because the Indian labourer by the very mode of life that he lives hardly gets any education and cannot, therefore, fulfil literacy qualifications as contemplated by Section 13* of the Ordinance.

The swamping complex haunts the Ceylon Government not only in the sphere of parliamentary elections alone; the same fear is evident in denying a village franchise to Indian labourers, who are concentrated in Central, Uva, and Sabaragamuwa provinces. But out of a total of 401 village committees in all the nine provinces of Ceylon, the three provinces named above contain only 72, 27 and 27 village committees respectively, and out of these 126 village committees there will hardly be half of them, where the Indian will have any substantial voice if the vote is granted to him. As it is, there is total exclusion of the Indian labourers from the village committees and they have no voice in the local self-government in villages. It has serious repercussions on his future for besides being a disgruntled element, he has no opportunity of mixing with the Sinhalese or identifying himself with the natural aspirations of his Sinhalese brethren.

The island had no regular system of municipal government prior to 1865 and the municipal institutions as they exist to-day have no historical antecedents. They are exclusively the products of a foreign rule and were initially created as a result of special necessities largely in the interest of a foreign administration, and the indigenous population, which had enjoyed a fair share in the village government prior to foreign rule in the island, had no intimate relationship with the urban areas due to lack of communication or the complexities of the present age and the establishment of municipal institutions took place silently without any agitation on the part of the inhabitants of the island.

It passes one's comprehension as to how a generous measure of such importance came into being without people's agitation. This can only be accounted for with reference to the political acumen of Britishers, who wanted to satisfy the informed public opinion in the island by bestowing on them advantages of a foreign rule.

* Village Communities Ordinance (Chapter 198) Reprint, pp. 8-9.

Let us consider the position of the Indians in regard to municipal administration in the island. Ever since the creation of municipal government in the island, the qualifications of voters have been dependant principally upon residence within the municipal limits and possession of property or literacy qualifications. At no date after the establishment of such institutions, has the question of citizenship arisen in relation to the enjoyment or eligibility for the municipal franchise. The municipal councils of Colombo and Kandy have passed through many a vicissitudes in regard to system of nomination and election through the instrumentality of Ordinance No. 7 of 1887, Ordinance No. 6 of 1910, Ordinance No. 60 of 1935 and Ordinance No. 53 of 1946 (the last named being a consolidated Act), but in no case has the question of citizenship arisen in regard to the enjoyment of civic rights. The qualifications of the voters as well as of members have been principally dependant upon payment of rate and possession of property. Section 7 of Ordinance No. 53 of 1946 details the qualifications of a voter.

Every person shall be entitled to vote if he—

- “(a) is resident within the limits of the ward to which the list relates and has been resident within the limits of that or any other ward of the area for a continuous period of at least six months in the period of eighteen months immediately preceding that date, being either—
- (i) the tenant of any qualifying property situated within the limits of the ward to which the lists relate, in respect of which property he pays a monthly rental of not less than one rupee, or
 - (ii) the owner of any qualifying property which is situated within the limits of the area and is assessed at an annual value of not less than ten rupees; or
 - (iii) a person in possession of an income of not less than sixty rupees a year, or
- (b) not being or having been so resident, is the owner of any qualifying property which is situated within the limits of the ward to which the list relates and is assessed at an annual value of not less than six hundred rupees.”*

* Ordinance No. 53 of 1946, Section 7 (i), p. 5.

The qualifications of voters for Urban Councils and Town Councils are identical and Sections 7* of the Urban Council Ordinance and Town Council Ordinance prescribe only residential property or income qualifications for all British subjects, which the Indian settlers in fact are and hence as regards franchise rights in relation to all these forms of local self-government, the Indians are not discriminated against. The passing of the Citizenship Act of 1948 has, however, entirely changed the atmosphere in Ceylon and as adverted to in Chapter III of this book, the franchise qualifications for island's Parliament are dependant upon acquiring a status of a Ceylon citizen. Apart from the rigours of qualifications prescribed under the Indian and Pakistani Residents (Citizenship) Act of 1949, under the provisions of which only a small number of Indians can be registered as citizens, the entire Indian community has been disfranchised by an amendment in the Citizenship Act, before the applications filed by Indians were dealt with. In consequence, the Indian community is represented in the present Parliament by a single nominated member, who is not a chosen representative of the Indian community as such and who only represents the government point of view.

The island's politicians may hereinafter make the enjoyment of civic rights as dependant upon acquisition of citizenship of Ceylon and during the author's visit in 1951, the whole island was full of misapprehensions about the government's move in this direction. It has naturally introduced an element of uncertainty in the lives of Indian settlers in Ceylon. If the government carry out their intentions in regard to civic rights being dependant on citizenship of Ceylon, the rights of Indians will be seriously jeopardised and the Chettiars and the Sindhi merchants of Colombo will be the main sufferers. It might, however, be noted that the non-discriminatory character of the statutes relating to civic rights of Indians in the Municipal, Urban or Town Councils concerns only a small percentage of Indian settlers in the island. They are scattered in small numbers in the urban areas of the island and have consequently little influence in the administration of those areas. Even in Colombo, where the percentage of Indians comes to 12.5† of the city's population, only one Indian (now registered as a

* Ordinance No. 61 of 1939 as amended by Ordinance No. 36 of 1944 pp. 7-9; and Ordinance No. 3 of 1946, pp. 9-10 respectively.

† Census of Ceylon 1946, p. 83, Table 21.

Ceylonese) out of a total strength of 30 members of the Municipal Council, could secure a seat through election. The vast bulk of Indian settlers numbering about 7 lakhs, who constitute the estate population in the island and which is mainly concentrated in up-country areas, have been totally denied civic rights in the village committees, although the estates employing them pay a land tax under the provisions of the village committee laws. In other words, it is an appropriate illustration of "taxation without representation."

CHAPTER V

Political Parties in Ceylon : Their Plans & Programmes

There are four important political parties in Ceylon of to-day, namely, United National Party (U. N. P.)*, Lanka Samasamaj, Federalists, and Sri Lanka Freedom Party. Of these, the first is the party in power and, therefore, it is not necessary to describe it here; the foregoing pages have dealt with its aims and policies as relating particularly to the status of Indians in Ceylon. The second one is a leftist party and advocates grant of equal rights to workers without discrimination on account of race, religion or language.

The programme of the other two parties contains new trends in political thought in Ceylon and hence they have been dealt with below in detail.

Federal Idea

The intransigence of Sinhalese politicians which resulted in the failure of the negotiations in 1940, 1941 and 1947 Conferences and the failure of subsequent efforts made in and out of Ceylon Legislature for resolving differences between the Government and representatives of Ceylon Indians, have sown the seeds of a perpetual political discontent between the Sinhalese and Indian communities in Ceylon. Failing to get an enlightened justice and seeing no prospect of a settlement on the basis of a united Ceylon, the frustrated Indians have been greatly influenced with the current political ideas in other countries, and naturally India's political or constitutional ideas have powerfully influenced constitutional ideas in Ceylon. Paradoxically, the idea of a Federation in Ceylon has not emanated from the Indian Tamils, but another important minority community in Ceylon has been the spear-head of a revo-

* People ironically call it Uncle-Nephew Party.

lution against a unitary system of administration in Ceylon. The principle of 'self-determination', included in the historic fourteen points of President Wilson has been a beacon-light for the minorities since their declaration and it has been made a powerful ally to throw off the yoke and tyrannies of a majority. Ceylon Indians with the prospects of a settlement ever receding and due to a sense of frustration for not getting a square deal at the hands of a Sinhalese majority, have begun to think in terms of the espousal of a political settlement, which would guarantee to Indians (Ceylon Tamils and Indian Tamils) a separate home where they would live according to their beliefs in peace and contentment. The Sinhalese legislative majority of the Donoughmore era had at least a regard for the political rights of Indians, although they had seriously curbed their economic rights. But later events beginning from 1939 have conspired to threaten the political extinction of the Indian community. The amendment to the Parliamentary Elections Order-in-Council has taken away from two lakh Indian voters their precious rights (which they had enjoyed in the Donoughmore Era) of sending their chosen representatives to Parliament. This pernicious plan, which has taken away Indians' rights in relation to parliamentary representation on the plea that they were not citizens of Ceylon, is to be applied before long in the sphere of local self-Government in Ceylon. Vast sums of money collected in the form of taxes from Indians, were to be exclusively used for the benefit of the indigenous population so that 'no taxation, without representation' slogan of the British colonists in U. S. A., which won independence for American colonies, if applied in the case of Ceylon, can give hope to Indian settlers in the island. As pointed out before, not that Indian settlers are responsible for putting forth a demand of autonomous provinces in Ceylon; the majority excesses on Ceylon Tamils, who are a part and parcel of a Ceylonese race, have inculcated in their minds a sense of the defence of the Tamil race in Ceylon because they think that Sinhalese nationalism has crushed Ceylon and Indian Tamils alike. The Ilankai Tamil Arasu Kadchi Party or Federalists as they are called have put forward a solution of the constitutional problem in Ceylon, which besides solving the Indian question simultaneously solves the question of the principal minority in Ceylon, which is Ceylonese *de facto* and *de jure*. The Federalists in Ceylon thrive on the

* Figures have been taken from the official Census Report 1946, pp. 107-117.

misapprehensions of the Ceylon Tamil community, which took a hint from the elimination of the Indian Tamils from the legislature due to their voting rights having been snatched away from them by the amendment of the franchise law. Another misapprehension in their minds was aroused by the colonization policy of the Ceylon Government. The Northern and Eastern provinces of Ceylon are Tamil speaking areas, the Ceylon Tamil population in Jaffna district in the north being 90% and the districts of Mannar, Vavuniya, Batticaloa and Trincomalee register their figures at 51, 69.3, 49.7 and 40.1 per cent respectively.* The multi-purpose schemes initiated by the Ceylon Government under its Six-Year Plan in the dry zone envisaged a transference of Sinhalese population to settle in areas, which in fact are Tamil speaking areas. The region of Gal-oya Development Project was to be settled by colonists, who consisted of 75% Sinhalese families and the fear of converting the Ceylon Tamils slowly but steadily from their being a majority in a certain area into a minority weighed heavily in favour of a scheme of Federation. A sincere Federalist, like Mr. S. J. V. Chelvanayakam†, who enjoys an immense reputation for honesty and integrity, regards Sinhalese and Tamils as distinct nationalities and his utterances in the legislature reveal the real intentions of the Ceylon Government.

“The Government using its money and its power,” he said, “is going to colonize an area carved out of a Tamil province with 75% Sinhalese Colonists to be brought from elsewhere. I say that this is against the moral law, which I enunciated a little while ago and which has to be observed in a country which consists of several nationalities.”††

A lawyer of his eminence regards Ceylon Government's step in regard to transference of the Sinhalese population to the Tamil speaking areas as a fit example of aggression against Ceylon Tamils (who are a distinct nation according to his political thoughts) just

* Figures have been taken from the official Census Report 1946, pp. 107-117.

† Mr. Chelvanayakam is a Christian, and is universally respected in Ceylon for his unassuming nature. He was the leading Counsel in the Citizenship Case in the Supreme Court in Ceylon. His arguments were raptly listened to by the Hon'ble Chief Justice Jayatilaka, who asked his second in command—Mr. S. Nadesan to argue from a legalistic aspect rather than put forward pleas, which appeal only to human heart. His exit from the present legislature due to his defeat in the May 1952 General Elections, is a severe blow to the Federalists.

†† Ceylon Hansard (House of Representatives) Vol. 10, No. 3, Column 128, dated June 26, 1951.

in the same way as it will be a criminal trespass in the case of individuals. The linguistic affinity between Ceylon Tamils and Indian Tamils has added arguments in favour of a federation. Mr. Chelvanayakam's political ideas can be gleaned from his following speech:—

“In a country that is composed of various sections of the people, sections divided on a linguistic basis, there has to be a certain observance of the moral rights of the people. Now the Tamil speaking people in this country occupy certain areas in which they are the majority people, areas from which they have been able to select the Tamil speaking representatives of Parliament. One of the moral laws that ought to be observed by the Government of a country when more than one linguistic group occupies different areas is that no linguistic group should be allowed forcibly to encroach on the area occupied by the other linguistic group.”*

The Federalists believe that all the factors that give birth to a federation are present in Ceylon—those of geographical contiguity, ethnological stock, language, religion and economic and political factors† and the only obstacle that they have to pass over relates to separation of powers in a Federation. But unity in the ranks of a linguistic group occupying as a majority community a distinct territory and bound together by racial, religious and cultural ties, is an essential pre-requisite for the formation of autonomous regions and this unity is sadly lacking in the ranks of Ceylon Tamils. The Ceylon Tamil Congress, which has a substantial voice amongst the electorate in Northern and Eastern provinces of Ceylon, favours co-operation with the Government and in fact its parliamentary representatives belong to the Government Parliamentary Party and occupy the Treasury Benches. Mr. G. G. Ponnambalam, an able Ceylon Tamil Minister, who can be a pride to any legislature in the world, is politically sagacious, but also vacillating** and some of the other members of this party staunchly follow him.

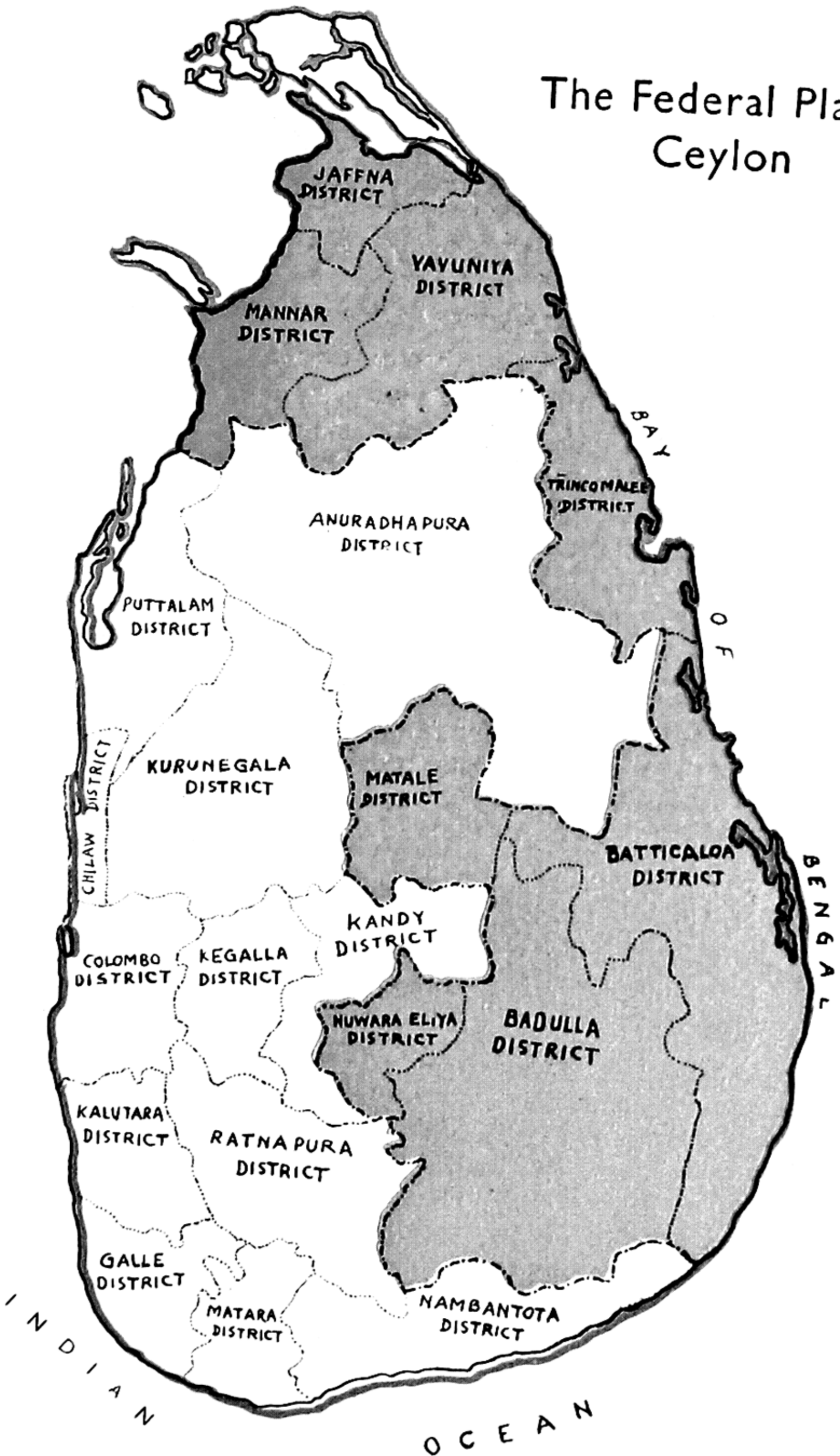
* Ceylon Hansard (House of Representatives) Vol. 10, No. 3, Column 123, dated June 26, 1951.

† B. M. Sharma : *The Indian Federation*, Chapter II.

** Mr. G. G. Ponnambalam had given a pledge to the Ceylon Indian Congress on July 16, 1947 at the time of the General Elections held in that year. He had further pledged: (1) Qualifications for political franchise shall be based on a simple residential test of six months, (2) citizenship rights to Indians on terms of equality with the rest of the population on a 5 years' residence in the island and on a declaration of intention for a permanent settlement, (3) persons already in Ceylon to be permitted to acquire the above qualifications, and (4) village committee vote to Indian workers without any discrimination.

(Vide Ceylon Indian Congress Pamphlet, published on January 1, 1949.)

The Federal Plan Ceylon



Note : Coloured portion denotes proposed Tamil Federal Areas.

THE FEDERAL PLAN CEYLON

The population figures of various districts are—

Jaffna	: 90%	Ceylon Tamils
Mannar	: 51%	Ceylon Tamils
Vavuniya	: 69·3%	Ceylon Tamils
Trincomalee	: 40·1%	Ceylon Tamils
	20·2%	Ceylon Moors
Batticaloa	: 49·7%	Ceylon Tamils
	42%	Ceylon Moors
Badulla	: 34·2%	Indian Tamils
	4·2%	Ceylon Tamils
	49·7%	Kandyan Sinhalese

[Indian Tamils outnumber the Sinhalese in Yatikinda and Wellawaya Divisions. In the latter, they constitute 60%]

Nuwara		
Eliya	: 57·3%	Indian Tamils
	30·6%	Kandyan Sinhalese
	7%	Low-Country Sinhalese
Matale	: 58·7%	Kandyan Sinhalese
	21·9%	Indian Tamils
	5%	Ceylon Tamils
Kandy	: 47·7%	Sinhalese
	29·2%	Indian Tamils
	4·2%	Ceylon Tamils
Ratnapura	: 60·5%	Kandyan Sinhalese
	20·6%	Indian Tamils
Kegalla	: 71·9%	Kandyan Sinhalese
	13%	Indian Tamils

Not taking a serious view of the differences amongst the Ceylon Tamil community itself, the Federalists believe that owing to inseparable ties of religion, language and race, the Ceylon Tamils will pull together at no distant date and in defence of preserving their separate cultural identity, their uniqueness and individuality, which is in the danger of being disrupted owing to a Sinhalese majority as evidenced in the working of parliamentary machinery since 1931, they will rise as one man to solve the varying special problems of their own. They passionately believe that a Federal State is "a political and sociological laboratory where irrespective of majority opinion each group is free to conduct its own experiments and add to the world's store of knowledge in the art of Government."* Hence they will like to demarcate the Northern and Eastern Provinces and such contiguous areas of Uva, Sabaragamuwa and Central Provinces which embrace the Indian Tamils, on the basis of linguistic, racial and religious affinities into one constituent unit of Federation, and the other constituent unit will be the Sinhalese dominated area. By such an arrangement they think, they will get opportunities for making experiments and putting to practical tests any new scheme of social and economic policy to suit their native temperament. In the unitary system of administration such as obtains in Ceylon, there is only one ultimate source of political authority, which does not concede a sphere of independence to the Tamil speaking areas, because it does not draw a "line between matters in regard to which majority decision is to be accepted as binding and matters where minorities should be left to themselves."† The unitary system, in their opinion, offers no scope for the exercise of initiative by a unit, which is populated by a community having diverse cultural, linguistic and religious characteristics in contrast to the one which is dominating the entire field of unified administration. Moreover, the Federalists believe that if their plan of autonomous areas—Tamil and Sinhalese—is conceded, the Tamil people will have ample opportunities to establish a closer contact and a more intimate relationship with the administrators of their own stock and this will stimulate their interest in self-expression, which has been repressed consciously or unconsciously under the weight of a unitary system of Government in which

* M. Venkatarangaya : *Federalism in Government* (Waltair, 1935), p. 171.

† *Ibid.* p. 171.

Sinhalese have an overwhelming majority. But if Ceylon is granted a Federation, complexities are bound to occur, though the distribution of powers between units and a central authority be made with comprehensive precision, and the fear of such frictions detracts from the merits of a Federation in Ceylon. The Sinhalese and the Tamils differ so much in every sphere of human activity that a slight encroachment by one over the authority of the other is bound to generate animosities, which will bring to nullify every political combination of a federal type. Even a principled and rational scheme of distribution of powers between the federal centre and the units, making full allowance for the claims of uniformity and diversity, is bound to be irksome to one or the other of the two in the actual working of the constitution, for at the time of framing the constitution, the practical difficulties can hardly be truly estimated. This irksomeness becomes marked when the citizens of autonomous units differ fundamentally not only in their ultimate conception of life, but also in the details of how that life is to be lived. For instance, the inheritance laws of the Tamils and the Sinhalese differ to a degree that in the event of this subject falling under the units' administration, difficulties of acquiring property by the inhabitants of one unit in the sphere of influence of the other unit may prove detrimental to the property rights of a potential citizen. "Marriage" may be a subject falling in the category of subjects assigned to the units. The polygamous marriages are taboo for Sinhalese, and while Hinduism does not encourage such marriages, they are in fact recognised as legal and valid. Leaving aside the question of Ceylon Tamils, who have lived for centuries in Ceylon, the Indian Tamils, who had already entered into sacramental relationship with more women than one, will have to be exempted from such legal disabilities for acquiring a status of a citizen. The case of Muslims, who are permitted to contract polygamous marriages is somewhat different and as asserted by late Mr. D. S. Senanayake, their case is "according to the established law and covers the whole population of one well-defined group of persons, which can lead to no confusions."* Another difficulty may arise in the event of one unit enacting a law, according to which a child may be legiti-

* Document No 10 dated May 26, 1948 of the correspondence exchanged between India and Ceylon regarding citizenship rights in 1947-48 (Delhi Edition) p. 20, item (4).

mate in one unit and illegitimate in another, as so often happened in the part-states of U.S.A. The difficulty of a federal language, of a federal citizenship law, will be immense in a federal constitution for Ceylon, and they will be non-existent if arguments in favour of two sovereign independent states instead of two autonomous states find favour with the Federalists. The inter-dependent functions assigned to the control of different governments will seriously jeopardise a smooth working of a Federal constitution in Ceylon. Immigration as hitherto will ever remain a headache with the politicians of two units as envisaged by Federalists. The Kandyan areas—ideal places for tea plantations—will necessarily lie both in the Tamil and Sinhalese units. The consideration of the cost of maintenance of a regular supply to the Sinhalese area will alone compel the Government in the Sinhalese unit to employ a large force of Indian workers. The Tamil unit will necessarily like to develop the hitherto neglected dry zone (which will exclusively lie under their control) with the help of Indian immigrant labour, who by the force of events of the last 125 years will naturally like to be guaranteed their rights of settlement on land available there. If the Tamil unit guarantees such rights of agricultural settlement (which is not a contingency but a certainty) and the same rights are denied by the Sinhalese unit (which is a puissant possibility) in the context of past history (the Land Development Ordinance denies rights of acquisition of Crown lands to Indians), administration of immigration, which will be a central subject, will be seriously jeopardised to the economic detriment of the Sinhalese unit and complications, which a Federation was intended to avoid, will arise to perpetuate a perpetual recrimination between the two units of administration. And as “it is not possible to frame an exhaustive list of such functions on *a priori* basis and make it a part of the written constitution”* and as “any classification of functions into independent and inter-dependent ones is bound to break down in future,”* it will be well advisable if the nebulous constitutional plan of the Federalists in Ceylon is elaborated for the creation of an economically self-sufficient Tamil State, which will redound to the credit of their past heroic traditions; but for this, the Federalists must forge a unity in the ranks of the Tamil community by the force of sweet reasonableness, which is so necessary for a political settlement.

* M. Venkatarangaya : *Federalism in Government* (Waltair, 1935), p. 176.

If the Federalists in Ceylon can make a decisive disposition of the locus of sovereignty in the new union, a substantial constitutional hurdle is removed to pave the way for solving the problems of the subjects to be assigned to the units. They should, however, be precise in the allocation and separation of powers of the federal government and the two units, and must avoid the constitutional difficulties of countries like America where initially "the Federal Government was given only limited and enumerated powers ; the residue of sovereignty was left by implication with the States."* The Federalists in Ceylon should take courage from patience of American Federalists, who won the battle of ratification on the basis of a dynamic positive programme converting the dissidents by the superiority of their arguments. The proponents of federation may well take a lesson from the Muslim League tactics in India and avoid the drawing of a terrifying picture of a unified State.

Sri Lanka Freedom Party

One of the most notable parliamentarians in Ceylon—one who can be truly described as the father of local self-government in Ceylon is Mr. S. W. R. D. Bandaranaike. He is immensely ambitious, but political ambition does not always pay. So it happened with him. He forged a union of a communal organization with a political one for achieving his political ambitions; but a communal organization by its very nature degenerates into a reactionary group and cannot keep pace with a political organisation, which stands generally for a progressive outlook affecting the destinies of the citizens of a country. Mr. Bandaranaike, who as President of Sinhala Mahasabha had wooed the Ceylon National Congress, had to make a sudden exit from the cabinet due to an unnatural alliance, which in a political sense, was a contradiction in terms. Often a charge is made against him for the unusual step that he took in crossing the floor to the side of the opposition in August 1951—that of personal political frustration in not being accepted as the second in command to late Mr. D. S. Senanayake by the Government Parliamentary Party. But 'Deputy Prime Ministership' in Ceylon was not provided for in the Ceylon Constitution such as obtained in India where a Vallabhbhai Patel's sacrifices were recognised by a grateful people. The second charge

* Alfred H. Kelley & Winfred A. Harbison : *The American Constitution*, pp. 143-44. (W. W. Norton & Co., Inc., New York.)

levelled against him is that he quitted the Cabinet because himself being the seventh greatest coconut estate owner in Ceylon, he feared the government's nationalisation scheme in regard to the acquisition of estates. His vivacity and suavity made a sharp tongue bearable to his political opponents and the real cause of his failure seems to be the eminent political stature of the elder statesman, with whom he found company for political reasons. Mr. D. S. Senanayake's brilliance did not allow a sufficient scope to another brilliant man in his company. Mr. Bandaranaike, whose intransigence was the chief cause of the failure of the 1940 Conference held at New Delhi in regard to citizenship rights of Indian settlers in Ceylon, has always used the Indian question in Ceylon as a whipping rod and as a corrective to an erring government and his pronouncement in and out of legislature had been marked with a political insincerity in regard to Indian question. But since his exit from the U. N. P., he is devoting much of his time in organizing an effective opposition based on the programme of a new political vision and the veneration in which he is held by the Sinhalese (as was evident from the enthusiastic welcome shown to him in the mammoth gathering* which he addressed on September 2, 1951 in The Town Hall, Colombo for the inauguration of his political party) should augur well for his success, and the Indians in Ceylon will surely benefit by his political programme. The Indians' attitude will, however, endure only on his political sincerity and steadfastness. He assured the author that he was definitely sympathetic towards the legitimate demands of Ceylon Indians. He frankly admitted that the move of the Ceylon Government in amending the franchise law and snatching away the voting rights of Indians (which they had enjoyed under the previous constitution), lacked discretion. Two valuable factors enhance the value of his political ideas which he has enunciated from the platform of the new party. As adverted to in Chapter II, the political emancipation of Ceylon in the present garb has been brought about by the top-ranking politicians and the general populace has shown political apathy towards day-to-day problems. The liberation movement in a sense started from the top and did not spring up from the bottom so that the masses lacked a revolutionary fervour so essential for political advancement. Mr. Bandaranaike thinks that the constitution which

* The Author had attended this public meeting.

Ceylon obtained did not confer real freedom on the people of the country and the special agreement entered into with the past administrators detracted from the value of a democratic sovereign constitution. He would, therefore, like to frame a constitution which will guarantee fundamental rights of all citizens without discrimination. The present ills in Ceylon, he ascribes to the absence of constitutional safeguards in the present constitution especially in regard to the fundamental rights of the citizens. The preamble such as obtains in the constitution of India or America and is embodied in the constitutions of all independent sovereign States, guaranteeing to the citizens justice, liberty, equality, and fraternity is absent from Ceylon's constitution, because the latter is the result of an act of British Parliament and is not framed by a sovereign Constituent Assembly of Ceylon. The fundamental rights of the Indian people such as right to equality before law, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights and right to property are enshrined in the constitution of India and every citizen has the right to take shelter of the highest court of the land in case such rights are infringed. The directive principles of State Policy, which also find a place in the constitution of India, specifically say that "the State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities."* The Wages Boards in Ceylon, which are statutorily established can be abrogated or varied according to the whims and policy of a ruling political party as they are not sanctified by a constitutional guarantee. The other fundamental constitutional change which the Sri Lanka Freedom Party wishes to bring about relates to severance of ties with Britain principally because the present constitution does not confer real freedom on the people of Ceylon. The reins of Government at present are concentrated in the hands of those, who in the estimation of the new party, are the real agents of the foreign capitalists. Such a move is universally acclaimed as a necessary step towards framing an independent constitution, free from the trammels of a foreign influence. British

* Article 43 of Pt. IV of the Constitution of India (Manager of Publications, Delhi, 1949). In regard to Fundamental Rights, kindly refer to Articles 12-35, pp. 7-18 of the above publication.

capitalists in Ceylon have seen the signs of the time and are packing off slowly, realising a good amount for their assets in Ceylon. The aims of the political party led by Mr. Bandaranaike savours of a progressive political outlook and though he is dismally silent in regard to the Indian question, his thoughts, if sincerely translated in practice, will distinctly advance the cause of Indians in Ceylon, but whether or not his past political somersaults will ever convince the Indians of his sincerity will depend much on his practical wisdom if and when he assumes the reins of Government in Ceylon. But of political dynamism there will be no dearth in his times and the state-craft* will find a new meaning under his charge.

Illicit Immigration

The problem of illicit immigration is a direct result of the policy of discrimination pursued by the Ceylon Government in regard to Indian settlers in Ceylon and it acquired a new impetus after the ban imposed by the Government of India on emigration of unskilled labour to Ceylon in 1939 consequent upon the wholesale dismissal of Indian Daily-paid workers—a brain wave of Sir John Kotelawala†, a Ceylon Minister of Transport, whose anti-Indian policy has not yet brought him the prize of Prime Ministership of Ceylon. Several factors help in the growth of illicit traffic between India and Ceylon. The poverty of South Indians; the demand of cheap Indian labour in Ceylon; the stringent and discriminatory laws passed by the Ceylon Government against Indians; the loop-holes and quirks in Ceylon statutes; the proximity between the countries; the large Ceylon coast, which facilitates landing; the concentration of Tamil population in the Northern and Eastern provinces and lastly the economic factors in Ceylon have all contributed to the swell of the problem. The poor South Indian labourer, famine-stricken and getting no maintenance allowance from his guardian in Ceylon due to the

* The late Mr. D. S. Senanayake compared him to a fox, who had fallen in a trap from which he escaped minus his tale (Gampola speech in July 1951). He was compared to a crow that the swans had succeeded in driving off the swan-rock (Prime Minister's speech at Polgahawela, explaining reasons of Mr. Bandaranaike's exit from cabinet in 1951).

† It was expected that after the demise of Mr. D. S. Senanayake he will naturally step in as the next senior-most minister to the Premiership *gaddi* but as his recall from the Parliamentary Conference in Canada in September 1952 indicates, he just escaped dismissal from the Cabinet on the strength of a political diary ascribed to him and published in Ceylon. The revelations contained in it wanted to torpedo the British plan in entrusting reins of government to a junior Minister, Mr. Dudley Senanayake, son of the late Prime Minister.

rigours of the Exchange Control in Ceylon, has no option but to combine with persons of similar status and the canoes and country-craft used by them carry them a distance of 22 miles (the distance of Palk Strait) within a matter of hours and their brethren are, in the present psychological atmosphere in Ceylon, ready to provide them with rice ration cards for saving them from the claws of the Ceylon Immigration laws.

Toutism, which has played a significant part in India for the encouragement of illicit emigration to Ceylon, is being vigorously curbed by the Indian officials in India, and besides creation of a chain of preventive machinery along the coast of south India from Point Calimere to Tuticorin, the question of patrolling the Palk Strait is under the active consideration of the Indian Government. The use of naval boats, however, in the shallow waters of the sea between India and Ceylon, cannot be effectively undertaken. The vigorous patrolling of the long coast-line of Ceylon has effectively checked the menace of illegal immigration and the military units of Ceylon Government and the aerial reconnaissance have considerably aided the Immigration officials in their attempts. The 'swamping' propaganda—an invention of the Ceylon Government—is a myth and possibly it is actuated by political considerations. The Administration Report of the Director of Quarantine, Department of Ceylon Government, gives the following figures of illicit landings:—1948—880; 1949—435; 1950—1,111; 1951—3,792. No figures are available for 1952 but even taking into consideration the cases, which have vanished in the Tamil multitude after evading the Frontier guard, the Ceylon version of the average of 70 persons a day, is a highly exaggerated figure, and the problem has been magnified by the Ceylon Government to put pressure on the Indian settlers in Ceylon, who are struggling to obtain their legitimate electoral rights.

A pertinent query to be answered in this connection is : Has the Ceylon Government solved the problem of Indian Immigration by its policy of denying to potential citizens of Indian origin the facilities of bringing their kith and kin in Ceylon to be a part and parcel of a disintegrated family ? An Indian settler is not permitted to bring in his wife to live with him otherwise than on the strength of a passport. The frustrated Indians are thus driven to take shelter of the loop-holes in the Ceylon Immigration laws and to take to desperate remedies. Another difficulty experienced by the officials of the two countries lies in the fact that most of the per-

sons enter Ceylon with the aid and connivance of the fishermen and it is often difficult to take action against the latter for they have enjoyed fishing rights since generations. The Ceylon employers, who have acutely felt the shortage of Indian workers in Ceylon, spend considerable sums of money in paying to the touts and agents who are potential abettors of illicit traffic. The illegal immigration has also been encouraged by the prohibition policy of the Madras Government. It is as easy for a South Indian fisherman to cross over to Ceylon, purchase wine from there and come back again to India for smuggling it in the dry areas of Madras State as to an urban householder living in cities like Bombay, where the electric trains take him miles off to his destination of employment and bring him home in an emergency within a short time. The author can personally vouchsafe for the alertness of the Indian Emigration Officials whose activities can be truly scrutinised at Dhanuskodi where he saw an array of country boats having been confiscated by them and all these boats belonged to illegal emigrants, who were attempting to cross over to Ceylon and were arrested by the Indian patrol units.

One would wish that the money which is being spent over the organizations maintained by both Governments to check illegal immigration, to be spent in some purposeful constructive activity such as alleviating economic distress of the South Indian workers in India or to their counter-parts in Ceylon. The preparation of the National Register with a view to granting citizenship rights to the Indian settlers, would have paved the way for reconciliation between India and Ceylon, and if an understanding on the basis of recognising the citizenship rights of persons of Indian origin is arrived at between the two countries, the question of illegal immigration will be automatically solved. But for such an understanding, the noblest traits of patriotism and human understanding ought to be shown by Ceylon Government composed of the truly representatives of the various sections of island's population. Let Ceylon grasp the hand of friendship which India had so often stretched and which India will not fail to stretch again, once the Ceylon Government show their sincerity in truly "Ceylonising" the people of Indian origin without discrimination and without recrimination.

CHAPTER VI

Solution

Any lasting solution of the Indo-Ceylonese problem must naturally keep the interests both of Ceylon and India in view. It must also take into consideration the peculiar political and military circumstances in the countries of South-East Asia to-day so that small countries like Ceylon might feel safe to lead a life according to their beliefs and traditions and not fall a prey to the dogmas or doctrines of a political education, which is foreign to the cultures of their people. Keeping these objectives in view, there can be three possible solutions, which may be categorised as (i) constitutional, (ii) revolutionary and (iii) peaceful. Let it be frankly admitted that the solutions offered are the result of the author's own independent thinking and should not be construed as promptings of a political group or party in Ceylon or in India.

One of the phases of the constitutional solution has been discussed in Chapter V. The Federal Party in Ceylon passionately wishes to carve out a 'home' for the Tamil speaking people, who want the Central Government in Ceylon to concede them the well-recognised political principle of "self-determination" as a possible solution of the political status of minorities. The word 'Federation' has peculiar charms of its own. Its pre-requisites are a community of interests that we often come across in the mutual relations of the members of a joint family, which owing to the non-adaptability of some of its members to lead a group life, disintegrates on an optional basis. A Federation with mental reservations of a group or groups which federate, in the last analysis, degenerates into a confederation. Accordingly such a solution is likely to be a political catastrophe to Ceylon, as the resultant weak Central Government would be a conglomeration of contending parties as opposed to co-operative parties in the peculiar circumstances of an insular country like Ceylon, which may fall a prey to the flirtations of a stronger adversary. Such a situation will be dangerous to Ceylon; it may be dangerous to India owing to the geographical situation

of Ceylon and to all the South-East Asia region. On this count alone one should reject the solution of Ilankai Tamil Arasu Kadchi of Ceylon, though its other features too abound in unsurmountable political difficulties and are likely to offer stiff resistance to an evolutionary, ordered and peaceful government in Ceylon. The autonomy, which the Federal Party wishes Ceylon government to concede to the Tamil speaking areas, will prove a mirage in the oasis of the prosperous Tamil State of their political imagination, which in the absence of a strong well-knit navy will have her entire coastline at the mercy of an adventurous country like Japan. Lest the past history be forgotten, we need not ignore the vigilant eye of Britain to take under her protective wings her lost territories, and who knows she might possibly stage a comeback !

Another constitutional solution will be the carving of two sovereign States out of the present boundaries of Ceylon, which owing to the solidarity of their nationals in matters of language, religion and race will be more conducive towards an ordered Government, as obviously such a scheme will be free from inner frictions while a composite central government in the case of two autonomous States is bound to be unbalanced. Such a scheme will necessarily comprise of two areas – the Tamil populated areas and the Sinhalese populated areas and if agreement can be reached between the Tamils and Sinhalese, the first area will comprise of the present boundaries of the Northern and Eastern Provinces of Ceylon (which are Tamil majority areas at present) and the agreed boundaries of the Central, Uva and Sabaragamuwa provinces, where the estates are mainly worked by about a million Indian workers. The claim of Indians on the Colombo urban area is overwhelmingly great owing to the Indians' contribution in the working of the port, the business in Colombo being mainly concentrated in Indian hands and the trade there thriving on the capital of the Chettiars. Opposition to the Indian claim on Colombo will be mainly based on the existence of the natural harbour of Trincomalee in the Tamil area, but akin to the Andhra claim on Madras, which lie in the Tamil area in our own country, the location of Colombo in the Sinhalese area may offer serious obstacles to an agreed solution and in the event of such a conflict, the possibility of a joint administration of the urban areas of Colombo may be probed into, taking into consideration the past history of its development by the contending parties. Such a scheme can be perfected by a Partition Commission, which if its personnel is not mutually

agreed upon by Tamils and Sinhalese, should be appointed under the aegis of U. N. O. This scheme, however, cannot be commended by those who have the better experience of the partition of the sub-continent of India into India and Pakistan, not only because of the horrors that accompanied it but also because the partition has not solved the question of minorities. In fact it has not satisfactorily solved any question at all.

The revolutionary solution, by the association of the word 'revolution', necessarily reminds one of the revolutions and their aftermaths in countries like France and Russia. Ceylon is not ready for any such revolution, and India with her age-long tradition of non-aggression in the affairs of a foreign country is not going to undertake a police action in defence of the rights of Indian settlers in the island. She will use her moral pressure and might even apply 'sanctions' against Ceylon, but use of force except in self-defence is out of question.

The peaceful solution, both from the viewpoint of political expediency and of a lasting solution, is the best alternative before the Ceylon Government, and if a statesman-like view is taken, the differences which have defied solution for more than a decade, are susceptible of an easy solution. For this a preliminary requisite is the immediate convening of a Round Table Conference of Indian and Ceylon Government representatives. The first item on the agenda of such a conference should be the formulation of principles which should govern subsequent negotiations. Both the delegations must first of all agree to exclude the consideration of the past immigration history of Indians in Ceylon, for on its rock had foundered the conferences of 1940 and 1947. The freedom with which the past history has been misinterpreted and made a tool of by politicians has contributed more for the misunderstanding and misapprehension in regard to the real position than any other single significant factor. The study of history in both countries should be left to historians and not to prejudices and passions of the politicians who are apt to deviate from a dispassionate study. If the passions generated by loose handling of the past history could have been avoided in the 1947 conference between the Prime Ministers of the two countries, there might have been found a lasting solution of the problem then; but this was not done and the heat of the moment resulted in the enactment of legislation

by the Government of Ceylon, which has seriously impaired the rights of Indians in that country.

The other prerequisite for a successful solution of the problem is that the Ceylon Government should give up their claim based upon the inequitable doctrine of "absorbable quantum", a theory which has been an apple of discord between India and Ceylon. If the problem of unemployment is a serious problem in Ceylon, it is far more serious in India and in other countries. There are numerous other difficulties before Ceylon—that of a growing population, lack of capital, and the dependence of the island for its food on countries like India, Pakistan, Burma etc., but the argument should not be stretched too far, as similar problems exist in far greater intensity in other countries also. The unemployment problem can be solved by industrialisation and exploitation of the natural resources of the country. At present of the total land areas of the country of 16,023,229 acres* (about 25,331 sq. miles), only 3,210,101 acres or 1/5th of the area are under cultivation. Leaving aside land, which cannot be productively used, out of the cultivable area of 4,267,398 acres, at least 1,057,297 acres represent the area which can be usefully brought under cultivation. "The Six-Year Plan for Ceylon"† drawn up by the Ceylon's Finance Minister in 1947, is an admirable effort at serious planning. The Gal-oya scheme envisages impounding of water sufficient for the cultivation of one lakh acres,** but the partial failure of Development Schemes like the Minneriya and Parakrama Samudraya Scheme†† have shaken the confidence of Ceylonese in such ambitious adventures. These much publicised schemes proved a failure because the "the total water supply is inadequate to irrigate even these 20,000 acres owing to the drying up of underground springs and the low water level of the Amban Ganga in the dry season consequent on the lack of water conservation in its upper reaches in the plantation-

* The figures have been taken from the General Report of Census of Ceylon 1946, p. 251. A slight change in these figures is found in "A Short Economic Survey of Ceylon" by Prof. B. B. Dass Gupta, M. A., Ph. D., published by the Associated Newspapers of Ceylon Ltd., Colombo, p. 31.

† Published by Department of Information, Colombo, p. 56.

** It is estimated that upto 1952-53, it shall irrigate 41,000 acres paddy and 24,600 acres garden, vide appendix B, p. 93 of "The Six-Year Plan for Ceylon."

†† Vide p. 7 of "The Gal-oya Project and the Crisis of Agriculture" by Dr. S. A. Wickremasinghe, published in July, 1951.

covered Matale Hills'*. A similar scheme, the Embilipitiya Multi-purpose Scheme,† has been designed to use the waters of the Walawe-ganga to provide irrigation, water and electric power for the benefit of colonists, but alas! the benefits of such development schemes are the exclusive monopoly of the Sinhalese at least to the total exclusion of the Indian worker. If properly managed and conducted the scheme of the exploitation of the natural resources should solve the problem of unemployment in Ceylon which need not resort to the desperate measure of endeavouring to expel her Indian population by political artifice.

After the removal of hurdles of the politicians who misrepresented history for their own ends and after the abandonment of the theory of 'absorbable quantum', the minor fundamental differences can be adjusted with a little more accommodation on the part of the representatives of the two governments. The franchise right should be conferred on all Indians, who have resided for at least 5 years in Ceylon on the date to be mutually agreed upon. This will not only aid the checking of further illicit immigration but the expenditure now being incurred on running the Department of Registration for registering Indians and Pakistanis under the Indian and Pakistani Residents (Citizenship) Act will considerably lighten the burden of the National Exchequer and the fostering of good-will instead of ill-will between Sinhalese and Indians in Ceylon on one side and India and Ceylon on the other will considerably contribute to the harmonious economic development of the island and the era of peace and contentment which India so ardently desires to see ushered in Ceylon will contribute to the greatness and glory of a composite Ceylonese race.

The qualifications of the present Indian and Pakistani Residents (Citizenship) Act should then be basically related to a National Register which should contain names, residence and other particulars of all Indians resident in Ceylon, and some easily ascertainable tests with special reference to adequate means of livelihood, family residence, compliance with the laws and customs of

* *Vide* p. 7 of "*The Gal-oya Project and the Crisis of Agriculture*" by Dr. S. A. Wickremasinghe, published in July, 1951.

† The Caine Report, published in Sept. 1952 has sought to discourage this scheme and has instead advocated a number of small irrigation schemes.

(*"Hindustan Times"*, New Delhi, dated September 6, 1952.)

the country be evolved for granting full citizenship rights to Indians, whose names appear on the National Register. Terms in regard to forfeiture of Indian Citizenship and taking an oath of allegiance to Ceylon are matters, which will not offer any obstacle. The requirement of proving the Indian origin, which device was supposed to be the hall-mark of Ceylonese craftsmanship but which nullified the very basis of pious promises made by the late Prime Minister of Ceylon, has been withdrawn by the latter's son on his assumption of Premiership, not *ex mero motu*, but under the impulses inculcated by the moral preachings of the passive resisters. The demand for proof of Indian origin in the face of estate workers being shown as Indian Immigrant labour in official documents and correspondence in Ceylon for the last hundred and twenty years was a laughing-stock in everybody's estimation and the new Prime Minister of Ceylon is to be warmly congratulated on his depth of vision and celerity of action. The myriad of almost insensible requirements through which an illiterate Indian worker has to wade under the provisions of Indian and Pakistani Residents (Citizenship) Act do not redound to the credit of an enlightened government as that of Ceylon and sooner this mumpsimus is withdrawn the better. Only after the atmosphere has been mundified by such preliminary agreed steps should serious thinking be given to other fundamental questions. The preparation of the National Register on the basis of some residential qualifications *ipso facto* means the repudiation of the theory of descent or *jus sanguinis* as against the theory of birth or *jus soli* in determining the basic qualifications for citizenship.

The next step should be the amendment of the Land Development Ordinance 1935 and two other Ordinances exhaustively dealt with in Chapter III. It should, however, be made clear at this stage that the basic concept of providing the poor landless Ceylonese with adequate land for his resettlement as a self-respecting citizen is in entire agreement with the wishes of the Indians in Ceylon. They wish to see every Ceylonese to be a robust, healthy individual. They wish to see him reaching his full stature of a human personality. They neither wish to have the entire provisions of the Ordinances to be amended nor changed. The provisions of the three ordinances referred to above are a shining example of the consummate skill and the constructive and creative genius of the Ceylonese; their provisions typify in a marked

degree their native temperament and they are a substantial contribution to the cause of the average poor peasant and fisherman in Ceylon, leaving aside the Omnibus Ordinance, which deals with average middle-class people. The only item which the Indians in Ceylon wish to be amended is the definition of "Ceylonese" as given in these ordinances. 'Ceylonese' means a person of either sex domiciled in Ceylon and possessing a Ceylon domicile of origin—a definition which cuts at the very root of human existence as far as the Indians are concerned. This much is certain that if the Ceylon Government is not agreeable to the amendment of 'Ceylonese' as given in the Land Development Ordinance, the position of Indians in Ceylon is insecure and their future dark; they will be well advised either to quit the island for good or to accept the status of a perpetual slave in Ceylon. If the Indians in Ceylon cannot acquire any Crown Land (the only land which is available for settlement in bulk), would the poor labourer ever have a chance of earning and saving so much money as to purchase lands from private owners of land? And who knows a future Government may pass a legislation prohibiting a Ceylonese national to sell any land to a non-citizen! Therefore, the amendment of Land Development Ordinance is not only a sheet-anchor of the *bona fides* of the Ceylon Government; it should be made the chief national demand of the Indians in Ceylon in any future negotiations. The position as at present is that Indian workers are provided with housing accommodation by the employers on the campus of the estates where they work. These 'lines' erected after improved specifications on the advice of architectural engineers of the Ceylon Government are in fact so many improved mortuaries for Indian workers. What does that amount to? The Indian worker in the absence of his being a villager (for he cannot acquire any land), is perpetually doomed to be a worker living a monotonous life on the 'lines', eking out a bare subsistence wage; his sons and daughters fed on the meagre and discriminate elementary education, are by the very nature of the legislative hardship in Ceylon doomed to be workers and nothing more without ever getting an opportunity of mixing with the Ceylonese villagers nearby. They sing their songs but only songs full of human agonies and remembrance of those dreary days, which to say the least, never gave them respite or power of repugnance to fight the indecent laws in Ceylon.

The steps on which a joint conference of the representatives of two governments should concentrate ought to be directed towards devising ways and means to settle the Indian workers living in 'lines', on the land in villages on equal terms with the Ceylonese. There are stupendous difficulties—both fundamental and monetary—for the successful operation of such a scheme. There are lakhs of acres of arid land in the dry zone, which can be exploited by the joint efforts of the Government and the people. The Indians should take courage from their past achievements and give their heart and soul in turning the arid land into green fertile land as of yore and the Government should help them as did the Britishers in 1830s with capital and technical guidance. If the Government is serious in their profession of treating the Indians at par with the Ceylonese, they would only find the former readily reciprocating with the same warmth of affection and loyalty. None would blame the Ceylon Government, if they cannot allocate vast sums in the national budget for the exploitation of the swarmful jungles and other barren land. The author would not advise the Government to inundate the country with foreign capital, for economic dependence leads to political subjugation as is illustrated in the case of the East India Company, which initially had no territorial designs in India. The lesson of history cannot be easily forgotten. If the Ceylon Government is not ready to find the required capital, let each estate in Ceylon be imposed with a Development Tax for the establishment of co-operative societies which should be empowered to help the Indians in acquiring lands in villages and settle them in agricultural colonies. A separate optional fund to supplement the resources of the co-operative societies be established and every one is confident that our Chettiars and the Sindhi merchants will not belie the expectations of the average Indian and will contribute magnificently towards a deserving cause. A recent tendency among the rich Indians is not to identify themselves substantially with the aspirations of the Ceylonese. This is partly due to the tactlessness of the Ceylon Government in alienating the sympathies of Indians by harsh measures against them. It is earnestly hoped that after the redress of their grievances, Indians' apathy will disappear. After all the happiness of the Indians lies in their completely identifying themselves with the indigenous population. Let there be a free mixing and fraternisation of the Indian worker on estates with the Ceylonese villager on terms of equality as far as the settlement on land is concerned; by whatever name we may call it, whether coloniza-

tion or ruralization, there should be complete identity of interests for a complete fusion. The Indian worker if he is settled on the land and thus gets an opportunity to mix and rub his shoulders with the Ceylonese villager, who is himself unostentatious, meek and sympathetic, the allied subjects of getting a vote in the village committees etc., will naturally follow as the night the day and roughness with which the Indian worker is treated upto now will vanish like vapour.

Let a frank warning be given to the Ceylon Government. They should now gird up their loins and rise up from the deep slumber of the last decade. Their apathy and policy of 'apartheid' will not pay them rich dividends any longer. They should not take it for granted that the Indian question as it is today has been solved by enacting an Act here and an Act there. If the restlessness amongst Indians in Ceylon is any indication of their true feelings, the enactment of laws like the Indian and Pakistani Residents (Citizenship) Act have only complicated the matters. What has been the practical result? The Indian, who was single in Ceylon before the enactment of the law referred to above, has brought his wife and family through illegal immigration as revealed in Chapter V. The fraud in the manipulation of proving a temporary residence by changing postage stamps on envelopes at a station in Ceylon *i. e.* Talaimannar, has increased by leaps and bounds and is the Ceylon Government satisfied that a solution has been found by conferring an inferior status on Indians? Indians in Ceylon are an honest hard-working people; but desperate maladies require desperate remedies. Who would like them to be fifth columnists in the country of the Buddha? But human patience has limits as even expansive seas have limits. The suggestions as outlined above deserve a careful consideration by the Ceylon Government for there should be a searching of hearts on both sides; and a hope is cherished that the happiness of the Ceylonese race must be the happiness of a Sinhalese, Burgher, Ceylon Tamil, Moor, a person of Indian origin and every other important element in the national life of Ceylon.

If unfortunately things come to pass the other way, destiny may be blamed; but there should be no slackening of efforts at settlement. As it is, the Indian worker in Ceylon is helpless and sits on the horns of a dilemma. He cannot fulfil the qualifications of a Ceylonese citizenship law, which re-

quires that not only he but his father must have also been born in Ceylon. The Indian law of citizenship, on the other hand, requires a domicile in India while he has not known any home except the one in Ceylon. He is thus a stateless subject. In such a situation, there are only two possible alternatives left and the Indian Government has a great responsibility in the matter. They should come out with an unequivocal declaration that those Indians who do not register themselves by a certain date as citizens of India will have to be *ipso facto* cared for by the Ceylon Government. The Indian Government, if the Ceylon Government so wish, must exhaust all possible constitutional means to settle the points of differences, for that course redounds to the credit of responsible statesmen in both countries. Constitutionalism is an accepted creed in international affairs as has been vividly typified in the establishment of the U. N. O. and its allied agencies. If all possible avenues of settlement have been exhausted by both Governments and no honourable agreement is reached in regard to the status of Indian settlers in Ceylon, the Indian Government will be well advised to take the matter to the United Nations Organization under the Human Rights.

The world is strangely constituted to-day, but everywhere there is an awakening and consciousness of the rights an individual possesses as a human being—it is an era of the common man. Let a person be given stilton to eat but bind him in silken cords. These silken cords have implications of iron chains of slavery for him. You may grant him economic rights but a restraint on political rights is regarded as an invasion on fundamental rights. That invasion surely stifles the richness and stature of human personality. Ceylon! beware of it!

APPENDIX I

(Ref: Page 14 of this book)

(a) THUNDU

No.	Tin Ticket No.
Date	Estate
	Post Town

*On receipt of their debt
One month from date ,.....Kangany and
 coolies will be paid off from above estate. Thundu available for
 one month from date of issue.

The Kangany and coolies owe Rs.....which is
 the face value of this thundu. Details in accordance with the
 provisions of rule 20 will be furnished to Federated Estates on
 application.

Superintendent

*Erase that which does not apply.

(b) THUNDU

No.	Estate
	Date

On the.....day of.....191 , bearer
 kangany and.....coolies will be paid off from this estate on
 bringing Rs.....

This note holds good until the.....day of
 191 only, when it must be returned for renewal, if necessary.

Superintendent

Names			
Adults		Children	
Males	Females	Males	Females

APPENDIX II

(Ref : Page 83 of this book)

Provinces	No. of lots	Extent (acres)	Purchase amount £	Average rate for acre		
				£	sh.	d.
Western	1386	5205	16590	3	3	8 $\frac{3}{4}$
Central	233	12796	31661	2	9	5 $\frac{3}{4}$
Southern	915	2193	4062	1	17	5 $\frac{1}{4}$
Eastern	369	3118	4920	1	11	6 $\frac{1}{2}$
North-Western	187	1092	2222	2	0	8 $\frac{1}{4}$
Northern	239	820	1876	2	5	9

(Governor's Despatch No. 113 Misc. dated Kandy, August 3, 1872)
National Archives of Ceylon, Nuwara Eliya.

APPENDIX III

(Ref : Page 83 of this book)

Provinces	No. of lots	Extent (acres)	Purchase amount £	Average rate for acre		
				£	sh.	d.
Western	1081	4481	8693	1	18	9 $\frac{1}{4}$
Central	357	9358	42811	4	11	5 $\frac{3}{4}$
Southern	461	1014	5641	5	11	3
Eastern	966	2172	3415	1	11	5
North-Western	408	1648	2310	1	8	0 $\frac{1}{2}$
Northern	35	206	302	1	9	4

(Governor's Despatch No. 310 Misc. dated Colombo, October 13, 1873)
National Archives of Ceylon, Nuwara Eliya.

APPENDIX IV

Abstract of land sold and granted and otherwise disposed of to Europeans and Natives in 1881

EUROPEANS

NATIVES

P*	Lots	Extent			Amt. & Fees		Lots	Extent			Amt. & Fees	
		A.	R.	P.	Rs.	cts.		A.	R.	P.	Rs.	cts.
C	211	3143	2	13·50	59864	47	576	1628	3	33	23651	35
W	62	2777	3	36	36103	20	3844	10910	0	36	180353	81†
E	14	780	2	39	6623	30	174	1330	1	4	21160	50
S	37	349	0	23	4256	90	767	2526	3	30	50135	85
N	...	...	...	...	...	...	207	840	0	14	14409	97
N-W	18	165	3	26	2147	30	240	1855	2	29	23796	90
N-C	...	...	...	...	...	...	136	508	0	34	8554	10
Total	342	7217	1	17·50	108995	17	5944	19600	1	20	322062	48

† Including Chena

(Governor's Despatch No. 340 Misc. dated Colombo, August 12, 1882)

*Note :—P denotes Province
 C „ Central
 W „ Western
 E „ Eastern
 S „ Southern
 N „ Northern
 N-W „ North-Western
 N-C „ North-Central

BIBLIOGRAPHY

A—PRIMARY SOURCES

(a) *Unpublished*

- (i) Ceylon Governor's despatches to the Secretary of State for Colonies for the years 1829, 1830, 1831, 1833, 1834, 1835, 1836, 1838, 1840, 1841, 1842, 1843, 1845, 1846, 1847, 1848, 1849, 1858, 1867, 1871, 1872, 1873, 1874, 1877, 1879 and 1882. } (Ceylon Governmen Archives, Nuwara Eliya.)

- (ii) Despatches from the Secretary of State for Colonies to Governor :

Despatch	No.	67	dated	Aug. 7, 1847	,,
		83		Sept. 15, 1847	,,
		88		Oct. 30, 1858	,,
		101		March 23, 1866	,,
		138		June 17, 1871	,,
		38		Feb. 15, 1872	,,
		30		April 10, 1872	,,
		213		Oct. 1, 1872	,,
		77		April 13, 1877	,,
		156		July 6, 1877	,,

(iii) *Memorandums*

1. A Record of the proceedings in Public Session (together with statements and Memoranda submitted by individuals and Associations) of the Donoughmore Commission, 1928.
(Library of the House of Representatives, Parliament Buildings, Colombo.)
2. Memorandum submitted to Secretary of State for Colonies by Mr. I. X. Pereira (May 24, 1930).
3. Memorandum on the franchise and citizenship rights of Indians submitted to the Soulbury Commission on Constitutional Reforms by George R. Motha (February 28, 1945).
4. Memorandum submitted to Governing Body of the International Labour Organisation, Geneva by Mr. K. Rajalingham, M.P., and President, Ceylon Workers' Congress, Colombo (August 28, 1951).
5. Memorandum submitted to Mr. Dudley Senanayake, Prime Minister of Ceylon by Ceylon Indian Congress, Colombo (June 9, 1952 and July 16, 1952).

(iv) *Law Cases*

1. "Knavesmire" (Judgment and proceedings of the Supreme Court and Privy Council Judgment). Dates of Judgments: August 30, 1946 and July 26, 1950 respectively.

2. Citizenship Case, 1951 (Judgments and Proceedings of District Court and Supreme Court).

Dates of Judgments: July 2, 1951 and September 28, 1951 respectively.

3. Mohideen Abdul Cader Badruddeen } (Judgment of the Commissioner and judgment
versus } and proceedings of the
Commissioner for Registration, 1951 } Supreme Court and the judgment of the Privy Council.)

Dates of Judgments: July 7, 1950, May 18, 1951 and October 7, 1952 respectively.

(The copies of the above were either obtained from Ceylon Indian Congress, Colombo or the author obtained certified copies from the Courts concerned).

(v) *Miscellaneous*

The files (of the years 1948—September 1951) of the Indian Mercantile Chamber of Ceylon, Colombo in regard to their representation and memoranda submitted to Controller of Exchange, Minister of State, Secretary, Foreign Affairs Deptt. etc., concerning the varied current problems of the Ceylon Indians.

(b) *Published*

(i) *Sessional Papers*

- | | | | |
|-----|------------------------|------------|--|
| 1. | Ceylon Sessional Paper | XXXVI-1928 | Final Report of the Select Committee on Local Government. |
| 2. | „ | XXXIV-1929 | Despatches relating to the Ceylon Constitution. |
| 3. | „ | XVI-1930 | Reform of the Ceylon Constitution. |
| 4. | „ | II-1935 | Report of the Joint Sub-Committee of the Executive Committee of Home Affairs and Education on the Employment (Domestic Service) of Women and Children and the Control of Orphanages. |
| 5. | „ | XVII-1935 | Report of the Commission for revision of boundaries of electoral Districts. |
| 6. | „ | VII-1937 | Unemployment in Ceylon. |
| 7. | „ | III-1938 | Report of a Commission on Immigration into Ceylon. |
| 8. | „ | XIV-1938 | Report of the Select Committee on Election Law and Procedure. |
| 9. | „ | XV-1940 | Report of a Commission appointed to enquire into the shooting of Govindan at Mooloya Estate, Hewaleta. |
| 10. | „ | XVIII-1940 | Report of the Retirement Officer on the scheme for the retirement of non-Ceylonese daily-paid workers in Govt. employment. |
| 11. | „ | VII-1941 | Revision of Electoral Registers 1940. |

- | | | | |
|-----|------------------------|-------------|--|
| 12. | Ceylon Sessional Paper | VIII-1941 | Indo-Ceylon relations Exploratory Conference (The Indian version of the proceedings published by Manager of Publications, New Delhi, 1941). |
| 13. | „ | IX-1941 | Indo-Ceylon Relations Exploratory Conference (Proceedings of Meetings) |
| 14. | „ | X-1941 | Indo-Ceylon Relations Exploratory Conference (Statement received from the Government of India). |
| 15. | „ | XIV-1941 | Statement addressed by the Ministers to the Governor dated Feb. 28, 1941 and His Excellency's reply dated March 15, 1941, on the subject of the Governor's message to the State Council dated Feb. 11, 1941 on "undertakings given to the Govt. of India". |
| 16. | „ | X VIII-1941 | Indo-Ceylon Relations : (1) Report to the Board of Ministers of the Delegation appointed by the Board, (2) Joint report of the Delegations from India and Ceylon, Sept., 1941. |
| 17. | „ | IV-1942 | Revision of Electoral Registers 1941. |
| 18. | „ | XIII-1943 | Correspondence of the Board of Ministers with Secretary of State and the Governor 1941-1943. |
| 19. | „ | XVII-1943 | Reform of the Constitution. |
| 20. | „ | XIX-1943 | Report on Labour conditions in Ceylon (Major G.St.J. Orde Brown). |
| 21. | „ | XII-1944 | Reform of the Constitution. |
| 22. | „ | XIV-1944 | (1) Exploratory Memorandum dated Sept. 11, 1944, on the Constitutional Scheme formulated by the Ministers in accordance with His Majesty's Government's Declaration of May 26, 1943, and subsequently withdrawn; (2) The Constitutional Scheme referred to in (1) above. |
| 23. | „ | XXIII-1944 | Report of Rural Reconstruction in Ceylon. |
| 24. | „ | X-1945 | Report of the Colombo Municipal Council, General Election 1943. |
| 25. | „ | XIII-1946 | Report of the First Delimitation Commission. |
| 26. | „ | VII-1947 | Report of the Commission on Social Services. |
| 27. | „ | XXV-1947 | Annual Administration Report and review of the work and expenditure of the Urban Councils for 1946. |
| 28. | „ | III-1948 | The Constitution of Ceylon. |

29.	Ceylon Sessional Paper	XI-1948	Administration Report of the Commissioner of the Municipal Council of Colombo for 1946.
30.	„	XIII-1948	Correspondence relating to the Citizenship Status of Indian residents in Ceylon. (Indian version of the proceedings published by Manager of Publications, New Delhi, 1948.)
31.	„	XV-1950	Administration Report of the Mayor of Colombo for 1948.
32.	„	XIX-1950	Annual Administration Report and review of the work and expenditure of the Urban Councils for 1949.
33.	„	XV-1951	Report of the Committee set up to enquire into and report on the introduction of legislation to regulate terms and conditions of employment.
34.	„	XVIII-1951	Report of the Kandyan Peasantry Commission.
35.	„	XX-1951	Annual Administration Report and review of the work and administration of the Urban Councils 1950.

(ii) *Parliamentary*

Ceylon Hansard (State Council of Ceylon), Volumes 8-71.
 Ceylon Hansard (House of Representatives), Volumes 2-10.
 Ceylon Hansard (Senate), Volumes 2-5.
 Indian Legislative Assembly Debates—
 Volume I and II, 1916
 Volume II, 1922
 Volume IV, No. 13, 1941.

(iii) *Reports*

1. Report of the Committee on Emigration from India to the Crown Colonies and Protectorates (1910). (Sanderson Committee Report)
2. Report of Indian Labour Emigrating to Ceylon and Malaya by N. E. Marjoribanks and Hon'ble Khan Bahadur A. K. G. Ahmad Tambi Marakkayar. (Superintendent, Government Press, Madras, 1917.)
3. Reports of the Special Commission on Constitution (Reprint) 1928. (Donoughmore Commission Report)
4. Report of the Commission on Constitution Reform (Cmd. 6677). (Soulbury Commission Report 1945)
5. Reports of the Agent of the Government of India in Ceylon for the years 1926, 1927, 1928, 1929, 1930 and 1931 (Central Publication Branch, Calcutta.)
6. Reports of the Agent of the Government of India in Ceylon for the years 1932-1942. (Manager of Publications, Delhi.)

7. Annual Reports of the Representative and the Agent of the Government of India in Ceylon for the year 1943. (Printed by the Bhargava Bhushan Press, Banaras, 1944)
8. Annual Reports of the Representative and the Agent of Government of India in Ceylon for the years 1945-1948 (Manager of Publications, Delhi.)
9. Annual Report of the Indian Mercantile Chamber of Ceylon for the years 1948 and 1949. (Published by K. G. Rao and C. P. A. Nair, Hony. Secretaries, respectively.)
10. Report of the Managing Committee of the Indian Mercantile Chamber of Ceylon for the year ended December 31, 1950. (Published by the Chamber)

(iv) *Enactments*

1. Ordinance No. 13 of 1889, Estate Labour (India) Ordinance.
2. Tundu Prohibition Ordinance 1921 (Legislative Enactments of Ceylon, Chapter 113.)
3. Indian Emigration Act 1922.
4. The Ceylon (State Council Elections) Order-in-Council 1931, as amended by the Ceylon (State Council Elections) Amendment Orders in Council 1934 and 1935. (Government Record Office, Colombo, 1935)
5. The Land Development Ordinance No. 19 of 1935 (1938 revision), Chapter 320 (Government Publication Bureau, Colombo 1940.)
6. Legislative Enactment 1938, Chapter 246 (Ordinance of 1947 prohibiting Indians into Ceylon from entering into contract for services abroad.)
7. Regulations framed under the Land Development Ordinance (Ceylon subsidiary Legislation 1938), Chapter 320.
8. The Small Towns Sanitary Ordinance (1938 Revision), Chapter 197. (Government Record Office, Colombo.)
9. The Urban Councils Ordinance No. 61 of 1939 as amended by subsequent Legislation (1945 reprint) (Government Record Office, Colombo.)
10. Fisheries Ordinance No. 24 of 1940 (Govt. Record Office, Colombo.)
11. Omnibus Service Licensing Ordinance, No. 147 of 1942. (Government Record Office, Colombo.)
12. Rural Courts Ordinance, No. 12 of 1945 (Reprint of Village Tribunals Ordinance, No. 12 of 1945) (Government Publications Bureau, Colombo.)
13. Town Councils Ordinance No. 3 of 1946 (Government Publications Bureau, Colombo.)
14. The Village Communities Ordinance (Chapter 198) (1946 reprint) (Government Record Office, Colombo.)
15. Local Authorities Elections Ordinance No. 53 of 1946. (Government Record Office, Colombo.)
16. Municipal Council Ordinance No. 29 of 1947. (Government Record Office, Colombo.)
17. Crown Land Ordinance, No. 8 of 1947. (Government Record Office, Colombo.)

18. Citizenship Act No. 18 of 1948 (Govt Publications Bureau, Colombo.)
19. Immigrants and Emigrants Act, No. 20 of 1948. (Government Publications Bureau, Colombo.)
20. British Nationality Act 1948 (H. M. Stationery Office, London.)
21. Indian and Pakistani Residents (Citizenship) Act No. 3 of 1949. (Government Publications Bureau, Colombo.)
22. Indian and Pakistani Residents (Citizenship) (Amendment) Act No. 37 of 1950. (Government Publications Bureau, Colombo.)
23. Fisheries Amendment Act, No. 17 of 1950. (Government Publications Bureau, Colombo.)
24. The Canadian Citizenship Act 1950 (Department of Citizenship and Immigration, Ottawa.)
25. A Bill to amend the Village Communities Ordinance (June 20, 1951) (Government Publications Bureau, Colombo.)

(v) *Memoranda*

1. Memorandum on Indo-Ceylon Relations of the Ceylon Indian Congress Delegation in connection with the Exploratory Conference between the Governments of India and Ceylon, November 1941.
2. Memorandum of the Ceylon Indian Congress on the Joint Report of the Delegation from India and Ceylon, October 25, 1941.
3. Memorandum of the Ceylon Indian Congress to the Soulbury Commission on Constitutional Reforms for Ceylon, Jan. 1945.
4. Memorandum of the Indian Mercantile Chamber of Ceylon submitted to the Soulbury Commission on Constitutional Reforms, Jan. 1945.
5. Memorandum on the working of the Immigrants and Emigrants Act by the Indian Mercantile Chamber of Ceylon to Government of India, New Delhi, Dec. 20, 1949.
6. Memorandum on Exchange Control in Ceylon submitted by Indian Mercantile Chamber of Ceylon to Government of India, New Delhi, Dec. 20, 1949.

(vi) *Government Gazettes and Publications*

1. The Ceylon Govt. Gazette (Extraordinary) dated Sept. 26, 1946 (containing the Ceylon Parliamentary Elections Order-in-Council 1946.)
2. Ceylon Government Gazette No. 9936 of Jan. 7, 1949 (Citizenship Regulations 1948)
3. Ceylon Government Gazette No. 10004 of Aug. 5, 1949. (Indian and Pakistani Residents Citizenship Regulations 1949)
4. Ceylon Government Gazette No. 10039 of Oct. 28, 1949. (Immigration and Emigration Regulations 1949)
5. Supplement to the Ceylon Govt. Gazette containing the Port of Colombo (Administration) Act No. 10 of 1950.
6. Ceylon Labour Gazette Vol. II, No. 3, March 1951. (Ministry of Labour & Social Services, Colombo.)
7. Ceylon Year Books for the years 1948, 1949 and 1950.
8. Electoral lists of the years 1947, 1949 (only for Maskeliya) and 1950.

(vii) Miscellaneous

1. Papers relating to the Constitutional History of Ceylon 1908-1924. (Govt. Printer, Colombo, 1927.)
2. Evidence given by the Members of the State Council for Northern Constituencies before the Immigration Commissioner at Jaffna on Feb. 13, 1937. (M. D. Gunasena & Co., Printers, Colombo.)
3. Census of Ceylon 1946, Vol. I, Pt. I (General Report) by A. G. Ranasinha.
4. Census of Ceylon 1946, Vol. I, Pt. II—Statistical Digest, by A. G. Ranasinha.
5. Quarterly Bulletin of Statistics Vol. I, No. 1 and Vol. X, No. 17, Pt. 2.
6. A Six-Year Plan for Ceylon (Department of Information, Colombo.)
7. Presidential Addresses delivered at the Annual Sessions of the Ceylon Indian Congress in 1945, 1949 and 1950.
8. Kandy Municipal Council Budget for 1951 (sanctioned by the Municipal Council on Dec. 20, 1950.)
9. Election Manifestoes of the Lanka Samasamaj Party 1951 and Sri Lanka Freedom Party, 1951.

(viii) Journals etc.

1. International Aspects of Indian Emigration by Dr. Lanka Sundaram (Asiatic Review 1930).
2. Restriction of Indian Emigration into Ceylon by St. Nihal Singh. (Indian Review, Vol. XXXI, 1930)
3. Indian Labour in Ceylon by Dr. Lanka Sundaram (International Labour Review, Geneva, Vol. XXIII—1931)
4. The Ceylon Historical Journal Vol. I, No. 1, July 1951.
5. The Ceylon Economist, Vol. I, No. 4, June 1951. (Economic Research Association, Colombo.)

B—SECONDARY SOURCES

1. Alfred H. Kelley & Winfred A. Harbison : American Constitution (W. W. Norton & Co., New York.)
2. B. B. Dass Gupta : A Short Economic Survey of Ceylon (The Associated News Papers of Ceylon Ltd., Colombo.)
3. B. M. Sharma : The Indian Federation (The Upper India Publishing House Ltd., Lucknow.)
4. C. E.M. Joad : Introduction to Modern Political Theory (Oxford University Press)
5. Charles A. Beard : American Government and Politics (The Macmillan Co., New York, 1949)
6. Colvin R de Silva : Ceylon Under the British Occupation Vols. I and II. (The Colombo Apothecaries' Co., Ltd., Colombo.)

7. Dharam Yash Dev : Our Country Men Abroad (All-India Congress Committee) 1940
 8. Dicey : The Conflict of Laws (ed. by J.H.C. Morris) Sixth edition 1949.
 9. G. C. Mendis : The Early History of Ceylon. (Y. M. C. A. Publishing House, Calcutta.)
 10. H. M. Desai : India and Ceylon (Published (1939) by Author, 26, Church St., Fort, Colombo.)
 11. H. W. Codrington : A Short History of Ceylon (Macmillan & Co., London.)
 12. Ivor Jennings : The Constitution of Ceylon (II Edition) (Oxford University Press)
 13. Jawaharlal Nehru : The Discovery of India (Signet Press, Calcutta.)
 14. J. D'Oyly : A Sketch of the Constitution of the Kandyan Kingdom (Ceylon). (Government Printer, Colombo.)
 15. K. Natesa Aiyar : Indo-Ceylon Crisis. (Ganesh Press, Hatton, Ceylon)
 16. Lanka Sundaram : India in World Politics (Sultan Chand & Co., Delhi.)
 17. Lanka Sundaram : Indians Overseas (G. A. Natesan & Co., Madras.)
 18. M. Venkatarangaiya : Federalism in Government (Andhra University, Waltair)
 19. N. Gangulce : Indians in the Empire Overseas—A Survey (The New Indian Publishing House Ltd., London, 1947.)
 20. N. V. Sovani : Economic Relations of India with South-East Asia and the Far East. (Indian Council of World Affairs, New Delhi.)
 21. Pridham : Ceylon and its Dependencies, Vol. I.
 22. P.R. Ramchandra Rao : India & Ceylon (All-India Congress Committee)
 23. Ramond G. Gettell : History of Political Thought (George Allen & Unwin Ltd., London.)
 24. S. A. Waiz (Ed.) : Indians Abroad (II Edition) (The Imperial Indian Citizenship Association, Bombay.)
 25. S. A. Wickremasinghe : The Gal-oya Project and the Crisis of Agriculture (Peoples' Publishing House, Colombo 8.)
 26. W. B. Munro : The Governments of Europe (The Macmillan & Co.)
-

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ACTS

- The Indian & Pakistani Residents Citizenship Act, 56, 57, 73, 129, 132, 147-148, 152, 156, 162, 165-167, 171-173, 176, 205, 224, 225, 228
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