

THE CONSTITUENT ASSEMBLY OF INDIA

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SUBEDAR MAJOR HARBANS LAL JAIDKA.

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CONSTITUENT ASSEMBLY OF INDIA

Friday, the 14th October 1949

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

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DRAFT CONSTITUTION—(*Contd.*)

Article 296

Mr. President : We shall now take up article 296 ; amendment No. 15. We have got a large number of amendments. Some of the amendments are amendments to the amendment to be moved on behalf of the Drafting Committee. Some are amendments to other amendments which are to be moved by other Members. Many of them overlap. Therefore, I think Members will themselves exercise a certain amount of discretion in not insisting upon amendments which are only overlapping and which are covered by other amendments.

Shri H. V. Kamath (C.P. & Berar : General) : We shall abide by your ruling, Sir.

Mr. President : I do not want to give any ruling if I can help it.

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Sir, I move:

“That with reference to amendment No. 3163 of the List of amendments for article 296 the following article be substituted:—

‘296. The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration consistently with the maintenance of efficiency of administration, Claims of Scheduled Castes and Scheduled Tribes to services and posts. in the making of appointments to services and posts in connection with the affairs of the union or of a State.’”

Sardar Bhopinder Singh Man (East Punjab : Sikh): On a point of order, Sir..

Mr. Naziruddin Ahmad (West Bengal : Muslim) : I had a point of order. I raised a point of order on this article. If you ask me

Mr. President : I shall hear both of you.

Sardar Bhopinder Singh Man : I submit, Mr. President, that unless a special resolution is moved, the present House is not competent to go back upon its own decisions. This very article has already been agreed to by this House.

Mr. President : This article 296?

Sardar Bhopinder Singh Man : The principle underlying this, the main principle on which this is based has been agreed to in very clear and emphatic terms. I shall make it clear. In the report submitted by the Honourable Sardar Patel as Chairman of the Advisory Committee on Minorities, Fundamental Rights, etc., presented to this House on 27th August 1947, clearly the minorities were defined on the one hand; and secondly, four points were discussed one by one distinctly, separately and quite clearly. The four points were : first, representation in the legislatures, joint versus separate electorate secondly, reservation of seats for the minorities in the Cabinet; third, reservation for the minorities in the public services; and fourth administrative machinery to ensure the protection of minority rights.

[Sardar Bhopinder Singh Man]

This report was submitted to the House and was later agreed to by this House. In this appendix, as adopted by the Constituent Assembly during the August 1947 session, it was agreed in regard to representation of minorities in the Cabinet as well as recruitment to the services—it is paragraph 9—it is said that due share will be given to the minorities in the all India services and provincial services and the claims of the minorities shall be kept in view in making appointments to these services, consistently with the efficiency of administration. Not only that. They make it further clear in emphatic and clear terms. They say, appropriate provision shall be embodied in the Constitution or a schedule thereto to this effect.

Having agreed to that, actually the Drafting Committee moved a special article 299 in which the rights of all the minorities were granted. Not only that. A later report was submitted to this House by the Advisory Committee on the subject of political safeguards to minorities on May 11, 1949. In this report the earlier decisions were reiterated and confirmed and not denied. Only in so far as the first item was concerned, that is safeguards in the legislatures were concerned, they were abrogated. So far as the other rights were concerned, they were allowed to remain intact. What had been conceded or passed by this House is now being taken away. I submit Sir, that this is a substantial change and unless a special resolution is brought in this House, this House cannot go back upon its earlier decisions.

Shri R. K. Sidhwa (C. P. & Berar : General) : Mr. President, Sir, I have not been able to follow the point of order raised by my honourable Friend, . . .

Mr. President : Will you please allow Mr. Naziruddin Ahmad also to state his point?

Mr. Naziruddin Ahmed : Mr. President, Sir, I raised this point of order some time ago when this clause was moved by Dr. Ambedkar. The point of order is this. I refer to the proceedings of this House dated 28th May last. It appears that there was a Minorities Advisory Committee which appointed a Special Sub-Committee to consider the question of the Minorities. I find that the members of the Special Sub-Committee were :

The Honourable Shri Jawaharlal Nehru,
The Honourable Dr. Rajendra Prasad,
Shri K. M. Munshi, and
The Honourable Dr. B. R. Ambedkar.

This Sub-Committee reported, amongst others, that there should be reservation of seats in the Legislatures for the minorities and also that so far as all-India and provincial services were concerned, there should be no reservation but the claims of all minorities shall be kept in view in making appointments to the services consistently with the considerations of efficiency and administration.

Now this was accepted by the House in its August Session 1947. This was later on partly reopened on the strength of a letter by Honourable Sardar Patel dated 11th May 1949 to reopen, not the consideration for the minorities about the services, but only the reservations in the Legislatures. I submit that Sardar Patel sent a report that the system of reservations for the minorities, other than Scheduled Castes, in the Legislatures be abolished. This Resolution was accepted by this House on the 26th May 1949 at the instance of Sardar Patel. That is also to the same effect. It is absolutely clear on a perusal of the original report, the letter of Sardar Patel, the Resolution moved by him and the speeches in the House—that they all attempted reconsideration only of the reservations for the minorities in the Legislatures. I may add that this was done with the fullest concurrence of the Muslim members of this

House. I was one of those who thought that the reservation in the Legislatures would not be good for the minorities themselves ; but with regard to the consideration of their cases in making appointments, subject to efficiency, that was not reopened. On the last occasion when I mentioned this, Dr. Ambedkar and a few others thought that I had completely misunderstood the situation. Mr. T. T. Krishnamachari went so far as to say (referring to me) that “if you cannot understand this thing in two days, you will never understand even in two months”. This is the elevated style in which I was addressed. But I submit and I assert again that, whoever may be mistaken. I am not mistaken as to what was then done.

I respectfully ask you, Sir, being one of the distinguished members of the Sub-Committee and being present in the House when this Resolution was accepted just to tell us whether this was one of the matters which was reopened Sardar Patel with his genius for constitutionalism said in paragraph 8 of his letter that the Committee are fully alive to the fact that “decisions once taken should not be changed lightly”. So a strong-minded man like him reopened the matter with considerable amount of caution and cogent reasoning. I therefore submit that with regard to the consideration of services and the appointment of Special Officer, they were embodied in articles 296 and 299.

Shri L. Krishnaswami Bharathi (Madras : General) : Is the honourable Member raising a point of order or making a speech?

Mr. President : He is raising a point of order and explaining it.

Mr. Naziruddin Ahmad : If it is not apparent to any Member, the point of order is this, that we have in accordance with the decisions of the Minorities Committee come to certain decisions. Those decisions were only partially modified at the instance of Sardar Patel. This modification did not in the least affect the paragraph relating to consideration in the services for the minorities. As the matter was partly reopened with so much formality, it follows that the rest remains without any amendment or change. I ask the House and specially you, Sir, to consider whether this matter can be so summarily reopened in this manner. The decision remains and I do not know how to get rid of that Resolution. That is my point of order.

Mr. President : We have to keep two things apart—the question of the point of order and the merits of the question. For the moment, I am concerned only with the point of order and the point that has been made by the two honourable Members comes to this. This House on a previous occasion took certain decisions which are sought to be reversed by the proposition which is now going to be moved. The only rule which deals with reopening of decisions is Rule No. 32 of our Rules, and that lays down that no question which has once been decided by the Assembly shall be reopened except with the consent of at least one-fourth of the Members present and voting. So the only restriction on reopening the decision which has once been taken is that at least one-fourth of the Members present and voting should vote in favour of reopening the decision. I think I had better put that question to the House and then if one-fourth of the members present and voting are in favour of reopening, the reopening will be perfectly in order.

As regards the merits of the case I do not think I should express any opinion at this stage or at any stage. It is for the House to decide. We are concerned at the moment only with the point of order, and my ruling is if one-fourth of the Members present and voting are in favour of reopening, the question can be reopened.

Shri R. K. Sidhwa : My Point was articles 299 and 296 were never passed in the House.

Mr. President : He is referring to previous decisions—not to 299 and 296. There was a previous decision once taken by the House on the Report of the Advisory Committee on Minorities.

Sardar Bhopinder Singh Man : Sir, I wanted your ruling on whether the present resolution means the reversal of the old decision.

Mr. President : If the House agrees to reverse the old decision, it will be a reversal; otherwise, the old decision will stand; but for the present I am concerned only with the question of whether we can take into consideration the question of reversing the old decision.

The Honourable Shri K. Santhanam (Madras: General) : Sir, the clause of a Bill is quite different from a Resolution.

Mr. President : You need not argue the point. I would like to know from the House what its opinion is. The question is

“Is the House in favour of reopening the question ?”

Honourable Members : Yes.

The motion was adopted.

Mr. President : So there is no bar to the reopening of the whole question. Now this can be discussed on its merits. Dr. Ambedkar has moved it and there are several Amendments to this proposition. I shall take them one by one. No. 16—Sardar Hukum Singh.

Sardar Hukum Singh (East Punjab : Sikh) : Mr. President Sir, I beg to move :

“That with reference to amendment No. 3163 of the List of amendments, (Vol. II), for article 296, the following be substituted :—

‘296. Subject to the provisions of the next succeeding article the claims of all minority communities shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State for the time being specified in Parts I & III of the First Schedule.

Explanation.—Among others Muslims, Christians, Sikhs, Anglo-Indians and Parsees shall be recognized as minority communities.’

And then there is the alternative amendment as well, but I do not propose to move it. I leave it here.

Sir, as has already been pointed out, the original draft that was put before this House was different, and radically different I would say, from the one that is being proposed now. It read like this:

“296. Subject to the provisions of the next succeeding article the claims of all minority communities shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State for the time being specified in Part I of the First Schedule.”

My object is very clear. What I want is to restore the original proposal that had already been accepted by this House. I cannot understand why the Drafting Committee has thought it fit to bring about this change. So far as that article stood in its original form, it was considered as a safeguard for the minorities, and I must say that it was only a solemn affirmation of bona fides, on behalf of the majority, and a mental satisfaction to the minority. Otherwise it had not very much value. That right was not justiciable in any court of law and it could not be enforced anywhere else as well. It had no binding force. But in spite of that, it is being taken away now. I must, at the same time, make myself clear that so far as I can think out, it was no blot on our secularism and it did not soil our nationalism as well. The minorities have always been advised to repose full confidence in the majority. Article 296

as originally framed, in my opinion, was that complete reposal of confidence by the minorities in the majority and nothing beyond that. The only thing that the members of the minority could do at any time, in cases of violation was that the attention of the majority could be drawn to the fact, that there was some pledge or an undertaking; and that is also being removed.

Sir, before I proceed further, I must make an appeal to the honourable Members on two points here. It is very unfortunate that the Sikhs for the present cannot persuade themselves to have implicit faith in the party in power. They have reasons for that, for they think that the past is a record of repudiated promises and broken pledges. Suppose, for the sake of argument, that I am wrong, that this is incorrect, and that the present leaders can be trusted to do justice to everybody; then is there any guarantee that the present leaders will continue for all time to come? Are there not indications, even now apparent, that men with different ideals and aims might come to power very soon? This House should take a detached view and not consider the fears of the minorities as necessarily a disparagement of the present party or of its leaders.

Then my second point is that the honourable Members should place themselves in the position of the minorities, and then try to appreciate those fears that they have expressed from time to time.

Sir, I might be accused of communalism when I sound this discordant note. But I hold that this nationalism is an argument for vested interests. Even the aggressiveness of the majority would pass off as nationalism, while the helplessness of the minority might be dubbed as communalism. It is very easy for the majority to preach nationalism to the minorities; but it is very difficult to act up to it. The original draft of articles 296 ad 299 was a result of the recommendations of the Minorities Committee, dated the 8th August 1947, as accepted by the Constituent Assembly on 27/28th August of that year, and there were four definite provisions, four definite clauses for those safeguards. The first was joint electorates with reservation of seats. This was embodied in 292. Then as regards Cabinet it was provided that there would be no reservation, but a Schedule would be provided as Instrument of instruction, that was schedule 4; and then the claims of minorities to be kept in view in appointments to services, that was section 296; and then a Commission for minorities, that was embodied in article 299.

As for the Sikhs, Sir, I must make a special mention, because I think they are very unfortunate in this respect. When the question of safeguards for minorities was decided in 1947, the question as regards the Sikhs was kept, pending as it was said that the result of the partition was not known very clearly then. I may say that before that date, the "Award" had been given. The Sikhs were leaving the West Punjab under circumstances which are well known to everybody here. They had willingly suffered themselves to be vivisected and they elected to remain with India. They were marching on foot, leaving behind everything that they loved. They were not coming alone. They had saved and brought seven districts to the Indian Dominion. The full significance of leaving open the question of Sikh minority on 28th August cannot fully be understood when we look at those events. If the Sikhs were not to be treated in some special way, where was the need for postponing the consideration of that question then? If the Sikhs were to be given reservation on population basis, just as any other minority had been given, what was to be awaited after August? What numbers migrated to India was not material at all. But it was considered that might be too great a blow at that time to bear for this unfortunate community. So the question was kept pending and the Sikhs thought that they would get special consideration on account of their sufferings.

[Sardar Hukum Singh]

Then came the next stage for the Minorities Sub-Committee to make a report and that is dated 23rd November 1948. That time was considered opportune for telling them that nothing special could be done for them, perhaps because more than a year had elapsed since that calamity came. But even then there was one satisfaction offered to the Sikhs. Though special safeguards were denied, pious platitudes were offered instead. The Sub-Committee observed:

“It seems scarcely necessary for us to say that in dealing with this problem we are acutely aware of the tragic sufferings which the Sikh community suffered both before and after the Partition of the Punjab. The holocaust in West Punjab has deprived them of many valuable lives and great material wealth. Moreover while in this respect the Hindus suffered equally with the Sikhs, the special tragedy of the Sikhs was that they had to abandon many places particularly sacred to their religion. But while we fully understand the emotional and physical strain to which they have been subjected, we are clear in our mind that the question remitted to us for consideration must be settled on different grounds.”

Then comes the third stage. The report is placed before the Minorities Committee and the resolution adopted is that the system of reservation for minorities other than Scheduled Castes in Legislatures be abolished.

I have to apologise to the members of the other minorities. They had their reservation. But, as soon as the Sikhs came in, they had to give up that as well. The Committee recommended that statutory reservation of seats should be abolished. I want to place more emphasis on that, because it is clearly the recommendation of the Sub-Committee as well as the resolution of Minorities Committee that the statutory reservation of seats in Legislatures should be abolished. There is nothing beyond it. This recommendation was accepted on 26th May 1949.

Now, the position was that there was reservation in legislatures under article 292. That has gone now. Article 292 stands amended in that sense.

Then there was the Fourth Schedule of Instrument of Instructions. That has also gone, as decided by us on 11th October. But the remaining two clauses embodied in articles 296 and 299 which we have just decided to reopen, reflect the decision of the Constituent Assembly. So far as I can see there is absolutely no reasons for that change that is intended to be brought about now.

The second point is that the Minorities Committee never recommended any change in these two articles. My third point is that the minorities themselves never agreed to give up these safeguards at any time. It was given out now and then that the safeguards would only be taken back if the minorities themselves thought and were convinced that it is to their own interests. But I submit here that so far as these two articles 296 and 299 are concerned the minorities themselves never agreed to give up these safeguards at any time. The Minorities Committee observed in their report that the Committee are fully alive to the fact that decisions once reached should not be changed lightly. Then I ask, why is this change being brought about so lightly and so casually? So my prayer is that these amendments that have now been brought forward by Dr. Ambedkar must be rejected and my amendment may be accepted and the original safeguards restored.

There is one very important factor that has gained currency during the last three or four days. It concerns the Sikhs alone. It has been given out that the Sikh representatives on the Minorities Committee gave an undertaking in writing that they would not put forward any further demands for any safeguard in the Constitution if,—that was a very big if—their backward classes the Mazhabis, Ramdasis, Kabirpanthis and Sikligars were recognised and calculated as Scheduled Castes. That may be true. In May last, as I have said, the position was that these two articles 296 and 299 had been accepted by the

Constituent Assembly. The reservation was there also, but they agreed on that date that they would give it up. The Instrument of Instructions is gone. So far as I have been able to ascertain from the proceedings of the Minorities Sub-Committee, I do not find any mention anywhere that 296 and 299 were referred to or that the minorities were asked to give up this as a whole. The Minorities Committee decided to abolish reservation only in the legislature. I must point out here that there is no reservation in articles 296 and 299. The Minorities Committee did not discuss anything else. Clauses (3) and (4) of the safeguards contained in articles 296 and 299 were never discussed. They had already been passed.

Now, Sir, I appeal to you to see how the representatives of the Sikhs know that they would be altered at the last moment? If I do desire to retain those decisions, I am not asking for any further safeguards for the Sikh community. I am only raising my voice against those safeguards being taken away from us, safeguards which had already been given. And, if any body is going back on the undertaking or on his word, then it is the Drafting Committee or the party in power and not the Sikhs.

Then there is another point that is also very relevant so far as this question is concerned. Supposing for the sake of argument we grant that the Sikh representatives agreed to forego every safeguard, is it to be understood that they did so because they were very keen to have their backward classes included in the Scheduled Castes? Is then their anxiety for that to be exploited and the opportunity utilised to get them to give up all other safeguards? I do not believe it. But suppose that was also true, I do realise this also that there was much opposition from the Scheduled Castes against such inclusion and Sardar Patel had to secure this to the Sikhs with great difficulty. The Sikhs are thankful to him. But what has happened to that concession secured at the sacrifice of all other demands, as is alleged? In the first places restriction was placed that this concession was confined to East Punjab only. It was not extended to the Patiala Union. How strange! Was there any justification for this discrimination on the basis of religion? If reservation was denied to religious minorities, and the Scheduled Castes were to get it for their backwardness then is there any jurisdiction to deny this concession to similar backward sections suffering from identical disabilities simply because they profess the Sikh religion? Would this be secularism? This much-coveted demand secured at such a heavy price and given so grudgingly and reservedly has become uncertain. Schedule X which was to enumerate the Scheduled Castes is deleted and article 300A empowers the President after consultation with the Governor or the Ruler to specify the or races to be Scheduled Castes. Sir, it will be realised that again the Sikhs shall have to strive and strive hard to persuade the Governor to advise the President to include these castes in the list of Scheduled Castes. My anxiety is that the Sikhs are left with nothing now. They have no further safeguards. What shall they offer to the Governor to advise the President to secure these safeguards? So, my submission is that even if there was any undertaking, that should be 'no consideration' because what was secured in lieu of that has already gone.

The Sikhs are told, when they remind the congress of their past pledges in 1929, 1946 and again in 1947 that circumstances have changed. The Sikhs were recognised as one of the three main communities in the Cabinet Mission Plan of which this Constituent Assembly is the creature. The only changed circumstances is that the Muslims have got Pakistan. Does it stand to reason that because the Muslims have secured Pakistan, therefore the Sikhs have ceased to be a minority? Is this a logical conclusion? I will be failing in my duty if I do not point out what our feelings are. Pakistan resorted to crude and positive violence to eliminate their minorities. We are using a subtle, indirect and peaceful way of resolving the same question. True to our traditions, we are of course non-violent. I appeal to the House to go slow. I

[Sardar Hukum Singh]

request the majority to win the confidence of the minorities by positive actions and not by mere slogans. This change in article 296 has caused consternation in the minds of the minorities affected thereby. I request that the whole draft be allowed to remain as in my amendment.

It has also been given out that our leaders consider that our original draft of 296 would disfigure the whole Constitution. Sir, I fail to understand that. If the mention of Anglo-Indian and Scheduled Castes or Schedule Tribes does not disfigure this Constitution to any extent, the mention of Sikhs surely would not further disfigure it. But if in spite of my appeals, this House is not inclined to accept any amendments for restoring the old draft, then my last appeal is for the acceptance of another amendment, which is No. 256.

“That with reference to amendment No. 23 of List II (Second Week), the following clauses added to article 296 :—

- (2) Nothing in this article or in article 10 of the Constitution shall prevent the State from making any provision for the reservation of appointments or posts in favour of any minority community which, in the opinion of the State, is not adequately represented in the services under the State’.”

The Centre may be aware of every detail of everything occurring in the States; yet some liberty shall have to be left to the man on the spot. If for the smooth working of the administration and for creating cordial relations between the different communities, the State decides on some adjustment in the services, then there should be no bar under the Constitution. Some dignitaries think that there is no such bar at present, but my fears are that article 10 would be a bar for any option or adjustment—when it says that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to office under the State. I might have understood that it would not bar such an option if such clause (3) of article 10 had not specifically provided that:—

“Nothing in this article shall prevent the State from making any provision for reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the State, are not adequately represented in the services under the State.”

My amendment No. 256 runs on the same lines as this clause (3). Why I did not move it at the time that article 10 was being considered here is that because 296 was already there, there was no need then, but now because 296 is going to be altered, therefore I feel that this option must be left and it should be made clear that if a State wants to make any adjustments so far as the different communities are concerned, it will be free to make that.

I have seen certain reports in the Press that the East Punjab Government have been advised by the legal advisers of the Government of India that they cannot consider the claims of any section in the services, and that has increased my fears, and I am now convinced that unless we leave some option or choice to the States, it would not be possible for them to make any adjustment even if they wanted to do. I make my appeal to the House again. I am not asking for any reservations in this Constitution. I am not disfiguring it. I claim only for an indication of the goodwill of the majority. If that is also denied, it may prove the last straw on the camel’s back so far as the confidence of the minorities is concerned.

Mr. President : There are seven or eight amendments which purport to substitute their own proposals for this article. I would first take up those amendments which propose to make substitutions and then we can take up the other amendments. The next amendment which purports to substitute is No. 23 which stands in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I do not propose to move it.

Mr. President : Then No. 24.

The Honourable Dr. B. R. Ambedkar : Not being moved.

Mr. President : Then No. 25 by Sardar Bhopinder Singh Man.

Sardar Bhopinder Singh Man : It is in relation to No. 23. Since 23 is not moved, I cannot move it.

Mr. President : It is practically the same with some slight change, allow it if you want to move it.

Sardar Bhopinder Singh Man : I am not moving it, Sir.

(Amendments Nos. 26 and 27 were not moved.)

Mr. President : No. 183 by Mr. Brajeshwar Prasad.

Shri R. K. Sidhwa : What about the other amendments?

Mr. President : I will take them up later on.

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

“That in amendment No. 15 (with your permission, sir, I want to say No. 15 in stead of No. 23) of List II (Second Week), for the proposed article 296, the following be substituted:—

- ‘296. (1) The maintenance of efficiency of administration shall be the only consideration in the making of appointment to services and posts in connection with the affairs of the Union or of a State.
- (2) Parliament may by law prescribe the conditions under which the President may, if he deems necessary appoint members of the Scheduled Tribes and Scheduled Castes to services and posts in connection with the affairs of the Union or of a State.
- (3) The provisions of clause (2) of this article shall apply in relation to such other Backward Classes as the President may on receipt of the report of a Commission appointed under clause (1) of article 301 of this Constitution by order specify as they apply in relation to members of the Scheduled Castes and the Scheduled Tribes.
- (4) Parliament shall have the power to repeal, extend or modify any or all of the provisions of this article from time to time.’ ”

The Honourable Shri K. Santhanam : (2) and (3) are inconsistent with (1).

Shri Brajeshwar Prasad : No. Let me explain how it is not inconsistent. If it is inconsistent, the Chair will give its ruling.

Mr. President : He has raised the point. I have to consider it.

Shri Brajeshwar Prasad : Let me first explain. If he has raised a point of Order, I will explain whether it is consistent or not. Clause (1) says that there shall be only one consideration before the Public Service Commission, namely, the efficiency of administration and the merit of the individual candidate. The Public Service Commission shall not take into consideration the claims of the minority communities. The Public Service Commission shall not be swayed by any other consideration at the time of making appointments. As a matter of political expediency, I have vested powers into the hands of the President and the President alone to appoints persons of the Scheduled Tribes and the Scheduled Castes. The Public Service Commission must be free from political entanglements. I do not know how (2) and (3) are inconsistent with (1). I await your ruling before I proceed with my speech.

Mr. President : The way in which it has been put is making it inconsistent. You can make it consistent by putting in the word “provided”.

Shri Brajeshwar Prasad : Or course, I am not a draftsman, Sir, nor am I an able lawyer like Mr. Santhanam.

Mr. President : However, I would not overrule your amendment.

Shri Brajeshwar Prasad : As far as clause (4) is concerned, the purpose is to make the whole article very flexible, so that with the growth of education and with the economic improvement in the standard of living, Parliament shall have the power to do away with this article at any time it likes. I am opposed to amendment No. 15 as it has been moved by the Drafting Committee, because I do not want that any other extraneous considerations should be brought in at the time of making appointments. I am afraid that if the claims of all these communities are taken into consideration, the whole fabric of the State will be jeopardized.

I am quite clear in my own mind that there are no minorities in this country, therefore the claims of no minorities can be taken into consideration. There are backward communities. There are people who have been suppressed and oppressed for centuries. It is their claims and their claims alone that, shall be taken into consideration. The burden of making such appointments must fall upon the shoulders of the President and the President alone, I feel that if we introduce, 'the provision that the claims of the communities like, tribals and Scheduled Castes should be taken into consideration, we shall be burdening the shoulders of the members of the Public Service Commission with a task for which they are not equal. What are the claims of the minority communities? What are the claims of the Scheduled Castes and Scheduled Tribes? Can any man endowed with ordinary intelligence and common sense reconcile the irreconcilable claims of these communities? The claim has been made that we demand parity. Another section demands that we should have representation in the services in proportion to our population. A third demand has also been made on the floor of this House that because we have been suppressed and oppressed for centuries, therefore the members of the Castes Hindu community must be made to make penance. If we are going to make penance for the sins that we have done against these people, then we shall have to hand over the entire machinery of the State into the hands of the Tribals and the Scheduled Castes. Are these claims going to be considered by the Public Service Commission ? I think that it is wrong to blame any community for a historical wrong History alone is responsible for all the wrongs that have been inflicted upon the Scheduled Castes and the Tribals. It is the Age—the Time spirit which alone can be held responsible.

Shri H. V. Kamath : Who makes history?

Shri Brajeshwar Prasad : Let me explain. History is made by the wrongdoer and the oppressed. It was wrong on the part of the wronged to submit to oppression. If objection is raised that they were not in a position to organise, we also will say that it was due to lack of political consciousness, due to lack of social sense that these things were perpetrated. It was the institution, it was society itself that was responsible. It was the time spirit and the time spirit alone that was responsible for the wrong done to the Scheduled Castes and the Tribals. The Caste Hindus are not responsible for any wrong. We have also suffered, because Caste Hindus have also been exploited by people living in this country and wrong have been committed and perpetrated upon us. For centuries, India was under foreign subjection. It, was subject to foreign intervention and foreign oppressions from times immemorial, The Caste Hindus have never flourished. It is wrongs, it is atrocious to throw all blame and responsibility on the Caste Hindus, they have been victims of circumstances. I cannot accept the proposition that the Caste Hindus have perpetrated any wrong on anybody.

I would like also to emphasise that this article ought to have been placed in the Directive Principles of the State Policy. It is merely a pious declaration. If it is merely a pious declaration, it should have been placed in the Chapter relating to Directive Principles of the State Policy.

I think there is another reason why I oppose this article. It is that we have done the utmost that we could do for raising the economic, moral and the material condition of these people. We have passed the Chapter relating to Fundamental Rights. We have passed article 110. We have made provision for reservation of seats in the Central and Provincial legislatures. We have laid down provision for adult franchise. We have made the basis of a secular State. What more do you want? Do you want to disintegrate the State?

I am quite clear in my own mind that if we do not take a bold stand at this moment and clearly lay down the principle that the basis of a secular State shall not be allowed to be corrupted by any other consideration, the future of this country is dark. I hold the opinion that those persons who are clamouring for these seats, for reservation, for consideration, represent a handful of people, constituting the cream of the Harijan society. They constitute the politically powerful group among the Tribals and the Scheduled Castes. I do not think that these claims and demands touch the broad classes of people within the Scheduled Castes and Tribals. Job-hunting does not affect the problems that confront us as far as the question of Scheduled Castes and Tribes is concerned. It is by as simulating ourselves and by integrating all the communities in one nation that there can be any peace and progress in this country. I do not want that the politics of the Muslim League should be re-enacted again on the political arena. The whole purpose of my amendment is to strengthen the foundations of the State. It has been the central theme of the speeches that have delivered here in this Assembly. I have moved my amendment so that the interests of the State may be protected.

(Amendments Nos. 280 and 309 were not moved.)

Mr. President : These are the amendments which seek to substitute the proposition moved by Dr. Ambedkar. I would like to dispose of these amendments first. One will be accepted and I will take the amendments on that and leave the rest out. As a matter of fact, only two have been moved—amendments Nos. 16 and 183. I will take Sardar Hukum Singh's amendment 256 separately.

Shri Krishna Chandra Sharma (United Provinces: General): Will there be any general discussion on the clauses ?

Mr. President : I will have it, but I am clearing the ground for the amendment so that we may not get confused. There are a large number of amendment as a substitution to this article. I will put Sardar Hukam Singh's amendment No. 16 first to the House.

The question is:

“That with reference to amendment No. 3163 of the List of Amendments, (Volume II), for article 296, the following be substituted :—

‘296. Subject to the provisions of the next succeeding article the claims of all minority communities shall be taken into consideration consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of the State for the time being specified in Part I & III of the First Schedule.’

Explanation.—Among other Muslims, Christians, Sikhs, Anglo-Indians and Parsees shall be recognised as minority communities.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 23 of List II (Second Week), for the proposed article 296, the following be substituted:—

- ‘296. (1) The maintenance of efficiency of administration shall be the only consideration in the making of appointment to services and posts in connection with the affairs of the Union or of a State.
- (2) Parliament may by law prescribe the conditions under which the President may, if he deems necessary, appoint members of the Scheduled Tribes and the Scheduled Castes to services and posts in connection with the affairs of the Union or of a State.
- (3) The provisions of clause (2) of this article shall apply in relation to such other backward classes as the President may on receipt of the report of a Commission appointed under clause (1) of article 301 of this Constitution by order specify as they apply in relation to members of the Scheduled Castes and the Scheduled Tribes.
- (4) Parliament shall have the power to repeal, extend or modify any or all of the provisions of this article from time to time.”

The amendment was negatived.

Mr. President : We have now only amendment No. 15 and I will take the amendments to that amendment.

Shri Guptanath Singh : (Bihar : General): Sir, I move:

“That in amendment No. 15 above, in the proposed article 296, for the words ‘The claims of the members of the Scheduled Castes and the Scheduled Tribes’ the words ‘The claims of the members of the Scheduled Castes, the Scheduled Tribes and such other castes who are educationally and socially backward’ be substituted.”

Before making my observations on the amendment, I should like to make it clear at the very outset that I am dead against all sorts of mischievous methods of communalism, casteism and such other “isms”.

Shri R.K. Sidhwa : And yet you move an amendment for the backward classes?

Shri Guptanath Singh : Yes Mr. Sidhwa. But have patience. This communalism has proved to be a curse to the country. It has become a national nuisance. We have reaped the cruel consequences of this kind of thing. Still, we are going to continue such things. I want that this demon of distinction and differentiation between man and man should not be allowed to flourish further in free India. But the present structure of society is such that we have been forced and our leaders have been forced to accept the principle of protection and reservation. I know we have done it in no happy mood. We desire that these things should be abolished for ever. But some of the sections of Indian society—our Harijan friends, our Adibasi brethren—have been oppressed for centuries and they have been tyrannised for ages that is why they are demanding these reservations. That is well and good. They should get the reservations and as much reservation as may be possible to make them equal to other sections of society and bring them on the same level. Then and then alone these distinctions and differentiations between man and man can be demolished.

But there are other sections in the country, whose conditions are not better than the conditions of these friends, the Harijans and the Adibasis. In some parts of the country their conditions are worse than some of our Harijan and Adibasi Friends. I wish to bring to your notice that even among the Brahmins, who claim to belong to the highest rank of humanity, there are untouchables. You will be surprised to know that even among Brahmins there are untouchables and they are regarded inferior even to other non-Brahmins castes. What in the meaning of this? This is utter nonsense. Some men are regarded as

superior and some are regarded to be inferior! In human society such distinction and discriminations should not be maintained. But our society is maintaining them. It is a matter of misfortune for our society. Therefore, some of these friends demand reservation, protection, safeguards and securities.

I know, Sir, and you also know that protection and control are sources of corruption. I will cite you two instances. The Central Government were pleased to award some scholarships to persons belonging to the Scheduled Castes and Scheduled Tribes as well as to socially and educationally backward people, and among those backward people one caste is called 'Kisans'. You see, the general meaning of the word 'kisan' is farmer, and a farmer may be any man, whether he is a Brahmin or a Kayasth or somebody else. But this term has been used in the United Provinces in a restricted sense. A man belonging to a farming class and who is very backward is called a kisan. You will be surprised to know, Sir, that some of the students belonging to very advanced classes applied for scholarships on the ground that their forefathers were kisans and even today they are cultivators, and therefore they think they should. get the scholarships.

Similarly, once some Brahmins applied to the Harijan fund for scholarship claiming themselves to be Harijans. Thus controls and reservations beget corruption and should not be encouraged. But as society is bigoted we must reap the consequences. The present structure of our society begets or creates these things and a kind of distrust, doubt and fear has been created in the minds of the oppressed classes. They fear that they will not get their share in the administrative services and therefore they are demanding it. Though they have been assured their rights in the Fundamental Rights and in the general directive principles, they are still persisting in demanding reservation.

I want to bring to your notice how the words "educationally and socially backward" came into the Constitution. Article 10, sub-clause (3) reads:

"Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the State, are not adequately represented in tile services under the State."

So though we have granted them every thing, there is still distrust in the minds of the people.

I want to cite an instance. In a neighbouring province of Bihar a very brilliant student personally known to me, who had passed M. Com. from the Benares Hindu University, applied for a post. He appeared before the Public Service Commission in his province recently perhaps the members of the Public Service Commission did not know that the wretched fellow belonged to a very backward class. He had stood first throughout his career. A month after his appointment a letter came from the government of that province informing him that his services had been terminated. He wrote to the Government and his department to know the case and suggesting that if he was guilty he should be prosecuted and tried Government refused to give any information regarding his case. This should be a matter of shame for the Government of that province.

Similarly during the British regime in our glorious Bihar one gentleman belonging to a very backward farming or cultivating class was rejected as a deputy collector. Simply because he belonged to a very backward community... (Interruption). Have patience and hear me Mr. Sidhwa. You had your chance to speak. You will be glad to know that this gentleman is the principal of a first class degree college in Bihar. The selection committee rejected him as a deputy collector but he is a brilliant scholar and efficient educational administrator.

I want to bring to your notice one more instance

Mr. President : Is it any use giving instances of this kind ? They must be occurring all over.

Shri Guptanath Singh : All right Sir, I would not give. I want Sir, that those classes who are the backbone of Indian society agricultural, pastoral or artisan classes—though they are not counted as Scheduled Castes or Tribes should be given some opportunities to serve in government services. You have already accepted the proposal to appoint a commission to study and investigate their conditions. If you insert words to the effect that those wretched people will be given some chance it would be better for the country. They will prove to be most honest and efficient national servants.

When I tabled this amendment one day it was accepted by the drafting committee some days after—Dr. Ambedkar was pleased to include my suggested words in his own amendment No. 23. He realised the lacuna and accepted my amendment substantially. After that Mr. Munshi also accepted the principle contained in my amendment. But I do not know why they kept mum today when you asked them to move their subsequent amendments. They are masters and they can do as they please. I would appeal to them to consider the appropriateness of these words. They should include these words also in this article.

I hope they will consider the points I have raised and prove to the agricultural and pastoral classes, whose condition is worse than that of the Harijans and Adibasis, that they are going to do something for them and assure them that they would get their opportunities to serve the country. I hope, the caravan of communalism will now be stopped, the cobra of casteism will be killed and immediate steps will be taken to make this glorious land of free India heaven for the humanity suffering from inequality for several centuries.

(Amendments Nos. 18 to 22, 28, 29, 30, 31 and 32 were not moved).

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

“That in amendment No. 23 above, in the proposed article 296, for the words ‘shall be taken into consideration, consistently with the maintenance of efficiency of administration,’ the words ‘shall, consistently with the maintenance of efficiency of administration, be taken into consideration’ be substituted.”

Sir, as you observed this is a purely formal amendment but I think that it is a more correct construction of the proposed sentence in the article and I would recommend it earnestly to the Drafting Committee for what it is worth. But, Sir, may I by your leave make some observations on the amendment moved today by Dr. Ambedkar ?

Mr. President : Yes.

Shri H. V. Kamath : Today, Sir, we have taken another step forward in the building of our common Indian nationhood. Over two years ago this Assembly resolved that so far as the legislatures of this country were concerned, the minority communities should have reservation so far as their seats in these bodies were concerned, but in view of the fact that great events, perhaps tragic in some respects but events fraught with destiny occurred soon thereafter. Sardar Vallabhabhai Patel, a little over two months ago moved in this House, and this House accepted his proposition, that so far as the Muslims and Sikhs were concerned, reservation in legislatures for them should go. That was a wise decision taking us one step forward in our march to nationhood. Today again we are taking another decision which marks another stride in our onward march, and that is that we propose to abolish reservation for the minority communities, the Muslims and Sikhs so far as reservation for them in the services of the State is concerned. The only exception that we made on that day, two months ago when Sardar Patel moved his proposition in the House

is again the only exception that we make today, that is, with regard to the Scheduled Castes and Tribes. Members and even friends outside may disputer the wisdom of this course, but practical politics and statesmanship is guided not always by absolute ideal considerations; our policy and our course are often guided by expediency and the exigencies of the prevailing situation. The situation today dictates to us this course.

My honourable Friend, Mr. Brajeshwar Prasad referred to the plight of the Scheduled Castes and Tribes and remarked in passing that history alone is responsible for the condition of the Harijans today, and that the Caste Hindus cannot be held responsible I for one do not propose to go into this intricate question as to who is responsible and who is not responsible. I do not want of apportion blame. After all if Mr. Brajeshwar Prasad says that history is responsible and later on said after examining further causes that the time spirit was responsible, I venture to suggest that the divine force or whatever supreme force operates in this universe was responsible; the clan vital or the evolutionary force as you may call it, is responsible for what is happening in the world. He said that Caste Hindus were oppressed by foreign exploiters, but we see that these foreign exploiters have been vanquished by another force and that force has been attacked by another third or fourth force. As some English cynic has said : "In this world there is one flea which is preyed upon by another bigger flea and that bigger flea is again preyed upon by a third flea". One is never quite sure about what is going on in this universe. Some grand process is unravelling itself and I do not propose to go into the vexed question of who oppressed whom and how it all came about.

I only wish to say this much, Sir, that with the passing of this article today the only class of people of this country who might be lightly, apprehensive will be as my honourable Friend Mr. Guptanath Singh observed, those who are called the backward class of citizens. I do not wish to say who is backward and who is not backward, who are pastoral classes and who are agricultural classes or which other class is backward, but we have used that very term in the Constitution—backward classes, socially and educationally backward classes. They perhaps will be somewhat apprehensive about their future, as to what their share will be as regards the services in the State, but I wish to dispel their misapprehension by referring to the Fundamental Rights in article 10 in Chapter 3 of the Constitution Clause (3) of article 10 provides :

"Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the State, are not adequately represented in the services under the State."

This is not a more directive principle of state policy; this is in Chapter III, on Fundamental Rights. When this is guaranteed to them, no backward class of ,citizens need be apprehensive. If there is no representation for them in the services they can take the Government to task on that account. I think this would be an adequate safeguard for them so far as their share in the services is concerned. I hope that this article 10 guarantees that right to them, and so they need have no dispute or quarrel with the article before the House today.

Before I close. I only wish to express the hope that, before ten years have expired from the commencement of the Constitution, in this country of ours which has had an ancient history, this country of ours which is ancient, but ever young, there will be not merely no backward classes, socially and educationally backward classes left, but that all the classes will come up to a decent normal human level, and also that we shall do away with this stigma of any caste being scheduled. This was a creation of the British regime which happily has passed away. We have taken many strides forward in removing or doing away with the numerous evils that were associated with the British regime This is one of the few that still remain. I hope, Sir, that were

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long, this stigma too will disappear from our body politic, and we shall all stand before the world as one single Indian community.

(Amendments 184, 255 and 257 were not moved.)

Mr. President : There is no other amendment that I can see.

Shri R.K. Sidhwa : There is amendment No. 36.

Mr. President : That is for the deletion of clause (2). There is no clause (2) in this article at all.

Shri R.K. Sidhwa : Mr. Guptanath Singh has in his amendment referred to backward classes.

Mr. President : In the proposition which is now before the House, there is no clause (2). Therefore this does not arise. Amendment No. 24 has not been moved.

Shri R.K. Sidhwa : Amendment No. 24 has not been moved. But, Mr. Guptanath Singh has moved amendment No. 28.

Mr. President : This does not fit in with Mr. Guptanath's amendment.

Shri R.K. Sidhwa : I have only to change the number from 24 to 28.

Mr. President : Where is clause (2) here?

Shri R.K. Sidhwa : The Drafting Committee has abruptly this morning brought in a new amendment. I am glad that the clause (2) has been dropped. When an amendment has been brought in for bringing in the word 'backward classes', this should be allowed.

Mr. President : This amendment has been there from long before. If you want to speak on the article I shall give you an opportunity.

Shri R.K. Sidhwa : May I say a few words, Sir ?

Mr. President : Yes, I shall first see if there is any other amendment. I do not think there is any other amendment. The amendments and the original proposition are now open to discussion.

Shri R.K. Sidhwa : Sir, I am very glad that the Honourable Dr. Ambedkar has moved amendment No. 15 and the other amendments relating to backward classes have been dropped. My amendment, as just now stated, related to the deletion of the clause relating to backward classes.

Sir, I have been trying to understand what is the definition of backward classes. In article 301, we have stated that those who are socially and educationally backward would be known as backward classes. Today, in this country, 88 per cent. of the people are illiterate. They do not know even the A B C or the alphabet of their own mother tongue. Only 12 per cent. of the people are literate in this country. Socially also they are backward. Am I to understand that 88 per cent. of the people are backward ? Article 301, definitely states that those who are socially and educationally backward will come under that article. How can we then say that the whole country, 88 per cent. of the people are to be known as backward classes ? My honourable Friend, Mr. Guptanath Singh, went to the length of saying that the peasant belongs to the backward class. He mentioned the illustration of the Brahmin as backward class. I know of an illustration and I shall give it, This was all created for the purpose of getting position and power and nothing else. Some ten years ago, a person wanted to get into the services as a Subordinate judge. He belonged to Pushkar Brahmin community. He set up a theory that the Pushkar Brahmins belonged to the backward classes. He had merely

to take the signatures of 500 persons and present it to the chief Judge. The Judge was guided by the signatures and as there was no Pushkar Brahmin in the service as Judge, he appointed him.

I may also tell the House that thirty years ago, the Parsees were considered as a backward class by the Bombay Government. You know Sir, that we are a far advanced community. Thirty years ago, 80 per cent. of us were educated; today 99 per cent. are educated. Still, thirty years ago, the Bombay Government declared that the Parsees were a backward class. It is only those people, who want to get into the services that use their influence and class themselves as a backward class. This is what was happening in the British regime. Some people who wanted to get into the services used their influence and classified themselves as backward classes, whereas really the masses of the people who are really the backbone of the country, they are not given any representation in the services. (*Interruption*).

Shri Guptanath Singh : You talk much but do not know the masses; I know the minds of the masses.

Shri R.K. Sidhwa : I do not want to argue with you. What I was saying was that there has been injustice done to a small section of our own people. I know there has been favouritism going on and let me tell you favouritism will go on for ever unless a real Ram Rajya comes into being. Some sort of favouritism will prevail even in the best of Government. So far as the Scheduled Classes are concerned, I have never conceded that the Scheduled Castes are a community. I have considered them as a class of people whom really great injustice has been done in the past by the Hindu community. Therefore, we want to do something to see that they come up to standard of their own brethren. If they were to classify themselves into a separate community, I would oppose it. I do not consider them as separate. So far as the Scheduled Tribes are concerned, they are not untouchables. For instance, there are the Bhils; they are not untouchable. They are only backward. They have also been brought under Scheduled Tribes. These people require attention at the hands of the special officer that is to be appointed.

I do feel that our article 301 is a real stigma on our Constitution. I wish article 301 should go: I do not want backward classes at all to be mentioned in our Constitution. It is a slur upon our intelligence. For those who are educationally backward, we have provided in the Directive policy that within ten years every man, woman or child should be made literate. When educationally every person is advanced, who will call them backward? There will be no backward classes. Socially, they become advanced. If a man is educated, I have seen he improves his position in society and social affairs. Therefore, the fundamental thing is education and we have provided for that in the Directive Policy. I would have wished it to have come in the Fundamental Rights. Within ten years, there shall not be a single person who shall be illiterate. Of course, there are certain difficulties in the way. I am sure our present Government are going to see that every man is made literate within a period of ten years, and we shall be proud that every person can read in his own mother tongue.

I therefore, oppose the amendment proposed by Mr. Guptanath Singh. It has no meaning. It has meaning only when we want to favour some body and therefore we want to classify them as backward classes. The article as moved by Dr. Ambedkar is sufficient for our purposes. When a time limit is not mentioned, I am quite sure that within a short period these Scheduled Classes will go and they will come up to the level of the other people and we shall see that there is no mention of these Scheduled Classes in our Constitution hereafter. With these words, I strongly support the proposition

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and I oppose any kind of reservation or even the mention to reserve posts in services in the Constitution. We have done away with reservation in the legislatures. With what face shall we say that there should be reservation in the services ?

It looks so awkward. Our leader, Sardar Patel, made it very clear the other day when he brought the question of representation in the Legislatures, and today my Friend Sardar Hukam Singh has put in Parsees also that they want special rights. Sir, my community has never asked for special rights in any Legislature or in the services. They have come by merits and I can assure you whatever number they are in the Government of India—there are some Parsees in services of the Government of India—they have come by merit and not by favour. The majority community realise it and we leave it to them. We know they can appreciate it. Merit alone should count in our future Constitution and nothing else. I place great stress upon this. This method has been started by the British Government of favouring one community or the other. Sir, we have given our President the power to classify who are the backward classes. Mushroom association in the name of backward class will be formed and the President will be put in an awkward position, many communities will try to influence them. I am sorry that this clause is there but I only expect that article 301 will remain a dead article in this Constitution and shall never be operated upon. With these words I strongly support the original proposition and oppose all amendments.

The Honourable Sardar Vallabhbhai J. Patel (Bombay : General) : Sir I had no intention to speak on this article, but when I heard that a definite insinuation was made in this House that because the Congress Party has a majority in this House, therefore it does not care for the promises given to the Sikhs and they are breaking the promises given them I have to speak. I am very sorry to hear this charge from the Sikhs or a representative of the Sikhs. Sardar Hukam Singh made this point. At another place on another occasion I had made it clear to him and yet he seems to have raised the same question. Now I wish only to answer that charge for the other things I do not think I need go into discussion or say anything about it. But when it is alleged that Congress is breaking its promises given to the Sikhs, one after another, I wish to understand the position.

We are—he allege—breaking the promises—broke the promise given in 1929, one in 1946 and another in 1947. I do not know what promises he refers to. If he refers to 1929 and then again to the Partition of India and Pakistan, I wish to point out to him that there was not a single Sikh voice against the Partition; on the other hand they are probably in the forefront in demanding partition of the Punjab. After the butchery and the bloodshed that took place in Rawalpindi and Multan, the Sikhs were terribly upset and naturally distressed and they had considerable sympathy from the Congress. At that time there were other tragedies happening in other parts of the country and then came the conflagration in Lahore, Amritsar and other parts of the Punjab. It was at that time with the concurrence of the Sikhs,—unanimously, with one voice they agreed,—we agreed to the Partition of India. Now to turn round and charge us with a breach of faith is a charge which I cannot understand and it is not right for the Sikh community—a brave community like the Sikhs—to fling these charges at us. Who were we to agree to the Partition of India and partition of the Punjab if the Sikhs were opposed? We could never have done that. Because they also said that it was best in the interest of India that we should agree to partition on condition that the Punjab was partitioned—that we agreed to it. Now that is about 1929 promise.

Then again he says about 1946. If he refers to the Minorities Committee recommendations, I can understand it. I propose to explain it in detail as to what has taken place. But I do not know what he means by 1946 promise. If I can have any concrete expression of a promise given by Congress Leaders, I might, and if so I do not think there is any one Congressman who will go against that promise. I have not however understood the psychology of the Sikh leaders—some of them—who often charge everybody with breach of faith, and always complain of minorities being ill-treated.

Look at the army. Are they not very heavily over-weighted ? What have we done ? We are under their protection and we trust them and not a single army officer is disloyal to us. Why do you create this feeling for nothing? I What is it that you want ?

When the Minorities Committee in the Advisory Committee passed its first decisions, I was appointed Chairman and I took all the minorities with me and the decisions of the Minorities Committee and the Advisory Committee were almost unanimous. This House appreciated the work of these Committees and congratulated me on that. Time went on and the minorities themselves began to feel that we should reconsider our decision and, headed by the great patriotic Christian leader, they brought in a Resolution that they want to give up the reservations. And what reservations?—Not this Petty reservation of minorities in the services—but the big reservations in the Assemblies, both in the Centre and in the provinces.

They agreed to have joint electorates and to have nothing to do with this communal separatism. When they desired that, I called a meeting of the minorities Committee and the Advisory Committee. At their instance decisions were taken. The Sikh stand has always been that “if all minorities agreed, we are also agreeable. We do not want any special arrangement. We do not want any advantage. We are able to stand on our own legs”. That was their stand throughout, in the Congress and outside the Congress.

When this resolution was brought, and this question was about to be considered, the Sikh representatives of the Punjab came to me and they said that so far as the Scheduled Caste Sikhs are concerned, they should be treated separately and given the same advantage that was being given to the Hindu Scheduled Castes. The Scheduled Castes objected to a man that these are not Scheduled Castes, and if they are Scheduled Castes, then they are not Sikhs. Therefore, they said, “you cannot give them separate treatment. There are forcible conversions being made from the Scheduled Castes to the Sikhs for this purpose”. That was their grievance. On the other side, the Sikhs said that they had converted so many and it was not by force. “They have come to our fold”, they said, “and if you do not recognise these concessions, then they will all go back to the Scheduled Caste Hindus and we will lose”.

Now, it was against our conviction to recognise a separate Sikh caste as untouchables or Scheduled Castes, because untouchability is not recognised in the Sikh religion. A Scheduled Caste Sikh community has never been in the past recognised. But as the Sikhs began to make a grievance continuously against the Congress and against us, I persuaded the Scheduled Caste people with great difficulty to agree to this for the sake of peace. I persuaded the other members of the Advisory Committee on the condition, which is in writing by the representatives of the Sikhs, that they will raise no other question hereafter.

Then in the Advisory Committee, when this question came, Sardar Ujjal Singh raised the question, “What about the Services”? I said, “Your representatives have given in writing that no other question hereafter is to be raised”

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Giani Kartar Singh was also in the Advisory Committee, and he got up and said, "No, we will settle it in the Provinces. It is not to be raised here."

What is the use of charging the Congress with having broken promises ? Do not break the promises that you have given, and do not charge others with breach of promises. If you now say, as Sardar Hukam Singh says, that these people were anxious to serve an advantage for the Scheduled Caste Sikhs and they may have agreed to this, but it is a mistake, then if it is a mistake, reconsider your position, and I shall reconsider mine. Take away that concession and remove it, and you get your pound of flesh, if you want it.

What is it that you get in the Services? Even at present, what do the Sikhs do ? What do other communities do ? So far as the Services are concerned, for all major posts or all posts which go by competitive examinations there is no reservation on communal grounds. They go to the Public Service Commission. You are quarrelling or asking for the minor posts—Chaprasis and clerks. Is it the Sikh position now that we have not got enough Sikh Chaprasis and clerks ? Are you going to raise the community in that manner? If that is so, tell me, and if you leave what you have got for the Scheduled Castes, I shall persuade the Constituent Assembly to give you what you want, but you will repent afterwards.

You say, in PEPSU it is not the arrangement. But this is not the House to hear that complaint. If there is any such complaint, send it to us. We shall consider about it. But do not go behind, your pledged words and charge other people with breach of promises or pledges. We are not the people to break pledges. Every sympathy and every consideration will be shown to the Sikh community because it is located in a particular area; it is a small community, and yet it is brave, virile and it can stand on its own against anybody. Do not break that spirit by continuously saying, "We are injured, we are helpless, we are in a minority, we are hopeless, we cannot do anything."

That kind of psychology will injure the community itself and not others, and injuring the community means injuring the nation. It is not as a representative of the majority community that I give this advice, but as a well wisher of the Sikh community, I advise you not to create this atmosphere by saying continually, "we are badly treated, badly treated". If you do, then it is the Sikh community that will be hurt.

When the Advisory Committee took this decision to give up reservation, we clearly understood the position and all communities clearly understood it. When the decision of the Advisory Committee came before this House for its acceptance, I made it clear that this Constitution of India, of free India, of a secular State will not hereafter be disfigured by any provision on a communal basis. It was accepted with acclamation.

It is said that if you make any arrangements in the Provinces, then the provisions of the Constituent Assembly with regard to fundamental rights will come in the way. Let me tell you, nothing comes in the way where arrangements are made by mutual agreement, and without mental reservations. That provision in the fundamental rights is provided for an individual who is injured. But if you make domestic arrangements in the Punjab between community and community for the small posts, then who is going to question that ? But first create an atmosphere for adjustment of such things in your Province. It is the continued atmosphere of quarrel between two communities that has created distrust among them, and that creates difficulties. You will have our support and sympathy continuously in that Province because that Province has suffered most. It is injured and the wounds have not yet healed. It is for us all, and

for you particularly, to help us in healing the wounds. Therefore, let us make a united effort to raise the morale of that Province, the strength of that Province, which really is at the top of India, where the border is. Then you will have no complaint at all.

After all, what is the Sikh community backward in ? Is it backward in trade ? Is it backward in industry, or commerce or in anything ? Why do you consider yourselves to be backward ? Therefore, forget that psychology. If there is any injustice done, then come to us, we will see that no injustice is done.

Sardar Hukam Singh said, "We trust the present leaders. What about the future ?" I say, you must have the courage to trust the future and not the present leaders. What will happen when the present leaders are gone ? Will Sardar Hukam Singh be living here ? Why raise this issue ? We must trust that if the present leaders go, we will have better leaders in the future. If we have trust in the future of our country, we may trust that in the future our country will produce leaders who will make a name in the history of the world. We have shown it today. We will do it in the future. That is India. India produced a Mahatma in a State where slavery was rampant. He went to a country where people would not walk on the foot-path, where people could not travel even in the III class with safety, where we were all treated as untouchables even now we are treated as untouchables there. There he made a name and fame all over the world, and presented a new weapon to the world. Then he came here. Here he raised the Sikhs, the Muslims, the Hindus, Scheduled Castes, everybody. He gave us freedom. Do you think that we are going to raise the morale of our country or the reputation of our country or the fame of our country by breaking promises ? No. We have all agreed that we must trust each other.

I know that the atmosphere so far as the Muslims are concerned is not quite as happy as it should be. But there are reasons for that. The Congress is not responsible for this. If there had been no Partition, perhaps we would have been able to settle our differences. But there was Partition. This Partition by agreement brought about subsequent events. But, since Partition, whatever is being done on the other side is having a reaction here for which we have to struggle day and night.

You do not know the immense difficulties of a secular State being governed peacefully in such conditions. Now, the world is in such a condition that we cannot take any independent action of our own accord. Even though there is injustice done, we have to wait, pause, ponder and consider, because there is an Organisation known as the U.N.O., who day and night watch the situation all the world over and try to see how peace could be maintained. I do not wish to say anything about the work of the U.N.O., because I know nothing about it. But the other part of the country known as Pakistan misses no opportunity of defaming and blackmailing us all over the world, whether there is occasion for it or no occasion for it. So we have to be specially careful. They break promises and charge us with breach of faith and yet we cannot solve it without reference to the other countries or without any regard for its reaction in other countries.

Therefore we have to be very careful. Do not add to our difficulties by creating internal difficulties in which there will be disputes between the communities. Help us and it will be to your advantage and it will be to the advantage of the whole country. You will have no cause for regret if you drop the claims for minor provisions for small minorities in regard mainly to service questions. Fight over issues beneficial to the whole country. Let us do that. Let us prepare the ground for that. You have big interests involved in two

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provinces. Though the problems in Bengal are different, as in the Punjab they have also certain problems. These problems can be settled not by the Centre, but by the provinces themselves. So, for God's sake, those who are interested in the well-being of the country should create a different atmosphere and not an atmosphere of distrust and discord.

My only point in coming to reply here was to meet the charge that has been levelled against the Congress. I am sorry to hear it. Neither I nor any congressman has done anything here in the Centre to give cause to the Sikh Community to distrust us. We shall never give cause for that in spite of what you may do. Therefore for the last time in this Constituent Assembly, as responsible members of Parliament, I appeal to you. By all means ask for what you want or what you like. But do not blame other people for your own faults, I desire now to give you this undertaking that if you still feel that the advantage that was taken from us is not worth it you throw it away and, if you think this is better, I will give it to you. You consider the matter amongst yourselves, amongst the Sikh community and decide. But do not try to have it both ways. One section first comes and gets certain advantages and gives promises to a certain section of the community and thereafter another section comes and charges us with not having given it certain other advantages which it is anxious to have. That is not the way to do things. You may unite and decide what you want. It is not our fault if you have not done, so. After all, what is it that you want? You want an insignificant thing, but granting it would mean putting a blot on the Constitution. We agreed about certain things on that day and everybody was pleased with it. Therefore be satisfied with what you have done and there will be no cause for regret. (*Applause*).

Mr. President : Is it necessary to continue the discussion ?

Honourable Members : No, no.

Shri H. V. Pataskar (Bombay : General) : I move that the question be now put.

Sardar Hukum Singh : I want to submit to you most respectfully that I do not find anywhere in the Constitution anything that we have secured at so high a price.

Shri Mahavir Tyagi (United Provinces : General) : Sir, may I appeal to you that this general discussion on this important article has not been full. It is for you to see whether you should accept the closure motion or not.

Mr. President : I see that and I am prepared to accept it.

The Honourable Dr. B. R. Ambedkar : I have nothing to add to what has already been said.

Mr. President : I will now put amendment No. 17 of Shri Guptanath Singh to vote.

Shri Guptanath Singh : I beg leave to withdraw it. The amendment was, by leave of the Assembly, withdrawn.

Mr. President : Then we come to the amendment of Mr. Kamath.

Shri H. V. Kamath : Sir, I leave it to the good sense of the Drafting Committee.

Mr. President : It is a verbal amendment and it can be left to the Drafting Committee. Now I will put amendment No. 256 of Sardar Hukam Singh to vote.

The question is :

“That with reference to amendment No. 23 of List II (Second Week), the following clause be added to article 296 :—

- (2) Nothing in this article or in article 10 of the Constitution shall prevent the State from making any provision for the reservation of appointments or posts in favour of any minority community which, in the opinion of the State, is not adequately represented in the services under the State’.”

The amendment was negatived.

Mr. President : The question is :

“That with reference to amendment No. 3163 of the List of Amendments, for article 296 the following article be substituted :—

‘296. The Claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union or of a State’.”

The amendment was adopted.

Mr. President : The question is :

“That article 296, as amended, stand part of the Constitution.”

The motion was adopted.

Article 296, as amended, was added to the Constitution.

Article 299

Shri K. M. Munshi (Bombay : General) : Sir, I move—

“That with reference to amendment No. 63 above, for article 299, the following be substituted :—

‘299. (1) There shall be a Special Officer for the Scheduled Castes and the Scheduled Tribes to be appointed by the President.
Special Officer for Scheduled Castes Scheduled Tribes, etc.

- (2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution and report to the President upon the working of those safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.
- (3) In this article, the reference to the Scheduled Castes and Scheduled Tribes shall be construed as including the reference to such other backward classes as the President may on receipt of the report of a Commission appointed under clause (1) of article 301 of this Constitution by order specify and also to the Anglo-Indian community’.”

I need not say anything more on this amendment. The Special Officer is intended to look after the political safeguards that have already been given by other articles in the Constitution. I therefore, move the amendment.

Mr. President : I will first take up the amendments to this particular amendment which has been moved by Mr. Munshi.

(Amendment No. 78 was not moved.)

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

“That in amendment No. 64 above, in clause, (3) of the proposed article 299 the words ‘to such other backward classes. . . .’

[Shri R.K. Sidhwa]

Backward Classes have gone. Mr. Munshi has put it only the Scheduled Castes and Scheduled Tribes. If this is so, I do not want to move my amendment.

Mr. President : Clause (3) of Mr. Munshi's amendment says—

“In this article, the reference to the Scheduled Castes and Scheduled Tribes shall be construed as including the reference to such other backward classes as the President may on receipt of the report, etc.”

Shri R. K. Sidhwa : Then I move my amendment, Sir.

...“as the President may on receipt of the report of a Commission appointed under clause (1) of article 301 of this Constitution by order specify and” be deleted.

Sir, I do not want to speak at length because I have touched upon this point in my previous amendment. I know there is the article 301 which specifies backward classes. I am not quite sure that it will be easy for the President to find out who are the backward classes. I do feel that this backward classes article will remain a dead article, because I know that people who will come in the name of the backward classes will come only for their own personal position and personal aggrandisement to insert themselves as backward classes to win their own personal ends I know people would come in the name of the backward classes only to get a few posts, leaving the poor masses of that community in the lurch. I am therefore strongly opposed to the inclusion of the term ‘backward classes’. Article 301 says “investigate the conditions of socially and educationally backward classes”. Now, What does that mean ? 80 per cent. of our people are illiterate. Are they all backward ? Sometimes people who are illiterate have a far better sense of argument than the literate people.

Therefore, Sir, I contend that there is no such class as a backward class. The Britishers wanted to dub many as backward classes and then play them up to the whole world and say that India consists of so many backward classes and so they do not deserve freedom. I do not want this term “backward classes” perpetuated in our Constitution. The sooner we do away with this, the better for our country, the better for our position in the world. Beyond the Scheduled Castes and the Scheduled Tribes, I do not want any kind of reservation for anybody. If there is any class which feels that their interests have not been justly represented in the services, they should go to the proper authorities and find the remedy. After hearing Sardar Patel, I do not think there will be any injustice to any class people who really deserve some kind of sympathy and justice. If there is any injustice, then our leaders are there who will look after their interests. With these few words, I commend my amendment for the acceptance of the House.

(Amendment Nos. 80, 258 and 284 were not moved.)

Shri H. V. Kamath : What about amendment No. 65 ?

Mr. President : I was just coming to that. So far we have taken up the amendments to amendment No. 64 moved by Mr. Munshi, which is an amendment to No. 63 which again relates to No. 43. No 43 was sought to be replaced by No. 63, which again is replaced by No. 64. Therefore I first took up the amendments to amendment No. 64. Now, if any Member is keen on moving any of the other amendments, I will see whether it fits in with No. 64 or not. If it fits in, I will allow that, otherwise not. I will just call the amendment numbers and if Members wish to move any of their amendments, they can say so.

No. 44, by Mr. Lakshminarayan Sahu and Mr. Chaliha.

Shri Kuladhar Chaliba (Assam : General) : Sir, I move

“That in amendment No. 63, above at the end of clause (2) of the proposed article 299 the words ‘for its approval, modification or addition’ be added.”

Mr. President : What amendment are you moving ?

Shri Kuladhar Chaliha : I am moving No. 71.

Mr. President : All right.

Shri Kuladhar Chaliha : Sir, the article merely says that such reports shall be laid before each House of the Parliament. We should positively mention there what the powers of the Parliament are in this regard. As such, these additional words will make the clause a little clearer than it is. My own experience is that many such reports are laid before the House, but very few people take care either to look into it or give effect to it. So, in order to be more specific, I have added these words. I trust the Drafting Committee and Dr. Ambedkar will see that it is changed. I commend my amendment to the acceptance of the House.

Mr. President : Does any Member wish to move any amendment ? Sardar Bhopindar Singh Man, you wanted to move some amendments.

Sardar Bhopinder Singh Man : Nos. 67 and 69 relate to the amendment that was to be moved by Mr. Munshi, No. 63.

Sir, I move :

“That in amendment No. 63 above in clause (1) of the proposed article 299, after the words ‘by the President’ the words ‘and a Special Officer for minorities for each State for the time being specified in Parts I and II and Part III of the First Schedule who shall be appointed by the Governor or Rajpramukh of the State, as the case may be’ be added.”

“That in amendment No. 63 above, in clause (2) of the proposed article 299, after the words ‘under this Constitution and’ the words ‘their representation in different legislatures and services of the country’ be inserted.”

“That in amendment No. 63 above, at the end of the Explanation to the proposed article 299, the words ‘Muslim’ Christians, and Sikhs’ be added.”

My first amendment states that the Minority Officers as originally proposed to be appointed in the States should be permitted to continued I feel that a Minority Officer appointed at the Centre will be at too distant a place to investigate and see the daily working of the Constitution. If Minority Officers are not there, this safeguard contained in article 299 will not be effective. After all, it is the daily life and daily administration and governance that count more than anything. I request that Minority Officers in the States should continue and there should not be merely one officer appointed at the Centre.

My other two amendments state that there should be Minority Officers to investigate, not only the safeguards contained in the Constitution, but also to look into matters pertaining to all minorities and We how they have fared so far as representation in legislatures is concerned or securing of services in the administrative machinery is concerned. There seems to be some confusion about minorities. Certain friends say that because the Minorities Advisory Committee resolved that there will be no political reservations in the legislatures, there will henceforward be no minorities in the country. I takes my breath away how a paper resolution can do away with minorities, and that too, in so short an interval as just a year or so.

The position of this Constituent Assembly, as understand from its previous decisions, is that they agreed that this country has got minorities. They classified these minorities into three groups—Group A, Group B and Group C. Not only that. I hold here another pamphlet published by the Ministry of Information and Broadcasting. They corroborate the same view and say the basis of these minorities is their religion. They mention the Minorities in the

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Indian Union as the Muslims, the Sikhs, the Christians, the Parsis and the Anglo-Indians. Now, to argue basically against this contention is to go behind their own words.

A happy sort of atmosphere has been brought about and the minorities henceforward repose their confidence in the good sense of the majority—not that they are wiped out altogether from our country. We march forward in the hope that no injustice will be done, but from that it should not be argued that henceforward the minorities cease to exist. After all, safeguards are just the instruments of securing the due share of minorities in the governance and administrative machinery of the country. If we are assured that no injustice will be done so far as governance or administrative machinery is concerned, naturally we will not ask for any political safeguards in the Assemblies or elsewhere.

It is a very daring experiment. I wish it success wholeheartedly. I am quite sure that it will succeed. It should succeed. I shall be very happy indeed if the fears of the minority communities are ultimately proved to be false. But to enable the experiment to succeed, I say that the cases of all the minorities should be reviewed and Minority Officers should be appointed for all the Minorities. After all, you are not giving anything. You are not giving any quota or any share or reserving anything. You only say that these Minority Officers will be reviewing the case of these minorities and scheduled castes. I take your word.

You are taking a great responsibility upon your shoulders. You promise that you will give us no cause for anxiety. Then may I ask Dr. Ambedkar why he feels shy of reviewing the cases of all the minorities ? I am quite sure you will be very just, you will be very fair and that the minorities will get their due share. Then, where is the harm if all these cases are reviewed periodically and brought before the Assembly and the Parliament ? It would give us a constitutional opportunity of reviewing our position. I shudder to think of the alternative, which will be only to raise some sort of agitation and dill it into your ears that an injustice has been done to us. Instead of resorting to certain unconstitutional methods, this provides a constitutional door. I believe there will be no injustice whatever, but that is no reason why these constitutional doors should be closed.

In all earnestness I plead before you—kindly do not abrogate these articles, kindly do not re-open what has already been conceded. I shall be failing in my duty if I do not represent to you that the abrogation of these articles 296 and last of all of 299 will have very widespread and serious repercussions so far as my community is concerned. You are taking away that mental assurance that you have all along given to us. You had said, “Do not worry, there will be somebody all the time observing the working of the Constitution”. Now you take that away. You say, “Justice or Injustice, case or no case, your case will not be reviewed.” I think it will be injurious to that psychological atmosphere and mental assurance that you had given. I think by taking away this machinery by which the working of the Constitution so far as minorities are concerned will be observed, you are taking away our last hope of securing a hearing and of approaching the Parliament in a constitutional manner and getting our cases periodically reviewed. I believe, Sir, it will not be disfiguring the Constitution, as the popular slogan goes.

In the end I must refer to a certain assurance which is said to have been given by some representatives of my community. It has created a certain impression, and I beg to differ from Sardar Patel and to say that it has created a false impression. Actually, so far as the assurance is concerned, (I do not

controvert the facts) I have asked those representatives about the assurance and I have got a copy with me containing the assurance. I have to remove the misunderstanding because it is creating a false impression in my community and elsewhere and hence there is the charge that the Sikhs are going back upon the undertaking they had given. In view of the fact that articles 296 and 299 had been agreed to by the House as recommended by the Advisory Committee, and the draft wording of which has been the same for the last one year and in addition to that they have agreed that Scheduled Castes will be included, the Sikh representatives said that henceforward they were not asking for any further assurances. But having got that assurance, if you now turn back and reopen the case in this House and thereby recede on articles 296 and 299, certainly our pledges cannot be thrown at our face to the effect that we are going back on them! Let me read the actual wording of the agreement. If there is anything else that should be in it, let that be produced, so that all this false impression can be removed. It runs :

‘We, the Sikh Members of the East Punjab Assembly, beg to refer to there port of the Sub-Committee of the Minorities Advisory Committee and to say that in so far as this relates to the problems of the Sikh community, the following points should be conceded in addition to the recommendations made in the said report...’

You agreed to certain recommendations made by Minorities Advisory Committee, which are clear and emphatic and so far as the sharing in the services is concerned, it is said that it will be conceded and a specific article relating to it will be incorporated in the draft Constitution. You also say that a Minority Officer for all the Minority Communities will be appointed. You conceded it and we gave the assurance that we will not be asking any further safeguards in addition to what already had been conceded.

Shri R. K. Sidhwa : What order ? What was conceded ?

Sardar Bhopinder Singh Man : What you conceded and you have not yet abrogated. You conceded it in August 1947.

Shri R. K. Sidhwa : There were subsequent developments.

Sardar Bhopinder Singh Man : I shall refer to that too. After this there was another report of the Advisory Committee dated 11th May 1949. If my friend were to read it carefully, not a single reference is there so far as these two resolutions are concerned. So far as the reservation in the Assembly is concerned, that has been taken away. So far as the other decisions, as regards the services and the Minority Officer for reviewing the cases of the minority communities are concerned, they stand and here I request my friend to produce a single sentence or line in the subsequent report submitted by the Advisory Committee and as approved by this House to show that in any case article 296 and article 299 have been abrogated.

Shri R. K. Sidhwa : I have been a Member of the Minorities Committee from the very inception and I have no recollection of this question having come up so prominently as my friend relates it now.

Sardar Bhopinder Singh Man : It is not my fault if my friend misses the point. But unfortunately, it is there incorporated in black and white. For me it is a very important point. You

Mr. President : What is the document you have been reading from ? You referred to some sort of pledge.

Sardar Bhopinder Singh Man : I was referring to certain assurances which were said to have been given by Sikh Members that henceforward they would not be opening any case and would not be bringing forward any matter or any other safeguards and I say this, in spite of Sardar Patel’s speech. As

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a matter of fact this has gone into the press as if there was some such assurance to give up all the minority rights.

Mr. President : Have you got that document with you ?

Sardar Bhopinder Singh Man : I have.

Mr. President : Than read it out.

Sardar Bhopinder Singh Man : I have read it.

Mr. President : I did not quite follow. If you read out that whole document to which Sardar Patel was referring...

Sardar Bhopinder Singh Man : I have this copy with me. If there is any other document, then I stand corrected with regard to what I have read.

Mr. President : I think you had better read it out so that Sardar Patel or anyone else can have a chance of finding out whether this is the document.

Sardar Bhopinder Singh Man : I have said I have no direct knowledge of that document. With regard to the document that those Sikh representatives gave, I have ascertained from them that this is the document containing the assurances that they gave.

Mr. President : Let us have the document.

Sardar Bhopinder Singh Man : Yes, the document reads as follows:

“We, the Sikh Members of the East Punjab Assembly, beg to refer to the report of the sub-Committee of the Minorities Advisory Committee and to say that in so far as this relates to the problems of the Sikh community, the following points should be conceded in addition to the recommendations made in the said report :—

1. The Sikh Backward Classes, namely, Mazhbis, Kabirpanthis, Ramdasias, Bawrias, Sareras and Sikligars, should be placed at par with the Scheduled Castes in the matter of their political rights. This can be done by—

- (a) including these classes in the Scheduled Castes enumerated in the Draft Constitution ; or
- (b) by abolishing the reservation of seats for all minorities including the Scheduled Castes in East Punjab; or
- (c) reserving seats for the said Sikh Backward Classes out of the quota of seats reserved for Sikhs. The estimated population strength of these classes among the Sikhs is roughly ten per cent ; these classes would get ten per cent. of the quota of Sikh seats.

2. In the matter of language, script and culture, either zonal arrangement should be provided in the Constitution, or, settled immediately by executive action.

3. Sikh minorities outside East Punjab should receive similar treatment as has been or might be granted to other minorities in the matter of political rights.

We would, respectfully suggest that for the elucidation of our case we should be given a hearing before the final decision is taken. We may and that we have no other communal safeguards to ask for so far as provision in the Constitution is concerned and that satisfaction along the lines suggested will go a long way to win over the Sikh masses for the national Cause.”

Shri R. K. Sidhwa : Who has signed it ?

Sardar Bhopinder Singh Man : The Sikh members and Sikh representatives signed it. The question is that we have to win over the confidence of the minorities. I do repeat here that it is going back upon certain things which you conceded yourself.

Shri R. K. Sidhwa : There is nothing in the article to say that we are going back.

Mr. President : Let me have a copy of the document. I shall have it ascertained from Sardar Patel whether it is the representatives' document or whether there is any other document and then I shall communicate it to you.

Sardar Bhopinder Singh Man : Mr. Sidhva knows perfectly well that in the light of the President's decision today that it is a reopening of the case

Mr. President : So far as the question of reopening is concerned the case was put on the basis that a decision has already been taken and I said that even if decision has been taken it can be reopened. By reopening I did not mean going back on anything that has been done. Reopening only meant that objection was taken on the ground that a certain decision had been taken and this decision which we are going to take now would be inconsistent with that; and I held that even if it was so, it can be taken up, if 25 per cent. of the Members were in favour of reconsidering the question.

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

“That in amendment No. 63, at the end of clause (2) of the proposed article 299, the words ‘for such action as Parliament may deem necessary’ be inserted.”

It is likely that when the report is presented to the President by the Special Officer appointed under this article, Parliament may consider it necessary or even essential that in view of the advance or the progress registered by the Scheduled Castes and Tribes it would be in the best interests of the country to abolish totally the distinction called Scheduled Castes or Tribes and there will be one big unified Hindu community. If this action were to be necessary, it cannot be left to the President alone. It is Parliament which has been invested with power in this Constitution to take the decision. Constitutional safeguards have been guaranteed to the Scheduled Castes and Tribes under this Constitution and it is only Parliament that can take a fundamental decision of this nature. Therefore, I desire that the report presented to Parliament should not be taken up for action by the President but the action taken shall be by the Parliament and not the President.

There is another amendment No. 75 which was in respect of amendment No. 63. But unfortunately that amendment has been substituted by amendment No. 64 just moved by Mr. Munshi. But my amendment would apply in a modified form to this amendment as well. In that amendment (No. 63) with regard to the explanation in that article.....

Mr. President : There is no explanation in amendment No. 63.

Shri H. V. Kamath : Instead of explanation we have got clause (3) in amendment No. 64. That amendment proposes reservation to the Anglo-Indian community as such. A specific reference to the Anglo-Indian Community is, in my humble judgment out of place. We have provided safeguards for the Scheduled Castes and Tribes.....

Mr. President : As, a matter of fact I think that the substance of No. 75 has been taken in clause (3). Clause (3) of amendment No. 64 does not include the Anglo-Indian community now.

Shri H. V. Kamath : It does, Sir. The last words are “the Anglo-Indian community” and I want that to be deleted.

Mr. President : Yes, I see.

Shri H. V. Kamath : The reference to Scheduled Castes and Tribes is construed as meaning also such backward classes as the President may by order specify after receiving the report of the Commission. The Anglo-Indian community is neither a backward class nor a Scheduled Caste. I do not

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know how it can be lumped together with these two classes- Scheduled Castes and backward communities. The only safeguard that will be provided to the Anglo-Indian community is representation in the House of the People and State Legislatures through nomination, in case the President or the Governor thinks that that community is not adequately represented in those legislatures, and that too for a period of ten years, After that the safeguard automatically lapses.

As regards the safeguard given to the Anglo-Indian community regarding reservation in the services, the Anglo-Indian community, not being a backward community at all, is even today, over-represented in some services, far in excess of its proportion to the population. Therefore I feel that in this clause (3) reference to the Anglo-Indian community is absolutely unnecessary. The Anglo-Indian community is not at all a religious community: it is at best, or at worst, a racial community and it has a racial basis. I think we should not give encouragement to racial communities in this country. If at all they want to join any minority they should join the Christian community in India. They have no right to exist as a separate Anglo-Indian community. I hope that necessary changes will be made in clause (3) of this article.

Shri Brajeshwar Prasad : Sir, I move :

“That in amendment No. 63 of List II (Second Week), for the proposed article 299. the following be substituted :—

- ‘299. (1) There shall be special officer for the Scheduled Castes and the Scheduled Tribes to be appointed by the President.
- (2) The special officer in consultation with the President may appoint a special officer for each State who shall work exclusively under his superintendence, direction and control.
- (3) The special officer appointed either for the Union or for a State shall not be a member either of the Scheduled Tribes, the Scheduled Castes or of such other backward classes as the President may on receipt of the report of a commission appointed under clause (1) of Article 301 of this Constitution by order specify.
- (4) The salaries, allowances and Pensions payable to the special officer for the Union and to the special officer for each State shall be expenditure charged on the revenues of India.
- (5) It shall be the duty of the special officer for the Union to make annual recommendations as to the steps that should be taken by the Union and by each State to improve the economic, educational and cultural level of the Scheduled Tribes, the Scheduled Castes or of such other backward classes as the President may on receipt of the report of a commission appointed under clause (1) of Article 301 of this Constitution by order specify and as to the sums that should be separately allotted in the annual budget of the Union Government and of each State Government for the purpose; and the President shall cause all such recommendations to be laid before Parliament.
- (6) Parliament shall have the power to reject or accept in whole or in parts any of the recommendations contained in the Report.
- (7) All State Governments shall be bound to make annual allotment in their budgets of such sums as Parliament may deem to be necessary for the purpose of giving effect to the recommendations contained in the Report of the special Officer for the Union.
- (8) Until the appointment of the commission and consideration of its Report by the President under clause (1) of Article 301 of the Constitution the backward classes shall consist of such castes and communities as may be determined by the President.
- (9) The President may delegate the power to the special officer for the Union to supervise and give effect to all or any recommendations made by the commission appointed under Article 301 and accepted by the President.

- (10) All appointments to be made under clauses (1) and (2) of this Article shall be made from the following category of persons—
- (a) Doctors
 - (b) Scientists
 - (c) Sociologists and
 - (d) Anthropologists
- (11) Parliament shall have the power to repeal or amend any or all of the Provisions of this Article’.”

Sardar Hukum Singh : Sir, I move....

Shri R. K. Sidhwa : Sir, this amendment was lost on a previous occasion. The inclusion of Christians, Sikhs and Parsees has been turned down.

Mr. President : This amendment relates to article 299. How could it have been lost, as article 299 has not been considered at all ? A similar amendment has been lost with reference to article 2% and not 299.

Shri R. K. Sidhwa : Here the Christians, the Sikhs and Parsees are mentioned. The principle has been rejected by the House in a previous article.

Sardar Hukum Singh : Mr. President, Sir, I beg to move :—

“That in amendment No. 63 above, in the explanation to clause (2) of the proposed article 299, after the word ‘means’ the words ‘the Muslims, the Christians, the Sikhs, the parsees the Anglo-Indians’ be inserted.”

Sir, I would not go over the ground that has already been covered.....

Shri K. M. Munshi : May I rise to point of Order’? The words of my amendment No. 64 only refer to “all matters relating to the safeguards”, that is only where safeguards are provided by the Constitution. No safeguards have been provided for the Muslims, Christians, Sikhs and Parsees. The only safeguards in the Constitution so far accepted are with regard to Anglo-Indians and the Scheduled Castes and Scheduled Tribes. Therefore, Sir, my submission is that there are no safeguards for the other communities and this amendment is out of order.

Sardar Hukum Singh : Under the Constitution there are safeguards.

Shri K. M. Munshi : There are no safeguards for these communities.

Sardar Hukum Singh : Under article 23 there are safeguards for minorities. That is also included in the Constitution.

Shri K. M. Munshi : Article 23 is fundamental, cultural right for which the safeguard is the Supreme Court and not the Special Officer.

Mr. President : The Special Officer may be called upon to report as to how that has worked. You can go to the Federal Court or to the Supreme Court and get its decision whether a particular article of the Constitution has been broken, but then the officer may also report whether a particular article in the Constitution has been given effect to and so. that is what Sardar Hukam Singh wants.

Shri K. M. Munshi : Sir, that is not a safeguard. It is not, with great respect, a safeguard. ‘Safeguard’ means a political safeguard for a community which has been provided, but fundamental right belongs to every citizen and if his right is infringed the only remedy that he has is to go to the Supreme Court. Supposing an officer is invested with the power to investigate into it, it has no value.

Mr. President : It has a certain value for administration purposes and the, Government can take note of the report of an officer that a particular right

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which has been conferred is not being observed or is not being respected. The Administration can take note of that and can deal with that.

Sardar Hukum Singh : If the violation is not taken to the Federal Court, then, would it not be the duty of the Government to see whether the minorities are being fairly treated or not or whether they are getting the justice or not ?

I am not afraid of the answer. I cannot go over the ground already covered and I would submit only one or two things. Even if my request and my amendment under 296 has been rejected, then it is all the more necessary that under 299 the Special Officer should be invested with the powers and authority to go into details of the safeguards and rights of all minorities and it should not be restricted to these Scheduled Castes and Scheduled Tribes alone. We have been told here that we should trust our leaders and we should trust the future. This is all right and everything conceded. Granting that everybody is honest the Government wants to do justice to every community, what then unless the Government know whether anything amiss has been done, whether any unfair treatment has been meted out, whether any pledges have been violated or whether fair treatment is being meted out to everybody ? Unless the Government has some source of knowing it, how will it be in a position to redress the wrongs ? Therefore, my submission is that even if it was considered that it was not necessary to include these minorities and to specify them under 296, it is very essential that the officer if he is to be appointed ought to go into these things to find out and report on the working of the Constitution so far as all the minorities are concerned, and it should not be restricted to one or two- classes only.

I take this opportunity of answering one thing that has already been said I put a question, but that has not been answered. I request the Honourable Mr. Munshi to answer that. I was told by the Honourable Sardar that if the Sikhs are sorry, then they can return what they have got and they can have the safeguards if they want. That was my complaint. I should like to know what they have got.. We are told that four backward classes have been included. Where are they included in any Schedule ? That is, what I want to know. There was a schedule and we had to sacrifice everything for getting those four backward classes included in that Schedule. This Schedule is absolutely gone now. Under article 300-A, it is left to the President to consult the Governor and then to specify who would be the Scheduled Castes. I have paid the price, as I am told I have sacrificed everything that I had, but I have got nothing in the Constitution. This is my complaint and that shall be answered.

(Amendment No. 80 was not moved.)

Mr. President : These are all the amendments we have got. Does any Member wish to say anything ?

Honourable Members : No, Sir.

Shri K. M. Munshi : Sir, I have very few words to say in reply. As regards the amendment of my honourable Friend, Mr. Chaliha, he will see that the Special Officer's report is a kind of expert's report which comes before the Parliament. The Parliament certainly will give a right to discuss it. Any member can raise a debate on it, but surely a report of an expert, who has collected facts, cannot be modified or added to by a legislature. It only contains the materials placed before the Parliament for its decision and therefore, I submit, Sir, that amendment No. 71 is really inappropriate.

With regard to amendment No. 80 of honourable Mr. Kamath, I am really surprised that he wants the deletion of the words "and also to the Anglo-Indian community". By sections 297 and 298 the Constitution has given specific safeguards to the Anglo-Indian community and the whole object of this article 299 is to see that the working of such of the political safeguards given to some of the communities as have been accepted by the Constitution should be properly investigated into and placed before the Parliament. If the Anglo-Indian community has certain safeguards, then it is the function of this officer to scrutinize their working.

Then as regards amendment No. 74 where the honourable Sardar Hukam Singh wants to introduce the Muslims, the Christians, the Sikhs and the Parsaes in addition to Anglo-Indians, I am of opinion, Sir, with great respect that the safeguards contemplated by article 299 are not fundamental rights which are attached to every citizen. They are only 'safeguards', safeguards meaning political safeguards for the protection of certain well defined sections of the citizens. Otherwise, it would involve the special officer going into the working of all the fundamental rights given by the Constitution. So far as I understand my amendment, it only means that the Scheduled Castes, the Scheduled Tribes, the Anglo-Indian community and the backward classes who are under the fundamental right article 10, given specific safeguards, and the officer should examine whether they have been properly worked or not. That being this thing, it is not possible for me to accept the words "Muslims, Christians, Sikhs" etc. mentioned in amendment No. 74.

Sir, I have only one word more to say with regard to Sardar Bhopinder Singh Man's amendment No. 67.

Shri H. V. Kamath : What about amendment 72 ?

Shri K. M. Munshi : As regards amendment No. 72, it is not necessary to put in the words suggested, viz., "for such action as Parliament may deem necessary". Once the report is before the Parliament, as I stated already, a debate can be raised on it and a resolution can be moved. It is implied; it is not necessary to add these words.

Sardar Bhopinder Singh Man by his amendment No. 67, wants that there should be a special officer in each State. Well, if the special officer envisaged in this article requires assistance of other officers, they will be appointed. But there is no need for appointing a separate officer for each State. That would only complicate matters. The object is to see whether the whole thing is worked on one principle throughout the country. We do not want separate officers in each State as permanent guardians. The honourable the Mover of the amendment has also introduced the word 'minorities' in it. We have removed the word 'minorities' from Article 296 and it is entirely inappropriate in 299. In passing, he tried to reply to what Sardar Patel had already said on the safeguards for Sikhs. I do not want to repeat what Sardar Patel said. I shall deal with only one point to which he referred and which I think I should refer. I was a member of the Committee appointed for the purpose of looking into the Sikh question. From the beginning of the, Advisory Committee and the Minorities Committee, I had something or other to do with all the stages of the negotiations. I can assure the House that at the time when the Advisory Committee met on the last occasion, there was no question of providing safeguards for any religious minority. The negotiations proceeded on the footing that except the backward classes who are economically and socially backward, and the Scheduled Castes and Tribes who have a special claim of their own. no other minority should be recognised in the Constitution. The honourable Member read some statements made by certain Sikhs. Unfortunately, in the short time. at my disposal. I have not been able to reclaim the

[Shri K. M. Munshi]

different documents; but of one thing I can assure the House. When the matter came up before the Advisory Committee, the Sikh members withdrew every sort of claim for any safeguards whatever in consideration of the Sikh scheduled classes being placed among the Scheduled Castes and given the privileges, which the latter were entitled to. Any cry raised now that they did not do so is an after-thought.

I do not want to say anything more about it and the kind of allegations which have been made are entirely unwarranted. Even with regard to the Muslim community, the debate centered round the question of representation. But it was understood that even so far as they were concerned also, the claims as regards service were given up. They were not expressly mentioned in the report. The basis of that decision was that we should not recognize in the Constitution any religious minority of this nature. That was the basis. I submit it is too late to go back upon this.

Sardar Hukum Singh : My question has not been answered. Have these four Sikh classes been included in the Scheduled Castes ?

The Honourable Dr. B. R. Ambedkar : Of course, they will be.

Shri K. M. Munshi : The President is empowered to issue, under article 300-A, a list of Scheduled Castes. In that, these Scheduled Castes will find a place.

Sardar Hukum Singh : Where is the guarantee that the President will include these people in that list ? We have given up all safeguards to secure this in the Constitution. That has not been done.

Shri K. M. Munshi : The President has that power. The President is sure to keep to the pledge which has been given. This decision finds a place in the Advisory Committee's Report that the Sikh Scheduled Castes will form part of the Scheduled Castes and provided with the safeguards under article 296 which we have already passed. There is no question of going back upon that pledge, you may take it from me. I repeat the Sikh Scheduled Castes will be included in the list of Scheduled Castes and Scheduled Tribes in the Punjab.

Mr. President : I will now put the amendments to vote, one by one. Although these amendments have been moved with reference to amendment No. 63, they would fit in with amendment No. 64 and therefore they have been allowed to be moved. If any one is accepted, we shall put it in the right place.

The question is :

"That in amendment No. 63 above, in clause (1) of the proposed article 299, after the words 'by the President' the words 'and a special Officer for minorities for each State for the time being specified in Parts I and II and Part III of the First Schedule who shall be appointed by the Governor or Rajpramukh of the State, as the case may be added.'"

The amendment was negatived.

Mr. President : The question is :

"That in amendment No. 63, above, in clause (2) of the proposed article 299, after the words 'under this constitution and' the words 'their representation in different legislatures and services of the country' be inserted."

The amendment was negatived.

Mr. President : The question is :

"That in amendment No. 63 above, at the end of clause (2) of the proposal article 299, the words 'for its approval, modification or addition' be added."

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 63 above, at the end of clause (2) of the proposed article 299, the words ‘for such action as Parliament may deem necessary’ be inserted.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 63 above, in the Explanation to clause (2) of the proposed article 299, after the word ‘means’ the words ‘the Muslim, the Christians, the Sikhs, the Parsees, the Anglo-Indians; be inserted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 63 above, in the Explanation to the proposed article 299, for the words ‘and includes the Anglo-Indian community’ the words ‘and includes such community or communities as the President may then specify’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 63 above, at the end of the Explanation to the proposed article 299, the words ‘Muslim, Christians, and Sikhs’ be added.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 64 above, in clause (3) of the proposed article 299, the words ‘to such other backward classes as the President may on receipt of the report of a Commission appointed under clause (1) of article 301 of this Constitution by order specify and’ be deleted.”

The amendment was negatived.

Mr. President : Amendment No. 80. It was not moved by Mr. Munavalli. I think it is covered by the other amendment. I had better put it to vote.

The question is :

“That in amendment No. 64 above, in clause (3) of the proposed article 299, the words and also to the Anglo-Indian community’ be deleted.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 63 of List II (Second Week), for the proposed article 299, the following be substituted :—

- ‘299. (1) There shall be a special officer for the Scheduled Castes and the Scheduled Tribes to be appointed by the President.
- (2) The special officer in consultation with the President may appoint a special officer for each State who shall work exclusively under his superintendence, direction and control.
- (3) The special officer appointed either for the Union or for a State shall not be a member either of the Scheduled Tribes, the Scheduled Castes or of such other backward classes as the President may on receipt of the report of a commission appointed under clause (1) of Article 301 of this Constitution by order specify.
- 4) The salaries, allowances and pensions payable to the special officer for the Union and to the special officer for each State shall be expenditure charged on the revenues of India.
- (5) It shall be the duty of the special officer for the Union to make annual recommendations as to the steps that should be taken by the Union and by each State to improve the economic, educational and cultural level of the Scheduled Tribes, the Scheduled Castes or of such other backward classes as the President may on receipt of the report of a commission appointed under clause (1) of

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Article 301 of this Constitution by order specify and as to the sums that should be Separately allotted in the annual budget of the Union Government and of each State Government for he purpose; and the President shall cause all such recommendations to be laid before Parliament.

- (6) Parliament shall have the power to reject or accept in whole or in parts any of the recommendations contained in the Report.
- (7) All State Governments shall be bound to make annual allotment in their budgets of such sums as Parliament may deem to be necessary for the purpose of giving effect to the recommendations contained in the Report of the special officer for the Union.
- (8) Until the appointment of the commission and consideration of its Report by the President under clause (1) of Article 301 of the Constitution the backward classes shall consist of such castes and communities as may be determined by the President.
- (9) The President may delegate the power to the special officer for the Union to supervise and give effect to all or any recommendations made by the commission appointed under Article 301 and accepted by the President.
- (10) All appointments to be made under clauses (1) and (2) of this Article shall be made from the following category of persons:
 - (a) Doctors
 - (b) Scientists
 - (c) Sociologists and
 - (d) Anthropologists
- (11) Parliament shall have the power to repeal or amend any or all of the provisions of this Article.’”

The amendment was negatived.

Mr. President : I think these are all the amendments. I put article 299, (amendment No. 64), as moved by Mr. Munshi.

The question is :

“That with reference to amendment No 63 above, for article 299, the following be substituted :—

Special Officer for ‘299. (1) There shall be a Special Officer for the Scheduled Castes and the Scheduled Tribes etc. Scheduled Tribes to be appointed by the President.

- (2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution and report to the President upon the working of those safeguards, at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.
- (3) In this article, the reference to the Scheduled Castes and Scheduled Tribes shall be construed as including the reference to such other backward classes as the President may on receipt of the report of a Commission appointed under clause (1) of article 301 of this Constitution by order specify and also to the Anglo-Indian community’.”

The motion was adopted.

Article 299, as amended, was added to the Constitution.

Mr. President : We shall adjourn now. We sit again at four o’clock.

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

*The Assembly met after Lunch at Four of the Clock.
Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.*

STATEMENT *RE* : REPORT OF MINORITIES ADVISORY COMMITTEE.

Mr. President : Before we take up the other articles which are on the Order paper today I desire to make one statement. When articles 296 and 299 were under discussion this morning, the Honourable Sardar Patel referred to a written document. One honourable Member, Sardar Bhopinder Singh Man, read out portions of a document which he thought was the document to which reference was being made by the Honourable Sardar Patel. As I had some doubts, I thought it would not be right to let only a part of the document go on the record and I requested the honourable Member to read out the whole of the document which he had in his hand which he kindly did. Since then I have made enquiries and I find that that is not the document to which the Honourable Sardar Patel referred in his speech. I desire to read out the document which Sardar Pat, I had in mind so that the other document having gone on record, this might also go on record and any understanding which might have been created on account of that document may be cleared.

Sardar Sochet Singh (Patiala & East Punjab States Union) : Is it possible to circulate copies of this Document ?

Mr. President : Of course, but I shall read it now. This document is dated the 10th May 1949. The Advisory Committee meeting was held on the 11th May and evidently the decision that was taken in the Advisory Committee was in pursuance of this document. It is signed by three. Members, the honourable Sardar Ujjal Singh, the honourable Sardar Jogindar Singh Mann and Sardar Gurbachan Singh Bajwa. I will now read out the whole document.

A meeting of the Sikh Members of the East Punjab Legislative Asssembly and of the Constituent Asssembly was held in Delhi on the 10th May. The following attended:—

1. Sardar Kapoor Singh
2. Gyani Kartar Singh
3. Sardar Swaran Singh
4. Sardar Ishar Singh Majhail
5. Sardar Ujjal Singh
6. Sardar Joginder Singh Mann
7. Bhai Piara Singh
8. Sardar Inder Singh
9. Sardar Gurbachan Singh Bajwa
10. Sardar Dalip Singh Kang
11. Sardar Ajit Singh
12. Sardar Shiv Saran Singh
13. Sardar Narottam Singh
14. Sant Narinder Singh
15. Sardar Hukam Singh
16. Sardar Tara Singh
17. Sardar Rattan Singh Moga
18. Sardar Rattan Singh Logarh
19. Sardar Gurbachan Singh, Ferozepore
20. Sardar Sajan Singh Mirjandpuri
21. Sardar Jagjit Singh Mann
22. Sardar Sardul Singh.

Sardar Kapoor Singh, Speaker, East Punjab Legislative Asssembly, presided. The following proposals were unanimously adopted in regard to the safeguards for Sikh Minorities to be provided in the Constitution. These proposals have also the support of almost all the Members who could not be present at the meeting.

[Mr. President]

1. The Sikh Backward Classes, viz., Mazhabis, Kabirpanthis, Ramdasias, Baurias, Sikligars etc. should be given the same privileges in regard to representation in the Legislatures and other Political concessions in the East Punjab and PEPSU as may be provided for the Scheduled Castes. For this purpose, either these Classes may be included in the Scheduled Of Scheduled Castes enumerated in the Draft Constitution or seats may be reserved for them on population basis out of the quota reserved for Sikhs.

2. In the East Punjab, seats should be reserved for Sikhs according to their population with right to contest additional seats.

3. In Provinces other than the East Punjab and the Centre, the Sikh Minorities where they are entitled to representation on the strength of their numbers should have seats reserved for them and when adequate numbers are not returned by election, their strength should be made good by nomination.

4. The Sikhs will be prepared to give up reservation in the East Punjab if Sikh and Hindu Scheduled Castes are lumped together and seats reserved for them on the strength of their population.

In case these proposals are not accepted, the whole question of safeguards for Sikh Minorities may be referred to arbitration in accordance with the assurances given by the Congress.

(Sd.) Ujjal Singh
(Sd.) Joginder Singh Mann
(Sd.) Gurbachan Singh Bajwa,

Dated the 10th May 1949.

I do not desire to make any comment. If both the documents are read together, Members will be able to draw their own inferences.

Article 48

Mr. President : We shall now take up the various articles which are mentioned in the Order paper today beginning with article 48. These are all in the nature of amendments to articles which have already been accepted. Wherever necessary, I suppose the formal permission of the House will be taken altering the decisions previously taken. Article 48.

Shri T. T. Krishnamachari (Madras : General) : Mr. President, Sir, from Article 48 till practically the end of article 303 of the First Schedule, all of them, excepting 273A and 302 AA. require reopening of articles that have been passed already and I therefore submit that the permission of the House for reopening these articles might be taken, if the Chair so wishes.

Mr. President : The question is:

“That the House give leave for reopening these decisions.

The motion was adopted.

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

“That in clause (3) of article 48, for the words ‘The President shall have an official residence’ the words ‘The President shall be entitled without payment of rent to the use of his official residences’ be substituted.”

Sir, I see that my Friend Mr. Sidhva has an amendment to my amendment. But I would invite his attention to the amendment this House has accepted yesterday in respect of Part VIA—the amendment moved by any friend the Honourable Santhanam—which reads like this :

“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 . . . etc.”

Subsequently the article relating to the Governors had to be brought into line with this provision. This was accepted by the House yesterday. That is my reason for bringing forward this amendment. I do hope Mr. Sidhva will

not, therefore, press his amendment, in view of the fact that we are merely following the line indicated by the House in accepting the Honourable Mr. Santhanam's amendment of yesterday, in respect of Part VIA.

Shri R. K. Sidhwa : Sir, the Honourable Shri Santhanam's amendment related to Rajpramukhs; but my amendment says that as far as the President is concerned he will be entitled to use the Government House as his official residence without any rent. So I do not know how Mr. Santhanam's amendment will meet this purpose.

Shri T. T. Krishnamachari : I would ask my Friend Mr. Sidhwa to read the amendment once again. It says—

“The President shall be entitled without payment of rent to the use of his official residences.”

Actually Mr. Sidhwa has missed the point. The words used are “official residences.” The President may have more than one official residence. The Governor-General has a residence in Delhi and another in Simla. Therefore, these words are used and the expert-advice is that this will fill in the bill completely, and so I feel no change is required. I would therefore, request Mr. Sidhwa not to press his amendment.

Prof. Shibban Lal Saksena (United Provinces: General): Sir, Mr. Sidhwa wants to say that the Government House will be used only for the residence of the President. But the future Parliament may like to put it to some other use also.

Shri R. K. Sidhwa : I thought I need not press my amendment, but from what Prof. Shibban Lal has said. I feel that I must press it. He suggested that the Government House may be utilised for some other purpose. It may be utilised by a wandering Sanyasi as Prof. Shibban Lal desires. I do not want any doubt to be left, and so I want the words “Government House” to be specifically mentioned, as I have done in my amendment. It may be utilised for other purposes also, as we have used it for the exhibition. But it should be laid down that the Government House should be utilised for the residence of the President.

Mr. President : But Government House is not excluded for the residence of the President, by Mr. Krishnamachari's amendment. Need we have any discussion about this matter?

Shri H. V. Kamath : Mr. President, Sir, the other day I opposed the provision regarding residences without payment of rent for Supreme Court Judges, but Dr. Ambedkar in reply pointed out that articles already passed by this House have provided residences for the Governors and the President without payment of rent, and his answer to me was that at that time I did not object to the provision of residences to the Governors and President without payment of rent. Now it seems some doubt has arisen in his mind whether those earlier articles would be open to any other interpretation, that they may be interpreted as meaning residence on payment of rent, and not without payment of rent. His argument the other day was that as regards judges, those who come from places far off from the capital should not be put to the trouble of searching for houses in Delhi. That was the point that he made out the other day. On the same argument, I would suggest to him that it would not be improper or unwise to provide the Ministers also with residences without payment of rent. After all, when you provide the supreme judiciary with rent-free residences, and the Executive Head also a similar rent-free residence, I think it would be a wise and reasonable course to provide these other dignitaries with like residence—I mean the Ministers as well. I hope the House will agree with me that there must be this constitutional provision.

Mr. President : That question does not arise in connection with the amendment before the House.

Shri H. V. Kamath : Dr. Ambedkar was quite clear when he gave his answer to me the other day, but now he seems to have some doubt in his own mind, and he has come now with an amendment seeking to provide residences to Governors and the President, without payment of rent. We should, proceeding logically, provide rent-free accommodation to Ministers also.

The Honourable Dr. B. R. Ambedkar : Sir, if I may say a word. This amendment is merely consequential or analogous to the provision we have made with regard to the Rajpramukhs. In the clauses that were moved the other day with regard to the residences of Rajpramukhs, we have definitely stated that they will be rent-free. On comparing the similar clauses relating to the Governors, we found that somehow there was a slip and we did not mention rent-free houses. It is to make good that lacuna, and to bring the cases of the Governors and the President on the same footing as the Rajpramukhs that this amendment is needed.

With regard to the question of Ministers, that will be regulated by law made by Parliament. Whether Parliament will be prepared to give them salary with house, and if with house, whether it will be free of rent or with rent, are all matters that will be regulated by Parliament, because the offices of Ministers are political offices dependent upon the goodwill and the confidence of the House, and it seems to me that Mr. Kamath will very easily understand that it would be riot proper to remove the Ministers from the purview and jurisdiction of Parliament.

Mr. President : I would like to put it to vote.

The question is:

“That in clause (3) of article 48, for the Words ‘The President shall have an official residence, the words ‘The President shall be entitled to the use of the Government House ,without payment of rent’ be substituted.”

The amendment was negatived.

Mr. President : Then I put the amendment moved by Shri T. T. Krishnamachari. The question is:

“That in clause (3) of article 48, for the words ‘The President shall have an official residence’ the words ‘The President shall be entitled without payment of rent to the use of his official residences’ be substituted.”

The amendment was adopted.

Shri T. T. Krishnamachari : Sir, I move amendment No. 360.

“That clause (5a) of article 62 be omitted.”

The reason for this is, as I told the House the other day on behalf of Dr. Ambedkar, that we do not propose to move Schedule III A and also the Schedule which deals with Instructions to Governors. The clause in question reads thus: “ (5a) In the choice of his ministers and in the exercise of his other functions under this constitution, the President shall be generally guided by Instructions set out in Schedule III A.” Actually, since Schedule III A is not moved, this clause becomes superfluous. Therefore I have moved for its omission.

Shri H. V. Kamath: Sir, you might remember that some months ago you raised the important point whether the President would always be bound to accept the advice of his Council of Ministers. Our Constitution is silent on that point. It only says that there shall be a Council of Ministers to aid and advise the President. Dr. Ambedkar at that time undertook to insert some provision somewhere in the Constitution in order to make this point clear.

That is my recollection. The President will kindly say whether I am right or wrong. Nowhere in the Draft Constitution has this point been clarified I hope Dr. Ambedkar will do so, and not leave it vague as at present.

The Honourable Dr. B. R. Ambedkar : Sir, I wish I had notice of this, so that I could give the necessary quotations. But I can make a general statement The point whether there is anything contained in the Constitution which would compel the President to accept the advice of the Ministry is really a very small one as compared with the general question.' I propose to say something about the general question.

Every Constitution, so far as it relates to what we call parliament democracy, requires three different organs of the State, the executive, the judiciary and the legislature. I have not anywhere found in any Constitution a provision saying that the executive shall obey the legislature, nor have I found anywhere in any Constitution a provision that the executive shall obey the judiciary. Nowhere is such a provision to be found. That is because it is generally understood that the provisions of the Constitution are binding upon the different organs of the State. Consequently, it is to be presumed that those who work the Constitution, those who compose the Legislature and those who compose the executive and the judiciary know their functions, their limitations and their duties. It is therefore to be expected that if the executive is honest in working the Constitution, then the executive is bound to obey the Legislature without any kind of compulsory obligation laid down in the Constitution.

Similarly. if the executive is honest in working the Constitution, it must act in accordance with the judicial decisions given by the Supreme Court. Therefore my submission is that this is a matter of one organ of the State acting within its own limitations and obeying the supremacy of the other organs of the State. In so far as the Constitution gives a supremacy to that is a matter of constitutional obligation which is implicit in the Constitution itself.

I remember, Sir, that you raised this question and I looked it up and I had with me two decisions of the King's Bench Division which I wanted one day to bring here and refer in the House so as to make the point quite clear. But I am sorry I had no notice today of this point being raised. But this is the answer to the question that has been raised.

No constitutional Government can function in any country unless any particular constitutional authority remembers the fact that its authority is limited by the Constitution and that if there is any authority created by the Constitution which has to decide between that particular authority and any other authority, then the decision of that authority shall be binding upon any other organ. That is the sanction which this Constitution gives in order to see that the President shall follow the advice of his Ministers, that the executive shall not exceed in its executive authority the law made by Parliament and that the executive shall not give its own interpretation of the law which is in conflict with the interpretation of the judicial organ created by the Constitution.

Shri H V. Kamath : If in any particular case the President does not act upon the advice of his Council of Ministers, will that be tantamount to a violation of the Constitution and will he be liable to impeachment ?

The Honourable Dr. B. R. Ambedkar : There is not the slightest doubt about it.

The Honourable Shri K. Santhanam (Madras: General): I may add to Dr. Ambedkar's statement, and point out that there are certain marginal cases in which the President may not accept the advice of the Ministers.

[The Honourable Shri K. Santhanam]

When a Ministry wants dissolution it will be open to the President to say that he will instal another Ministry which has the confidence of the majority and continue to run the administration. There are some marginal cases where he may have in the interests of responsible government itself to over-ride the advice of his responsible Ministers.

The Honourable Dr. B. R. Ambedkar : I would only like to say one thing in reply. That was once the position. It has been defined very clearly in Macaulay's History of England what the King can do. But I say that these are matters of convention. In Canada this question arose when Mr. Mackenzie King wanted dissolution. The question was whether the Governor-General was bound to give a decision or whether he was free to call the leader of the Opposition to form an alternative Ministry. On the advice of the British Government, the Governor-General accepted the advice of Mr. Mackenzie King and dissolved the Parliament.

Shri H. V. Kamath : Instead of Dr. Ambedkar's *obiter dictum* why not have a Constitutional provision?

The Honourable Dr. B. R. Ambedkar : We cannot discuss this question in this way.

Mr. Naziruddin Ahmad : We have now opened up a very debatable proposition, namely, whether the Ministry and the President would be bound to follow the decision of Parliament. The ruling on the British Constitution on this point will not really be relevant. The British Constitution has long-established conventions. There is no statutory enactment. The powers of the King and of the Executive are well-known through the centuries. But ours is going to be a statutory constitution. So I think we should have some provision to make the point clear. Otherwise it may one day lead to an impasse. The precedent of the British Parliament in the King's Bench Division will not at all help us. So far as the Canadian precedent is concerned, that is also based upon conventions and understandings established for a long services of years. So far we have established no precedent at all to fall back upon. But as this is reopening a dead subject I do not think we need proceed further with this discussion. But we cannot take the opinion of Dr. Ambedkar as binding.

Shri Alladi Krishnaswami Ayyar (Madras: General): Sir, I did not want to interpose in the debate, but I find that the point raised as to the necessity of a provision is entirely without substance. We have provided in article 61(3) that the Council of Ministers shall be collectively responsible to the House of the People. If a President stands in the way of the Council of Ministers discharging that responsibility to the House he will be guilty of violation of the Constitution and he will be even liable to impeachment. Therefore it is merely a euphemistic way of saying that the President shall be guided by the advice of his Ministers in the exercise of his functions. This Council of Ministers will be collectively responsible to the House of the People, and the House of the People must meet all situations in regard to the budget, in regard to legislation, in regard to every matter connected with the administration of the country. Therefore, if the Council of Ministers is to discharge their responsibility, it will be the duty of the President to see that the Constitution is obeyed and therefore article 61 along with clause (3) of article 62 make quite clear all the incidence of responsible government. Otherwise we will have a detailed list of all the incidence of responsibility; that the Prime Minister is responsible when dissolution of the Parliament is to be effected, what exactly the advice or the occasions when the advice tendered by the Council should be followed by the President, etc. Some such attempt was made in Ireland on account of the distrust of the Crown in those days. In the earlier Irish Constitution, some

provisions were inserted stating in detail what are the incidence of responsibility. Now, if you just look at Canada, or Australia, or any other Constitution in which responsible government obtains or some semblance of responsible government obtains, there are no detailed provisions. The German pandits who framed the German Constitution attempted some kind of definition but that resulted in failure as we know as soon as a conflict between the powers of the President and of the Ministry arose, and that led to the collapse of the German Reich. Therefore, under those circumstances, I venture to submit that there is absolutely no necessity for setting out in detail what are the functions and the incidence of responsible government in an article of the Constitution.

Prof. Shibban Lal Saksena : Mr. President, Sir, we have framed a Constitution in which we have provided- for even very small details. Our Constitution differs from the Constitution of England in that the English Constitution is based on conventions. Here in a vital matter like this, we have not stated anywhere that the President is bound to call the Leader of the majority party to form the Cabinet and that he is bound to accept the advice of the Ministry. The Schedule providing for an Instrument of Instructions has also been taken away. Dr. Ambedkar has just now explained to us that conventions on this question have developed in other countries. I had hoped when Schedule IV was being deleted, provisions will be made in the Constitution to cover these points. In fact, at one time Dr. Ambedkar told me that we should frame all these details because we were just commencing a big experiment in democracy. Now that we are providing even for small details in the Constitution, I do feel that these fundamental things, that the President shall be bound to call the leader of the majority party to form the Cabinet, and that he will be bound to accept the advice of the Cabinet, should be incorporated in some instrument of instructions or in some articles of the Constitutional.

Mr. President : I think we have discussed this matter enough. Mr. Krishnamachari, do you want to say anything ?

Shri T. T. Krishnamachari : No. Sir, Dr. Ambedkar has replied.

Shri H. V. Kamath : What is your own reaction to the debate. Sir ? The issue was originally raised by you.

Mr. President : It is not a question of my reaction. It is for the House to decide.

Mr. Naziruddin Ahmad : Permission may be given to reopen the matter.

The Honourable Shri K. Santhanam : This is purely consequential.

Mr. President : I have to put this amendment to the vote. That is all my reaction.

The question is

“That clause (5a) of article 62 be omitted.”

The amendment was adopted.

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

“That clause (6) of article 67 be omitted.”

This is a very important clause and I can appreciate the vigilance of my honourable Friend Mr. Shibban Lal Saksena in moving a negative amendment to this amendment. I would at once tell the House that this important clause

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which deals with election to the House of the People on the basis of adult franchise is not being omitted in any lighthearted manner. I would like to ask the House to refer to article 289-B which reads thus:—

“The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult franchise; that is to say, every citizen, who is not less than twenty one years of age on such date as may be fixed in this behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or I illegal practice, shall be entitled, to be registered as a voter at any such election.”

Substantially the whole of clause (6) of article 67 has been produced in 289-B which the Drafting Committee felt was the proper place for putting in the qualifications of voters. Therefore, Sir, clause (6) of article 67 is no longer necessary and that is the provocation for my moving this amendment.

(Prof. Shibban Lal Saksena did not move his amendment.)

Mr. President : The question is :

“That clause (6) of article 67 be omitted.”

The amendment was adopted.

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

“That for clause (7) of article 67, the following clause be substituted:—

‘(7) The representation in the House of the People of the territories comprised within the territory of India but not included within any State shall be such as Parliament may by law provide.’”

Sir, the original clause (7) reads thus:

“Parliament may, by law, provide for the representation in the House of the People of territories other than States.”

The House will remember that we passed yesterday a new article 67-A which is more or less an enabling article. It does not wholly take away the need for a clause like clause (7) and it was felt that this clause must be amplified in the manner suggested in my amendment.

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

“That for clause (7) of article 67, the following clause be substituted :—

‘(7) The representation in the House of the People of the territories comprised with in the territory of India but not included within any State shall be such as Parliament may by law provide.’”

The amendment was adopted.

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

“That for the proviso to article 109 the following proviso be substituted:—

“Provided that the said jurisdiction shall not extend to—

- (i) a dispute to which a State for the time being specified in Part III of the First Schedule is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the date of commencement of this Constitution and has, or has been, continued in operation after that date,

- (ii) a dispute to which any State is a party, if the dispute arises out of any provision of treaty, agreement, covenant, engagement, *sanad*, or other similar instrument which provides that the said jurisdiction shall not extend to such dispute’.”

I would request honourable Members to refer to, the Draft Constitution before this article was passed by the House. They will find these two provisos reproduced there word for word. It was felt at the time we moved this Draft Article 109 that in the circumstances in which we were then placed we could not ask the House to pass a proviso like proviso (1) and hence there is no proviso in the article as accepted by the House covering the case of States in para III as we had for its omission and only the incorporation of proviso (2) in the terms in which it has been then accepted by the House. But now circumstances have, changed and we find that a proviso similar to proviso (1) of the original draft has to find a place and therefore I have moved this amendment. I hope the House will accept it.

Mr. President : The question is:

“That for the proviso to article 109 the following proviso be substituted :

‘Provided that the said jurisdiction shall not extend to—

- (i) a dispute to which a State for the time being specified in Part III of the First Schedule is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the date of commencement of this Constitution and has, or has been, continued in operation after that date;
- (ii) a dispute to which any State is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad*, or other similar instrument, which provides that the said jurisdiction shall not extend to such dispute’.”

The amendment was adopted.

Article 112

Shri T. T. Krishnamachari : May I request you to hold over this article till tomorrow ? There are certain Members in this House who have represented that they would like to examine this article a little further, and if it is not inconvenient, I would request the chair to hold it over till tomorrow.

Mr. President : It is held over. We will take up amendment No. 365, Article 119.

Shri T. T. Krishnamachari : In moving amendment No. 365, I would like you to permit me to incorporate in this amendment, amendment No. 388 which I have tabled today. Sir, I move :

“That article 119 be renumbered as clause (1) of article 119, and to the said article as so renumbered the following clause be added :—

- (2) The President may, notwithstanding anything contained in clause (1) of proviso to article 109 of this Constitution, refer a dispute of the kind mentioned in the said clause to the Supreme Court for opinion and the Supreme Court may, after such hearing as it thinks fit, report to the President its opinion thereon.”

This again happens to be part of article 119 as it originally appeared in the Draft Constitution. Practically word for word, except for the minor variations, I have introduced in my subsequent amendment with regard to the last three lines of this amendment, it appeared in the original article 119. We have now felt that it ought to be restored, though it was not originally put in 119 as it

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was passed by the House. The intention is more or less self-explanatory. It is a question of empowering the President to refer a matter like the one mentioned in the amendment to the Supreme Court for its opinion and for the Supreme Court to report to the President its opinion thereon and it varies vitally from the provision of article 119 as it stands now. It is found necessary in circumstances now present in view of the enlargement of the scope of the Constitution by the additions that have since been made.

Mr. President : The question is:

“That article 119 be renumbered as clause (1) of article 119, and to the said article as so renumbered the following clause be added:—

- ‘(2) The President may notwithstanding anything contained in clause (i) of the proviso to article 109 of this Constitution, refer a dispute of the kind mentioned in the said clause to the Supreme Court for opinion and the Supreme Court may’ after such hearing as it thinks fit, report to the President its opinion thereon.’”

The amendment was adopted.

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

“That in clause (3) of article 135, for the words ‘shall have an official residence’ the words ‘shall be entitled without payment of rent to the use of his official residences’ be substituted.”

This refers to the Governor. The amendment to article 48 referred to the President and it has been accepted by the House.

Shri H. V. Kamath : In my humble judgment there is a little discrepancy here. We have provided rent-free residences to the President and the Judges of the Supreme Court at the Centre. Similarly, on the same reasoning, should we not provide rent-free residences to the Governor and the High Court Judges? Why do we provide it for the Governor only?

The Honourable Dr. B. R. Ambedkar : Logic cannot be employed to make a proposition absurd.

Mr. President : The question does not arise here. The question is:

“That in clause (3) of article 135, for the words ‘shall have an official residence’ the words ‘shall be entitled without payment of rent to the use of his official residences’ be substituted.”

The amendment was adopted.

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

“That in clause (3) of article 135, for the words ‘the Legislature of the State the word ‘Parliament’ be substituted.”

The appointment of the Governor is now being made by the President. It is therefore felt that it would not be proper to leave his emoluments to be decided by the legislature of the State as it originally was when we had intended that the Governor should be elected. This should have been amended earlier, but we found that we could do it only at the last stage. Therefore, I am moving that the emoluments of the Governor shall be determined by Parliament by law.

Prof. Shibban Lal Saksena : I am glad that the change is being made. I would only like to know who will pay the salary of the Governor—will it come out of the provincial exchequer or the Central exchequer ?

Mr. President : It will be a charge on the provincial revenues.

The question is:

“That in clause (3) of article 135 for the words ‘Legislature of the State’ the word ‘Parliament’ be substituted.”

The amendment was adopted.

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

“That clause (4) of article 144 be omitted.”

Sir, clause (4) is similar to article 62(5) (a) which has been omitted and the reason for moving this is that this House has decided that there should be no Fourth Schedule to this Constitution, and as this clause is entirely dependent on the fact that there should be such a Schedule, it is no longer necessary.

Mr. President : The question is:

“That clause (4) of article 144 be omitted.”

The amendment was adopted.

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

“That clause (2) of article 149 be omitted.”

Clause (2) of article 149 is much the same as the previous article which the House has accepted, in regard to the House of the People. This clause (2) as it now stands provides for election on the basis of adult suffrage and so on and we find that this has been transposed. Now article 289-B deals with elections to Parliament and with elections to the Legislature of a State. Therefore this clause is not necessary.

Prof. Shibban Lal Saksena : I am not moving my typed amendment which reads:

“That amendment 369 of List IV (Second week) be deleted.”

Mr. Naziruddin Ahmad : Some of the Members including my humble self find it difficult to follow these changes of mind. When clause (2) of article 149 was there, then article-289-B should not have been passed : we should have passed immediately another amendment just to remove mere duplication. So far as the present amendments are concerned they have been circulated to us only today. The Members have had no time to consider them. The result of these hurried and rapid amendments might be that there might be other anomalies requiring further clarifications and corrections. It is difficult to follow them and the way we have been amending our old decisions on the ground of anomalies and duplications shows the danger of adopting them without real consideration.

Mr. President : I think all these articles were introduced under a separate part dealing with elections, and so it was considered necessary to remove all those which dealt with elections to this one place.

Mr. Naziruddin Ahmad : Why were they not thought of at the time of those amendments ?

Shri T. T. Krishnamachari : The explanation that the Chair has given is perfectly right. Actually we thought of a complete chapter and at the time that the chapter was introduced and accepted by the House we did not move for the deletion of this article because it was thought that it could be done

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at the end of debate in the Second Reading. We felt that various other things would arise and an amendment could be made to deal with these articles at the end. That is why we have brought it up now.

Mr. President : The question is:

“That clause (2) of article 149 be omitted.”

The amendment was adopted.

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

“That in clause (4) of article 149 for the words ‘Legislature of the State’ the word ‘Parliament’ be substituted.”

The reason is this: that the powers that are given to the Legislature of a State under clause (2) have now been given under article 290 to Parliament. It was a question of delimitation of other things and therefore this alteration is necessary. I am sure that my honourable Friend, Mr. Naziruddin Ahmad, would not find fault with us for not having at that time moved for a deletion of these words in substitution for the word “Parliament” because we felt that we could do it later on and therefore we had left it out at that time. It was not that we were unaware of the fact that we were doing something contrary to clause (1) of article 149.

Shri H. V. Kamath : There is a little verbal slip committed by the Drafting Committee in this connection. The word “Parliament” ought to substitute the phrase “the Legislature of the State”; otherwise if the amendment is accepted as it is, the clause would read as follows:

“With effect from such date as the Parliament may by law determine.” ‘The Parliament’ is obviously incorrect.

Shri T. T. Krishnamachari : I am very grateful to my honourable Friend for drawing our attention to it. May I ask you to treat the amendment that has been moved by me as:

“the Legislature of the State?”

I am very grateful to my honourable Friend.

Shri H. V. Kamath : Why not treat it as your amendment further amended by me ?

Prof. Shibban Lal Saksena : This is an important amendment. Here it is said:

“Upon the completion of each census, the representation of the several territorial constituencies in the Legislative Assembly of each State shall subject to the provisions of article 289 of this Constitution, be readjusted by such authority, in such manner and with effect from such date as the Legislature of the State may by law determine”

The intention was that when the new census is completed and the constituencies have been readjusted, then the Legislature of the State shall be the proper authority to readjust them. Now the powers have been given to Parliament. I welcome this from the point of view that it shall be somewhat uniform. But I want to know what is the machinery by which this will be done because the population of a province may increase and how with the new Constituencies be readjusted ? I am sure every province would like to be heard before such readjustment and as such there should be some provisions by which Parliament, before making such an amendment, should be able to know the views of

the Legislature of the State concerned. Take my own province: the population is six crores and we may have 500 seats. But suppose the population, increases-then the constituencies may have to be changed. Or take another province where the population is small and it increases : will they be able to increase the constituencies according to the population ? We have to provide how the Legislature of a State can be heard before the Parliament takes its decisions.

Mr. Naziruddin Ahmad : I would submit only one word in reply to what has been said by Mr. T. T. Krishnamachari. For one of my remarks in the previous amendment, Mr. Krishnamachari says that I am finding fault with them. I am not really finding fault with him but I just explained my difficulty which is shared by a number of Members in the House. Mr.T.T. Krishnamachari is on the other hand finding fault with Members.

Shri T. T. Krishnamachari : Sir, if I caused any annoyance to my friend I would like to apologise. In regard to my honourable Friend Prof. Shibban Lal Saksena's remarks I would ask him once again to read article 290. So far as the machinery is concerned the intention was that the machinery should be created and probably would be created. But at the moment we cannot say anything more than what is said in article 290 read with clause (4) of article 149.

Mr. President : The question is:

"That in clause (4) of article 149 for the words 'the Legislature of the State' the word 'Parliament' be substituted."

The amendment was adopted.

Shri T. T. Krishnamachari : Sir, may I request you to hold over amendment No. 371 as it is analogous to amendment No. 364 regarding which you were good enough to accede to my request to hold it over till tomorrow. Sir, I move :

"That to article 230 the following words be added at the end:—

'or any decision made at any international conference, association or other body'."

I think my honourable Friend Mr. Kamath would certainly appreciate this amendment, particularly in view of the fact that he was so keen to elaborate the provisions of the relative entries in List I of Schedule VII. The article as amended would, read :

"Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for any State or part thereof for implementing any treaty, agreement of convention with any other country or countries or any decision made at any international conference, association or other body."

I think this makes it perfect and meets with all contingencies that might occur in which Parliament will have to make legislation for implementing international agreements and decisions of international conferences to which this country is or will be a party.

Shri H. V. Kamath : I am quite satisfied with the statement made by my Friend Mr. Krishnamachari.

Mr. President : The question is :

"That to article 230, the following words be added at the end:—

'or any decision made at any international conference, association or other body'."

The amendment was adopted.

Shri T. T. Krishnamachari : Sir, in respect to amendment No. 373, I would ask your permission to hold this over till tomorrow.

Shri R. K. Sidhwa : I can understand changing one's mind after some days but this was presented to the House yesterday and so soon the honourable Member has changed his mind.

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

Mr. Naziruddin Ahmad : Sir, on a point of order, this is supposed to be a very important clause and it was circulated to us only this morning. We have many other things to do besides attending this House and we require time to consider the amendments. We cannot just now deal with them on the spur of the moment.

Mr. President : Very well, the amendment may be held over.

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

“That sub-clause (c) of clause (1) of article 303 be omitted.”

Before I move article 303 I would like, Sir, to have your permission to move an item in clause 303(1) (b) which has been held over. Items (b) and (c) of clause (1) of article 303 were held over and my amendment No. 375 is to ask permission of the House to delete item (c). Item (b) will have to be moved and if you will give me permission I will move it. There is no amendment to this. It relates to the definition of Anglo-Indians. Sir, I move :

“That item (b) of clause 1 of article 303 as it originally stood in the Draft Constitution be adopted.”

Shri H. V. Kamath : Sir, what will happen to those persons whose progenitors in the male line were of Australian or American descent ? “Anglo” refers to England and not Europe. This is somewhat badly drafted. What about those of American, Australian or Canadian descent ? I do not know how this difficulty will be overcome.

Shri T. T. Krishnamachari : This is the definition of the Government of India Act and we have only borrowed it.

Shri H. V. Kamath : Can we not rectify a mistake in the Government of India Act ?

The Honourable Shri K. Santhanam : The words “European descent” will include persons of Australian and American descent also.

Shri H. V. Kamath : Sir, are you satisfied with this draft ? I wonder.

Mr. President : Do not put me personal questions. I am satisfied with whatever the House adopts. Item (b) of clause (1) of article 303 was held over on the 16th September

Mr. Naziruddin Ahmad : We are reminded of it only when the honourable Member read the revised draft form. It was not on the agenda. It shows gross carelessness.

Mr. President : Article 303 is on the agenda and no omissions or corrections in that article are now coming before us. I do not think it is any use holding over any further. I have looked over the amendments in the second printed list and I do not find any substantial amendment to this.

The question is :

“That item (b) of clause (1) of article 303 as it originally stood in the Draft Constitution be adopted.”

The motion was adopted.

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

“That sub-clause (c) of clause (1) of article 303 be omitted.”

This refers to the Indian Christians and there is no reference in the Constitution to Indian Christian as such because the rights that were originally given to them have now been abrogated by the amendments that have been moved. Therefore, Sir, this definition is no longer necessary.

Mr. Naziruddin Ahmad : What is this amendment, Sir ?

Mr. President : The definition of the word ‘Christian’ that is given in clause (c) in article 303(1) is to be omitted, because the word ‘Christian’ does not occur anywhere in the constitution.

That is the amendment.

The question is:

“That sub-clause (c) of clause (1) of article 303 be omitted.”

The amendment was adopted.

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

“That for sub-clause (111) of clause (1) of article 303 the following sub-clause be substituted:—

‘(111) Indian State’ means any territory which the Government of the Dominion of India recognised as such a State’.”

The reference is to page 157 of the Draft Constitution and it has reference to an item that has already been passed. In the original as we have passed already this (111) is split up into two and deals with a definition as respects the period before the commencement of the Constitution and as respects the period after the commencement of the Constitution. That has now been found to be unnecessary and therefore, this definition has been substituted.

Shri H. V. Kamath : Sir, is it very necessary to say “the Government of the Dominion of India ?” Is it not enough to say “the Government of India?”

Mr. President : There is a confusion. The Government of India means also the Government of India under the new Constitution, but the Government of the Dominion of India means the Government which was in power before the commencement of the Constitution. I think it is to avoid that confusion that this amendment is brought in.

Mr. Naziruddin Ahmad : It seems to me, Sir, that the word ‘Dominion’ has been used in reference to the future.

The Honourable Shri K. Santhanam : I think that instead of the words “such a State” occurring at the end, the words “an Indian State” would be better.

Shri T. T. Krishnamachari : I am advised that if the amendment proposed by Mr. Santhanam is accepted the meaning will not be clear. The real fact is this that there is no need for the definition of an Indian State in so far as the

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Constitution after it comes into operation is concerned. It only has to refer to those States before the commencement of the Constitution. Therefore, it is not necessary to relate the 'Indian State' to the Constitution as such after it comes into operation and that is why we have shortened the definition that was originally accepted by the House into one, instead of two alternatives, and I am advised that the phrase "as such" exactly suits the purpose for which it is intended.

The Honourable Shri K. Santhanam : Even in the new Constitution the words 'Indian State' have occurred and will have to be interpreted for the purpose of assets and liabilities. Therefore, we have to say that 'Indian State' means any territory which was recognized as an 'Indian State' by the Dominion of India. This is purely a verbal-amendment.

Shri T. T. Krishnamachari : In the new Constitution wherever reference is made to an 'Indian State', it is made as a State and its relation to what existed previously is to the corresponding Indian State and the corresponding province. There is no place where the 'Indian State' occurs for the purpose of interpretation as things would exist after the Constitution comes into operation.

Mr. Naziruddin Ahmad : May I ask a question as to where in this Constitution the expression 'Indian States' have been used? We must have an idea of the context in which this term is used in order to define it.

Mr. President : Mr. T. T. Krishnamachari has just mentioned two instances.

Shri T. T. Krishnamachari : If my honourable Friend wants a ready reference, I would ask him to refer to article 273-A which has now been held over and to 267-A which has been passed. There are a number of other articles as well of this nature.

The Honourable Shri K. Santhanam : At least the article 'a' occurring in the words 'such a State' may be dropped.

Mr. President : Is there any harm in saying 'recognized as an Indian State'?

Shri T. T. Krishnamachari : That would not be correct, Sir. If we put the words 'Indian State', it must be as 'an Indian State', and it cannot be stated merely as 'Indian State'. Whether we retain the word 'State, or 'Indian State', the article will be necessary whether it is 'a' or 'an'. May I, Sir, read the definition in the Government of India Act?

"Indian State means any territory not being part of British India which His Majesty's Government recognized as being such a State, whether described as a State, an estate, jagir or otherwise."

Mr. President : I do not suppose there will be any difficulty about the meaning. It is question of English.

Shri T. T. Krishnamachari : We have more or less followed the precedent of the Government of India Act in these matters.

Mr. President : The question is:

"That for sub-clause (111) of clause (1) of article 303 the following sub-clause be substituted:—

'(111) 'Indian State' means any territory which the Government of the Dominion of India recognised as such a State'."

The amendment was adopted.

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

“That for sub-clause (nn) of clause (1) of article 303, the following sub-clauses be substituted:—

‘(nn) ‘Rajpramukh’ means—

- (i) in relation to the State of Hyderabad, the person who for the time being is recognised by the President as the Nizam of Hyderabad;
- (ii) in relation to the State of Jammu and Kashmir or the State of Mysore, the person who for the time being is recognised by the President as the Maharaja of that State; and
- (iii) in relation to any other State for the time being specified in Part III of the First Schedule, the person who for the time being is recognised by the President as the Rajpramukh of that State,

and includes in relation to any of the said States any person for the time being recognised by the President as competent to exercise the powers of the Rajpramukh in relation to that State’.”

Sir, the original definition which this amendment seeks to replace referred only to Ruler, I propose to follow upto this amendment with a definition of ‘Ruler’, which is as follows

“(nn) ‘Ruler’ in relation to an Indian State means the Prince, Chief or other C” person by whom any such covenant or agreement as is referred to in clause (1) of Article 267A of this Constitution was entered into and who for the time being is recognised by the President as the Ruler of the State, and includes any person who for the time being is recognised by the President as the successor or such Ruler.”

As I said earlier, this splits up the original sub-clause (nn) in article 303 (1). It clearly states who is a Rajpramukh and in so referring to Rajpramukh, also permits the use of the word Nizam for the Ruler of Hyderabad and Maharaja for the Rulers of Jammu and Kashmir and Mysore. It also makes the distinction between Rajpramukh and Ruler clear, in that the Ruler will be a person who will not be a Rajpramukh, but will be a person who had entered into an agreement with the Government of India as is referred to in article 267-A, which was passed by the House yesterday even though he does not happen to have ruling powers. It has been provided that he must be a person who has been recognised by the President as a Ruler. Provision has also been made that the President should also recognise his successor as such Ruler.

Shri H. V. Kamath : Unfortunately, Sir, there are two lacunae in this amendment. It omits to define, firstly, Up-Rajpramukh and also Maharajpramukh. I am told that there is one person, the Maharana of Udaipur who is known as the Maharajpramukh. These are not defined in this amendment. These omissions must be filled before it can be good.

Mr. President : There is notice of an amendment bringing in the definition of Up-Rajpramukh. That is coming up later. The word Maharajpramukh has never been used.

An Honourable Member : He has no powers.

The Honourable Shri K. Santhanam : About the definition of Ruler, Sir, the last sentence says, “and includes any person who for the time being is recognised by the President as the successor of such Ruler.” If he is the successor of such Ruler, he will automatically be the Ruler. We cannot have a Ruler and a successor at the same time. I think the last portion would lead to confusion. It might suggest that at a time, there can be a Ruler and successor recognised for the same State. I think that is an impossibility. If he is the real successor, he becomes automatically the Ruler. At one time, there can be only one Ruler or successor. There cannot be both.

Shri T. T. Krishnamachari : The difficulty in my honourable Friend's Process of thinking is that there is no such thing as automatic succession. Succession has got to be recognised by the President.

The Honourable Shri K. Santhanam : What I meant is as soon as somebody is recognised as the successor, he will be the Ruler. Otherwise, there is no meaning in recognising a successor.

Shri T. T. Krishnamachari : There is a certain amount of confusion because we shall have Rulers without a State. Only the Rajpramukh is related to a State. The other Rulers will be more or less connected with the Estates that they held in the past. The idea really is that the person who succeeds to the estate must be recognised by the President. If he does not recognise him, he does not become the Ruler. There is nothing automatic about it. If the President recognises one person as a Ruler, until there is a vacancy, it is unlikely that he will recognise another as a successor. There must be a vacancy before the successor could be recognised. I see no difficulty in the wording as it is.

The Honourable Shri K. Santhanam : May I enquire whether a person who has lost his State by merger in a province continues to be a Ruler or he has become successor?

Shri T. T. Krishnamachari : The whole difficulty is, this is rather intricate. It is baffling. I admit that a person who has lost his State is nevertheless a Ruler, under the definition in (nn), and also for the purpose of Article 267- A.

The Honourable Shri K. Santhanam : Why not his son also be Ruler ?

Shri T. T. Krishnamachari : Might be.

The Honourable Dr. B. R. Ambedkar : If I may say so, this definition of Ruler is intended only for the limited purpose of making payments out of the privy purse. It has no other reference at all.

The Honourable Shri K. Santhanam : My point is whether it will be so construed as to mean two people at the same time entitled to the allowances. I want to ensure that at a time there will be only one person who will be entitled under the covenant to receive payment.

Mr. President : I think that is just secured by this, because the person recognised as, the Ruler alone will be entitled to the payment.

The Honourable Dr. B. R. Ambedkar : That would be governed by the provisions regarding recognition. I am sure the President is not going to recognise two or three or four persons. This expression is deliberately used in order to give the power to the President.

The Honourable Shri K. Santhanam : He might be called the Ruler or successor.

Mr. President : Mr. Santhanam, I think that is quite clear. The idea is to preserve those privileges which have been conferred on the Rulers to those who are recognised as their successors. That is to say, if a person is recognised as the Ruler, only that person who is recognised as his successor will inherit those privileges and not other successors.

I do not suppose any further discussion is necessary. I shall put it to vote.

The question is :

“That for sub-clause (nn) of clause (1) of article 303, the following sub-clauses be substituted:—

‘(nn) ‘Rajpramukh’ means—

- (i) in relation to the State of Hyderabad, the person who for the time being is recognised by the President as the Nizam of Hyderabad;

- (ii) in relation to the State of Jammu and Kashmir or the State of Mysore, the person who for the time being is recognised by the President as the Maharaja of that State; and
- (iii) in relation to any other State for the time being specified in Part III of the First Schedule, the person who for the time being is recognised by the President as the Rajpramukh of that State.

and includes in relation to any of the said States any person for the time being recognised by the President as competent to exercise the powers of the Rajpramukh in relation to that State;"

- (nnn) 'Ruler' in relation to an Indian State means the Prince, Chief or other person by whom any such covenant or agreement as is referred to in clause (1) of article 267A of this Constitution was entered into and who for the time being is recognised by the President as the Ruler of the State, and includes any person who for the time being is recognised by the President as the successor of such Ruler';".

The amendment was adopted.

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

"That for sub-clause (r) of clause (1) of article 303, the following sub-clause be substituted:—

'(r) 'railway' does not include—

- (a) a tramway wholly within a municipal area, or
- (b) any other line of communication wholly situate in one State and declared by Parliament by law not to be a railway'."

Sir, the original definition stood thus:

"A railway does not include a tramway whether wholly within a municipal area or not."

It has now been found that there are railways in certain States which are not railways in the sense that they are accepted to be railways, but they are something in between a railway and a tramway. The definition is so altered as to permit the Parliament by law to recognise what is not to be a railway. This has been necessary because since we framed the original definition, certain things have transpired, in that most of the Indian States have or are about to transfer their railways to the Government of India and the conditions existing in those States have to be taken into account and provided for. That is why this amendment is being introduced.

Shri R. K. Sidhwa : Sir, tramways are never known as railways. I think it is redundant to say tramway within a municipal area. A tramway is a tramway. Who has brought into the brain of the Drafting Committee that tramway is a railway ? It looks so awkward. I therefore feel, Sir, that subparagraph (a) is redundant.

The Honourable Shri K. Santhanam : I am afraid my honourable Friend is wrong. Even at the time when the original definition was under discussion, I pointed out that it was wrong to say that a railway does not include a tramway. Because mechanically, there is no difference whatsoever between a railway and a tramway, except it may be that the latter has only one carriage or two carriages. Therefore this amendment is necessary. Otherwise in many places, many lines may be called tramways and there may be disputes. We do not want to have any kind of dispute. Therefore, the present definition is the proper definition to be adopted.

Mr. Naziruddin Ahmad : With regard to paragraph (b) I have some difficulty. It was stated by Mr. Krishnamachari in this argument.....

Shri T. T. Krishnamachari : May I suggest to the honourable Member to accept the argument of the expert who spoke before me in support of this amendment and ignore anything that I said before.

Mr. Naziruddin Ahmad : It is now clear that Mr. T. T. Krishnamachari is merely a conduit pipe. After all, he has taken the responsibility of explaining the matter. He has explained that the word State really means an Indian State and does not mean a province. In the new state of affairs, a State also includes a province. What is meant probably is a State mentioned in Part III of the first schedule. If that is so, it should be specifically stated. Because otherwise if there are small railways in any Indian province in Part I, they would also be excluded. If it is the intention to exclude Indian States on the ground that they have not come to terms up to this time, we should specifically state that.

Shri T. T. Krishnamachari : Right through the Constitution we have used only one word 'State'. Where we wanted to differentiate, we have mentioned them as States in Part I or Part II and so on. So I fail to see the force of Mr. Naziruddin Ahmad's speech.

Mr. President : Mr. Krishnamachari did not base his argument on the use of the word State. He did not say that either.

Mr. Naziruddin Ahmad : During the argument he mentioned the case of an Indian State. That had misled me.

Mr. President : The question is :

"That for sub-clause (r) of clause (1) of article 303, the following sub-clause be substituted:—

'(r) 'railway' does not include—

- (a) a tramway wholly within a municipal area, or
- (b) any other line of communication wholly situate in one State and declared by Parliament by law not to be a railway'."

The amendment was adopted.

Shri. T. T. Krishnamachari : May I request you to permit me to move an amendment which has been tabled and has just been circulated. It has not been numbered and it refers to Up-rajpramukh. I move:—

"That to clause (1) of article 303, the following sub-clause be added :

'(y) 'Up-rajpramukh' in relation to any State means the person who for the time being is recognised by the President as the Up-rajpramukh of that State'."

Sir, I am indebted to my honourable Friend the Prime Minister of Mysore for drawing my attention to this defect.

As regards the question raised by Mr. Kamath about Maharajpramukh, I would only like to say that there is no mention in this Constitution of Maharajpramukh although one such person exists. We have not constitutionally recognised the existence of such a person. This definition arises out of the fact that we had to make mention of the name Up-rajpramukh in two places in the amendments that were moved yesterday in regard to removal of disqualifications for office. I hope the House will accept my amendment.

Shri. H. V. Kamath : There is some little difficulty in this connection. In accordance with the Sanskrit and Hindi philology as well as etymology, the

proper spelling should be Up-rajpramukh; otherwise I have heard British and other foreign journalists pronouncing it as Aprajpramukh.

Mr. President : The spelling will be corrected but I do not think that will prevent the ignorant people from mispronouncing it.

Shri Jainarain Vyas (United State of Rajasthan): Sir, I do not agree with the position of Maharajpramukh. He presides over the meetings of the Princes and if he is not recognised as the Constitutional Maharajpramukh, then all the meetings over which he presides will be null and void.

Mr. President : Is there anything like the meeting of the Princes as it used to be of the Chamber of Princes ?

Shri Gokulbhai Daulatram Bhatt (Bombay States) : *[Sir, there is an article in the Covenant of Rajasthan which says: "If any meeting of the princes is held, it would be presided over by the Maharana of Udaipur as Maharajpramukh, if he be present in the meeting." It has been clearly mentioned therein. It is plain that this implies a question of his dignity. No other administrative power has been vested in him. But to that extent it is there and it deserves consideration. Hence it should be reconsidered.]

Shri T. T. Krishnamachari : We have not put in any provision of that nature in Part VI A.

Mr. President : Is there any provision for a meeting of the Princes in our Constitution ?

Shri Gokulbhai Daulatram Bhatt : Meeting of the Princes of the States that have been merged to form the Rajasthan Union is at present provided for.

An Honourable Member : There is a provision in the Covenant.

Mr. President : Not in the Constitution.

Shri Gokulbhai Daulatram Bhatt : The terms Rajpramukh and Uprajpramukh are there in the Covenant.

Mr. Naziruddin Ahmad : Covenants are part of the Constitution. They have joined as under the covenants. So we should recognise them. This requires careful consideration.

Shri H. J. Khandekar (C. P. & Berar : General) : I think this would be held over.

The Honourable Shri K. Santhanam : Here it is only the question of definition. We do not want a definition unless it is to be used in the Constitution.

Shri T. T. Krishnamachari : Sir, this will have to be accepted because an amendment in which this word occurs has already been accepted. If it is a definition of a term which has not found a place in the Constitution, that is a different matter, but my friend's contention is not a bar to the acceptance of this amendment.

Mr. President : So there is no question about Up-rajpramukh. We leave the question of Maharajpramukh for future consideration.

Shri Gokulbhai Daulatram Bhatt : I would like it to be made clear lest it may be held that, just as Rajpramukh and Up-rajpramukh are mentioned, so also he should have been specifically mentioned.

*[] Translation of Hindustani speech.

Mr. President : In our Constitution we have only used the term Uprajpramukh. The qualifying word may not create any difficulty.

Shri T. T. Krishnamachari : I have been informed that the allowance of the Mahrajpramukh of Udaipur is not as Maharajpramukh but as a Ruler who gets his privy purse under articles 267-A and therefore there is no need for a special title to be mentioned in the Constitution.

Mr. President : I am putting this to vote now.

Shri H. J. Khandekar : What will be the position if the Up-rajpramukh is a lady? What will be the name ?

Mr. President : In that way we have got women Chairman of Committees. That does not create any difficulty so far as English is concerned.

The question is :

“That to clause (1) of article 303, the following sub-clause be added:—

‘(y) ‘Up-rajpramukh’ in relation to any State means the person who for the time being is recognised by the President as the Up-rajpramukh of that state.’”

The amendment was adopted.

Mr. President : We then go to the Schedule.

Shri Yudhishtir Mishra (Orissa States) : Sir, I suggest that the consideration of the First Schedule may please be held over for tomorrow.

Shri Brajeshwar Prasad : Yes, Sir. It may be held over. We got the list at 8 o'clock this morning only.

Mr. President : It may be moved, and we will take up the amendments tomorrow morning.

FIRST SCHEDULE

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

“That for the First Schedule the following be substituted:—

“FIRST SCHEDULE

(Articles 1 and 4)

The States and the territories of India

PART I.

| Name of States. | Names of corresponding Provinces. |
|----------------------|-----------------------------------|
| 1. Assam | Assam |
| 2. Bengal | West Bengal |
| 3. Bihar | Bihar |
| 4. Bombay | Bombay |
| 5. Koshal-Vidarbh | Central Provinces and Berar |
| 6. Madras | Madras |
| 7. Orissa | Orissa |
| 8. Punjab | East Punjab |
| 9. United Provinces. | United Provinces. |

Territories of States

The territory of the State of Assam shall comprise the territories which immediately before the commencement of this Constitution were comprised in the Province of Assam, and Khasi States and the Assam Tribal Areas.

The territory of the State of Bengal shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Province of West Bengal.”

Shri B. Das (Orissa : General) : We wanted utkal to be the name of ORISSA.

The Honourable Dr. B. R. Ambedkar : You may move an amendment.

“The territory of the State of Bombay shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Province of Bombay and the territories which by virtue of an order made under section 290A of the Government of India Act, 1935, were immediately before such commencement being administered as if they formed part of that Province or which immediately before such commencement were being administered by the Government of that Province under the provisions of the Extra-Provincial Jurisdiction Act, 1947.

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

PART II.

Names of States.

1. Ajmer
2. Bhopal
3. Bilaspur
4. Coorg
5. Cooch-Behar
6. Delhi
7. Himachal Pradesh
8. Kutch
9. Manipur
10. Rampur
11. Tripura

Territories of States

The territory of the State of Ajmer shall comprise the territories which immediately before the commencement of this Constitution were comprised in the Chief Commissioner's Provinces of Ajmer-Merwara and Panth Piploda.

The territory of each of the States of Coorg and Delhi shall comprise the territory which immediately before the commencement of this Constitution was comprised in The Chief Commissioner's Province of the same name.

The territory of each of the other States shall comprise the territories which, by virtue of an order made under section 290A of the Government of India Act, 1935, were immediately, before the commencement of this Constitution administered as if they were Chief Commissioner's Province of the same name.

PART III.

Names of States.

1. Hyderabad
2. Jammu and Kashmir
3. Madhya Bharat
4. Mysore
5. Patiala & East Punjab States Union
6. Rajasthan
7. Saurashtra
8. Travancore-Cochin
9. Vindhya Pradesh

Territories of States

The territory of the State of Rajasthan shall comprise the territories which immediately before the commencement of this Constitution were comprised in the United State of Rajasthan and the territories which immediately before such commencement were being administered by the Government of that State under the provisions of the Extra-Provincial Jurisdiction Act, 1947.

The territory of the State of Saurashtra shall comprise the territories which immediately before the commencement of this Constitution were comprised in the United States of Kathiawar (Saurashtra) and the territories which immediately before such commencement were being administered by the Government of that State under the provisions of the Extra-Provincial Jurisdiction Act, 1947.

[The Honourable Dr. B. R. Ambedkar]

The territory of each of the other States shall comprise the territory which immediately before the commencement of this Constitution was comprised in the corresponding Indian state.

PART IV.

The Andaman and Nicobar Islands.”

Sir, I do not think the amendment which I have moved calls for any explanation.

Shri Jainarain Vyas : I would like to know if Sirohi State has been put in anywhere.

The Honourable Dr. B. R. Ambedkar : Sirohi, I understand is administered under the Extra-Provincial Jurisdiction Act, 1947, partly by Bombay and partly by Rajasthan. That is the reason why it has not been separately mentioned.

Shri Jainarain Vyas : But it is neither in Bombay, nor in Rajasthan at the moment.

Mr. Naziruddin Ahmad : I have one or two suggestions to make. With regard to the expression “under section 290-A of the Government of India Act, 1935”. I submit an explanation should be added to say that it is the Act, as adapted. And the second suggestion is that in Part II, the names are arranged in the alphabetical order, but I find items 4 and 5 are in an irregular order, and item 4 should come after item 5. That will make it absolutely alphabetical.

Mr. President : You mean Coorg and Cooch-Bihar, yes, I think so.

Shri T. T. Krishnamachari : So far as the first point raised by Mr. Naziruddin Ahmad is concerned, I may point out that it was stated on a previous occasion that the short title of the Government of India Act as adapted, is the Government of India Act, 1935.

Mr. President : I think we shall rise now. We shall meet again at ten o'clock tomorrow morning when the amendments will be taken up.

Shri R. K. Sidhwa : Is the Preamble also to be taken up tomorrow ?

Mr. President : Yes, if possible, we shall try to finish it.

Shri R. K. Sidhwa : Is there any further article or amendment coming up ?

Mr. President : There are one or two articles we have left over.

Seth Govind Das (C.P. & Berar : General): Will the Preamble be the last thing to be considered ?

Mr. President : Yes, that is the usual thing, I suppose. There is another article 264-A on the agenda which has not been reached.

Shri R. K. Sidhwa : Sir, everyday new articles are brought in and new amendments and we send in our amendments, but as the original amendments are not moved, our amendments also are not to be moved and they are stopped.

Mr. President : I have never stopped amendments in that way. So far as technical difficulties are concerned, I have never allowed them to come in the way of any amendment.

The House now stand adjourned to ten o'clock tomorrow morning.

The Assembly then adjourned till ten of the clock on Saturday the 15th October, 1949.