

## THE UNTOUCHABLES AND THE PAX BRITANNICA

[ The Manuscript consisting of 123 typed pages is a presentation of the case of Ambedkar during his stay for the Round Table Conferences in London according to his Marathi biographer Mr. C. B. Khairmode. The MS. is printed herein as it was found—ed. ]

\*[f1]of the American Continent the objective of his voyage was reach India. Even this voyage of Columbus neglect of the Depressed Classes by the British Government which did not admit them as members of the Armed Forces. The manuscript, of which the first page is missing, was prepared by Dr. was not a sudden venture. It was a part of a plan of exploration of a sea route to India which he had received its first impetus from Prince Henry of Portugal, who was greatly interested in it and who in his reign of 42 years (1418—1460) helped it in every possible way.

What was the necessity for this quest for a direct sea route from Europe to India which impelled the Portuguese, the Dutch, the French and the English to come out of their seclusion. The coming of the English to India was not an adventure of a singular race. It was a concerted effort and there was so much eagerness on the part of each European nation that within this concert there was a competition for reaching India first. Because the Portuguese came first it does not follow that the rest were idle or indifferent. The English and the Dutch were under the belief that there was a shorter route to India than that of the Cape of Good Hope and their delay in their coming to India was due to the fact that they were busy in finding out its possibilities. The French, though last to arrive, were second only to the Portuguese, their first voyage being to Sumatra in 1529.

What was the origin of this eagerness to reach the Indies? Why did the Portuguese, Spaniards, English, French and Dutch vie with one another in centuries of strenuous effort to find a sea route to India? The object was to obtain luxuries and particularly spices— chillies, cloves, nutings etc., which could be had only from India and the East.

This seems rather strange—that all this run should be for spices. But the fact is that spices did play a very important part in this expansion of Europe.

How much spices were used and appreciated by the European peoples in the fifteenth and sixteenth centuries can be, seen, from the following data collected by Prof. Cheyney [f2] :

"One of the chief luxuries of the Middle Ages was the edible spices. Wines and ale were constantly used spiced with various condiments. In Sir Thopa's forest grew *"notemuge to putte in ale "*.

" Froissart has the king's guests led to the" palace, where wine and spices were set before them ". The dowry of a Marseilles girl, in 1224, makes mention

of" mace, ginger, cardamom and galingale."

" When John Ball wished to draw a contrast between the lot of the lords and the peasants, he said, " They have wines, spices and fine bread, when we have only rye and the refuse of the straw,". When old Latiner was being bound to the stake he handed nutmegs to his friends as keepsakes.

"Pepper, the most common and at the same time the most valued of these spices, was frequently treated as a gift of payment instead of money. " Matilda de Chaucer is in the gift of the king, and her land is worth'8s. 2d., and I pound of pepper and I pound of cinnamon and I ounce of silk ", reads a chance record in an old English survey. The amount of these spices demanded and consumed was astonishing. Venetian galleys Genoese varricks, and other vessels of the Mediterranean brought many a cargo of them westward, and they were sold in fairs and markets every where. " Pepper-sack " was a derisive and yet not unappreciative epithet applied by German robber-barons to the merchants, who they plundered as they passed down the Rhine. For years the Venetians had a contract to buy from the Sultan of Egypt annually 420,000 pounds of pepper. One of the first vessels to make its way to India brought home 210,000 pounds. A fine of 200,000 pounds of pepper was imposed upon one petty prince of India by the Portuguese in 1520. In romances and chronicles, in cook-books, trades-lists, and customs-tariffs spices are mentioned with a frequency and consideration known in modern times."

Why were spices so necessary to the European peoples of those days? One answer is taste. " The monotonous diet, the coarse food, the unskillful cookery of mediaeval Europe had all their deficiencies covered by a charitable mantle of Oriental seasoning." [3] While it was a matter of taste for all it was a matter of necessity for the poor. The poor needed spices. In ancient times when food was scarce and the productivity of man in the absence of machinery was very low; man could not afford to waste or throw away food as being stale. Whatever was left over or was not necessary for immediate consumption had to be preserved. Spices are the best preservatives. It was because of this as also for reasons of taste that spices were in mediaeval Europe in such universal demand.

Another question is why was a direct sea route necessary for these European nations to reach India and to obtain spices. Before the European nations discovered the sea route to India via the Cape of Good Hope there were in existence three well established land routes by which these luxuries and spices used to reach Europe and known as the Northern, the Middle and the Southern routes.

The Northern route lay between the Far East and the West, extending from the inland provinces of China westward across the great desert of Gobi, south of the Celestial mountains to Lake Lop then passing through a series of ancient cities, Khotan, Yarkand, Kashgar, Samaro and Bokhara, till it finally reached the region of

the Caspian Sea. This main northern route was joined by others which crossed the passes of the Himalayas and the Hindookush, and brought into a United Stream, the products of India and China. A journey of eighty to a hundred days over desert, mountain, and steppes lay by this route between the Chinese wall and the Caspian. From still farther north in China a parallel road to this passed to the north of the desert and the mountains and by way of Lake Balkash, to the same ancient and populous land lying to the east of the Caspian Sea. Here the caravan routes again divided. Some led to the south-westward, where they united with the more central routes described above and eventually reached the Black Sea and the Mediterranean through Asia Minor and Syria. Others passed by land around the northern coast of the Caspian, or crossed it, reaching a further stage at Astrakhan. From Astrakhan the way led on by the Volga and on rivers, till its terminus was at last reached on the Black Sea at Tana near the mouth of the Don, or at Kaffa in the Crimea.

The Middle route lay through Mesopotamia and Syria to the Levant. Ships from India crept along the Asiatic shore to the Persian Gulf, and sold their costly freights in the marts of Chaldea or the lower Euphrates. A line of trading cities extending along its shores from Ormuz near the mouth of the gulf to Bassorah at its head served as ports of call for the vessels which carried this merchandise. Several of these coast cities were also termini of caravan routes entering them from eastward, forming a net-work which united the various provinces of Persia and reached through the passes of Afghanistan into northern India. From the head of the Persian Gulf one branch of this route went up the line of the Tigris to Bagdad. From this point goods were taken by caravan through Kurdistan to Tabriz, the great northern capital of Persia, and thence westward either to the Black Sea or to Layas on the Mediterranean. Another branch was followed by the trains of camels which made their way from Bassorah along the tracks through the desert which spread like fan to the westward, till they reached the Syrian cities of Aleppo, Antioch, and Damascus. They finally reached the Mediterranean coast at Laodicea, Tripoli, Beirut, or Jaffa, while some goods were carried even as far south as Alexandria.

The southern route was a sea route in all except its very latest stages. It lay through the Red Sea and brought the products of India and the Far East by sea to Egypt, whence they passed to Europe from the mouths of the Nile.

The land routes were devious and dangerous. They were insecure and transportation over them was difficult and expensive. Robbers plundered the merchants and Governments taxed them beyond measure. Of the two land routes the Northern was not a highway to the same extent as the middle one was. With its deadly camel journey of alternate shows and torrid wastes, rendered it available only for articles of small bulk. It never attained the importance of the Middle route. Even

this Middle or Indo-Syrian route was not always open. It was blocked twice. Once between 632—651 A. D. when the Saracen Arabs under the conquering impulse of Islam seized the countries of this Indo-Syrian route. For a second time it was blocked during the crusades in the 11th Century. The southern route which was for most part a sea route was equally unsafe. " The storms of the Indian Ocean and its adjacent waters were destructive to vast numbers of the frail vessels of the East ; piracy vied with storms in its destructiveness; and port dues were still higher than those of inland marts." <sup>[f4]</sup> But as Prof. Cheyney observed, " With all these impediments. Eastern products, nevertheless, arrived at the Mediterranean in considerable quantities " <sup>[f5]</sup> and were available to the European merchants.

When these land routes existed why did there arise the necessity for a sea route ? The answer is the Turkish and Mongol upheaval in further Asia which overthrew the Saracenic culture and ruined the trade with Europe. This upheaval was a new force. It first came into operation when about 1038 the selfwill Turks burst upon Persia. Two centuries later the Mongols poured over Asia under Chengizkhan. In 1258, the Mongols captured Bagdad. In 1403 Timur captured Syria. In 1453 Constantinople fell to the Turks. This upheaval of the Turks and the Mongols completely blocked the two land routes. The Southern route was the only route that was open for some time. But even that was blocked when Egypt was conquered by the Turks in 1516.

Two factors are responsible for bringing the European Nations to India. First spices. Second the blockade of the old overland Trade routes by the Turks and the Mongols. It is these factors which drove the European nations to search for a sea route to India and which they ultimately found. Having come to trade with the East Indies, these Europeans remained there to conquer it. That evidently resulted in a struggle for supremacy. The struggle between the English and the Portuguese and the Dutch on the other hand was for commercial supremacy. The theatre of the struggle between the English and the Portuguese was India and the Persian Gulf and ended in favour of the British in 1612, so far as India was concerned and in 1622 so far as the Persian Gulf was concerned. From 1622 India and the Persian Gulf lay open to England and the Portuguese ceased to be any menace to development of English trade and commerce. The theatre of the struggle between the English and the Dutch lay in Malaya Archipelego. It was decided against the English in 1823 by what is called the Mascaere of Amboyana whereby the English receded to India and left the Dutch to enjoy exclusively the trade with the Malaya Archipelego. The struggle between the English and the French was a mighty struggle. The theatre of this struggle was India proper. The object of this struggle was political sovereignty and not commerce. The French had established themselves in the South and the East. So far as Southern India is concerned the conflict began in 1744 and ended in 1760 at the battle of Wandiwash where the French were completely vanquished. So far as Eastern India is concerned the

struggle was a single battle in 1757 — the battle of Plassey in which French lost along with the Nawab whom they supported as against the English. With the elimination of the French, the English alone were left to be the rulers of India.

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But how was the conquest of India received by the people of India ?

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From a certain point of view the conquest of India by the British was an accident. As an accident it has come to be regarded as a part of destiny. In this sense Lord Curzon was justified when he said—

(Quotation not given in the MS.—ed.)

What have they done for the people of India ? This is too large a question. Many volumes having been written on it, is unnecessary for me to add to what has already been said. I am reducing the question to a narrow compass and ask what have the British done for the Untouchables? What did the British do when they became rulers to emancipate and elevate the Untouchables? There are many heads in relation to which this question may be raised. But I propose to it Public Service, Education and Social Reform.

What did the British Government do to secure to the Untouchables adequate representation in the Public Services of the Country?

I will take the Army first To understand and appreciate the fate that has befallen the Untouchables it is necessary to ask what is it that enabled the British to conquer India?

The conquest of India is an extraordinary event. And this is for two reasons.

The countries which were suddenly thrown open to the European nations at the end of the fifteenth century fall into three classes. Vasco Da Gama threw open countries in which for the most part thickly populated and which were governed by ancient, extensive and well organised states existed. In the second category fell countries discovered by Columbus in which the population was small and the state was of a very rudimentary character. The third category consisted of countries discovered by..... They were just empty areas with no population at all. India fell in the first of these three categories. This is one reason why the conquest of India must be said to be an extraordinary event.

The second reason why the conquest of India is an extraordinary event is the period during which this conquest has taken place. When was India conquered? India was conquered between 1757 and 1818.

In the year 1757 there was fought a battle between the forces of the East India Company and the Army of Siraj-ud-Daulah, the Nawab of Bengal. The British forces were victorious. It is known in history as the battle of Plassey and it is as a result of this battle that the British for the first time made territorial conquest in India. The last

battle which completed the territorial conquest was fought in 1818. It is known as the battle of Koregaon. This was the battle which destroyed the Maratha Empire and established in its place the British Empire in India. Thus the Conquest of India by the British took place during 1757 and 1818. What was the state of affairs in Europe during this very period and what was the position of the English people ? This period was one of great turmoil in Europe. It was a period of Napoleonic wars the last of which was fought in 1815 at Waterloo. In these wars England was no idle spectator. It was deeply involved in these wars. It was at the head of all the European States which had formed an alliance to crush Napoleon and the French Revolution. In this grim struggle the English nation wanted every penny, every man, every ship and every gun for its own safety. It could spare nothing for the East India Company which was operating in a theatre far removed from the home base. Not only could they spare nothing to help the East India Company but they actually borrowed men, money and ships from the East India Company to fight Napoleon in the European War thereat. The following data from Macpherson gives an idea as to how much the East India Company had to contribute to the English nation for the support of the wars in Europe.

It is during this period when the English people were wholly occupied in Europe in a deadly struggle with Napoleon and when they could not assist the East India Company in any way that India was conquered. It is this which makes the conquest such an extraordinary event. How did this extraordinary event become possible? What is the explanation?

Macaulay has given his explanation. He says :

(Quotation not given in the MS.)

Macaulay's explanation is the explanation which all Englishmen believe, like to believe. Being current for a long time it has got a hold upon the minds of the English people and all European and American people. Indeed an endeavour is made to inculcate this view upon the minds of the younger generation of English people. It is quite understandable. An important element in the make up of an imperial race is the superiority complex and Macaulay's view goes to foster it as nothing else can.

But is Macaulay's view right ? Do the facts of history support that view ? Professor Seely who has studied this subject in a more realistic way than Macaulay did say :

"In the early battles of the Company by which its power was decisively established, at the seige of Arcot, at Plassey, at Buxer, there seem almost always to have been more sepoy than Europeans on the side of the Company. And let us observe further that we do not hear of the sepoy as fighting ill, or of the English as bearing the whole brunt of the conflict. No one who has remarked the childish eagerness with which historians indulge their national vanity, will be surprised to find that our English writers in describing these battles seem unable to discern the sepoy. Read Macaulay's Essay on Clive; everywhere it is ' the

imperial people,' ' the mighty children of the sea,' ' none could resist Clive and his Englishmen.' But if once it is admitted that the sepoys always outnumbered the English, and that they kept pace with the English in efficiency as soldiers, the whole theory which attributes our successes to an immeasurable natural superiority in valour falls to the ground. In those battles in which our troops were to the enemy as one to ten, it will appear that if we may say that one Englishman showed himself equal to ten natives, we may also say that one sepoy did the same. It follows that, though no doubt there was a difference it was not so much a difference of race as a difference of discipline, of military science, and also no doubt in many cases on difference of leadership.

Observe that Mill's summary explanation of the conquest of India says nothing of any natural superiority on the part of the English.' The two important discoveries for conquering India were; 1st the weakness of the native armies against European discipline, 2ndly the facility of imparting that discipline to natives in the European service '. He adds ; ' Both discoveries were made by the French.'

And even if we should admit that the English fought better than the sepoys, and took more than their share in those achievements which both performed in common, it remains entirely incorrect to speak of the English nation as having conquered the nations of India. The nations of India have been conquered by an army of which on the average about a fifth part was English. But we do not only exaggerate our own share in the achievement; we at the same time entirely misconceive and misdescribe the achievement itself. From what race were the other four-fifths of the I Army drawn ? From the Natives of India themselves ! India can I hardly be said to have been conquered at all by foreigners; She has rather I conquered herself."<sup>[7]</sup>

This explanation of Prof. Seely is correct as far as it goes. But it is not going far enough. India was conquered by the British with the help of an Army composed of Indians. It is well for Indians as well as for the British not to overlook this fact. But who were these Indians who joined the army of their foreigners ? That question Prof. Seely did not raise. But it is a very pertinent question. Who were these people who joined the army of the East India Company and helped the British to conquer India ? The answer that I can give—and it is based on a good deal of study— is that the people who joined the Army of the East India Company were the Untouchables of India. The men who fought with Clive in the battle of Plassey were the Dusads, and the Dusads are Untouchables. The men who fought in the battle of Koregaon were the Mahars, and the Mahars are Untouchables. Thus in the first battle and the last battle it was the Untouchables who fought on the side of the British and helped them to conquer India. The truth of this was admitted by the Marquess of Tweeddale in his note to the Peel Commission which was appointed in 1859 to report on the

reOrganisation of the Indian Army. This is what he said — (Quotation not given in the MS.—ed.)

There are many who look upon this conduct of the Untouchables in joining the British as an act of gross treason. Treason or no treason, this act of the Untouchables was quite natural. History abounds with illustrations showing how one section of people in a Country have shown sympathy with an invader, in the hope that the new comer will release them from the oppressions of their countrymen. Let those who blame the Untouchables read the following manifesto issued by the English Labouring Classes in 17 (Left incomplete).

\*\*\*(Extracts not given in MS.—ed.)

Was the attitude of the Untouchables in any way singular ? After all, the tyranny under which the English Labourer lived was nothing as compared with the tyranny under which the Untouchables lived and if the English workmen had one ground to welcome a foreign invader the Untouchable had one hundred.

(Space left blank in the MS.—ed.)

Not only did the Untouchables enabled the British to conquer India, they enabled the British to retain. The Mutiny of 1857 was an attempt to destroy British Rule in India. It was an attempt to drive out the English and reconquer India. So far as the Army was concerned the Mutiny was headed by the Bengal Army. <sup>[f8]</sup> The Bombay Army and the Madras Army remained loyal and it was with their help that the Mutiny was suppressed. What was the composition of the Bombay Army and the Madras Army ? They were mostly drawn from the Untouchables, the Mahars in Bombay and the Pariahs in Madras. It is therefore true to say that the Untouchables not only helped the British to conquer India they helped them to retain India.

How have the British treated the Untouchables so far as service in the Army is concerned? Strange as it may appear, the answer is that the British Government has since about 1890 placed a ban on the recruitment of the Untouchables in the Indian Army. The result was that, those who had already been recruited remained. It is a great mercy that they were not disbanded. But in course of time they died or went on pension and ultimately by about 1910 completely disappeared from the Army. Nothing can be more ungrateful than this exclusion of the Untouchables from the Army.

Why did the British commit an act which appears to be an act of treachery and bad faith? No reason has ever been given by the British Government for this ban on the recruitment of the Untouchables into the Army. It is often heard that this exclusion is not intentional but is the consequence of a policy initiated in the interest of the efficiency of the Army in about the year 1890. But is this so?

This policy is based on two principles, one relating to Organisation and the other relating to recruiting.

The principle of Organisation that was introduced in 1890 is known as the principle



of class composition as against the old principle of a mixed regiment. Under the new principle, the Indian Army was organized on the principle of class regiment or the class squadron or company system. This means, in the first case, that the whole regiment is composed of one class (or caste) and in the second case, that every squadron or company is formed entirely of one class. The old principle of recruiting was to take the best men available, no matter what his race or religion was. Under the new principle, race of the man became a more important factor than his physique or his intellect. For the purposes of recruitment, the different castes and communities of India are divided into categories, those belonging to the martial races and those belonging to the non-martial races. The non-martial races are excluded from military service. Only the castes and communities which are included in the category of martial races are drawn upon for feeding the Army.

It is difficult to approve of these two principles. The reasons which underlie the principle of class composition it is said, " are to a certain extent political, as tending to prevent any such formidable coalition" against the British, as occurred in the Mutiny. I should have thought that the old system of a mixed regiment was safer. <sup>[9]</sup> But assuming that the principle is sound, why should it come in the way of the recruitment of the untouchables? If, under the system of class composition, there can be regiments of Sikhs, Dogras, Gurkhas, Rajputs etc., why can there not be regiment of Untouchables? Again, assuming that recruitment from martial races only is in sound principle, why should it affect adversely (to) the untouchables unless they are to be treated as belonging to the non-martial races? And what justification is there for classing the untouchables who formed the backbone of the Indian Army and who were the mainstay of the Indian fighting forces for over 150 years as non-martial? That the British Government does not deem the Untouchables as belonging to non-martial classes is proved by the fact, that in the Great War, when more men were necessary for the Army, this ban on the recruitment of the Untouchables in the Army was lifted and one full battalion was raised and was known as the 111 Mahars. Its efficiency has been testified by no less a person than that (. . .). <sup>[10]</sup> When the need was over and the Battalion was disbanded much to the chagrin and resentment of the Untouchables. Sir \_\_\_\_\_ said:

(Quotation not given in the MS.—ed.)

With this testimony who can say that the Untouchables are anon-martial race ?

It is thus obvious that none of the two reasons supposed to be responsible for the exclusion of the Untouchables from the Army. What is then the real reason ? In my opinion, the real reason for the exclusion of Untouchables from the Army is their Untouchability. Untouchables were welcome in the Army so long as their entry did not create a problem. It was no problem in the early part of the British history, because the touchable were out of British Army. They continued to be outside the British Army so long as there were Indian Rulers. When, after the Indian Mutiny, the

Race of Indian rulers shriveled, the Hindus began to enter the British Army which was already filled with the Untouchables; then arose a problem— a problem of adjusting the relative position of the two groups—touchables and untouchables—and the "British, who always, in cases of conflict between justice and convenience, prefer convenience, solved the problem by just turning out the Untouchables and without allowing any sense of gratitude to come in their way.

Whatever the reasons of this' exclusion, whatever the justice of this exclusion, the fact remains that the effect of this exclusion has proved most disastrous in its social consequences to the life of the Untouchables. The Military Service was the only service in which it was possible for the Untouchables to earn a living and also to have a career. It is a part of history that many untouchables had done meritorious service in the field and hundreds had risen to the status of Jamadar, Subhedar and Subhedar Majors. The Military occupation had given them respectability in the eyes of the Hindus and had given them a sense of importance, by opening to them places of power, prestige and authority. Having been used to service in the Army for over 150 years, the Untouchables had come to regard it as a hereditary occupation and had not cared to qualify themselves for any other. Here in 1890 — they were told that they were not wanted in the Army, without giving them any time to adjust themselves to the new circumstances — as was done in the case of the Anglo-Indians in 1935. When this service was closed, the Untouchables received a stunning blow and setback from which they have not recovered. They were thrown from a precipice and without exaggeration, fell far below the level at which they had stood under the native Governments.

So much for the entry of the Untouchables in the Military service. What is the position with regard to their entry in the civil service?

The Civil Service requires a high degree of education from the entrant. Only those with University degrees can hope to secure admission. The Untouchables have been the most uneducated part of India's population. The Civil Service has been virtually closed to them. It is only recently, that there have been among them men, who have taken University degrees. What has been their fate? It is no exaggeration to say that they are begging from door to door. Two things have come in the way of their securing an entry in the Civil Services. Firstly, the British Government refused to give them any preference. Not that the British Government did not recognize the principle of giving preference to communities, which were not sufficiently represented in the Civil Services. For instance, the British Government has definitely recognized that the Mahomedans should get preference provided he has minimum qualification. That, this principle has been acted upon in their case, is evident from the nominations, which the Government of India has made to the I. C. S. since the year when the Government took over power to fill certain places in the I. C. S. by nomination.

Not a single candidate from the untouchables has been nominated by the British Government, although there were many, who called, have satisfied the test of minimum qualification.

The second reason, why the untouchables, though qualified by education, have not been able to find a place in the Civil Service is, because of the system of recruitment for these services, Under the British Government, the authority to fill vacancies is left with the head of the department. Heads of Department have been and will long continue to be high Caste Hindus. A caste Hindu by his very make up is incapable of showing any consideration to an untouchable candidate. He is a man (with [\[f11\]](#) strong sympathies and strong antipathies. His sympathies make him look first to his family, then to his relations, then to his friends and then to members of his caste. Within this wide circle, he is sure to find a candidate for the vacancy. [\[f12\]](#)It is very seldom that he is required to travel beyond the limits of his caste. If he has to, then the Untouchable will have, only if there is no other touchable Hindu to compete with them. If there is a competitor from any of the touchable caste, the Untouchable will have no chance. Thus the Untouchable is always the last to be considered in the matter of appointments to the Civil Service. Being the last to be considered, his chances of securing a post are the least.

There are two services for which the Untouchable is particularly suited. One is the Police Service and the other is menial service in Government Offices. What is the position of the Untouchables so far as police service is concerned?

The answer is that the Police Service is closed to them.

On the 17th December 1925, a resolution was moved in the Legislative Council of the United Provinces, asking Government to remove all restrictions on the entry of the Untouchables in Government service and especially the Police Service, the Member of Government in charge of the Department, speaking on behalf of Government said:

" No, if the Honourable members wish to leave it open to all, I have no objection. But I will certainly object to any member of a criminal tribe or a low caste man like a chamar in this force at present. "

On 22nd July 1927, Lala Mohan Lal asked the following question in the Punjab Legislative Council :

**Lala Mohan Lal** : Will the Hon'ble Member for Finance be pleased to state if members of the depressed classes are taken in the police ? If not, does the Government intend to direct that, in the matter of recruitment of police constables, the members of the depressed classes should also be taken?

**The Hon'ble Sir Geoffrey de Montmorency**: Members of the depressed classes are not enrolled in the police. When there is evidence that the depressed classes are treated on an equal footing by all sections of the

community, (which may not happen till dooms day) or when Government is satisfied that enrolment of members of these classes will satisfy the requirements of efficiency and be in the best interests of the composition of the service. Government will be quite prepared to throw open recruitment to them, provided they come up to the physical and other standards required of all recruits.

The Committee appointed by the Government of Bombay in 1928 reported as follows on this questions:

(Quotation not given in the MS.)

As to menial service, that also has been closed to them. Few will believe it, nonetheless it is a fact and few will be able to guess the reason, though it is quite plain. The reason why the untouchable is excluded from menial service is the same for which he is excluded from the Police Service. It is Untouchability. As part of his duty, a constable has to arrest a person. As a part of his duty, a constable has to enter the house of a person, for instance, to execute a search warrant. What would happen if the person arrested is a Hindu and the constable is an Untouchable ? Police constables have to live in lines as neighbours, use the water taps. What would be the reactions of a Hindu constable if his neighbour is an Untouchable constable? These are the considerations which have barred the entry of the Untouchable in the Police Service. Exactly the same consideration have been operative in the case of menial service. A menial in Government office is, in law, required to serve in the office. But his service brings him in contact with others who are Hindus. His contact causes pollution. How could he be welcome. Besides, according to convention, a peon in office is supposed to serve the head of the Department and also his household. He has to bring tea for the boss, he has to do shopping for the wife of the boss, and he has to look after the children. The Head of the Department has to forego these services if the menial appointments went to the Untouchables. Rather than forego these services, the Untouchable was deprived of his right to serve. So complete was this exclusion that the Bombay Committee had to make a special recommendation in this behalf.

### III

What did the British Government do about the education of the Untouchables? I will take the Presidency of Bombay by way of an illustration. The period of British administration, so far as Education is concerned, can be divided into three convenient periods.

#### I - From 1813 to 1854

1. Education under the British Rule in the Bombay Presidency must be said to have begun with the foundation of the Bombay Education Society in 1815. That Society did not confine its efforts to the education of European children. Native boys

were encouraged to attend its schools at Surat and Thana and at the beginning of 1820, four separate schools for natives had been opened in Bombay and were attended by nearly 250 pupils. In August of the same year, further measures were taken to extend native education. A special committee was appointed by the Society to prepare school books in the Vernacular languages, and to aid or establish Vernacular schools. But the wide scope of the undertaking was soon seen to be beyond the aims of a society established mainly for the education of the poor; and in 1822, the committee became a separate corporation, thenceforth known as the Bombay Native School Book and School Society, which name was in 1827 changed into the Bombay Native Education Society. The Honourable Mountstuart Elphinstone was the new Society's first President. The Vice-Presidents were the Chief Justice and the three members of the Executive Council of the Bombay Government; and the managing committee consisted of twelve European and twelve native gentlemen, with Captain George Jervis R. E., and Mr. Sadashiv Kashinath Chhatre as Secretaries. The Society started its work with a grant of Rs. 600 per mensem from the Government. As early as 1825, the Government of Bombay had along side, began to establish primary schools at its own expense in district towns and had placed them under the control of the Collectors. To co-ordinate the activities of these two independent bodies, there was established in 1840 a Board of Education composed of six members, 3 appointed by Government and 3 appointed by the Native Education Society. This Board was in charge of the Education Department till the appointment of the Director of Public Instruction in 1855.

2. On the 1st March 1855, when the Board was dissolved, there was in the Presidency of Bombay under the charge of the Board, 15 English Colleges and Schools having 2850 students on the Register and 256 vernacular schools having 18,883 students on the Register. In the same report it is stated by the Board:

"24. In August (1855) we received a petition from certain inhabitants of Ahmednagar, praying for the establishment of *a school for the education of low castes* and engaging to defray one-half of the teacher's salary, in accordance with the terms of the late rules. A school room had been built by the petitioners and the attendance of boys was calculated at thirty. The establishment of such a school was opposed to the prejudice of the richer and higher castes, and there was some difficulty in procuring a teacher on a moderate salary, but as the application was made in strict accordance with the conditions stated in the late notification on the subject, we readily complied with the request, and the school was opened in November. We merely mention the subject, as it is the first occasion on which we have established a school for these castes".

3. The statement by the Board, that this was the first occasion when a school for the low castes was established in this Presidency, naturally raises the question what was the policy of the British Government in the matter of the education of the

Depressed Classes before 1855 ? To answer this question, it is necessary to have a peep into the history of the educational policy of the British Government in this Presidency from 1813 to 1854. It must be admitted that under the Peshwa's Government the Depressed classes were entirely out of the pale of education. They did not find a place in any idea of state education, for the simple reason that the Peshwa's Government was a theocracy based upon the canons of Manu, according to which the Shudras and Atishudras (classes corresponding to the Backward classes of the Education department), if they had any right of life, liberty and property, had certainly no right to education. The Depressed classes who were labouring under such disabilities, naturally breathed a sigh of relief at the downfall of this hated theocracy. Great hopes were raised among the Depressed classes by the advent of the British Rule. Firstly, because, it was a democracy which, they thought, believed in the principle of one man (one)\* value, be that man high or low. If it remained true to its tenets, such a democracy was a complete contrast to the theocracy of the Peshwa. Secondly, the Depressed classes had helped the British to conquer the country and naturally believed that the British would in their turn help them, if not in a special degree, at least equally with the rest.

4. The British were for a long time silent on the question of promoting education among the native population. Although individuals of high official rank in the administration of India were not altogether oblivious of the moral duty and administrative necessity of spreading knowledge among the people of India, no public declaration of the responsibility of the State in that behalf was made till the year 1813, when by section 43 of the Statute 53 George IV chap. 155 Parliament laid down that " out of the surplus revenues of India, a sum of not less than one lakh of rupees in each year shall be set apart and applied to the revival and improvement of literature and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of sciences among the inhabitants of British territories in India etc. " This statutory provision, however, did not result in any systematic effort, to place the education of the natives upon a firm and organised footing till 1823. For, the Court of Directors in their despatch dated 3rd June 1814 to the Governor General in Council, in prescribing the mode of giving effect to section 43 of the statute of 1813, directed that the promotion of Sanskrit learning among the Hindus would fulfill the purposes which Parliament had in mind. But what a disappointment to the Depressed classes, there was, when systematic efforts to place the education of the natives upon a firm and organized footing came to be made! ! For, the British Government deliberately ruled that education was to be a preserve for the higher classes. Lest this fact should be regarded as a fiction, attention is invited to the following extracts from the Report of the Board of Education of the Bombay Presidency for the year 1850-51 —

" **Paragraph 5th.— System adopted by the Board based on the views of**

**Court of Directors.**— Thus the Board of Education at this Presidency having laid down a scheme of education, in accordance with the leading injunctions of Despatches from the Honourable Court, and founded not more on the opinions of men who had been attentively considering the progress of education in India such as the Earl of Auckland, Major Candy and others, than on the openly declared wants of the most intelligent of the natives themselves, the Board, we repeat, were informed by your Lordships predecessor in Council that the process must be reversed. "

" **Paragraph 8.— Views of Court on the expediency of educating the upper classes.**— Equally wise, if we may be permitted, to use the expression, do the indications of the Hon. Court appear to us to be as to the quarters to which Government education should be directed, and specially with the very limited funds which are available for this branch of expenditure. The Hon. Court write to Madras in 1830 as follows: " The improvements in education, however, which most effectively contribute to elevate the moral and intellectual condition of a people, are those which concern the education of the higher classes—of the persons possessing leisure and natural influence over the minds of their countrymen. By raising the standard of instruction amongst these classes, you would eventually produce a much greater and more beneficial change in the ideas and the feelings of the community than you can hope to produce by acting directly on the more numerous class. *You* are, moreover, acquainted with our anxious desire to have at our disposal a body of natives qualified by their habits and acquirements to take a larger share and occupy higher situations, in the civil administration of their country than has been hitherto the practice under our Indian Government; ' Never-the-less, we hear on so many sides, even from those who ought to know better of the necessity and facility for educating the masses for diffusing the arts and sciences of Europe amongst the hundred or the hundred and forty millions (for numbers count for next to nothing) in India, and other like generalities indicating cloudy notions on the subject, that a bystander might almost be tempted to suppose the whole resources of the State were at the command of Educational Boards, instead of a modest pittance inferior in amount to sums devoted to a single establishment in England.

" **Paragraph 9.— Retrospect of principal Educational facts during the last ten years necessary.**— The arguments adduced in the few last paragraphs appear to show that a careful examination of the real facts, and an analysis of the principal phenomena which have displayed themselves in the course of educational proceedings in the Presidency, would not be without their uses, if made with sufficient industry and impartiality to ensure confidence, and with a firm determination to steer clear of bootless controversy and all

speculative inquiries. The present epoch, also, appears especially to commend itself for such a retrospect, as in 1850 the second decennial period commenced, during which the Schools of the Presidency have come under exclusive control of a Government Board; and it is obvious that as a considerable body of information ought now to have been accumulated, and as the majority of the present members have had seats at the Board during the greater portion of that time, they would fain hope that by recording their experience, they may shed some light on certain obscure but highly interesting questions, which are certain to arise from time to time before their successors at this Board.

" **Paragraph 10.— A uniform system developing itself spontaneously both in Bengal and Bombay.**— We now proceed to give as minute a detail as comports with our limits, of the principal educational facts which have forced themselves upon our notice, and we think it will clearly appear, when those facts are duly appreciated, that many of the disputed questions, which arise in the Indian field of education, will be seen to solve themselves and that a system is generally evolving itself in other Presidencies as well as in Bombay, which is well suited to the circumstances of the country, and which, as the growth of spontaneous development, denotes that general causes are at work to call it forth.

" **Paragraph II— Statistics of education in Bombay**— In the return on the following page, a comparative view is given of the number of schools and of pupils receiving education under Government at the period when the Establishments first came under the control of the Board, in 1840 and in April 1850. It shows, in the latter period, an addition of four English and 83 vernacular schools and a general increase in pupils of above a hundred per cent. The total number receiving Government education at present is 12,712 in the following proportion :—

English Education	..	..	..	1,699
Vernacular Education	..	..	..	10,730
Sanskrit Education	..	..	..	283

(comparison from tables: in 1840 there were 97 schools, number of pupils 5,491 ; number of schools 185 and number of pupils 12,712).

" **Paragraph 12.— Same Subject.**— But the population of the Bombay Presidency is now calculated by the most competent authorities to amount to ten millions. Now on applying the rule of statistics deduced from the Prussian census as noticed in a former Report (1842-43 page 26) a population of this amount will be found to contain no fewer than 900,000 male children between the ages of seven and fourteen years and of course, fit subjects for school. It follows, therefore, that Government at this Presidency has not been able to



afford an opportunity for obtaining education to more than one out of every sixty-nine boys of the proper school going age.

" **Paragraph 13.— Same Subject.**— Further, it is admitted that education afforded in the Vernacular School is far from efficient. A great portion of the strictures of Mr. Willoughby's Minute is directed against the defective character and insignificant results of these schools. The Board, not only acknowledge this fact, but they have been studious to point it out prominently for many years past, and indeed, in the opinion of some competent observers, have drawn too unfavourable a picture of the vernacular schools. But what are the obvious remedies for the defects indicated? Mr. Willoughby describes them very correctly: — " a superior class of school masters, normal schools, more efficient supervision, additions to the vernacular literature. " These are all subjects however, which have occupied the attention of the Board for many years past, and as to which not a step can be made in advance without additional expenditure. But we are given to understand from the letter of your Lordship in council that " it is not probable that the Government will have the power, for a considerable time to come, to afford the Board additional pecuniary assistance. "

" **Paragraph 14.—Conclusion that no means exist-for educating the masses :** It results most clearly from these facts that if sufficient funds are not available to put 175 Vernacular schools into a due state of organisation, and to give a sound elementary education to 10,730 boys, all question as to educating " the masses " the " hundred and forty millions "the 900,000 boys in the Bombay Presidency disappears. The object is not one that can be attained or approximated to by Government; and Educational Boards ought not to allow themselves to be distracted from a more limited practical field of benevolence.

" **Paragraph 15.— Views of Court of Directors as to the best method of operation with limited means.**— The Hon 'ble Court appear to have always kept the conclusion which has been arrived at in the last paragraph very distinctly in view. Perceiving that their educational efforts to improve the people could only be attempted on a very small scale, they have deemed it necessary to point out to their different Governments the true method of producing the greatest results with limited means. We have already cited their injunctions to the Madras Government on this head, (Para 7) and their despatch to the Government on the same date enforce sentiment of exactly the same import:— " It is our anxious desire to afford to the higher classes of the Natives of India the means of instruction in European sciences and of access to the literature of civilised Europe. The character which may be given to the classes possessed of leisure and natural influence ultimately determines that of the whole people. "

" **Paragraph 16.— Inquiry as to upper classes of India.**— It being then

demonstrated that only a small section of the population can be brought under the influence of Government education in India, and the Hon'ble Court having in effect decided that this section should consist of the " upper classes " it is essential to ascertain who these latter consist of.—Here it is absolutely necessary for the European inquirer to divest his mind of European analogies which so often insinuate themselves almost involuntarily into Anglo-Indian speculations. Circumstances in Europe, especially in England have drawn a marked line, perceptible in manners, wealth, political and social influence, between the upper and lower classes. No such line is to be found in India, where, as under all despotisms the will of the Prince was all that was requisite to raise men from the humblest condition in life to the highest station, and where consequently great uniformity in manners has always prevailed.

A beggar, according to English notions, is fit only for the stocks or compulsory labour in the workhouse; in India he is a respectable character and worthy indeed of veneration according to the Brahminical theory, which considers him as one who has renounced all the pleasures and temptations of life for the cultivation of learning and undisturbed meditation of the Deity.

" **Paragraph 17.— Upper classes in India.**— The classes who may be deemed to be influential and in so far the upper classes in India may be ranked as follows:—

*1 st.*— The landowners and Jaghirdars, representatives of the former feudatories and persons in authorities under Native powers and who may be termed the Soldier class.

*2nd.*— Those who have acquired wealth in trade or commerce or the commercial class.

*3rd.*— The higher employees of Government.

*4th*—*Brahmins*, with whom may be associated, though at long interval, those of higher castes of writers who live by the pen such as Parbhus and Shenvis in Bombay, Kayasthas in Bengal provided they acquire a position either in learning or station.

" **Paragraph 18.— Brahmins, the most influential.**— Of these four classes, incomparably the most influential, the most numerous, and on the whole easiest to be worked on by the Government, are the latter. It is a well-recognized fact throughout India that the ancient Jaghirdars or Soldier class are daily deteriorating under our rule. Their old occupation is gone, and they have shown no disposition or capacity to adopt new one, or to cultivate the art of peace. In the Presidency, the attempts of Mr. Elphinstone and his successors to bolster up a landed aristocracy have lamentably failed ; and complete discomfiture has hitherto attended all endeavours to open up a path to

distinction through civil honours and education, to a race to whom nothing appears to excite but vain pomp and extravagance, of the reminiscences of their ancestors' successful raids in the plains of Hindusthan'. Nor among commercial classes, with a few exceptions, is there much greater opening for the influences of superior education. As in all countries, but more in India than in the higher civilized ones of Europe, the young merchant or trader must quit his school at an early period in order to obtain the special education needful for his vocation in the market or the counting house. Lastly, the employees of the State, though they possess a great influence over the large numbers, who come in contact with Government, have no influence, whatever, with the still larger numbers who are independent of Government; and, indeed, they appear to inspire the same sort of distrust with the public as Government functionaries in England, who are often considered by the vulgar as mere hacks of the State.

" **Pharagraph 19.— Poverty of Brahmins.**— The above analysis, though it may appear lengthy, is nevertheless, indispensable, for certain important conclusions deducible from it. First, it demonstrates that the influential class, whom the Government are able to avail themselves of in diffusing the seeds of education, are the Brahmins and other high castes Brahmins proxmi. But the Brahmins and these high castes are, for the most part, wretchedly poor; and in many parts of India, the term Brahmin is synonymous with " beggar. "

" **Paragraph 20.— Wealthy classes will not at present support superior education.**— We may see, then, how hopeless it is to enforce what your Lordship in council so strongly enjoined upon us in your letter of the 24th April 1850— what appears, *prima fade*, so plausible and proper in itself — what in fact, the Board themselves have very often attempted, *viz*, the strict limitation of superior education " to the wealthy, who can afford to pay for it, and to youths of unusual intelligence. " The invariable answer the Board has received, when attempting to enforce a view like this, has been, that the wealthy are wholly indifferent to superior education and that no means for ascertaining unusual intelligence amongst the poor exist, until their faculties have been tested and developed by school training. A small section, from among the wealthier classes, is no doubt displaying itself, by whom the advantages of superior education are recognized, it appears larger in Bengal, where education has been longer fostered by Government, than in Bombay, and we think it inevitable that such class must increase, with the experience that superior attainments lead to distinction, and to close intercourse with Europeans on the footing of social equality; but as a general proposition at the present moment, we are satisfied that the academic instruction in the arts and sciences of Europe cannot be based on the contributions, either of students or of funds, from the opulent classes of India.

" **Paragraph 21.— Question as to educating low castes.**— The practical conclusion to be drawn from these facts which years of experience have forced upon our notice, is that a very wide door should be opened to the children of the poor higher castes, who are willing to receive education at our hands. But here, again, another embarrassing question arises, which it is right to notice: If the children of the poor are admitted freely to Government Institutions, what is there to prevent all the despised castes—the Dheds, Mahars etc., from flocking in numbers to their walls ?

"**Paragraph 22.— Social Prejudice of the Hindus.**— There is a little doubt, that if a class of these latter were to be formed in Bombay, they might be trained, under the guiding influence of such Professors and masters as are in the service of the Board, into men of superior intelligence to any in the community ; and with such qualifications, as they would then possess, there would be nothing to prevent their aspiring to the highest offices open to Native talent—to Judgeship the Grand Jury, Her Majesty's Commission of the Peace. Many benevolent men think, it is the height of illiberality and weakness in the British Government, to succumb to the prejudices, which such appointments would excite into disgust amongst the Hindu community, and that an open attack should be made upon the barriers of caste.

"**Paragraph 23.—Wise observations of the Hon. Mount Stuart Elphinstone cited.**— But here the wise reflections of Mr. Elphinstone, the most liberal and large minded administrator, who has appeared on this side of India, point out the true rule of action. " It is observed " he says, " that the missionaries find the lowest castes the best pupils; but we must be careful how we offer any special encouragement to men of that description; they are not only the most despised, but among the least numerous of the great divisions of society, and it is to be feared that if our system of education first took root among them it would never spread further, and we might find ourselves at the head of a new class, superior to the rest in useful knowledge, but hated and despised by the castes to whom these new attainment would be desirable, if we were contented to rest our power on our army or on the attachment of a part of the population but is inconsistent with every attempt to found it on a more extended basis. "

5. It is, therefore obvious, that if no schools were opened for Depressed classes before 1855 in the Bombay Presidency, it was because the deliberate policy of the British Government was to restrict the benefits of education to the poor higher castes, chiefly the Brahmins. Whether this policy was right or wrong is another matter. The fact, however, is that during this period the Depressed classes were not allowed by Government to share in the blessings of education.

## II.—From 1854 to 1882

6. In their Despatch No. 49 of 19th July 1854, the Court of Directors observed: —

" Our attention should now be directed to a consideration, if possible, still more important, and one which has hitherto, we are bound to admit, too much neglected, namely, how useful and practical, knowledge suited to every station in life, may be best conveyed to the great mass of the people who are utterly incapable of obtaining any education worthy of the name by their own efforts; and we desire to see the active measures of Government more especially directed, for the future, to this object, for the attainment of which, we are ready to sanction a considerable increase of expenditure. "

This despatch is very rightly regarded as having laid the foundation of mass education in this country. The results of this policy were first examined by the Hunter Commission on Indian Education in 1882. The following figures show what was achieved during the period of 28 years.

### PRIMARY EDUCATION 1881-82

	No. of scholars at School	Per cent on total
<b>Christians</b>	1,521	.49
<b>Brahmins</b>	63,071	20.17
<b>Other Hindus</b>	202,345	64.69
<b>Mohammedans</b>	39,231	12.54
<b>Parsis</b>	3,517	1.12
<b>Aboriginal and Hill Tribes</b>	2,713	.87
<b>Low Caste Hindus</b>	2,862	.87
<b>Jews and Others</b>	373	.12

### SECONDARY EDUCATION 1881-82

	Middle Schools		High Schools	
	No. of scholars at School	Per cent on total	No. of scholars at School	Per cent on total
<b>Christians</b>	1,429	12.06	111	2.26

<b>Brahmins</b>		<b>3,639</b>	<b>30.70</b>	<b>1,978</b>	<b>40.29</b>
<b>Other Hindus</b>	<b>Cultivators</b>	<b>624</b>	<b>5.26</b>	<b>140</b>	<b>2.85</b>
	<b>Low Castes</b>	<b>17</b>	<b>.14</b>	<b>---</b>	<b>---</b>
	<b>Other Castes</b>	<b>3,823</b>	<b>32.25</b>	<b>1,573</b>	<b>32.04</b>
<b>Mohammedans</b>		<b>687</b>	<b>5.80</b>	<b>100</b>	<b>2.04</b>
<b>Parsis</b>		<b>1,526</b>	<b>12.87</b>	<b>965</b>	<b>19.66</b>
<b>Aboriginal and Hill Tribes</b>		<b>6</b>	<b>.05</b>	<b>---</b>	<b>---</b>
<b>Others ( including Jews etc.</b>		<b>103</b>	<b>.87</b>	<b>92</b>	<b>.86</b>

#### COLLEGIATE EDUCATION 1881-82

		<b>No. of scholars at School</b>	<b>Per cent on total No. of Scholars</b>
<b>Christians</b>		<b>14</b>	<b>3</b>
<b>Brahmins</b>		<b>241</b>	<b>50</b>
<b>Other Hindus</b>	<b>Cultivators</b>	<b>5</b>	<b>1</b>
	<b>Low Castes</b>	<b>0</b>	<b>0</b>
	<b>Other Castes</b>	<b>103</b>	<b>21.3</b>
<b>Mohammedans</b>		<b>7</b>	<b>1.5</b>
<b>Parsis</b>		<b>108</b>	<b>21.5</b>
<b>Aboriginal and Hill Tribes</b>		<b>0</b>	<b>0</b>
<b>Others ( including Jews etc.</b>		<b>2</b>	<b>0.4</b>

7. What do these figures show? They show that although mass education was the policy of the Government, the masses were as outside the pale of education as they

were before the year 1854 and that the lowest and aboriginal classes of the Hindus still remained lowest in order of education; so much so, that in 1881-82, there was no student from that community either in the High Schools or in the Colleges of this Presidency. What can this failure to bring the Depressed Classes to the level of the rest in the matter of education be due to? To answer this question, it is necessary again to go into the history of the educational policy of the Government of this Presidency.

8. The Despatch of the Court of Directors of the year 1854, for the first time recognised after a lapse of full 40 years that the duty of the State was to undertake the education of the great mass of the people. But there were still die-hards, who had great misgivings as to the wisdom of the principle laid down in that Despatch and who were agitating for a reversal of that policy. The fears of dire consequences to the British Rule arising from elevating the Backward Classes above their station in life, still haunted men like Lord Ellenborough, President of the Board of Control, who in a letter to the Chairman of the Court of Directors dated 28th of April 1858, did not hesitate to strike the following note of caution :—

" Gentlemen:— Many letters have been lately before me, reviewing the state of education in different parts of India, under the instructions sent by the Court of Directors in 1854, and I confess, that they have not given me the impression that the expected good has been derived from the system which was then established, while all the increase of charge which might have been expected, appears to be in progress of realization.

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" Paragraph 11: — I believe, we rarely, if even induce parents above the lower class to send their children to our schools, and we should practically, if we succeeded in intending education as we desire, give a high degree of mental cultivation to the labouring class, while we left the more wealthy in ignorance.

" Paragraph 12:— This result would not tend to create a healthy state of society. Our Government could not offer to the most educated of the lower class the means of gratifying the ambition we should excite.

" Paragraph 13 :— We should create a very discontented body of poor persons, having, through the superior education we had given to them, a great power over the mass of the people.

" Paragraph 14 :— Education and civilization may descend from the higher to the inferior classes, and so communicated may impart new vigour to the community, but they will never ascend from the lower classes to those above them ; they can only, if imparted solely to the lower classes, lead to general convulsion, of which foreigners would be the first victims.

" Paragraph 15:—If we desire to diffuse education, let us endeavour to give it to the higher classes first.

" Paragraph 16:— These are but two ways of doing this— by founding colleges to which the higher classes alone should be admitted, and by giving in the reOrganisation of the army, commissions at once, to such sons of native gentlemen as may be competent to receive them. "

9. This antipathy of the European officers towards the untouchable classes was finally corrected by the Secretary of State for India in his despatch of 1859, which again reiterated the responsibility of Government for mass education.

10. Singular as it may appear, the recognition by the Government of its responsibility for mass education conferred upon the Depressed classes a benefit only in name. For, although, schools were opened for the masses in the various districts, the question of the admission of the Depressed classes to these schools had yet to be solved. Such a question did practically arise in the year 1856. But the decision of the Government was not favourable to the Depressed classes as will be seen from the following extracts from the Report of the Director of Public Instruction for the Bombay Presidency for the year 1856-57 :—

" Paragraph 177.—Schools of Low castes and wild tribes.—There are no low class schools established directly by Government and the Supreme Government has expressed disapproval of such schools. The ordinary schools entirely supported by the state are in theory open indifferently to all castes. In the course of observation of my Report 1855-56 the Government issued the following order:— " The only case as yet brought before Government in which the question as to the admissions of the pupils of the lowest class to Government schools has been raised was that of a Mahar boy on whose behalf a petition was submitted in June 1856, complaining that though willing to pay the usual schooling fee, he had been denied admission to the Dharwar Government School.

" On this occasion. Government felt a great practical difficulty which attended the adjudication of a question in which their convictions of abstract right would be in antagonism to the general feelings of the mass of the natives, for whose enlightenment, to the greatest possible extent, the Government Educational Department has been established ; and it was decided, as will appear from the Resolution<sup>[f13]</sup> passed at the time with some hesitation, that it would not be right, for the sake of single individual, the only Mahar who had ever come forward to beg for admission into a school attended only by the pupils of castes and to force him into association with them, at the probable risk of making the institution practically useless for the great mass of natives ".

The proceedings of the Government of Bombay in this matter were noticed in the following terms by the Government of India, in a letter No.111 dated 23rd January 1857:—

" Governor General in Council thinks it very probable that the Bombay



Government has acted wisely in the matter; but it desires me (i. e. Secretary to the Government of India) to say that the boy would not have been refused admission to any Government school in the Presidency of Bengal".[\[f14\]](#)

On receipt of this letter, it was resolved that Government of India should be assured that this Government would be most unwilling to neglect any means of rendering the schools throughout the country less exclusive than they practically are in the matter of caste; provided this could be effected without bringing the Government school into general disrepute, and thus destroying their efficiency and defeating the object for which they were intended. It was also determined that an enquiry should be made as to the practical working of the principle which was said to prevail in Bengal as affecting the general usefulness of the Government schools.

11. Inquiries as to the practice prevalent in Bengal revealed that the Bengal authorities, contrary to the supposition of the " Government of India " had left it to the District Committees of Instructions to grant or refuse admittance to candidates of inferior castes, with reference to the state of local native feeling in each case. The result of this was that the Depressed classes were left in the cold, because the touchable classes would not let them sit at the fire of knowledge which the Government had lit up in the interest of all its subjects.

12. Under these circumstances, mass education as contemplated by the Despatch of 1854 was in practice available to all except the Depressed classes. The lifting of the ban on the education of the Depressed classes in 1854 was a nominal affair only. For, although the principle of non-exclusion was affirmed by the Government, its practical operation was very carefully avoided ; so that, we can say, that the ban was continued in practice as before.

The only agency which could take charge of the education of the Depressed classes was that of Christian Missionaries. In the words of Mount Stuart Elphinstone they " found the lowest classes the best pupils". But the Government was pledged to religious neutrality and could not see its way to support missionary schools, so much so that no pecuniary grant was made in this Presidency to any missionary school in the early part of this period although the Educational Despatch of 1854 had not prohibited the giving of grants to missionary schools.

13. To find a way out of this *impasse* the Government adopted two measures: (1) the institution of separate Government schools for low caste boys, and (2) the extension of special encouragement to missionary bodies to undertake their education by relaxing the rules of grants-in-aid. Had these two measures not been adopted, the education of the Depressed classes would not have yielded the results, most meager as they were, at the stocktaking by the Hunter Commission in 1882.

### III—From 1882 to 1923

14. After the year 1882, the year 1923 forms the next landmark in the educational history of the Bombay Presidency. That year marks the transfer of primary education from the control of Provincial Governments to the control of local bodies. It will therefore be appropriate to take stock of the position as it stood in 1923. The position of the different communities in the Bombay Presidency in 1923 in the matter of educational advancement may be summed up in a tabular form as follows :—

<b>Classes<sup>[f15]</sup> of population in the Presidency</b>	<b>Order in respect of education</b>	<b>Order in respect of education</b>		
		<b>Primary</b>	<b>Secondary</b>	<b>Collegiate</b>
<b>Advanced Hindus</b>	4 <sup>th</sup>	1 <sup>st</sup>	1 <sup>st</sup>	1 <sup>st</sup>
<b>Intermediate Hindus</b>	1 <sup>st</sup>	3 <sup>rd</sup>	3 <sup>rd</sup>	3 <sup>rd</sup>
<b>Backward Hindus</b>	2 <sup>nd</sup>	4 <sup>th</sup>	4 <sup>th</sup>	4 <sup>th</sup>
<b>Mahomedans</b>	3 <sup>rd</sup>	2 <sup>nd</sup>	2 <sup>nd</sup>	2 <sup>nd</sup>

15. From this table, one notices a great disparity in the comparative advancement of these different communities in the matter of education. Comparing these classes of people according to the order in which they stand in respect of their population and according to the order in which they stand in respect of their educational progress, we find that the Intermediate class, which is first in order of population is third in order of college education, third in order of secondary education and third in order of primary education. The Depressed classes who are second in order of population, stand fourth i. e. last in order of college education, last in order of secondary education and last in order of primary education. The Mahomedans who are third in order of population are second in order of college education, second in order of secondary education and second in order of primary education ; while the " Advanced Hindoos " who occupy the fourth place in order of population stand first in order of college education, first in order of secondary education and first in order of primary education. From this we can safely say that in this respect there has been no improvement over the situation as it stood in 1882 relatively speaking.

16. The above statement which is based upon the Report of the Director of Public Instruction, Bombay Presidency for the year 1923-24 merely reveals the disparity that exists in the educational advancement of the different communities. But the disparity in the level of education among the different communities would be a very small matter if it be not very great. We can form no important conclusion unless we know the degree of disparity. To make this position clear from this point of view, the following table is presented:—

TABLE

Classes of Population	Primary Education, Students per 1000 of the population of the class	Secondary Education, Students per 1000 of the population of the class	College Education, Students per 1000 of the population of the class
Advance Hindus	119	3,000	1,000
Mahomedans	92	500	52
Intermediate class..	38	140	24
Backward class ..	18	14	Nil (or nearly one if at all).

17. The above figures give the lengths, as it were, by which each community is ahead of the rest in the matter of primary, secondary and collegiate education. They reveal a range of disparity between the different communities in this Presidency which shows that the position of some of the communities in the matter of education is most shocking. From the statistics as given above, two facts stand out to be indisputable. (1) That the state of education of the Backward classes in this Presidency is deplorable. In the matter of population they occupy a place as high as second. But in the matter of Education, they occupy a place which is not only last but which also is the least ; (2) That the Muhammedans of the Presidency have made enormous strides in education ; so much so that within the short span of 30 years, they have not only stolen a march over other communities such as the Intermediate and the Backward class, but have also come close to the Brahmins and allied castes.

18. What can this be due to? To the policy of unequal treatment adopted by the Government must again be our reply to this ever present question. How unequal was the treatment of the two classes will be evident from the following extracts from the Quinquennial Reports on Education. With regard to the treatment of the Mahomedans in the matter of education, the following observations in the third Quinquennial Report (1892-96) are noteworthy:—

"Concerning the figures for Mahomedan Education in Bombay ..... the Director remarks that the increase would have been larger " but for adverse circumstances ". It has long been recognized in Bombay that Mahomedans make a larger use of Public Institutions than the rest of the population..... On the general question of what has been done to encourage Mahomedan education, the Director writes:—

" In the first place, a Mahomedan officer is appointed to every District, either as Deputy or Assistant Deputy Inspector; and we have three Mahomedan graduates as Deputies, at Kaira, Sholapur, and Hyderabad, while a fourth has been drafted into the higher grades of the Revenue Department. There is thus, not a District where the staff is out of touch with the Mahomedan population. Again at Bombay, Karachi and Junagadh (a Muhammadan State in Kathiawar), special efforts have been made to provide High Schools for Muhammadans with low fee rates, and smaller schools have been opened by other Anjumans (Muhammadan associations) elsewhere. The Department also provides for their benefit, special standards and maintains special schools in certain localities, and reserves for them one-third of the Provincial and Local Boards scholarships. Then, there are the special scholarships founded by Khan Bahadur Kazi Shahbuddin (at one time Diwan of Baroda) ; and in Sindh, a certain number of food scholarships have been given by the heir of the Native State of Khairpur for students attending in Arts College. (I had great difficulty in filling these up last year, though they are of the value of Rs. 25 a month). In Primary schools, Muhammadans are very leniently treated in the matter of fees. They are encouraged to come to the Training Colleges by special rules which (regime)<sup>[f16]</sup> from them an easier test than from Hindus; The Joint Schools Committee at Bombay has lately made special efforts to encourage Muhammadan education by the appointment of a Mahommadan Deputy Inspector....."

19. Compare with this the observations regarding the education of the Depressed classes in the fifth Quinquennial Report (1902-1907):

" 959. Bombay— In the Central Division of Bombay, the low caste children are admitted free into schools and receive presents in the form of books, slates etc..... In Kathiawar only three children of the Depressed castes are receiving education. In the Southern division there are 72 special schools or classes of them, most of which are under unqualified teachers. "

20. This unequal treatment has its origin in the recommendations of the Hunter Commission. How partial was the Hunter Commission to the Mahomedans will be evident, if we compare the recommendations it made in their behalf to those it made in the interests of the Depressed classes. With respect to the Mahomedans the Commission made seventeen recommendations of which the following are worthy of note :—

(1) that the special encouragement of Mahomedan education be regarded as a legitimate charge on local, on Municipal, and on Provincial funds.

(7) that higher English education for Mahomedans, being the king of education in which that community needs special help, be liberally encouraged.

(8) that, where necessary, graduated system of special scholarships for Mahomedans be established to be awarded (a) in primary schools, and tenable in middle schools ; (b) in middle schools, and tenable in high schools; (c) on the results of Matriculation and First Arts examinations, and tenable in colleges also.

(9) that in all classes of schools maintained from public funds, a certain proportion of free studentship be expressly reserved for Mahomedan students.

(10) that in places where educational endowments for the benefit of Mahomedans exist and are under the management of Government, the funds arising from each endowments be devoted to the advancement of education among the Mahomedans exclusively.

(11) that where Mahomedans exist, and are under the management of private individuals or bodies, inducements by liberal grants-in-aid be offered to them to establish English teaching schools or colleges on the grants-in-aid system.

(12) that, where necessary, the Normal Schools or classes for the training of Mahomedan teachers be established.

(16) that Mahomedan Inspecting Officers be employed more largely than hitherto for the inspection of primary schools for Mahomedans.

( 17) that the attention of Local Governments be invited to the question of the proportion in which patronage is distributed among educated Mahomedans and others.

21. Every one of these recommendations made by the Hunter Commission was necessary in the interests of the Depressed classes also. But when we come to analyse the recommendations made by the Commission in the interest of the Backward classes, we do not find them directing that education of the Backward Classes be regarded a legitimate charge on Government funds, that scholarships and proceedings be reserved for them, that special inspecting staff be kept to look after their educational needs or that public patronage be given to them by way of encouraging the growth of education amongst them. All we find the Commission saying is that (1) the principle that " no boy be refused admission to a Government College or school merely on the ground of caste ", be now reaffirmed as a principle and be applied with due caution to every institution, not reserved for special races, which is wholly maintained at the cost of public funds, whether provincial, municipal or local. (2) that the establishment of special schools or classes for children of low castes be liberally encouraged in places where there are a sufficient number of such children to form separate schools or classes and where the schools already maintained from public funds do not sufficiently provide for their education. " As a matter of fact the recommendations made by the Commission for the Mahomedans were far more necessary in the interests of the Backward classes than in the interests of the Mahomedans." For even the Hunter Commission, presided as it was by a chairman of pronounced sympathies for the Mahomedans, had to admit that "

the inquiries made in 1871-73 went to prove that except in the matter of the higher education, there had been a tendency to exaggerate the backwardness of the Muhamadans. " Notwithstanding this the only recommendations made by the Hunter Commission were the two mentioned above. Even these two recommendations, made by the Commission regarding the Depressed classes were not calculated to do much good. They were bound to be futile. The reaffirmation of the principle even if it be for the fifth time was useless. For under the proviso inserted by the Commission, the enforcement was to be avoided in practice. Similarly, the opening of the separate schools for the Depressed classes was hardly possible, which again was bound to be sterile. Separate schools involving additional expense could hardly be acceptable to a Government to which primary education was a task. Besides, the proviso, that such schools should be opened where Backward classes were in large numbers, was sufficient to negative the recommendations simply because in rural parts the Backward classes can seldom be found to be living in one locality in large numbers.

22. It is difficult to understand why the Hunter Commission paid such a scant attention to the educational needs of the Backward classes. If it felt necessary to be generous towards the Mahomedans, it should have at least seen that it was just to the Backward classes who were far behind the Mahomedans in education, wealth and social status. Once the Hunter Commission had thrown the Depressed classes into the background, they remained there and the Government never paid any attention to them. As an example of this neglect, attention may be drawn to the Resolution of the Government of India in the Department of Education dated Delhi the 21st February 1923. It was one of the most important resolutions ever issued by the Government of India in which they decided to assist local Government by means of large grants from imperial revenues as funds became available, to extend comprehensive systems of education in the several provinces. In that resolution, they were particular to point out to the provincial Governments, the educational needs of " Domiciled community " and the Mahomedan community. But they had not a word to say in the whole Resolution about the Backward classes. The Bombay Government readily accepted the suggestion and appointed in 1913 a Mahomedan on Education Committee to make recommendations for the promotion of education among the Mahomedans. One feels righteous indignation against such criminal neglect on the part of the Government, particularly when, it is realized that the large grants given by the Government of India after 1913, were given by way of fulfillment of the declaration made by His Most Gracious Imperial Majesty, the King Emperor, in replying to the address of the Calcutta University on the 6th January, in which he said :—

" It is my wish that there may be spread over the land a network of Schools and Colleges, from which will go forth loyal and manly and useful citizens, able to

hold their own industries and agriculture and all the vocations in life. And it is my wish too, that the homes of my Indian subjects may be brightened and their labour sweetened by the spread of knowledge with all that follows in its train, a higher level of thought, of comfort and health. It is through education that my wish will be fulfilled, and the cause of education in India will ever be very close to my heart."

#### IV

What about social Reform under the British Government ?

It was Raja Sir T. Madhavrao, a very prominent and progressive Hindu of the last generation, who said:—

" The longer one lives, observes, and thinks, the more deeply does he feel that there is no community on the face of the earth which suffers less from political evils and more from self-inflicted or self-accepted or self-created, and therefore avoidable evils, than the Hindu Community. "

Leaving aside the question of the comparative cost of the observation, there can be no doubt that Hindu Society suffers from social evils as no other community does.

Mahadeo Govind Ranade, another venerable name among earnest social reformers has made another and equally important observation, emphasizing another aspect of the Hindu Community :—

" Mere considerations of expediency or economical calculations of gains or losses can never move a community to undertake and carry through social reforms, especially with a community like ours, so spellbound by custom and authority. Our people feel, and feel earnestly, that some of our social customs are fraught with evil; but as this evil is of a temporal character, they think that it does not justify a breach of commands divine, for" such breach involves a higher penalty.—The truth is, the 'orthodox society has lost its power of life, it can initiate no reform nor sympathise with it. "

In other words all the social evils are based on religion. A Hindu man or woman, whatever he does, he does as a religious observance. A Hindu eats religiously, drinks religiously, bathes religiously, dresses religiously, is born religiously, is married religiously and is burned religiously. His acts are all pious acts. However evil they may be from a secular point of view, to him, they are not sinful because they are sanctioned and enjoined by his religion. If any one accuses a Hindu of Sin, his reply is, ' If I sin, I am sinning religiously.

Society is always conservative. It does not change unless it is compelled to and that too very slowly. When change begins, there is always a struggle between the old and the new, and the new is always in danger of being eliminated in the struggle for survival unless it is supported. The one sure way of carrying through a reform is to back it up by law. Without the help of legislation, there can never be any reform in

any evil. The necessity of legislation is very great when the evil to be reformed based on religion.

What is the sum total of legislation in favour of social reform under the British Government ? The record of the British Government, in the matter of social reform, is to say the least, very halting and very disappointing. In the course of 150 years, there are just six social evils which have been subjected to Legislation.

The first piece of Social Legislation which the British undertook, is contained in **Bengal Regulation XXI of 1795**. It is a regulation for Preventing the Brahmins in the Province of Benares establishing Koorhas, wounding or killing their female relations or children or sitting Dhurna and for preventing the Tribe of Raj Koomars in that Province killing their female children. It enacted as follows :—

### **Preamble**

1. The reverence paid by the Hindoos to Brahmins, and the reputed inviolability of their persons, and the loss of, or prejudice to cast(e), that ensues from proving the casue of their death, have in some places in the province of Benares, and more especially in the pergunnahs of Kuntit and Budhoe been converted by some of the more unlearned part of them, into the means of setting the laws at defiance, from the dread and apprehensions of the persons of the Hindoo religion, to whose lot it must frequently fall to be employed, in enforcing against such Brahmins any process or demands on the part of Government The devices occasionally put in practice under such circumstances by these Brahmins, are lacerating their own bodies, either more or less slightly, with knives or razors; threatening to swallow, or, sometimes actually swallowing poison, or some powder which they declare to be such; or, constructing a circular enclosure called a *koorh*, in which they raise a pile of wood or of other combustible and betaking themselves to fasting, real or pretended, place within the area of the koorh, an old woman, with a view to sacrifice her by setting fire to the koorh, on the approach of any person to serve them with any process, or to exercies coercion 'over them on the part of Government, or its delegates. These Brahmins likewise, in the event of their not obtaining relief within a given time, for any loss or disappointment that they may have justly *or* unjustly experienced, also occasionally bring out their women or children, and causing them to sit down in the view of the peon who is coming towards them on the part of Government, or its delegates, they brandish their swords, and threaten to behead, or otherwise slay, these females, or children, on the nearer approach of the peon; and there are instances, in which, from resentment at being subjected to arrest or coercion, or other molestation, they have actually not only inflicted wounds *on* their own bodies, but put to death with their swords, the females of their families, or their own female infants, or some aged female, procured for the



occasion. Nor are the women always unwilling victims ; on the contrary, from the prejudices in which they are brought up, it is supposed that in general they consider it incumbent on them to acquiesce cheerfully in the species of self-devotement, either from motives of mistaken honor, or of resentment and revenge, believing that after death they shall become the tormentors of those who are the occasion of their being sacrificed. On similar principles, these Brahmins, to realize any claim or expectation, such as the recovery of a debt, or for the purpose of extorting some charitable donation, frequently proceed either with some offensive weapon, or with poison, to the door of another inhabitant of the same town or village, and take post there in the manner called Dhurna; and it is understood, according to the received opinions on this subject, that they are to remain fasting in that place until their object be attained; and that it is equally incumbent on the party who is the occasion of such Brahmins thus sitting, to abstain from nourishment until the latter be satisfied. Until this is effected, ingress and egress to and from his house are also more or less prevented, as according to the received opinion, neither the one nor the other can be attempted, but at the risk of the Brahmin's wounding himself with the weapon, or swallowing the powder or poison, with which he may have come provided. These Brahmins, however are frequently obliged to desist and are removed from sitting Dhurna by the officers of the courts of justice, without any ill consequence resulting it, having been found by experience, that they seldom or ever attempt to commit suicide, or to wound themselves or others, after they are taken into the custody of Government. The rules and measures adopted for putting a stop to these abuses, and for preventing the revival of the still more savage custom, which until within these few years, had been generally prevalent amongst the tribe of Rajkoomars inhabiting the borders of the province near Juanpore, of destroying their infant female children, by suffering them to perish for want of sustenance, are hereby enacted, with modifications, into a regulation.

**Brahmins establishing a koorh, or preparing to maim, wound, or slaughter his women or children**

II. Upon information in writing being preferred to the magistrate of the city or a zillah court, against any Brahmin or Brahmins, for establishing a *koorh*, or for being prepared to maim, wound, or slaughter his women or children, or any, or either of them, in the manner described in the preamble to this regulation, or in any other account or manner substantially similar thereto, on account of any subject of discontent, or any other account whatsoever; in such case, upon oath being made to the truth of the information, the Magistrate is immediately to address to the said Brahmin or Brahmins, a written notice in the Persian language and character, and in the Hindoostanee language and Nagree character, and under his official seal, which notice is to be served on him or

them, by such relations, friends, or connections of the said Brahmin or Brahmins, as the magistrate may think fit, and have an opportunity of employing for the purposes and in default of such relations, friends, or connections of the said Brahmin or Brahmins, the magistrate is to cause the notice to be served by a single peon of the same religion ; and the notice shall require the said Brahmin or Brahmins to remove the *koorh*, and the women and people that may be placed in it; or to desist from any preparation towards wounding or slaughtering the women or children according as either or both of these facts shall be charged in the information. The notice shall also contain a positive and encouraging assurance to the Brahmin or Brahmins in question, that on his or their complying with the principal exigence thereof, by removing the *koorh*, and the person or persons, or by desisting from any preparation to wound or slaughter the women and children, and thereon repairing (as such Brahmin or Brahmins may think fit) in person, or by Vakeel to the city or zillah court, proper enquiry shall be made concerning the dispute that may have given occasion to the act or acts thus prohibited. But if the issuing of the notice shall not have the effect of inducing the said Brahmin or Brahmins to comply with the exigency thereof, a written return to that purpose is to be made and attested by the party or parties entrusted with the serving of it; and the magistrate is thereon to issue a warrant under his official seal and signature for the apprehension of the said Brahmin or Brahmins specifying the misdemeanor and contumacy with which he or they stand charged ; and the execution of the warrant is to be committed to peons of the Mahomedan religion, nor is any Hindoo to be sent on such duty. On the Brahmin or Brahmins against whom the warrant shall have been issued being brought before the magistrate, he or they are to be dealt with, in the mode prescribed in Section 5, Regulation IX, 1793, respecting persons charged with crimes or misdemeanors ; and if it shall appear to the magistrate on the previous enquiry, which by the said section he is himself directed to make, that the misdemeanor or misdemeanors charged, (that is, the constructing of the *koorh*, or being prepared to wound or slay the women or children, according as either or both of these acts shall have been charged) were actually committed, and that there are grounds for suspecting the prisoner or the prisoners respectively to have been concerned, either as a principal or an accomplice, in the perpetration of either or both of these acts ; the magistrate shall cause him or them to be committed to prison or held to bail, (according as the parties shall appear to have been principals or accomplices) to take his or their trial at the next session of the court or circuit, and shall bind over the informant or complainant, and the witnesses, to appear at the trial, in the manner prescribed in the aforesaid section.

**Process of trial and the punishment to be inflicted, for the commission of the aforesaid offences.**

III. The court of circuit shall conduct the trial of Brahmin or Brahmins charged with the above offences, in the manner prescribed in Regulation IX, 1793 and XVI, 1795, in respect to the other offences, but as the Mahomedan law cannot adequately apply to offences of this local nature, it is therefore hereby provided and ordered, that where in the opinion of the court of circuit, the charge of being a principal in respect to the constructing of a *koorh*, or to having been prepared to wound or slay the women or children, shall be proved, the said court shall sentence the prisoner to the payment of a fine equal to the amount of his annual income, which is to be estimated according to the best information that they may be able to procure respecting it; and on proof to the court's satisfaction of the prisoner's being guilty only as an accomplice, he shall be sentenced to the payment of a fine equal to one-fourth of his estimated annual income. In all cases of parties being sentenced to the payment of such fines, they are to be committed to, and are to remain in jail until the amount thereof be paid, or until they shall have delivered to the court of circuit, or, after the said court's departure, to the magistrate, full and ample malzam-ines or security, to pay the same within six months from the date of their release ; and such parties, before their enlargement, either in consequence of their having liquidated, or having entered into security for the payment for the fine imposed on them, shall deliver into the court of circuit, or, in their absence, to the *magistrate, faelzaminee*, or satisfactory security from one or more creditable persons, not to offend in like manner in future.

**Authority reserved to the Nizamut Adawlut to mitigate such fines**

IV. All sentences passed by the court of circuit under Section 3, without however any intermediate suspension of their execution, are to be transmitted within ten days after their being passed, to the Nizamut Adawlut, which court may order such mitigation and restitution of the fine or fines thereby imposed, as may be thought proper ; but until the order be issued by the Nizamut Adawlut, the sentence of the court of circuit is to be considered in full force, and to be carried into effect accordingly.

**Penalty for Brahmins absconding for whose apprehension the magistrate shall have issued a warrant under Section 2**

V. In case any Brahmin or Brahmins, against whom the city or a Zillah magistrate may issue the warrant prescribed in Section 2, shall refuse to obey, or resist or cause to be resisted, the peons deputed to serve it, or escape after being taken by them into custody, or abscond, or shut himself or themselves up in any house or building, or retire to any place, so that the warrant cannot be served upon him or them, the magistrate shall issue a precept to the Collector, requiring him to cause to the nearest Tehsildar to attach the lands that such Brahmin or Brahmins may possess in property, or in mortgage, or in farm, or

*Lakharaje*. The lands shall remain attached until he or they surrender, and the collections made during the attachment, after deducting such revenue as may fall due to Government, shall be accounted for, and paid to, the party against, or on account of, or in resentment to, whom, the *Koorh* was originally established, or the woman or women, or child or children, were to be wounded or slain, and after the surrender or apprehension of the Brahmin or Brahmins who set on the *Koorh*, or was or were prepared to wound or slay his or their women or children, or either of them, his or their lands shall be released; but he or they shall be proceeded against, in respect to his or their lands shall be released; but he or they shall be proceeded against, in respect to his or their trial for the original offence or offences, as prescribed in Sections 3 and 4.

**Collector to apply to the magistrate in case of Brahmins establishing a Koorh, or being prepared to kill or wound women or children, on account of any process from the revenue department**

VI. In the event of any Brahmin or Brahmins establishing a *Koorh*, or preparing to wound or slay his or their women or children, or any or either of them, with a view to prevent the serving of any *Dustuck* or writ on him or them, for arrears of revenue by the local Tehsildar, or by the Collector of Benares, in the manner in which by Regulation VI, 1795, they are respectively authorised to issue such *Dustucks*, if it be the *Dustuck* of the Tehsildar that is thus opposed, he is not, after being informed thereof, to persist in enforcing it, but is to report the case immediately to the Collector, accompanied by the written testimonies of the peon deputed to serve the *Dustuck* ; upon receipt of which information, or in case of his own original process being in like manner resisted, the Collector is to represent; through the Vakeel of Government, the amount of the balance due by such Brahmin or Brahmins, and the circumstances attending the issuing of his own or of his Tehsildar's process for realizing it, to the judge and magistrate of the city or Zillah in whose jurisdiction the lands on account of which the arrears shall be due, may be situated ; and upon the peon deputed with the Tehsildar's or the Collector's *Dustuck*, or any other creditable person or persons, attending in court, and making oath to the truth of the circumstance stated in the representation of the collector, either as to the constructing of a *koorh* by such Brahmin or Brahmins, or as to his or their being prepared to wound or slay the women and children, or any of them, (according as one or both of these expedients, shall be stated to have been resorted to by the Brahmin or Brahmins in question) the magistrate is thereon to issue to such Brahmins a written notice under his official seal in the Persian language and character, and in the Hindoostanee language and Nagree character, which is to be served on him or them by such of the relations, friends or connections, of the said Brahmin or Brahmins as the magistrate may think fit, and have an opportunity of employing

for the purpose ; and in default of such relations, friends, or connections, of the said Brahmin or Brahmins, the Magistrate is to cause the notice to be served by a single peon of the same religion, and the tenor of it shall require the said Brahmin or Brahmins to remove the koorh, and the women and people that may be placed in it, or to desist from any preparation for wounding or killing the women or children, (according as either or both of these offences may be charged in the information) as likewise, either to discharge the balance of rent or revenue that shall have been demanded from him or them or to appear, and entering security for such part of it as he or they may have pleas against the payment of, to file his or their objections to the payment of such part in the city or Zillah Court, that the merits of the case may be enquired into and decided, according to the principles by which other disputed demands and accounts of revenue are under Regulation VI, 1795, directed to be determined ; and the said notice is also to contain a positive and encouraging assurance to the Brahmin or Brahmins in question, that on his or their employing with the exigency of it, by removing the koorh and the persons therein, or by desisting from any preparation to wound or slay the women and children, and either discharging the balance of revenue in demand, or repairing in person, or deputing a Vakeel, to the city or Zillah Court, and entering security for the amount of it, proper enquiry shall be made into the pleas that he or they may have to state against the justice of the demand. If the issuing of the notice shall fail to induce the said Brahmin and Brahmins to comply with the requisitions of it, a written return to that effect is to be made and attested by the party or parties entrusted with the serving of it, and the magistrate is immediately to issue a warrant under his official seal and signature for the apprehension of such Brahmin or Brahmins in which shall be specified the misdemeanor, contumacy, and arrear, with which he or they stand charged ; and the warrant shall be executed by peons of the Mahomedan religion, as directed in Section 2; and if the Brahmin or Brahmins shall refuse to obey or resist, or cause to be resisted, the peons deputed to serve it, or escape, after being taken by them into custody or abscond, or shut himself or themselves up in any house or building, or retire to any place, so that the warrant cannot be served on him or them ; the magistrate, on information to this effect, shall issue a precept to the collector, to cause the nearest Tehsildar to attach the lands that such Brahmin or Brahmins may possess in property, or in mortgage, or in the farm, or *Lakheraje* ; and the lands shall accordingly remain attached, and the profits of them be appropriated by Government, until the liquidation of the balance shall be effected, either from the produce, or in consequence of the said Brahmin or Brahmins making good the same from his or their other means ; and also, until the said Brahmin or Brahmins shall have been brought, or made his or their appearance before the court, when he or they shall be tried for being

concerned either as principles or accomplices in setting up the koorh, or for having been prepared to wound *or* slay his or their women or children, or any or either of them, in the same manner, and with the same reservation as to the mitigation of the sentence, as is specified in Sections 2,3 and 4.

**Brahmins causing the construction of a koorh, and persons firing it, to be tried on a charge of murder for the loss of the life or lives of any person or persons that may be thereby occasioned**

VII. If any Brahmin or Brahmins, on account of any discontent or alarm, well or ill founded, either against Government, or its officers, or servants, shall establish a koorh, in which any person or persons shall, at any period from its construction until its removal, be burnt to death, or otherwise lose their lives, in consequence of such koorh's being set fire to, by any person whomsoever ; the Brahmin or Brahmins who shall have caused the construction thereof, shall be held chargeable with, and made amenable for, the crime of murder; as well as the party or parties who may have been immediately employed, or aided in setting fire to the pile or combustibles in question ; and upon proof of the fact to the satisfaction of the court of circuit, such Brahmin or Brahmins, and such person or persons, setting fire to the koorh, shall be sentenced on trial before the said court, to suffer the punishment of death, in the same manner as if they had committed and been convicted *of Kuti* and, or premeditated murder, according to the doctrines of the Mahomedan law ; and with a view to render the example as public as possible such sentence (whether consistent with the future of the Mahomedan law officers, or otherwise) is in this case, to be accordingly formally passed by the court of circuit on the Brahmin or Brahmins thus convicted ; but it is to be at the same time explained to the party or parties thus condemned, as it is also hereby expressly provided, that all such trials, and the sentences passed, are by the court of circuit to be submitted (in like manner as is prescribed in Section 47, Regulation IX, 1793,) to the Nizamut Adawlut, and the party or parties condemned under this section, are to remain in Jail to await the final judgment of that court; and if the Nizam ut Adawlut shall approve of the condemnation, it shall order the Brahmin or Brahmins in question to be conveyed to Calcutta, to be thence transported for life, in conformity to Section 23, Regulation XVI, 1795, which establishes this commutation for the legal punishment of murder perpetrated by Brahmins within the province of Benares, or, if the court of Nizamut Adawlut shall see cause for not proceeding pursuant to the sentence passed by the court of circuit either in respect of the Brahmin or Brahmins, who may have caused the construction of the *koorh*, or to the party or parties who may have been employed or aided in firing it, they shall submit the case or cases to the Governor General in Council, and either recommend a pardon, or such other commutation by way of mitigation of the punishment, as to

the said court may seem proper.

#### **Punishment for Brahmins wounding women and children**

VIII. If any Brahmin or Brahmins, under the circumstances, and in the manner, described in the preamble to, and the following sections of this regulation, or under such circumstances, and in such manner, as shall be substantially similar thereto, with a sword, or other offensive weapon, or otherwise, shall actually wound his or their women or children or other women or children, or any or either of them, on account of, in resentment of any real or supposed injury committed towards him or them, by aumils, tehsildars, or other officers, or servants, employed in the revenue or judicial departments ; or shall so wound any of his or their own women or children, or any other woman or child, on account or in resentment of, his or their differences with any individual ; he or they shall for such act or acts, be sentenced by the *court* of circuit to transportation, subject to the same reference to the Nizamut Adawlut and to the like commutation of the punishment, or pardon, as in the cases referred to in section 7.

#### **Punishment for Brahmins killing women or children**

IX. If any Brahmin or Brahmins, under the circumstance and in the manner, described in the preamble to, and subsequent sections of this regulation, or under such circumstances, and in such manner, as shall be substantially similar thereto, with a sword or other offensive weapon, or otherwise, shall actually put to death his or their women or children, or other women or children, or any or either of them, on account or in resentment of any real or supposed injury, committed towards him or them by aumils, tehsildars, or any other officers, or servants, employed in the revenue or judicial departments ; or shall so put to death any of his or their own women or children, or any other woman or child, on account or in resentment of his or their differences with any individual ; he or they shall be tried for such homicide and on proof of the fact or facts, be accordingly sentenced by the court of circuit to capital punishment, subject to the same reference to the Nizamut Adawlut and to the like commutation of the punishment, or pardon, as in the cases referred to in section 7 ; and the families of any Brahmin or Brahmins found guilty of murder under this section, shall, according to the order of the Governor General in Council under date the 17th of June 1789, and the publication made in conformity to it by the Resident at Benares under date the 7th day of July of the same year, be banished from the province of Benares, and the Company's territories; and his and their estates in land shall be forfeited and disposed of as to Government shall seem proper ; and accordingly, the court of circuit is required to subjoin this order to all sentences that they may pass, on Brahmins for murder under this section, at the same time reporting such sentence and order to the Nizamut Adawlut, together with as

accurate an account as they may be able to procure, of the number, sex, and age, of the persons composing the family of such Brahmin or Brahmins and annexing their opinion how far it may be advisable or otherwise, rigorously to enforce the banishment of the family of such Brahmin or Brahmins, or to confirm, or mitigate or annul, the order for the forfeiture of their real property ; and the Nizamut Adawlut, on consideration of this sentence and order, and of the opinion of the court of circuit, shall either wholly confirm, or recommend to the Governor General in Council such mitigation of the said sentence and order, as shall appear to them proper; and in all cases there the forfeiture of the landed property of such Brahmin or Brahmins, and that of his or their family, shall be confirmed by the Nizamut Adawlut, the said Court is to advise the Governor General in Council thereof, nor shall such sentence be carried into execution as far as regards the forfeiture of the landed property, without an order from the Governor General in Council approving such part of the sentence, and directing in what manner the lands thus forfeited shall be disposed of.

#### **Limitation as to the forfeiture of the family lands of the offenders**

X. In the exercise of the discretion vested in the Nizamut Adawlut by section 9, of recommending to the Governor General in Council, the mitigation of sentences and orders passed by the Court of Circuit, under the said Section, it shall be a rule that whenever the Governor General in Council shall in consequence deem it proper to limit the banishment either to the party or parties committing the murder, or to a certain number only of his or their family or families; no confiscation or forfeiture of the landed-property shall in such instances take place, but the same shall be entirely left in the possession, and as the property, of those members of the family who shall be exempted from banishment.

#### **Regulations respecting Brahmins sitting *dhurna***

XI. *First.*— In conformity to the order of the Governor General in Council, of the 2nd of November 1792, and the publication issued in consequence at Benares on the 22nd of December of the same year, and the further order of the Governor General in Council under date the 7th November 1794, the following rules are enacted for the preventing of *dhurna* ; and for the trial and punishment of Brahmins committing this offence.

#### **Magistrate to cause Brahmins sitting *dhurna* to be apprehended**

*Second.*— On a complaint in writing being presented to the Magistrate against any Brahmin or Brahmins for sitting *dhurna*, the Magistrate, upon oath being made to the truth of the information, shall issue a warrant under his seal and signature for the apprehension of the person or persons thus complained against, on the prisoner or prisoners being brought before the magistrate, he shall



enquire into the circumstances of the charge, and examine the prisoner or prisoners and complainant, and also such other persons (whose depositions are to be taken on oath) as are stated to have any knowledge of the misdemeanor alleged against him or them, and commit their respective depositions to writing ; and after this enquiry, if it shall appear to the magistrate that the misdemeanor charged against the prisoner or prisoners was never committed, or, that there is no ground to suspect him or them to have been concerned in the committing of it, the magistrate shall cause such Brahmin or Brahmins to be forthwith discharged, recording his reasons for the information of the Court of Circuit, in the manner specified in Section 17, Regulation IX, 1793. On the contrary, if it shall appear to the magistrate that the crime or misdemeanor was actually committed, and that there are grounds for suspecting the prisoner or prisoners to have been concerned therein as principals or accomplices, the magistrate shall cause him or them to be committed to prison or held to bail, (according as *in* his discretion he shall judge proper) to take his or their trial at the next session of the Court of Circuit, and shall bind over the complainant to appear and carry on the prosecution, and the witnesses to attend and give their evidence, in the manner required by Section 5, Regulation IX, 1793. The Trial shall take place before the court of circuit, in the manner prescribed in the said regulation, and in Regulation XVI, 1795 ; and after the evidence is closed, it shall be referred to the pundit of the court, to deliver in writing the *vyuvustha*, or exposition of the shaster, as to whether the facts contained in the evidence amount to proof of the prisoner or prisoners having committed *dhurna*, and in the event of such *vyuvustha* being in the affirmative, the Court of Circuit is to sentence the prisoner or prisoners to be expelled from the province of Benares, and to forfeit all title to the right or claim for the realizing of which the misdemeanor shall have been committed; but this sentence is not to be carried into execution until it shall have been reported by the Court of Circuit to the Nizamut Adawlut, and it shall have been either wholly confirmed, or directed to be enforced under such mitigation as to the expulsion from the province, or to the forfeiture of the right or claim of the prisoner or prisoners to the property for which he or they sat *dhurna*, as to the said court shall seem proper.

**Court of Circuit bow to proceed in case all the legal requisites to constitute *dhurna* shall not be found, although the offence was substantially committed**

XII. In the event of the *vyuvustha* which the *pundit* is required to deliver in Section II, not stating the circumstances sworn to in the evidence to amount to the offence of *dhurna*, and the Court of Circuit shall nevertheless be of opinion, from the evidence before them that the prisoner did in fact commit *dhurna*,

according to the common construction and received meaning of the term, although the act may not have been attended with all the circumstances that may be legally required to constitute *dhurna*, according to the description of it in the books of the Hindoos ; the said court is, under such circumstances, (as directed by the order of the Governor General in Council, under date the 7th of November 1794) to take from the prisoner or prisoners, a *moochulka* or engagement, conditioning that if such prisoner or prisoners shall again sit *dhurna* on any one, or perform any act of a nature similar to *dhurna* as shall, on their being prosecuted before the Court of Circuit, be deemed by the judges of the said court present at the trial, or the majority of them, equivalent or tantamount to *dhurna*, the said prisoner or prisoners shall respectively for such second offence, suffer the full penalty of *dhurna*, as provided for by the order of the Governor General in Council, by being expelled from the province, and by being made to forfeit all right and title to the claim in question.

**How Rajkoomars are to be tried for leaving or causing their female infants to perish for want of nourishment**

XIII. In the month of December 1789, the tribe of Rajkoomars having bound themselves to discontinue the practice of causing their female infants to be starved to death ; it is now accordingly ordained, that from the establishment and opening of the city and Zillah courts and of the Court of Circuit in Benares, if any Rajkoomar shall designedly prove the cause of the death of his female child, by prohibiting its receiving nourishment, as set forth in the preamble to this regulation, or in any other manner, the magistrate, on receiving information thereof upon oath, or such other information or proof as he shall deem sufficient to render the charge highly probable, shall cause such Rajkoomar to be apprehended in the manner prescribed, and make the enquiry ordered, in Section 5, Regulation IX, 1793 ; when if it shall appear to the magistrate that the crime has been actually committed, and that there are grounds for suspecting the prisoner to have been concerned in the perpetration of it, the magistrate shall cause him to be committed to prison to be tried before the Court of Circuit, and shall at the same time take all the other precautions required in the section and regulation last quoted, relative to securing the attendance of the original complainant or informant, and of the witnesses; and the prisoner shall be tried accordingly, in the manner directed in Regulation IX, 1793, and Regulation XVI, 1795, with respect to other cases of murder.

The second piece of social Legislation which the British undertook is contained in Bengal Regulation VI of 1802. It is a regulation for preventing the Sacrifice of Children at Saugor and other places. It enacted as follows :—

## REGULATION VI

### A. D. 1802

A Regulation for preventing the Sacrifice of Children at Saugor and other Places. Passed by the Governor General in Council, on the 20th August 1802.

1. It has been represented to the Governor General in Council, that a criminal and inhuman practice of sacrificing children, by exposing them to be drowned, or to be devoured by sharks, prevails at the island of Saugor, and at Bansbaryah, Chaughadh, and other places on the Ganges. At Saugor especially, such sacrifices have been made at fixed periods, namely, the day of full moon in November and in January, at which time also grown persons have devoted themselves to a similar death. Children thrown into the sea at Saugor have not been generally rescued, as is stated to be the custom at other places ; but the sacrifice has, on the contrary, been completely effected, with circumstances of peculiar atrocity in some instances. This practice, which is represented to arise from superstitious vows is not sanctioned by the Hindoo law, nor countenanced by the religious orders or by the people at large ; nor was it at any time authorized by the Hindoo or Mahomedan Governments of India. The persons concerned in the perpetration of such crimes are therefore clearly liable to punishment, and the plea of custom would be inadmissible in excuse of the offence. But, for the more effectual prevention of so inhuman a practice, the Governor General in Council has enacted the following Regulation to be in force from the promulgation of it in the provinces of Bengal, Orissa, and Benares.

II. If any person or persons shall willfully, and with the intention of taking away life, throw or cause to be thrown, into the sea or into the river Ganges, or into any other river or water, any infant or person not arrived at the age of maturity, with or without his or her consent, in consequence whereof such person, so thrown into water, shall be drowned, or shall be destroyed by sharks or by alligators, or shall otherwise perish, the person or persons so offending shall be held guilty of willful murder, and on conviction shall be liable to the punishment of death; and all persons aiding or abetting the commission of such act shall be deemed accomplices in the murder, and shall be subject to punishment accordingly. The trials of prisoners convicted as principals or accomplices of the crimes specified in this section shall be referred to the Court of Nizamut Adawlut, which is to pass sentence thereupon according to Section LXX, Regulation IX, 1793 whatever may be the futwah of the law officers of that Court. (or report to the Governor General in Council the case of any prisoner who may appear to that court to be a proper object of mercy, in conformity with Section LXXIX, Regulation IX, 1793).

III. If a child or any person not arrived at maturity, be thrown into water, as stated in the preceding section, and be rescued from destruction, or by any

means escape from it, the persons who shall have been active in exposing him or her to danger of life, and all aiders and abettors of such act, shall be held guilty of a high misdemeanor, and on convicting shall be liable to such punishment as the Courts of Circuit, under *the futwah* of their law officers, may judge adequate to the nature and circumstances of the case.

IV. The magistrates of districts wherein the sacrificing of children may have been hitherto practiced are required to be vigilant to prevent the continuance of the practice, and shall cause the provisions of this Regulation to be from time to time proclaimed at the places, and in the season, where and when such sacrifices have hitherto been effected.

The Second piece of Social Legislation is one dealing with Suttee. It is Bengal Regulation XVII of 1829 ; It enacted as follows:—

## **REGULATION XVII**

**A. D. 1829**

A Regulation for declaring the practice of Suttee, or of Burning or Burying alive the Widows of Hindoos, illegal, and punishable by the Criminal Courts. Passed by the Governor General in Council, on the 4th December 1829.

### **Preamble**

I. The practice of suttee, or of burning or burying alive the widows of Hindoos, is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindoos as an imperative duty ; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferable inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed; in some extensive districts it does not exist; in those in which it has been most frequent, it is notorious that, in many instances, acts of atrocity have been perpetrated, which have been shocking to the Hindoos themselves, and in their eyes unlawful and wicked. The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether. Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the presidency of Fort William.

II. The practice of suttee, or burning or burying alive the widows of Hindoos, is

hereby declared illegal, and punishable by the Criminal Courts.

III. *First.*—All zamindars, talookdars, or other proprietors of land, whether malguzarry or lakhiraj ; all sudder farmers and under-renters of land of every description ; all dependent talookdars, all naibs and other local agents ; all native officers employed in the collection of the revenue and rents of lands on the part of Government, or the Court of Wards; and all munduls or other head men of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police station of any intended sacrifice of the nature described in the foregoing section ; and any zemindar, or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted, of willfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the magistrate or joint magistrate in any sum not exceeding two hundred rupees, and in default of payment, to be confined for any period of imprisonment not exceeding six months.

**Police Darogas, how to act on receiving the intelligence of the intended sacrifice**

*Second.*— Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police darogah shall either repair in person to the spot, or depute his mohurrir or jamadar, accompanied by one or more burkundauzes of the Hindoo religion, and it shall be the duty of the police officers to announce to the persons assembled for the performance of the ceremony, that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime, and become subject to punishment by the Criminal Courts. Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony, into effect, it shall be the duty of the police officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal person aiding and abetting in the performance of it ; and in the event of the police officers being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the magistrate or joint magistrate for his orders.

**How to act when the intelligence of sacrifice may not reach them until after it shall have actually taken place**

*Third.*— Should intelligence of a sacrifice declared illegal by this Regulation, not reach the police officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like

manner as on all other occasions of unnatural death, and report them for the information and orders of the magistrate or joint magistrate to whom they may be subordinate.

IV. *First.*— On the receipt of the reports required to be made by the police darogahs, under the provisions of the foregoing section, the magistrate or joint magistrate of the jurisdiction in which the sacrifice may have taken place shall inquire into the circumstances of the case, and shall adopt the necessary measures for bringing the parties concerned in promoting it to trial before the Court of Circuit.

**Persons convicted of aiding and abetting in the sacrifice of a Hindoo widow, shall be deemed guilty of culpable homicide, and liable to punishment**

*Second.*— It is hereby declared, that after the promulgation of this Regulation, all persons convicted of aiding and abetting in the sacrifice of a Hindoo widow, by burning or burying her alive, whether the sacrifice be voluntary on her part or not shall be deemed guilty of culpable homicide, and shall be liable to punishment by fine or by imprisonment, or by both fine and imprisonment, at the discretion of the Court of Circuit, according to the nature and circumstances of the case and the degree of guilt established against the offender, nor shall it be held to be any plea of justification, that he or she was desired by the party sacrificed to assist in putting her to death.

*Third.*— Persons committed to take their trial before the Court of Circuit for the offence above mentioned, shall be admitted to bail or not, at the discretion of the magistrate or joint magistrate, subject to the general rules in force in regard to the admission of bail.

**The Court of Nizamut Adawlut not precluded from passing sentence of death in certain cases**

V. It is further deemed necessary to declare, that nothing contained in this Regulation shall be construed to preclude the Court of Nizamut Adawlut from passing sentence of death on persons convicted of using violence or compulsion, or of having assisted in burning or burying alive a Hindoo widow, while labouring under state of intoxication, or stupefaction, or other cause impeding the exercise of her free will, when, from the aggravated nature of the offence proved against the prisoner the court may see circumstances to render him or her a proper object of mercy.

The third piece of Social Legislation is the Caste Disabilities Removal Act XXI of 1850. It enacts as follows ;—

**THE CASTE DISABILITIES REMOVAL ACT (XXI OF 1850)**

*An act for extending the principle of section 9, Regulation VII, 1832, of the Bengal*

*Code throughout the Territories subject to the Government of the East India Company.*

### **Preamble**

WHEREAS, it is enacted by section 9, Regulation VII, 1832, of the Bengal Code that " whenever in any civil suit the parties to such suit may be of different persuasions, when one party shall be of the Hindu and the other of the Muhammadan persuasion, or where one or more of the parties to the suit shall not be either of the Muhammadan or Hindu persuasions, the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled, and whereas it will be beneficial to extend the principle of that enactment throughout the territories subject to the Government of the East India Company it is enacted as follows:—

### **Law or Usage which inflicts forfeiture of, or affects, rights of change of religion or loss of caste to cease to be enforced**

1. So much of any law or usage now in force within the territories subject to the Government of the East India Company as inflicts on any person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance, by reason of his or her renouncing, or having been excluded from the communion of, any religion, or being deprived of caste, shall cease to be enforced as law in the Courts of the East India Company, and in the Courts established by Royal Charter within the said territories. "

The fourth piece of Social Legislation is the Hindu Widows' Remarriage Act XV of 1856. It enacts as follows :—

### **An Act to remove all legal obstacles to the marriage of Hindu Widows.**

### **Preamble**

WHEREAS, it is known that, by the law as administered in the Civil Courts reestablished in the territories in the possession and under the Government of the East Indian Company, Hindu widows with certain exceptions are held to be by reason of their having been once married, incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage are held to be illegitimate and incapable of inheriting property ; and

WHEREAS, many Hindus believe that this imputed legal incapacity, although it is in accordance with a true interpretation of the precepts of their religion, and desire that the civil law administered by the Courts of Justice shall no longer prevent those Hindus who may be so minded from adopting a different custom, in accordance with the dictates of their own conscience ; and

WHEREAS, it is just to relieve all such Hindus from this legal incapacity of which they complain, and the removal of all legal obstacles to the marriage of Hindu

widows will tend to the promotion of good morals and to the public welfare; it is enacted as follows:—

### **Marriage of Hindu widows legalized**

1. No marriage contracted between Hindus shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindu law to the contrary notwithstanding.

### **Rights of widow in deceased husband's property to cease on her re-marriage**

2. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

The fifth piece of Social Legislation prescribed an age limit for, sexual intercourse with a woman., It is Act XLV of 1860 (Penal Code) Sec. 375. It enacted as follows :—

" A man is said to commit ' rape ' who except, in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following :—

*First:* Against her will. *Secondly :* Without her consent. *Thirdly :* With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married. *Fourthly:* ( Left blank—ed.) *Fifthly :* With or without her consent, when she is under ten years of age.

*Explanation:* ( Left blank—ed. )

*Exception:* Sexual intercourse by a man with his own wife not being under ten years of age, is not rape. "

### **WHAT ABOUT THE UNTOUCHABLES ?**

Caste and Untouchability are the two great social evils in India. Caste has disabled the whole Hindu Society. Untouchability has suppressed a large class of people. And yet the British Government has completely ignored the two evils. One may search in vain the Indian Code to find any law dealing with Caste or with Untouchability. It is true that caste and untouchability are social matters. They will vanish when people will begin to inter-dine and inter-marry. Law cannot compel a



person to dine with another. It is true, law cannot compel a person to marry with another. But it is also true that Law can prohibit a Caste from preventing a person from marrying a person outside his caste. Caste continues because a Caste can conspire to punish its members if they break the rules of caste by declaring a social boycott against him. It would have been perfectly possible to have enacted a law declaring such social boycott to be a crime. Again in the matter of Untouchability the disabilities are not merely social. They are fundamentally civic. Inability to get admission to school, to be able to take water from a public well, to be able to get into a public conveyance, to be able to get into public service, are all civic disabilities. It was the duty of the British Government to legislate at least to the extent necessary to protect their civic rights. It was possible to do so. A short Enactment on the lines of Caste Disabilities Removal Act would have been sufficient. Yet the British Government has gone on as though these two evils did not exist at all. Indeed it is most extraordinary thing to note that although Legislative Bodies were established in India in 1861 and have been passing laws on every social questions and discussing public questions, yet except on two occasions the Untouchables were not even mentioned. The first "occasion on which they were mentioned was in 1916, when one Parsi gentleman Sir Maneckji Dadabhoy moved the following Resolution in the Central Legislature :—

" That this Council recommends to the Governor General in Council that measures be devised with the help, if necessary, of a small representative committee of officials and non-officials for an amelioration in the moral, material and educational condition of what are known as the Depressed Classes, and that, as a preliminary step the Local Government and Administrations be invited to formulate schemes with due regard to local conditions. "

There was no sympathy to this resolution. The Hindu members of the Legislature were angry with the mover for his having brought such a subject before the Legislature.

Pandit Madan Mohan Malviya said :—

"Sir, it seems rather ungracious to say so, but a sense of the dignity of the proceedings of this Council compels me to utter a protest against the manner in which sometimes subjects are brought before it for consideration .....

" In moving the Resolution the object of which I may at once say, has my whole-hearted support, my friend, the Hon'ble Mr. Dadabhoy, went out of his way to make remarks against the Hindu community which, I think, he ought to have avoided .....I am not here to defend everything Hindu that exists. I am not here to appologize for the many prejudices or superstitions, which I am sadly conscious are to be found among one portion or another of our community. But it is not the Hindu community alone which finds it difficult to get rid of prejudices ..... Without meaning the smallest disrespect, I would instance

the case of the marriage with a Deceased Wife's Sister Bill..... We Hindus have got some much worse prejudices to fight against..... But I do not think it is within the province of a member of this Council either to lecture to the Hindus present here or to those outside as to the socio-religious disabilities among themselves which they might fight against and remove. I think the province of Members of this Council is limited to dealing with matters of legislation or other administrative matters which may properly be taken up by the Government. As has been already pointed out, the Government have, in pursuance of a wise and liberal policy, laid it down that they shall not interfere in matters of a religious or socio-religious character, and accusations of the character in question ought, therefore, to be avoided there ..... I do not wish to descend into a disputation as to the merits of the imputations or the justification for the general observations that have been made ..... And yet, if I do not, I am left in the position that I have heard without protest remarks showing that the Hindu Community from one end of the country to the other was guilty of all that my friend, the Hon'ble Mover of the Resolution, has suggested..... I am conscious that we Hindus have many prejudices to fight against and conquer; but I submit that this is not the place to tell us of them. "

Even a social Reformer like Sir Surendranath Bannerjee was not happy. He said

:—

\* ".....I regret very much that my Hon'ble friend the Mover of this Resolution went somewhat out of his way to level (I do not think he did it intentionally) an attack against the Hindu Community. He must bear in mind that we are the inheritors of past traditions, of a civilization as ancient as the world. That civilization undoubtedly had its defects,

' but that civilization in the morning of the world was the guarantee for law and order and social stability. In the past it afforded consolation to millions. We are trying to evolve a national system in conformity with our present environments, but we cannot push aside all those things which have come down to us from the past. We reverence the venerable fabric which has been built up by our ancestors. We notice their defects, and we are anxious to get rid of them gradually and steadily, not by any revolutionary movement, but the slow, steady process of evolution. My friend must have a little sympathy with us ; he must extend to us the hand of generosity in our efforts to deal with the problems. My Hon 'ble friend suggests that Government should take measures..... We welcome the action of Government in a matter of this kind, but after all, if you analyse the situation, it is a social problem, and the British Government, very properly, as I think, in conformity with its ancient traditions, holds aloof from all interference with social questions.

" Government can do a great by way of education, a great deal by helping

forward the industrial movement among the Depressed Classes. But the vital problem, the problem of problems, is one of social uplifting, and there the Government can only afford to be a benevolent spectator. It may sympathize with our efforts, but it cannot actively participate in them....."

The Hon'ble Mr. Dadabhoy had to defend himself. In his reply he said:—

" Sir, I find myself in a very peculiar and unfortunate position. There are two parties in this Council, and they are both on the defensive on this occasion. My justification for bringing in this Resolution, if any justification were needed, is to be found in the unenthusiastic and half hearted support which I have received from my non-official colleagues. It was no pleasure, I assure you, Sir, to me to bring in this Resolution. If I could possibly have avoided it, I would have very cheerfully and very willingly done so. This is the sixth year of the life of this Reformed Council, as Hon'ble Members are aware, and the second term is now approaching expiration. During the major portion of that time—the five years that I have been on this Council—I anticipated that the champions of public liberty, public spirit and public enterprise and culture—men like my friends the Hon'ble Surendra Nath Bannerjee or the Honourable Pandit Madan Mohan Malaviya—would take the trouble of moving a Resolution to this effect. I waited all this time to see if one of these enthusiastic members would bring in a Resolution for the amelioration of the Depressed Classes, but when I found that none of them had taken up the matter—though at times this matter is discussed even in the Congress Pandal in a certain manner; when I found that it was not taken up in this Council—..... I, as a Parsee, representing a Hindu constituency thought it my duty to bring this matter for public discussion in this Council. "

The Government naturally felt relieved by this quarrel. Resting behind the moral support of the Hindu members of the Legislature for covering up their delinquency Sir Reginald Crad-dock speaking on behalf of the Government disposed off the Resolution in the following terms :—

" Sir, we sympathize with the objects of the Hon'ble Mr. Dadabhoy's Resolution. We are willing to go so far as to ask Local Governments to put on record what they have done, are doing, and what further they can do, to improve the condition of these people. But we can place no faith in special committees. Have I not indicated to the Council how wide are the problems, and how impossible it would be to deal with them by means of Committees ? The problems extend over the whole range of Government from top to bottom. What I say is that, while extending our sympathy to the objects aimed at by the Hon'ble Mr. Dadabhoy, we can go no further than promise to refer the question to Local Governments, and ask them whether they can do more than they are doing. That is as far as we can go, and with that assurance, I will ask the

Hon'ble Member to withdraw his Resolution. "

The second time the Untouchables are mentioned in the proceedings of the Legislature was in 1928 when Mr. M. R. Jayakar moved the following Resolution :—

" This Assembly recommends to the Governor-General in Council to issue directions to all Local Governments to provide special facilities for the education of the Untouchables and other depressed classes, and also for opening all public services to them, specially the Police. "

On this occasion the Government of India was no more enthusiastic than it was in 1916. Mr. G. S. Bajpai, speaking on behalf of the Government of India said :—

" The Local Governments are alive to their responsibility, they are doing what they can. It is not my privilege to claim for them that they have achieved the ideal, but I do claim that there is an awakening and an awakened and roused sense of responsibility and a roused sense of endeavour for improving the position of these depressed classes. That being so, it is no function to interfere by direction or by demand. They (i. e. the Government) can, if the House wishes, communicate to them the views of the House on this very national problem. "

For this speech, Mr. Bajpai, according to the official report of the proceedings, was cheered ! !

Such is the record of the British Government in the matter of social Reform. What a miserable record it is ? How meager a record it is; Six social Laws in sixty years of legislative activity ! ! From the very beginning, its attitude to social reform has been of a very halting character. It kept on some mask of a responsible Government up to 1860. After 1860 it threw off the mask. The Government would not move and reform came to a dead stop. In 1881 a great agitation was started in favour of legislation prohibiting child marriage. Rather than be pestered with social reform, it took courage to announce publicly and once for all its policy of opposition to reform. In a Government Resolution of that year, the British Government proclaimed :

" In dealing with such subjects as those raised in Mr. Malabari's Notes, the British Government in India has usually been guided by certain general principles. For instance, when caste or custom enjoins a practice which involves a breach of the ordinary criminal law, the State will enforce the law. When caste or, custom lays down a rule which is of its nature enforceable in the Civil Courts, but is clearly opposed to morality or public policy, the State will decline to enforce it. When caste or custom lays down a rule which deals with such matters as are usually left to the option of citizens, and which does not need the aid of Civil or Criminal Courts for its enforcement. State interference is not considered either desirable or expedient.

" In the application of such general principles to particular cases, there is doubtless room for differences of opinion ; but there is one common-sense test

which may often be applied with advantage in considering whether the State should or should not interfere in its legislative or executive capacity with social or religious questions of the land now under notice. The test is, ' Can the State give effect to its commands by the ordinary machinery at its disposal ? ' If not, it is desirable that the State should abstain from making a rule which it cannot enforce without a departure from its usual practice or procedure.

" If this test be applied in the present case, the reasons will be apparent why His Excellency in Council considers that interference by the State is undesirable, and that the reforms advocated by Mr. Malabari, which affect the social customs of many races with probably as many points of difference as of agreement, must be left to the improving influence of time and to the gradual operation of the mental and moral development of the people by the spread of education.

" It is true that the British Government in India has by its legislation set up a standard of morality independent of, and in some material respects differing from, the standard set up by caste; and it may be that the former standard has had some beneficial effect in influencing native customs, practices, and modes of thought. But legislation, though it may be didactic purposes ; and in the competition of influence between legislation on the one hand, and caste or custom on the other, the condition of success on the part of the former is that the Legislature should keep within its natural boundaries, and should not, by overstepping those boundaries, place itself in direct antagonism to social opinion. "

The policy laid down in this Resolution has ever since remained the policy of the British Government in the matter of Social Reform.

Why did the British Government leave the Untouchables in the cold without any care or attention ?

The explanation for so criminal a neglect was furnished by Sir Reginald Craddock. In replying on behalf of the Government of India on the Resolution moved by Sir Maneckji Dadabhoy in the Imperial Legislative Council in 1916, he stated what the position of the British Government took with regard to the Untouchables in the following terms:—

" With regard to them (i. e. the Untouchables) the difficulty is not that Government does not recognize them, but that, until the habits and prejudices of centuries are removed, the hands of their neighbours must necessarily press upon them..... you must remember that these people live mostly in villages and very often in the back lane of towns, and that their neighbours have not yet come under these broad and liberal minded influences. Therefore, as many speakers have indicated, the problem in dealing with this question is more social and religious than purely administrative.

" I know myself of many difficulties in the matter of schools. There are many

places where the Maharboys will not be allowed into the school ; they may be allowed in the Verandah and get only a small part of the master's attention there, or they may be entirely excluded. But it is only gradually that the difficulty can be met. I have constantly dealt with this very problem on the spot. I have reasoned with people ; I have said to them. There are tax payers like yourselves, either let them come into the school, or if you wish to indulge in your own prejudices—they may be reasonable prejudices, as you consider them—but if you wish to indulge them, should you not contribute something in order that these boys may have a school of their own ? In that what some of the better people have come forward to help in the matter of wells, and schools for the low castes ; they have assisted, and the difficulties have been got over. But of course if it is a matter which must take time, and Government itself cannot use compulsion. They go rather near to it sometimes, for example, in traveling by railway : and when petitions are presented in Court. But they cannot ensure that these people shall always be well treated in their offices. Very often, I think, some of these classes refrain from seeking service they might otherwise wish to secure, because their neighbours are not likely to treat them warmly. Although the Hon'ble mover described the statement made by the Government of Bombay as a ' magnificent *non-possumus* ', I think that it very accurately describes that the real difficulties of the situation are. Even though Government is willing to help in every way these unfortunate people, yet it remains true that ' the position of these castes and tribes in the future depends partly on their own selves, and partly those more favoured Indian Communities, which by extending the hand of human comradeship or hardening their hearts and averting their faces, have it in their power to elevate or to degrade them. '

" That Sir, I think, represents very true and accurately the position of affairs as regards these Depressed Classes. "

\* \* \*

The same attitude was reiterated in 1928 when the resolution of Mr. Jayakar was discussed in the Central Legislative Assembly. Mr. Bajpai speaking on behalf of the Government said :—

" ..... it is not by increasing the number of special schools or by providing special facilities that you are going to solve this problem (of the Untouchables) ..... You will solve this problem only by a quickening and broadening the spirit of all sections of the community towards the so called depressed classes. "

Leaving the problem to be solved by the quickening of the consciences of the Hindus, the British Government just neglected the Untouchables and believed that as a Government they were not called upon to do anything to help to improve the lot of the Untouchables. How did the British justify this neglect of so helpless and so downtrodden a class of their subjects as the Untouchables ? The answer is very

clear. They did it by taking the view that the evil of Untouchability was not of their making. They argued that if they did not deal with the evil of untouchability, they are not to be blamed for it because the system did not originate with them. This was clearly enunciated by the Government of Bombay in 1856. In June 1856 a petition was submitted on behalf of a Mahar boy to the Government of Bombay complaining that though willing to pay the usual Schooling fee, he had been denied admission to the Dharwar Government School. In disposing of the application, the Government of Bombay thought the matter so important that it issued a Resolution dated 21st July 1856 of which the following is the full text :—

" 1. The question discussed in the correspondence is one of very great practical difficulty.

2. There can be no doubt that the Mahar petitioner has abstract justice on his side; and Government trust that the prejudices which at present prevent him from availing himself of existing means of education in Dharwar may be ere long removed.

3. But Government are obliged to keep in mind that to interfere with the prejudices of ages in a summary manner, for the sake of one or few individuals, would probably do a great damage to the cause of education. *The disadvantage under which the petitioner is not one which I has originated with the Government*, and it is one which Government cannot summarily remove by interfering in his favour, as he begs them to do."

This is of course an easy view of the duties of a Government. It is not a responsible view. It is certainly not a view which a civilized Government would take. A Government which is afraid to govern is not a Government. It is only a corporation formed to collect taxes. The British Government undoubtedly meant to be more than a mere tax gathering machinery. It claimed to be a civilized Government. Then why did it not act to prevent wrong and injustice ? Was it because it had no power or was it because it was afraid to use them or was it because it felt that there was nothing wrong in the social and religious system of India ?

The answer is that it had the power, the amplest power. It did not use it because for a part of the period it did not think that there was anything wrong in the social system of the Hindus and during the period when it became convinced that things were wrong it was overpowered by sense of fear.

It is notorious that the beginning of its career the British had a dread and a horror of the consequences of permitting the diffusion of " Christian truth ". But it is not quite as notorious that the British at the same time were showing a corresponding respect for native prejudices. Mr. Ward, a Missionary in Calcutta records in his journal for 1802 the following fact :—

" Last week a deputation from the Government went in procession to Kali Ghat,

and made a thank offering to this Goddess of the Hindoos, in the name of the Company, for the success which the English have lately obtained in this country. Five thousand rupees were offered. Several thousand natives witnessed the English presenting their offerings to this idol. We have been much grieved at this act, in which the natives exult over us. "[17]

Another illustration of the same is furnished by Mr. Robert Lindsay who was a civilian in the employment of the East India Company in the time of Warren Hastings. Describing his initiation into his new office of Resident at Sylhet he says

—  
" I was now told that it was customary for the new Resident to pay his respects to the shrine of the tutelary saint, Shaw Jullol. Pilgrims of the Islam faith flock to this shrine from every part of India, and afterwards found that the fanatics attending the tomb were not a little dangerous. It was not my business to combat religious prejudices, and I therefore went in state, as others had done before me, left my shoes on the threshold, and deposited on the tomb five gold mohurs as an offering. Being thus purified I returned to my dwelling and received the homage of my subjects. "

How much the British Government had become associated with and interested in supporting native prejudices can be seen from the following memorial which was submitted to the Government of Madras by Bishop Corrie in 1833. The instances cited in the Memorial were these :—

" First, that it is now required of Christian servants of the Government, both civil and military, to attend to Heathen and Mahomedan religious festivals, with the view of showing them respect Second, that in some instances they are called upon to present offerings, and to do homage to idols. Third, that the impure and degrading services of the pagodas are now carried on under the supervision and control of the principal European, and therefore, Christian officers of the Government, and the management and regulation of the revenues and endowments, both of these pagodas and mosques, so vested in them, under the provision of regulation vii of 1817, that no important idolatrous ceremony can be performed, no attendant of the various idols, not even the prostitutes of the temple, be entertained or discharged, nor the least expense incurred, without the official concurrence and orders of the Christian functionary. Fourth, that British officers, with the troops of the Government, are also now employed in firing salutes and in otherwise rendering homage to Mahomedan and idolatrous ceremonies, even on the Sabbath day ; and Christians are thus not unfrequently compelled by the authority of Government to desecrate their own most sacred institutions and to take part in unholy and degrading superstitions. "

This is enough to show that the British Government in India " not content with



their exertions to suppress the diffusion of the saving truths of the Gospel was openly and authoritatively aiding and abetting the worst forms of devil-worship; that they were taking all the hideous indecencies and revolting cruelties of Hindooism under their especial patronage; sending their own masters-of-the-ceremonies to preside over the hellish orgies; and with paternal tenderness managing the property of the idol temples pampering the priests, cherishing the dancing girls, and doing such honour to heathen is generally as was best calculated to maintain it in a high state of exultant obesity. "

It was not till 1841 that Government dissociated itself from actual participation in the Hindu and Mahomedan religions I ceremonies and that too after a great deal of agitation by the Missionaries.

" In a circular letter signed by the Military Secretary to the Government of Fort St. George, and addressed to the Commander-in-Chief, under date of July 6, 1841, it is intimated, " under instructions from the Court of Directors, conveyed through the Government of India ", that " the attendance of troops or of military bands at native festivals or ceremonies, and the firing of salutes *on* occasions of that nature," were " in future to be discontinued, with the object of separating the Government and its officers, as far as possible, from all connection with the ceremonies of the Hindoo and Mahomedan religions. " The ordinary marks of respect paid to native princes on the occasions of their going forth or returning from such festivals or religious observances were, however, to be paid; and the change was to be effected " in a manner calculated not to alarm the minds of the natives or to offend their feelings. " These orders were circulated by the Commander in Chief to the Generals commanding divisions, and by them to the regiments under their several commands. "

What reform could be expected from a Government which had become so steeped in native prejudices and which wasted such official resources to tend them and keep them up ?

It was stricken and paralyzed by sympathy. When it ceased to sympathise with the prejudices it was overtaken by fear. This fear arose out of two considerations.

The first consideration related to the promises it had made to the people of India. On assuming the Government of any new territory, previously under native rule, it was the practice of the British Government to announce to the people that they would be protected in the free exercise of their religions and that neither their institutions nor their usages would be assailed. Thus in 1801 a solemn declaration was made, in the following terms to the people of the Carnatic :—

" Although the Right Honourable the Governor in Council trusts that the experience which the inhabitants of the Carnatic have already had, will have rendered it unnecessary for His Lordship to explain the general principles of moderation, justice, protection, and security, which form the characteristic

features of the British Government, yet His Lordship in accepting the sacred trust transferred to the Company by the present engagements, invites the people of the Camatic to already and cheerful obedience to the authority of the Company, in a confident assurance of enjoying, under the protection of public and defined laws, every just and ascertained civil right, with a free exercise of the religious institutions and domestic usages of their ancestors " .

In may 1834 the following proclamation was issued to the people of Coorg when it was conquered :—

"Whereas it is the unanimous wish of the inhabitants of Coorg to be taken under the protection of the British Government, His Excellency the Right Honourable the Governor-General has been pleased to resolve that the territory heretofore governed by Veer Rajunder Woodyer shall be transferred to the Honourable Company. The inhabitants are hereby assured that they shall not again be subjected to native rule; that their civil rights and religious usages, will be respected, and the greatest desire will invariably be shown by the British Government to augment their security, comfort, and happiness. "

In 1849, on the annexation of the Punjab, the following assurance was given to the people :—

"The British Government will leave to all the people whether Mussulman, Hindoo, or Sikh, the free exercise of their own religions; but it will not permit any man to interfere with the other in the observance of such forms and customs as their respective religions may either enjoin or permit."

Other similar proclamations may be cited. They were treated as pledges. Whether it was just and politic that such pledges should have been given, it was felt that it was impolitic to ignore them once they were given. This was the general view. But there were always some who construed them literally and whose point of view was not to draw any distinction and make any reservations and who wished to interpret the pledges as amounting to saying to the Indians, " You have enjoyed it undisturbedly under the new " and who argued that " any departure from this would be a breach of faith. " Fear of breach of faith was one consideration. Fear of open rebellion was another. Fear of rebellion so far as the British Government in India was concerned was not a fear of the unknown. It was a fact of experience. There was one rebellion in 1801 which was known as the Vellore Mutiny. There was another rebellion in 1857. It was known as the Sepoy Mutiny. The Vellore Mutiny was a small flame. But the Sepoy Mutiny was a conflagration. In both cases the cause alleged was an interference with the religious practices of the Hindus. Two rebellions are enough to teach a lesson and the lesson of these two rebellions was not lost upon the British Government. The Vellore Mutiny of 1801 had made the British Government cautious in the matter of social innovations. The Sepoy Mutiny of 1857 made hostile to any kind of social reform. The British did not want to take any risk

and from their point of view the risk was very great. The Mutiny made them so panicky that they felt that loss of India was the surest consequence of social reform and as they were anxious to keep India they refused to look at any project of Social Reform.

This attitude of the British Government to Social reform is quite understandable. However sovereign a Government may be its authority as pointed out by Prof. Dicey <sup>[f18]</sup> is circumscribed by two limitations: —

" There is first of all the internal limitation which arises from the character, motives and interests of those who are in power. If the Sultan does not abolish Mahomedanism, Pope ban Catholicism, the Brahmin condemn caste, or the British Parliament declare the preservation of blue-eyed babies illegal, it is not because they " cannot " do things, but it is because they " will " not do those things. In the same way if the Executive in India did not do certain things most conducive to progress, it was because by reason of its being imperial and also by reason of its character, motives and interests, it could not sympathize with the living forces operating in the Indian Society, was not charged with its wants, its pains, its cravings and its desires, was inimical to its aspirations, did not. advance Education, disfavoured Swadeshi or snapped at anything that Smacked of nationalism, it was because all these things went against its grain. But an irresponsible government is powerless to do even such things as it may like to do. For its authority is limited by the possibility of external resistance. There are things which it would do but dare not do for the fear of provoking thereby resistance to its authority. Ceaser dare not subvert the worship of the Roman people, a modern parliament dare not tax the Colonies, however much they would. For the same reason the Government of India dared not abolish the caste system, prescribe monogamy, alter the laws of succession, legalize intermarriage or venture to tax the tea planters. Progress involves interference with the existing code of social life and interference is likely to cause resistance. None the less a Government which is of the people and is not detached from them can venture on the path of progress, because it is in a position to know where the obedience will end and resistance will begin. But the Indian Executive, not being of the people, could not feel the pulse of the people. The gist of the matter is that the irresponsible Executive which had been in power in India was paralysed between these two limitations on its authority and much of what to make life good was held up. Part of the programme it would not undertake and the other part it could not undertake. That there was some advancement in material progress is not to be denied. But no people in the world can long remain contented with the benefits of peace and order, for they are not dumb brutes. It is foolish to suppose that a people will indefinitely favour a bureaucracy because it has improved their roads, constructed canals on more scientific principles, effected their transportation by rail, carried their letters by penny post, flashed their messages by lightening,

improved their currency, regulated their weights and measures, corrected their notion of geography, astronomy and medicine and stopped their internal quarrels. 'Any people, however patient, will sooner or later demand a Government that will be more than a mere engine of efficiency. "

People wanted freedom political, economic and social. This the British Government declined to create :—

" As a result of this, so far as the moral and social life of the people was concerned, the change of Government by the Moghuls to a Government by the British was only a change of rulers rather than a change of system. Owing to the adoption of the principle of non-interference partly by preference and partly by necessity by the British ' the natives of India found themselves under a Government distinguished in no vital respect from those under which they had toiled and worshipped, lived and died through all their weary and forgotten history. From a political standpoint, the change was but the replacement of one despotism by\_ "another. It accepted the arrangements as it found them<sup>[f19]</sup> and preserved them faithfully in the manner of the Chinese tailor who, when given an old coat as a pattern, produced with pride an exact replica, rents, patches and all.' "<sup>[f20]</sup>

This policy of non-intervention though understandable, was so far as the Untouchables were concerned, mistaken in its conception and disastrous in its consequences. It may be granted that Untouchables can only be lifted up by the Hindus recognizing his human rights and him as a human being as correct. But that does not dispose of the matter. Question remains how is this recognition of his rights as a human being to be secured. There are only two ways of helping to realize this object. One way is to make him worthy of respect and the other is to punish those who disrespect him and to deny him his rights. The first way involves the duty to educate him and to place him in positions of authority. The other way involves social reform by making recognition of Untouchability a penal offence. Neither of this the British Government was prepared to do. It would not give the Untouchables any preferential treatment in public service. It would not undertake to reform Hindu Society. The result was that \_ Untouchable has remained what he was before the British, namely an Untouchable. He was a citizen but he was not given the rights of a citizen. He paid taxes out of which schools were maintained but his children could not be admitted into those schools. He paid taxes out of which wells were built but he had no right to take water from them. He paid taxes out of which roads were built. But he has no right to use them. He paid taxes for the upkeep of the State. But he himself was not entitled to hold offices in the state. He was a subject but not a citizen. The Untouchable stood most in need of education and supply of water. He stood mostly in need of office to protect himself. Owing to his poverty he should have been exempted from all taxes. All this was reversed. The Untouchable was taxed to pay for the education of the touchable. The Untouchable was taxed to pay

for the water supply of the touchable. The Untouchable was taxed to pay for the salary of the touchables in office.

What good has British conquest done to the Untouchables ? In education, nothing ; in service, nothing ; in status, nothing. There is one thing in which they have gained and that is equality in the eye of the law. There is of course nothing special in it because equality before law is common to all. There is of course nothing tangible in it because those who hold office often prostitute their position and deny to the Untouchables the benefit of this rule. With all this, the principle of equality before law has been of special benefit to the Untouchables for the simple reason that they never had it before the days of the British. The Law of Manu did not recognize the principle of equality. Inequality was the soul of the Law of Manu. It pervaded all walks of life, all social relationships and all departments of state. It had fouled the air and the Untouchables were simply smothered. The principle of equality before law has served as a great disinfectant. It has cleansed the air and the Untouchable is permitted to breath the air of freedom. This is a real gain to the Untouchables and having regard to the ancient past it is no small gain.