



REPORT
OF
THE DOMICILE ENQUIRY COMMITTEE
ORISSA
1945

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GOVERNMENT OF ORISSA

HOME (APPOINTMENT) DEPARTMENT

RESOLUTION

The 28th November 1945

IN Resolution No. 4739-A.(C.), dated the 17th March 1943 as amended by Resolutions No. 5611-A.(C.), dated the 28th March 1943 and No. 5755-A.(C.), dated the 29th March 1943 the Provincial Government was pleased to set up a Committee to examine the question whether the rules relating to the grant of domicile certificates in Orissa have worked satisfactorily since they were issued in November 1936. The report of the Committee has been received by Government and is now published for general information.

Government record their thanks to the successive Chairmen and members of the Committee for the time and trouble expended by them on the report.

R. A. E. WILLIAMS

Chief Secretary to Government

CHAPTER I

Introduction

The question of domiciles is neither new nor peculiar to the Province of Orissa. For several decades there have been rules in almost all provinces relating to the manner in which the domiciled population has got to be dealt with. In the Province of Orissa similar rules already exist. It is not to be understood that these rules came into being after the Province had been constituted. Rules on the subject had been there in the various parts which were amalgamated together and constituted into a province in 1936.

2. These rules were either not effective and therefore did not fully justify their existence or were found to be unwelcom to the people directly affected by them. Questions were, therefore, raised on the floor of the Legislative Assembly from time to time. Comments were brought to the notice of Government in other ways. Government, therefore, agreed to have the matter examined. Accordingly they appointed a Committee by a resolution of the Home Department on the 17th March 1943. The terms of reference to the Committee were as follows:—

(a) The Committee will examine whether the existing system of requiring certificates of domicile from persons who are not genuine Oriyas, has operated satisfactorily. If it has not, the Committee will make its recommendation for a system which will work more satisfactorily.

(b) The Committee will examine whether the existing system has regulated, or if it has not, whether any system recommended by the Committee will secure in a reasonable measure the control of the economic potentialities of the Province by the genuine residents and persons domiciled within the Province. If necessary, the Committee will devise ways and means to ensure that the avenues of employment in various spheres of the economic life of the Province will be open, as far as possible, only to the children of the soil and bona fide domiciled persons. The circumstances in which outsiders may play their part in the economic life of the Province to its best advantage may, if possible, be specified.

(c) The Committee will lay down the criterion for determining as to who may be considered a person domiciled in this Province.

3. It will appear that these terms are wide enough to bring into the purview of the Committee's enquiry not only matters with which the rules of domicile had so far been concerned, but also other matters calculated to mould and influence the life of the people.

4. It will not be out of place in this connection to quote an extract from the resolution of the Government referred to above. It says, " Rules regarding the granting of domicile certificates to persons claiming domicile in Orissa for securing appointments under the Provincial Government or for admission of their children into the educational institutions in this Province were issued in November 1936. Since then six years have elapsed and the question as to whether these rules have worked satisfactorily during these years or whether they require any revision in the light of the experience gained during this period has recently engaged the attention of Government. Accordingly with a view to examine this question the Provincial Government has been pleased to set up a Committee"

5. By this resolution a Committee consisting of the following persons was constituted :—

Chairman

- (1) The Hon'ble Pandit Godavaris Misra, Minister of Finance, Education and Development Departments.

Members

- (2) Sri Jagabandhu Singh, M.L.A., Puri
 (3) Sri Braja Sundar Das, M.L.A., Cuttack
 (4) Sri V. K. V. Raju, M.L.A., Ganjam
 (5) Sri Charu Chandra Ray, M.L.A., Balasore
 (6) Sri Rangalal Modi, M.L.A., Cuttack
 (7) Sri Madhusudan Mahanti, Editor, Observer, Cuttack
 (8) Dewan Bahadur Srikrushna Mahapatra, Retired Superintendent of Police, Cuttack.
 (9) Sri Rabindra Kumar Das, Cuttack

It was, however, soon brought to the notice of the Government that the representation on this Committee of the Telugu Community and for that matter of the districts of Ganjam and Koraput was not adequate. Government were, therefore, pleased to appoint by a resolution, dated the 28th March 1943, Sri Harihara Misra, a lawyer and Editor of the only newspaper of the Koraput district, to represent that district on the Committee. Two persons from Berhampur were almost simultaneously appointed by another resolution, dated the 29th March 1943. They were Sri A. L. Jaganathrao, B.A., B.L., Advocate, Berhampur, and Sri Lingaraj Panigrahi, B.A., B.L., Public Prosecutor, Ganjam. But when requested to attend meetings, Sri Lingaraj Panigrahi thought that he would not be able to spare the necessary time and, therefore, resigned. Upon his resignation, Government, by a resolution, dated the 19th May 1943, appointed Sri Ganesh Mahapatra, B.A., B.L., retired Subordinate Judge of the Ganjam district to be a member in his place.

6. It will have to be remarked that the personnel of the Committee sustained several casualties occurring at different times. One of the members, Sri Charu Chandra Ray, M.L.A., who represented the domicile Bengalees, resigned. Thereupon Rai Bahadur M. N. Dev was appointed by a resolution, dated the 8th November 1943. He never attended the meetings of the Committee. Towards the end he was specially requested to attend the deliberations of the Committee or to say whether he would like to resign in which case a substitute could be taken. He preferred the latter course. Therefore Rai Bahadur Bipin Bihari Roy, M.A., was appointed by a resolution, dated the 30th August 1944. Sri A. L. Jaganathrao having accepted service under Government tendered resignation of his membership of the Committee and in his place Mr. A. S. N. Murti was appointed by a resolution of the Government, dated the 8th September 1944.

7. The Committee regrets to say that by the death of Sri Braja Sundar Das, M.L.A., representing one of the land-holders constituencies in the Province in June 1944, it not only suffered in number, but also lost one of its most prominent members. On the 29th of June 1944, the Ministry resigned. The place of the Chairman of the Committee fell vacant as the Hon'ble Pandit Godavaris Misra had been filling that office in his *ex officio* capacity as a minister and member of the Government. He, therefore, tendered his

resignation as Chairman of the Committee when he ceased to be a minister. Thereupon Mr. S. L. Marwood, C.I.E., J.P., I.C.S., Adviser to His Excellency the Governor, was appointed Chairman of the Committee by a resolution, dated the 2nd August 1944, and Pandit Godavaris Misra continued as a member.

8. These, however, are not all the changes made in the personnel of the Committee during a period of about two years. Although the Secretary of the Committee was not a member, he was nevertheless part and parcel of the Committee. Mr. R. S. Ojha, I.C.S., Under-Secretary to Government in the Home Department, was the first Secretary. Upon his transfer from Cuttack, Mr. S. J. Majumdar, I.C.S., Under-Secretary to the Government of Orissa in the Home Department, succeeded him. He, too, did not continue long as Secretary. By a resolution, dated the 2nd August 1944, Government decided that in his place Rai Sahib Bhagaban Mahapatra, Retired Deputy Magistrate and Deputy Collector, should be appointed Secretary. Rai Sahib Bhagaban Mahapatra accordingly worked for a short period, but then tendered resignation. Since then the Committee has been functioning without a Secretary, because Government are not able to spare the services of any of their officers for this purpose. The Committee decided not to worry Government on the question of appointment of a Secretary specially when the deliberations of the Committee had reached their final stages and resolved to have the report written by a small sub-committee of its own.

9. The Chairman, the Hon'ble Pandit Godavaris Misra opened the proceedings of the Committee with a speech on the 1st April 1943, when it first met. It is necessary to reproduce the speech at this stage. In his speech he said that he only amplified the terms of reference. The Committee is thankful to him for his guidance. The speech is reported as follows :—

“Gentlemen,

I welcome you to this Committee. I am indebted to you for your having agreed to serve as its members. There are a number of other committees set up in this Province each entrusted with a particular kind of work. But to me it appears that the task before this Committee is not only more arduous but involves an amount of responsibility which many other committees perhaps do not. Some of you may feel that the terms of reference are too wide to indicate a line in which Government intends this Committee to proceed. I plead guilty. But the terms of reference could not be more narrowed down. This is because the intention of Government is that this Committee should be given the necessary scope for considering the question in all possible aspects and laying down a policy which will, on the one hand, obviate existing difficulties, if any, and on the other, bring about an extent of satisfaction which has not so far been, because it could not be, reached.

(ii) The question is not peculiar to this Province alone. It is in existence in every other province of India, nay, in every other part of the world. In its broader sense it is a question of international relationship. It exists in different forms in different countries. In this country the problem, in its present form, created by persons domiciled in the provinces, is of recent origin. But everywhere it has attracted more or less attention. In Bihar, for instance, it lately became very acute. Some five years ago, the power of Government there to impose a condition of domicile was questioned in terms of a provision in the Government of India Act of 1935. But in spite of that provision, the parties to the question seem to have ultimately agreed to vest in the Provincial Government the final power in the matter.

(iii) It will appear that every province in India, except the Punjab, has got its rules regulating the admissibility to the privileges available therein of persons who are not the genuine children of the soil. The Punjab is not a province which requires protection from inroads of outsiders. It sends out its men to all parts of India for earning a livelihood not of course in the lowest stratum of the labour market of the country. It cannot, therefore, logically claim to shut out people from other parts coming into it, especially when it is so sparsely populated. The result after all is not unfavourable to the Punjab. There are other provinces in India which are allowed to enjoy almost the same privileges as the Punjab, but do not follow its policy of reciprocity. Their men go out to the other provinces, hold important positions both in public services and business and earn decently. But so far as immigration of outsiders into their territories is concerned, they set up barriers. In some cases it may be necessary to follow a policy of protection for the people of a province. Such a policy in order to be logical should also discourage the emigration of its people for utilising the economic potentialities of other provinces at the cost of their men.

(iv) Coming to our Province, we are faced with a difficult situation. Even when the areas now included in Orissa formed parts of other provinces, namely, Bihar and Madras, rules for the granting of domicile certificates were in existence. So far as the districts which have been obtained from Bihar and Orissa are concerned they had the same rules with Bihar. These rules were old enough, when the province of Bihar and Orissa was created some thirty years ago an announcement was made at Delhi by the then Emperor of India to the effect that one result of the separation of Bihar and Orissa from Bengal would be to give a greater share to the residents of the new province in the utilisation of the opportunities afforded by it. This was further affirmed by the first two Lieutenant Governors of Bihar and Orissa. The enunciation of this policy from time to time was necessary because of the conditions then prevailing. Nor did it remain confined to pronouncements from such eminent authorities alone. Circulars and instructions were from time to time issued to bring to the forefront the desirability of encouraging the children of the soil to have better share in the control of the potentialities of the Province.

(v) After the creation of Orissa as a separate Province rules were framed regarding the grant of certificates of domicile in 1936. They are now in force. But both in the press and on the platform the sufficiency of, as well as the jurisdiction for, these rules have been questioned. Some say that the rules are causing hardship to many of those whose interests are sought to be protected. There are others who maintain that the rules have not been effective; while still others claim that the rules should be cancelled so that the narrowness and parochialism underlying them may have no free play. It is these different and, in a way, contradictory wishes of the people which have necessitated the creation of a Committee like this. Looking from a higher platform it will appear to many that treating the genuine children of the soil differently from those who have migrated into it is an ungenerous act. India, like any other country of the world, though consisting of a number of provinces, is one undivided unit. It may, therefore, be rightly claimed that there should be no barriers against the free migration of people from one province to another even though the object of the migration

be to utilise the advantages in those provinces whether they are more. Such barriers are considered to be opposed to the national interest of the country as a whole. But it should at the same time be remembered that the interest of the country as a whole consists in the interest of the various provinces of which it is composed. The well-being of the body cannot be divorced from the well-being of its members. Only when every province makes an equal progress with every other province, then only the cause of the country as a whole can be said to have been served. The harmonious development of the country lies in the exploitation of the resources of each province by its own people without interference from the people of other provinces, as far as possible.

(vi) Orissa is an infant Province without adequate financial backing. It is also suffering from serious drawbacks from which almost every other province is more or less free. Till 1936 the territories of this Province formed the tail-ends of other provinces. Their development was naturally neglected. Their resources, in themselves so slender, were utilised by people with capital and business ability from other provinces. The public services were filled by men from outside where advancement had set in before. These factors have withheld the necessary progress of the genuine residents. If the Oriyas continued in their dismembered condition, as they did till 1936, and as some of them are still doing in the Oriya-speaking areas left out in other provinces, aspirations to live as a people would not have been kindled. But with the formation of a province these aspirations have been awakened. The spark of life has begun to smoulder. The baby Province has now got to struggle to stand on its own legs. It is the duty of the sister province to give it a helping hand. In the desire of the Province to achieve self-expression and the realisation of newly-roused animation it may have to adopt measures which may not suit others. But it is a course which must be gone through if the people have got to live as a body politic.

(vii) Orissa has mainly to deal with two provinces so far as this question is concerned. These two provinces are Bengal and Madras. In Orissa there are Bengalees and Andhras who are in fact, and are treated as, residents of the Province. Their interest does not differ from the interests of the genuine children of the soil. The problem of the domiciled Bengalees in Orissa had had a long and interesting history during the last 50 years, if not more. The earliest Bengalee settlers have not only adopted this Province as their home but have so much identified themselves with the children of the soil that the Bengalee which they speak has appreciably departed from the Bengalees spoken in Bengal. It is this feature of the domiciled Bengalees of this Province which distinguishes them from the Bengalee settlers of Bihar or of other provinces. The question relating to the granting of domicile certificates in Bihar arose between the Biharees and the Bengalees only. It did not relate to people migrating into Bihar from the United Provinces bordering on the west. This was because of the perceptible difference between the languages spoken. The question has never assumed acuteness in Orissa because the difference between the two languages has gradually dwindled, indicating thereby the existence of the tendency to mutual assimilation. The domiciled Bengalees have in a way merged in the social surroundings and established a common interest with the Oriyas. Among them are some of the greatest Oriya poets and philanthropists. Hence a spirit of toleration has always

become perceptible. What has been opposed at times is the introduction of new-comers. In this opposition the domiciled Bengalees themselves have frequently duly taken part.

(viii) The problem is not so old in the two districts of this Province transferred from Madras. In these two districts there is a distinct element of Andhra population who stand on the same footing as the domiciled Bengalees of the other four districts. There too in the interests of the Oriyas and the domiciled Andhras further immigration from the Madras Presidency is not regarded as desirable. But because the area where the domiciled Andhras reside had till recently intimate administrative relations with the larger Andhra areas of Madras, the line of demarcation there does not appear to have been as inflexible as in the case of the other areas where the question relates to the immigration of Bengalees.

(ix) The three provinces of Bengal, Orissa and Madras have certain features common to them which bring them out markedly on one plane of life. They are connected by one railway and one road running from Calcutta to Madras. The trade relations among the three provinces are an established factor. This, coupled with the fact that parts of this Province remained with Bengal and Madras for several decades, is responsible for introducing into this Province a problem which may not exist to the same extent in other provinces. There has also been another factor at work. According to the census of 1931 the density of population in Bengal was 697 per square mile and that of Madras was 328, while in the Province of Orissa it was only 249 per square mile. The difficulty presented by increasing population is very great in Bengal. There is, therefore, naturally a desire to expand and to shut out outsiders, although this may not operate justly to other provinces. The greater Bengal idea has emerged out of irresistible physical and economic necessities. In the case of Madras the tendency is there though perhaps working with less vigour. It is because of this that the granting of certificates of domicile is said not to have operated satisfactorily. New-comers have always tried to press their claims and have in many cases succeeded perhaps because of the favourable agencies through which certificates have been issued. But this has not been fair either to the genuine children of the soil or immigrants from the neighbouring provinces who have settled down in this Province just like the former.

(x) Personally speaking, I am entirely opposed to the system of requiring a section of our people to produce certificates of domicile only because they happen to have come later than the others. I see no difference between an Oriya and a domiciled Bengalee or a domiciled Andhra who has made Orissa his home. But the process of migration with a view to take advantage of the resources and opportunities of the Province must end at a particular point of time. It is this unending process which has necessitated the adoption of measures for discrimination. But human ingenuities at war cannot terminate and have not terminated an undesirable process at work. It is to the interest of both parties to help to bring about a happy solution. The opportunities existing in the Province should be made open to both equally. What is of paramount importance is that every part of the Province should equitably share in all opportunities both in the services and in the economic

sphere. There can be no difference between man and man. Because of the policy of denial of equal opportunities in the past a community has been created in this country which is now known under the name of scheduled castes. Previously they were called either depressed classes or backward classes. They no longer like these epithets. But a mere change in nomenclature is of no material use. One should guard against the extension of the already exploded policy on the mere plea of giving more opportunities to the genuine children of the soil. The Oriya and the genuinely-domiciled resident are both equally enough Oriyas. If there is any divergence or difference, every attempt should be made to minimise it with a view ultimately to eliminate it altogether. Then only the Province can become a homogeneous whole. All demands for separate treatment either in respect of language or of customs and manners, are hostile to the growth of a common life and common political existence so necessary for the realisation of the national aspirations of the country as a whole.

(xi) I have previously said that the task before this Committee is a very difficult one. It has to devise ways and means for happy blending of the different elements existing in this Province. History will show that wherever diverse elements came together their union was generally achieved through a process of assimilation. In this small Province we cannot aspire to solve the problem in any different manner. For my part, to quote language used by an eminent compatriot, "I would welcome in our Province of Orissa all our fellow countrymen from all parts of India who have a right to come and enjoy the opportunities and carry on their business pursuits so long as these people identify themselves with the progress and prosperity of Orissa and do not regard themselves as mere outsiders to have come here to exploit the resources of Orissa for their own benefit". This presupposes the desire to adopt this Province as the land of their home, where the Oriyas and the domiciled people live side by side as members of one and the same family. Any tendency towards a cling with past interests and associations is bound to introduce a disruptive force that will have to be more or less severely resisted. This resistance has expressed itself in the formulation of the rules of domicile. Any circumvention of these rules will only lead to the adoption of other methods, but will not render them unnecessary. Speaking for myself, I would do away with the rules of domicile and the issue of certificates which have only exasperated the genuinely domiciled people, if by so doing we could prevent outsider from keeping to come into this Province and continue an unending process of claiming domicile here. Orissa is not, either politically or economically, a cosmopolitan province such as towns like Calcutta and Bombay are, though in the sphere of religion it has ever embraced spiritual enthusiasts from all parts of the country.

(xii) I have inflicted not too small a speech upon you considered by mere volume. I have simply elaborated the terms of reference. But probably after all my labours and the mute tiring of your patience, I have not succeeded in bringing you nearer the problem, to a solution of which you will now set yourself. On my part, I assure you that I shall entirely place myself at your disposal and assist you in every possible detail necessary for the solution of the problem as a whole.

CHAPTER II

Historical Background

10. It is well known that Orissa was prosperous country under its own independent kings. This is evidenced by the writings of both early travellers and later historians. More evidence of a tangible nature is supplied by the monuments of its ancient art and architecture. With British advent, however, the vivisection of Orissa of earlier years, which had already got dismembered owing to conquest and annexation at different times became an accomplished fact. Thus the Oriya-speaking areas came to be included in 3 different contiguous provinces, namely, Bengal, Central Provinces and Madras. This exercised a disintegrating influence on the life of the Oriyas as a nation. An agitation was, therefore, set on foot under the auspices of the Utkal Union Conference to have all the Oriya-speaking areas amalgamated under one Provincial administration.

11. That the Oriyas suffered from difficulties owing to their dismemberment has been admitted in various official records. For instance, in his letter No. 3678, dated the 3rd December 1903, Mr. (afterwards Sir) H. H. Risely, C.I.E., Secretary to the Government of India, addressed to the Government of Bengal, Madras and the Central Provinces and Berar, says, "The Government of India are disposed to unite the whole of the Oriya-speaking people, both hill and plane, under one administration and to make that administration Bengal Such a scheme will solve the question of language once for all. This change would relieve both the Central Provinces and Madras of a troublesome excrescence upon their administrative system; and it would result in handing over the Oriya problem to one Government alone on a scale and with an unity that would admit of its being treated with consistency and efficiency".

12. This letter of the Government of India, though undoubtedly encouraging to the Oriyas, brought about very little result immediately. Therefore when a new Province was carved out from Bengal by a Royal Proclamation in 1911, the Oriyas rather welcomed their separation from Bengal and combination with Bihar in the new Province of Bihar and Orissa. They expected that their national aspirations would be attended to better than they had been with the larger self-conscious province of Bengal. It cannot be said that these aspirations were not, at least to some extent, recognised in the new Province. But the dismemberment still continued and no appreciable change in the situation occurred by the formation of the Province of Bihar and Orissa. The Oriyas legitimately felt that their lots were not likely to improve so long as they continued to remain under separate provincial administrations. The question was brought to the forefront by various methods. It saw its culmination in the recognition given to it by the Simon Commission. In their report, the Simon Commission said, "The cases of Orissa and Sind are only prominent examples of a class of question which arise at many points when provincial boundaries are considered. These boundaries, as a rule, have none of the characteristics of a natural frontier, the lines they follow are largely due to the way in which British authority happened to spread over the sub-continent and to the order of time in which different accretions became joined to what was already organised as an

administrative unit". The Simon Commission became convinced of the desirability of amalgamating the Oriya-speaking tracts and placing them under one provincial administration. In pursuit of their recommendation necessary preliminary enquiries were made and the formation of the Province was announced. The Oriyas naturally rejoiced at it, but their rejoicing was not unqualified on account of the fact that several Oriya-speaking tracts were still left out. The feeling is that the Oriyas have indeed undoubtedly got a province of their own, but have suffered as a people.

13. It will appear that in the creation of the Province of Orissa recognition was given to the principle of the formation of provinces on linguistic basis. The earlier provinces of India had by no means been formed either on linguistic or ethnological considerations. Their origin was due to the chronology of acquisition and exigencies of administration. Government, however, gradually became alive to the fact that the constitution of the Indian provinces was defective from the national point of view of the various peoples of the country. Slogans such as 'Assam for Assamese', 'Bengal for Bengalees', 'Bihar for Biharees', 'Sind for Sindhis' and 'Andhra for Andhras' were heard all over the country. Even the Indian National Congress, though interested in the unity of the country as a whole, recognised the logical nature of forming provinces on a linguistic basis. It feels, "that the free India of the future would be a family of a number of nationalities, each having a territorial unit to which it is attached by historic tradition as its homeland, each having its own language, culture, common economic life, etc.". Language was considered to be the cementing principle in nationhood. Even high officials of the British Government, like Sir Bamfylde Fuller, a Lieutenant Governor in India, admitted that "in India the nearest approach to national sentiments was that which sprang from language". The Congress divided the country into a number of provinces each of which was a linguistic unit. This resolution of the Congress had, in fact, been anticipated by a decision of the British Government in creating Assam as a province separate from East Bengal.

14. Later, when, in 1936, two new provinces, namely, Sind and Orissa were formed, the principle underlying their formation was placing under one Government of people speaking one and the same language and bound together by common national aspirations. At the time when these two provinces were created, both had one thing in common, that is, their interests had not been served while they remained tacked on to other provinces. There was, however, one great difference, namely, that Sind was as a whole part of one province while Orissa had remained dismembered originally in three but later on in four provinces. In each of these provinces, the Oriya-speaking tracts formed almost the tail-ends and did not, therefore, receive such attention as other parts from the headquarters of the provinces. For a time in Orissa even the very existence of the Oriya language was at stake. The economic progress of the Oriyas became overlooked. The economic potentialities of the Oriya-speaking tracts either lay unutilised or were exploited by people from other parts. Even the Government services were staffed by people from other parts of the country. The Oriyas had to play but a very minor part in the administration of their own areas. The zamindaries in Orissa which were sold for default of the timely payment of revenue in far off Calcutta fell into the hands of non-Oriyas. It was an irony of

fate which stands perpetuated even to this day. It is said that in his own land the Oriya has practically become a foreigner. Rightly therefore did Lord Crew, the then Secretary of State for India, in his Darbar despatch of 1st November 1911, said that "Orissa has a long-felt uneasiness at a possible loss of identity as a distinct community". The learned Secretary of State undoubtedly deserves thanks from the Oriyas for such an expression of views. But this was an appreciation of the position from a very far off place. It naturally pithily expressed merely a part of the sufferings of the people as they actually were.

15. It may not be considered strictly relevant to enter into historical facts in dealing with the question before this Committee. But a proper portrait of the problem, as it is, can only be made in a suitable background. Here the background is the suffering of the Oriyas lying dismembered under various administrations with their problems well-nigh shelved. The consequent reaction was the expression of their will to forge their lot by united effort. This will get its recognition at the hands of the Government by the formation of a province for the Oriyas, however, truncated that province may be. The size of the present province can be regarded as showing that though the national demand has been accepted, the necessary conditions for its fulfilment, which could be secured only by a combination of the component parts, have not been adequately supplied.

CHAPTER III

Nationalism and Universalism

16. The history of the world, if it is anything, is a history of the tendency of the human race inhabiting divers and distant parts to join hands and live as members of one great family. Drawbacks and deviations in this process have undoubtedly occurred from time to time. But attempts have similarly been made to rectify them. It cannot be gainsaid that the tendency of the human mind is to become liberal, even at the sacrifice of smaller interests. The theory of the greatest good of the greatest number has been adjusted in practice to secure this object.

17. It cannot be maintained that the securing of the well-being of the human race as a whole is opposed to the development of the various units constituting it. It is on this understanding that countries have developed and patriotism prospered from age to age. In India, which is more a continent than a country, the principle of life has been based on universalism rather than on nationalism. The conception of life in this country is one of simplicity, renunciation and sacrifice. But these qualities of the people have never stood in the way of their striving for existence. One must live and for that matter live worthily in order to be able to contribute one's mite to the progress of the world. Indian nationalism of the present times seems to be based upon this notion, as Pandit Jawaharlal Nehru put it on the 23rd June 1945, at Bombay, in a press conference. He said, "whenever there is a conflict between international and national policies, the national policy wins".

18. The question is whether the fostering of provincialism in India helps or militates against, the growth of Indian nationalism. The question has not, perhaps, been seriously asked at any time. It has been taken for granted that the provinces must march on the path of progress side by side and thereby bring about the salvation of the country as a whole. It may be, as already observed, that the Indian provinces are not natural growths, but are artificial creations of an alien Government, constituted more for the sake of administrative exigency than for anything else. Still advantage has been taken of the existence of provinces for self-development.

19. It has been said in the previous chapter that language is a basic principle in nationalism. This fact has been recognised not only by great Indian patriots, but also by foreign administrators in this country. The constitution of Orissa as a province is a recognition of the principle of forming provinces on linguistic basis. The mere fact of two people speaking the same language binds them closer together than any other fact in life. Between Indian provinces, as also between the geographical and political units all over the world, there cannot be a water-tight division. Therefore in provinces, however carefully constituted as linguistic units, more than one language is generally bound to be spoken. It is, therefore, no wonder that it has been so in the case of Orissa. In its case there is a further reason for this linguistic anomaly; because the province has been constituted, as is well-known, with tracts of country which remained parts of several provinces for rather a pretty long time. Thus in Orissa besides the Oriya language, the other languages spoken are Telugu and Bengalee. The mere fact that some inside the province speak either Telugu or Bengalee does not mean that any area predominantly, or even appreciably, inhabited by Telugus and Bengalees has been incorporated in it. The idea of the formation of a separate Province of Orissa was entirely based on the principle of providing a home-land for the Oriyas and as such the Committee, on whose report the decision for the demarcation of the boundaries of the province was made, scrupulously avoided the inclusion of any such element. The Committee, on the contrary, proceeded with exaggerated caution, so that certain areas containing an appreciable or even a predominant Oriya population were excluded. The object was obviously to make the province an ideal linguistic unit. This object was realised to such an extent that it justified the assertion made in the report of the Joint Parliamentary Committee, 1933-34 that "a separate Province of Orissa would however be perhaps the most homogeneous province in the whole of British India, both racially and linguistically".

20. After the formation of the Province many years have not elapsed. But the question of language has already begun to create what may be called the beginnings of a future trouble. Following a claim made some time ago in favour of Bengalee as the medium of instruction a desire has now been expressed for the recognition of Telugu as the language of the schools. It has already existed as a language in courts in certain parts. To counteract this a demand was made by means of resolution moved in the Orissa Legislative Assembly to make Oriya the sole court language of the Province. This demand was based upon a number of arguments. It is not necessary to mention them here. But one fact is irresistible. It is this. In his letter No. 3678, dated the 3rd December 1903, addressed to the Governments of Bengal, Madras and the Central Provinces and Berar, an extract from which

has already been quoted in Chapter II, Mr. (afterwards Sir) H. H. Risley, Secretary to the Government of India, said, "The Government of India would add to Orissa the Ganjam district (with the possible exception of one taluk in which Oriya is said not to be the prevalent language) and the Ganjam and Vizagapatam agency tracts. Such a scheme would solve the question of language once for all". It may be remarked here that what the Government of India then thought to be a possible exception has now been actually excluded from Orissa. This is the Chikakol taluk. Further areas have also been similarly excluded although not contemplated for exclusion by the Government of India at that time, and not perhaps justified by facts.

21. Still the question of language which was expected in 1903 to be solved once for all has not been solved. In this Province there are linguistically mainly two small non-Oriya communities, namely the Andhras and the Bengalees. There is also a small handful of other elements speaking different languages. They are the traders and commercial enterprisers. The Andhras are 3·4 per cent of the total population of the Province while the percentage of the Bengalees is less than ·5. This is according to the 1941 census.

22. The question now is one of the treatment to be accorded to these languages in the Province of Orissa. If the Andhras and the Bengalees as well as the Hindustani speakers are to be regarded as minorities in Orissa, the question will certainly arise. This would not only be a difficult question but a question of vital importance and therefore should be decided according to well-established principles. In the first place the law of the land which at present is the Government of India Act of 1935, does not recognise that any of these communities can be regarded as minorities in Orissa any more than the Oriyas still left in other provinces can be called minorities there. In course of his evidence before the Joint Parliamentary Committee in 1933, the then Secretary of State for India said, "I mean minorities as we always define them in dealing with Indian affairs, namely, the principal religious minorities". This question has been dealt with in a broader aspect elsewhere. The League of Nations, after the last war, enunciated certain principles which may be relevant in this connection. It said that immigrants as a minority cannot claim protection, because they entered the country of their own free will. But even supposing that protection is notwithstanding sought to be granted, because it is claimed, the next question is, under what circumstances it can be granted. On this point also the League of Nations had its say. It said that in order to be considered as a minority it should be "a considerable proportion of the population". This principle was not left out to be determined by different Governments according to their own circumstances. It was, therefore, laid down by the minorities treaties that the proportion should be at least 20 per cent of the total population. It was relying upon this decision that the Andhras argued before the Orissa Committee of 1932 against the consideration of the claim of the Oriyas of the Madras Presidency to be treated separately from the general population of Madras and included in the proposed Province of Orissa. If their argument was not accepted, it was because, as the Committee itself remarked, "the minorities treaties regulate the treatment of minorities in countries whose boundaries had already been determined".

23. It may be contended that the decisions arrived at by the minorities treaties which were in connection with adjustments of communities for the purpose of self-determination after the war should not apply to the case of the Oriyas, where the boundaries of the provinces were fixed by peaceful and almost judicial enquiries. Admitting the validity of this contention for the sake of argument, it is to be said that even in a case of this nature some principle has got to be followed. A limit must be placed on the percentage of population belonging to other nationalities and speaking other languages than what is indigenous to the Province in the matter of protecting their interests as separate entities. On this point some witnesses were interrogated in course of the proceedings of the Committee while it was taking evidence. Some of the Andhras said in reply that they did not accept the decisions of the minorities treaties. But they did not give to the Committee any constructive suggestion. From more than one witness, however, constructive suggestions came to the effect that if the number of people speaking a language other than Oriya in Orissa exceed 5 per cent of the total population they were entitled to special protection. Pandit Ramalingam deserves special mention in this connection, because he considered that if this percentage were to be effective, it should be 15. Taking it at the standard of 15 or even the lower figure of 5, no non-Oriya community in Orissa seems entitled to protection as a minority. But it has to be observed that this conclusion is only conditional and is based upon a premise which in itself is not correct. To quote Sir Austen Chamberlain from his speech made at the League of Nations on the minorities treaties, "It was certainly not the intention of those who have devised, the system of minority protection, to establish in the midst of a nation a community which would remain permanently estranged from the national life. The object of minorities treaties was to secure that measure of protection and justice for the minorities which would gradually prepare them to be merged in the national community to which they belong".

24. In the absence of the establishment of any principle to the contrary, the decisions made in the minorities treaties deserve all respect in deciding particular questions. For the universal good of mankind, it is necessary that the various units of which it is composed should be allowed to develop as distinct and independent units on lines which may be called truly national. Universalism admits of diversity. This diversity consists in the nationalism of the different units. In the narrower sphere of nationalism there seems to be no place for diversity. Each nation must work for its own national salvation and it is the duty of every element in such unit to work harmoniously for the realisation of this goal. It pre-supposes a common national interest and common methods. Unless in each unit the common interest is served by everyone of the individual citizens, national salvation becomes impossible thereby and to that extent affects the higher universal goal. Rightly did Mr. (afterwards Lord) Baldwin, a former British Premier say, "the present nationalism is the first of one's own home, and the greater the love of one's own home, the greater the love of one's own country".

25. The sentiments arising in one's mind on a question like this could not perhaps be more strikingly expressed than in the following extract from a leading article of the *Amrit Bazar Patrika*. It runs as follows: "Indian nationalism is of a composite character. No useful purpose will be served by ignoring facts, or by trying to twist them to suit a particular theory,

nor will it be helpful for us to import analogies from Europe and America for the guidance of our conduct, as thousand years of eventful history have gone to the making of the different sub-nations that inhabit the Indian soil. The proper adjustment of our mutual relations demands that we should recognise our unity as well as our diversity. Any attempt to grind us into a dull, dead uniformity in the name of our common nationhood is bound to cause friction, and end in disruption. Provincialism, rightly understood and kept within proper limits, is quite a healthy phenomenon, and is nothing to be ashamed of. There is no use disguising the fact that an Oriya, a Bengalee or a Gujrati feels his kinship with a fellow-provincial much more keenly than he does with a Tamilian or a Panjabi, and this is true with rare exceptions of the members of every provincial group. To ignore this fact is simply to misunderstand the nature of Indian nationhood, and store up trouble for the future. It is time that the composite character of Indian nationhood were properly understood. India is not, and never will be, one uniform nation in the sense in which France and Germany are nations, and any attempt to cast the different peoples that inhabit this country into one uniform cultural and linguistic mould is sure to end in failure and possibly lead to disaster. We must recognise both unity and diversity and must not seek to justify any wrong step by importing false analogies from outside "

CHAPTER IV

The real problem

26. There is no use in not stating the problem as it is. The existence of the Bengalees living in the Orissa Division of the province of Bengal prior to 1912 and of the province of Bihar and Orissa thereafter did not present any appreciable and unconquerable difficulty in the national life of the Oriyas. Whatever be the reasons, their smaller identity was on its way of being merged in the greater identity of the Oriya people. This was perceptible in their customs and manners and even in the language which they spoke. Although their number was not very large, being only 38,000 according to the 1941 census, they wielded considerable influence in the public affairs of Orissa. Not only did the big officials come from among them but their community produced the greatest authors, patriots, philanthropists, social workers and public men. They lived side by side with the Oriyas almost as the flesh of their flesh and the blood of their blood. It was in recognition of this that at its 13th session held in March 1917, the domiciled Bengalee Association consisting of those who were "in every sense indigenous to the Province" was incorporated in the Utkal Union Conference. In the next session of the Utkal Union Conference held in April 1919, one domiciled Bengalee became the Chairman of the Reception Committee. It must be said that even prior to these events the Presidentship of the Utkal Union Conference had gone to domiciled Bengalees. It may be observed that compared with their population, they have appropriated a larger share in the services of Government. That people have never taken exception to it will appear how the Oriyas in general in the Province have regarded their

relation with the domiciled Bengalees. An expression of this was given at the general election to the Provincial Legislature in 1937, when out of a total number of 43 seats in the general constituencies as many as five were captured by the members of the domiciled Bengalee community.

27. A controversy, however, arose between the older Bengalee settlers and the new-comers who showed no signs of merging their identity in that of the Oriyas as a whole, while trying to appropriate the advantages. A distinction thus arose between the older settlers and new-comers and is being continued even to this day. There is now a division of opinion amongst the older Bengalee settlers as to the manner in which they should be distinguished from the new-comers while some of them feel that in their cases the production of certificate of domicile should not be insisted upon, there are others equally patriotic who think that in order to protect their interests in common with the interest of the Oriyas it is necessary that they should be distinguished from the new-comers by obtaining certificates of domicile. The reason which influences the former, namely, those who would do away with the practice of issuing domicile certificates, is that they are part and parcel of the Oriyas. The other section, namely, those who would still have the domicile certificates to continue, are in favour of the system, because they think that thereby they can prevent new influx from Bengal. The real domiciled Bengalees will undoubtedly feel happy if a method can be devised by which their interests can be safeguarded and the botheration of taking certificates of domicile minimised.

28. Then comes the question of the handful of the traders and the commercial enterprisers. They have neither any linguistic identity nor do they deserve to present a problem as a separate ethnic unit. Unlike the Bengalee settlers, they are all of them new-comers. The Bengalees came centuries ago in the process of diffusion, but most of them have lost their identity altogether and are known more as Oriyas than as Bengalees. The next instalment of immigration was in connection with the introduction of a new type of Vaishnabism in Orissa. The third stage, which is of more recent occurrence, consisted of the advent of Bengalee officers not only under the Moghals and the Marhattas, but also more recently under the British. The traders and commercial enterprisers, on the contrary, have no history in Orissa prior to the 20th century and, one and all, came in connection with trade and business. It may be said that their number is gradually rising on account of new influx rendered possible by easier communication and better opportunities of business. With regard to this class, the *Amrit Bazar Patrika* of Calcutta commented editorially as follows: "We know there are small commercial communities in India, who, like the Jews in Europe, have spread themselves over all the provinces and are as much at home in Bombay as in Calcutta or Delhi. Cut off as many of them have been from their original home, they have no special attachment for any province and it is only natural that they should prefer to regard themselves as citizens of every province. But a closer examination of their mentality and outlook brings home the fact that though they are in every province, their sympathies are strictly confined to their own community and seldom go beyond. There is reason to suspect that when they condemn provincialism as an unnatural growth or as an obstacle in the way of Indian nationhood, they look more to the commercial interests of their own community than to the welfare of India

as a whole". This can be said as being literally true even in the case of those included in the population of Orissa. They were indifferent to the provincial problems of all kinds and played very little part even in the struggle of the Oriyas for the unification of the Oriya-speaking tracts or for the formation of a province of their own.

29. The next element are the Andhras. They are mainly residents in the Ganjam and Koraput districts. These districts came under British possession as a part of their annexation of South India and were, therefore, earlier acquired than the mainland of the Oriyas. To these two districts, the Andhras also migrated for the purpose of trade and service as well as for professions. The earlier traders known as Kumutis have become Oriyas to all intents and purposes, although the late comers amongst them still retain their identity to some extent as members of the Andhra-community. Regarding them the Report of the Phillip-Duff Committee says as follows: "There is an important class of merchants throughout the area called Kalinga Kumutis. Our own enquiries in the interior villages satisfy us that though this caste was in origin Telugu, the vast majority of them have lost their Telugu identity and speak and write Oriya almost exclusively and live on intimate terms with the Oriyas among whom they are settled." Those, on the contrary, who came for service and for professional pursuits stand on a different footing and claim identity more with the Andhras of Madras than with the Oriyas of Orissa. They consider themselves to be members of a greater Andhra country and are influenced with the message propagated by their organ, the *Visalandhrabani*. They have identified themselves with the Andhra Mahasava, the source of inspiration of which is not in Orissa, but somewhere in their original homeland. Their professed object is to get themselves reamalgamated with the Andhra country of Madras and they make no secret of it. Yet they claim the privileges of the children of the soil in Orissa as the Oriyas so long as their cherished object of going back to Andhra Desh has not been realised. This has created an enigma in the political life of Orissa since its formation as a province.

30. This is one side of the picture. Coming to the other side of it, we find that in 1916 in a scheme of reorganisation of provinces on the basis of one province to one language prepared by Doctor Pattabhisitaramaya, the then editor of the *Janmabhumi*, on behalf of the Standing Committee of the Andhra Provincial Conference, Guntur, and presented to the Indian National Congress, the Oriya tracts of Ganjam and Vizagapattam agencies were included in the proposed linguistic Province of Orissa. The same view was expressed in a written memorandum before the Joint Select Committee on the Government of India Bill of 1919 by two Andhra representatives, Dewan Bahadur Ramachandra Rao and Sir B. N. Sarma with regard to the Oriya-speaking tracts of Ganjam and the Vizagapattam agency which has since become the district of Koraput in Orissa. The Maharaja of Jeypore said that a good portion of the Telugu population are regarded as floating. It was perhaps on this account that when the enquiry was made by the Phillip-Duff Committee in 1924, the Telugu were reported by the Committee as being indifferent to the fate of the agency. They followed the same indifferent attitude even in 1932 and the Orissa Committee accordingly remarked that they were not interested in the agency tracts. In another place the Committee said, "On the Telugu side there was next to no opposition. A few Telugu

witnesses said that they did not wish it to be transferred to Orissa. But it was clear that the Telugu leaders are indifferent to the fate of the Agency. Nor is the reason for this far to seek. It is to be found in the movement for the creation of an Andhra Province. The Agency areas outside Gudem and Golgonda contain only a few Telugus and financially they are a liability rather than an asset. The Telugu politicians, therefore, are not unwilling that they should be detached from the Telugu districts ”.

31. This was the state of things a decade ago. Since then the position has been very much changed. Andhras have settled down in larger numbers in the district of Koraput. That district, while a part of the Vizagapattam district as an agency area, was almost completely undeveloped. Its inclusion as a district in the Province of Orissa, which has but six districts to its credit, has opened it up. Lands have been leased out. Factories have been established. Prospecting license for mining is being obtained. The commerce of the district has improved. Transport facilities have increased. But in none of these have the children of the soil taken any part, due to strong and unconquerable combinations of circumstances. The examination of the records of certificates of domicile issued since the constitution of the Province in Koraput discloses how a large number of enterprising Andhras from the South have established themselves in almost all important centres of the district. Prospects are appearing brighter. It is only the dawning of the day. Nobody knows what will happen as the sun rises in the sky. But this has had one effect on the mind of the Andhras. It is that the attitude which they entertained towards the Vizagapattam agency in the last decade does no longer manifest itself.

32. These are the prominent non-Oriya elements who are residents in Orissa. In Chapter III their relative percentages to the total population of the Province have been given. It will appear that all the classes taken together are scarcely more than 4.1 per cent of the total population of the Province. This percentage, small as it is, also includes some floating population which have neither residence nor any other interest of an abiding nature within the Province of Orissa.

33. The minorities treaties contemplated a situation in which a minority would be absorbed in the general population of a unit of country. This minority they took to be ordinarily not less than 20 per cent of the total population. Where it is less than 20 per cent, absorption is the rule unless it is consciously counteracted by artificial methods. This rule of absorption has already operated even in the case of Orissa in respect of the earlier Bengalee settlers to some extent and of the Kalinga Kumutis completely. In the interest of the body-politic small individual sections thereof should not be in a militant mood of mind. Then alone a harmonious development will logically follow. The League of Nations were of the view that no protection should be granted to immigrants. It may not be out of place in this connection to refer to an opinion expressed by a great nation builder of India, namely, Pandit Jawaharlal Nehru. In his book, “Unity of India”, he says, “The very basis of immigration must be the assimilation of the immigrants. If he remains alien and an outsider, he is a disruptive force in the body-politic”.

34. As may have appeared from what has been said in previous chapters Orissa was constituted as a province with the definite idea that it would become a homogeneous province. It was perhaps not anticipated then that conditions would ever arise which could foster any kind of heterogeneity. In order to prevent heterogeneity it would rather be prudent as in a case between Greece and Turkey, to get transferred from Orissa to neighbouring home-lands any non-Oriya elements in the population. The Province of Orissa was constituted to solve a problem once for all on a universally-accepted principle of one province to one language and one race. If questions are now raised on the lines of those which are being raised by some of the non-Oriya elements in the Province, there will be no end to enquiries and necessities for decisions. In fact there should not be any scope for the same problems being created over again. It is for the authorities as well as for the leaders of the people to consider the matter from all points of view and adopt a course of action which will not militate against the realisation of the national aspirations of the people of Orissa. It may be noted that in one linguistic and ethnic unit there can be only one national aspiration and one course by which the destiny of the nation can be moulded.

CHAPTER V

Activities of the Committee

35. After its constitution the Committee met for the first time on the 1st April 1943, seven members attending. The proceedings began as already stated, with an address by the Hon'ble Chairman. The meeting decided to obtain copies of domicile rules framed by other provincial Governments in India and the number of domicile certificates issued by the District Officers in Orissa between the 2nd November 1936, which was the date of the promulgation of the present domicile rules in Orissa and the 31st March 1943. The Government were also requested to furnish a statement of appointments held by domiciled people on the 31st March 1943. Certain other relevant information were also obtained from other provincial Governments and we take this opportunity to thank them for their kind co-operation.

36. The Committee met again on the 6th June 1943 and decided upon the line of action to be adopted. It proposed to frame a questionnaire in order to elicit public opinion on the question. Members were requested to send in their questions by a particular date. It was also decided that after public opinion had been obtained in writing on the questionnaire, the Committee should visit all important places with a view to take oral evidence and to examine the records of domicile certificates issued. The Secretary compiled the questionnaire out of the questions received from the members. It was printed and sent to a number of people and public bodies all over the province through the agency of the District Officers concerned. The Committee met again on the 29th October 1943. This was a meeting convened by the Chairman on a requisition signed by seven members of the Committee. The requisition dated the 25th September 1943 from members came under the following circumstances. The Government of Orissa by an order of the Home Department No. 18154 (6)-A.(C.), dated the 25th August 1943, modified the existing domicile rules and made it possible for such persons as were not entitled to hold appointments under the Government of Orissa to be eligible for being appointed to temporary appointments for a period not exceeding

one year. A copy of the order was circulated amongst the members of this Committee. Thereupon seven members of the Committee desired to discuss the appropriateness of the Government order. The Chairman convened a meeting on the 29th October 1943 on the said requisition. The Committee unanimously passed the following resolution: "This Committee is of opinion that while it is sitting under a resolution of Government with definite terms of reference to determine whether the system of granting domicile certificates to persons who are not genuine Oriyas has operated satisfactorily or not and is seriously engaged in eliciting public opinion on the question, which alone will ultimately determine the policy of Government, the recent Government order No. 18154 (6)-A.(C.), revising the existing rules has entirely prejudiced the issue. The Committee wants to convey to the Government that in the interest not only of the Oriyas but also those who are genuinely domiciled in Orissa and in all fairness to itself this Committee should be given unfettered facilities to conduct its enquiries".

37. At that meeting the Secretary placed on the table written replies received on the questionnaire and requested the Chairman to draw up a programme for the Committee to visit different places in the Province to examine witnesses and records connected with the issue of domicile certificates.

38. The next meeting of the Committee was held on the 14th and 15th November 1943 at Balasore where evidence was taken from eleven witnesses including officials and non-officials. Thereafter the Committee met at Berhampur for four days namely from the 7th to the 10th February 1944, and examined in all seventeen witnesses. Thereafter the Committee met at Jeypore and Koraput from the 21st to the 25th April 1944, and examined in all eleven witnesses. It met for the next time at Sambalpur and Brajarajanagar and examined in all twelve witnesses. Next came Puri, where the Committee met for three days from the 14th to the 16th August 1944, and examined as many as ten witnesses. The number of witnesses examined at Cuttack was seventeen in all. For this purpose the Committee met in the Conference Room of the Secretariat from the 4th to the 7th September 1944.

39. It will appear that the total number of witnesses orally examined by the Committee comes to 78. Some of the witnesses orally examined had not submitted any written memorandum. But the Committee examined them for two reasons. One was that a few of them expressed a desire to be examined even though they had not submitted any written memoranda on account of personal difficulties. A number of other witnesses who had neither submitted any written memorandum nor even expressed a desire to be examined were specially requested by the Committee to appear before them so that it might derive benefit from an expression of their views. These persons mostly included domiciled persons and retired officials. A list of witnesses will be found in Appendix I.

40. With the sitting of the Committee ending on the 7th September 1944, at Cuttack the recording of oral evidence by the Committee was concluded.

41. After the recording of evidence, the Committee met for six days commencing with the 1st October 1944, at the Conference Room of the Secretariat at Cuttack for the purpose of discussing the evidence and arriving at conclusions. The Committee is thankful to the Secretary, Rai Sahib Bhagaban Mahapatra, for the laborious tabulation of the evidences which he had made. This was found very helpful. The proceedings of the

Committee at this stage had rather to be prolonged owing to the following unforeseen circumstances. In the midst of its deliberations the Committee received a representation from Sri A. S. N. Murti, asking for an adjournment because of his own and Sri V. K. V. Raju's unavoidable absence. The question was referred to the Chairman, Mr. S.L. Marwood, who was not attending the meeting, for orders. His orders were that the Committee might go on with their deliberations, the absence of the two members notwithstanding. Accordingly the Committee carried on its deliberations and recorded its decisions. Sometime after, however, on receipt of a further representation from Sri A. S. N. Murti, made to the Chairman, requesting that he should be given an opportunity to place his views before the Committee as to who should be treated as the children of the soil, the Committee met again on the 20th November 1944. This meeting was attended by Sri A. S. N. Murti and Sri V. K. V. Raju, Sri A. S. N. Murti attending it for the first time. He raised the question of defining the expression "children of the soil" and made an elaborate speech in support of his arguments. The question was discussed at length by the members and the decisions of the Committee taken. These decisions will be found in subsequent pages in relevant connections.

42. The Secretary of the Committee had tendered resignation of his office. As has been observed in Chapter I, it was not possible for Government to spare the services of a suitable officer to work as Secretary of the Committee. Government desired that the Committee might make its own arrangement to draft the report. The Committee acceded and appointed a small Committee of three persons to draft the report. The Committee finally met on the 4th July 1945 and considered the draft report and signed it. It may be said that Mr. S. L. Marwood, C.I.E., J.P., I.C.S., the Chairman of this Committee, being absent on leave out of India, was not able to sign it.

CHAPTER VI

The Genesis of the Domicile Rules

43. The protection of the interest of the children of the soil has been the concern not only in the provinces in India, but everywhere throughout the world. In India, however, such protection has been applied only in the case of Government services. This is because in India, so far at any rate, the only opening for the educated sections has been limited to service under Government. Services under Government are of two kinds, namely, all-India service and Provincial service. Under the present arrangements, men in the all-India services, though placed within the provinces to carry on provincial administration are outside the control of the Provincial Governments. The question is, therefore, reduced to provincial control over provincial services alone.

44. It is necessary that all services within the provinces, including the all-India services, should be manned by men coming from the provinces. Regarding the importance of the services, the following extract from a note appearing in volume III of the report of the Indian Statutory Commission of 1930 may be quoted. It runs as follows: "In no country in the world

are the services as important an agency of public good as they are in India. Nowhere are the public servants under the Government as well as local bodies so almost exclusively looked up to for guidance, for control and for active help as in India. In the modern political organisations India still affords unique opportunities to the public servants of contributing to the growth, prosperity, peace and happiness of the masses as much as of the classes. No other agency is here in such intimate living contact with the masses and has such overwhelming share in the shaping and control of their destiny. For good or for evil, the services have, ever since the uprooting of indigenous self-governing institutions two or three centuries ago, directed and controlled the nation's destiny and executed its policies almost exclusively".

45. This extract very correctly describes the place of Government service in India. It is not our business to comment on the reasons contributing to it. The provinces have, and perhaps rightly, tried jealously to guard against non-provincials entering into the services under their Governments. Thus in every province in India some sort or other of domicile rules have evolved in course of time. An exception is claimed for the Punjab. Even in that Province although there are no formal definite rules in making appointments, the spirit of the system of domicile rules prevailing in other provinces is followed. It will appear, therefore, that not only in the new provinces where introduction of domicile rules is looked upon by other provinces to some extent with disfavour, but also in the older provinces necessity has been felt for the introduction of domicile rules. The new provinces probably required these rules more than their older sisters. But they simply followed suit on their creation.

46. Thus when the Province of Bihar and Orissa was created by a proclamation of His Majesty the King and Emperor of India, His Majesty observed, "It is our earnest desire that these changes may conduce to the * * * greater prosperity and happiness of our beloved people". That whilst making a declaration like this, His Majesty was fully aware of the circumstances which necessitated the creation of the new Province in 1912, can be gathered from the following extract from the dispatch of the Government of India to the Secretary of State for India. The extract runs as follows: "We are satisfied that it is in the highest degree desirable to give the Hindi speaking people now included within the Province of Bengal a separate administration. These people have hitherto been unequally yoked with the Bengalees and have never therefore had a fair opportunity for development. The cry of 'Bihar for Biharees' has frequently been raised in connection with the conferment of appointments, and an excessive number of offices in Bihar having been held by Bengalees. The Biharees, it is a matter of common knowledge, have long desired separation from Bengal. There has, moreover, been a very marked awakening in Bihar in recent years and a strong belief has grown up among the Biharees that Bihar will never develop until it is dissociated from Bengal. * * * And the present is an admirable opportunity to carry out on our own initiative the thoroughly sound and much desired change". It may be observed that these references to Bihar also apply to Orissa, because the Province, when it was created, was not Bihar alone but Bihar and Orissa.

47. What was true of Bihar some 33 years ago is true of other provinces created out of an existing province or out of more than one as was the case with Orissa. In Orissa, when the Oriya-speaking tracts formed parts of the neighbouring provinces, non-Oriyas preponderated in the services of Government. Naturally the Government was not looked upon as a Government of the people, for the people, and by the people. No wonder, therefore, that in agitating for the amalgamation of the Oriya-speaking tracts, an undue attention was paid to the paucity of Oriyas in the Government services. The state of things is yet far from being satisfactory. Particularly, in the two districts of Ganjam and Koraput, transferred from Madras, the services are held mostly by non-Oriyas.

48. When the Province of Bihar and Orissa was created, it was felt necessary to protect the interests of the children of the soil, so far at any rate, as the services were concerned, from further inroads from outside. The necessity was felt not only by the public of Bihar and, for that matter, of Orissa, but also by the then Lieutenant-Governor of Bihar and Orissa Sir Charles Bailey, the first Lieutenant-Governor of the Province, who at once introduced rules regarding domicile certificates, so as to prevent the influx of non-domiciled persons from other provinces. Since then rules about domicile certificates remained in existence till Orissa was separated from Bihar in 1936. It was after that the question became somewhat acute in Bihar. In Orissa, on the other hand, the provincial Government framed a set of rules known as 'Dixon's Rules' which applied not only to that portion of Orissa which had formed part of the former Province of Bihar and Orissa, but also to the rest of the Province including the two districts of Ganjam and Koraput. It may be mentioned in this connection that in these two districts, rules about the domicile had been in existence while they formed part of the Madras Presidency. The rules of domicile certificate were undoubtedly unwelcome to a section of the people of the Province. It was firstly unwelcome to those who though not being genuine children of the soil, nevertheless, claimed to be so on account of long residence and of their having become assimilated in the population. It was also unwelcome to another section of the non-Oriya population, namely, those who had but recently come into the Province either for service or for other purposes and wanted to take advantage of the fresh avenues in the newly-created Province. By persons of the first category, the rules were demurringly tolerated while these in the latter class appear to have taken the help of subterfuges to circumvent the obstacle imposed by the rules. The Committee has come to this conclusion not only from the evidence of a large number of witnesses, both written and oral, but also from an inspection of the records of domicile certificates in the various districts.

49. It has already been said that rules about the domicile certificates are obtaining in all provinces of India except of course one, namely the Punjab, where the purpose is otherwise served. These rules will be found in Appendix No. II. It has also been said that the need for such rules has been felt not only by the new provinces, but also by the older ones. Amongst the new provinces, Assam resorted to the discriminating rules under an urge to serve the interests of the Assameese as against the outsiders. It went even a step further by laying down rules under which preference in appointments to Government service and grant of contracts and leases was shown to genuine Assameese

as compared with people domiciled in the Province. The depth of feeling in this respect existing in Assam can be gauged from the fact that a Bill, known as the Assam Domicile Certificate and Status Bill, 1938 was introduced in 1938 in the Assam Legislative Assembly by Mr. Nabakumar Dutta who afterwards became one of the Ministers there. Another new province which was created on the same day as Orissa has its own rules about domicile certificates. The system of having rules about domicile certificates was inherited by it from the parent Province of Bombay. Prior to the creation of Sind as a separate Province the Province of Bombay including Sind used to take steps to shut out outsiders as far as possible by the introduction of suitable restrictive rules. After the separation of Sind from Bombay, Sind, too followed the same policy with only one difference. This difference being that it shut out even the people of Bombay under the changed conditions. It will appear then that nothing of a novel character is being done in Orissa by having framed rules of domicile or by attempting to enquire whether and how far the existing rules have justified their existence.

CHAPTER VII

Necessity for Domicile Certificates

50. However homogeneous, Orissa may be considered to be as a Province, there is yet an element of non-Oriya population. It is on account of this population that a problem has been created and rules about domicile certificates have become necessary. If the entire population consisted of Oriyas only, there would be no necessity for the production of domicile certificates. Even with a non-Oriya element in the population, this necessity would be obviated, if the non-Oriya residents scrupulously guarded their own interests and those of the Oriyas. But this is not found to be the case and hence arises a necessity on the part of the Government to regulate the relations of the genuine children of the soil vis-a-vis the domiciled people.

51. With the constitution of the Province in 1936, the Government of Orissa consequently introduced rules regarding the grant of certificates of domicile. This was done by letter No. 6237-42-A., dated the 2nd November 1936, from the then officiating Chief Secretary to the Government of Orissa, Home Department, to all District Officers. These rules are popularly known as Dixon's Rules. Why these rules were considered necessary will appear from the following extract from the letter referred to. This extract is, "The danger to be guarded against is that persons desirous of obtaining Government appointments in Orissa may put forward claims which are not well-founded and may endeavour to support them by producing the kind of evidence which is usually accepted as proof of domicile. Thus, for example, a person claiming to be domiciled in a particular district in Orissa might usually be expected to possess a permanent residence in that district. On the other hand, it is obvious that a person wishing to support a fictitious claim would naturally arrange to acquire a place of residence before presenting it. The same sort of considerations apply as regards the education of the applicant's children in Orissa, * * *. All facts of this kind have a double aspect. If the applicant has no place of residence in the district

where he claims to be domiciled, or if he has sent his children to be educated in institutions outside the Province, these are facts which require to be explained before the claim is admitted. But the contrary facts are not by any means conclusive in his favour; they have to be considered along with all the circumstances of the case, and when the domicile claim is of recent origin their evidential value is much diminished”.

52. A number of rules were accordingly framed. It is these rules which are the subject matter of the present enquiry. It has been alleged that the rules have not served the purpose for which they were framed. The mass of evidence collected by the Committee goes to show that the allegation is not incorrect. The object of the rules was to extend certain privileges to all genuine settlers. It was thought that those privileges should be confined to the Oriyas and such domiciled persons as satisfied certain minimum conditions. The rules were, therefore, necessary in the interest both of the Oriyas and of those domiciled persons whose intention was to further their own interests as children of the soil in Orissa. The only people whom the rules tried to exclude from those privileges were people not genuinely domiciled in Orissa. But in the actual carrying out of the rules the distinction between the really domiciled people and those not really domiciled could not be maintained. An examination of the records of domicile certificates which the Committee has done, has disclosed that the domicile rules were not strictly enforced. In many cases people who did not satisfy the conditions of the rules were wrongly granted certificates and thus shared in the privileges which fulfilment of such conditions would only ensure. The violation of the conditions appears to have been ignored. In certain extreme cases it is found that one and the same person has had his domicile in more than one provinces at one and the same time.

53. Nor need one try to find much fault with a system of applying the rules, in which scope exists for the violation of conditions. Orissa has, for decades, been a place where not only non-Oriya capital, but also non-Oriya brain has been utilised to exploit its natural resources. With the constitution of the Province, the scope for the utilisation of natural resources became increased. In the sphere of employment under Government there was also an increased scope. It was for these reasons that non-provincials found it to their interest to claim domicile in this Province. The Oriyas were opposed to it; so were also the oldest settlers, in certain cases, particularly amongst the domiciled Bengalees. But all late comers were differently inclined. They wanted their number to increase in order that they might grow stronger. The influx of outsiders into Orissa got a stimulus from the increase of unemployment in Bengal in the North and the Andhra areas in the South. Under the rule of blood being thicker than water, the Bengalee settlers in Orissa, particularly the late comers amongst them, and the Andhras naturally wanted to help their fellow-men from their original homes. The nature of domicile certificates issued during the last eight years or so is, therefore, both a consequence and a proof of this tendency.

54. It was found, however, that giving free play to this tendency was not in the best of the children of the soil in Orissa. It must be considered that so far as services under Government and other kinds of services, within the limits of a province, are concerned, the people of the Province, including the domiciled elements, should have preference over the non-provincials. Most

of the witnesses examined in this point have stressed that a Provincial Government owes it as a duty towards its people to find employment for them. All Provincial Governments have frankly admitted it. It is not desirable to create an unnecessary problem of unemployment in one province in order to give relief to other provinces. Therefore it follows that when a person, who is not the son of the soil, applies for an appointment, it has got to be found out whether or not he is domiciled within the Province. For this purpose an enquiry has got to be made. No such enquiry would be necessary, if, by a certain date, all outsiders got so completely merged in the main population of the Province as to become undistinguishable from it. This, however, is not the case generally anywhere. There are non-Oriya elements in the population of Orissa, whose instance may be cited to say that an outsider creates no problem if he allows himself to be completely merged in the population of the Province. In Orissa, such are the earliest Bengalee settlers, such as Tamils and others, the earliest Marhatta settlers and the earliest Andhra settlers, known as Kaling Kumutis, in whose homes not only is the Oriya language spoken but who have so far forgotten their identity, as not to be able to look upon themselves as a distinct entity. So long as this ideal condition is not reached, a distinction has got to be maintained between the genuine children of the soil and the truly domiciled people on the one hand and the new-comers on the other.

55. This distinction can be found out only by means of an enquiry. For the purpose of the enquiry rules are necessary, so that the enquiring officer may not be left alone to use complete personal discretion in the matter, but may be guided by certain generally accepted tests. The domicile certificate is intended to distinguish the Oriya and the really domicile non-Oriya from one, who is neither Oriya nor permanently domiciled in Orissa. The very fact of having to make an application for a certificate of this kind and carrying on an examination in course of an enquiry, may be considered to be, and actually are, somewhat harassing. But they cannot be completely done away with. If the system of issuing domicile certificates is abolished, some other system will have to take its place. It has been found from experience, not only in one province, but all over India, that issuing of domicile certificates is the easiest method of distinguishing between a genuine resident of the Province and a non-genuine resident. The necessity for regulating domicile has been accepted.

56. It may be argued that the enforcement of discriminating rules which have got the effect of excluding a part of the population from the privileges of the land where they reside will lead to disintegrating consequences. Thus, while there is a desire in India to have all provinces join hands in an effort to achieve national aspiration, the setting up of barriers between one province and another will pull in a different way. This is no doubt correct. But in order that we may suitably mould national life in India as a whole every citizen should do his best to create a condition favourable for its growth. To achieve this it will be necessary to resort to voluntary restriction on the part of individuals in going from one province to another for the purpose of earning. Even such a restriction would not be necessary if all the provinces were equally advanced. This, unfortunately, is not the case to-day in India, due to the denial of opportunities in the past to certain unfavourably placed units. Orissa is, therefore, admittedly a backward Province. It is necessary

that its better off neighbours should voluntarily restrict their coming over to this Province for the purpose of utilising its resources. But so long as that is not done, it devolves upon the Provincial Government to protect the interests of its people from inroads coming from other provinces.

57. The domicile rules can then in no way be regarded as either unnatural or unnecessary. They are applied in the case of the people of non-Oriya origin to distinguish between those who have got a claim to domicile and those who have not. The fact that some people are not accepted as truly domiciled may be disappointing to them, but it helps the growth of the Province. It tends to put a check on the future influx of outsiders. It is only when all provinces have become equally advanced, that restrictions may be done away with. As in trade, so in the field of labour, a certain minimum amount of protection is necessary for backward areas. It may be said at the same time that when the provinces have become equally advanced, the tendency to migrate will naturally cease, because unequal opportunities will no longer exist. Inequality in economic advancement amongst the Provinces leads to unnecessary conflicts and frictions.

58. When a province is created on linguistic or racial considerations, it is naturally hoped that "the whole province will settle down to work together without the disturbing factor of any further movement for transfer or partition". It was so in the case of Orissa, both at the time when it was constituted into a province and during a period preceding it, while the constitution of the Province was under consideration. But later developments have belied the hopes. There has been set up an agitation amongst a section of the Andhra population of this Province to transfer certain areas, however, small, back to Madras and get them included in an Andhra Province which is still in the womb of the future. It is surprising to find that more recently expression has been given to the hidden desire of a few ambitious Andhras to liquidate the Province of Orissa and annex it with Madras as a sub-province. It may be that a few Andhras got included in Orissa against their wish, because of geographical necessities. If they could reconcile themselves to their inclusion in Orissa, they would have lived peacefully amongst the Oriyas as the flesh of their flesh and blood of their blood. But instead of doing so they have started an organisation of a disruptive character. If their agitation is to succeed, it must have greater and greater numerical strength as well as more and powerful vested interests. This numerical strength is not available within the Province of Orissa, specially because the earlier Andhra settlers have become merged in the Oriya population. The newcomers must, therefore, be invited and helped to settle within the Province. A large number of domicile certificates issued in Ganjam and Koraput during the last few years goes to show how persistently this tendency has operated. Great care has, therefore, to be exercised, particularly in Ganjam and Koraput with regard to the issue of domicile certificates in future, if an undesirable situation is to be avoided and the object behind the creation of a declaredly homogeneous Province is to be realised. The tendency which has operated in Ganjam and Koraput is not peculiar to these districts alone. It has also, though to a lesser extent, made itself manifest in some other districts. But the object in both cases seems by no means to be the same. It may be the establishment of social contact and racial sympathy which is responsible in the latter case. But whatever be the motive, it is certainly not desirable to create or strengthen a disruptive force in a homogeneous Province like Orissa by either liberalising the rules of domicile or applying them loosely.

CHAPTER VIII

Working of the present rules

59. As already stated, the existing rules were introduced by an order of the Government of Orissa in the Home Department on the 2nd November 1936. The rules are not many, nor are they of a complicated nature. They take after the rules existing in other provinces. A copy of the rules will be found at Appendix III. These rules lay down the procedure from the beginning to the end, that is, from a point where an application is made to a point where the certificate is issued. For the successive stages which intervene these two points, rules have been framed. Witnesses have characterised some of these rules as being vague. There may be truth in this. But we consider that if the successive stages laid down in the rules, had been faithfully applied, the number of cases in which certificates of domicile have wrongly issued would have been so far minimised as not to require any particular notice.

60. Really speaking, the rules are not vague. They are only elastic. They give the District Officer enough of latitude to exercise his discretion as to whom he should consider deserving of a certificate of domicile. There are sufficient indications in the rules to guide him in the matter. For instance rule 3 says, "when any person claims to be domiciled in Orissa, the burden of proof lies on him to establish the fact by a satisfactory evidence and the enquiry should be full and sifting. No certificate should be granted unless the District Officer is satisfied that the family is permanently settled in the Province, that the applicant has adopted it as his home and that he has no intention of returning to his country of origin". This has been amplified and made more clear in rule 4 which is, "special care is necessary in scrutinising applications for certificates when the domicile claim is of recent origin, since attempts are sometimes made to produce evidence of domicile as a qualification for appointment. The fact that the family owns a place of residence in the Province or that the children have been educated in the schools and colleges in the Province is not by any means conclusive, but should be considered along with all the circumstances of the case. * * * Permanence, too, requires evidence of the persistence of the intention over some period of time. The mere declaration of intention is not sufficient, there should be continuing evidence of actual effect having, in fact, been given to it". We consider that these rules should have served their purpose in circumstances and conditions different from those obtaining in this Province. In this Province, the issuing officers are generally non-Oriyas who have not naturally taken enough pains to take the matter as seriously as was necessary. We can say that the rules were rather carefully framed, but only did not take into consideration the facts as they were. This view of ours will be corroborated by the volume of opinion expressed in the matter by a number of responsible officials who favoured the Committee with their views.

61. The fact, however, stands that the rules have not operated satisfactorily. During the period between the 1st November 1936, and the 31st March 1943, a total number of 1230 certificates of domicile were issued in the whole of the Province. Coming to the districts separately, in the statements given below, will appear the number of such certificates for which

each district is responsible. Sambalpur 12, Puri 42, Balasore 106, Koraput 108, Cuttack 295 and Ganjam 667. A report of all the cases in which serious irregularities have occurred is being sent, as has been said elsewhere, to Government separately. A list of typical cases also appears at Appendix IV. But it will not be out of place to mention a few interesting cases here in the body of the report. It may be noted that these few are not the only interesting cases. But we refrain from adding to the number for fear of increasing the volume of the report. A few cases are accordingly given below, without the names of the parties concerned.

(a) Beginning with Cuttack, we come to case No. 21 of 1938-39. The applicant's father was resident of Calcutta, and came to Orissa in the year 1923 as a Professor of the Ravenshaw College. The applicant applied for a certificate in 1937-38, in which year it is dealt with as case No. 49. A Deputy Magistrate held an enquiry into this case in 1937. He did not recommend. The application was rejected. It may be said that in 1937 the applicant's father had no house or property in Orissa. He applied again in 1938. Another enquiry was held and the enquiring officer in his report said that all the facts reported by the enquiring officer in the previous year for refusing the grant of a certificate still existed, except that the applicant's father had since built a house on a land purchased by him in the town of Cuttack. It was in consideration of the building of the house that the applicant made his second application. But the facts on record disclose that the house, since it was completed, was let out and the applicant's father with his family continued to live in the Government quarters allotted to him. Some enquiry appears to have been made as to the applicant's father possessing any property outside Orissa. On that the enquiring officer reported as follows: "I have consulted Mr. (now Dr.) Parija and found that the family are residents of Calcutta and that the house owned by them there was sold away for debts five years ago. The applicant's family have all their connections in Bengal". The enquiring officer concluded his report by saying that nothing had been established to satisfy the criterion laid down in rules 3 and 4 of the existing rules regarding the grant of certificates of domicile. Certificate was nevertheless granted by the District Magistrate, on the sole ground that the applicant intended to reside permanently in Orissa. It may be said that the application was opposed by a member of the Oriya Peoples' Association, saying that the applicant has obtained recommendations of some Oriya gentleman on wrong representation. But the All-Orissa Domiciled Bengalee Association supported it.

(b) There is another equally interesting case which is case No. 13 of 1942-43. The applicant's father in this case was born in the district of Tippera in Bengal. In 1911 he began his career of service under the then Government of East Bengal and Assam. On the formation of the Province of Bihar and Orissa and the dissolution of the Province of East Bengal and Assam his service was transferred to the Patna Secretariat in 1912. On the creation of the Province of Orissa, he was transferred to Cuttack as Head Assistant of the Law Department. The applicant, his son, wanted to build for himself a career as a teacher and therefore, sought admission at the Training College. He was able to secure the support of the Secretary of the All-Orissa Domiciled Bengalee Association. The family of the applicant has neither any property nor any permanent residence in Orissa. In his application he simply states

that he wants to make Orissa his permanent residence and that his father is on the look out for acquiring a suitable piece of land. In a separate petition attached to the application he further states, " My father after a service of 31 years will very shortly retire and our family, will be reduced to indigence with the scanty pension of my father, unless I am able to enter Government service and become an earning member ". In this case no enquiry was made at Tipera in Bengal as to what connection the applicant's family had with the Province of origin. But a certificate was granted, as will appear, in violation of the conditions of rule 4 of the existing rules.

(c) A third case in the district of Cuttack is case No. 27 of 1942-43. The birth place of the applicant's father was Howrah in Bengal. He came down to Cuttack to practise as a lawyer, the obvious motive for such immigration being that his father-in-law, who had come from Bengal, had a lucrative practice at Cuttack. The applicant was born at Cuttack in 1918, but was educated in the medical college in Calcutta, in stead of joining the medical college at Patna, which was the medical college for Orissa at the time. It is stated in Form A that the applicant's father acquired a plot of land at Bhubaneswar and was going to construct a house on it. But effect could not be given to the construction because he died in 1942. It may be said that Bhubaneswar is a health resort where a good number of Bengalees from Bengal have constructed houses for temporary residence for the purpose of change. The records do not show that any enquiry was made to find out whether the applicant's father had any interest in the district of Howrah, the place from which he had migrated. The enquiring officer recommended the grant of a certificate and a certificate was granted. The ground stated for granting the certificate is that the applicant's family have settled in this Province for generations, obviously the period of settlement of the family of the applicant's late maternal uncle has been taken into consideration. The date of the granting of the certificate was the 7th December 1942. About three months later, that is, on the 24th March 1943, it was brought to the notice of the Provincial Government that the applicant had got an appointment under the Government of Bengal, obviously based upon a claim that he was resident in that Province. Reference was made by the Provincial Government of Orissa to the District Magistrate, Cuttack, who granted the certificate. The District Magistrate, it seems, made further enquiries. These enquiries related to whether the applicant got the appointment in Bengal on claiming to be a resident of Bengal. The District Magistrate asked him to produce a copy of the advertisement for the post which he held in Bengal. He also enquired whether the authorities in Bengal have appointed him under the impression that he was a resident of Bengal. It is said that in this enquiry both the applicant and his uncle produced statements. These statements are, however, not found in the record nor also the points which formed the subject matter of the enquiry. The District Magistrate sent a reply to the Government asking them, if necessary to make a reference to the Government of Bengal. There is nothing on the record to show whether such a reference was at all made or what further action was taken. It is understood that the applicant has got an appointment in the provincial service in this Province.

(d) Two cases from Koraput may be cited. These are cases No. 9 of the year 1942 and No. 42 of the year 1943. The applicant in the latter case came from the Vizagapatam district of Madras where his father and relatives

are permanently resident. But his paternal uncle, one Mr. Kamesan, is the head clerk of the Killa Office of the Jeypore Estate. The applicant came to Jeypore as his protege. On the recommendation of the Dewan, the Jeypore Estate, awarded a scholarship to him and he joined the local high school. The records disclose that he filed four applications one after another for a certificate of domicile. In the first application he stated that his father and relatives were residents of Vizagapatam district in Madras. Finding that the first application was rejected on that ground, in the second application which he made he introduced the name of Mr. Kamesan, the head clerk, as his adoptive father. But that application too was rejected because it was found that even Mr. Kamesan himself had no house or other immoveable property in this Province and that he was occupying one of the quarters supplied by the Jeypore Estate. A third application met with a similar fate. Undaunted by these three failures, the applicant made a fourth attempt. The fourth and the last application was submitted through the Dewan of the Jeypore Estate. The Dewan recommended that a certificate should be granted to him, because he had been recipient of a scholarship awarded by the Estate and was at that time working as a typist in his own office, besides being related to the head clerk, Mr. Kamesan. The applicant was in the meanwhile somehow allowed to sit at the competitive examination held by the District Collector for enlisting candidates for future vacancies in the district office. Without having to wait till his turn came, he was allowed to work as a clerk-typist in the Sub-Assistant Agent's Office in Koraput. This was followed not by any further enquiry for granting him a certificate of domicile, but by a procedure, not supported by the rules, adopted by the Collector to regularise the anomaly existing in the applicant's case. He, therefore, granted a certificate to the applicant. In the other case, an application was made to secure a job without mentioning any particular job. The applicant had no property within the Province. He was born in Vizagapatam district. He was a son-in-law of the Huzur-seristadar of the Jeypore Estate. He passed I.A. from the Vizianagram College with a stipend from the Maharaja of Jeypore. The Dewan of Jeypore recommended his application. A certificate was granted to him without enquiry.

(e) Case No. 1 of 1943-44 of Puri may be mentioned: In this case, the applicant's father belongs to the district of Chitagong in Bengal. He retired from Government services in 1929 and has been residing in Puri since then working as the Manager of the Estate of an absentee landlord in Bengal. It is said that in 1930 he acquired some landed property within the Estate in the Sadr Subdivision of the Puri district. At Chitagong, the applicant's father owns 10 kanis of homestead land and 3 kanis of cultivable land jointly with his brother. It is explained by him on behalf of the applicant that this land is Debottar property and dedicated to the *Sebapuja* of an idol and that he has no real interest in it. But the report of the Sub-Inspector of Police of P. S. Patia, in Chitagong district does not corroborate this explanation. After this report of the police, the applicant's father was called upon several times to submit his explanation. But no explanation seems to have come forth. The enquiry arose in connection with an application for the admission of the applicant into the Ravenshaw College. The report dated the 27th November 1943 of the enquiring officer was against the granting of a certificate. He was, however, allowed a provisional certificate by the District

Magistrate pending enquiries, as the time for admission was rolling by. The result of the enquiries was to the effect that in a case like this a certificate could not be granted. But the District Magistrate held the view that since the applicant had already been admitted into the College, the question no longer arose. This view was expressed in his order dated the 16th January 1944. In the first place there is no provision for the granting of a provisional certificate of domicile. Secondly nothing is known what will happen when on the strength of this provisional certificate, the grantee claims to be domiciled in this Province, since the provisional certificate has not been cancelled. It may, however be incidentally mentioned that one of his brothers who made an application for a certificate of domicile subsequently withdrew it on the ground that he was being sent out to Bengal for education. This is dealt with in case No. 1 of 1941-42.

(f) Coming to Sambalpur, case No. 3 of 1942 may be cited. The applicant's father was born in Poona. The applicant himself was born in Nagpur city. Neither the father nor the son own any property in Orissa. The enquiring officer in his report stated that the applicant was temperamentally inclined not to have any fixed whereabouts and was not for some years past resident at Rengali in Sambalpur district, where he claimed to be residing. The enquiring officer, therefore did not recommend the grant of a certificate in this case. But the Deputy Commissioner did grant one.

(g) Coming now to Ganjam district, it is noted that, in 1936, case No. 1 was one in which the Tahsildar's report showed that the applicant's father had been resident in Berhampur for a long time, but had property outside Orissa. It was not enquired into whether he had severed all connections with the province of origin. The case went up to the Collector who granted a certificate making an entry therein that "the applicant is a permanent future resident".

(h) The next case is case No. 8 Ganjam, of 1936. The report of the enquiring officer, a Tahsildar, says, "He will permanently reside in Orissa if he is given an appointment". The certificate was issued in his case.

(i) Then there is another case which is case No. 48 of 1937. In this case the Collector refused a certificate on the 3rd May 1937 on the ground that the father resided outside the Province and acquired properties in Orissa only recently, that is in 1934. The Collector therefore, concluded that the applicant could not be said to have severed the connection with the province of origin, Madras. Subsequently however, the applicant made a representation saying that he had severed all his connections with his father and had no interest in the latter's properties existing in Madras. On enquiry it was found that he lived with his maternal uncle who was also his wife's father. He had obviously no property of his own within the province. On this representation the previous order rejecting the application was set aside and a certificate was granted.

(j) We now come to case No. 23 of 1937. The applicant in this case is a woman whose father came to Baranasi in Ganjam district as a servant of the Christian Mission. The applicant was born at Baranasi. In form A of the application, she stated that her father came from Vizagapatam district and was transferred to several places in that district as well as in another district of Madras. Even after his transfer to Baranasi, the applicant received her education at Coconada in Madras. She further admits that her father

has lands and house at Kumapali in Vizagapatam district. Both the father and the daughter assert that on the death of the father the daughter will inherit those properties. Enquiry was, however, made as to whether the applicant really had any right to the properties of her father existing in Vizagapatam district and the enquiring officer answered this question in the affirmative. The applicant's father no doubt has got a dwelling house at Baranasi, but it seems to be only a temporary dwelling place to enable him to reside at Baranasi in connection with his duties as a Christian Missionary. In this case a certificate of domicile was, however, granted.

(k) Last of all two cases from the district of Balasore may be mentioned. The existing rules provide that "a person claiming to be domiciled in a particular district in Orissa might usually be expected to possess a permanent residence in that district". These two cases are Nos. 21 and 22 of 1941-42. In both these cases the applicants stated that they came from the Ganjam district. No reference was, however, made to the authorities in Ganjam and the fact whether the applicants had any permanent residences in that district not verified. It seems to have been taken for granted that the two applicants actually came from Ganjam and satisfied the conditions in that district. Certificates were granted to both. In order to make it regular, the two applicants should have been required to submit their applications in the Ganjam district.

62. A consideration of the above few cases, in which certificates of domicile were granted will lead to the conclusion that in granting them, the rules were not followed and the purpose for which they had been framed were frustrated. Coming to the evidence we find that altogether 130 witnesses were examined by the Committee. It is interesting to find that while twenty-four of them expressed no opinion with regard to this and only two evaded the issue, as many as eighty-nine have emphatically stated that the system has not satisfactorily worked. A few of them have more strongly expressed their view by adding qualifying expressions, such as, 'highly' and 'most'. Only fifteen people have said that the present system of issuing domicile certificates is satisfactory. Of these fifteen again, as many as six have modified their statements by observing that although the system has worked satisfactorily it can be improved and have accordingly suggested improvements. It follows, therefore, that while only nine witnesses consider that the system is working satisfactorily, as many as ninety-five hold the contrary view. If any value is attached to the opinion expressed by the witnesses, it can safely be concluded that the system has failed to operate satisfactorily.

63. This, however, may not be regarded as sufficiently explaining the position. It may be necessary to throw further light on the nature of the evidence and the class of witnesses who have given it. There are both official and non-official witnesses. The total number of official witnesses is 45. The remaining 85 are non-officials. No distinction can be made amongst non-officials except that retired Government officials who have been classed as non-officials may be distinguished from others. The number of such retired Government officials is 13. For the purpose of this question the evidence of the retired officials seems to be very valuable. Many of them are acquainted more or less intimately with the working of the system. Some of them have definitely stated, "I have myself worked these rules and found them very difficult". Seven of these retired officials were Deputy Collectors

and Deputy Magistrates, having worked as Subdivisional Officers, while two of them officiated as Collectors and have, during the tenure of their offices as Collectors, dealt with the issuing of certificates of domicile. Of the remaining six, one is a retired District Judge, while two others are retired District Educational Officers. Another one is a retired Deputy Superintendent of Police. The remaining witness is a retired Professor of a Medical College, later recalled to serve as Principal of the Orissa Medical College. All these twelve retired officials are unanimously of the opinion that the system of issuing of certificates of domicile has not worked satisfactorily while only one, a retired Inspector of Police, considers the present system satisfactory. Two of these twelve retired officials again come from the domiciled Bengalee community, one of them being a retired District Judge and the other a retired Deputy Collector and Deputy Magistrate. The latter went so far in the expression of his dissatisfaction as to gratuitously offer to the Committee a list of fourteen Bengalees in whose cases certificates of domicile had been wrongly issued. So far as the retired officials are concerned. As to the other non-officials, it can be said without going very much into detail that almost every non-official who has replied, either in writing or verbally, has said that the system has not satisfactorily worked.

64. We now come to the officials. Altogether a total number of forty-five officials have expressed views in this connection. Although the District Officers are the first to be noticed in point of importance, the very nature of the question requires that they should be referred to at the end. Their number is six. Including one Additional District Magistrate, it will be in all seven. Leaving aside the question of these seven witnesses to be treated in a later paragraph, we should now take up that of the remaining thirty-eight. There are three Civil Surgeons two of whom are members of the domicile Bengalee community, while the third is not a resident of this Province. All of them have, however, agreed to say that the rules have not satisfactorily worked. Coming next to the officers of the Judicial Department, there are two District Judges, one Subordinate Judge and one Munsif. Of the two District Judges, one, a member of the Indian Civil Service, has expressed no opinion; while the other, holding a permanent post in the cadre of District Judges and a member of the domiciled Bengalee community, has said that the rules have been unsatisfactory in their operation. The Subordinate Judge and the Munsif have expressed the same view. Five Departments of Government have answered this question. Three of them, namely, the Supply and Transport, Health and Local Self-Government and the Legislative Assembly Departments, have expressed the view that the rules have failed to achieve their object. The Law, Commerce and Labour Department, although they have made some extraneous observations, have been silent on this point. The only Department which has answered the question in the affirmative is the Public Works Department. Coming now to the Heads of Departments only three out of six, who have been pleased to submit written memoranda, have cared to answer this question. Two of them, namely, the Director of Health and Inspector-General of Prisons and the Director of Development, have opined against the rules having worked as they should. Only one, namely, the Director of Public Instruction, has said that the rules have on the whole worked satisfactorily. But he has at the same time remarked, "cases, however, have come to my notice in which certificates have been given in insufficient grounds and without due scrutiny".

65. There is a group of twelve other officials including the Principal of the Ravenshaw College, the Principal of the Training College, the Advocate-General, the Principal of the Sanskrit College at Puri and the Superintendent of Police of Koraput. Of these twelve officers as many as eight have definitely stated that the application of the rules has not been satisfactorily made. One has expressed no opinion. Of the three others two are of the view that the rules have satisfactorily operated, while the third says that even though they have so operated improvements are necessary. It may be worthwhile to know specifically what view the Advocate-General has expressed. He has said, "The existing system is most unsatisfactory, the defect being mainly that no judicial enquiry is held, no public notice is given, no rule embodying the legal requisites necessary for the acquisition of the domicile of choice has been formulated".

66. This disposes of the views of all officials who have expressed any opinion in the matter, except such officers as are working in the executive branch. Their number is fifteen. Seven of them are Subdivisional Officers and only one is a senior Deputy Collector who subsequently became a Subdivisional Officer. Of these eight officers of the Executive Branch, through whom obviously much of the dealing in connection with the issue of certificates of domicile is conducted, five have definitely said that the rules have not satisfactorily worked, while only one officer of the Indian Civil Service working as Special Assistant Agent in some subdivision of the Koraput district, has expressed a contrary view. Of the remaining two Subdivisional Officers one seems to have evaded the issue by saying that a copy of the rules was not available in his office. The other Subdivisional Officer has simply observed, "I cannot say". One of these eight Subdivisional Officers has said as follows, "The responsibility of granting certificates has devolved on the District Officers, who, being extremely busy with other administrative work, have to depend on the reports of subordinate officials, who, the public have scope to think, are not beyond the reach of influence of the candidates themselves. * * * If any District Officer thinks of showing special favour or disfavour to any particular class of people or people of any other province, there is nothing in the existing system itself to prevent him from doing so".

67. We now come to the District Officers. As already stated elsewhere in this chapter, seven such officers, including an Additional District Magistrate, have expressed views on this particular question. Here the official opinion is not equally in favour of the general view that the rules have not worked to the satisfaction of all concerned. Only two of them have admitted that the general view is correct, while one has not answered this question, but has entered into discussions of the propriety of placing obstacles on the path of outsiders applying for jobs in the Province. Four others have in a general way supported the present system, using expressions, such as "the system has on the whole been satisfactory", "it has proved satisfactory in general" and so on. One of these District Officers has said that as he does not belong to this Province he considers it unfair to give any opinion, but has, nevertheless, been pleased to submit a memorandum saying that his views are mostly based upon what he has gathered to be the wish of the people in general, although with regard to this particular question he has said that in the district where he was working the rules have worked satisfactorily. The public opinion collected in that district by this Committee, it may be said, points

in a different direction. We presume that this particular question must have proved too delicate for the District Officers to answer. It is they who administer the rules and any defect in their administration, therefore, not likely to become as visible to them as to external critics. Two of them however have boldly expressed what they felt in the matter. One of these two officers says as follows: "there seems to be a general agreement that the present system of grant of domicile certificates is not working satisfactorily. * * * I think generally the system of grant of certificates is too haphazard and that more detailed rules and conditions need be laid down". The other officer has said, "The final decision rests on one person, namely, the District Officer with the result that when he belongs to the same community as the applicant, some undue favour is in some cases shown to the applicants".

68. So far with the evidence furnished by witnesses either in writing or orally. Coming now to documentary evidence, it can be said that this kind of evidence corroborates the view expressed by the majority of witnesses both official and non-official. The Committee has examined records relating to the issue of certificates of domicile in respect of all the districts. During the period between the date on which the Dixon's Rules were brought into force and the 31st March 1943. This is roughly a period of seven and a half years. In this period as many as 1,230 certificates of domicile have been issued. The total number of applications praying for such certificates dealt with by the District Officers is not known to the Committee. But it can safely be assumed that the number of such applications rejected is not very large. In most cases therefore applications have been granted. On a scrutiny of the records, it is found that certificates of domicile were improperly granted in 345 cases. A full synopsis of these cases have been submitted to the Provincial Government for their information. A few typical cases only will be found in Appendix IV. Suffice it to say here that in several cases serious irregularities in the grant of certificates of domicile have been allowed to creep in. The result has been that persons not eligible to obtain such certificates have obtained them and have thereby enjoyed advantages to which they were not legitimately entitled.

69. The Committee considered this question at its meeting held on the 1st October 1944. The following members were present: Pandit Godavaris Misra, Rai Bahadur B. V. Ray, Dewan Bahadur S. K. Mahapatra, Sri Ganesh Mahapatra, Sri Harihar Misra, Sri R. K. Das and Sri Ranglal Modi. After considering the evidence and the records the Committee came unanimously to the following conclusions, namely, that there is a general consensus of opinion that the existing system has not worked satisfactorily. The defects are as follows:—

(1) Under the existing system the District Officer is the sole authority for granting domicile certificates. There is evidence before us from respectable persons showing that some non-Oriya District Officers do not sufficiently realise the importance of the question of domicile and that in many cases the enquiry has been done hastily and perfunctorily.

(2) Some persons occupying high positions have said that here and there District Officers have shown a leaning towards newcomers coming from their own provinces and others who cannot be called domiciled.

(3) The rules are not definite and leave much room for slackness. To ensure a searching enquiry in each case there should have been some cut and dry rules laying down the essential conditions to be fulfilled.

(4) There is no provision for appeal or revision.

(5) The enquiry is usually delegated to subordinate officers who, from the evidence available, appear to be influenced in many cases and to hold enquiry in a mechanical way.

(6) The present system does not provide for any ample safeguard of the interest of the indigenous population and old non-Oriya settlers as against the doubtful claims of the newcomers.

(7) People living for some time in the family of a relative have been granted domicile certificates. What constitutes residence for the purpose of domicile should be clearly defined and the length of such residence of the family to which the applicant belongs should be ascertained in each case.

(8) The public have no voice in the matter of issuing certificates.

70. It is considered desirable to say in this connection that a state of things as described in the foregoing paragraphs has not obtained only after the formation of the Province of Orissa. Some amount of abuse seems to be inherent in the very matter itself. This will appear from the report of the Unemployment Committee appointed by the Government of Bihar and Orissa in 1935-36. In paragraphs 50 and 51 that Committee said, "Another factor which has played some part in accentuating the unemployment problem among our educated young men who are in search of Government service, is the facility with which domicile certificates are obtained by outsiders. * * * The rules regarding the grant of certificates of domicile circulated by Government are stringent enough. But we have reason to believe that they are not being rigorously enforced. * * * This witness (witness from a domiciled community) stated that outsiders were swelling the number of the unemployed in Bihar and Orissa and that 50 per cent of the men who passed as domiciled in this Province were not genuinely domiciled at all. This was an encroachment on the rights of those who are really domiciled in this Province. He added that candidates for domicile certificates generally bought a piece of land which was promptly sold as soon as the object was served. An official witness also corroborated these statements from his own experience. According to him a house was bought and sold several times over to enable different claimants to secure domicile certificates".

71. That the application of the rules of domicile and other precautions introduced since the time when the Province of Bihar and Orissa was created has not been effective will appear from what the Chief Secretary to the Government of Bihar and Orissa said in February 1918. He said as follows: "The position briefly is that whereas the Bengalees comprise about one-sixth of the population, they have absorbed since the Province was created nearly one-third of the new appointments of the clerical and ministerial sides and of these nearly one-half (that is, one-eighth of the whole) have gone to non-domiciled Bengalees in spite of the precautions which have been taken to reduce non-domiciled appointments to a minimum. We are thus left with the fact that the Bengalees have absorbed one-fourth of all appointments of which again one-fourth (or one-sixth of the whole) has gone to non-domiciled Bengalees. It cannot, therefore, be gainsaid that in comparison with Bengalees, Biharees and Oriyas have obtained considerably less than their fair share of the new posts even after every allowance is made for the fact that the proportion of literates is higher in the former class than in the latter".

72. This observation of the Chief Secretary proves how slightly the pious expectation of the first Lieutenant Governor of the newly-created Province of Bihar and Orissa expressed in the following extract from his statement were fulfilled. The extract runs as follows: "Now that Bihar and Orissa were a separate Province, it is in the Lieutenant Governor's opinion of great importance that the claims of the natives of the Province to appointments under Government should receive careful and sympathetic consideration at the hands of those responsible for filling vacancies". The above observation of the Chief Secretary, it may be said, was anticipated by remarks recorded five years later, that is, in 1917, by the Second Lieutenant Governor, Sir Edward Gait, who said, "I am not at all sure that as rapid a progress is being made as can be desired in giving a due share of appointments to genuine natives of the Province. "This is not the only opinion expressed by Sir Edward Gait on this question. Sometime later commenting on the observations of the Chief Secretary, he said, "wherever the Bengalee (or any other race) is dominant in an office, other races have a very poor chance, unless the head of the office has good control over his subordinates."

CHAPTER IX

Suggestions for improvement

73. In the previous chapters it has been pointed out that the system so far followed in issuing certificates of domicile with the specific purpose of protecting the interests of the children of the soil in this Province and of the genuinely domiciled people has not operated to the satisfaction of all concerned. This is a fact of which the Government appear to have been aware. But we feel that no Government can stop at this, particularly in a province like Orissa. In Orissa, Government service has been and will, for some time more, continue to be the only scope of absorbing the educated youngmen annually coming out from the schools and University. Of late again by the multiplication of schools and colleges within the Province a larger number of youngmen are bound to emerge from these educational institutions and will hungrily look forward for employment. But as already stated, the only opening for them is service under Government. In other provinces, as for example, the neighbouring provinces, the position is different. In those provinces there are business concerns and trade organisations which absorb a number of educated people. In Orissa, unfortunately, there is no such possibility at present. Therefore Government have got onerous duty to guard against the influx into this Province of outsiders who come with the sole purpose of entering the public services and for that matter appropriating other opportunities, however slender, presented by Government. Otherwise the problem of unemployment amongst the children of the soil and the genuinely domiciled people is bound to grow more and more acute. Such a situation will end in disaster and will involve serious political consequences. In order to guard against a possibility of this nature, the Committee considered a number of questions. It discussed the evidence both written and oral and examined the existing rules specially with a view to find out wherein their defects lay. In general, therefore, the Committee has come to the conclusion that certain conditions should be imposed and

as strictly applied as possible. These are of a fourfold nature, consisting of (i) possession by an immigrant in this Province of property and permanent residence, (ii) minimum length of residence, (iii) knowledge of the Oriya language and (iv) generally the attitude which he adopts towards the people of the Province.

74. The Committee was led to these conclusions from broader principles of the protection of the interests of persons under the care of Government and the fulfilment in course of time, of their aspirations. In order to be eligible for the care of Government, an immigrant must become truly domiciled, that is, must deserve the privileges to which he can become entitled on account of his domicile. It is not easy definitely to what a domicile is, especially, with reference to particular cases. But the principle has been accepted that the mere possession of a residence or property by an immigrant within the Province into which he has migrated is not a sufficient test of his having acquired a domicile. It may be that a person has residence and property in more than one province. In fact, quite a good number of people come under this category. If mere possession of property and residence were to be taken as sufficient for conferring the right of domicile, one and the same person could acquire it in a number of provinces. What is, therefore, to be insisted upon is, to use an expression adopted by the Working Committee of the Indian National Congress in connection with the Bengalee-Biharee controversy, to prove "by evidence that implies that the applicant has made the Province his home". The connotation of this evidence is rather of a wide nature. The Committee considers that it implies all the fourfold requisite conditions enumerated above. The intention of the immigrant that he had decided to become a domiciled citizen has to be gathered not from a declaration which he makes or any evidence of property which he adduces, but from the fact that he has decided to become one with the children of the soil including persons already genuinely domiciled. Doctor Rajendra Prasad has put it tersely in the following extract from his observations in connection with the Bengalee-Biharee controversy. The extract runs as follows: "For practical purposes a person born in one place should be regarded as having acquired a domicile in another, if he has made the latter his home. It is essentially a matter of his intention and if a person can by his intention give up his domicile of origin and acquire another, he can equally give up one acquired domicile for another or his domicile of origin and his intention at a future date cannot be anticipated to-day. Therefore what needs to be proved is that he has an intention at the material date and that that intention is not something in the region of speculation of something to be fulfilled in future, but has been as a matter of fact and actually given effect to. It becomes a question of fact in each case whether a person has such intention and has carried it out into effect".

75. The same view has also been perhaps more forcefully expressed by the Unemployment Committee appointed by the Government of Bihar and Orissa in 1935-36. That Committee says, "We consider that it should again be impressed on all concerned that mere possession of a house or a land is not by itself a sufficient proof of domicile. The main criterion should be that the clamant has shown by definite acts extending over a length of time that he has made Bihar his permanent home". This view was supported even by the Government of Bihar in 1938. They said, "No man can claim

to be a permanent resident of the Province merely by making a declaration to that effect. He must show by his acts and habits that he has made Bihar his home ”.

76. An examination of rule 4 of the existing rules of the Government of Orissa makes us think that this Government too, while framing this rule, had in view this important and material condition necessary for acquiring a domicile. But too wide a discretion was allowed to the authorities granting certificates of domicile. It is in the exercising of that discretion generally that irregularities have crept in. The Committee, therefore, considers that certain definite conditions should be laid down on which the authorities entrusted with the granting of certificates of domicile can act. The fourfold conditions enumerated above are these. We shall now deal with the possession of property and permanent residence. This condition is inexorably essential. If an immigrant has no property or permanent residence of his own within the Province he has migrated to, there is nothing to bind him down to his intention, however, keen, of acquiring domicile therein. He can at any moment either go back to his province of origin or to some other province if prospects of living there appear brighter. This condition is, however, not sufficient in itself. In order that this condition may become fully operative, an immigrant must also establish that he has severed all connections with his province of origin. With a view to meeting the cases of wealthy persons who have properties in different provinces, the Committee holds that, in their cases, the bulk of the immovable property should be held in this Province, if they claim domicile there. A plea was taken by certain witnesses that poor people who own no property anywhere in the world will not be able to satisfy this condition. The Committee is conscious of such a contingency. But surely in a case of this nature, the guiding factor cannot be the possession of property, but definite intention of the claimant that he has made Orissa his home once for all.

77. It is now to be considered how far these conclusions agree with the opinions of the witnesses. It may be said at the outset that Oriya witnesses have, as a rule, expressed the view that an immigrant claiming domicile in this Province must have a homestead with a house standing thereon and property and should have severed all connections with his province of origin. Besides the Oriyas, there are in all 57 non-Oriya witnesses, fifteen of them are Bengalees, and nineteen Andhras, while the remaining twenty-three are persons belonging to several other communities including a few Europeans. Of the fifteen Bengalees only one has not expressed any opinion on this question, while two have said that possession of property or homestead in this Province should not be laid down as an absolute condition to qualify an immigrant to claim a certificate of domicile. The remaining eleven are of the contrary view. They include four officials and three retired officials ; while the remaining four are non-officials. This still leaves one witness who is the Secretary of the All-Orissa Domiciled Bengalee Association. He is of the opinion that if an applicant for a certificate of domicile or his family does not possess any landed properties or house in the Province, they must not be owning any landed properties outside Orissa.

78. Coming now to the Andhras, the position is not equally simple. There are altogether nineteen Andhra witnesses who have either submitted written memoranda or have given oral evidence, while some have done both.

Of these nineteen witnesses three who submitted written memoranda have not expressed any opinion on this question. Three who submitted written memoranda but did not appear before the Committee for the purpose of oral evidence have expressed the view that possession of property and homestead in this Province is not necessary. It may be said that some witnesses who expressed a similar view in their written memoranda later on modified it in course of giving oral evidence in their answers to questions put to them by the members of the Committee. Two witnesses, one of whom is the President of the Ganjam-Koraput Andhra Mahamandali and the other the Editor of the *Visalandhra Vani*, do not consider either possession of property or of homestead necessary for the purpose under examination, although the latter on a question put to him in course of his oral evidence concedes that the possession of property for a long time can be taken as a circumstance which leads to the presumption that he had made Orissa his home. But a large number of witnesses, namely, eleven have expressed a contrary view, which is that possession of homestead, if not of property, should be laid down as a condition necessary to qualify one to obtain a certificate of domicile.

79. The remaining twenty-three witnesses have a large official element included in them. The number of officials is fifteen. The remaining eight are non-officials, some of them being representatives of business. Four witnesses have not expressed any opinion on this point, while four others, including one District Officer, do not think that possession of property or homestead should be laid down as a criterion for deciding in favour of issuing a certificate of domicile. This District Officer is of the opinion that imposition of such a condition is likely to operate harshly on poor people. The remaining fourteen including three District Officers, one District Judge, one Head of a Department and one Superintendent of Police and one officer of the Indian Civil Service, support the conclusion reached by this Committee in a previous paragraph.

80. It may be argued that the opinion of non-Oriyas, who are the people really concerned with this question, is of importance for this purpose. It may, however, be pointed out that the majority of the opinion of the non-Oriyas, discussed in the foregoing paragraphs, does not very materially differ from that of all witnesses including Oriyas examined by the Committee either in writing or verbally. Of the total number of witnesses examined a few have not expressed any opinion on this point. But as many as one hundred and twelve witnesses have expressed some opinion or other. Twenty-four out of this one hundred and twelve consider that possession of homestead should not be laid down as an essential condition. The remaining eighty-eight consider it essential. Only ten out of them wish that some exceptions should also be laid down. These exceptions mostly relate to the cases of indigent people unable to possess property. Thus it will appear that an overwhelmingly large majority are in favour of a condition being laid down to the effect that an immigrant into this Province must be able to prove that he possesses a homestead, if no other immoveable property, in order that he may become eligible to obtain a certificate of domicile. It may be added in conclusion that almost everyone who holds this view is also of the opinion that the immigrant should adduce further evidence of his having renounced all connections with his province of origin.

81. The next question to be dealt with is the period of residence of an immigrant within the Province of Orissa in order to be qualified for a certificate of domicile. There seems to be some confusion in the minds of a number of witnesses who have either in writing or verbally favoured the Committee with their views. The Committee by a majority has fixed this period at fifty years, the minority opinion being in favour of thirty years. But it may be said that neither the longer period of fifty years nor the shorter period of thirty years is supported by an appreciable number of witnesses, not to speak of a majority of them. At the time of taking evidence the question does not appear to have been put to the witnesses in the light in which the Committee viewed it at the later stage of its deliberations. The view of the Committee evidently was that the period of residence would apply not to the immigrant himself, but to his family. Otherwise neither the longer period of fifty years nor even the shorter period of thirty years would have any meaning. This point of view seems to have been appreciated by a small number of witnesses who wanted to fix the duration of residence at pretty long periods of sixty years or hundred years. But there are at the same time other witnesses who have advocated too shorter periods of three and five years. These short periods obviously apply to the immigrants themselves, while the longer periods cannot apply to them and must, therefore, be thought of in relation to their families. If a period of residence has to be insisted upon this period must be different in the cases of individual immigrants and their families. Evidence was taken on this question because in rule 4 of the existing rules no period is fixed. It is simply said, "permanence requires evidence of the persistence of the intention (to reside in Orissa) over some period of time". It was contended that this vagueness of language led to interpretations which resulted in the frustration of the rules with regard to residence. In order to make the condition of residence effective, a definite idea must be given to the authority issuing certificates of domicile. Otherwise he will have to use his discretion and discretion with different officers and under different circumstances may not produce the same result.

82. With this preliminary remark we may now proceed to examine the evidence. Beginning with the domiciled Bengalee witnesses, we find that there is a great divergence of opinion with regard to the period of residence. Old Bengalee settlers, like Sri Trailokyanath Mitra, retired Deputy Collector and Rai Bahadur Radhakanta Ghosh, retired District and Sessions Judge, prefer residence for generations before an immigrant can qualify himself to be treated as a domiciled person. Therefore Sri Trailokyanath Mitra advocates a period of residence for hundred years while Rai Bahadur Radhakanta Ghosh places it at sixty years. These two isolated cases apart, the opinion amongst the domiciled Bengalee witnesses is generally for a shorter period. Only one would put it at thirty. Three witnesses advocate twenty-five years and as many as six a period of twenty years only, while there are two who would put it even at a figure lower than twenty. Out of fifteen domiciled Bengalee witnesses fourteen have prescribed either a longer or a shorter period; only one witness has not expressed any opinion on this point. Taking a mathematical average of the various periods suggested by the witnesses of the Bengalee section of the domiciled population in the Province, a period of 29 years is reached. The members of the Committee who differing from the majority, put the periods of residence at thirty years seem obviously

to have been guided by this figure. Rai Bahadur B. V. Ray is one of the oldest Bengalee settlers of this Province. Left to himself he would perhaps go with Sri Trailokyanath Mitra and Rai Bahadur Radhakanta Ghosh. He seems to be of the view that a domicile certificate should not be claimed by an immigrant's family except in his second generation. The other member of the Committee who went with him appears to have considered fifty years to be too long a period and therefore veered round to thirty.

83. Coming, however, to the Andhras, the case is very different. Out of nineteen Andhra witnesses only one, namely, Rai Bahadur M. V. Apparao, who is obviously one of the oldest Andhra settlers, advocates a maximum period of thirty years. Two have come down to twenty years; one would fix it at twelve years; seven at ten; one at seven; four at five; two at three, while the remaining one would consider no period of residence necessary. If a mathematical average, as in the case of domiciled Bengalees, is taken, it will fall short of ten years. But the Andhras were obviously under an impression that they came with the soil on the formation of the Province on the 1st April 1936, and that, therefore, in their case, no period of residence should be prescribed. Their argument was that because they came with the soil, they were to be regarded as the children of the soil, the period of previous residence being immaterial. But strictly speaking the argument which would apply to the Bengalee immigrants would also apply in their case. It is a question of the protection of the interests of the older Andhra settlers and of the Oriyas as against new-comers. Most of the Andhra witnesses seem to have missed this point. Otherwise as many as fifteen of them would not have suggested periods of ten years or shorter periods. In their own interests and the interests of their future generations, it should equally be the object of Oriyas and the genuinely domiciled population of Orissa to discourage indiscriminate influx of population from outside. We are not prepared to say that the domiciled Andhra people do not see this point. The influx of new population whether from the North or from the South is bound to react upon the well-being of the existing population of the Province. It may be that because this aspect of the question was appreciated, that two prominent Andhra witnesses, namely, Sri M. Suba Rao, Advocate, Cuttack, and Mr. C. V. Rao, Dewan, Jeypore Estate, have suggested a longer period of twenty years.

84. One impression in this connection apparently troubling the minds of one of the Andhra witnesses has got to be corrected. Their contention is that since the districts of Ganjam and Koraput were included in the Province of Orissa upon its constitution, all those resident in these two districts by the 1st April 1936, *ipso facto* became children of the soil in the Province of Orissa. Such a point may have some academic value, but has no arguable merit when facts, as they are, are taken into consideration. These witnesses seem to have forgotten that prior to the constitution of the Province of Orissa, the districts of Ganjam and Koraput were included in the Province of Madras and that consequently no restrictive rules were in force in cases of migration of people from other parts of Madras into these two districts which by the by were Oriya-speaking tracts. Whatever domicile rules existed in Madras related to the regulation of the influx of non-provincials into the entire Province of Madras including these two Oriya districts. But now that these two districts have been cut off from Madras on linguistic and ethnological

grounds and included in the Province of Orissa, the position is altogether changed. Control which was exercised in connection with the influx of outsiders into the entire Province of Madras including Ganjam and Koraput has now to operate in these two districts even with regard to the remaining parts of Madras. It may be remembered that the Province of Orissa was created not for the purpose of utilising it as a common land into which any one could come at will. In the following short extract from the message of His Majesty the King is embodied the object which influenced the creation of a province for the Oriyas: "The long cherished and natural desire of the Oriya people to be reunited after centuries of dependence upon other administrations is thus fulfilled".

85. Coming now to the other witnesses, it is found that out of twenty-three only seventeen have suggested periods of residence, the longest being fifty years and the shortest ten years. One witness, however, namely, Mr. Hassan, Collector of Ganjam, suggested that mere intention of making Orissa his home ought to qualify a person for a certificate of domicile. Witnesses belonging to this category are not expected to devote as much thought to this question as those whose interests are likely to be affected by a shorter or a longer period being fixed for the purpose. Even then taking a mathematical average, the period comes to twenty years.

86. The Committee, however, was not guided by these averages. Averages in such a matter are likely to be misleading. It is really the opinion of the old settlers which counts, because they feel more identified with the children of the soil than later settlers. The later settlers are not expected to have shaken off their affinity with their kith and kin in the neighbouring provinces from which they migrated within very recent memory. The Committee was guided by the consideration which actuated the oldest settlers, however small in number, to fix a pretty long period exceeding half a century. The difference of opinion on this question between the majority and minority sections within the Committee is natural. The members of the domiciled communities on this Committee have the responsibility not only to the oldest settlers whose number is small, but also to the late-comers who form a major part of the domiciled population of the Province. But if it is acceded that in the interest of the Oriyas and genuinely domiciled population, further immigration should be checked, if not altogether stopped, effective methods have got to be applied. We think that a longer period of residence necessary to qualify an immigrant for a certificate of domicile will be an effective check. It can also be said that the longer period of fifty years prescribed by the majority of the members will rule out the possibilities of abuse, that is, possibilities of immigrants taking certificates of domicile for purposes of service or business and returning to their provinces of origin when the purpose of service or business do not require longer residence in this Province. It is, however, to be admitted that this is a question on which difference of opinion exists not only amongst the witnesses who have favoured the Committee with their views, but also between the members of the Committee themselves. The decision of the Committee by a majority is that in order to be eligible for a certificate of domicile, one must prove that he has been born of parents who have resided in this Province for a period of fifty years, such residence being of a permanent nature as indicated in rule 4 of the existing rules.

87. Intimately connected with this question is the question of the possession of homestead and residential house of one's own. The Committee is of the opinion that an immigrant must have acquired homestead property in this Province and built a house for his residence before he becomes eligible for a certificate of domicile. Witnesses have expressed views on this point. The Committee after considering these views and circumstances of the case wish to fix a period for the purpose. But as in the previous case, there has been a difference of opinion also in regard to this amongst the members of the Committee. By a majority the Committee is of opinion that an immigrant must have had his own homestead land and dwelling house for thirty years before being eligible for a certificate of domicile. The minority view is that this is too long a period and should be reduced to twenty years. This view is held by Rai Bahadur B. V. Ray and Sri Ranglal Modi. The difference of opinion on this point does not seem to be acute. It would be desirable that the shorter period should be taken as one unanimously accepted by the Committee. This period ought to be a sufficient safeguard against abuse on this scope. It has been brought to the notice of this Committee that with a view to qualify themselves for certificates of domicile, immigrants have acquired homesteads and even constructed structures on them, but after the purpose had been served, have sold away the property as no longer necessary. This point was also stressed by the Bihar and Orissa Unemployment Committee, the relevant extract from whose report appears in the previous chapter.

88. We now come to the question of language. This question is whether people domiciled in Orissa should possess any knowledge of the Oriya language and if this is answered in the affirmative, of what standard that knowledge should be. From a separate consideration, as in the two cases previously dealt with, of the three types of domiciled people, it appears that out of fifteen domiciled Bengalees, only four consider that knowledge of Oriya is not an essential condition. The remaining eleven have expressed a contrary view. Some of them think that the knowledge should be of the middle standard, while there are others who are of the opinion that a lower standard would do. Of the nineteen Andhra witnesses four have not said anything with regard to this, while five witnesses consider knowledge of Oriya as not being essential. The remaining witnesses lay an emphasis on this knowledge. Two of them would have it at the middle standard, while one thinks that the standard should be raised up to the matriculation. Among the other witnesses only one, namely, Mr. Hassan, Collector of Ganjam, who served in that capacity only for a few months, did not consider the knowledge of Oriya to be essential. But all the others do consider it necessary, the standard varying from the middle to a simpler form of merely being able to speak, read and write. Some of the witnesses, who consider that ability to speak, read and write should be sufficient hold the view that an immigrant ought to be able to speak Oriya like an Oriya. This, though apparently a more modest requirement than possessing knowledge of Oriya up to the middle standard, not to speak of the matriculation, is evidently a harder test. But we think that this is a more reasonable test than possessing knowledge up to a certain standard which can only be acquired after years of schooling. The mere passing of an examination ought not to be considered sufficient, for even after passing an examination in Oriya one may not be able to speak

it fluently and well. The Committee considered the question from all aspects and came to a decision by majority that in order to qualify himself for obtaining a certificate of domicile an immigrant must prove that he has adopted Oriya as medium of instruction in schools and should be able to read, write and speak it as an Oriya. The only dissentient member was Rai Bahadur B. V. Ray who expressed the view that it was not necessary to adopt Oriya as medium of instruction, but that it would suffice if Oriya is adopted as the medium for the transaction of business in daily life. It may be pointed out that although Rai Bahadur B. V. Ray holds this view, he is not altogether opposed to that of the other members of the Committee. In another connection by way of an amendment he said, "Where a certificate to the effect that he (a domicile person) has studied Oriya in the primary or secondary stages or uses Oriya as the medium of instruction, is produced, the District Magistrate, in such cases, will issue the certificate after holding necessary enquiry for the purpose". Although ability to speak Oriya like an Oriya is a better test from the national point of view, it is a test which cannot always be applied. Nor can it be said that using Oriya language as the medium for the transaction of business in daily life is a sufficient safeguard from preventing non-Oriyas claiming certificates of domicile in Orissa. There is, therefore, no getting out of an admission that adopting Oriya as the medium of instruction in the school is a sure and unfailing test. The Committee obtained this view from witness Sri Charu Chandra Ray, M.L.A., a prominent member of the domiciled Bengalee community and at one time a member of this Committee. We, however, think that as this test cannot be applied as in the case of people who have never gone to school, the other and vaguer test of ability to speak Oriya like an Oriya should have to be relied upon.

89. While at this question it is necessary to clear one point. Although we consider that in order to be eligible to get a certificate of domicile one must either adopt Oriya as his medium of instruction in the school or, in a case where one does not go to school, to be able to speak Oriya as an Oriya, we are not in favour of anyone being deprived of knowing and studying his mother-tongue both in the school and at home. It is for the immigrant to consider whether, in what manner and to what extent he should cultivate the knowledge of the mother-tongue, consistent with his efforts at identifying himself with the children of the soil where he is domiciled. So far as considerations of nationality and peaceful neighbourly living are concerned, it is essential that a domiciled person whatever else he does with regard to the learning of his mother-tongue, should be thoroughly acquainted with the language of the Province so that a difference on this score may not be perceptible between him and his neighbour who is a child of the soil. In the words of the Orissa Committee of 1932, "a common language tends to create a feeling of solidarity".

90. There is one more material point on which the Committee took a decision in this connection. This is that a domicile person must prove that he has completely identified himself with the interests and aspirations of the Oriyas. Almost every witness who has cared to look at this aspect of the matter has considered this to be an essential qualification. There is no difference on this question between the Oriyas and non-Oriyas and amongst the latter, between one class of domiciled persons and another.

Even a person like the resident of the Ganjam and Koraput Andhra Mahamandali, who holds the view that certain tracts in the districts of Koraput and Ganjam where the Andhras are residents in Orissa, should go back with their homes to the Andhra country, in Madras, has definitely agreed that the domiciled persons, when they finally settle down in Orissa, should identify themselves completely with the interests of the Oriyas. This is a condition which the Committee thinks should be satisfied by all non-Oriyas claiming to be domiciled in Orissa. In fact, this is a sine qua non of harmonious national life.

91. To sum up it may be said that the Committee was asked by the Government in their terms of reference to lay down the criterion for determining as to who may be considered a person domiciled in this Province. The following conditions are reproduced from a resolution adopted by the Committee at a meeting. It may be added that these decisions were unanimously taken except as mentioned in paragraphs 87 and 88 of this Chapter :—

(1) One must have been born of parents who must have been resident of this Province for at least fifty years and such residence must be of a permanent nature as outlined in the existing rule 4 of Mr. Dixon's Rules ;

(2) he must have no other domicile in any other province and must have continuous residence in this Province till the date of his application and should be called upon to make a solemn declaration that he claims no domicile in any other province and a copy of the declaration must be forwarded to the Government of the province from which he or his ancestors migrated;

(3) he must have held a homestead with a house in his name or in the names of his paternal lineal ancestors and his family must have lived in the house for not less than thirty years and the applicant intends to live in that house permanently ;

(4) the bulk of his other immoveable property, if any, must be in Orissa and the applicant must have no permanent stake in any other province ;

(5) he must have adopted Oriya as medium of instruction in schools and should be able to read, write and speak Oriya as an Oriya ; and

(6) he must have completely identified himself with the interests and aspirations of the Oriyas.

CHAPTER X

Connected questions

92. After having disposed of the essential conditions attaching to the certificates of domicile, we, now, come to certain connected questions. The first question is, after a person domiciled in this Province has obtained a certificate of domicile and been admitted to the privileges accruing from it, should those privileges descend automatically as a matter of hereditary right ? On this question, quite a good number of witnesses have expressed their opinions. Some have said that the privileges of a domiciled person cannot be of a hereditary character. Others, however, maintain that once the father has been admitted to the privileges of the Province on the ground of his domicile therein, the son should inherit them as he does the father's material properties and effects. But it may be that although the father satisfied the conditions necessary for obtaining a certificate of domicile, the son may not satisfy all or some of them. For instance, the son may sell

off the residential house of his father on account of which a certificate of domicile had been issued to him. It may also be that after the father's death, the son revives his associations with the province from which the father had migrated. When the latter class of witnesses were confronted with these questions, they came round to the view that even though the son has the hereditary right to the father's domicile, an enquiry should be made to establish the fact that the son also satisfies the conditions. The difference, therefore, between the two classes of witnesses reduces itself to one between tweedledum and tweedledee. The Committee has accordingly come to the conclusion that the real position is that the son's domicile follows that of his father, unless the son chooses by his conduct to abandon his residence or otherwise disqualifies himself. There is general agreement that there should be an enquiry in each case and that it should be very easy for the son to prove that he retains his father's domicile as compared with the case of a person who seeks newly to be admitted into the Province as a person domiciled in it. This conclusion of the Committee is not a departure from the practice followed in other provinces. In no province in India has a certificate of domicile been treated on hereditary basis.

93. An allied question was, however, put to the witnesses as in question No. 12 of the questionnaire. This is, can domiciled persons be regarded as natives of the Province or children of the soil when they make Orissa their permanent home, have ceased to have any interest whatsoever with their province of origin and have assimilated the Oriya language? This led to a further question, namely, is it practicable to distinguish them from other domiciled persons so as to exempt them from the obligation to obtain certificates of domicile? These questions have been answered in different ways by different witnesses. Of the total number of witnesses, as many as sixty-nine have said that they should be treated as natives of the Province, while twenty-seven maintained that they should be treated by no means as such. Fifteen witnesses have specifically declared that such people should be exempted from the liability of producing certificates of domicile and have suggested that Government should hold a comprehensive enquiry once for all and prepare a register of such families of domiciled people for each district. They hold the view that for members of these families, it should suffice to quote a reference to the serial number in the register maintained for the districts. A further suggestion was made by some witnesses to the effect that people belonging to this category may be granted certificates of nativity to distinguish them from the holders of mere certificates of domicile. The establishment of a practice like this creating a further distinction between the old settlers and the new-comers will give rise to an anomaly. This difference in treatment is bound to lead not only to mutual suspicion between the two classes of domiciled persons, but also to unnecessary friction and ill-will. It is on these considerations that our colleague, the representative of one important domicile community in this Province, namely, Rai Bahadur B. V. Ray, concluded this question by moving a resolution which was, "such people as have been referred in question No. 12 of the questionnaire, that is, those families who prove their long domicile will be called domiciled and not natives, but will have preference over the new-comers. The expression long domicile means, those families who have settled in Orissa prior to 1803". The Committee unanimously accepted this.

94. With regard to the other proposal, namely, that of maintaining a register of the domiciled persons, the Committee was unable to consider it favourably because of the difficulties inherent in it. These difficulties are enumerated below :—

(1) Every domiciled person, whatever the period of his residence in the Province, will claim to have his name entered in the register. This will lead to necessity for closer scrutiny and careful enquiry.

(2) By not being able to make a representation to the authority preparing the register, names of deserving persons may be omitted.

(3) Undeserving persons may have their names included in the register by unfair means. So if a particular period of residence in the Province is assumed to be the basis of qualification for being eligible to have a name entered in the register, this will require its frequent revision from time to time.

(4) In a case of representation against non-entry in the register, the urgency of the matter may be gone and by the time a decision is made a loss may have sustained by the petitioner.

(5) After having his name entered in the register a domiciled person may change his domicile, in which case constant enquiry and a checking of the register will be necessary.

(6) On the addition of a new member to a family a petition will have to be made to enter his name on the register, on this petition no action can be taken without going through all the paraphernalia of an enquiry.

95. These are some of the difficulties. There may be more which will become patent when a register is actually maintained. The Committee, while feeling every sympathy for the members of domiciled community at being asked to produce certificates of domicile on every occasion that necessity for it arises, realises that this is inseparably bound up with the circumstances of the case. In other words, the Committee considers this to be a necessary evil. Whether or not a person is domiciled according to the rules laid down for the purpose, has got to be enquired under any circumstances and, therefore, the maintenance of a register of the kind suggested will not offer any practical solution. It is perhaps on account of the difficulties enumerated above and other possible ones that in no other province are registers of domiciled persons maintained.

96. Having maintained that the distinction between the children of the soil and the domiciled people should be continued in nomenclature, the next question is to what extent this difference should be logically carried. A question was put to the witnesses as to whether first preference in the matter of employment in the services should be given to the children of the soil as compared with the domiciled elements in the Province. But very little light was obtained from the answers. The opinion of the witnesses is almost equally divided. Of the 99 witnesses who have expressed some view or other on this issue, as many as fifty-two hold that in the matter of appointments, including services under the Government, local bodies, and other institutions maintained or aided by Government, the natives of the Province and the domiciled population should be placed on one and the same footing. But this is controverted by an almost equal number which is forty-seven. There forty-seven witnesses have distinctly expressed the

opinion that the children of the soil have the natural right to preferential treatment in relation to outsiders. Therefore, no solution of this question is possible, if reliance has got to be placed upon the views of the witnesses.

97. Some guidance, however, can be obtained from the answers received to a question put to the witnesses. This question was as to how the problem could be solved when unanimity in the matter of giving first preference or not to the children of the soil could not be reached. It was suggested in reply that appointments should be distributed on a population basis. Only two witnesses expressed the view that distribution of appointments on such a basis was neither free from being detrimental to public interest nor from inflicting injustice upon domiciled communities. They held the view that such a course if taken would lead to inefficiency in the services. But a greater majority of the witnesses, whose number is twenty-seven, opined that nothing could be fairer than introducing the population basis in appointments to service. They support their opinion by saying that, man to man it is not easy to make a discrimination between the children of the soil and the domiciled population in matters of efficiency. They maintain that in the early years of British rule in Orissa, the Oriyas were deprived of suitable opportunities and thrown into the background. The inevitable result was that they got no occasion to prove their efficiency. This disability of theirs was augmented on the ground of their lying scattered in four different provinces where racial unity and will to assert could not get necessary scope to evolve. But now that a province of the Oriyas, however, truncated and dismembered, has been created, greater opportunities can be made available. It will, therefore, be they consider, a perpetuation of the cruelty to which the Oriyas have so long been subjected; if, on the ground of greater efficiency non-Oriyas are allowed to have the same rights and privileges in the Province of Orissa as Oriyas. It may incidentally be stated here that under similar circumstances the Government of Assam have adopted rules giving first preference to the Assamese, not only in the services but also in matters economical. We discussed the desirability or otherwise of the adoption of a similar course in Orissa. The object is the discouragement of further influx. That being so, the adoption of this course would be most effective. But we have chosen an alternative method which will be found less vexatious to the domiciled element in our population. This method is the application of conditions and criterion laid down in Chapter IX. It may be remarked that at a meeting the Committee passed the following resolution. It was "This Committee thinks it desirable to allocate the appointments in the services under Government, local bodies and semi-Government and Government-aided institutions in proportion of the population of the Oriyas and those domiciled in the Province". This was carried by a majority of five members against one, Rai Bahadur B. V. Ray, remaining neutral.

98. Although distribution of appointments in service on a population basis be accepted as a safe and sound policy in administration in Orissa, at any rate for the time being, it cannot be enforced as a policy of Government throughout the services. The topmost services in Orissa are manned as a rule by non-Oriyas, which, without any reflection on the personnel employed in those services, cannot be regarded as a very happy position. Here too, want of opportunities seems to account for the absence of Oriyas from the

picture. There is absolutely no ground to think that people in other provinces are so markedly superior in intellect to Oriyas as to absorb a greater percentage in the all-India services distributed amongst the provinces. The position in Orissa is a matter of accident. If it were confined to the topmost services, it might not perhaps be regarded as so deplorable ; but the situation with regard to the all-India services reflects itself to a perceptible degree on the provincial service. There is distinctly a much higher percentage of domiciled people in the personnel of the provincial services than would be justified by the proportion of the domiciled element in the population of the Province.

99. Nor can it be maintained that there should be no cause of grievance on this account. Writing in the year 1925, the then Chief Secretary to the Government of Bengal emphasized the necessity for restricting appointments to people amongst whom the men appointed should have to work. He supported his view by referring to natural sympathies in the official element to direct its energies more towards the well-being of the community from which they come. "The administration of the laws of the land is entrusted to the official element and unless they are sympathetic they could find thousand and one ways of frustrating the object of the latter." This aspect of the matter was recognised by the Government of Bihar in 1938. In that year the Government of Bihar issued a circular laying down the population basis for distributing appointments between the Biharees and Bengalees. Opposition was made by the domiciled Bengalees of Bihar to the introduction of such a principle which had not existed before. But the decision of the Government of Bihar was supported by eminent persons like Dr. Rajendra Prasad and Dr. Sachchidananda Sinha.

100. Although the introduction of the population basis in the appointments of Government and other institutions is regarded as a sound principle, it cannot always be strictly enforced. A departure has got to be made in filling the appointments which require technical and expert knowledge. This makes the door open to the entertainment of outsiders in services in the Province. But with regard to this matter there is perfect unanimity amongst the witnesses that when such appointments are made they should be made on contract basis. It is felt that where there is a paucity of men in the Province for filling posts of a technical nature Government should make *ad hoc* arrangements to carry on the work and depute suitable young people for necessary training so that when they come back they may be employed in the vacancies caused by the discharge of outsiders who had held these appointments on contract basis. It may not, however, be ignored that taking outsiders on a contract basis is altogether free from defect. It may be remarked that people when they know that they have no permanent footing, will not put in their whole energy into the job. It may be so. But some sacrifice for a short period of inefficiency can be made in order to achieve greater and permanent efficiency and far reaching results in future. The Committee, however, does not share this view. A technical expert who knows that he will have to seek employment elsewhere after a short period will be guided by psychological considerations to make himself fit at a rather advanced age for new avenues of life. There may, however, be cases in which this psychological factor may not fully operate. But it cannot be helped.

CHAPTER XI

Authorities to deal with certificates

101. It will appear from the foregoing chapters that at least for a long time to come it will be necessary to distinguish a genuinely domiciled person in this Province from others who are not genuinely domiciled. This will necessitate the holding of enquiries. After enquiry in each case a decision will have to be made by some competent authority as to whether an applicant for a certificate of domicile is or is not genuinely domiciled. This decision will have to be recorded in a particular manner. This manner of recording the decision corresponds to the certificate of domicile now existing as a system.

102. Granting that a certificate of domicile will have to be obtained by a genuinely domiciled person, the next question is who will be the authority who will grant it. At present it is the District Magistrate who is the recognised granting authority. He has to conduct necessary enquiries of which he maintains a record and if he is satisfied that a person is genuinely domiciled, he grants a certificate. The existing rules known as Dixon's Rules, provided for this. It is the provisions of these rules which have been found to have not been strictly followed. The result was that as already stated, certificates were granted in many cases to undeserving persons. All these things have been discussed at length in some of the previous chapters. Of the total number of witnesses, namely one hundred and thirteen, who have expressed some opinion or other on this point, only thirty have said that the existing practice should be continued, that is, the District Magistrate should be the authority who will grant certificates of domicile. But against this opinion, there is the opinion of a much larger number who do not consider that it will be satisfactory if the issuing of certificates of domicile is entrusted to the District Magistrate. Their number is seventy-one. They are of the opinion that a non-official element should be associated with the officials to carry on the necessary enquiry and grant a certificate of domicile. The consensus of opinion amongst the witnesses is that the non-association of the public with the officials in this matter is a defect contributing to the abuse of the present system. It is in view of this overwhelmingly large number of opinions in favour of the association of a non-official element that the Committee by a majority decided that in all cases non-officials should be associated with the District Magistrate in the matter of granting certificates of domicile. The resolution of the Committee may be reproduced here. It is, "The domicile certificates are to be granted upon a judicial enquiry by a tribunal in each district consisting of the District Magistrate and two leading Oriya non-officials to be nominated by the Government". Rai Bahadur B. V. Ray did not agree in toto to this proposal. In his view the District Magistrate should be considered competent enough to grant a certificate alone in all clear cases. The clear cases according to him are those in which the father is already in possession of a certificate of domicile and the child produces documentary evidence that he or she holds a homestead in his or her name of paternal ancestors and a certificate to the effect that he or she has studied Oriya in the primary or secondary stage or uses Oriya as medium of instruction. In other cases, that is, where there is absence of one or more of these

qualifications and where there is doubt in any of them, the District Magistrate should have two non-officials associated with him for enquiring and issuing certificates. He was supported by Sri Ranglal Modi. The Committee, however, did not accept this view, because in its opinion no difference should be made between one case and another. The Committee have laid down certain conditions and those conditions are to be taken as the criteria for deciding the question in every case. It is, therefore, not necessary to discriminate between one class or case and another. Such discrimination, the Committee considers, is likely to lead to a failure of the system which it recommends for adoption.

103. The next question is whether provision should be made for reconsidering the decision made with regard to the issuing of certificates of domicile by the District Magistrate associated with the non-official element proposed in the previous paragraph. There can be three forms of reconsidering the decision, namely, appeal, review and revision. It is not necessary to explain the difference amongst these forms. It may, however, be said that a majority of the witnesses are in favour of providing for an appeal against the decision of the authority issuing certificates. The consensus of opinion among the witnesses, who are in favour of providing for an appeal, is that the Revenue Commissioner should be the authority to hear appeals. There were other proposals which were not supported by an appreciable number of witnesses. For instance four witnesses are in favour of the appeal being heard by the District Judge, while two are of the opinion that the High Court should hear these appeals. But a large majority have expressed the view that the Provincial Government should be the appellate authority. Their number is thirty-one. This is, however, outweighed by the number of those who desire that the authority to hear appeals should be the Revenue Commissioner. This number is forty-three. The Committee have, therefore, concluded that the appellate and the revisional authority should vest in a body consisting of the Revenue Commissioner and three leading Oriya non-officials to be nominated by the Government from time to time. It may be said that a number of witnesses have favoured the provision of revision. The Committee have decided that appeal will lie when a certificate of domicile is refused and a revision on the motion of any member of the public where a certificate is improperly granted. The Committee have gone further to prescribe a period of limitation for filing appeals and applications for revision which is based upon the views expressed by the witnesses generally. This period is two months from the date of decision by the original authority. The Committee is not in favour of providing for a second appeal. In order to eliminate the possibilities of irregularity and abuse, the Committee further lays down that the District Officer should not be allowed to delegate his power in this behalf to his subordinates. The present practice is that the District Officer generally gets the enquiry conducted by his subordinate officers who, as the evidence shows, more often than not discharge such delegated duties rather in a perfunctory manner. The Committee thinks that when considering an application for the grant of a certificate of domicile, the granting authority should give six weeks' notice to the public inviting objections and it is after considering objections, if any, and upon due enquiry into the qualifications of the applicant that a certificate can be granted. The Committee considers that even in the case of inferior posts the authority proposed in this chapter should grant the certificates.

104. There is a further question as to whether a certificate of domicile after having been granted should be rescinded. The Committee has duly considered the evidence to the point. The bulk of the evidence converges in the direction of a power being vested in the Government to rescind a certificate in certain extreme cases. The Committee has, therefore, come to the following conclusion, namely, "Where it is found that the applicant obtained a certificate by fraudulent means or by making false statements or has acted in a manner prejudicial to the interests of the Province, his certificate will be liable to rescission and, in proper cases, the applicant also to removal from service.

105. A doubt was, however, expressed by Rai Bahadur B. V. Ray and Sri Ranglal Modi as to whether certificates could be rescinded without creating legal difficulties for Government. This is a matter on which the Committee does not consider itself competent to pronounce any opinion. It should be examined from the legal point of view.

106. The Committee has, as already said, examined a large volume of records of certificates of domicile maintained by the District Magistrates in all the Districts. It is unfortunate for the Committee not to be able to say that, as a rule, the records are clean as official records ought to be. In a large number of cases defects were noticed, some of these defects being serious in nature. In many of these cases, the Committee feels, certificates of domicile should not have been granted. But at this stage it will work very harshly if old cases are revived and the desirability or otherwise of certificates being granted is reconsidered. The Committee agrees that a certain amount of protection should be given to the persons who have already been benefited by the granting of certificates of domicile however improperly granted. It is, therefore, prepared to say, "Where certificates have already been granted and on the strength thereof any person has obtained a post in Government service or in local bodies, he will not be liable to be removed, unless it is clearly proved that he is guilty of fraud in obtaining the certificate". The Committee makes it clear at the same time that "All certificates which have been improperly granted and where the holders thereof have not obtained posts or have held temporary posts will be liable to be cancelled". It is further suggested that Government should consider on merit the desirability of certificates of domicile being retained by persons whose cases are mentioned in the synopsis of cases submitted to Government separately.

107. There is, then, one matter on which the Committee took neither written nor verbal opinion from the witnesses. This matter is the time when an application for the grant of a certificate of domicile should be considered by the authority empowered to grant it. The provision in the existing rules relating to this matter is contained in letter No. 6237-42-A, dated the 2nd November 1936 from the Chief Secretary to the Government of Orissa to all District Officers. This paragraph says, "I am to add that the intention of the Government is that enquiries as regards domicile should be undertaken on application only, when some person is a candidate for (1) a Government appointment or (2) a scholarship or a vacancy in an educational institution". It is this aspect of the matter which causes hardship and is responsible for some amount of haste in conducting the enquiry. While there is such disadvantage connected with it, there seems to be no corresponding advantage. We think, that, in view of the conditions for the granting of

the certificate recommended by us, it will be better if an application for a certificate is considered irrespective of the existence of the two contingencies specified in the above extract. In this opinion we are supported by the Law Department of the Provincial Government. That Department has suggested that "Certificates should be granted irrespective of whether the applicant is actually seeking service under Government or not at the time of application". Reference to service under Government in this connection should apply to scholarships and vacancies in educational institutions.

CHAPTER XII

Orissa and its share in the central services

108 Before proceeding to consider this question, it is necessary to refer to an answer given by a number of witnesses to question No. 13 and also incidentally to question No. 14 of the questionnaire of this Committee. At one stage in the history of the agitation of the Oriyas for the formation of a separate province, the paucity of Oriyas in Government service figured to some extent. This was particularly so before the separation of Orissa from Bengal as a part of the bigger province of Bihar and Orissa. Hence so far as the Orissa division of Bihar and Orissa is concerned this is more or less a matter of history, being now more than thirty years old. But with regard to the Southern half of the present Province of Orissa the case is entirely different and, as will appear from the evidence of a very large number of concerned witnesses, persists even to-day. In Chapter VI it has been said how important is the part the services play in the life of a people. From this aspect of the question representation of the Oriyas in the services under Government could be regarded as of national importance. Therefore, if the Oriyas allowed their inadequate representation in the Government services in the Oriya tracts lying scattered in the various provinces as one of the reasons for the agitation for the formation of a separate province, there was some justification for it.

109. The absence of Oriyas in Government service was intensified by the fact that they were almost totally unrepresented in the Central services, even within the Province or, for that matter, in the Oriya-speaking tracts, particularly in the Railway. This gave rise to a feeling that the legitimate share in Government service of the Oriyas was denied to them. It was felt that because the Oriyas had no Government of their own to press their claims their representation was so poor in the central services. It was also felt that even in the provincial sphere, the Oriyas played a subordinate role, because the administration in the provinces in which they were lying scattered was mostly in the hands of non-Oriyas. Thus while higher considerations of self-assertion and self-expression influenced the agitation of the Oriyas to have a province of their own, the minor aspect of representation in the services was not altogether lost sight of.

110. Coming to the central services, one branch where a large number of hands are employed is the Railway. The Railway with which the Province of Orissa is concerned is the Bengal-Nagpur Railway. So far back as 1936

the total number of persons employed on a monthly pay of Rs. 20 and above in the Bengal-Nagpur Railway was 3,026. Now this figure is likely to have gone up. It is stated that nearly fifteen per cent of the total length of the Bengal-Nagpur Railway passes through the Province of Orissa. If the States and the other Oriya-speaking areas are included, it will increase this percentage. But when it comes to the question of employment, the Oriyas have failed to secure their legitimate share in services under the Bengal-Nagpur Railway, including even the subordinate services. It may be argued that the Bengal-Nagpur Railway was not a State-managed Railway, but was managed by a private company and that this was the reason why the claims of the people from all parts did not appeal to them because they looked more to their own profits than to anything else. In support of this argument are cited the instances of the Departments of Posts and Telegraphs and Income-tax where the Oriyas have had some share in the appointments

111. This may be a valid argument. But it is felt that the Central Government should have intervened in the matter. They have laid down certain principles of distribution of services under them on a communal basis. This distribution relates to the communities of Muslims, Anglo-Indians, domiciled Europeans, Sikhs, Indian Christians and Parsees. It was made by an order of the Central Government passed in 1934. To this list of communities, later on, that is in 1943, was added another community, namely, the scheduled castes. In 1943 the Government of India decided as follows with regard to the representation of the scheduled castes in public services. "8½ per cent of all vacancies to be filled by direct recruitment of Indians in central and subordinate services to which recruitment is made on an all-India basis will be reserved for the scheduled caste candidates. In the case of services to which recruitment is made by local areas or circles and not on an all-India basis, as for example, subordinate posts in the Railway, Posts and Telegraphs Departments, the Customs services, the Income-tax Department, etc., the total reservation for India as a whole of 8½ per cent of vacancies for the scheduled caste candidates will be obtained by fixing a percentage for each local area or circle having regard to the population of the scheduled castes in the area or circle concerned and the rules for recruitment adopted by the Provincial Government in the area or circle concerned". It may be added that the Government of India also decided that "the administration of the Company-managed Railways will be asked to adopt similar rules for the services of those Railways". The Central Government took up the matter obviously because of the fact that these communities were not either already adequately represented or were in the danger of not being properly represented in future. They did not, however, care to see that there were other people who had failed to secure adequate representation in the Railways. Bengal-Nagpur Railway, although a privately managed, was guided by the decision of the Government of India in following the distribution of their services on a communal basis. But they shut their eyes when it came to the absence of Oriyas on the Bengal-Nagpur Railway. It will be seen that even within the Province of Orissa, the Oriyas do not almost appear in the Railway. Thus the salubrious effect of carrying on the administration by the representatives of the people does not operate in the administration of the Bengal-Nagpur Railway. Its officers, including those in the subordinate services, are largely imported from the neighbouring provinces,

They do not understand the language of the people and are not generally sympathetic to them. The people with whom they have got to deal also look upon them as aliens. This must have had its effect on the administration of the Bengal-Nagpur Railway which the authorities seemed to have ignored.

112. But it is deplorable that even when the attention of the Central Government was invited to this state of affairs obtaining in the Bengal-Nagpur Railway, they were found loath to bring about any remedy. Questions were now and then raised in the Central Legislatures with regard to the representation of the Oriyas on the Bengal-Nagpur Railway. The inevitable reply of the Central Government, repeated from time to time, tended to say that Oriyas were not recognised as a community for recruitment and that recruitment to Government service were not made on a territorial basis. It is not necessary to examine the former of these two grounds. Oriyas may not be a community by themselves as understood by the Government of India for this purpose. But so far as recruitment to services under the Central Government is concerned, it cannot be said that the territorial basis has not been recognised. Circular No. 29 of the Director-General of Post Offices, dated the 2nd September 1926, may be quoted in this connection. It runs as follows :—

Local Recruitment of Subordinate Postal appointments

(1) On the recommendation of the Postal Conference of 1926 it has been decided by the Director-General that with effect from the 1st September 1926, future candidates joining the subordinate postal services must belong to the revenue division in which they exist.

(2) Any exception to the instruction given in paragraph (1) above must be referred to the head of the circle, postal or Railway Mail Service for orders.

113. The Director-General of Post Offices did not remain satisfied with having issued the circular. He was keen on enforcing it strictly and, therefore, in 1933, he issued the following instructions. "It is hereby ordered that instructions contained in Part I of the Director-General's circular No. 29, dated the 2nd September 1926, regarding local recruitment for subordinate postal services should apply to the recruitment for subordinate services in all the branches of the Posts and Telegraphs Department. The instructions should, however, be considered as laying down a general principle for observance and may be departed from at the discretion of the head of a circle if local conditions make it necessary. But in no case should a candidate be recruited in a circle who has not his domicile in that circle". This is not the only instance in which recruitment on a territorial basis has been accepted by the Central Government. The acceptance of the territorial basis in the Postal Department has been extended to the Railways as will appear from the annual Railway Board Administration Report for 1934-35. In that report it has been said that "in order that difficulty in the application of these orders (regarding percentage on communal basis) should be minimised as far as possible, it was decided at the same time to fix separate percentages on different railways taking into consideration so far as the Muslims were concerned their population ratio in the area served by a Railway". In accordance with this decision provision has been made for recruitment of

Muslim on the Bengal-Nagpur Railway at 12 per cent of the total number of employments. It cannot therefore be correct if the Central Government contend that recruitments are not made on a territorial basis. When a question was asked in the Central Legislative Assembly, the official reply was "I will ascertain how many Bengalee Muslims are actually employed in the Government of India's Secretariat". The Muslims are no doubt a community by themselves. But the Bengalee Muslims are not. The expression 'Bengalee Muslims recognises a territorial basis. It is unfortunate that the Government of India have taken the plea of recruitment not being made on territorial basis when considering the question of the representation of Oriyas on the Bengal-Nagpur Railway. The mischief does not end here. This view of the Government of India has been reproduced by the authorities of the Bengal-Nagpur Railway on the petitions of the Oriyas for their more satisfactory employment in that Railway. They have also taken the same ground in their reply to a letter addressed to the Agent and General Manager of the Bengal-Nagpur Railway by the Secretary of this Committee. In his reply, the Agent and General Manager has simply reproduced the answer given by the Hon'ble Mr. L. Wilson to a question asked in the Council of State on the 17th March 1941. That answer is "As regards the employment of Oriyas, recruitment is not made on a territorial basis and Government therefore contemplate no action". It will thus appear that the legitimate claims of the Oriyas for adequate representation on the Bengal-Nagpur Railway has been side-tracked on account of an attitude like this shared between the Central Government and the Bengal-Nagpur Railway. While both these authorities contended with regard to appointment of Oriyas that recruitment was not being made on a territorial basis, with regard to others they had not only already recognised it in principle, but had been giving effect to it in action. The result is that there are assurances given at least to the Muslims of Orissa which have remained unfulfilled. The assurance was given in a decision which has already been quoted. It may be repeated here in fitting with the context. The decision is contained in the following extract: "It was decided at the same time to fix separate percentages on different railways taking into consideration, so far as the Muslims were concerned, their population ratio in the area served by a Railway". A similar assurance was given also to the scheduled castes, but has remained similarly unfulfilled in the case of the scheduled castes of Orissa. The whole of Orissa is served by the Bengal-Nagpur Railway and, therefore, of all the the appointments made within the Province of Orissa in that railway as many as 12 per cent should go to the Muslims and 8½ per cent to the Scheduled castes of the Province of Orissa. The Committee does not think that this has so far been done. The whole system of the appointment of the Bengal-Nagpur Railway has suffered from a vicious circle which is that preference should be given to the children of the people already in its service. The Oriyas including the Muslims and Scheduled castes were not taken into the service of the Bengal-Nagpur Railway in the past and, therefore, when in the present, the question of appointment comes, the applications of Oriya candidates have got to be rejected on the ground that they are not from the children of the people already in service.

114. It will be found that in the Railway establishments both at the railway station and offices located within the Province of Orissa, a vast

majority of the employees are non-Oriyas coming from the neighbouring provinces. This not only legitimately causes heart-burning amongst the unemployed educated people of Orissa, but also gives a lie to the principle of territorial representation and representation on population basis rightly accepted by the Central Government. The administration of the Bengal-Nagpur Railway has done injustice to the Oriyas. This injustice was not recognised when the Railway was under the management of a private company. But now that the management has passed into the hands of the State, it is expected that the grievances of the Oriyas will be redressed. In this connection a small extract from the report of the Unemployment Committee of Bihar (Bihar and Orissa), 1935-36, may be quoted. It runs as follows: "The Railway owe a duty to the provinces in which they run and we consider that they should not ignore the legitimate claims of the people of the soil for the posts falling within the Province". * * * * "We recommend that a representation should be made by the local Government to the Railway Board that vacancies in all the subordinate services of the Railway arising within the Province should be filled exclusively by local men as is done in Posts and Telegraphs Department which we know is also a Commercial Department". It may be said that in the case of Orissa the local Government is the Provincial Government of Orissa.

115. What is true of the Railways is true also of the other Departments falling within the Province of Orissa. These Departments are Excise and Salt, Posts and Telegraphs, Income-tax, etc. It is gratifying that with regard to Posts and Telegraphs Department, the Oriyas are having some share. This should be extended to the other Departments and in adequate proportions. India is a federation of provinces, although the federal character of the Government of India adumbrated in the Government of India Act of 1935 has not been introduced. In all federated States each member of the federation has got to get an equal opportunity not only in other matters, but also in services under the State. The American Constitution lays down that "generally on the federal services all the part States should have representation roughly equal to their population, so that no single state or a clique of states may be in a position to dominate the policy of the federal Government. Certain European constitutions too, have provided similar safeguards for territorial, racial and other groups. This is a healthy principle and should be introduced everywhere. It may be noted that in certain areas, the legitimate claims of the people for adequate representation in the services have so far been not properly recognised. In such cases a compensation should be made so that representation from such areas may come within a specified time to a satisfactory level. It was from a consideration of this important question that on a representation of the Provincial Government in the North-West Frontier Province made in November 1943, to the Governor-General that the latter said as follows: "I think you may rest assured that the interests of the Frontier Province will not be overlooked in the schemes of post-war development or in the recruitment to the Central services". Orissa is signally conspicuous by its absence in the Central services excepting the subordinate services in the Posts and Telegraphs Department within the Province of Orissa. There is not a single Oriya who holds an appointment even in the ministerial service in the Central Secretariat at New Delhi. It is expected that in making future appointments, the promises

which have been vouched by the Governor-General in respect of and equally backward province, namely, the Frontier Province, should be implemented in the case of Orissa as well. Otherwise the Oriyas will lag behind in the forward march of the provinces and will not be able to play their legitimate part in the progress of the country as a whole.

116. In concluding this paragraph it may briefly be said that the Agent and General Manager of the Bengal-Nagpur Railway, on request made by this Committee favoured it with a list of contractors employed in the different branches of that Railway in Orissa for the year 1943-44. On that list there are altogether twenty-seven names, seventeen out of them being on the Engineering branch. Only two of them are Oriyas and are not likely to be above the status of petty contractors. The remaining ten, belonging to the other branches, are all non-Oriyas. It will appear that the Oriyas have received recognition from the Bengal-Nagpur Railway neither in service nor in contracts.

CHAPTER XIII

Application to the economic sphere

117. In the foregoing paragraphs argument has been advanced in favour of restricting appointments in the Province of Orissa to the genuine children of the soil and persons domiciled in it. It has been stated under what conditions a certificate of domicile can be issued in favour of an immigrant. The Committee is unanimously of the opinion that it is not only with regard to appointments under the Provincial Government but also those under the Central Government within the Province that the rules of domicile should be made applicable. But the object of Government in setting up this enquiry was not confined to appointments alone. In the terms of reference it has been said that "The Committee will examine whether the existing system has regulated or if it has not, whether any system recommended by the Committee will secure in a reasonable measure the control of the economic potentialities of the Province by the genuine residents and persons domiciled within the Province". The Committee was further asked if necessary to "devise ways and means to ensure that the avenues of employment in various spheres of the economic life of the Province will be open as far as possible only to the children of the soil and bona fide domiciled persons". The Committee was also further asked to state "the circumstances in which outsiders may play their part in the economic life of the Province to its best advantages".

118. It will be noticed that so far as this aspect of the matter is concerned, it is entirely a new one and does not appear to be in existence in any other province in this country except, it may be said, to some extent in the Province of Assam. But on a consideration of the difference between the conditions of this Province and those of other provinces, the extension of the rules of domicile to the economic sphere can be justified. As is well known, neither the Oriyas nor those genuinely domiciled in Orissa have till now secured their legitimate share in the economic potentialities of their Province. The

trade and commerce are generally in the hands of enterprising people from other provinces, not necessarily the neighbouring ones. The little industry that there is in this Province is owned by outsiders. The Oriyas and for that matter those domiciled in Orissa play but a very insignificant role both in the commerce and industries of this Province.

119. It may be said that a very small percentage of the people in this country have occupied the public services as a profession. In 1931, the percentage of Indians in various Departments of public service was 1.2 of the actual working population which again constituted 43.8 percentage of the total population. But there are countries, especially, in the west, where this percentage is much higher, being 3.3 in Belgium, 2.6 in France and 2.8 in Canada. In Orissa, as will appear from a preceding Chapter, the number of Oriyas in Government service is even much lower, most of the public services being filled by non-Oriyas. In order, therefore, to earn a living the people of the Province have got to turn to some other occupation in life. The one popular occupation is agriculture. But the agricultural industry in Orissa is attended with a number of drawbacks.

120. It is, therefore, necessary that a good part of the population of this Province should be employed in other avenues of life, such as, industry and commerce, for which there is prospect. Orissa is a place more or less full of natural resources. These resources have however so far been exploited, though only partly, by non-Oriyas. The rice mills appear to be the more common of the industrial concerns. But excepting a very few, these mills are in the hands of non-Oriyas, not even domiciled. There are other business concerns which need not be specifically named, because names, from the singularity of their nature, may be considered to be odious. These concerns are, however, all in the hands of outsiders. The export and import trade is also in the hands of non-Oriyas. In a place where the Oriyas have not got their due share in services under Government and do not find sufficient employment in their agricultural pursuit, it seems to be the duty of the State to make suitable and adequate provision in other avenues of employment for the children of the soil including of course, those domiciled in it. Although it was not quite necessary to take evidence on a self-evident question of this nature, a number of witnesses however expressed an opinion in writing in answering the questionnaire. The almost unanimous opinion is that the Oriyas should be duly provided in the commerce and industry of the Province. It is further stated by majority of the witnesses that if necessary for this purpose the domicile rules should be extended to this sphere of life. Altogether seventy-seven witnesses have said something or other in regard to this question. It is found that in favour of such extension of the domicile rules, there are as many as fifty-one, while the remaining twenty-six are opposed to it. From a strictly commercial point of view, there, no doubt, seems to be a good deal of justification in favour of throwing open the economic resources of the Province to all and sundry without restriction of any kind. But in a matter like this the purely commercial point of view cannot be allowed to prevail. The main consideration should be to see what share the children of the soil whether, genuine or domiciled, are taking in the exploitation of the natural resources. This necessitates the introduction of restrictions as in the case of services under Government.

121. Agriculture is the main pursuit of this Province. But the full utilisation of this industry is not made in Orissa in the interests of the Oriyas. Land revenue policy in the past has made it possible for a number of estates to pass into the hands of non-Oriyas who were then not domiciled, nor had intended to be ever domiciled, in this Province. They are known in Orissa as absentee landlords. It is contended by those acquainted with the administration of the land revenue policy of those times that there was plenty of foul play in the matter. But it is not within the purview of our enquiry to discuss the merits or demerits of the land revenue policy of the Government in the past. We are concerned simply with the result and the result is that a good element of absentee landlordism has been created in this Province with all its evil consequences.

122. While on this subject of land revenue policy as applied to landlords, it would not be out of place to refer to its application so far as settlement of land with the tenants is concerned. It has been brought to the notice of this Committee that in the district of Koraput a good number of settlers from the South an appreciable element of which hold appointments in the Jeypore Estate, have been entertained during the last few years, meaning thereby the period following the formation of this Province. This course has been taken on the ground of bringing under cultivation fallow lands which could not otherwise be utilised. A similar course, though in a much smaller degree, was followed in the coastal tracts of some of the Estates of the Cuttack district where Bengalee settlers from Midnapur and elsewhere have either already been settled or are proposed to be settled. Particular mention may be made of one such estate, the Kujang estate, where the absentee proprietor appears to have under consideration the applications of a number of people resident in Bengal. In a Province like Orissa, where the extent of land under cultivation is already too small to maintain the population, it is not perhaps right on the part of the landlord to further accentuate the unemployment of the agricultural population of the Province mainly dependent on agriculture is increasing at the rate of something like 90,000 per year. Besides its economic aspect, the settlement of land with people from the neighbouring provinces has also got a political significance. It may not immediately assume a proportion, so as to force itself on the mind of the people. But it is likely to be fraught with far-reaching consequences. It is in anticipation of such consequences that a problem has arisen already in the Province of Assam. Regarding that problem, persons who can speak with authority have expressed views and these views are not in favour of allowing outsiders to migrate into Assam and take settlements of land. The objection in Assam is based on the ground that the immigrants are mostly Muhamadans the effect of which will ultimately be the increase of the Muhamadan population in the Province and will disturb the balance which is at present being maintained between the Hindus and Muhamadans there. In the case of Orissa, similarly, the immigration of a large number of Andhras to the district of Koraput for a purpose which in the beginning may be purely economical, will create, not in the distant future complications, the signs of which have already appeared so soon after the formation of the Province. It will increase the Andhra population in the bordering areas of the district and may give rise to agitations for a change of the boundary.

A change in the boundary cannot on principle be regarded as wholly undesirable when the question is considered on merit. But it is altogether a different thing artificially to create a condition in which a question may arise sooner or later to consider the desirability of reopening settled disputes. The Committee also stresses the undesirability of the proprietors of estates making allotments of land to their employees to the detriments of the interests of the local people.

123. In this connection it is necessary to say a few words about employment in the zamindari estates. It will appear that in the zamindari estates of the absentee landlords, the important employees generally come from the provinces where the landlords live. This introduces a difficult situation in most of these estates and aggravates unemployment amongst the local population. This, however, cannot be said only of the estates of the absentee landlords. In the district of Koraput and, to a similar extent, in Ganjam where the landlords are neither absentee nor non-Oriyas, the employments in their estates are unfortunately mostly confined to people from the south. Sri B. N. Samantray, M.L.A., from the district of Koraput, in answering a question in this connection, said that in the employ of the Zamindar of Jeypore, Oriyas drawing a monthly salary of Rs. 60 or more are very few, while those drawing a pay of something like Rs. 25 a month may be 50 per cent of the total number, the other 50 per cent being the Andhras. We have nothing at our disposal to controvert this statement, unwelcome as it may be for the estate. The Dewan of Jeypore when confronted with this state of things, while saying that the position had improved after he came, promised to favour the Committee with a statement showing the details regarding the appointments held by the Oriyas and the Andhras. It is regretted that, in spite of reminders, this statement was not received from him. Whatever the relative position may be with regard to the number of persons speaking the two languages, Oriya and Telugu, holding appointments under the estate, the fact remains that there is considerable dissatisfaction amongst the Oriyas on the ground that their claims are not considered by the authorities of the estate. This dissatisfaction seems justified from a comparison of the number of Telugu-speaking people in the estate. They constitute only 6 1/4 per cent of the total population of the estate. It may further be said that a part of this percentage, small as it is, consists of a floating element. It may be noted that the estate of Jeypore comprises the entire district of Koraput.

124. The mistake which was made with regard to the land revenue administration should not be repeated in connection with the commerce and industry of the Province. It will appear that even most of the retail business, particularly in piece goods, is in the hands of non-Oriyas. Contracts under Government are mostly given to non-Oriyas. The position is said to have improved recently by the addition of Oriyas to the list of the contractors. But it is not simply an improvement in the position which is sufficient. Considering the number alone, the people of the Province may appear to be taking their share, in a greater degree, than others. The Public Works Department have informed this Committee that as many as 193 names of persons belonging to the domiciled classes appear on the Register of their contractors, while the number of outsiders appearing therein is only five. The question is whether the criterion by which the Public Works Department have judged the domicile of the contractors is reliable. In accordance with

the decision of the Government of Bihar and Orissa, taken on the 19th February 1936 and circulated in letter No. 1878-A., to all the District Magistrates, no certificate of domicile was to be granted to contractors under the Public Works Department; because it was considered satisfactory that the authorities of the Public Works Department should themselves make enquiries and find out the domicile of applicants to be enlisted as contractors. It may be said that the District Magistrate is the only agency deemed competent by the Government for the purpose of making enquiries and issuing certificates of domicile. He is also the only officer of Government best equipped for the purpose. Even then irregularities are more often than not found in the proceedings. It is very doubtful if an enquiry made by the authorities of the Public Works Department could be made on a satisfactory basis and could be relied upon. It may be said that out of the total number of 193 said to belong to the domiciled element in the Province, besides Bengalees and Andhras, there are 29 Kachhis, 8 Panjabis, 4 Biharees, 32 non-Oriya Muhammadans and 7 Central Provinces men. On the very face of it it seems that there is something wrong. There are not probably so many members of these communities already domiciled in this Province. A doubt would arise particularly in connection with the number of Muhammadans. Even granting that the information supplied by the Public Works Department is correct, it will not carry us very far. It will appear from the records that the bigger contracts involving pretty large amounts are held by outsiders. It may be said that the rules of the Public Works Department are such as to make all people, who have carried on business in this Province for ten years, eligible for registration as contractors. This rule is dated 1940 and therefore makes eligible people who have been working in this Province since 1930, that is, six years before its formation. It may be said that before the formation of the Province no distinction was made for this purpose between Oriyas and non-Oriyas. Therefore on the register of the Public Works Department there must be names of people who are neither Oriyas nor domiciled in Orissa. We, however, concede that where highly specialised technical knowledge and skill are involved, appointment of contractors cannot reasonably be confined to the children of the soil.

125. This leads us to a connected question, namely, that of motor transport in the districts. It will be found that in the year 1943 there were altogether 277 holders of permits to run passenger transport vehicle in force in the Province, out of whom 174 are said to be Oriyas and 45 described as domiciled. It is difficult to understand how a distinction between the Oriyas and the domiciled people could be made when the system of insisting on the production of certificates of domicile has not been extended to this particular matter. Taking however the statement to be correct, it will appear that in the district of Koraput there are no Oriyas or domiciled people holding permits, all the permits numbering 20 being held by outsiders. In Sambalpur the situation is almost the same, because there is only one Oriya who holds a permit. No domiciled person holds any permit in that district, whereas people from other provinces hold as many as 26 permits. This aspect of the matter, whatever it may have been so long, has now assumed importance owing to the decision of the Central Government recently announced. This decision is that the existing permit holders will be recognised as eligible for a share in the motor transport business in future. In the case of Koraput

and Sambalpur, therefore, the outsiders will have the privilege and no Oriya or domiciled person can become eligible. For the enforcement of the decision of the Government of India to be operative in the interest of the people of the Province it would be necessary in these two districts for Government to take the initiative in getting organised local motor vehicle traffic by way of Co-operative Societies or otherwise. If, however, it is not practicable, the Provincial Government should so adjust matters as not to allow outsiders to exploit the decision of the Central Government which undoubtedly presupposes that it is the local people who are already in the business. It is a noticeable feature that besides motor transport there are various other branches of employment in which the Oriyas are either not represented or, if at all, are very meagrely represented. One glaring instance is furnished by the Sugar Factory at Rayaghada in the district of Koraput. The evidence is that it is manned from top to bottom by imported staff even including the menial and unskilled labourers. It cannot be seriously contended that local labour was not available. The defect obviously lies in the selections made by the management and in the philosophical indifference taken by those who could interfere in the matter. As to other similar institutions it will suffice simply to quote from the written memorandum submitted by the Deputy Commissioner of Sambalpur who, it may be said, is not an Oriya himself. He says, "It has not been possible to find out the exact figures; but in banking organisations it is certain that the number is almost nil. The other important industries are Tata's Fireclay, Hingiri Ramagiri and Ib river collieries and the Orient Paper Mills. In none of these the Oriyas are employed in any responsible post nor are they given facilities for promotion. Among the unskilled labourers a fair proportion is of local people. But among the skilled labourers the representation is very small. So far as banking organisations are concerned Government should encourage people to set up their own banks. Teaching of commerce in Intermediate and B.A. would go a long way in producing qualified people. Banks and other organisations must be told that if qualified Oriyas are not taken in the vacancies, no concessions would be granted to them. The collieries and factories should be required to train certain number of Oriyas every year. This must be done in the case of the Orient Paper Mills as they have been able to secure liberal concessions from the Provincial Government in the matter of lease of bamboos. After the war the technicians belonging to this Province must be given suitable jobs in the factories and collieries. It is also desirable to set up a Board for the employment of qualified Oriyas to technical posts."

126. It may be contended that this Committee has attached undue importance to a particular aspect of social life, in which, so far, freedom, rather than restrictions, have been allowed to play its part. But for the making of a people in a province constituted on linguistic or ethnical considerations it will be necessary to zealously guard its interests. This is, therefore, no departure from the accepted principles. Authorities on nation-building and economic questions have reiterated it from pulpit to pulpit. Thus speaking at the Round Table Conference on commercial communities and racial discrimination, Mahatma Gandhi made the following observations: "I want to state with all the emphasis that I can command that I cannot even endorse the formula that the rights of all Indian born subjects themselves could even be equal or guaranteed. * * * I think that you will readily

grant that in order to equalise the conditions, the future Government of India would constantly be obliged to do what the existing Government has neglected to do, namely, continually to discriminate in favour of the famishing Indians against those who have been blessed by nature or by the Government of India themselves with the riches and other privileges." This he said in 1931, that is, about a decade and a half ago. But after a decade and a half since then, the Government of India have been forced by circumstances to accept the principle laid down in this extract. The Supply Member of the Government of India, Sir Ramaswami Mudaliar, who is known to be an authority on matters relating to commerce in India, made a public utterance on post-war reconstruction stressing the need for regionalisation of industries. He said, "not only should industry be localised in a particular region but also the management, capital and finance of that industry should vest in the citizens of that region." He further said that it was necessary "to prevent the industries from being controlled by a very limited section of the community". The Government of India have accordingly laid down their post-war policy with regard to the distribution of industries in the country. This is summarised in the following extract: "The Government have come to the conclusion that they must take power to license industrial undertakings. * * * One effect of unregulated freedom to promote industrial enterprises has been the concentration of industry in certain areas. * * * They propose that apart from licensing control should be undertaken * * * to ensure avoidance of unhealthy concentrations of assets in the hands of a few persons or of a special community. This may be secured by a judicious exercise of controls such as capital issues control and the licensing machinery for the regionalisation of industry."

127. It will be seen that this Committee discussed this question for more than a period of twelve months prior to the 5th October 1944 when its labours practically ended. The Committee is, therefore, gratified to find that in a way it anticipated the conclusions at which the Government of India have now arrived. It cannot be gainsaid that, economically speaking, the Province of Orissa is a unity by itself in the same manner that it is a linguistic and cultural unit, a unit which has been built and re-built by a process of self-exertion and self-determination, integration and disintegration and reached a stage at which artificial interference with its economic life will not only make it economically poor, but will seriously affect its culture and threaten its very existence. At present, as has already been said, the industries and commerce of Orissa are in the hands of outsiders most of whom are working on a monopolistic basis. The communication which has been provided during the British period is helpful to the exploitation of the natural resources of this Province by outsiders and in the interest of outsiders. It is felt that the wrong process should stop at a particular point and that the point has now been reached with the recognition by the Government of India of a newly enunciated policy that every unit should be helped to stand on its own legs. It should be made clear, however, that this Committee does not accept the recent policy of the Government of India with regard to their proposed control of the key industries, particularly when the control of industries and relieving of unemployment are provincial subjects according to the distribution of power made between the Central and Provincial Governments, in the Government of India Act, 1935.

128. Before this chapter is closed it will not be out of place to mention what part commerce and industry play in the life of a nation. In his comparison of the various countries of the world, with regard to the representation of the people on public services, industry and agriculture, Mr. G. Findlay Shirras, who cannot be regarded as having been in any way partial to India, said that in India, as already observed, only 1·2 per cent of the working population were employed in public services. It is with regard to public services that attempt has so far been made to protect, though not adequately, the interests of the children of the soil including the domiciled population as against the inroads of outsiders. It will, therefore, appear that the mere fringe of the problem has been touched. A great majority in which, it may be said, the remaining 98·8 of the working population are included have thus to be protected. But they cannot be protected, unless the industry and the commerce of the Province are so regulated that only the children of the soil and for that matter, the domiciled population can take advantage of them. The question may be considered from another aspect. According to Mr. G. Findlay Shirras, again, the total national income in India is something like 25 times the amount of the provincial revenues. It is with regard to the distribution of the provincial revenues amongst the employees under the Government that the present rules of domicile seek to lay down some control. But there is no control over the remaining 96 per cent of the national income. It is the contention of the witnesses who appeared before this Committee that the same control which it has been thought necessary to be exercised in connection with the distribution of the provincial revenues on the personnel of the Provincial Government should be extended to the economic sphere from which the remaining part of the total national income is derived. The very fact of the establishment of Provincial Autonomy presupposes the making of necessary provisions for the existence of the Province. This can be done by extending the rules of domicile to the economic sphere. It is felt that if the trade and commerce of the Province, made possible on account of its economic resources, are not utilised in the interests of its people, the blessings which Provincial Autonomy is designed to confer upon the people will be denied to them. For this purpose it is necessary that the exploitation of the natural resources of a backward province like Orissa should be controlled and regulated by its Provincial Government. By introducing suitable rules of domicile and pertinent legislation, it is also necessary to ensure the utilisation of the avenues existing in the Province of the employment of, and the enjoyment of nature's gifts by, the people. The Orissa Chamber of Commerce in their written memorandum has definitely said that legislation should be resorted to by the Government. This view is supported by the Berhampur Chamber of Commerce and by the All-Orissa Marwari Federation. People who know anything in the matter seem unanimous in their views that the Government should do all that is necessary to protect the interests of the people in the Province. This paragraph cannot be more happily concluded than by referring to an observation made by Mr. Winston Churchill in a broadcast speech on March 21st 1943. That observation is, "The modern State will increasingly concern itself with the economic well-being of the nation."

129. The Committee devoted careful consideration to this question and unanimously came to the following decisions at a meeting in which the

following members were present: (1) Pandit Godavaris Misra, (2) Rai Bahadur B. V. Ray, (3) Dewan Bahadur S. K. Mahapatra, (4) Sri Ganesh Mahapatra, (5) Sri Harihar Misra, (6) Sri R. K. Das, (7) Sri M. S. Mohanty and (8) Sri Ranglal Modi. The principles embodied in the rules of domicile, it agreed, should be extended to the economic sphere. Government, therefore, should (1) in order to ensure employment of Oriyas in all avenues of employment in Orissa, that is, zamindaris, industrial concerns, banks and other private employment, etc., pass an Employment Bill to control employments in Orissa, either on population basis or first preference being given to the Oriyas, provided that where the proprietor of any concern is not an Oriya or not a person domiciled in Orissa, up to 5 per cent of the appointments may be made from non-Oriyas and non-domiciles according to their choice, (2) Government should pass legislation regulating the trade and commerce of the Province. For the purpose it may be necessary to introduce a licensing system with a view to minimise exploitation by non-Oriyas, (3) all licences for petrol pumps and kerosene, permits for plying motor transport, contracts in Public Works Department and local bodies, Excise and Forest Departments should be reserved for Oriyas including domiciled people, (4) there are some essential articles like sugar, salt, iron and steel goods, cement, matches and paper, which are produced in India and whose production has been possible only on account of the fact that the Government of India have granted protection to them; so far as the distribution of the products of such industries is concerned, it must be done in every province by its own people. In Orissa, Government should secure these agencies for the Oriyas, (5) land legislation should be enacted forbidding alienation of land to people from outside, (6) the State should provide industries, if necessary, by controlling mines and forests even under private persons preferably on the lines of State controlled company-managed railways.

130. The Committee further resolved that where circumstances necessitated outsiders should be allowed to play their part in the economic life of the Province to its best advantage. In such cases, the following conditions should be fulfilled:—

- (i) The concern must be registered and must carry on its manufacture in Orissa.
- (ii) It must have a trade licence from the Government of Orissa. No licence should be issued unless—
 - (a) shares were made available to the Oriyas including the domiciled people,
 - (b) the Chairman of the Board of Directors is a nominee or approved by the Government of Orissa,
 - (c) any contribution made by the Government of Orissa in the shape of raw materials, lands and water forms a share in the Company,
 - (d) Oriyas including the domiciled people must be employed in all branches of employment, and
 - (e) Government should have the option to purchase a concern after a fixed period.

CHAPTER XIV

Conclusion

131. Before this report is concluded we feel called upon to refer to an incident which occurred at the very last stages of the enquiry made by this Committee. Some reference has been made in Chapter I to the effect that the representatives of the Andhra community on this Committee did not take as much interest as was expected, if attendance in meetings can be said to have anything to do with taking interest in the affairs of the Committee. But towards the conclusion of the labours of the Committee the two Andhra members raised a point as to what the meaning of the expression "children of the soil" really was. They contended that those Andhras who were resident in the Province of Orissa on the 1st April 1936, that is, the date on which the Province was constituted, should be known as children of the soil and should not, therefore, be required to produce any certificate of domicile. This question was discussed at length and arguments on both sides were duly considered. The decision of the Committee was that this interpretation was not correct. That a contention of this nature was not justified appears from the terms of reference made by Government to the Committee. In paragraph (a) of these terms of reference Government enjoined it upon the Committee to "examine whether the existing system of requiring certificates of domicile from persons who are not genuine Oriyas has operated satisfactorily". This clearly indicated that the question was not to consider whether a particular section of the population, who were not genuine Oriyas, were to be exempted from the operations of the existing system. Whether or not the non-Oriyas resident in the Province of Orissa on the date of its constitution should or should not be regarded as Oriyas or, for that matter, as the children of the soil, has been discussed at more than one place as relevancy required in the previous chapters. It is not necessary to reiterate the arguments here. It is in the very nature of things that when a particular person is not a genuine child of the soil he has got to prove that he has adopted the Province as his domicile.

132. It may be observed that Orissa is not the only province which has to deal with this question. In all other provinces residents other than the genuine children of the soil are treated differently. The Province of Sind was constituted on the same date as Orissa. Prior to that it formed part of the Bombay Presidency. The rules regarding domicile certificates existing in the Bombay Presidency were in force also in Sind. There was practically no difference between a Sindhi and non-Sindhi resident of Bombay with regard to these rules. But as soon as the new Province of Sind was constituted, it was deemed necessary in the interest of that Province to modify the rules. The Government of Sind accordingly framed their new rules in January 1938, by which date there must have been an appreciable number of non-Sindhis of Bombay, not to speak of others who were resident in Sind. But the Government of Sind adopted a resolution which runs as follows: "A person claiming to be a native of Sind must have a domicile in Sind in accordance with the above rules. No difficulty arises in regard to persons born in Sind whose mother-tongue is the Sindhi language. In regard to others, however, the tests laid down above must be rigidly applied. Gujaratis,

Kachhis, Panjabis, etc., who have a domicile in Sind according to the above rules and their children would be eligible for employment. But any of these persons who may happen to be in Sind at the time of his appointment or may have come here merely to secure an appointment cannot be held to be a native of Sind within the meaning of the above rules."

133. In accordance with this resolution instructions were issued for the grant of certificates of domicile and one of these instructions is as follows: "As a person can have one domicile, an applicant who is not obviously a Sindhi, but claims to have acquired a domicile in Sind, should be called upon to make a declaration that he definitely renounces his previous domicile and a copy of such declaration should be forwarded to the Government of the Province in which the person was originally domiciled in order to ensure that the change of domicile is real and not claimed merely with a view to secure Government employment in this Province."

134. It will appear from the above how the question has been dealt with in another province in which the conditions were almost the same as in Orissa. This Committee has been informed that even after the constitution of the Province of Orissa cases have arisen in which one and the same person has proved himself to be domiciled in more than one province including Orissa. On the creation of this Province a number of people whose connection with it had been of a feeble nature migrated into it on the expectation of being provided, because the impression was general that the creation of a province was bound to be followed by a large number of new appointments. This would not probably happen if the Province was constituted overnight without previous announcement. But, as it is, the creation of the Province had been announced long before it was actually created. This was responsible for introducing into the Province a good element of outside population on whose behalf it is now claimed that because they were resident in the Province on the 1st April 1936 they should not be brought under the purview of any enquiry as to the legitimacy of their domicile. Nothing is said as to the nature of the residence. A person might have built a house in which he may have been resident. Another person may have temporarily taken up his abode with a relation or even for a short period in a hotel. The latter type of residence should certainly receive no recognition from any one. Rule 4 of the existing rules in Orissa provides that "Residence merely for the purpose of carrying on business or trade or for the performance of duties of public office should not be regarded as establishing claims for domicile". Important Andhra witnesses have admitted the efficacy of this rule. Mere residence, however long, is not material. In order to make residence effective for the purpose of making one eligible to be treated as domiciled, the intention of adopting the new place as one's domicile should be present. The Committee is, therefore, of the opinion that the eleventh hour contention made by the two Andhra representatives cannot be regarded as sound and reasonable.

135. We cannot, however, conclude this chapter without a word of appreciation of the work of the Secretary of the Committee and his staff. The first Secretary was Mr. R. S. Ojha, I.C.S., who rendered yeoman's service at the initial stages. But for his labours the Committee could not have commenced its operations so easily. The Committee had regretfully to part with him on his transfer from Cuttack. He was succeeded by Mr. S. J. Majumdar, I.C.S. But he too was not spared long by the exigencies of the

circumstances to retain his connection with the Committee. It was found necessary afterwards to do without the help and assistance of an official belonging to the cadre of the Indian Civil Service. Eventually, therefore, Rai Sahib Bhagaban Mahapatra, retired Deputy Collector, was appointed. He, however, did not continue till the completion of the Committee's work but tendered resignation. This was an eventuality for which Government were not perhaps prepared. They were not, therefore, able to replace him by appointing another person to act as the Secretary. The Committee has thereafter carried on its work without a Secretary. But the assistants have rendered useful service and been of immense help. The Committee appreciates their share in the work and thanks them as well as the Secretaries. We cannot, however, conclude without giving expression to a feeling that at the very last stages we have had to work under a serious handicap contributing, it may be said, to deficiencies in the report, which could have been avoided, if we could secure the assistance of an official Secretary.

GODAVARIS MISRA

JAGABANDHU SINHA

SRIKRISHNA MAHAPATRA

RABINDRA KUMAR DAS

MADHUSUDAN MOHANTY

HARIHAR MISRA

GANESH MAHAPATRA

* BEPIN VEHARI ROY

* RANGALAL MODI

* A. S. N. MURTI

* Subject to a note of dissent

Minute of dissent to the Report of the Domicile Committee

1. We dissent from the Report, and the conclusions contained therein, made by the majority of the members of the Domicile Committee.

2. The intention in appointing the Committee is to be found in the Resolution of the Government of Orissa, dated the 17th March 1943, No.4739-A.(C.). It is to examine whether these rules (the Domicile Rules, contained in Government's Memorandum No. 6243—61-A., dated the 2nd November 1936) have worked satisfactorily, and with a view to examine this question, the Committee, the personnel of which was stated in it, was appointed. Therefore, the *raison de etare* for the labours of the Committee is the Resolution of the Government, which gives the intention of the Government in setting up the Committee. The terms of reference, however, gave an extended scope, but it is submitted, that in so far as they went beyond the intentions of the Government, they may not be adhered to.

3. Domicile Rules, where they exist, refer only to the employment of persons in Public Service of a particular province, where they are in force, but in no province do they cover the vast field that is found in the Report. Obviously, the local Government cannot make any rules for the employment of persons in all-India Services, and any recommendations made in this behalf are beyond the scope of the Committee set up by the Provincial Government. And for an equally valid reason, the recommendations relating to the enjoyment of the economic resources of the Province, and the restrictions recommended in paragraphs 129 and 130 of the Report are beyond the legitimate scope for which the Domicile Rules are intended.

4. The Oriya gentlemen who constitute the majority of the Committee appear to consider that Orissa as a separate province was created for the Oriyas alone ; and therefore they find a justification in imposing restrictions on other communities, who in their opinion are not sons of the soil, and are not entitled to the benefits of the Province, either in services or in the enjoyment of its economic resources. There is nothing in the Order-in-Council, or any other legal document to warrant this presumption.

5. It is pointed out, that the Provincial Government, or the Government of India cannot impose any rule or pass any legislation which contravenes section 298 of the Government of India Act, 1935. It has been held as a fundamental right of His Majesty's subjects in India that no one on grounds of religion, place of birth shall be ineligible for an office under the Crown in India, nor can there be any prohibition for any of the grounds mentioned therein for carrying on any occupation, trade, business or profession in British India. The power given to a Provincial Governor under section 241(2) (b) limits the exercise of imposing conditions of service to cases not expressly provided under the Act. And even if the conditions of service include the conditions of recruitment, the rules made for it cannot take away the rights secured under the section. If such an interpretation is possible, and if the fundamental rights of one community can be limited in this manner, it is obvious, that the rights of British subjects of British domicile which are guaranteed under the Constitution Act can be similarly taken away. And it might be possible that British traders may be adversely affected by the conditions imposed under the Domicile Rules which are now being proposed under the terms of the majority report.

6. However, notwithstanding this strict legal interpretation of the statutory rights of the minorities, we were prepared to accommodate the majority view point, in terms of the resolution that we proposed and which had the support of all the four representing the minority interests. It was to the effect that for persons who were in the Province on the date of its creation, their status was that of any other person of any community, and that they were the children of the soil, no domicile certificates were necessary. But for those who came into the Province subsequent to that date, conditions similar to those in section 3, clause 1 of the Indian Naturalisation Act may be laid down. Persons in India, belonging to any province, ought not to be required greater conditions of domicile than foreigners.

7. Enlightened public opinion supports the view that we have taken. And we append to this note a copy of the statement made by Mr. Harekrishna Mahtab to the Press in May 1945. We also append a copy of the proceedings of the Congress Working Committee held in January 1939, so that the considered view point of that body may be known in respect of this question. We also append a comparative statement which shows the conditions of the issue of domicile certificates in other provinces where such a procedure is existing. It will be noticed that in all of them, they are limited to Public Service, and that the period of residence is only between three, and twelve years and nowhere a special language test is insisted upon.

8. The majority report, we are constrained to say, is an attempt to take away as much as possible of the rights of the minorities, some immediately and some ultimately, and give all the rights and privileges of citizenship in the Province to the majority community alone. At a time when liberalism is the order of the day, when the protection of the minorities is accepted as the concern of the majority, and in fact of the entire civilised world, the recommendations made in the Report are palpably harmful to the minorities. It is within the common knowledge of everyone that the minorities in the Province have always identified with its interests. And under the circumstances, it will be unfair to the minorities to submit to new and rigorous tests, such as those found in the Report for proof of domicile. If only to point out the unfairness in the recommendation, it may be said that to place the majority community, and not the District Officer, to judge the grant of domicile certificates, and the placing of the new entrants into the Province, and the old residents who were here when the Province was created and long before, in the same category, may be noted. The recommendations are very stringent and take away the rights that are secured under the law.

A. S. N. MURTI

(President, Orissa Provincial Andhra Association and President, Berhampur Chamber of Commerce)

BEPIN VEHARI ROY

(Rai Bahadur, Retired Professor)

RANGALAL MODI

(Member of the Orissa Legislative Assembly and President, Orissa Mill-owners' Association)

Appendix

Name of Province	Condition
Bombay	Only for Public Service— Belongs to parents who resided for 10 years in Bombay Presidency.
	<small>NOTE—It is only residence. There is no condition of the possession of property.</small>
Sind	Only for Public Service— Follows the rules in Bombay.
Assam	Only for Public Service— Has a homestead in the Province. Lives in it for ten years. Children of domiciles automatically get domicile.
Central Province and Berar ..	Only for Public Service— Residence for twelve years of father of the applicant. The father might have been outside the Province, provided he has a residence in it.
North-West Frontier Province	Only for Public Service— No definite rules. Discretion of District Officers to prevail.
Bengal	Appointments are not reserved for the natives of the Province, or those domiciled in it.
United Provinces	Only for Public Service— Residence for three years
Madras	No Domicile Rules are known to exist. Andhras, Oriyas, Tamils and others are eligible. There is only communal recruitment.
Orissa—Proposed	For all purposes— Fifty years of permanent habitation in an own homestead.

Hindustani Standard, Tuesday, the May 29, 1945—Jaistha 15, 1352—B. S.

STATEMENT OF HAREKRISHNA MAHTAB

A. The Provincial Government should treat all communities equally without any distinction. In Orissa the Andhras or the Bengalees who are natives of the Province are as good as genuine Oriyas and should have equal rights in all spheres. The difficulty arises when the Oriyas consider themselves distinct from the native Andhras or Bengalees, shrink to extend equal treatment on that ground and also when the Andhras and Bengalees consider them as distinct from and do not identify themselves completely with the genuine Oriyas. In a province whoever lives there and has his whole interest there, is a native of the Province irrespective of the fact as to whether he or his forefathers migrated from other provinces. In this review of the matters there should be no system of domicile certificate so far as native Andhras

and native Bengalees are concerned for they are all Oriya. But I think some distinction should be made in the present circumstance with regard to those outsiders who seek to compete with the natives of the Province in matters of service, admission into educational institutions, etc.

The Statesman, Saturday, January 14, 1939

COMMUNAL UNITY PROPOSALS

CONGRESS TALK

DECISIONS ON BENGALEES IN BIHAR

Bardoli, January 13—The Congress Working Committee reassembled this morning and resumed discussions of the communal unity proposals. A decision is likely to be reached to-day on this question. Mr. Gandhi, it is understood, will attend the afternoon session of the committee.

The Committee to-day adopted a lengthy resolution on the Bengalee-Biharee controversy in the preamble of Dr. Rajendra Prasad and expressed general agreement with the conclusions arrived at in the report.

As several of these conclusions are capable of general application, the Committee formulated them in the resolution which would be the guiding principles in regard to employment in the services, carrying on of business and trade, accommodation in educational institutions, the medium of instruction in primary schools, etc.

The resolution recommended the abolition of issuing domicile certificates.

In regard to the services there living in any part of the country should be no bar against any Indian seeing employment in any other part. But apart from merit and efficiency which is of prime importance in the higher services and in the selection of specialists and experts, considerations that should govern such employment include—

(1) A fair representation of various communities in the Province, (2) encouragement as far as possible of backward classes and groups and (3) preferential treatment of the people of the Province. This preferential treatment should be governed by certain rules and regulations framed by Provincial Government.

DOMICILE CERTIFICATES

As regards Bihar there should be no distinction between Biharees and the Bengali-speaking residents of the province born or domiciled there. The term 'Bengali' should include both these classes and in the matter of services as well as other matters the same treatment should accord certain preference in the services to these residents of the Province over people from other provinces.

The practice of issuing certificates to domiciles should be abolished. Applicants for services should state that they are residents of, or domiciled in, the Province.

A domicile should be proved by evidence that implies that the applicant has made the Province his home. The length of the residence, possession of house or their property, and other relevant matters should be taken into consideration in deciding the domicile. Birth in the Province or ten years' continuous residence should be regarded as sufficient proof of domicile.

SERVICE APPOINTMENTS

All persons under Government appointments should be treated alike and seniority, coupled with efficiency, should guide promotions.

There should be no prohibition against any one carrying on trade or business in any province. It is desirable that firms and factories should develop local contacts, but suggestions made by Provincial Governments to firms and factories in the matter of appointments should be avoided as they may be misunderstood.

When accommodation in educational institutions is limited seats may be given to the people of the Province.

As regards the language in the Bengali-speaking areas the medium of instruction in primary schools should be Bengali, with provisions for instruction in Hindustani for those whose mother tongue is Hindustani if there is a reasonable number of students speaking Hindustani. A reverse of this should apply where the area is Hindustani-speaking.

In the secondary schools education should be given through the language of the Province, but provision should be made for education through a language where there is a demand of other residents of any districts where this or any other language is spoken.

The Committee trusts that these conclusions will be acted upon so that the regrettable controversy may cease.

[*United Press*]

A note to the Domicile Committee Report

RESTRICTION OF FRANCHISE

As desired by the Government we have made our recommendations for the regulations and control of the issue of the domicile certificates and have also laid down conditions to be fulfilled to enable the outsiders to play their part in the economic life of the Province. Throughout we have tried to judge all the different issues from one definite criterion of protecting the interests of "genuine Oriyas", the "children of the soil" and the "bona fide domiciled persons", as distinct from the immigrants, or the outsiders or the non-domiciles as laid down in the terms of reference that the Government was pleased to charge the Committee with. The one predominant criterion that has prevailed on all our deliberations and recommendation is the retention of the entity that inhabit this Province together with those who identify themselves with this entity. Fundamentally this entity which is called a race and form the essence of a nation, has been defined in the concised Oxford Dictionary as "Group of persons or animals or plants connected by common descent, posterity of (person), house, family, tribe or nation regarded as of common stock, distinct ethnical stock (the Caucasians, Mongolian and C. R.), genus or species or breed or variety of animals or plants, any great division of living creatures (the human, feathered, four-footed, funny and C. R.); descent, kindred (of noble, oriental and C. R. separate in language and R.); class of persons, etc., with some common feature (the race of poets, damlies and C.)". And to protect the race is the function of the State.

In ultimate analysis, therefore, it must be the authority of the State itself that must be protected from the immigrants, outsiders, and non-domiciled,

for a real, effective and ultimate protection of the race itself. What we have dealt so far, is the protection of the people that constitute this Province. But so long as the Government that has to give this protection is not protected, the whole objective may be defeated at the source. We cannot pertinently leave the consideration of this aspect absolutely out in the given context of things to-day, when the entire machinery and constitution of the Government is on the anvil.

This again we believe cannot reasonably be argued out of our term of reference inasmuch as, we are asked to recommend any system that will secure in a reasonable manner the control of the economic potentialities of the Province by the "genuine residents and persons domiciled in the Province". The clause "any system" is wide enough not to rule out our recommendations for the constitution of the Government itself.

While no doubt our recommendations would go a great way to eliminate the temptation of the immigrants pressed out from other provinces in only such spheres as have something to do with the Government, it leaves out quite a big field in the life of the Province, beyond the Governmental sphere and unhampered to private persons, which might be usurped by outsiders in no time. Such usurpers in the day-to-day life of this Province, as are bound to be attracted by its prevailing poverty and cheap human power are only too likely, to capture the Government of the Province itself, by the right of their vote, that rests on their property, income or taxes. Once these immigrants are enrolled as voters, their right to capture the Government cannot be disputed and once they capture the Government all our recommendations which can at its best have only an executive sanction, may be negatived and nullified to subserve the interests of those in power. This prospect which cannot absolutely be ruled out, raises serious misgivings in the minds of the members of the Committee as to the ultimate end of all their labours and recommendations. This apprehension secures its corroboration from the fact of the Berhampur Municipality, where, so far, no "genuine Oriya" or "son of the soil" has been able to capture the power by reason of their paucity of votes. With the ever increasing stress of poverty in the Province, it would be no wonder, if a majority of the lands and houses that constitute as yet the right to vote, will pass to immigrants or outsiders, by sale or transfer. None of our recommendation alone can stop this trend of poverty or the right of the money. What then? The question has no doubt deserved the most serious attention of all concerned, and the only solution that suggests them in the circumstances is the retention of the right to vote to only the "children of the soil" and the "bona fide domiciles", as do satisfy the conditions recommended; leaving the immigrants and outsiders to vote in their respective native provinces. This recommendation, though seemingly revolting at the outset, has, no doubt its precedence in all civilised countries and is actually being acted upon to-day in the British Election, where the soldiers of Britain in the jungles of Burma are asked to cast their votes to elect their Government at home. The principle accords as well with the denial obtaining in Africa to-day, in regard to the franchise of Indians there and would at the same time secure the Oriyas working outside Orissa, their much desired right to vote in the formation of the Government of their native province. If the non-Oriya officers charged with the responsibility of issuing domiciled certificates, could defeat the ends of the Government rule, the non-Oriya

Ministers can surely by-pass any recommendations made on this behalf—a fact that cannot be ruled out of the scope of possibility in a province where the “sons of the soil” go from poor to poorer, to make the rich outsiders richer, more particularly in view of the existing number of non-Oriyas in its legislature. What happens when the ratio of such non-Oriyas to the genuine Oriyas in the legislature swells up to a majority, so as to capture the Government itself and use it for their benefit. Is not after all the rule of the Government but the organised will of those in power? And how will this work if not to the detriment of the pauperised “sons of the soil”? It is this genuine apprehension that compels us to recommend to the Government for the retention of the right of vote for the formation of Government in this Province or as a matter of that its local-bodies, to only such persons, as have not only acquired their qualification to vote but are either “the sons of soil” or have acquired their domicile in this Province under the conditions laid down above.

We cannot conclude this recommendation of ours without pointing out its importance for implementation in any new constitution that may be framed for India, defining qualifications of the voters, in the Provinces or even at the moment, when such list of voters are under revision and preparation.

M. S. MAHANTI
RABINDRA K. DAS
HARIHAR MISRA
SRIKRISHNA MAHAPATRA

APPENDIX I

List of witnesses examined by the Committee

Witnesses who submitted written replies to the questionnaire

1. Rai Bahadur P. C. Patnaik, Balasore
2. Sri Ratnakar Sarangi, Subdivisional Officer, Sadr, Balasore
3. The Headmaster, Zilla School, Balasore
4. Dr. Binoy Bhusan Ganguli, Balasore
5. Rai Bahadur M. N. Dev, Balasore
6. Mr. Rama Rao, Secretary, Berhampur Chamber of Commerce, Berhampur.
7. Mr. K. C. Mahapatra, Advocate and Secretary, Utkal Ashram, Berhampur.
8. Mr. G. Krishna Murti, Secretary, Andhra Association, Chatrapur
9. Mr. A. Thumbhanadham Pantulugaru, Vakil, Aska-Ganjam
10. Rao Bahadur T. V. Krishnaya, Land-holder, Chatrapur
11. Mr. A. V. Subaran, Advocate, Berhampur
12. Mr. S. M. Hassan, I.C.S., District Magistrate, Ganjam
13. Mr. M. Azfar, I.C.S., Deputy Commissioner, Sambalpur
14. Sri Balunkeswar Misra, Pleader, Sambalpur
15. Mr. Tribikram Pujari, Retired Deputy Collector, Sambalpur.
16. Mr. P. P. Agarwal, I.C.S., Special Assistant Agent and President, Taluk Board, Rayaghada.
17. Mr. F. F. P. Gill, I.P., Superintendent of Police, Koraput
18. Mr. B. N. Samantray, M.L.A., Koraput
19. Secretary, Jeypore Sugar Company, Rayaghada

20. Sri P. Mohanti, Subdivisional Officer and Special Assistant Agent, Koraput.
21. Sri Somanath Misra, Treasury Deputy Collector, Koraput
22. Dr. N. Das Dutta, Civil Surgeon, Koraput
23. Mr. E. V. S. Iyyar, Executive Engineer, Koraput Division
24. Mr. N. Venkat Jahanathaya, President, Merchants' Association
25. Mr. H. Lal, I.C.S., District Magistrate, Puri
26. Sri J. N. Misra, Subdivisional Officer, Khurda
27. Sri M. C. Misra, B.A., B.L., Tahsildar, Banpur
28. Rai Sahib B. Patnaik, Headmaster, Khurda H. E. School
29. Sri Dasarathi Patnaik, Zamindar, Olsing, Puri
30. Mr. Chakravarti, Retired Inspector of Police, Puri
31. The Raja of Madhupur
32. Health and Local Self-Government Department
33. Public Works Department
34. Supply and Transport Department
35. Law Department
36. Legislative Assembly Department
37. Mr. S. C. Tripathy, I.E.S., Director of Public Instruction
38. Lt.-Col. A. N. Chopra, I.M.S., Director of Health and Inspector-General of Prisons.
39. Rai Bahadur S. C. Ray, Director of Development
40. Sri S. N. Misra, Secretary to Revenue Commissioner
41. Dr. P. K. Parija, I.E.S., Vice-Chancellor, Utkal University
42. Mr. L. P. Singh, I.C.S., District Magistrate, Cuttack
43. Mr. B. K. Ray, Advocate-General
44. Mr. M. C. Pradhan, Principal, Training College
45. Mr. P. N. Tandon, I.C.S., District and Sessions Judge
46. Mr. S. H. Khan, Superintendent, Government Press
47. Mr. E. A. O. Perkin, I.P., Inspector-General of Police
48. Mr. J. W. Nicolson, Conservator of Forests
49. Pandit Nilkantha Das, M.L.A., (Central)
50. Sri Udayanath Rath, Advocate, Cuttack
51. Rai Bahadur Uma Charan Das, M.B.E.
52. Khan Sahib Enamul Haque, Retired Deputy Superintendent of Police.
53. All-Orissa Marwari Federation
54. Md. Nurul Huda, Advocate, B.A., B.L.
55. Miss S. B. Das
56. Mr. F. E. A. Taylor, I.C.S., Collector, Koraput

2. Witnesses who were examined orally

57. Sri Gyanendra Ranjan Patnaik, Pleader, Balasore
58. Sri Charu Chandra Ray, M.L.A., Balasore
59. Sri L. Panda, Munsif, Balasore
60. Mr. R. K. Sahu, Headmaster, Mission School, Balasore
61. Sri Radha Mohan Rana, Pleader, Balasore
62. Sri Laxmidhar Rout, Balasore
63. Rai Sahib Jagat Bandhu Mahapatra, Subdivisional Officer, Bhadrak
64. Rai Sahib Anantaram Rath, Retired Deputy Collector, Berhampur

65. Pandit Ramalingam, Berhampur
66. Mr. Mochala Sitaramaya, Berhampur
67. Mr. Gantayet, Retired District Educational Officer, Berhampur
68. Mr. D. V. Krishna Rao, Berhampur
69. Mr. Sivaram Rath, Retired District Educational Officer, Berhampur
70. Rao Bahadur Narayan Rao, Berhampur
71. Sri Bhubaneswar Rath, Berhampur
72. Rao Bahadur V. K. Iyyar, Berhampur
73. Sri B. Bahidar, Retired Deputy Collector, Sambalpur
74. Mr. S. Pujari, Retired Deputy Collector, Sambalpur
75. Mr. Bharat Naik, Retired Deputy Collector, Sambalpur
76. Sri D. P. Misra, Retired Deputy Collector, Sambalpur
77. Mr. C. V. Rao, Dewan, Jeypore estate
78. Sri Jagannath Rao, Advocate, Jeypore
79. Sri Nityananda Panda, Jeypore
80. Mr. J. C. Nayak, Pleader, Jeypore
81. Sri Trailokyanath Mitra, Retired Deputy Collector, Puri
82. Rai Bahadur Sirish Ch. Ghosh, Zamindar, Puri
83. Sri Padma Charan Patnaik, Pleader, Puri
84. Rai Bahadur Lokanath Misra, Chairman, Puri Municipality.
85. Rai Bahadur Brahmananda Mohanty, Puri
86. Maulavi Md. Latifur Rahman, M.L.A., Puri
87. Sri Jagannath Rath, Chairman, District Board, Puri
88. Pandit Motilal Tiku, Chairman, Cuttack Municipality
89. Mr. M. Suba Rao, Advocate, Cuttack
90. Rai Bahadur Radhakanta Ghosh, Retired District Judge
91. Sri N. Parhi, Secretary, Provincial Economic Committee
92. Sri Golak Prasad Ray, Puri
93. Sri Bimal Pal, Advocate, Cuttack
94. Sri Simadri Misra, Pleader, Koraput

3. Witnesses who submitted written replies as well as examined orally

95. Dr. S. N. Acharya, Civil Surgeon, Balasore
96. Rai Bahadur B. Patnaik, Additional District Magistrate, Balasore
97. Mr. I. H. MacDonald, I.C.S., District Magistrate, Balasore
98. Sri Surendra Nath Patnaik, Pleader, Balasore
99. Mr. H. K. Sahu, Merchant, Ganjam
100. Sri Anant Prasad Panda, Assistant Registrar, Co-operative Societies, Berhampur.
101. Dr. P. Satyanarayan, President, Ganjam-Koraput Andhra Mahamandali, Berhampur.
102. Mr. Bipra Charan Das, Sub-Judge, Berhampur
103. Mr. M. N. Patnaik, Secretary, South Orissa Union, Berhampur
104. Mr. M. M. Rath, Berhampur
105. Sri Sarat Chandra Mahapatra, Secretary, Utkal Jatiya Mahasabha, Berhampur.
106. Mr. E. S. Rama Murti, Berhampur
107. Mr. K. V. Raman Rao, Joint Editor, Visalandhra Vani.
108. Rao Bahadur M. V. Apparao, Berhampur
109. Dr. S. C. Ray, Civil Surgeon, Sambalpur

110. Mr. Udayanath Rath, Subdivisional Officer, Sadr, Sambalpur
111. Sri Gopinath Behera, Subdivisional Officer, Nawapara
112. Mr. R. N. Sarma, Secretary, Merchant's Association, Bargarh
113. Mr. Jagadish Prasad Joshi, Sambalpur
114. Sri N. K. M sra, Public Prosecutor and Government Pleader, Jeypore
115. Mr. L. C. Patnaik, Koraput
116. Dr. B. G. Varma, Medical Officer, Koraput
117. Kumar Sri Bidyadhar Singh Deo, B.A., B.L., Jeypore
118. Sri Lokanath Patnaik, Advocate, Puri
119. Dr. Dinakar Rao, Vice-Chairman, Puri Municipality
120. Sri Kishore Mohan Dwivedi, Principal, Sanskrit College, Puri
121. Rai Bahadur B. C. Patnaik, Secretary, Oriya People's Association, Cuttack.
122. Mr. Jonathan Mohanty, Professor, Ravenshaw College
123. Mr. L. N. Sahu, Servants of the India Society, Cuttack
124. Sri Rama Chandra Mohanty, Secretary, Mukters' Association, Cuttack.
125. Sri Sarat Chandra Pal, Secretary, All-Orissa Domiciled Bengalee Association, Cuttack.
126. Sri Pareswar Mohanty, Advocate and Secretary, Bar Association, Cuttack.
127. Rai Bahadur R. C. Mitra, District and Sessions Judge, Ganjam-Puri
128. The Orissa Chamber of Commerce, Cuttack
129. Rai Sahib Sribatsa Patnaik, Industrial Adviser and Inspector of Factories, Orissa.
130. Rao Sahib Abhin Chandra Rao, President, Cuttack Municipality

APPENDIX II

Memorandum on the domicile rules of the various Provincial Governments

Bombay—“ In the matter of recruitment to the public services of this Province, the policy adopted by Government is to give preference to the “ natives ” of the Province. The expression “ native ” of the Province of Bombay ” is defined in rule 3 (d) of the Bombay Civil Services Classification and Recruitment Rules, 1939. It means a person who at the date of his appointment has a domicile in the province of Bombay, or in an Indian State within the geographical limits of the Province of Bombay and who is either a British subject or, being a non-British subject, is a person eligible to hold any civil office in connection with the affairs of the Province of Bombay by virtue of a declaration issued under sub-section (2) of section 262 of the Government of India Act, 1935. Rule 4 (1) of the Recruitment Rules provides that in making appointments to Provincial or subordinate Services, preference shall be given to the natives of the Province of Bombay. The provisions of this rule 4 (1) may be relaxed in respect of the domicile of any person whenever it appears to Government that for any particular post or class of posts such limitation of the field of recruitment is not desirable in the interests of the public service.

2. In order that such persons as are natives of the Province of Bombay may ordinarily be appointed to the public services of this Province it is essential that the claims of the candidates to a domicile in the Province of Bombay should be examined by a competent authority and that the fact of their domicile in the Province should be established beyond any doubt as far as possible. For this purpose, it is necessary to lay down some general rules for the determination of the domicile of candidates for the guidance of the authorities concerned, and to prescribe the authorities by whom the domicile should be determined and the procedure which they should follow in determining the domicile. The existing note below rule 3 (d) of the rules provides that the domicile of a candidate shall be determined in accordance with the provisions for the determination of domicile contained in Appendix XLVIII to the Bombay Civil Services Rules. Those provisions are primarily intended for the determination of the non-Asiatic domicile of officers claiming certain privileges, e.g., special leave rules, passage concessions, etc., for which officers of Asiatic domicile are not eligible. They are, therefore, not quite suitable for determining the domicile of candidates for admission into Government service. Government has, therefore, approved the rules, questionnaire, and instructions for the determination of domicile for the purposes of recruitment to the Provincial and Subordinate (including inferior) Services and posts printed as accompaniments to this Resolution and is pleased to direct that the procedure outlined therein should be followed by all recruiting and/or appointing authorities.

Briefly stated, a regular proceeding will be held for determining the domicile of a candidate and the domicile will be determined by a judicial officer such as a Presidency Magistrate or a District Magistrate or other Stipendiary Magistrate in the case of candidates for the Provincial and Subordinate Services (other than inferior services and posts). In the case of these services the claim to a domicile in the Province of Bombay must be supported by a certificate of domicile issued by the prescribed authority. In the case of inferior services and posts, the domicile of candidates will be determined by the appointing authorities and no certificate of domicile will be required. In the case of candidates from Indian States which lie within the geographical limits of the Province of Bombay, the domicile will be determined by the Chief Judicial Officer of the State concerned.

Government is also pleased to direct that the rules, questionnaire and instructions appended to this resolution should be incorporated in an Appendix to the Bombay Civil Services Classification and Recruitment Rules, 1939 and that the existing note below rule 3 (d) of the Recruitment Rules should be revised as follows :—

“NOTE—For the purposes of these Rules, the domicile of a person shall be determined in accordance with the procedure prescribed in Appendix I.”

An Appendix I being added after Appendix H to the said Rules, and that the necessary correction slips to the Bombay Civil Services Classification and Recruitment Rules, 1939, should be issued in due course.

3. In prescribing these provisions for the determination of the domicile of candidates for Government service in this Province, Government desires to make some general observations for the guidance of the authorities concerned. When an applicant claims a domicile certificate, he asserts the existence of a fact and the burden of proof is on him to make good his claim.

In fact, what is claimed is that he has taken up his abode in some part of the Province with the intention of making it his permanent home and, before a certificate is granted, the reality of his intention has to be tested adequately by the means available. The enquiry therefore, should not be perfunctory but full and searching. The danger to be guarded against is that persons desirous of obtaining Government service, may put forward claims which are not well founded and may endeavour to support them by producing the kind of evidence which has usually hitherto been accepted as proof of domicile. Such evidence is not always sufficient for ascertaining the real intention of the candidate in regard to his domicile. The fact that the family of the applicant owns a residence in some part of the Province, for instance, is by no means conclusive proof but is a circumstance to be taken into account along with the other relevant circumstances. Residence merely for the purpose of carrying on a business or trade or for the performance of the duties of a public or private office does not necessarily establish a claim to domicile. Similarly, the mere declaration that the applicant intends to reside permanently in the Province is not enough; there should be continuing evidence of actual effect having, in fact, been given to it. Special care is necessary in scrutinising applications for certificates when the domicile claimed is of recent origin, since attempts may be made to establish a domicile in the Province of Bombay as a qualification for appointment.

4. A copy of the rules, questionnaire and instructions should be forwarded to the Durbars of the Indian States lying geographically within the Province of Bombay and specified in Government notification, Political and Services Department, No. 1586/34-II, dated the 1st October 1938 (vide Appendix H to the Bombay Civil Services Classification and Recruitment Rules, 1939) through the respective residents for those States. The Durbars should be requested to take steps to ensure that the certificates of domicile in their respective territories, for the purposes of appointments to the public services in this Province are issued *mutatis mutandis* on the lines of and in the manner prescribed in the rules, questionnaire and instructions issued by the Government of Bombay for the guidance of the certifying authorities in this Province, which are appended to this resolution”.

*Accompaniment to Government Resolution, Political and Services Department
No. 1586/34-III, dated the 1st November 1940*

*Rules, questionnaire and instructions for the determination of domicile for the
purposes of the Bombay Civil Services Classification and Recruitment Rules*

Part I
Rules

“ Provisions for the determination of domicile—

1. The domicile of a person may be defined as the place which is his permanent home. Domicile is of two kinds, namely domicile of origin and domicile of choice.

2. A person can have only one domicile at the same time.

3. (1) The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father domiciled.

(2) The domicile of origin of a person born after the death of his father is in the country in which his father was domiciled at the time of the father's death.

4. The domicile of origin of a person of illegitimate birth is in the country in which at the time of his birth his mother was domiciled.

5. The domicile of origin prevails until a new domicile has been acquired, and a new domicile continues until the former domicile has been resumed or another has been acquired.

6. A person acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Explanation—A person is not to be considered as having taken up his fixed habitation in a country merely by reason of his residing there in His Majesty's Civil or Military Service or in the exercise of any profession or calling.

7. The domicile of minor follows the domicile of the parent from whom he derives his domicile of origin :

Provided that the domicile of a minor does not change with that of his parent if the minor is married or holds any office or employment in the service of His Majesty or has set up with the consent of the parent in any distinct business.

8. After marriage a woman acquires the domicile of her husband if she had not the same domicile before and her domicile during the marriage follows the domicile of her husband :

Provided that i the husband and wife are separated by the order of a competent court or if the husband is undergoing a sentence of transportation, the wife becomes capable of acquiring an independent domicile.

9. Save as otherwise provided above, a person cannot during minority acquire a new domicile.

10. If any question arises as to the domicile of any person at the time of his appointment, the decision thereon of the Government shall be final. ”

Part II

Domicile questionnaire

N.B.—In this Questionnaire the expression “ Province of Bombay ” includes those Indian States lying within the geographical limits of the Province of Bombay which are specified in the notification of the Government of Bombay, Political and Services Department No. 1583/34-II, dated the 1st October 1938.

Questions	Answers
1. (a) When and where was your father born ?	
(b) What was or is his profession or occupation ?	
(c) Where was his home or place of permanent residence at the time of your birth ?	
(d) Where was he when you attained majority ?	
(e) Is he alive ? If not, when and where did he die ?	
2. Was your father ever in the Province of Bombay ? If he was—	
(a) Where was he educated ?	
(b) In what capacity did he come to the Province of Bombay or work there ?	
(c) How often, if at all, did he leave or has he left the Province of Bombay and for how long on each occasion ?	
(d) If your father is alive, where is he and what is he doing ? Has he retired ? If so, how long did he remain in the Province of Bombay after retirement ?	

- (e) If your father is dead, had he retired before his death? If so, how long did he remain in the Province of Bombay after retirement?
- (f) Has or had your father or mother any immoveable property in the Province of Bombay or elsewhere? If so, where and of what description and value?
3. (a) When and where were you born?
- (b) Where were you educated?
- (c) Have you ever been to your former native place? If so, for how many times and for how long on each occasion? When did you last visit it? If not, what prevented you from going there?
- (d) Has your wife ever been to your former native place? If so, how often and for how long on each occasion?
- (e) How many children have you? Where were they or are they being educated and what are they doing?
- (f) For how many years have you and your family been residing in the Province of Bombay?
- (g) Have you or your wife any property in your former native place or elsewhere outside the Province of Bombay? If so, where and of what description and value?
- (h) Have you or your wife or have either of you ever had any immoveable property in the Province of Bombay? If so, of what description and value?
4. Have or had you any brothers or sisters? If so, how many? Where were they or are they being educated? Where are they now and what are they doing? If any of them are dead, where did they die and what were their occupations?
5. Have you ever claimed and been deemed to be a native of any place other than a place in the Province of Bombay for the purpose of your appointment to any office or for the conferment upon you of any scholarship, emoluments or other privileges in that place?

Dated the.....19 .

Signature of applicant

N.B.—If it is found that the replies given by the candidate to the questions set above were incorrect, any appointment given to him in consequence will be liable to be cancelled summarily.

Part III

Instructions regarding the scrutiny of domicile and the grant of certificates of domicile

(N.B.—In these instructions the expression "Province of Bombay" includes those Indian States lying within the geographical limits of the Province of Bombay which are specified in the notification of the Government of Bombay, Political and Services Department No. 1586/34-II, dated the 1st October 1938.)

1. Save as provided in Instruction 9, every candidate for appointment who claims to have a domicile in the Province of Bombay must produce a certificate of his domicile in the form prescribed in the annexure to these Instructions from the District Magistrate of the district in which such candidate resides or from a Stipendiary Magistrate authorised by the District Magistrate in this behalf, or, if such candidate resides in the city of Bombay, either from the Chief Presidency Magistrate, Bombay, or from a Stipendiary Magistrate authorised by the Chief Presidency Magistrate in this behalf.

Candidates residing in an Indian State lying within the geographical limits of the Province of Bombay and specified in the notification of the Government of Bombay, Political and Services Department, No. 1586/34-II, dated the 1st October 1938, should produce certificates of their domicile from the Chief Judicial Officer of the State.

2. When a person applies for a certificate of domicile he should be asked to fill in the form of domicile questionnaire prescribed in Part II above. The replies given by him should be carefully scrutinised and independent enquiry should be made with a view to seeing whether he has taken up his fixed residence in the Province of Bombay with the intention of making it his permanent home.

3. When a person claims to be domiciled in the Province of Bombay, the burden of proof lies on him and the reality of his intention must be tested by all available means. No certificate should be granted unless the District Magistrate, or a Stipendiary Magistrate authorised by him in this behalf, or, the Chief Presidency Magistrate, Bombay, or a Stipendiary Magistrate authorised by him in this behalf, as the case may be, is satisfied from the replies given in the Domicile questionnaire and from all other available evidence, and from the evidence, if any, produced by the applicant that the family is permanently settled in the Province of Bombay and that he has no intention of returning to his country of origin.

4. An applicant who on the evidence produced does not appear to be really domiciled in the Province of Bombay but who claims to have acquired a domicile therein should be required to sign a declaration to the effect that he has definitely renounced his former domicile and that he has no objection to the authorities of his former domicile being informed accordingly. A copy of such declaration should be forwarded to the Government of the Province or Indian State in which the applicant was originally domiciled, in order to ensure that the change of domicile is real and not claimed merely with a view to securing employment under the Provincial Government.

5. When the domicile claimed is of recent origin; the claim should be scrutinized with special care. The fact that the applicant owns a residence in the Province of Bombay is not by any means a conclusive proof that he is domiciled therein. It should be considered along with other circumstances of his case.

6. The fact that a candidate was born and educated in the Province of Bombay, that he and his parents through whom he claims his domicile have resided in the said Province for a period of not less than ten years immediately preceding the date of application (necessary breaks being allowed) strongly support a claim to a domicile in the Province of Bombay but other relevant circumstances including the fact whether the candidate's mother-tongue is one of the regional languages or dialects of the Province of Bombay must also be taken into account.

7. Residence in the Province of Bombay for any number of years for a temporary purpose such as service, trade, profession, etc., should not by itself be regarded as establishing a claim to domicile.

8. A regular proceeding should be drawn up in each case. The reasons together with the proofs which are held to justify the grant of a certificate of domicile should be fully stated in the proceedings and briefly also in the certificate itself.

9. In the case of an appointment to an inferior service or post, the appointing authority should satisfy itself, by such method as that authority considers suitable in each case that the applicant has a domicile in the Province of Bombay. No certificate of domicile should be required in the case of an appointment to an inferior service or post.

10. All questions regarding the scrutiny of domicile should be disposed of by the District Magistrate, or a Stipendiary Magistrate authorised by him in this behalf, or the Chief Presidency Magistrate, Bombay, or a Stipendiary Magistrate authorised by him in this behalf, or the appointing authority, as the case may be, himself and the work should not be delegated to any subordinate officer.

11. When the applicant for appointment is a married woman who is not separated from her husband by an order of a competent court, her domicile should be determined with reference to the domicile of her husband (vide rule 8 in Part I), the form of domicile questionnaire prescribed in Part II above being used with suitable modifications.

Sind—“ The question of reserving all appointments in the Public Service in Sind for persons who are natives of the Province, has recently been agitated in the Press, and also in the Sind Legislative Assembly. Government have, therefore, carefully considered the question and now desire to state the position in this respect clearly for the information alike of officers making the appointments, and of the public.

2. So far as the All-India Services are concerned, recruitment for them is made by the Secretary of State, and is open to all British subjects. There is, therefore, no question of reserving appointments in these services for the natives of a province.

3. In regard to the Provincial and Subordinate Services, rule 5 of the Bombay Civil Services Recruitment Rules provides that no person who is not a native of the Bombay Presidency may ordinarily be appointed to any post in the Provincial or Subordinate Services. The rule further lays down that its provisions may be relaxed whenever it appears to Government that for any particular post or class of posts, such limitation of the field of recruitment is not desirable in the interests of Public Service.

After the separation of Sind, the same rule was adopted by Government for this Province, with the substitution of the word "Sind" for the words "Bombay Presidency".

4. The present position accordingly is that recruitment to the Provincial and Subordinate Services in this Province is ordinarily confined to persons who are natives of Sind. Under rule 3 (c) of the rules referred to above, a "native of Sind" is defined as a person having, at the time of his or her appointment, a domicile in Sind. Accordingly, a candidate for the Provincial or Subordinate Service must be able to show that he has a domicile in Sind.

5. (1) "Domicile" may be defined as a place where a person has his permanent home. Domicile is of two kinds, namely, domicile of origin and domicile of choice.

(2) The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled; or, if he is a posthumous child, in the country in which his father was domicile at the time of his father's death. The domicile of origin prevails until a new domicile has been acquired.

(3) A person may, at any time, change his existing domicile and acquire for himself a domicile of choice by the fact of residing in a country other than that of his domicile of origin, not for a mere special or temporary purpose but with the intention of continuing to reside there permanently or indefinitely. In other words, two things must concur to constitute a change of domicile: first residence in the new place of domicile, and secondly the intention of making such place the home of the party either permanently or for an indefinite period.

6. Under note 1 to rule 5 *ibid* a mere declaration of domicile shall not be held to be sufficient evidence that a candidate possesses the domiciliary status required by the rule. In each case, a candidate's circumstances must be scrutinised, and a decision reached on the facts of the case.

7. The provisions for the determination of domicile are laid down in Appendix XLVIII of the Bombay Civil Services Rules; and the relevant provisions are that—

- (i) a person can have only one domicile;
- (ii) the domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled;
- (iii) the domicile of origin prevails until a new domicile has been acquired;
- (iv) a person is not to be considered as having taken up his fixed habitation in a country merely by reason of his residing therein in His Majesty's Civil or Military Service, or in the exercise of any profession or calling.

8. Accordingly, a person claiming to be a native of Sind must have a domicile in Sind in accordance with the above rules. No difficulty arises in regard to persons born in Sind whose mother-tongue is the Sindhi language. In regard to other, however, the tests laid down above must be rigidly applied, Gujratis, Cutchies, Punjabies, etc., who have a domicile in Sind, according to the above rules, and their children, would be eligible for employment. But any of these persons who may happen to be in Sind at the time of his appointment, or may have come there merely to secure an appointment, cannot be held to be a native of Sind within the meaning of the above rules.

9. Government do not consider that the reservation of the Provincial and Subordinate Services in Sind to the natives of the Province, as defined above can be legitimately objected to, since the Recruitment Rules of other Provinces also restrict their services to the natives of those provinces. Nor are the interests of Public Service affected thereby since the rules provide for the appointment of outsiders when Government consider that for a particular post it is not desirable to restrict the field of recruitment to the natives of the province.

10. As the rigid application of the test of domicile would involve hardship in the case of employees of the Central Government residing in Sind, rule 5 of the Bombay Civil Services Recruitment Rules provides that the children of employees of the Department of the Posts and Telegraphs, Indian State Railways, and all other Government of India Departments which are liable to inter-provincial transfer are eligible for appointment to posts in Sind under the Provincial Government provided they have resided in Sind for a continuous period of three years immediately preceding the date of appointment.

11. Government are pleased to lay down detailed instructions printed in the Appendix to this resolution for the guidance of officers granting certificates of domicile. Officers granting those certificates are requested to follow the instructions carefully; and to refer any doubtful case for the orders of Government.

Instructions for the grant of certificates of domicile

1. All applications from persons desirous of obtaining certificates of domicile in Sind must be made to the Collector of the district in which the applicant claims to be domiciled. Collectors are requested to dispose of these applications themselves, and not to delegate the work to any subordinate officer.

2. As a person can have only one domicile, an applicant who is not obviously a Sindhi but claims to have acquired a domicile in Sind, should be called upon to make a declaration that he definitely renounces his previous domicile; and a copy of such declaration should be forwarded to the Government of the Province in which the person was originally domiciled, in order to ensure that the change of domicile is real and not claimed merely with a view to secure Government employment in this Province.

3. When a person claims to be domiciled in Sind, the burden of proving his claim lies upon him. What he really claims is that he has taken up his abode in some part of the province with the intention of making it his permanent home. Before this claim is admitted, the reality of his intention should be tested by all available means. Thus, for example, a person claiming to be domiciled in a particular district might ordinarily be expected to possess a permanent residence in that district. If the applicant has no place of residence in the district where he claims to be domiciled, or if he has sent his children to be educated in any institution outside the province, these are facts which require to be explained. But the contrary facts are not, by any means, conclusive in his favour. They have to be considered along with all the circumstances of the case; and when the domicile claimed is of recent origin, their evidential value is much diminished.

4. The procedure to be followed for the grant of certificates of domicile is intended to prevent in grant of certificates without proper enquiry. The important points to be noted are—

- (i) that a regular enquiry should be made in each case ;
- (ii) that the opinion of the leading local residents is to be taken ;
- (iii) that the reasons which are held to justify the grant of a certificate are to be stated fully in the proceedings of the enquiry, and more briefly in the certificate itself ;
- (iv) that a register of all certificates granted should be maintained in the form appended to these instructions ;
- (v) that no certificates should be granted unless the Collector is satisfied that the family is permanently settled in his district ; and that the applicant has adopted it as his home and that he has no intention of returning to his country of his origin.

5. Special care is necessary in scrutinising applications for certificate when the domicile claimed is of recent origin. The fact that the family owns a place of residence in the Province is not by any means conclusive but should be considered along with all the circumstances of the case.

6. Residence merely for the purpose of carrying on business or trade, or the duties of the public office, should not be regarded as establishing a claim to domicile ”.

Assam—Save with the previous sanction of the Government appointments are limited to members of families native of or domicile in Assam. If in any case it is desired to a post, whether permanent or temporary, an application for sanction should be submitted to Government before the appointment is made.

2. It has been laid down as a working principle that, in the absence of any special rule governing a particular case or class of cases, a man who is not a native of the Province shall be deemed to be domiciled in the Province only when he has become the owner of a homestead (house and land) in the Province, has already lived in that homestead for ten years and intends to live in that homestead until he dies. The children of such a man will automatically be domiciled in Assam unless and until they clearly show their intention of reverting to the country from which the family came.

Where the above conditions are fulfilled, the Deputy Commissioner is authorised to give a certificate of domicile. In case of doubt, where any applicant belongs to a family native of or domiciled in Assam, a reference should be made to Government.

Stress in Assam is thus laid down on the genuineness of the applicant's intention to remain in the Province for his life-time. Further, the Government have stressed the inherent right of revising the District Officer's orders in either case, e.g., grant or refusal of a certificate.

The grant of a domicile certificate is not intended to place the holder in the same position as the indigeneous people. Domiciled persons will be eligible for appointments when natives of the Province with the necessary qualifications are not available, or when special reasons exist for appointing a domiciled person. In matters such as contracts and leases domiciled people will be given the second preference, after natives.

Similarly the possession by an immigrant of a domicile certificate does not constitute a claim to settlement of annual land in blocks reserved for Assamese unless the Deputy Commissioner is satisfied that such settlement would not be likely to promote friction or disturbance of the peace and is therefore not contrary to the public interest. The Government have made it clear that the domicile certificate is not to be taken as a general rule granting what might be called in other countries "naturalisation rights" or laying down the proposition that holders of such certificates should be regarded as having equal rights in everything with natives of the Province.

Bengal—"Rule VII (2) of the Provincial Service Recruitment Rules restricts recruitment to the Provincial Service to the natives of or persons permanently domiciled in, Bengal; except to the extent that certain services and posts are either partially or wholly exempted from the operation of this rule. Bengal Educational Service, the Bengal Gardener's Service and the Public Health Service are wholly exempted from the operation of the rule. In the case of some other services, e.g., Bengal Lower Veterinary Service and the Bengal Boiler Service, non-Bengalees are eligible but natives of Bengal and persons permanently domiciled in the Province are given preference to others. The result is that in more than half of the services, recruitment is confined to, or preference is given to, the Bengal-born domiciled candidates.

The rules for the Bengal General Service (consisting of numerous specialist posts) are being so framed as to reserve as many posts as possible for Bengalees or persons domiciled in Bengal. The case of restricting recruitment to Bengalees is obviously much less strong here, inasmuch as all the posts of this Service require technical or specialised knowledge.

The question of tightening up the provisions is under examination. It is contemplated that amendment to the rules will be made to give effect to the following policy, viz.: That in the largest possible number of cases recruitment should be restricted to persons who are natives of, or permanently domiciled in, Bengal. Out of the balance, where recruitment is made in India, a preference should be given to such persons. In only a small number of cases (where administrative or technical considerations make it necessary to recruit Europeans) should there be neither reservation nor preference for the Bengal-born or domiciled candidate".

The rules framed by the Governor of Bengal in exercise of the power conferred by clause (b) of sub-section 2 of section 241 of the Government of India Act of 1935 for the determination of domicile in Bengal of persons seeking appointments to the provincial or subordinate services under the Government of Bengal are exactly the same as in the case of Bombay.

Madras—The Government of Madras have by rule limited the appointments in their public services ordinarily to persons who have been born in this Presidency or who have been domiciled therein for a period of not less than ten years immediately preceding the date of application.

Rules 5 (b) of the General Rules for the Provincial Services

No candidate other than one who has been born in the Presidency of Madras or who has been domiciled therein for a period of not less than ten years

immediately preceding the date of his application shall, except with the previous sanction of the Provincial Government and except in accordance with such conditions and restrictions as they may lay down, be included in any list of approved candidates. Such sanction shall not be accorded unless the Provincial Government certifies that a sufficient number of qualified and suitable candidates so born or domiciled is not available.

GOVERNMENT OF MADRAS, PUBLIC SERVICES DEPARTMENT

G. O. No. 1141, dated the 5th November 1931

The following notification will be published in the *Fort St. George Gazette* :—

No. 152—In exercise of the powers conferred by rules 41, 42 and 44 of the Civil Services (Classification, Control and Appeal) Rules, the Governor in Council and the Governor acting with his Ministers hereby make the following rules to regulate the determination of domicile and the drawal of overseas pay.

In these Rules “ Local Government ” shall mean the Governor in Council or the Governor acting with a Minister, as the case may require.

I—DOMICILE

For the purposes of any rule made by the local Government under rules 41, 42 or 44 of the Civil Services (Classification, Control and Appeal) Rules, the domicile of a Government servant shall, unless it be otherwise expressly provided in such rule, be determined in accordance with the following provisions, namely :—

1. A person can have only one domicile.

2. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled, or, if he is a posthumous child, in the country in which his father was domiciled at the time of his father's death.

3. The domicile of origin of an illegitimate child is the country in which at the time of his birth his mother was domiciled.

4. The domicile of origin prevails until a new domicile has been acquired, and a new domicile continues until the former domicile has been resumed or another has been acquired.

5. (1) A person acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile or origin.

(2) Any person may, if the law of any country so provides and subject to any such provisions, acquire a domicile in that country by making, in accordance with the said provisions, a declaration of his desire to acquire such domicile.

Explanation 1—A person is not to be considered as having taken up his fixed habitation in a country merely by reason of his residing there in His Majesty's Civil or Military Service or in the exercise of any profession or calling.

Explanation 2—A person does not acquire a new domicile in any country merely by reason of residing as part of the family or as a servant of any ambassador, consul or other representative of the Government of another country.

6. The domicile of a minor follows the domicile of the parent from whom he derives his domicile or origin :

Provided that the domicile of a minor does not change with that of his parent if the minor is married or holds any office or employment in the service of His Majesty or has set up with the consent of the parent in any distinct business.

7. After marriage a woman acquires the domicile of her husband if she had not the same domicile before and her domicile during the marriage follows the domicile of her husband :

Provided that if the husband and wife are separated by order of a competent court or if the husband is undergoing a sentence of transportation, the wife becomes capable of acquiring an independent domicile.

8. Save as otherwise provided above, a person cannot, during minority, acquire a new domicile.

9. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

10. Notwithstanding anything herein contained, a person who—

(a) was born, and has been educated exclusively, in Asia and had not at the date of his appointment resided out of Asia for a total period exceeding six months, or

(b) had before that date claimed and been deemed to be of Indian domicile for the purpose of his appointment to any office under the Government or of the conferment upon him by the Government of any scholarship, emoluments or other privilege, shall be deemed to have had his domicile in Asia on that date, unless in the case of a person to whom clause (a) applies and clause (b) does not apply, it is proved to the satisfaction of the appointing authority that he did not have his domicile in Asia on that date.

11. If any question arises as to the domicile of any officer at the time of his appointment, the decision thereon of the local Government shall be final.

II—OVERSEAS PAY

Where it is provided in a rule made by the local Government under rules 41, 42 or 44 of the Civil Services (Classification, Control and Appeal) Rules that the pay of a service or post shall include overseas pay, such overseas pay shall, unless it be otherwise expressly provided in such rule, be drawn only by a member of the service or an incumbent of the post whose domicile at the date of his first substantive appointment to the civil service of the Crown in India was elsewhere than in Asia.

Amendments to Madras Government Order No. 1141-Public (Services), dated the 5th November 1931—Notification No. 152 of the 5th November 1931

(1) In Part I of the said Rules—

(i) in sub-rule (a) of rule 10, for the words “ at the date of his appointment ” the words “ at the date with reference to which his domicile is to be determined ” shall be substituted ; and

(ii) in rule 11 the words “ at the time of his appointment ” shall be omitted ;

(2) In Part II of the said Rules, for the words “ to the Civil Service of the Crown in India ” the words “ to such service or post ” shall be substituted.

(3) In rule 11 of the said Rules, for the words “ the domicile of any officer ”, the words “ the domicile of any officer or of any candidate for appointment to any service or post under the rule-making control of the local Government ” shall be substituted.

Central Provinces and Berar—A candidate who is a permanent resident of the Province will be given preference in matters of appointment. A person is deemed to be a permanent resident of the Province—

(a) if his father or mother has resided in the Province for not less than twelve years immediately preceding the time of making application for appointment;

(b) if his father had adopted the Province as his permanent home though he may have gone elsewhere on business or otherwise;

(c) if his father or mother would have, if dead, had adopted the Province as their permanent home for a period of not less than twelve years preceding the date of application.

Bihar—No person who is not a native of, or domiciled in, the Province should be appointed to any post, whether permanent or temporary, carrying a pay of Rs. 25 a month or over without the sanction of the local Government obtained through the proper channel; nor should any such person be appointed to any post carrying a pay of less than Rs. 25 a month without the sanction of the authority immediately superior to the officer making the appointment. This rule is equally applicable to the case of all non-domiciled persons, whatever be the country of their origin, including such of them as may already hold an appointment in another Government office in Bihar. In really urgent cases appointments to such posts may be made in contravention of the above rules, but intimation should at once be sent to the authority who has the power to sanction such appointments. No person should be regarded as domiciled unless he can produce a certificate to that effect from the District Officer of the district in which he claims to be resident. An application for a certificate of domicile must be made in the prescribed form and should bear a court-fee stamp of 12 annas. If any incorrect statement is made in the application, any privilege or appointment given in consequence to the applicant, will be liable to be cancelled summarily. The certificate won't be granted unless the applicant is a candidate for a specified appointment under Government or a local body or intends to file an application for such an appointment within the next six months, or he intends to apply for a scholarship or a vacancy in an educational institution. The District Officer should draw regular proceeding to conduct enquiry into the matter and he has to satisfy himself that the applicant is permanently settled in the Province, that he has adopted it as his home, and that he has no intention of returning to reside in his country of origin. Special care is necessary in scrutinising applications where the domicile claimed is of recent origin. The fact that the family owns a place of residence in the Province or that the children have been educated in Bihar though relevant, is by no means conclusive, but should be considered along with all the circumstances of the case. Residence merely for the purpose of carrying on a business or trade, or for the performance of the duties of a public office, should not be regarded as establishing a claim to domicile. The mere declaration of intention to reside in Bihar is not sufficient. There should be continuing evidence of actual effect having been given to it. Though the District Officer may ask a reliable subordinate officer to verify the evidence he himself must consider the evidence and finally decide whether a certificate should be granted. The reasons for granting the certificate should be fully stated in the proceedings.

It should briefly be stated on the certificate itself. The grant of a certificate must depend on proved facts and not on favour and recommendation from non-official gentlemen in favour of applicants should be discouraged. The Government of Bihar have considered it unnecessary for the District Officers to consult local gentlemen in such enquiries as such non-official gentlemen frequently find it difficult to refuse a certificate when they are approached by a would-be applicant.

North-West Frontier—Government have issued a resolution that employment in the Province should be reserved only for those who genuinely belong to the Province. However, they realise that it is very difficult and scarcely possible to lay down hard and fast rule to define the term “genuine resident of the Province”. The Government have laid down a safe criterion, namely, the acquisition by inheritance or otherwise of immovable property in the Province on such a scale as to show the intention to make the Province his home. It is left to the officers making appointments to satisfy themselves that the person to be appointed or confirmed (in the case of those who have already been appointed on probation) is a genuine resident of the Province. The method of so satisfying himself is left to the authorities’ discretion. He may consult the Deputy Commissioner. In cases of doubt, reference may be made to the local Government.

United Provinces—The real object of the domicile rule should be to ensure the appointment of the natives of the Province to the Public Services and to safeguard the admission of the candidates who may claim United Provinces domicile under false pretences. The case of permanent residents of the Province presents no difficulty but special care is needed in the case of those whose claim for domicile is of recent or doubtful origin. The persistence of intention to reside permanently will also have to be taken into consideration in proof of that claim.

I—Revised general rule regarding nationality, domicile and residence of candidates for recruitment to services and posts under the rule-making control of the Governor, United Provinces

A candidate must be—

(a) a natural born British subject the domicile of origin of whose father is in the United Provinces and who himself is domiciled in the United Provinces ; or

(b) a natural born British subject, the domicile of origin of whose father was not the United Provinces, but who or whose father has acquired a domicile in the United Provinces, provided that the candidate himself has, after such acquisition, resided in the United Provinces for not less than five years at the date on which he applies for recruitment to the service or post ; or

(c) a natural born British subject who was born in the United Provinces and whose father is (or if dead, was at the time of his death) employed in any Department of the Central Government, and is, or was, liable to inter-provincial transfers, provided that he has himself resided in the United Provinces for three continuous years immediately preceding the date of application for appointment ; or .

(d) the ruler or a subject of an Indian State or a native of a tribal area or territory adjacent to India, in respect of whom or which a declaration has been made by the Governor of the United Provinces under sub-section (2) of section 262 of the Government of India Act, 1935.

II—Rules for the determination of domicile for purposes of recruitment to services and posts under the rule-making control of the Governor, United Provinces

The domicile of a candidate for direct recruitment shall be determined in accordance with the following provisions:—

(1) Domicile may be defined as the place where a person has his permanent home. Domicile may be of two kinds, viz., the domicile of origin and the domicile of choice.

(2) A person can have only one domicile at one time.

(3) The domicile of origin of every person of legitimate birth is in the Province in which at the time of his birth his father was domiciled, or if he is a posthumous child, in the Province in which his father was domiciled at the time of the father's death.

(4) The domicile of origin of an illegitimate child is the Province in which, at the time of his birth, his mother was domiciled.

(5) The domicile of origin prevails until a new domicile has been acquired, and a new domicile continues until the former domicile has been resumed or another has been acquired.

(6) A person acquires a new domicile by taking up his fixed habitation in a province which is not that of his domicile of origin. Such a person may make a declaration of his having acquired a new domicile before the District Magistrate of the district in which he takes up his fixed habitation but such declaration shall not by itself be regarded as sufficient proof of change of domicile.

(7) The domicile of a minor follows the domicile of the parent from whom he derives his domicile of origin.

(8) After marriage a woman acquires the domicile of her husband if she had not the same domicile before and her domicile during the marriage follows the domicile of her husband;

Provided that if the husband and wife are separated by the order of a competent court or if the husband is undergoing a sentence of transportation the wife becomes capable of acquiring an independent domicile.

(9) Save as otherwise provided above, a person cannot during minority acquire a new domicile.

The following instructions will be helpful in cases in which a candidate claims to be domiciled in the United Provinces:—

(i) No attestation regarding domicile should be made by the District Officer unless he is satisfied from the replies given in the domicile questionnaire and from all other available evidence and from the evidence, if any, produced by the candidate that the family is permanently settled in the United Provinces and that he has no intention of returning to his province of origin, if any.

(ii) A candidate who on the evidence produced does not appear to have the United Provinces as the domicile of origin, but who claims to have acquired a domicile therein, should be required to sign a declaration to the effect that he has definitely renounced his former domicile and that he has

no objection to the authorities of his former domicile being informed accordingly. A copy of such declaration should be forwarded to the Government of the province or Indian State in which the candidate was originally domiciled, in order to ensure that the change of domicile is real and is not claimed merely with a view to securing employment under the United Provinces Government.

(iii) When the domicile claimed in the United Provinces is of recent origin, the claim should be scrutinised with special care. The fact that the candidate owns a residence in the United Provinces is not by any means a conclusive proof that he is domiciled therein. It should be considered along with other circumstances of his case.

(iv) The fact that a candidate was born and educated in the United Provinces, that he and his parents through whom he claims his domicile have resided in the United Provinces for a number of years (say five) immediately preceding the date of application (necessary breaks being allowed) strongly support a claim to a domicile in the United Provinces, but other relevant circumstances including the fact whether the candidate's mother-tongue is one of the regional languages or dialects of the United Provinces must also be taken into account.

(v) Residence in the United Provinces for any number of years for a temporary purpose such as service, trade, profession, etc., should not by itself be regarded as establishing a claim to domicile in this Province.

APPENDIX III

Letter No. 6237—42-A., dated Cuttack, the 2nd November 1936, from A. F. W. Dixon, Esq., I.C.S., officiating Chief Secretary to the Government of Orissa, Home Department, to all District Officers

SUBJECT—Rules regarding grant of certificates of domicile

I am directed to enclose herewith a set of rules regarding grant of certificates of domicile to be observed in this Province, and to communicate certain general observations with regard to them.

2. When an applicant for a certificate claims to be domiciled in Orissa, he asserts the existence of a fact and the burden of proof is on him to make good his assertion. What is claimed is that he has taken up abode in some part of the Province with the intention of making it his permanent home and before any certificate is granted, the reality of his intention should be tested by all available means. The enquiry, therefore, should not be perfunctory but full and searching. The danger to be guarded against is that persons desirous of obtaining Government appointments in Orissa may put forward claims which are not well founded and may endeavour to support them by producing the kind of evidence which is usually accepted as proof of domicile. Thus, for example, a person claiming to be domiciled in a particular district in Orissa might usually be expected to possess a permanent residence in that district. On the other hand it is obvious that a person wishing to support a fictitious claim would naturally arrange to acquire a place of residence before presenting it. The same sort of considerations apply as regards the education of an applicant's children in Orissa, a circumstance which is mentioned in rule 3 as possessing evidential value. All facts of this kind have a double aspect. If the applicant has no place of residence in the district

where he claims to be domiciled, or if he has sent his children to be educated in institutions outside the Province, these are facts which require to be explained before the claim is admitted. But the contrary facts are not by any means conclusive in his favour; they have to be considered along with all the circumstances of the case, and when the domicile claimed is of recent origin their evidential value is much diminished.

3. I am to add that the intention of the Government is that enquiries as regards domicile should be undertaken on application only, when some person is a candidate for—

- (1) a Government appointment; or
- (2) a scholarship or a vacancy in an educational institution.

An enquiry of this character is only an executive enquiry and is not intended to confer any legal status. It should therefore be confined strictly to the purposes for which the educational and general appointment rules were framed, and should also be confined to immediate requirements. District Officers ought not to be put to the trouble of making enquiries without any direct necessity, for example, when domicile certificates are asked for in case they may be wanted at some future time, and no certificate should be granted except to a candidate for a Government post or scholarship.

Memo. No. 6243—61-A., dated Cuttack, the 2nd November 1936, by the Under-Secretary to the Government of Orissa, Home Department

Copy forwarded to all other Departments of Government; all Heads of Departments; Registrar, High Court, Patna; all District and Sessions Judges; Press Officer, Cuttack; Oriya Translator to Government; Private Secretary to His Excellency.

Rules regarding grant of certificate of domicile

1. All applications for domicile certificates should be made to the District Officer in each district.

2. When a District Officer receives an application for a certificate of domicile, a regular proceeding should be drawn up, and the applicant should be required to state fully the grounds of his claim.

3. When any person claims to be domiciled in Orissa, the burden of proof lies on him to establish the fact by satisfactory evidence, and the enquiry should be full and sifting. No certificates should be granted unless the District Officer is satisfied that the family is permanently settled in the Province, that the applicant has adopted it as his home and that he has no intention of returning to his country of origin.

4. Special care is necessary in scrutinising applications for certificates when the domicile claimed is of recent origin, since attempts are sometimes made to produce evidence of domicile as a qualification for appointment. The fact that the family owns a place of residence in the Province, or that the children have been educated in schools and colleges in the Province is not by any means conclusive, but should be considered along with all the circumstances of the case. Residence merely for the purpose of carrying on a business or trade, or for the performance of the duties of a public office, should not be regarded as establishing a claim to domicile. Permanence, too, requires

evidence of the persistence of the intention over some period of time; the mere declaration of intention is not sufficient; there should be continuing evidence of actual effect having, in fact, been given to it.

5. Before giving a certificate the District Officer should, if the claim appears to him to be open to any reasonable doubt, ascertain the opinion of leading local residents on the subject.

6. The reasons which have satisfied the District Officer as to the validity of the claim should be fully stated in the proceeding, and should also be more briefly recited in the certificate itself.

7. A register in the form attached should be maintained in every district showing the certificates granted, and briefly the reasons for the grant.

Register of Certificates of Domicile

Serial No.	Name of person to whom granted and father's name	Place of residence	Brief statement of reasons which are held to justify the grant of a certificate
1	2	3	4

APPENDIX IV

A list of typical irregular cases of domicile certificates

1. *Cuttack—No. 16/1937-38*—The applicant's father was born in Bengal, so also the applicant. In column 5 of the application form the applicant says that he gave a separate note regarding his property, but no such note is found in the record. No evidence is recorded in support of Form B. It appears that merely because the applicant is the son of a sister of the manager of the Madhupur estate who was known personally to the enquiring officer, a permanent resident certificate has been granted without any evidence which is required under the rules.

2. *Cuttack—No. 56/1937-38*—The applicant and his father's birth place is at Calcutta. The applicant continued his study in Bengal till 1934 and joined the Ravenshaw College in 1935 only when he came as a dependent on his grand-father. No enquiry was made nor any evidence recorded. Form B is not filled up. He was granted a certificate merely because his grand-father was granted one in 1935-36 the records of which are not available. He did not completely stay two years in Orissa when he was granted a certificate.

3. *Cuttack—No. 65/1937-38*—The applicant's father was born in Hoogly district, Bengal. Applicant's birth place required in column 5(2) of the application form is omitted. According to column 6(2) the house at Manglabag was purchased in the year 1918. A certificate was granted because a

relative of the applicant was granted a certificate in 1934 by the then District Magistrate. No records of enquiry is forthcoming in support of the applicant's claim.

4. *Cuttack—No. 71/1937-38*—The applicant's father was born in Jessore, Bengal and the applicant was born in Cooch Behar State, Bengal. The applicant's father acquired some property in the year 1934 in Cuttack and it is seen from the Form B that the landed property is a house site and no house is built till the date of application. The applicant's father came to this Province as the Headmaster of the Town Victoria School thirteen years prior to the application and still working as such. He has no permanent residence. A certificate was granted to applicant's elder brother four months prior to November 1936 when the Government of Orissa framed new rules for granting domicile certificates. The Collector refused to grant a certificate on the 27th May 1938 basing on the report of the enquiring officer in Form B. But on the 29th June 1938 another order is recorded on the petition filed by the Headmaster of the Town Victoria School, Cuttack, the applicant's father by the same District Magistrate granting the certificate on the ground that the applicant's father satisfactorily explained the circumstances under which he was not able to build a house of his own. The enquiry report on which the domicile certificate was granted to petitioner's elder brother is not forthcoming. But it is clear from the application form that the certificate was granted to applicant's brother merely two years after they acquired the house site.

5. *Cuttack—No. 1/1938-39*—The applicant was officiating in the office of the Executive Engineer, Northern Division, Cuttack. It is not understood how he could get this officiating appointment without a domicile certificate. Only when the Superintending Engineer asked for a certificate for his inspection, the applicant applied for a certificate in the application form. No particulars of the property have been given. It is simply stated that the property have been acquired more than a 100 years ago. The enquiring officer based his recommendation only on the testimonials of two witnesses.

6. *Cuttack—No. 4/1938-39*—In the words of the enquiring officer the applicant is the son of the daughter of the sister of Rai Sahib R. C. Mitra and was under his guardianship at Cuttack from his childhood though the father of the applicant was at Cuttack. No particulars of property were given, nor any enquiry made or documents placed before the enquiring officer.

7. *Cuttack—No. 7/1938-39*—The applicant's father was born at 24-Parganas. He was in the Police Service, and was serving at Cuttack obviously for the performance of the duties of a public office. He acquired house property at Cuttack in the year 1919. The enquiring officer says that he has settled down at Cuttack with the bona fide intention of residing permanently. But at the same time no enquiries have been made in 24-Parganas as to whether he has no properties there. Rule 4 has not been observed strictly.

8. *Cuttack—No. 11/1938-39*—The applicant's application form and Form B are not available in the file. From the statement of the grand-uncle of the applicant, it is seen that the applicant's father was serving as an Excise Inspector and he died ten years prior to the 27th June 1938. Neither the applicant nor his father acquired any property in the Province. The applicant's grand-uncle in whose protection the applicant was living held a house

at Cuttack, but sold it away eight years prior to the 27th June 1938 and was living in a rented house. The applicant has got a step-mother also, but she also has no house of her own. The application for a domicile certificate was enquired into and rejected on the 2nd July 1938 by the District Magistrate on the ground that the applicant was not a permanent resident of the Province and was not entitled to get a certificate. A few days later, however, the applicant's grand-uncle filed another petition and a certificate was granted on the ground that no property is necessary for the Anglo-Indians to obtain a certificate. Regarding his intention to make Orissa his home and also whether the applicant has no property outside the Province have not been enquired and the conclusion arrived at is not convincing.

9. *Cuttack—No. 15/1938-39*—In the Form A the applicant does not give any particulars of the property held nor any document produced before the enquiring officer. The enquiring officer based his recommendation on the simple fact that he belongs to a family of Babu* Mitra* Head Assistant of this Collectorate, but does not say how they are related. It was granted only on the testimony of his relation, Babu* Mitra.*

10. *Cuttack—No. 13/1939-40*—The applicant applies for a certificate after getting appointment. His father was born at Khulna in Bengal and the applicant in Bikram, Patna district, Bihar. No property in the Province. He files some testimonials from some of the gentlemen of Cuttack and Balasore and from the testimonials it is clear that the applicant is in Orissa for not more than twenty years and some of the gentlemen who granted certificates doubted whether the applicant has got property outside the Province and suggested verification. No enquiry was made regarding property outside the Province.

11. *Cuttack—No. 72/1939-40*—The applicant's father was born in Faridpur district, Bengal and the applicant was educated in Bengal. The applicant came to Orissa in the year 1929, ten years prior to his application with a view to have permanent abode in Orissa and in 1929 he accepted an appointment of Headmaster in the Mahamaya Middle English School at Buxibazar, Cuttack. At the time of application the petitioner was permanently appointed on the 10th January 1939 as a teacher in the Banga Vidyalaya. He desires in his petition to settle in Orissa permanently but did not say whether he has any property in Bengal or not. He filed about 11 testimonials to the effect that the petitioner is living in the town since last ten years. No enquiry was made on the question of whether the applicant has property in Bengal, specially when the applicant is silent on the subject. The enquiring officer seems to have depended upon a certificate given to the applicant by the Secretary of the All-Orissa Domiciled Bengalee Association certifying that the applicant intends to settle permanently in Orissa and that the Assistant Secretary and the Secretary of the Association have no objection to his being granted a domicile certificate and recommended for a certificate and consequently it was granted.

12. *Cuttack—No. 6/1940-41*—The applicant's father comes from Dacca, Bengal. The applicant's father has no house or property in Orissa. It is not known when he came to Orissa. But from the application it is gathered that his eldest brother has been serving in Orissa for the last fifteen years. He does not say where he was serving and in what capacity. His elder brothers purchased a house at Pansahi in the year 1935. In that very year

the District Magistrate of Cuttack granted a certificate of domicile to his second elder brother. In the present case the enquiring officer recommends the grant of a certificate in these terms, "I recommend a certificate of the type of permanent future residence as per instructions outlined in Mr. Horneil's circular". It may be noted that Mr. Horneil's circular was issued in 1933 and it has been superseded since then by Dixon's rules issued in November 1936. The rules 3 and 4 have not been observed. No enquiries have been made from Dacca about the history of the family. It may be noted that the eldest brother of the applicant is now serving as second assistant in the office of the Secretary to His Excellency the Governor and his certificate of domicile has not been produced.

13. *Cuttack—No. 14/1940-41*—In Form A the applicant does not give any particulars about his properties and when acquired. The enquiring officer also does not say that he has verified the statements about his properties by looking into his document. His recommendation was based simply on a statement by one clerk of the Cuttack Collectorate. It appears that the applicant's father is a Railway servant at Khurda Road.

14. *Cuttack—No. 20/1940-41*—The applicant's father came from Dacca. The applicant was born at Ichhapuram, Ganjam. He says that they have no property outside the Province. The property in Orissa was acquired on the 18th February 1926. Particulars of the property are not given. In this case the District Magistrate granted a certificate of domicile without making any enquiry simply on the ground that the applicant's elder brother was granted a certificate of domicile in the year 1935 by the then Collector. Certificate issued to his elder brother in 1935 states that the family has no intention to go back to Bengal. No enquiries made at Dacca.

15. *Cuttack—No. 22/1940-41*—The applicant's father came from Dacca. From the application form it appears that no enquiry has been made at all under the rules, because certificate was granted in connection with application for the post of District Judge under the Eastern States Agency.

16. *Cuttack—No. 26/1940-41*—The applicant's father came from Jessore district, Bengal. No property in the Province. No enquiry is made. The enquiring officer recommended for a certificate completely basing upon a certificate given by the Secretary of All-Orissa Domiciled Bengalee Association to the effect that the Association has no objection to grant him a certificate.

17. *Cuttack—No. 48/1940-41*—The applicant belongs to the district of Faridpur. He was born there. He came to his uncle, it is said, some ten years ago. His uncle who came to Orissa in 1930 acquired some property at Chauduar on the 4th September 1939 and on the strength of this he secured a certificate of domicile on the 9th April 1940. The Collector remarks, "That it appears that he genuinely intends to settle down in Orissa". No enquiry was made at Faridpur. Certificate in this case has been granted simply on the ground that his uncle was granted one.

18. *Cuttack—No. 29/1940-41*—The petition was filed by the brother of the applicant, who came from Champaran, Bihar, as a Government servant to Orissa. The applicant was born at Midnapur. They have no property in Orissa. The enquiring officer recommended for a certificate simply because the Secretary of the All-Orissa Domiciled Bengalee Association has certified that the applicant's father has a genuine intention of residing permanently in the Province. No other enquiry was made.

19. *Cuttack—No. 43/1940-41*—No application in Form A was presented. The applicant purchased land a few days prior to application at Chauduar. The enquiring officer recommended for a certificate depending upon the certificate issued by some gentlemen at Cuttack without enquiring or verifying the truth in it.

20. *Cuttack—No. 45/1940-41*—The applicant's father came from Nadia, Bengal and he still resides at No. 26, Bidon Street, Calcutta. But he acquired a two-storied pucca building at Jagannath Ballav, Cuttack. No enquiry whatsoever was made. The enquiring officer recommended for a certificate on the ground that the applicant's father is a member of the Orissa Domiciled Bengalee Association and the Secretary of the Association has granted a certificate.

21. *Cuttack—No. 57/1940-41*—The applicant's father came from the Nadia district of Bengal. He was born there also. The District Magistrate has disposed of the case without any enquiry and granted a certificate stating that the family of the applicant has settled here for generations past, whereas in fact the applicant's father was the first person to come to Orissa. Obviously the certificate was granted because his brothers were granted certificates. No enquiries have been made at Nadia nor any particulars of the property held in Orissa given.

22. *Cuttack—Nos. 43 and 57/1940-41*—Both the applicants are brothers. The applicant under case No. 43 came to Orissa about eight years ago as a paddy specialist in the Department of Agriculture and acquired a house and zamindari right of the place in which the house situates in 1938-39 and applied for a domicile certificate in 1940. Recommendation made by the enquiring officer in column 4 of Form B is not supported by any evidence and because the applicant under case No. 43 was granted a certificate on the 16th September 1940 his brother also was granted a certificate on the 7th April 1941 on the strength of previous certificate. The instructions given in rule 4 of the existing rules completely overlooked. No enquiry has been made.

23. *Cuttack—No. 59/1940-41*—In his evidence the applicant's father admits that he is a native of Udayapur in Jeypore State, Rajputana. In 1940 he came to Kalapathar for business purposes. Since then he and his elder brother have been carrying on cloth and money-lending business. In course of time they have acquired some properties. Now his son, the applicant, applies for a certificate of domicile in order to be eligible for a junior's scholarship. The enquiring officer in his report says that the applicant's father has properties outside the Province in Jeypore State, Rajputana and he goes to his native place for performance of some ceremonies such as Karnabedh, etc., of his children. But the enquiring officer in face of all this still holds that the applicant has severed all connections with the province of origin. Rule 4 of the Dixon's rules is quite clear. Under these circumstances the certificate of domicile should not have been granted.

24. *Cuttack—No. 5/1941-42*—The applicant's father was born in Hoogly district and the applicant in Jabalpur, Central Provinces. He was educated in Hoogly district as well as in Hindu University, Benares. He came to Orissa as a lecturer in Cuttack Engineering School in the year 1931 and applied for a certificate in the year 1941, after being made permanent. He says that he acquires some land in Chauduar for constructing a house, but no evidence

on the point is produced. The enquiring officer recommended for a certificate on the ground that he is already in service under the Government of Orissa and the recommendation in paragraph 2 (b) and also in paragraph 4 to the effect that the applicant has no connection with the province of origin are not supported by evidence. The recommendation was made on the strength of the statement of the Assistant Secretary of the All-Orissa Domiciled Bengalee Association which is usual in almost all the Cuttack applications and that statement appears to be interesting.

25. *Cuttack—No. 22/1941-42*—In this the applicant is a woman. Her father was born in Chotanagpur and came here as a Government servant in about 1926 or so and lived in a rented house by the time the applicant applied for a certificate, vide the statement of Khan Bahadur* Bux.* She has no property inside the Province and the recommendation in column of Form B is not supported by evidence. From the report of the enquiring officer attached to it, it appears that the enquiring officer recommended for a certificate on the ground that the applicant's father was in death bed and she swore that she had no mind to marry. This recommendation of the enquiring officer was subject to the following condition, "But this recommendation will not be applicable in the case of her brothers who should not, if they apply, be given any domicile certificate until they build a house for their residence at Cuttack to ensure that they genuinely have intended to reside permanently in Orissa".

26. *Cuttack—No. 10/1943-44*—The applicant and the applicant's brother were born in Dacca and the applicant was educated in Dacca. He acquired property at Cuttack in 1940 as he says, it is in the name of his younger brother. He applied for domicile certificate for admission of his children in colleges and schools. In support of his claim he filed 11 certificates signed by several gentlemen of Cuttack in carbon copies in which they unanimously say that the applicant acquired permanent domicile in the district of Cuttack. But none of them were examined by the enquiring officer. The enquiring officer issued several notices to produce the applicant's brother in whose name the property stands. But he failed to appear. He was in Government service in Bihar in 1914 and was transferred to Cuttack in 1923 and since then living here as such. He still got a house at Dacca according to his application although it has not been repaired for a long time. He expressed the intention of his children perhaps as their agent. The children desire not to go back to their parent province. The enquiring officer did not recommend for a certificate as he observes "It is difficult to say if he has a genuine intention of residing permanently in the Province". But in spite of this he is granted a certificate.

27. *Cuttack—No. 54/1943-44*—The applicant and his father came from the Chingliput district, Madras. They have no property in the Province. It is not enquired whether they have got any property in Chingliput, although the applicant says no. His father came to Berhampur about fifteen years back to serve in the New Orissa office under late Sri S. B. Rath and came to Cuttack when the New Orissa Press was shifted from Berhampur to Cuttack. There is no proof of the applicant's genuine intention to settle permanently in the Province. The purpose of requirement of the domicile certificate as mentioned by the applicant in paragraph 8 in Form A, dated the 17th September 1943, is "to become a citizen of Orissa and settle in this Province

after completing education". The petition was rejected after enquiry on the ground that domicile certificate cannot be granted unless it is required for a post in Government service and the applicant was informed on the 21st January 1944 accordingly. Again on the same day the applicant informed the enquiring officer his intention for applying for domicile certificate was to try for some Government scholarship for higher studies. But no attention was paid to that request as that was not the reason for granting a domicile certificate unless the applicant actually applies for the scholarship. Then he put in another application on the 25th January 1944 stating his intention that the certificate is required for the purpose of selection of a Sub-Deputy Collector's post and the certificate was granted on the ground that the applicant has got a genuine intention of residing permanently in the Province,

28. *Puri—No. 11/1937-38*—The applicant's father was born at Hoogly and also the applicant. The father who worked at Puri as Civil Surgeon died in 1930. The applicant says that the landed property has been acquired in 1929 and the residential house in 1923. The father's residence in discharging of profession or performance of public duty does not count. A previous application of this applicant was rejected upon enquiry. The applicant's brother and uncle live outside the Province and the family still owns property in Bengal. The applicant himself says that he comes to Puri occasionally. His witness says that the applicant comes to Puri in Aswin or Magh months for collecting rent and stays for a fortnight or so. This is not at all a fit case for the grant of domicile certificate.

29. *Puri—No. 5/1939-40*—In this case no enquiry of any sort was held. The Collector states in his order, dated the 5th November 1939, thus: "In this case no enquiry is necessary. I know the father of the applicant well".

30. *Puri—No. 1/1942-43*—The applicant's father has been a hotel keeper at Puri. He purchased two small bits of land in Puri town so recently as 1937 and 1938 presumably to establish claims for domicile certificates for his sons. It is said that he has house and landed property at Barisal in the Province of Bengal. There is no proof that the applicant's father has severed his connection with Bengal. Residence for the purpose of running a business ought not to count. The note of Senior Deputy Collector in the order sheet seems to be the result of bias. Better proof ought to have been insisted upon to show that the applicant's family had been residing permanently in Orissa renouncing connection with the parent province. Admittedly the applicant's family owns property in Bengal. It is not at all a fit case for the grant of a domicile certificate.

31. *Puri—No. 3/1942-43*—There was no enquiry in this case. The Deputy Collector states in the order sheet that the applicant's family is domiciled in Cuttack district. The enquiry ought not to have been dispensed with. Rules 3 and 4 have been clearly violated.

32. *Koraput—No. 4/1936*—The applicant's father belongs to Vizagapatam. The applicant is under the guardianship of his maternal uncle who is also dead. The main ground in issuing the certificate was that the applicant migrated into the Province before it was formed.

33. *Koraput—No. 5/1936*—The applicant's father came from Vizagapatam district and joined Jeypore estate service in the year 1900. No records of enquiry are available. The applicant says that he has got property gifted

to him by late village Munsif but it is not known where that property is and what is its nature. The certificate is granted only on the ground that he migrated to the Province before it was formed.

34. *Koraput—No. 2/1937*—The applicant and his father both were born in the Vizagapatam district. Applicant's guardian, his uncle, a clerk of the Huzur Accounts Office, Jeypore Estate, has a house site at Jeypore. He is granted the certificate because he studied in the Board High School, Jeypore, having migrated to the Province before its formation. No record of enquiry. The guardian lived only for fifteen years prior to the grant of certificate.

35. *Koraput—No. 4/1937*—Both the applicant and his father's birth place is in Vizagapatam district. No records of enquiry. Only it is stated in the application that his father took usufructuary mortgage of a house at Jeypore for Rs. 600 in 1935, and in 1936 he laid foundation to construct a house, spent five hundred rupees, which, after construction, will according to applicant's calculation be worth Rs. 3,000.

36. *Koraput—No. 14/1937*—Both his father and the applicant were born in Vizagapatam district. His father had a house behind the Jeypore police-station but it is not known what happened to that house. There is no record of enquiry except from the report of the Headmaster, Board High School, Jeypore, it is known that he joined the High School in the year 1916 and left it in the year 1917.

37. *Koraput—No. 15/1937*—Application for certain service. Both the applicant and his father were born in Vizagapatam district. He possessed a house site in the year 1933 which is purchased in the name of his mother. The certificate is granted depending solely on the recommendation of the then Tahsildar, who said that the applicant severed his connection with his Province of origin and has genuine intention of residing permanently in the Province. But this fact is not supported by anybody.

38. *Koraput—No. 16/1937*—There is no record of evidence. Only a certificate granted by the Headmaster, Central Elementary School, Jeypore, shows that the applicant was a student in that school from 1925—27.

39. *Koraput—No. 23/1937*—No record of enquiry. The applicant has no property whatsoever in the Province. The certificate is granted simply because his father served in the Forest Department of Jeypore Samasthanam and the applicant was born at Jeypore in the year 1918.

40. *Koraput—No. 24/1937*—This is an application for any post under Government. There is no record of enquiry. Father's birth place is not definitely stated. The applicant claims to have been born in Jeypore in the year 1921. There is no record to show what property they have in the district. His father came to Jeypore as a clerk of the Samasthanam Choultry, Jeypore, and was removed from service afterwards. According to the Telugu Tahsildar's report his father acquired a house at Jeypore in the previous year of obtaining the certificate. The certificate was given because the applicant was born in the district.

41. *Koraput—No. 25/1937*—Application for certificate is to seek employment. His birth place is at Chudavaram (Vizag). According to his application he came to the district as a clerk in the Tea District Labour Association and acquired some house and land, according to the receipts he filed in the year 1934 and 1937. One receipt shows that one land was acquired two

months prior to this examination. No enquiry was thought to be necessary because he acquired land and house recently. The Tahsildar of Nawarangpur who recommended said, "it appears that he has genuine intention of residing permanently in this Province".

42. *Koraput—No. 29/1937*—The applicant was born in Vizagapatam district. Certificate required for undergoing compounder's training. No property in the district. No records of enquiry. Certificate seems to have been granted because his brother is a clerk in the Estate Office.

43. *Koraput—No. 6/1939*—The applicant was born in Vizagapatam district and came to Jeypore in the year 1936 when the separate Province was formed to practise as a lawyer. He has no property in the Province.

44. *Koraput—No. 7/1939*—The applicant was born outside the Province. His affidavit shows that he came for Jeypore Samasthanam service in the year 1934 and during the period of five years acquired immovable property in the vicinity of Rayaghada. The Deputy Tahsildar thinks that the applicant does not want to go back to his original province as he has got very little property there. It clearly shows that he has got property in the original Province also.

45. *Koraput—No. 18/1939*—The applicant is a Railway Contractor and came to Rayaghada fifteen years prior to application. His claim for a domicile certificate based on the fact that he is a big share-holder in the local sugar factory and he wishes to acquire some land for growing sugarcane. No enquiries have been made whether the applicant has permanent interest in the original Province.

46. *Koraput—No. 10/1940*—Domicile certificate was refused previously. No enquiry for the subsequent grant of the certificate is forthcoming.

47. *Koraput—No. 5/1941*—The birth place of the applicant is not found from the file. From the application filed by him it appears that he came and lived with his father-in-law. For the first time he applied for the certificate in the year 1937 and it appears from the office note that the then District Magistrate refused to grant a certificate on the ground that the applicant's stay was a conditional one. The applicant again applied in the year 1941 and the Special Assistant Agent, Koraput, was directed to make enquiries. He does not recommend for a certificate but still it has been granted by the Collector.

48. *Koraput—No. 6/1941*—No property in the Province. Birth place of the applicant is not known. Place of education is unknown. His application simply shows that he is living with his brother, an employee of the District Treasury, Koraput, since 1938 on completion of his study, and was working as a Road Gumasta for six months. The office note shows that because he happens to be the brother of an employee his case does not require any enquiry. Certificate was granted although once it was refused on a formal application.

49. *Koraput—No. 7/1941*—The applicant's father came to Rayaghada as a medical practitioner. Constructed a house in 1937 at Rayaghada. It is not clear when he actually came to Rayaghada. The applicant's birth place is East Godavari. He has still got property in his original Province. Certificate is granted simply because he filed an affidavit of two lines declaring his intention to settle permanently in Orissa.

50. *Koraput—No. 9/1942*—Application is made to secure a service. No property in the Province. He was born in Vizagapatam district. It appears from his application that he happens to be the son-in-law of Huzur Sheristadar of Jeypore Samasthanam and he also mentioned that he passed Intermediate Examination in the Maharaja's College, Vigianagram, with the kind help and patronage of the Maharaja Saheb of Jeypore. Jeypore Dewan recommended the grant of the certificate. A certificate was granted under these circumstances without any enquiry.

51. *Koraput—No. 16/1942*—The applicant is a Kashmir Brahmin born at Agra, and came to Jeypore in 1937 as Assistant Botanist, Government Agricultural Research Station. He built a house at Jeypore in 1940 two years previous to the application and simply files an affidavit declaring his intention to settle in the Province permanently which has been accepted.

52. *Koraput—No. 19/1942*—The applicant's father's elder brother owns a house at Gunupur, and his father is serving in the Jeypore Samasthanam since last twenty-eight years. No regular enquiry was made.

53. *Koraput—No. 19/1943*—The applicant's father came to Jeypore as a teacher of the local high school. Twenty-three years ago when it was in the Madras Presidency and no domicile certificate was required to obtain a service. He was transferred for some time to the Middle English School, Nawarangpur. Thus the applicant studied at Jeypore and Nawarangpur schools according to the transfer of his father. They have only acquired a house at Jeypore but no other landed property. The previous application for domicile certificate was rejected as the enquiring officer the Tahsildar of Jeypore reported that "it cannot be said with certainty that the applicant served in connection with the Province of origin. He is a bird of passage like so many others in the district whose only intention of taking domicile certificate is to find out employment in the Province. A second application was filed through the President, District Board who happens to be the District Magistrate and so the granting authority and a certificate was granted without any further enquiry. This is a clear case of violation of the rules.

54. *Koraput—No. 22/1943*—The applicant is a man of Malabar, Madras Presidency. Somehow or other he entered the Parlakimedi College as a Lecturer in 1937 and in the year 1939 he entered into Government service in the Agricultural Department as overseer. He says that one of his cousin brothers works as a stenographer to the Chief Engineer, Orissa. Probably that was the link for the applicant to enter into Government service. He clearly says that he came to Orissa to serve and settle. There is no clear evidence of his intention to reside here permanently if he does not get an employment nor there is evidence to show that he severed all connection with the Province of origin.

55. *Koraput—No. 32/1943*—No property in the Province. Both the applicant and his father were born at Guntur in Madras. The enquiring officer, Tahsildar, Jeypore, says, "the fact of severance of connection with the Province of his origin could not be verified. As regards his genuine intention it does not appear to be so. Moreover the applicant has explicitly stated in the petition that his only object is to seek employment under Orissa Government. He is a bird of passage and not a bona fide resident". In spite of the remarks the certificate has been granted.

56. *Koraput—No. 45/1943*—The applicant and his father belong to the Vizagapatam district. Father's birth place is Vizagapatam town and the son's birth place is Parbatipuram. They had no property in the Province but after the refusal of two petitions on sufficient grounds his father purchased three acres of land just before the grant of the domicile certificate "as a tangible evidence in shape of property" as the granting authority wanted him to produce.

57. *Ganjam—No. 6/1936*—There is only the Tahsildar's report that he held an enquiry, but the nature of enquiry is not known. The applicant does not seem to have offered any evidence in support of his claim for the certificate. The Collector's order for granting a certificate is not to be found in the records. It may be that the grand-father of the applicant came to Ganjam district for service and his father also worked for some time in Ganjam, but there are no materials from which the inference can be drawn that the applicant has severed all connections with the parent Province.

58. *Ganjam—No. 9/1936*—The family has no property in the Province. The applicant says in his note to the application that "he has a genuine intention of settling down in Berhampur and practising as a doctor in future". The father's statement which is all the material for giving the certificate was simply relied upon. The applicant's father owns property outside the Province. There is no ground for any inference that the family severed all connection with the Province of origin. The Tahsildar's report concludes with the remark that "no other evidence is recorded as the petitioner's father is the best person who can state about his future residence". Even in the certificate itself it is noted that the family settled in Berhampur in the year 1932, i.e., four years before the formation of this Province and that the applicant has made up his mind genuinely to settle in Chatrapur. The certificates ought not to have been granted.

59. *Ganjam—No. 10/1936*—There is only the father's statement and no other material from which the intention of residing permanently in the Province can be presumed.

60. *Ganjam—No. 15/1936*—The enquiring officer was a Revenue Inspector. His report says that the applicant's family has not severed all connections with the Province of origin. Yet in the domicile certificate it is noted that the family has severed all connections.

61. *Ganjam—No. 17/1936*—No due enquiry was made. There is nothing in the record whatsoever to show how the Tahsildar arrived at the answers given in Form B.

62. *Ganjam—No. 18/1936*—No due enquiry was made. Only the father's statement was relied upon in granting the certificate. Neither his father nor he himself own any property here.

63. *Ganjam—No. 20/1936*—No sort of enquiry except the testimonial from the President, Panchayat Board.

64. *Ganjam—No. 23/1936*—Only the applicant's statement was relied upon.

65. *Ganjam—No. 30/1936*—The applicant's application file could not be found.

66. *Ganjam—No. 32/1936*—The applicant's father migrated from outside the Province for service. He owns only a house since 1932. The note on page 14 of the connected file shows that the father expressed his desire to

revert to Madras. It is strange that the son's statement that he has a genuine intention to reside permanently in Orissa was accepted to grant the domicile certificate. Under these circumstances the application should have been refused.

67. *Ganjam—No. 46/1936*—The applicant's father migrated from outside the Province. Applicant was born outside the Province, educated outside the Province. His father has been practising as a private medical practitioner at Berhampur. Owns no property. There are no reasons to suppose that the applicant or his father have the genuine intention to stay permanently in this Province.

68. *Ganjam—No. 57/1936*—The applicant's grand-father came to this Province to do priesthood. The Tahsildar's note shows that the family reverts at times to the parent Province. The recommendation is that he may be treated as a domicile and not that he has acquired domicile status.

69. *Ganjam—No. 64/1936*—The applicant was born in Vizagapatam district and came to Berhampur only four years before 1936. He owns no property in the Province. On the 15th September 1936 the then Collector refused the grant of a certificate to him. It is strange that in January 1937 the certificate was granted to him on the ground that he intends to live in this Province permanently. This is a glaring case of abuse of discretion.

70. *Ganjam—No. 83/1936*—The applicant's father belongs outside the Province. Mere residence of the applicant with his maternal uncle at Chatrapur is not sufficient to entitle him to a certificate. His mere statement that he has a genuine intention to reside permanently in this Province ought not to have been accepted.

71. *Ganjam—91/1936*—The applicant has no property. Simply because he has been since his boyhood under the guardianship of a gentleman of Chatrapur certificate ought not to have been given. The inference that he has a genuine intention to reside permanently in this Province was made on flimsy grounds.

72. *Ganjam—No. 142/1936*—On the 16th May 1937 the Collector refused certificate on the ground that the applicant had not severed his connection with the Province of origin, Madras. In November 1937 without reference to the question of severance of connection the then Collector ordered to issue a certificate on the ground that the applicant possesses lands and houses in the Province and has a genuine intention of residing in the Province permanently.

73. *Ganjam—No. 9/1937*—The applicant or his father do not own any properties in this Province. The applicant's father who was born in Vizagapatam district came to Ganjam for service under Government and has been working for twenty years. The applicant himself was born outside the Province. The father does not say in his statement that he has severed his connection with the Province of origin. The Tahsildar says in Form B that the applicant has a genuine intention to settle in the Province. On this ground the certificate was granted. Column 4 of the register contains the Collector's remarks—The applicant's father has been residing in Orissa Province for the last twenty years. He has no vested interest in Orissa but

he possesses immoveable properties in the Province of origin, Madras, The applicant has a genuine intention to reside permanently in this Province.

74. *Ganjam—No. 21/1937*—The applicant's father came to this district in 1914 and served in the District Munsif's Court, Aska. The applicant says that the family owns no properties in the Province. It may be his maternal grand-father's family has been living in Ganjam for a long time and owns properties, but this is of no conclusion. In Form B the Tahsildar says that the applicant's father was a retired Government servant of Orissa. The Province was formed in April 1936 and it cannot be said that he is a retired Government official of this Province. Residence in the family of the maternal uncle ought not to have been held sufficient for the grant of the certificate. In Form B there is no note of the Tahsildar that the applicant has the intention to reside permanently in this Province. Even the applicant himself does not say that he has any such intention. In the application he says that his family people own properties in this district. If by family he means maternal uncle or grand-father's family that ought not to help him. In Form A he states that neither he nor his father owns any properties. It is strange that under such circumstances the certificate was granted.

75. *Ganjam—No. 25/1937*—The applicant owns no properties in the Province. He states that he has no vested interest in the Province of Orissa. There is simply the fact that he resides at present at Chatrapur. He says that he has an intention to serve the Orissa Government, but not to settle permanently in Orissa. This is wonderful how the certificate was granted.

76. *Ganjam—No. 34/1937*—The certificate was granted on the ground that the applicant's family migrated to this Province before its formation and severed all connections with the Province of origin. There is no statement from the applicant himself that he has any such intention to live here permanently. His father was a native of the Vizag. district, i.e., outside the Province. There was no enquiry by the Tahsildar. There is only a certificate from the Tahsildar that the applicant is a native of Aska. Thus there has been no enquiry whatsoever, not to speak of any full and searching enquiry as contemplated under the rules.

77. *Ganjam—No. 167-1937*—The applicant is a woman. She belongs to Malabar district. She came to Berhampur only about 1927. She owns no residence in the Province. In 1937, she underwent training as lady vaccinator. Her mere intention to reside permanently in Orissa is not sufficient. Until beginning of 1937 she was working as domestic servant.

78. *Ganjam—No. 214/1937*—The applicant's father was born in Vizag. district and lives in Parbatipuram in Madras. The petitioner was born near Huma where his father was manager of the Palur Estate, but was educated outside Orissa. He has no property in the Province. Because he happens to be the brother-in-law of a Commissioner of the Berhampur Municipality, the Tahsildar recommended for a certificate and depended on the applicant's assurance of genuine intention to reside permanently in Orissa. No enquiry was made whether the petitioner really has not got any property outside the Province. The above Commissioner of the Berhampur Municipality styled himself as a pucca native of the Province and certified that he has given his consent to the petitioner to stay in Orissa for good. On this meagre assurance the certificate has been granted.

GANJAM
1940

No. 3/40—SRI R. RANGANATH RAO—From form A it appears that his father was born at Vizag district and the applicant was born in Madras and was educated at Khallikote, Waltair and Guntur. The purpose for which the certificate was required is to prosecute further studies and if possible to seek service. In face of this the application was sent as usual to the Tahsildar for enquiry. From the evidence tendered by the applicant's father it appears that their family came to Ganjam to serve under the Khallikote Estate. His father was in the Estate service for 30 years and on his retirement he was appointed. He has got only $7\frac{1}{2}$ acres of land in Ganjam. In his evidence he says, "I have given up my idea of going back out of Orissa". The Tahsildar reports, "The applicant has a genuine intention of residing in the province if he gets an employment in the province. The applicant's grand-father and father are serving in the Khallikote Estate. His grand-father acquired some lands in Khallikote Estate and has no other attachment in Orissa". During the last 40 years that the family was residing in the Ganjam district they have not built any residential house.

No. 14/40—MR. G. V. SURYANARAYAN MURTI—Applicant's father Mr. G. V. Sitaramaya was born in Vizag district. He has been serving as a teacher in the Khallikote College at Berhampur since 1907. He has not acquired any interest of a permanent nature in this province during his long stay. The applicant's elder brother who was a clerk in the Sub-Registrar's office has chosen to revert to Madras province. The Tahsildar in his first report stated that except for the purpose of getting employment, the applicant has no interest in this province and recommended its rejection. The enquiring Tahsildar further reports that beyond filing a few certificates the applicant has not been able to produce any evidence to establish his domicile in this district. The Collector did not agree and ordered for further enquiries. In his second report, the Tahsildar says that the statement given by a retired Tahsildar who was brought by the applicant's father to depose for his son, it is obvious that the family has permanent connections with the province of origin. The Tahsildar concludes his report by saying that so long as the father continues to serve as a teacher, the applicant may probably state that his father has no other common local interest in this province. The applicant's father simply stated in his statement that he intends to settle down at Berhampur after his retirement. The Tahsildar in his report, dated the 27th August 1940, says that there is no other course of verifying the statement of the applicant's father that he intends to settle down in Ganjam district after retirement. One of the members of the undivided family has chosen to revert to Madras. This points to his connection with the province of origin. However in face of these enquires and reports the Collector Mr. Arunachallam thought fit to grant him a certificate of domicile stating that the father has been serving as a teacher in the Khallikote College since 1927 and he intends to settle down in Ganjam after his retirement. He has no interest in the Madras Presidency, said the Collector. But from the record it is not clear whether any enquiry was made at Vizag about this family. Rule 4 has not been strictly observed.

No. 78/40—MR. S. JAGARAO—A certificate of domicile was granted simply on the testimony of the applicant's father. No independent evidence was produced before the enquiring officer. The applicant has no property whatsoever in the province of Orissa.

No. 83/40—MR. VENKAT RAO—The applicant does not file his application in proper form prescribed by the rules. But he simply submits a petition praying for a certificate of domicile. In the petition it is stated that he submitted an application for a certificate in the year 1938 and a certificate has not been granted till then. The applicant attached some certificates along with his application and the certificate was granted on the ground that he has been residing in Berhampur for the last 30 years. It may be noted that according to the certificate of the Secretary of the Berhampur Chamber of Commerce, the family are the hotel-keepers in Berhampur.

No. 85/40—MR. B. SATYANARAYAN—This applicant is the brother of Mr. V. Rao of case No. 83/40 above. The Collector granted a certificate to this applicant also on the ground that he is residing at Berhampur for the last 35 years.

No. 90/40—MR. M. K. NARAYAN RAO—In form A the applicant says that they have no property outside the province. They have acquired a house at Berhampur through a will. From the statement of his father, it is seen that the grand-father of the applicant came to Berhampur to serve as the head clerk of the district Munsif's Court at Berhampur. Though the applicant says that except a house which they acquired through will, they have no other property. The applicant's father in his letter, dated the 17th July 1940, to the Tahsildar says that the house was purchased by his father in 1890 and his family have got some Inam lands. This discrepancy has not been cleared up. The Tahsildar in his report says that the father of the applicant has expressed his willingness to serve in this province. The family has been living in this province for a pretty long time and the intention of the applicant to reside in the province should be considered as genuine.

No. 106/40—MR. V. S. RAMARAO—The applicant's father's birth place is in the district of Vizagapatam. The applicant's place of birth was at Chicacol and was educated at Chicacol and Vizagapatam. They have no property in Orissa. The purpose for which certificate is required is to seek appointment in the Orissa province. In the remarks column in form A the applicant says as follows: "My father and mother died in 1942. Since then myself and my family have been residing in Berhampur with my father-in-law". The applicant has produced two witnesses one of whom is a retired Revenue Subordinate. He says as follows: "I have been living at Berhampur for the last two years. I am living in a rented building in Bobula street. I know the father of the applicant. He was a permanent resident of Chicacol. He (applicant) has no permanent interest in this province. The applicant left Vizagapatam College in 1934 and has been living here since then with his father-in-law". The other witness says that the applicant has been here at Berhampur for the last six years living with his father-in-law. Tahsildar says that except the facts as stated above, the applicant has no claim for a domicile certificate. However, the Collector granted one.

No. 111/40—MR. P. AMAJI RAO—The applicant in his statement before the enquiring Tahsildar says as follows : “ My grand-father originally came here from Muslipatam in the West Godavari district, Madras * * *. My father has also 50 acres landed property at village Jagalibanta in Madras Presidency at a distance of 3 miles from Parlakimedi. I have not cut off all connections with Madras. Besides property I have got my relatives there. I have a genuine intention of residing in this province”. At Parlakimedi the applicant has a house and no other property in Orissa.

No. 115/40—MR. B. R. RANGARAO—The applicant's father came to serve as the private Secretary to the Raja Saheb of Chikiti. They have a small thatched house at Chikiti. The Tahsildar reports that the applicant was given fresh notice to produce more evidence that his father severed his connection with Kurmun his native place. He neither turned up nor adduced any further evidence. The purpose of the application also is very vague.

No. 119/40—MR. G. S. P. RAO—In form A the applicant states that his father lives at Sompetta. The family has inherited property in Madras from ancestors. He further states that he has a house in the province. But he does not file any municipal receipt to prove this fact. His uncle Sri G. D. Rao, Principal of the Khallikote College, Berhampur, has been cited as a witness by the applicant. The witness says as follows : “ Mr. G. S. Prasad Rao is my nephew. He is living with me for the last two-half years. * * * I think his father will finally settle down here after his retirement”. The certificate was granted simply on the ground that the applicant's uncle, the Principal of the Khallikote College, has already been considered a domicile of this province.

No. 135/40—MR. GOPAL RAO—In form A the applicant states as follows : “ Father's birth place not known. The applicant was born at Jaganadhpuram in Vizagpatam district. They have no property anywhere”. In his statement before the inquiring officer he says that his father came to Parlakimedi to work as a Purohit of the Taluq Brahmins at Parlakimedi. After his father's death he was brought up by his cousin brother who was a clerk in the Parlakimedi estate office. At present he has no property in Orissa province. He has got no property anywhere else. He married in Vizag district. He is now working as a teacher in the Maharaja's College in Parlakimedi. He intends to reside permanently in the Orissa province. He has cited only one witness in support of his claim. The witness is one who has all his lands in the Madras province except a house at Parlakimedi. He corroborates these facts. The enquiring Tahsildar in his report says that he found no strong ground for recommending a certificate. The certificate was however granted.

No. 138/40—MR. KURMAPU SAHANTALA—In this case the applicant does not file form A prescribed by the rule. No enquiry has been made. Certificate of domicile was granted by the Collector simply on the strength of a certificate of Rai Sahib Paidi Ghantan Sitaram Swami, Ex-Chairman, Parlakimedi Municipality.

1941

No. 36/41—MR. A SUBRAMANESWAR RAO—Father's birth place is East Godavari. Applicant's birth place is Rajmahendri. They have no property whatsoever in the province. Certificate was granted simply because the Tahsildar recommended on the ground that the applicant has been working in the Land Mortgage Bank in Berhampur. His intention of permanently residing in the province has to be inferred from these two facts.

No. 56/41—MR. J. SUBARAO—The applicant's birth place is Choudavaram, Madras and father's birth place is Vizag district. Father still lives at Choudavaram. No property in the province. The certificate was granted simply because the applicant is the son-in-law of Mr. B. Rama Murti Pantulu, the Hujuru Treasurer of the Ganjam Collectorate. It has not even been enquired whether Mr. B. Rama Murti Pantulu acquired any property in the province besides holding appointment in the province. It is not also enquired whether the applicant's father who still lives at Choudavaram has got any property there and whether the petitioner will succeed to those properties.

No. 58/41—MR. K. JAGANATH—Both the applicant and his father were born in Madras Presidency. The applicant has no property in the province. The enquiring officer remarks that as the applicant has practically no interest in this district and has recently migrated to Ganjam, he cannot be considered domiciled of this province. In spite of this remark, a domicile certificate has been granted on the ground that he is serving as a warder in the district Jail and he has a bona fide intention of permanently residing in Orissa.

No. 63/41—MR. N. CHINA PANTULU—Both the petitioner and his father were born in Madras Presidency. The enquiring officer reports in B form that the applicant's father and his family live in the Madras Presidency. He has recently come to Berhampur as he is putting up with his father-in-law. He cannot be regarded as domicile of this province. He has no property whatsoever in the province. However the papers were returned to the enquiring officer again to reply to some queries of the Collector and the Tahsildar replied. In spite of his remarks, the certificate was granted because his father-in-law is residing in Berhampur for the last 30 years. It is not enquired whether the applicant's father-in-law has got any property in the province.

No. 93/41—MR. K. O. KRISHNA RAO—The applicant and his father belong to Chicacole. The applicant says they have no property in or outside the province. The applicant is a student of the Law College at Cuttack. He says that he had been living with his maternal uncle at Berhampur for the last 20 years and he has been financing him for his studies. The enquiring officer recommended for a certificate simply because he came down to Berhampur to his maternal uncle for his studies. No enquiry has been made at Chicacole as to whether the applicant has got any permanent interest there.

No. 120/41—MR. T. VENKAT RAMANA—The applicant does not file the form A and the report of the enquiring Tahsildar is not forthcoming. The applicant files a written petition pressing his claims for a domicile certificate. From the office notes it appears that the applicant has some ancestral

property outside Orissa and also a house that they had at Berhampur had been sold away to perform the marriage of his sister. The Collector granted him a certificate.

No. 141/41—MR. P. KRISHNA MURTI—Father's birth place is Vizag district and he is now residing at Kosomala outside the province, though it is at a distance of 5 miles from Parlakimedi. The applicant was born there. The purpose for which domicile certificate is required is in the words of the applicant, "Dewan Saheb of Parlakimedi wants me domiciled certificate being I am appointed as a teacher in the Maharaja's Collegiate School, Parlakimedi" Under rules no certificate is required for a purpose like this. The Tahsildar in form B reports that the applicant is born in Madras Province and has his house and other properties there. He has not severed connections with the province of origin. His recommendation was that as he has no interest in Orissa, his claim for a domicile certificate is not bona fide. In face of these, the Collector granted a certificate.

No. 177/41—MR. R. S. CHAKRAVARTI IYANGAR—It appears from form A that the applicant's father's birth place is Trichanapali, Madras Presidency. The applicant's birth place is Madras and place of education, Madras. The applicant has properties in both the provinces, Madras and Orissa. The purpose for the certificate of domicile is for 'production to the Khallikote College Managing Committee'. Along with the application form the petitioner files a petition to the Collector. The applicant is a lecturer in history in the Khallikote College. He owns a share in the joint family properties of 18 acres and odd which the family possesses in Tichi district and has got 3 brothers one of whom is unemployed and the other two being clerks in the Government service in Madras. In the year 1939 the applicant was appointed as a lecturer of history and was confirmed on 10th July 1940 in the local college and now he requires a certificate of domicile because the management insists for the production of a domicile certificate for his continuance in the post. Meanwhile that is on 17th December 1941 the applicant has purchased a vacant site for Rs. 200 and files a petition for a certificate on the 19th December 1941. The Tahsildar recommends as follows: "From the evidence adduced it is clear that the applicant holds a permanent appointment. But from that it cannot be inferred that he would permanently settle down in this province, but he is not likely to revert to the province of origin in the near future. The certificate applied for is recommended." From the petition it appears that he was holding an appointment in Madras when he accepted this permanent job in Berhampur.

No. 179/41—MR. JAYARAM SIBAJI—From form A it appears that the applicant's father was born at Cutch. The applicant himself was born at Chakradharpur and was educated in Cutch. With regard to properties he is silent. In the province he has got a house at Russelkonda. The purpose for certificate contract works in Public Works Department. He files a petition along with the application in which he says, "I was working in these parts as a Public Works Department local fund and forest contractor since ten years and the question of domicility has never arisen and now the Executive Engineer requires a certificate for appointment. I request you to grant one. In his statement before the enquiring officer, the applicant says as follows: "My forefathers are residents of Cutch district.

I was born in Bihar". A certificate was granted on the ground that he purchased a house at Russelkonda in 1932 and has been working as a contractor for the last 10 years and also has genuine intention of permanently residing in Orissa.

1942

No. 21/42—MRS. V. A. MANGAMMA—It is sufficient to quote here the report of the enquiring officer. "The applicant is a widow living with her father in Berhampur town. She has not gone to her husband's place. The interests she has in Madras could not be ascertained. The evidence adduced show that she was born at Berhampur and also educated at Berhampur. The evidence adduced is not sufficient to say that she has a genuine intention of staying in the province". One of the witnesses says as follows : "***She is now a widow, she married ten years back. I know nothing about the whereabouts of the husband of the applicant.*** I do not know about the properties owned by the applicant's husband in Chicacole." The Collector, Mr. N. S. Arunachalam granted a certificate however on the ground that the father of the applicant is a bona fide resident of Berhampur and though married she became a widow while young and before she could go to her husband. She has no connection with the husband's family and gets no maintenance. It may be noted that there is no evidence on record to corroborate these facts.

No. 25/42—MR. VENKAT RAO—The applicant was born in Narasapur Taluq, West Godavari district in Madras and educated at Vizagapatam and Chinavaram of Madras province. He does not possess any house or property anywhere as he says. He has been serving as a lecturer in the Maharaja's College, Parlakimedi, for the last five years. He has selected a site within the limits of the Parlakimedi Municipality for the construction of a house recently. It is not clear whether enquiries have been made in the West Godavari district as to establish his claim that he has severed all connections with the province of origin or that he has no property there. In face of these facts, the District Magistrate, Mr. N. S. Arunachalam granted one certificate stating these very facts in the certificate itself as the grounds of granting the certificate.

No. 29/42—MISS ELIS BENJAMIN—She is the daughter of Mr. V. Benjamin who is working as pastor of Telgue Baptist Mission church. The family came to Berhampur some ten years back. The applicant's father has no property or house in this district or elsewhere as the applicant says. The Collector granted a certificate on the sole ground that she has a genuine intention of residing here permanently and that her sister was also granted the same in the year 1941.

No. 46/42—MR. B. NARASIMHAM—Father born at Palakonda in Vizag district. Applicant has cited two witnesses. One of the witnesses who is a chemist and druggist says as follows : "The father of the applicant is the proprietor of a meals hotel in Berhampur. The hotel was started ten to fifteen years back. The father of the applicant was a cook prior to that. *** He has been living in my street for the last ten years in a rented house. *** I have no knowledge of the family history of the applicant. I have no idea of any relatives of the applicant (in the province of Madras). In face of this evidence produced by the applicant, the Collector granted one certificate on the ground that this family had settled at Berhampur. It

may be noted here that the report of the enquiring officer in form B is not forthcoming in the record. No enquiry has been made it seems at Palkonda. Of course another main ground for granting a certificate that the applicant has a genuine intention of permanently residing in Orissa.

No. 48/42—MR. JAGANADHA SWAMI—The applicant's father was born at Sompetta outside the province of Orissa and he is now residing at Vizianagram. The applicant says that he was born at Chatrapur but he does not file the birth certificate of the Municipality to prove this fact. He says that he has no property anywhere. In his own statement before the enquiring Tahsildar he says that he was working as a type instructor in Maharaja's College, Parlakimedi, where he settled since one and half years. He says further that he has got close relatives and family members in the old Ganjam district (Orissa Province). But he has not given particulars and names of those families. The enquiring Tahsildar in his report says that the applicant has no properties in Orissa. He came to Parlakimedi as a teacher in the college. He has no claim to be domiciled in Orissa. However the Collector was pleased to grant him a certificate stating this very facts in the certificate itself and adding that he has a genuine intention of permanently living in Orissa.

No. 50/42—MR. VENKAT RAMAN—The records of the evidence in this case are not forthcoming. The Tahsildar writes in his report, "The applicant was asked to adduce further evidence, but they have so far adduced none. The evidence adduced so far is very meagre and not satisfactory to recommend the case. Apparently the applicant is not in need of domicile certificate. However the Collector was pleased to grant one.

No. 59/42—MR. P. TIRUMALACHI—The applicant's father's birth place is at Vizag district. The applicant was born in Berhampur and was educated at Berhampur. They have no property anywhere. The history of the family has been very clearly stated by the statement of one of the witnesses produced by the applicant. The witness, a landholder of Berhampur says as follows : "The father of the applicant came to this town ten years back. The family is living in a house given to them by the trustee of the temple. They are 'Archaks' of Satyanarayan temple. Mr. Krishna Murti Naidu brought them to the place to work as 'Archaks'. Except this post they have no interest in this district". The other witness says that "I know not whether they have any landed or house property". The enquiring officer in his first report dated the 31st July 1942 did not recommend this case on the ground that there is no evidence to show that they have severed connection with Madras nor they have genuine intention of settling here permanently. But the Collector ordered for further enquiries. The Tahsildar in his second report dated the 7th October 1942 did not change his views, but said in conclusion that the applicant and his family may reside permanently having settled here for the last ten years in case he gets employment, otherwise he has no special interest to stick to this province. The Collector disagreed and a certificate of domicile was granted on the ground that the family has settled down here. They have no property anywhere and the applicant has got his education and has got a genuine intention of residing here permanently.

No. 61/42—MR. P. PRAKASH RAO—One of his witnesses, Mr. Apparao, Municipal Councillor, states as follows : "He was a native of Chicacole,

Vizag district. He came to this town about fifteen years back to prosecute his studies on public charity. He lived with G. Narayan, teacher, City High School, during the period he studied here. He has his brother in this town who is working as a Purohit. He has no house or property. Mr. Narayan is his distant maternal uncle. The urban bank gave a scholarship from the common good fund. I cannot say where the place of his parent and maternal uncle is now. *** I do not know anything about his family history ". Mr. G. Narayan with whom the applicant was living also has given evidence, as follows : " I came to this town in the year 1931.*** From 1931 Mr. P. Rao lived in my house and prosecuted his study from public charities.*** He intends to stay in Orissa permanently and serve in Orissa ". He also filed a petition to the Collector along with his application form with some certificates from his tutors. The enquiring Tahsildar obviously did not recommend this case stating that the applicant has no interest in the province and stayed here for education with relation and was educated with public charities. But the Collector thought otherwise and granted a certificate on the ground that the applicant happens to be the nephew of Mr. G. Narayan, the teacher in the City High School and on other grounds, the main being that he has a genuine intention of permanently residing in Orissa.

No. 80/42—MR. K. S. RAMAMOCHAN RAO—Father's birth place is Vizag district. He is now residing at Chicacole. Applicant's birth place is at Chicacole. No property anywhere as he says in the form A. He states that he was educated in the municipal high school, Chicacole. The applicant himself in his statement before the enquiring officer says as follows : " I worked as record sorter in the Executive Engineer's Office, Berhampur, for twenty days. As I could not produce a domicile certificate, I was ousted. I have no documentary evidence to support this. I have not been given my pay and unless I produce a certificate of domicile no pay will be given to me. ***My father is a retired Municipal Commissioner at Chicacole. He has got no landed property there. He has settled at Chicacole. Neither myself nor my father has got any property in Orissa. None of my family members has obtained certificates of domicile as yet. My grand-father worked in the Chinakimedi Estate. My father never worked in Orissa ". The enquiring officer in his note says that the applicant has absolutely no property in Orissa. According to his own statement his father has been residing at Chicacole and has settled there. The applicant has got his brother-in-law and maternal uncle at Berhampur. But that does not prove that he has genuine intention to reside permanently in the province. But the Collector granted a certificate saying that the applicant's grand-father was born and served in the Ganjam district and the applicant had his early education at Berhampur and Parlakimedi. ***He intends to stay in the province. He has already served in the Government service of the district. But it may be noted that excepting the statement of the applicant himself, there is nothing to prove that his grand-father was born here in Orissa. His grant father was in private service. The applicant does not say in his application form that he was educated at Berhampur or Parlakimedi and served in the Engineer's office for twenty days and was ousted for want of a domicile certificate.

APPENDIX V

Resolution No. 4739-A.(C.), dated the 17th March 1943, by the Government of Orissa, Home Department

The rules regarding the granting of domicile certificates to persons claiming domicile in Orissa for securing appointments under the Provincial Government or for admission of their children into the educational institutions in this Province were issued in November 1936. Since then six years have elapsed, and the question as to whether these rules have worked satisfactorily during these years or whether they require any revision in the light of the experience gained during this period has recently engaged the attention of Government. Accordingly with a view to examine this question the Provincial Government has been pleased to set up a committee and has appointed the following gentlemen as its members with the Hon'ble Pandit Godavaris Misra, Minister of the Finance, Education and Development Departments, as its Chairman and the Under-Secretary to the Government of Orissa, Home Department, as Secretary to the Committee :—

(1) The Hon'ble Pandit Godavaris Misra, Minister of Finance, Education and Development Departments—*Chairman*.

(2) Sri Jagabandhu Singh, M.L.A., Puri

(3) Sri Brajasundar Das, M.L.A., Cuttack

(4) Sri V. K. V. Raju, M.L.A., Ganjam

(5) Sri Charu Chandra Ray, M.L.A., Balasore

(6) Sri Ranglal Modi, M.L.A., Cuttack

(7) Dewan Bahadur Srikrushna Mahapatra, Retired Superintendent of Police.

(8) Sri Rabindra Kumar Das, Cuttack

(9) Sri Madhusudan Mahanti, Editor, *Observer*, Cuttack

} *Members*

2. The terms of reference to the Committee are as follows :—

(a) The Committee will examine whether the existing system of requiring certificates of domicile from persons who are not genuine Oriyas, has operated satisfactorily. If it has not, the Committee will make its recommendation for a system which will work more satisfactorily.

(b) The Committee will examine whether the existing system has regulated, or if it has not, whether any system recommended by the Committee will secure in a reasonable measure the control of the economic potentialities of the Province by the genuine residents and persons domiciled within the Province. If necessary, the Committee will devise ways and means to ensure that the avenues of employment in various spheres of the economic life of the Province will be open, as far as possible, only to the children of the soil and bona fide domiciled persons. The circumstances in which outsiders may play their part in the economic life of the Province to its best advantage may, if possible, be specified.

(c) The Committee will lay down the criterion for determining as to who may be considered a person domiciled in this Province.

3. The headquarters of the Committee will be at Cuttack.

Order—Ordered that the Resolution be published in the *Orissa Gazette* for general information and a copy thereof be forwarded to all Departments of Government, all Heads of Departments, all District Officers, the Secretary to the Governor and the Comptroller, Orissa, for information.

APPENDIX VI

Domicile Committee Questionnaire

1. Do you think that the existing system of the grant of domicile certificates has worked satisfactorily? If not, will you please say what its defects are? Please give facts and figures, if any, in support of your arguments.

2. What in your opinion should be the essential conditions which a person must satisfy in order to be able to obtain a certificate of domicile?

3. Should residence be an essential condition?

4. Should possession of a homestead be an indispensable accompaniment of residence?

5. The possession of a permanent residence and its occupation for a definite period may, together with other circumstances, lead to the inference that the candidate has a real intention to make this Province his home and not to revert to his place of origin. Do you agree? In such a case what should, in your opinion, be the period of permanent residence in this Province?

6. Take the case of a candidate who belongs to a family that has resided in this Province for a long period of time but owns no homestead. What should be the minimum period of residence of such a family to entitle its members to get a domicile certificate?

7. Do you think that knowledge of Oriya should be one of the essential qualifications for a person to enable him to get domicile? If so, do you think any standard of knowledge of Oriya language should be fixed in this respect? If so, please suggest the standard. In that case should the applicant be required to obtain certificate showing his efficiency in the language before he applies? Who will issue such a certificate?

8. Do you agree that a person who has migrated to this Province from another and has obtained a certificate of domicile should be required to renounce his former domicile? If so, is it necessary to convey this to his former province or State?

9. The Government of North-West Frontier have laid down that in determining "Who is a genuine resident of the Province" the acquisition by inheritance or otherwise of immoveable property in the Province on such a scale as to show the intention to make the Province his home is a safe criterion. Are you prepared to accept this as a safe test? If a person acquires property on a large scale, say by purchase, is that sufficient for conferring on him a domicile status? Coupled with this, should there not be the fact of residence for a particular period?

10. Should a certificate of domicile be treated as a hereditary privilege?

11. Where a person was born at a time when his father possessed domicile in this Province but lost his father during his infancy or minority, is it not necessary in his case to satisfy the further condition that he himself should have lived permanently in this Province for a definite period, say twelve years, before the date of application for a domicile certificate?

12. Suppose a man has permanent residence in Orissa and has ceased to have any interest whatsoever in the Province from which he comes and has assimilated the Oriya language—can he not be called a native of the Province? Do you think in a case like this the name domicile is a misnomer?

12A. Do you think that a person must first establish that he has cut off all connections with his original province or State before he can get a domicile certificate? Should this principle apply in case of a person who has remained here for a long period of say more than twenty years?

13. Was the paucity of Oriyas in Government service one of the reasons for the agitation for the formation of a separate Province? Is there now a feeling that the aspirations and hopes of the Oriyas in this respect have not been fulfilled?

14. It is said that since the creation of the Province several non-Oriyas obtained domicile certificates and were thus able to secure a number of posts in Government service in this Province, specially in the districts of Ganjam and Koraput. Has this led to any discontent in the minds of Oriyas of these districts?

15. Do you think in matters of appointment first preference should always be given to children of the soil provided they possess the requisite qualification and the second preference only should be given to domiciled persons?

16. Do you think Oriyas with the minimum qualification for a post should be preferred to a domiciled person with better qualifications?

17. Do you think the principles of questions 15 and 16 should be followed in case of posts under the Provincial Government only or also in case of those under the local bodies, semi-Government or Government-aided institutions as well? If so, do you agree that it would be advisable to exempt the Government-aided educational institutions of domiciled communities from the operation of these principles?

18. Do you think that there should be no such distinction between natives and domiciled persons?

19. Do you think it necessary to insist that before a domiciled person is appointed to any post under the Government or local bodies, he must possess sufficient knowledge of the Oriya language?

20. If so, should any standard of the same be fixed? Will you please suggest the standard you consider necessary?

21. Where in filling up any post in Provincial Service an Oriya or a non-Oriya with domiciled status is not available, and there arises a necessity to appoint a non-Oriya from outside without qualifications for a domiciled status, do you think that such a person should invariably be appointed on contract basis to be replaced when a member of the former classes can be available?

22. Do you think that the Oriyas have got their proper share of the jobs under the Railways operating in the Province, specially the Bengal-Nagpur Railway? Do you think the principles restricting employment in the Province to the Oriyas or persons domiciled in Orissa should be followed in this case as well?

23. Do you think the same principles should apply to the posts under the auspices of the Departments of Central Government in this Province, e.g., Central Excise and Salt, Posts and Telegraphs, Income-tax, etc.?

24. Do you think that Oriyas are properly represented in the economic life of the Province such as Banks operating in Orissa, particularly the Imperial Bank, Joint-stock Companies and Factories established or having interests in the Province, Insurance Companies operating in Orissa, etc. ? Will you please support your statements by facts and figures ?

25. If not, what ways and means do you recommend for ensuring that the avenues of employments in the various spheres of economic life of the Province will be open as far as possible to the children of the soil and bona fide domiciled persons ?

26. Do you think that the Oriyas and persons domiciled in Orissa have secured in a reasonable measure the control of economic potentialities of the Province such as (1) Zamindaris, (2) Export and import trade in Orissa, (3) Exploitation of lands, forests, mines, etc., (4) Industries in general and particularly sugar, salt, paper, transports, electricity, glass, etc., (5) Retail business in piece goods, (6) Contract business under Government and local bodies, (7) Banking, (8) Hide and Milling industries ?

27. If not, will you please give any facts and figures in support of your statements ? What in your opinion are the causes for the same ? How far do you think that the existing rules regarding the grant of domicile certificates have affected the position ?

28. What do you recommend to achieve the object of securing the control of the economic potentialities of the Province as referred to in question 26 above by the people of the Province ?

29. Do you favour the extension of the restrictions embodied in the rules of domicile certificates to other spheres of activity, e.g., industries, factories, contracts, etc., which bear on the question of economic development of the Province ?

30. Do you agree that the persons having estates in the Province should employ Oriyas or domiciled persons only to look after the management of their estates ?

31. Who should be the authority to grant domicile certificates ? At present the District Officer is empowered to do so. Are you in favour of the present system continuing ?

32. If you think that the District Officer should not be the said authority, whom do you consider to be the proper authority ?

33. If the District Officer be the authority in this respect, should he be authorised to delegate the work to a Revenue Divisional Officer or a Sub-divisional Officer ?

34. Will it be advisable to confer on the head of the department or the appointing authority the power to grant domicile certificate in case of candidates for inferior posts ?

35. Full and detailed enquiry into applications for a domicile certificate being considered necessary, do you think that leading non-officials of the locality to which the candidate belongs, not less than two in number, should be co-opted to hold the enquiry ?

36. Is it necessary to give a notice, say of three months, of such applications in a public manner so that any person may oppose the application on reasonable grounds ?

37. Do you think that a domicile certificate once granted may be rescinded later on if it is found that it was not granted in a deserving case ?

38. If so, who should be empowered to rescind such a certificate ? Should the authority who granted it be empowered to do so ?

39. Do you think there is necessity for an authority to review the cases of grant of domicile certificates? If so, who should be so empowered ? In Assam it is the Provincial Government who do so. Will the same thing do here or should an officer like the Revenue Commissioner be authorised to do so ?

40. Do you think that there should be a provision in the rules that any member of the public may apply for the revision of the grant of a domicile certificate ?

41. Should there be an appeal against an order of the District Officer refusing to grant a domicile certificate ? If so, to whom—to the Revenue Commissioner or to the Provincial Government ?

42. Should there be any provision for an appeal against the orders of reviewing authority ?

APPENDIX VII

Proceedings of the Domicile Committee in which conclusions were arrived at

The Domicile Committee met at 1 p.m. in the Conference Hall on the 20th November 1944 with Pandit Godavaris Misra, Member-President, on the chair.

The following were present :—

Members

- (1) Pandit Godavaris Misra, M.L.A.
- (2) Rai Bahadur Bipin Bihari Ray
- (3) Sri Madhusudan Mohanty
- (4) Sri Ganesh Mahapatra
- (5) Sri Jagabandhu Singha, M.L.A.
- (6) Sri V. K. V. Raju, M.L.A.
- (7) Sri A. S. N. Murti
- (8) Sri R. K. Das
- (9) Sri Rangalal Modi, M.L.A.
- (10) Sri Harihara Misra

Sri A. S. N. Murti suggested that it would be better if S. L. Marwood, Esq., C.I.E., I.C.S., Chairman of the Committee, presided.

Pandit G. Misra said that he never wanted to preside over the meeting but he had to do it at the request of Mr. Marwood himself who expressed his inability to attend. It was for that reason that he occupied the chair without waiting for a vote from the members. He added that it was for Mr. Murti to persuade Mr. Marwood if he wanted the latter to preside.

The President then read out a telegram which was received by the Chairman, Domicile Committee, from the Secretary, Ganjam-Koraput Andhra Mandal, which runs as follows :—

“ Chairman, Domicile Committee, Cuttack :

Standing Committee Ganjam Koraput Andhra Mandal, shocked by resolution said passed by majority Domicile Committee published in *New Orissa*. They betray rabid communalism denying right of non-Oriya children of soil to live in Orissa. Andhras of Ganjam and Koraput contributed culture, finances and brains. No rules of domicile should apply to them. Committee prays Excellency take strong attitude declaring all non-Oriyas, Andhras, Marwaries, Bengalees or others settled in Orissa prior to formation Orissa children of soil and domicile rules be made liberal for others. Committee met last evening Doctor P. Satyanarayan presiding and resolved as above. Krishnarao, Secretary, the 18th November 1944. ”

Sri G. Mahapatra wanted to move a resolution regarding certain publication in the *New Orissa* criticising the resolution passed by the majority Oriya members of the Committee. The President observed that Mr. Mahapatra could bring in his resolution after the business on the agenda had been finished, to which Mr. Mahapatra agreed.

Mr. A. S. N. Murti, with permission of the President, moved the following resolution :—

“ In modification of the resolutions passed by the Committee at its meetings from the 1st October 1944 to the 6th October 1944 the following resolutions be substituted. ”

“ The Committee resolves to state that the rules and procedure contained in the Memorandum No. 6243-61-A., dated the 2nd November 1936 be altered, so that the following procedure may be adopted.

“ Every applicant to any post under the Government or for any financial assistance from the Government shall enclose with such forms of applications a Certificate of Nativity, which shall state that the applicant is a native of Orissa on the 1st April 1936, or that he is a naturalised native of Orissa.

“ Every person who has resided in the Province of Orissa on the date of its creation in 1936 shall be entitled to the grant of the Certificate of Nativity on application made to a Magistrate of the 1st class, with affidavit to that effect. And if no certificate is granted within 30 days from the date of its application, it shall be presumed to have been granted.

“ In the case of others, they should be first naturalized in accordance with the provisions similar to section 3, sub-section (1) of Act VII of 1926, and the application for nativity shall be accompanied by the certificate of naturalisation. It shall be competent to His Excellency the Governor to exempt any persons or class of persons from the production of a Certificate of Nativity for any of the purposes for which it is needed. ”

MR. MURTI: Mr. Chairman, I have drafted this resolution in such a way that it may go in the terms of resolution of Government of Orissa which runs as follows, appointing this Committee :—

“ The rules regarding the granting of domicile certificates to persons claiming domicile in Orissa for securing appointments under the Provincial

Government or for admission of their children into the educational institutions in this Province were issued in November 1936. Since then six years have elapsed, and the question as to whether these rules have worked satisfactorily during these years or whether they require any revision in the light of the experience gained during this period has recently engaged the attention of Government. Accordingly with a view to examine this question the Provincial Government has been pleased to set up a Committee.....”

The reason why this Committee has been appointed is to examine certain procedure for appointments in public service and they wanted that the procedure contained in the Memorandum to which I have referred here should be examined. So I suggest that we might put in a procedure for appointments under the Government only. That is the only purpose for which this Committee has been constituted, and the examination of procedure is the only issue that has been placed before the Committee and nothing else. So I say in the terms of reference it must necessarily correlate itself with this resolution which I do not find. There are other issues of an extraneous kind which the Government of Orissa have imported in it. Therefore, the main purpose with which we are concerned is to be within the terms of the resolution of the Government of Orissa, and the principal point of the terms of the resolution is what is the procedure to be followed with reference to particular appointments. There are two procedures here. Formerly the procedure was to recruit Oriyas and others domiciled in the Province of Orissa. Now I want that this procedure should be substituted by a different procedure altogether. Instead of asking for production of domicile certificates we might ask for the production of certificates of nativity; and my reason is this—I consider this Province has been created not for any particular community or for the benefit of any particular class, but it was created on administrative and political grounds for the benefit of the people of this Province.

PRESIDENT: How do you know that?

MR. MURTI: Naturally when a political province is created the inference is that it is created for the benefit of those who live within it. I do not want to say so strongly as people who have been repeatedly saying that this Province has been created for a particular section or for a particular community or for a particular class. It is not for them alone that this Province is created but probably for the welfare of the people who constituted this political unit, and in which I include the question of appointments also. Therefore, there appears to be a fundamental difference between those who have drafted the resolution and the opinions that I hold. I would say that the benefits accruing from the political administration of this Province should be shared and enjoyed by all communities or the sons of the soil of Orissa. The term ‘sons of the soil’ is just the same as the term ‘natives of the Province’. The sons of the soil are those who were here on the date of its creation. *I think, that the procedure of filing an affidavit before a Magistrate of 1st class to the effect that he is a native of Orissa on the date of its creation would be enough. Sir, it might be said that spurious affidavits might come in. But I should say that a large volume of civil and criminal work is done on the basis of affidavits. If*

a person is found guilty the law will take care of him. There is a different class of persons, i.e., those who were not within the Province on the date of its creation. Those persons will file, along with their application, a naturalised certificate, under Act VII of 1936 (the Indian Naturalisation Act). Section 3 (1) of that Act lays down certain criteria for obtaining a naturalised certificate. Supposing a person comes here and fulfils the conditions enunciated in section 3 (1) of the Indian Naturalisation Act, then you cannot prevent him from enjoying the rights of a British Indian subject. My submission therefore is that those who satisfy the conditions similar to section 3 (1) of the Naturalisation Act should be given the benefit of a naturalisation in Orissa. The conditions enunciated in section 3 (1) of the Act are (1) that he resides within the Province for a definite period and the period fixed is five years; (2) that he bears a good character, and (3) he has got knowledge of the principal vernacular language of the Province. If the above three conditions are satisfied then the naturalisation certificate will be granted. That is the law in England. Similar law has been adopted in India also. Therefore my submission to you, Mr. Chairman, is that we might put in similar conditions that are applied to any Spaniards or Russians. The gentlemen who are sitting with me on this side are agreed that we must give preference to natives of Orissa and then we must fix certain standards by which others should acquire the status of natives of Orissa by the process of naturalisation. Therefore, I submit that the 'sons of the soil' here are those who come under these two categories, viz., those who were natives on a particular date, i.e., the date of creation of the Province and those who have obtained naturalisation certificates. Before I resume my seat my submission is that according to the terms of reference other matters have been enquired into and evidence has been recorded and resolutions passed by this Committee. But the resolution of the Government of Orissa does not provide for such matters contained in the terms of reference. I therefore restrict my resolution to appointments under the Crown and financial assistance in accordance with the Government resolution....

At this stage Mr. M. S. Mahanty raised an objection for the use of the word 'extraneous' by the speaker (Mr. Murti), as he felt that the speaker had no right to challenge the terms of reference.

MR. MURTI : I would make myself clear. I submit that the terms of reference are extraneous to the terms of resolution passed by the Government of Orissa and I think I am perfectly correct. You may or may not agree with me. The Government of Orissa have formulated certain resolution in terms of which and for the performance of the obligations in the terms of which they have appointed a certain committee. But the terms of reference which the Government have referred in this para. are extraneous to the resolution.

PRESIDENT : It is not the business of the members of the Committee to attack the terms of reference when once they have accepted to serve on the Committee. Government is not likely to accept a suggestion from a member to the effect that the terms of reference framed by them are not consistent with their resolution.

SRI R. K. DAS : I should draw the attention of Mr. Murti to the proceedings of this Committee, dated the 19th June 1943, in which the same question was raised by my friend Mr. Mohanty and Mr. Ojha, I.C.S., the Secretary of the Committee, said that the Committee had been constituted by a resolution of the Government and had a definite terms of reference on which they should give their opinion only. Therefore I say there is no business to question the terms of reference.

MR. MURTI : Since the President has already given his opinion we need not pursue the matter further.

The main point under consideration is who are the sons of the soil. The ' sons of the soil ' according to me comes under two categories, namely, those who were here on the date of the creation of the Province must be taken as sons of the soil and those who were naturalised are the natives of Orissa in the manner in which I have indicated.

SRI R. K. DAS : Mr. Murti moved a resolution virtually amending our resolution. Now he wants to define " children of the soil ".

PRESIDENT : But he wants probably to explain who are the children of the soil and he thinks that in support of that explanation his amending the resolution of the Committee passed at a previous meeting is necessary. You can hear him and then have your say.

MR. MURTI : I am very much obliged to the Chairman for having interpreted me correctly. The sons of the soil, I repeat it, are those who were on the date of the creation of the Province and also those who were naturalised in accordance with section 3(1) of the Naturalisation Act. If you accept that, we all sail together. If it is not possible to accept, probably, we have got to differ. We go in our own way and you go in your own way. But there should be nothing which would disturb the goodwill, that has been existing between us. Because the responsibility for shouldering the burden of developing this baby Province lies equally on you and me. When I say you and me I say in a representative capacity. I have had the benefit of an extensive touring all over the Province, and my experience is that goodwill exists between all the communities here. We have got wonderful potentialities in the Province. We can make Orissa march forward to take its proper place as one of the leading provinces in this country, and thereby make a definite contribution not only to the Province itself but to the country as a whole. Therefore in the spirit of the appeal that I make, I wish that you would accommodate us and would take the viewpoint placed before you in the spirit of a brotherly feeling. I know you are actuated by a feeling of that kind. But the apprehension is there that the minority communities in this Province are going to be run down by the majority community. If that apprehension takes a visible form, if there be any reason for the basis of such apprehension, then I say that the advancement of this Province is jeopardized and you cannot have our willing co-operation in shouldering the responsibility in a brotherly spirit. So, I appeal to you let us live together as a joint family and go forward to make this Province one of the richest provinces. But if the apprehension referred to above is fostered and there is growing ill-feeling between us, then I do not think it will be for the future well-being of this Province.

Therefore I make this appeal to my brethren who are in majority to take a charitable view of the position you hold in this Province and make this Province a most prosperous one.

PRESIDENT : Before you sit down I will make one more suggestion to clear my doubt. In certain parts of this Province their used to be a practice even before the formation of the Province of Orissa that non-Oriyas were asked to submit certificates of domicile. That was probably introduced in order to minimise influx of people from other provinces into this Province. How would you treat that question now? After the creation of the Province would you like to abolish that certificate ?

MR. MURTI : I think the introduction of Certificate of Nativity will create better relations. I want the substitution.

Sri V. K. V. Raju seconded the resolution introduced by Mr. Murti. He said that before amalgamation those who were interested to form a separate province with the five districts decided to include as natives of the Province the Marwaries, Muslims, Christians and men of other communities. These people would be called Orissans but not Oriyas. The expression Orissans would mean the people who were residing here before the amalgamation, i.e., 1st April 1936. There was no necessity to call for domicile certificates from those people. Government need not insist upon their having immovable property in this Province. It was not possible for the Government officers getting 30, 40 or 50 rupees to acquire immovable properties. Before amalgamation the Ganjam district extended up to Chicacole.

SRI G. MAHAPATRA : On a point of order, Sir, Mr. Raju in his speech now seeks to re-open the matter which was discussed at our meeting held from the 1st to the 7th October and criticise the resolutions passed therein. Mr. Murti in his lengthy speech has referred to the brotherly feeling, cordiality, etc. He has given a definition of the 'sons of the soil' in two ways, (1) those who were residing before the formation of the Province and (2) those who came after the formation under the Naturalisation Act. Should we not adhere to the agenda before us, namely, definition of the children of the soil, or should we re-open the matters already discussed ?

PRESIDENT : It may be reopened, if necessary, in order to arrive at a proper definition of the expression ' children of the soil '.

Mr. Raju expressed his opinion that people who were in the old Ganjam district before amalgamation and are now in Madras and who have their relations and also property in Orissa should also be treated as sons of the soil. He also said that the Marwaris who had been living here for hundreds and hundreds of years and whose sons had been reading in the institutions of this Province should also be treated as sons of the soil.

PRESIDENT : The question is now open to debate. But, gentlemen, before we start the debate, I shall also like Mr. Murti make an appeal to you that all of us should try to arrive at a unanimous decision with regard to the expression ' sons of the soil '. If we can define this expression by unanimity amongst ourselves, I think, the position will be improved. Thus a unanimous report could be written by the Committee to be considered by Government and it will probably also facilitate the acceptance of the report by Government.

MR. MURTI: I feel much obliged for the remarks made by the Chairman.

RAI BAHADUR B. V. RAY: Supposing we say that X is a child of the soil. What follows? Does it mean that he will be absorbed in the larger class called Oriyas or called by a separate name: and another difficulty is that those who would be naturalised afterwards would they also be called children of the soil?

PRESIDENT: Mr. Murti wants to call them by one name, namely, Orissans.

SRI G. MAHAPATRA: We are anxious to know what is the effect of this definition if all those persons who were here before the 1st April 1936 and those who came subsequently afterwards and become naturalised would be called sons of the soil and exempted from producing domicile certificate.

Mr. Murti's proposal is that they should certify that they were natives of the Province and were here before the 1st April 1936 but those who came afterwards will say that they have become naturalised. There will be only one certificate by the person himself. He wants to do away with the domicile certificate.

PRESIDENT: The terms of reference to the Committee are as follows:—

(a) The Committee will examine whether the existing system of requiring certificates of domicile from persons who are not genuine Oriyas, has operated satisfactorily. If it has not, the Committee will make its recommendation for a system which will work more satisfactorily.

(b) The Committee will examine whether the existing system has regulated, or if it has not, whether any system recommended by the Committee will secure in a reasonable measure the control of the economic potentialities of the Province by the genuine residents and persons domiciled within the Province. If necessary, the Committee will devise way and means to ensure that the avenues of employment in various spheres of the economic life of the Province will be open, as far as possible, only to the children of the soil and bona fide domiciled persons. The circumstances in which outsiders may play their part in the economic life of the Province to its best advantage may, if possible, be specified.

(c) The Committee will lay down the criterion for determining as to who may be considered a person domiciled in this Province.

If it has not worked satisfactorily, we have discovered the causes. Can we now come to a conclusion that it can be replaced by a system of introducing Certificates of Nativity, Having discovered the causes for which the system did not work satisfactorily, can we come now to a decision that it will work satisfactorily if the whole system of issuing of domicile certificates is replaced by another system which is issuing Certificate of Nativity? The whole question hinges now upon this. We have found out why the system of domicile certificates did not work satisfactorily, the defects having been enumerated by witnesses who appeared before the Committee and by persons who replied in writing to the questionnaire issued by it. I think that the idea was not to further liberalise the scope but to so tighten it that there would be less abuse. Now in order to avoid an abuse of the system your proposal is to so liberalise it that there will be no scope

for abuse. Suppose a person is constantly falling ill and therefore requires treatment. If you are asked to devise ways and means to prevent it, Mr. Murti's proposal seems to be to kill him is the best possible remedy. What is necessary is really to find out ways and means to make the system of requiring certificates of domicile more satisfactorily operating. If we can do that, we can certainly implement the desire of the Government. I am guided simply by the terms of reference. The terms of reference do not allow us to so construe them as to make it wide enough for substituting the system of nativity certificates in place of domicile certificates. What we can do under the terms of reference is to change the rules regarding the domicile certificates or making new rules, if possible.

MR. MURTI: My submission is you can abolish those rules and substitute the rules requiring Certificate of Nativity.

PRESIDENT: Domicile certificates were accepted by Government as a system free from abuse and it was their purpose that the Committee do examine the details of the working of the system and come to certain conclusions. If that conclusion is that certain defects have been there and that it is on account of those defects that the system has not been working satisfactorily they will do their best to remedy the defects. Your proposal Mr. Murti, now is to introduce a different system altogether. I do not think that that will be in order. What will be in order is something done under these terms of reference. The Committee has so far fixed a period of residence within the Province. You can seek to modify that. Some member have said it should be 50 years and others 30 years and so on. It is open to any members to suggest a shorter period, or even a longer one, if you please.

MR. MURTI: To help you I may suggest that all those people who have been residents of this Province by the 1st April 1936 will be treated as domiciled and in their cases alone domicile certificates will be issued. What I have got in my mind is that all those who were here before the 1st April 1936 they do not require any domicile certificate at all; but for those who happened to come here after the 1st April 1936 the conditions that are governed by section 3(1) of the Naturalisation Act with reference to residence, good character and obligation of knowing the principal vernacular might be put in. Therefore if the resolution has got to be modified in its phraseology it can be brought within the terms of reference, and they must be treated as other members of the population here. But for those who came afterwards the period of residence or other limits that should be imposed must be in accordance with section 3(1) of the Naturalisation Act, i. e., a residence of five years, good character and knowledge of principal vernacular.

MR. M. S. MOHANTY: Are we to take that this has been accepted?

PRESIDENT: I have held that the present system cannot be replaced by an altogether new system of nativity. Then, how far is the Naturalisation Act applicable to questions like this? Certificates of domicile were in force in this Province but nowhere has it been said that the domicile rules were *ultra vires*.

Sri R. K. Das explained that there was no analogy at all between the domicile certificate and naturalisation. He said that the Indian Naturalisation Act confers upon the persons naturalised all the civic rights and privileges and also the right of franchise, whereas a domicile certificate, on the other hand, confers none of these rights.

Mr. Murti explained that what he said was that the Naturalisation Act should not be applied but the conditions required for the grant of any certificate for public employments should be similar to those contained in section 3(1) of the Naturalisation Act.

Mr. H. Misra wanted to know the effect of the proposed modified resolution by Mr. Murti.

Mr. G. Mahapatra enquired whether in the case of all non-Oriya communities who were in the Province by the 1st April 1936 no domicile certificates were necessary. Secondly, those persons who came to this Province subsequent to the 1st April 1936 should satisfy the conditions of five years' residence and knowledge of principal vernacular of the Province in accordance with the Naturalisation Act.

(Mr. Murti was asked to modify his resolution to come exactly under the terms of reference as there was no reference in the terms of reference to Certificates of Nativity or Naturalisation Act.)

Mr. Murti accordingly modified his resolution as below :—

“This Committee states that a person seeking appointment in Government service and a person seeking admission in aided and Government educational institutions, who was resident on the 1st April 1936 need not produce any certificate of domicile but enclose an affidavit to the effect that he was resident on the 1st April 1936.

2. For persons who do not come under the above category, they shall produce a certificate to the effect that they satisfy conditions similar to section 3(1) of the Indian Naturalisation Act, i.e., a resident of five years in Orissa and that he has the knowledge of Oriya. Such persons should be called the sons of the soil.

3. And persons in Orissa for the enjoyment of the economic resources of the Province need not produce any certificate of domicile for any purpose.”

Proposed by A. S. N. Murti

Seconded by V. K. V. Raju

The President then asked the Committee to proceed with the debate on the modified resolution.

Mr. Misra in opposing the resolution said that soon after the creation of the Province of Orissa Government framed certain rules to scrutinise the applications for the issue of domicile certificates. Since demands are sometimes made to produce evidence of domicile as a qualification for appointment, the fact that the applicant has a residence in the Province and that his children have been educated in the schools and colleges in the Province, is by no means conclusive but should be considered along with all the circumstances of the case. Residence merely for the purpose of carrying on a business or trade or for the purpose of the duties of a public

office should not be regarded as establishing a claim of domicile. A mere declaration of the intention to reside was not sufficient. Every gentleman who came to give evidence before this Committee accepted this position. Domicile certificate was not an original thing. When Orissa was with Bihar, at the time of advertisement, Government used to give a condition that the applicant should be a native of Bihar and Orissa or should be domiciled therein. It was clear from this that those who were not natives of Bihar and Orissa but were domiciled therein were also required to apply for the post for the consideration of Government and if the applicant was not a native of the Province then the question of domicile came in.

PRESIDENT: Were the non-Oriyas of Ganjam and Koraput regarded as aliens in those districts while those districts formed part of Madras Province ?

Mr. H. MISRA : Of course in Madras Province there was no question of domicile. But so far as Ganjam and Koraput districts are concerned as the higher authorities were non-Oriyas all the appointments were going to non-Oriyas and they were getting more privilege than the Oriyas.

RAI BAHADUR B. V. RAY : There was no certificate of domicile in Madras—is it correct? I do not know about the domicile certificate.

Mr. Misra said that so far as Ganjam and Koraput districts were concerned there was no question of domicile certificates because all the appointments were going to non-Oriyas since the appointing authorities were non-Oriyas, in spite of the fact that Oriyas were in a minority in those two districts, and as the Oriyas never represented properly that their interests were prejudiced. That agitation gradually resulted in having Orissa as a separate province. The question before the Committee was to determine who were the children of the soil. He pleaded that if Indians were the children of the soil of India, Bengalees, Biharees and Oriyas were the children of soil of Bengal, Bihar and Orissa and after separation only Bengalees were called Bengalees domiciled in Orissa, then Andhras were the children of the soil of the would be Andhra Province. It has to be decided whether Oriyas alone are the children of the soil of Orissa or Oriyas, Bengalees, Marwaris, Andhras, Tamilians, Malayalees, etc., whoever lives here will be called the children of the soil. He expressed doubt whether the domicile system would continue after the report of this Committee reached Government or whether Government would abolish the system. He said that they were here to consider at present who were domiciles and who were children of the soil. According to Murti's resolution, he said, those who were living on the 1st April 1936 should be called children of the soil. If that were so, they were bound to accept even those who were casual visitors to their families in Ganjam, Koraput or Balasore and happened to be there on 1st April 1936 should be called children of the soil. He said that as during a census a man was enumerated at a particular time, so also according to the proposal of Mr. Murti whoever happened to be or lucky enough to be in Orissa on the date of the formation of the new Province would be called a child of the soil. In that case there was no necessity to distinguish a domiciled person from a child of the soil. His point was to discuss at length the barrier of time for obtaining a domicile certificate and the difference between a new comer and a old settler. He said that they

had got evidence in the Committee that although some people had been living in the province for centuries still they did not like themselves to be called Oriyas. If it is taken that Oriyas are children of the soil, then in his view those who do not like to call themselves Oriyas have no right to say that they are children of the soil.

PROFESSOR RAY : That means you want to place old and new under the same category ?

MR. MISRA : What I mean is that those who have been living for centuries, if they do not want to be called Oriyas they cannot claim to be the children of the soil, and we have to see that the children of the soil get better prospects and better status than the domiciles.

THE PRESIDENT : We are discussing the resolution of Mr. Murti, and the question is whether we admit as children of the soil those people who were residents within the boundaries of Orissa.

MR. MISRA : I am coming to that. My point is that the difference between the natives and domiciles has been created long ago having its own meaning that the natives are the children of the soil and the domiciles are not ; otherwise there would not have been the difference that the natives get better prospects, etc., than the domiciles. A domicile cannot be called a native of the province, because we find several difficulties that after such a long period of residence they could not naturalise themselves with the customs and manners of the province. They do not like themselves to be called Oriyas. They want to maintain their originality either Bengalees or Andhras as the case may be. It is quite difficult to understand how the Bengalees and Andhras will be called children of the soil when the province is called Orissa. If they are called children of the soil then the province will be called Bengal-Orissa or Andhra-Orissa, as it was being called Bihar and Orissa, when with Bihar. I would have acceded to my friend's request regarding co-operation and to come to a definite understanding so that we might have submitted an undisputed report to Government if the terms had been reasonable and not prejudicial to the natives of the soil. Here the dispute arises regarding service. They want that the Bengalees and Andhras should get more service so that there will be no difference of opinion. If my friend's contention be so then I shall be the last man to join hands with him. In my opinion the rules regarding the issue of domicile certificates should be strictly observed and those who are above the status of domiciles should be called children of the soil and not all.

SRI MAHAPATRA : According to the resolution of my esteemed friend Mr. Murti sons of the soil are those who were here before the formation of the province and in their case no certificate is necessary, and even those who came here after the formation and remained here for five years, and knew the principal vernacular will also be regarded as sons of the soil. So according to the resolution those sons of the soil of class (1) do not require any certificate and those of class (2) are eligible for certificates. That is the sum and substance of the resolution.

Now, Sir, with regard to the question of certificates not being necessary for people in class (1) and with regard to eligibility for domicile certificates after being residents for five years in the province there is a departure from the resolutions that we passed in this Committee in our discussions

which commenced on the 1st October 1944 and ended on the 7th October 1944. This in many respects nullifies the resolutions that we passed as a result of our discussion. Now if this resolution is given effect to, it will end in this that not only the Andhras or Bengalees but any man whatever be his nationality and other things, who happened to be here on the evening of the 31st March 1936 becomes a son of the soil, and on this analogy any foreigner, be he a German or American or Britisher, will become a son of the soil of Orissa. It seems to me very preposterous. I am simply staggered by his proposal that a man by virtue of his being in this province on the 31st March 1936 *per se* becomes a son of the soil. The province was formed with the Oriya-speaking tracts, and it is well understood that other population, other than Oriyas, be it Andhra or be it Bengalee, they come under domicile population. That has been well understood and that is also the spirit of this reference. Rules were framed before the formation of this Committee for granting domicile certificates. They have been referred to already by my friend Mr. Misra as Mr. Dixon's rules. When one goes through these rules he comes to know that the reality of the basic test is that his intention of making this province his permanent home should be tested by all available means before granting any certificate. Rule 4 of the said rules is clear that residence merely for the purpose of carrying on a business or trade or for the performance of the duties of a public office, should not be regarded as establishing a claim to domicile. If we take this rule as it stands not only will it tend to make so many other members of other families as sons of soil but it will disregard also those that happened to be here on the 31st March 1936, by chance. I would understand genuine residence. Are we not entitled to lay down *animus revertendi*? Residence by itself does not disclose all these things. We wanted to know since how many years the applicant or his ancestors had been living with a permanent residence. We decided that the applicant and all his legal ancestors should have had 50 years permanent residence in order to qualify the applicant for a domicile certificate. It was misquoted in *New Orissa* to mean that the applicant himself should put in 50 years' residence. Our proceedings from 1st October 1944 to 7th October 1944 should not be overlooked. You are well aware, Sir, of the proceedings of the Committee of the 2nd October. On that day a letter from Mr. A. S. N. Murti, addressed to the Chairman suggesting postponement of the proceedings was placed before the Committee. The Committee decided to take orders of the Chairman. The ruling of the Chairman was to proceed with the deliberations and we spent 7 days and our friend Rai Bahadur B. V. Ray altered 50 years to 30 years. The effect of Mr. Murti's resolution will be to give the go-by and nullify those resolutions. He should not be given opportunity to do that. Are we then to discuss the merits? I emphatically oppose the resolution. I want to say that that question cannot be reopened. It is common knowledge that if he differs from the views already expressed it is open to him to give a dissenting report. If we are to scrap all that has been done and discuss anew, there will be no end to that. Already much time has been spent over the deliberations of this Committee and we cannot waste time any longer on that. I therefore oppose the resolution of Mr. Murti since it goes against the spirit of our resolution and nullifies what has already been done.

Regarding sons of soil, I say that sons of soil mean Oriyas. This is a province of Oriya-speaking tracts. It is thereby clear that the expression 'sons of the soil' should mean Oriyas only. All the rest must be considered domiciles only. The reference in the terms of reference "whether the existing system of requiring certificates of domicile from persons who are not genuine Oriyas" should be taken as referring to persons other than Oriyas for whom we have discussed and laid down conditions for the grant of domicile certificates. Sons of soil must be understood synonymous to mean Oriyas alone. All the rest are domiciles. Children of the soil and bona fide domiciled persons should be given a chance in natural potentialities. It is travesty of truth to say that every man who was in the province on the 31st March 1936 is a native of the Province.

Mr. Murti on a point of explanation said that because there were fundamental differences, he had brought forward this resolution to reopen the matter.

SRI RANGALAL MODI—ଓଡ଼ିଶା ପ୍ରଦେଶ ଅଗରୁ କେବେ ନ ଥିଲା । ଓଡ଼ିଶା, ବେଙ୍ଗଲ, ସି. ପି. ବଙ୍ଗର ଓ ମାଡ୍ରାସ ପ୍ରଭିନ୍ନସମ୍ରାଜ୍ୟରେ ଆଂଶିକ ଭାବରେ ପରସ୍ପରୀକୃତ ହେଉଥିଲା । ୧ ଅପ୍ରେଲ ୧୯୩୭ ତାରିଖରେ ଓଡ଼ିଶା ପ୍ରଭିନ୍ନ ଭଳ ହେଲା । ସେତେବେଳେ ଓଡ଼ିଶା ବାଉଣ୍ଡେଣ୍ଟ ଭାବରେ ସେଇ କାଳିମାନେ ବାସ କରୁଥିଲେ ସେମାନେ ସମସ୍ତେ ଓଡ଼ିଶା ପ୍ରଭିନ୍ନର ବାସିନ୍ଦା । ସେମାନଙ୍କ ସକାଶେ ଡୋମିସାଇଲଡ୍ ସାର୍ଟିଫିକେଟ୍ ଦରକାର ନାହିଁ । ତଦପରେ ସେଇ ମାନେ ଆସି ରହିବେ, ସେମାନଙ୍କ ସକାଶେ ସାର୍ଟିଫିକେଟ୍ ବ୍ୟବସ୍ଥା କରାଯିବା ଦରକାର ।

RAI BAHADUR B. V. RAY: I thought there would be a unanimous report at least in view of the appeal made by Mr. Murti to us on matters relating to this question. After hearing the debate I find myself between the devil and the deep sea. It is ultimately a question of choice between the two evils. You remember that I tried to moderate the proposal of my friends at the last meeting but I was not successful. Left to myself, I would probably write out my own individual view. In that case there will be three reports, (1) by majority members, (2) by my friends to my left and (3) by myself. Since there could not be three reports I should try to persuade my friends to my left to come very near my views. Then I think there would be a majority report and a minority report. That cannot be avoided. I would be more inclined to this side than to the other side. Thus in writing out the report I shall try to bring round some of the members to my way of thinking. There is already a set of rules which are applicable to the persons seeking domicile certificates. Those rules will be there, but I shall try to make them not so rigid as some of my friends might be thinking. But any way, I subscribe to the views of my friend, Mr. Murti. You make a difference between the domiciles and natives, but I do not attach much importance to it. In my opinion the two classes, viz., the Oriyas and other should get domicile certificates and there will be no difference.

MR. MAHAPATRA: Does Rai Bahadur Ray subscribe to the view that in the case of persons who were here by 1st April 1936 do not require any domicile certificates?

MR. MURTI: My submission has been that they require no certificate.

MR. M. S. MOHANTY : Mr. President, at the outset we are very thankful to Mr. Murti for the approach he has made to the problem. It has lent us much zeal and perhaps broadened the outlook. But I would like to deal with the subject only in two aspects. The first issue is—are we competent to reopen or discuss such an issue to-day and, if so, to what extent? As I find, I could not but raise a point of order on that issue, and the President has given his ruling that both the resolution and terms of reference should be read together. The mover has clearly confined to the terms of the resolution but not to the terms of reference.

THE PRESIDENT—He has later on modified his resolution. According to it he accepts the position that reference No. 2 is not contrary to the resolution.

MR. MOHANTY : That of course clarifies much of the doubts; but as I find from the terms of reference there are clearly three distinct categories in clause (b)—(i) children of the soil, (ii) bona fide domiciles and (iii) outsiders. What we are asked in clause (a) is “The Committee will examine whether the existing system of requiring certificates of domicile from persons who are not genuine Oriyas has operated satisfactorily”. If I have understood my friend Mr. Murti all right he means that the two classes of people referred to by him should come under the category of genuine Oriyas. But as the President has already ruled, we are only confined to the system. Whosoever is not a genuine Oriya must furnish a domicile certificate. If that reading is correct, my feeling is that anyone who wants to claim to be a genuine Oriya whatever the implications may be, he must first claim to be an Oriya. But his resolution nullifies and negatives the entire terms of reference. “Sons of the soil” and “Genuine Oriyas” are only explanatory terms. They supplement each other. If you accept that position I am definitely of opinion that we are incompetent to deal with the resolution. The fundamental position is that we cannot replace domicile certificate system by affidavit. Those who are not genuine Oriyas have to furnish domicile certificate and how they are to furnish it we shall decide. Then only we can consider, or else we are not competent to do away with any other category under the terms of reference. It is mandatory on us to demand domicile certificates from those who are not genuine Oriyas.

SRI JAGABANDHU SINGH : Reading the context, we find that genuine Oriyas are referred to as children of the soil. In all territorial provinces people speaking the language of the place and known by the name of the province are called children of the soil. People who used to inhabit a certain tract are known as children of the soil and those who came afterwards are called domiciles. But if they forget their identity and style themselves as natives they can be called as children of the soil. This question is very simple and we need not debate so much upon. As has been said by my friend, Mr. Mohanty, the question is concluded by the terms of reference. We cannot reopen it or reagitate it. Nor have we the scope to do so.

SRI R. K. DAS : Mr. President, Mr. Murti claims that he is one of the sons of the soil. From the title of the “Visalandharavani” of Berhampur I find that it claims to represent the “Voice of Andhras at home and abroad”. What does it mean by saying Andhras at home and abroad? Which is their ‘home’?

(PRESIDENT : Mr. Murti is not responsible for that.)

But the paper is the mouthpiece of the Andhras in Orissa. From this I understand, Sir, that Andhras in Orissa have claimed to have two homes—one at Orissa and the other at Andhra Desa which is not possible. No one can have two homes. If the Andhras of Orissa can prove that Orissa is their only home, I shall certainly treat them as children of the soil. What do we mean by home? That is the point. People of different culture or different traditions or different origin cannot form one single home. So the Andhras themselves admit that Orissa is not their home.

(PRESIDENT : I presume they do not want to remain different.)

But by their habits and customs they want to remain different. My point is that they cannot claim to have a home in Orissa unless they merge completely in Orissa. A responsible body like the Standing Committee of the Andhra Provincial Conference had declared in the year 1916 that Ganjam and Jeypore Agency are not Andhra Desa but they are Oriya country. They are Oriya-speaking tracts. This is the note prepared by the Standing Committee of the Andhra Provincial Conference, Guntur, 1916. By advocating the cause of one language, one province and approving the principle of linguistic provinces in India they have said that Orissa includes the Oriya tracts of Ganjam and Vizagapatam Agency of Madras Presidency. By this they have admitted that this part of Madras is the home of Oriyas and not Andhras. Late Sir B. N. Sarma and Diwan Bahadur M. Ramchandra Rao were sent as Andhra representatives to England in 1919 to appear before the Joint Select Committee on India Bill of 1919 with a view to demand Andhra Province. In their written memorandum they said that Ganjam and Jeypore Agency were Oriya-speaking tracts. In other words, those places were the homes of the Oriyas. Sir, I say this on the authority of no less a person than Sri Sri Sri Vikrama Deo Varma, Maharaja of Jeypore. The Maharaja writes in his note that Andhras sent two representatives to appear before the Joint Select Committee to give evidence on the Government of India Bill of 1919. The two representatives, in their written memorandum submitted to the Committee, demanding a separate Andhra Province have carefully excluded the Oriya tracts of Ganjam and also the Agency of Jeypore. (Mr. Murti: Question). I request my honourable friend, Mr. Murti, to refer to the report of the Joint Select Committee 1919 and see the written statements there in print as Appendix V if he likes. So, Sir, those Andhras who are now found in Ganjam and Koraput districts are immigrants, i.e., they have come from Andhra Desa to Utkal Desa. The Hon'ble Mr. H. N. Mehta, a member of the Council of State and also a member of Orissa Boundary Committee, has said in a press statement, "My reason for this is that this part of Madras is really an Oriya country, but as it is so near the Madras Presidency naturally Telugus have migrated into this territory". Again, I refer to a note of the Maharaja of Jeypore who is no doubt a very great champion of the Andhras. He says that the Telugu population of Jeypore are regarded as floating. Then who are the sons of the soil? Either the immigrants from south or those who through God's grace have been born on Orissa soil as Oriyas? He (Mr. Murti) said that this province was formed for political reasons. It is not a fact. Our demand was that

all the Oriya-speaking tracts must be formed into a province. I refer to the report of the Joint Parliamentary Committee where they have said that the province of Orissa would, however, be most homogenous province in the whole of India, both racially and linguistically. This rules out the argument of Murti that the Andhra element and the Marwari elements in Orissa can be taken as sons of the soil along with the Oriyas. Then, Sir, Mr. Murti has said that this province has not been formed only for Oriyas but for all, living in it. I do not agree. I refer to the Royal message of our Emperor His Majesty the King who sent the message to the people of Orissa on the 1st April 1936 through our first Governor, Sir John Hubback. I quote the Royal message, "The long-cherished and natural desire of the Oriya people to be reunited after centuries of dependence upon other administrations is thus fulfilled." The province was created to reunite the Oriya people. Mr. Murti as President of the recent Andhra Conference has demanded that the districts of Ganjam and Koraput are added again to Madras province and Orissa formed a sub-province under Madras. So, Sir, I should say that Mr. Murti wants to break our home and at the same time claims to be a son of our soil. It is entirely inconsistent.

MR. MURTI : On a point of explanation. I said that we would not cease in our efforts until the injustice done to us has been done away with.

MR. DAS : So long as parts of Orissa, i.e., Ganjam and Jeypore formed part of Madras Presidency, the distinction between the Andhras of Ganjam and Andhras of South had no practical importance, but once the Ganjam and Jeypore Agency have formed part and parcel of this province there is certainly a necessity to adopt some device by which we can distinguish a permanent Andhra resident of Orissa from Andhras of Madras. That is how Mr. Murti of Orissa is to be distinguished from Mr. Murti of South. Secondly it will always be a question of fact whether the individual has made Orissa his permanent home and this question must be decided by enquiry. Not only in India but in other countries also enquiries are made when the privileges of inhabitants of a certain province are claimed. He must show by his acts and habits that he has made Orissa his permanent home, and once this is satisfied he must have equal privileges with the children of the soil. I now refer to the last paragraph of Mr. Murti's resolution which is that persons in Orissa for the enjoyment of the economic resources of the province need not produce any certificate of domicile. Sir, we are thankful to the late Ministry for giving us the privilege to debate on the question of exploitation of our resources by non-provincials. I have the least objection if our resources are developed by those who have made Orissa their permanent home. I have no objection if Mr. Murti comes forward and develops the mines of Jeypore. But I shall be the last man to allow Mr. Murti from South to come and develop the resources of Jeypore. According to the Government of India Act, the Government of Orissa is responsible for the solution of the problem of unemployment among Oriyas; it is also responsible for the economic well-being of the Oriyas. Therefore the Government of Orissa have got a responsibility to see that the economic well-being of the Oriyas is safeguarded. I can refer you, Sir, to an important passage in your speech as a distinguished member of the late Ministry.

In your inaugural address before this Committee you said, "For my part to quote the language used by an eminent compatriot, I welcome in our province of Orissa all our fellow countrymen from all parts of India who have a right to come and enjoy the opportunities and carry on their business pursuits so long as these people identify themselves with the progress and prosperity of Orissa and do not regard themselves as mere outsiders who have come here to exploit the resources of Orissa for their own benefit". Here I refer to an important editorial of not an Oriya paper but a paper of all-India reputation, viz., the *A. B. Patrika*. The editorial was on the basis of Indian Nationhood. The editorial reads as follows, "We know there are small commercial communities in India who, like the Jews in Europe, have spread themselves over all the provinces, and are as much at home in Bombay as in Calcutta or Delhi. Cut off as many of them have been from their original home, they have no special attachment to any province and it is only natural that they should prefer to regard themselves as citizens of every province. But a closer examination of their mental outlook brings home the fact that though they are in every province their sympathies are strictly confined to their own community and seldom go beyond. There is reason to suspect that when they condemn provincialism as an unnatural growth or as an obstacle in the way of Indian nationhood, they look more to the commercial interests of their own community than to the welfare of India as a whole."

A great scientist, the late Sir P. C. Ray, says in his book "Life and experiences of a Bengali Chemist" under the chapter "Economic conquest of Bengal by non-Bengalees" that the interest of Bengalees in Bengal must be preserved in trade and commerce. It is simply a question of one's bread and not a question of racialism. If the world's richest country America can have vigorous rules to regulate immigration why should not a poor province like Orissa seek protection from the State just to protect the interests of Oriyas in Orissa? My Hon'ble friend, Mr. Murti, wrote one article in the inauguration number of the *New Orissa* on the 1st April 1936. He says "We must adopt a rational programme. I venture to submit that industries must be controlled by the State". Sir, he very correctly anticipated us. We have now followed him in recommending this suggestion of Mr. Murti to Government. Government should control industries. In the telegram which the Telugu community has sent to the Chairman, they have stated that they are a minority community. When they say that they are a minority community in the sense of minorities as laid down in the Government of India Act and claim protection for their culture and language, I differ from them. By a reading of the Government of India Act it appears that provincials of one province but residing at another cannot claim to be a separate community at all and much less a minority community. I refer to the evidence tendered by the then Secretary of State for India, Sir Samuel Hoare before the Joint Parliamentary Committee. He said as follows, "I mean minorities as we always define them in dealing with Indian affairs, namely the principal religious minorities". I oppose the resolution.

MR. MODI: ମିଶ୍ର ଶ୍ରେଣୀଦେଶ, ମୁଁ କହୁକାର କଥା ହେଉଛି, ଓଡ଼ିଶା ପ୍ରଦେଶ ଅଗରୁ କେବେ ନ ଥିଲା, କ୍ରିଷିଣ ରାଜ୍ୟ ହେବା ତାରିଖରୁ ଓଡ଼ିଶା, ବେଙ୍ଗଲ, କହ୍ନର, ସି. ପି. ଓ ମାଡ୍ରାସମାନଙ୍କରେ ମଣିକର

ଥିଲା, ସେତେବେଳେ ୧୯୩୭ ମସିହାରେ ଓଡ଼ିଶା ପ୍ରଦେଶ ଗଢ଼ାହେଲା ସେ ଭାରତରେ ସେଇମାନେ ଓଡ଼ିଶା ବାଉଣ୍ଡେରୀ ଭିତରେ ଥିଲେ ସେମାନଙ୍କୁ ଓଡ଼ିଆ ବୋଲି ଗ୍ରହଣ କରିବାକୁ ହେବ । ତାଙ୍କ ପାଇଁ ତୋମିସାଇଲ୍, ସାଟିଫିକେଟ୍ ଦରକାର ନ ହେଉ ।

MR. MURTI: I have absolutely nothing to reply. Our minds have been made up of different ideas. It is most regrettable that we could not come to an agreement. It was my intention to take this opportunity of influencing your opinion. I therefore thought that something will come out of the deliberations of this afternoon; but from the speeches that have been delivered by my friends opposite, I cannot expect anything in the way of a solution. I know Mr. M. S. Mohanty for a very long time. I do not propose to enter into the dilectical argument for which Mr. Mohanty is well-known. Therefore all I have got to say is that while we are parting this afternoon, let us part as political friends to the extent that is possible for us to the collective interest of Orissa.

The President wanted to know whether the members would like the resolution to be put to vote.

The resolution was put to vote and lost by a majority of 5 against 4.

The next item in the agenda, namely, the question of writing the report was taken up.

Mr. Murti suggested that if there was a Secretary he could have written it.

The President informed the Committee that he had a talk with the Chairman who told him that no officer could be spared at this time and therefore he expected the Committee to write the report.

A { Mr. M. S. Mohanty suggested the formation of a sub-committee consisting of the following three members, namely (1) Pandit Godavaris Misra, (2) Prof. B. V. Ray and (3) Mr. A. S. N. Murti of whom one could write the report with the help of the other two members. Mr. Murti declined to accept the nomination on the ground that he differed with the majority members, and that he was not on the committee from its formation. Then in his place Sri R. K. Das was proposed by Mr. Mohanty and accepted by the Committee. It was agreed that Pandit Godavaris Misra should write the report with the help of the other two members.

Mr. Murti suggested that the report when completed should be discussed at a meeting before it was finally approved by the Committee and that the report should be circulated to members before holding the meeting.

MR. MAHAPATRA: Before we disperse, I bring forward to move a resolution with the leave of the Committee. The resolution is :

"This Committee do place on record a strong disapproval of the leader which appeared in '*New Orissa*' of 7th November containing highly vituperative and unjust attack against the majority of Oriya members of the Committee, especially before the Committee had concluded recording the Committee's resolutions preparatory to the draft report, prior to its release to the public, and requests the Government of Orissa to take such steps against the editor as might be deemed fit and to afford due protection to

the members of the Committee in maintaining the sanctity and secrecy of their day to day deliberations till at least such time as they submit their recommendations to the Government and they are published by Government."

MR. MISRA : I second the resolution.

Mr. Murti raised a point of order as to whether the Committee had got the power to discuss such a resolution and whether the President had the power to admit the same.

The President said that Mr. Murti had not said as to why he raised such a point of order.

MR. MURTI : The point is whether we are competent to discuss it. It is not the business of the Committee to go into the deliberations of matters of this kind.

After some discussion it was held that the resolution requesting Government to take action against the editor of *New Orissa* was passed but the mover was requested to withdraw the one disapproving of the leader referred to above. Upon this the mover demanded a statement from Mr. Murti to the effect that he did not accept the views of the editor and appreciate the abuse.

MR. MURTI : Nobody can approve the abuse of anybody. I also do not accept the views of the editor in abusing the Oriya members. I did appreciate it only because it was a cogently written article.

After this statement by Mr. Murti, the resolution disapproving his action was withdrawn by the mover.

G. MISRA
President

The proceedings of the meeting of the Domicile Committee held at the Orissa Secretariat on the 1st October 1944 at 11-30 a.m.

PRESENT

- | | | |
|---|---|----------------|
| 1. Pandit Godavaris Misra | } | <i>Members</i> |
| 2. Rai Bahadur B. V. Ray | | |
| 3. Diwan Bahadur S. K. Mahapatra | | |
| 4. Sri Ganesh Mahapatra | | |
| 5. Sri Harihara Misra | | |
| 6. Sri R. K. Das | | |
| 7. Sri Rangalal Modi | | |
| 8. Rai Sahib Bhagaban Mahapatra— <i>Secretary</i> | | |

Pandit Godavaris Misra presided

The Secretary placed before the President a letter from Mr. A. S. N. Murti containing a suggestion that the meeting for deliberations may be

adjourned as in his opinion it may be necessary to take further evidence. The Committee was unanimously of the opinion that there was no need of taking any further evidence at this stage and decided to proceed with deliberations.

The tabulated evidence was circulated to the members and as the evidence has been grouped under 12 different heads the Committee discussed the evidence under groups I, III and VI and reached the following conclusions :—

Group I—There is a general concensus of opinion that the existing system has not worked satisfactorily. The defects are as follows :—

(1) Under the existing system the District Officer is the sole authority for granting domicile certificates. There is evidence before us from respectable persons showing that some non-Oriya District Officers do not sufficiently realise the importance of the question of domicile and further that in many cases the enquiry has been done hastily and perfunctorily.

(2) Some persons occupying high position have even said that here and there district officers have shown a leaning towards new comers coming from their own provinces and others who cannot be called domiciled.

(3) The rules are not definite and leave much room for slackness. To ensure a searching enquiry in each case there should have been some cut and dry rules laying down the essential conditions to be fulfilled.

(4) There is no provision for appeal or revision.

(5) The enquiry is usually delegated to subordinate officers who from the evidence available appear to be influenced in many cases and who hold enquiry in a mechanical way.

(6) The present syseem does not provide for any ample safeguard of the interests of the indigenous population and old non-Oriya settlers as against the doubtful claims of new comers.

(7) People living for some time in the family of a relative have been granted domicile certificate. What constitutes residence for the purpose of domicile should be clearly defined and the length of such residence of the family to which the applicant belongs should be ascertained in each case.

(8) The public has no voice in the matter of issuing certificate.

Group III—Some say that the damicile certificate is a hereditary privilege and others say that it is not so. The seeming divergence of opinion is, however, more academic than real, for both have agreed to qualify their proposition in almost same terms. The real position is that the son's domicile follows that of his father unless the son chooses by his conduct to change his residence or otherwise to disqualify himself. There is general agreement that there should be an enquiry in each case and it should be very easy for the son to prove that he retains his father's domicile where there has been no change in residence or otherwise.

Group VI—Almost all the persons consulted have agreed that non-Oriyas may be appointed in Government service where it is unavoidably necessary to do so for want of qualified candidates in the Province. But

such appointment should be invariably on contract basis for a period of 3 to 5 years so that they may be replaced when a qualified man is available in the Province. Some have suggested that an exception may be made in the case of professors of colleges. But the Committee find no reason to accept this suggestion.

The meeting was adjourned to 2nd October 1944.

B. MAHAPATRA

Secretary

2-10-1944

G. MISRA

Chairman

10-10-1944

The proceedings of the meeting of the Domicile Committee held at the Orissa Secretariat on the 2nd October 1944 at 12 noon.

PRESENT

- | | |
|---|------------------|
| 1. Pandit Godavaris Misra | } <i>Members</i> |
| 2. Rai Bahadur Bipin Bihari Ray | |
| 3. Diwan Bahadur S. K. Mahapatra | |
| 4. Sri Ganesh Mahapatra | |
| 5. Sri Harihara Misra | |
| 6. Sri Rabindra Kumar Das | |
| 7. Sri Rangalal Modi | |
| 8. Rai Sahib Bhagaban Mahapatra— <i>Secretary</i> | |
- Pandit Godavaris Misra presided

The Committee proposed to take up for deliberation the essential conditions to be fulfilled for the grant of a domicile certificate and Mr. R. K. Das moved a resolution enumerating the different conditions.

At this stage a letter from Mr. A. S. N. Murti addressed to the Chairman was placed before the Committee. It appeared from the letter that Mr. Murti was not in a position to attend the meeting owing to illness and wanted the meeting to be postponed. As the other Andhra member, Mr. Raju was not attending, the Committee decided to take the orders of the Chairman before proceeding further with the deliberations to reach conclusions on the important questions under consideration in the absence of both the representatives of the Andhra community. Accordingly the President saw the Chairman and the Chairman ordered that the Committee should proceed with the deliberations and undertook to take the necessary steps with reference to the absence of the representatives of the Andhra community.

The meeting was adjourned to the 3rd October 1944 at 12 noon as there was no time to take up any further discussion.

B. MAHAPATRA

Secretary

4-10-1944

G. MISRA

Chairman

4-10-1944

The proceedings of the meeting of the Domicile Committee held at the Orissa Secretariat on the 3rd October 1944 at 12 noon

PRESENT

- | | |
|---|------------------|
| 1. Pandit Godavaris Misra | } <i>Members</i> |
| 2. Rai Bahadur Bipin Bihari Ray | |
| 3. Diwan Bahadur S. K. Mahapatra | |
| 4. Sri Ganesh Mahapatra | |
| 5. Sri Harihara Mahapatra | |
| 6. Sri R. K. Das | |
| 7. Sri Rangalal Modi | |
| 8. Rai Sahib Bhagaban Mahapatra— <i>Secretary</i> | |

Pandit Godavaris Misra presided

The Committee took up for consideration the resolution of Mr. R. K. Das which runs as follows :—

To be eligible for a domicile certificate—

(1) one must have been born of parents who must have been resident of this Province for at least 50 years and such residence must be of a permanent nature as outlined in the existing rule 4 of Mr. Dixon's rules ;

(2) he must have no other domicile in any other province and must have continuous residence in this Province till the date of his application and should be called upon to make a solemn declaration that he claims no domicile in any other province and a copy of the declaration may be forwarded to the Government of the province from which he or his ancestors migrated ;

(3) he must have held a homestead with a house in his name or in the names of his paternal lineal ancestors and his family must have lived in the house for not less than 50 years and the applicant intends to live in that house permanently ;

(4) the bulk of his other immovable property, if any, must be in Orissa and the applicant must have no permanent stake in any other province ;

(5) he must have adopted Oriya as medium of instruction in schools and should be able to read, write and speak Oriya as an Oriya ; and

(6) he must have completely identified himself with the interest and aspirations of the Oriyas.

Period of residence in condition (1) was then discussed and an amendment fixing it at 30 years proposed by Rai Bahadur B. B. Ray and another amendment fixing it at 50 years proposed by Mr. H. Misra were considered together. The amendment fixing it at 50 years was carried by a majority of 4 against 2 who wanted to fix it at 30 years. The mover accepted the amendment for 50 years and voted with the majority.

In condition (2) an amendment proposed by H. Misra to the effect that persons claiming domicile in the Province must not have matrimonial relations outside the Province was lost as none supported it.

In condition (3) an amendment proposed by Mr. G. Mahapatra to substitute 30 years for 50 years was carried by a majority of 4 against 2 who wanted to fix it at 20 years as proposed by Rai Bahadur B. B. Ray. -

With these amendments the conditions as originally proposed by Mr. R. K. Das were adopted.

The meeting was adjourned to the 4th October 1944 at 12 noon.

In condition (5) Rai Bahadure B. B. Ray does not want to have Oriya as the medium of instruction, but only as medium for the transaction of business in daily life.

B. MAHAPATRA

Secretary

7-10-1944

G. MISRA

Chairman

10-10-1944

Proceedings of the meeting of the Domicile Committee held at the Orissa Secretariate on the 4th October 1944

PRESENT

1. Pandit G. Misra
2. Rai Bahadur B. V. Ray
3. Diwan Bahadur S. K. Mahapatra
4. Sri Ganesh Mahapatra
5. Sri H. Misra
6. Sri R. K. Das
7. Sri Rangalal Modi
8. Rai Sahib Bhagaban Mahapatra—*Secretary*

Pandit Godavaris Misra presided

“ The Committee took up for consideration the machinery to be set up for granting domicile certificates and Sri G. Mahapatra moved the following resolution :—

The domicile certificates are to be granted upon judicial enquiry by a tribunal in each district consisting of the District Collector and two leading Oriya non-officials to be nominated by the Government. The appellate and revisional authority should vest in the body consisting of the Revenue Commissioner and three leading Oriya non-officials to be nominated by Government at different times. The District Officer should not be allowed to delegate his power to his subordinates. Six weeks public notice inviting objections should be given in each case. Even for inferior posts the authority proposed should grant certificates.

Appeal will lie when certificate is refused and revision on the motion of any member of the public where certificate is improperly granted. The period of limitation for filing appeals and applications for revision should be two months from the date of the decision.

No provision need be made for second appeal.”

Rai Bahadur Bipin Bihari Ray proposed by way of an amendment the following :—

The District Magistrate will be the granting authority, but he shall be assisted by two non-officials in doubtful cases. That is, where the father has got a certificate of domicile and the child produces documentary evidence that he holds a homestead in his name or in the name of paternal ancestor and a certificate to the effect that he has studied Oriya in the primary or secondary stage or uses Oriya as the medium of instruction, the District Magistrate alone in such cases where there is clear evidence of these qualifications will issue the certificate after holding necessary enquiry for the purpose.

In cases where there is absence of one or more of these qualifications or where there is doubt about any of them, he shall give a notice that such and such people have applied for certificates when it will be open to the public to raise objection, if they think so. In any case, such people can be given or refused a certificate by a body consisting of the District Officer and two non-officials. Different non-officials shall be associated in the consideration of different sets of applications for domicile.

The amendment was lost by 4 votes against 2 and the original resolution was carried.

Then Sri G. Mahapatra next moved the following resolution :—

“Where it is found that the applicant obtained a certificate by fraudulent means or by making false statements or has acted in a manner prejudicial to the interests of the Orissa Province, his certificate will be liable to rescission and also in proper cases removal from services. Provided where certificates have already been granted and on the strength thereof any person has obtained a post in Government service or in local bodies, he will not be liable to be removed unless it is clearly proved that he is guilty of fraud in obtaining the certificate. All certificates which have been improperly granted and where the holders have not obtained posts or have held temporary posts will be liable to be cancelled.”

The Committee decided to discuss the resolution in the next sitting as there was no sufficient time to proceed with the discussions.

The meeting was adjourned to 5th October 1944 at 12 noon.

B. MAHAPATRA
Secretary

G. MISRA
Chairman

Proceedings of the meeting of the Domicile Committee held on the 5th October 1944 at the Orissa Secretariat

PRESENT

- | | | |
|----------------------------------|---|----------------|
| 1. Pandit Godavaris Misra | } | <i>Members</i> |
| 2. Rai Bahadur B. V. Ray | | |
| 3. Diwan Bahadur S. K. Mahapatra | | |
| 4. Sri Ganesh Mahapatra | | |
| 5. Sri Harihar Misra .. | | |
| 6. Sri Rabindra Kumar Das | | |
| 7. Sri M. S. Mohanty .. | | |
| 8. Sri Rangalal Modi .. | | |

9. Rai Sahib Bhagaban Mahapatra—*Secretary*

Pandit Godavaris Misra presided

The Committee discussed the resolution moved by Sri Ganesh Mahapatra on the preceding day and the motion was accepted subject to the expression of doubt by Rai Bahadur B. V. Ray as to whether certificates could be rescinded without creating legal difficulties for Government. Sri Rangalal Modi also expressed his doubts and supported Rai Bahadur B. V. Ray.

Sri Rabindra Kumar Das then moved the following resolution :—

The evidence placed on record admits almost unanimously, the significant absence of the Oriyas in the Economic sphere of this Province. The result is absolute poverty of the people and unemployment.

The causes of the above are :—

1. During the early British period, Orissa lost the zamindaries—which sapped the very back-bone of the Nation—the middle class.

2. The great famine of Orissa of 1866 affected seriously its man-power to the extent of one-third of the population and reduced the rest to extreme poverty.

3. Abolition of Salt Industry

4. Importation of outsiders to man the Public Services

5. Exploitation and competition by outsiders

6. Perpetual flood and draught

7. Apathy of the Governments of the various provinces in which the dismembered parts of the Province lay.

To remedy this the Committee is of opinion that the principles embodied in the rules of domicile should be extended to the economic sphere. The Government therefore should—

1. In order to ensure employment of Oriyas in all avenues of employment in Orissa, i. e., zamindaries, industrial concerns, Banks and other

private employment, etc., pass an Employment Bill to control employments in Orissa, as unemployment is a Provincial responsibility under the Government of India Act.

2. Government should pass legislation regulating the trade and commerce of the Province. This can alone be done by introducing a licensing system with a view to minimise exploitation by non-Oriyas. Government should accept the principles of giving first preference to Oriyas in this sphere. The present Supply and Transport Department to continue after the war.

3. All licences for petrol pumps, kerosene-permits for plying motor transport, contracts in Public Works Department and Local Bodies, Excise and Forest Departments, should be reserved for Oriyas.

4. There are some essential articles like sugar, salt, iron and steel goods, cement, matches and paper which are produced in India and whose production has been possible only on account of the fact that the Government of India have granted protection to them. So far as the distribution of the products of such industries is concerned it must be done in every province by its own people. In Orissa, Government should secure these agencies for the Oriyas.

5. Land legislation should be enacted restricting alienation of lands to people from outside.

6. State should provide industries, (if necessary, by controlling mines and forests even under private persons) preferably in the lines of state-controlled company-managed railways.

The outsiders, if at all, to be allowed to function, in case of non-availability of suitable Oriyas, only on the following specific conditions :—

1. The concern must be registered in Orissa under the Companies Act.
2. Must have a trade licence from the Government of Orissa.
3. Shares must be made available to Oriyas.
4. The Chairman of the Board of Directors must be a nominee of or approved by the Government of Orissa.
5. Any contribution made by the Government in form of raw materials, lands and water should form a share in the Company.
6. Employment of Oriyas in all branches of employment.
7. Option to Government to purchase a concern after a fixed period.

The Committee accepts the note prepared by Sri R. K. Das on the question of employment of Oriyas in the Bengal-Nagpur Railway. (The note is appended to the proceedings). It recommends to Government to move the Government of India in the matter of employment of Oriyas in Railway and Central Services in Orissa in view of the recommendations of Bihar Unemployment Committee Report, 1935.

Rai Bahadur B. V. Ray observed that in No. 1 of the remedies enumerated in the resolution the words "and the bona fied domiciles" be added after the word "Oriyas". The Committee decided to take up discussion on this resolution on the following day.

At this stage Pandit Godavaris Misra left the meeting owing to indisposition and Diwan Bahadur S. K. Mahapatra presided.

Sri M. S. Mohanty moved the following resolution :—

“ This Committee thinks it desirable to allocate the appointments in the services under Government, Local Bodies and semi-Government and Government-aided institutions in proportion of population of the Oriyas and the domiciles in the Province.”

After discussion it was carried by a majority of 5 against one. Rai Bahadur B. V. Ray remained neutral.

Mr. M. S. Mohanty left the meeting at this stage and Rai Bahadur B. V. Ray moved the following resolution which were carried unanimously:—

“ Such people as have been referred to in question No. 12 of the questionnaire, that is, those families who prove their long domicile will be called ‘domiciled’ and not natives, but will have preference over the new comers.”

The expression “ Long domiciled ” means those families which have settled in Orissa prior to 1803.

The meeting was adjourned to 6th October 1944 at 12 noon.

B. MAHAPATRA

Secretary

7-10-1944

G. MISRA

Chairman

10-10-1944

The proceedings of the meeting of the Domicile Committee held on the 6th October 1944 at the Orissa Secretariat

PRESENT

- | | |
|--|------------------|
| 1. Pandit Godavaris Misra | } <i>Members</i> |
| 2. Rai Bahadur B. V. Ray | |
| 3. Diwan Bahadur S. K. Mahapatra | |
| 4. Sri Ganesh Mahapatra | |
| 5. Sri Harihar Misra | |
| 6. Sri Rabindra Kumar Das | |
| 7. Sri M. S. Mohanty | |
| 8. Sri Rangalal Modi | |
| 9. Rai Sahib Bhagaban Mahapatra — <i>Secretary</i> | |
- Pandit Godavaris Misra presided

After an informal discussion initiated by Mr. M. S. Mohanty regarding the constitution of the Committee and its procedure in which most of the members participated, the Committee discussed the resolution of Mr. R. K.

Das pending for consideration from the preceding day and resolved as follows :—

“Accepting the note of Mr. R. K. Das it is resolved that the Oriyas and domiciles not being properly represented in the Bengal-Nagpur Railway Central Government Departments, economic life of the Province, economic potentialities and spheres of activity and zamindaries, it is proposed that all these departments and spheres be manned by Oriyas and domiciles on population basis or first preference being given to the Oriyas. It is also recommended that where necessary Government should enact legislation or adopt appropriate measures including persuasion and withholding grants and facilities, if any :

Provided that where the proprietor of any concern is not Oriya or domicile, up to 5 per cent of the appointments may be made from the non-Oriyas and non-domiciles according to their choice.”

Rai Bahadur B. V. Ray is not in favour of first preference being given to Oriyas. He favours a majority going to Oriyas in comparison with domiciled people in place of adopting the population basis. This view of Rai Bahadur B. V. Ray is supported by Mr. Rangalal Modi.

B. MAHAPATRA

Secretary

7-10-1944

G. MISRA

Chairman

10-10-1944