

Wednesday, 30th July, 1947

**Volume IV**



**14-7-1947  
to  
31-7-1947**

# **CONSTITUENT ASSEMBLY DEBATES**

## **OFFICIAL REPORT**

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CONSTITUENT ASSEMBLY OF INDIA

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## CONSTITUENT ASSEMBLY OF INDIA

*Wednesday, the 30th July, 1947*

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The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

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### PRESENTATION OF CREDENTIALS AND SIGNING OF THE REGISTER

The following Member presented his Credentials and signed the Register:

Mr. Mukunda Bihari Mullick (West Bengal: General).

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### DURATION OF AUGUST SESSION

**Mr. H. V. Kamath** (C. P. & Berar: General): Mr. President, will you be so good as to tell us how long the August session is expected to last, so that we may be able to adjust our programmes accordingly?

**Mr. President:** As Members are aware, we are going to have a function on the 15th August and Members will be expected to be present here on that day to join that function. Then 16th happen to be a Saturday and 17th a Sunday on which days we do not ordinarily sit. The 18th and 19th will perhaps be Id days and we cannot sit on those days either. So the next day on which we can sit would be the 20th, and then it depends upon Members as to how long they will take to complete the work. The business to be completed will be the consideration of the reports of the Union Powers Committee and the Advisory Committees; and if anything is left over from now—which I hope will not be the case—that will have to be completed then. There may be some other items also but these two will be the main items for consideration and I hope it will not take more than seven or eight days to complete these two items.

**An Honourable Member:** What about the Minority Committee's Report?

**Mr. President:** That is included in the Advisory Committee's Report.

**Prof. N. G. Ranga** (Madras: General): What about the clauses relating to the provinces and the Indian Union which have not yet been disposed of?

**Mr. President:** We shall try to complete consideration of this report if possible, but if anything is left over we shall have to take it up then.

**Sri M. Ananthasayanam Ayyangar** (Madras: General): I would like to make a suggestion that as 18th and 19th will be holidays we may sit on the 16th and 17th even though the later is a Sunday. It is only a sentimental objection and in view of two holidays following we may sit on Sunday.

As regards the amendments I suggest that copies may be sent round soon after we reach home so that we may come prepared to discuss them.

**The Honourable Mr. B. G. Kher** (Bombay: General): The best course would be to sit from the 20th to the end of the month.

**Mr. President:** That is what is intended.

**Pandit Shri Krishna Dutt Paliwal** (United Provinces: General): \*Mr. President, perhaps Independence Day would be celebrated on the 16th and after meeting on the 15th here most of the members would like to go back to their respective places in order to participate in celebrations at their places. Hence it would not be possible to work on the 16th.

**Mr. President:\***—What do you desire?

**Pandit Shri Krishna Dutt Paliwal:\***—Sir, as most of the members would like to go back to their respective places, I wish that no work should be done on the 16th.

**Mr. President:** Those who wish to go back might do so. We will resume our work from the 20th.

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## REPORT ON THE UNION CONSTITUTION

### PART IV—CHAPTER I—CLAUSE 7

**Mr. President:** We shall now take up the discussion of the clauses that have been left over. Clause 7 is one such clause discussion of which has been left over. I understand that there is an agreed substitute to Clause 7 in the draft. Is that ready, Sir Gopaldaswami Ayyangar?

**The Honourable Sir N. Gopaldaswami Ayyangar** (Madras: General): Sir, I have given notice of an amendment to Clause 7(2) (b); but there is still some little trouble about that. I think I shall be in a position to place the amendment before the House tomorrow morning after drafting the amendment in a form which may be acceptable to both parts of the House.

**Mr. President:** Then we shall pass that over and take up Part V.

**The Honourable Sir N. Gopaldaswami Ayyangar.** There is another Clause which we have held over acid that is Clause 14. About that also I hope to be in a position to place before the House a kind of agreed proposal tomorrow morning.

**Mr. President:** The House will in that case take up consideration of Part V.—Distribution of Legislative Powers between the Federation and

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\*English translation of Hindustani Speech.

the Units. In regard to this, as I understand it, though there is no specific amendment here, there is a suggestion made on behalf of the Ministers of the States that this might be held over until we have discussed the Report of the Union Powers Committee. Is that the idea?

**Sir B. L. Mitter** (Baroda State): That is so. I have got an amendment to it.

**Mr. President:** Is it necessary to move that amendment now? I think we can hold over the consideration of Part V.

**The Honourable Sir N. Gopalaswami Ayyangar:** We have no objection to have it postponed.

**Mr. President:** I take it that it is the wish of the House that the consideration of Part V be postponed until we have discussed the Report of the Union Powers Committee.

The House will now take up Part VI for consideration.

#### PART VI—CLAUSE 1

**The Honourable Pandit Jawaharlal Nehru** (U.P.: General): Sir, I beg to move:

“1. The Federal Parliament in legislating for an exclusively Federal subject may devolve upon the Government of a Unit whether a Province, an Indian State or other area, or upon any officer of that Government, the exercise on behalf of the Federal Government of any functions in relation to that subject.”

This is a very simple province which hardly needs any words me to commend it.

**Mr. President:** Rai Saheb Raghuraj Singh has an amendment to this Clause. Does he move it? The Member not being present the amendment is not moved.

(Shri V. I. Muniswami Pillai did not move his amendment No. 362.)

**Mr. Naziruddin Ahmad** (West Bengal: Muslim): I beg to move:

That in sub-clause (1) of Clause 2, for the words ‘which applies to that unit’ the words ‘in so far as it may be applicable to the Unit’ be substituted.

I have another amendment. That is for Clause 2.

**Mr. President:** The Honourable Pandit Nehru has moved only Clause 1. Only amendments to Clause 1 can therefore be moved now.

**Mr. Naziruddin Ahmad:** Mine is only a drafting amendment.

**Rai Bahadur Lala Raj Kanwar** (Eastern States)—Rai Saheb Raghuraj Singh has just arrived, but I am prepared to move the amendment. I beg to move that for Clause 1, the following be substituted:

“1. The Federal Government may, with the consent of a Government of a Province or the ruler of a Federal State, entrust either conditionally or unconditionally to that Government or Ruler, or to their respective officers, functions in relation to any matter to which the executive authority of the Federation extends.

An Act of the Federal Legislature which extends to a Federal State may confer powers and impose duties upon the State or officers and authorities thereof to be designated for the purpose by the Ruler.”

**Mr. Tajamul Husain** (Bihar: Muslim): On a point of order, Mr. President, when the member who has given notice of an amendment in the House, can another member move the amendment?

**Mr. President:** Both the members have signed the amendment. He is, therefore, perfectly in order in moving the amendment.

**Rai Bahadur Lala Raj Kanwar:** Sir, the wording of the amendment which has just been moved by me is based upon the wording of the Government of India Act, 1935, Section 124, sub-sections (1) and (3). It contemplates that whenever any functions in relation to a matter to which the executive authority of the Federation extends are made exercisable by a provincial government or the Ruler of a State or by their officers. It should be done with their consent and not independently, and that the State officers should be designated by the Ruler and not by the Federation. Sir, the necessity for this amendment is that the delegation of functions to a Provincial or State Unit should be made with their consent and particularly in the case of Indian States, the officers to be designated for the exercise of these functions should be chosen by the Ruler. I, therefore, commend this amendment for the consideration and acceptance of the House.

**Mr. President:** Does anyone else wish to speak on the clause or the amendment? Both of them are under discussion now.

**Rai Saheb Raghuraj Singh:** (Eastern States Group 2): Mr. President, Sir, the delegation of federal authority has already been agreed to in an earlier clause, *viz.* Clause 9. It has also been agreed that such delegation may be withdrawn in the discretion of the federation. The amendment which has just now been moved merely says that whenever delegation is made by the Federal Government to a State, it should be done with the consent of the State, and that the exercise of the delegated powers should be through an agency which should be approved by the State Government or the Ruler.

**The Honourable Sir N. Gopaldaswami Ayyangar:** Sir, this amendment practically repeats what is contained in Section 124 of the Government of India Act, 1935. Clause 1 which has been moved was intended to give the substance of Section 124. There are however two points which have been mentioned by the mover and the supporter of this amendment which deserve some examination. The first point, as I understood it, was that the devolution of functions of administration in relation to federal subjects upon provinces or States should be with the consent of the Governments of those provinces or States. The second point was that the designation of the officers of an Indian State who are to exercise the authority devolved upon them by the Federal Legislature should be by the Ruler or with his consent. I may at once say that whenever there is a proposal to devolve functions of this sort either on provincial or State Governments, or the officers of those Governments, there is bound to be previous consultation between the Centre and the Units concerned. We have got to recognise the fact that, after all, the functions proposed to be devolved are functions in relation to the administration of federal subjects. The authority for providing for executive administration of federal subjects has to be the Centre finally. We could provide for consultation, but I think, Sir, it would be going against the root principles of the exercise of executive authority in relation to Federal subjects if we stipulate that the consent of the Unit Government or the head of that Unit Government should be a condition precedent to such devolution. The substance of what the amendment wants will certainly be recognised by the

future Federal Government. Before such devolution is made either by executive action or under federal laws, the fullest consultation will take place between the Centre and the Unit. I am, therefore, Sir, not in a position to recommend the acceptance of this amendment.

**Rai Bahadur Lala Raj Kanwar :** In view of the assurance given by Sir Gopalaswami Ayyangar, I withdraw the amendment.

**Mr. President:** I will now put the clause to vote. As regards the amendment, the mover wishes to withdraw it. I take it that the House gives him permission to withdraw it. I will now put the original clause to vote.

Part VI. Clause 1 was adopted.

#### CLAUSE 2

**The Honourable Sir N. Gopalaswami Ayyangar:** Clause 2 reads as follows:

“(1) It will be the duty of the Government of a Unit so to exercise its executive power and authority in so far as it is necessary and applicable for the purpose as to secure that due effect is given within the Unit to every Act of the Federal Parliament which applies to that Unit; and the authority of the Federal Government will extend to the giving of directions to a Unit Government to that end.

(2) The authority of the Federal Government will also extend to the giving of directions to the Unit Government as to the manner in which the latter’s executive power and authority should be exercised in relation to any matter which affects the administration of a Federal subject.”

These two sub-clauses really repeat in substance the provisions of the Government of India Act of 1935. These are intended to prevent any clash of authority between the Centre and the Units. They are also intended to secure that the Unit Governments will so exercise their own executive authority, that is to say, their executive authority in relation to Unit subjects, as not to come into conflict with the exercise of executive authority in relation to federal subjects. I do not think, Sir, that any more explanation is needed. Sir, I move.

**Mr. Naziruddin Ahmad:** I move:

That in sub-clause (1) of Clause 2, for the words ‘which applies to that Unit’, the words ‘in so far as it may be applicable to the Unit’, be substituted.

Sir, may I also move amendment No. 365?

**Mr. President:** Yes.

**Mr. Naziruddin Ahmad:** My other amendment is:

“That in sub-clause (2) of Clause 2 for the words the ‘Unit Government’, the words ‘Unit Governments,’ be substituted.”

I submit, Sir, these are only drafting amendments and are put in by way of suggestions for the Drafting Committee.

(Messrs. Thakur Das Bhargava, K. Santhanam and P. S. Deshmukh did not move their amendments Nos. 364, 366 and 367.)



**Rai Sahib Raghuraj Singh:** I move that the following new Clause be inserted after Clause 2:

“3. Where by virtue of Clause (1) powers and duties have been conferred or imposed upon a Province or Federated State or officers or authorities thereof, there shall be paid by the Federation to the Province or State such sum as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of the Supreme Court in respect of any extra costs of administration incurred by the Province or State in connection with the exercise of those powers and duties.”

The object of this amendment is obvious, *i.e.*, that whenever any duties are imposed on a State or Province or Federated State, the cost of carrying out of those duties should be paid to the State or Province concerned.

**Mr. President:** There is no other amendment to this Clause. So the clause and amendments are now open to discussion. Those who wish to speak may do so.

**Shri Ram Sahai (Gwalior State):** \*[Mr. President, I beg to support the amendment submitted by the Rai Sahib. My submission is that the amendment is very proper and necessary. The Government of India Act, 1935, Section 124, sub-section (1), provides for “power of the Federation to confer powers on the Provinces and States with the consent of the Government of a Province or the Ruler of a Federated State”. But these words have been deleted from this clause. In order to strengthen the Centre it was proper to invest the Federation with such power without their consent. But in no case is it proper to delete sub-section (4) of Section 124 of the Government of India Act. Rai Sahib has pressed his amendment on the basis of this very sub-section. I, therefore, consider it proper for the House to accept the amendment. By accepting it, the Provincial Government or the State would be able to recover the expenses incurred on behalf of the Centre. In order to consolidate the economical position of the Provincial Government or the State, it is essential that such sort of expenses should be paid to them. For this reason I support this amendment.]\*

**Rai Bahadur Lala Raj Kanwar:** The amendment which I have the privilege of supporting needs no elaborate argument and it is self-explanatory. All that it aims at is to make a statutory provision for the payment of the cost of administration by the Federation to a Federal Unit, when the administration of a Federal subject is entrusted to that unit. As this provision is very necessary and it also finds a place in the Government of India Act, section 124, sub-section (4), it is suggested that it is a necessary provision and may be incorporated in our Constitution. At present the recommendations of the Constitution Committee do not mention anything about the payment of the cost of a administration in Such cases. As this seems to be a necessary provision, it is recommended for acceptance by the House.

**The Honourable Sir N. Gopaldaswami Ayyangar:** Sir, of the two amendments moved by Mr. Naziruddin Ahmad, the first one is to substitute the words “in so far as it may be applicable to the Unit” for the words “which applies to that Unit”. It is apparently a suggestion for improving the drafting of this particular sub-clause, and whether it is an improvement or not, it is difficult to say. I think the essential purpose of the sub-clause is served by the present drafting as by the amendment

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\*[ ] English translation of Hindustani Speech.

that is proposed. I would leave the clause as it stands. I therefore do not accept that amendment.

His second amendment that the words "Unit Governments" be substituted for the words "the Unit Government" I accept. Then the only other amendment to this Clause is Item No. 368. This is taken from section 124, sub-section (4) of the Government of India Act. When the outlines of the Constitution were drafted for the purpose of discussion in this House, it was not considered necessary that all the consequential powers or provisions that may be necessary should be included in this draft. The omission of this particular sub-section of 124 was not motivated by any desire to do away with that provision when the final draft comes to be made, but, as this particular clause has been moved as an addition to the present clause, I accept it and will go into the text of the future Constitution.

**Mr. President:** I will put the amendments first. The first amendment is by Mr. Naziruddin Ahmad:

"That in sub-clause (1) of clause 2, for the words 'which applies to that unit', the words 'in so far as it may be applicable to the unit' be substituted."

The amendment was negatived.

**Mr. President:** The next amendment is:

"That in sub-clause (1) of clause 2 for the words 'the unit Government' the words 'unit Governments' be substituted."

The amendment was adopted.

**Mr. President:** The last amendment is that the following new Clause 3 be inserted after Clause 2:

"3. Where by virtue of Clause (1) powers and duties have been conferred or imposed upon a Province or Federated State or officers or authorities thereof, there shall be paid by the Federation to the Province or State such sum as may be agreed, or, in default of agreement as may be determined by an arbitrator appointed by the Chief Justice of the Supreme Court in respect of any extra costs of administration incurred by the Province or State in connection with the exercise of those powers and duties."

The amendment was adopted.

**Mr. President:** The clause, as amended, is now put to the House.

Clause 2 as amended was adopted.

**Mr. President:** There is notice of another amendment that another clause should be added. That is given notice of by four members.

**Sri H.R. Guruv Reddy (Mysore State):** I beg to move this amendment:

"That after clause 2, the following new clause be added:

"3. It shall be competent for an acceding State with the previous sanction of the federal Government to undertake by an agreement made in that behalf with any Governor's Province or Chief Commissioner's Province or any other acceding Indian State any legislative, executive or judicial functions vested in that Province, Chief Commissioner's Province or other acceding State, provided that the agreement relates, so far as Provinces or Chief Commissioners' Provinces are concerned, to a subject included in the Provincial or Concurrent Legislative List and so far as the other acceding State is concerned to a subject not included in the Federal List.

[Sri H.R. Guruv Reddy]

'On such an agreement being concluded the State may, subject to the terms thereof exercise the legislative, executive or judicial functions specified therein through, the appropriate authorities of the State.'

Sir this is a counterpart of Clause 8 of the Report of the Provincial Constitution Committee. This august House was pleased to accept the Report of the *ad hoc* Committee on Clause 8 Part I of the Provincial Constitution which provides that any Provincial Unit could take over and administer any portion of any State Unit under it. Similarly, a clause which enables the State Unit to take over and administer parts of other Provinces is moved now in this Clause.

Sir, it is but just and fair that once power is taken to take away a portion of a State or a State Unit for administrative purposes, a State which is competent and capable similarly to administer should be allowed that freedom of taking a portion of another Province for similar administration by itself. There need be no doubt in any quarter that it is not a fair and just clause to be introduced.

Sir, there are certain limitations here. First of all, it should be with the previous sanction of the Federal Government which is all powerful. There is no fear of any sort that any such agreement would be rushed through by any two interested parties without first of all coming before the Federal Government and taking its consent. Next, there is another limitation imposed, namely, that there should be a competent agreement under which this action could be taken, if at all. Therefore, unless and until these two portions of this amendment come into operation no such administrative control could be taken over by a State as a matter of course.

Sir, it is but just and right that this House having passed Clause 8, as amended in the Provincial Constitution, should allow that freedom to the States also. It provides nothing more than this.

**Mr. K. M. Munshi** (Bombay: General): Sir, I move that the consideration so far as this proposition is concerned should be adjourned. The reason is very simple. In considering the Provincial Constitution, the House decided that there should be a similar power given to a Province with regard to the States and in fairness it would appear that a corresponding power should be given to the States. But, at the same time till the Union Powers are discussed and considered and the House is in a position to judge as to the nature and scope of the subjects for which the States are coming, it would be premature to consider this proposition. This clause stands by itself. It is not in the nature of an amendment, but an independent proposition. Any discussion of its merits at the present stage, I submit, will not be very desirable. I therefore submit, Sir, that consideration of this should be postponed till after the Union Powers Committee's Report is discussed by the House.

Shri Gopikrishna Vijayavargiya rose to speak.

**Mr. President:** Do you want to speak on the main amendment or on the suggestion of Mr. Munshi?

**Shri Gopikrishna Vijayavargiya** (Gwalior State): On Mr. Munshi's suggestion.

Sir, I come from a State. I am dead against the amendment that has been proposed. (*Hear, hear.*) As long as there is dissimilarity between the political situation in the States and the Provinces, the States should not be given any further rights or any such rights as are proposed. But, as this is a controversial subject, as Mr. Munshi says it ought to be postponed, I think it ought to be postponed.

**Shri H.R. Guruv Reddy:** I have no objection to its postponement.

**Mr. President:** The suggestion is that the discussion of this Clause be postponed till after we have discussed the Union Powers Committee's Report. Is it the desire of the House that this should be postponed?

**Many Honourable Members:** Yes.

**Mr. President:** It is postponed.

**Mr. President:** Mr. Ananthasayanam Ayyangar, you gave notice of a proposition that another clause be added—in Supplementary list.

**Sri M. Ananthasayanam Ayyangar :** I am not moving it. Srimati Durgabai also is not moving it. I do not move my amendment No. 5 in Supplementary List No. IV.

#### PART VII

**Mr. President:** We shall now take up Part VII.

**The Honourable Sir N. Gopalaswami Ayyangar:** Sir, this is a very important part of the Constitution we are considering. The first two clauses raise issues of far reaching importance and if you agree, Sir, and the House agrees, I would ask for permission to postpone the moving of Clauses 1 and 2 to the next session. In doing so, I wish only to say that it will be necessary for us to get more particulars ready under Clause 2 particularly before we shall be in a position to answer all the criticisms that may be levelled against the clauses as they stand. It has been in the minds of the framers of these clauses that we should set up an expert committee on finance which will give a detailed investigation and submit proposals which could be embodied in the text of this Constitution. I hope, Sir, it will be possible for them to request you to appoint a Committee of this sort so that that Committee's report will be available to us before the next session or soon after we commence that session. Sir, if you agree, I request permission not to move Clauses 1 and 2.

#### CLAUSE 3

**Mr. President:** You may proceed to Clause 3.

**The Honourable Sir N. Gopalaswami Ayyangar:** Clause 3, I move:

“The Federal Government will have power to make subventions or grants out of Federal revenues for any purpose, notwithstanding that the purpose is not one with respect to which the Federal Parliament may make laws.”

This is intended to enable the Federal Government to subsidise activities within the range of provincial functions, or, to put it more accurately, outside the range of Federal functions. A power of this sort is necessary in order to enable the Federal Government to use revenues which are primarily raised for meeting the expenditure on Federal administration for items of expenditure which will not ordinarily fall within that field. This liberty to do so will also be helpful in another way. There

[The Honourable Sir N. Gopaldaswami Ayyangar]

are various developmental activities in different directions which the units will have to take up and the units may not have adequate finance for meeting the expenditure on these activities. It will be necessary, I think for the Federal Government to sanction subventions in aid of such developmental activities though they are purely within the provincial sphere. In the interest of the development of the country as a whole, this power in the Federal Government is a very necessary weapon for them to have.

**Mr. President:** Mr. Omeo Kumar Das has given notice of an amendment.

**Shriyut Omeo Kumar Das** (Assam: General): Sir, I am not going to move the amendment that stands in my name. I am more interested in Clause 2 the discussion of which Clause has been postponed to a later date and we are assured that an Expert Committee will investigate the whole problem. I hope and trust that our province will certainly get a fair deal from that Committee but I would like to make a few general observations on Clause 3 if you will permit me to do so, after all the amendments are moved.

**Mr. President:** Yes, we will take Clause 3 and the amendments thereto first. If you wish to take part in the discussion, you may do so later.

(Messrs. H. V. Pataskar, T. A. Ramalingam Chettiar, H. J. Khandekar and Rev. J. Nichols-Roy did not move amendments Nos. 375, 376, 377 in the main list and No. 23 in Supplementary List I.)

So far as I can see there is no other amendment to Clause 3. The Clause is open for discussion.

**Mr. B. Das** (Orissa: General): Sir, I agree with Sir N. Gopaldaswami Ayyangar that this is the most important chapter of the Union Constitution that has been placed before us. Sir, in the Fundamental rights we have not yet ensured that there should be social security for all. Social security means social justice for all and there should be certain minimum adequate standard of living for all. There should not only be public health and public safety, there should also be minimum education ensured for all. Unfortunately, Sir, we had an alien Government which lived for British domination. Its financial and economic policy was to take all it could take to maintain British Imperialism and British domination not only in India but throughout Asia. It gave nothing to the Provinces. If it gave to the poorer provinces like Orissa or Assam anything, it was just a sustenance allowance and nothing more. The British accession to India meant only expansion of British trade and commerce and there was development and prosperity only in ports like Calcutta, Bombay, Madras and Karachi, and all communications led to these ports and hence these Provinces became so prosperous. Provinces that came later, I mean my own province of Orissa or even Assam, they were victims of circumstances like a poor man's home where children often come and they are not wanted by the parents because they cannot equip them properly for life or give them proper food or proper education.

Sir, I am sick of hearing in this House that in certain respects we are following the Government of India Act, 1935. Those of us who opposed

the enactment of that Act and those of us who knew stage by stage how the stranglehold of Britain and the autocratic British Government was being perpetuated in the Government of India Act, feel ashamed and humiliated to hear that today when we are coming to Free India or Dominion India within a fortnight or so, we are trying to frame a constitution for India on the lines of the Government of India Act that perpetuated these strangleholds on India and postponed the formation of the Federal Government from 1935 to 1947. Sir, these few sections that we find in the Government of India Act,—Sections 136 to 149—about finances and borrowing, about subventions and grants-in-aid were not inserted with any intention of securing social security and social justice to the people of the Provinces that came into existence accidentally. We have seen how these sections were flouted when the World War II came in 1939. By a particular section, section 126 (a) which was passed in 1939, all the Provinces, all the Provincial resources and all the people of India were made the hand-maidens and slaves of the British Government, so that the soldiers of India could help the British Government to fight this war and achieve victory at the cost of India. We know what happened. Nearly Rs. 5,000 crores worth of material were sent out of India to Britain and her allies at controlled pre-war rates and in the same way India was robbed of her food and the result was that 50 to 75 lakhs of people died in Bengal of famine and starvation. Another result was inflation. That was the social security and social justice that the Government of India Act gave us.

To me, Sir, it is painful that in the preamble of the Union Constitution it has not been clearly laid down that the objective is to maintain peace and well-being of the people and bring prosperity to the people of India—it has not yet been defined; I believe and I hope it will be defined. But I think it should be laid down that the first function of the State is to see to the well-being of the people,—not to rule as the British Government have so long ruled and exploited India for England's benefit and for India's misery and death. Therefore, Sir, I am glad to hear from Sir Gopalaswami that a Financial Inquiry Committee will be appointed. But I hope such a Committee would contain not only eminent lawyers but also financiers, economists, etc., who can lay down what is the minimum standard of social security that India's present over-burdened and over saddled financial and economic conditions will warrant for the people of India. In Part V we have provided for a strong Centre, but is it the duty of the Centre only to have administrative functions and legislative functions? I would very much like that the Union Powers Committee contained also men with knowledge of high economics and finance. I know that my friend Pandit Govind Ballabh Pant was in it and he is of course a financial expert, but there might well have been others. It is social justice and social security that we want. The Administration is of course going on. I am sorry to express this view, but I have come to the conclusion that the Union Constitution has not lightened the administrative rigour that was in the Government of India Act. of course, they will bring the final Union Constitution before us and we shall examine it in October; but judging from the tendency of speeches that we have listened to in this House by our leaders and the members of the Union Powers Committee, I find that they want power—administrative power, legislative power and so on. But these are only the tools for the contentment and happiness of the millions by maintaining peace and tranquility in the country. It is the financial and economic chapter of the Union Constitution that will show what these people really mean,—whether they want to ensure social justice or whether they want to evolve another bureaucratic government where power politics will dominate. Those who are in power whether they be my brothers or cousins, are bound to exercise their power in the same way as the British did. The reason is that most

[Mr. B. Das]

of us have grown old in the British tradition. It is very difficult, Sir, to discard that tradition and suddenly visualise democratic principles, so that we may render social justice and secure social security for our teeming millions. I therefore welcome the Union Powers Committee Report, which also will be discussed in the August Session. There I find the Committee members have gone a stage further than the draft of this Union Constitution Committee. There they say: (*vide* para 6 of 2nd report.) (*Interruption*).

**Mr. President:** I do not wish to interrupt the Hon'ble Member, but may I remind him that we are discussing Clause 3 now? It relates to subventions.

**Mr. B. Das:** I know, Sir. It is on that question I am talking. That clause talks of giving charity to the Provinces. I do not want any charity, I am merely reading out what the Union Powers Committee have said on this point, because that explains their attitude.

They say:

"It is quite clear, however, that the retention by the Federation of the proceeds of the taxes specified by us would disturb, in some cases violently, the financial stability of Units and we therefore recommend that provision should be made for an assignment or a share of the proceeds of some of these taxes on a basis to be determined by the Federation from time to time."

Sir, whether it is the Finance Minister, or the President or the Federal Government, or whoever gives subvention or charities or grants-in-aid—I do not want that. I want that it should be statutorily provided for in the Constitution Act. My friend Sir Gopaldaswami has told us that there would be an Expert Committee. But I would like that these grants-in-aid should be statutorily provided and they should not be charity grants of the Finance Minister, whoever he may be. He might be the best expert or the best friend of the poor man, it does not matter. These grants-in-aid or subventions should be reviewed periodically, say, every three years or five years. This is the suggestion that I put forward. I want them to state definitely what they are going to do for the teeming millions. The Provinces will come in as poor *zamindaries* and big *zamindaries*. While I support Clause 3 because it gives me a chance to enunciate my views before this House and which I hope the Union Powers Committee will accept, I hope that the sections in the Constitution Act will render social justice and ensure minimum standard of living to every citizen in India.

**Shriyut Omeo Kumar Das:** Mr. President, Sir, I have already told you while withdrawing my amendment I would like to make a few observations in support of this clause—Clause 3.

Sir, the question of subsidies has been in all federations a very perplexing one. But still these questions are being solved in a spirit of compromise. In all the federations the constitution makers approach this problem with a spirit of compromise and try to give a fair deal to all the units. Sir, we are entrusted with the task of framing our constitution and we have to deal with this most perplexing question of subsidies. This

question is all the more perplexing situated as we are with national income extremely low and with so many different problems in different provinces, with so many backward communities and tribes the provinces and many other complicated problems. Still I feel that the Expert Committee which will be set up in future will deal with this question and try to give a fair deal to all the units.

While framing this draft constitution for the Union we have almost accepted the constitutional set-up envisaged in the Government of India Act, and I have a lurking suspicion in my mind that we may also accept the financial arrangement that was provided for in that Government of India Act. Sir, it is not necessary for me to tell this House that the financial arrangement set up under that Act was conceived with a different outlook. At that time the Provinces were confronted with deficits and the Committee that was set up at that time, I mean the Otto Neimeyer Committee, had to determine how to bring about budgetary equilibrium. Besides, Sir, the Committee approached this question of budgetary equilibrium with the notions which prevailed regarding public finance at that time. These notions have now undergone a radical change in these few years and they have been replaced by a different criterion—the criterion of maintaining full employment, whether maximum advantage for the people can be brought about. A financial system which was designed to meet a static economy is now being called upon to meet a situation which is essentially dynamic. Sir, a government of the people and by the people is being installed and what will be the meaning, and what will be the utility of that government if it cannot bring about the maximum advantage to the people?

Sir, it will not, perhaps, be out of place if I refer here to the Canadian or Australian constitutions. The framers of those constitutions have evolved a better system of meeting the provincial requirements by giving better subsidies to the provincial units. Sir, in my province of Assam, there are special problems. The country is agricultural without any big industries. It is a land full of backward tribes and communities and a large number of backward people have been artificially transferred to that land as labourers to the tea plantations. Then there are the turbulent rivers which devastate the smiling countryside. There are also virulent diseases which bring about ruin to happy families. They need control. These are big problems and unless we have a better financial system, we cannot hope to meet these crying needs. No doubt, ours; is a backward country, but I have to bring to the notice of this House that we are one of the largest contributors to the Central exchequer, by way of the export duty on tea and jute and the excise duty on petrol. By these means we contribute to the Central exchequer not less than seven crores of rupees. But under the present financial arrangement we are receiving only a trifling subvention of Rs. 25 lakhs. I do hope that the expert committee which investigates this question hereafter will try to give a fair deal to Assam.

With these words I beg to support Clause 3.

**Mr. Mohammad Sheriff** (Mysore State): Mr. President, Sir, those who were responsible for bringing out this Report deserve our congratulations for having thought it desirable to make provisions for the uplift of those who are undergoing so many hardships. So far as this particular clause is concerned, it proposes that the Federal Government, should have the power to make subventions or grants out of federal revenues for any purpose notwithstanding that the purpose is not one with respect to which the Federal Parliament may make laws. There is no need for me to tell



[Mr. Mohammad Sheriff]

you, Sir, that we have got several post-war schemes, schemes designed to improve the economic and commercial and educational standard of the people. These schemes are on the anvil, but it is very necessary that money should be got to put them into execution. So far as the Provinces are concerned, they do not have the wherewithals to put these schemes into immediate effect. And so far as poverty is concerned it is rampant not only in the northern provinces, but also in the south. So many people are dying of starvation and hunger and the enlightenment and education advance of the masses should receive immediate attention too.

So far as these nation-building items are concerned, I do not think the provinces have the money and it is the duty of the Centre to see that money is supplied to them so that out of this money, they may spend for the needs and requirements of the poor people and in the way of their enlightenment and education. These are the two items which will bring progress and advancement to the country. These are very necessary and it is very good of the framers of the report that they should have taken this aspect of the question and decided that from out of the Federal revenues provinces also would have necessary funds. With these words, Sir, I have very great pleasure in supporting it.

**Mr. President:** I should have thought that it is a very innocent and simple clause and would not have required much discussion. I would ask the House whether further discussion is necessary since there is no opposition.

**Honourable Members :** No, no.

**Mr. President:** The question is:

“The Federal Government will have power to make subventions or grants out of Federal revenues for any purpose, notwithstanding that the purpose is not one with respect to which the Federal Parliament may make laws.”

Clause 3 was adopted.

#### CLAUSE 4

**The Honourable Sir N. Gopaldaswami Ayyangar:** I beg to move Clause 4:

“The Federal Government will have power to borrow for any of the purposes of the Federation upon the security of Federal revenues subject to such limitations and conditions as may be fixed by federal law.”

This is what every Government has to do if it has to meet expenditure which it cannot meet out of its current revenues, for it has got to meet expenditure whose effects might be of a lasting character—expenditure of a developmental nature. The raising of funds by borrowing is a very necessary item in any kind of governmental finance. This clause is a very necessary item in the Constitution.

**Mr. President :** Is there any amendment of which any member has given notice?

**Mr. M. S. Aney (Deccan States):** I suggest that for the words, “upon the security of Federal revenues” substitute “upon the security of Federal assets and revenues”.

**Mr. President:** Mr. Aney suggests upon the security of federal asset and revenues.

**The Honourable Sir N. Gopalaswami Ayyangar:** When we consider the draft we will take that into account. I do not think it is really necessary.

**Mr. President:** Is there any amendment to this clause?

**Mr. B. Das:** I have one. It is amendment No. 24 in supplementary list No. I.

**Mr. President:** That I take it is in connection with a new clause. It does not refer to this clause.

The question is:

“The Federal Government will have power to borrow for any of the purposes of the Federation upon the security of Federal revenues subject to such limitations and conditions as may be fixed by federal law.”

Clause 4 was adopted.

#### CLAUSE 5

**The Honourable Sir N. Gopalaswami Ayyangar:** Sir; I move:

“The Federal Government will have power to grant a loan to, or guarantee a loan by, any Unit of the Federation on such terms and under such conditions as it may prescribe.”

This also is a simple and very necessary clause. The Federal Government makes itself responsible for the solvency and the adequate meeting of the expenditure of the Units by the Governments of those Units. If they stand in need of a loan the Federal Government will either grant the loan or guarantee a loan which is raised by the Unit.

Sir, I move.

(Amendments 378 and 379 in List No. 2 were not moved.)

**Mr. President:** There is no amendment to this. The question is:

“The Federal Government will have power to grant a loan to, or guarantee a loan by, any Unit of the Federation on such terms and under such conditions as it may prescribe.”

Clause 5 was adopted.

**Mr. President:** I have notice of an amendment to this part by way of an addition.

**Mr. B. Das:** I am not moving. it.

**Shri T. T. Krishnamachari** (Madras: General): I am not moving VII-A, but VII-B and I would therefore like VII-B to be renumbered as VII-A. Sir, I move:

“Part VII-A. There shall be an Inter State Commission constituted in the manner prescribed by federal law, with such powers of adjudication and administration as may be similarly prescribed for the execution and maintenance of the provisions of this Constitution relating to trade and commerce and generally for adjudicating in similar matters as may be referred to it from time to time by the President”.

[Shri T.T. Krishnamachari]

The object of my moving this amendment is that in the matter of regulation of trade and commerce, so far as this Constitution is concerned the only reference we have come across so far is Clause 10 in the Fundamental Rights which this House accepted in a previous session. Clause 10 says:

“Subject to regulation by the law of the Union Trade and Commercial and intercourse among the units and between the citizens shall be free.”

I find in the report that has been submitted by the Union Powers Committee that Trade and Commerce with Foreign countries is covered by item 17 in List No. I, the Federal List, and Trade and Commerce with the provinces is included in item 26 in List 2, the Provincial List. Actually these two items follow closely the corresponding items in the Government of India Act, 1935, viz., item 19 in List I, Schedule VII and item 23 in List II of the same schedule. A slight change has been made in the wording of these two items but the contents are substantially the same. I however find a lacuna in the new proposals for a Constitution in this respect. I find this Constitution does not contain any clause analogous to Section 297 of the Government of India Act which laid a definite embargo on any device by legislation to put a ban on the freedom of inter-provincial trade. I have no doubt that the Members of this House are fully aware of this particular section in the 1935 Act and of the implications that go with it. I am therefore somewhat surprised that it should find no corresponding mention in this Constitution. Apparently the framers of this Federal Constitution have been guided by the practice that obtains in the matters of dealing with this subject in other Federal Constitutions in the world.

Sir, so far as the United States is concerned the position is that in article I, section 8 of the Constitution, there is a reference in the powers of the Congress to regulate Commerce with Foreign nations and among the several States which has now become practically the sheet-anchor of a vast amount of judicial decisions and has resulted in the creation of a number of administrative bodies to regulate various types of commercial activities within the territory of the United States. I do not think that a Federation, like the one we envisage for ourselves, could leave such important matters as vague as they are in the American Constitution, for the reason that, while the American Constitution is of the Presidential type where the initiative rests with a single individual the President, ours is to be of the parliamentary type where the initiative is not held by any one person. We have in this matter rather to look to the examples of other Federal Constitutions like those of Canada and Australia.

So far as Canada is concerned, regulation of trade and commerce finds explicit reference in the distribution of powers in Section 91, Item 2 of that country's Constitution. Therefore it does not offer any parallel to the position in which we are placed today. Australian Constitution, however, is more or less on the lines we have envisaged for our Constitution in regard to trade and commerce. There is a reference in section 51 of the Australian Constitution to internal trade and commerce. But, apparently having learnt from the experience of the United States they have been wise enough to add a few more sections to their Constitution in the matter of the regulation of trade and commerce. These are sections 101, 102, 103 and 104 and I am now referring to section 101. My amendment is more or less a verbatim copy of this section 101 which provides

for the appointment of an inter-State commission for the purposes of adjudication and administration of the provision of the Constitution in regard to trade and commerce.

Sir, it might be left that the wording of this particular amendment of mine is not appropriate. Actually I have gone a little further than the wording of this section in the Australian Constitution as I have added the words: "and generally for adjudicating in similar matters as may be referred to it from time to time by the President". My reason for doing so is that in section 135 of the Government of India Act, provision has been made for the Governor-General bringing into being a Provincial Council where matters like this may be threshed out and frictions, strains and stresses in the Constitution that might exist, eased by discussion amongst the representatives of the units. We find no provision for any such agency corresponding to this has been made in the Constitution we are now discussing. Therefore I felt that the scope of my amendment should be wider than that of section 101 of the Australian Act and it should be open to the President to refer other matters also to this Inter-State Commission.

Sir, it might be said that a very bold reference like this does not help one very much. What the position of the Inter-State Commission should be I am leaving to the Federal Law to lay down. I have not copied the parallel section of the Australian Act No. 103 and have not provided that the Members should be so many in number, that they should have such and such qualifications and so on. These are matters which have to be considered at length later on when the Constitution is in operation and a Federal Law has to be enacted for the purpose. What I desire is that some room should be left for enlarging the powers of this Inter State Commission. Whether it is only matters regarding trade and commerce and others incidental should be referred to the Commission or whether it should be the means by which some kind of co-ordination in the economic activities of the Units could be achieved and such friction as might arise smoothed are matters which may be left to the draftsman of that Constitution act and to the Federal Law that may be brought into being later on. I hope, Sir, it will be possible for the Mover to accept my amendment. (The Honourable Sir N. Gopaldaswami Ayyangar: You are the Mover). I meant the Mover of the report of the Union Constitution committees proposals. I am quite willing to agree to any changes being made by the draftsmen in my amendment in regard to the wording of it before it comes to us finally in the form of a draft Bill commend my amendment to the House for its acceptance. Sir, I move.

**Shri K. Santhanam** (Madras: General): Sir, I beg to support the amendment moved by my friend Mr. T. T. Krishnamachari. In all Federal Constitutions there is always a conflict between the need for unity and the need for local autonomy. In certain respects this reconciliation has to be achieved through Federal legislation and administration. But this process is not available in the case of many matters and so, certain non-federal institutions have to be set up. The actual scope of Mr. T. T. Krishnamachari's amendment is rather narrow. I hope when the time comes we shall be able to expand it. We have to evolve not only this Commission, but many Commissions for voluntary co-operation between the Units. Let us for instance, take the Sales Tax. It is a provincial tax. I should expect in the coming years this tax becoming one of the most important sources of revenue for the Units. But unless the Units voluntarily co-operate with one another and evolve a uniform method of taxation, there may be great shifting of trade from one Unit to another

[Shri K. Santhanam]

to the detriment of the normal development of the Units. In certain contingencies, the Units may even be driven to the necessity of handing over the collection and distribution of this tax to the Federation. It is better for that, in the exercise of their functions, the Units voluntarily co-operate, create a machinery for such co-operation and evolve certain standards and methods keeping to themselves full liberty and discretion to make local variations. It is more as a sample of voluntary Inter-provincial co-operation that I support this amendment. As this will be in the Statute Book as part of the Constitution it will set up a precedent which will give a sort of pattern for Units to join in many other spheres. Especially in matters like irrigation, agriculture, etc. such commissions will be of great use. So I suggest that this matter should be gone into by a Special Committee and its scope investigated before it is put in the draft Constitution.

How these Commissions should be constituted, whether they should be elected by the legislatures or nominated by the Units, all these matters require careful consideration and I hope proper steps will be taken to have the scheme circulated among the provincial governments and only after their consent is taken to put it in the final draft of the constitution.

**Mr. R. K. Sidhwa** (C. P. & Berar: General): Mr. President, Sir I welcome this proposition as it is of a very important nature but I do feel that the wording is rather narrow. Such an Inter-State Commission also requires to investigate the economic conditions of the country, and apart from trade and commerce, I would suggest that the word 'economics' should also be put into it. The question of money will play a prominent part in the future constitution, and as was stated only a few minutes ago by Mr. B. Das in connection with another clause, for the nation-building programmes a good deal of money will be required as subventions from the Federal Government to the provinces and unless we have got sufficient money for the purpose of giving subventions, it is not possible for the nation-building programmes to be accomplished. It has been, Sir, our cherished desire, that when India becomes free, the nation-building, programmes will be given a new fillip, and unless we have also an Economic Commission of the nature proposed for trade and commerce, I am assure you, Sir, we shall never be able to go ahead with our nation-building programmes. This is of considerable importance both to the provinces and the Federation. When the question of finances to be given to the various provinces is raised, the federal government will say that they themselves are hard pressed for money. Therefore, it is necessary that in the constitution itself provision should be made whereby an Economic Commission will be set up so that they may devise ways and means of advancing the nation-building programmes, for, instances public health, social security, social co-operation. All these things require immediate attention. If we do not give them immediate attention, I can assure you, Sir, that the people will not be content with any type of constitution that we may make. In our Objectives Resolution itself we have made it perfectly clear that we stand for the socialist system. Sir, this is a welcome suggestion but I do request the Honourable the Mover to add the word 'economics' also in the wording of the clause. We want to do something really new, something really big for the benefit of the people, and for that it is very necessary that we should have an Economic Commission. While therefore supporting this amendment I request that the word 'economic' may be added in it.

**Mr. President:** Does anyone else wish to speak?

**The Honourable Sir N. Gopaldaswami Ayyangar:** Sir, I do not propose to say much on this resolution. The principle of it is sound. It says that provision should be made in the constitution for setting up an Inter-State Commission for the purposes which the mover of this amendment has already explained in detail to the House. I would only say that, in accepting this amendment, I do not stand committed to the actual terms of it, but would like to reserve the liberty to alter the language perhaps even the substance of what is contained in this amendment before we translate it into a section or sections in the Union Constitution. Sir, I accept it.

**Mr. President:** I would now put the amendment of Mr. T. T. Krishnamachari to vote.

The motion was adopted.

**The Honourable Sir N. Gopaldaswami Ayyangar:** Part VIII refers to the Directly Administered Areas. The clauses that I want to move run as follows:—

“1. The Chief Commissioners’ Provinces should continue to be administered by the Centre as under the Government of India Act 1935, as interim measure, the question of any change in the system being considered subsequently, and all centrally administered areas including the Andamans and the Nicobar Islands should be specifically mentioned in the Constitution.

2. Appropriate provision should be made in the Constitution for the administration of tribal areas.”

The latter clause really is dependent upon the report we shall receive from the Advisory Committee. Whatever is recommended by that Committee and accepted by the House will go into the new constitution.

As regards the directly administered areas the Committee recommends that the existing state of things might continue, the question of making any changes in the constitution and administration of these Chief Commissioners’ provinces being left to be attended to in the Federal Parliament after it comes into being.

**Mr. President:** There are certain amendments to this clause.

(Mr. H. J. Khandekar did not move his amendment No. 380)

**Shri Gokulbhai D. Bhatt:** (Rajputana Eastern States): \*[Mr. President, another improved form of the amendment, conveyings nearly the same sense which my amendment has, is about to be moved and so I am not going to move mine.]\*

**Mr. Deshbandhu Gupta:** (Delhi): \*[Mr. President the amendment which I am going to move runs as follows:—

“That consideration of clause 1 be postponed and that a special Sub-Committee consisting of seven members to be nominated by the President should be recommended before the next session of the Constituent Assembly to suggest suitable constitutional changes to be brought about in the administrative systems of the Chief Commissioners’ provinces so as to accord with the changed conditions in the country and to give them their due place in the democratic Constitution of Free India.”

Regarding this, I have only to submit that according to the recommendations of the Union Constitution Committee, the Constituent Assembly, at present, intends doing nothing for Chief Commissioners’ provinces. I consulted the members of the Union Constitution Committee, Provincial Constitution Committee and some other members, and I have reached this conclusion. They do not intend that in the Chief Commissioners’ Provinces which include the three major “provinces” of Delhi, Ajmer-Merwara and Coorg, the present form of administration should be

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\*[ ]\* English translation of Hindustani Speech.

[Mr. Deshbandhu Gupta]

continued any longer. But it is only for the sake of convenience that they have recommended it. Naturally, when the population of these districts comes to about 30 lacs, they desire that on the occasion of the formation of the Constitution for the whole of the country, there should be a mention of these districts also in that constitution, and that there should be a definite recommendation for their administration in future. With this view, I am placing this amendment before you.

I am of opinion that since we appointed the Union Constitution Committee to formulate a Constitution for the centre and the Provinces likewise it was necessary to appoint a Committee for Chief Commissioners' Provinces, though they are few in number and have a small population which however is not negligible. I am glad that in a way it is an agreed amendment and I think that when the Committee is appointed, it would consider all aspects of this matter. Most of you are residents of Delhi in this way that you spend a major portion of the year here. Most of you are often our guests, and therefore, I think that when the difficulties of Delhi people come before you, this Constitution Committee will duly consider them.

I do not wish to say anything more at present. Considering the difficulties that the people in the Chief Commissioners' provinces have to face, they should not be deprived of any kind of self government now. Besides this, the part they have played in the struggle for freedom should come before the Committee and I hope it would recommend such a constitution as would be acceptable to the whole House.

I do not want to take up the time of the House for long. I hope that this amendment will be accepted. If this amendment is approved, the other amendments of which notices have been given by us need not be moved.]\*

**Mr. President:** There are no other amendments to the clause, but if the amendment suggested by Mr. Deshbandhu Gupta is accepted, it will not be necessary to consider the other amendments.

**The Honourable Sir N. Gopaldaswami Ayyangar:** I accept his amendment except that I would substitute the word 'Committee' for 'Sub-Committee'.

**Mr. President:** It is accepted by Sir. N. Gopaldaswami Ayyangar.

**Mr. R. K. Sidhwa:** Sir, I rise to support this Motion, not because, Sir, in supporting it, I want to make a speech but I want to impress upon the members who will form the Committee for this purpose to realise the importance of this question, and, therefore, I do feel some remarks are appropriate at this stage, when seconding this Motion. There are so many subjects concerning Delhi City, which have been ignored all along. It is said that Delhi is the seat of Imperial Government. The Government here look to All-India affairs and in this way they have neglected Delhi City and the Province. By way of illustration, there is a transport company here in Delhi called G.N.I.T. and people are cursing this Transport Co., because it could not cope with the traffic and at the same time the authorities are charging fabulously heavy rates. Now, if Delhi had its own Provincial Government, and if this matter came within their jurisdiction, it would certainly look into the matter at once. Transport licence is given by local Governments and if a responsible separate Government existed they would either nationalise the service as did the

\*[ ]English translation of Hindustani Speech.

Punjab Government or they would have the service improved. It may look a small matter, but nevertheless it affects the average man. The man, in the street accuses the Government for doing nothing in the matter. Then there are questions like irrigation, P.W.D., prohibition, etc. If there is a separate Provincial organization it will certainly look into the matter, no matter what the population is. Because Delhi is a Capital town, this has been ignored in the past. I do feel strongly that because Delhi has been the Capital of India, this city and the adjoining villages have been ignored in the past.

Sir, I therefore welcome this motion and I do impress upon the Committee to bear all this in mind. I want a responsible Government responsible to this Legislature, so that it can become a forum for ventilating the grievances of the public of the City of Delhi. From this point of view, Sir, I heartily support this Motion. It is already overdue. I must state, Sir, when I found in the Constitution that Delhi will probably remain as it is and later on in the future Constitution a Commission may be set up, I moved also an amendment that in the new Constitution to come, Delhi should have its own Legislature and the public must be enabled to ventilate the grievances of the people of the City or the Province. Therefore, Sir, I whole heartedly support this Motion.

**Mr. C. M. Poonacha** (Coorg): Mr. President, Sir, I thank Sir Gopaldaswami Ayyangar for having accepted this amendment of ours and in doing so, I would like to make some observations by way of suggestions. On a previous occasion, Sir, on the floor of this House, I had suggested that a Committee of this type should be appointed to examine the question of the Chief Commissioner's Provinces. The problem of the Chief Commissioners' Provinces is not so simple as it appears to be. The problem of each of these areas varies one from the other. This fact is borne out in the reports of the Constitutional Enquiries that preceded the passing of the 1919 and 1935 Acts. The question of the Chief Commissioners' Provinces was not properly dealt with in 1919 and 1935 Acts and the question is still hanging fire. Therefore, Sir, I feel that a full examination of the conditions obtaining in each of these provinces as under the 1935 Acts should be undertaken and suitable recommendations made. It may be necessary for that purpose to make local enquiries or at least elicit view points through a set of questionnaire.

So far as Coorg is concerned, I had stated on a previous occasion that I have given a definite assurance in the Legislative Council there at the time of my election to this Assembly, to the effect that the opinion of the people of Coorg will be ascertained before bringing any drastic changes in the system of administration of Coorg. Coorg has its own problems and requires a through investigation. It may not be out of place here, Sir, if I suggest that the Committee would do well to visit Coorg in order to make a first hand study of the Coorg Legislative Council there. This Council has been functioning for the last 24 years and it would be of great use to the Committee to examine how it has been working for the last quarter of a century.

In conclusion, I may be permitted to say, Sir, that as the matter is of very vital importance to the people of these areas, the members representing the Chief Commissioners' Provinces in this Assembly should be associated in the deliberations of the Committee. As the matter is rather of a complicated nature, I would also suggest that our able constitutional lawyers who have worked so much for the preparation of this Report on the Union Constitution should be included in the Committee. This question deserves very careful examination and able guidance.



**Pandit Mukut Bihari Lal Bhargava** (Ajmer-Merwara): Mr. President, Sir, I wholeheartedly support the amendment moved by Mr. Gupta. It is strange, Sir, that the Union Constitution Committee which was specially delegated with the authority to deal with the question of the Chief Commissioners' Provinces has not made any suggestion. It has simply deferred the whole question and has stated that the question of change in the system shall be taken up at a later stage. It is really a matter of great pleasure, Sir, that the sponsor of this clause has agreed to accept the amendment and that Committee will be appointed by the President to go into the question of the Chief Commissioners' Provinces.

Sir, the Chief Commissioners' Provinces are a variety of territories situated in different parts of the country and they have got a historical importance of their own. So far as my province, Ajmer-Merwara, is concerned, it is situated in the heart of Rajputana and is a place of historical importance. In fact, its strategic position has been the cause of all this autocratic administration that has prevailed in my province throughout the British rule. All efforts at effecting a change and amelioration in the administrative system have failed. The Minto-Morley Reforms of 1909, the Montagu-Chelmsford Reforms of 1919 and the Constitution Act of 1935 have left altogether unaffected and untouched the autocratic administrative system that prevails in this province and all Other Chief Commissioners' Provinces. In fact, Sir, the recommendation of the Union Constitution Committee to the effect that this question may be taken up at a later stage is altogether out of tune with the democratic constitution of the Republic of India. Therefore, Sir, it is most opportune that simultaneously with the great constitutional changes in other provinces and in the Union, the constitution of the Chief Commissioners' Provinces, which is of a thoroughly autocratic nature, should be overhauled and brought into line with the rest of India, I hope, Sir, that the Special Committee which we are going to appoint will give due consideration to problems of each Chief Commissioner's, Province and suggest a constitution which may be of a thoroughly democratic nature.

So far as Ajmer is concerned, I say that it is a Province which deserves to be raised to the status of a full autonomous Governor's Province and the mere argument of its smallness or its slender financial resources should not stand in the way of conceding to the people their right of self determination and their right to be masters in their own house. I therefore, suggest that the Sub-Committee that is to be appointed by you should consider the problem in all its aspects and should give due hearing to the representatives of the Chief Commissioners' Provinces. In fact, Sir, I wholeheartedly support Mr. Poonacha's suggestion that representatives of the Chief Commissioners' Provinces should be given adequate representation on this Sub-Committee. At any rate, the Sub-Committee should not arrive at any conclusion concerning these provinces unless and until they have given full hearing to the representatives of these provinces. I hope, Sir, that by the end of September, this Sub-Committee would be able to recommend to the House a constitution which will be thoroughly democratic and which will give to the people of these provinces a glimpse as to the liberty coming and as to the establishment of a republic in India. This question should not be shelved by the Committee in the way it has been shelved so far.

With these remarks, I support the amendment.

**Mr. B. Das:** Sir, I wholeheartedly support the resolution moved by my friend, Lala Deshbandhu Gupta. There must be a Committee to raise the

administrative standard of these Chief Commissioners' Provinces and the people there should enjoy equal privileges like us.

I can visualise there will be difficulties. These Chief Commissioners' Provinces came into existence to maintain the British power and British autocracy in India. The last speaker was speaking on behalf of Ajmer-Merwara. Ajmer-Merwara was the Political Department's paradise so long. Although the Political Department is now abolished, that place still remains the Political Department's paradise and public representatives have little say in the matter.

Delhi, Sir, showed that British autocracy can do anything it likes in the very face of the Government of India, through the Chief Commissioner in Delhi. All along there was an English Chief Commissioner and he could do anything he liked in the face of the Central Assembly that is situated in one part of this building and in the face of the single representative of Delhi in the Central Assembly. The Delhi municipal administration is very antiquated and antedated. It is a body of *jo-hukums* and it elects the Advisory Council which is very strange indeed!

Then, Sir, I go to Panth Piploda in Rajputana, with a population of 15,000 people. Could or the people have any representation? I suggest to the Committee that will enquire into this, that this should be identified with Ajmer-Merwara and form part of that Chief Commissioner's Province, be it a Governor's province or a Deputy Governor's province.

As far as the Andaman and Nicobar Islands are concerned, that blackhole plague-spot in India of which one heard so much, is inhabited by a few Indian ex-prisoners. The Nicobar Islands are inhabited by some 20,000 aboriginals. They live under very primitive customs and conditions.

So far, the Andaman and Nicobar Islands have been administered by a Chief Commissioner always recruited from the Assam Civil Service. I wish to suggest that the people there are not so enlightened except a few Englishmen and Anglo-Indians that have found settlement there for trade purposes. I suggest that the Andaman and Nicobar Islands should have representation in the Provincial Legislature of Assam Assembly and the people of Nicobar Islands should be treated as tribal people and must receive special protection like other tribal people. I do not think the Advisory Committee on Tribes have visited Nicobar Islands and enquired into the capacity and limitations of the people there.

As far as Coorg is concerned, it was created into a Chief Commissioner's Province and the Chief Commissioner there is all in all. The Chief Commissioner has all the freedom—I speak subject to correction by Mr. Poonacha—and is an autocrat. The Coorg planters, who are mostly British, think that it is a British Kingdom.

All these raise a fundamental issue, and as we are making a Constitution for the whole of India, these people should receive equal rights as we have; but how it can be adjusted is for the Committee to decide; but the Committee must visit Nicobar Islands and understand the problem of the people. In the same way I support Mr. Poonacha's suggestion that the Committee should also identify the representatives of the locality. The Committee should visit Coorg. Perhaps except, my friend, Sir Gopalaswami Ayyangar who might have visited Coorg on a holiday very

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few of us have seen or have known the autocracy of Coorg; but those of us who know what the Chief Commissioners have been in the past can visualise the repression and oppression the people of Coorg must have gone through.

**Pandit Thakur Das Bhargava** (East Punjab : General): \*[Mr. President, I wish to speak a few words regarding this resolution, from a particular point of view. I have great sympathy for the people of Ajmer-Merwara and other Chief Commissioners' Provinces. I have greater sympathy with Delhi in particular, because there is considerable affinity between Delhi and my Constituency. As a matter of fact, before 1912 when Delhi became the capital of India, it was a part of the Ambala Division of the Punjab. Even now Ballabgarh, Sonapat and Palwal, the three Tahsils of Delhi, are included in the Rohtak Districts and portions of the Eastern Punjab are included in Delhi. There is that socio-economic homogeneity between Delhi and villages of the Eastern Punjab which is considered essential for the amalgamation of one region with another. Taking into consideration all these points this part of Delhi which is included in the Chief Commissioner's Province is in reality a major part of Ambala Division and has since long been trying for amalgamation in the Governor's province.

A resolution is shortly to come up before the House, in which the question of redistribution of provinces on cultural and linguistic basis will be discussed and before this many other important questions have also been discussed. Now this is a question which may be considered to be very vital. Large numbers of conferences are being held in the Punjab and U.P., demanding amalgamation of diffused homogeneous tracts of Ajmer-Merwara and Delhi into one province, because they speak the same language and have the same way of life. If it is intended to keep the organically united parts of the East Punjab separated for ever, then I would oppose the resolution. It is my desire that after the all-important question of the Independence of India is settled, we might be able to create some new provinces. Till then, no final decision should be taken on this question.

So far as the question of the constitution of Chief Commissioners' Provinces is concerned, I am not opposed to it. I have only to submit that the, Chief Commissioners' Provinces should also get their rights. When the rest of India is getting a democratic constitution, similar rights should also be granted to them by the Legislature. I am not opposed to it, may, I have always been putting questions in the Central Legislature regarding these parts of Delhi. They are our own part and parcel. I have every sympathy with them and do want that they should be excluded from the list of provinces. I wish that Dr. Pattabhi's scheme of redistribution of provinces on cultural and linguistic basis should remain intact. This question should on no account be finally decided now. This question should be decided on its own merits. I have no objection if this question is referred to a Committee. It is not my intention that the question should be decided irrevocably. With these words I support the resolution.]\*

**The Honourable Mr. Jaipal Singh** (Bihar : General): Mr. President, I welcome the suggestion that a Sub-Committee be appointed to look into the future position of the Chief Commissioners' Province. My own interest lies in the fact that some of these Provinces are overwhelmingly

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\*[ ]\* English translation of Hindustani Speech.

inhabited by tribals, the Andaman and the Nicobar Islands in particular. Some reference has been made about the two Sub-Committees which have been appointed by the Constituent Assembly to settle the question of Adibasi tracts, six fully excluded and 18 partially excluded areas, and, I think, it is necessary the position should be made quite clear here that these two Sub-Committees were bound by the very expression that was used; that is to say that they were to examine no more than those Adibasi tracts, the excluded areas and the partially excluded areas. That is how the Committee began their work but, now, a more generous interpretation has been put to those wordings. They may now make recommendations also for tribals who are outside those so-called tribal areas. That being the case, Sir, the two Tribal Sub-Committees are, I think, equally interested in the work that may be done by the Sub-Committee suggested by the Mover of this amendment. My own suggestion is that some members from the present Tribal Sub-Committees may be incorporated in the Sub-Committee that is to go into and examine the position of the Chief Commissioner's Provinces; because there are some provinces where the whole problem will be one which will have to deal with the tribals. I support the amendment.

**Mr. President :** I will now put the amendment to vote. It has been accepted by the Mover.

The amendment was adopted.

PART VIII—CLAUSE 2

**Mr. President:** We may now take up Clause 2.

**The Honourable Sir N. Gopalaswami Ayyangar:** I have already moved it, Sir.

**Shri K. Santhanam:** On a point of order, Sir. The Tribal Committee has not yet submitted its report.

**Mr. President:** But that is the proposition before us. Does any one wish to speak on this clause?

**The Honourable Mr. Jaipal Singh:** I have only a few words to say and I feel that they must be said in order to obviate a situation which might become very serious and dangerous in this country before long. Before I say that, I would like to repeat what I said a few minutes ago that the tribal areas should include also the problem of tribals who are outside the defined tribal areas.

Sir, His Excellency Sir Akbar Hydari, the Governor of Assam, visited the Naga Hills between June 26th and July 2nd. Some very unhappy developments have since then been brewing in the Naga Hills. Members may have read some news appearing in the Press and several Members of the Interim Government, and I understand, you also, Sir, have received telegrams from some of the Nagas about what they intend to do. I myself have been receiving on an average, a telegram per day, the latest telegram becoming more confounded than the previous one. Each one seems to go one step further into the wilderness. The position, if I may have your permission to explain it, Sir, is this. The Nagas have been misguided by certain persons into thinking that, with the withdrawal of British authority, the country would go back to them. They think they are going to be in the same position as the State, where the so-called paramountcy

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would lapse back to the States, and, therefore, they could do exactly what they liked. The fact that the Naga Hills have always been part of India, have never been anything like a State, has not been pointed out to them. On the contrary, it seems the Nagas have been misguided more and more as days have been going along into the belief that the Naga Hills belong to them and that they were not part of India ever and further, that, as soon as the Dominion of India came into existence, the Naga Hills would be the exclusive property of the Nagas. Sir, some of the leaders of the Naga Hills came to Delhi recently and saw some of the prominent Members of the Interim Government. Those of us who came into contact with them tried to tell them the blunt fact. (*Interruption*) I only desire that what I say should travel to the distant Naga Hills and reverberate there—that they have been misguided by interested persons into believing that they could do what the States could do by His Majesty's Governments June 3 Plan. I only wanted to say this, because I think that it is necessary something definite should be said on the floor of this Assembly. One of the telegrams sent to the Members of the Interim Government puts it in the mouth of the Constituent Assembly that "the offer for joining the Union has been rejected by the Nagas". The fact is there has been no question of an offer. Besides, an offer is unnecessary and uncalled for because the Naga Hills have always been part of India. Therefore, there is no question of secession. They are not an Indian State.

I hope the troubles that have been brewing there will be obviated by this definite statement on the floor of this Assembly. The unequivocal fact is that Naga Hills are part of India and they were never otherwise.

**Shri V. I. Muniswami Pillai** (Madras : General): Sir, I had given notice of an amendment for the protection of aborigines. But in the note it has been provided that any scheme that may come before the C.A. must be on the report of the Advisory Committee. So far the Advisory Committee has not submitted its report regarding the tribal areas or the aboriginal tribes people living in the areas distributed in various provinces. Until that report comes, I do not wish to move this amendment.

**Mr. President:** That really means that the report of the Sub-Committee will have to be taken into consideration before any scheme could be provided. I do not think there will be any difference of opinion on such a clause. Therefore, I put it to vote.

Clause 2 was adopted.

**Mr. President:** I may say here that if there are any amendments they will be considered when the report comes up before the House.

**Shri K. Santhanam:** Sir, I have an amendment which runs as follows:

"That after Part VIII the following new Part be inserted:—

PART VIII-A—EMERGENCY POWERS

1. If, at any time, the Governor of a Province is satisfied that a situation has arisen in which the Government of the Province cannot be carried on in accordance with the provisions of this constitution and has so reported to the President of the Federation or if the President of the Federation is satisfied that the normal government of the Province has broken down, he may take any action which he considers necessary including (1) suspension of the provincial constitution (2) promulgation of ordinance to be applicable to the Province; and (3) issuing of orders and instructions to the Governor and other officials of the Province.

When any such action is taken by the President he shall report to the Federal Legislature and unless his action is ratified by both Houses of Legislature

within a period of six months from the date of his taking action the normal constitution of the province shall be restored. The situation shall be reviewed by the Federal Legislature and continuation, if necessary, of the emergency action approved every six months.

The President shall restore the normal constitution as soon as he is satisfied that the emergency has ceased to exist.’”

This is complementary to the provisions which have already been added to the provincial constitution. According to Mr. Gupte’s amendment which has been carried, the Governor has power for two weeks to take emergency action. If an emergency arises, he will have to take the sanction of the President. If that emergency arises and this action for two weeks is not sufficient then only the President and the Federal Government have to take action. I have described two contingencies in which the President will have to take action. One is when the Governor reports that he is unable to manage the situation with his special powers given to him. Secondly, if the government of the Province has so utterly broken down that it can do nothing, and when there is no authority capable of dealing with the situation, then the President on his own initiative can take action. When he does so, he will have to report to the Federal Legislature and do so once in six months, and the normal constitution will be restored as soon as the emergency disappears.

I think the whole thing is quite logical and is absolutely necessary. For instance, if the police machinery in a province breaks down and the Governor can do nothing in the matter, he will have to invoke the powers of the President and this provision gives these powers to the President. Therefore, I hope the new provision which I have suggested will be accepted unanimously by the whole House.

**Mr. H.V. Kamath:** Sir, considering that the motion of Mr. Santhanam has no relation or relevancy to the provisions of Part VIII, I fail to understand how it can be numbered Part VIII-A.

**Mr. President :** He has moved for the insertion of another part called Part VIII-A. Emergency Powers.

**Mr. B.M. Gupte (Bombay: General):** Sir, I beg to move:

“That after Part VIII, the following new Part be inserted:—

#### PART VIII-A—EMERGENCY POWERS

“1. (1) On report being made by the Governor of a Province under Section ..... Part..... of this Constitution, the President of the Federation shall have the power to issue, in consultation with his council of ministers, a proclamation assuming to himself all or any of the powers vested in or exercisable by any Provincial body or authority except the High Court, including the power to confirm modify or revoke the Proclamation issued by the Governor.

(2) The Proclamation, under this section, shall cease to operate at the expiration of 2 months unless its continuance for any further period is approved from time to time by a resolution passed by the Federal Legislature.”

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Mr. Santhanam, has, already shown how such a clause as this is necessary. We have already accepted the position, by passing Clause 15 of the Provincial Constitution that there shall be some emergency powers vested in the President. But in the Report there is no such provision made; hence my amendment and the amendment of Mr. Santhanam. They are both designed to remove this lacuna. My amendment provides that as soon as the President gets the report from the Governor he may issue a proclamation, in consultation with his Council of Ministers. As the Governor is authorised to take immediate action, there is no urgency for the President to act without the advice of his cabinet. That he does this in consultation with his Council of Ministers, is a point I want to emphasise as a point of difference between my amendment and that of Mr. Santhanam.

**Shri K. Santhanam:** Sir under the Federal Constitution, the President always acts on the advice of his Ministers.

**Mr. B. M. Gupte:** That is all right. I only emphasise it. It was agreed in the course of the debate on Governor's powers, that overriding power should be given to the President. There was heated controversy about power being given to the Governor; but so far as the President was concerned, there was unanimity of opinion. That power is now given to the President, of course circumscribed by the condition that he has to consult his Ministers.

Another difference between Mr. Santhanam's amendment and mine is that he has provided for a period of six months while I have put it down as only two months. This is a power we give for dealing with an extraordinary situation and I think only the minimum power should be given and a period of two months is quite sufficient to convene the Legislature. Only that much power should be given as is absolutely necessary. The Federal Legislature is the supreme authority on this matter and therefore an endorsement from that legislature should be obtained. I have provided that unless the Legislature endorses the action of the President within two months, the proclamation of the President shall cease to operate. As the Legislature is supreme I have put no time limit on its power. If necessary the Legislature can from time to time give its assent to the proclamation. If it is a grave emergency, it will not last long; but if it should continue in a sub-acute form then the legislature can certainly from time to time extend the proclamation.

Therefore, I submit, Sir, that my amendment is a better provision. In fact my amendment is based on the position arising from the acceptance by the House of the provision vesting the authority in the Government to issue a proclamation. Mr. Santhanam's amendment does not fit in with that position. It does not refer to the Governor's proclamation at all. It is based on the assumption that merely the power to report had remained with the Governor. I, therefore, submit that my amendment makes a better provision and should consequently be accepted by the House.

**Mr. R. K. Sidhwa:** If Sir Gopaldaswami could state which of the amendments he is prepared to accept, that would perhaps facilitate the discussion.

**Mr. President :** Sir N. Gopaldaswami, would you like to say anything now?

**Shri M. Ananthasayanam Ayyangar:** Mr. President, Sir....

**Mr. President:** Mr. Ayyangar.

**Shri M. Ananthasayanam Ayyangar:** Which Ayyangar Sir?

**Mr. President:** Sir N. Gopaldaswami Ayyangar.

**The Honourable Sir N. Gopaldaswami Ayyangar:** Sir, I cannot categorically answer what Mr. Sidhwa has asked, but I will certainly indicate my views. Both the amendments that have been moved are intended to make provision for what the House has already accepted in the case of the Provincial Constitution. The House will remember that when we were discussing the Provincial Constitution, it put into that Constitution a clause which is substantially the same as section 93 of the Government of India Act, 1935 with slight variations in details. The Governor was given power to assume to himself all or any of the functions of Government or any of the powers vested in or exercisable by any Provincial body and so on. Then there was a sub-clause which said:

“The proclamation of the Governor shall be forthwith communicated by the Governor to the President of the Union who may thereupon take such action as he considers appropriate under his emergency powers.”

It becomes necessary, therefore, that we should somewhere in the Constitution make provision indicating what the powers of the President may be in a certain emergency which arises in a province; and, from that point of view, I think both the amendments attempt to supply the omission which would otherwise exist in the outlines of the Constitution. The point for us to consider is what sort of provision should be made. The Governor himself has been given the powers to suspend practically all or any portion of the Provincial Constitution and take to himself powers possessed by the various authorities indicated in the Provincial Constitution. Having done that, he has got to make a report to the President and, if nothing happens, the proclamation will cease to operate on the expiry of two weeks. The emergency might be of a character which extends beyond two weeks or it may be such that the President of the Federation might consider did not warrant all the extraordinary measures which the Governor chose to take for tackling that particular situation. Therefore it is necessary that we should invest the President of the Federation with some powers to act on a report which he receives from the Governor of province.

Mr. Santhanam in his amendment has proposed a number of detailed measures which the President could take after receiving the report of the Governor. Now it is difficult for me to accept all the details of the measures that he has suggested in his amendment. For instance, he suggests that these powers should include suspension of the provincial constitution by the President, promulgation of ordinances applicable to the province and thirdly, issuing of orders and, instructions to the Governor and other officials of the province. A Governor takes some action. It may be right or it may be wrong. If it is right, it might deserve to be extended beyond the two weeks for which that action could normally be in force. If it is wrong, the President has powers under the clause already carried in connection with the Provincial Constitution to revoke the proclamation of the Governor. And then the President will have to take action on his own which he considers appropriate for tackling the particular emergency. whether the powers that we should vest in the President should be so all-comprehensive as Mr. Santhanam has suggested is a matter which, I



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think requires very serious consideration. It makes a breach into Provincial autonomy which many of us may not be willing to agree to but it is necessary that the President should have such power as may be essential for the purpose of tackling particular situation. If Mr. Santhanam will permit those who will frame the text of the Constitution to examine this provision both in substance and in language more carefully and propose something, for the consideration of the constituent Assembly, which would co-ordinate the action of the Governor in the Province and the action that the President may have to take on the report of the Governor. I am prepared to accept the principle of vesting in the President certain emergency powers in this connection.

I would say the same thing in regard to the amendment of Mr. Gupte. The net result of what I have indicated is that while I am not prepared to hand over the entire administration of a province into the hands of the President even in an emergency of that sort, I am prepared to concede the position that he should have certain emergency powers in order to decide what appropriate action should be taken for dealing with a particular emergency and no more. I accept that principle. So if the movers of these two amendments will accept my assurance that we will try to translate into the draft some provisions which will implement this principle, there will be time for Mr. Santhanam and Mr. Gupte to scrutinise the draft when it comes up before the House again and propose any amendments of detail which they would like to press. That being so, I would ask that on this assurance they should withdraw the particular amendments of which they have given notice.

**Shri K. Santhanam:** In view of the assurance given I beg to withdraw my amendment.

**Shri B. M. Gupte:** Sir, I withdraw my amendment.

The amendments were, by leave of the Assembly, withdrawn.

#### PART IX

**The Honourable Sir N. Gopaldaswami Ayyangar:** Sir, I move Part IX, which reads as follows:

“The provisions for the protection of minorities as approved by the Constituent Assembly on the report of the Advisory Committee should be incorporated in the Constitution.”

This is a very innocent clause.

**Mr. President:** The question is:

“That Part IX be accepted by the House.”

The motion was adopted.

The Assembly then adjourned till Ten of the Clock on Thursday, the 31st July, 1947.