Monday, 1st August, 1949

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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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CONSTITUENT ASSEMBLY OF INDIA

Monday, the 1*st August* 1949

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

DRAFT CONSTITUTION—(*Contd.*)

Article 175—(*Contd.*)

Mr. President : We were dealing with article 175 day before yesterday before we rose. We shall now continue discussion on article 175. The question was raised by Shri Satish Chandra that he had an amendment to article 172 and that unless it became clear what the shape of article 172 would be, he did not know whether to move or not to move the amendment, of which he had given notice, to article 175. I would like to know if he would press that point.

Shri T. T. Krishnamachari (Madras: General) : Sir, may I submit that that article has very little to do with article 172. Article 172 seeks to resolve a conflict between the two Houses, whereas article 175 deals with the Governor's assent to Bills passed by the legislatures and when he can send a Bill back to the legislature for reconsideration. Anyway, the shape of the amendment to article 175 completely clears the position of all ambiguities. Therefore, I suggest that article 175 be considered apart from 172.

Mr. President : Would it not be better if we were to dispose of 172 first?

Shri T. T. Krishnamachari : That is entirely to be decided at your discretion. We may take up 172 first and then have the vote on 175.

Mr. President : Do you have any objection?

The Honourable Dr. B. R. Ambedkar (Bombay: General) : I have no objection, Sir, I am entirely in your hands.

Mr. President : Then we shall dispose of 172 first and then go to 175.

Article 172

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move :

"That for article 172, the following article be substituted :—

Restriction of powers of Legislative Council as to Bills other than Money Bills.

'172. (1) If after a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council—

(a) the Bill is rejected by the Council; or

(b) more than two months elapse from the date on which the Bill in laid before the Council without the Bill being passed by it; or

(c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree,

the Legislative Assembly may again pass the Bill in the same or in any subsequent session with or without any amendments which have been made suggested or agreed to by the Legislative Council and then transmit the Bill as so passed to the Legislative Council.

(2) If after a Bill has been so passed for the second time by the Legislative Assembly and transmitted to the Legislative Council—

(a) the Bill is rejected by the Council; or

[The Honourable Dr. B. R. Ambedkar]

(b) more than one mouth elapses from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree,

the Bill shall be deemed to have been passed by the Houses of the Legislature of the State in the form in which it was passed by the Legislative Assembly with such amendments if any, as have been agreed to by the Legislative Assembly.

(3) Nothing in this article shall apply to a Money Bill'."

The House will remember that when we discussed the question of the resolution of the differences between, the Council of States and the House of the People, we discussed the different methods by which such differences would be resolved, and we came to the conclusion that having regard to the Federal character of the Central Legislature it was proper that the differences between the two Houses should be resolved by a joint session of both the Houses called by the President for that purpose. It was at that time suggested that instead of adopting the procedure of a joint session we should adopt the procedure contained in the Parliament Act of 1911 under which the decision of the House of Commons with regard to any particular Bill, other than a Money Bill, prevails in the final analysis when the House of Lords has failed to agree, or refused to agree, to the amendment suggested by the House of Commons after a certain period has elapsed. On a consideration of this matter, it was felt that the procedure laid down in the Parliament Act for the resolution of the differences between the two Houses of the Legislature was more appropriate for the resolution of differences between the two Houses set up in the Provinces. Consequently we have made a departure from the original article and introduced this new article embodying in it the proposal that the decision of the more popular House representing the people as a whole ought to prevail in case of a difference of opinion which the two Houses have not been able to reconcile by mutual agreement.

Sir, I move.

Shri T. T. Krishnamachari : Mr. President, Sir, I move:

"That with reference to amendment No. 9 of List I (Second Week) of Amendment to Amendments, in sub-clause (b) of clause (1) of the proposed article 172, for the words 'two months' the words 'three months' be substituted."

I would like to explain why this has been necessary. The amendment moved by Dr. Ambedkar to article 172 is a variation of the amendment in List I, No. 10. If honourable Members will scrutinise No. 10 they will find that in sub-clause (b) of clause (1) and sub-clause (b) of clause (2), the period that is allowed to lapse after the Bill had returned to the Legislative Assembly is mentioned as three months and one month respectively, but it is to commence from the date of reception of the Bill in the Upper House, and clause (3) of article 172 in amendment No. 10 prescribes how these three months are to be calculated and it also says that if there is any prorogation of the Upper House, the period of prorogation will not be counted to make up these three months. In actual fact, this particular amendment, as Dr. Ambedkar mentioned, closely follows the wording of the Parliament Act of 1911. But there is this difference between what happens in the British Parliament and what is likely to be in our case that while it is proper to stipulate that the total time taken including the time of prorogation shall be a particular period in case of the British Parliament we cannot do the same thing in regard to the Upper House, for this reason that while the British Parliament sits practically day to day for the bulk of the year, the Upper Houses in our provincial legislatures will sit only for a few days at a time and the aggregate period of their sessions may not even come to two months in the whole year. So it was represented to us by a very prominent Premier of one of the major provinces

that this would, in effect, mean that the delay would be inordinate. It may extend to over a year or more, because at no time will the Upper House sit for a period of three months continuously even in one year. The amendment moved by Dr. Ambedkar was a result of these representations and clause (3) in No. 10 has been left out. But at the same time another variation has been made that the time to be calculated is to be from the date of the laying of the Bill before the Upper House, so that the reception date does not come into operation; and it was then felt that two months would be adequate. But on further reflection, since we have cut out clause (3), that is, that we shall not be taking into account the period of the prorogation of the House in the total time that might elapse, we felt that two months was inadequate and three months would be more reasonable. After all, the over-all time that is to be taken for a Bill to be returned to the Lower House will be three months from the date on which it is laid before the Upper House which in my view and in the view of my colleagues in the Drafting Committee is reasonable. That is why I have moved this amendment. It merely extends the period by one month and does not materially alter the scope of the amendment moved by Dr. Ambedkar. I commend the amendment to the House.

[Amendments Nos. 11 and 12 of List I (Second Week) were not moved.]

Mr. President : Now the article and the amendments are open for discussion. I know that the latter is Provided by (c), but still, it is better to make it clear article as it stood originally and they do not arise now.

The Honourable Shri K. Santhanam (Madras : General) : I just want to draw Dr. Ambedkar's attention to one or two minor mistakes in drafting. In clause (b) it should be:

"more than two months elapse from the date on which the Bill is laid before the Council without the Bill being passed by it in the same form in which it was passed in the Assembly,"

because a thing may be passed either in the same form or with amendments. I know that the latter is provided by (c), but still, it is better to make it clear that (b) also refers to such case.

Secondly, in clause (c) it says : "the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree"—now this is a later process, because when the Council passes a Bill, it does not know whether the Assembly will agree or not. Whenever the Council passes an amendment, it is in the hope that the Assembly will accept it. When the latter does not accept, the resulting position is covered. Therefore, (c) must read "the Bill is passed by the Council with amendments" and the other words should be omitted.

Shri Brajeshwar Prasad (Bihar: General): Mr. President, Sir, I am opposed to article 172 as moved by Dr. Ambedkar. The provision for a joint sitting in the old draft was a very salutary one. I see no reason why it should be deleted at this stage. We must be clear in our minds whether we want an Upper Chamber or not. If we want an Upper Chamber, it must be vested with certain powers. It has got a part to play. With the inauguration of the new Constitution on the basis of adult franchise, it is risky to vest all powers in the hands of the Lower House. I have no belief in the sovereignty of the Lower House. I believe that power must be vested in the hands of those who are literate; not only literate but wise too. I believe that power must be vested in the hands of those who are not only wise 'hut who have got a sense of justice. I have no faith that the Lower House, constituted on the basis of adult franchise, will be able to do justice to anybody. People in India are not only illiterate, but narrow-minded, steeped in fanaticism and superstition. Therefore, I support the old provision of the

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article which lays down that there shall be a joint session. Personally, having due regard to the facts of our political life, I was in favour of vesting the Upper Chamber with co-equal powers, but as a compromise I thought that the best solution was the provision for a joint session. But now, at this hour, at the fag end of the session, a new article has been placed before us. I thoroughly oppose the article.

Secondly, the Upper House must be vested with the power of delaying legislation. That is a well-established principle. The provision in the old article prescribed a period of six months. Now it has been reduced to a period of one month, two months or three months—I do not know which is going to be accepted by the House. Personally, I am in favour of one year being given. This period will provide an opportunity for close introspection, so that the Bill passed in the heat of the moment, under the stress of some dominant prejudices, may be reviewed and passions may wear off and with the lapse of time people may be in a position to take a sober view of things. This mad craze for democracy and parliamentarism and vesting of all powers in the Lower House will lead to disaster. Sir, I feel that all those people who were killed in the Mahabharata war have been reborn as Congressmen. They have not only divided the country but they are now going to jeopardise the interests of even that portion of the country which is entrusted to their care. In the name of parliamentarism and democracy everything will go to the dogs.

Prof. Shibban Lal Saksena (United Provinces: General): Sir, this is a very important article and I congratulate the Drafting Committee on the revised amendment which they have framed. I was not prepared for the opposition of my Friend Shri Brajeshwar Prasad who doubts the responsibility of the Lower Chamber which is based on adult suffrage, and he feels that an real power should go to the Upper House. I do not remember whether he opposed the provision about adult suffrage when it was passed. But I myself think that if there is one thing in this Constitution which if of paramount, importance, it is the provision about adult franchise under which every single adult in the country will be able to exercise his vote and decide the fate of the country. That is a thing for which we have been fighting from the very beginning and I am surprised that any one should come forward and say that the Lower House is an irresponsible body which cannot be trusted. This article has been very well drafted, I think, and it follows the practice in England. Everywhere the Upper Chamber is intended to be a revising chamber when-ever there is any point of doubt or things have been done hastily; the Lower Chamber can consider the suggestion of the Upper Chamber and rectify a mistake. It is never intended that all power should vest in the Upper Chamber. I therefore support the amendment moved by Dr. Ambedkar as a very salutary one. But I will point out one thing. Article 172 does not provide for the calling of the Council and it is possible that the Council may not be called for two months. Some one should have the duty laid upon him to call the Council so that the matter may be decided in two months. I think on mature consideration my Friend Shri Brajeshwar Prasad will withdraw his objection and shed his fears about the Lower Chamber.

Mr. Tajamul Husain (Bihar: Muslim): Sir, the amendment moved by Dr. Ambedkar amounts to this that if a Bill is passed by the Lower House in a State and goes up to the Upper House and the latter reject it or amend it or do nothing for two months, the Lower House may again pass it, with or without amendments. It goes again to the Upper House; if the Council again

reject it or amend it or do nothing for two months, the Bill will automatically become law and will go to the Governor for his consent. My honourable Friend Shri Brajeshwar Prasad objects to this. I think the most important chamber in a State will be the Lower House as it will represent all the people. Similar procedure and practice are prevailing in England; of course it does not apply to Money Bills. The most important point to consider is, what is an Upper House ? It consists of nominated people who represent certain limited interests, while the Lower House represents the people. If this power were not given to the Lower House as contemplated, it would amount to a veto exercised by a few people only over the rest of the people of the State. Democracy means the will of the people which is only represented in the Lower House. Sir, I support the amendment of Dr. Ambedkar.

Mr. Naziruddin Ahmad (West Bengal: Muslim) : Sir, I rise to oppose the amendment moved by Dr. Ambedkar. I do not blame him personally for the amendment but he has to conform to outside opinion. I submit that this amendment will frustrate the very object of having a Second Chamber. The avowed object of a Second Chamber is revision and delay. This is often very necessary in a popular House consisting of a large number of members. Especially when the House has no experience, it ought to have the benefit of Bills getting a second thought and consideration at the hands of the Upper House. The function of the Upper House is to give Bills a sober second thought. After proper consideration it suggests amendments which are often acceptable to the Lower House. I have had some experience of the working of the Upper House. I have found there is initially some understandable impatience on the part of the Lower House about the Second Chamber. They think that the Upper House is an interloper and that its object is to frustrate the object of the Lower House. It is not so. Speaking from my experience in Bengal, I think that a Second Chamber has proved to be necessary and its utility has been appreciated by a critical Lower House in the long run. Sir, if the Upper House is to function, it must be given sufficient opportunities to discharge its duties. Sub-clause (b) of clause (1) provides that if a Bill passed by the Lower House is not passed by the Upper House within two months from the date it is laid before the Council, then it comes back to the Lower House for further consideration. I submit that if we put down a strict and rigid limit of two months, then it may be that the Upper House in many cases will not be able to exercise its functions at all. I will cite an example. I, or instance, a Bill is passed by the Lower House and is laid before the Upper House towards the end of a session, and then there is a long adjournment; the House does not meet for two months. In these circumstances, the Upper House will not be able to got a chance to consider the matter, and the Upper House with its membership and staff will remain idle without having anything, to do. If the Upper House is to function, it should get sufficient time so as to enable it to give Bills due consideration and thought. I submit therefore that the two months' limit, rigid as it is, will frustrate the very object of the Second Chamber and it may be that the expense, trouble and bother will come to nothing.

Then again in clause (2) of the amendment, it is provided that if the Upper House fails to pass a Bill within two months, the result would be that the Lower House will again consider it and pass it with or without any amendment and then it is placed again before the Upper House. It is provided in this clause that if a Bill comes, up before the Upper House and if it is not passed within one month of its being laid before the Council, then the Bill as it was passed by the Lower House will be deemed to have been passed by both, Houses. I submit, Sir, that in the example I have cited. On the first occasion the Upper House has no chance to consider the Bill and on the second occasion the Upper House will not be able to give it sufficient thought; it cannot

[Mr. Naziruddin Ahmad]

discharge its functions within one month and may not in a similar contingency have any opportunity to consider it at all. First of all; the Bill may be complicated; the Bill may be difficult; it may be controversial. It may be necessary to send it to a Select Committee or to send it for circulation. In fact, we cannot foresee the varieties of situations that may arise. Let us suppose that the Lower House and the Upper House both function honestly as I have no doubt they will. The Upper House may decide that the Bill should be considered by a Select Committee or it must be examined by experts. On the second occasion, we put a limit of one month. I submit that these rigid limits would frustrate the very object of the Second Chamber. I therefore submit that the article as it originally was in the Draft Constitution was good. Somehow or other, the Drafting Committee, burdened as it is with heavy work, has got despaired and is ready to accept any compromise or suggestion whatsoever. I submit these are important matters, and require careful consideration. Artificial limits of two months and one month are too rigid and would prove impracticable in actual working. The matter should be left to mutual goodwill. I submit this is a fundamental objection, would frustrate the object of the Upper House and would reduce the Upper House to nullity and insignificance. With these few words, I oppose the amendment.

Sardar Hukam Singh (East Punjab: Sikh): Mr. President, Sir, I had an amendment in the List that could not be moved on account of a technical objection. My submission is that the article as it is finally proposed is not very clear. The procedure laid down would be so difficult that ordinary legislation might-be delayed extraordinarily. I want one or two things to be made clear. So far as sub-clause (b) is concerned, it lays down that more than two months should not elapse before a Bill is passed by the Upper House, from the date on which the Bill was laid before it. Again sub-clause (c) of clause (1) says "the Bill is passed by the Council with amendments to which the Legislative Assembly-does not agree". This is very ambiguous. When a Bill has been passed, by the Council with amendments, then we send it back to the Legislative Assembly. It shows that, whether the Assembly does or does not agree, that will require a second sitting and second passage by the Assembly. Then again under clause (2)(c) if the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree, then it shall have to be considered, by the Assembly for the third time, because otherwise it cannot be known whether the Assembly does or does not agree to any amendments proposed by the Legislative Council. So, consideration thrice by the Legislative Assembly and twice by the Legislative Council would delay legislation that might be required to be passed with some speed. The object of the Council is to check hasty legislation but there should be some reasonable limit and the legislation might not be delayed or defeated at all. This would give unnecessary powers to the Council. My honourable Friend Mr. Brajeshwar Prasad does not believe in this democracy and has said.....

Shri Brajeshwar Prasad : I entirely believe in democracy, but I do not believe in Parliamentarism. There is a world of distinction between the two.

Sardar Hukam Singh : I said "in this democracy" as laid down here in this provision. Perhaps he missed this word "this". He says that extraordinary powers should not be given to the Lower House. If we are going to try this venture, I beg to submit that we should do it wholeheartedly and with no reservations and therefore ample powers should be given to the representatives of the people so` that when they consider necessary they may pass any legislation in the interests of the people. If only unnecessary haste is to be checked. Then there are sufficient checks provided, for once the Legislative Council rejects it or returns it with certain amendments the Legislative Assembly has

to re-consider it. Then again, even when both Houses have passed it, it has to, come to the Governor for assent and under the proviso the Governor can send it back for reconsideration with suggestions and with amendments. My proposal was that after the Legislative Assembly has passed the Bill for the second time, there is no need to send it again to the Council. The procedure would be cumbersome and expensive and would delay legislation and I consider it unnecessary. Then, after sub-clause (c) it is laid down "that the Legislative Assembly may again pass the Bill in the same or in any subsequent session with or without any amendments which have been made, suggested or agreed to by the Legislative Council. I fail to understand whether "Legislative' Council" is competent to make these amendments, to suggest them or agree to them. It is certainly an advisory body; it can make suggestions and send that back with those amendments and I do not know whether these three different words convey different meanings or they are put down simply to put force in the same thin. I request the Honourable Dr. Ambedkar to make this clear also.

With these words, Sir, I oppose this draft as it stands now.

Dr. P. S. Deshmukh (C.P. & Berar: General) : Mr. President, Sir, it is becoming more and more clear that the provision of the Second Chamber in the States is proceeding more and more because of the distrust of adult franchise and nobody has made it clearer than Mr. Brajeshwar Prasad who thinks that the country is likely to go to dogs if there is no provision for the Second Chamber with more powers. My justification for intervention at this stage is only this, that the provision that we are now considering discloses that the only function that the Second Chamber is going to perform is merely to delay legislation. Mr. Brajeshwar Prasad is quite correct when he said that we have not left any effective powers in its hands to that extent, but the question arises whether, for the sake of merely delaying legislation all this paraphernalia of a Second Chamber with all the difficulties it has met with and the difficulties also about giving proper representation and not finding sufficient and proper interests which should be represented on this Second Chamber, it is worthwhile to have the Second Chamber at all. The delay also has been minimised by the provisions that are now embodied in article 172. The delay would be at the most of about six months. The Second Chamber has no power of initiating Money Bills and the only function, therefore, that it is going to perform is to delay a Bill that is passed by the Legislative Assembly and with which it does not agree. I think, Sir, that the expenditure of money as well as energy that this will involve is not at all commensurate with the insignificance of the functions that are being allotted to it. Since, we have not even decided about the composition, about the nature of representation as well as even the membership, even at this late stage, I would like to appeal, if it is possible, that the Second Chambers in all the States may be dropped altogether.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I beg to support this amendment for the reason that we have noticed that there has been a large body of opinion against a Second Chamber in the provinces. They do not want Second Chambers at all and therefore, it has been left to the provinces themselves to have Second Chambers or not. Even as regards those who may start a Second Chamber, it is open to them after a period to resolve that there will be no Second Chamber. It is also open to any province which did not start with a Second Chamber to have a Second Chamber. When there is so much divided opinion in regard to this matter and the Second Chamber is intended only for delaying and to avoid certain mistakes, is it desirable that the Second Chamber should come within the ambit of legislation ? If it is an advisory body, there is every chance of all the provinces also having a Second Chamber, so that whatever mistakes or incongruities might have crept in the

[Shri M. Ananthasayanam Ayyangar]

Lower House might be corrected by the Upper House. On the other hand the Upper House will have a dominant voice and in a case where there are sharp difference of opinion the Upper House in a State will consist of not more than 25 per cent of the number of members in the Lower House, and it is the Upper House that will decide as to which way it ought to go. A joint sitting means that it will be decided by a few persons in the Upper House and we have not as yet decided what the composition of the Upper House ought to be. I am sure the composition, whether it is incorporated in the Constitution or is brought about by an Act of Legislature, will include certain representatives who are nominated by the President or the Governor and there will be representatives for Art, Education etc. Then it may so happen that these very nominated members will ultimately decide the fate of any particular social or other piece of legislation. Therefore, even from the start a number of provinces and States might set their faces against having a Second Chamber if we clothe the Second Chamber with enormous power. The only way in which it can be avoided is lo leave this matter to the provinces to decide after a period of time. And whatever has been decided by the Lower Chamber ought to become law. This article has been copied from the practice in the House of Commons. We do not know what the composition is with respect to the U.S.A. or with respect to the various provinces in Australia. We have got only the models of both the Federal Constitution of Australia and the Federal Constitution in the U.S.A.

A joint sitting is provided for in Australia. So far as the Centre is concerned, it is a different affair. We have provided for a joint sitting, in the case of the Centre, to resolve the difficulties arising out of difference of opinion between the Lower House and the Upper House, on the lines of the Australian Constitution. So far as the provinces are concerned, we have not got the Constitution of those States. Thinking independently of any of these Constitutions, I agree with this amendment that we ought not to impose an obligation to create a new right in the Council, which is an unwanted Council. Almost every province is against having a separate Council. In these circumstances, let us not impose a Council with enormous powers, a Council sitting on the fence and deciding one way or the other, making the considered opinion of the lower House a nullity. Honourable Members will also consider another aspect. The lower House to which the Ministry is responsible, is fully in charge of Money Bills; so far as Money Bills are concerned, the Upper House is not concerned except for discussing here and there. With respect to other Bills; it may be a matter of substance, and it may mean a vote of no-confidence so far as the Ministry is concerned, and the Ministry may have to go out of office. It will create a number of complications. In these circumstances, the only proper method is to see that, after a period of one or two sessions, if the Lower House persists in having its Bill pushed through and the Upper House does not consent, the Bill as passed by the Lower House automatically becomes law. That would avoid all conflicts with the Lower House and also encourage all States to have an Upper House and take their advice.

I support this amendment and I request honourable Members not to press their amendments to this amendment asking for a joint sitting.

Pandit Hirday Nath Kunzru (United Provinces: General) : Mr. President, I could not hear my honourable Friend Dr. Ambedkar clearly. I cannot therefore say whether he explained the need for the latest amendment proposed by him to article 172.

It is quite open to the House to decide whether there should be a Second Chamber or not. The other day, there were differences of opinion amongst

honourable Members whether the Constitution of the Legislative Councils should be laid down in the Constitution or should be left to be provided for by Parliament. I think, Sir, that however the Legislative Councils may be constituted, they are likely to be creatures of the Government and the Lower House. They will seldom be in a position to express any independent opinion. As a rule, I think they will, reflect the opinion of the majority in the Lower House. It seems to me that in these circumstances, 'there is not much use in having an Upper Chamber. But, if the House desires that there should be an Upper Chamber, then, I suggest that its powers should not be curtailed to such an extent as to make it unable even to consider carefully the measures that might be sent up to it by the Lower House.

The Draft Constitution proposed that :

"If after a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council, more than six months elapse from the date of the reception of the Bill by the Council without the Bill being passed by both Houses, the Governor may, unless the Bill has lapsed by reason of a dissolution of the Legislative Assembly, summon the Houses to meet in a joint sitting for the purposes of deliberating and voting on the Bill :"

It was made clear that this did not apply to Money Bills. Further, clause (2) of the article that I have read out provided that :

'In reckoning any such period of six months as is referred to in clause (1) of this article, no account shall be taken of any time during which both Houses are prorogued or adjourned for more than four days."

There are two points in article 172 as included in the Draft Constitution that are open to objection. One was that the mere refusal of a Legislative Council to consider a measure passed by the Lower House should make the Governor think of convening a joint session of both Houses in order to decide whether the measure in question has the approval of the legislature or not. Another point that was open to objection was that if the period of six months was to be reckoned in the manner laid down in the above-mentioned clause, it might be a year or more before the fate of a Bill passed by the Lower House could be definitely known. The Drafting Committee proposed two or three days ago an amendment to this that reduced the period from six months to three months, but otherwise made no important change in the provisions of article 172 as included in the Draft Constitution. The latest amendment of the Drafting Committee reduces the period to two months, and also alters the provision relating to the manner in which the period of two months should be reckoned. My honourable Friend Mr. T. T. Krishnamachari, who is a member of the Drafting Committee has now proposed that the period allowed to a legislative Council to consider a Bill should be not two months, but three months. It is obvious from this that the opinions of the Drafting Committee on this subject are not fixed.

The opinions even of the ablest members of the Committee are fluctuating. The House is therefore entitled to know clearly why changes are being suggested from time to time on which the Drafting Committee itself has so long been unable to make up its mind.

Sir, I do not regret the omission of the provision relating to the manner in which the period that I have referred to repeatedly should be reckoned, but if there is to be a Second Chamber, we should consider what should be the reasonable period allowed to it to consider measures that it receives from the Lower House. Is the period of six months laid down in the Draft Constitution excessive or have the present Legislative Councils in the provinces shown any tendency to hold up unreasonably the consideration measures in order to delay passage or to make their consideration impossible ? So far as I remember, there have been no such instances. In the United Provinces to which I

[Pandit Hirday Nath Kunzru]

belong, very contentious measures have been considered by the Upper House but so far as I am aware no complaint has been made that it has used its position to defer unreasonably the consideration of important measures in order to prevent the representatives of the people from passing laws that are in the best interests of the people. I doubt whether more contentious measures can be introduced in any legislature than have been introduced in the United Provinces Legislature and if in practice it has not been found that the present procedure has been abused, then the responsibility for showing that a change in the period suggested in the Draft is necessary lies on the Drafting Committee. I think considering the changes that have been made by the Drafting Committee itself from time to time there is no principle, on which it is proceeding. My honourable Friend Dr. Ambedkar says there is a very good principle.

The Honourable Dr. B. R. Ambedkar : I say there is no principle.

Pandit Hirday Nath Kunzru : I am glad my honourable Friend admits, that there is no principle underlying the amendment that he has suggested to the House.

The Honourable Dr. B. R. Ambedkar : It is a matter of expediency and practicality.

Pandit Hirday Nath Kunzru : He admits it is a question of expediency and practicality. , I ask the House to consider whether in case there is a Second Chamber, it should not be allowed more than two or three months in order to consider a measure, however important and however lengthy it may be. If this provision is passed, then if the Upper House receives a Bill containing three hundred clauses it will be its duty to pass it within three months.

Prof. Shibban Lal Saksena : It is only on the second occasion.

Pandit Hirday Nath Kunzru : My honourable Friend should read the amendment more carefully.

Shri M. Ananthasayanam Ayyangar : While the proceedings of the Lower House are going on, the Upper House is sleeping!

Pandit Hirday Nath Kunzru : My honourable Friend himself seems to be in a sleepy condition. The Upper House will not be sleeping while the Lower House is leisurely considering what measures should be sent up to the, Upper House. It will probably not be sitting. After notice of the passage of a Bill has been received by the Upper House, I take it that three weeks at least will pass before the House meets. It will therefore have not more than two months for the consideration of a measure. Considering the question in all its aspects, considering the reason for the existence of an Upper Chamber, I suggest that if it pleases the House to vote in favour of its establishment it should be given adequate time to consider measures passed by the Lower House carefully. If even this measure of grace is not extended to the Upper House, there be absolutely no reason for its existence. I personally, as I have said, considering the circumstances in which we are proceeding, do not think that Upper Chambers are needed or, if established, will be able to serve any useful will be able to exercise their independent judgment in any matter; but if the, House chooses to allow Second Chambers to be established, then I suggest that the period allowed to them for the careful consideration of measures should not be reduced to such an extent as to make them look ridiculous.

Shri V. I. Muniswamy Pillay (Madras: General) : Mr. President, Sir, by adopting the second portion of the amendment of my honourable Friend Dr. Ambedkar, I it confirms my view that the existence or bringing into existence

of Second Chambers in the provinces will be superfluous. This amendment has been brought to see that hasty legislation in the assemblies are carefully watched by the Upper House and then they give their verdict; and there is also the view that joint deliberation of both Houses is taken away from this amendment. So it goes to show that the interests of certain classes and also of communities and interests are at stake if we accept the second portion of the amendment. After passing a certain enactment in the Legislative Assembly the public opinion may be against such an enactment. The only protection and safeguard Will be in the hands of the Council. Now if a Bill is rejected by the Council for the second time, that shows that there is some defect, and some interest is not protected. So it becomes necessary that Council must have a voice in the passing of the Bills. It is in our knowledge that after the attainment of independence in this country many of the provinces have brought forward in the assemblies many Bills and they have the consent of the Councils concerned. Now when the final Constitution is passed, it will be more, so that many Bills of interest and safeguards for communities and other interests will come before, the provincial Assemblies. If measures are to be summarily rejected because of this amendment, I feel that the interests of many communities and interests will greatly suffer. So I feel that something must be done, to see that even if the Second Chamber rejects a measure the interests of communities that I have referred to are safeguarded. I hope the expert committee will see to it that these interests are not jeopardised.

Prof. N. G. Ranga (Madras : General) : Mr. President, 'Sir, I have come here to support the amendment moved by the Drafting Committee, and that too for very good reasons. I am not able to agree with my Friend Pandit Kunzru when he says. "Either you should have no Second Chamber at all, or if you must have one, you should make it very powerful." As I said the other day, I am not in favour of Second Chambers at all. I wish the House had been in favour of having only single chambers in the provinces. But it so happens that the House has decided in favour of having Second Chambers in certain provinces. , Now, if we are to have Second Chambers at all, then the question is, what sort of chambers are they to be? Are they to be empowered to such an extent as to be able effectively not only to delay but to frustrate the legislative effort and achievements of the Lower Chamber? Now, I am sure the House is unanimous on this point that the Upper Chamber can only be expected to play the part of a counselling chamber, as a moderating chamber, as a delaying chamber, and nothing more. Now, that itself is bad enough, according to us. But even if we agree to this concession, surely it will be wrong to give so much power to the Upper Chamber as to make the legislative effort of the Lower Chamber more or less nugatory and useless. Why do you want six months ? If you are to have any time, why should you not be satisfied with three months ? My honourable Friend Pandit Kunzru, says that in three months it would not be possible for the Upper Chamber to give serious consideration and attention to the issues involved, and to the various clauses of any given Bill. Very well. What is the real position ? The Lower Chamber has already given serious consideration to the particular measure and passed it on to the Second Chamber. It has passed it section by section, every bit of it, after careful consideration. The principle involved has been accepted by the Lower Chamber. And it is the Lower Chamber which is really responsible to the people as a whole, and so it must be expected to be the final authority so far as the principle is concerned. It is only with regard to the detailed manner in which the principle is to be embodied in legislative form that the Upper Chamber can be expected to come in. Under these circumstances why should it be necessary to give the Upper Chamber more than three months ? Surely even as a practical proposition one ought to be willing to agree to give not more than three months. And we should realise that even to give three months to delay is sometimes very dangerous indeed. We are passing through,

[Prof. N. G. Ranga]

times when-and in times to come it is likely to be much more so—it will be necessary to pass legislation expeditiously in order to stave off more dangerous social upheavals, and in order to prevent people from unnecessarily agitating themselves at the instigation of certain interested people, people who are interested in upsetting the social order and social Organisation in any country. Therefore, Sir, I plead with the House to give support to the Drafting Committee in its suggestion that the period should not be more than three months.

Then there is the other suggestion made by several friends, including my Friend, Mr. Muniswamy Pillay, that there should be joint sessions of the two chambers, or joint sittings. But why should there be joint sittings ? They say joint sitting is necessary because it is likely to display greater wisdom.

Shri V. I. Muniswamy Pillay : I did not want it.

Prof. N. G. Ranga : A joint sitting would be ridiculous for this reason that one-third or one-fourth of the second chamber is likely to be nominated.

Pandit Lakshmi Kanta Maitra (West Bengal: General) : How do you know it ? We have not yet decided that matter.

Prof. N. G. Ranga : We have already said so; we are going to decide it that way. I suppose we are going to decide that an element of nomination should be introduced, and in that case, you will be giving, these people too much power to sit in judgment and delay legislation that may be passed by the Lower Chamber. Secondly, two-third.; or three-fourths of this Upper Chamber is to be elected by the Lower Chamber itself. Therefore the position will be, that the Lower Chamber will be prevented from doing its work as expeditiously as it should, by the very people it has elected.

Pandit Lakshmi Kanta Maitra: But why do you presume that the Upper Chamber will always be holding, up the business of the Lower House ?

Prof. N. G. Ranga: My Friend seems to have forgotten the very reasons for which second chambers are sought to be created by our friends in this House. Most of the people who spoke in favour of the.....

Pandit Lakshmi Kanta Maitra: Forget that it will be the second chamber of old days, of the Government of India Act, 1935.

Prof. N.G. Ranga : My Friends who have spoken here and elsewhere were keen that the second chamber should be a moderating chamber, that it should be a delaying chamber. That is one thing. The next thing is, even if we take it that second chambers of the future are likely to be differently constituted from second chambers of the past, we should remember that second chambers all ever the world have been delaying factors. They have been centres of reaction' What is more even in this country it is intended that these second chambers should be citadels of reaction, of orthodoxy and Sanatanism. I am opposed to this orthodoxy, to this reaction or to this Sanatanism; and I do not want these second chambers at all. But as a compromise, I am prepared to have the period put down as three months and not one day longer than that.

Shri Syamanandan Sahaya (Bihar: General) : Mr. President, Sir, I have read and re-read the amendment moved by Dr. Ambedkar, but have, failed to find out what purpose or whose purpose his amendment is going to serve. We have just heard him say that in this amendment there is no question of principle involved, but that it is a question of expediency and of practical work. I do

not see what is the expediency about it. We are at present framing the Constitution; it is a sacred task, and therefore there is no use making provisions for having more than one chamber, if ultimately on account of the powers that we give Second Chamber, we find that it can or will serve no useful purpose because, to that extent, its, mere existence without any useful activity would mean so much drain on public revenues. Sir, the whole case, as far as I have been able to make out, of the supporters of the amendment is based on an apprehension, and that apprehension is that these Upper Chambers will really be delaying chambers. Perhaps there might have been some room for this apprehension in days gone by, but considering the constitution of the Upper Chamber that has been laid down in this Draft that we are considering, I see no cause for any apprehension nor for the feeling that the Upper Chambers will have nothing more to do than to delay all legislation. As a matter of fact, from the experience that we had in our own province. I can say without any fear of-contradiction that the Upper Chamber has served a very useful purpose. I do not think I will be wrong if I stated that almost all the amendments adopted by the Legislative Council in Bihar were ultimately accepted by the Legislative Assembly in Bihar. That shows that the Upper Chamber has its usefulness and it can become useful if it strives to that end.

If we refer to page 67 of this Draft, we will find that the constitution of the Upper Chamber has been laid down, and if we go through it we should have no difficulty in agreeing to the proposition that the Upper Chambers will really not be composed of such people as will have reactionary tendencies. It will be seen that out of the number of members, one-half shall be chosen from panels of candidates constituted under clause (3) of the article.

Mr. President : May I point out that that article has not yet been accepted ?

Shri Syamanandan Sahaya : Quite true, Sir, but we have to proceed today on the assumption that this is the proposal of Dr. Ambedkar—the House may turn it down. Today we are considering the amendment moved by Dr. Ambedkar, therefore I am proceeding on the assumption that if his proposal about the-constitution of the Upper Chamber will be accepted, his present amendment will become wholly unnecessary. That is what I am trying to show.

Well, Sir, if we look at the constitution of the Upper Chamber, you will find that the panels are composed of persons having special knowledge or practical experience in—

(a) literature art and science;

(b) agriculture, fisheries and allied subjects;

(c) engineering and architecture;

(d) public administration and social services.

There is no room for any Zamindar to come in. The second group, that is one-third the number, shall be elected by the members of the Legislative Assembly itself, and the remainder shall be nominated by the Governor.

Mr. President : The honourable Member has no reason to think that a Zamindar is the only person who can be a reactionary.

Shri Syamanandan Sahaya : Well, Sir, somehow or other that is the impression that has gone round, but I too say that it is wrong.

So, looking at the constitution of the Upper Chamber as it is in the Draft—subject to, any amendments that the House may like to make—we find that there is no cause for any apprehension from a body constituted in the manner I have just explained. But apart from any other thing, I certainly like the

[Shri Syamanandan Sahaya]

declaration, for instance,, from Prof. Ranga who says he does not believe in a Second Chamber. That is perfectly clear but I cannot understand our agreeing to a Second Chamber but giving it practically no powers whatsoever. According to the amendment, in three months' time or two months' time a Bill is either to be passed or not passed by the Second Chamber. What is the use of having a Second Chamber like this ? The constitution of the Legislative Assembly, in number, shall be very much bigger than that of the Legislative Council; so even with a joint sitting there is no apprehension of the Lower House's views not prevailing; but actually it gives an opportunity to people with experience of administration and other things to give to the Legislative Assembly their advice and explain to the House their viewpoint of the matter. Administration in democracy is administration by persuasion and reasoning. That is all that the original draft laid down when it said that there shall be a joint sitting. I therefore feel that the wording in the Draft Constitution which has been placed before us is definitely better than the amendment which has been proposed and I would, therefore, suggest to the House that the amendment should be rejected.

Mr. President : Shrimati Renuka Ray.

The Honourable Shri Satyanarayan Sinha (Bihar: General) : Sir, the question be now put.

Mr. President : I have already called a Member. After she speaks, we shall consider the motion for closure.

Shrimati Renuka Ray (West Bengal: General) : Mr. President, Sir, I rise to support this amendment which I think is an extremely wholesome one. I was one of those who believed that a Second Chamber was not a necessity and that in fact in many of the smaller Provinces it will be a very expensive luxury. All the same, it has been incorporated in the Constitution with the avowed object that the Second Chamber was necessary as a revising Chamber. It was pointed out that inadvertently or otherwise it may be possible for the Lower House to pass legislation which it would find difficult to rectify. Later and the Second Chamber might serve the purpose of revision. This was the object put forward for which a Second Chamber was acceptable to the majority. But now we find that there are some who would like to have it in the form of a chamber,-with dilatory functions. For if we are going to allow six months, if joint sessions are going to be allowed it would mean that the Second Chamber would not only be just for the sake of revising a Bill which has some defects, and which the Legislative Assembly itself would like to revise, but it would also be tantamount to acting as a dilatory chamber, which would be extremely retrograde. Because we have agreed to having Second Chambers in some of the Provinces, it does not mean that we should give it more powers and have a chamber with dilatory functions imposed in the Constitution. I myself am of the opinion that the purpose for which a revising chamber has been sought to be put in was also not necessary because the President or Governor has the power always to send back a piece of legislation to the Assembly and any mistakes could be rectified through this procedure. However if the majority felt otherwise and put the Second Chamber in the Constitution, there is no reason whatsoever to give it more power and thus hold up legislation, which may be very pressing and necessary. The dilatory powers would be injurious for the country and a very retrograde provision in the Constitution. I do feel that it seems to be the object of some of those who have spoken to bring in the type of Second Chamber that we had in the Past. We talk of the composition being quite different; even if it is quite different, it is quite true that people, even if they were scientists or

doctors, who go through the process of political life into Upper Chambers—or Lower Chambers for the matters of that—have to enter the arena of politics and Party Politics. Somebody said that Second Chamber would be for men like Rabindranath Tagore. But the best scientists and men of literature are not likely to enter Party Politics and come into the Second Chamber at any price. If their opinion has to be sought, it has to be sought from outside the Legislature in any case. Therefore, I would appeal that, although this House has agreed to a Second Chamber, it will not in any case agree to extending its powers, but accept this amendment which will give it only the functions of a revising nature.

Mr. President : Closure has been move. The question is :

The motion was adopted.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, as I listened to, the debate, I find that there are some very specific questions which have been raised by the various speakers who have taken part in the debate. The first point was raised by my Friend Mr. Santhanam and I would like to dispose of that before I turn to the other points. Mr. Santhanam said that a provision ought to be made in clause (1) of the article to provide for a case where the Upper House has not passed the Bill in the form in which it was passed by the Assembly. I think that on further consideration, he will find that his suggestion is actually embodied in sub-clause (c), although that clause has been differently worded. We have as a matter of fact provided for three cases on the occurrence of which the lower House will take jurisdiction to act on its own authority. The three cases are: firstly, when the Bill is considered but rejected completely; secondly, when the Upper House is either sitting tight and taking no action or has taken action but has delayed beyond the time which is permitted to it for consideration of the Bill; and thirdly, when they do not agree to pass the Bill in the same form in which it has been passed by the Assembly, which practically means what my Friend Mr. Santhanam is suggesting. I therefore do not think there is any necessity to revise this part of the article. I might say incidentally that in devising the three categories or conditions on the occurrence of which the Lower House would I have the power to act on its own authority, the words have more or less been taken closely from article 57 of the Australian Constitution.

Now, I come to the general points that have been raised. It seems to me in discussing this matter, there are three different questions that arise for consideration. The first question is how many journeys the Bill should undertake before the will of the Lower House becomes paramount. Should it be one journey, two journeys or more than two journeys ? That is one question. The second question is, what should be the period that should be allotted to the Upper House for each journey, both going and coming back ? The third question is, how is the period within which the Council is to act to be reckoned ? To use the phraseology which is familiar to those who know the law of limitation, what is to be the starting point ? So far as the present amendment is concerned, it is proposed that the Bill should have two journeys. It goes in the first instance, it comes back and it goes again. It may be possible to argue that more journeys than two are to be permitted. As I said, this is a question of practical politics. We must see some end, or dead end, at which we must allow the authority of the Lower House to become paramount, and the Drafting Committee thought that two journeys were enough for the purpose to allow the Upper House to act as a revising Chamber.

[The Honourable Dr. B. R. Ambedkar]

Now, with regard to the time to be permitted, to the Upper House during these journeys to consider the Bill, the proposal of the Drafting Committee is two months. Now it may be three months, in the first case, as I am accepting the amendment moved by my Friend, Mr. T. T. Krishnamachari, and in the second case it would be one month.

My Friend Pandit Kunzru said that the Drafting Committee had no fixed mind, that it was changing from moment to moment, that it was fickle, and he referred to the original Draft set out in the Draft Constitution laying down six months. Here again, I should like to point out to him that the period to be allowed to each House is not a matter of principle at all. It is a matter only of practical politics and the Drafting Committee came to the conclusion that six months was too long a period. In fact, it felt that even three months was too long a period. But it is quite conceivable that a Bill. Like the Zamindari Bill, which has a large number of clauses, may emerge from the Lower House and may be sent to the Upper House for consideration. But for such exceptional cases, I think my Friend will agree that other measures would not be of the same magnitude or the same substance. Consequently, we thought that three months was a reasonable period to allow to the Upper House in the case when the Bill goes on its first journey, because after all what is the Upper House going to do? The Upper House in acting upon a Bill which has been sent to it by the Lower Chamber is not going to re-draft the whole thing; it is not going to alter every clause. It is only certain clauses which it may feel of public importance that it would like to deal with, and I should have thought that for a limited legislative activity of that sort, three months in the first instance was a large enough period to allow to the Upper House, and would not certainly curtail the legitimate activity of a Second Chamber. In the second case, we felt that when the, Lower House had more or less indicated to the Upper House what are the limits to which they can go in accepting the amendments suggested by the Upper House, one month for the second journey was also quite enough. Therefore, as I said, there being no question of principle here but merely a question of practical politics, we thought that three months and one month were sufficient.

Now, I come to the last question, namely, what is to be the starting point of calculating the three months or the one month. I think Mr. Kunzru will forgive me. For saying that he has failed to appreciat the importance of the changes made by the Drafting Committee. If this provision had not been there in Draft article 172 as it stands, I have no doubt—and the Drafting Committee had no doubt-that the powers of the Upper Chamber would have been completely negatived and nullified. Let me explain that; but before I do, so, let me state the possibilities of determining what I call the starting point of limitation. First of all, it would have been possible to say that the Bill must be passed by the Upper House within a stated period from the passing of the Bill by the Lower House. Secondly, it would have been possible to say that the Upper House should pass the Bill in the stated period from the time of the reception of the Bill by that House. Now Supposing we had adopted either of these two possibilities, the consequences would have been very disastrous to the Upper House. Once you remember that the summoning of the Upper House is entirely in the hands of the executive—which may summon when it likes and not summon when it does not like—it would have been quite possible for a dishonest executive to take advantage of this clause by not calling the Upper House in session at all. Or supposing we had taken the reception as the starting point, they could have also cheated the Upper House by not putting the Bill on the agenda and not thereby giving the Upper House an opportunity to consider it. We thought that this sort of procedure was wrong; it would result

in penalising the Upper House for no fault of that House. If the House is not called certainly it cannot consider the Bill, and such a Bill could not be deemed to have been considered by the Upper House. Therefore in order to protect the Upper House the Drafting Committee rejected both these possibilities of determining the starting point, namely, the passing of the Bill and the reception of the Bill, a proposal which was embodied by them in the draft article as it stands. And they deliberately adopted the provisions contained in the new article as is now proposed, namely, when the Bill has been tabled for consideration if the Upper House does not finish its consideration within the particular time fixed by this clause, then obviously the right of the Upper House to deal with the matter goes by its own default, and no one can complain; certainly the Upper House cannot complain. My honourable Friend Pandit Kunzru will therefore see that rather than whittle down the rights of the Upper House the new proposal has given the Upper House rights which the executive could not take away.

Pandit Hirday Nath Kunzru : Does this childish explanation satisfy the honourable Member himself ?

The Honourable Dr. B. R. Ambedkar : If my honourable Friend chooses to call it childish he may do so, but I have no doubt that the new clause is a greater improvement than the clause as it stood. I am sorry if Pandit Kunzru is not satisfied. But he did not raise any point to which I have not given an explanation.

Mr. President : The question is:

"That in sub-clause (b) of clause (1) of the proposed article 172, for the words 'two months' the words 'three months' be substituted."

The amendment was adopted.

Mr. President : The question is :

"That proposed article 172, as amended, stand part of the Constitution."

The motion was adopted.

Article 172, as proposed and amended, was added to the Constitution.

Article 175—*(Contd.)*

Shri Brajeshwar Prasad : Sir, I am not whole-heartedly in favour of article 175. Under this article the Governor has no power to veto a Bill in his own discretion or initiative but can do so only if he is so advised by his Ministry. I am not in favour of this provision. Then, he cannot veto a Bill that has been twice passed by the Legislative Assembly; even that is not acceptable to me. He has not got power in his discretion to veto a Bill or to reserve a Bill for the consideration of the President. There are two classes of cases in which a Bill can be reserved for the consideration of the President. It can be so reserved under certain article of this Constitution, and also if the Governor is advised by his Ministry to do so. I want that the Governor should have power in his discretion to veto a Bill passed by the legislature, whether passed once or twice by it. Secondly, I am in favour of the President having power to reserve a Bill for his consideration, on his own initiative and authority. He should have power to issue an order to the Governor directing that a Bill passed by the legislature should be reserved for his consideration, or that a Bill should be disallowed whether the Governor reserves it or not. I know that this proposition will not be in consonance with what is supposed to be the democratic tendencies of the age. People think they are. Living in a democratic age. But I feel that we are living in a totalitarian age. I want power to be vested in the hands of the Governor

[Shri Brajeshwar Prasad]

of vetoing unjust and unsound legislation. This provision occurs in the Canadian federation and I want this power in our Constitution having due regard to the facts of our political life. I feel further that if the Governor has power to veto a Bill and the President has power to disallow a Bill, it will act as a potential check on disruptive legislative tendencies.

The fear of disruptive legislation is real in this country. One who has closely scrutinised the provisions of the legislative acts that have been passed by the provincial legislatures will agree with me that this fear is not imaginary, that this fear is very real. Sir, the proposal which I have placed before the House is in consonance, is in accord with the traditions of the Centralised system of Government that has existed in this country up till now. It is in consonance with the implications of Paramountcy that the British Government exercised over the Native States. Sir, I am in favour of veto power in the hands of the Governor and the President because I feel that this new experiment of Parliamentarism requires to be moderated, and regulated. I think it will be in accord with the facts, of our life. I want, Sir, that this power of veto should be frequently exercised by the Governor in his discretion. To refer every Bill to the President will not be in consonance with the dignity of the Head of a State. I want that provincial legislation should be delayed by the Governor in his own discretion. I have no confidence in provincial Ministers.

Prof. Shibban Lal Saksena : Mr. President, Sir, I am very sorry I cannot agree with the amendment proposed by Dr. Ambedkar. The original proviso to article 175 said—

> "Provided that where there is only one House of the Legislature and the Bill has been passed by that House, the Governor may, in his discretion, return the Bill together with a message requesting that the House will reconsider the Bill or any specified provisions thereof and, in particular, will reconsider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House shall reconsider it accordingly and if the Bill is passed again by the House with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom."

So, in the proviso as it originally stood, the Governor could send a Bill back with a message only when there was one House of the Legislature, but here in the new proviso even if there are, two Houses, the Assembly and the Council in a State, even then the Governor is given the power to return a Bill with his message. We have just now had a long discussion over the powers of the Legislative Council. The whole thing under the new proviso will come to this. Suppose a Bill is passed by the Assembly. It will go to the Upper House. It takes some time to be sent to the Upper House and then about two months in the Upper House. The Bill may be amended there. Thereafter the amended Bill comes back to the Assembly. The Assembly will then discuss it. A month may be taken over this. Then again 'it is sent back to the Council and there it will be considered again for about a month, so that on the whole it will take about six months after it first becomes law. Now, power is given to the Governor to return the Bill with a message. No time limit is given; how long he will take to return the Bill is not mentioned. So, if this proviso is accepted, what it will mean is this : that any contentious legislation will again go to Assembly and then to Council and it may take another six months in all that and so the legislation may be held back, if the Governor is not inclined to help. I think that the original proviso is much better. In those provinces where there is only one House, where the safeguard of a Second Chamber 'is not there. We may give the Governor the power to return a Bill, but where there is already a Council, where the Bill has been again discussed threadbare when every aspect of it has been examined thoroughly, the Governor should not have the power to send back a Bill. 'I think this is very reactionary and no quick legislation will be possible under this proviso. I therefore think that the

original proviso to article 175 is much better than the one which has now been moved. I completely disagree with my Friend, Mr. Brajeshwar Prasad, who seems to favour everything which gives power to the Governor and the Council. He wants that the Governor should have power to hold up any legislation.

Shri Brajeshwar Prasad : I think it is wrong. The Governor is not an outsider. He is the representative of the Government of India. His views should prevail either over the Lower House or over any other authority in the province.

Prof. Shibban Lal Saksena : I know he is the nominee of the President, but it is quite possible that the party in power in the province may not be the same as the party in power in the Centre and the President may not be *persona grata* with that party. I therefore think that it will introduce a very wrong principle to give the Governor this power to go against the express wish of the Assembly and even of the Council. I think that the original proviso should remain and the Governor should have power to send back a Bill only where there is no Second Chamber.

Shri T. T. Krishnamachari : Mr. President, Sir, I thought that after the discussion on amendment No. 17 in List I the other day, there will be no need for further "explanation for amending the proviso to this article. I am afraid my Friend. Mr. Shibban Lal Saksena, has entirely misconstrued the position. If he construes that this amendment is worse than the proviso in the draft article and that it makes for further dilatoriness in the proceedings of the legislatures in the provinces or the States as the case may be, I would ask him to remember one particular point to which Dr. Ambedkar drew pointed attention, *viz*., that the Governor will not be exercising his discretion in the matter of referring a Bill back to the House with a message. That provision has gone out of the picture. The Governor is no longer vested with any discretion. If it happens that as per amendment No. 17 the Governor sends a Bill back for further consideration, he does so expressly on the advice of his Council of Ministers. The provision has merely been made to be used if an occasion arises when the formalities envisaged in article 172 which has already been passed, do not perhaps go through, but there is some point of the Bill which has been accepted by the Upper House which the Ministry thereafter finds has to be modified. Then they will use this procedure; they will use the Governor to hold up the further proceedings of the Bill and remit it back to the Lower House with his message.

If my honourable Friend understands that the Governor cannot act on his own, he can only act on the advice of the Ministry, then the whole picture will fall clearly in its proper place before him. It may happen that the whole procedure envisaged in article 172 also goes through and then again something might have to be done in the manner laid down by this particular proviso but it is perhaps unlikely. It is a saving clause and vests power in the hands of the Ministry to remedy a hasty action that they might have undertaken or enable them to take an action which they feel they ought to in order to meet popular opinion which is reflected outside the House in some form or another and for this purpose only this new Proviso has been put in. It does not abridge the power of the responsible Ministry in any way and therefore, it does not detract from the power of the Lower House to which the Ministry is undoubtedly responsible; it does not confer any more power on the Governor. On the other hand it curtails the power of the Governor for the position envisaged in the original proviso which it seeks to supplant. I think with this explanation the House will agree to the amendments without any further discussion.

Mr. President : The question is :

"That for the proviso to article 175 the following proviso be substituted :—

'Provided that the Governor may, as soon as possible after the presentation to the Bill for assent, return the Bill if it is not a Money Bill together with a passage

[Mr. President]

requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with Or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom.' "

The amendment was adopted.

Mr. President : The question is:

"That article 175, as amended stand part of the Constitution".

The motion was adopted.

Article 175, as amended, was added to the Constitution.

Article 176

Mr. President : Then we go to article 176.

The Honourable Dr. B. R. Ambedkar : I suggest that it would be better if we take up 83-A and dispose it of.

Mr. President : I do not think there is much in article 176. We can take it up now. There is hardly any amendment. I find there are some amendments of which notice has been given printed at page 251 of the First Volume. Does any member wish to move any of those amendments ?

(Amendments Nos. 2482 to 2485 were not moved.)

There is another amendment to that in the Supplementary List, but that will not arise because it is an amendment to an amendment.

Now there is no amendment to this article 176.

Mr. President : The question is :

"That article 176 stand part of the Constitution."

The motion was adopted.

Article 176 was added to the Constitution.

Article 83-A

Mr. President : Shall we go back now to article 83 ?

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move:

"That after article 83 the following new article be inserted :—

Decision on question as to disqualifications of members.

'83-A. (1) If any question arises as to whether a member of either House of Parliament has been subject to any of the disqualifications mentioned in clause (1) of the last preceding article, the question shall be referred for the decision of the President and his decision shall be final.

(2) Before giving any decision on any such question. The President shall obtain the opinion of the Election Commission and shall act according to such opinion.' "

This article is a replica, so to say, of article 167-A which we passed the other day which applies to similar cases in the provinces and I do not therefore think that any more explanation will be necessary.

Mr. President : The question is :

"That after article 83 the following new article be inserted :—

Decision on questions as to disqualifications of members.

'83-A. (1) If any question arises as to whether a member of either House of Parliament has been subject to any of the disqualifications mentioned in clause (1) of the last, preceding article, the question shall be referred for the decision of the President and his decision shall be final.

(2) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.' "

The motion was adopted.

New Article 83-A was added to the Constitution.

Article 127-A

Mr. President : I think, we had better take up articles 210 and 211. Thereafter we shall come to article 127-A.

Shri T. T. Krishnamachari : Either way it does not matter because if this is accepted then articles 210 and 211 get automatically dropped.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, I move.

"That after article 127, the following new article be inserted : —

Audit reports relating to accounts of a State.

127-A. The reports of the, Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor or Ruler of the State, who shall cause them to be laid before the Legislature of the State.' "

The House will remember it has now adopted articles whereby the auditing and accounting will become one single institution, so to say, under the authority of the Comptroller and Auditor-General. It is, therefore, necessary that we should make some provision that the reports relating to the audit and accounts of a particular State shall be submitted to the Legislature by the Governor or the Ruler for its consideration and that is what this article provides for.

Mr. President : Does any one wish to say anything about this article ?

Honourable Members : No.

Mr. President : The question is :

"That after article 127, the following new article be inserted:—

Audit reports relating to accounts of a State.

'127-A. The reports of the Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor or Ruler of the State, who shall cause them to be laid before the Legislature of the State.' "

The motion was adopted.

New article 127-A was added to the Constitution.

Articles 210 and 211

Mr. President : We may then take up articles 210 and 211. The proposal is that article 210 be deleted. Does any one wish to say anything about it ?

(None rose to speak.)

I put this proposition to vote that article 210 be deleted.

The question is :

'That article 210 be deleted."

The motion was adopted.

Article 210 was deleted from the Constitution.

Mr. President : Similarly article 211. The question is:

"That article 211 be deleted."

The motion was adopted.

Article 211 was deleted from the Constitution.

Article 197

Mr. President : Shall we take up article 212 ?

Shri T. T. Krishnamachari : Article 188 may be taken up; it has got to be deleted.

The Honourable Dr. B. R. Ambedkar : I was suggesting that articles 188 and 278 may be taken together. It would be better if the whole thing is explained.

Mr. President : Then, we shall take up article 197.

The Honourable Dr. B. R. Ambedkar : Sir, I move.

"That for article 197, the following article be substituted:-

Salaries, etc, of Judges, '197. (1) There shall be paid to the Judges of each High Court such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pensions as may from time to time be determined by or under law made by Parliament, and until so determined, to such allowances and rights as are specified in the Second Schedule:

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.' "

This section corresponds to the other article which related to the Supreme Court Judges.

Mr. President : There is an amendment by Pandit Kunzru.

[Amendments 20, 21 and 22 of List I (Second Week) Were not moved.]

Mr. President : There is no amendment moved to this. I shall put to vote the article as moved by Dr. Ambedkar today.

The question is:

"That for article 197. the following article be substituted

Salaries, etc, of Judges '197. (1) There shall be paid to the Judges of each High Court such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament, and until so determined, to such allowances and rights as are specified in the Second Schedule:

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.' "

The amendment was adopted.

Article 197, as amended, was added to the Constitution.

Article 212 to 214

Mr. President : Shall we take up article 212 ?

The Honourable Dr. B. R. Ambedkar : Sir, I would like articles 212 to 214 to be held over. I think article 275 may be taken up.

Shri L. Krishnaswami Bharathi (Madras : General): Sir, articles 212 to 214 are sought to be held over. I think the House would like to have an explanation as to why they are being held over.

The Honourable Dr. B. R. Ambedkar : The explanation is this: that we are having the prospect of some of the Settlements coming over to India like Chandernagore and other places. We have to make some provision for them, and this might be the appropriate place where provision for them might be made. It has been just suggested that it is felt that it might be more properly incorporated and so on. Consequently, we want some time to consider that question. Perhaps, we might be in a position to take up these articles even today.

Mr. President : Then, we may take up article 188, and in that connection the other emergency provisions.

The Honourable Dr. B. R. Ambedkar : We might also take up article 275 which is also an emergency provision.

Mr. President : Let us take up article 275.

Mr. Naziruddin Ahmad : May I rise on a point or order, Sir ?

It is very inconvenient for some members to follow the procedure which is being adopted in the House. We have in the agenda paper today some articles which are set down seriatim. It was understood on the last occasion that articles will be taken up in the order laid down in the Order Paper. I do not wish to raise any technical objection; but the difficulty is that Members have got to come prepared to intelligently take part in the debate. Instead of following a regular procedure even after the recess we had, the House is expected to jump from one article to another backwards and forwards. I submit this is causing some amount of inconvenience and I submit that the House should be asked to proceed in some regular order. Otherwise, there would be no intelligent debate.

Mr. President : I am inclined to agree with Mr. Naziruddin Ahmad that it is inconvenient to Members to jump from article 211 to 275.

The Honourable Dr. B. R. Ambedkar : I am prepared to take up article 212 and go on.

Mr. President : I think that is much better. If anything happens, we can provide for that later on regarding Chandernagore. Let us take up article 212.

The Honourable Dr. B. R. Ambedkar : Sir, I move:

"That with reference to amendment No. 2713 of the List of Amendments, clause (2) of article 212 be omitted."

The reason why this amendment is being moved is because all provisions with regard to the States specified in Part III are being made separately in a separate Schedule. Consequently it is unnecessary to retain clause (2) here.

I also move :

'That in clause (1) and the proviso to clause (1) of article 212, for the words 'Governor or Ruler', wherever they occur, the expression 'Government' be substituted."

Mr. President : We have quite a number of amendments to this article of which notice has been given. I shall take them one by one.

(Amendments Nos. 2709 to 2711 were not moved.)

Shri T. T. Krishnamachari : May I request for your permission to move 2712 ?

Mr. President : Yes.

Shri T. T. Krishnamachari : I now move 2712 in Volume II of the Printed List of amendments which stands in the name of the Honourable Sardar Vallabhbhai Patel:

"That in clause (b) of the proviso to clause (1) of article 212, for the word 'wishes' the word 'views' be substituted and at the end the following new clause (3) be added:—

'(3) In this article reference to a State shall include reference to a part of a State.' "

I do not think there is any need for me to add anything as the words contained in the amendment are self-explanatory.

Mr. President : Dr. Ambedkar, 2713.

[Amendments Nos. 2713, 2715, 2716, 2717, 2718, 190 of the printed Supplementary List, 27, 28 to 33 of List I (Second Week) were not moved.]

Prof. Shibban Lal Saksena : Mr. President, Sir, in this article we are providing for the Government of States contained in Part II of the First Schedule and in that Schedule are mentioned Delhi, Ajmer-Merwara, including Panth-Piploda and Coorg. From what Dr. Ambedkar said, it will include probably Chandernagore and other places also so that provision is being made for those places to be governed as Centrally administered areas. I do not know whether the passing of this article will also mean that we also approve the Schedule, but I wish to point out that this problem of the government of these places has to be dealt with in a more careful manner. I personally feel that this should be held over. The present condition of the administration in these places is not what we desire. We have all realised that. States like Coorg, Ajmer-Merwara and Panth-Piploda must become parts of bigger areas, the adjoining provinces or Unions of States and I do not think it will be proper to frame a law unless we decided what we want to do with Ajmer-Merwara and Coorg. I have a feeling that the people in these places feel that they have no voice in the administration because Parliament hardly gets time to discuss these things and Government in their own States is entirely in the hands of District Magistrates or Commissioners. Delhi of course is a problem by itself but about Coorg, the other day I learnt from my Friend Mr. Poonacha that the Council there is a unique thing and the District Magistrate is the President of the Council and the Judge is the Minister of Justice etc. So we should not perpetuate this administration in Coorg. Besides in this article we are providing for Governments of Chief Commissioners' provinces without knowing for what provinces we want to legislate. I am told Coorg will be amalgamated with either Mysore or Madras. Similarly Ajmer-Merwara might join the Rajasthan Union so that only Delhi will be left. I think for Delhi this article will not suit and I feel that a separate clause for Delhi is necessary and I feel that for Chandernagore and other places like Pondicherry which have been brought up under the French we might have this article for the present. So I feel that the original proposal of Dr. Ambedkar to hold these articles over was much better because just now if we pass this article without knowing for what areas we are providing this article, it will be improper. So this thing needs careful consideration. As for the problem of Delhi, I will discuss it afterwards., I personally feel that it will be proper to hold back the article till we have a better picture of the new areas which we are going to have It will not be proper to pass the article without knowing what parts of India will have this Constitution.

Shri Brajeshwar Prasad : Mr. President, Sir, I am in whole-hearted accord with the provisions of Part VII of the Constitution. This Part deals with the future pattern of the Government of India. Sooner or later, all the States will have to be put in Part VII of the Constitution. I feel that as we have not yet decided which of the States should be put in Part VII of the Constitution, it is open to me to suggest that some of the bigger provinces should be put in Part VII of the Constitution. It is not in accord with the majesty and dignity of the State that the Government of India should be put in charge of small bits of territories like Delhi, Coorg, Ajmer-Merwara and Panth-Piploda. If the Government of India should administer directly some areas in this country, then some of the bigger provinces should be brought directly under the administration of the Government of India. There is yet another reason why I make this suggestion, I feel that border States, *i.e.,* those provinces which are on the border of foreign States, on grounds of military strategy, should not be left in the hands of provincial Ministers. Provinces like East Punjab, Bengal, or Bihar which is bordering Eastern Pakistan, or Assam, should not be left to be governed by Provincial Ministers, because the situation in India has become critical.

Mr. President : The honourable Member is going much beyond the scope of the article under consideration.

Shri Brajeshwar Prasad : Sir, I said it is not decided till now which States should be put in Part VII of this Constitution. So is it or is it not open to me to suggest that such and such a State should be put in, and such and such a State should not be put in ?

Mr. President : You can do so, when we consider the Schedule.

Shri Brajeshwar Prasad : Probably it will be too late then. But if I will be allowed to speak on it when we are considering the Schedule, then certainly I will have no objection.

Mr. President : At the time of the consideration of the Schedule you can say anything you like, but not at this stage, because this article relates to particular States which are mentioned.

Shri Brajeshwar Prasad : Sir, I will proceed on. I feel that the system of administration that exists in the Chief Commissioners' Provinces is a very sound one, and that there should be no change in the *status quo*. It is ridiculous to talk of provincial autonomy in Chief Commissioners' provinces like Panth Piploda or Delhi. It is hardly half the size, and contains hardly half the population of a district or sub-division of a Governor's province. The charge has been made that efficiency of administration has gone down in these areas. I would like those who make this charge to go on a tour in the Governor's provinces and see whether administrative efficiency has or has not deteriorated there also. Sir, it has been urged that people must have autonomy. Is it desirable, or fair that when there is autonomy throughout the length and breadth of this country, the people living in the Chief Commissioners' provinces should be deprived of this right? But I do not see any substance in this argument, because I feel that people are not keen about autonomy. People are not interested in politics. The present question that confronts us is the problem of food. That is the problem that we have to face and solve. People are interested in the food problem. They are interested in getting medical facilities. Peoples are interested in their sons and daughters getting free education. They want food. They want shelter. The average man is not interested in political questions. He is absorbed with the question of how to make both ends meet. Moreover provincial autonomy has failed everywhere. If it is so, why then commit the same mistakes again in the Chief Commissioners' Provinces? If provincial autonomy has failed, then no provincial autonomy should be conferred on any Chief Commis-

[Shri Brajeshwar Prasad]

sioners' Provinces. Therefore, Sir, whichever way I turn I feel there is no reason why any change should be made in the constitutional status of these provinces which are directly governed by the Centre. I feel that in India there is place only for one Government and therefore, to create more governments will be a retrograde step. I am not in favour of even the existing Provincial Governments, and to seek to create more provinces will be a suicidal step and inimical to the interests of the people of this country.

Dr. P. S. Deshmukh : Mr. President, Sir, last time when we objected to the passing of the provision in regard to the Second Chamber, you came to the rescue of the House and persuaded the members of the Drafting Committee to hold back the article and to come again with some positive scheme before the House. May I take this opportunity of appealing to you, Sir, again, that this is one of the Parts which should also be considered more carefully before we pass it ? Here we are making a very curious provision. If the device of leaving legislation to Parliament was necessary in any place, I think this was the one place where it should have been resorted to. The governance of these three areas could easily have been left for an Act to be passed by Parliament at such time as it may please. There would have been no inconvenience to anybody. We would have had more time to consider the whole thing. There would have been the wishes of the people inhabiting the various areas before us, and it would have been possible for us to consider their demands, whatever they be. But what we are doing here is something totally out of conformity with the provisions which we are embodying in the rest of the Constitution. Everywhere we are giving adult franchise to the people. We are providing not only one, but sometimes two Houses as legislatures. But in this particular case, we are legislating for not even a definite advisory council, so far as we can see. if the article as it has been framed is passed, to my mind, it may be within the sweet will of the President to have something of that sort. But there is no concrete provision in the Constitution itself as to how and how far the people of these areas would be consulted. So we are making them into a sort of "excluded areas" similar to those inhabited by hill-tribes, in the Act of 1935, where they had no representation, no votes. So the residents of Delhi, the residents of Coorg and Ajmer-Merwara are likely to be treated as hill-tribes and aboriginals, even after the solemn Constitution of the whole of India has been fashioned, framed and put into operation. So on that score, Sir, I think it is not proper that the administration of any area whatsoever should be left to the sweet will of the President, and he also is not to act on his own but through a Governor of another neighbouring province, who has to act through the Lieut-Governor. This is a subject which, if we leave as it is, I do not think it would do much credit to us. I would therefore like that the whole question and the drafts of these articles should be reconsidered.

There is one more point which I would like to urge, viz., whether it is not possible to join these areas to some other areas, so that they may share the same responsibility and have similar democratic arrangements as other adjoining areas. We have the spectacle of huge areas being tagged to the rest: State after State merged together and formed into Unions, and such large States as Baroda having a population of thirty lakhs, equal to the population of a nation like Ireland being merged into a province within a twinkling of an eye. Here are a few lakhs of people who are not anxious to remain solitary because so far as Ajmer-Merwara is concerned, I am told there is a strong feeling for them to join Rajasthan. But in spite of the wishes expressed to the contrary, we are trying to have small islands of territories administered in a fashion which is absolutely unlike what is being done in other parts by the Constitution. I submit that this is not proper nor fair to the people of those areas, nor does

it conform with the scheme of things which we are trying to evolve. We are trying to eliminate small islands in our Constitution, and for that purpose we have removed the Rulers and we have destroyed boundaries so far as the formation of Unions and provinces are concerned. Why could we not have considered that scheme as applicable to the small territories of Coorg and Ajmer-Merwara ? "These are very tiny territories and they should not be kept aloof. And if they are to be kept aloof, and must remain separate, then the people inhabiting those areas must at least be given the same democratic institutions which other parts enjoy. There is no scheme behind these provisions as they are proposed here and I hope you will, Sir, persuade the Members of the Drafting Committee to refrain from pushing this through in this House, at this stage and in this manner.

Shri Biswanath Das : (Orissa : General) : It is within the knowledge of honourable Members that we appointed a Committee to go into the question of the Minor Administrations. The Committee was presided over by our esteemed and revered Friend, Dr. Shri. Pattabhi Sitaramayya, the Congress President. Unfortunately, the report of the Committee was not available to the honourable Members of this House, and as such could not be discussed in this House. In the result, the Drafting Committee assumed authority to embody what provisions have been made for Minor Administrations in the Constitution. You will please therefore allow the Members of this House a certain amount of latitude while discussing this question because the House had no opportunity to have its say on the report itself, therefore, I take it, Sir, that along with the consideration of the articles—I mean articles 212, 213 and 214, it is also necessary that we discuss the.....

Mr. President : May I point out that the report of that Sub-Committee was distributed to the Members but it was not considered by this House ?

Shri Biswanath Das : That is exactly what I say. I have not said anything more.

Mr. President : I thought you complained that the report was not made available to the Members.

Shri Biswanath Das : I said—and I repeat—that the Assembly had not the opportunity to discuss this question. That is what I said and I stand by it.

Sir, the report, I am glad, is not unanimous and I am further glad that the honourable Shri Mukut Bihari Lal Bhargava, representing these areas—I mean Ajmer and Merwara province of these areas—has recorded his voice of dissent, and I will read the last sentence from his Minute of Dissent. He says:

> "Accordingly, I may impress on the Constituent Assembly the urgency of incorporating a suitable provision in this chapter of the Constitution so as to make it possible for each of these areas to join as a contiguous union."

Having stated the views of the representative of this area, in this House, I cannot very much congratulate the Committee for the performance they have shown in the report. What is the performance ? The performance is that the Committee recommends responsible Government in the Minor Administered States in the provinces under the lines of the old antiquated Act of 1935, in which instead of the Governor they propose to have a Lieut-Governor and a Council not on the basis of the Constitution that you have framed, but on a separate basis altogether as given at page 3 of the Report. The basis represented is 5,000 persons subject to a maximum of 33 persons for Coorg, and 15,000 subject to a maximum of 40 persons for Ajmer-Merwara. That is the basis on which you will have, according to their proposals, a Council or an Assembly which will have its Prime Minister, Ministers and all the paraphernalia attached to the Act of 1935.

[Shri Biswanath Das]

I am thankful further to the Members of the Committee for having used the very mischievious expressions from the Act of 1935. I have to record my strong note of dissent in this House against this report because it does least to the, people of these Minor Administered Areas in bringing them under a discredited Act. The reasons are these :

First, the administrative set-up that they propose in this report is absolutely different from the administrative, setup that we have adumbrated for the provinces in this Constitution. Need I say that it is very and hopelessly reactionary, looked upon from the point of view of Free India.

The second objection to this report is that they want and propose to perpetuate in this Constitution a system of administration which has been rejected by all shades of public opinion in this country.

Thirdly, they bring to bear upon the. administration an unnecessary and costly machinery and the snare of having the possibility of perpetuating. Minor Administrations in the garb of provinces. If this is the view, why on earth should you do away with the smaller States who were out to confer responsible government ? It really surpasses my comprehension.

Therefore, looked at from any point of view, the report of the, Committee's set-up is not, and in no sense can be, acceptable to the honourable Members of this House in this year of 1949.

In this connection let me also refer to the report of the Simon Commission which went thoroughly into the question. They recommended that the, time had come when these minor administrations should be made to merge in the neighbouring provinces and they justified it on two grounds. The first was economy and the second was efficiency in administration. They laid more stress on the efficiency of the administration because they said that the Government of India officials who were in charge of these minor administrations had no experience in provincial sphere and therefore necessarily the administration suffered in efficiency. Is it for these purposes that you are going to in, vest more money and perpetuate an administration which has been condemned outright not only by public opinion in India but, also by a most reactionary body like the Simon Commission? This is out-Heroding Herod. Under these circumstances I cannot congratulate the Committee on its performance.

Why do you have a province like Coorg ? It is a province of 1,600 and odd square miles, which is adjacent to Madras and equally adjacent to Mysore. Madras is a province of our own and Mysore is a State which has also responsible government that is practically on a par, with Madras. Added to it, the Kanarese people on the basis of linguistic distribution of provinces lay claim to the same area. It may be very soon in the day that you may have linguistic provinces and a separate province of Kanara. If that becomes possible Coorg merges itself automatically into it. Is it, therefore, fair to perpetuate the existing Conditions and add to our financial difficulties and that at the expense of efficiency? I submit that it is doing least justice to the country and to the honourable Members of this House.

Again, with regard to Ajmer-Merwara the honourable Member representing the area has had his say and I have nothing more to say except to commend what the honourable Mr. Mukut Biharilal Bhargava has stated in this connection.

Then you have Panth-Piploda comprising of ten and a half villages, which you can as well put in any other place.

You have thereafter the province of Delhi. Why an earth have a province under Delhi administration? You can add it to the East Punjab or the United Provinces.

We have then only two other areas, namely, the City of Delhi and the Islands of Nicobars and Andamans. At regards the City of Delhi you can have it on the lines of the British Constitution and have a corporation for the Metropolis of Delhi on the lines of London or on American lines according as is desirable and necessary. Under the circumstances I fail to understand why You should add to Delhi a small area merely to call it a province having a machinery and a legislative assembly with a Premier and minister and all the other paraphernalia. Under the circumstances I do not agree with my honourable friends of the Committee.

The only other area which remains is the Andamans. It is a strategic area.....

Shri Brajeshwar Prasad : Andamans is not in Part VII of this Constitution.

Shri Biswanath Das : You may have it under the Home or Defence Ministry. Therefore why should you burden the Constitution with these provisions ? I feel that part (1) of article 212, and articles 213 and 214 are unnecessary, useless and undesirable, and the set-up is expensive. Under the circumstances I strongly oppose the inclusion of these provisions and I see no utility in them excepting adding to the bulk of the Constitution for which we have earned a reputation and adding to our financial commitments. We are going through very hard times Our civil administration today has multiplied three to four times its pre-war level. Why then add more commitments and pile up to the expenses that we are already incurring ? Therefore no option is left to me but to oppose these articles, especially 212.

You, Sir, took a very bold step on Saturday by requesting the House to reconsider certain articles. Need I appeal to you that the provisions under reference do need reconsideration and revision of the decision already taken ?

Chaudhri Ranbir Singh (East Punjab: General) : *[Mr. President, Sir, I have come forward to support this Article. But in supporting it I cannot but say that it is not in the interest of the country to retain these small territories in the form of separate provinces. I think that with the exception of New Delhi, Pondicherry and Chanderagore, it will be detrimental to the interest of the country to retain these small territories in the form of provinces. Take for instance the case of Delhi. There is no doubt that New Delhi presents a different problem. We will have to retain it as a separate province because it is the seat of the Central Government. But to retain Old Delhi and the villages of Delhi, which hardly number 300, as a separate province and to maintain a top-heavy administration, is not in the interest of the country.

A few days back a Bill for adjusting the financial relations of Ajmer and Delhi administrations was presented for the consideration of the Standing Committee of this House. The scales of pay of the Officers proposed in that Bill were the same as those in big provinces. The same is the case in regard to other departments although there are hardly three hundred villages in Delhi and it is not even as big as a Tehsil of a Province. If we make it a separate province, we would be compelled to maintain a top-heavy administration. Therefore, I support this proposal and hope that, except New Delhi, the rest of the city of Delhi and its villages should be integrated with the Punjab.

Shri Mahabir Tyagi (United Provinces: General): Why should it not be integrated with the United Provinces?

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*[ ] Translation of Hindustani speech.

Chaudhri Ranbir Singh : My Friend, Shri Tyagi, says that it should be integrated with the United Provinces. For integrating Delhi with the United Provinces, a natural boundary, *i.e.,* the Jamuna will have to be overlooked. If it is integrated with the Punjab, it would form the natural boundary.

Import of gram from Punjab into Delhi is not permitted these days even though no natural barrier like that of the Jamuna separates Delhi from Punjab. Besides, many villagers have fields in the Punjab as well as in Delhi. In this way we are confronted with a great problem. But if New Delhi is set aside and the rest of the area of Delhi is integrated with the Punjab, there would be great facility. The idea of integrating it with the United Provinces is wrong on other considerations too. The United Provinces is a big province. It is so extensive that it is not an easy task to manage it as a unit. The Punjab, which is a small province, would in this way add to itself a population of about ten lakhs. Besides, it would have a proper boundary too. In supporting this proposal I want to emphasise that the rural area of old Delhi and New Delhi should be integrated with the Punjab and the Constituent Assembly itself should come to a decision in this respect.]

Shri R. K. Sidhwa (C. P. & Berar: General): Mr. President, Sir, I have no quarrel with persons like my Friend Mr. Brajeshwar Prasad who hold the view that all the provinces in India should be governed by dictators and not by Ministers. But I really cannot understand the arguments now advanced by Friends who have all along been advocating that there should be people's government everywhere but who want to deny that right to the people of Delhi and Ajmer-Merwara. Here are these two provinces—you may call them such. I am purposely omitting Coorg because it is so small that it cannot be given a legislative body. At the same time I do not want Coorg also to be administered in the manner it is being administered today. It should be merged with some adjoining province. Therefore, there remain only two big provinces, Delhi and Ajmer-Merwara, both having a population of nearly twenty five lakhs of people. You cannot ignore the right of this large number of people to govern themselves. I fail to understand why, when we have given the right to the most backward classes of people to govern themselves under our Constitution, this intelligent class of people in these two provinces should be told that they cannot have a popular government. If it is felt that Ajmer-Merwara should be merged into some adjoining province I have no quarrel, but I would prefer that Delhi and Ajmer-Merwara should be combined and given a proper legislative body as in the case of other provinces.

It is argued that in a capital city we cannot have any provincial government. It may be a mere matter of sentiment and I do not see any really substantial arguments in that. Did we not have two governments in Calcutta having a Lieutenant-Governor and the seat of India at Calcutta? Did we not have two governments in Calcutta exactly on the lines I want to advocate? And what was wrong? If at all it is felt that from the point of view of status or sentiment the capital should not be in Delhi, let the capital be in Ajmer. I have no objection. But to deny this right to these people is a most unheard of attempt when we are preparing a Constitution for the entire population of this country. I therefore feel very strongly that the Constitution should not be passed without mentioning distinctly and clearly as to what is going to be the fate of Delhi and Ajmer-Merwara as far as their administration is concerned.

Imagine the position of Delhi today so far as the local self-governing organisation is concerned. There are four Municipalities in the City of Delhi. At a distance of every three miles there is a small Municipality. Not even the word 'Municipality' is there. It is a 'Municipal Committee', a third-rate name that is given for the local self-governing body at the Capital, and still from

the sentimental point of view you say that Delhi should remain under the chief Commissioner. Old Delhi has got the name Municipal Committee. New Delhi, at a distance of three miles has another Municipal Committee. In the Civil Lines there is a Notified Area Committee, again at a distance of miles. At Shahadara there is a similar Committee. I have never heard of any city having within a distance of about eight miles more than one Municipality. Go to Bombay. Bombay has a circumference of 18 miles and there are so many suburban towns, but it is not that there are small local bodies within a city. I desire that there should be a Municipal Corporation for Delhi. I was really very glad to learn when the In term Government came into power that a Committee was appointed to go into the question of having a Corporation for Delhi, combining the small municipalities into one. The Committee has given a very fine report, advocating that there should be a Municipal Corporation for the whole of Delhi and that the small municipalities should be merged into it. That report, I think, has been shelved. It is now two years since they presented their report. You are not prepared to give local self government to the people of Delhi—I do not know for what reasons. Why should there not be a Municipal Corporation for Delhi instead of four small municipalities at a distance of three miles each? You are not I prepared to give them the right from the civic point of view also. I therefore desire that in the fair name of this Capital you must immediately take steps lo see that these powers are vested in the people of these two provinces.

Shrimati G. Durgabai (Madras: General): Sir, the question may now be put.

Mr. President : Ile question is:

"That the question be now put."

The motion was adopted.

Mr. President : The question is:

"That in clause (1) and the proviso to clause (1) of article 212, for the words 'Governor or Ruler', wherever they occur, the expression 'Government' be substituted."

The amendment was adopted.

Mr. President : The question is :

"That in clause (b) of the proviso to clause (1) of article 212, for the word 'wishes' the word 'views' be substituted and at the end the following new clause (3) be added :-

(3) In this article reference to a State shall include reference to a part of a State.' "

The amendment was adopted.

Mr. President : The question is :

"That with reference to amendment No. 2713 of the List of Amendments. clause (2) of article 212 be omitted."

The amendment was adopted.

Mr. President : The question is:

"That article 212, as amended, stand part of the Constitution."

The motion was adopted.

Article 212, as amended, was added to the Constitution.

Article 213

The Honourable Dr. B. R. Ambedkar : Sir, I move.

"That with reference to amendment No. 2722 of the List of Amendments, for article 213, the following article be substituted :—

[The Honourable Dr. B. R. Ambedkar]

Creation of continuance of local Legislatures or Council of Advisers or Ministers,

'213 (1) Notwithstanding anything contained in this Constitution Parliament may by law create or continue for any State for the time being specified in Part II of the First Schedule and administered through a Chief Commissioner or Lieutenant Governor—

(a) a body, whether nominated elected or partly nominated and partly elected, to function as a Legislature for the State; or

(b) a council of advisers or minister or both with such constitution, powers and functions in each case, as may be specified in the law.

(2) Any law referred to in clause (1) of this article shall not be deemed to be an amendment of this Constitution for the purposes of article 304 thereof notwithstanding that in contains any provision which amends or has the effect of amending the Constitution'."

Sir, the principle change sought to be effected by this amendment is this. In the original Draft the power of creating a body, whether nominated or elected for purpose of representation and a Council of Advisers or Ministers was a matter which was left to the President. The new Draft gives the power to Parliament and not to the President. That is the only substantial change which has been elected by this new article. Otherwise the provision remains the same.

Shri Brajeshwar Prasad : I am not moving my amendment No. 47 in List I of First Week.

Prof. Shibban Lal Saksena : Sir, I move.

"That in amendment No. 45 above, in clause (1) of the proposed article 213, the words Notwithstanding anything contained in this Constitution be deleted."

I personally feel that the article, as it is, is complete and that there is no need therein for the words "Notwithstanding anything contained in this Constitution".

Sir, this article is infact giving a Constitution for the States in Part II of Schedule I which includes Delhi, Coorg and Ajmer Merwara. I agree that Coorg and Ajmer-Merwara should be attached to their contiguous provinces as per recommendation of my friends Messrs. Poonacha and Pandit M. B. L. Bhargava. I also think that for Delhi there should be a separate Constitution. I think this article should apply only to Chandernagore. etc. For Delhi there should be a separate provision other than that under article 213 which says that there shall be a body, Whether nominated, elected or partly nominated and partly elected, to function is a Legislature for the State or a council of advisers or ministers. I think that for Delhi we should have a special provision which should not be of the pattern for the Centrally administered areas. Delhi should be a province by itself and provision for that should be made Separately. I therefore suggest that this article, should not apply to Delhi.

We have recently seen a note circulated by Shri K. M. Munshi in which he has pointed out that Delhi is something like the city of Bombay in respect of its growing population and is the capital of India. To satisfy the needs of the capital its citizens may have autonomy like that of Bombay. I feel that if a new article is added for this purpose it would be better.

I am opposed to giving the right to Parliament to adopt a constitution for Delhi. This should be done in a separate article incorporating the provisions contained in the note of Shri K. M. Munshi. I therefore, suggest that this article should not apply to Delhi. As this is the only occasion on which I could speak about Delhi, I suggest that New Delhi may of course be under the control of the Central Government, but the rest of the area must be given full autonomy with a separate legislature and so on. In fact the report which was submitted by the Committee has recommended full autonomy to the province of Delhi. I only exclude New Delhi from it. There 80 per cent. of the

buildings are owned by the Government and therefore, New Delhi may remain under the control of the Central Government; but the reminder must be given full autonomy. But the question may be investigated whether the remainder cannot form part either of East Punjab or, them United Provinces. If it thus forms part of an existing province it might be very helpful, because Delhi by itself may not have the resources needed for a major province. I personally feel that as Delhi is the natural centre of East Punjab, it may form part of the province of East Punjab. It will then become the Centre of East Punjab, as Calcutta is of West Bengal. I therefore think that there should be a separate provision for Delhi. If we are of the opinion that it should form part of East Punjab we must make a suitable provision for it. But I am opposed to giving the future Parliament the function of drawing up a Constitution for it. As the new Constitution is to come into force on 26th January 1950, we will probably finish constitution-making by the end of November or so. There will thus be hardly time for framing a Constitution for Delhi at all. The thing will have to be rushed through. I feel that this question must be decided here. We may now decide whether Delhi should form part of any other province or be given full autonomy. This article may apply to Chandernagore, Pondicherry or other areas which may be added to India. Those territories have been under the French influence for long. Only after a time they will be able to come up to our level. For that reason they may be administered by the Centre for sometime. Ultimately we should not have any area directly controlled by the Centre. Every place should become or be attached to an autonomous province.

Shri Deshbandhu Gupta (Delhi): Sir, there is an amendment in my name to articles 212 and 213 which is based on the unanimous recommendations of the *ad hoc* Committee which was appointed by this House. Although I do not propose to move it, I must frankly say that I do not feel happy about the amendment that has been moved, by my Friend Dr. Ambedkar to article 213. In fact, the whole population of Delhi is very much disappointed and is bound to feel that the decisions that were taken earlier are being given a go-by.

There is a strong feeling amongst the people of Delhi and other Centrally governed areas that they have been given step-motherly treatment. From the very beginning this has been evident that they are being ignored. Firstly, when the House appointed committees to settle the principles of the constitutions for the provinces and the Centre, no such committee was appointed to consider the question of the Centrally Administered Areas.

The Draft Constitution first published, although it left it to the President to effect changes in the constitution of Delhi and of the Centrally administered areas, a provision for a local legislature was also made therein. But the new amendment has done away with that provision. It was only after a good deal of effort was made by the representatives of the Centrally administered areas and it was pointed out by them that when we are deciding the Constitution of the whole country, there was no reason why the Centrally administered areas which had been denied autonomy so far should continue to be ignored, that a Committee was appointed to go into the question of the future Constitution. That Committee was presided over by Dr. Pattabhi Sitaramayya and besides others no, less an eminent person than Shri Gopalaswami Ayyangar served on that Committee. The Committee recommended unanimously a definite plan for the future Constitution of Delhi and other Centrally governed areas.

Mr. President : Will you please read out your amendment ?

Shri Desbandbu Gupta : The amendment which stands in my name and

[Shri Deshbandhu Gupta]

to which I have made reference is No. 2706 which reads:

"That for the existing articles 212 and 213 the following be substituted:—

'212 (1) The territories immediately before the commencement of the Constitution known as the Chief Commissioner's Province of Delhi shall be administered by a Lieutenant Governor with a Council of Ministers and a Legislature of the State.

(2) The Lieutenant Governor shall be appointed by the President by warrant under his hand and seal and the legislature of the State shall consist of the Lieutenant Governor and one House to be known as the Legislative Assembly....."

Mr. President : You are reading amendment No. 2706. Are you moving that amendment ?

Shri Deshbandhu Gupta : I was only referring to the amendment.

Mr. President : Read out the amendment which you wish to move.

Shri Deshbandbu Gupta : The amendment that I wish to move runs thus:

"That in amendment No. 45 of List I (Second Week) of Amendments to Amendments, after clause (1) of the proposed article 213, the following new clause be inserted:

Shri Brajeshwar Prasad : We have not got a copy of the amendment.

Shri Deshbandhu Gupta :

" (la) Any law as aforesaid may contain directions as to the representation of such State in the House of the People on a scale different from that provided in clause (5) of article 67 of this Constitution and may also vary the allocation of seats to representatives of such State in the Council of States as provided in Schedule III-B."

This is the amendment, Sir, which I proposed to move now to the amendment moved by Dr. Ambedkar and I have no doubt that the House will accept it. The reason is very simple. We have denied autonomy to the Centrally governed areas including Delhi which stands on a slightly different footing inasmuch as besides being the Capital of India it has got a population of about twenty lakhs today which may go up to thirty lakhs in a few years' time. We have already passed article 67, and in spite of the fact that we have not given any definite democratic Constitution to the Centrally governed areas, we have not considered the desirability of even providing some additional representation for these areas in the Central Legislature. Up till now, the Central Legislature has been acting as the Parliament for these areas. All legislation affecting these areas have to be passed by this House. It was therefore only fair that provision should have been made for giving some additional representation to Delhi and the other areas which are Centrally governed. I think it does not require much argument to convince the House that such a provision is necessary and feel that the House will pass my amendment and not oppose the idea of a few extra seats.

In this connection I wish to point out that Delhi and other Centrally governed areas have not been receiving a fair deal either from the House or from those who are in authority today. The attitude of the Drafting Committee and others responsible for their draft, proposals about the Centrally governed areas, particularly Delhi, has been rather disappointing. Whenever a demand was made by us to liberalise the provisions with a view to give them some measure of autonomy, and we went to the Drafting Committee with such a request, fresh restrictions were introduced in the Draft. To give an illustration : In the original Draft, article 213 provided specifically a local legislature for Delhi and other Centrally governed areas but the amendment which Dr. Ambedkar has now moved uses a new phraseology and says that it will be a body wholly or partly nominated which may act as the legislature. There are so many other qualifying words which have been introduced in the

amendment for the first time. To give another example : Dr. Ambedkar had on an earlier occasion given notice of amendment No. 2722, which specifically provided:

> "a Council of Advisers or Ministers to aid and advise the Chief Commissioner or the Lieutenant Governor in the administration of the State."

I do not know why the Drafting Committee now seeks to remove even this provision which they themselves had drafted at an earlier stage. The only one merit that one can claim and is being claimed for Dr. Ambedkar's amendment is that it is a comprehensive amendment that it is equally applicable both to Panth-Piploda and to Delhi. My contention, Sir, is that it is really very unfair to treat Delhi and Panth-Piploda alike. The right course for the Drafting Committee would have been to treat Delhi as a separate unit while drafting its Constitution. Whereas all other Centrally governed areas are likely to be amalgamated with the adjoining provinces sooner or later, Delhi stands on a different footing altogether, as the position of Delhi is not going to be altered in future except that its population may go up and is bound to go up. Otherwise there is not even a suggestion that Delhi is going to be amalgamated with either of the neighbouring provinces. In the case of Ajmer-Merwara, Coorg, Panth-Piploda and the other Centrally governed areas. which have come into existence recently, there is a clear indication—and it goes without saying that these areas sooner or later will be merged with the neighbouring provinces. The Drafting Committee should have therefore drafted the Constitution of Delhi on the lines suggested by the *ad hoc* Committee. Delhi has already got a population of about twenty lakhs and this is bound to go up further in a few years' time. Thus it makes a very good unit to be treated independently, but my friends of the Drafting Committee in their wisdom have thought it fit to treat Panth-Piploda and Delhi alike and include both of them in the same clause. There was bound to be some difficulty, therefore, and I agree that if a comprehensive clause was to be drafted which could cover all these areas, the Drafting Committee perhaps could not have done otherwise. But I hold that it was wrong to do so and would request the House to bear with me and judge whether so far as Delhi is concerned, it does or does not require a different treatment. Delhi is the Capital of India and it is being contended that it cannot be given any measure of self-government because Washington has not got it and because Canberra has not got it; but I submit Sir, that it would be unfair to compare Delhi either with Washington or with Canberra. The reason is very simple, Delhi is a town which has got a history of its own, a civilization of its own. It is a commercial as well as, an industrial town, whereas Washington has been built as a capital. There the people had the choice to settle or not settle in that town and whosoever wanted to be a citizen of Washington, be migrated to that place. But here the capital has migrated to Delhi and not that Delhi has been built as a capital originally. How can you then ignore the legitimate aspirations and demands of the people of Delhi? On this basis, I claim that Delhi should be treated differently. The analogy of Washington might apply to New Delhi in some degree but I hold that even to New Delhi it cannot apply as New Delhi is no longer a separate city from Old Delhi. The population of both the cities is intermingled. Transport, electricity, water supply and all other essential services are common to both and even the population is common. Many people have got their business in Old Delhi but they are living in New Delhi. Some have their business in New Delhi and are living in Old Delhi. To say that New Delhi and Old Delhi are two separate entities and to compare New Delhi with Washington or Canberra is therefore not fair. I would not like to elaborate this point further.

No less a person than our respected leader, Pandit Jawaharlal Nehru has publicly told the, people of Delhi that he is in sympathy with their demands and

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that a Bill shall soon be introduced in the Parliament providing for a constitution for Delhi which will give the people of Delhi as large a measure of responsibility as possible. I have no doubt, Sir, that this assurance Will be carried out and before other parts of India are governed under the new Constitution, Delhi also will have its own constitution passed-by the Parliament.

Sir, I have heard some people say that Delhi is much too small a place and that the demand for autonomy is being made merely to satisfy the aspirations of some local political leaders. This is a very cheap jibe, if I may, say so, and cannot be taken seriously. Such an argument could be, equally applicable to our demand for self-government or independence in a wider sphere, I can assure the House that it is not as a matter of luxury that the people of Delhi have demanded autonomy or a measure of self-government or a voice in their administration. Their difficulties are real. Few of the Members of this House probably are aware of the difficulties from which the people of Delhi are suffering. To mention a few may I point out that till recently even the premier Municipality of Old Delhi used to have an official president; and it still has about one-third of its members as nominated ones. The New Delhi Muncipal Committee is a wholly nominated body and, its Chariman is still an official. This is how Delhi is treated in the sphere of local self-government Then, several Ad Hoc bodies have been appointed like the Improvement Trust, the Joint Water and Sewage Board, the Delhi Central Electric Power Authority which have got official majorities and no effective representation of the people of Delhi. They plan and take big decisions about Delhi, but the people of Delhi have no effective voice in the administration of these bodies.

Then, Sir, more than all this, what is most deplorable is that Delhi has been tagged on to the East Punjab. We get all our services from there, the magistracy, the Police and so on and so forth, but we have no voice in their selection. Even the High Court is that of East Punjab. The Delhi people have been making a demand for the last so many years, that there should be a Circuit High Court in Delhi, but to no avail. I am told (and I have good reason to believe that the figures are correct) that the value of the civil appeals dealt with by the East Punjab High Court which, go from Delhi is about 65 per cent. and the percentage of the civil cases which go from Delhi is 35 per cent. of all the cases dealt with by the High Court. In spite of this the modest demand persistently made by the Citizens of Delhi for the last three years that there should be a Circuit Court in Delhi, has not, been listened to. Whatever demand is made by the people of Delhi, is treated with indifference by, the East Punjab Government and no one pays any heed to the difficulties and to grievances to the people of Delhi.

As regards the services, few people realize that although Delhi has got a population of about 20 lakhs, there is no scope for its young men in Government services. Take for instance the Provincial Civil Services; they have no place in either United Provinces. or East Punjab and Delhi has no cadre of its own. They only know that they have to be governed by officials brought from either United Provinces or from East Punjab. Are not these difficulties real? Some people believe that Delhi has benefited from the location of India's Capital here. Let us examine this. It is the right of every big municipallity to own control and run the essential utility services like electricity, transport, water-works, etc. and they form a big source of their income. Do you know that they have never been entrusted to the Municipality of Delhi? The fact is that Old Delhi has been made to serve as a maid to New Delhi, which has been built as a Capital. I can say that Old Delhi has not benefited to the

extent people are made to believe by New Delhi having been made the Capital. There is pressure on its roads and its sanitation is so bad, that today really speaking, the whole of Old Delhi has become a big slum and still nobody cares for the poor people of Old Delhi. A suggestion has been made by some kind friends in the course of their speeches that Delhi, should be joined with East Punjab. I am afraid, Sir, the way in which East Punjab Government has behaved in the past and is behaving now towards Delhi is so bad that it cannot encourage the people of Delhi to entertain any such suggestion. To give one just illustration of its callousness, may I point opt that there are more than 300 villages attached to Delhi situated on the border of East Punjab and U.P. and if you go today to these border villages you will find that while gram is selling at Rs. 7 per maund in the East Punjab villages just within one mile from the border, the people living in Delhi and its villages have to pay Rs. 9 to 12 per maund. The same is the case with Chara (fodder). While Rs. 4 per maund is the rate of fodder in Gurgaon and Rohtak, in Delhi it is Rs. 9 per maund. To remove this anomaly and hardship there has been a persistent demand that Delhi should be included in the East Punjab for the purposes of rationing but no one listens to it. They want to include Delhi in East Punjab for the purposes of High Court, but they would not like to share the advantages of East Punjab in this respect with Delhi. There has always been an opposition to that from their side. Then again, Sir, nobody will deny that Delhi was the biggest centre for cloth trade in Northern India, but during the last four or five years this trade of Delhi has been ruined. While the old Government had made allowance for this fact and while allotting cloth quotas for the Delhi province, they had taken into account the fact that Delhi was the distributing centre for Western United Provinces and Eastern Punjab, under the new regime, I am sorry to say, even that advantage has been taken away. The quota now allotted to Delhi is just enough for the population living in Delhi, with the result that Delhi has ceased to be a distributing centre for cloth and all its trade has thus been ruined. Not one, I can give you instances after instances to show as to how the people of Delhi have been made to suffer during all these years. They have suffered quietly and patiently in the past in the hope that after the attainment of freedom it would be all right. Nobody can say that Delhi lagged behind in making sacrifices which the nation was called upon to make in the struggle for freedom. Delhi is proud to think of persons like the late Hakim Ajmal Khan, Dr. Ansari, Swami Shradhanand who were closely associated with its political life. It has produced men of the calibre, of Lala Hardayal who have contributed so much to the freedom movement of India. Delhi, I claim, has been second to none in the whole of India so far as its contribution to the fight for freedom is concerned. In view of all this why should one a of all this why should one apprehend that if autonomy is given to Delhi, its people will misbehave and at might create difficulties for the Centre ? I submit that not one Delhi, but hundreds of Delhis can be sacrificed in the larger interests of the country and I as representative of Delhi can give an assurance to the House that if it is considered by the House that any measure of autonomy given to Delhi will prejudice the best interests of the country, I will be the first person to say "well, keep back autonomy; we shall be content to be governed as heretofore". But I can say that there is no reason to entertain such a fear. If the Central Government cannot look after a tiny province like Delhi, and feel that they can carry` the people of the Capital with them I am afraid it will lose its title to rule over the whole country.

Under these circumstances, I would urge upon this House that although I am not moving my original amendment, I hope this promise given in the amendment proposed by Dr. Ambedkar will not prove to be just an eye-wash. Dr. Ambedkar's amendment can be interpreted in any way; it is a comprehensive one; under its terms Delhi can get a legislature; it may get responsible

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Government or may get nothing. This is how it is worded. I rely therefore, Sir, more on the assurance given by Panditji recently in the Political Conference which was held in Delhi that the people of Delhi will get a measure of autonomy.

I do not wish to take this occasion to criticise the administration of Delhi. Otherwise, I can quote many illustrations to show as to how the administration of Delhi has deteriorated and how much it has added to the difficulties of the people of Delhi. Delhi is perhaps the only city which has received our refugee brethren with open arms. My friends from the United Provinces, who are always claiming new territories, and making new conquests, when the question of receiving refugees came, raised all sorts of obstacles in their way of settling down in the United Provinces. Other provinces also raised the hue and cry that there should be a fixed quota. But, so far as Delhi is concerned, the population of the city has almost doubled. The number of refugees today in Delhi is not less than five lakhs. During the last two years, nobody can say that at any time, the citizens of Delhi have raised any cry of refugees versus Delhiwallas. It is an important point to note that the people of Delhi, in spite of the fact that their economic interests have suffered very largely, have been keeping quiet. In these circumstances, and in view of this conduct of the citizens of Delhi, I would say that they do deserve better consideration.

I have already dealt with the, suggestions made that Delhi can. be added to East Punjab. I repeat that I am definitely opposed to that idea. There was a time, Sir, in 1927 when a scheme was adopted by the people of Delhi which provided for the enlargement of the Delhi province by the inclusion of Meerut and Agra Divisions from the United Provinces and Ambala from East Punjab. That was taken up at the Round Table Conference as well and if I may say so, had received-the blessings of Mahatmaji and others. But, unfortunately, that scheme did not go through. Even today I feel that if that scheme had been accepted at that time, perhaps the country would have been spared the agony of the partition of India. But, that was not listened to at that time. I have no doubt that the people of Delhi would be content with the measure of responsible Government which the House and the Leaders may safely give to them. I assure them that there need be no such apprehension that Delhi being the Capital of the country there would be difficulties in the way.

There is another aspect of the question. These five lakhs of refugees living in Delhi have come here from an autonomous area. Is it suggested that these people who had no choice but to come to a place like Delhi, should be deprived of their right of having a voice in the administration ? If there is not going to be a responsible Government in Delhi, then it means we would be virtually depriving all these people also of their right of having a voice in the administration. Some people say "why do these Delhiwallas cry ? They have already been given an Advisory Council." I wish to point out, Sir, that if you look into the record of the work done by the Advisory Council during the last two years you will be surely disappointed. This Advisory Council is the biggest hoax that has been played upon Delhi. I may tell you, Sir, that I have a feeling that the resolutions passed by the Council are not even read by the ministries concerned; no attention is paid to them. Even the budget is not referred to this Council in time, for opinion. Any time spent in the Council is really a waste of the time of the members of the Advisory Council: the resolutions they pass never receive any attention. We have today absolutely no voice in the day-to-day administration of the province. If our leaders wanted to give some measure of autonomy, they should have at least laid

down a convention that in the day-to-day administration, the representatives of the Advisory Council would be consulted; their advice is not sought even on important occasions. I am sorry to say that in all such matters, the Advisory Council has been studiously ignored. Under these circumstances, the people of Delhi can justifiably entertain the fear that those in authority do not understand or appreciate their difficulties and do not wish to give them that measure of self-government which is their legitimate due. I hope that this fear is not justified and as the Honourable the Prime Minister has said on more than one occasion early steps will be taken to give Delhi a constitution which it deserves.

Before concluding, I would like to quote the Honourable the Prime Minister. On an earlier occasion he had said:

> "A constitution, if it is out of touch with the peoples' life, aims and aspirations it becomes rather empty; if it falls behind their aims, it drags the people down."

This is what our Prime Minister had said in this House during the last session speaking in another connection. I hope that this will be borne in mind and whatever pattern of responsible Government will be given to the people of Delhi, it will not be a mere toy or an eye-wash.

Before concluding I would like to point out one thing more; I am strongly of opinion that whatever constitution may be given to the, people of Delhi, Delhi deserves some special representation in the Parliament and in the Upper House, for the simple reason that even if it is given some restricted autonomy, most of its legislation will be passed by the House of the Peoples. Today, there is just one representative of Delhi in the Central Assembly representing a population of about twenty lakhs. Under the new Constitution according to article 67 Delhi will probably have three; my contention is that Delhi has got a special claim and it should be given more representation in the Central Legislature both in the Council of States and House of the People. The amendment which I have moved makes it possible for the Parliament to provide for such additional representation and I do hope that it will not be opposed by anyone in the House-. I do not wish to take more time of tile House. I hope that the recommendations of the Ad Hoc Committee, although they have been ignored by the Drafting Committee, will be home in mind by the Parliament when a Bill is drafted providing for the future constitution of Delhi. In this connection I may make it clear that if the Act of 1935 does not provide for amending the Constitution of Delhi, I hope the legal pandits will find some solution of the difficulty and it will be made possible to give Delhi whatever constitution is decided upon, simultaneously with other parts of the country. I hope it will not be difficult for the constitutional lawyers to make some provision in the Constitution so that the Parliament can take up the Bill in the next session of the Parliament.

Before concluding, I assure once again the Prime Minister and other friends that so far as the people of Delhi are concerned, you need have no apprehensions about them. They have behaved in the past and they will behave also in the future under all circumstances, whether you give them autonomy or not, Sir, with these words I conclude.

The Honourable Shri Jawaharlal Nehru (United Provinces: General): Sir, may I indicate in a few sentences the attitude of Government in regard to this important matter? Obviously the question of Delhi is an important point for this House to consider. It was for this reason that over two years ago this House appointed a Committee for the purpose and, normally speaking, the recommendations of the Committee appointed by this House would naturally carry great weight and would possibly be given effect to. But ever since

[The Honourable Pandit Jawaharlal Nehru]

that Committee was appointed the world has changed; India has changed and Delhi has changed vitally. Therefore to take up the recommendations of that Committee regardless of these mighty changes that have taken place in Delhi would be to consider this question completely divorced from reality. But the fact remains that this question has got to be considered and all of us or nearly all of us hore sympathise very greatly with those citizens of Delhi and representatives of Delhi who feel that this great and ancient city of Delhi should not be left out of the picture when this Constitution comes into effect. Therefore we have to give thought to it. Now giving thought to it, the first thing that comes up for consideration is this that the situation in Delhi is not a static situation; it is a changing situation and if we put down any clauses in the Constitution, we rather petrify that situation. It is far better to deal with it in a way which is capable of future change, i.e, by Act of Parliament rather than by fixed provisions in the Constitution.

Again, these provisions do not deal with Delhi only but with other areas which are called Centrally administered areas or the like. It may be that still further areas may come into our ken. Therefore, anything that we may put down in the Constitution must be something which applies to all. That is a difficult thing to do because those areas are completely different. These areas, 'Whether it is Coorg or Ajmer-Merwara or Panth-Piploda or Delhi, they are completely different and it is frightfully difficult to find a common formula for them. For all these reasons it seems inadvisable to put in the Constitution any precise form of approach to this question except to indicate that something should be done and leave it open to Parliament to do it.

Now Mr. Deshbandhu Gupta has brought forward two amendments. I do not know if he has moved them formally or not; anyhow be spoke about them. One was rather a general disapproval of the present amendment—not an any precise ground—but because he thought that it rather led away from the previous Draft. Now, I have little to say about it except I think that the amendment moved by Dr. Ambedkar seems to cover the entire ground fairly well. It is up to this House to apply it in any way it likes to Delhi but please do not try to change that amendment simply thinking in terms of Delhi and thereby put difficulties in your way if you have to apply that to some other areas. That is point one.

The second point is in regard to a clause that he wishes to add to this if, concerned I have absolutely no objection. My only difficulty is that I should not like to put in something in a hurry without careful consideration of the drafting of it. But so far as I am concerned-and I think I speak for most of the members of the Drafting Committee—they accept the principle and they intend to bring that in somewhere in the Constitution at some later stage. That is to say, the principle of some kind of representation in the Central Legislature of these areas—that principle is accepted and will be provided for somewhere or other in the Constitution.

Now finally, I should like to say that it is our intention, that is, the Government's intention to bring forward some kind of a Bill to deal with Delhi in the course of this year. We cannot do so, so far as I understand the Constitution, we cannot do so till this Constitution itself is passed or till this House enables us to do so. Therefore in any event we have to wait-till whether

October or November I do not know—but we hope to proceed with this matter. Meanwhile we shall think about it and will bring it up later dealing with Delhi.

Mr. President : Pandit Thakur Das Bhargava Are you likely to take long ?

Pandit Thakur Das Bhargava (East Punjab : General): Not very long, about twenty minutes.

Mr. President : I think we had better take it up tomorrow. The House now stands adjourned to nine o'clock, tomorrow morning.

The Assembly then adjourned till Nine of the Clock on Tuesday, the 2nd August, 1949.