

Wednesday, 12th October, 1949

Volume X



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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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THE HONOURABLE DR. RAJENDRA PRASAD.

Vice-President:

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CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 12th October 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.)

Second Schedule—(Contd.)

The Honourable Dr. B. R. Ambedkar (Bombay: General): Mr. President, Sir, I would like to say a few words in explanation of the provisions contained in the Second Schedule, and I would like to begin with that part which deals with the salary of judges.

First of all, with regard to the Supreme Court, it will be seen that the salaries of the judges of the Supreme Court on the commencement of the Constitution will be for the Chief Justice Rs. 5,000 per month *plus* a free house, and the salary for a puisne judge will be Rs. 4,000 per month *plus* a free house. With regard to the Supreme Court, the position is this, that according to the Constitution, any Federal Court judge who chooses to become a judge of the Supreme Court will be appointed as a judge of the Supreme Court. If any judge of the Federal Court therefore chooses to become a judge of the Supreme Court, the question that arises is this: whether he should get the standard salary which has been fixed under the Constitution for the judges of the Supreme Court or whether any provision should be made for allowing him, to continue to draw the salary which he now gets as a judge of the Federal Court. The decision of the Drafting Committee has been that while the normal salaries of the Supreme Court Judges should be as stated in the Second Schedule. Provision ought to be made to enable the Federal Court judges to draw the salary which they are drawing at present in case they choose to become judges of the Supreme Court. For this purpose, the judges of the Federal Court are divided into two categories—those who are appointed as permanent judges before the 31st October 1948 and those who are appointed after 31st October 1948. In the case of the first category, *i.e.*, those who are appointed before the 31st October 1948, they will get a personal pay which would be equivalent to the difference between the salary which has been fixed by the Second Schedule and the salary that was payable to such a judge immediately before the commencement of the Constitution. With regard to those who are appointed after the 31st October 1948, they will get at the rates fixed in the Second Schedule, so that the Chief Justice of the Supreme Court will get Rs. 2,000 more than the salary fixed for the Chief Justice under the Constitution, while the puisne judges of the Federal Court, if they go to the Supreme Court, will be getting Rs. 1,500 in excess of the normal salary which is fixed for the puisne judge of the Supreme Court.

Coming to the High Court, the normal salary fixed under the Constitution for the Chief Justice is Rs. 4,000 and the normal salary for the puisne judges is Rs. 3,500. Here again, we have got a provision in the Constitution that any judge of a High Court, if he wishes to be appointed to the High Court, under the Constitution, the President is bound to appoint him and consequently the same problem which arises under, the Supreme Court also arises in the case of

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the High Court, because those judges who are now existing judges draw, in some cases, a higher salary than the salary that is fixed in the Second Schedule. In order, therefore, to remove any possible grievance, it has also been decided to follow the same procedure as has been followed in the case of the Federal Court, namely, to divide the judges into two categories—those appointed before the 31st October 1948 and those appointed thereafter. Thus, those in category one will get an additional pay as personal pay which will be equivalent to the difference between the salary fixed by the Constitution and the salary which they are drawing, and those who are in category two will get the salary as fixed by the Constitution.

Perhaps, it might be necessary to explain why we have adopted the 31st October 1948 as the dividing line. The answer is that the Government of India had notified to the various High Courts and the Federal Court that any judge who is appointed before the 31st October 1948 will continue to get the salaries which he was getting now but that the same assurance could not be given with respect to judges appointed after the 31st October 1948. It is in order to guarantee this assurance, so to say, that this dividing line has been introduced.

I would like to say a word or two with regard to the scale of salary fixed in Schedule 11 and the scale of salary obtaining in other countries. For instance, in the United States the Chief Justice gets Rs. 7,084 per month while the puisne judges get Rs. 6,958. In Canada the Chief Justice gets Rs. 4,584 and the puisne judges get Rs. 3,662. In Australia the Chief Justice of the High Court gets Rs. 3,750 and the puisne judge gets Rs. 3,333. And in South Africa the Chief Justice gets Rs. 3,892 and the puisne judges get Rs. 3,611. Anyone who compares the standard salary that we have fixed in Schedule II with the figures which I have given I think, will realise that our salaries if at all compare much better with the salaries that are fixed for similar functionaries in other countries except the U.S.A.

In fixing these salaries we have been as fair as we could be. For instance, it would have been perfectly open for the Drafting Committee to say, following the rule that those who have been appointed before the 31st October, 1948, if their salary is in excess of what is the normal salary fixed by the Constitution, we could have also made a provision that the Judges of the High Court of Nagpur shall get less than the normal salary, because their salary is less than the normal salary as at present existing. But we do not propose to perpetuate any such grievance and therefore we have not introduced a counter vailing provision which in strict justice to the case, the Drafting Committee would have been justified in doing. I therefore submit that so far as the salary of the judiciary is concerned there can hardly be any ground for complaint.

I come to the question of the President. The President of the Union is obviously a functionary who would replace the present Governor-General and in fixing the salary which we have fixed, namely Rs. 10,000, we have to consider, in coming to a conclusion, as to whether it is less or more than the salary that the Governor-General has been drawing.

As every one knows, under the Government of India Act, 1935, the salary of the Governor-General was fixed at Rs. 2,50,800 a year which came to Rs. 20,900 *per mensem*. This salary was of course subject to income-tax. Under the recent Act passed by the Legislative Assembly the salary of the Governor-General was fixed at Rs. 5,500 but that salary was free of income-tax. I am told that if the salary of the Governor-General was subject to income-tax it would come to somewhere about Rs. 14,000. In fixing the salary of the President at Rs. 10,000 we have taken into consideration two factors.

One factor is that the salary of the President should be subject to income-tax. It was felt by the Drafting Committee as well as by a large body of Members of this House that no person who is a functionary under the Constitution or a civil servant under the Constitution should be immune from any liability imposed by any fiscal measure for the general people of this country. Consequently, we felt that it was desirable to increase the salary of the President if we were to make it subject to income-tax.

The other reason why we fixed the salary at Rs. 10,000 is to be found in the salary of the existing Chief Justice of the Supreme Court, which is Rs. 7,000. It was the feeling of the Drafting Committee that since the President was the highest functionary in the State there ought to be no individual who would be drawing a higher salary than the President and if the Chief Justice of the Supreme Court was drawing a salary of Rs. 7,000 it was absolutely essential, from that point of view, that the salary of the President should be somewhat above the salary of the Chief Justice. Taking all these factors into consideration we thought that the proper salary would be Rs. 10,000.

Then, the President's salary carries with it certain allowances. With regard to these allowances I might mention that when the Government of India Act, 1935, was passed the Act merely fixed the salary of the Governor-General. With regard to the allowances the Act says that His Majesty in Council shall fix the same by Order but unfortunately the provisions of Part II of the Government of India Act, 1935, were never brought into force and consequently no such Order was ever made by His Majesty in Council although a draft of such an Order was prepared in the year 1937. So far therefore as the Government of India Act is concerned, there is nothing stated with regard to the allowances and therefore that Act did not furnish the Drafting Committee any material basis for coming to any definite conclusion. Consequently the Drafting Committee has left the matter with the provision that the President shall continue to get the same allowances which the Governor-General got at the commencement of the Constitution. Later on the Parliament may change the salary and allowances of the President subject to this, that they shall not be changed during the tenure of the President concerned.

I should like to give the House some idea as to what are the allowances which the President would be entitled to get if the provision suggested by the Drafting Committee, that the allowances payable to the Governor-General at the commencement of the Constitution should operate.

I find from the budget estimates for 1949-50 the following figures were included in the budget under the heading "Allowances to the Governor-General":

1. Sumptuary allowance of Rs. 45,000 per annum.
2. Expenditure from contract allowance Rs. 4,65,000.
3. State conveyance: Motor cars: Rs. 73,000.
4. Tour expenses : Rs. 81,000.

Total allowances are Rs. 6,64,000 per annum, according to the budget estimate of 1949-50.

I need not say, as I said, anything about the allowances, because the allowances are liable to be changed by Parliament at any time. The important question is about the salary and I submit that the salary of the President as fixed at Rs. 10,000 seems to me as also to the Drafting Committee to be a very reasonable figure, having regard to the circumstances to which I have referred.

I need not say much about the salary of the Governors. That has been fixed by an Order made recently by the Governor-General, and they appear to

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me to be quite reasonable and it also observes the same principle that in the provinces where the highest paid official is the Chief Justice the Governor should get something more than the Chief Justice of the province. It is from that point of view that the figure for the salary of the Governors has been fixed.

The only other provision to which I would like to refer is that originally it was not proposed to make any provision with regard to the salary of the Comptroller and Auditor General. There again, the salary has been fixed at Rs. 4,000 by Schedule II, subject to the proviso that while the present incumbent continues to function as the Comptroller and Auditor General he will get as personal pay the difference between the salary fixed by Schedule II and the salary which he is at present getting. When that incumbent disappears and another is appointed he will get the salary that is fixed by the Schedule.

I hope that the figures suggested by the Drafting Committee as salaries for the various functionaries dealt with in this Schedule will commend themselves to the House.

Mr. President : I now come to the amendments. I shall take up the different parts separately and ask Members to move them as we come to them. The first amendment is to Part I, amendment No. 259, by Shri Mahavir Tyagi.

Shri Mahavir Tyagi (United Provinces: General): *[Mr. President, Sir, I do not think that a salary of ten thousand rupees per month for the President and a salary of five thousand rupees for the Governor is to do much. After pondering over the problem for two days, I decided that I should freely express my opinion on this occasion. I feel that all the people in the civil services and Government officials should lead a good life and should command respect. India is a land of seers. Here dignity is not determined by money. (*Hear; hear*). In India sacrifice and penance have ever commanded respect. The Government officials who have taken upon themselves the burden of service permanently should have such salary as may enable them to lead a life of comfort and respect and to be free from want. But the political leaders among whom I count the President, the Governors and the Members of the Assembly also, who hold high Government offices through politics should discharge their duties in a spirit of selfless service. It has become customary in the world to provide high salaries for such functionaries and it appears that we also have no hesitation in providing high salaries. But I appeal to the Constituent Assembly that we should create a new precedent of sacrifice so that we may be able to set an example before the world and show to it a new path. We were able to achieve success and freedom, not because we were persons of wealth but because we were rich in renunciation. At present when there is moral degradation in the world, it is all the more necessary that India should show the correct path and should place before it the ideal of serving the nation through sacrifice. By our sacrifice and penance we would create an atmosphere of sacrifice not only in our own country but in the whole world. A society comes into being only through sacrifice, and for its uplift too it is necessary to awaken and encourage the feelings of sacrifice.

I think that the President of a nation is the symbol of its dignity. It is wrong to think in India that we can have dignity only through money. (*Hear; hear*). A dignified position can be achieved here only through sacrifice. It would be wishful thinking among us if I want that the presidential post should be honorary, The State should bear his expenses. But the person who holds the highest post in the land should lead as simple a life as that of a sanyasi. This is a land of the poor and the money that is realised from them through

*[] Translation of Hindustani speech.

taxes increases their poverty. I do not think that politicians should freely use that money for their personal use. Therefore, if no other change is possible at present I place for your acceptance the amendment that “the salary of the President shall not exceed ten thousand rupees”. Instead of fixing the salary at ten thousand it would be better to state that it shall not exceed ten thousand and that the salary of the Governors shall not exceed five thousand, so that if the future Parliament wants to lead the politics of the country on the path of sacrifice and penance it may be possible for it to reduce these amounts. It will be a pious hope for me if I wished that the members of the legislature also should not get anything else besides food allowance and travelling allowance. I am confident that if we enforce such a scheme, simplicity and honesty will surely prevail in the country and thereby we would be able to put a stop to the moral degradation that we find in the world today.

I have no objection in regard to the salaries of permanent government officials. Their salaries should be increased according to the conditions obtaining in the country. But those, who have followed the ideal of Mahatma Gandhi and have won the confidence of the poor people, should lead the life of the poor. Even if we meet the Presidents of other great nations we should talk to them in a humble way, because by doing so we would only enhance our prestige. At the same time we should lead the politics of the country with pride and self-confidence. I have nothing more to say on this. I only place my amendment before the House and appeal to it that because ours is a poor nation, our President should lead the life of the poor, so that he may be able to pay more of his attention towards his poor countrymen.

I have to say one thing more. Whenever money and political power are centred together at one place there occur corruption and degradation. The people begin to feel the authority of the persons who holds the reins of politics and thus a stronghold of corruption and degradation is created around him. The guards of the stronghold do not permit that political authority to awaken and nor do they allow any reform because they fear that any kind of reform might be detrimental to their pleasure-seeking. This increases the tendency to degradation. We should place high ideals before our President. If we give him money only he would command no respect in the country. Therefore, I appeal to the House that our President should work in an honorary capacity and should lead the life of the poor. This alone is in the best interest of the country, and this alone can make our President acceptable to the poor. With these words I move my amendment which reads thus:

“That in amendment No. 207 of List VI (Second Week), in paragraph 1 of the proposed Part I, before the figure ‘10,000’ and before the figure ‘5,500’, the words ‘not more than’ be inserted.”]

Prof. Shibban Lal Saksena (United Provinces: General): Mr. President, Sir. I beg to move:

“That in amendment No. 207 of List VI (Second Week), in paragraph 1 of the proposed Part I, for the figure and word ‘10,000 rupees’ the figure and word ‘1 rupee’ be substituted.”

Sir, I am glad my honourable Friend, Mr. Tyagi has already delivered his speech on my amendment rather than on his own. I am glad that the sentiments which I wanted to express by my amendment are shared by him and also by many members of the House as is evident from the cheers that the House gave him. In fact when I gave this amendment, it was after considerable hesitation. I felt that what I felt I must express in my amendment. The President of the Republic in our Constitution is a substitute for the British King because we have modelled our Constitution on the British lines. Now, in our country the ideal of Kingship is illustrated by kings like Janaka who lived like sanyasis. Even in our own times our master, our father, Mahatma Gandhi put before us the same ideal. I therefore think Sir, that by providing 1 rupee as the salary for the

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President, we shall only be doing something which is in consonance with our ancient civilisation and culture. So, by accepting this amendment, we shall be placing before the world and before the country, the ideals of our ancient civilization and culture. This will also ensure that the post of the President will not be aspired for by greedy men, but the honours shall be bestowed on men who are intellectually, morally and spiritually fit for the job, and who do not want to take it for the salary attached to it but who want to serve the country in the spirit of King Janaka, of Mahatma Gandhi and other great kings of ancient India.

In our Constitution we have armed the President with very wide powers. Schedules 3(a) and 4 of the original Draft containing Instruments of Instructions have been taken away from the Constitution. So that now the Constitution does not fetter his discretion in any manner. In our Constitution the President is authorised to do as he likes. We have given him very great powers. In fact throughout these discussions, on the Constitution, I have been opposing this piling up of all power upon him, because actually he will exercise all the powers on the advice of the Cabinet, but if the President is a sanyasi, then I am sure no Prime Minister shall have the courage to deflect him from the right course and he will be able to carry out his duties in an impartial manner.

Sir, when I put this figure I was also influenced by the present salaries and allowances of the Governor-General. I am told by my honourable Friends on the Finance Committee that the present budget of allowances etc. of the Governor General comes to about Rs. 20 lakhs per annum of which about Rs. 11 lakhs is spent on the repairs to the Government House alone and the remaining Rs.9 lakhs on sumptuary and other allowances of the Governor-General. I think, Sir, in a poor country like India whose leader Mahatma Gandhi put before us the ideals which should govern us, it should not cost this huge amount. I agree with my honourable Friend Mr. Tyagi that the entire cost of living of the Governor General should be borne by the State and I would permit him the allowances which he needs for that purpose. I am sorry today the dignity of India is supposed to consist in the huge salaries we can provide for our President and the huge buildings in which he should live. I think our ideals were different. The present Governor General when he was Premier of Madras lived in his own house and did not shift to the official residence of the Prime Minister in Madras, but here we have forced him to live in a building whose repairs alone cost about Rs. 11 lakhs. I think, Sir, that we must change these standards. We must live according to our own ideals, and our own culture and civilization. Sir, it is in that spirit that I have put forward this figure of one rupee.

Our Congress President, Sir, is an honorary person and today the Congress President has become one of the most important functionaries in the country. He devotes almost the whole of his time to the nation's service and he does not even get any allowance and yet I do not think that the work of the Congress has suffered in any manner. In fact the amount of work which our Congress President has to do is probably greater than that which would be required by the President of the Republic. I therefore think that in putting forward this figure of one rupee, I have only said what many other members also feel and which is in consonance with our ancient ideals and culture and our new aims and aspirations. I hope this amendment will be supported by the House and that the Drafting Committee will consider this measure.

Shri R. K. Sidhwa (C. P. & Berar: General): Mr. President, my amendment reads thus:

“That in amendment No. 207 of List VI (Second Week), in paragraph 1 of the proposed Part I, the following be added after the figures relating to salaries of President and Governor, in parenthesis :—

“The salaries of the President and the Governor shall be subject to income-tax.”

Sir, my reason in moving this amendment and specifically mentioning in the Constitution that the President and the Governor's salaries shall be subject to income-tax is this: Although the honourable the Mover, Dr. Ambedkar has stated that their salaries are subject to income-tax it is a common rule and practice that the income-tax has to be recovered from everyone even if it is not mentioned. It is very clear, I have no doubt about that; but despite that I am anxious that this should be mentioned for this reason. At present our Governor-General was drawing a salary which was not subject to income-tax. You know, Sir, when he was drawing Rs. 20,000 he was subject to income-tax and yet people did not know what he was actually drawing; in as much as in the Parliament when the subject came up for discussion then most of the Members did not know that his salary was subject to income-tax. This matter was discussed from one end of the country to the other and the people thought that our Governor-General was drawing in cash Rs 20,000 and putting it into his pocket, whereas actually he drew only Rs. 8,000 or 9,000. The Legislative Assembly subsequently resolved that his salary should be Rs. 5,500 without any tax. Now, if you raise it today to Rs. 10,000 and do not let the people know—the people do not generally go by the income-tax or that so much is deducted by so many other taxes, they will state that President's salary is increased from 5,500 to 10,000. People only go by the figure. They ask what is the Governor-General drawing, and the masses say that he draws Rs. 10,000. I therefore desire that this should be made very clear to the masses. Any time you may argue with the masses that the Governor-General and the Governor are subject to the payment of Income-tax. Sometimes, they hesitate to believe. When they hesitate to believe, if this is mentioned in the Constitution, they may be refuted with a definite reply. I, therefore, feel, Sir, that, though it may be redundant, though it may not be necessary, to avoid unnecessary criticism that the President and Governors draw fat salaries. the insertion of the words mentioned in my amendment is very essential.

Coming to the amount of the salary, my honourable Friends. Mr. Tyagi and Professor Shibban Lal Saksena stated that the Governor-General should be a Sanyasi. Probably they have been carried away by ideas with which we have been taught to serve humanity without receiving any remuneration. Several of us have done that in the past for the attainment of freedom and to serve humanity without receiving any amount of compensation or money. We have done free service to humanity. That is one thing. But, you should not mix up two things which are quite distinct. The Governor-General is the administrative head of the Government. He has been restricted by so many limitations in this Constitution. I ask whether the Presidents of the Indian National Congress of the Provincial Congress Committee are restricted by so many restrictions as are stated in this Constitution. Is not our President of the Indian National Congress at liberty to do what he likes and earn what he likes? Has not the President of the Provincial Congress Committee been earning? I know are have scarified and we sacrificing immensely. I am also one of them.

Shri Mahavir Tyagi : He is not entitled to use public money on himself.

Shri R. K. Sidhwa : Kindly listen to me. You have had your say. I know the value of public money. I am not carried away by sentiments. I am a practical man and I believe in reality. What is the use of wasting public money? How do you feed your President, I want to know, when you have put in so many restrictions in the Constitution that he shall not do this, that he shall not do that, that he shall be so and so and all that? Have you not passed so many paragraphs in the Constitution binding him down? My honourable Friend Prof. Shah even wanted that whatever wealth he had should be shown before he is made the President. That was lost; but you know what the President ought to be. He should be above board. He should be a man of sterling character. Although

[Shri R. K. Sidhwa]

not within the provisions of law, but morally, he is the custodian of the wealth of the country. He has to see how that wealth is being administered. For that purpose a paltry as salary is necessary. I use the word paltry: compare the salary of 20,000 minus Income-tax which came to about Rs. 9,000 the Viceroy drew, with the net salary of about 5,000 to be drawn by the President. Is it not a great sacrifice that our people are making—one hundred per cent. cut of the previous salary of the Governor-General and fifty per cent. of the previous Governors' salaries?

I have no quarrel or argument with those members, who lack in loose words as Sanyasi President. My honourable Friend Mr. Tyagi said that the President should be a sanyasi. Mr. Tyagi may be a sanyasi as he is a Tyagi. He may become the President if he has to become President at any time. I have no arguments with him. I only ask, are we here in a Congress platform? Here we are preparing a Constitution. I have sacrificed not only by going to jail, but big monetary sacrifice. Several hundreds and thousands of people have sacrificed similarly. We should not be actuated by what we did to achieve our freedom. We have won freedom; we have served humanity, we have served the best interests of the country by sacrificing everything as our master taught us. I must say,—I am not a prophet—even if our master was alive, he would have ridiculed the idea which my two Friends have put before the House, knowing him as I do very well, although several of my Friends may know him much more than me.

I therefore contend that the salary provided in the Constitution is a very reasonable one. I must say it is a great sacrifice. Is it not a sacrifice that our workers have made, who have become leaders, sacrificing large practice from the professional point of view, lawyers and doctors. I know of instances of people who were earning Rs. 20,000 and 30 000 serving at one time for Rs. 500 and today for Rs. 1,500. Is it fair to say that this is waste of public money? We do not want to squander public money. We must be generous enough to appreciate the work of our leaders and ourselves and also be proud of what we have sacrificed and we are sacrificing today. Do not put in a proposition that would make us the laughing-stock of the whole world. If I do not get claps from the House I do not mind. If Mr. Tyagi got claps from the House because he proposed one Rupee of a little more as a salary, I do not mind. If I am opposed in this House, I do not mind because I feel that this is the right proposal. I feel that without salary, that would make us the laughing-stock before the whole world. We must realise the great sacrifice that has been made by the President and the Governors in accepting this salary. I will come to the allowances when the time comes. So far as salaries are concerned, I think this is reasonable. May I move the amendment regarding the allowances, Sir?

Mr. President : Yes; you may move that.

Shri R. K. Sidhwa : Sir, my amendment No. 262 relates to the allowances in paragraphs 2 and 3. I move:

“That in amendment No. 207 of List VI (Second Week), for paragraphs 2 and 3 of the proposed Part I, the following be substituted :—

‘There shall be paid to the President and to the Governor the following allowance :

The President shall draw a lump sum of Rs. 135,000 per annum which shall include the cost of renewal repair and maintenance of furniture and motor vehicles, also including sumptuary, contract and all other allowances.

The President shall also draw Rs. 10,000 per annum as touring expenses.

The Governors shall draw a lump sum of Rs. 15,000 per annum which shall include the cost of renewal, repair and maintenance of furniture and motor vehicles, also including sumptuary, contract and all other allowances.

The Governors shall also draw Rs. 7,000 per annum as touring expenses.’ ”

So far as the allowances of the Governor-General were concerned, I was myself hunting since yesterday the Orders made by His Majesty in Council for the Governor-General and I could not find any Chapter or Schedule except for the Governors. My honourable Friend Dr. Ambedkar made it very clear that the Schedule never came into existence. I thought it may be somewhere and that I was not able to lay my finger on it, I now learn that it never came into existence and that the Secretary of State fixed the allowances for the Governor-General. What was that, I do not know. But, Dr. Ambedkar gave us an illustration which I had also culled from the last budget as to what was provided for our Governor-General. He has given a figure, Rs. 6,64,000 for the various types of allowances for the Governor-General.

With your permission, Sir, I would like to correct Rs. 35,000 into Rs. 1,35,000. My reasons are these. When I went for the first time after the attainment of independence into the Government House in Delhi,—so many of my friends must have also gone—my first impression was that the Government House was built only yesterday. My friends must have seen the tip-top way in which the building has been maintained. I can assure that the money which has been spent in the past is really well spent. The floor which has been used was shining like a mirror, the coiling, the golden colours and paintings and the various upholstery and the household requisites were as if only put in yesterday. The reason was good and open fact maintenance and up keep. Whether it was a woman housekeeper or man household I do not know; whoever it was deserves the greatest credit of the people of the country in keeping this historical place in such a condition as it is at present. It has been suggested that the building of the Government House should be turned into a hospital. I oppose that view. This is not meant for a hospital although it may be appealing to my friends Mr. Saksena or Mr. Tyagi. This should be used for a useful purpose. It is being used today for a museum and thousands of people are visiting it and have an opportunity to see the Government House.

Dr. P. S. Deshmukh (C. P. & Berar: General): What are we discussing? is it Government House or allowances?

Shri R. K. Sidhwa : Allowances. We must see that we are not miserly in that. I have therefore provided Rs. 1,35,000. The sum of 1,35,000 includes the Sumptuary allowance, contract allowance, and renewal of furniture. If you were to see the Order-in-Council providing allowance for Governors you will find that even the Bombay Governor gets only 35,000 and the staff—Military Secretary etc. 1,36,000. I am not touching that. They may be paid for actual number of appointments. I am told that the Bombay, Madras and Bengal Governors who had bands have abolished them. The maximum given to Madras is Rs. 43,000. If he has a body guard he is paid Rs. 1,26,000. I am not mentioning that in my allowance. Then there is a Surgeon and his establishment—maximum is Rs. 36,000 for Madras and 33,600 for Bombay I am not touching that. Because these are services which have to be paid. Then comes the maintenance and repairs of furnishings of official residences. Maximum is 34,000 to Bengal Madras 21,500 and Bombay is 25,000 with a minimum of 4,000 to Assam. We have seen the Government Houses of Governors and they are also big enough. Our Governor-General was Governor of Bengal and he stated there were 134 rooms and he was not himself able to visit these rooms and for its maintenance Rs. 25,000 may be a somewhat reasonable amount. Therefore after seeing the Government House in Delhi I was actuated to increase this amount to Rs. 1,35,000.

For Contract Allowance, i.e., an allowance for miscellaneous expenses including maintenance of motor cars a sum of Rs. 1,08,000 is provided for Bombay; Madras comes next and Bengal comes third. Minimum is 11,500 for Orissa.

[Shri R. K. Sidhwa]

Tour expenses are very heavy. 1,22,000 for Bengal, 1,13,000 for Madras and 65,000 for Bombay is provided. Previously the Governors used to visit for pleasure. They had no duty to perform. Rather he was an administrative head and in that sense he was Executive head and probably he had to travel about. Today our Governors will not have that executive Work. They will only visit whenever occasion arises. Therefore I have given for touring 10,000 to the President and 7,000 to Governors. I consider it a reasonable amount. The Governors are not expected to go away from their places and the President also. So I think a lump sum of 1,35,000 for the President and 15,000 for Governors would be reasonable, for repair and maintenance of furniture and motor vehicles also including sumptuary and other allowances, instead of the 35,000 I had provided previously.

The Honourable Dr. Ambedkar stated that these may be left to Parliament to decide. This is a very big item. I am told now 18 to 20 lakhs is being spent for the Government House, Delhi, for various purposes. We have no definite figures but a very large sum is being spent. Therefore I do feel that a specific mention in a schedule should be made for the purpose of Allowances for the President and Governors. After all the salaries are for their own personal purposes and I do not want to be told by the people that the Governors have taken small salaries and they are indirectly getting some money from these allowances. We have to tell the public at the same time that from the heavy sum of 2 lakhs allowances we have come to a small sum which is really necessary for the upkeep of the Government Houses. If we are simply converting the structure of the living of the Governors and Presidents by asking them to become Sanyasis, then let me tell you that these Government Houses are not suitable. Then they have to take to some huts—perhaps the time may come I do not know when there may be; when our outlook and our system of living is changed. We do not want the articles in Government House to be destroyed or spoiled. We have to maintain them at the State expense and it is for the future generation really to see that these buildings are monuments. Of course some of these are rickety buildings. Even the Bombay Government House is very old. I do appeal to the Drafting Committee to provide allowances in the Constitution so that it may not be stated that from the allowance money is being squandered away and motives attached to Governors. With these words I move my amendment.

Shri H. V. Kamath (C. P. & Berar: General): Sir, will there be a general discussion on each part or on the whole article?

Mr. President : I will take the amendments on the whole article and then we can have the general discussion No. 264.

Prof. Shibban Lal Saksena : Sir, I beg to move:—

“That with reference to amendment No. 210 of List VII (Second Week), for paragraph 8 of Part III, the following be substituted :

‘8. There shall be paid to the Speaker and the Deputy Speaker of the provisional Parliament, such salaries and allowances as were payable to the Speaker and the Deputy Speaker of the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution.’ ”

Sir, at present, Part III says—

“There shall be paid to the Speaker of the House of the People and the Chairman of the Council of States such salaries and allowances as were payable to the Speaker of the Constitution Assembly of the Dominion of India immediately before the commencement of this Constitution.”

Now, the position is, that for the interim period there is not to be a Speaker of the House of the People or a Chairman of the Council, of States. We are now making provisions only for the interim period, and later on the Parliament will decide the salaries. Therefore the present amendment does not fit in Part III further states—

“..... and there shall be paid to the Deputy Speaker, of the House of the People and to the Deputy Chairman of the Council of States such salaries and allowances as were payable respectively to the Deputy President of the Legislative Assembly and to the Deputy President of the Council of State immediately before the 15th August 1947.”

In the amendment moved by Dr. Ambedkar he wants:—

“That for the words ‘respectively to the Deputy President of the Legislative Assembly and to the Deputy President of the Council of State immediately before the fifteenth day of August, 1947, the words ‘to the Deputy Speaker of the Constituent Assembly of the Dominion of India immediately before such commencement’ be substituted.”

If this amendment is accepted, the paragraph will read—

“..... and there shall be paid to the Deputy Speaker of the House of the People and to the Deputy Chairman of the Council of States such salaries and allowances as were payable to the Deputy Speaker of the Constituent Assembly of the Dominion of India immediately before such commencement.”

Now, this does not fit in with the present position. There is obviously some mistake, and therefore my amendment has been given. This amendment of mine says that “there shall be paid to the Speaker and the Deputy Speaker of the provisional Parliament, such salaries and allowances as were payable to the Speaker and the Deputy Speaker of the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution. I am sure Dr. Ambedkar has made some mistake and the Drafting Committee has overlooked it. I will draw the attention of my Friend Shri T. T. Krishnamachari to this portion of Part III which is obviously a mistake. We shall not have, in the interim period any Speaker of the House of the People. I hope my amendment will be accepted by the Drafting Committee and the necessary correction made.

Mr. President : Then we come to Part IV. Amendments Nos. 165 and 265 are the same; Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : (West Bengal: Muslim): Sir, I have to move Nos. 265, 267 and 270. I have consolidated them again in the latest list.

Sir, I beg to move:

“That in amendment No. 211 of list VI (Second Week), in the proposed Part IV, in subparagraph (I.) of Paragraph 10,—

- (i) for the figure ‘5,000’ the figure ‘6,000’ be substituted; and
- (ii) for the figure ‘4,000’ the figure ‘5,000’ be substituted.”

I also move:

“That in amendment No. 211 of List VI (Second Week), in the proposed Part IV, in subparagraph (3) of paragraph 10,—

- (i) for the words and figures ‘thirty-first day of October, 1948’ the words ‘commencement of this Constitution be substituted;
- (ii) for the words ‘the commencement of this Constitution’ the words ‘such commencement be substituted.”

I do not move part (iii) of my amendment.

I also move:

“That in amendment No. 211 of List VI (Second Week), in the proposed Part IV, in sub-paragraph (1) of paragraph 11—

- (i) for the figure ‘4,000’ the figure 5,000’ be substituted; and

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(ii) for the figure '5,000', the figure 4,000' be substituted."

I also move:

"That in amendment No. 211 of list VI (Second Week), in the proposed Part IV, in sub-paragraph (2) of paragraph 11,—

- (i) for the words and figure 'thirty-first day of October. 1948' the words 'commencement of this Constitution' be substituted;
- (ii) for the words 'the commencement of this Constitution' the words 'such commencement' be substituted."

Sir, with regard to the third part of this amendment, I wish to move it in a slightly altered form though the effect will be the same. The change will be merely verbal. I beg to move:

"That in Schedule Two Part IV. Paragraph 11, sub- paragraph (2), for the words 'shall be entitled' the words 'shall in addition to the salaries specified in sub- paragraph (1) of this paragraph be entitled' be substituted."

Sir, with regard to the general.....

Mr. President : Shall in addition to what?

Naziruddin Ahmad : "In addition to the salary specified in sub-paragraph (1) of this paragraph." This phraseology exactly in this form appears in sub-paragraph (3) of paragraph 10, and it has been omitted in this sub-paragraph by inadvertence, and the amendment which I suggest is appropriate in the context.

Sir, with regard to the general purpose of my amendments, they are intended increase certain salaries of the Judges of the Supreme Court and the High Courts so as to confirm to existing standards.

Mr. President : You are not moving amendment No. 271 ?

Mr. Naziruddin Ahmad : I am afraid I have not got a copy of it with me. Sir, I also move:

"That in amendment No. 211 of List VI (Second Week), in the proposed Part IV, in item (ii) of sub-paragraph (b) of paragraph 12, the words 'excluding any time during which the judge is absent on leave' be deleted."

Sir, my object, as I have already submitted, is to restore the pay of the Judges of the High Courts and the Supreme Court to the old standard. Sir, with regard to judges, one fact must be clearly remembered. It is that the Judges are taken from very successful members of the Bar who earn very good and substantial incomes. If he is not a good lawyer and does not earn much, it would not be worth while appointing him as a Judge. It is very necessary that the standard of our Judges should be adequate and should be maintained at a very high level. Judges, especially of the High Courts and of the Supreme Court, are eminent specialists and it is very necessary that they should be sufficiently and properly paid for the very high and eminent quality of their work. They must be treated as experts and must be paid on that basis. If we do not pay our Judges adequately, the result would be that in course of time very highly qualified lawyers would not be attracted to accept judgeships of the High Courts and of the Supreme Court.

With regard to the existing pay of the Judges, there was an amendment moved by Dr. Ambedkar that it should be paid only to the existing Judges. I had submitted an amendment a few days ago to article 310 to this effect, but I was then told that the proper place for it would be really this Schedule. I yielded but I do not agree that this is the proper place. Article 310 was the proper place because that article, so far as the High Court Judges are concerned, provides that on the, 26th January 1950, the existing Judges should also automatically be the Judges of the High Courts. Article 310 was perfectly unnecessary because every officer in whatever capacity he serves, automatically continues to serve although

the new Constitution comes into force. For the purpose of continuance of their services article 310 was clearly redundant. Such a provision was not considered necessary in the case of any other services. The article had a deeper purpose. I think it was introduced to reduce quietly and imperceptibly the pay of the Judges by transferring the provisions as to their pay to the second schedule and thereby getting an excuse to reduce their pay in a most indirect manner. I should think that even apart from article 310 the Judges would have continued as every other public servant would continue.

With regard to the Supreme Court Judges, the matter is entirely different. On the date on which the Constitution comes into force, the Federal Court Judges convert themselves into Supreme Court Judges. An article to that effect was necessary, but no article like 310 was at all called for or necessary in respect of Judges of the High Court. Now, Sir, article 310 allows existing Judges of the High Court to automatically carry on as Judges of the High Court on and from the commencement of the Constitution, they would have received the same salary as they were receiving previously. The pay of the Judges cannot be reduced merely because we have passed this Constitution. So, as I have already submitted, I insist that article 310 is an astute device to quietly reduce their pay.

Then we come to the question of merit. It is a well-known fact that the Judges of the High Courts were receiving high salaries commensurate with the high quality of intellectual work they were accustomed to do. In fact, by accepting the position of a judgeship of the High Court, there has already been a very substantial financial sacrifice. We have here in this House two eminent ex-Judges of High Courts and they will bear testimony that the post of a Judge of a High Court is no sinecure job. It is a very laborious and extremely anxious post, and a Satisfactory discharge of their duties involves tremendous labour and heavy work. It is not anybody and everybody who can prove to be a very good High Court Judge. It is only a specialist of very high attainments who can do so. Only a man of high intellectual abilities and one capable of putting in much industry that can discharge the duties of a High Court Judge. The qualities of the Federal Court or of the Supreme Court Judges are to be still higher. I submit therefore that the pay of these Judges should not be reduced. The pay which they were getting should be continued, but the present suggestion of the Drafting Committee is to the effect that only those Judges who were appointed before the 1st November 1948, should continue to get their previous salary, but a Judge appointed later on would be receiving much less. I do not see the justice for this distinction at all, bearing in mind that the value of the rupee has considerably depreciated apart from the present devaluation. The rupee at the most was worth, before devaluation, about four annas as compared with its pre-war value. Now on account of the recent devaluation, the rupee has further depreciated, and therefore the Judge's salary is really not worth much. The salary which is at present prevailing has been going on for a very long series of years. Also the Judges will have to pay a high rate of income-tax. If you pay a high salary to a Judge, you do not pay him all the money. You will deduct about 20 per cent. out of their pay and if the Judge has other incomes, the deduction will be much higher.

Dr. P. S. Deshmukh : Let him forego that income.

Mr. Naziruddin Ahmad : That is a high standard which is not practicable in our life. The honourable Member who interrupted me would not be willing to give up his own income. I submit that this income-tax will have to be taken into account. Minus the income-tax, the pay becomes very small, and then again on account of the depreciated value of the rupee, they get really much less. Considering the expert knowledge and high quality of work which is expected

[Mr. Naziruddin Ahmad]

of them, they should continue to receive the old salary. Their life is not as boisterous or exciting as some of us take it to be. They are practically isolated from society. They cannot have the luxury of taking part in politics. (Shri H. V. Kamath: they go to clubs.) If they go to clubs, they enjoy themselves in a more sober manner than some of us would be inclined to. Judges after retirement were permitted to practise outside their Provinces. But now they cannot practise in any part of India. In these circumstances, I submit that no case has been made out for a reduction of their pay.

Coming to the pay of Supreme Court Judges, we are going to have Independence from the 26th January. (A Member: We are independent already.) We are not yet independent. We are still attached to the apron of the Anglo American bloc. We have no real liberty, no real freedom. On the attainment of the so-called Independence, the Federal Court will be converted to the Supreme Court. The Supreme Court will exercise not only the functions of the Federal Court but also those of the Privy Council. It will be the highest Court of India and will really be supreme in the matter of law. The Supreme Court will have higher powers and a high status than the Federal Court.

But while we raise the status from the judgeship of a Federal Court to that of the Supreme Court, and enhance their status and power, we are reducing their salary. This is a piece of injustice. Nothing is more important for the working of a Democracy than that the efficiency and quality of the Supreme Court Judges should be kept intact. If their pay is reduced, then only men of lesser intellect than what the increased quality, authority and prestige and power of the Court demands will be attracted to these high posts. The result would be depreciation of the quality of the work of the judiciary. The Supreme Court deserves the highest consideration from this House and the country. They have to be recruited from the Judges of the High Court and have to come to the Indian Capital and have to maintain two establishments at home and at the capital.

Then I come to the other part of my amendment relating to the pay of existing Judges. According to the present proposal, the existing Judges who were appointed up to the 31st October 1948, would a love continue to get their old pay. I submit this date is arbitrary and not based on sound principle. The salary of those Judges who were appointed after that date and before the inauguration of the new Constitution should also be protected. There is no reason why they should get less. Then there is a provision that a Judge of the Supreme Court could have an official residence; still that is confined to those Judges who will be appointed later on. Judges who were receiving high pay would be getting their pay but they would not be entitled to an official residence. I submit that the treatment of these two classes of Judges on two different bases is based on some sort of commercial instinct. I submit that all Judges of the Federal Court should have an official residence free of cost. Two of the amendments connected with this part of the subject are merely consequential and do not require any special mention.

Then I come to amendment 270, part (iii). This really fills a gap which has crept in due to an inadvertence on the part of the Drafting Committee. I draw attention to paragraph 10, sub-paragraph (3) There it is stated that an existing Judge should get the difference between the present pay and the new pay "in addition to the salary specified in sub-para (1) of this para". There the fact that the difference between the former pay and the new pay would be "in addition to" the salary which they would get is specifically mentioned in para. 10. But this condition is omitted in sub-para. (2) of para 10. The effect is that a Judge who is now drawing Rs. 4,000 who should be drawing Rs. 3,500 on account of the new pay

would get Rs. 500 more in addition to the Rs. 3,500 which is sanctioned; but as it is, it gives the impression that he gets only a special pay which amounts to the difference between Rs. 4,500 and Rs. 3,500 amounting only to 500. The fact that this would be “in addition” to the newly sanctioned pay is wanting in this sub-para (2) of para 11. This is an inadvertent omission and I submit that my amendment should be accepted.

Coming to my last amendment, this is of a formal nature and I do not wish to take the time of the House in explaining it. I suggest that it should also be accepted.

Shri Brajeshwar Prasad (Bihar: General): Sir, I move:

“That in amendment No. 10 of List I (Second Week), in the proposed Part IV, in paragraph 10,—

- (i) in sub-paragraph (1), for the figures ‘5,000’ and ‘4,000’, the figures ‘3,000’ and ‘2,000’ be substituted respectively; and
- (ii) in sub-paragraph (2), for the word ‘without’ the word ‘on’ be substituted.”

Sir, I have moved this amendment because I feel that we are providing too much to these judges. Dr. Ambedkar quoted the salaries of the judge of the Dominions. A false impression would be created in our minds unless we also bear in mind the average income of an Australian or Canadian. I would like to know what is the difference between the average income of an Indian and that of an Australian or Canadian.

Another argument which is usually advanced by those who stands for fat salaries for the judges is that they have got an important part to play in the Federal Constitution. It is said that the judges are the guardians of the liberties of the people and as such they are entitled to a higher salary. The question of dignity is also involved. These are some of the grounds on which a high salary is advocated. I would like to enter into a detailed discussion of these basic concepts which to my mind appear to be without any foundation.

If this Constituent Assembly does not abide by this criterion, the criterion being the average income of an Indian, it will be weakening the foundations of the State. Already people in this country believe that the Government of India have given all possible facilities to the Judges and Governors without taking into consideration the facts of our life. They have given all kinds of allowances to a handful of persons who are placed in different capacities such as Governor-General, Prime Minister, Ministers, Comptroller and Auditor-General, etc. These officers of the State who draw fat salaries, may I humbly submit, are looked down upon by the average man in this country. I am not in favour of the proposition that no high salaries should be paid. I am in favour of the proposition that as far as Foreign experts or technicians are concerned they should be given as much as they want but that as far as people living in this country are concerned as far as the people who are in the Congress are concerned, they must make some sacrifices for the cause of the country.

Am I to understand that after we have won our liberty all those ideals for which we stood should be put in cold storage? Are those ideals to be derided, looked down upon and laughed at? Far-sighted statesmen, politicians and public workers must bear in mind the fact that the urge for economic equality is so strong and insistent in our minds that they cannot easily afford to ignore it. I know as much as any other Member of this House that all talk of economic equality at the present moment is Utopian but you cannot say that this is a concept which has no foundation in reality. You are going to provide Rs. 5,000 and 6,000 as salaries but what about the common man in the villages? You

[Shri Brajeshwar Prasad]

say it is a democratic government. Have you consulted the people? Do you intend to do that? With great fear and trepidation, I beg to submit that I do not share the opinion of those lawyers who say that the judiciary has got a Very important part to play in the politics of our country. Of course everybody likes to over-estimate his own importance in life. A lawyer is always prone to think that he performs a very useful work in society. I would like to ask those persons who have not read the work of Mahatma Gandhi (I refer to Hind Swaraj, the political bible of every congressman) to refer to that chapter where he has expressed his own ideas about lawyers and judges.

I am of opinion that in this transition period through which we are passing it is neither the legislature nor the judiciary but the executive which has an important part to play. In the 19th century, especially in America, the judiciary did play a vital part, but circumstances as we are today the judiciary has no future in this country. The judiciary plays an important part in a society where the spirit of legalism is prevalent, where the foundations of the State are strong and where there is no revolutionary upheaval. In India the facts are otherwise. Our economic situation is deteriorating fast; the threat of internal revolution is growing and becoming insistent day by day and the danger of a foreign war is also looming large on the horizon. I do not see how the judiciary will be the guardian of our constitution, how it will be able to protect the life and liberties of the people when people are bent upon making mischief and resorting to insurrectionary methods.

Another argument usually advanced is that you must give such salaries and allowances as will enable the judges to maintain their dignity. I am apposed to this idea of dignity.' The whole concept is sheer vulgarity. The ideal before the people of this country has been plain living and high thinking. Dignity has nothing to do with money. It is only in the West where this conception is prevalent. But our conceptions and ideas are looked down upon by wise people. Some of us who still abide by our old ideals and traditions would like to emphasise, even though we know full well that we will not be heard, that we stand and shall stand by the ancient ideals of plain living and high thinking.

I would in this connection make one observation which is not strictly relevant. People may ask what about the allowances of the Members of the Constituent Assembly. I am not in favour of Rs. 45 per day. I want that we should be provided with a free third class pass for Delhi so that we may come here to attend the Assembly. We want that the Government should provide a hovel for us to live in and function as legislators, We want that this Government should provide for us only jail diet and we do not want a single pice more than this.....

Dr. P. S. Deshmukh : Are you taking jail diet?

Shri Brajeshwar Prasad : I am very keen on this point. I am sure this question is going to be raised either in this House or in the other House. It will not be strictly germane to the issue which is before the House at present if I digress more on this point.

Dr. P. S. Deshmukh : Are you eating in Jail?

Shri Brajeshwar Prasad : Dignity has no relation to the economic position of men. Men who have been honoured and respected most in this country have been saints and not millionaires. The dignity of a Judge will depend on the work that he will do, provided he does it in a spirit of service and sacrifice. It will not depend upon the amount of salaries and allowances that we may confer upon him. We are people in favour of a fat salary for a Judge? They say that

no good lawyer will condescend to become a Judge if you do not give him proper allowances and a proper salary. So, unless you tempt him with higher salaries he will not come and accept the post of a Judge. Sir, we do not like such Judges who will not work unless they get proper salaries and allowances. They are undependable persons who are mercenaries. How can they be protectors of our liberty if they cannot work unless they are given Rs. 5,000 as salary? As far as lawyers are concerned, we must do something in order to prevent them from earning beyond a certain limit. We must pass some laws so that it may become impossible for them to earn more than Rs. 1,000 a month.

Shri Mahavir Tyagi : What is your amendment?

Shri Brajeshwar Prasad : I am supporting my amendment that the salaries should be reduced and should be in consonance with the economic facts of our life. I would like to deal with this question to a greater extent and with more precision but I feel that the time at my disposal is short, I like to speak in general on the article itself. So, with your permission I shall make a few general observations on the other aspects of the article.

I refer to the schedule and to the salary of the President. I support the amendment moved by my Friend Prof. Shibban Lal Saksena. I support this amendment because I feel that the first President will be the last President under this Constitution. It is with this background that I am making my observations. Had I known that this Constitution would last for some time to come, that not only Congressmen but non-Congressmen would also become Presidents of the Indian Union, probably I would not make the observations that I am going to make now. It is really a matter of surprise and wonder how a man like Rajagopalachari our trusted leader, how a man like Sardar Vallabhbhai Patel who has sacrificed everything, how a man like your august self can think in terms of money. I know that these eminent personalities will never think in terms of money. I know, Sir, that you are going to be the President or somebody else from Members of the Congress High Command.

Mr. President : You must not go into personalities.

Shri Brajeshwar Prasad : I am not making any personal reference. I am saying that some Members of the Congress High Command will become President.

Mr. President : You need not speculate either!

Shri Mahavir Tyagi : Why not any of the low Command?

Shri Brajeshwar Prasad : I hold the opinion that a Member of the Congress High Command, who has worked throughout his life without salaries and allowances will very gladly work without any salary or allowances as President of the Union. I am, sorry, I am referring only to salary and not allowances. I feel that if we take this bold step it will rehabilitate the prestige of the Congress. It has a psychological value. The enemies of the Congress may not like this idea of mine. They may consider such an idea as impracticable. But what about Congressmen? We have no right to ask others to tighten their belts. We have no face to talk about non-violence and truth unless we reform our own conduct.

Mr. President : I think there is a lot of repetition going on. Other Members have made that point and so have you. I may remind the honourable Member that we have to finish this and the States question today.

Shri Brajeshwar Prasad : I wish to make two more observations. I would like to refer to the example of the great Khalifas of Islam. I want that our President should follow the footsteps of the great Shah Omar and Abu Bakr.

[Shri Brajeshwar Prasad]

Gandhiji was fond of referring to them as examples. Are we going to bury these principles of Asia at the altar of some European concept? I would refer the House to that letter which Gandhiji wrote to Lord Irwin on bended knees: he prayed for bread and got stones instead.

Mr. President : Amendment No. 167 of Mr. Kamath has already been covered by the amendment moved. Mr. Kamath may move 168 and the others.

Shri H. V. Kamath : Sir, I move:

“That in amendment No. 10 of List I (Second Week), in the proposed Part IV, sub-paragraph (3) of paragraph 10 be deleted.”

“That in amendment No. 10 of List I (Second Week), in the proposed Part IV, sub-paragraph (2) of paragraph 11, be deleted.”

“That in amendment No. 10 of List I (Second Week), in the proposed Part IV, in sub-paragraph (3) of paragraph 11, for the words ‘Every such judge’ the words ‘Every judge of a High Court’ be substituted.”

Amendment No. 168 seeks to delete sub-paragraph (3) of paragraph 10 of the proposed Part IV of this Schedule. Similarly amendment No. 171 seeks to delete sub-paragraph (2) of paragraph II of the proposed Part IV.

The last amendment is a more or less verbal one in connection with subparagraph (3) of paragraph II of this Part.

Amendment No. 167, seeking to delete the phrase or the clause “with regard to the non-payment of rent by Judges” has been covered as you, Sir, have observed, by the amendment moved by my honourable Friend, Mr. Brajeshwar Prasad.

Taking the last amendment first, that is amendment No. 173, because it is a short one, I invite the attention of the Drafting Committee to the unclear meaning of the phrase as it stands. In sub-paragraph (3) of paragraph 11 the phrase used is “Every such judge”, while in sub-paragraph (4) of para 10 of this Part, the phrase used is “Every judge of the Supreme Court”. If this phrase “Every such judge” in sub-para (3) of para 11 were to be accepted by the House, it might mean that it has reference only to persons referred to in sub-para (2) of this paragraph 11. Moreover, I see no reason why this should not be on the same lines as the language of sub-paragraph (4) of para 10, where a Judge of the Supreme Court is referred to. It is meet and proper that this phrase should be modified so as to refer to every judge of the High Court categorically and not merely to “every such judge”. Otherwise it might be misunderstood as having reference only to those judges referred to in paragraph 2.

I hope Dr. Ambedkar will find nothing in this amendment of mine to stand against on consideration of mere prestige and that he will see his way to accepting this very verbal and formal amendment.

My first amendment, Sir, which has been covered by Mr. Brajeshwar Prasad’s amendment seeks to delete the provision exempting the judges from paying rent for their residences. I wonder why Judges are being treated so very lavishly in our Constitution. If my honourable Colleagues were to look at this schedule as moved by Dr. Ambedkar, they will see that part IV relating to Judges covers nearly a page and half, while the others with regard to the President, the Governors, the Speaker, the Deputy Speaker are summed up in a paragraph or two. The House will also recollect that Dr. Ambedkar when speaking on this schedule, chose that part relating to judges first before he spoke about the President and the other dignitaries referred to in this schedule. Though I do not cavil at any member of the Drafting Committee—I feel it was perhaps inevitable that the

Drafting Committee weighted as it is by lawyers should have a soft corner for Judges; and some malicious critics might also say that some of us want to put ourselves right with our Judges in the India that is to be, we want to put ourselves in the right side of Judges and ingratiate ourselves.....

Mr. President : Please do not make any insinuations.

Shri H. V. Kamath : I, for one, do not share that view, but I fear we lay ourselves open to malicious criticism outside the House, and therefore, I felt that this provision regarding the non-payment of rent was undignified and detracts from the dignity of the Constitution. If the House will refer to article 48 of this Constitution which has been adopted already as well as article 135 of the Constitution also adopted by the House, they will see that neither the President of the Republic nor the Governor of a State has been given a residence free of rent; I mean it is not specifically stated in the Constitution. The relevant articles relating to the Governors and the President state that the President or the Governor shall have an official residence. That is all that those articles state and there is no reference to the payment or non-payment of rent. I ask the House, is it not undignified of us to say that such a dignitary will not be liable to pay rent for his house? We have already accepted the salutary provision that no dignitary, however high-placed he may be, shall be exempt from the payment of income-tax, as the Governor-General has been heretofore. When even the poorest labourer pays a rent of a rupee or more for his little tenement, why should not a judge pay a rent for his house? I am sure no judge will ask for this generous concession to him. I really fail to see why this provision as regards rent, so derogatory to the dignity of the House and of the Constitution, has been sought to be moved by Dr. Ambedkar in this House.

Next, coming to salaries, I do not wish to quarrel with him because the Chief Justice of the Supreme Court will receive Rs. 5,000 and the other judges will receive Rs. 4,000 each, and as regards the judges of the High Court, the Chief Justice will receive Rs. 4,000 and puisne judges will receive Rs. 3,500. But what I fail to see is why the present incumbents of these offices of judges of the Federal Court and the judges of the High Courts shall be entitled to receive the same salary as they were getting before. The other day the Honourable Sardar Vallabhbhai Patel pleaded for the continuance of conditions of service, salary, pension and cognate privileges in respect of the services of the Secretary of State, the I. C. S. and perhaps the Indian Police service and similar services. The House accepted, and rightly too, his plea and his appeal to the House to pass that particular article because there had been a guarantee given to these services by Government in August 1947. I do not know whether a similar guarantee has been given to the judges of High Courts and to the judges of the Federal Court and also to the Auditor-General to the effect that whensoever the Constitution will come into effect their salaries and other conditions of service will be secure. If that has been given by Government, I have nothing to say. We have got full confidence in Government, and we do not want the Government to go back on their lighted word, and if they have given any such guarantee to the judges of the Federal Court or the High Courts as regards their salaries and conditions of service, it is a different matter. Otherwise I see no reason why we should introduce a special clause or a paragraph in the schedule to the effect that the present incumbents will continue to receive the same salaries as before. I am sure that if we consult most of the judges at present serving in the High Courts and in the Federal Court, most of them, patriots as they are, and willing to serve the country with all their might and main, will not ask for this special concession. If one or two—even that I doubt,—ask for this special concession, I think the Constitution should not make a provision for a few individuals when

[Shri H. V. Kamath]

no guarantee has been given by Government to these individuals. The Constitution deals with the whole country, its dignitaries, its people, its officers and public servants, etc., and not any particular individuals. If a few persons do not agree to serve the country under the Constitution we shall not and need not go out of our way to make provision for these few individuals. In the case of civilians it was rightly pleaded and accepted by the House because of the guarantee given by the Government to those civilians, but no guarantee so far as I know has been given by the Government to judges of the Federal Court or of the High Courts in respect of their salaries and conditions of service. That is why, Sir, I have sought to move the amendments Nos. 168 and 171 which have a bearing on the present incumbents of these offices of judges of the Federal Court and the High Courts.

One word, Sir, about these salaries. I agree wholeheartedly with my honourable Friend Mr. Tyagi that the highest dignitaries of the State, the President the judges and the ministers of the State ought to be genuine tyagis. He must be a real Tyagi in mind and spirit, in the spirit of the Gita which says:

अनाश्रितः कर्मफलं कार्यं कर्म करोति यः। स सन्यासी च योगी च न निराग्नं चाक्रियः

It is not the actual amount of the salary that a person is drawing; but the test is whether he is or is not attached to that salary. If he is actuated by the spirit of "Aparigraha" and is willing to resign his job at any time for a higher cause, then he is a real tyagi; he is a real sanyasi. He must serve in this spirit. In this modern world, as in ages gone before, while I will not go the length of saying: "सर्वे गुणाः कांचनमाश्रयन्ते" I feel that every person, every human being, his mind and spirit, is conditioned by the limitations of his body which persists in his corporeal or embodied existence in this world. He has got to be placed above want; he has got to be placed above fear; he has got to be placed above insecurity. Therefore salaries are and should be provided.

Dr. Ambedkar pleaded for the acceptance of these salaries and quoted certain figures from U. S. A., Canada and other countries. My honourable Friend Mr. Brajeshwar Prasad raised the pertinent point as to what relation or ratio those salaries bear to the national income or the per capita income of those countries. I do not wish to go into that subject. Dr. Ambedkar might throw some light on this subject in his reply to the debate. What I would like to say is this. Rumour has it that our Ministers have accepted a voluntary cut of 15 per cent. in their salaries. It is a very laudable decision if it is true. Mr. Brajeshwar Prasad referred to our own allowances and salaries. I am also in favour of reduction in our allowances. But, I would also suggest that this matter of allowances.

Dr. P. S. Deshmukh : Provided all accept it.

Shri H. V. Kamath : That was what I was going to say: provided that all public servants accept a voluntary cut in their emoluments; I would suggest that this thorny question of the salaries of Members of Parliament-it is well known that Members of this House do not receive any salaries, but only allowances-be placed on a sounder footing as soon as the provisional Parliament meets or earlier, and the Members also might be given a salary, and a nominal allowance when they come here. That would be much better.

Dr. P. S. Deshmukh : And a much wiser course.

Shri H. V. Kamath : Yes, much wiser too. After all Members have to come here from far distances unlike Ministers who stay in Delhi and do their work in Delhi.

Lastly, I would once again refer to my amendment which seeks to delete the provision for non-payment of rent. If this were to be included, I would also suggest that we might include therein a provision about a furnished house, and further as to how many bath rooms, how many bed rooms a Judges residence will have. Otherwise, this reference with regard to a free residence for a judge does not at all fit in with the dignity of the Constitution that we are considering, This must go, considering especially that the articles relating to the President and the Governors have no such provision exempting them from payment of rent.

Before, I close, I would earnestly request the Drafting Committee, and the House to see to it that whatever salaries may have been fixed in the past, we as a free Republic, as free India which has got to take an eminent place, in the comity of nations, which has got to play a vital part in the battle for progress and liberty and welfare of mankind, let us at least attempt in an honest and humble way to transvalue the values that exist today, and give a new direction and a new light, if I may say so to a mankind that is groping in this war-torn, war-weary world for new values and new light.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Mr. President, I had given notice of amendments 212 and 213 which are on the agenda paper on page 4:

“That in amendment No. 10 of list I(second Week), in the proposed Part IV, in sub-paragraph (2) of paragraph 11, after the word and figure thirty-first day of October, 1948' the words or as Chief Justice before the tenth day of October. 1949' be inserted.”

and certain other amendments have been suggested. After having heard Dr. Ambedkar explain the position that those persons who have been appointed after 31st day of October 1948 were given an indication that that salary would be subject to the decision of the Constituent Assembly, and if the Constituent Assembly decided to reduce their salary, they will have to agree to such cuts, I do not propose to move it in that amended form. I find that in clause (2) of paragraph 11, there is a lacuna and evidently, it is due to the fact that it has not struck the Drafting Committee. It runs as follows: “Every person who was appointed permanently as a judge of a High Court in any province before the thirty-first day of October, 1948 and has on the date of the commencement of this Constitution become a Judge of the High Court in the corresponding State under clause (1) of article 310 of this Constitution, and was immediately before such commencement drawing a salary at a rate higher than that specified in sub-paragraph (1) of this paragraph, shall be entitled to receive as special pay an amount equivalent to the difference between the salary so specified and the salary which was payable to him as a Judge of the High Court immediately before such commencement.” This contemplates that any person who was appointed as a Judge before the 31st of October 1948, will continue to draw the higher salary that he has been drawing on the day of the commencement of the Constitution. But, if a person is appointed after the 31st of October, he will come within the clause, that is to say, the salary will be reduced and he will get Rs. 3,500. If such a Judge who was appointed before the 31st of October 1948 continues to be a Judge in the same province and his salary is increased in the meantime after October 1948, he will continue to draw the higher salary if he is in the same province. But, if such a Judge has agreed to go to another province and has undertaken an additional liability of having to run a second house in the new province, he will not get the benefit of the additional salary. If a Judge is transferred from Bengal to Nagpur, he will not be entitled to the benefit of this additional salary. I

[Shri Prabhu Dayal Himatsingka]

evidently feel that there must be some mistake in the drafting. Otherwise, it could never be the intention of the draftsmen that a person who continues in the same province should draw the higher salary or the difference, but if he is transferred, if he undertakes to go to another province, he will not get the higher salary. He continues to be a Judge; he was appointed as a Judge before October 1948. With your permission, therefore, I suggest:

“That in amendment 211, of List VI (Second Week), in the proposed Part IV, in sub-paragraph (2) of paragraph 11, for the words ‘in the corresponding State’ the words ‘in a State for the time being specified in Part I of the First Schedule’ be substituted.”

Therefore the effect of this amendment will be—

“That in para. 11 sub-para. (2) for the words ‘corresponding State’ occurring in the fourth line of the said para. the words ‘in a State for the time being specified in Part I of the First Schedule’ be substituted.”

There is no reason why a Judge who has agreed to go to another province should be penalised, whereas a Judge who has continued to be in his own province and has not undergone the troubles of a transfer and additional expense should get more. I think if it is properly considered the Drafting Committee should have no objection to accept the amendment proposed by me. This will do away with the anomaly of persons of the same category-to and differentiation being made between two such persons. This is not an amendment in favour of any particular person. This will cover all the Judges who will come within this category. If there is a transfer from one province to another, they, will all be covered if they are drawing higher salaries. If there are no such cases, even then it will not affect anyone under the rules. Otherwise, there is this anomaly or omission or perhaps an unconscious injustice that might be done to any-person who may have undertaken to be a Judge in another province.

As regards scale, personally I would have been glad if the salary had continued to be, for all the Judges, the same that they have been drawing, as everybody knows the Judges should be above temptation and they should have no wants. After all, they do discharge very important duties and there are so many temptations Which come in their way and if they at all have any want, they may be tempted to go wrong. Of course money is not the only thing that might tempt a person. Character and other things are needed, but the Congress party having agreed to 3,500 being fixed for future Judges I do not quarrel with it, but I certainly oppose the amendments of Shri Brajeshwar Prasad and Mr. Kamath who want to reduce, the salary further to 3,000 and 2,000 and I hope the amendment I have moved will be accepted.

Shri R. K. Sidhwa : There are some amendments in my name.

Mr. President : I shall see that.

266 and 269 are already covered. 272: Mr. Saksena.

Prof. Shibban Lal Saksena : Sir, my amendment which has been moved also by Mr. Kamath was intended to remove this provision for special pay. I am Opposed to it, on principle. We are, now framing a new Constitution and in this we are providing the salaries which the incumbents of the various offices should get in Free India. But we are here providing in the amendment moved by the Drafting Committee than Judges and the Auditor-General shall continue to get that portion of present salary which is in excess of the new salary as special pay. The reason given is that some guarantee was given to these officers that they will not have their salaries reduced in their period of office. I think the guarantee was for the Judges of the Federal Court and not for the Judges of the Supreme Court or other Judges. I personally feel that if the future Chief Justice of the Supreme Court and Judges of the High Courts and the Auditor-

General in the future will be content with the salaries provided here, I not see why Judges who will take up their places in the new set-up in the Supreme Court and High Courts and the Auditor-General should not be content to have their salaries as fixed for the new incumbents. At present the Chief Justice gets Rs. 7,000 and Judges get Rs. 5,500. According to the new provision the Chief Justice will get only Rs. 5,000. Suppose one of the Judges on the Bench is promoted to Chief Justice ship he will get only Rs. 5,000. There will be an anomaly again. As Judge he draws Rs. 5,500. As Chief Justice he will get Rs. 5,000. We cannot provide for all these anomalies. What I wanted was that the assurance given was to the existing Judges of the Federal Court and when we are abolishing the Federal Court and are providing for a Supreme Court under the new Constitution, I do not think the guarantee has any meaning. Besides I think the officers also will not relish this special pay which only they will get and their successors will not get.

I do not for a moment consider that the Chief Justice and the Judges or the Auditor-General should not have proper salaries. In fact I feel that these officers should have handsome salaries because we have put down many conditions on them in the provisions concerning them. They must retire at 65 and 60. In the 'case of Supreme Court Judges also they will not be allowed to practice at the bar after retirement. All these are stringent conditions and I do not think that Judges of the High Court should be men who should be independent, who should not be afraid of giving rulings which may go counter to the wishes of the powers that be and for that purpose I think they must be above want, and should have no need to hanker after favours from the Executive. So the practice of giving them good salaries is quite wholesome and I also approve of the provisions. In fact I would very much like to settle the question of their pensions also. In England and America Judges of the Supreme Court have no age of retirement They go even up to ages of 80 and 90 and they have been very good judges even at these ages. We know that their pension is about three-fourths of their salaries, These are very great advantages and that contributes to their independence in giving judgments. Therefore, I am not opposed to giving high salaries to Judges. Besides I also know that those people have got to maintain special standards of life. They have to be reserved and they are denied the privileges of mixing with people. They cannot have all the parties and entertainments which the Minister enjoy and so I do not grudge them the salary provided for them. But I do not think there should be any differentiation or distinction between the first incumbents and those who succeed them. Let them all have the same salary, and if you think the salaries given are not proper, you may raise the salaries, but let it not be that the present Chief Justice of the Supreme Court will get a higher salary and his successors will get less. This should not be done.

I have to say that the accounts of the Republic will not be safe unless the Auditor-General is a man of extraordinary independence and integrity. I, therefore, think that his salary should be a handsome one and exactly on the same footing as that of the Chief Justice of the Supreme Court. I do not want that he should get a higher salary than his successors. I do not, therefore, want any difference between the salary of the present incumbent and his successors.

Mr. President : Mr. Sidhva. I have seen your amendment No. 94 and amendment No. 96. I do not think they arise now. They were to the original proposition which is embodied in amendment No. 92. That amendment has now been superseded by the amendment moved by Dr. Ambedkar, and these amendments do not fit in there. I think these are all the amendments. Shri Alladi Krishnaswami Ayyar.

Shri Alladi Krishnaswami Ayyar (Madras: General): Mr. President, Sir, in supporting the article relating to the salaries as regards the Judges of the High Courts and of the Supreme Court under the new Constitution, I should like to state a few words in support of the proposition as moved by the Honourable Dr. Ambedkar. The scale of salaries now proposed is practically the same as that proposed by the Drafting Committee in the Draft Constitution published in February last year, with slight alterations in regard to the Judges of the Supreme Court a free house being provided for, and a slight reduction in the salary of the Associate Judges. In fixing the salary of the Judges the committee was quite alive, to the importance of maintaining the dignity, the efficiency and the independence of the judiciary, especially in a Federal Constitution where the highest judiciary is called upon not merely to decide ordinary disputes between citizen and citizen, and the State and the citizen, but also to decide questions of great constitutional importance on which would depend the future development of the Constitution. They took into account the scale of salary obtaining in Canada, Australia, South Africa and the great continent of America, and the scale of salaries obtaining in India in the British regime, as also the need for some kind of retrenchment, having regard to the general poverty of our country.

In any question of revision of salary, we cannot altogether ignore the administrative set-up with which we are starting. If we are starting over-night with a Constitution, with a fresh agency, with a fresh judicial or executive agency, we might have a carte blanche, and we might provide any salary we like, having regard to the economic and other conditions of our country. We have to remember we are building upon existing foundations, though in theory we are perfectly at liberty to frame any Constitution we like and we are in a position to provide any salary we like. These are the considerations which influenced the Drafting Committee in making the particular suggestion they have made. The slight alteration in regard to the rent-free quarters is due to the peculiar conditions in Delhi. It was felt that you must be in a position to provide free residence. Instead of the Judges having to wait some time for their lodging, it was thought it was much better to provide for an official residence for the Judges. That was the reason why a provision has been made in regard to the residence of the Judges.

The Drafting Committee, I might mention, was also quite alive, for example, to the system obtaining in the Continent where the salaries of Judges are much lower than those obtaining in England and in countries which are influenced or dominated by British jurisprudence. We have rightly adopted what may be called the British system of administration of justice. On the continent the Bench and the Bar are distinct institutions. Judges are not recruited at all from the bar, and in France the highest salary of the President of the Court of Cassation is about Rs. 1,300. Similarly the highest salary in the German Reich also was about Rs. 13,00. But then, they were really part of the civil service. We were anxious that the independence of the judiciary should be maintained, and we felt that such independence is best secured by the recruitment from the bar, and we have had regard to the fact that you cannot expect professional gentlemen to accept a place on the bench unless a decent remuneration is provided for. At the same time, we could not ignore the economic condition of the country, and we cannot treat the Judges as a separate caste, different altogether from the general cadre of services in the country. Taking all these factors into consideration, with an anxiety to maintain the independence of the judiciary, their honour and their prestige, the Drafting Committee, in consultation with other bodies finally has come forward with this scheme of salaries.

There are a few other points which have been adverted to, in the course of the debate. The first thing is, where is the need for any special provision

in regard to the judges who are appointed before November last year? Now to far as the members of the Civil Service and the Judges who were appointed to their respective posts before the Indian Dominion Act are concerned, their salaries were safeguarded by a special provision in the Dominion Act, which was adverted to in the course of the debate on the Civil Services, the other day. In the ordinary course, the Judges, including the Chief Justice, continued to be appointed in the old scale of salaries, even after the Dominion Constitution came into force, and even after the publication of the Draft Constitution in February last year; and we are told, it is only after November last that the Cabinet made it known to the future appointees that they must be prepared to accept their posts subject to the new scales of pay that might be adopted by the Constituent Assembly. It is taking these factors into account that a special provision has been inserted safeguarding the emoluments of those who were appointed to their respective posts prior to November last year. It is advisedly that we put the difference is an allowance in regard to those judges who were appointed before November, because the general principle is that the particular scale of salary is applicable to all judges. Those who were appointed as judges before November entered on their task on a certain understanding and therefore the Committee thought it proper that the differential pay must be considered as a special allowance. This is to emphasise the principle that the normal and accepted salary is that salary provided in the general provision of the Constitution. This has resulted no doubt in certain anomalies. They must be faced; they cannot be helped. For example, the Chief Justice of a High Court, if appointed later as a Judge of the Supreme Court, will get a lower salary than as Chief Justice of the High Court, though it may be he has a right to free residence in Delhi. Again, judges discharging the same or similar functions will get different salaries in the same Court, but these anomalies cannot in any way affect the main principle underlying this article. This is the one reason why the article as proposed deals with this differential, pay as I have already pointed out, as a special allowance. These are the points which I wanted to refer to so far as the judges are concerned.

Then, some point was made in the course of the debate that you must make a special provision in the Constitution that the President's salary is subject to Income-tax. Unless an immunity is given in the Constitution, it is an accepted principle of constitutional law that every officer; be he the President, the Chief Justice or a Judge of the High Court, or be he a Minister, will be subject to income-tax. If you make a special provision that the President's salary would be subject to income-tax, it will be open to the argument that, so far as the other officers or dignitaries are concerned, they are not subject to income-tax. That is not the principle of the Constitution. Therefore while increasing the salary of the President to Rs. 10,000. advisedly no reference is made to the fact that he shall be subject to income-tax. Every officer, every dignitary, however high-placed he may be, will be subject to income-tax unless the Constitution expressly exempts him from the operation of the income-tax law. That is the second point that I wanted to mention.

Then, so far the President's allowances are concerned, there is no need to go into the question of the allowances of the President, because Parliament is the supreme master of the situation. Instead of cumbering the Constitution with a detailed list of the allowances to which the President is entitled, reference is made to the fact that for the time being the President will be entitled to the allowances which the Governor-General was having. Later on, it will be open to Parliament to go into the whole question and revise the allowances as circumstances, the needs of the country and the dignity of the position of the President would require.

[Shri Alladi Krishnaswami Ayyar]

With these few words, Sir, I support the article as put forward by Dr. Ambedkar.

Pandit Hirday Nath Kunzru : (United Provinces: General): Mr. President, Sir, the Draft Constitution provided that the President should get a salary of Rs. 5,000 a month and the Governor of a State Rs. 4,500 a month. It was then proposed

The Honourable Dr. B. R. Ambedkar : President Rs. 5,500 a month.

Pandit Hirday Nath Kunzru : I have got the Draft Constitution before me and I have read out the figures from it. It was therefore proposed that the salaries of the principal judicial functionaries should be lower than these salaries. It was provided that the Chief Justice of the Supreme Court should get Rs. 5,000 a month and any other judge of the Supreme Court Rs. 4,500 a month. It was also provided that the Chief Justice of a High Court should get Rs. 4,000 a month and any other Judge of a High Court Rs. 3,500 a month. So far as the High Courts are concerned, we all know that the salaries of the Judges in all provinces were not the same. In the C. P. and the provinces of Orissa and Assam, the salaries were lower. Assam gave the lowest salaries. It gave Rs. 4,000 to its Chief Justice and Rs. 3,500 to every other Judge. Now, this is the scale of salary that has been proposed for the Judges of all the High Courts in the Constitution.

In the amendment placed before us by Dr. Ambedkar the salaries of the President and the Governors have been raised. The salary of the President has been very nearly doubled, and that of the Governors has been increased by Rs. 1,000 a month, but the salaries of the Judges of the Supreme Court and of the High Courts have been retained at the figures mentioned in the Draft Constitution. Only one exception has been made and that is in the case of permanent judges of the provincial High Courts. The amendment says that any Person appointed permanently as a Judge of a High Court in any province before the 31st Day of October 1948 and becoming a Judge of the High Court at the commencement of this Constitution in the corresponding State under clause (1) of article 310 of this Constitution shall be entitled to the same condition of service as respects salary, leave and pension as he was entitled to before the commencement of this Constitution. An amendment has now been proposed, that the special provision made for persons appointed permanently before the 31st day of October 1948 should be deleted. I take it that an exception has been made in the case of persons who will be appointed permanently as judges of High Courts before 31st October 1948, broadly speaking, to bring the provision into line with Section 10 of the Independence Act, 1947. That Section entitled all persons appointed by the Secretary of State or the Secretary of State in Council to the civil services of the Crown in India and all permanent judges of the Supreme Court and the High Courts to the same conditions of service, and other rights as they could enjoy under the Government of India Act, 1935. Dr. Ambedkar's amendment, however, differs in certain respects from the provisions of Section 10 of the Independence Act. The Independence Act gave a guarantee only in respect of those persons who had been appointed as permanent judges before the 15th August 1947. Dr. Ambedkar's amendment extends this right to persons appointed up to the 31st October, 1948. The amendment thus goes beyond the provisions of Section 10 of the Independence Act. But in one respect it fails to carry out the provisions of that Section. That Section laid down that a person appointed permanently as a judge of a High Court, whether in the same province in which he was serving as a temporary or additional judge or in any other province, would be entitled to the same conditions of service and privileges that he was entitled to before the 15th of August

1947. In respect of the persons appointed to the civil services by the Secretary of State or the Secretary of State in Council the obligations created by the Independence Act have been fully carried out but the guarantees relating to the judges of High Courts have not been respected in one respect which I have already dealt with.

I think therefore that the amendment moved by Mr. Prabhu Dayal Himatsingka deserves to be favourably considered. A man may have been appointed as a judge, say, of the U.P. High Court some time ago. But he may, before the 31st October 1948, become the Chief Justice of, say, the Patna High Court. He will not, in that case, be entitled to receive Rs. 5,000 per mensem as his salary. It seems that in accordance with Dr. Ambedkar's amendment, he will be entitled to receive only Rs. 4,000, which is the same salary that he was entitled to receive before his transfer from the U.P. to Patna. This does not seem to me to be at all desirable. If you want to make an exception in the case of persons appointed as permanent judges before 31st October 1948, then carry out the guarantee that you mean to give not merely in the letter but also in the spirit. Once you have appointed a man permanently as a judge of a High Court, he can look forward to promotion of his work is satisfactory. Every judge of course cannot become a Chief Justice or a Judge of the Supreme Court, but some judges can and I see no reason why the judges who have been promoted because of their merit should be debarred from the benefit of the guarantee given under Section 10 of the Government of India Act.

As regards the future judges, Dr. Ambedkar referred to the salaries given in the United States, Australia, Canada and South Africa to the judges of the High Courts. He said, I believe, that with the exception of the United States, no country gave its judges more than India. If he said so, he must have forgotten that in England the judges of the High Court receive a higher salary than the judges of any High Court in India. We may, broadly speaking, say that with the exception of the United States and England, none of the countries mentioned by Dr. Ambedkar gave its judges higher salaries than India did.

I do not know what the pensions of the judges in Canada, South Africa and Australia are. But we have to take these rights into consideration in determining the salaries of the judges. In the United States of America, the pension of a judge of the Supreme Court is, I understand, equal to his salary. In England, the pension of a judge of the High Court is 70 per cent. of his salary. Under the Government of India Act, 1935, roughly speaking, the pension of a judge who has served for twelve years will be about one-third of his annual salary. Whatever justification there may have been for this when the Government of India Act was passed it is obvious, that the judges of the High Courts should be given higher pensions now. I was not able to hear all that Dr. Ambedkar said but I did not hear him refer to this question at all in his speech. The memorandum sent by the judges of the Supreme Court and the Chief Justices of the various High Courts in India deprecates a reduction in the salaries and gives it as the opinion of the judges that, the age of retirement of the judges and their pensions should be raised. The salaries have been reduced and the age of retirement has not been raised, but the pensions can still be raised. The judges of the High Courts and of the Supreme Court will occupy very responsible positions; they will, so to say, be the guardians of the Constitution. It is necessary therefore that their salaries and conditions of service and their position should be such as to command the respect of the people and to enable them to discharge their duties without any anxiety with regard to the maintenance of themselves and their families. I am personally in favour of the amendments moved by Mr. Naziruddin Ahmad regarding the salaries of the judges of the Supreme Court and those of the High Courts. But whatever

[Pandit Hirday Nath Kunzru]

the decision of the House on that point may be I think that if the reduction in the salaries is to be justified from any point of view it is imperatively necessary that the pensions of the judges both of the Supreme Court and of the High Courts should be raised. I do not know what my honourable Friend Dr. Ambedkar feels on this point but I shall be surprised if even he does not think that the present pensionary provisions require to be changed. I think that the judges of the Supreme Court and the High Courts should be allowed to draw, say, two-thirds of their salaries as pension.

Mr. President : So far as pension is concerned, may I point out that this is only an interim provision until the Parliament makes another provision? It is a matter left over for Parliament to consider.

Pandit Hirday Nath Kunzru : This is quite true but I should have liked my honourable Friend Dr. Ambedkar, when he explained his amendment, to refer to this matter too. I know that a law will have to be passed by Parliament fixing the pensions of the judges, but if responsible persons here—and no one is in a more responsible position than the Chairman of the Drafting Committee today—were to express the opinion that the pensions ought to be increased and ought to be at least two-thirds of the salaries, I am sure this will carry weight with Parliament. But if the matter is left in the air, if no person to whose opinion Parliament may be expected to attach weight refers to it and leaves honourable Members to imagine that the present pensionary provisions require no change, it is very doubtful whether Parliament would be inclined to pass any law increasing the pensions.

This is my justification, Sir, for having referred to this question. I do not however wish to prolong this discussion any further. I do not think that there is the slightest chance of any amendment being accepted by the Drafting Committee. We all know the course that the discussions in this House have taken during the last two years. Broadly speaking no amendment, however reasonable, had a fair chance of being accepted by the Drafting Committee, but I do hope that even the Chairman of the Drafting Committee will not consider it inconsistent with his dignity to say that in his opinion the pensions of the judges of the Supreme Court and the High Courts should be raised.

Shri L. Krishnaswami Bharathi (Madras: General): Sir, the question be put.

Mr. President : The question is:

“That the question be now put.”

The motion was adopted.

The Honourable Dr. B. R. Ambedkar : Sir, all I wish to say is that there are three points which have been raised and which require some reply. Mr. Kamath attacked the provision in Schedule II allowing the judges of the Supreme Court a free house. This question of providing for a house in the Constitution for the judges of the Supreme Court was decided upon after careful consideration. It was felt that a large number of judges who would be appointed to the Supreme Court would be coming from the far ends of this country to the capital city and that it would not be proper to throw them on their own resources to find a house which would be in keeping with the dignity of their office. That was the principal reason why the Drafting Committee felt that the Government should have the obligation to provide a house.

With regard to the question of the house being free of rent, we thought that that was a sort of compensation for the reduction in the salaries of the Supreme Court judges, which we had proposed in comparison with the salaries of the judges of the Federal Court. Personally I was somewhat surprised at

the derisive remarks made by my honourable Friend Mr. Kamath on this particular point, because if he is objecting to a free house to anybody I should have expected him to say something about the free house which we provide both for the President as well as for the Governor-General and I personally

Shri H. V. Kamath : I did not refer to rent and I do not know whether it is a free house or not.

The Honourable Dr. B. R. Ambedkar : I do not think there is any substance in this particular point made by Mr. Kamath.

With regard to the question of the amount of salaries there have been a variety of views expressed in the House. My Friend Mr. Shibban Lal Saksena went to the length of saying that the President ought not to get more than one rupee. Well, I suppose, on that remuneration no one would be available to function as the President, except a wandering Sanyasi, and I have no doubt that a wandering Sanyasi would be the most unfit person to be the President of the Union, whatever may be his other virtues.

With regard to the judges' salary two questions have been raised. There are some here in this House who have said that the judges' salaries should be at a higher level than what is fixed in the Schedule. There are others who have said that the standard of salary we have fixed has no relation to the capacity of the country to pay. In my judgement, the slogan that anything that we could fix in this country should have relation to the income of the people is a good piece of political slogan, but I am not prepared to say that it is practical politics. Salaries in this country, as well as in every other country, most depend upon the law of supply and demand. Unfortunately or fortunately, there are any number of people who can be found suitable to function as Members of the Legislature, consequently we fix their salaries at a much lower level. Fortunately or unfortunately, the supply of persons who can function as judges is very limited. I do not propose to say that it is a rarity. But certainly it is a very difficult commodity to obtain and consequently we are required to pay the market price. I am sure that in my judgment the salary fixed in this Schedule conforms to what might be called the market price. Therefore, I do not think that there can be any serious quarrel on the level of salary that we have fixed.

Then I come to the amendment moved by my friend, Mr. Himatsingka. I should like to say that he and I have the same case in mind and I have the greatest sympathy for the case he has in mind. But what he wants to do is to ask me to accept a general proposition, that is to say, a proposition saying "any judge appointed in any territory mentioned in Part I". I think it is not desirable to introduce in these clauses an amendment in general terms, for the simple reason that after the 31st October 1948, having regard to the provisions of our Constitution, there can be no distinction in the salary of judges on a provincial basis. All judges have been placed on the same basis irrespective of the High Court of the area within which that High Court is situated. Therefore, a general provision to remove any anomaly is not necessary because such an anomaly is not likely to recur. The anomaly exists because in the Government of India Act certain provisions with regard to the salary of judges did make a distinction between province and province. What I would like to tell my Friend is this; that the Drafting Committee hopes that this particular case will be provided for in another manner. If that happened there would be no necessity of adopting this particular amendment and the individual affected thereby would also be benefited. But if the Drafting Committee finds that that does not happen, then the Drafting Committee will reserve to itself the right of bringing in a specific amendment to remove the grievance of the specific individual we have in mind.

[The Honourable Dr. B. R. Ambedkar]

Before I close, I would like to ask your permission to introduce one or two phrases in the clause which have been inadvertently omitted. I refer to Part IV, paragraph I I sub-paragraph (2). I would like to introduce after the word "shall" in the seventh line the following words :

"In addition to the salaries specified in sub-paragraph (1) of this paragraph."

I have also another amendment in sub-paragraph 3 of paragraph II. I would omit the first "such" and after the word "judge" I would add:

"of the High Court."

Shri H. V. Kamath : That is my amendment.

The Honourable Dr. B. R. Ambedkar : I accept it, and I now hope the House will accept the Schedule as amended.

Shri R. K. Sidhwa : What about my amendment regarding the salaries and allowances of the president and the Governor?

The Honourable Dr. B. R. Ambedkar : That will be decided by Parliament.

Mr. President : I shall now put the amendments to the Schedule according to the Parts. We are now on Part I of the Schedule.

The question is :

"That in amendment No. 207 of List VI (Second Week), in paragraph I of the proposed Part, I, before the figure '10,000' and before the figure '5,500' the words 'not more than' be inserted."

The amendment was negatived.

Mr. President : The question is :

"That in amendment No. 207 of List VI (Second Week), in paragraph I of the proposed Part I, for the figure and word '10,000 rupees' the figure and word '1 rupee' be substituted."

The amendment was negatived.

Mr. President : The question is :

"That in amendment No. 207 of List VI (Second Week), in paragraph 1 of the proposed Part I, the following be added after the figures relating to salaries of President and Governor, in parenthesis :-

'The salaries of the President and the Governor shall be subject to income-tax.'

The amendment was negatived.

Mr. President : The question is

'That in amendment No. 207 of List VI (Second Week), for paragraph 2 and 3 of the proposed Part I, the following be substituted :-

'There shall be paid to the President and to the Governor the following allowance :

'The President shall draw a lump sum of Rs. 135,000 per annum which shall include the cost of renewal, repair and maintenance of furniture and motor vehicles, also including sumptuary, contract and all other allowances.'

'The President shall also draw Rs. 10,000 per annum as touring expenses.'

'The Governor shall draw lump sum of Rs. 15,000 per annum which shall include the cost of renewal repair and maintenance of furniture and motor vehicles, also including sumptuary, contract and all other allowances.'

'The Governors shall also draw Rs. 7,000 per annum as touring expenses.'

The amendment was negatived.

Mr. President : There is no amendment to Part II. I come to Part III—amendment No. 264.

The question is

“That with reference to amendment No. 210 of list VI (Second Week), for paragraph 8 of Part III, the following be substituted :—

- ‘8. There shall be paid to the Speaker and the Deputy Speaker of the provisional Parliament, such salaries and allowances as were payable to the Speaker and the Deputy Speaker of the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution.’”

The amendment was negatived.

Mr. President : I now come to Part IV—amendment 265.

The question is :

“That in amendment No. 211 of List VI (Second Week), in the proposed Part IV, in Paragraph (1) of Paragraph 10,—

- (i) for the figure ‘5,000’ the figure ‘6,000’ be substituted; and
(ii) for the figure ‘4,000’ the figure ‘5,000’ be substituted.”

The amendment was negatived.

Mr. President : Part (iii) of amendment 267 was not moved. So I shall put the first two parts to the House.

The question is :

“That in amendment No. 211 of List VI (Second Week), in the proposed Part IV, in sub-paragraph (3) of paragraph 10,—

- (i) for the words and figure ‘thirty-first day of October, 1948’ the words ‘commencement of this Constitution’ be substituted;
(ii) for the words ‘the commencement of this Constitution’ the words ‘such commencement’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 211 of List VI (Second Week), in the proposed Part IV, in sub-paragraph 11,—

- (i) for the figure ‘4,000 the figure ‘5,000’ be substituted; and
(ii) for the figure ‘3,500 the figure ‘4,000’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

That amendment No. 211 of List VI (Second Week), in the proposed Part IV, in sub-paragraph (2) of paragraph 11,—

- (i) for the words and figure ‘thirty-first day of October, 1948’ the words ‘comment of this Constitution’ be substituted;
(ii) for the words ‘the commencement of this Constitution’ the words ‘such commencement’ be substituted.”

The amendment was negatived.

Mr. President : The third part to amendment 270 was the one accepted by Dr. Ambedkar. As it is, the third part reads :

“In sub paragraph (2) of paragraph 11 in proposed Part IV of the schedule, after the words ‘specified in sub-paragraph 4 (1) of this paragraph, shall’ add the words ‘in addition to the salary specified in sub-paragraph (1) of this paragraph’.”

The Honourable Dr. B. R. Ambedkar : I would like to have my own words.

Mr. President : I think the wording is the same.

Pandit Hirday Nath Kunzru : Is Dr. Ambedkar entitled to move an amendment after the closure has been accepted ?

Mr. President : There is no difference between what Dr. Ambedkar has said and Mr. Naziruddin Ahmad's wording.

Mr. President : The question is :

“That in amendment No. 211 of List VI (Second Week), in the proposed Part IV, in sub-paragraph 2 of paragraph 11 in the seventh line after the word ‘shall’ the following be added :

‘in addition to the salaries specified in sub-paragraph I of this paragraph.’ ”

The amendment was adopted.

The President : The question is :

“That in amendment No. 211 of List VI (Second Week), in the proposed Part IV, in item (ii) of sub-paragraph (b) of paragraph 12, the words ‘excluding any time during which the judge is absent on leave’ be deleted.’ ”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 10 of List I (Second Week), in the proposed Part IV, in Paragraph 10,—

- (i) in sub-paragraph (1) , for the figures ‘5,000’ and ‘4,000’, the figures ‘3,000’ and 2,000’ be substituted respectively; and
- (ii) in sub-paragraph (2) for the word ‘without’ the word ‘on’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 10 of the List I (Second Week), in the proposed Part IV, subparagraph (3) of paragraph 10 be deleted.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 10 of List I (Second Week), in the proposed Part IV, subparagraph (2) of paragraph 11, be deleted.”

The amendment was negatived.

The President : The question is :

“That in amendment No. 10 of List I (Second Week), in the proposed Part IV. in subparagraph (3) of paragraph I 1, for the words ‘Every such judge’ the words ‘Every judge of a High Court’ be substituted.”

The amendment was adopted.

Mr. President : The question is :

“That for Part I of the Second Schedule, the following be substituted :—

‘PART I

PROVISIONS AS TO THE PRESIDENT AND THE GOVERNORS OF STATES
FOR THE TIME BEING SPECIFIED IN PART I OF THE FIRST SCHEDULE

1. There shall be paid to the President and to the Governors of the States for the time being specified in Part I of the First Schedule the following emoluments *per mensem*, that is to my :—

The President	10,000 rupees.
The Governor of a State	5,500 rupees.

2. There shall also be paid to the President and to the Governors such allowances as were payable respectively to the Governor-General of the Dominion of India and to the Governors of the corresponding Provinces immediately before the commencement of this constitution.

3. The President and the Governors throughout their respective terms of office shall be entitled to the same privileges to which the Governor-General and the Governors of the corresponding Provinces were respectively entitled immediately before the commencement of this Constitution.

4. While the Vice-President or any other person is discharging the functions of, or is acting as, President, or any person is discharging the functions of the Governor, he shall be entitled to the same emoluments, allowances and privileges as the President or the Governor whose functions he discharges or for whom he acts, as the case may be.' "

The amendment was adopted.

Mr. President : The question is :

"That in the heading in Part II, after the word and figure 'Part I' the words and figure 'or Part III' be inserted."

The amendment was adopted.

Mr. President : The question is :

"That for paragraph 7, the following paragraph be substituted:—

- '7. There shall be paid to the ministers for any State for the time being specified in Part I or Part III of the First Schedule such salaries and allowances as were payable to such ministers for the corresponding Province or the corresponding Indian State, as the case may be, immediately before the commencement of this Constitution.'

The amendment was adopted.

Mr. President : The question is :

"That in paragraph 8, for the words 'respectively to the Deputy President of the Legislative Assembly and to the Deputy President of the Council of State immediately before the fifteenth day of August, 1947' the words 'to the Deputy Speaker of the Constituent Assembly of the Dominion of India immediately before such commencement, be substituted."

The amendment was adopted.

Mr. President : The question is :

"That for Part IV of the Second Schedule, the following be substituted :—

PART IV

PROVISIONS AS TO THE JUDGES OF THE SUPREME COURT AND OF
THE HIGH COURTS OF STATES IN PART I OF THE FIRST SCHEDULE

(1) There shall be paid to the judges of the Supreme Court, in respect of time spent on actual service, salary at the following rates *per mensem*, that is to say:—

The Chief Justice	5,000 rupees.
Any other judge	4,000 rupees.

Provided that if a judge of the Supreme Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service in the Supreme Court shall be reduced by the amount of that pension.

(2) Every judge of the Supreme Court shall be entitled without payment of rent to the use of an official residence.

(3) Nothing in sub-paragraph (2) of this paragraph shall apply to a judge who was appointed as a judge of the Federal Court before the thirty-first day of October, 1948, and has become on the date of the commencement of this Constitution a judge of the Supreme Court under clause (1) of article 308 of this Constitution, and every such judge shall in addition to the salary specified in sub-paragraph (1) of this paragraph be entitled to receive as special pay an amount equivalent to the difference between the salary so specified and

[Mr. President]

the salary which was payable to him as a judge of the Federal Court immediately before such commencement.

(4) Every judge of the Supreme Court shall receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as the President may from time to time prescribe.

(5) The rights in respect of leave of absence (including leave allowances) and pension of the judges of the Supreme Court shall be governed by the provisions which, immediately before the commencement of this Constitution, were applicable to the judges of the Federal Court.

11. (1) 'There shall be paid to the judges of the High Court of each State for the time being specified in Part I of the First Schedule, in respect of time spent on actual service, at the following rates *per mensem*, that is to say :—

The Chief Justice	4,000 rupees.
Any other judge	3,500 rupees.

(2) Every person who was appointed permanently as a judge of a High Court in any Province before the thirty- first day of October, 1948, and has on the date of the commencement of this Constitution become a judge of the High Court in the corresponding State under clause (1) of article 310 of this Constitution, and was immediately before such commencement drawing a salary at a rate higher than that specified in sub-paragraph (1) of this paragraph, shall in addition to the salary specified in sub-paragraph I of this paragraph be entitled to receive as special pay an amount equivalent to the difference between the salary so specified and the salary which was payable to him as a judge of the High Court immediately before such commencement.

(3) Every judge of the High Court shall receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as the President may from time to time prescribe.

(4) The rights in respect of leave of absence (including leave allowances) and pension of the judges of any such High Court shall be governed by the provisions which, immediately before the commencement of this Constitution, were applicable to the judges of the High Court of the corresponding Province.

12. In this Part unless the context otherwise requires,—

- (a) the expression "Chief Justice" includes an acting Chief Justice, and a "Judge" includes an *ad hoc* judge;
- (b) "actual service" includes—
 - (i) time spent by a judge on duty as a judge or in the performance of such other functions as he may at the request of the President undertake to discharge;
 - (ii) vacations, excluding any time during which the judge is absent on leave; and
 - (iii) joining time on transfer from a High Court to the Supreme Court or from one High Court to another.' "

The amendment was adopted.

Mr. President : The question is :

"That the Second-Schedule, as amended, stand part of the Constitution."

The motion was adopted.

The Second Schedule, as amended, was added to the Constitution.

Shri H. V. Kamath : Mr. President, will you be able to throw some light on the length of this session ?

Mr. President : It all depends upon you. I do not mean you particularly; I mean the House. So I think we have to meet again in the afternoon. We shall sit at four o'clock. The House stands adjourned, up to 4 o'clock.

An Honourable Member : We shall meet from four to six o'clock.

Mr. President : That we shall see.

The Assembly then adjourned for Lunch till Four of the Clock in the afternoon.

The Assembly re-assembled after Lunch at Four of the Clock, Mr President (The Honourable Dr. Rajendra Prasad) in the Chair.

DRAFT CONSTITUTION—(Contd.)

Part VI-A

Mr. President : We shall now take up Part VI-A.

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

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

PART VI-A

THE STATES IN PART III OF THE FIRST SCHEDULE

211 A. The provision of Part VI of this Constitution shall apply in relation to the States for the time being specified in Part III of the First Schedule as they apply in relation to the States for the time being specified in Part I of that Schedule subject to the following modifications and omissions, namely :—

- (1) For the word “Governor” wherever it occurs in the said Part VI, except when it occurs for the second time in clause (b) of article 209, the word “Rajpramukh” shall be substituted.
- (2) In article 128, for the word and figure “Part I” the word and figure “Part III shall be substituted.
- (3) Articles 131, 132 and 134 shall be omitted.
- (4) In article 135,—
 - (a) in clause (1), for the words, “be appointed” the word “becoms” shall be substituted;
 - (b) for clause (3). the following clause shall be substituted, namely:—

“(3) The Rajpramukh shall be entitled without payment of rent to the use of his residences, and there shall be paid to the Rajpramukh such allowances as the President may, by general or special order, determine.”;
 - (c) in clause (4), the words ‘emoluments and’ shall be omitted.
- (5) In article 136, after the words “senior-most judge of that court available” the words or in such other manner as may be prescribed in this behalf by the President’ shall be inserted.
- (6) In article 144, the Proviso to clause (1) shall be omitted.
- (7) In article 148, for clause (1) the following clause shall be substituted, namely:—

“(1) For every State there shall be a Legislature which shall consist of the Rajpramukh and—

 - (a) in the State of Mysore, two Houses;
 - (b) in other States, one House.”
- (8) In article 163, for the words “as are specified in the Second Schedule” the words, “as the Rajpramukh may determine” shall be substituted.
- (9) In article 170 for the words “as were immediately before the date of commencement of this Constitution applicable in the case of members of the Provincial Legislative Assembly for that State” the words “as the Rajpramukh may determine” shall be substituted.

- (10) In clause (3) of article 177—
- (a) for sub-clause (a), the following sub-clause shall be substituted, namely :—
“(a) the allowances of the Rajpramukh and other expenditure relating to his office as determined by the President by general or special order;”
 - (b) after sub-clause (c), the following sub-clause shall be inserted, namely :—
“(e) in the case of the State of Travancore-Cochin, a sum of fifty-one lakhs of rupees required to be paid annually to the Devaswom fund under the covenant entered into before the commencement of this Constitution by the Rulers of the Indian States of Travancore and Cochin for the formation of the United States of Travancore and Cochin;”
- (11) In article 183, for clause (2), the following clause shall be substituted, namely:—
- “(2) Until rules are made under clause (1) of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the State or, where no House of the Legislature for the State existed, the rules of procedure and standing orders in force immediately before such commencement with respect to the Legislative Assembly of such Province, as may be specified in this behalf by the Rajpramukh of the State, shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be.”
 - (12) In clause (2) of article 191, for the word “Province” the words “Indian State” shall be substituted.
 - (13) For article 197, the following article shall be substituted, namely:—
“197. The judges of each High Court shall be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by the President after consultation with the Rajpramukh:
‘Salaries, etc., of Judges. in respect of leave of absence and pension as may from time to time be determined by the President after consultation with the Rajpramukh:
Provided that neither the salary of a judge nor his rights in respect of leave, of absence or pension shall be varied to his disadvantage after his appointment.

I think I will move the other amendments afterwards.

As will be seen, the underlying idea of this Part is that Part VI of this Constitution which deals with the Constitution of the States will now automatically apply under the provisions of article 21-A to States in Part III. But it is realized that in applying Part VI to the Indian States which will be in Part II there are special circumstances for which it is necessary to make some provision and the purpose of this particular amendment 217 is to indicate those particular articles in which these amendments are necessary to be made in order to deal with the special circumstances of the States in Part III. Otherwise the States in Part III so far as their internal constitution is concerned will be on a par with the States in Part I.

Mr. President : Shall we have the amendments ?

Shri K. M. Munshi (Bombay : General) : May I read the Statement

Mr. President : After the amendments are moved. Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : Mr. President, I will move Nos. 237 and 238, but a consequential amendment in the body of the Constitution would be necessary and I have suggested that in amendment No. 254. I beg to move :

“That in amendment No. 217 of List VII (Second Week), in the proposed new article 211-A. for the word ‘modifications’ the words ‘adaptations, modifications’ be substituted.”

I also move:

“That in amendment No. 217 of List VII (Second Week),—

- (i) in item (3) of the proposed article 211 A, for the words ‘shall be omitted’ the words ‘shall not apply to this part’ be substituted;
- (ii) in item (4) of the proposed article 211 A, in paragraph (a), after the words ‘in clause (1)’ the words ‘for the time being specified in the First Schedule’ be omitted and be inserted.”

[Mr. Naziruddin Ahmad]

I also move 254 as consequential amendment to the acceptance of Part II of amendment 238. I move :

“That in clause (1) of article 135, the words ‘for the time being specified in the First Schedule’ be deleted.”

Sir, with regard to the scheme of article 21 I-A, I submit that the Drafting Committee has resorted to a kind of short-cut. They have merely adapted the articles applying to the Provinces so as to suit them to the purposes of the Indian States. Instead of this process they should have re-written the articles absolutely anew. There are many provisions which are similar to the Provinces and the Centre. If the process of adaptation was carried on like this, many provincial articles might have been adapted by a single section like this. In this process, there is a danger of overlooking a large number of anomalies and it is difficult to say what anomaly remains even after the adaptation. I submit that if possible these articles as adapted should be re-written as different independent Part altogether. That is a suggestion which I hope the Drafting Committee will consider.

My first amendment relates to the body of article 211-A. It says that Part III of the First Schedule, *viz.*, the provisions of Part VI shall be accepted subject to the following “modifications and omissions”. I wanted to make it read ‘adaptations, modifications and omissions’. The word ‘adaptation’ seems to me to be very appropriate. What we are doing is to adapt provisions applying to the Provinces to make them suitable for the Indian States. So these are really not mere modifications and omissions but really and essentially they are adaptations. That is why the word “adaptation” is particularly suitable in the context and should be accepted.

Then, Sir, as to the next amendment, it is also of a drafting nature. I shall merely indicate it and leave it to the Drafting Committee to consider the matter. It is in item 3. It is said that “articles 131, 132 and 134 shall be omitted”. Instead of that it would be better to say that these articles “shall not apply to this Part”. That is to say, articles 131, 132 and 134 shall not apply to Part VI-A which is under consideration. This is of a drafting nature and I should leave it to the Drafting Committee to consider.

The next amendment, to my mind, is a matter of some importance. It relates to the adaptations of article 131, clause (1). It, I mean the original article, says that the Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State for the time being specified in the First Schedule. We want to adapt it to apply to the Rajpramukhs. As so adapted, it would read that the Rajpramukh shall not be a member of either House of Parliament or a House of the Legislature of the State for the time being specified in the First Schedule. I submit that as the time when this original article was drafted, the picture of the Indian States was rather vague, and therefore, we concentrated ourselves on phraseology applicable to the Provinces, namely, “the States for the time being in the First Schedule”. I submit that the Rajpramukh should not only be not a member of either House of Parliament or of the States for the time being specified in the First Schedule, but also not a member of the legislature of any State for the time being specified in the Third Schedule. What I mean to say is that the working should be such that.....

The Honourable Shri K. Santhanam (Madras : General) : The honourable Member is confusing the Part I of the First Schedule with the First Schedule. The First Schedule includes all the States.

Mr. President : Specified in the First Schedule, and not Part I of the Schedule.

Mr. Naziruddin Ahmad : I am grateful to Mr. Santhanam for pointing it out. In that case, this amendment and amendment No. 254 would also be unnecessary.

Sir, these articles are coming in in absolutely huge numbers every morning and we have to consider them on the day they are received. With regard to the other amendments, they might be considered by the Drafting Committee.

(Amendment No. 239, List VIII, Second Week was not moved.)

Mr. President : Amendment No. 240—Mr. Sidhwa.

Shri R. K. Sidhwa : Sir, I move :

“That in amendment No. 217 of List VII (Second Week), in item (4) of the proposed article 211 A, in paragraph (b), the words ‘and such allowance shall be a charge on the revenues of the State’ be added at the end of the proposed clause (3).”

And there is a similar amendment, No. 241.

Sir, I move:

“That in amendment No. 217 of List VII (Second Week), in item 10 of the proposed article 211A, in paragraph (a) the words ‘and such expenditure shall be a charge on the revenues of the State’ be added at the end of the proposed sub-clause (a).”

The Honourable Shri K. Santhanam : Para. (10) is a charging section. If you read it with article 177, it will be seen that these allowances will be a charge. That is what Mr. Sidhwa wants.

Shri R.K. Sidhwa : My point is that it should not be a charge on the Union. As the Privy Purse is chargeable to the Union, I want to know whether the allowances are to be charged to the Union or the State. If it is charged to the State, then my amendment is not necessary.

The Honourable Shri K. Santhanam : Article 177 refers only to the Rajpramukhs.

Shri K.M. Munshi : It is only chargeable on the States.

Mr. President : If you refer to paragraph (1) it is covered by that. It says—

“In clause (3) of article 177 for sub-clause (a), the following sub-clause shall be substituted, namely:—

‘(a) the allowances of the Rajpramukh and other expenditure relating to his office as determined by the President by general or special order :’ ”

Shri R. K. Sidhwa : It does not indicate that it will be chargeable to the State.

The Honourable Shri K. Santhanam : The whole article 177 deals with it.

Shri R. K. Sidhwa : If it is now clear, I have no objection. If it is chargeable to the State, that is what I want.

Mr. President : Article 177 clause (3) covers it.

The Honourable Dr. B. R. Ambedkar : My amendment No. 10 covers it.

Shri R. K. Sidhwa : I see it now. Then there is another amendment No. 246, relating to the new article 235A. Will that come up later on ?

Mr. President : Yes. We now come to amendment No. 242—Shri Brajeshwar Prasad.

Shri Brajeshwar Prasad : Sir, I beg to move:

“That in amendment No. 217 of list VII (second week), in item (13) of the proposed article 211A, the words ‘after consultation with the Rajpramukh’ be deleted from article 197.”

Sir, I am opposed to the statutory obligation on the part of the President to consult the Rajpramukh. I know, in practice, the President will always consult the Rajpramukh. But if there is any statutory obligation, it means that the sphere of action of the President would be circumscribed. It will not be easily possible for any man to go counter to the advice tendered by the Rajpramukh. Therefore, Sir, I am in favour of the proposition that the authority of the President in this sphere should be unrestricted and unhampered. Sir, there is another reason why I am against the Rajpramukh. I want that all powers, as far as possible, should be vested in the hands of the President, which means in the hands of the Government of India. Being fundamentally opposed to federalism and provincial autonomy and being an advocate of a unitary State, I feel that powers should be vested, as far as this topic is concerned, in the hands of the President and the President alone.

Mr. President : There are two more amendments, notice of one of which has been given by Kaka Bhagwant Roy.

Kaka Bhagwant Roy : (Patiala and East Punjab States Union) Mr. President, Sir, I move :

“That in amendment No. 217 of List VII (Second Week), for paragraph (b) of item (4) of the proposed article 211A, the following be substituted:—

‘(b) for clause (3), the following clause be substituted; namely—

- (3) The Rajpramukh shall be entitled, without payment of rent to the use of his residences, and there shall be paid to the Rajpramukh such allowances as the President may, on consideration of the recommendation made by the Legislature of the State, by general or special order, determine.’ ”

Sir, the big allowances of the Rajpramukhs are to be a direct charge on the State revenues, and the State revenues are paid by the States people. So, the representatives of the people—I mean the State Legislatures—should have the right to discuss the allowances which are to be paid to the Rajpramukhs. You remember, Sir, that when we were discussing Schedule VII, I put up a similar kind of amendment and I was assured by Dr. Ambedkar that, when we took up the States Chapter, we shall surely consider over it. I think Dr. Ambedkar would be kind enough to consider over this amendment and accept it.

Prof. Shibban Lal Saksena : Mr. President, Sir, I beg to move:

“That in amendment No. 217 of List VII (Second Week), in paragraph (a) of item (10) of the proposed article 211A, for the words ‘the President by general or special order’ the words ‘Parliament by law’ be substituted.”

Mr. President : The copy that I have, reads—

“That in amendment No. 278 of List X (Second Week), in clause (1) of the proposed article 197, for the words ‘President after consultation with the Rajpramukh’ the words ‘Parliament by law’ be substituted.”

Prof. Shibban Lal Saksena : The amendment that I am moving is 288 of List XII.

Mr. President : I have just received it. You can move it.

Shri T. T. Krishnamachari : But that has not been moved.

The Honourable Dr. B. R. Ambedkar : How can you move it?

Prof. Shibban Lal Saksena : I am not moving the amendment which the President read out. I am moving No. 288 of List XII.

The Honourable Shri K. Santhanam : Before that there are amendments Nos. 276, 277 and 278 in List X.

Mr. President : We have not yet come to that. He may move that and then we shall take them up.

Prof. Shibban Lal Saksena : Here we are making provisions for allowances to be paid to the Rajpramukhs and we have said that these allowances shall be determined by the President by general or special order. Now, in the original article, the salary of the Governors is to be determined by Parliament, and I do not know why the allowances of the Rajpramukhs should not be determined by Parliament. In fact, the allowances should be fixed once for all and should not be varying. Therefore, I think that these allowances should be determined by Parliament and not by the President. They should not be liable to variation with every change of President. This is my amendment No. 288.

The Honourable Shri K. Santhanam : Mr. President, Sir, I move:

“That in amendment No. 217 of List VII (Second Week), in item (4) of the proposed article 211A for paragraph (b) the following, be substituted :—

‘(b) for clause (3), the following clause shall be substituted, namely—

- (3) Unless he has his own residence in the Capital of his State, the Rajpramukh shall be entitled to the use of an official residence without payment of rent, and there shall be paid to the Rajpramukh such allowances as the President may, by general or special order, determine.’ ”

The point of this amendment is that in the clause as originally drafted, the provision is that the Rajpramukh shall be entitled without payment of rent to the use of his residences; if there are his residences, certainly we need not make a constitutional provision that he is entitled to use them. It is only when he has to use some residence which is not his by right, the question of payment of rent arises. That is why I want to make the provision that only when a Rajpramukh has not got his own residence in his Capital, he should be entitled to the use of an official residence without payment of rent, and my amendment has been tabled accordingly. Sir, I beg to move :

“That in amendment No. 217 of List VII (Second Week), in item (13) of the proposed article 211 A, for article 197, the following be substituted :—

‘Salaries, etc. of Judges. 197. (1) There shall be paid to the judges of each High Court Such salaries as may be determined by the President after consultation with the Rajpramukh.

- (2) Every judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as may be determined by the President in consultation with the Rajpramukh:

Provided that neither the allowance of a judges nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.’ ”

Sir, our attempt has been to bring the States as far into line with the provinces as possible. So far as salaries are concerned, it has been found necessary that the salaries of the High Court Judges in the States should differ at least for the present from those of the High Courts in the provinces. Therefore the President has been given the right under article 193 (7). The Parliament has been given power to fix the other allowances, and rights in respect of leave of absence and pensions. There is no justification why Parliament or Parliamentary legislation should not apply to the judges in the States High Courts as well. Therefore so far as clause (2) and the proviso are concerned, I have adopted the same language as in article 197 with the difference that to start with the allowances may be fixed by the President. In clause (1) I have given

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the President the right to fix the salaries of judges so that the new article 197 will follow the old article 197 as closely as it is possible and necessary to do so—

Shri H. V. Kamath : On a point of clarification, may I ask my honourable Friend Mr. Santhanam whether, in view of the fact that Rajpramukhs have been specifically exempted from payment of rent for their official residence, the article relating to the Governors also will be suitably amended ? That article does not exempt them specifically.

Mr. President : That question does not arise at this stage.

Shri H. V. Kamath : Governors and Rajpramukhs are on a par with each other.

Mr. President : That may be, but we are not dealing with Governors here.

The Honourable Shri K. Santhanam : I may add that the Rajpramukhs have generally their own residences in the capital and therefore no question of rent will arise.

Shri A. Thanu Pillai (Travancore & Cochin Union) : May I know from my honourable Friend, Mr. Santhanam, why he makes a distinction between salaries and allowances of High Court judges ?

Honourable Shri K. Santhanam : Because article 197 has made the distinction. It has fixed salaries in the Schedule II and made it unalterable by Parliament. But clause (2) of 197 makes the all owances and other rights in respect of leave, pension, etc., subject to parliamentary legislation. Because under 197 we have made the distinction. I am only trying to preserve the same distinction with respect to the States.

Shri H. R. Guruv Reddy (Mysore State): Mr. President, Sir, I move :

“That in amendment No. 217 of List VII (second week), in item (1) of the proposed article 211A, for the word ‘Rajpramukh’ the words ‘Maharaja, Nizam’ or the ‘Rajpramukh’ be substituted.”

Sir, it may be said that this matter would be explained elsewhere in the Constitution. But I feel that it is necessary.....

Shri T. T. Krishnamachari (Madras : General): May I point out that it is the intention of the Drafting Committee that this definition should be included in the definition clause 303 to which we propose to make amendments and if the honourable Member would wait, he will probably get an opportunity of putting these words as he wants them as an amendment to our proposal.

Shri H. R. Guruv Reddy : In that case, I will have it postponed. I shall move 287, I move:

“That in amendment No. 217 of List VII (Second Week), in paragraph (b) of item (4) of the proposed article 211A, in the proposed clause (3), for the words ‘payment of rent’ the words ‘any obligation’ be substituted.”

The use of the word “rent” looks as though it is belittling the rulers of the States. Therefore, I suggest the word “obligation” be introduced. Nothing else.

Prof. Shibban Lal Saksena : Mr. President. Sir, I beg to move:

“That in amendment No. 278 of List X (Second Week), in clause (1) of the proposed article 197, for the words ‘President after consultation with the Rajpramukh’ the words ‘Parliament by law’ be substituted.”

Amendment No. 278 was moved by my Friend, Mr. Santhanam. My object in moving this amendment is this. Already my honourable Friend from Travancore has raised the question, which Mr. Santhanam also answered. He said that

he was trying to conform to article 207 in List 7 of amendments now under discussion. I think that is no reason. I feel that salaries must be fixed. They must not be variable and it must not be for the President to fix them from time to time after consultation with the Rajpramukh. Whatever the salary, it is only proper that it should be fixed by the Parliament. The Parliament should be the ultimate authority. I am prepared to concede that during the transition period you may keep this clause, but if you want it permanently in the Constitution, these salaries must be fixed by the Parliament by law.

Shri Raj Bahadur (United States of Matsya) : In view of the statement made by Shri K. Santhanam I do not move Amendment No. 277.

Mr. President : These are all the amendments The article as well as the amendments are open to discussion.

The Honourable Sardar Vallabhbhai J. Patel (Bombay : General) : Sir, I have prepared a speech which I thought I would not be able to deliver because of the strain that it would cause me and I have requested Mr. Munshi to read it on my behalf. It gives a general resume of the origin of the amendments which have been proposed by Dr. Ambedkar. There are a large number of them about which it is necessary to explain how they came to be introduced. It is also necessary to give a general idea of the background of all these things. Therefore, if you will permit, I shall ask Mr. Munshi to read it.

Mr. President : Yes, Mr. Munshi may read it.

The Honourable Sardar Vallabhbhai J. Patel : *Sir it has been my endeavour to keep the House fully informed of our policy and the developments in respect of the States. Apart from the statements I have made on the floor of the House from time to time, I laid before the House in July last year a White Paper on States in which was set out in detail not only the policy pursued by the Government of India towards the States but also the various agreements and Covenants entered into with the Rulers were reproduced. In March last I placed before the House another detailed report on the policy and the working of the Ministry of States. Now that the process of integration of the States has been completed I propose to place before the House next month another State Paper which Will contain a comprehensive review of all the developments which have taken place in respect of the Indian States since this Government was called upon to face the problem of States.

The amendments which are now being proposed concerning the provisions of the Constitution applicable to the States, embody the results of the bloodless revolution which within a remarkably short period, has transformed the internal and external set up of the States. The fact that the new Constitution specifies only nine States in Part III of Schedule I is an index to the phenomenal progress made by the policy of integration pursued by the Government of India. By integrating 500 and odd States into sizeable units and by the complete elimination of centuries-old autocracies, the Indian democracy has won a great victory of which the Princes and the people of India alike should be proud. This is an achievement which should redound to the credit of any nation or people at any phase of history.

As the House is aware, when the States entered the Constituent Assembly, of India, it was thought that the Constitution of the States would not form part of the Constitution of India. It was also understood that unlike the Provinces the accession of the States to the Indian Union would not be automatic but would be by means of some process of ratification of the Constitution. In the context of those commitments and the conditions then obtaining certain

*The speech was read out by Shri K. M. Munshi.

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provisions were incorporated in the Draft Constitution, which placed the States in certain important respects on a footing different from that of the Provinces.

As a result of the policy of integration and democratization of States pursued by the Government of India since December 1947 the process of what might be described as 'unionisation' of States has been greatly accelerated. Two important developments in this direction have been the extension of the legislative authority of the Dominion over the States and the federal financial integration of the States. The States had originally acceded in respect of the three subjects of Defence, Foreign Affairs and Communications only. With the formation of the Unions the legislative power of the Dominion Parliament was extended in respect of the Unions of States to all matters specified in the Federal and Concurrent Lists except those relating to taxation. The content of the accession of the State of Mysore was also likewise extended.

The gap in the financial field has now been filled by the arrangements which have been negotiated, with the States on the basis of the recommendations made by the Indian States Finances Enquiry Committee. The fundamental basis of this scheme is that federal financial integration of the States is a necessary consequence of the basic conception underlying the new Constitution of the Union of India—that of Provinces and States as equal partners. The scheme, therefore, is based upon complete equality between the Provinces and States in the following respects :—

- (1) The Central Government should perform the same functions and exercise the same powers in States as in Provinces;
- (2) The Central Government should function through its own executive organisations in States as in Provinces;
- (3) There should be uniformity and equality in the basis of contributions to Central resources from Provinces and States;
- (4) There should be equality of treatment as between Provinces and States in the matters of common services rendered by the Central Government, and as regards the sharing of divisible federal taxes, grants-in-aid, 'subsidies', and all other forms of financial and technical assistance.

The fact that these far-reaching changes in our fiscal structure are being introduced with the full concurrence of the States is in itself a great tribute to the excellent work done by the Indian States Finances Enquiry Committee under the chairmanship of Sir V. T. Krishnamachari, who brought to bear on this important problem his vast experience in Indian States.

These important developments enabled us to review the position of the States under the new Constitution and to remove from it all vestiges of anomalies and disparities which found their way into the new Constitution as a legacy from the past.

When the Covenants establishing the various Unions of States were entered into, it was contemplated that the Constitutions of the various Unions would be formed by their respective Constituent Assemblies within the framework of the covenants and the Constitution of India. These provisions were made in the covenants at a time when we were still working under the shadow of the theory, that the assumption, by the Constituent Assembly of India, of the constitution-making authority in respect of the States would constitute an infringement of the autonomy of the States. As however, the States came closer, to the Centre, it was realised that the idea of separate Constitutions being framed for the different Constituent units of the Indian Union was a legacy

from the Rulers' polity and that in a people's polity there was no scope for variegated constitutional patterns. We, therefore, discussed this matter with the Premiers of the various Unions and decided, with their concurrence, that the Constitution of the States should also form an integral part of the Constitution of India. The readiness with which the legislatures of the three States in which such bodies are functioning at present, namely, Mysore, Travancore and Cochin Union and Saurashtra, have accepted this procedure, bears testimony to the wish of the people of the States to eschew the separatist trends of the past.

In view of these important developments it became necessary to recast a number of the provisions of the Constitution in so far as they related to the States. The amendments we are proposing have been examined by the Constitution-making bodies of Mysore, Saurashtra and Travancore and Cochin Union. Some of the modifications proposed by these bodies have been incorporated in the amendments tabled before the House. Others have been dropped as a result of the discussions I have had with the representatives of these Constituent Assemblies.

It is a matter of deep regret for me that it has not been possible for us to adopt a similar procedure for ascertaining the wishes of the people of the other States and Unions of States through their elected representatives. Unfortunately we have no properly constituted legislatures in the rest of the States; nor will it be possible to have legislatures constituted in them before the Constitution of India emerges in its final form. We have, therefore, no option but to make the Constitution operative in these States on the basis of its acceptance by the Ruler of the Rajpramukh, as the case may be, who will no doubt consult their Councils of Ministers. I am sure neither the honourable Members representing those States in this House nor the people of the States generally, would wish that the enforcement of the Constitution in these States should be held over until legislatures or constitution-making bodies are constituted in them. The legislatures of these States, when, constituted under the new Constitution, may propose amendments to the Constitution. I wish to assure the people of these States that any recommendations made by their first legislatures would receive our earnest consideration. In the meantime I have no doubt, that the Constitution framed by this House, where all the States except one are duly represented, will be acceptable to them.

In view of the special problems with which the Government of Jammu and Kashmir is faced, we have made a special provision for the continuance of the constitutional relationship of the State with the Union on the existing basis. In the case of Hyderabad State the acceptance of the Constitution will be subject to ratification by the people of the State.

As the House will see, in several respects the Constitution as it now emerges, is different from the original draft. We have deleted such provisions, as articles 224 and 225, which imposed limitations on the Union's legislative and executive authority in relation to States in the federal sphere. The entries in the legislative List, which differentiated between the States and Provinces have likewise been dropped. The legislative and executive authority of the Union in respect of the States will, therefore, be co-extensive with its similar authority in and over the Provinces. Subject to certain adjustments during the transitional period, the fiscal relationship of the States with the Centre will also be the same as that between the Provinces and the Centre. The jurisdiction of the Supreme Court will now extend to the States to the same extent as in the case of the Provinces. The High Courts of the States are to be constituted and will function in the same manner as the Provincial High Courts. All the citizens of India, whether residing in States or Provinces, will enjoy

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the same fundamental rights and the same legal remedies to enforce them. In the matter of their constitutional relationship with the Centre and in their internal set-up the States will be on a par with the Provinces.

I am sure the House will note with gratification the important fact that unlike the scheme of 1935, 'our new constitution is not an alliance between democracies and dynasties, but a really union of the Indian people built on the basic concept of the sovereignty of the people. It removes all barriers between the people of the States and the people of Provinces and, achieves for the first time the objective of a strong democratic 'Indian built on the true foundation of a co-operative enterprise on the part of the people of the Provinces and States alike.

As the House is acquainted with trends of developments affecting the States it is not necessary for me to explain to the House the various amendments which have been tabled. There are two or three matters, however, about which I should like to make a few observations.

One of these is the proposed article 306-B. As the House is aware, the States, as we inherited them, were in varying stages of development. In most cases the advance had to be made from the starting point of pure, 'autocracy. Having regard to the magnitude of the task, which confronted the Governments of the Unions in the transitional period, and to the fact that neither the Services inherited by them nor the political organisations, as they existed there, were in a position to assume, unaided, full responsibilities of the administration, we made a provision in some of the Covenants that till the new Constitution came into operation in these . Unions, the, Rajpramukh and the Council of Ministers shall, in the exercise of their functions, be under the general control of the Government of India and comply With the instructions issued by that Government from time to time. The stress of the transitional phase is likely to continue for some years. We are ourselves most anxious that the people of these States should shoulder their full responsibilities; 'however, we cannot ignore the fact that while the administrative Organisation and political institutions are to be found in most of the States in a relatively less developed state, the problems relating to the integration of the States and the change-over from an autocratic to a democratic order are such, as to test the mettle of long established administrations and experienced leaders of people. We have therefore, found it necessary that in the interest of the growth of democratic institutions in these States, no less than the requirements of administrative efficiency, the Government of India should exercise general supervision over the Governments of the States till such time as it may be necessary.

It is natural that a provision of this nature which treats States in Part III differently. from Part I States should cause some misgivings. I wish to assure the honourable Members representing these States, and through them the people of these States that the provision involves no censure of any Government. It merely provides for contingencies which, in view of the present conditions, are more likely to arise in Part III States than in the States of other categories. We do not wish to interfere with the day-to-day administration of any of the State. We are ourselves most anxious that the people of the States should learn by experience. This article is essentially in the nature of a safety-value to obviate recourse to drastic remedies such as the provisions for the breakdown of the constitutional machinery. It is quite obvious that in this matter the States, *e.g.*, Mysore and Travancore and Cochin Union where democratic institutions have been functioning for a long time and where Governments responsible to legislatures are in office, have to be treated differently from the States not conforming to these standars. In all these cases our

control will be exercised in varying degrees according to the requirements of each case. The proviso to the article gives us the necessary discretion to deal with each case on its merits.

I hope this statement which embodies our considered policy will allay any apprehension which the Governments of any of these States may have concerning this article.

Another matter about which I would like to remove misgivings is the proposed amendment to article 3. This amendment places the States in Part III on the same footing as the States in Part I in respect of territorial readjustments. The Constituent Assembly of Mysore recommended to us that the article as already adopted by this House, which provides for prior consent of Part III States before any proposals affecting their territories are placed before the House, should remain unaltered. We have not found it possible to agree to the suggestion for the simple reason that in such matters there should be no differentiation between Part I and Part III States. I, however take this opportunity of assuring the representatives of Mysore State that whether the article provides for consultation or consent of the legislature of the affected State, the wishes of the people cannot be ignored either by the Central Government or legislature. After all, we are a democracy; the main sanction behind us is the will of the people and we cannot act in disregard of public opinion.

I now come to the proposed article 267-A in respect of which some explanation is necessary. The Government of India have guaranteed to the Rulers of merged and integrated States payment of privy purses as fixed under the terms of the various Covenants and Agreements of Merger. Article 267-A give constitutional recognition to these guarantees and provides for this expenditure being charged on the Central Revenues subject to such recoveries as may be made from time to time from the Provinces and States in respect of these payments.

I shall first deal with the financial aspect of these arrangements. In the past, in most of the States there was no distinction between the expenditure on the administration and the Ruler's privy purse. Even where the Ruler's privy purse had been fixed no effective steps were taken to, ensure that the expenditure expected to be covered by the privy purse was not, directly or indirectly, charged on the revenues of the State. Large amounts, therefore, were spent on the Rulers and on the members of the ruling families. This expenditure has been estimated to exceed twenty crores of rupees per year.

All the agreements of merger and Covenants now provide for the fixation of the Ruler's privy purse which is intended to cover all the expenses of the Rulers and their families including the expenses of their residences, marriages and other ceremonies, etc. The privy purse guaranteed under these agreements is less than the percentage for the Deccan States under the award given by Dr. Rajendra Prasad, Shri Shankerrao Deo and Dr. Pattabhi Sitaramayya. It is calculated on the basis of 15 per cent. on the first lakh of average annual revenue of the State concerned ten per cent. on the next four lakhs and seven and a half per cent. above five lakhs, subject to a maximum of ten lakhs. The maximum figure of ten lakhs has been exceeded only in the case of some of the major States, which had been recognised as viable and the amounts fixed in such cases are payable during their life-time only. The total annual privy purse commitments so far made amount to about Rs. four and a half crores. When the amounts guaranteed to certain Rulers during their life-time are subsequently refixed the total annual expenditure in respect of privy purses will amount to less than Rs. four crores.

Under the terms of the Covenants and the agreements entered into by the Rules privy purses are payable to the Rulers, out of the revenues of the States

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concerned and payments have so far been made accordingly. During the of the discussions with the Indian States Finances Enquiry Committee, it urged by most of the States that the liability for paying privy purses of Rulers should be taken over by the Centre on the ground that—

- (a) privy purses have been fixed by the Centre;
- (b) privy purses are political in nature; and
- (c) similar payments are not made by the Provinces.

Apart from these considerations, the position has definitely changed since the execution of the Covenants. In the first place, so far as the merged States are concerned, with their total extinction under the new Constitution of India, as separate entities, the basis of liability for privy purse payments guaranteed to the Rulers of the States will undergo a change, in that the States, from the revenues of which privy purses are payable, would cease to exist. Secondly, the term “revenues of the State” has now to be viewed in the context of the federal financial integration of States. This integration involves a two-fold process; one, of ‘functional’ partition of the present composite State Governments, and the other of ‘merger’ of the partitioned ‘federal’ portions of the State Governments with the present Central Government. It follows, therefore, that when the federal financial integration becomes effective, the liability in respect of privy purse payments should strictly speaking be shared on an equitable basis by the functional successors to the Governments of merged and integrated States, that is, the Central Government, on the one hand, and the Governments of Provinces and States on the other. Having regard to all these factors, we have decided that the best course would be that these payments should constitute a charge on the Central revenues, but that, at the same time, provision should be made for the recovery of such contributions from the Governments of the States, during such transitional period and in such amounts as may be considered appropriate. These recoveries are to be made in accordance with the scheme for financial integration of the States.

I have already stated that the privy purse settlements made by us will reduce the burden of the expenditure on the Rulers to at least one-fourth of the previous figure. Besides, the States have benefited very considerably from the process of integration in the form of cash balances inherited by them from the Rulers. Thus, for instance, the Rajpramukh of Madhya Bharat alone has made over to the Union large sums of money yielding interest sufficient to cover a major portion of the total privy purses of the Rulers, who have joined this Union. So, far as the assumption of the part of the burden by the Centre is concerned, we must remember that this arrangement flows as a consequence of the financial integration of the States, which will have an effect of lasting character on the economy of this country. The fiscal unification of India will patch up the disruptive rents in the economy of India which rendered effective implementation of economic policies in the Provinces impossible. Thus, for instance, in the matter of income-tax evasion alone, which has been a serious matter in recent years the gains from federal financial integration will prove very substantial. From the financial point of view, therefore, the arrangements we have made are going to benefit very materially the economy of this country.

I shall now come to the political and moral aspect of these settlements in order to view the payments guaranteed by us in their correct perspective, we have to remember that they are linked with the momentous developments affecting the most vital interests of this country. These guarantees form part of the historic settlements which ensfire in them the consummation of the great ideal of geographical, political and economic unification of India, an ideal

which for centuries remained a distant dream and which appeared as remote and as difficult of attainment as ever even after the advent of Indian independence.

Human memory is proverbially short. Meeting in October, 1949, we are apt to forget the magnitude of the problem which confronted us in August, 1947. As the honourable Members are aware, the so-called lapse of paramountcy was a part of the Plan announced on June 3, 1947, which was accepted by the Congress. We agreed to this arrangement in the same manner as we agreed to the partition of India. We accepted it because we had no option to act otherwise. While there was recognition in the various announcements of the British Government of the fundamental fact that each State should link up its future with the Dominion with which it was geographically contiguous, the Indian Independence Act released the States from all their obligations to the British Crown. In their various authoritative pronouncements, the British spokesmen recognised that with the lapse of paramountcy, technically and legally the States would become independent. They even conceded that theoretically the States were free to link their future with whichever Dominion they liked although, in saying so, they referred to certain geographical compulsions, which could not be evaded. The situation was indeed fraught with immeasurable potentialities of disruption, for some of the Rulers did wish to exercise their technical right to declare independence and others to join the neighbouring Dominion. If the Rulers had exercised their right in such an unpatriotic manner, they would have found considerable support from influential elements hostile to the interests of this country.

It was against this unpropitious background that the Government of India invited the Rulers of the States to accede on three subjects of Defence, External Affairs and Communications. At the time the proposal was put forward to the Rulers, an assurance was given to them that they would retain the status quo except for accession on these subjects. It had been made clear to them that this accession did not also imply any financial liability on the part of the States—and that there was no intention either to encroach on the internal autonomy or the sovereignty of the States or to fetter their discretion in respect of their acceptance of the new Constitution of India. These commitments had to be borne in mind when the States Ministry approached the Rulers for the integration of their States. There was nothing to compel or induce the Rulers to merge the identity of their States. Any use of force would have not only been against our professed principles but would have also caused serious repercussions. If the Rulers had elected to stay out, they would have continued to draw the heavy civil lists which they were drawing before and in large number of cases they could have continued to enjoy unrestricted use of the State revenues. The minimum which we could offer to them as *quid pro quo* for parting with their ruling powers was to guarantee to them privy purses and certain privileges on a reasonable and defined basis. The privy purse settlements are therefore in the nature of consideration for the surrender by the Rulers of all their ruling powers and also for the dissolution of the States, as separate units. We would do well to remember that the British Government spent enormous amounts in respect of the Mahratta settlements alone. We are ourselves honouring the commitments of the British Government in respect of the pensions of those Rulers who helped them in consolidating their Empire. Need we cavil then at the small—purposely use the, word—small—price we have paid for the bloodless revolution which has affected the destinies of millions of our people.

The capacity for mischief and trouble on the part of the Rulers if the settlement with them would not have been reached on a negotiated basis was for greater than could be imagined at this stage. Let us do justice to them; let us

[The Honourable Sardar Vallabhbhai J. Patel]

place ourselves in their position and then assess the value of their sacrifice. The Rulers have now discharged their part of the obligations by transferring all ruling powers and by agreeing, to the integration of their States. The main part of our obligation under these agreements, is to ensure that the guarantees given by us in respect of privy purse are fully implemented. Our failure to do so would be a breach of faith and seriously prejudice the stabilisation of the new order.

In commending the various provisions concerning the States to the House I would ask the Honourable Members to view them as a coordinated over-all settlement of a gigantic problem. A particular provision isolated from its context may give a wholly erroneous impression. Some of us might find fault with what might appear as relics of the previous autocratic set up. I wish to assure Honourable Members that autocracy in the States has gone, and has gone for good. Let us not get impatient with any particular term which might remind us of the past. The form in which the Rulers find recognition in the new Constitution of India, in no way impairs the democratic set up of the States. The Rulers have made an honourable exist;- it now remains for the people to fill the breach and to derive full benefit from the new order.

I take the liberty to remind the House that at the Haripura Session the Congress in 1938 defined its objective in respect of the States as follows :—

“The Congress stands for the same political, social and economic freedom in the States as in the rest of India and considers the States as integral parts of India which cannot be separated. The Purna Swaraj or complete Independence, which is the objective of the Congress, is for the whole of India, inclusive of the States, for the integrity and unity of India must be maintained in freedom as it has been maintained in subjection. The only kind of federation that can be to the Congress is one in which the States participate as free units, enjoying the same measure of democratic freedom as the rest of India.”

I am sure the House will agree with me when I say that the provision which we are now placing before the House embody in them full achievement of that objective. (*Cheers*).

Mr. President : We shall now proceed with the further discussion of amendment No. 217 which Dr. Ambedkar has moved and the various amendments which have been moved to that amendment. If any Member wishes to say anything he can do so now.

Dr. B. Pattabhi Sitaramayya (Madras : General) : Mr. President Sir, on a previous occasion when I first spoke in this House I had stated that it was a sudden impulse that overtook me which draw me to the mike. I beg permission to repeat the same.

As I heard page after page, paragraph after paragraph, sentence after sentence of the masterly document that has been just now read to us. I felt exalted and transported to a new world of vision, a dream-land which we had in mind When we effected a compromise at Haripura, in terms of the resolution which, fortunately, has been recalled to your minds by being read verbatim. That was the result of a struggle between two sections, the more conservative and the more radical, which was ultimately brought about by the masterly Intervention of the present Home Minister and the Prime Minister and our revered Mahatmaji. It was in 1936 that I began to take direct and active interest in the affairs of the States because I felt that they, could not be kept apart from the provinces of India for any length of time and as I travelled from State to State and cleared thousands of miles by car, I felt that there was no natural partition between the States and the Provinces. They were not separated either by forests or jungles or deserts or rivers or mountain ranges but they were all of a piece with one another and only a toll

bar represented by a rope was the dividing line between the two areas and if you travel through Kathiawar which is now called Saurashtra with its 417 States, you cannot pass any two miles without changing over from State to, province and province to State. That was an impossible state of things. How it had come into being was unimaginable and there was no point in postponing the consideration of the amalgamation of the provinces and the States. That was how the Haripura Resolution was brought into existence and today we have the unique satisfaction that under the strategy and statesmanship of our Home Minister who is also the Minister for the States, it has been possible for him to bring about this unity in financial matters, in strategic matters, in matters of the army and above all, in matters of the Constitution.

All congratulations are due to the representatives of the States who are assembled here for the ready manner in which they have acceded to these suggestions. At first when we were engaged in the Negotiating Committee in February 1947, it looked to me as though it would be a miracle to bring the representatives of the various States into this House, but when these men who were not able to stand within a mile of the Palaces of the Princes were sitting side by side with them on equal terms, it was a pleasurable sight to witness, and from that day forward we have progressed from step to step and stage by stage until today we have about 92 of them represented in this House sitting on terms of equality and friendly comradeship with us all.

One point I would like to mention and that is the privy purse. When a palace is built especially in a clayey and slushy area which makes the foundations weak, more bricks are thrown into the foundations than are visible in the walls or on the facade. It is the facade that draws attention it is facade that is worked artistically, but the bricks are all thrown into the foundations never to be seen, but always bearing the burden of the mighty edifice that is visible above. That was the foundation that we had laid in trying to bring the sixteen Deccan States into one Union and this is the second occasion upon which the Home Minister, who is the Minister for the States, has made a direct reference to the names of three of us in respect of the propriety of the measure of the privy purse that has been granted to the princes. We had to do the spadework and we had to offer a bail to our princes, we had to draw them into the scheme of Union. All honour to those sixteen princes who had agreed to come into the Union for the first time at a time when neither unification nor unionisation was visualized or conceived. All honour to the Rajas of Phaltan, of Sangli, of Bhor and of Aundh who had taken the initiative in this matter and made it possible; on foundations which had to be well and truly laid and therefore more money had to be spent upon them, we had to give privy purses on a much larger scale. It was the fortunate privilege of the Minister for the States to build upon those foundations and negotiate, a much smaller privy purse and all honour to our Minister of States, for having made it almost the minimum.

Perhaps there is a feeling in the country and some friends who have no responsibility placed on them in regard to the administration of the State are fond of speaking somewhat disparagingly of the amount of privy purse that has been granted to our princes. Let it be made clear that there is no mistake made in granting these, which have been on the most moderate scale, and I am sure that as time passes perhaps the Princes themselves will feel that this kind of 'maintenance' life ill suits them. It is not the Princes that are so much the burden on the administration as the Jagirdars. Hyderabad has 1,200 Jagirdars, Gwalior has 600. All these have to be liquidated and when you take into consideration the compensation that is due to all these people, you will find that in the proportion in which you have put an end to autocracy, you are also increasing your privy purse liability and maintenance liability. That is inevitable. But as has been very well pointed out in this document

[Dr. B. Pattabhi Sitaramayya]

it makes for a saving of 20 crores which are the illegal allowances taken and of several crores which are legally saveable from the budgets as they had obtained up to now. The privy purse after all is a small matter. It is the monetary equivalent of the, moral surrender of the Princes. Moral surrender is what we want and all honour to the Princes that have readily agreed to such an arrangement. You can easily increase the resources of the country. You can easily decrease your expenditure by agreement. Therefore I must offer my congratulation to the Ministry upon the magnificent achievement for which they are responsible.

Finally, I should like to say that while much has been done, there is a little yet to be achieved. Madhyabharat comes next to Mysore and Travancore for the excellent traditions that it is building up and Rajasthan has still to build up such traditions. Saurashtra is not likely to be isolated for long, and then you have the problems in PEPSU and the Himachal States and last of all, Vindhya-prant. I am sure that that statesmanship and farsightedness, that acuteness of vision and that perspicacity which have been able to achieve these results will be able to follow them up by equally brilliant results in regard to these four problematical questions that still confront the States Ministry and the country.

When this is done, the whole of India will have been placed upon one common foundation and the achievements which are visualised in the Haripura Resolution will have been completed. I, therefore, offer my thanks and congratulations not merely as an individual but also as the Officiating President, as the Substitute-President of the permanent President of the States People's Conference, then as the Vice-President and now as the President of the Indian National Congress. I welcome the settlement and congratulate the Honourable the States Minister upon this magnificent achievement for which there is no parallel in history. I can easily recall the Confederation of the German States being brought together after the Battle of Jena in 1871, when France was defeated and all the Confederacy was converted into a Federation. Even that does not make any approach to the unionization of the 562 Islands of autocracy, citadels of personal rule, which had been established by the British for their own purposes. The British had gone but when they had gone, they had left a blot upon their own good name by publishing the document of 12th May 1946 relating to paramountcy which they had not allowed to be published till 23rd May 1946, i.e., till we had given our reply to the 16th May document round which all negotiations had centred. By one stroke of the pen they had released these 562 lions from their cages. And they let them loose upon the country. Fortunately, the States Ministry had been able to get hold of them and make them real citizens of usefulness; and we are sure that with their co-operation in the fields of diplomacy and industries—the two fields for which they are eminently fitted—they will help to exalt the good name of India in the comity of nations.

Mr. President : I do not mind allowing some more speakers to speak, but I suggest we finish this Part today.

Shri Ram Sahai (Madhya Bharat) : * [Mr. President, I believe there could be no occasion for greater satisfaction of the people of the Indian States than the present one when the people of those regions find themselves on the same level as the people of the Provinces. I find that they have been given under the Constitution the same status as has been provided for the people of the Provinces. No one can doubt that the people of the States have been able

* [] Translation of Hindustani Speech.

to secure this privilege only because of the great interest that Sardar Patel has taken in the problems of the States. No one can, of course, doubt that the Resolution passed by the Haripura Session of the Indian National Congress with respect to the States and the agitation carried on by the All-India States Peoples Conference as a result of that resolution for the integration and uniform administration in the Indian States and the situation created as a result of that agitation have all combined to facilitate the task of the Sardar in this respect, and have enabled him to solve the problem of the States at the earliest possible moment. All the Regional Councils affiliated to the All-India States Peoples' Conference had laboured hard in this direction and as a result of their efforts and the leadership and guidance of Sardar Patel, you find today that the States have been able to get the same status under the Constitution which is enjoyed by the Provinces.

Only last year a convention of the representatives of the States in the Constituent Assembly was held in Delhi. The statement issued by that Convention also demanded that provision should be made in the Constitution at an early date so as to put the States and the Provinces on the same level. It was as a result of that that a Committee to draw up a model constitution was appointed under the States Ministry and it drew up such a model constitution. But the conditions changed so quickly that we find that we have advanced much beyond the model constitution, and we find that the people of the States are getting the same rights as the people of the Provinces and the responsibilities and the opportunities of work for both are the same under the Constitution. Moreover, a Part relating to the States is being added to the Constitution as recommended by the Committee which had drawn up the model constitution. I may here point out that the people of the States had come to entertain many doubts about the implications of the article 306-B which has been inserted in the Constitution. Some of us even went to see the Sardar in this connection. The clarification that Sardar Patel gave to us of that article gave us very great satisfaction and all the doubts that we had in our mind were completely removed and we were convinced that in view of the conditions existing in different States such an article was really needed.

Formerly the States used to be under the control of the Political Department. Now I believe they will have to work under the guidance of the States Ministry. But I believe there would be a big difference between the former and the present-system. Formerly the Ruler of the State used to act with a view to maintain the foreign rule in India. But now the work that we shall have to do under the guidance of the States Ministry would be mainly with a view to establish as early as possible an efficient and effective administrative system. We are being provided with all the rights and facilities which are being provided to the Provinces. I, therefore, believe that it is not desirable for us to entertain any doubt or suspicion in this respect, more particularly in view of the statement made by Sardar Patel in the House in which he has made matters very clear and has given the necessary assurances.

There is a Legislative Assembly in Madhya Bharat. In Gwalior, an Assembly of this type had been in existence for the last thirty years and in Indore also such an Assembly had been in existence for about fifteen to twenty years.

The Assembly that has come into existence after the merger of several States in the Madhya Bharat Union has no doubt been in existence for a short while only. But even that Assembly has got representatives of the people of all Constituent States and that Assembly has been conducting its business according to the constitution drawn up by itself, But I believe that now we shall be working almost in the same way as the Provincial Governments work under this Constitution which we are adopting.]

Shri A. Thanu Pillai : Mr. President, Sir, I wish to add my humble quota of praise and thanks to the States Ministry and the great personality that is now in charge of that Ministry. Sir, the changes that have come about in the relations between the Indian States and the Government of India and the rapidity of those changes are really marvellous. I shall refer just to one fact. A few months ago it was considered necessary to appoint a committee to draft a model constitution for the States. That means that even then the idea was that the Indian States would have to frame their own separate constitutions. And we have now reached the stage at which we are able to frame the constitution for the whole of India, including the States, here, and that is an achievement certainly, of which any administrator, any Ministry, can be justly proud; and coming from one of the Indian States, and I may say, one of the foremost of the Indian States, I am particularly glad that I have an opportunity of witnessing this change and taking part in framing the Constitution, and making the Constitution for the States, part of the whole Constitution of India.

This brilliant record of achievement should serve as an inspiration to all of us, including the people of the States. As was mentioned here, the States are in different stages or different degrees of development. I am glad that the provisions relating to the Provinces are made applicable to the States. The States that are foremost in the whole country owe that fact to their adopting the methods prevailing in the Provinces, I mean the administrative and legislative methods, early enough. If Mysore, Travancore and Cochin are now in the forefront of Indian States, that is largely due to the fact that we adopted early enough the administrative methods and the legislative methods that were obtaining in the Provinces. The North Indian States lagged behind because they pursued their old methods, and the result is that today we find they are distinctly backward. Therefore, when we adopt the same system, when we adopt the same kind of provisions for all the States and the provinces we can naturally hope for rapid progress so far all these States are concerned. Let us hope that will be the result.

Now, Sir, I wish to refer to one or two matters to which reference has already been made here. As for article 306-B, I fully appreciate why that article is sought to be introduced. But I would like to mention the fact that some States are really on a par with the Indian provinces and there is certainly no necessity or justification to treat those States differently from the provinces. From the speech of Sardar Patel that was read out to us, we find that the aim of the States Ministry is as far as possible to introduce the same administrative and legislative methods in the States as in the provinces and deal with the States both in respect of administrative and legislative matters and in regard to interference by the Centre in the same way as the provinces. If that is so, I would ask, why not except at least such of those States as deserve to be placed on a par with the provinces even at this stage and exclude them in the Constitution itself from control by the Central Government? I fully understand the spirit in which the provision now proposed in the draft Constitution is sought to be introduced, and every Member of this House who comes from the States must view it in that spirit. But we should not go beyond the necessities of the situation. There are not only the legal and constitutional aspects of the matter; there is also the question of sentiment and self-respect involved in this. Why treat Mysore and the Union of Travancore and Cochin differently from Madras or Bombay? That is the question that naturally arises. These States are as much advanced as any Indian province. Why should you treat them differently? Where is the necessity? The Drafting Committee may be good enough to consider this my suggestion and if the proposed control is considered necessary in the case of some States, a Schedule of such States may be included in the constitution

excluding advanced States like Mysore, Travancore and Cochin. To leave it to the President to exclude such States by executive order cannot be justified.

Then, there is another minor matter raised by Mr. Santhanam which I wish to refer to. He suggested that even though the pay of the High Court Judges in States or States Unions could be fixed by the President in consultation with the Rajpramukh, their allowances and pensions should be dealt with differently and that they must be fixed by Parliament. I can understand the case in regard to pensions because pensions of High Court judges, are to be a charge on the Consolidated Fund of India. If this is so, pensions may be fixed by Parliament. But if there is any justification to have the salaries of High Court judges in the States fixed by the President in consultation with the Rajpramukh, there is justification also for having their allowances fixed in the same way. So, I would suggest that in Mr. Santhanam's proposed amendment this modification may be made, that is to say, that that amendment should be restricted to pensions only, leaving allowances to be treated on the same basis as the salaries.

Then, Sir, in regard to the privy purse, I have nothing to say. I think the proposed provisions should be acceptable to the Members that come from the States.

Finally, I would like to make an appeal to the Government and to this House in regard to the financial position of the Indian States. It is a matter of common knowledge that because of the federal financial integration, the States stand to lose a good part of their financial resources. Provision is sought to be made for enabling States to run their administrations as they have hitherto been doing for some considerable period, and I hope effect will be given to this provision in a very liberal spirit by the Government of India. In fact, I must make an earnest appeal that the consideration of this problem should be in a very liberal and sympathetic attitude. Otherwise, the administrations of the States cannot go on. So far as Travancore and Cochin are concerned out a total revenue of 10 to 12 crores, we stand to lose three or four crores; unless amends are made, our administration cannot function and would come to a standstill. I hope this matter will receive the earnest consideration of the Central Government.

Provision is sought to be made for agreements being entered into between the Central Government and the States Unions in regard to the financial adjustments necessitated by federal financial integration. Provisions have to be made to meet all cases in regard to which agreements will have to be entered into. In regard to duties that are abolished in the States, provision is proposed for reimbursement being made by the Centre. Provision should also be made for agreements being entered into to give financial aid to the Indian States on account of loss of income-tax and other sources of revenue. I hope all these necessary provisions will be made in the Constitution.

With these observations, I support the article that is placed before the House.

Mr. President : It has been represented that many Members from the States would like to participate in the discussion in connection With these articles relating to the States. I think this is a very reasonable desire on their part, and I am prepared to accommodate them. So, I would not put the whole thing to the vote today. We may continue the discussion tomorrow. but there is one suggestion which I would like to make. We would have in that case the other amendments placed before the House so that the whole things may be taken ultimately at one time when all the amendments are there before the House.

Mr. President : If you would finish within a short time, I am prepared to allow you to speak now.

Shrimati Annie Mascarene (Travancore & Cochin Union) .: Mr. President, Sir, after listening to the speech of the Sardar, I feel that all my difficulties with regard to the States have disappeared. Section 306 B had been rather a disquieting one since I had come across it, and I had thought that in the making of democratic India, the States are going to be under a Roman-like tutelage for ages to come. Travancore, Cochin and Mysore, in fact the South Indian States, had been the territories in which democracy had been given its first advent. I am not flattering myself, but I should like to inform this House I think they already know—that adult franchise was first introduced in India by Travancore, and democratic institutions were introduced in Travancore and Cochin before any other province could think of them. When article 306 B was introduced, we thought, are we going to be dropped down with an inferiority complex by the States Ministry ? The wisdom of the Bismark of India had been too deep for us to understand. He has so moulded the destiny of democratic India that States which are already quite advanced are on a par with the provinces, and the States which are to advance hereafter are given a safety valve so that they may develop without fear.

There is one point which strikes me as being of great importance and that is the centralisation of power. No nation, no empire had survived in the world without a strong centralisation of power. The confederation of Germany as moulded by Bismark today finds a place so difficult on the map of Europe that European administrators find it a problem to dismember them. The examples of Venizelos in Greece and Sun Yat Sen in China are enough to convince us that this Bismark of India is an administrator whose wisdom and experience are unequalled. The States people are very much obliged to the States Ministry for the work they have done during the last few months. They are able to feel now that they are no more going to be tyrannised by autocracies which under the British Administration repressed them. 40 per cent. of the territory of India and 23 per cent. of the population of India are now on a par with the provinces and provincial subjects, so much so the moulding of the destiny of democratic India is made easy and in a short time we shall be one of the foremost democracies that the world had ever seen. We should congratulate ourselves that this is the first occasion in the history of the world when four hundred millions of people have launched on the ocean of self-government and that is going to be the best example ever known in the history of the world. I thank the States Ministry once again and request the people of the States under development to rise equal to the occasion 'and come soon on a par with the provinces, so that by next year we shall have no States but only provinces in a democratic India.

The Assembly then adjourned till Ten of the Clock on Thursday, the 13th October 1949.
