

Wednesday, 17th November, 1948

Volume VII

4-11-1948

to

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**CONSTITUENT ASSEMBLY
DEBATES
OFFICIAL REPORT**

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CONSTITUENT ASSEMBLY OF INDIA

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SUBEDAR MAJOR HARBANS RAI JAIDKA

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CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 17th November, 1948

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. Vice-President (Dr. H. C. Mookherjee) in the Chair.

TAKING THE PLEDGE AND SIGNING THE REGISTER

The following Members took the pledge and signed the Register :

1. Shri B. H. Khardekar (Kolhapur State).
2. Shri A. Thanu Pillai (Travancore State).

DRAFT CONSTITUTION—*contd.*

ARTICLE 1—*contd.*

Mr. Vice-President : (Dr. H. C. Mookherjee): We shall now go on with the amendments. Amendment No. 126 — Prof. Shah.

Prof. K. T. Shah (Bihar : General): Mr. Vice-President, Sir, I beg to move:

“That at the end of sub-clause (c) of clause (3) of article 1, the following be added:
or as may agree to join or accede to or merge with the Union’.”

The clause, as amended, will read:

“such other territories as may be acquired or as may agree to join or accede to or merge with the Union.”

I think this is a very simple amendment. It tries to include within the territories of the Union not only those which are at present in it, or which, under the provisions of this Article, come under its scope; but also those which after the Constitution is passed may agree to join, or accede to, or merge with, the Union. I confess that I am not very enamoured of the term ‘acquired’. I do not suggest that acquisition is necessarily by conquest. I agree that acquisition may take place by other means than conquest. I have, therefore, not suggested any alteration of the word “acquired”.

At the same time, however, I feel that the term is not sufficiently inclusive. It does not take account, for instance, of the addition to the territory by voluntary agreement, or by accession of States, which, at the time the Constitution is passed, had not yet acceded and or were not merged with the Union. I have in mind two particular instances which have led me to table this amendment. There are neighbouring territories even today which are independent States, with which, however, we have much affinity. They may find in a closer union with us much greater chance of their own advancement or prosperity; and as such it is possible that they also may like to join this Union, and take all the benefits that joining with such a great State, with such resources as we have, may bring to them as well. There is in this suggestion no intention of coercion or conquest by any use of force, or aggressive designs upon any neighbouring territory, in an amendment of this kind. This is only a provision that, without any necessity to amend the Constitution, if some such contingency arose, we could simply under the existing provisions accept the joining or accession of such States as today are independent, sovereign States in their own name, in their own right; and which may yet feel the necessity of much closer union than any treaty or alliance may provide.

[Prof. K. T. Shah]

I trust, therefore, that this provision which is only permissive and facilitating the joining of other States, will find no objection in any part of this House.

Then there is the accession of States, which, at the time I put in this amendment, had not acceded to the Union. Everybody would understand the example I have in mind. Even now I am not clear whether that particular State has, in point of technical, constitutional law, actually acceded to the Union even today. Whatever that may be, here is a provision that the territories of the Union will include also such a State if and when it accedes.

The third contingency is of merger. This contingency of States completely identifying themselves to the point of sacrificing their own identity and becoming part and parcel, integral units, of this Union should I suggest also be provided for so that in the long run the Union should consist of parts which I hope would be equal *inter se*, making the components of the Union.

These three contingencies I have sought to provide for by this amendment, *viz.* States joining voluntarily, States acceding—which have not yet acceded, and States becoming merged in the Union, may arise at any time; and so I do not think this amendment will in any way be objectionable in any part of the House. The merger problem is ticklish, rather delicate, and we do not yet know what final shape this great development will take. But whatever that shape may be, the integrity of the Union, the integral association, if I may put it that way, of States which are still retaining somehow their separate identity, will help to make this Union territory much more uniform under single jurisdiction and the parts thereof much more equal *inter se* than is the case today. On these grounds, therefore, Sir, I think this amendment ought to commend itself to the House.

The Honourable Dr. B. R. Ambedkar (Bombay: General): Sir, I oppose the amendment.

Mr. Vice-President : The question is:

That at the end of sub-clause (c) of clause (3) of article 1, the following be added:—
“or as may agree to join or accede to or merge with the Union.”

The motion was negatived.

Mr. Vice-President : As regards the next amendment, No. 127, standing in the name of Sardar Hukam Singh, I do not think it arises out of Article 1. It may be discussed at the proper time and place.

I think the same objection applies also to amendment No. 128, standing in the names of Shri B. A. Mandloi and Thakur Chhedi Lal. It can be discussed hereafter.

Now we come to amendment No. 129. Professor K. T. Shah.

Prof. K. T. Shah : Mr. Vice-President, Sir, this amendment which stands in my name is as follows:

“That the following proviso be added to article 1:

‘Provided that within a period not exceeding ten years of the date when this constitution comes into operation, the distinction or difference embodied in the several Schedules to this Constitution and in the various articles that follow shall be abolished, and the member States of the Union of India shall be organised on a uniform basis of groups of village Panchayats co-operatively organised *inter se*, and functioning as democratic ‘units within the Union’.’”

This also is part of the general idea I am trying to propagate. It tries to realise the ideals which I hope will commend themselves to the House, namely that, in the long run, this Union must consist of locally autonomous units, equal *inter se*, which will be the strength as well as the salvation of this country in my opinion.

Sir, it appears to me that in the various Schedules as well as in the various articles that follow, there is an obvious distinction between not only the old-time Provinces as they were called, but the old-time States whose designation is now sought to be applied to all the Members of the Union which are amongst themselves clearly not on an equal footing.

Now, there may be reasons why at the present time it is not possible to make them all, with one stroke of the pen so to say, equal by themselves and amongst themselves. I recognise the difficulty. I notice, however, that even in the Constitution, and in the reports of the Experts Committee and others, the intention obviously is to see that even though at the present time there may be these difficulties, within a given period—I have given here the period of ten years—within a given period these differences, should disappear, and the country reorganised on a uniform basis. These differences, at the present time, hinder not only the uniformity of jurisdiction of authority and of working but I suggest it will also impede the developing of the country for lack of this very uniformity. Whatever, therefore, may be the heritage of the past, and whatever may be the restricting, conditioning factor of today which compels us to recognise these inequalities between the member States, I suggest that we must make up our mind, and this Constitution should provide that these differences, these inequalities, these variations, must disappear, and that too within a pre-determined, within a given period of ten years.

The ten-year period suggested is sufficiently long not to cause any difficulty in smoothing away the present differences. The ten year period would be sufficient to readjust the tax systems, the ten year period would be sufficient to readjust if necessary the judicial systems, the legal and fiscal systems, the ten year period would be sufficient to readjust all differences in communications, transport, and other common factors which at the present time do cause a great deal of variation, and, in my opinion, a great deal of hardship, impediment and heart-burning as between the various units. To give you but one instance, it has been recently held by many people that the existence of the States as independent jurisdictions leads to considerable evasion of taxation; or, what is worse, that it leads to an artificial attraction of industry from one area into another, where the taxes are believed to be lower or where other facilities for the growth of industry are easier or greater. These arise not from the inherent qualities, resources, or peculiarities of those regions; these arise not from the natural differences that cannot be abolished by human effort; they arise simply and solely because there are varying jurisdictions, which permit all these differentiations to go on accumulating.

As I have already suggested, their presence is bound to work against the best long range interests of the country, which seeks to march forward, which seeks to make a uniform plan for all-round development within a given period. And therefore it is but right and proper that we should try and eliminate these traditional differences, so that within the stated period we should attain the goal that we have in view.

I have already stated that these differences are of human creation. They are legacies of the past. But as these are impediments in the way, they must be removed at the earliest opportunity. The period of ten years is long enough for making constructive efforts to readjust and make more or less uniform the various units that compose the country as between themselves.

In trying to reconstruct and readjust these various units, I have further suggested that they should be re-organised. The moment we have an opportunity to do so, we must re-organise them into autonomous village groups, which would have more natural geographical affinity amongst themselves and

[Prof. K. T. Shah]

more economic sympathy amongst themselves than happens to be the case in the *ad hoc* creations which we call either provinces or States.

We have in this regard a burning problem already causing considerable amount of difficulty in the reconstruction of the units or provinces on what is called linguistic basis. The constitution of the provinces on a linguistic basis is not by itself a guarantee that the intrinsic unity of each region or group will be properly developed; and, what is more, that the principle of democratic self-government of the *people*, by the *people*, for the *people*, would be equally promoted, if these various units are reconstructed on any other basis but that of local unity, local affinity, and local identity of interest. It is for that reason that I am suggesting the re-grouping, the reconstruction and the re-adjustment on a village basis.

The constitution of the villages on a co-operative basis, enabling them to make common cause, make of them a sort of internal republics so to say,—*imperium in imperio*, if I may use the expression,—would be the best guarantee for the development that we have in view. They would be able to take note of the local resources, the local talent, and the local possibilities much better than any distant Government, like the one at the Centre or even at the provincial headquarters even of the size that many of them in our country are.

Sir, remarkable is the emphasis that our great leaders have laid upon the re-vitalisation of the villages. As such I think I am following very honoured foot-steps, if I put forward this ideal before you, and invite you to consider the possibility of re-developing the State in the only manner in which in my opinion it can be assuredly developed, *e.g.*, on the basis of co-operative village reorganisation, forming groups sufficiently strong and big to enable them to progress among themselves, and realise the ideal of a better standard of living that we have been hoping and striving for all these years. I commend this proposition to the House.

Shri M. Ananthasayanam Ayyangar (Madras : General): Sir, I agree with the suggestion that, early or late, we must re-organise this country on a system of village panchayats. But today there are not such panchayats. That being so, if today we are told that within a period of ten years, to be provided for in the Constitution itself, all distinction should be abolished, it would not be a practical proposition. Myself and Professor Ranga have given notice of an amendment to the Directive Principles to the effect that the State shall take care to see that village panchayats are re-organised and re-established every-where, so that, as far as possible, in the interests of democracy, the villages may be trained in the art of self-government, even autonomy. In that way there may be development of villages. But, in the substantive portion of the Constitution itself, to say that the distinction between State and State should be abolished and the whole country re-organised on the village autonomy basis, is a different thing. We cannot do this immediately. The villages are unfortunately torn by factions and there is nothing like responsibility there now. Under the circumstances I do not want to say anything more than what Dr. Ambedkar has said. He is a bit too pessimistic; I do not agree that we can never reform the villages and develop them for self-government. We must be able to reform the villages and introduce democratic principles of government there. It will all take time. Therefore, now to say that all the existing differences should be abolished at once, is too much to accept. We also expect that, with the indefatigable energy shown by Sardar Patel, the distinction between the States and Provinces will automatically disappear. But let us not rush matters too much. The differences are disappearing fast and popular Governments are coming into existence everywhere. At this rate I am sure that before ten years elapse there will be no difference between either

Prof. K. T. Shah or any one sitting on the other benches as regards the ultimate goal that we should reach.

The only question is about the method and pace with which this object should be achieved. I would appeal to him not to press the amendment. We are all engaged on the common task of attaining the absolute sovereignty of the people including those in States. We must devise different methods to suit local needs and conditions. This country will ultimately consist of a number of village republics, autonomous as far as possible, knitted into a number of States with a Union at the Centre. We do derive all authority from the people who must be trained in the art of government and the responsibility must flow from them. But this amendment is premature. I therefore request Professor Shah not to press his amendment. If he does not do so, I am sorry I shall be obliged to oppose it.

Prof. Shibban Lal Saksena (United Provinces : General): Sir, in this amendment, Professor Shah has enunciated two important principles: one is that after ten years he expects the Government of India to attain a particular shape and hopes that it shall be organised on the basis of groups of village panchayats, organised *inter se*, and functioning subordinately to the Union. Sir, with these two principles I think most Members will agree. I have myself given notice of certain amendments wherein I have stated that after ten years, many of the principles embodied in the Constitution would be in operation and would have the force of law. Similarly, also we have provided elsewhere in our amendment that the present system of village administration should be organised on the basis of village panchayats. It was pointed out to the House the other day that we want the Republic of India to be based on small village republics having autonomy. But I do feel that the law as it stands here is vague and should be amplified. Therefore I suggest that instead of putting this in this omnibus form, Mr. Shah should bring in amendments to the various clauses where these should be inserted. I personally agree with the two principles, firstly, that the distinction embodied in the several schedules should be abolished, and secondly, that village panchayats should find a place in the Constitution and that everywhere a uniform method of forming village panchayats should be adopted. In fact in the Gandhian Constitution which is proposed by Professor Aggarwal, he points out that Mahatma Gandhi wanted that there should be village republics. He envisaged that for about every 20,000 people there should be a panchayat and these units should elect the Taluk panchayats and the district panchayats. I agree that these panchayats should find a place in the Constitution and should also have some voice in the election of the Upper House, but I think in this place it is not proper to say that the distinction embodied in the schedules should be abolished. That, I think is going too far, apart from its being very vague. Instead of this, I would suggest that Mr. Shah should table amendments to the various schedules when they are taken up. I hope Mr. Shah will not press his amendment.

Maulana Hasrat Mohani (United Provinces : Muslim): Sir, I beg wholeheartedly to support the amendment proposed by Professor Shah where he says that the member States of the Union of India shall be organised on a uniform basis of groups of village panchayats co-operatively organised. I would like to go a step further and say that instead of making the village panchayat a unit, we should make a village Soviet as the unit of our Constitution. It will not be out of place to point out to you that I approached Mahatma Gandhi and presented to him the Soviet Constitution and discussed with him all the points contained in that Constitution. He agreed that at least accepted two principles of that Soviet Constitution. One of those two principles was, "No work, no vote". The second thing was that our unit must be a village Soviet and he said that the Constitution of the Soviet was quite similar to the Constitution of

[Maulana Hasrat Mohani]

the All-India Congress Committee here, as we have got village Congress Committees which elect representatives to the Tehsil Congress Committees; the Tehsil Congress Committees elect their representatives to the District Congress Committees, the District Congress Committees to the Provincial Congress Committees and the Provincial Congress Committees to the All-India Congress Committee. The same process has been adopted by the Soviet Constitution. Every village there is a self-sufficient Village Soviet. It sends its representatives to the higher Soviets. If we give up this idea of the village panchayats and accept the village Soviet as our unit, all these absurdities which exist in the Constitution by way of provision for minorities, etc. will disappear. With this suggestion, I wholeheartedly approve and support the amendment proposed by Professor Shah.

The Honourable Dr. B. R. Ambedkar : I oppose the amendment.

Mr. Vice-President : I will now put the amendment to the vote. The question is :

That the following proviso be added to article 1 :—

“Provided that within a period not exceeding ten years of the date when this constitution comes into operation, the distinction or difference embodied in the several Schedules to this Constitution, and in the various articles that follow shall be abolished, and the member States of the Union of India shall be organised on a uniform basis of groups of village Panchayats co-operatively organised *inter se*, and functioning as democratic units within the Union.”

The amendment was negatived.

Mr. Vice-President : The next one is number 130. Mr. Mandloi.

Shri B. A. Mandloi (C. P. & Berar : General): Sir, I am not moving it.

Mr. Vice-President : Let us now go back to the amendments which we did not take into consideration on Monday. No. 83.

Shri M. Ananthasayanam Ayyangar : I suggest that these may be allowed to be held over and that article 1 may be put to the vote now.

Mr. Vice-President : Please allow me to proceed. No. 83 deals with script and language. This may be discussed at the proper time when we discuss the question of language and script under article 99. Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I move:

“That at the beginning of the heading above article 1, the word and Roman figure ‘CHAPTER I’, be inserted.”

Sir, I submit this raises an important question of drafting. Honourable Members will find that in the Draft Constitution chapter numbers are not continuous. There are many places where there is no chapter number but there are some cases where there are several chapters and they are numbered separately. The result of this is some amount of confusion. If we number the chapters consecutively apart from the Parts to which they appertain, the advantage will be that, if we refer to a particular chapter, it will be enough indication of the chapter belonging to that particular Part. If we however retain the existing numbering, the result would be that we have to say Chapter I of Part III, Chapter III of Part IV, etc. I submit, Sir, it would be more advantageous to adopt running chapter numbers in the Draft Constitution. That would be highly advantageous from a practical point of view. Sir, I have before me many samples of Indian enactments. The practice in India has been uniform in this respect, though I must point out so far as the existing Government of India Act is concerned, the present draft follows the practice in England. There is in that Act no contiguous running chapter numbers as in Indian practice.

Coming, Sir, to the various enactments, with which everybody is familiar, namely, the Civil Procedure Code, the Criminal Procedure Code, the Evidence Act and all other Acts, Members will find that these Acts are divided into several parts. The chapter numbers are not individually and separately numbered and although there are several parts, the chapter numbers are continuous. The result is an enormous simplification in the matter of citation. In the Criminal Procedure Code and in the Penal Code and in other Acts, we refer to certain chapter number without reference to the parts to which they belong. I submit this is the universal practice in India. There are many other Acts which are divided into Parts but the chapters bear running numbers. Considered, therefore, from the point of view of established practice in India and the point of convenience in the matter of citation, I think the chapters, irrespective of the Parts to which they belong, should bear consecutive numbers. This is a matter of convenience and I thought it my duty to place my views before this House. With these few words I commend my amendment to the acceptance of the House.

The Honourable Dr. B. R. Ambedkar : Sir, I oppose the amendment.

Mr. Vice-President : The question is:

“That at the beginning of the heading above article 1, the word and Roman figure ‘Chapter I’, be inserted.”

The motion was negatived.

Mr. Vice-President : I find that so far as item No. 85 is concerned the first part of it may be moved as the other portion has been disposed of already. I therefore call upon Mr. Lokanath Misra to move the first part.

The Honourable Pandit Govind Ballabh Pant (United Provinces : General): Sir, I move that we now pass on the Article 2 and postpone discussion on the remaining amendments to Article 1. So far we have not been able to reach unanimity on this important point. I am not without hope that if the discussion is postponed, it may be possible to find some solution that may be acceptable to all. So, nothing will be lost. After all we have to take the decision, today, tomorrow or the day after: nobody will suffer thereby, but if we can find something that satisfies everybody, I think the House will feel all the stronger for facing the tasks that lie ahead of it. I hope there will be no difference of opinion on this point and I do not see why there should be any opposition from any quarter. After all, we will take the decision. Nobody else is going to add to or diminish the strength of any section or of any group here, and we are not here as sections or groups. Everyone of us is here to make the best contribution towards the solution of these most intricate, complicated and difficult problems and if we handle them with a little patience, I hope we will be able to settle them more satisfactorily than we would otherwise. So, I suggest that the discussion on the rest of the amendments to Article 1 be postponed.

Shri H. V. Kamath (C. P. & Berar : General): Mr. Vice-President, Sir, I appreciate the arguments that have been advanced by my honourable Friend, Pandit Govind Ballabh Pant. I only wish to know from you, Sir, for how long a time these amendments Nos. 85 to 96 both inclusive are going to be held over. It will create, I submit, Sir, a very bad impression in the outside world and in our own country, if we go on postponing the consideration of the amendments dealing with the very first word in the very first clause.

Honourable Members : No, no.

Shri H. V. Kamath: And if we go on postponing the consideration of these amendments indefinitely, it would certainly create a bad impression. I want to know, therefore, for how long it will be held over.

Shri R. K. Sidhwa (C. P. and Berar : General): Sir, I am rather surprised at the argument advanced by my honourable Friend, Mr. Kamath that if we

[Shri R. K. Sidhwa]

postpone this matter indefinitely the outside world will be rather surprised. On the contrary, if we come to a satisfactory solution and a unanimous decision on this matter, the outside world will have really a very high opinion of this House. I feel, therefore, that the suggestion made by my honourable Friend Pandit Pant should certainly be accepted unanimously. I am rather surprised that of all persons Mr. Kamath should have come forward to speak in this manner. What Pandit Pant stated was really a very fine solution and I was expecting from this House that instead of creating any kind of dissension, if we really come to a unanimous decision, it will be really a record in the history of this Constitution. I therefore, very heartily and strongly support the motion moved by my honourable Friend, Pandit Pant.

The Honourable Dr. B. R. Ambedkar : I support the suggestion made by Pandit Govind Ballabh Pant.

Seth Govind Das (C. P. & Berar : General): Sir, I wholeheartedly support Pandit Pant's proposition. The House very well knows how clear I am for naming our country BHARAT, but at the same time, we must try to bring unanimity of every group in this House. Of course, if that is not possible, we can go our own ways; but up to the time there was any possibility of reaching a unanimous decision by any compromise, that effort must be made. Sir, I support this proposition, and I hope that by the efforts of our leaders, there will not be any division on fundamental points like this, and not only this proposition, but other propositions also, like that our national language, national script etc., we shall be able to carry unanimously. I, therefore, support the views just expressed by the Honourable Pandit Pant.

Shri H. V. Kamath : I only wanted to know for how long the amendments will be held over.

An Honourable Member : It may be a day, a week or a fortnight.

Mr. Vice-President : I hold that a discussion of these few clauses should be held over till sufficient time has been given for arriving at some sort of understanding. This will be to the best interests of the House and of the country at large.

Shri Lokanath Misra (Orissa : General): Sir, I have a submission to make. If it is your decision, Mr. Vice-President, Sir, that my amendment is not to be moved, or that it is to be held over, I have no objection. Of course, I agree that my amendment consists of two parts, changing the name of India, and some other things. I am very glad that this change of the name is being held over so that we may come to some unanimous decision which will be pleasant to all. But, I submit, I should be allowed to move the rest of the amendment. That is in no way similar to the amendment moved by Professor K. T. Shah. If I had really known that, I would have said what I have to say when he moved that amendment. I, therefore, request you kindly to allow me to move the rest of the amendment, without amending the name of India.

Mr. Vice-President : Apart from the language employed, I consider that what is said in your amendment is substantially the same as what was said in the amendment of Professor K. T. Shah. It has been discussed. It cannot be discussed again.

Shri Lokanath Misra : That is taking one by surprise.

Article 2

Mr. Vice-President : The next motion is:

That Article 2 stand as part of the Constitution.

Shri H. V. Kamath : Article 1 may be put to vote.

Mr. Vice-President : That Article has been postponed. It cannot be put to vote now till all the amendments are considered.

Mr. Naziruddin Ahmad : Amendment No. 131.

Mr. Naziruddin Ahmad : Sir, I beg to move:

“That for Article 2 and Article 3, the following be substituted:

‘2. Parliament may by law—

- (a) admit into the Union new States;
- (b) sub-divide any State to form two or more States;
- (c) amalgamate any two or more of the following classes of territories to form a State, namely—
 - (i) States,
 - (ii) part or parts of any State,
 - (iii) newly acquired territory;
- (d) give a name to any State admitted under item (a) or created under items (b) and (c) of this Article;
- (e) alter the name of any State:

Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless—

- (a) where the proposal contained in the Bill affects the boundaries or name of any State or States for the time being specified in Part I of the First Schedule, the views of the Legislative Assembly or in the case of a bi-cameral Legislature, of both Houses of the Legislature, of the State, or as the case maybe, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President; and
- (b) where the proposal affects the boundaries or name of any State or States for the time being specified in Part III of the First Schedule, the previous consent of the State, or as the case may be, of each of the States to the proposal has been ascertained’.”

Sir, in introducing this amendment, I should submit that many points are involved in this. The two Articles, Articles 2 and 3, are to a certain extent overlapping. In Article 3 there are certain redundancies, and there are one or two minor gaps. I shall deal with them just now. An analysis of Article 2 shows that Parliament may admit into the Union new States and establish new States. These are the two points in Article 2. In Article 3 power has been given to the Parliament to (a) form a new State by separation of territory from a State or by uniting two or more States or parts of States, (b) increase the area of any State, (c) diminish the area of any State, (d) alter the boundaries of any State, and (e) alter the name of any State. I submit, Sir, that the first element in Article 2, admitting into the Union a new State, is covered by the first part of Article 3. With regard to Article 3, the three elements of increasing the area of a State or diminishing the area of a State, or altering its boundaries, I submit, are redundant. If you sub-divide a State, you decrease the area. If you add to one State another or a part of a State, you necessarily increase the area, and a re-adjustment of territories involves necessarily alteration of boundaries. I beg to submit that the three elements of increasing the area or diminishing the area or altering the boundaries are so necessarily implied in the other part of the Article and it would be meaningless and practically useless to embody them in the Constitution, I submit, Sir, that if you have the power to divide one State into two or more parts, or unite two States or parts of States, these three elements are necessarily implied and therefore, they need not be repeated. This element of increasing the area, diminishing the area and altering the boundaries are consequences of the other powers given. These consequences need not be mentioned. They are necessarily involved in the process of division, addition and subtraction. So to that extent these three elements must go.

Then the condition of separation of territories from a State in Article 3 (a)—for this I think a better way would be, to say, we “sub-divide” any State and form into two or more States. I think this would be a better expression; and then the element of uniting two or more States, etc., a better expression

[Mr. Naziruddin Ahmad]

would be “amalgamating any two or more States or parts of States”. Then there is no power given in the existing article of amalgamating newly acquired State. The powers of the Parliament in this respect are specifically given in my amendment but this is entirely absent in the Draft Constitution.

Kazi Syed Karimuddin (C. P. & Berar : Muslim): Mr. Vice-President, the Honourable Member Mr. Naziruddin has moved an amendment to Articles 2 and 3. Article 2 has been taken up for discussion now and not Article 3. So unless both are taken up for discussion, the amendment as it stands cannot be moved.

Mr. Vice-President (to Mr. Naziruddin): Please go on.

Kazi Syed Karimuddin: What is your ruling, Sir?

Mr. Vice-President : When I said he is to go on, the decision should be understood.

Mr. Naziruddin Ahmad : That is why I have attempted to incorporate into the amendment the following points:

- (a) admit into the Union new States,
- (b) sub-divide any State to form two or more States;
- (c) amalgamate any two or more of the following classes of territories to form a State, *viz.*,
 - (i) States,
 - (ii) Part or parts of any State,
 - (iii) newly acquired territory;
- (d) give a name to any State admitted under items (b) and (c) of this article;

and then again the power to alter name is already given. I submit that these embody the essential features, of clauses 2 and 3. It avoids repetition and it eliminates parts of articles which are redundant, *viz.*, which are necessarily implied. That disposes of the body of the proposed amendment. Then with regard to the present clause 3,

Shri H. V. Kamath: On a point of Order. How can he refer to Article 3 when it is not under discussion? Amendment to Article 3 cannot be taken up at this stage.

Mr. Naziruddin Ahmad: I submit that a ruling has already been given that the amendment is in order, *viz.*, that for Articles 2 and 3 the following article be substituted. This is certainly an amendment to Article 2 although it incorporates in the amendment also Article 3. So the Honourable the Vice-President has already ruled that the amendment is in order.

I submit that the phrase ‘increasing area’ or ‘diminishing area’ would not be very appropriate. You do not increase an area by addition or diminish it by means of subtraction. The words are mostly used in an intransitive sense. As an instance you can increase the area of a balloon by inflating and decrease it by deflating. Therefore I submit that these words are not appropriate. If these elements are to be retained, the words ‘enlarge’ and ‘reduce’ would be more appropriate. The increase of an area by addition or reduce it by subtraction is not in current use, but at any rate the other objection is that they are absolutely redundant. I therefore submit that the body of the proposed new Article 2 should be accepted.

With regard to the proviso, the only effect of the amendment would be that in the proviso (a) in part I there is a condition of representation in the Legislature. In No. 2 there is the question of the resolution. I submit Part 1 of proviso (a) should be deleted. A Resolution as mentioned in Part 2 of clause

(a) of the Proviso is better. So the only effect of the change of proviso is to eliminate Part 1 of Proviso (a). These are the essential changes proposed in this amendment, *viz.*, elimination of some of the points which seem to me to be redundant. There are one or two points which seem to have been overlooked. In proposing this amendment I do so with great respect. I do not in the least disparage the high quality of work which the Drafting Committee has done.

My next amendment which I shall move in this connection is as follows:—

“That in Article 2 the words ‘from time to time’ be deleted.”

The words ‘from time to time’ have caused some amount of trouble before. These words have been provided for in the General Clauses Act. Under that Act if any power or right is given, it is understood that unless the contrary is specifically indicated that the power or right may be exercised “from time to time as occasion arises”. It follows that if any power is given, unless the contrary is definitely stated, that power may be exercised from time to time. This expression appears again and again in the Draft Constitution. We have put specific provisions in the Draft Constitution itself in Article 303, Clause (2) which provided that in the interpretation of this Constitution, the provisions of the General Clauses Act shall apply. I shall read out this clause—

“Unless the context otherwise requires, the General Clauses Act, 1897 (X of 1897), shall apply for the interpretation of this Constitution.”

The Government of India Act was controlled in this respect by the U . K. Interpretation Act of 1889, and this clause (2) of Article 303 is similar to that provision in the Government of India Act. It, therefore, follows that in the interpretation of this Constitution, we should have regard to the General Clauses Act. And the General Clauses Act definitely provides for this thing, that the words “from time to time” need not be repeated again and again. If we say that the President can give a ruling on points of order, it implies that he can give the ruling as and when occasions arise, from time to time. So in practical life, and in daily drafting of Statutes, we find it as an invariable rule that this phrase is not repeated, here and there, and now and again. In this Constitution itself, the words “from time to time” do not appear everywhere. The House will see that in Article 2, line 1, the expression ‘from time to time’ appears. “Parliament may, from time to time...” do certain things. But coming to Article 3, we merely find “Parliament may, by law.....” and no ‘from time to time’ occurs there. There are numerous other places where the words ‘from time to time’ in a similar context do not appear. I submit that the drafting should be uniform. If in one place we introduce the phrase ‘from time to time’, and if we do not introduce it in another analogous place, the argument may be made that in one place the power may be exercised from time to time, and in the other place it may not be exercised from time to time. It is this reason that I say that there should be some uniformity in the matter of drafting. The words ‘from time to time’ must be excluded. But if they have to be introduced at all, they have got to be introduced in all other similar places.

With these few words, I submit my amendment for the consideration of the House. I merely wanted to raise these points for discussion, and if necessary for redrafting of the article, if the points are worthy of consideration.

Shri Ananthasayanam Ayyangar: Sir, I oppose these amendments. These are verbal matters and I would even appeal to you not to allow such amendments. I request you to put it to vote now.

The Honourable Dr. B. R. Ambedkar: I oppose the amendments.

Mr. Vice-President : I will put the amendments nos. 131 and 132 to vote. Dr. Ambedkar has spoken already and there cannot be any further discussion.

Kazi Syed Karimuddin: Sir, on a point of order. If this amendment is accepted, it will amend Article 3. Therefore, unless a ruling is given that Articles 2 and 3 should be discussed and taken into consideration in regard to this amendment, this cannot be put to vote now. If it is accepted, as I said, it will amend Article 3 also.

The question is:—

“That for Article 2 and Article 3, the following be substituted:

‘2. Parliament may by law—

- (a) admit into the Union new States;
- (b) sub-divide any State to form two or more States;
- (c) amalgamate any two or more of the following classes of territories to form a State, namely—
 - (i) States,
 - (ii) part or parts of any State,
 - (iii) newly acquired territory;
- (d) give a name to any State admitted under item (a) or created under items (b) and (c) of this Article;
- (e) alter the name of any State:

Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless—

- (a) where the proposal contained in the Bill affects the boundaries or name of any State or States for the time being specified in Part I of the First Schedule, the views of the Legislative Assembly or in the case of a bi-cameral Legislature, of both Houses of the Legislature, of the State, or as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President; and
- (b) where the proposal affects the boundaries or name of any State or States for the time being specified in Part III of the First Schedule, the previous consent of the State, or as the case may be, of each of the States to the proposal has been ascertained; and

That in article (2), the words “from time to time” be deleted.’”

The amendments were negatived.

Mr. Vice-President : Amendment No. 133, I find is connected with the Preamble, and so it may be taken up later, this is not the appropriate place for it.

Amendment Nos. 134 and 135, are not moved.

Amendment No. 136 has been disposed of.

Amendment No. 137 is a verbal change and I rule it out of order.

Amendment No. 138 is not moved.

Then I put Article 2.

Shri H. V. Kamath: Sir, I wish to speak on Article 2.

Mr. Vice-President Sir, it appears to me that there is a little lacuna in this Article which my Honourable friend, the able jurist and constitutional lawyer that he is, will rectify, when it is finally drafted by the Committee. If we turn to the report of the Union Constitution Committee—I am reading from the reports of the Committee, Second Series, from July to August 1947, copy of which was supplied to each member last year—there Article 2 begins thus:—

“The Parliament of the Federation” of course, we have changed the word Federation into Union but here you import the word ‘Parliament’ suddenly in Article 2 without saying to which Parliament it refers. This is a lacuna, because there is nothing so far in the previous article regarding Parliament. So we must say here the “Parliament of the Union”. This lacuna, I hope, will be rectified.

The Honourable Dr. B. R. Ambedkar: We shall take note of what Mr. Kamath has said.

Mr. Vice-President : Then the question before the House is that Article 2 form part of the Constitution.

The motion was adopted.

Article 2, was added to the Constitution.

Article 3

Mr. Vice-President : Now we come to Article 3.

Amendment No. 139 is a negative amendment and is out of order.

Then we come to Amendment No. 140. Not moved.

The Honourable Shri K. Santhanam (Madras : General): Sir, I move:

“That in clause (a) of article 3, the following words be added at the end:

‘or by addition of other territories to States or parts of States’.”

I need not take up the time of the House. It only makes clause (a) logically perfect, because a new State can be formed by having a part of one of the acceding States and adding to it other territories which may be acquired by India.

Shri M. Ananthasayanam Ayyangar : I request the House to accept the amendment because by this addition alone will the article become complete.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I am agreeable to the principle of the amendment moved by my friend Mr. Santhanam. The only point is that I like slightly to alter the language to read “or by uniting any territory to a part of any State”.

The Honourable Shri K. Santhanam : I am agreeable to the change.

Mr. Vice-President : the question is:

“That in clause (a) of article 3, the following words be added at the end:

‘for by uniting any territory to a part of any State’.”

The motion was adopted.

Prof. K. T. Shah: Mr. Vice-President, Sir, I beg to move:

“That the following new proviso be added after clause (e) of article 3:

‘Provided that every proposal for legislation which increase or diminishes the area of an existing State, or alters its name or boundaries, shall originate in the Legislature of the State concerned or affected, in such form as the rules of procedure in the Legislature concerned consider appropriate’.”

Sir, here is a proposal to consult first the Legislature of the State, whose name or boundaries are proposed to be altered, or whose areas are proposed to be increased or diminished. We are all aware that the existing Units which make up this Federation are not equal *inter se* are not logical, are not happily constructed so as to minister to the development of the country or even of the areas themselves. It is necessary, and it will soon perhaps have to be implemented in some form or another, that these areas be reconstructed. That would mean that their boundaries, perhaps even their name, and their territories, may be altered, upwards or downwards. If that becomes necessary, then I submit the proper course would be to consult the people themselves who are affected, if not by a direct Referendum to the people affected, at least by a consultation of the Legislature, rather than that the change be imposed from above, as in my opinion the clause as it stands requires. The parties primarily affected are the people themselves of the areas whose boundaries or name is to be altered, or whose position has in any way to be reconstructed. And it is but a simple proposition—a mere matter of fundamental principle I submit—that you should in a democratic regime consult the peoples affected, and not merely lay it down from above. I recognize that the article as it stands provides that in any such event you should have either a representation from the representatives of the people in the Central Parliament to suggest such an alteration, or alternatively the President should have received some such

[Prof. K. T. Shah]

representation from the people concerned. But it will be the act of the Central authority, and not of the people primarily affected to suggest this variation. I submit that that is in principle a wrong approach.

I am afraid that the general trend of the Draft Constitution, as I view it, seems excessively and unnecessarily to place power and authority in the Centre, to the serious prejudice not only of the Units, but even of the very idea of democracy as we flatter ourselves we are embodying in this Constitution. If it is a democratic Constitution, if we desire that the people should govern themselves, or that, even if they are not prepared today to do so, they should learn necessarily by mistakes, to be fit for and practice self-government, then I think it is of the utmost importance that a provision like this should be insisted upon.

Any question which relates to the alteration of the present units, their territories, boundaries or name, should begin with the people primarily affected, and should not come from the authority or power at the Centre. The authority at the Centre obviously is not familiar with local conditions; or they may have other outlook, may have other considerations, other reasons, for not accepting or agreeing to such a course. The authority at the Centre, even if moved by the representatives of the areas concerned by some resolution or other procedure, may be guided by the very few persons which, under any scheme of election, will constitute the representatives of those areas in the Central Parliament; and not really consult the entire population, the adult voters of the areas concerned, which I submit is the first requirement of any such readjustment.

Lest I should be misunderstood, I would at once add that I am certainly not in love with the present position, or the continuance of the alignment of the provinces and States as they stand today. They need to be altered, they must be altered. But they must be altered only as and how the people primarily affected desire them to be altered, and not in accordance with the preconception, the nation, of such adjustment that those at the Centre may have, even if some of those at the Centre are the representatives of the people concerned.

I make it imperative, therefore, that the first proposition, the initiation of the movement either to integrate or to separate, either to readjust the boundaries or to bring about any new form of configuration, must commence with the people themselves. There is another consideration in the matter, which also should not be ignored, namely that in any such readjustment, it will not be one single group that will be affected or concerned; there may be at least two or more which are likely to be affected; and as such the representatives of those two groups, or those more than two groups in the Centre, may not be quite competent to reflect the views of the people as a whole. I admit that in democracy majority rule should prevail. But the majority has not the monopoly of being always right and still less to be always just. If that is so—and I strongly believe it is so—then I submit that the only cure, if you wish to retain democracy, is to secure the assent in advance, to make the initiation, from the beginning, from or by the people concerned in suggesting such readjustment.

The actual readjustment of boundaries, the actual formation of new units, may be left to competent Boundary Commission, or to any other body or authority that may be set up, either *ad hoc* for the particular purpose, or in general terms as a kind of a statutory, constitutional authority, semi-judicial in character, that may decide upon and settle these matters. But in the absence of any such provision, and apart altogether from such mechanism that may be set up hereafter, I think the principle must never be lost sight of that the matter should originate, and should originate alone, with the peoples concerned. I personally would advocate a direct Referendum rather than merely

a vote of the Legislature, but lest the suggestion of a referendum sound too revolutionary to be entertained by a respectable House like this, I suggest—and I have put in the amendment—the idea only of the Legislature being consulted, and not necessarily the people as a whole. I trust this evidence of my intense, ingrained moderation would commend itself to the House, and allow the amendment—not merely to be opposed by a simple formal “I oppose”, but by some sort of a reasoned answer rather than a flat. Sir, I commend this proposition to the House.

Rai Bahadur Syamanandan Sahaya (Bihar : General): Sir, may I make a submission. I think that if Dr. Ambedkar moves his next amendment things will be clarified and such of us as have amendments in our names will be able to decide whether we should move them or not.

Mr. Vice-President : I agree with you fully. Dr. Ambedkar may move his amendment.

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

“That for the existing proviso to article 3, the following proviso be substituted:

‘Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless—

- (a) where the proposal contained in the Bill affects the boundaries or name of any State or States for the time being specified in Part I of the First Schedule, the views of the Legislature of the State, or as the case may be, of each of respect to the provisions thereof have been ascertained by the President; and the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President; and
- (b) where such proposal affects the boundaries or name of any State of States for the time being specified in Part III of the first Schedule, the previous consent of the State, or as the case may be, of each of the States to the proposal has been obtained.’”

Mr. Vice-President, if one were to compare the amended proviso with the original proviso as it was set out in the Draft Constitution, the Members will see that the new amendment introduces two changes. One is this : in the original draft the power to introduce the Bill was given exclusively to the Government of India. No Private Member of Parliament had the power, under the original draft, to propose any legislation of this sort. Attention of the Drafting Committee was drawn to the fact that this was a somewhat severe and unnecessary curtailment of the right of the members of Parliament to move any motion they liked and in which they felt concerned. Consequently we deleted this provision giving the power exclusively to the Government of India, and gave it to the President and stated that any such Bill whether it was brought by the Government of India or by any private Member should have the recommendation of the President. That is one change.

The second change is this : under the original Article 3, the power of the Government of India to introduce legislation was restricted by two conditions which are mentioned in (a) (i) and (ii). The conditions were that there must be, before the initiation of any action, representation made to the President by a majority of the representatives of the territory in the Legislature of the State, or a resolution in that behalf passed by the Legislature of any State—whose boundaries or name will be affected by the proposal contained in the Bill. Here again, it was represented that there might be a small minority which felt very strongly that its position will not be safeguarded unless the boundary of the State were changed and that particular minority was permitted to join their brothers in the other State, and consequently if these brothers remained there, action would be completely paralysed. Consequently, we propose now in the amended draft, to delete (i) and (ii) of (a) and also (b) of the original draft. These have been split up into two parts, (a) and (b). (a) deals with reorganisation of territory in so far as it affects the States in Part I, that is to say, Provinces and, (b) of the new amendment relates to what are now called Indian States. The main difference between the new sub-clauses (a) and (b) of my

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amendment is this : In the case of (a), that is to say, reorganisation of territories of States falling in Part I, all that is necessary is consultation. Consent is not required. All that the President is called upon to do is to be satisfied, before making the recommendation, that their wishes have been consulted.

With regard to (b), the provision is that there shall be consent. The distinction, as I said, is based upon the fact that, so far as we are at present concerned, the position of the provinces is different from the position of the States. The States are sovereign States and the provinces are not sovereign States. Consequently, the Government need not be bound to require the consent of the provinces to change their boundaries; while in the case of the Indian States it is appropriate, in view of the fact that sovereignty remains with them, that their consent should be obtained.

As regards the amendment moved by Prof. Shah, I do not see much difference between my amendment as contained in sub-clause (a) of the new proviso and his. He says that the discussion shall be initiated in the States. My sub-clause (a) of the proviso also provides that the States shall be consulted. I have not the least doubt about it that the method of consulting, which the President will adopt, will be to ask either the Prime Minister or the Governor to table a resolution which may be discussed in the particular State legislature which may be affected, so that ultimately the initiation will be the local legislature and not by the Parliament at all. I therefore submit that the amendment of Professor Shah is really unnecessary.

The Honourable Shri K. Santhanam: Mr. Vice-President, I wonder whether Professor Shah fully realises the implications of his amendment. If his amendment is adopted, it would mean that no minority in any State can ask for separation of territory, either for forming a new province or for joining an adjacent State unless it can get a majority in that State legislature. I cannot understand what he means by 'originating'. Take the case of the Madras Province for instance. The Andhras want separation. They bring up a resolution in the Madras legislature. It is defeated by a majority. There ends the matter. The way of the Andhras is blocked altogether. They cannot take any further step to constitute an Andhra province. On the other hand, as re-drafted by the honourable Dr. Ambedkar, if the Andhras fail to get a majority in the legislature, they can go straight to the President and represent to him what the majority did in their case and ask for further action removing the block in the way of a province for them. If they are able to convince the President, he may recommend it and either the Government of India may themselves sponsor legislation for the purpose or any private Member or a group in the Central legislature can take up the question. Therefore, by Mr. Shah's amendment instead of democracy we will have absolute autocracy of the majority in every province and State. That is certainly not what Professor Shah wants. But, unfortunately, in his enthusiasm for what he calls the principle, he has tabled an amendment which altogether defeats his object. I therefore suggest that the amendment shall be rejected and the proposition moved by Dr. Ambedkar should be accepted.

Mr. Vice-President : Mr. Sidhwa.

Shri R. K. Sidhwa: Mr. Vice-President.

Shri H. V. Kamath: Sir, are we considering amendments 149 and 150 together? There are two amendments to amendment 150.

Mr. Vice-President : Let us hear what Mr. Sidhwa has to say. We will certainly take up the amendments to which Mr. Kamath has drawn attention.

Shri R. K. Sidhwa: I do not accept the arguments advanced by Mr. Santhanam against the amendment moved by Professor Shah. He stated that if in the Madras legislature a motion for the separation of the Andhra is lost by a majority, the Members affected will have the right to represent their case to the President at the Centre, under the proposition moved by Dr. Ambedkar. If, Sir, that is the effect of the proposition, I do not welcome it. It will be unfair to seek the aid of the President against the expressed wish of the majority under democracy. If the majority say that they do not want separation of the Andhras, the minority should not have the right to go to the President by the back door and urge separation.

But Sir, I do not share the views of Professor Shah in this matter. Dr. Ambedkar's amendment is very clear and comprehensive. It states that if anybody wants a change of name or separation, he can move for that in the local legislature. This is what Prof. Shah wants too. But I do feel that Dr. Ambedkar's official amendment is more comprehensive and should be supported. Though Professor Shah says that he has in mind referendum on matters of this kind, the amendment does not mention it. If a referendum is to be taken, the legislature has the necessary power to ask that it be done. The arguments advanced by Mr. Santhanam do not appeal to me. But, as I said, Professor Shah's amendment restricts the utility of the Provision. I therefore commend the amendment of Dr. Ambedkar to the House.

Mr. Vice-President : Mr. Naziruddin Ahmad may move his amendment.

(The amendment was not moved.)

Mr. Vice-President : Pandit Hirday Nath Kunzru.

Pandit Hirday Nath Kunzru (United Provinces : General): Mr. Vice-President, I beg to move:

“that in the amendment of Dr. Ambedkar as just moved, for the words ‘the previous consent’ the words ‘the views’ and for the words ‘has been’ the words ‘have been’ be substituted respectively.”

Sir, the object of my amendment, as honourable members will clearly see, is to place the States specified in Part III of the First Schedule on the same footing as the States specified in Part I of the Schedule so far as the reorganisation of the territory of any State is concerned. Dr. Ambedkar has told us why the amendment that he has proposed deals differently with the States mentioned in Part I and the States mentioned in Part III of the Schedule. He has expressed the opinion that the States mentioned in Part III of the Schedule are sovereign States and that they therefore enjoy a higher status than the provinces. Consequently, while the consent of the provinces is not necessary to a reorganisation of their territory, the consent of the States in Part III of the Schedule is required if their boundaries are to be altered in any way.

Now, I submit, Sir, that there are several provisions in the Draft Constitution that do not proceed on theory just now outlined by Dr. Ambedkar. Take Article 226 for instance. This Article lays down that, when the Council of States has declared by the prescribed majority that it is necessary or expedient in the national interests that Parliament should make laws with respect to any matter enumerated in the State List specified in the Resolution, “it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter”. It is clear from this provision that notwithstanding the sovereignty of the States mentioned in Part III of the Schedule, the Dominion Parliament can in certain circumstances legislate on subjects in regard to which legislative power has not been made over by these States to the Dominion Parliament in their Instruments of Accession. I know that this clause has been amended by the Drafting Committee. It has been provided that the declaration made by the Council of States in regard to the necessity or desirability of legislation of the kind mentioned in Article 226

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should be limited to three years at a time, but it can be renewed from time to time. But whatever the duration of the power that the Dominion Legislature will acquire under Article 226 may be, it is clear that notwithstanding any difference between the provinces and the Indian States, the Dominion Parliament will in a certain eventuality be able to legislate in regard to a subject in connection with which the Indian States have not parted with their own legislative power. I see no reason therefore why, proceeding on the principle on which Article 226 of the Draft proceeds, we should not provide that in the case of the reorganisation of territories too, the provinces and the Indian States should be placed on the same footing.

Article 226 does not provide the only instance in which the States and the provinces will be dealt with in the same manner, whatever the Instruments of Accession may say. For another illustration, I would ask the House to refer to Article 230 which deals with the implementation of international treaties, agreements and conventions. This article lays down that Parliament has power to make any law for any State or part thereof for implementing any treaty, agreement or convention with any other country or countries. Now, I could have understood, if Dr. Ambedkar's theory was to be acted upon consistently, the exclusion of the States specified in Part III of the Schedule from the operation of Article 230; but as a matter of fact this Article, if accepted by the House, will affect not merely the provinces or the States mentioned in Part I of the First Schedule but also the Indian States, *i.e.*, the States mentioned in Part III of the Schedule. Whatever the Instruments of Accession may say, the Dominion Parliament will have the power to carry out international treaties, agreements and conventions, even though they may relate to subjects specified in the State List.

Sir, there is yet another example that may be given to show that the draft Constitution has, in an important matter, given power to Government to direct the States to act in a particular manner. I refer to Article 294 of the new Draft. Article 294 as previously drafted provided for minority representation in the Legislative Assemblies of the States specified in Part I of the First Schedule. The article as drafted now compels the Assemblies of the States specified in Part III of the First Schedule also to reserve seats for the minority communities mentioned therein in the Legislative Assemblies of the States. This is another illustration of the manner in which the draft Constitution has imposed liabilities or responsibilities on the States mentioned in Part III of the first Schedule, notwithstanding what Dr. Ambedkar has said about their sovereign status.

Now it may be said, Sir, that the examples that I have given from the draft Constitution do not indicate that the Dominion Legislature will be able to exercise any power in regard to the States mentioned in Part III of the Schedule, notwithstanding anything to the contrary in the Instruments of Accession. It may be contended that the Instrument of Accession will be accepted only when the States accept the responsibilities mentioned in Articles 226, 230 and 294. If that is so, why cannot Government go further and require the States to agree to a reorganisation of their boundaries in such manner as might be considered desirable by the President in consultation with them? I am not asking that the States should have no voice in connection with matters relating to their territorial limits. All that I am asking for is that the consent of the States should not be necessary for a re-organisation of their territories. Consultation with them should be quite enough. Normally their legislatures should be consulted, but as we are not certain that every State has or will soon have a legislature, I was unable to table an amendment requiring that in the case of the States, too, the opinions of the legislatures concerned should be

obtained, before any action is taken. I do not see, why the previous consent of the States should be required in connection with Article 3 and more than it is required in connection with matters dealt with in Articles 226, 227 and 294. If Government desire to be consistent, it is incumbent on them, in my opinion, to accept the amendment that I have placed before the House. They cannot in conformity with the position taken up by them in the draft Constitution raise any objection on principle to the amendment that I have moved.

Sir, if my amendment is as I think free from all theoretical objections, can any practical grounds be urged for dealing with the States differently from the provinces? I do not think that there is any reason whatsoever why the States specified in Part III of the Schedule should have the permanent right to veto their territorial re-organisation, however necessary or desirable it may be in the public interest. There are unions, Sir, that are very small; their revenues are too limited to enable them to fulfil the duties that Governments have to shoulder in modern times. Is it desirable that these States should in utter disregard of the interests of their citizens always rule out all proposals relating to the re-organisation of their territories? If Government bear in mind the interests of the people, not merely in the States specified in Part I of the First Schedule but also of the States specified in Part III of the First Schedule, it is necessary for them to take power in their own hands to deal with the question of territorial re-organisation, whether it concerns the provinces or the Indian States, in any manner they like. If they fail to do so, they may justly be accused by the inhabitants of the States specified in Part III of the First Schedule of treating them in a step-motherly manner and leaving them to carve out their future as they best may with their own unaided resources. The whole principle on which the Draft Constitution is based is that in certain essential matters, the Central Government should have adequate powers to arrive at decisions and to execute them in the interests of the entire territory of India. My amendment, Sir, proceeds on the same basis and I submit that it would be inconsistent and unjust on the part of the Government if they were to reject my proposal merely on the ground that the States, though they will be compelled to bow to the wishes of the Indian Legislature in certain matters, should not be compelled to fall in line with the provinces in regard to the re-organisation of their territories, however urgent the matter may be.

Rai Bahadur Syamanandan Sahaya: Mr. Vice-President, Sir, the desire for the formation of provinces and the re-distribution of boundaries of existing provinces and States is, in my opinion, assuming the proportions of an epidemic, I feel that the two words "linguistic" and "cultural" have never been more misused than in recent times. In framing a legislation, and particularly a legislation of the type we are considering, it is necessary for us to decide what type of tendencies we should encourage and what types of tendencies we should not encourage. It is from this angle that I am making a few submissions in connection with this Article and the amendments before us.

I have no doubt that the amendment proposed by Dr. Ambedkar to his own draft has been guided by some such consideration that I have just placed before you and the House. The Draft as it stands only lays down that a Bill for re-distribution of boundaries or for re-naming a State would be introduced if the majority of the representatives of the territory expressed a desire to that effect. Of course, the language of the Draft as it stands is, in my opinion, ambiguous. Because, representatives of the territory, as it stands in the Draft, may mean the territory of the whole province, and the representatives of the entire province under the existing Draft may be required to give their opinion before legislation of the type could come into Parliament. Since then, Dr. Ambedkar has moved an amendment which makes a distinction between the manner of ascertaining the views of the Provinces, and the States specified

[Rai Bahadur Syamanandan Sahaya]

in Part III of the First Schedule. Although I agree with one observation which has recently been made by Pandit Kunzru that there is no reason for this differentiation, I do not agree with the amendment which he has proposed. I feel that in both the cases of the Provinces and the Indian States, the words 'previous consent' should occur. In part (a) of the Proviso as suggested by Dr. Ambedkar, the words are: "where the proposal contained in the Bill affects the boundaries of any State or States for the time being specified in Part I of the First Schedule, the views of the Legislature of the State or as the case may be of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President." This is, Sir, relating to the Provinces. When he comes to part (b) of this Proviso, concerning the States referred to in Part III of the First Schedule, (ii) the Indian States he says; "the previous consent of the State or as the case may be, of each of the States to the proposal has been obtained." Now, Sir, there is a difficulty which I envisage in this amendment. Supposing the re-distribution of boundaries concerns one State referred to in Part I of the First Schedule and another State referred to in Part III of the First Schedule, the result would be that in the case of the State referred to in Part I of the First Schedule the views of the Assembly will be ascertained and in the other case, the consent of the State will be required so that, if the State referred to in Part III of the First Schedule does not give consent, even though the province may agree, the re-distribution will not take place. I, therefore, feel with Pandit Kunzru that there should be no distinction between the two provisions; but instead of leaving the door very wide open in the provinces, I would submit that Dr. Ambedkar should consider if it would not be proper that the word 'consent' used in the case of States referred to Part I of the First Schedule also. I had an amendment in my name, being number 161 on the list. But, I feel that this amendment of Dr. Ambedkar will receive a great deal of support in this House and the amendment suggested by me in the Draft as it stands will have no chance. I therefore make a request that even at this late stage, if the mover has no objection, you may kindly accept an amendment to use the word "consent" for the word "views" in part (a) of the proviso as moved by Dr. Ambedkar.

Pandit Thakur Dass Bhargava (East Punjab : General): *[Mr. Vice-President, I have come here to express my views on this amendment and on the amendment moved by Prof. K.T. Shah. The amendment moved by Dr. Ambedkar on this Bill is more stringent than the original one.

The first point which I would like to submit is that every part of India should be given this facility, that, should it decide to secede from one part and to accede to another, then there should be no impediment in its way. India of ours, which was under the domination of the British, is sub-divided into unhomogeneous parts which have grown in haphazard manner. Not only there are districts, which want to secede from one province and to accede to another, but there are even Tahsils and parts comprising ten to twenty villages who want to secede from one part and to accede to other parts. This Article is sufficient to throttle them. For example, I would like to mention that Hariyana, which is at present included in East Punjab, has been trying for the last forty years to get itself attached to areas whose language, customs and traditions are similar to its own and to get constituted into a separate province. But it could not succeed. The reason was that when this was discussed with U. P. leaders they at once stated that this was a device to parcel out U. P. They did not even consider whether it was a right thing to do or not. Provincialism and other ideas have become so ingrained in us that nobody is

* [] Translation of Hindustani speech.

prepared to judge a thing on its own merits. I would like to know why in a part of Natural Area where there is not a single Sikh, teaching of Gurmukhi has been ordered. Today, in 1948, orders have been passed to teach Gurmukhi in an area where not a single Sikh resides and the result will be that children of that area will be forced to learn Gurmukhi. This Article, now sought to be moved, will make impossible the position of those leaderless areas, who wish to find a way out of this confusion. There will no attractive life to them, because according to this Article the right which should vest in every Member of Parliament is being given to the President. I would like to submit most respectfully that today, there are several provisions in the Government of India Act which debar a member from introducing a bill of a particular nature. Whenever I had wanted to introduce a Bill regarding joint Hindu family with the object of exempting the family from taxation, I found that it could not be done without prior sanction. Whenever I applied for sanction, that was refused. I am aware that the method of work of all the Governments is the same. The sanction of the President implies that Member, having the right to introduce a Bill, will not get the requisite sanction. Dr. Ambedkar has just said that this point was raised before him and that is why he has made the change that instead of Government introducing the Bills, Members also should be able to do so. But he has made the law more stringent than heretofore. If Government takes the responsibility for the bill, then it could get it passed. But since the giving of sanction will entirely depend on its recommendation, no moral influence will be there. If the President and the Cabinet do not want it and do not recommend it, then Parliament, not to talk of the individual, can do nothing. Recommendation means that the power of originating such a bill has been taken away from the Members. Therefore I submit that this provision is most undemocratic. Similarly, I would like to state that under article 34, which gives the discretion to Parliament to delegate any of its powers to the President or to any one else, Parliament will not be competent to bring any legislation for changing the boundaries of provinces unless the President's recommendations is there. This is a right of a Member and it will be taken away by this provision. Since the war we have been hearing that everyone has got the right of self-determination. This provision takes away that right. If the people of an area want separation, then the right of self-determination should be given to them. Prof. K. T. Shah while elaborating his amendment has stated that he is afraid of referendum, but the proposal put forth by him strikes at the very root of self-determination. For example, if any part of a big province wants to break away then the only course before it is to bring the matter before the Members. But by doing so the very purpose would be defeated because the majority would always reject such a proposal. The principle, underlying the amendment of the learned Professor, is right but his suggestion is wrong. In my opinion a provision should be evolved whereby separation maybe effected by holding a referendum of the people of the area desiring to separate. I know the result will be that many areas would like to go out and the provincial legislature would never agree to that. Therefore, there would be no use in taking the vote of the whole House as small areas will not get a vote. In the old Government of India Act a similar provision existed. In 1946, I had tabled a resolution in the Assembly for the appointment of a Commission for redistribution, but unfortunately it could not be taken up. A proposal was also put before the Cabinet Mission for appointing a Commission for the redistribution of the provinces. Now a linguistic commission has been appointed. I hear attempts are being made to shelve its activities. I would like the Congress Government to respect the wishes of the areas, which desire to separate from any province and that no hurdles are paced in their way; on the other hand, all legal aid should be given for the formation of a new province. But so long this Section exists areas comprising even two or for districts, will not be heard at all. The previous condition that only the vote of the representatives of the territory, which wants

[Pandit Thakur Dass Bhargava]

separation, should be taken, has now been deleted. Now it is proposed that the vote of the legislature should be taken. No provincial legislature would agree to the separation of a part, and the representatives of the affected area will be so influenced that they would not be able to give free expression to their views. Therefore, holding of a referendum is necessary. Parliament, and not the President, should have the right to determine the matter after taking into account the opinion of the people of the area concerned and of the vote of the provincial legislature. It is therefore necessary that every Member of the Parliament should have the right to give notice of such a bill. Views of the provincial legislature may be taken but the changes should be effected in accordance with the wishes of the people of the area, who want separation. If this is not done then the principle of self-determination would be nowhere. We used to hear that after the attainment of Swaraj the right of self-determination would be given to all. This Section will put an end to that right, and no justice would be done to the people. I belong to a small district, Hissar. It is an epitome of India. Boundaries of many provinces meet in Hissar, e.g., Jind. Jind State having 88 per cent Hindu population, and only 12 per cent Sikhs has been included in the Eastern Punjab States. Formerly, Delhi was a part of U.P. Six districts of Ambala Division were also included in it. In 1857, Lawrence, who had annexed this area, was made Governor of the Punjab and so this territory was included in the Punjab Province. For a very long time we tried that Delhi and Ambala Division be separated from the Punjab, because this territory had nothing in common with the Panjab, but our efforts bore no fruit. Now, after the partition it remains to be seen as to what would happen to this area; with whom will Delhi and Ambala Division be tagged and whether Punjabi or Hindi would be its language. Now, we hear that we are to be included in a Punjabi speaking province. Our children, who have nothing to do with Punjabi language, will have perforce to read Punjabi. Nothing could be more cruel than this. This provision gives no freedom. The Constitution is being forged to enable people of every part of the country to live in peace, and to evolve an organic life for themselves. But under Article 3 and this amendment, each and every part would not be able to attain freedom for itself. Therefore, I say that the provision is undemocratic, and that it restricts the rights of the Parliament. Views of the legislatures may be invited, and may be taken into consideration; but the determining factor should be the vote of the people of the area, which wants to separate. For this, there is no provision under the present law. With these words, I would like to emphasise that it should be so amended that even the smallest areas in the country may be able to achieve full freedom.

Shri Rohini Kumar Chaudhari (Assam : General): Sir, it is my misfortune to have to oppose the amendments moved by the two stalwart Members of this House, namely, Prof. Shah and Pandit Kunzru. I oppose them not because I like them less, but because I like Dr. Ambedkar's amendment more, as it meets the present situation very well. Sir, I do not object to Prof. Shah's amendment on the ground of its wording or its unsatisfactory character or to the word 'originate'. I entirely agree with him that no such motion should be considered in any House if the State which is affected is not at all in favour of it. I say that if there is not a single Member of the legislature in a State who countenances the idea of separation, it is unthinkable that the Central Legislature would take up that matter. To that extent, I agree with Prof. Shah. But I am opposed to his amendment on the ground that it is very restrictive. It does not allow a motion to be moved by any other authority or by a private Member other than the Government of India itself. On that point I consider that this amendment should be opposed.

Then coming to the amendment of Pandit Kunzru, I consider that his amendment lays down a rather dangerous principle, dangerous at this stage. It

smacks of a repetition of Dalhousie's annexation policy. It gives to the Central Legislature the power to alter name of a State, to change, increase or diminish the boundaries of a State, without any previous consent of that State. We have thus far proceeded very contiously in the matter of the States — thanks to Sardar Patel. We have not asked for any merger or accession without the consent of the State itself, except probably in the case of the police action in Hyderabad — and we do not know how it will end after all. So, what I say is, if at this stage we give the idea to the States that it will be open to the majority of the Central Legislature at any moment they think fit to take one part of a State and tag it on to another province or to saddle it with an unprofitable part of a province, that will be a most unwise thing and that will put the States on their guard, and that will end the amity with which they are now coming in and joining us. Certainly, I agree that some powers of interference have been reserved in our Constitution by articles 226 and 230. But they also show how cautiously we are proceeding in this matter. After all, you must not ask your host to give up his bed for you, merely because he has allowed you shelter. Merely because the States now are showing their inclination to come and join us in all matters, we must not ask them to agree to a proposition whereby you will be able to alter their name, diminish their area, or change their boundary or do anything of that kind, without their consent.

With these words, I support the amendment moved by the honourable Dr. Ambedkar. I would only ask him, or anyone in the House to tell me whether the word 'President' means that the recommendation of the President would be given with the consent of the Government, or whether the President can independently act in exercise of his discretion. The word 'discretion' is not used, of course, but I would like to know if he can exercise his discretion in allowing a motion of that kind. I consider that it will be more reasonable to allow the President to exercise his discretion, rather than that he should be guided by the opinion of his Government in this matter. There are other provisions in the Draft Constitution where the President undoubtedly uses his discretion, without consulting the Government or the Central Legislature, though the word 'discretion' has not been used. For instance, in the matter of remission of sentences, the President will never be called on to take the consent of his Ministry in remitting a sentence or refusing to remit a sentence. All the same, that Article is there, without the addition of the word 'discretion'. Therefore, I consider that the interpretation which Dr. Ambedkar puts is correct, and when the word 'President' stands alone, it means he will be able to exercise discretion in such matters.

Shri Gopikrishna Vijayavargiya [United State of Gwalior — Indore — Malwa (Madhya Pradesh)]: Mr. Vice-President, Sir, I am not going to speak against or for any of these motions. I have only to make certain observations, as I come from an Indian State and want to give expression to the feelings of the people of the States in this matter. I think, Sir, that the people of the States do not want any discrimination in the matter of consent or no consent (*Hear, hear*). In fact, our wish is that the States must be put on the same level as the Provinces (*Hear, hear*), and therefore, there is no question of taking the consent of the States. In fact, I would be very glad if this article could have been amended in some such way, at least, to the effect that the States Legislatures might be consulted. I think, mere consultation would be sufficient in the matter of the States also as it is in connection with the Provinces. I think, Sir, the question of the sovereignty of the Rulers or of the States should not be brought up. I think, Sir Stafford Cripps when he came to India also gave a definition of the States and thought that the Rulers are the States, and now some such anomaly may be created again. I say the wish of the States' people is that there should not be any discrimination in favour of the

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States, and consent is not necessary. You might put the States on the same level as the Provinces. The people of the States have always contested the sovereignty of the rulers — they do not accept the sovereignty of the rulers. Most of the States have been tiny; now they have merged with some of the Units but the question would crop up again if sovereignty were given to the rulers. The people of the States are fully the kith and kin of the people of the Provinces — they are the same as those in the Provinces. We do not like to further fragment our country on the same old lines. The distinction of the Indian States and the Provinces is still being maintained, but now we think that this distinction must go. The House must consider any thing that may help in the States being brought on a par with the Provinces, would have liked if this whole Assembly had been delayed for some time, or postponed, so as to bring the States on a par in all affairs with the Provinces. I think the States Ministry ought to have done that a little earlier. This is really worth while doing, because we are making a Constitution and it will be very difficult to change it afterwards. I therefore think that this discrimination must go. I request Dr. Ambedkar to find out some way for this. In this matter I voice the feelings of the people of the States. I am not speaking on any particular amendment.

Shri M. Ananthasayanam Ayyangar: Sir, the question may now be put.

Mr. Vice-President : What is the feeling of the House?

Shri H. V. Kamath: No, no. This is a very important matter.

Mr. Vice-President : Prof. Shibbanlal Saksena.

Prof. Shibban Lal Saksena: Mr. Vice-President, Sir, this is a fundamental matter, and the amendment tabled by Dr. Ambedkar is a very important one. In his explanation he has said that his amendment enables any Member to give notice of private Bills for changing boundaries, and on receipt of that Bill the President will take certain steps to ascertain the opinion of the Legislature concerned, and then on the advice of the Prime Minister recommend that the Bill be brought up. My friend Shri Thakur Dass Bhargava just now said that this amendment is really far more stringent than the original clause. I do not agree with that view. Under the original clause, only the Government of India could have brought such a Bill, whereas under this amendment, on the recommendation of the President any Member can bring it. The only condition is this, namely, that the President after he receives notice of such a motion from any Member will try to take the opinion of the area concerned and then, of course after consulting his Ministry, give his recommendation for moving the Bill or otherwise. But if the original clause had continued, no private Bill could have come; under the new amendment a private Bill can come, with the limitation I have already described. I personally think this is a much better form than the original clause. Probably Shri Thakur Dass Bhargava wants to go much further. He wants that any private Member should have liberty to bring in the House a Bill asking for the change of boundaries. Change of boundaries is a very vital matter and it should not be made so easy that everyday any Member shall bring forward motions for changing the boundaries and the Legislature should discuss that question. It will create unnecessary heat and create friction which I think should be avoided. I think that so far as the language of the amendment is concerned it meets the wishes of Shri Thakur Dass Bhargava. Of course the Member will have to secure the recommendation of the President, and probably if the President feels that the people of an area — the majority of them — are of the opinion that they would be happier if they go to some other State or Province, he would advise the Prime Minister, and probably the Prime

Minister also will agree with him that the motion should be allowed and that Parliament should be allowed to discuss the question. I think that gives full liberty and opportunity to every area which desires a change of boundaries.

There is one aspect of this amendment which is really a very unfortunate aspect, to which Dr. Ambedkar had given vent in his lucid address in the beginning when he said that in this Constitution we have been forced to treat the Indian States on a separate footing from the Provinces. In the First Schedule, the Indian States have been put in Part III while the Provinces have been put in Part I. And here in this Article 3, Part I and Part III are separately treated. Whereas in respect of the States under Part I their Legislatures will only be *consulted*, in respect of the States under Part III their consent will be *required*. Sir, I had given notice of amendments which really sought to do away with this distinction, and I am sure that our learned Dr. Ambedkar also wishes the same thing from the bottom of his heart. There should be no difference between a Province and a State and we all wish that this distinction should disappear. My honourable friend Pandit Kunzru has also argued that there should be no differentiation at least in this matter namely about *consent* and *consultation*. He wants that the States should only be consulted just like the Provinces. He has also pointed out Sections in the Draft Constitution where the States have been asked to fall in line with the Provinces, and I think he has made out a very good case. I am very much in agreement with all that he said. But I personally feel that in this matter our leader, the States Minister, Sardar Patel, feels that it will be a breach of faith if we made provisions in the Constitution without securing the prior agreement of the Indian States also. He has promised us that he will make his efforts to get their consent and before the Bill goes into third reading he will try to have this. We all very much wish him success in his efforts.

Shri H. V. Kamath: On a point of order. Sardar Patel has made no statement on this issue and I do not know if my friend is in order in referring to any statement made by him in private.

Prof. Shibban Lal Saksena: I am only expressing his wish — he has made no statement like that — I only say that he will make his efforts and that before the Bill comes up for third reading he would be able to secure their consent. If he does not, then of course we will have to fall back on our own resources. But by making a provision like this in the Constitution we are making it very difficult for any change afterwards. When it becomes part of the Constitution, a two-third majority will be required for making any change and it will be very difficult. I suggest that some way should be found out for this. If before the third reading is passed this consent is not achieved, then this Article should at least be changeable not by a two-third majority but by a simple majority. Or if the learned Doctor can make the amendment that this part will not be treated as a change in the Constitution, I think our difficulty may be met. The honourable Member who preceded me also said that the people of the States do want that the States should fall in line with the Provinces. It is a matter of fundamental importance that the States should not remain something separate, having separate sovereignty. There should be only one sovereignty and that should be the sovereignty of the Republic; and the States should be part of the one single Sovereign Republic. I therefore hope that the Princes themselves will agree to this patriotic consummation and if they do not, I hope there will be a provision that when the Indian States people come into their own, they will be able to make the required changes. But I hope that the Constitution will not lay down the two-thirds majority. I do hope that if a simple majority is laid down for a change in this clause, when the Indian States people come into power in their Legislatures they will set

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that they are governed on the same lines as the Provinces; but so long as that is not done, we will not be wise in making a breach of faith with those Indian States with whom we have made agreements. Sir, I support the amendment.

Shri L. Krishnaswami Bharathi (Madras : General): Mr. Vice-President, Sir, I fully support Dr. Ambedkar's amendment and the principle underlying it. He said that in the case of Provinces, that is Part I States, mere consultation is enough, in the case of Indian States previous consent is necessary. But the reason that he gave for this distinction is unacceptable and I have no doubt that the House will entirely repudiate that. If I heard him a right, Sir, he said that the States are sovereign. This is a very dangerous doctrine at this time of the day to lay down; two States particularly, Travancore at one stage, and Hyderabad, till recently, claimed that they were Sovereign, and we have all along been repudiating that position and declaring that the States are not at all sovereign in any accepted sense of the word, and that was the fundamental issue at the United Nations Organisation Council at Paris.

Sir, I think it may be his personal view. If we accept his amendment it is not because of that argument. I entirely agree that it is very necessary to make this distinction. We want to go slow, and the States are governed by the Instruments of Accession. We shall certainly get the consent of the people when it is necessary. But to say that the States are sovereign is laying down a dangerous doctrine and if this House accepts this amendment, it is not because of the reason that he advocates but because of other weighty considerations.

Shri Raj Bahadur (United State of Matsya): Mr. Vice-President, Sir, I stand here to voice what I think to be the universal feeling of those of us who happen to come from that part of India which hitherto has been called as the Indian States. When we read this amendment which has been proposed to the Draft Constitution by the Drafting Committee, two points emerge. Firstly, that the necessity is there for a provision in the Constitution under which the re-distribution, readjustment or re-alignment of the boundaries of the various units of the Union, may be made whenever needed. Secondly, that in this matter there is some distinction provided in this provision between the Indian States of the present day on the one hand and the Provinces on the other. I may respectfully submit that the distinction in the wordings of the provision contained in provisos (a) and (b) of the amendment has not made us who come from the States any whit happy. On the other hand, we feel a little smaller and we feel as if full justice has not been done. We know that this word "State" has been outrageously interpreted ever since the day of the first Round Table Conference. We have seen that from the days of the Round Table Conference to the declaration of August 8 by Lord Linlithgow in 1940, again from that date to the Cripps Proposals and from the Cripps Proposals to the Cabinet Mission, and even after that during the deliberations of the Negotiating Committee, there has always been the tendency, I should say the definiteness, to interpret the word "State" as NOT the people of the State but "the Ruler" of the State. I am sure that when I voice my protest against this interpretation, I voice the universal feeling of the people of the States. May be that our sacrifices in the struggle for independence have been considered by some to be somewhat smaller in magnitude but that is no reason why we should be deprived of equal rights and opportunities and of the feeling that we are one with the country, that we are not any whit different from the rest of the people of the country. That is why I say we are not happy over this distinction.

It has been argued before us — it is always, so to say, used as a militant argument against us — that because of the Covenants that have been signed

between the Indian Princes and the States Ministry, and also because duly constituted Legislatures are not yet existing in many of the States or States Unions, this distinction in the proviso cannot be avoided. But I think that things are now different. Time was when sovereignty vested in the Princes, but it is a hard fact today that that sovereignty has been transferred to the people in all cases, I should rather say invariably. There might still be an exception or two but that exception too will soon disappear and if that is not going to disappear willingly it shall have to take a lesson from what has happened in Hyderabad. The united will and action of the people of the Indian Union will bring round the recalcitrant elements, if any, as also those who are not going to fall in line with the tendencies of the rest of the country. I repeat that sovereignty today vests in the people and so it vests in this Constituent Assembly. The sovereignty of the Constituent Assembly is unqualified, and undiluted in respect of any and every part of the Indian Union. If there be anyone who objects to that sovereignty or who casts any doubt about that sovereignty, the people of the States are as much behind this august Assembly as the people of the rest of the country for the defence and support of — and are prepared for any sacrifices also if they be needed for the sake of — the sovereignty of the Assembly. There should, therefore, be no difference whatsoever. I suggest that it would have been better that this amendment also might have been allowed to stand over because the matter is of urgent importance, or shall I say, of utmost importance to the people of the Indian States. Even if it be supposed that this amendment has got to be taken up, my suggestion is that it should be taken up at the time when all other controversial points are decided by this Assembly. In case my suggestion does not find favour and the amendment is pursued, then it will be accepted by the representatives of the States in this Assembly with the mental reservations which I have just referred to.

I may conclude by saying that so far as this Assembly is concerned, we have been committed to two definite principles: the principle of unification and of democratization of the entire Union and as such it cannot be contemplated by any provision of the Draft Constitution that there can be some sort of a different treatment between the Provinces and the States. The word “State” has been defined in Article 7 of the Draft Constitution as under:

“In this Part, unless the context otherwise requires, ‘the State’ includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India.”

The word that has been used is “includes” that means there might be something more which may come within the purview of the word “State”. I think the word “Ruler” may be contemplated there. That is why we are not happy over the use of the word “State” in proviso (b) to the amendment proposed by the Drafting Committee itself.

Sir, I respectfully submit that my suggestions and remarks will be taken in the light they are made and will be considered.

Chaudhari Ranbir Singh: (East Punjab : General): *[Mr. President, while supporting Dr. Ambedkar’s amendment I cannot help remarking that the amendment undoubtedly provides some freedom to the members of the Central Legislative to move private bills as also some freedom and opportunity to the minorities, based on religion or caste, to have their say in the matter of the formation of any province of their choice. But I want to submit in this connection that the aim of our country being the establishment of a secular State our non-religious Government should follow the rule that all such reservations

* [] Translation of Hindustani speech.

[Chaudhari Ranbir Singh]

based on religion or community should be abolished. On the other hand I fear that if this suggestion is accepted, a community which is in a majority in a territory but is in minority in a State will have neither the same weight nor the same opportunities as it had under the previous provisions.]

Shri H. R. Guruv Reddi (Mysore): May I suggest, Sir, that further discussion may be continued tomorrow?

Mr. Vice-President : The House stands adjourned till 10 A. M. on Thursday the 18th November 1948.

The Assembly then adjourned till Ten of the Clock on Thursday, the 18th November 1948.
