

Wednesday, 16th November, 1949

Volume XI



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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 16th November 1949

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

DRAFT CONSTITUTION—(Contd.)

Mr. President : We shall now take up

Mr. Naziruddin Ahmad (West Bengal: Muslim): I have a point of order. After the revised Draft Constitution was available to us, a large number of corrections in the shape of list of corrigenda was supplied—that is List No. 1, and as I understand the Constitution as it was accepted by the House for preliminary purposes, the revised draft was accepted subjected to corrections in List No. I. After that, on the same day, *i.e.*, the 14th of this month another list was supplied *i.e.*, List II. Then yesterday another big list was supplied—*i.e.*, List III. The total number of changes sought to be introduced by these lists well exceed 200. I would like to know whether the decision of the House that the revised Draft Constitution must be taken into consideration subject to these correction lists, does also apply to corrigenda Nos. II and III. They came to us after our decision to accept the Draft subject to corrigenda list No. I. In other words, whether corrigenda II and III have any retrospective effect. If they are to be given retrospective effect, this will open up a great deal of difficulties. Some amendments are not merely formal but substantial. That would affect the rights of Members to give notices of amendments with reference to these. They have been delivered day before yesterday and yesterday after the decision was taken. What is more, some of my amendments which I did not move have been stolen and incorporated in these final corrigenda lists.

Mr. President : Do you object even to those corrections which have been stolen from your amendments?

Mr. Naziruddin Ahmad : No, I am extremely grateful to the Drafting Committee for doing me this honour.

Mr. President : As I understand, the corrections are only corrections, that is to say, they represent what was there, and which was not in the printed thing because of printer's mistake. I understand the correction is only to that and nothing more. Therefore all the corrections must be taken as part of the Constitution, as reported by the Drafting Committee.

Amendment of Article—(Contd.)

Mr. President : I will now go through the other amendments quickly, of which we have got notice here. I shall take up now List IV.

There is amendment No. 548 to article 32, and that is by the Drafting Committee.

An Honourable Member : List No. IV?

Mr. President : Yes. We finished List II yesterday, and I am now going to take up amendments in List IV.

Dr. P. S. Deshmukh (C.P. & Berar: General): What about List III?

Mr. President : List III I am not taking up, because it came out of time.

Dr. P. S. Deshmukh : But List III is only a small list, Sir.

Mr. President : But List III came after time.

Dr. P. S. Deshmukh : Sir, there was only a slight delay, and in view of the fact that we are considering most of the amendments, that also may please be considered.

Mr. President : As I said, I would allow any particular amendment if any Member insisted upon it, on its merits, but the List, as a list, I would not take.

Dr. P. S. Deshmukh : Sir, I mean only amendment No. 530 of List III.

Mr. President : That we discussed yesterday.

Dr. P. S. Deshmukh : Shall we take it as having been moved?

Mr. President : Yes, I take now, List IV and amendment No. 548 to article 32. That is by the Drafting Committee. I do not see there is any amendment to that amendment. So I take it as moved:

“That in clause (4) of article 32, for the word ‘rights’ the word ‘right’ be substituted.”

Then article 48, and amendment No. 549. Now, this is an amendment which covers the amendment which has been moved by Professor Shibban Lal Saksena.

Prof. Shibban Lal Saksena (United Provinces: General): I withdraw that amendment.

Mr. President : You withdraw that amendment, and we accept this in place of that No. 549 reads :

“That in article 48, for the words ‘for improving the breeds of milch and draught cattle including cows and calves and for prohibiting their slaughter’ the words ‘for preserving and improving the breeds and prohibition the slaughter of cows and calves and other milch and draught cattle be substituted.”

Shri T. T. Krishnamachari (Madras: General): May I suggest that article 106 and amendment to that in List VII may be taken up?

Mr. President : In place of this?

Shri T. T. Krishnamachari : No, it is an independent one.

Mr. President : I will be coming to that later.

Article 148, amendment No. 551. There is an amendment to that, No. 618. I think that is the latest amendment of the Drafting Committee?

Shri T. T. Krishnamachari : Yes, Sir.

Mr. President : Which shall I take? Shall I take No. 618?

Shri T. T. Krishnamachari : No. 618 is the final amendment.

Mr. President : There are three amendments to article 148 *i.e.* 551, 552 and 553.

Shri T. T. Krishnamachari : But we have dropped all that and amendment No. 618 is the final one.

Mr. President : There is only one amendment?

Shri T. T. Krishnamachari : Yes.

Mr. President : And we leave the other clauses as they are?

Shri T. T. Krishnamachari : Yes, Sir.

Mr. President : Amendment No. 618 of List VI:

“That for clause (5) of article 148, the following clause be substituted:

‘(5) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor-General shall be such as may be prescribed by rules made by the President after consultation with the comptroller and Auditor General.’ ”

Mr. President : There is amendment No. 593 to this, of Shri Raj Bahadur.

Shri T. T. Krishnamachari : No. 593 will drop out Sir, because of this amendment. That will no longer be applicable because of this amendment.

Shri Raj Bahadur (United State of Matsya): I do not want to move it.

Mr. President : Then I come to article 222, and amendment No. 555 of the Drafting Committee. There is no amendment to that, by any Member.

“That in clause (1) of article 222, after the words ‘The President may’ the words ‘after consultation with the Chief Justice of India,’ be inserted.”

Mr. President : Then article 288—amendment No. 556. That is also by the Drafting Committee. It was moved yesterday.

Article 319, amendment 557.

Shri T. T. Krishnamachari : That was also moved yesterday.

Mr. President : No. 558 was moved yesterday, also 559. Then we come to article 347 and amendment No. 560.

Shri R. K. Sidhwa (C.P. & Berar: General): What about Nos. 557 and 558 ?

Mr. President : They were moved yesterday. We now come to article 347. Amendment 560.

“That for article 347, the following article be substituted :

‘347. *Special provision relating to language spoken by a section of the population of a State.*—On a demand being made in that behalf, the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.’ ”

Dr. P. S. Deshmukh : Sir, before you proceed further, may I request you to allow me to move amendment No. 531 which is consequential to No. 530 ? I will only formally move it from List III. It is a consequential amendment, and if this is accepted, that will be necessary.

Mr. President : I will take that as moved. When it comes to voting, remind me. I take it as moved.

Dr. P. S. Deshmukh : It is about an additional article 340A.

“That after article 340, the following new article be inserted:—

‘340A. (1) The President may after consultation with the Governor or Rajpramukh of a State, by public notification, specify the castes, communities or parts of, or groups within castes or communities which shall, for the purposes of this Constitution, be deemed to be ‘Backward Classes’ in relation to that State.

(2) The Parliament may, by law, include in or exclude from the list of Backward Classes, specified in a notification, issued under clause (1) any caste or community or part of or group within any caste or community but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.’ ”

The Honourable Shri K. Santhanam (Madras: General): Sir, it is not an amendment, but only a reversion to the original article. Amendment No. 531 is not really an amendment, because it only seeks to retain the original article.

Mr. President : That is not exactly the case, there are some changes; though there is no change in the substance there is a slight change in the wording.

Well then, we come to amendment No. 605, and that is in the name of Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : I do not wish to move it, Sir.

Mr. President : Article 379.

Shri T. T. Krishnamachari : Sir, we are accepting amendment No. 418 and so No. 564 need not be moved.

Dr. P. S. Deshmukh : Sir, as a last request I would submit that there is only one amendment I am rather keen on moving and that is No. 535 to article 379.

Mr. President: No, I do not think I can allow that amendment to be moved. It is altogether a new article and it involves a complete reversal of what is contained in those articles. I cannot allow that, I am sorry.

Then we come to article 388, and there is amendment No. 566. Mr. Krishnamachari?

Shri T. T. Krishnamachari: Yes, all those amendment Nos. 566 to 570 are moved.

‘That in clause (1) of article 388, for the words “the President of the Union”, in the two places where they occur, the words “the President of India” be substituted.’

‘That in the first proviso to clause (1) of article 388, for the words “mentioned in this article” the words “mentioned in this clause” be substituted.’

‘That in the first proviso to clause (1) of article 388, for the words “representing a State” the words “representing a Province or as the case may be, a State” be substituted.’

‘That in the second proviso to clause (1) of article 388, for the words “representing a State” the words “representing a Province or a State” be substituted.’

‘That in the second proviso to clause (1) of article 388, for the words “Legislative Assembly of that State” the words “Legislative Assembly of that Province or of the corresponding State or of that State, as the case may be,” be substituted.’

Mr. President : Article 388, amendment Nos. 611 and 621.

(Amendment No. 611 was not moved.)

Shri H. V. Kamath (C.P. and Berar: General): Sir, I would like to move amendment Nos. 621, 622 and 623.

Mr. President : Yes.

Shri H. V. Kamath : Mr. President, I move:

‘That with reference to amendment No. 568 of List IV, in the second proviso to clause (1) of article 388, the words and letter “Part A of” be deleted.’

‘That with reference to amendment No. 569 of List IV, in the second proviso to clause (1) of article 388, the words and letter “Part A of” be deleted.’

‘That with reference to amendment No. 570 of List IV, in the second proviso to clause (1) of article 388, for the words “The Legislative Assembly of that State” the words “the Legislative Assembly of that Province or of the Corresponding State or of that State, wherever such Assembly has been constituted” be substituted.’

These amendments, Sir, arise out of the proviso to clause (1) of article 388. That proviso refers to the filling of seats caused by vacancies on account of persons belonging to the Scheduled Caste, Muslim or Sikh community leaving the Assembly.

The difficulty that presents itself to me is this. Under the Cabinet Mission scheme the mode of election to the Constituent Assembly was through an electoral college, consisting of the Members of the provincial legislatures and there were separate electorates also consisting of the General, Sikh and Muslim communities. I could have understood if the reference in this proviso to clause (1) of article 388 was to the General, Sikh and Muslim communities, as adumbrated in the Cabinet Mission scheme under which this Assembly was elected. But, Sir, this proviso mentions the Scheduled Caste, Muslims, and Sikhs, but there is no reference to the general community. The Scheduled Castes have been brought in.

Therefore, I feel that we have, to some extent, set aside in this regard the scheme of the Cabinet Mission of 1946 under which this Assembly was constituted. I see no reason why the States specified in Part A of the First Schedule

alone should be mentioned here. If you turn to the First Schedule, you find there are three parts: Part A, Part B and Part C. The three units of Part C, namely Ajmer-Merwara, Coorg and Delhi were envisaged in the Cabinet Mission Scheme of 1946. So, whatever was applicable to the States in Part A of the First Schedule must be made applicable to these three States at least of Part C. But in view of this change of the language from General to Scheduled Castes, I think that this article 388 must be made applicable to all the States of the First Schedule, namely States in Part A, States in Part B and States in Part C. It is with this end in view that I have tabled the first two amendments (Nos. 621 and 622), that is, that whatever seat is rendered vacant on account of a member of the Scheduled Castes, or Sikh or Muslim community leaving the Assembly, must be filled, as far as practicable, by a member belonging to that community. This should not be confined only to the States of Part A of the First Schedule, because the States mentioned in Part B, many of them have got legislatures—at least a good number of them. Mysore has got a legislature functioning: Travancore-Cochin have a legislature functioning: Madhya Bharat also has a legislature, I believe. The provision applicable to the States in Part A should, therefore, be made applicable to these States as well.

My last amendment No. 623 also has a bearing on the subject matter I have just referred to. The amendment suggested by the Drafting Committee says that instead of the words “the Legislative Assembly of that State”, the words “Legislative Assembly of that province or the corresponding State or of that State as the case may be” be substituted. This is all right, because the Drafting Committee visualises the application of this article only to the States in Part A of the First Schedule. But my amendment goes further. It makes it more comprehensive; it makes it applicable to all the States in the First Schedule, that is States in Part A, Part B and Part C. We are all aware that in some of the States there is no Legislature functioning. My amendment suggests that wherever there is an Assembly or Legislature functioning in any of the States mentioned in Part A, B or C of the First Schedule, this article must be brought into operation, and not merely in the case of States mentioned in Part A of the First Schedule.

Sir, I move amendments 621, 622 and 623 and commend them to the House for its earnest consideration.

Mr. President : There is an amendment of the Drafting Committee (No. 574) to article 394.

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

“That in article 394 after the figure ‘60’ the figure ‘324’ be inserted, and after the figure ‘388’ the figure ‘391’ be inserted.”

Shri Jaspal Roy Kapoor (United Provinces: General): May I have your permission to say a word about amendment No. 572? I would like to invite the attention of the Drafting Committee and ask them whether they have not considered it necessary to include 366 also in sub-clause (3) of article 392, because article 366 is also to be operative immediately after we pass this Constitution. Article 366 relates to definitions but under the same article the President is also expected to perform certain functions and therefore it must be made permissible for the Governor-General to perform those functions from the date of the commencement of this Constitution on the 26th January.

Mr. President : But article 366 deals with definitions.

Shri Jaspal Roy Kapoor : Under the proposed clause to article 392 it is suggested that the powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391, shall before the commencement of this Constitution be exercisable by the Governor-General of the Dominion

[Shri Jaspat Roy Kapoor]

of India. It does not refer to article 366. What I submit is that it is perhaps necessary that the powers exercisable by the President under article 366 may also be permitted to be exercised by the Governor-General of India under clause (3) of article 392.

Mr. President : There is no power to be exercised under 366—it deals only with definitions.

Shri Jaspat Roy Kapoor : There are powers there, Sir. May I refer you to clauses (12), (21), (22) and (30) thereof? These are the various clauses under which the President is expected to perform certain functions.

Shri T. T. Krishnamachari : Mr. President, Sir, under article 394, article 366 will come into operation the moment this Constitution is passed. But it is not necessary to vest the Governor-General with the powers of the President in regard to this particular article because, as you have yourself mentioned, there is no function for the Governor-General to exercise contemplated by this article in the mean time. The particular reference to clause (12) of this article no longer applies because clause (12) has been taken away from the interpretation clause and put separately. So far as clauses (21), (22) and (30) are concerned they are powers which will not be exercisable by the Governor-General and there will be no occasion for him to exercise these powers in the interim period until the new Constitution comes into being when the President will take over. I do not think there is any point in the suggestion made by my honourable Friend though I am very grateful to him for pointing out this matter.

The Honourable Shri K. Santhanam : Sir, in amendment No. 572, article 324 is included but it is not brought in to operation by article 394. So there is a mistake here.

Mr. President : There is amendment No. 574 which covers the point you have raised.

Then amendments to the First Schedule.

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

“That in Part A of the First Schedule under the sub-heading ‘Territories of States’, the paragraph commencing with the words ‘The territory of the State of Bombay.....’ and ending with the words and figure ‘Extra-Provincial Jurisdiction Act, 1947 be omitted.”

Mr. President : There is amendment No. 613 of Mr. Sidhva to one of these amendments.

Shri R. K. Sidhwa : My amendment is:

“That amendment No. 575 be deleted.”

As we see from the First Schedule there are territories of States mentioned. The first clause refers to State of Assam that is retained. The State of Bengal is retained. But the third clause containing reference to the State of Bombay is going to be omitted. Provision is made regarding other States also. I fail to understand why Bombay has been particularly mentioned in this amendment to be deleted. Nothing is being substituted in its place and I am rather perplexed as to what is the idea in not mentioning the territory of the State of Bombay. I therefore thought that it should not be deleted unless there is specific reason and some provision for a substitution is made. I have already moved my amendment but I would like to understand from the Drafting Committee as to what is their object in seeking to delete this clause. I cannot give my comments on it before I know what is the object in its deletion. I can only state that it should be retained.

Shri K. M. Munshi (Bombay: General): Mr. President, Sir, Mr. Sidhwa referred to amendment No. 575. The reason for the deletion is this, that it is no longer necessary because appropriate orders have been passed by the Government of India whereby parts of Sirohi will be covered by the subsequent portion of the Schedule. It will be included in the four lines on top of page 182.

“The territory of each of the other States *in this Part* shall comprise the territories which immediately before the commencement of this Constitution were comprised in the corresponding and the territories which, by virtue of an order made under section 290A of the Government of India Act, 1935, were immediately before such commencement being administered as if they formed part of that Province”.

A part of Sirohi will fall under this part of the Schedule and another part of it will fall under the last paragraph on page 183. So it is no longer necessary to have the last lines of this paragraph.

Shri Jainarain Vyas (United State of Rajasthan): On a point of information, Sir. Has a Covenant been signed by the Ruler of Sirohi or by anybody to divide Sirohi into two parts and to merge one part with Bombay and the other with Rajasthan ?

Shri K. M. Munshi : I do not think that question is appropriate here. I am only explaining the constitutional position and why we have omitted this. Any question as to what has been done should be addressed to the proper quarters.

Shri Jainarain Vyas : Constitutionally it is not in order to divide a State into two parts, unless the people desire to have it. I object to it.

Shri K. M. Munshi : As I said it is a matter of the policy of the Government of India and the honourable Member should address himself to the Honourable the Deputy Prime Minister or the proper authority. It is not for me to explain the matter here.

Shri R. K. Sidhwa : My Friend Mr. Munshi quoted from pages 181 and 182 of the Constitution but he was not very explicit in what he said and I could not understand him.

Mr. President : The State now falls under one or other of the two categories mentioned in the para. Part of the State falls under the first category and the other part falls under the second category.

Shri R. K. Sidhwa : The new territories of Assam and Bengal are mentioned but Punjab is also a new territory, which has been created by Partition and it should have been there. Otherwise only the last clause should remain.

Mr. President : The question which Mr. Sidhwa has raised is why Bengal is mentioned and not Punjab, as both have been created on account of partition. I understand that Punjab as it stands now comprises some portions of the States and therefore it will come under this last para; whereas in the case of Bengal no State has been incorporated with Bengal and therefore Bengal is mentioned specially.

Shri Jainarain Vyas : Sir, I understand that some orders have been passed regarding Sirohi. Whatever the orders are, I do not want to bother myself with them. But in Schedule I, I want to point out that there are three parts. Part I includes those areas which are called provinces, part II incorporates those areas which are centrally governed and part III incorporates those areas which are now Unions or States. I do not find the name of Sirohi in all these three parts. Now the mere statement that such and such a thing has happened behind a curtain cannot solve the question. Sirohi is no-man's land today. It is not in India according to the Constitution which has been placed before us. It is neither in part I, nor II nor III. Had you retained the words ending with

[Shri Jainarain Vyas]

“Extra-Provincial Jurisdiction Act, 1947,” Sirohi would have been incorporated in Bombay. But by taking out those words you have taken out Sirohi from Bombay, but you have not put it in either part I, or II or III. So a lacuna has been left in the constitution, and I hope Mr. Munshi or some member of the Drafting Committee would please explain the point, so that I may proceed further.

Mr. President : As far as I understand, Sirohi is not mentioned anywhere and there are so many other States also which are not mentioned anywhere, because they have become integrated with some province or other. Those States which have become integrated with provinces now form part of those provinces. Those which have not become integrated are mentioned separately in Part B. Part of Sirohi has become incorporated in Bombay and part in another province and it is not necessary now to mention it anywhere. Therefore, the last portion of the third para does not now apply. It is not now being governed by the Extra-Provincial Jurisdiction Act. That is as I understand the position.

Shri Jainarain Vyas : I understand what you say, Sir, but I am not very much satisfied with the position.

Mr. President : That is a different matter.

Shri Jainarain Vyas : Now Sir, Sirohi has been divided. Rajasthan as it stands does not incorporate Sirohi. I know it. To divide Sirohi without the consent of the people is doing injustice to the people of Sirohi and Rajasthan and perhaps to justice itself. I raise a mild or strong protest against the action of the government behind the curtain in interfering with the Constitution at a time when the Constitution of India is in the making and when the ruler of Sirohi is not in a position to make his say and when the people of Sirohi have already protested against their being incorporated in Bombay. If Shri Gokulbhai who represents Bombay and who once represented Sirohi is satisfied with the position then I will have no objection.

Kanwar Jaswant Singh (United State of Rajasthan): Sir, in regard to Sirohi a very serious situation has arisen, so far as Rajasthan is concerned. In regard to other Indian States the position is that their Rulers have agreed in a Covenant to incorporate their States either in Provinces or State Unions. So far as Sirohi is concerned the Ruler is an infant and therefore no Covenant has been entered into with that State and as such it cannot be divided or incorporated either with a States Union or a Province. Therefore in this way to divide the State of Sirohi without a proper procedure or any Covenant is most irregular and great injustice is being done to Rajasthan.

Shri Gokulbhai Daulatram Bhatt (Bombay States): *[Mr President, The question of Sirohi has no doubt, been rather difficult of solution. What I know about this question is this that about a year ago the President of the Regency Council, the Rajmata of Sirohi handed over the administration of the State to the Central Government. She had also requested the Central Government in writing to carry on in its discretion the administration of the State. Since then the administration of the State is being carried as by the Government of Bombay on behalf of the Central Government. Now the question has come up as to the future of Sirohi. It was decided here that some portion of Sirohi should go to Bombay and some to Rajasthan. I was not present here when this decision was taken. It has not yet been finally decided as to what part should go to Bombay and what part to Rajasthan. Nothing has been decided about Mount Abu also. So far as I know no final decision has been taken with regard to these matters.

*[] Translation of Hindustani speech.

But I know that proper decision will be taken in regard to this matter by Sardar Patel and others in consultation.

Mr. President : What Mr. Gokulbhai is saying has already been said by Mr. Munshi that orders have been already issued and until such notifications it would remain as it is. That (previous) orders will cease to have any effect after the other notification is available to cancel it.

Shri Gokulbhai Daulatram Bhatt : One thing, however, has now become clear with regard to this matter. During the last sitting there was a doubt in our minds that the whole of the Sirohi State would go to Bombay. Now it has become clear that only a portion and not the whole of Sirohi would go to Bombay and that a major portion of it is going to be merged with Rajasthan. As I am not aware of all the facts, I cannot say anything more. We the people of Sirohi have thought it in this way that whatever decision is taken by Sardar Patel will be taken with due consideration to the view point of the people of Sirohi and Rajasthan, and that shall be acceptable to us.

Shri Raj Bahadur (United State of Matsya): May I speak a few words, Sir ?

Mr. President : But honourable Members must remember that we have to close the discussion at half past eleven.

Shri Raj Bahadur : Sir, I take this opportunity simply to express myself on this point which has been for a long time agitating the minds of the people of Rajasthan. Ever since Sirohi was taken under the administration of Bombay as a Centrally administered area, the Provincial Congress Committee and the other Congress committees in Rajputana have been passing resolutions that it should not be taken away from Rajasthan and should be placed under the administration of Rajasthan Government. Yesterday it was in the air that Sirohi has been vivisected, part of it going to Rajasthan and part of it to Bombay. As a matter of fact the people's desire in this case has been that the hill station of Mount Abu is not in any case taken away from them. Mount Abu is the most beautiful spot and the only hill station in that area, which fascinates the attention and attraction of all the people living there. This has been the only health resort and sanatorium for the people of Rajasthan, who want to go to one. Mount Abu therefore happens to be the apple of discord in this case. It is, therefore, a painful surprise for those who live in Rajasthan that it has been taken away from them. It is, however, not yet clear whether Mount Abu remains with Rajasthan or forms part of Bombay. It would have been much better that if any part of Sirohi were to be partitioned off then this House should have been informed about it in good time and the people told what part goes to Rajasthan and what part to Bombay. At present everything is almost in the dark. We are all in the dark about it and it is really surprising that without even taking the people into confidence and without even consulting the local congress committee this division has been gone through. It is claimed that this Constitution would bear the stamp of the free will and consent of the people of India and of its component parts. I do not think it will be in consonance with this principle that we have accepted if Sirohi is divided into parts without even ascertaining the wishes of the people. We have the utmost respect and admiration for our leader Sardar Vallabhbhai Patel. I implore him that in this case he may kindly note our feelings. If any orders have been passed already wish that such orders are reconsidered and revised before this constitution is finalised. The State of Sirohi including Mount Abu should go to the province to which it rightly belongs, and to the people who have made of Mount Abu what it is today.

Mr. President : I do not think any further discussion is necessary. I will ask Mr. Munshi to let the House know the notification under which Sirohi has been divided so that the misgivings of the Members may be removed.

Shri K. M. Munshi : There is no such notification.

Mr. President : If there is no Such notification. how call you take notice of it in the Constitution ? I understood from you that there was a notification.

The Honourable Sardar Vallabhbhai J. Patel (Bombay: General): Mr. Munshi will not be able to explain it. I shall explain it.

Some people of Rajasthan who have come here on behalf of the Congress consider this Mount Abu to be a beautiful spot and therefore say that Rajasthan has a claim on it. There are many beautiful spots in India and that is no justification for claiming Mount Abu. The Rajasthan Congress Committee was told from the very beginning that Sirohi is a part of Gujarat and will go with Bombay. The Congress committee took cudgels with the Ministry and started this cry. Before that, when the annual session of the Congress was held in Rajasthan, Shri Gokulbhai Bhatt, who was the Chief Minister of Sirohi, was also the President of the Rajasthan Congress Committee. Shri Gokulbhai also comes from Gujarat. I asked them whether they wanted Gokulbhai because he was President of the Rajasthan Congress Committee or whether they wanted Sirohi. Really what they wanted was that Gokulbhai, who was elected to the Reception Committee as its Chairman, should continue as the President of the Rajasthan Congress Committee as well. It was difficult for them to keep him there unless Sirohi was in it while our decision was that Sirohi should go to Bombay. Therefore, to accommodate them, we said we would take Sirohi to the Centre for the present but it was to be administered by the Bombay Government. Thus it eventually went to the Bombay Government. There are people in one or two portions of Rajasthan still who want to go to Bombay such is Dungarpur, etc. They are Gujrati people. When this decision was taken after tile Congress session was over, the Congress came into Conflict with the Ministry there and as a consequence with the States Ministry also. The Rajasthan representatives who have come here on behalf of the Congress have started this cry that Sirohi should go into Rajasthan. They have removed Shri Gokulbhai Bhatt from the President ship of the Congress and have also passed a vote of no-confidence against the Ministry.

Shri Jainarain Vyas : More resolutions to place Sirohi in Rajasthan were passed during Shri Gokulbhai's Presidentship than afterwards.

The Honourable Sardar Vallabhbhai J. Patel : I do not want to be interrupted. I want to explain what the position is.

Therefore eventually, in order to accommodate them we sent a special officer to make enquiries. His report was to the effect that a certain portion of Sirohi Should go to Bombay inasmuch as a large majority of the people there asked for it. Sirohi people are divided among themselves except tile portion that has to be separated.

Now, if the Rajasthan people want that a portion of Sirohi including the City Should be given to them we are willing to accommodate them. But if they claim the whole of Sirohi, it is impossible to accommodate them.

Then the question is whether they want a division or not. If they do not want a division, then the whole of Sirohi will go to the Bombay province. If they want a division, then a portion of it would go to the Bombay province. A map has been prepared and orders are to be passed before the Constitution comes into force. The map can be shown to them, they can come and see it in tile office even now. The gentleman who spoke just now is not from Sirohi. He comes from Bharatpur. He says Abu is a delightful place. Bharatpur is all equally delightful place. Therefore it cannot be claimed by somebody else. It may be that they may not like it, but the fact is that orders have already been passed. They have only been kept over because of the decision of these people.

We want still to accommodate them if they can agree to reason. If they do not, then the whole of Sirohi will go, but whatever orders are to be passed will be passed before the Constitution comes into force. But Sirohi by itself as a separate entity will not remain. Either the whole of it will go to Bombay or one portion will go to Rajasthan and one portion will go to Bombay. That is the position. If Sirohi is to be split up, it has to be split up with their consent. Then that will go into two parts. If they do not want separation, then the whole of it will go to Bombay.

Mr. President : I am not concerned at the present moment, Sardar, with the merits of the question whether Sirohi....

The Honourable Sardar Vallabhbhai J. Patel : But the merits were discussed.

Mr. President : But only with orders.

The Honourable Sardar Vallabhbhai J. Patel : But the division orders are there already.

Mr. President : I am not concerned with the merits but I am concerned only with orders. Orders have been passed, so that the amendment which is now proposed represents a state of fact which has been accepted by the States Ministry.

The Honourable Sardar Vallabhbhai J. Patel : Yes.

Mr. President : If that is so, then the amendment can come in, but if it is to come into force in the future, the amendment cannot come in.

The Honourable Sardar Vallabhbhai J. Patel : The orders are there but the orders could be modified before the Constitution comes into force if they want.

Mr. President : In that case, we cannot take it in the form of an amendment, If we take the order as the final order, then it can come in in the form it has come. Otherwise, if the order is not there, we cannot take it. So, I take it from you that the orders have already been passed.....

The Honourable Sardar Vallabhbhai J. Patel : Yes.

Mr. President : And Sirohi has been divided into two parts, one part going to Bombay and one part to Rajasthan.

The Honourable Sardar Vallabhbhai J. Patel : It is only to accommodate these people it is not published. The order is there.

Shri Mahavir Tyagi (United Provinces: General). The arguments advanced by our honourable Friend Sardar Vallabhabhai Patel are in my humble opinion not very weighty. That Sirohi.....

Mr. President : That is a different matter. I am afraid we are not concerned here with the merits of the question.

Shri Mahavir Tyagi : May I know what language the Sirohi people speak?

Mr. President : That I do not know but there are so many States which have been merged in some provinces or the other and in those cases we have accepted the fact of the merger and we have incorporated it in the Constitution. If Sirohi stands on the same footing as the other States, *i.e.*, if Sirohi has been merged with some State or other, then we can accept this amendment. As I understood from Sardar Patel, orders have been passed Sirohi into two parts, one part going to Bombay and the other going to Rajasthan. Then we accept the amendment. Otherwise not. We are not concerned in this House with the merits of the case, whether it has been rightly done or wrongly done.

Kanwar Jaswant Singh : The Deputy Prime Minister only said that orders are on the file. So long as orders are not issued, they cannot take effect.

[Kanwar Jaswant Singh]

Therefore, in my opinion, this question cannot be taken up till the Constituent Assembly at this stage. The question of Sirohi has to be deferred to a future date, by when wish of the people of Rajasthan should be obtained.

Mr. President : They have been passed, as I understood from Sardar Patel. Then we pass on to the other amendments.

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

“That in Part B of the First Schedule, for the paragraph under the sub-heading ‘Territories of States’, the following paragraph be substituted:—

The territory of each of the States in this Part shall comprise the territory which immediately before the commencement of this Constitution was comprised in the corresponding Indian State, and—

- (a) in the case of each of the States of Rajasthan and Saurashtra, shall also comprise the territories which immediately before such commencement were being administered by the Government of the corresponding State, whether under the provisions of the Extra-Provincial Jurisdiction Act, 1947, or otherwise; and
- (b) in the case of the State of Madhya Bharat, shall also comprise the territory which immediately before such commencement was comprised in the Chief Commissioner’s Province of Panth Piploda.’

“That in Part C of the First Schedule, for the first two paragraphs under the sub-heading ‘Territories of States’ the following paragraph be substituted:—

‘The territory of each of the States of Ajmer, Coorg and Delhi shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner’s Province of Ajmer-Merwara, Coorg and Delhi, respectively.’ ”

“That in List of the Seventh Schedule, for entry 8, of the following entry be substituted:—

“8. Central Bureau of Intelligence and Investigation.”

Mr. President : Amendment No. 542. I do not think I can take that. It is too late.

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

‘Sixth Schedule

“That clause (g) of sub-paragraph (1) of paragraph 3 be omitted, and the remaining clauses ‘(b), (i), (j) and (k)’ be relettered as (g), (h), (i) and (j)’ respectively.”

“That to paragraph 4, the following sub-paragraph be added:—

“(4) The Regional Council or the District Council, as the case may be, may with the previous approval of the Governor make rules regulating—

- (a) the constitution of village councils and courts and the powers to be exercised by them under this paragraph;
- (b) the procedure to be followed by village councils or courts in the trial of suits and cases under sub-paragraph (1) of this paragraph;
- (c) the procedure to be followed by the District or Regional Council or courts constituted by such Council in appeals and other proceedings under sub-paragraph (2) of this paragraph;
- (d) the enforcement of decisions and orders of such councils and courts;
- (e) all other ancillary matters for the carrying out of the provisions of subparagraphs (1) and (2) of this paragraph.’ ”

“That in sub-paragraph (3) of paragraph (5), for the words ‘and the Governor may by rules prescribe the procedure to be followed at such trial’ the words and figure ‘to which the provisions of this paragraph or paragraph 4 apply’ be substituted.”

“That in the proviso to sub-paragraph (2) of paragraph 20, for the words, brackets and letters ‘clauses (c), (f) and (g)’ the words, brackets and letters ‘clauses (e) and (f)’ be substituted.’ ”

Mr. President : This completes list VI. Then there are three amendments in List VIII.

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

“That in article 106, for the words ‘Constituent Assembly of India’ the words ‘Constituent Assembly of the Dominion of India’ be substituted.”

“That in clause (3) of article 348, for the words ‘shall for the purposes of the said clause be deemed to be the authoritative text thereof’ the words ‘shall be deemed to be the authoritative text thereof in the English language under this article,’ be substituted.”

Mr. President : I take amendments.* Nos. 615 and 616 as moved. No. 630 by Mr. Chaliha.

Shri Kuladhar Chaliha (Assam: General): Mr. President, Sir, I move:

“That in amendment No. 621 of List VI, for the first three lines of the proposed sub-paragraph (4) of the Sixth Schedule, the following be substituted:—

‘(4) That the Governor shall make rules regulating—’ ”

My whole object is that in primitive societies for which these Schedules have been prepared, we should be a little more careful in granting powers to make rules to these Regional and District Councils. In some places like the Khasi Hills we have got educated people but in places like the Naga Hills, the people are not literate. In these areas there is not even a single man who can read or write. The British rule when they were here was autocratic. Somehow or other before they departed, they have given these people the idea that they are a very democratic people, that they can frame their rules. They have given them all these nice ideas before they left, and we have been caught in the trap, and we think that they are very democratic, they are autonomous, that they can frame their rules, etc., but it is not so. The Drafting Committee says that they shall frame rules with the previous approval of the Governor. Why this? Why cannot the Governor make the rules? These people are not capable of doing that. They do not know how to do it. As such I have always thought that in this Sixth Schedule the Governor should have more and more powers. We have given power to the Regional Council or the District Council to make rules with the approval of the Governor. Instead of that why not allow the Governor to make the rules so that it may be easy for simple people there to follow what has been laid down by the Governor? Instead of sending the rules, we find they are to frame the rules and have the Governor’s approval. First of all, the Governor will be in a delicate position and once the rules are framed, he is bound by those rules to a certain extent but if you leave it to the Governor, he has his legal advisers, political advisers and he will have the advantage of their advice. So that he will frame the rules better. My humble amendment is to allow the Governor to make the rules and nothing else and to eliminate the trouble of the primitive people from framing rules for these very cumbersome and complex things and as such I should like to request the Drafting Committee to accept the amendment and simplify the whole thing. This is the whole object of the amendment, Sir.

We start with a very wrong background that the primitive people are very democratic but if we read anthropological or sociological books, we find that there is nothing like democracy in a primitive society except in a few places such as Hawai and South America and excepting those parts nowhere in the world there is any democratic society among the primitive tribes, and as such my submission is that we should not burden them with framing the rules, and we must allow the Governor to make the rules for them, and I commend this amendment for the acceptance of the House.

*615. That in entry 75 of List I of the Seventh I Schedule, after the words “Emoluments. allowances,” the word “privileges”, be inserted.

616. That in entry 46 of List III of the Seventh Schedule, for the words “other than the Supreme Court” the words “except the Supreme Court” be substituted.

The Honourable Rev. J. J. M. Nichols Roy (Assam: General) : Sir, I support the amendment made by the Drafting Committee. I oppose the amendment made by Mr. Chaliha. I have not seen the amendment of Mr. Chaliha. Is it printed?

Mr. President : The amendment only says that in place of the Regional or District Council as the case may be we give the power to the Governor to make the rules.

The Honourable Rev. J. J. M. Nichols Roy : Mr. Chaliha has stated that in those areas which will be governed by the District Councils there are no people who will run this administration or will be able to make rules. I think he is mistaken altogether because these District Councils are only with six hill districts. The position of these hill districts is quite different from the other tribal areas which are outside the District Council. These District Councils will be run by the people who are intelligent there. They are enough intelligent people in these areas who will run these administrations and will also be able to make rules. The North Cachar Hills and Mikir Hills which are not well-advanced will be supervised by District Officers who will be the Chairmen of the District Councils, but in the other areas we can find people who will carry on the administration. Therefore, I oppose the amendment moved by Mr. Chaliha and I support the amendment moved by the Drafting Committee.

Shri Brajeshwar Prasad (Bihar: General): Sir, I would like to add one word . . .

Mr. President : I do not think we need have any more discussion on this point. Both the points of view have been placed and we are hard pressed for time. Now there are three amendments left to be moved or otherwise disposed of.

Shri H. V. Kamath : Has 616 been disposed of, Sir?

Mr. President : I have taken both as moved because they are all amendments.

Shri H. V. Kamath : I had an amendment to that. I gave notice of it this morning. I do not want to say much, but only....

Mr. President : Which is your amendment?

Shri H. V. Kamath : I handed it in this morning, Sir.

Mr. President : I will take that as moved. As I was saying there are three sets of amendments which somehow or other will have to be disposed of. One set of amendments relate to the name of Bengal. I have taken List VII also and I have taken them as moved.

Shri H. V. Kamath : With reference to amendment 628, may I ask why the Drafting Committee has fallen in love with the word "Dominion" and go on repeating it *ad nauseam*?

Mr. President : Anyhow you may throw it out if you like. There are three amendments which are connected and which come to this that the name of Bengal as in the Drafting Constitution should be 'West Bengal. That is one amendment. Then there is the second amendment, which I mentioned yesterday, of Prof. Shibban Lal Saksena relating to article 348 clause (3). Do you wish to move that?

Prof. Shibban Lal Saksena (United Provinces: General): I have already moved it.

Mr. President : I will take that as moved.

Shri T. T. Krishnamachari : It is covered by 629, Sir.

Mr. President : It is covered. Very well. Then it need not be moved. Then there was an amendment by Shri A. V. Thakkar. What is the position of the Drafting Committee with regard to that?

Shri P. T. Chacko (United State of Travancore and Cochin): I rise to a point of order if the amendment is allowed to be moved. This is almost a surprise on us who represent the States which are mentioned therein Moreover the mover is introducing a substantial matter neither necessary nor consequential

Mr. President : He is seeking to move only with regard to Madhya Bharat and so you are not touched.

Shri P. T. Chacko : Then I do not press my point.

Shri A. V. Thakkar (Saurashtra): At the time when the provinces were named, the tribal of which will have the benefit of a special Minister to be in charge of that portfolio, *i.e.* in the year 1947 the States were not in the picture at all. They have been admitted in the Union afterwards; they have been assimilated or they have been joined on in the various sections of Schedule 1; and among those States which had a large number of tribal these are the four Unions—Madhya Bharat, Rajasthan, Travancore-Cochin and Vindhya Pradesh but the States Ministry agrees that it should be adopted for Madhya Bharat only as a covenant has already been contracted with them and they have accepted that. So I propose that the State of Madhya Bharat should be added to article 164, Sir.

Mr. President : There is another amendment; Mr. Krishnamachari.

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

“That in Part XVI of the Constitution, for the word minorities wherever it occurs, the words certain classes’ be substituted.”

Sir, objection has been taken by several honourable Members to the use of the word ‘minorities’ even in the heading of this Part and also the consequential use of this word elsewhere. It has therefore been decided to drop this word and to suggest the use of the word “certain classes” in the place of ‘minorities.’

I have also another amendment to suggest.

“That in entry 67 of List I of the Seventh Schedule, after the word ‘record’ the words ‘and archaeological sites and remains’ be inserted.”

This finds mention in the Concurrent List. But so far as the Centre is empowered to declare any archaeological sites and remains and ancient monuments by law to be vested in the Centre, this is an omission which is now sought to be rectified. Therefore, I trust that you will give permission for this amendment to be moved and the House will accept that.

Mr. President, Sir, I would like to apologise to you and to the House for venturing to make this amendment at this late hour. I would like to draw the attention of the honourable Members to amendment No. 562A in regard to article 367 which was moved yesterday. The first part of this amendment relating to sub-clause (3) of article 367 reads thus.

“For the purposes of this Constitution ‘foreign State’ means any country which is outside the territorial jurisdiction of the Union.”

Certain honourable Members at that time, particularly, my honourable Friend Mr. Santhanam, pointed out that the wording was not very happy. The matter has been further examined and our legal adviser suggests that the words “which is outside the territorial jurisdiction of the Union” may be omitted and the following words substituted: “other than India.” The operative part of the clause will read like this, if the amendment is accepted:

“(3) For the purposes of this Constitution, ‘foreign State means any State other the India.”

[Shri T. T. Krishnamachari]

In the proviso also, the objection of my honourable Friend Mr. Santhanam has been accepted and the word 'country' will be changed into 'State' in the two places. For the benefit of the honourable Members, I shall read the clause as amended.

Dr. Bakhshi Tek Chand (East Punjab: General): These amendments have not been circulated; we are not also able to hear the honourable Members.

Shri. T. T. Krishnamachari : This is merely a verbal change. I will read it again:

“(3) For the purposes of this Constitution, ‘foreign State’ means any State other than India:

Provided that, subject to the provisions of any law made by parliament, the President may by order declare any State not to be a foreign State for such purposes as may be specified in the order.:

There is another matter which needs to be mentioned, Sir. In amendment No. 463 to article 168, a consequential change will have to be made because an amendment has been moved to change the name of Bengal to West Bengal. That amendment would be made subject to the approval of the House.

Mr. President : You have moved the amendment to entry No. 67?

Shri T. T. Krishnamachari : Yes, I have moved.

Shri H. V. Kamath : Sir, I have an amendment relating to the re-arrangement of several Chapters of the Constitution, amendment No. 430 in List I. That may be taken as moved; I do not want to take the time of the House.

Mr. President : I think this will involve a re-arrangement of the whole thing.

Shri H. V. Kamath : Numbering only, Sir.

Mr. President : Not only numbering, but a re-arrangement.

Shri H. V. Kamath : You may take it as moved or rule it out of order. I would request you, Sir, to be so good as to permit me to formally move two amendments 207 and 197 of List I. One refers to the name of the Upper Chamber of the Central Parliament: to substitute the name “Chamber of States” instead of “Council of States”. I shall only formally move them.

Mr. President : That does not arise out of any amendment

Shri H. V. Kamath : I want your special permission, Sir.

Mr. President : No I will not permit this as also 430.

Shri H. V. Kamath : Amendment 197, Sir, regarding joint and several responsibility of Ministers and not merely collective responsibility.

Mr. President : That also does not arise out of any of the amendments. I will not allow any of these.

Shri Jaspat Roy Kapoor : Mr. President, one important amendment remains yet undecided in the sense that it seems that the Members are not agreed with regard to the name that may be given to the United Provinces. In that view, may I have your permission to move formally an amendment to the following effect, so that there may be no difficulty in taking a decision with regard to the name of the United Provinces and possibly Bengal also, because Bengal Members also want a change in the name of their province before the 26th of January. If I have your permission, Sir, I may move like this:

“That a new article be inserted :

‘Notwithstanding any thing in article 3, the Constituent Assembly of India, before the commencement of this Constitution, may by resolution alter the name of any State.’ ”

I understand, Sir, honourable Members are anxious that no name of a State may be changed except with their consent and therefore I am specifying in this amendment that any change in name may be done by a resolution of the Constituent Assembly before this Constitution comes into force. I understand we are not only meeting up to the 26th of November, but we shall have to meet some time in January also for the election of the President and perhaps for some other business also. If between now and then an agreement is arrived at between the Members with regard to this subject, by a resolution which may be accepted by the House, the name may be changed. Otherwise, the name can only be changed by the cumbersome process mentioned in article 3. If I have your permission, it may be taken as moved.

There is one little amendment which will also have to be made in article 394 to the effect that after the figure 392, the figure 392-A be inserted which would mean that the amendment which I have just mentioned may also be enforced from the very day on which this Constitution is passed.

Shri Prabhu Dayal Himatsingka : (West Bengal: General): Article 391 covers the point raised by my friend. If there is agreement, the President merely passes an order and that can be done before the commencement.

Shri Jaspal Roy Kapoor : I have consulted legal experts on this question and they advise that under 391 it could not be done. If it could be done, then there is no need for my amendment, but I am advised that 391 relates to amendment of the Government of India Act which of course is a cumbersome process.

Mr. President : If Your amendment is accepted it will mean that the Constitution as it will be adopted here at the Third Reading stage may be amended so far as name is concerned simply by a resolution of this House.

The Honourable Shri K. Santhanam : It will involve a session after the Third Reading. I do not think it should be allowed.

Shri Mohan Lal Gautam (United Provinces : General) : The real question before the House is that the name of the United Provinces is to be changed and we have not yet been able to come to a decision and we want that the name should be changed before the commencement of the Constitution, *i.e.*, before the 26th January. That is the issue before the House. My suggestion is that, instead of asking the Assembly again to meet and pass a resolution to change the name which is a cumbersome process and, therefore, in my opinion, not advisable, on the recommendation of the Provincial Government the President may be given the power to change the name of the United Provinces. This is a very simple question. The name could have been changed even long ago. If the Provincial Government had changed its name by now, it would have been a settled fact and nobody might have raised any objection to it but now that it has come before us and now that U.P. is still the name of the province the question is being discussed by us. Therefore, my submission is that on the recommendation of the province, *i.e.*, the provincial Government, the President may accept it and the House may not be required to go through the whole process and may not be required to meet for this purpose. If it is accepted, then the Drafting Committee may propose suitable amendment to that effect.

Pandit Thakur Das Bhargava : I think there is ample time before the Third Reading is passed—between now and the end of the Third Reading the question may be decided.

Mr. President : Pandit Bhargava has suggested that there is still time between now and the 25th for the Members to come to an agreement on this question. If it is agreed to by them, that can be done.

The Honourable Dr. B. R. Ambedkar (Bombay : General) I think the difficulty could be easily got over if this Assembly before it closes its session on the 26th November could pass an act amending the Government of India Act 1935, section 290, permitting the Governor-General among other things which he is empowered to do to change also the name of a Province so that the President can act under article 391 and amend the schedule in order to carry out the action that has been taken by the Governor-General under the Government of India Act, as proposed. This matter cannot take more than a few minutes. It would be possible for the Drafting, Committee or the Home Department to bring before this Assembly a Bill to amend the Government of India Act 1935, section 290. Such a Bill could be passed before the 26th January.

The Honourable Shri K. Santhanam : Our difficulty is not objection to changing the name but only to 'Aryavarta', Similarly we cannot allow the Governor-General also to change the name to 'Aryavarta'.

The Honourable Dr. B. R. Ambedkar : It cannot be Aryavarta as the party has given its verdict on that. I am sure Babu Purushotam Das Tandon has taken note of that.

The Honourable Pandit Govind Ballabh Pant (United Provinces : General) What you have rejected will not be put forward by the U.P. Government nor accepted by the Governor-General. That we all accept.

Mr. President : Then nothing has to be done at present.

The Honourable Pandit Govind Ballabh Pant : On the understanding that an amending Bill of the nature suggested by Dr. Ambedkar will be passed before we disperse.

Mr. President : That is for Dr. Ambedkar to do.

Shri A. Thanu Pillai (United State of Travancore and Cochin) : It is for this House to decide. The people of the Province may like to call it 'Bharata Hriday'. We will not accept that. It is a matter of importance for the whole of India as to what parts of it are called by what names.

Mr. President : You may oppose the amending Bill when it comes up. Nothing has to be done at this stage.

Shri Mahavir Tyagi : There is yet, I am afraid, a very serious lacuna left. Article 394 says that articles 5, 6, 7 etc. will come into force at once. Among these, article 379 is also included, which pertains to such members as are also Members of the Provincial Assemblies and therein it is mentioned that their membership here will cease on the commencement of this Constitution. Now, if in accordance with Article 394, immediate effect is to be given to article 379, the double membership will cease at once. But the article sought to be given effect to immediately lays down that the double membership would cease at the commencement of this Constitution which means on January 26th, 1950. The wordings are : "from the commencement of this Constitution the seat of such member in the Constituent Assembly shall, unless he has ceased to be a member of that Assembly earlier, become vacant and every such vacancy shall be deemed to be a casual vacancy". Both the articles stand parallel to each other without being related to each other by the word "notwithstanding" and they are contradictory to each other in meaning. I want to know whether the membership ceases immediately or on the 26th January.

Mr. President : I do not think that interpretation can be given to it. Membership does not cease before the 26th January.

Shri B. Das (Orissa : General) : I would like to know, Sir, if amendment No. 618 of the Drafting Committee has been moved.

Mr. President : Yes, it has been moved.

Now, we have finished all the amendments, and there is no time for any further general discussion. But as a matter of fact, we have discussed everything which came up and which required discussion. So I would request Dr. Ambedkar to reply to the debate on the various amendments.

Shri Raj Bahadur : Sir, I want to refer to only one point. May I request that the order about Sirohi be placed before the House so that we may know what its contents are, and whether this Assembly can ratify or endorse it, or in any way take note of it or not.

Mr. President : I do not think that is a matter which comes before this House. It is a matter for the other House, not for this House, Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, in my reply I propose to take certain article which have been subjected to stronger criticism by the Members of the Assembly. It is, of course, impossible for me to touch upon every article to which reference has been made by the Members in the course of their observations. I therefore, propose to confine myself to the more important ones against which serious objections were raised.

I begin with article 22. Listening to the debate, I found that this article 22 and its provisions as amended by the Drafting Committee's amendments, have not been completely understood, and I should therefore like to state in some precise manner exactly what the article as amended by the Drafting Committee's amendments proposes to do. The provisions of article 22, as amended by the Drafting Committee, contain the following important points.

First, every case of preventive detention must be authorised by law. It cannot be at the will of the executive.

Secondly, every case of preventive detention for a period longer than three months must be placed before a judicial board, unless it is one of those cases in which Parliament, acting under clause (7), sub-clause (a) has, by law, prescribed that it need not be placed before a judicial board for authority to detain beyond three months.

Thirdly, in every case, whether it is a case which is required to be placed before the judicial board or not, Parliament shall prescribe the maximum period of detention so that no person who is detained under any law relating to preventive detention can be detained indefinitely. There shall always be a maximum period of detention which Parliament is required to prescribe by law.

Fourthly, in cases which are required by article 22 to go before the Judicial Board, the procedure to be followed by the Board shall be laid down by Parliament. I would like Members to consider the provisions of this new article 22 as amended by the Drafting Committee, with the original article 15A. It will be seen that the original article 15A was open to two criticisms. One was that (4) (a) did not appear to be subject to maximum period of detention prescribed under clause (7). Clause (4) (a) appeared to stand by

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itself, independent of clause (7). The second defect was that the requirements as to the communications of the grounds of detention did not apply to persons detained under (4) (a). It will now be seen that the present (4) of article 22 removes these two defects as they existed in the original draft of 15A.

Notwithstanding the improvement made by article 22, I find from the observations of Mrs. Purnima Banerji that she has still some complaint against the article. In the course of a speech yesterday, she said that preventive detention can take place without the authority of law, and secondly, that there are still cases which need not go to the Judicial Board. With regard to her first comment, I should like to say respectfully that she is very much mistaken. Although preventive detention is different from detention under ordinary law, nonetheless, preventive detention must take place under law. It cannot be at the will of the executive. That point is perfectly clear. With regard to the second comment which she has made, that the new article 22 excepts certain cases from the purview of the Judicial Board, I admit that that statement is correct. But I also say that it is necessary to make such a distinction, because there may be cases of detention where the circumstances are so severe and the consequences so dangerous that it would not even be desirable to permit the members of the Judicial Board to know the facts regarding the detention of any particular individual. It might be too dangerous, the disclosure of such facts, to the very existence of the State. No doubt, she will realise that there are two mitigating circumstances even in regard to the last category of persons who are to be detained beyond three months, without the intervention of the Judicial Board. The first is this, that such cases will be defined by Parliament. They are not to be arbitrarily decided by the executive. It is only when Parliament lays down in what cases the matter need not go to the Judicial Board, it is only in those cases that the Government will be entitled to detain a person beyond a period of three months. But what is more important to realise is that in every case, whether it is a case which is required to go before the Judicial Board or whether it is a case which is not required to go before the Judicial Board, there shall be a maximum period of detention prescribed by law.

I think, having regard to these amendments, which have been suggested by the Drafting Committee in article 22, there is a great deal of improvement in the original harshness of the provisions embodied in article 15A. Sir, having said what I think is necessary to say about article 22, I will next proceed to take article 373, because that article is intimately connected with article 22.

There has been a great deal of criticism against article 373 and some Members have even challenged the legitimacy or propriety of including such an article in the Constitution. But, in reply, I would like to invite the attention of the Members to this question. What would happen if this article did not find a place in the Constitution? I think it is quite clear that what would happen if this article 373 did not find a place in the Constitution is this, that all persons detained under preventive detention would have to be released forthwith on the 26th of January 1950, if by that date they have undergone the three months' detention permitted by article 22 and if Parliament is not able to pass a law under clause (7) of article 22 permitting a longer period of detention. The question is this: is this a desirable consequence? Is it desirable to allow all persons who are detained under the present law to be released on the 26th of January, simply because Parliament is not in a position to make a law on the 26th of January, 1950 permitting a further period

of detention. It seems to me that that would be a very disastrous consequence. Consequently, it is necessary, in view of the fact that it is quite impossible for Parliament immediately or before the 26th of January to meet and to pass a law which will take effect from that date, to empower some authority under the Constitution to do the work which Parliament is expected to do in order to give full effect to the provisions of article 22. Who is such an authority under the Constitution ? Obviously the President. The President is the only authority who will be in existence on or before the 26th of January and who could expeditiously make a law stepping into the shoes of Parliament and giving effect to the provisions of a article 22 permitting a longer period of detention. It is, therefore, absolutely essential to provide for a break-down of the law relating to preventive detention, to have an article such as 373 empowering the President to enact a law which is within the power of Parliament to enact. Sir, I should further like to add that there is nothing very novel in the provisions contained in article 373, because we have given power by other articles to the President to adapt existing laws in order that they may be brought in conformity with the provisions of the Constitution. Such modification can only be made by Parliament, but we also realise that it would not be possible for Parliament immediately on the 26th of January to adapt so many voluminous laws enacted by the Indian Legislature to bring them in conformity with the Constitution. That power has, therefore, been given to the President. Similarly, by another article we have given to the President the power to amend temporarily this very Constitution for the purpose of removing difficulties. I, therefore, submit that there is nothing novel, there is nothing sinister in this article 373. On the other hand, it is a very necessary complementary article to prevent the breakdown of any law relating to preventive detention.

Now, Sir, I come to article 34 which relates to martial law. This article, too, has been subjected to some strong criticism. I am sorry to say that Members who spoke against article 34 did not quite realise what article 20, clause (1) and article 21 of the Constitution propose to do. Sir, I would like to read article 20, clause (a) and also article 21, because without a proper realisation of the provisions contained in these two articles it would not be possible for any Member to realise the desirability of—I would even go further and say the necessity for—article 34. Article 20, clause (1) says :

“No person shall be convicted of any except offence for violation of a law in force at the time of the commission of the act charged as an offence.”

Article 21 says :

“No person shall be deprived of his life or personal liberty except according to procedure established by law.”

Now, it is obvious that when there is a riot, insurrection or rebellion, or the overthrow of the authority of the State in any particular territory martial law is introduced. The officer in charge of martial law does two things. He declares by his order that certain acts shall be offences against his authority, and, secondly, he prescribes his own procedure for the trial of persons who offend against the acts notified by him as offence, is quite clear that any act notified by the military commander in charge of the disturbed area is not an offence enacted by law in force, because the Commander of the area is not a law-making person. He has no authority to declare that a certain act is an offence, and socondly the violation of any order made by him would not be an offence within the meaning of the phrase “law in force”, because “law in force” can only mean law made by a law-making authority. Moreover, the procedure that the Commander-in-Chief or the military commander prescribes is also not procedure according to law, because he is not entitled to make a law. These are orders which he has

made for the purpose of carrying out his functions, namely, of restoring law and order. Obviously, if article 20 clause (1) and article 21 remain as they are, without any such qualification as is mentioned in article 34, martial law would be impossible in the country, and it would be impossible for the State to restore order quickly in an area which has become rebellious.

It is therefore necessary to make a positive statement or positive provisions to permit that notwithstanding anything contained in article 20 or article 21, any act proclaimed by the Commander-in-Chief as an offence against his order shall be an offence. Similarly, the procedure prescribed by him shall be procedure deemed to be established by law. I hope it will be clear that if article 34 was not in our Constitution, the administration of martial law would be quite impossible and the restoration of peace may become one of the impossibilities of the situation. I therefore submit, Sir, that article 34 is a very necessary article in order to mitigate the severity of articles 20(1) and 21.

Shri H. V. Kamath : May I ask why the indemnification of persons other than public servants is visualised in this article ?

The Honourable Dr. B. R. Ambedkar : Because my friend probably knows if he is a lawyer.....

Shri H. V. Kamath : I am not.

The Honourable Dr. B. R. Ambedkar : That when martial law is there it is not merely the duty of the Commander-in-Chief to punish people, it is the duty of every individual citizen of the State to take the responsibility on his own shoulder and come to the help of the Commander-in-Chief. Consequently if it was found that any person who was an ordinary citizen and did not belong to the Commander-in-Chief's entourage, so to say, does any act it is absolutely essential that he also ought to be indemnified because whatever act he does he does it in the maintenance of the peace of the State and there is a no reason why a distinction should be made for a military officer and a civilian who comes to the rescue of the State to establish peace.

Now, Sir, I come to article 48 which relates to cow slaughter. I Deed not say anything about it because the Drafting Committee has put in an agreed amendment which is No. 549 in List IV. I hope that that would satisfy those who were rather dissatisfied with the new draft of article 48 as proposed by the Drafting Committee.

Then I come to article 77 which deals with rules of business. In the course of the debate on this article, some Members could not understand why this article was at all necessary. Some Members said that if at all this article was necessary the authority to make rules of business should be vested in the Prime Minister. Others said that if this article was at all necessary it was necessary for the purpose of the efficient transaction of business and consequently the word "efficient" ought to be introduced in this clause. Now, Sir, I am sorry to say that not many Members who participated in the debate on article 77 have understood the fundamental basis of this article. With regard to the point that the authority to make rules of business should be vested in the Prime Minister, I think it has not been understood properly that in effect that will be so for the simple reason that although the article speaks of the President, the President is also bound to accept the advice of the Prime Minister. Consequently, the rules that will be issued by the President under article 77 will in fact be issued by the Prime Minister and on his advice.

Now, Sir, in order to understand the exact necessity of article 77, the first thing which is necessary to realise is that article 77 is closely related to article 53. In fact, article 77 merely follows on to article 53. Article 53 makes a very necessary provision. According to the general provisions of the Constitution all executive authority of the Union is to be exercised by the President. It might be contended that, under that general provision, that the executive authority of the Union is to be exercised by the President, such authority as the President is authorised and permitted to exercise shall be exercised by him personally. In order to negate any such contention, article 53 was introduced which specifically says that the executive authority of the Union may be exercised by the President either directly or indirectly through others. In other words, article 53 permits delegation by the President to others to carry out the authority which is vested in him by the Constitution. Now, Sir, this specific provision contained in article 53 permitting the President to exercise his authority through others and not by himself must also be given effect to. Otherwise article 53 will be nugatory. The question may arise as to why it is necessary to make a statutory provision as is proposed to be done in article 77 requiring the President to make rules of business. Why not leave it to the President to do so or not to do so as he likes ? The necessity for making a statutory provision in terms of article 77 is therefore necessary to be explained.

There are two things which must be borne in mind in criticising article 77. The first is that if the President wants to delegate his authority to some other officer or some other authority, there must be some evidence that he has made the delegation. It is not possible for persons who may have to raise such a question in a court of law to prove that the President has delegated the authority. Secondly, if the President by his delegation proposes to give authority to any particular individual to act in his name or in the name of the Government, then also that particular person or that particular officer must be specifically defined. Otherwise a large litigation may arise in a court of law in which the questions as to the delegation by President, the question as to the authority of any particular individual exercising the powers vested in the Union President may become matters of litigation. Those who have been familiar with litigation in our courts will remember that famous case of *Shibnath Banerjee vs. Government of Bengal*. Under the Defence of India Act, the Governor had made certain rules authorising certain persons to arrest certain individuals who committed offences against the Defence of India Act. The question was raised as to whether the particular individual who ordered the arrest under that particular law had the authority to act and in order to satisfy itself the Calcutta High Court called upon the Government of Bengal to prove to its satisfaction that the particular individual who was authorised to arrest was the individual meant by the Government of Bengal. The Government of Bengal had to produce its rules of business for the inspection of the Court before the Court was satisfied that the person who exercised the authority was the person meant by the rules of business.

It is in order to avoid this kind of litigation as to delegation of authority for acts that we thought it was necessary to introduce a provision like article 77. This article of course does not take away the power of the Parliament to make a law permitting other persons to have delegated authority as to permit them to act in the name of the Government of India. But while Parliament does make such a provision it is necessary that the President shall so act as to avoid any kind of litigation that may arise otherwise.

With regard to article 100 which relates to the question of quorum I do not know whether it is necessary for me to say anything in reply. All that I would say is that there is a fear having regard to the comparative figures

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relating to quorum prescribed in other legislative bodies in other countries that the quorum originally fixed was probably too high and we therefore suggested that the quorum should be reduced. The Drafting Committee's proposal is not an absolute proposal, because it is made subject to law made by Parliament. If Parliament after a certain amount of experience as to quorum comes to the conclusion that it is possible to carry on the business of Parliament with a higher quorum there is nothing to prevent Parliament from altering this provision as contained in article 100. The provision therefore is very elastic and permits the existing situation to be taken into account and permits also the future experience to become the guide of Parliament in altering the provision.

Something was said with regard to article 128. It was contended that we ought not to pamper our judges too much. All that I would say is that the question with regard to the salaries of judges is not now subject to scrutiny. The House has already passed a certain scale of salary for existing judges and a certain scale of salary for future judges. The only question that we are called upon to consider is when a person is appointed as a judge of a High Court of a particular State, should it be permissible for the Government to transfer him from that Court to a High Court in any other State? If so, should this transfer be accompanied by some kind of pecuniary allowance which would compensate him for the monetary loss that he might have to sustain by reason of the transfer? The Drafting Committee felt that since all the High Courts so far as the appointment of judges is concerned form now a central subject, it was desirable to treat all the judges of the High Courts throughout India as forming one single cadre like the I.C.S. and that they should be liable to be transferred from one High Court to another. If such power was not reserved to the Centre the administration of justice might become a very difficult matter. It might be necessary that one judge may be transferred from one High Court to another in order to strengthen the High Court elsewhere by importing better talent which may not be locally available. Secondly, it might be desirable to import a new Chief Justice to a High Court because it might be desirable to have a man who is unaffected by local politics and local jealousies. We thought therefore that the power to transfer should be placed in the hands of the Central Government.

We also took into account the fact that this power of transfer of judges from one High Court to another may be abused. A Provincial Government might like to transfer a particular judge from its High Court because that judge had become very inconvenient to the Provincial Government by the particular attitude that he had taken with regard to certain judicial matters, or that he had made a nuisance of himself by giving decisions which the Provincial Government did not like. We have taken care that in effecting these transfers no such considerations ought to prevail. Transfers ought to take place only on the ground of convenience of the general administration. Consequently, we have introduced a provision that such transfers shall take place in consultation with the Chief Justice of India who can be trusted to advise the Government in a manner which is not affected by local or personal prejudices.

The only question, therefore, that remained was whether such transfer should be made so obligatory as not to involve any provision for compensation for loss incurred. We felt that that would be a severe hardship. A judge is generally appointed to the High Court from the local bar. He may have a household there. He may have a house and other things in which he will be personally interested and which form his belongings. If he is transferred

from one High Court to another obviously he cannot transfer all his household. He will have to maintain a household in the original Province in which he worked and he will have to establish a new household in the new Province to which he is transferred. The Drafting Committee felt therefore justified in making provision that where such transfer is made it would be permissible for Parliament to allow a personal allowance to be given to a judge so transferred. I contend that there is nothing wrong in the amendment proposed by the Drafting Committee.

With regard to article 148 I need say nothing at this stage for the simple reason that the amendment moved by my friend Mr. T. T. Krishnamachari (No. 618) is one which has found itself agreeable to all those who had taken interest in this particular article.

Similarly article 320, over which there was so much controversy (if I may say so, without offence, utterly futile controversy) all controversy has now been set at rest by the revised amendment No. 558, which removes the objectionable parts which Members at one stage did not like.

With regard to article 365 there has been already considerable amount of debate and discussion. I also participated in that debate and stated my point of view. I am sure that after taking all that I said into consideration Members will find that article 365 is a necessary article and does not in any sense override the decisions taken by the House at an earlier stage.

I come to article 378. It was contended that this article should contain a provision of a uniform character for determining the population for election purposes. I am sorry to say that I am not in a position to accept this proposal of a uniform rule. It is quite impossible to have a uniform rule in the changing circumstances of the different Provinces. The Centre therefore must retain to itself the liberty to apply different tests to different Provinces for the purpose of determining the population. If any grave departure is made by reason of applying different rules to different Provinces, the matter is still open for the future Parliament to determine, because all matters which have relevance to constituencies will undoubtedly be placed before the Parliament and Parliament will then be in a position to see for itself whether the population as ascertained by the Central Government is proper, or below or above. Now, Sir, I come to article 391.

Pandit Balkrishna Sharma : Article 379?

The Honourable Dr. B.R. Ambedkar : About article 379 I can quite appreciate the objection of my honourable Friend Mr. Sharma. He objects to the words principally "Dominion of India". I tried yesterday with the help of Mr Mukerjee, the Chief Draftsman, my hand to redraft the article with the object of eliminating those words 'Dominion of India'. But I confess that I failed. I would therefore request Mr. Sharma to allow the article to stand as it is. It is unfortunate, but there is not remedy to it that I can see within the short time that was left to us.

Now coming to article 391, the position is this: The Constitution contains two sets of provisions for the creation of new provinces. Provinces can be created after the commencement of the Constitution. New Provinces can be created between 26th November and 26th January. With regard to the creation of Provinces after the commencement of the Constitution, the articles that would become operative are articles 3 and 4. They give power to Parliament to make such changes in the existing boundaries of the provinces in order to create new Provinces. Those articles are so clear that I do not think any further commentary from me is necessary.

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With regard to the creation of new Provinces between now and the 26th of January, the article that would be operative would be section 290 of the Government of India Act of 1935 and article 391 of the present Constitution. Sir, article 391 says that if between now and the 26th of January the authority empowered to take action under the Government of India Act, 1935 does take action, then the President, under article 391 is empowered to give effect to that order made under the Government of India Act Section 290. 'Notwithstanding the fact'—this is an important thing—"notwithstanding the fact that on the 25th January the Government of India Act, 1935, would stand repealed", the action would stand. The President is empowered under article 391 to carry over that action taken under the Government of India Act, 1935 and to give effect to it by an order amending the First Schedule and consequentially the Fourth Schedule which deals with representation in the Council of States.

An Honourable Member : He can only act after 26th January.

An Honourable Member : He can only act after 26th January.

The Honourable Dr. B. R. Ambedkar : He can act at any time. The Constituent Assembly will not be able to take notice of it, because it will not be in existence for this purpose after the 26th November. The point is this that the Government of India Act, 1935 will continue in operation after the 25th November, So long as that Act continues, the Governor-General's right to act under it also continues. He may take action at any time that lie likes.

My friend Mr. Sidhwa raised one question, namely that any action that may be taken between now and the 25th January should be subject to the scrutiny of Parliament. I think what he intends is that it should not be merely the act of the executive. My friend Mr. Sidhwa will remember that our Constitution will come into operation on the 26th of January. Till the 25th of January, the Constitution which will be operative in India will be the Constitution embodied in the Government of India Act, 1935, as adapted on 15th August 1947. Therefore, between now and the 25th of January, the Constitution is not the Constitution that we shall be passing, but the Constitution embodied in the Government of India Act 1935. Therefore in replying to his question whether the Parliament should have the right or the Indian legislature should have the right to be consulted in this matter, must be determined by the terms contained in section 290 of the Government of India Act, 1935.

If my friend Mr. Sidhwa were to turn to section 290 of the Government of India Act, he will see that the Governor-General is not required to ascertain the views of the Provincial legislature nor is he required to ascertain the views of the Indian Legislature. All that lie is required to do is to ascertain the views of the Government of any Province affected by the order. Therefore, so far as the operation of section 290 is concerned—and it is the only section which can be invoked so far as any action with regard to reconstitution of provinces between now and the 25th January is concerned—this has placed both the Provincial Legislature and the Indian Legislature outside the purview of any consultation that the Governor-General may make for acting under section 290. Therefore with the best wishes in the world it is not possible to carry out the wishes of my friend Mr. Sidhwa. He must therefore remain content with such provisions as we have got under section 290. Sir, I do not think any other article calls for a reply. I would therefore close with the hope that the House will be in a position to accept the amendments proposed by the Drafting Committee. (*Cheers*)

Mr. President : I will now put the amendments one by one to vote. Members have noticed that there are many amendments which arise on some amendment or other of the Drafting Committee. It may be that some of the amendments which have been moved by members may be acceptable to the Drafting Committee and it may be that some Members are willing to withdraw the amendments which they have moved.

Shri T. T. Krishnamachari : May I mention the amendments which we are prepared to accept ?

Mr. President : I was just coming to that. If an indication is given on behalf of the Drafting Committee as to which of the amendments are acceptable to them, we can avoid putting them to the vote, and, if on the other hand, private Members are also able to express as to which of the amendments they would not like to press, we would leave them alone, so that the number of amendments which will have to be put to the vote may be reduced.

Shri T. T. Krishnamachari : Mr. President, Sir, honourable Members of this House will please note that some of the amendments suggested by the Drafting Committee which appear in Lists IV, V, VI and VII, are the result of the discussions with some of the Members who moved amendments which find a place in List I and as a result of the compromise which has been arrived at between them and the Drafting Committee some of these amendments have been moved which, we think, the House will accept. The honourable Members who have moved the original amendments which find a place in List I will, I think, not persist in putting forward these amendments but withdraw them in view of the action taken, by the Drafting Committee by introducing fresh amendments to suit the purpose they had in mind. Barring these amendments, there are a few amendments which we will accept and which find a place in List I. All these amendments happen to be in the name of my honourable Friend, Mr. H. V. Kamath. They are amendments No. 329 to article 164 for changing the name from "Koshal Vidarbh" to "Madhya Pradesh", the first alternative in the two amendments Nos. 394 and 395 to article 320. The Drafting Committee had an amendment to similar effect, but in view of the fact that my honourable Friend has moved this amendment, we are willing to accept it—amendment No. 418 to article 379, and amendment No. 431 to the First Schedule which is a consequence of the acceptance of amendment No. 329. *viz.*, change of name from "Koshal Vidarbh" to "Madhya Pradesh". These amendments we are willing to accept. So far as the other amendments are concerned, the more important ones among them have been accepted by the Drafting Committee themselves tabling amendments to suit the purpose that honourable Members had in mind when they tabled those amendments because we found that the amendments had to be put in a different form to suit legal technicalities. I do hope that honourable Members will help the House by not pressing their amendments.

Shri H. V. Kamath : What about my amendment to article 41 which I discussed with my honourable Friend and which he was willing to accept ?

Mr. President : We shall take it up when we come to that.

Shri T. T. Krishnamachari : I may mention, Sir, that he did mention to me that the words in article 41 should be "State assistance" instead of "public assistance". If the amendment is tabled, you may kindly permit the amendment being moved. I have no objection to the amendment as such but I see that no amendment has been tabled.

Shri H. V. Kamath : My amendment is there, No. 138* in List I.

Shri T. T. Krishnamachari : I will accept that.

Mr. President : You mentioned that this morning. I will now take up my amendments as they have been moved. First, amendment No. 6 by Mr. Kamath.

*138. That in article 41, for the words 'public assistance' the words 'State assistance' be substituted.

Shri B. Das : Sir, you need not read the amendments in List I. We all agree that all our amendments can be withdrawn, because the Drafting Committee have introduced the very amendments in another form. Take for instance my amendment No. 313. It is covered by No. 618. There is no need for your reading out the amendments. We will take it that all the amendments in List I stand withdrawn.

Mr. President : There are other amendments which honourable Members may not like to withdraw. I think I had better put all the amendments to the vote. The question is:

“That in clause (1) of article 1, after the words ‘that is’ a comma be inserted and the comma after the word ‘Bharat’ be deleted.”

The amendment was negatived.

Mr. President : The question is:

“That in sub-clause (a) of clause (3) of article 13

- (i) after the word ‘having’ the words ‘the force of law’ be inserted;
- (ii) after the word ‘India’ the words ‘or any part thereof’ be inserted; and
- (iii) the words ‘the force of law’ be deleted.”

The amendment was negatived.

Mr. President : If I leave out any amendment by mistake, honourable Members will draw my attention to it. Amendment No. 83 to article 22 which has been considerably altered.

Mr. Naziruddin Ahmad : I would like to have leave to withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is:

“That article 34 be deleted.”

The amendment was negatived.

Mr. President : There are some other amendments to this article, No. 122.

Shri H. V. Kamath : I withdraw Nos. 122 and 123 but not 124.

Amendment Nos. 122 and 123 were, by leave of the Assembly, withdrawn.

Mr. President : The question is:

“That in article 34, for the words ‘done under martial law’ the words ‘done by such person under martial law’ be substituted.”

The amendment was negatived.

Shri H. V. Kamath : What about my amendment No. 138 to which I referred just now?

Mr. President : Yes. The question is:

“That in, article 41, for the words ‘public assistance’ the words ‘State assistance’ be substituted”.

The amendment was negatived.

Mr. President : We then go to article 48.

Prof. Shibban Lal Saksena : I beg to withdraw my amendment No. 141.

The amendment was, by leave of the Assembly, withdrawn.

Pandit Thakur Das Bhargava : I beg to withdraw all my amendments (142 and 144) relating to article 48.

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

Mr. President : I take it that 549 will take its place. I shall therefore put 549 straightaway to vote.

The question is:

“That in article 48, for the words ‘for improving the breeds of milch and draught cattle including cows and calves and for prohibiting their slaughter’ the words ‘for preserving and improving the breeds and prohibiting the slaughter of cows and calves and other milch and draught cattle’ be substituted.”

The amendment was adopted.

Mr. President : Then we go to article 53.

Shri H. V. Kamath : I beg to withdraw my amendment No. 151.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is:

“That in clause (1) of article 53, after the word ‘Constitution’ the words ‘and the law be added.’”

The amendment was negatived.

Mr. President : Then we go to article 57.

The question is:

“That in article 57, the words ‘subject to the other provisions of this Constitution’, be deleted.”

The amendment was negatived.

Mr. President : The question is:

“That in the form of oath or affirmation in article 69, the words ‘as by law established’ be deleted.”

The amendment was negatived.

Mr. President : The question is:

“That in the form of oath or affirmation in article 69, for the words ‘the duty upon Which I am about to enter’ the words ‘the duties of the office upon which I am about to enter’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in clause (2) of article 71, for the words ‘the date of the decision’, the words ‘the time of the decision’ be substituted.”

The amendment was negatived.

(Mr. Naziruddin Ahmad did not press his amendment No. 584.)

Mr. President : The question is:

“That in clause (2) of article 71, for the words ‘before the date’ the words ‘on or before the date’ be substituted.”

The amendment was adopted.

Prof. Shibban Lal Saksena : I beg to withdraw my amendment No. 201.

The amendment was, by leave of the Assembly, withdrawn.

Shri R. K. Sidhwa : I beg to withdraw my amendment No. 202.

The amendment was, by leave of the Assembly, withdrawn.

Shri H. V. Kamath : Sir, I beg to withdraw my amendment No. 203.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is:

“That in clause (3) of article 77, for the words ‘more convenient’ the words ‘efficient and convenient’ be substituted.

or alternatively

That in clause (3) of article 77, the word ‘more’ be deleted.”

The amendment was negatived.

Mr. President : The question is:

“That in clause (2) of article 96, for the words ‘and shall, notwithstanding anything in article 100, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of equality of votes’ the words ‘but, notwithstanding anything in article 100, shall not be entitled to vote at all on such resolution or on any other matter during such proceedings’ be substituted.”

The amendment was negatived.

Shri H. V. Kamath : I withdraw, my amendment No. 228.

The amendment was, by leave of the Assembly, withdrawn.

(Mr. H. V. Kamath did not press his amendment Nos. 231, 234 and 235.)

Mr. President : There is amendment No. 233 to article 100. I think I had not better put it to vote just now, I think it is a renumbering of paragraphs.

Amendment No. 238 stands in the name of Mr. Kamath and Prof. Shibban Lal Saksena. I forgot who moved it.

Prof. Shibban Lal Saksena : That has been accepted.

Shri T. T. Krishnamachari : That is covered by amendment No. 452.

Mr. President : I take it that amendment No. 238 is withdrawn.

Prof. Shibban Lal Saksena : Yes, Sir.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : As for amendment No. 452, I had better leave that for the present.

The question is:

“That in clause (3) of article 100, for the word ‘one-tenth’ the word ‘one-sixth’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in article 128, for the words ‘the President may by order’ the words ‘Parliament may by law’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That sub-clause (3) of clause (1) article 145 be deleted and before clause (1) of article 145, the following be inserted:—

“The Supreme Court shall make rules for regulating the practice and procedure of the appropriate proceeding relating to the enforcement of rights conferred under Part III; and the subsequent clauses be renumbered accordingly.”

The amendment was negatived.

Mr. President : The question is:

“That sub-clause (c) of clause (1) of article 145 be deleted; and after clause (1) of the said article, the following new clause be inserted and consequential changes be made:—

(2) The Supreme Court shall make rules for regulating the practice and procedure of the appropriate proceedings relating to the enforcement of rights conferred under Part III.’ ”

The amendment was negatived.

Mr. President : Amendment No. 313. There is another amendment. It is covered by amendment 618 of the Drafting Committee.

Shri B. Das : I beg leave to withdraw this, Sir.

The amendment was, by leave of the Assembly, withdrawn.

Shri H. V. Kamath : 'I beg leave to withdraw No. 320.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is :

“That in clause (1) of article 154, after the word ‘Constitution’ the words ‘and the be added.’”

The amendment was negatived.

Mr. President : The question is :

“That in the proviso to clause (1) of article 164, for the words ‘Koshal Vidarbh’ the words ‘Madhya Pradesh’ be substituted.”

The amendment was adopted.

Prof. Shibban Lal Saksena : I beg leave to withdraw No. 332.

Shri R. K. Sidhwa : And No. 333, Sir.

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

Mr. President : The question is:

“That in clause (3) of article 166, for the words ‘more convenient’ the word ‘efficient’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That in clause (3) of article 166, the words ‘in so far as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion’ be deleted.”

The amendment was negatived.

Shri H. V. Kamath : I beg leave to withdraw No. 340.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is :

“That in clause (2) of article 172, for the word ‘possible’ the word ‘practicable’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in clause (2) of article 181, for the words land shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of equality of votes’ the words ‘but not with standing anything in article 189, shall not be entitled to vote on such resolution or on any matter during such proceedings’ be substituted.”

The amendment was negatived.

Shri H. V. Kamath : I beg leave to withdraw No. 344.

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

Mr. President : The question is :

“That in clause (2) of article 185, for the words ‘and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter

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during such proceedings but not in the case of equality of votes' the words 'but, notwithstanding any thing in article 189, shall not be entitled to vote on such resolution or on any matter during such proceedings' be substituted."

The amendment was negatived.

Shri H. V. Kamath : I beg leave to withdraw 346.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is :

"That in the second paragraph of clause (3) of article 189, for the words 'The quorum shall, until the legislature of the State by law otherwise provides,' the words 'Until the legislature of the State by law otherwise provides, the quorum shall' be substituted."

The amendment was negatived.

Shri H. V. Kamath : Is that not covered by an amendment of the Drafting Committee?

Mr. President : It has a different Wording. If it is covered by any other amendment, it will be taken up.

The question is :

That in clause (3) of article 189. for the words 'ten' and 'one-tenth' the words 'twenty' and one-eighth' be substituted."

The amendment was negatived.

Shri R. K. Sidhwa : Sir, I withdraw No. 353.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is :

The Clause (2) of article 222 be deleted."

The amendment was negatived.

Mr. President : The question is :

"That in article 224, for the words 'the President may by order' the words 'Parliament may by law be substituted."

The amendment was negatived.

Pandit Thakur Das Bhargava : I beg leave to withdraw No. 383.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is :

"That in the proviso to article 309, the words 'or such person as, he may direct, wherever they occur, be deleted."

The amendment was negatived.

Mr. President : The question is :

"That in clause (3) of article 311, for the words 'reasonably practicable to give to any person an opportunity' the words 'practicable to give to any person a reasonable opportunity' be substituted."

The amendment was negatived

Shri H. V. Kamath : I beg to withdraw No. 389.

The amendment was, by leave of the Assembly withdrawn.

Mr. President : The question is :

"That in clause (c) of article 319, for the words 'other than a Joint Commission' the words or as the Chairman of a joint Commission' be substituted:'

The amendment was negatived.

Mr. President : Amendment No. 394.

Shri H. V. Kamath : Nos. 394 and 395 have been accepted, Sir; the first alternative.

Shri T. T. Krishnamachari : They may be put together; they are practically the same.

Mr. President : The question is:

“That in sub-clause (d) of clause (3) of article, 320, for the words ‘under an Indian State’ the words ‘under the Government of an Indian State’ be substituted.”

The amendment was adopted.

Mr. President : The question is :

“That in sub-clause (e) of clause (3) of article 320, for the words ‘under an Indian State’ the words ‘under the Government of an Indian State’ be substituted.”

The amendment was adopted.

Pandit Thakur Das Bhargava : I withdraw No. 396.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is :

“That in article 325, for the words ‘shall be ineligible for inclusion in any such roll or claim to be included in’ the words ‘shall be excluded from or claim to be included in’ be substituted.”

The amendment was negatived.

Mr. President : Article 333.

Shri H. V. Kamath : There is my amendment No. 399, Sir.

Mr. President : I do not know if it arises; however, I shall put it to vote.

The question is :

“That in article 325, after the word caste, the word ‘class’ be inserted.”

The amendment was negatived.

Mr. President : The question is :

“That in clause (3) of article 344, for the words ‘persons belonging to the non-Hindi speaking areas the words ‘the non-Hindi speaking sections of the population’ be substituted.”

The amendment was negatived.

Mr. President : The question is

“That article 365 be deleted.”

The amendment was negatived.

Mr. President : The question is :

“That in article 365, after the word Where’ the words ‘The President is satisfied that’ be inserted.”

The amendment was negatived.

Mr. President : The question is :

“That in article 365, after the words ‘under any of the provisions of this Constitution’ the words ‘which is in direct contravention of the declared policy of the Union’ be inserted.

The amendment was negatived.

Mr. President : The question is :

“That article 373 be deleted.”

The amendment was negatived.

Mr. President : The question is :

“That in article 373, for the words ‘one year’ the words three months’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That in clause (5) of article 379, for the words ‘after such commencement’ the words ‘on commencement’ be substituted.”

The amendment was adopted.

Pandit Balkrishna Sharma : Amendment No. 416 has been left out.

Mr. President : I will take it along with amendment No. 503. The question is :

“That in article 387 the words ‘and different provisions may be made for different States and for different purposes by such order’ be substituted.”

The amendment was negatived.

Shri H. V. Kamath : I withdraw Nos. 424 and 425.

Shri R. K. Sidhwa : Also No. 426.

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

Mr. President : The question is :

“That in clause (3) of article 392 for the word ‘before’ the word ‘until’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That in clause (3) of article 392 for the word ‘before’ the words ‘until immediately before’ be substituted “

The amendment was negatived.

Mr. President : The question is :

“That in item 5 of Part A of the First Schedule for the name ‘Koshal Vidarbh’ the name Madhya Pradesh’ be substituted.”

The amendment was adopted.

Shri H. V. Kamath : I withdraw No. 432.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is :

“That in item 9 of Part A of the First Schedule, for the name ‘The United Provinces the name ‘Aryavarta’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That in sub-paragraph (3) of paragraph 9 the words beginning with ‘during the period’ and ending ‘before such commencement’ be deleted.”

The amendment was negatived.

Mr. President : The question is:

“That sub-paragraph (2) of paragraph 10 be deleted.”

The amendment was negatived.

Mr. President : The question is :

“That in subparagraph (4) of paragraph 10, for the words ‘for any State’ the words of any State’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in sub-paragraph (3) of paragraph 12, for the word ‘and’ occurring in line 1, a comma be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That in the Fourth Schedule in Column I, for the name ‘Koshal Vidarbh ‘the name Madhya Pradesh ‘ be substituted.”

The amendment was adopted.

Mr. President : The question is :

“That in entry I of List I of the Seventh Schedule, after the word ‘preparation’ the words and operation’ be inserted.”

The amendment was negatived.

Mr. President : The question is :

“That in entry 65 of List I of the Seventh Schedule, before the word ‘police’ the words “Administrative or’ be inserted.”

The amendment was negatived.

Mr. President : The question is :

“That entry 34 of List III be transferred to List I.”

The amendment was negatived.

Mr. President : The question is

“That in article 9 after the word and figure ‘article the words ‘or be deemed to be a citizen of India by virtue of’ be inserted.”

The amendment was adopted.

Shri T. T. Krishnamachari : Sir, I withdraw No. 443.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is :

“That in the Explanation to article 58, for the words ‘For the purposes of this clause the words ‘For the purposes of this article’ be substituted.”

The amendment was adopted.

Mr. President : The question is :

“That for clause (3) of article 59 the following clause be substituted:

‘(3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances, and privileges as are specified in the Second Schedule.’

The amendment was adopted.

Mr. President : The question is :

“That in clause (3) of article 65 for the words ‘privileges, emoluments and allowances in the two places where they occur, the words ‘emoluments, allowances and privileges’ be substituted.”

The amendment was adopted.

Mr. President : 447.

Dr. P. S. Deshmukh : All the Drafting Committee's amendments may be put together.

The Honourable Shri K. Santhanam : Some of them might not have been moved.

Mr. President : Then I will go as it is one by one.

The question is:

"That in the Explanation to article 66 for the words 'For the purposes of this clause' the words 'For the purposes of this article' be substituted."

The amendment was adopted.

Mr. President : The question is :

"That amendment No. 449 of List 11 be deleted."

The amendment was negatived.

Mr. President : The question is :

"That in sub-clause (b) of clause (1) of article 72 for the words 'offence under any law the words 'offence against any law' be substituted."

The amendment was adopted.

(Mr. Naziruddin Ahmad did not press his amendment No. 586)

Mr. President : The question is :

"That in the proviso to clause (1) of article 73 after the words 'any State' the words and letters 'specified in Part A or Part B of the First Schedule' be inserted."

The amendment was adopted.

Mr. President : The question is :

"That in sub-clause (a) of clause (1) of article 81, for the word and figures 'article 331' the words and figures 'articles 82 and 331' be substituted."

The amendment was adopted.

Mr. President : The question is :

"That in amendment No. 452 of List 11, in the proposed clause (3) of article 100, for the words until Parliament by law otherwise provides, the quorum' the words 'The quorum' be substituted."

The amendment was negatived.

Mr. President : The question is :

"That in amendment No. 452 of List It in the proposed clause (3), of article 100 for the word one-tenth' the word one- sixth be substituted."

The amendment was negatived.

Shri R. K. Sidhwa : I withdraw No. 589.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is

'That for clause (3) of article 100 the following clauses be substituted:

- (3) Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one-tenth of the total number the House.
- (4) If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum."

The amendment was adopted.

Mr. President : The question is :

“That in article 104 for the words ‘the Government of India’ the words ‘the Union’ be substituted.”

The amendment was adopted.

Mr. President : The question is :

“That in clause (1) of article 105 for the words ‘Subject to the rules and standing orders’ the words ‘Subject to the provisions of this Constitution and to the rules and standing orders’ be substituted.”

The amendment was adopted.

Mr. President : The question is

“That in amendment No. 455 of List II in clause (2) of article 114, for the words ‘whether an amendment is inadmissible’ (proposed to be substituted) the words ‘as to the admissibility of the amendment’ be substituted.”

The amendment was negatived.

Mr. President : Then I put amendment No. 455 to vote.

The question is

“That in clause (2) of article 114, for the words ‘the amendments which are admissible’ the words ‘whether an amendment is inadmissible’ be substituted.”

The amendment was adopted.

(Mr. Naziruddin Ahmad did not press his amendment No. 591).

Mr. President : The question is :

“That in clause (1) of article 124, for the words ‘seven other Judges’ the words ‘not more than seven other Judges’ be substituted.”

The amendment was adopted.

Mr. President : That the proviso to clause (1) of article 133 be omitted and for the colon at the end of the said clause a ‘full stop’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That after clause (2) of article 133, the following clause be added:—

‘3. Notwithstanding anything in this article. No appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.’ ”

The amendment was adopted.

Mr. President : Then article 135, and amendment No. 458.

The question is:

“That in article 135, for the words ‘not being a matter referred to in any of the foregoing provisions of this Chapter’ the words ‘to which the provisions of article 133 or article 134 do not apply’ be substituted.”

The amendment was adopted.

Mr. President : Amendment No. 459.

The question is:

“That in clause (1) of article 136, for the words ‘The Supreme Court’ the words ‘Notwithstanding anything in this Chapter, the Supreme Court’ be substituted.”

The amendment was adopted.

Mr. President : Then we come to article 145. There is amendment No. 460 of the Drafting Committee and there is also No. 550 of Mr. Kamath.

Shri H. V. Kamath : Sir, I withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : Then I put amendment No. 460.

The question is :

“That in sub-clause (c) of clause (1) of article 145, for the words ‘enforcement of the rights’ the words ‘enforcement of any of the rights’ be substituted.”

The amendment was adopted.

Mr. President : Article 158, and amendment No. 461.

The question is :

“That for clause (3) of article 158, the following clause be substituted:—

‘(3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.’ ”

The amendment was adopted.

Mr. President : No. 462.

The question is:

“That in the proviso to article 162, for the words ‘the Government of India’ the words ‘the Union’ be substituted.”

The amendment was adopted.

Mr. President : No. 463. And to that there is the amendment No. 594 by Mr. Naziruddin Ahmad.

Shri T. T. Krishnamachari : There is another amendment to article 168 that I have moved, that ‘Bengal’ may be changed to ‘West Bengal’. So it may be put as amended.

Mr. President : Yes, we take that amendment which has been moved today with regard to the name of Bengal, along with this, and all the consequential changes with regard to the name “Bengal”, “West Bengal” will be put in place of “Bengal”.

The question is:

“That for sub-clause (a) of clause (1) of article 168, the following sub-clause be substituted:—

‘(a) in the States of West Bengal, Bihar, Bombay, Madras, Punjab and the United Provinces, two Houses.’

The amendment was adopted.

Mr. President : Article 181, amendment No. 464.

The question is :

“That in clause (1) of article 181, the words ‘of a State’ omitted.”

The amendment was adopted.

Mr. President : Article 181, amendment No. 465.

The question is :

“That in clause (2) of article 181, for the word ‘House’ the word ‘Assembly’ be substituted.”

The amendment was adopted.

Mr. President : Amendment No. 466, and there is No. 595 to this.

Shri T. T. Krishnamachari : No. 595 is a negative amendment.

Mr. President : Well then. The question is:

“That in clause (1) of article 185, the words ‘of a State’ be omitted.”

The amendment was adopted.

Mr. President : Article 189 and amendment No. 467. There are several amendments to this. There is No. 596 of Mr. Naziruddin Ahmad.

Shri T. T. Krishnamachari : It is the same as No. 100. Probably the honourable Member will be willing to withdraw it.

Mr. Naziruddin Ahmad : I beg leave to withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : Then there is No. 597 of Mr. Sidhva. Do you press it? It is about “ten members or one-tenth” and “twenty members or one-sixth”.

Shri R. K. Sidhwa : Yes, Sir.

Mr. President : Well then. The question is:

“That in amendment No. 467 of List II, in the proposed clause (3) of article 189, for the words ‘ten members or one-tenth’ the words ‘twenty members or one-sixth’ be substituted.”

The amendment was negatived.

Mr. President : Then No. 598. You withdraw it, I suppose?

Shri R. K. Sidhwa : I withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : Amendment No. 467. The question is:

“That for clause (3) of article 189, the following clauses be substituted:—

(3) Until the Legislature of the State by law otherwise provides, the quorum to constitute a meeting of a House of the Legislature of a State shall be ten members or one-tenth of the total number of members of the House, whichever is greater.

(4) If at any time during the meeting of the Legislative Assembly or the legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.’ ”

The amendment was adopted.

Mr. President : No. 468. The question is:

“That in sub-clause (e) of clause (1) of article 191, for the words ‘the Legislature of the state’ the word ‘Parliament’ be substituted.”

The amendment was adopted.

Mr. President : No. 469. The question is:

“That in clause (2) of article 191, for the words ‘either for India or for any such State’ the words ‘either for the Union or for such State’ be substituted.”

The amendment was adopted.

Mr. President : No. 470. The question is:

“That in article 193 for the words ‘the Legislature of the State’ the words ‘Parliament or the Legislature of the State’ be substituted.”

The amendment was adopted.

Mr. President : Then No. 471. There is an amendment to this—No. 554 of Mr. Kamath.

Shri H. V. Kamath : Sir, I withdraw that amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : Then the question is:

“That in clause (1) of article 194, for the words ‘Subject to the rules and standing orders’ the words ‘Subject to the provisions of this Constitution and to the rules and standing orders’ be substituted.”

The amendment was adopted.

Mr. President : No. 472. The question is:

“That in clause (2) of article 204, for the words ‘the amendments which are admissible’ the words ‘whether an amendment is inadmissible’ be substituted.”

The amendment was adopted.

Mr. President : No. 473. The question is:

“That for clause (c) of the proviso to clause (1) of article 217, the following clause be substituted:—

(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.”

The amendment was adopted.

(Mr. Naziruddin Ahmad did not press his amendment Nos. 599, 600 and 601.)

Mr. President : No. 474. The question is:

“That in article 230, after the words ‘any State’ the words ‘specified in the First Schedule’ be inserted”.

The amendment was adopted.

Mr. President : No. 475. The question is:

“That in article 232 after the words ‘more than one State’ the words ‘specified in the First Schedule be inserted.”

The amendment was, adopted.

Mr. President : No. 476. The question is:

“That in article 234, after the word ‘Governor’ the words ‘of the State’ be inserted, and after the words ‘High Court’ the words ‘exercising jurisdiction in relation to such State’ be inserted.”

The amendment was adopted.

Mr. President : No. 477. The question is:

“That in item (4) of article 238, in the proposed clause (3) of article 158, for the words ‘entitled to the use of an official residence without payment of rent, and there shall be paid to the Rajpramukh such allowances’ the words ‘entitled without payment of rent to the use of an official residence and shall be also entitled to such allowances and privileges’ be substituted.”

The amendment was adopted.

Mr. President : No. 478. That is withdrawn, as it is covered by No. 556. No. 479 is also withdrawn.

No. 480. The question is:

“That in clause (2) of article 289 for the words ‘any property used or occupied for the purposes thereof, or any income accruing or arising therefrom’ the words ‘any property used or occupied for the purposes of such trade or business, or any income accruing or arising, in connection therewith, be substituted.”

The amendment was adopted.

Mr. President : No. 481. The question is:

“That for article 294, the following article be substituted:—

‘294. *Succession to property, assets, rights, liabilities and obligations in certain cases.*—As from the commencement of this Constitution—

- (a) all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of each Governor’s Province shall vest respectively in the Union and the corresponding State, and
- (b) All rights, liabilities, and obligations of the Government of the Dominion of India and of the Government of each Governor’s Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Government of India and the Government of each corresponding State,

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.’ ”

The amendment was adopted.

(Mr. Naziruddin Ahmad did not press his amendment Nos. 604 and 606 to articles 294 and 366 respectively.)

Mr. President : No. 482. The question is:

“That in sub-clause (a) of clause (1) of article 295, for the words ‘the commencement of this Constitution’ the words ‘such commencement’ be substituted.”

The amendment was adopted.

Mr. President : No. 483. The question is:

“That in sub-clause (a) of clause (1) of article 295, for the words ‘the Government of India’ the words ‘the Union’ be substituted.”

The amendment was adopted.

Mr. President : No. 484. The question is:

“That in article 296, after the words ‘His Majesty’ in the first place where they occur, the words ‘or, as the case may be, to the Ruler of an Indian State’ be inserted.”

The amendment was adopted.

Mr. President : No. 485. The question is:

“That in the proviso to article 296, after the words ‘His Majesty’ the words ‘or to the Ruler of an Indian State’ be inserted.”

The amendment was adopted.

Mr. President : No. 486. The question is:

“That to article 296, the following Explanation be added:—

“Explanation.—In this article, the expressions ‘Ruler’ and ‘Indian State’ have the same meanings as in article 363.’ ”

The amendment was adopted.

Mr. President : No. 487. The question is:

“That in the proviso to clause (1) of article 316, for the words ‘under an Indian State’ the words ‘under the Government of an Indian State’ be substituted.”

The amendment was adopted.

Mr. President : Then article 319. Amendments 488, 489 and 490. There is some substitution for these. These are, therefore, withdrawn, I take it. Then article 320. Amendment No. 491. But amendment No. 559 covers it, and so I take it that No. 491 is withdrawn.

Then article 351 and amendment No. 492.

The question is :

“That in article 351, the words ‘so specified’ be deleted.”

The amendment was adopted.

Mr. President : No. 493. The question is:

“That in clause (2) of article 352, the brackets and words ‘(in this Constitution referred to as a “Proclamation of Emergency”)’ be omitted.”

The amendment was adopted.

Mr. President : No. 494. The question is:

“That in clause (b) of article 353, for the words ‘the Government of India or officers and authorities of the Government of India’ the words ‘the Union or officers and authorities of the Union’ be substituted.”

The amendment was adopted.

Mr. President : No. 495. The question is:

“That in sub-clause (b) of clause (1) of article 357, for the words ‘the Government of India or officers and authorities of that Government’ the words ‘the Union or officers and authorities thereof’ be substituted.”

The amendment was adopted.

Mr. President : Article 365: Amendment No. 496. But we have amendment No. 561 which has taken the place of amendment No. 496, and so it is withdrawn.

Article 366. The question is:

“That clause (12) of article 366 be omitted.”

The amendment was adopted.

Mr. President : The question is:

“That clauses (13), (14), (15), (16), (17), and (18) of article 366 be renumbered as clauses (12), (13), (14), (15), (16), and (17) respectively.”

The amendment was adopted.

Mr. President : The question is:

“That after clause (17) as so renumbered, the following clause be inserted:—

“(18) ‘Proclamation of Emergency’ means a Proclamation issued under clause (1) of article 352;”

The amendment was adopted.

Mr. President : Then we come to amendment No. 500.

Shri T. T. Krishnamachari : Sir, it has been replaced by amendment No. 562.

Mr. President : I shall, therefore, treat it as withdrawn. I am told 501 was not moved. Let us therefore go to 502.

The question is:

“That in clause (2) of article 370, for the words, brackets, letters and figures ‘in paragraph (ii) of sub-clause (b) or in the second proviso to sub-clause (d) of clause (1)’

the words, brackets, letters and figure 'in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause' be substituted."

The amendment was adopted.

Mr. President : I find there are several amendments to 503.

Pandit Balkrishna Sharma : Sir, I withdraw Nos. 416 and 417.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is:

"That with reference to amendment No. 503 of List II, in clause (1) of article 379, for the words 'the body functioning as the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution' the words 'the Constituent Assembly of India' be substituted."

The amendment was negatived.

Mr. President : No. 564 is withdrawn. The question is:

"That in clause (1) of article 379, for the words 'shall exercise' the words 'shall be the provisional Parliament and shall exercise' be substituted."

The amendment was adopted.

Mr. President : The question is:

"That in clause (2) of article 388, for the words 'the provisional legislature' the words 'the Legislature' be substituted."

The amendment was adopted.

Mr. President : There is one amendment (No. 530) which I allowed Dr. Deshmukh to move to article 335 that after the word "members" the words "the Backward classes" be inserted.

The question is:

"That in article 335, after the word 'members' the words 'the Backward Classes' be inserted."

The amendment was negatived.

Mr. President : Then we come to amendment No. 545. There are several amendments to this. The question is:

"That in amendment No. 545 of List IV, the proviso to sub-clause (a) of the proposed clause (4) of article 22 be deleted."

The amendment was negatived.

Mr. President : Mr. Ajit Prasad Jain's amendment No. 580 does not arise. I shall put 581 to vote. The question is:

"That in amendment No. 545 of List IV, in sub-clause (a) of the proposed clause (4) of article 22, for the word 'or' occurring at the end the word 'and' be substituted."

The amendment was negatived.

Mr. President : The question is:

"That with reference to amendment No. 545 of List IV, for sub-clause (b) of the proposed clause (4) of article 22, the following be substituted:

'(b) such person is detained in accordance with the provisions of any law made by a State under the authority conferred by Parliament under clause (7).'

The amendment was negatived.

Mr. President : The question is:

“That with reference to amendment No. 545 of List IV, for sub-clause (b) of clause (4) of article 22, the following be substituted:—

‘(b) such person is detained in accordance with the provisions of any law made under the authority conferred by Parliament under clause (7).’ ”

The amendment was negatived.

Mr. President : The question is:

“That for clause (4) of article 22, the following clause be substituted:—

‘(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clause (a) and (b) of clause (7).’ ”

The amendment was adopted.

Mr. President : I find there are two amendments to amendment 546. Let me put Mr. Kamath’s amendment to vote first.

The question is:

“That in amendment No. 546 of List IV, in sub-clause (a) of the proposed clause (7) of article 22, the words ‘without obtaining the opinion of an advisory Board in accordance with the provisions of sub-clause (a) of clause (4)’ be deleted.”

The amendment was negatived.

Shrimati Purnima Banerji : Sir, I withdraw my amendment No. 617.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is:

“That for clause (7) of article 22, the following clause be substituted:—

‘(7) Parliament may by law prescribe—

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).’ ”

The amendment was adopted.

Mr. President : The question is:

“That in clause (4) of article 32, for the word ‘rights’ the word ‘right’ be substituted.”

The amendment was adopted.

Amendment Nos. 551, 552 and 553 Were, by leave of the Assembly, withdrawn.

Mr. President : The question is:

“That in clause (1) of article 222, after the words ‘The President may the words’ after consultation with the Chief Justice of India’ be inserted.”

The amendment was adopted.

Mr. President : The question is:

“That for the Explanation to clause (1) of article 288, the following) be substituted:-

Explanation.—The expression ‘law of a State in force’ in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.’ ”

The amendment was adopted.

Mr. President : The question is:

“That in clause (c) of article 319, for the words ‘as the Chairman of a State Public Service Commission other than a Joint Commission’ the words ‘as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission’ be substituted.”

The amendment was adopted.

Mr. President : The question is :

“That in clause (d) of article 319, for the words ‘as the Chairman of any other State Public Service Commission’ the words ‘as the Chairman of that or any other State Public Service Commission’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That for clause (4) of article 320, the following clause be substituted:—

‘(4) Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335.’ ”

The amendment was adopted.

Mr. President : The question is:

“That for article 347, the following article be substituted:—

‘347. *Special provision relating to language spoken by a section of the population of a State.* On a demand being made in that behalf, the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.’

The motion was adopted.

Mr. President : The question is:

“That in article 365, for the words ‘the President may hold’ the words ‘it shall be lawful for the President to hold’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That in amendment No. 500 of List II, the proviso to the proposed new clause (3) of article 367 be deleted.”

The amendment was negatived.

Mr. President : Amendment No. 562A.

Shri T. T. Krishnamachari : With the change as suggested by me.

Mr. President : Yes. It will now read as follows and I will put it to vote.

The question is:

“That in article 367, the following clause be added:—

‘(3) For the purposes of this Constitution ‘foreign State’ means any State other than India:

Provided that, subject to the provisions of any law made by Parliament, the President may by order declare any State not to be a foreign State for such purposes as may be specified in the order.”

The amendment was adopted.

Mr. President : The question is:

“That in article 385, for the words ‘such. commencement’ the words ‘the commencement of this Constitution’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That in clause (1) of article 388, for the words ‘the President of the Union’ in the two places where they occur, the words ‘the President of India’ be substituted”

The amendment was adopted.

Mr. President : The question is:

“That in the first proviso to clause (1) of article 388, for the words mentioned in this article’ the words ‘mentioned in this clause’ be substituted.”

The amendment was adopted.

Mr. President : Amendment No. 568. There is an amendment, No. 621, to this amendment by Mr. Kamath. I will put it first. ‘The question is:

“That with reference to amendment No. 568 of List IV, in the first proviso to clause (1) of article 388, the words and letter ‘Part A of’ be deleted.”

The amendment was negatived.

Mr. President : Then I will put No. 568.

The question is:

“That in the first proviso to clause (1) of article 388, for the words ‘representing a State’ the words ‘representing a Province or, as the case may be, a State’ be substituted.”

The amendment was adopted.

Mr. President : Amendment No. 569. There is amendment No. 622 to this amendment. I will put No. 622 first.

The question is:

“That with reference to amendment No. 569 of List IV, in the second proviso to clause (1) of article 388, the words and letter ‘Part A of’ be deleted.”

The amendment was negatived.

Mr. President : The question is:

“That in the second proviso to clause (1) of article 388, for the words ‘representing a State’ the words ‘representing a Province or a State be substituted.”

The amendment was adopted.,

Mr. President Amendment No. 570. There is an amendment to this, No. 623 which I will put first.

The question is:

“That with reference to amendment No. 570 of List IV, in the second proviso to clause (1) of article 388, for the words ‘the Legislative Assembly of that State’ the words ‘the Legislative Assembly of that Province or of the corresponding State or of that State, wherever such Assembly has been constituted’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in the second proviso to clause (1) of article 388, for the words ‘Legislative Assembly of that State’ the words ‘Legislative Assembly of that Province or of the corresponding state or of that State, as the case may be’, be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That in article 390, for the words out of such Fund the words ‘out of either of such Funds’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That for clause (3) of article 392, the following clause be substituted:—

(3) The powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391 shall, before the commencement of this Constitution, be exercisable by the Governor-General of the Dominion of India.’ ”

The amendment was adopted.

Mr. President : The question is:

“That in article 394, after the figure ‘60’, the figure ‘324’, be inserted, and after the figure ‘388’ the figure ‘391’, be inserted.”

The amendment was adopted.

Mr. President : The question is:

“That in Part A of the First Schedule under the sub-heading ‘Territories of States’, the paragraph commencing with the words ‘The territory of the State of Bombay.’ and ending with the words and figure ‘Extra-Provincial Jurisdiction Act, 1947’ be omitted.”

The amendment was adopted.

Mr. President : The question is:

“That in Part B of the First Schedule, for the paragraph under the sub-heading ‘Territories of States’, the following paragraph be substituted.”

“The territory of each of the States in this Part shall comprise the territory which immediately before the commencement of this Constitution was comprised in the corresponding Indian State, and—

- (a) in the case of each of the States of Rajasthan and Saurashtra, shall also comprise the territories which immediately before such commencement were being administered by the Government of the corresponding Indian State, whether under the provisions of the Extra-Provincial Jurisdiction Act, 1947, or otherwise; and
- (b) in the case of the State of Madhya Bharat, shall also comprise the territory which immediately before such commencement was comprised in the Chief Commissioner’s Province of Panth Piploda.’ “

The amendment was adopted.

Mr. President : The question is :

“That in Part C of the First Schedule, for the first two paragraphs under the sub-heading. ‘Territories of States’ the following paragraph be substituted:—

The territory of each of the States of Ajmer, Coorg and Delhi shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner’s Province of Ajmer-Marwara, Coorg and Delhi, respectively.’ ”

The amendment was adopted.

Mr. President : The question is:

“That in List I of the Seventh Schedule, for entry 8, the following entry be substituted:—

‘8. Central Bureau of Intelligence and Investigation.’ ”

The amendment was adopted.

Mr. President : Then we come to List V. Amendment No. 614 has not been moved. I will put 615 to the House.

The question is:

“That in entry 75 of List I of the Seventh Schedule, after the words ‘Emoluments allowances’, the word ‘privileges,’ be inserted.”

The amendment was adopted.

Shri H. V. Kamath : Sir, I have an amendment to amendment No. 616 which I handed in this morning. It was taken as moved.

Mr. President : Yes. I will put it to vote.

The question is:

“That for the word ‘except’ the words ‘other than’ be substituted and the two commit in entry 46 of List III, Seventh Schedule, be deleted.”

The amendment was negatived.

Shri H. V. Kamath : Bad punctuation, Sir.

Mr. President : The question is:

“That in entry 46 of List III of the Seventh Schedule, for the words ‘Other than-the Supreme Court’ the words ‘except the Supreme Court’ be substituted.”

The amendment was adopted.

Mr. President : Now we come to List VI. Amendment No. 618.

The question is:

“That for clause (5) of article 148, the following clause be substituted:—

‘(5) Subject to the provisions of this Constitution and of any law made by parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor-General that be such as may be prescribed by rules made by the President after consultation with the Comptroller and Auditor-General.’ ”

The amendment was adopted.

Mr. President : The question is:

“That clause (g) of sub-paragraph (1) of paragraph 3 be omitted, and the remaining clauses, ‘(h), (i), (j) and (k)’ be relettered as ‘(g), (h), (i) and (j)’ respectively.”

The amendment was adopted.

Mr. President : Amendment No. 625. There is an amendment to this by Mr. Chaliha, No. 630. I will put it to vote.

The question is.

“That in amendment No. 621 of List VI, for the first three lines of the proposed sub-paragraph (4) of paragraph 4 of the Sixth Schedule, the following be substituted:—

‘(4) That the Governor shall make rules regulating—

The amendment was negatived.

Mr. President : The question is:

“That to paragraph 4, the following sub-paragraph be added—

‘(4) The Regional Council or the District Council, as the case may be, may with the previous approval of the Governor make rules regulating—

- (a) the constitution of village Councils and courts and the powers to be exercised by them under this paragraph;
- (b) the procedure to be followed by village Councils or courts in the trial of suits and cases under sub-paragraph (1) of this paragraph;
- (c) the procedure to be followed by the District or Regional Council or courts constituted by such Council in appeals and other proceedings under sub- paragraph (2) of this paragraph ;
- (d) the enforcement of decisions and orders of such Councils and courts;
- (e) all other ancillary matters for the carrying out of the provisions of sub-paragraphs (1) and (2) of this paragraph.’ ”

The amendment was adopted.

Mr. President : The question is:

“That in sub-paragraph (3) of paragraph 5, for the words ‘and the Governor may by rules prescribed the procedure to be followed at such trial’ the words and figure ‘to which the provisions of this paragraph or paragraph 4 apply’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That in the proviso to sub-paragraph (2) of paragraph 20, for the words, brackets and letters ‘clauses (e), (f) and (g)’ the words, brackets and letters ‘clauses (e) and (f)’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That in article 106, for the words ‘Constituent Assembly of India’ the words ‘Constituent Assembly of the Dominion of India’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That in clause (3) of article 348 for the words ‘shall for the purposes of the said clause be deemed to be the authoritative text thereof’ the words ‘shall be deemed to be the authoritative text thereof in the English language under this article’ be substituted.”

The amendment was adopted.

Mr. President : I shall now put to the House Mr. T. T. Krishnamachari’s amendment.

The question is:

“For the word ‘minorities’ in Part XVI the words ‘certain classes’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That in entry 67 of List I of the Seventh Schedule after the word ‘records’ the words ‘and archaeological sites and remains’ be inserted.”

The amendment was adopted.

Mr. President : There is a consequential amendment.

The question is:

“That in entry 40 of List III, Schedule VII after the words ‘and remains’ the words ‘other than those declared by Parliament by law to be of national importance’ be added.

The amendment was adopted.

Mr. President : I take it that the amendment relating to the name of Bengal which is substituted by West Bengal has been accepted. There is an amendment by Thakkar Bapa which I shall put to the House.

The question is:

“That in article 164 in the proviso shall be inserted ‘Provided that in the State of Madhya Bharat there shall be a minister in charge of tribal welfare, who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.’”

The amendment was adopted.

Mr. President : Before we adjourn for the day we shall make some arrangement regarding the time table as to what we propose to do. I take it that we do not sit this afternoon. I want to know from Members how many of them would like to speak, so that I might fix an order as also the time. As regards sitting on Saturday next it is not possible for me to decide now. I shall decide it on Friday as to whether we shall sit on Saturday or not. As regards the sessions from day to day, what is the wish of the House?

Several Honourable Members : Five hours a day.

Prof. N. G. Ranga (Madras: General): One sitting from 2-30 to 6-30 P.M., so that we shall come only once.

Mr. President : What is the time limit for each speaker?

Shri K. M. Munshi : I suggest 15 minutes and five hours a day so that Members might get a few days between this and the next session.

Several Honourable Members : Half an hour.

Mr. President : As a compromise the time limit will be 20 minutes for each speaker.

The Honourable Dr. B. R. Ambedkar : All that we can do now is to decide whether we should sit tomorrow. In the meantime it would be desirable if you could invite Members who desire to speak to send in their names to you. After ascertaining the number of speakers who desire to take part in the general debate it will be possible for you to determine whether we should have two sessions a day and also as to the time limit for every speaker. At the moment nobody is in a position to know how many Members wish to speak. If the number of speakers are not too many it will be possible to increase the time for each Member and it will also be possible to have one session a day. I therefore suggest that you should only fix the meeting for tomorrow and in the meantime ask Members to indicate their wishes to you, so that you may have a list of speakers and then we can come to a decision as to other points, such as the time limit for each speaker and the number of the daily sessions, whether it should be one or two.

Mr. President : I think that is a practical suggestion.

Shri T. T. Krishnamachari : May I say, Sir, that we sit tomorrow as usual from ten to one and from three to five ?

Mr. President : For the present I decide that we meet tomorrow as usual at Ten of the Clock and I expect Members to send to the office by this evening their names if they wish to take part in the debate. That information will enable me to decide the hours of sitting, etc. I may say that it would be open to a Member not to participate in the debate even though he has given his name.

The House stands adjourned till Ten of the Clock tomorrow.

The Assembly then adjourned till Ten of the Clock on Thursday, the 17th November 1949.