

Wednesday, 7th September, 1949

Volume IX

**30-7-1949
to
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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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THE HONOURABLE DR. RAJENDRA PRASAD.

Vice-President:

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Marshal:

SUBEDAR MAJOR HARBANS LAL JAIDKA.

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CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 7th September 1949

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

DRAFT CONSTITUTION—(Contd.)

Paragraph 16

Mr. President : We shall now take up paragraph 16. Shri Kuladhar Chaliha can move his amendment No. 143.

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

“That the second proviso to paragraph 16 of the Sixth Schedule be deleted.”

I have a very modest amendment and I think the Drafting Committee will be pleased to accept it. I want that our Governor should have the power to exercise his powers property. If you read paragraph 16, you find that he is hedged in by so many conditions that in an emergency he will not be able to act properly. It reads—

“Dissolution of a District or Regional Council.

The Governor may on the recommendation of a Commission appointed under paragraph 14 of the Schedule by public notification order the dissolution of a Regional or a District Council and

(a) direct that a fresh general election shall be held immediately for the reconstitution of the Council or

(b) subject to the previous approval of the Legislature of the State assume the administration of the area under the authority of such Council himself or place the administration of such area under the Commission appointed under the said paragraph or any other body considered suitable by him for a period not exceeding twelve months.”

And then you have the proviso—

“Provided that when an order under clause (a) of this paragraph has been made the Governor may take the action referred to in clause (b) of this paragraph with regard to the administration of the area in question pending the reconstitution of the Council on fresh general election”.

Provided again—

“Provided further that no action shall be taken under clause (b) of this paragraph without giving the District or the Regional Council, as the case may be, an opportunity of being heard by the legislature of the State.”

Sir, I find the language in this paragraph is so very involved. The Governor will have first to appoint the Commission, and on the recommendation of the Commission, he shall have to consider the report of the Commission and then submit it to the Legislature for approval and if approved, to direct a general election to be held immediately for the reconstitution of the Council, and assume the administration of the area. But that safeguard even is not considered sufficient and it is provided further that no action shall be taken without giving

[Shri Kuladhar Chaliha]

the District or Regional Council an opportunity of being heard by the Legislature of the State. When will they be heard? At what stage? And what is the necessity of consulting them? This little body, the District or Regional Council, will be heard again. Why? The Commission will sit, examine different aspects of the questions and different parties will be heard. After this their recommendations will be put up to the Governor who after necessary examination will put up before the Legislature for approval. Then what or where is the necessity for District or Regional Council to be heard again by the Legislature, and when? Should there be a second sitting of the Legislature? There is the first sitting, for approval of the action of the Governor. And then look at the process and procedure involved, and the time taken. It is an emergency practically. The people are probably recalcitrant. They do not obey the law. They are rather restless, and therefore this action is necessary on the part of the Governor and he should act quickly. But then you hem the Governor in, in such a way that he cannot act in an emergency. The procedure here laid down will take more than a year, when the situation requires that action should be taken in one day. Sir, I think my proposal is a very reasonable one, and the first proviso is quite enough. Let the Governor act some time when he feels like acting and it is not necessary that he should again be circumscribed by the representation of the Regional Council or the District Council to the Legislature. It is not necessary that they should be heard again. My amendment, as I said, is a reasonable one and I commend it to the House and I hope Dr. Ambedkar will accept it.

Mr. President : There are two other amendments which I rule out, because they are on the same lines as the other amendment of Shri Brajeshwar Prasad. Dr. Ambedkar, do you wish to say anything?

The Honourable Dr. B. R. Ambedkar (Bombay: General) : I should like to hear the Premier of Assam, if he has any views on this matter.

The Honourable Shri Gopinath Bardoloi (Assam: General) : Sir, with reference to the amendment moved by Srijut Chaliha just now for the deletion of the second proviso to para. 16, all that I have to say is that in every case where action of this kind is taken—the parties affected thereby are given an opportunity of being heard. I agree that in this proviso no machinery by which this could be done has been laid down. Therefore, if Srijut Chaliha would modify his amendment as follows namely, that instead of the words “opportunity of being heard by the legislature” the words “an opportunity of placing the views of the Regional Council” may be substituted, then the purpose of his amendment would be served.

Shri Kuladhar Chaliha : I am prepared to do that.

The Honourable Dr. B. R. Ambedkar : I am prepared to accept the amendment of Mr. Bardoloi to the amendment of Mr. Chaliha, which he has accepted the proviso will now read like this :

“Provided further that no action shall be taken under clause (b) of this paragraph without giving the District or the Regional Council as the case may be an opportunity of placing their views before the legislature of the State.”

Mr. President : The question is:

“That for the second proviso to paragraph 16 of the Sixth Schedule, the following be substituted :

‘Provided further that no action shall be taken under clause (b) of this paragraph without giving the District or the Regional Council as the case may be an opportunity of placing their views before the legislature of the State.’ ”

The amendment was adopted.

Mr. President : The question is:

“That paragraph 16, as amended, stand part of the Sixth Schedule.”

The motion was adopted.

Paragraph 16, as amended, was added to the Sixth Schedule.

New Paragraph 16-A

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

“That after paragraph 16, the following paragraph be inserted:—

‘16 A. *Exclusion of areas from autonomous districts in forming constituencies in such districts.*— For the purpose of elections to the Legislative Assembly of Assam the Governor may by order declare that any area within an autonomous district shall not form part of any constituency to fill a seat or seats in the Assembly reserved for any such districts but shall form part of a constituency to fill a seat or seats in the Assembly not so reserved to be specified in the order.’ ”

The object of this is to give the people who are included in the autonomous districts but really who are not part and parcel of the people inhabiting the autonomous districts an opportunity to have a place in the Legislative Assembly by having their own constituencies marked out for them.

Mr. President : The question is:

“That paragraph 16-A stand part of the Sixth Schedule.”

The motion was adopted.

Paragraph 16-A was added to the Sixth Schedule.

Mr. President : There is notice of another amendment by Pandit Kunzru. It refers to 19. Therefore, it may come later.

Pandit Hirday Nath Kunzru (United Provinces : General) : Very well, Sir.

Paragraph 17

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

“That after sub-paragraph (2) of paragraph 17 the following sub-paragraph be added:—

‘(3) In the discharge of his functions under sub-paragraph (2) of this paragraph as the agent of the President, the Governor shall act in his discretion.’ ”

Mr. President : There are certain amendments by Mr. Brajeshwar Prasad on the same lines.

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

“That for sub-paragraph (2) of paragraph 17, the following be substituted:—

The administration of the tribal areas of Assam specified in the Table shall be carried on by the President through the Governor of Assam as his agent and the provisions of Part VIII of his Constitution shall apply thereto as if such area were a territory specified in Part IV of the First Schedule.’ ”

Sir, the whole object of this amendment is to bring both the parts of the Table under the Government of the President. I have spoken on this subject more than once. I shall not dilate and repeat my arguments. I am convinced of the fact that the policy pursued by the British Government was a very sound one. I am not at all keen whether Bihar is, Bengalis, Oriyas and Assamese are allowed to go into those territories. It is a matter which concerns the defence of the country as a whole. It is an area which is of international importance. Therefore, all the tribal areas should be centrally administered areas.

The Honourable Dr. B. R. Ambedkar : I do not accept it, Sir.

Mr. President : Then I put Dr. Ambedkar's amendment first. The question is:

"That after sub-paragraph (2) of paragraph 17, the following sub-paragraph be added:—"

"(3) In the discharge of his functions under sub-paragraph (2) of this paragraph as the agent of the President, the Governor shall act in his discretion."

The amendment was adopted.

Mr. President : Now I put Mr. Brajeshwar Prasad's amendment, which is really an amendment to the amendment just now carried. The question is:

"That for subparagraph (2) of paragraph 17, the following be substituted:—"

"The administration of the tribal areas of Assam specified in the Table shall be carried on by the President through the Governor of Assam as his agent and the provisions of Part VIII of this Constitution shall apply thereto as if such area were a territory specified in Part IV of the First Schedule.' "

The amendment was negatived.

Mr. President : The question is:

"That paragraph 17, as amended, stand part of the Sixth Schedule."

The motion was adopted.

Paragraph 17, as amended, was added to the Sixth Schedule.

Paragraph 18

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

"That in paragraph 18, in line 22, the words 'in his discretion' be deleted."

"That clause (c) of paragraph 18 be deleted."

Mr. President : Amendment Nos. 148 and 149 are ruled out. Then we have amendment Nos. 223, 224, 225 and 226 which are more or less on the same lines. Would you like to move No. 226, Mr. Brajeshwar Prasad ? The other three I have ruled out.

Shri Brajeshwar Prasad : I do not like to move any of my amendments, Sir.

Mr. President : Then, I put Dr. Ambedkar's amendment Nos. 146 and 147.

The question is :

"That in paragraph 18, in line 22, the words 'in his discretion' be deleted."

The amendment was adopted.

Mr. President : The question is:

"That clause (c) of paragraph 18 be deleted."

The amendment was adopted.

Mr. President : The question is:

"That paragraph 18 of the Sixth Schedule, as amended, be adopted."

The motion was adopted.

Paragraph 18, as amended, was added to the Sixth Schedule.

Paragraph 19

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

"That with reference to amendment Nos. 150 and 151 of List I (Seventh Week) for Paragraph 19 and the Table appended to it the following paragraph and Table be substituted :—"

19. *Tribal areas.*—(1) The, areas, specified in Parts I and II of the Table below shall be the tribal areas within the State of Assam.”

(2) The United Khasi-Jaintia Hills District shall comprise the territories which before the commencement of this Constitution were known as the Khasi States and the Khasi and Jaintia Hills District, excluding any areas for the time being comprised within the cantonment and municipality of Shillong, but including so much of the area comprised within the municipality of Shillong as formed part of the Khasi State of Myllem:

Provided that for the purposes of clauses (e) and (f) of sub-paragraph (1) of paragraph 3, paragraph 4 and paragraph 5 and sub-paragraph (2), clauses (a), (b) and (d) of sub-paragraph (3) and sub-paragraph (4) of paragraph 8 of this Schedule, no part of the area comprised within the municipality of Shillong shall be deemed to be within the District.

(3) Any reference in the Table below to any district (other than the United Khasi-Jaintia Hills District) or administrative area, shall be construed as a reference to that district or area on the date of commencement of this Constitution :

Provided that the tribal areas specified in, Part II of the Table below shall not include any such areas in the plains as may, with the previous approval of the President, be notified by the Governor of Assam in this behalf.

Table

PART I.

1. The United Khasi-Jaintia Hills District.
2. The Garo Hills District.
3. The Lushai Hills District.
4. The Naga Hills District.
5. The North Cachar Hills.
6. The Mikir Hills District.

PART II.

1. North-East Frontier Tract including Balipara Frontier Tract, Tirap Frontier Tract, Abor Hills District, Misimi Hills District.
2. The Naga Tribal Area.’ ”

Pandit Hirday Nath Kunzru : Sir, with your permission, I shall move amendment Nos. 330, 332 and 333 together.

Sir, I move :

“That after paragraph 16 of the Sixth Schedule, the following paragraph be inserted

‘16 A. *Provisions applicable to areas specified in Part 1A of the Table appended to paragraph 19.*

(1) Notwithstanding anything contained in this Constitution no Act of Parliament or of the Legislature of the State shall apply to any tribal area specified in Part 1 A of the Table appended to paragraph 19 of this Schedule unless the Governor by public notification so directs; and the Governor in giving such directions with respect to any Act may direct that the Act shall in its application to the area or to any specified part thereof have effect subject to such exceptions or modifications as he thinks fit.

(2) The Governor may make regulations for the peace and good government of any a tribal area and any regulation so made may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to such area. Regulations made under this sub-paragraph shall be submitted forthwith to the President and until assented to by him shall have no effect.’ ”

My second amendment runs as follows :

“That in paragraph 19 of the Sixth Schedule, for the words and figures ‘Parts I and II’ the words and figures ‘Parts I, IA, and II’ be substituted.”

My last amendment is:

“That for Part I of the Table appended to paragraph 19 of the Sixth Schedule, following be substituted:—

[Pandit Hirday Nath Kunzru]

PART I.

1. The Lushai Hills District.
2. The Naga District.
3. The North Cachar Sub-division of Cachar District.

PART IA.

1. The Khasi and Jaintia Hills District excluding the cantonment and the municipality of Shillong but including so much of the area comprised within such municipality as forms part of the Myllem State.
2. The Garo Hills District.
3. The Mikir Hills portion of Nowgong and Sibsagar Districts excepting the mouzas of Barpathar and Sarupathar."

I have put forward these amendments in order to place, a difficulty that I feel, before the House and in particular before my honourable Friend, Dr. Ambedkar. The areas that are mentioned in Table I appended to paragraph 19 as moved by him contains all those areas that were formerly regarded as excluded or partially excluded areas. The difference between these areas was that while the Governor could act in his discretion in regard to excluded areas, he could only exercise his individual judgment-in regard to partially excluded areas. In other words, while in connection with excluded areas he was not bound to consult his Ministers at all, in respect of partially excluded areas he was bound to act according to their advice, unless he felt that he must dissent from it. Now this distinction no longer exists because the Governor, practically speaking, is required in all cases to act on the advice of his Ministers.

Shri T. T. Krishnamachari (Madras: General): Bar one!

Pandit Hirday Nath Kunzru : I have said 'practically speaking'. The only exception is with regard to areas specified in Part II of the table appended to paragraph 19. There he has to act in his discretion because he will act as an agent of the President and obviously the directions given by the President cannot be allowed to be modified by the Provincial Ministers. But though the legal distinction between excluded and partially excluded areas has been done away with by the Draft Constitution, the fact to which it corresponded still exists. What lay at the bottom of the division of backward areas into excluded and partially excluded was that while areas that were totally unable to look after their own interests were classified as excluded, other backward areas, owing to their contact with the people of the plains and thereby being in a better position to protect their interests than those living in the most backward areas, i.e., the excluded areas, were classified as partially excluded areas. This distinction was made, it meant that the people living in the partially excluded areas, however backward they might from our point of view, were more advanced than those living in the excluded areas.

Now the arrangements made in the Sixth Schedule are concerned with the protection of the interests of the most backward people in respect of certain matters. I have no objection whatsoever to this protection being given. On the contrary, I welcome it and I hope that the new awakening on the part of the State in respect of the duty that it owes to the tribal people, who have been neglected for centuries and centuries, will bring about a speedy improvement in the condition of the people in the excluded areas. But is it necessary for this purpose, that areas more advanced than those that were formerly Known as excluded should be placed on the same footing as the most backward areas ? I am all in favour of establishing local self-government in

areas that were formerly known as partially excluded areas that is, the Khasi and Jaintia Hills district *minus* the Khasi States that were at that time quite distinct from the British administered portion of the Khasi and Jaintia Hills district, the Garo Hills districts and the Mikir Hills district. I know, Sir, what the report of the Bardoloi Committee and the memorandum of the Assam Government have to say on this point. These documents show that the people living in the areas that I have just referred to are backward. But the fact remains that fourteen years ago they were thought to be more advanced than the people living in areas that were then known as excluded areas. Is it necessary, in order to improve, the condition of the people living in the Khasi and Jaintia Hills district or the Garo Hills district or the Mikir Hills to make no distinction between them and the people living in the Naga Hills district, the Lushai Hills district and the North Cachar sub-Division of the Cachar district? I see no reason why the status of the people living in the former areas should be lowered and why they should be regarded as helpless when, owing to their intercourse with the people of the plains, their consciousness has been awakened and they are better able to look after their vital interests than those living in the Naga Hills. It may be thought that if district council and regional councils are established in the areas formerly known as partially excluded areas, no harm would be done to them and that there was therefore no reason for objecting to giving them the rights that the people living there would get under this Constitution.

Sir, in order to clear our minds on this point let us consider whether we would approve of such an arrangement in connection with the plains districts. Somebody may say, if it is desirable for a local body to enjoy the rights that are being conferred on regional and district councils under Schedule Six, there is no reason why the more advanced people should not enjoy them. What would our reply be in that case? Our reply would be that, however good the provisions of the Sixth Schedule might seem, they segregate people living in different districts and thus make unity much more difficult. I feel the same difficulty in connection with the inclusion of what were partially excluded areas before in the table placed before us by Dr. Ambedkar. When these people have reached a state of development in which they can better look after themselves than those who are living, say in the Naga Hills District, why should we regret that fact? Why should we make the arrangements with regard to them rigid and make future changes more difficult? Our policy should be to take advantage of the natural progress made by them in respect of the understanding of their interests and bring them closer to the other areas, that is, to the plains districts without in any way affecting their essential interests. This is the purpose of the first amendment I have moved. If the position that I have taken up is correct and honourable Members share my view, then, it is obviously desirable, unless Dr. Ambedkar Can give us convincing reasons to the contrary, that the arrangements for the tribes mentioned in Part IA of my table should be different from those made for the tribal areas mentioned in Part I.

Now, under the Government of India Act, the Governor exercises two powers in relation to partially excluded areas. In the first place he can modify or amend any law passed by the Central or provincial legislature in its application to partially excluded areas. He enjoys this power even in respect of the excluded areas. In the second place he has the power to make rules for the peace and good government of the tribal areas, whether excluded or partially excluded. It was thought that these provisions by themselves were sufficient to enable the Governor to protect the interests of the people living in the partially excluded areas. In the excluded areas, in some places, there were

[Pandit Hirday Nath Kunzru]

tribal councils and there were other arrangements for enabling the people to take counsel among themselves. But the arrangements that existed in the partially excluded areas were not of the same kind according to the report of the Bardoloi Committee. Election in some form of the representatives of the partially excluded areas to the provincial legislature is in existence. Though the election is indirect in some places, in this respect, the partially excluded areas are in a better position than the excluded areas. Now it is proposed to place both of them on the same footing. I venture to think that the interests of the people living in the partially excluded areas and the interests of the province of Assam as a whole would be better consulted if we continued, in relation to the government of these areas which are specified in part IA of my table, the arrangement that existed under the Government of India Act, 1935. I have already said, and I should like to repeat, in order to prevent any misunderstanding from arising, that I am in favour of complete protection of the interests of the people who will be unable without the help of the State to look after themselves. All that I have submitted to the House is that it is not necessary to treat the areas at present known as partially excluded and excluded in the same way, because that is not in accord with the differences in the mental advancement and the practical knowledge of the people of these areas.

My last two amendments relate to the Table appended to paragraph 19. In accordance with the first amendment moved by me, I have divided the table into three parts, I, IA and II. This requires no explanation in view of the remarks I have already made. The last amendment however requires some explanation. In item I of Part IA of the Table, I have not altered the area of the Khasi and Jaintia Hills District. In other words, the Khasi and Jaintia Hills District will include only the area that it does at present and that was recommended by the Bardoloi Committee. In the Table moved by Dr. Ambedkar, however, it has been stated that the Myllem State should get back such portion of the municipality of Shillong as forms part of that State. This means, Sir, that the Shillong municipality which has been in existence for two or three generations will lose a part of the area that it has been governing for so long a time. The Bardoloi Committee undoubtedly had all the facts of the situation before it but it nevertheless recommended no change in this respect. Yet, we are now told that the limits of the Khasi and Jaintia Hills District must be increased and those of the Shillong Municipality must be correspondingly contracted.

This is not a small matter, Sir. The Memorandum of the Assam Government explaining the position of the tribal people states on page 2 that the larger part of the municipality of Shillong is comprised in the Myllem State. I see no reason why so great a change should be made. Dr. Ambedkar, in putting forward his table, which is different from that included in the Draft Constitution, did not say a word to justify this change. He treated it as if it were of no concern to us, and therefore needed no notice. I think, however, that the matter is not as insignificant as he considers it to be. It is a matter of some concern that an area that has been within the jurisdiction of the municipality of Shillong for so long a time should be taken out of it and included in the tribal area. If it is desired that the tribal people living in this area should be able to vote in the elections to the District Council, that can be allowed. Paragraph 16 A moved by Dr. Ambedkar makes provision for the exclusion of voters not belonging to the tribal area from the tribal voters. We can on the same lines make a provision allowing the tribal people living within the municipality of Shillong to vote in connection with the elections to the District Council but there is no reason why for this purpose any part, in fact the greater part of

the municipality of Shillong should be excluded from it and be given back to the Myllem State. I know, Sir, that negotiations are being carried on for the merging of the twenty five Khasi States in the Khasi and Jaintia Hills District but even when this amalgamation has taken place, there will be no reason why the Shillong municipality should be deprived of any part of the area that it controls now. If people there have become used to more advanced ways of life and if their interests have been adequately protected so far, the burden of proving that the present arrangement is unsatisfactory lies on those who want to bring about a change in existing position. Sir, I hope that I have explained sufficiently the reasons for the amendments that I have placed before the House.

Mr. President : Pandit Kunzru, in your amendment No. 333 in Part IA you have used the same expression as Dr. Ambedkar.

Pandit Hirday Nath Kunzru : I do not think, so, Sir.

Mr. President : It is the same wording, “excluding the cantonment and the municipality of Shillong but including so much of the area comprised within such municipality as form part of the Myllem State”.

Pandit Hirday Nath Kunzru : I am sorry, Sir. That was a mistake. Those words should not be there. The words “but including so much of the area comprised within such municipality as forms part of the Myllem State” should be cut out. I think that this item should be retained in the form in which it is included in the Draft Constitution. This is the form recommended by the Bardoloi Committee.

Mr. President : There are certain amendments to the amendment moved by Dr. Ambedkar. They have come too late. I find that several amendments to the same effect have been given notice of. I will allow one of them to be moved. Mr. Chaliha and another gentleman whose name I cannot read want that in amendment No. 331 the words “but including so much of the area comprised within the municipality of Shillong as formed part of the Khasi State of Myllem” be omitted. You can move it if you like.

Shri Kuladhar Chaliha : There is also another amendment, Sir, for the insertion of the words “except the mouza of Dimapur” after the words “The Naga Hills District”

Mr. President : You can move both. I find Mr. Das has also given notice of an amendment to the same effect.

Shri Rohini Kumar Chaudhury (Assam: General) : May I explain what we want by moving these amendments : firstly, that the entire municipality of Shillong including the area owned by the Myllem State should be excluded from the jurisdiction of any kind of the autonomous district and secondly, that the Mouza of Dimapur in Naga Hills which is inhabited by non-tribal people should be outside the jurisdiction of the District Council of Naga Hills.

Mr. President : Mr. Chaliha will move his amendments and make it clear.

Shri Kuladhar Chaliha : Sir, I beg to move:

“That in amendment No. 331 List V (Seventh Week) in item 3 of part I after the words ‘Naga Hills District’ the words ‘except the mouza of Dimapur’ be added.”

Sir, I also move :

“That in amendment No. 331 of List V (Seventh Week) the words ‘but including so much of the area comprised within the municipality of Shillong as formed part of the Khasi State of Myllem’ be omitted.”

[Shri Kuladhar Chaliha]

Sir, firstly I shall take up the mouza of Dimapur. In telling you the history, I shall be a little long and I shall ask the patience of the House to hear me. It is said that this country otherwise called the Brahmaputra valley was conquered by the Kacharis as early as 3000 B.C. and it continued under them till lately. You will find a reference to this history in pages 247 to 249 of Gait's History of Assam.

"In the thirteen century it would seem that the Kachari kingdom extended along the south bank of the Brahmaputra, from the Dikhu to the Kallang or beyond and included also the valley of the Dhansiri and the tract which now forms the North Cachar Sub-division.... Towards the end of this century, it is narrated that the outlying Kachari settlements east of the Dikhu river withdrew before the advance of the Ahoms. For a hundred years this river appears to have formed the boundary between the two nations and no hostilities between them are recorded until 1490, when a battle was fought on its banks. The Ahoms were defeated and were forced to sue for peace. But their power was rapidly growing, and during the next thirty years, in spite of this defeat, they gradually thrust the Kachari boundary back to the Dhansiri river".

When war again broke out in 1526, the neighbourhood of this river was the scene of two battles : the Kacharis were victorious in the first but suffered a crushing defeat in the second. Hostilities were renewed in 1531 and a collision occurred in the south of what is now the Golaghat sub-division in which the Kacharis were defeated and Detcha, the brother of their king, was slain. The Ahoms followed up their victory and, ascending the Dhansiri, penetrated as far as the Kachari capital at Dimapur on the Dhansiri, forty-five miles south of Golaghat. Khunkhara, the Kachari king, became fugitive, and a relative named, Detsung was set up by the victors in his stead.

"The ruins of Dimapur, which are still in existence, show that, at that period, the Kacharis had attained a state of civilization considerably in advance of that of the Ahoms. The use of brick for building purposes was then practically unknown to the Ahoms, and, all their buildings were of timber or bamboo, with mud-plastered walls. Dimapur, on the other hand, was surrounded on three sides by a brick wall of the aggregate length of nearly two miles, while the fourth or southern side was bounded by the Dhansiri river. On the eastern side was a fine solid brick gateway with a pointed arch and stones pierced to receive the hinges of double heavy doors. It was flanked by octagonal turrets of solid brick, and the intervening distance to the central archway was relieved by false windows of ornamental moulded brick-work."

"Inside the enclosure are some ruins of a temple or perhaps a market place, the most notable feature of which is a double row of carved pillars of sandstone averaging about 12 feet in height and 5 in circumference. There are also some curious V-shaped pillars which are apparently memorial stones. There are several fine tanks at Dimapur, two of which are nearly 300 yards square."

From 1531 till World War No. 1, the Mouza of Dimapur was under the Ahoms kings and in the district of Sibsagar under the British but somehow or other the Political Agent of Manipur or a D.C. at Kohima got annoyed with a Station Master who was not very polite to him, because his seats in the first class compartment were not reserved for him or that a telegram was not received duly and the Station Master was not obliging and so a representation was made out and Dimapur Station was included in the Naga Hills and taken out from Golaghat subdivision of Sibsagar District which formed part of it for about hundred years even during British rule. In those days it was the object of the British to suppress the Assamese as much as possible as they became politically conscious and those

were the worst days one would have passed there. Sir, in the beginning of my life I was a magistrate of Golaghat and was in charge of the Sub-division for sometime and I know that that place is inhabited by 20,000 people and there is not a single Naga anywhere in that part of the world.

Now, Sir, it is a prosperous state where you find Assamese, Bengalees, Sindhis, Punjabees, Sikhs, Marwaris doing business after having invested crores of rupees; but do you know their fate ? They can be ejected in 24 hours bag and baggage. Their business can be ruined and they are still included in that area. It is rather an irony of fate why the Drafting Committee could not see to it. Sir, I happened to be the President of the Excluded area of Assam as well as All India Excluded Area Conference at Haripur and I know about the Excluded areas much better than many people. I was the President of Assam Excluded Areas Association for a long time and therefore, I say with all humility that the inclusion of the Dimapur mouza in the Naga Hills is the negation of justice. It is nothing but consigning a civilized people, a forward people, an advanced community to the mercy of the autonomous districts, which have rather primitive rules and primitive ways of criminal laws and Civil Procedure Code. I submit and request, if they care to hear, that they accept this humble suggestion of ours. They are talking, they hardly give attention to my speech in spite of my voice; I am sorry that Dr. Ambedkar is not attending at an to what I have said.

Shri Brajeshwar Prasad : The honourable Member should be stopped till he gets attention of the Members of the Drafting Committee.

Mr. President : I know my duty.

Shri Kuladhar Chaliha : I wish to state to the Drafting Committee again that the Mouza of Dimapur is inhabited by civilized people, men from Madras, Bombay, Assam, Bengal, Punjab and other provinces and crores of rupees have been invested and if this area is to be governed as a tribal area by a Deputy Commissioner, who can do what he likes, or by autonomous councils or regions where none but a tribal can be a member as it is going to be now, the people will be ruined and they can be eschewed in 24 hours. I therefore request the Drafting Committee to give us a little attention and exclude the Mouza of Dimapur. Up to the World War No. 1 it was included in the Golaghat subdivision of Sibsagar District. It was never in the Naga Hills. Here I should like to say that Mr. Guha was the Sub-divisional Officer there and he knows the mouza of Dimapur and that it was in Golaghat Sub-division. I was myself a Magistrate there and I know that part of the country very well. I submit that you may be pleased to accept that amendment and will not stand on dignity or ceremony.

As regards the cantonments and municipality of Shillong I should like to speak that the entire area is inhabited by the people of Assam, Bengal and of other areas. Men of the Khasi tribes have so much advanced that there are scholars, principals of colleges and ministers and if you call them "tribes", it is an injustice to them. Here we have the highest literacy in Assam and as such I should think that Myllem State which is within the municipality of Shillong should be excluded from part I of the table. I commend both these amendments for the acceptance of the House and I trust that the Drafting Committee will be pleased to accept them.

Shri Rohini Kumar Chaudhury : Mr. President, Sir, I am not sure if I have followed correctly the import of the amendment which was moved by my honourable Friend Dr. Ambedkar. But I would say that the amendment which he has moved this morning is merely a camouflage.

The Honourable Dr. B. R. Ambedkar : Camouflage for what?

Shri Rohini Kumar Chaudhury : Because Dr. Ambedkar seems to indicate by this amendment that he has altered his view in regard to the inclusion of any part of the Shillong Municipality in the autonomous district.

The Honourable Dr. B. R. Ambedkar : I have not altered my view.

Shri Rohini Kumar Chaudhury : Paragraph (2) of the amendment as it stands includes.....

Shri T. T. Krishnamachari : May I point out, Sir, that we here are completely disinterested in this matter and there is no need for any camouflage at all.

Mr. President : There is no question of camouflage because the paragraph is perfectly clear that he wants to exclude, the Municipality of Shillong except that part of it which is comprised in the state of Myllem.

Shri Rohini Kumar Chaudhury : But includes that part which forms part of the Myllem State; that is my difficulty. He excludes the Municipality and Cantonment of Shillong, but includes so much of the area as is comprised within the Municipality of Shillong and forms part of the Khasi State of Myllem.

Mr. President : There is no camouflage; it is stated in so many words there. You say it is a camouflage; I say it is not, because it is stated clearly in so many words.

Shri Rohini Kumar Chaudhury : I stand corrected. If Dr. Ambedkar does not practise camouflage, he would not be a good fighter. But, what I thought was that certain honourable Members may be misled as I was misled by what he had stated in his proviso.

The proviso seeks to exclude some paragraphs from operation in the Myllem portion of the Shillong Municipality. I will show presently that these exceptions do not go very far. My first proposal is that these words appearing in paragraph 2 of his amendment, namely, "but including so much of the area comprised within the municipality of Shillong as forms part of the Khasi State of Myllem" should be deleted, and consequently, in the table, Part I, in (1) which says "The United Khasi-Jaintia Hills District", the words "excepting" the Municipality and Cantonment of Shillong" should be added. The original draft was "The Khasi and Jaintia Hills District excluding the town of Shillong". The words 'Town of Shillong' are comprehensive enough; it included the entire Municipality of Shillong as well as the Cantonment. I would have no objection if the original draft stood as it is. Now, I want to omit these words and also that the table should be amended accordingly, and it should be stated. The United Khasi-Jaintia Hills District excepting the Cantonment and Municipality of Shillong".

Let us see what benefit we have got under the proviso. Under the proviso, Dr. Ambedkar has excluded the operation of clauses (e) and (f) of sub-paragraph (1) of paragraph (3).

The Honourable Dr. B. R. Ambedkar : You are studying now!

Shri Rohini Kumar Chaudhury : Sub-paragraph (1), paragraph 3, clause (e) says: "establishment of village or town committees or councils and their powers". So far so good. By the omission of this clause, the question of establishing village or town committees in the Shillong municipality so far as it is; comprised in the Myllem State would not arise. But that is not much of a benefit; that would only remove a confusion which would have otherwise taken place. Clause (f) says, "any other matter relating to village or town administration including

village or town police and public health and sanitation". That is also good so far as it goes. Because, if those clauses (e) and (f) remain, it would have meant that within the Municipality of Shillong, that is to say, in the capital town of Assam, there would have been another police besides the Assam Police. It will be a Town police or village police, and there would be another management for public health and sanitation which of course, the autonomous district will have failed to carry out. But the other provisions in paragraph 3 will remain in force: that is to say, provisions regarding allotment, occupation or use of land, management of any forest, use of any canal or watercourse, regulation of the practice of jhum, appointment or succession of Chiefs, etc. Let us see what further exemption this amendment makes.

The next exemption is about paragraph 6. Paragraph 6 says, that the District Council for an autonomous district may establish, construct or manage primary schools, dispensaries, markets, ferries, fisheries, roads and waterways. . . . What is the meaning of this amendment, may I ask Dr. Ambedkar? Where are fisheries in the municipality of Shillong comprised in the Myllem State? Fisheries, roads, all these belong to the Government of Assam. How does the exclusion of this paragraph benefit anybody in any way? It is absolutely meaningless.

The next exemption is made in respect of sub-paragraph (4) of paragraph 8. Sub-paragraph (4) of paragraph 8 says that a Regional Council or District Council as the case may be may make regulations to provide for the levy and collection of any of the taxes specified in sub-paragraphs (2) and (3). That only applies to the levy of any tax. These are the clauses which he had exempted from operation by the District Council, in that portion of the Shillong Municipality which lies in the State of Myllem.

Mr. President : Mr. Chaudhuri, probably you did not notice that Dr. Ambedkar added two more paragraphs 4 and 5.

Shri Rohini Kumar Chaudhury : "Provided that for the purposes of clauses (e) and (f) of sub-paragraph (1) of paragraph 3....."

Mr. President : After that, he has added paragraphs 4 and 5.

Shri Rohini Kumar Chaudhury : That is not in the amendment.

Mr. President : While he was moving his amendment he added these paragraphs.

Shri Rohini Kumar Chaudhury : I am glad that he has added paragraphs 4 and 5, which relate to the administration of justice in the autonomous districts. I am glad that these clauses are not in operation and that the *status quo* is maintained. The High Court of Assam has complete jurisdiction over the Municipality of Shillong. The judiciary there is the ordinary judiciary as it obtains in other parts of the province. But, what he does not exempt is paragraph 10, which, in my opinion, is the most objectionable paragraph of all these paragraphs. Paragraph 10 says that the District Council of an autonomous district may make regulations for the regulation and control of money-lending or trading within the district by persons other than scheduled tribes resident in the district. Now there are business concerns and even banks in the States and the District Council will be in a position to regulate their affairs and furthermore this regulation may prescribe that no one excepting the holder of a license shall carry on the business of money-lending. Ordinarily the Assam Money-Lenders' Act would apply to the Municipality of Shillong but by virtue of this para, the Assam Money-Lenders' Act will not be enforced and another money-lenders' Act may be introduced by the District Council. Clause (d) of para 10 reads:

"No person who is not a member of the scheduled tribes resident in the district shall

[Shri Rohini Kumar Chaudhury]

carry on wholesale or retail business in any commodity except under a licence issued in that behalf by the District Council."

This will be in force even after this amendment.

In the Shillong Municipality two-thirds belong to Myllem State, and if two-thirds is taken out then very little remains of the town. There will be the Cantonment which is inhabited more or less by a floating population and there will be what was before as the British portion of Shillong comprising the Secretariat and other office buildings and a little space of Gohati Road with some shops. This is all that we shall have in the 'Shillong Municipality if we exclude the portion which belongs to the Myllem State. The large majority of the non-Khasi people who were working in the Government offices and private offices and who are carrying on business there are living in the Myllem State itself. All these people will reap the benefit enjoyed by others. Now, may I ask if this position would be acceptable to this House, that in the town itself the major portion of the town in which is living the non-Khasi people who have been compelled to go there to make their living should be deprived of the advantages which is enjoyed by people living in other parts of the town? I am afraid the House is not taking that sympathetic interest which it ought to take in matters like this. Why should people who have been compelled to live there on account of their vocation, on account of the fact that Shillong is the Capital of Assam, be deprived of ordinary facilities. Even now there is a clamour for removing the Capital to its original place Gohati. In Shillong they cannot acquire property without the permission of the Deputy Commissioner and they have to huddle themselves together in one third part of that town and they cannot get any land to purchase outside by virtue of this provision. If anybody wants to purchase land it is dependent on the permission of Government and that permission may be refused. There is no remedy for it. Not to speak of purchasing from tribals, if Mr. Guha wants to purchase a plot from me he cannot purchase it without Government's permission. The position will be worse if the entire right of granting permission to sale of property is made over to the District Council.

So in order to avoid all difficulties I appeal to every Member of the House to consider our position, whether they like us to be subjected to such disabilities as regards our properties as has been envisaged by this Constitution. Such disabilities do not exist anywhere in India and it will be aggravated by this amendment of Dr. Ambedkar. If things remain as they are now *viz.*, Khasi State will be without Shillong. I would have no objection. Why Dr. Ambedkar is anxious to introduce this provision in order to take away the rights of ordinary citizens—it is incomprehensible. What mesmerism has been practised over him is more than what I can see. I cannot understand a man like him trying to circumscribe the rights of ordinary people like this. I am feeling very much disappointed in him. He has come to a position where he can ridicule an orphan, Oliver Twist or David Copperfield whatever he calls him. He has come to a position that he can ridicule a hungry orphan. But I hope he will forget Oliver Twist and David Copperfield but try to remember Barkis. Let Barkis be willing—I would ask Barkis Ambedkar to be willing to accept any reasonable proposition which is put before him irrespective of whatever mesmerism and witchcraft he has been subjected to.

Mr. President : I suggest that the Premier of Assam should assist the House with his opinion in this matter.

The Honourable Shri Gopinath Bardoloi : Sir, I am grateful for the opportunity you have given me to speak on the amendments that have been presented before the House.

I oppose Dr. Kunzru's amendment seeking to maintain the old distinction between the partially excluded and the fully excluded areas.

Pandit Hirday Nath Kunzru : We cannot hear Mr. Bardoloi.

The Honourable Shri Gopinath Bardoloi : I think I must speak much louder. Well, I was saying that Dr. Kunzru's amendment seeks to perpetuate the old distinctions which were maintained in the province between the partially excluded area and the fully excluded area. The fully excluded areas were within the discretion of the Governor, while the administration of the partially excluded areas was under his individual judgment. Now, since August 1947, these areas, both partially excluded and the fully excluded areas are under the administration of the provincial government and I could tell you, in the meantime, nothing has occurred by which it could be shown that the administration has deteriorated or anything like that. What I would therefore, point out is that there is absolutely no necessity for changing the general structure which has been adopted by this Constitution, in reference to the powers of the Governor.

Pandit Hirday Nath Kunzru : May I ask Mr. Bardoloi whether he realises that my amendment practically reproduces the provision of Section 92 of the Government of India Act, 1935, as amended in 1947?

The Honourable Shri Gopinath Bardoloi : I do know. But what I desire to point out is that there is absolutely no necessity, after this Sixth Schedule has been accepted, for maintaining this distinction. That is what I desire to point out. In the first place, even before 1947, the whole administration of the partially as well as the fully excluded areas was done under certain regulations which were promulgated in the name of the Governor and the Governor or the District Officers saw to the administration of these areas. But in fact, what these District Officers did was to accept virtually the authority of the village courts in almost all its affairs, not merely in the field of administration but also in the sphere of the administration of justice. What the present Schedule Six wants to do is only to put this thing in a statutory form up to a certain stage. It seeks to put what prevailed upto that time, in a statutory form upto a certain stage, and beyond that stage the administration is integrated with the general working of the Constitution for all areas both in the region of administration as well as in the region of justice. It is now integrated after a certain stage with the rest of the government, in all their functions. Therefore, I do not see, Sir, how the thing would improve if we have two categories of tribals, even in reference to those six districts which have now been put in the Sixth Schedule.

With reference to the amendment that has been tabled by Mr. Chaliha, we have the fullest sympathy. The Advisory Sub-committee for the tribal areas had investigated into this affair. It is quite true that for administrative reasons only about 35 years or 40 years ago—35 years I think is more correct—this area of Dimapur was brought under Naga Hill administration. The mouzas of Sarapathan and Borpathan in Golaghat sub-division brought under partially excluded area with the result that this portion—the mouza of Dimapur—was cut off altogether from the normal administration. They had, therefore, to tag it on with the administration of the Naga Hills. We had the opportunity of examining the inhabitants of this area and we saw that they were determinedly opposed to their inclusion in the Naga autonomous District. We fully sympathise with their aspirations taking into consideration that this place at one time was the capital of a big kingdom of the Kacharis. But the remedy has already been provided in the Constitution, and I think, it is not possible for us to take the case of particular mouzas piece-meal. The Constitution can provide only general articles or provisions for the purpose of meeting such cases. It will be seen that it is possible under paragraph 1, sub-clause (3) to diminish any area in an autonomous district. I do not know whether the word “diminish” would cover

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such cases as we now have, and I should have no objection to substituting it by the word "exclude" (that might also better serve the purpose) and in the third reading, this correction, if necessary, may be made.

Prof. Shibban Lal Saksena (United Provinces : General) : What harm is there if you accept Mr. Chaliha's amendment?

The Honourable Shri Gopinath Bardoloi : There is no harm. But by saying "Dimapur mouza" it will be difficult to fix the boundary, we have to define the boundary.

Shri Kuladhar Chaliha : The boundary is there already. You can look at the old map of Sibsagar District, which are available in the Government of India Survey Department and even Assam also.

The Honourable Shri Gopinath Bardoloi : But that is a matter on which there may be disputes. The Nagas may say that their district would go up to a certain point, and the Dimapur people would say that their boundary would come up to some other point. This matter may be disposed of satisfactorily under the provisions of the Sixth Schedule that we have already adopted. Therefore, it is not necessary (while I have the fullest sympathy with the object of this amendment), to go into the details of many places where such distribution of boundary will be desirable.

Then there is also another provision, 16-A which says that people living in any area, even within an autonomous district may, for the purpose of the franchise, exercise the same in the general constituency instead of in the tribal constituency. This has also been made possible under provision 16-A which we have passed just now.

Then with regard to the amendment of Mr. Chaudhuri—I am not sure whether it was an amendment, but he made certain remarks. It is very necessary for us to understand the real position of the town of Shillong. It is there that more than half of its area are included in the Myllem State. The question that now faces us is how to maintain the District Council with its Powers, and at the same time integrate it with the larger administration of the town of Shillong. That is the question. The view of the Drafting Committee as I understand was that while for the purpose of municipal and general administration the rights should be there with the provincial government or any authority created by it, the right of the tribal people of this area to their representation in the District Council should not go. The amendment has been put before us with that idea, I believe : in the first place, to let a uniform administration prevail in the Shillong Area including the whole of the municipality, at the same time to give the tribal People their right to representation in the District Council. It will be seen that the new amendment proposed by Dr. Ambedkar is to exclude from the operation of the District Council such rights and powers which as municipal administration the municipality under the authority of the Government should be able to exercise and all those powers have been given. Secondly, their rights in regard to justice in court have also been conceded in paragraphs 4 and 5 which deal with the matter of justice.

An Honourable Member : Distribution of land?

The Honourable Shri Gopinath Bardoloi : There is very little of distribution of land. All these lands are occupied by people today and if it comes under the District Council administration with the merger of the Khasi State in Assam, then all the rights of the Government for acquisition of land will be there.

Mr. President : What about para. 10 about money-lending?

The Honourable Shri Gopinath Bardoloi : If the autonomous district picture prevails there is no difficulty whatsoever. Three-fourths of the men are elected.

They may bring in any new regulation and all the old administration is to remain according to the provisions of that paragraph. When we know for a certainty that these States areas are going to be merged into the districts of Assam, I do not think that there can be anything wrong.

Shri Rohini Kumar Chaudhury : May I be permitted to explain? According to Dr. Ambedkar's amendment, para. 10 will apply to that portion of Shillong Municipality which is under the Myllem State because so far as para 10 is concerned, that portion of the Municipality will be, under the District Council and the District council under para 10 may prescribe that no person who is not a member of the scheduled tribes resident in that district can carry on wholesale or retail business except under a licence granted by the Council. Does the Premeir of Assam desire that this clause should be applicable to persons resident in Shillong Municipality the land of which belongs to Myllem State and does he want that Dimapur which does not bear one single tribal man should also be subject to this regulation?

The Honourable Shri Gopinath Bardoloi : The question of Dimapur should not have been raised for the simple reason that it may be altogether cut off from the Sixth Schedule or, if it remains, I assume it will be governed by para. 10. It is necessary to understand what paragraph 10 says. You have read the portion relating to the necessity of obtaining a licence in the case of a non-tribal resident. As against this, there are these safeguards:

"Provided that no such regulation may be made tinder this paragraph unless they are passed by a majority of not less than three-fourths of the total membership of the District Council."

Shri Rohini Kumar Chaudhury : There cannot be a single non-tribal man in the municipality not to speak of three-fourths.

The Honourable Shri Gopinath Bardoloi : It is only in respect of three-fourths that this is applied. Three-fourths of them are to be elected and one-fourth are to be nominated and those nominated members may be anybody. It is nowhere stated that they could not be non-tribals. Apart from that, there is also the proviso:

"That it shall not be competent under any such regulations to refuse the grant of a licence to a money-lender or a trader who has been carrying on business within the district since before the time of the making of such regulations."

That means to say it does not apply to old cases. It applies to new cases.

Shri Rohini Kumar Chaudhury : On a point of information, may I ask the honourable Member whether a non-tribal man can be a member of the autonomous council?

The Honourable Shri Gopinath Bardoloi : There is no bar.

Shri Rohini Kumar Chaudhury : There is.

The Honourable Shri Gopinath Bardoloi : All regulations made under this Assam Assembly?

Mr. President : I think the Premier should be permitted to proceed in his own way.

The Honourable Shri Gopinath Bardoloi : All relations made under this para. shall be submitted to the Governor and assented to by him. If there is any prejudicial regulation the Governor cannot assent to it. But if it is thought that sub-para 10 will yet work harshly, I can agree Personally to the deletion of sub clause (g) but in view of the fact that already there are so many safeguards for seeing that nothing wrong can be done under this sub-clause I do not think it is necessary.

Pandit Hirday Nath Kunzru : May I put a question to Mr. Bardoloi? What I should like to know, Sir, is whether the Committee on Tribal Areas in Assam over which Mr. Bardoloi presided, has pointed out that the present system has led to any injustice to the tribal people living within the limits of the Shillong municipality?

The Honourable Shri Gopinath Bardoloi : I am, sure no injustice whatsoever has been done. On the other hand it is trying to do all that is possible to be done with the finances at the disposal of the Government of Assam.

I also find that the safeguards are enough for the purpose of preventing any abuse of the powers of the district councils.

Mr. President : What the Premier of Assam has suggested is that he would have personally no objection if, in the proviso moved by Dr. Ambedkar to paragraph 19(2), clause (d) of sub-paragraph (2) of paragraph 10 is also included. That gives power to the Council to prescribe that no person who is not a member of the scheduled tribes resident in the district shall carry on wholesale or retail business in any commodity.

The Honourable Dr. B. R. Ambedkar : Sir, I did not think that my amendment No. 331 substituting a new text of paragraph 19 would cause any kind of difficulty such as the one which I now find. I did not, therefore, consider it necessary to spend much time in explaining the provisions contained in paragraph 19. But now that so much debate has taken place of an acrimonious sort I am bound to explain the provisions as contained in the new amended paragraph 19.

Now, the chief part of the controversy has centered round sub-paragraph (2) of paragraph 19. I should like to explain what this means. It means that so far as the United Khasi-Jaintia Hills District is concerned which is mentioned as entry I in Part I of the Table, that portion of the area comprised within the municipality of Shillong and which forms part of the Khasi State of Myllem shall be part and parcel of the United Khasi-Jaintia Hills District. It means that the part of the Myllem state which is included in Shillong will form part of the United Khasi-Jaintia Hills District. It is realised that this part of the Myllem State is really subject now under the new provisions of paragraph 19 to two separate jurisdictions. It is subject to the jurisdiction of the Municipality of Shillong, because by this provision we are not altering the boundaries of the Shillong municipality. The boundaries of the Shillong municipality, as defined by the Municipal Act passed by the Assam Legislature, remains intact. According to that Act this particular part of the Myllem State is part of the municipality. It is recognised that this double jurisdiction, namely the United Khasi-Jaintia Hills District and the municipality might come in conflict. In order to overcome this conflict, I have added the proviso to sub-clause (2). The effect of the proviso is this that for the purposes mentioned in the proviso the jurisdiction of the District Council of the United Khasi-Jaintia Hills District is ousted and to the extent that the jurisdiction of the municipality is restricted to this purpose mentioned in the proviso the jurisdiction of the District Council will continue over this area. The idea of the proviso is to avoid conflict of jurisdiction. Some people on the other side have said that the Myllem State area should be completely excluded from the United Khasi-Jaintia Hills district and Should be made exclusively part and parcel of the Shillong municipality.

Pandit Hirday Nath Kunzru : As it is now.

The Honourable Dr. B. R. Ambedkar : I do not know whether that is so. The point is this, that as some one from that side said—I think my Friend Shri Rohini Kumar Chaudhuri—three-fourths of the municipality is really

covered by this area. There is not the slightest doubt about it that so far as marriage laws, inheritance laws and other customs and manners are, concerned, the people living in this part of the Myllem State share the same laws, the same customs the same marriage laws and ceremonies of the whole district. Consequently what will happen is this. Supposing this area were completely excluded from the United Khasi-Jaintia Hills district, the result will be that these people although they are fundamentally alike to their brethren in the rest of the part of the Myllem State with regard to marriage laws, their customs, etc., etc., they will become at once subject to the general law of inheritance, general law of marriage, all general laws which the Parliament may make or which the Assam Legislature may make. I do not think that it is right that a part of the people who are homogeneous in certain matters should be severed in this manner. A part will obtain autonomy so far as their tribal life is concerned and a part will be subject to the general law to which the rest of the population is subject. It is for this reason that the Drafting Committee felt that the provision contained in sub-clause (2) and the proviso which accompanies it was the proper solution of this problem, namely, that for the purpose of the municipality as defined in the proviso that part of the Myllem State which is part of the municipality should remain subject to the municipality, while for purposes for which the district council is constituted that part should remain subject to the district council. There is no conflict and it helps to sub serve the fundamental purpose, namely, that a homogeneous people should be subject to the same sort of laws and to the same sort of administrative system which all of them should have and have.

Now, there may be some controversy as to whether the proviso is sufficiently big enough to cover all matters that ought to be covered or whether it is too narrow. I am not prepared to express any opinion about it. The Drafting Committee has been guided in this matter by the two principal representatives, who must be credited with sufficient knowledge and information about this matter, namely the Premier of Assam and his colleague, Rev. Nichols-Roy. If they in their wisdom think that some other matters ought to be included, the Drafting Committee will certainly not raise any objection because the Drafting Committee has nothing to do with this matter.

Shri Rohini Kumar Chaudhury : Is it that the non-Tribal people who live in Shillong have no voice in this matter?

The Honourable Dr. B. R. Ambedkar : In what matter?

Shri Rohini Kumar Chaudhury : In whatever matter you are touching on now.

The Honourable Dr. B. R. Ambedkar : I cannot understand the point. What we have done is that the people living in this part have a double right. They have a right to elect their representatives under the Shillong Municipality and they will have a right to elect their representatives in the District Councils. Beyond that, the jurisdiction is quite separate. I do not think there is any other point so far as this new paragraph 19 is concerned.

Shri Rohini Kumar Chaudhury : On a point of information, does the Member who is now speaking mean to say that those people in Dimapur where there is not a single tribal person, and those people in Shillong, are, to be guided entirely by the opinion of Rev. Nichols-Roy.

Mr. President : He has not said anything about Dimapur. He is dealing with the question by Mr. Bardoloi that paragraph 10, sub-clause (d) of sub-paragraph (2) might be included in the proviso.

The Honourable Dr. B. R. Ambedkar : I have no objection. We leave the matter to them. If they think that certain matters should be included, why should we object? We are acting upon their advice.

Pandit Hirday Nath Kunzru : May I ask Dr. Ambedkar for information on one point ? Has the Drafting Committee or Mr. Bardoloi and the Rev. J. J. M. Nichols-Roy who signed the report of the Tribal Areas Committee of Assam received any representation asking for a change in regard to the position of the tribal people living within the limits of the Shillong municipality ?

The Honourable Dr. B. R. Ambedkar : I have not questioned their credentials nor have I examined whether they have fortified themselves with any such representation.

Pandit Hirday Nath Kunzru : I put this question because my honourable Friend referred to the authority of the Prime Minister of Assam and Rev. Nichols-Roy. Both these gentlemen have signed the report of the Committee to which I have referred and that Committee says that the limits of the Shillong Municipality should be what they are now and does not suggest any change in the status of the people living in that area.

The Honourable Dr. B. R. Ambedkar : That they may have done but the report cannot act as an estoppel for further re-examination. I do not think we can carry the matter any further. As I said the Drafting Committee felt that this was such a local matter that they could not act without the authority or advice of the principal participants in this matter. We took their advice and we carried out the work. If they think....

Shri Kuladhar Chaliha : In Dimapur people from all over India reside.

Mr. President : There is no use saying anything about Dimapur. He has said nothing about Dimapur.

The Honourable Dr. B. R. Ambedkar : I have so far said nothing about it; I am coming to it.

Now I come to the exclusion of certain areas from the autonomous districts.

In this connection I would like to remind the House of the new article 16- A which has just been passed. I would like you to refer to that. In framing article 16- A, two questions were raised. One question related to some two mouzas of what are called the Garo Hills. Along with that the question of the Dimapur area was also raised by my Friend Mr. Chaliha, and I think I am justified in saying that he was present at the Conference. There were three representatives of Assam who were also present at this Conference. Mr. Bardoloi, Rev. Nichols Roy and Mr. Chaliha and it was considered whether these mouzas of the Garo Hills and the Dimapur area should be separated from the autonomous districts. It was said at the conference that it was not desirable to separate them from the autonomous districts because the life of these mouzas—their economic life—was closely bound up with the life of the people in the autonomous districts. It was therefore said that it would be enough if these areas, that is to say, the them mouzas from the Garo Hills and the Dimapur area were separated purely for giving political representation to the inhabitants of this area in the Legislative Assembly. That was definitely stated by my Friend, Mr. Chaliha, who has now raised the question of the Dimapur area. It was therefore at their request and at the instance of these three representatives of Assam that paragraph 16- A was framed in the terms in which it has been framed. If at that time they agreed that there should be a complete separation, that this should not form part of the autonomous area, we would have had no objection to carrying out their wishes.

Therefore, it is no use blaming the Drafting Committee for doing something which it was not advised to do. That is my first submission. Paragraph 16- A embodies the concrete conclusions of the Drafting Committee and of the three representatives of Assam, including Mr. Chaliha, who for the first time raised the matter of the Dimapur area.

Shri Kuladhar Chaliha : May I submit that I was asked to go there as an Advisor and to see. I never felt that I was a member of the Drafting Committee and, you will not find any name there.

Mr. President : No one has suggested that you were a member of the Drafting Committee. He has said that you were present.

The Honourable Dr. B. R. Ambedkar : That is his opinion. There is a further point to be made, namely under amendment 99 which gives power to the Governor to alter boundaries, to diminish areas and so on. It would be perfectly possible, for the Governor to sever any area, exclude any area from the area now to be, included in the autonomous area. If that is not clear, the Drafting Committee would be quite prepared to include an express clause to that effect. But I do like to say that it is very unfortunate, to put it in the very mildest terms possible, that representatives should come to a conference, agree, to certain agreement, and then reside from that agreement, bring in amendments and make it a point to comment against the Drafting Committee and say that they have done something which is either contrary to the wishes of the representatives....

Shri Kuladhar Chaliha : No.

The Honourable Dr. B. R. Ambedkar : I am very sorry. All I can...

Shri Kuladhar Chaliha : No. no.

The Honourable Dr. B. R. Ambedkar : I am very sorry. Therefore, so far as paragraph 16- A is concerned, it provides separation for the purpose of political requirements. If complete separation is wanted I submit it is already provided for in the paragraph we have passed. If it does not do that, I am prepared to add a clause to make that thing quite clear that the Governor will have power to exclude any area if he thinks fit. So far as my amendment contained in new paragraph 19 is concerned I believe that all points of controversy have been answered.

Now, Sir, I propose to deal with my honourable Friend Mr. Kunzru's amendment which is for the addition of another paragraph. It will be noticed that his amendment is nothing but a repetition of paragraph 5 of the Fifth Schedule which has already been passed and which deals with tribal areas or scheduled areas in States other than Assam. There is nothing more in his amendment than this. My submission as against his amendment is this: so far as sub-clause (1) of his new paragraph is concerned, it is quite unnecessary. It is governed by paragraph 12 (b) of the Sixth Schedule which gives the Governor the power either to apply or not to apply or if apply, apply with modifications laws made by Parliament or laws made by the Legislature of Assam. Therefore, that provision is absolutely unnecessary, and is already contained in our Draft.

With regard to the second sub-clause (2), the position is this. It is quite true that so far as the Fifth Schedule is concerned, we do give the Governor the power to make regulations in respect of that area, but we do not propose to give that power to the Governor in the case of the Sixth Schedule. It is for this reason that in the case of the Fifth Schedule the tribes have no authority to make any regulations for themselves, but in the case of the Sixth Schedule, we have given

[The Honourable Dr. B. R. Ambedkar]

the district council and the regional council the right to make laws in certain respects. It seems to me, therefore, that where the tribes have not been given the power to make regulations it is necessary to give the power to the Governor to make regulations. But, where the, tribal councils themselves have been given power to make regulations it seems to me that conferring powers upon the Governor to make similar regulations is utterly superfluous. That is the reason why we do not propose to give the power to the Governor so far as the Sixth Schedule is concerned. I therefore submit that his amendment is quite unnecessary.

There is one other point which I would like to make quite clear. The power to make regulations which it is proposed to give to the District Council under the Sixth Schedule is not a new power at all. As a matter of fact there exists now in Assam certain regulations which give the tribes the same power of making regulations which we are giving by our Schedule. The Schedule therefore is not anything new. It is merely continuing the existing position, namely, that the tribes have the power now to make regulations in certain matters. Therefore, for the reasons I have explained, his amendment is quite unnecessary. I therefore oppose it.

Mr. President : I was going to suggest that there is really not as much difference in the viewpoints expressed here as would appear from the discussion that we have had. As I have followed Dr. Ambedkar's statement, I believe that if two suggestions are accepted, probably much of the differences will disappear. I was going to suggest therefore that he should include clause (d) of sub-paragraph (2) of paragraph 10 in the proviso.

The Honourable Dr. B. R. Ambedkar : If we leave it to the Drafting Committee it will do that.

Mr. President : I was going to suggest that we add to clause (b) of sub-paragraph (3) in amendment No. 99, after the words "diminish the area of an autonomous district" the words "or exclude any area from an autonomous district". This would cover all the points.

The Honourable Dr. B. R. Ambedkar : That we are quite prepared to do.

Mr. President : I find this difficulty. Most of the Members of the House including myself are not acquainted with the local situation and are therefore not in a position to take any definite line of our own with regard to Assam. We have to be guided by friends from there. Since there is difference in some respects among them, our position becomes very difficult. I would therefore suggest that it would be best to leave the thing to be dealt with by the local Government. The suggestions which I have made will enable the local Government to deal with this matter. I understand that Dr. Ambedkar has no objection to the two suggestions I have made.

The Honourable Dr. B. R. Ambedkar : No, Sir. I am prepared to add 10 (2) (d) to the proviso and also add, 'power to exclude' in the other case.

Mr. President : I think that will satisfy the friends from Assam.

The Honourable Rev. J. J. M. Nichols Roy : I do not understand your proposal, Sir.

Mr. President : My first proposal is that, in the proviso which Dr. Ambedkar has moved to sub-paragraph (2) of paragraph 19, add the words in paragraph 10(2) (d).

Shri T. T. Krishnamachari (Madras: General) : It will read like this :

“Clause (d) of sub-paragraph 2 of paragraph 10, be added:”

Pandit Hirday Nath Kunzru : What was your suggestion, Sir ?

Mr. President : It is to insert the following in paragraph 19:—

19. “Exclude any area from Part I of the suggested Table.”

Please turn to amendment No. 99 which we have already passed.

The Honourable Rev. J. J. M. Nichols-Roy : In the proviso to clause (2) the proposal is to exclude.

Mr. President : No; to include the words “sub-clause (d) of sub-paragraph (2) of paragraph 10” after the words “paragraph 8”.

The Honourable Rev. J. J. M. Nichols-Roy : The difficulty is only here. Already the power has been given to the local Government to stop any regulation made by the District Council from having effect. The local Government has already been, given the power to stop any law from having effect which is passed by the District Council for the regulation and control of money-lending within the district. Sub-paragraph (3) of paragraph 10 reads :

“All regulations made under this paragraph shall be submitted forthwith to the Governor, and until assented to by him shall have no effect.”

If we give power now to the Governor to exclude any area it will be too wide.

Mr. President : That is not the position.

The Honourable Rev. J. J. M. Nichols-Roy : My whole point is that power has already been given to the local Government when we have provided that “All regulations made under this paragraph (by the District Council) shall be submitted forthwith to the Governor, and until assented to by him shall have no effect.”

Mr. President : What paragraph is that?

The Honourable Rev. J. J. M. Nichols-Roy : It is amendment No. 125 by Dr. Ambedkar :

“That after sub-paragraph (2) of paragraph 10, the following sub-paragraph be added:—

‘(3) All regulations made under this paragraph shall be submitted forthwith to the Governor, and until assented to by him shall have no effect.’ ”

That covers everything, Sir. I am not agreeable to the powers of the Governor being made too wide.

Mr. President : The proposal is different under paragraph 19.

The Honourable Rev. J. J. M. Nichols-Roy : I do not see any reason why you should put under paragraph 19 a matter which is already covered by paragraph 10.

Mr. President : The idea is to put in “sub-clause (d) of sub-paragraph (2) of paragraph 10”. not the whole of paragraph 10.

The Honourable Rev. J. J. M. Nichols-Roy : What is the use of putting it here in this proviso ? It is already there under paragraph 10.

The Honourable Dr. B. R. Ambedkar : Sub-clause (d) of sub-paragraph (2) of paragraph 10 covers only trading, not money-lending. That is what is sought to be included.

Mr. President : As regards the question of exclusion, it was in the original draft.

The Honourable Dr. B. R. Ambedkar : Mr. Nichols-Roy, it is all right. I do not think you stand to lose anything.

The Honourable Rev. J. J. M. Nichols-Roy : I am asking you whether or not you are going to put in the text an amendment to the effect giving power to Governor to exclude any area of an autonomous district.

The Honourable Dr. B. R. Ambedkar : “Exclude” also we, are giving. To “diminish” means really “exclude”.

Mr. President : “Diminish” means “exclude”.

The Honourable Rev. J. J. M. Nichols-Roy : I suppose, Sir, it may be all right. Mr. President, Sir, I am very thankful to Dr. Ambedkar for the explicit way in which he has put the position before this House regarding Shillong Municipality. I think this House has understood that the Shillong Municipality is composed of two areas which were called before the British area and the Myllem State area, and no act of the Provincial Legislature or of Parliament could be applied to this Myllem State area unless agreed to by the Myllem State authorities; but for municipal purposes the Myllem State had given the power to the local Government and that is only for municipal purposes. The land still belongs to the Myllem State. Therefore, Sir, the power of the District Council should remain over this area; and as it is understood from the Ministry of States this Myllem State is going to be united with the District Council, this area should form part of the District Council and will be under the power of the District Council as regards land. The same conditions will be kept but all the municipal laws will apply there. At the same time, Sir, according to this the proviso which Dr. Ambedkar has moved regarding the Khasi and Jaintia Hills, it is stated that the Khasi States will be included in that area. For this reason, I believe that the pressure that has been put before the House is very reasonable. From the standpoint of the people the tribal people should live in that area; they would like to have the same rights and privileges which they had before, but according to this proviso even the judiciary of the Myllem State will not be functioning there. Because paragraphs 4 and 5 have already excluded the judicial power of the District Council over this area. That to my mind, Sir, is a great concession in order to pacify the feelings of the people who are not tribal people. It has been really a great concession and a sacrifice also to the tribal people to allow these areas to be altogether under the power of the regular court instead of going to the District Court. Sir, I do not feel very happy about this, but under the present conditions of the people of Shillong and the feelings of all classes of people, I felt that this was a compromise that was arrived at between myself and the other parties.

Shri Rohini Kumar Chaudhury : Is the honourable Member opposing the suggestion put forward by the Honourable Premier of Assam with regarding to paragraph 10 (d) ?

The Honourable Rev. J. J. M. Nicholas Roy : I am not opposing. I have already said, I do not want to be disturbed. I have to leave and go away to Assam today, Sir. What I want to say is that this compromise that has been arrived at is according to the ideas placed before the House and the amendment proposed by the Drafting Committee is acceptable considering all the

possible conditions and also the feelings of all the parties and therefore, I support the amendment that has been placed before the House by Dr. Ambedkar.

I am sorry, Sir, I have to be in a hurry because I have to leave today; otherwise I would have taken more part in this discussion. I thank the Drafting Committee for all that they have done in order to realize the position of this difficult situation there in Shillong.

Shri B. Das (Orissa : General) : Sir, before I give my vote for the amendment may I know if this will not lead to disenfranchisement of large number of citizens in Shillong and is the deprivation of civil liberties, of rights and privileges of a section of the people that live today in the Shillong Municipality ? I should like to say that a sovereign body like ours should not deprive the civil liberties of those people. When I heard Rev. Nichols-Roy, I felt clear in my mind that he wants to perpetuate the old order of things. He does not want the inclusion of 10(2) (d) in the proviso that the Honourable President has recommended. Let Dr. Ambedkar explain to us as to why does he want to disenfranchise those people ? Why does he want to take away the civil liberties of people who have enjoyed them for years in the Shillong Municipality ? Part of my observations apply also to Dimapur. Dr. Ambedkar has changed his views ten times this morning and I am left no wiser. Sir, I may be a fool in this House but I just want the House to know that what Rev. Nichols-Roy said is only in continuation of the “two-nation theory”.

Mr. President : You did not hear him.

Shri B. Das : I am sensing him. I am very sorry that a great liberator like Dr. Ambedkar should introduce such an anachronism in his amendment No. 331 to para 19(2) of the Sixth Schedule, which disenfranchises the civil liberties of people of the Shillong Municipality and makes the people of educated class to depend on primitive people. Sir, I hate the provision of Sixth Schedule whereby you are perpetuating primitive conditions of life. I have warned you yesterday and I warn you again. The British spies through help of British and American missions and Communists are coming through these tribal areas and for that Reverend Nichols-Roy will be held responsible.

Shri T. T. Krishnamachari : Sir, the question be now put.

Mr. President : I shall now put the amendments to vote.

The question is :

“That after Paragraph 16 of the Sixth Schedule, the following paragraph be inserted:—

‘16A. *Provisions applicable to areas specified in Part 1A of the Table appended to paragraph 19.*

(1) Notwithstanding anything contained in this Constitution no Act of Parliament or of the Legislature of the State shall apply to any tribal area specified in Part 1A of the Table appended to paragraph 19 of this Schedule unless the Governor by public notification so directs; and the Governor in giving such directions with respect to any Act may direct that the Act shall in its application to the area or to any specified part thereof have effect subject to such exceptions or modifications as he thinks fit.

(2) The Governor may make regulations for the peace and good government of any such tribal area and any regulation so made may repeal or amend any Act of Parliament or of the Legislature of the State of any existing law which is for the time being applicable to such area. Regulations made under this sub-paragraph shall be submitted forthwith to the President and until assented to by him shall have no effect.’ ”

The amendment was negatived.

Mr. President : Amendment moved by Dr. Ambedkar, paragraph (1).

Shri H. V. Kamath (C. P. & Berar : General) : On a point of information, Sir, have your suggestions been accepted by Dr. Ambedkar on behalf of the Drafting Committee?

Mr. President : Yes. Therefore I am going to put the paragraphs separately. The question is :

“That with reference to amendments Nos. 150 and 151 of List I (Seventh Week), for paragraph 19 and the Table appended to it, the following paragraph and Table be substituted:—

‘19. Tribal areas—(1) The areas specified in Parts I and II of the Table below shall be the tribal areas within the State of Assam.’ ”

The amendment was adopted.

Mr. President : The question is : Paragraph (2).

“(2) The United Khasi-Jaintia Hills District shall comprise the territories which before the commencement of this Constitution were known as the Khasi States and the Khasi and Jaintia Hills District, excluding any areas for the time being comprised within the cantonment and municipality of Shillong, but including so much of the area comprised within the municipality of Shillong as formed part of the Khasi State of Myllem:

Provided that for the purposes of clauses (e) and (f) of sub-paragraph (1) of paragraph 3, paragraphs 4 and 5, paragraph 6, and sub-paragraph (2), clauses (a), (b) and (d) of sub-paragraph (3) and sub-paragraph (4) of paragraph 8 and clause (d) of sub-paragraph (2) of paragraph 10 of this Schedule, no part of the area comprised within the Municipality of Shillong shall be deemed to be within the District.”

The amendment was adopted.

Mr. President : The question is: Paragraph 3.

“(3) Any reference in the Table below to any district (other than the United Khasi Jaintia Hills District) or administrative area, shall be construed as a reference to that district or area on the date of commencement of this Constitution:

Provided that the tribal areas specified in Part II of the Table below shall not include any such areas in the plains as may, with the previous approval of the President, be notified by the Governor of Assam in this behalf.”

The amendment was adopted

Mr. President : Table Parts I and II. The question is:

Table

PART I

1. The United Khasi-Jaintia Hills District.
2. The Garo Hills District.
3. The Lushai Hills District.
4. The Naga Hills District,
5. The North Cachar Hills.
- 6 The Mikir Hills.

PART II

1. North-East Frontier Tract including Balipara Frontier Tract, Tirap Frontier Tract. Abor Hills District, Misimi Hills District.
2. The Naga Tribal Area.

The amendment was adopted.

Mr. President : The question is :

“That paragraph 19, as amended, and the Table, Parts I and II, stand part of the Sixth Schedule”.

The motion was adopted.

Paragraph 19, as amended, and the Table, Parts I and II were added to the Sixth Schedule.

Paragraph I

Mr. President : There is a suggestion that we reopen amendment No. 99 and add one, more sub-clause to it :

“That after clause (a) of sub-paragraph (3) of paragraph 1 of the Sixth Schedule, the following be inserted :

‘(aa) exclude any area from Part I of the said Table,’ ”

This gives power to the local Government to exclude any area. As a matter of fact, it is included in sub-clause (d) which says “diminish the area of any autonomous district”. But, to make it beyond all question, this is sought to be added.

The question:

“That after clause (a) of sub-paragraph (3) of paragraph I of the Sixth Schedule, the following be inserted :—

‘(aa) exclude any area from Part I of the said Table,’ ”

The amendment was adopted.

Paragraph 20

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

“That after paragraph 19, the following new paragraph be inserted :—

‘20. *Amendment of the Schedule.*—(1) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for purposes of article 304 thereof.’ ”

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

“That in amendment No. 153 of List I (Seventh Week), for the proposed new paragraph 20, the following be substituted:—

‘20. *Parliamentary Commission and Amendment of the Schedule.*—(1) As soon as may be after the commencement of the Constitution but not later than two years thereafter, there shall be constituted a Parliamentary Commission consisting of fifteen members of whom ten shall be elected by the House of the People and five shall be elected by the Council of States in accordance with the system of proportional representation by single transferable vote.

(2) It shall be the duty of the Commission to investigate the entire problem of the tribal people and the tribal areas of Assam and to make recommendations to the President as to,—

- (i) ways and means by which the tribal people may rise up to the level of the rest of the population educationally and economically so that at the end of a period of ten years since the commencement of the Constitution, these special provisions for the tribal people and the tribal areas, in Assam may not be necessary and may be abolished, and
- (ii) legislation that should be undertaken by Parliament to revise this Schedule with the above-mentioned purpose in view.

(3) On receiving the report of this Parliamentary Commission, Parliament may by law amend by way of addition, variation or repeal any of the provisions of this Schedule, and when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(4) No such law as is mentioned in sub-paragraph (3) of this paragraph shall be deemed amendment of this Constitution for purposes of article 304 thereof.”

[Prof. Shibban Lal Saksena]

Sir, in the last two paragraphs of my amendment, I have kept the two clauses of the amendment which has been moved by Dr. Ambedkar and I have added only the first two clauses. I want that the conditions in the tribal areas should be investigated by a Commission. The debate during the last two days has shown that most Members here do not know anything about the province of Assam. In fact, Mr. Rohini Kumar Chaudhuri went so far as to say that even the Prime Minister of Assam was not fully aware of the conditions and that many of these representatives have not gone to some of those areas. I think this is a very important problem, particularly because Assam is a frontier province. In the last war, it was a most important area. Therefore, I think that the ultimate destiny of these areas must be a matter of concern not only of Assam, but of the whole country.

I therefore want that after the new elections according to the new Constitution, the new Parliament should appoint a Commission and that Commission should consist of members of both the Houses. This Commission should investigate into the conditions and make a report, and according to that report, Parliament must then make legislation. The aim should be that at least within ten years we should be able to absorb these people in the rest of the population and they should form an integral part of the entire population of Assam. During this interval, this Schedule, if it is necessary, should be changed. In fact, yesterday Dr. Ambedkar told us that he has tried to follow a middle course policy between two extremes. But he admits that we want these people to become one with the rest of the people. I feel, Sir, that whenever there have been separate electorates, the result has been more separation and no attempt at assimilation has succeeded them.

What I am afraid of is this. Although in the present condition of these tribes, it would be necessary to provide ample safeguards for them, and not to introduce any violent changes in their economy, I do think that something should be done to remove the separation and to effect a gradual assimilation of these people in the whole population of the province. I therefore suggest, that because the House is not aware of the conditions of the people there, and the people of Assam are divided on this subject, provision should be made in this Constitution for this Commission. It may be said that there is already a Commission provided for in paragraph 16. That is a Commission which will report to the Governor mainly on three subjects which fall within the province of the Governor himself. I want the entire Schedule to be changed according to the report of the Commission. Of course, the power is there and Parliament can always do that. But, Parliament will not have any information about the conditions of these tribes. Besides, Parliament may not exercise that power unless it has got all the information before it. Therefore I say this should be laid down in the constitution itself that within two years or as soon as may be possible, there should be a Commission which should make a report on which Parliament should proceed to revise this Schedule.

Shri Brajeshwar Prasad : Mr. President, I rise to support the idea of a Commission. I am not clear in my own mind whether it should be a parliamentary commission consisting of members of the Houses—both the Upper and Lower Houses or it, should be a body appointed by the President. I feel that members of the Houses of Parliament will not be in a position to discharge the functions properly because they are laymen. They are not acquainted with tribal problems especially tribal problems on the borders of Assam which are of a very complicated nature. I have already placed my views more than once in this House. I feel that this body should consist of members who are experts, who know the problem of these areas and who have an appreciation of the realities of the

situation, who understand the international importance of these areas. I am not in favour of the members of the Houses because I have a feeling in my mind that these members may tilt the balance in favour of provincial autonomy. I want both the areas specified in Parts I and II to be centrally administered areas and therefore I am of opinion that provincial members should not be allowed to become members of this body.

Secondly, I feel that my Friend Mr. Saksena has not properly drafted this amendment. At one place—I am referring to clause (2) (i)—he says that the Commission shall not have the power to recommend the complete repeal of the Sixth Schedule before the end of ten years and then he says in clause (3)—‘On receiving the report of this Parliamentary Commission, Parliament may by law amend by way of addition or repeal any of the provisions of this Schedule’. Sir, Parliament according to (2) (i) has not got the power. The Commission has not got the power to recommend the repeal of the entire Schedule, but my friend says in clause (3) that such a thing can be done. Then in sub-clause (ii) of clause (2), there is the following—

“legislation that should be undertaken by Parliament to revise this Schedule with the above-mentioned purpose in view”.

If after the word ‘revise’ the word ‘or repeat’ had been there, it would be far more satisfactory. I feel that this Commission is very-very necessary. Of course it is left open to Parliament to appoint a Commission whenever it likes. What my Friend Mr. Saksena wants is to bind the Government and Parliament to appoint a Commission within a period of two years from the date of the commencement of this Constitution. On the whole I am glad to support the amendment moved by my Friend Mr. Saksena.

The Honourable Dr. B. R. Ambedkar : I do not accept the amendment.

Mr. President : The question is :

“That in amendment No. 153 of List I for the proposed new paragraph 20, the following be substituted :—

‘20. *Parliamentary Commission and Amendment of the Schedule.*—(1) As soon as may be after commencement of the Constitution but not later than two years thereafter there shall be constituted a Parliamentary Commission consisting of fifteen members of whom ten shall be elected by the House of the People and five shall be elected by the Council of States in accordance with the system of proportional representation by single transferable vote.

(2) It shall be the duty of the Commission to investigate the entire problem of the tribal people and the tribal areas of Assam and to make recommendations to the President as to,—

- (i) ways and means by which the tribal people may rise up to the level of the rest of the population educationally and economically so that at the end of a period of ten years since the commencement of the Constitution, these special provisions for the tribal people and the tribal areas in Assam may not be necessary and may be abolished, and
- (ii) legislation that should be undertaken by Parliament to revise this Schedule with the above-mentioned purpose in view.

(3) On receiving the report of this Parliamentary Commission, Parliament may by law amend by way of addition, variation or repeal any of the provisions of this Schedule, and when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(4) No such law as is mentioned in sub-paragraph (3) of this paragraph shall be deemed to be amendment of this Constitution for purposes of article 304 thereof.”

The amendment was negatived.

Mr. President : The question is:

“That after paragraph 19, the following new paragraph be inserted:—

‘20. Amendment of the Schedule: (1) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for purposes of article 304 thereof.’”

The motion was adopted.

Paragraph 20 was added to the Sixth Schedule.

Mr. President : I put the whole Schedule now.

The question is :

“That Schedule VI, as amended, stand part of the Constitution”

The motion was adopted.

Schedule VI, as amended, was added to the Constitution.

Article 281

Mr. President : Then we go to Article 281.

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

“That for article 281 the following be substituted:—

‘281. In this Part, unless the context otherwise requires the expression ‘State’ means a State for the time being specified in Part I or Part III of the First Schedule.”

Interpretation.

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

“That for article 281 the following be substituted :

‘281. In this Part, unless the context otherwise requires the expressing ‘State’ means a State for the time being specified in Part I or Part III of the First Schedule.”

Interpretation.

The motion was adopted.

Article 281 was added to the Constitution.

Article 282 to 282-C.

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

“That with reference to amendment No. 3034 of the List of Amendments (Volume II), for article 282, the following articles be substituted :—

282. Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment and conditions of service of persons appointed to public services and to posts in connection with the affairs of the Union or of, any State :

Recruitment and conditions of service of persons serving the Union or a State.

Provided that it shall be competent for the President in the case of services and posts in connection with the affairs of the Union and for the Governor or, as the case may be, the Ruler of a State in the case of services and posts in connection with the affairs of the State to make rules regulating the recruitment and the conditions of service of persons appointed to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.

“282 A. (1) Except as expressly provided by this Constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union, holds office during the pleasure of the President, and every

Tenure of office of persons serving the Union or a State.

person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor or, as the case may be, the Ruler of the State.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor or Ruler of the State, any contract under which a person, not being a member of a defence service or of an all-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or, the Governor or the Ruler, as the case may be deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation if before the expiration of an agreed period that post is abolished or he is for reasons not connected with any misconduct on his part, required to vacate that post.

Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or State.

282 B. (1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:

Provided that this clause shall not apply—

- (a) where, a person is dismissed, or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge;
- (b) where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason to be recorded by that authority in writing it is not reasonably practicable to give that person an opportunity of showing cause;
- (c) where the President or Governor or Ruler, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to give to that person such an opportunity.

(3) If any question arises whether it is reasonably practicable to give notice to any person under clause (b), of the proviso to clause (2) of this article, the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank, as the case may be, shall be final.

All-India Service.

282 C. (1) Notwithstanding anything in Part IX of this Constitution, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do, Parliament may by law provide for the, creation of one or more All-India Services common to the Union and the States, and subject to the other provisions of this Chapter, regulate the recruitment and the conditions of service of persons appointed to any such service.

(2) The services known on the date of commencement of this Constitution as the Indian Administrative Service and the Indian Police Service shall be deemed to be services created by Parliament under this article.’ ”

Sir, I do not propose, at this stage, to say anything on the amendment I have moved, because the articles themselves are quite clear. There are several amendments which may raise some points of criticism, and I, shall then be in a position to give the House the explanations that may be necessary in order to dispose of those amendments.

Mr. President : Amendment No. 3- Shri Satis Chandra Samanta.

Shri Satish Chandra Samanta (West Bengal: General) : Respected President, Sir, I beg to move:

“That in amendment No. 2 above, to the proposed article 282, the following proviso be added :—

‘Provided further that no person shall be eligible for appointment to any of the superior public services and posts in connection with the affairs of the Union unless he is thoroughly conversant with any other regional language of India besides the National language of India’ ”

[Shri Satis Chandra Samanta]

Sir, in connection with the amendment that I have moved, I propose to refer to the report of the Universities Commission and to its recommendation, and also to one of the resolutions passed by the Language Convention held in Delhi in August last. The Universities Commission under the Chairmanship of Dr. Sarvapalli Radhakrishnan has recommended that every university should teach its students one other regional language of India, besides the State language. And the Language Convention has also passed a resolution that excepting the regional language in the province or State, everyone should be conversant with any other regional language of India. Sir, India is a country which has so many languages, so many divergent languages and in order to make India one, all Indians should know one common language, and thereby acquaint themselves with the common people and with one another. So long as we have no common language of our own we should learn one other regional language. Therefore, I want that at least the superior officers of the Union should be conversant with any other regional language of India besides the official language of India so that they may freely mix and have contact with the common people. Sir, I know that against my amendment, it will be said that it will come under the rules and regulations. But considering the importance of the subject, I request that this amendment should be added to the Constitution. This is my request and I hope the House will accept my amendment.

Mr. President : There are two other amendments—Nos. 4 and 5 which have the same effect. These need not be moved. Then we come to No. 6—Mr. Brajeshwar Prasad.

Shri Brajeshwar Prasad : Mr. President, Sir, I beg to move:

“That in amendment No. ‘3034 of the List of Amendments (Vol. II) in the proposed article 282. for the words ‘Acts of the appropriate Legislature may regulate’ the words ‘the Union Public Service Commission as respects the All-India services and also as respects other services and posts in connection with the affairs of the Union, and the State Public Service Commission as respects the State services and also as respects other services and posts in connection with the affairs of the State shall make regulations on all matters relating to be substituted; and the proviso be deleted.”

Sir, I want our Commissions to be constituted on the lines of the Whitley Commission of England, and I want these Commissions to have exactly similar powers and functions. I have thought over this matter very carefully. This amendment was tabled in 1948 and since then my views have undergone changes on this question. I am prepared to admit that the power of recruitment should be vested in the hands of Parliament, but in no case I am prepared to concede that this power should be given to the provincial legislatures. If this power is vested in the hands of Parliament it will strengthen the foundations of our State. I want to place before the House some reasons and Some arguments why I am in favour of this proposition. It will generate a feeling of security in the minds of the public servants of the State. It will hamper the growth of communalism and provincialism and will thereby promote the cause of nationalism. If all the servants serving in different provincial Government are governed by uniform rules of recruitment and conditions of service, the result will be the growth of a feeling of oneness amongst all ranks of officers in India. The danger of discontent will be eliminated. A contented and efficient bureaucracy will go a long way in solving the major problems that confront us the trend of the modern world is towards bureaucratic rule. The managerial state is the next step in the course of our political evolution. An enlightened bureaucracy is the need of the hour. We must strengthen the foundations of our civil service and protect it from the onslaught of mobocrats who are, in the name of democracy, trying day in and day out to boss over and dictate over those who are their superiors in intellect and morals. Men of small stature

riding on the crest of popular enthusiasm are placed in positions of power and authority. No civil servant will tolerate the antics and clownish performances of political upstarts. If the evils of adult franchise in a community which is steeped in ignorance and poverty are to be avoided, the civil services must be placed outside the purview of provincial autonomy.

Shri Phool Singh (United Provinces: General) : Mr. President I beg to move:

“That in amendment No. 3034 of the List of Amendments in the proposed article 282, after the words ‘affairs of the Union or any State’ the words ‘and fix the minimum as well as the maximum amount of salary of a Government servant as also lay down the condition to be fulfilled by a group of persons to be able to be included in the list of public servants be inserted.’”

The first part of my amendment is an amplification of the principle already adopted by this House in articles 34 and 31, namely, that of living wage and equal remuneration for equal amount of work. While article 34 recommends a living wage for an agricultural, industrial or other sort of worker, there is no such suggestion regarding government servants. Not only that, the disparity between the pays of government servants is enormous. There are those who get Rs. 3 or Rs. 8 per month while there are those who get more than they deserve and also more than they need. It is also astonishing to know that in the case of government servants of higher ranks, even the contract of service is not adhered to. An I.C.S. even according to the contract is entitled to a maximum of Rs. 2,250. At present the Chief Commissioners get Rs. 3,500 and Commissioners Rs. 3,000; and who are these Commissioners and Chief Commissioners of today ? They are the Deputy Collectors and Collectors of yesterday. The *en masse* of the Britishers from the services of India after independence have given easy lifts to these higher ranks—lifts which they neither contracted for nor ever dreamt of. Numerous devices have been invented to secure higher pays for these people by way of personal pays or some such things. It is but fair that we should fix the minimum as well as the maximum amount of salary that a government servant should get, so that there may be no harm done. As things are at present, the salaries do not vary even according to responsibilities. Take the case of Secretaries of Departments who were formerly doing the work which the Ministers are now doing. After the introduction of this Government, the responsibilities of these Secretaries have surely decreased, but there has been no down-grading of pays in their case. They continue to enjoy the salaries they were enjoying before this Government was established.

Mr. President : So far as I can see, this clause has nothing to do with present incumbents. It relates to recruitment of people who will come into the services in future.

Shri Phool Singh : 282 and 283 refer to future incumbents as well as to present incumbents and 283-A refers to transitional period. These have not been moved. But I think I will cover all the cases and save the House repetition of the same arguments over again. My only submission is that it is but proper that we should fix the maximum and minimum amount of pay that a government servant should get. That is as far as the first part of my amendment is concerned.

So far as the second part is concerned, it will be interesting to note that those people who are called government servants are only a small minority of those who are virtually government servants but have not been styled so. If a post is created even temporarily, the incumbent is called a government servant. But just think of those thousands of workers in the countryside in the P.W.D. and other departments, whose job is not at all temporary. In their case there

[Shri Phool Singh]

is no prospect of their job being finished ; still they are not called public servants. I had the opportunity to take up such cases with a provincial government and the answer given by people in the higher ranks of the services was that if these people are called government servants, they will slacken their efforts to work. If that is true, it should apply to all government servants and if it is false, then it will not be fair to punish these people under this pretext.

My submission is that it is better that we frame rules so that if any class of people who are working for the government fulfil those conditions, they should automatically be entitled to come under that list. Not only pay but all other considerations are also denied to these people. If a government servant in the higher ranks, is transferred, he gets not only single fare, not only fare for himself but for his family; while people at the lowest rung sometimes are denied any railway fare and in most cases even if they have families they are given only one single fare. Those in the higher ranks are given conveyances or touring allowances, but those on the lowest rungs even in cases where their circle covers an area of forty miles are not given even cycles.

Sir, if these people are included in the category of public servants I think it will save them a lot of heart burning and it will improve the lot of those who well deserve it and who are doing real service to the Motherland.

With these few remarks, Sir, I submit that my amendments may be considered and accepted.

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

“That in amendment No. 2 of List I (Seventh Week), in the proposed article 282, for the words ‘Acts of the appropriate Legislature’ the words ‘Acts of Parliament’ be substituted.”

Along with this amendment of mine should be considered my amendment No. 234. Sir, I move:

“That in amendment No. 2 of List I (Seventh Week), for the proviso to the proposed article 282, the following be substituted:—

‘Provided that Parliament may by law specify the public services in the States with regard to which Acts of appropriate Legislature may regulate the recruitment and conditions of services of persons appointed to them.’”

Dr. Ambedkar’s amendment provides that “Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment and conditions of service of persons appointed to public services, and to posts in connection with the affairs of the Union or of any State”. The object of my amendment is to bring about uniformity in regard to the recruitment to the important public services all over the country. At present the only services where there is a certain amount of uniformity is the Indian Administrative Service (which has replaced the Indian Civil Service) and the Indian Police Service. The object of my amendment is that this practice should be extended to the other important services as well.

Dr. P. S. Deshmukh (C. P. & Berar: General): Mr. President, Sir, I move:

“That in amendment No. 2 of List I (Seventh Week) in the proposed article 282, for the word ‘may’, where it occurs for the first time, the word ‘shall’ be substituted.”

Sir, looking to the whole structure of the provisions of this article, I think it is necessary that the provision in article 282 should be made obligatory and not left in doubt as it has been done here. It may probably be said that

‘may’ has the force of ‘shall’. If that is our intention, why not use the Word ‘shall’ ? I would, therefore, suggest that this amendment of mine may be accepted if it is found, as I hope it will be, that this change would be better suited to the whole position and carry out our intention better also.

Dr. Monomohan Das (West Bengal: General): Mr. President, Sir, I move:

“That in amendment No. 2 of List (I (Seventh Week), at the end of the proposed article 282, the following new proviso be added:—

‘Provided that in order to be recruited for any of the posts in connection with the affairs of the Union, a candidate must be thoroughly conversant in the following languages :—

- (i) The official language of the Union.
- (ii) The English language.
- (iii) Any other regional language of the Union except the official language.”

Sir, my amendment proposes that in order to be recruited as an officer under the Union Government a candidate must possess a fairly workable knowledge in three languages at least, namely, English, the official language of the Union and a regional language of India different from the official language of the country. In the amendment moved by Dr. Ambedkar, article, 282, the President has been invested with power for framing rules and regulations regarding the recruitment of services under, the Central Government. My amendment seeks to introduce some principles into these regulations so far as the question of language is concerned. These principles are of such importance that I feel they should not be left to the sweet will and pleasure of the President but they must find a place in the Constitution.

Sir, a fairly workable knowledge of English should be an essential requirement for any Government officer in the Centre because English has become practically the international language of the world today. In addition to this, it is through the medium of the English language that education in scientific and technical subjects has been imparted to the people of this country for more than 150 years. Moreover, the link between India and the outside world today, which is growing stronger and stronger every day is being maintained through the medium of the English language. Therefore, it will be disastrous on the part of our Government if the officers under the Central Government lack a fairly workable knowledge of the English language.

Secondly, our officers under the Union Government must be thoroughly conversant with our national language because of the simple fact that it is the official language of the Union.

Thirdly, our officers under the Central Government will be required to have a fairly workable knowledge in any regional language different from our official language. Sir, the Indian Union consists of so many States having different languages and the Central Government should be always in intimate touch with the provinces and States. So it is essential and necessary that our officers under the Central Government should have at least some knowledge of the regional languages of the States that comprise the Indian Union today. This knowledge of the regional languages of the States of India, is also necessary from another point of view. This is for maintaining a common standard for educational qualifications, especially linguistic qualifications among the members of our Central services.

Sir, this Assembly has not yet selected the official language of this country. We have deferred this issue up till now to avoid unpleasant consequences that a controversy on this subject may give rise to. But the time has come when we shall be able no longer to defer this issue and we must have to take

[Dr. Monomohan Das]

some decision one way or the other without delay. Sir, a section of the population, whose mother tongue will be accepted by this House as the official language of the country, will have an undue and unjustified and inherent advantage over the sections whose mother tongue will not coincide with this official language of India. In order to do away with this difference.....

The Honourable Dr. B. R. Ambedkar : I think my friend has said enough on the point and he need not continue. We have understood his point. We must get through today at least one article.

Dr. Monomohan Das : If that is the case, I shall stop.

Dr. P. S. Deshmukh : Sir, I move:

“That in amendment No. 2 of List I (Seventh Week), in the proviso to the proposed article 282, the words ‘and any rules so made shall have effect subject to the provisions of any such Act’ be deleted.”

My purpose is simple because the previous wording says that “it shall be competent for the President in the case of services and posts in connection with the affairs of the Union and for the Governor or, as the case may be, the Ruler of a State in the case of services and the posts in connection with the affairs of the State to make rules regulating the recruitment and the conditions of service of persons appointed to such services and posts *until provision in that behalf is made by or under an Act of the appropriate Legislature.*”

In view of these concluding words it appears that there is no necessity of adding a clause to this effect by which the rules are to have effect subject to the provision of any such Act. So long as the words “until provision in that behalf etc.” are there, the rules made by the above-named authorities would be operative, only till the appropriate Legislature deals with the matter by an Act.

There are two more amendments. They are more of a drafting nature and I am prepared to leave them to the Drafting Committee. So I do not propose to move them.

Shri Mahavir Tyagi (United Provinces: General) : Sir, I beg to move:

“That in amendment No. 2 of List I (Seventh Week), at the end of the proposed article 282, the following new proviso be added :

‘Provided further that all tests, examinations, interviews and competitions held for the purpose of selecting candidates for services and posts in connection with the affairs of the Union or a State shall, as far as practicable, be conducted in the language recognised for the official purposes of the Union or the States as the case may be.’ ”

It is a very simple amendment. The grievance of the whole country for a century and a half has been that the indigenous talents and intellect which the country produced was never recognised by the British. They had their own pattern of pedantism with which they thought they could run the administration of the country. Therefore those who took to learning the English language and who began to practice English mannerism were considered to be educated, and fit to take charge of the Government of the country. My regret is that even today the same conditions obtain. The country fought for freedom not against the British, as Mahatma Gandhi said. It was not against colour. It was against the bureaucracy that we fought and wanted to be free from it. Now the very same bureaucracy stands as it is. According to my opinion, Government must not be allowed to be run by persons who are mercenary, who come and offer their intellectual talents on hire. I am a man of a different way of thinking. I consider the English education as a curse to India. All these pedants who boast

of their foreign accents suffer from a superiority complex. They are, generally speaking a demoralised and denationalised lot. I think Government servants must be paid according to their needs and they should not be encouraged to bargain their talents. They must offer as volunteers to serve the, State. Only then the old pattern will change and that can come about only if we discard the English language and own our own culture with pride. Now all stress is on the English language. I am opposed to the present method of selection of candidates to the services. My friend Shri Monomoban Das complains at if Hindi were made the official language, persons who belong to non-Hindi speaking areas will suffer in competition with people who come from these areas. I therefore suggest that the overall capacity must not be examined even in Hindi. I am not only for Hindi. My submission is that every candidate must be examined in his own mother tongue. It is in one's own mother tongue that one would be able to express his ideas best.

Mr. Naziruddin Ahmad (West Bengal: Muslim): The members of the Public Service Commission would then have to learn the language of a candidate they want to test.

Shri Mahavir Tyagi : If you legislate like that they will have to learn those languages.

Mr. Naziruddin Ahmad : There are about 130 principal languages in India and about 300 dialects.

Shri Mahavir Tyagi : It is not necessary to test the intelligence of a candidate by examining the amount of Oxonian accent he has adapted. You can test him in Hindustani or Madras or Punjabee or Bengalee or any other language. Proficiency in a, language is not the sole criterion of education. To claim to be educated, one must be possessed of a general knowledge of the world, and one should prove that he has taken the fullest advantage of knowledge by practising it on himself, and that one has consumed knowledge. He must radiate knowledge by his habits and manners. But today as we see the main stress is on correct English and on good table manners in the approved English style. Such men are selected at the interviews. If things go on at this rate I am afraid, we can never enjoy freedom. The only proper method of recruitment to Government services of the true sons of the soil is to test the candidates in their own mother tongue.

Sir, even in the army, recruits are selected not because of their capacity to use the sword effectively, but because of their knowledge of handling the fork and spoon. They are selected for their English mannerisms. I have seen selections for the army made of people whose only qualification is Knowledge of English. This is a slavish Habit. India cannot stand it any longer, I submit that people should be examined in their own language and the candidate should be absolutely free to prove their talents even in broken English.

Mr. President : The honourable Member has expressed his views at length.

Shri Mahavir Tyagi : If you have been convinced I am thankful.

Mr. President : I do not say I am convinced. I have understood, what you have said. All the concerned amendments have been moved.

Shri H. V. Kamath : With your permission Sir, I shall say a few words. I shall not take more than two minutes.

On this amendment moved by my Friend Mr. Tyagi I wish to say that him intention is laudable, but I fear that there will be considerable difficulty in implementing his amendment. Let me at the outset state that prejudice

[Shri H. V. Kamath]

against any language, as such is thoroughly irrational. Prejudice against even the English language is irrational. We fought British rule in India, but we never fought against the English language. I may remind the House that Kemal Ataturk, after Turkey was freed from foreign rule, almost overnight adopted and promulgated the Roman script throughout Turkey.

Now, Sir, the difficulty in adopting this amendment is two-fold. Firstly, the posts in connection with the affairs of the Union do not fall all under one category. Does Mr. Tyagi want that even the candidates for the consular and diplomatic posts should be examined only in the official languages of the Indian Union?

Shri Mahavir Tyagi : I said in the language of the region from which the candidate comes.

Shri H. V. Kamath : He has not followed me. I want to know from him whether persons to be selected for diplomatic and consular posts abroad should be examined only in an Indian language.

Shri Mahavir Tyagi : I have said, 'as far as practicable'. If you are selecting a candidate for our Embassy in France, let him have a knowledge of French. But he should be examined in his own mother tongue. I have no objection to a man being examined in Marathi language.

Shri H. V. Kamath : My friend has put all tests, examinations, interviews and competitions together in his amendment. I may tell him that I respect the spirit of his amendment. I am only pointing out the practical difficulties in the way of its acceptance. Even in England the tests conducted by the Selection Boards for appointments to diplomatic and even the Home Civil service are not all of them in the English language alone.

Mr. President : Mr. Kamath has taken more than the two minutes he himself promised to take.

Shri H. V. Kamath : I shall conclude in a few seconds, Sir. I may tell the House that the examinations in England itself are not all conducted in English. So also in India it would not be practicable to hold all tests and examinations only in the official language of the Union or of the States.

I have said that as regards posts in the Union, there are various categories of them; and 'each category calls for particular qualifications. Secondly, as regards a particular State, it may like to have officers for the purpose of liaison with the Union Government. For such posts a mere knowledge of the language of the State would not be adequate. Knowledge, of the official language of the Union plus, perhaps, knowledge of a foreign language as well may be necessary for persons appointed as liaison officers between States and the Centre and for officers in foreign countries. I therefore feel that Mr. Tyagi's amendment . . .

Mr. President : The honourable Member has exceeded his time-limit. Does Dr. Ambedkar like to Speak?

The Honourable Dr. B. R. Ambedkar : I do not accept any of the amendments.

Mr. President : I shall now put the amendments to vote. The question is:

"That in amendment No. 2 above, to the proposed article 282, the following proviso be added:—

'Provided further that no person shall be eligible for appointment to any of the superior public services and posts in connection with the affairs of the Union unless he is thoroughly

conversant with any other regional language of India besides the National language of India.' ”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 3034 of the List of Amendments (Vol. II), in the proposed article 282, for the words ‘Acts of the appropriate Legislature may regulate’, the words ‘the Union Public Service Commission as respects the All India services and also as respects other services and posts in connection with the affairs of the Union, and the State Public’ Service Commission as respects the State Services and also as respect other services and posts in connection with the affairs of the State shall make regulations on all matters relating to’ be substituted; and the proviso be deleted.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 3034 of the List of Amendments, in the proposed article 282, after the words ‘affairs of the Union or any State’ the words ‘and fix the minimum as well as the maximum amount of salary of a Government servant, as also lay down the conditions to be fulfilled by a group of persons to be able to be included in the List of public servants’ be inserted.”

The amendment was negatived.

Mr. President : Then amendment No. 228.

Shri Brajeshwar Prasad : What about my amendment No. 8 to the proposed new article 282- A?

Mr. President : I am not taking up 282 A yet.

Shri Brajeshwar Prasad : I am sorry, Sir.

Mr. President : At that time I said that you should not move it and you did not move it. We have not taken up 282 A yet. The question is:

“That in amendment No. 2 of List I (Seventh Week), in the proposed article 282, for the words ‘Acts of the appropriate Legislature’ the words ‘Acts of Parliament’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 2 of List I (Seventh Week), in the proposed article 282, for the word ‘may’, where it occurs for the first time, the word ‘shall’ be substituted.

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 2 of List I (Seventh Week), for the proviso to the proposed article 282, the following be substituted :

‘Provided that Parliament may by law specify the public services in the States with regard to which Acts of appropriate Legislature may regulate the recruitment and conditions of service of persons appointed to them.’

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 2 of List I (Seventh Week), in the proviso to the proposed article 282, the words ‘and any rules so made shall have effect subject to the provisions of any such Act’ be deleted.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 2 of List I (Seventh Week), at the end of the proposed article 282, the following new proviso be added :—

“Provided further that all tests, examinations, interviews and competitions held for the purpose of selecting candidates for services and posts in connection with the affairs of the Union or a State shall, as far as practicable, be conducted in the language recognised for the official purposes of the Union or the State as the case may be.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 2 of List I (Seventh Week), at the end of the proposed article 282, the following new proviso be added :—

“Provided that, in order to be recruited for any of the posts in connection with the affairs of the Union, a candidate must be thoroughly conversant in the following languages:—

- (i) The official language of the Union.
- (ii) The English language.
- (iii) Any other regional language of the Union except the official language.’ ”

The amendment was negatived.

Mr. President : I think these are all the amendments. I will now put Dr. Ambedkar’s proposition to the vote. The question is :

“That proposed article 282 stand part of the Constitution.”

The motion was adopted.

Article 282 was added to the Constitution.

Article 282-A

Shri Brajeshwar Prasad : Mr. President, Sir, I move:

“That in amendment No. 3034 of the List of Amendments (Vol. II) in the proposed new article 282-A—

(i) in clause (1), for the word ‘holds’ in the two places where it occurs the words ‘shall hold’ be substituted; and for the words ‘during the pleasure of the President and during the pleasure of the Governor of the State’ the words ‘until he attains the age of sixty eight’ be substituted:”

I realise. Sir,

Mr. President : You are not moving clauses (ii) and (iii).

Shri Brajeshwar Prasad : No, Sir, they relate to 282- B. I have modified my stand since this amendment was moved. I am now in favour of the proposition that every civil servant of the State, whether he is serving in the Union or in the provinces should hold his office during the pleasure of the President ,and of the President alone. I cannot agree to the proposition that every civil servant of a State should hold office during the pleasure of the Governor or, as the case may be, the Ruler of the State. The Governor or the Ruler means the Ministry.

Mr. President : You are not supporting your own amendment.

Shri Brajeshwar Prasad : I sought your permission, Sir, on that point. I submitted to you, Sir, that since I moved that amendment, I have now come, to the conclusion that it is advisable that all civil servants of the State should hold office during the pleasure of the President.

Mr. President : The interval between your moving your amendment and your request to me was so short that it was difficult for me to form any opinion about it.

Shri Brajeshwar Prasad : If you do not consider it advisable for me to speak on this article at the present moment, during the general discussion when this article is taken up, I would like with your permission to say a few words.

Mr. President : I make no promise. You may take your chance.

Shri Jaspal Roy Kapoor (United Provinces : General) Does the honourable Member want the age to be 86 or is it a misprint for 68?

Mr. President : We go to the next amendment No. 235 by Dr. Deshmukh.

(Amendment Nos. 235, 236 and 237 were not moved.)

I think these are all the amendments to 282-A.

Shri Brajeshwar Prasad : I would like to make a few observations.

Mr. President : I do not think so. I think we had better do without your observations.

Shri Brajeshwar Prasad : As you please, Sir. Your word is law to me.

Mr. President : There is no other amendment to 282-A The question is:

“That proposed article 282-A stand part of the Constitution.”

The motion was adopted.

Article 282-A was added to the Constitution.

Article 282-B

Mr. President : I have got a large number of amendments to this. We might move one or two today. Mr. Brajeshwar Prasad, No. 9.

Shri Brajeshwar Prasad : I would like to reserve my right to speak for tomorrow. Within five minutes, I would not be able to read the amendment and speak on it.

Mr. President : You might move your amendment now.

Shri Brajeshwar Prasad : Mr. President, Sir, I move:

“That in amendment No. 3034 of the List of Amendments (Vol. II), in the proposed new article 282- B.—

In clause (2), for the words ‘by an authority subordinate to that by which he was appointed’ the words ‘except by an order of the Union Public Service Commission, or, as the case may be, by the State Public Service Commission’ be substituted.”

Mr. President : You are reading clause (ii) of the previous amendment. That relates to 282-A

Shri Brajeshwar Prasad : That relates to 282 B.

Shri Jaspal Roy Kapoor : No. 9 is the amendment that you should move.

Shri Brajeshwar Prasad : No, No. 9 relates to 282-C. Sir, these are the old amendments.

Mr. President : But the old article has not been moved.

Shri Brajeshwar Prasad : This is an amendment to 282- B.

“No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.”

Sir, I would like to move my amendments tomorrow.

Mr. President : I do not think these amendments fit in at all, (ii) and (iii). They do not fit in with 282- B; so they do not arise.

Shri Mahavir Tyagi : They may be taken as moved.

Mr. President : No, they cannot be taken as moved, because they do not fit in.

Shri Brajeshwar Prasad : I will try to amend them and with your permission would move them tomorrow, Sir.

Mr. President : I think it is already one now and we should rise. A suggestion has been made that we sit in the afternoon.

Honourable Members : Yes, Sir, we shall sit in the afternoon.

Mr. President : There are difficulties. There is a Cabinet meeting which the Honourable Dr. Ambedkar has to attend.

Shri R. K. Sidhwa (C.P. & Berar: General) : The Drafting Committee can meet later on.

Mr. President : It is not the Drafting Committee that I am speaking of. There is a meeting of the Cabinet.

Shri R. K. Sidhwa : But there are other members of the Drafting Committee who can be present.

Mr. President : We can make much more progress within the scheduled time if Members take care, of the time. I think there is some difficulty in my way. It is very difficult for me to stop any Member from speaking if he insists on speaking.

Shri R. K. Sidhwa : We are prepared to sit and finish. We can sit for seven or eight hours.

Mr. President : That is not possible. We cannot sit for eight hours. After all we work like human beings. We cannot work like machines. So I do not think it will be possible. What do you say, Dr. Ambedkar, is it possible to have an afternoon sitting today?

The Honourable Dr. B. R. Ambedkar : I expect to be back from the Cabinet meeting at about half past five. If the House is prepared to sit for two hours after that, I am quite prepared, but we have a Drafting Committee meeting from half past five onwards, because unless we are ready with the articles which have, already been held up, it will be difficult to proceed. We have to go to another place to obtain a decision and then to come here. If the House so wishes, we can change the sitting of the Drafting Committee to some other time.

Mr. Naziruddin Ahmad : There are other difficulties which I want to submit. I do not mind sitting for any length of time. The only thing that I care for is that we should be given sufficient time to consider the amendments. The Drafting Committee is not yet ready with some of their most important amendments. I would most respectfully ask you to consider our situation. If we are to take any part in the drafting of the amendments, or in speaking on them, without adequate preparation, the result would be desultory talking. I submit that the

Drafting Committee should give us sufficient time to consider their latest draft. They are changing their mind every day. They may think that we have no part to play—that is a different matter—but I have come here for a part to play, to do my duty. In that case, I think the amendments should reach us in sufficient time to enable us to consider them. If we are to sit in the afternoon also, where is the time to consider what amendments to suggest and then let the office have them in time so that they may circulate them among the members in good time?

Mr. President : We have already circulated amendments to about fifteen articles. 281 and 282 we have already dealt with. 282A we have dealt with. Then come 282B, 282C, 283, 243, 244, 245, 274 A-E, 264, 265, 265A and 266. All these were circulated yesterday and so Members have had time to give notice of any amendments.

Mr. Naziruddin Ahmad : They are coming to us in a scrappy form. In fact, the amendments come in irregular order. The method of the juggler is followed in this respect. In fact, there is no opportunity for Members to see them in their proper light. That is one difficulty. Afternoon sittings would interfere with proper consideration of the amendments. I do not myself mind sitting for any length of time. The only question is that we should be given sufficient time to consider the amendments. Though the Drafting Committee is not in a position to accept our suggestions, still as much as possible we have got to study all the amendments. So we want some time. The whole difficulty is with the Drafting Committee, but perhaps they are themselves the scapegoats of certain other factors. But our position also should be considered. There are many other important articles which have to be considered. A number of articles which have been given to us recently are so varied, so difficult and so complicated that each article has to be considered in its proper context. We are not in the fortunate position of the Chairman of the Drafting Committee who has very able expert assistance at his call. He need not hear any arguments, and when the time comes for reply, he can say that he does not want to say anything. We do not find ourselves in that fortunate position. And so my submission is that we should be given some time to study the amendments.

Mr. President : I do not think that any Member can have any grievance that he has not had sufficient time to consider amendments so far as these articles are concerned.

Shri R. K. Sidhwa : We have received the amendments, there is no doubt about it. We have got amendments for the next week dealing with language and compensation. We have already received it, but Sir, as far as the programme of this House is concerned, you are aware that for the last ten days the Drafting Committee has been telling us that they are not ready and when they asked us to sit for two hours, we acceded to that request. We are wasting the public money and yet they are not ready. They are wasting public money by not sitting in the afternoon now. My suggestion is that if the Drafting Committee is not yet ready, in order to save the public money, they should adjourn for 15 days, so that the amendments may be ready and the Drafting Committee should be prepared with the full programme. Yesterday we were prepared to sit in the afternoon and the day before yesterday we were prepared to sit in the afternoon, but Dr. Ambedkar is busy. So the whole expenditure of the State will lie on the shoulders of Dr. Ambedkar and not on the shoulders of the members of the House.

Shri T. T. Krishnamachari : I submit it is very unfair because if the House is willing to finish the work on the Order Paper before the day after tomorrow, we can assure the House that we will have enough work on Friday, but the question is whether the House will be prepared to complete the work

[Shri T. T. Krishnamachari]

on the Order Paper.

Mr. President : There is enough work till Tuesday next because these articles which are already in hands of the Members are likely to take till day after tomorrow and after that on Saturday, Monday and Tuesday, we have important subject to consider. So there is enough work and we can't take up anything, it is not because of want of preparation on the part of the Drafting Committee. They have given us enough work till the following Wednesday.

Shri R. K. Sidhwa : We want to sit in the afternoons.

Mr. President : It is not because there is no work that we are not sitting in the afternoons. It is for other reasons that it is suggested that we should not sit. I would leave it to the House whether they would like to sit in the afternoon.

Honourable Members : No, Sir.

Shrimati G. Durgabai (Madras.: General) : Let us sit at 5-30 in the afternoon.

Shri Biswanath Das (Orissa : General) : I speak on behalf of myself and on behalf of my friends and I make my submission to you, Sir, that we are not willing to sit seven or eight hours as has been suggested by my honourable Friend Mr. Sidhwa. We are human beings, as you have rightly suggested, nor are we going to hear long and elaborate speeches after the detailed discussions we are having in the party and also after fairly good discussions here. I would therefore request you to control the speeches of the Speakers. In this view of the matter, I see that there is possibility of economy. Sir, I have nothing to blame the Drafting Committee. (*interruption.*) They deserve nothing but congratulation from us. They are undergoing immense hardship. They have got far less leisure than ourselves and it would be unkind and unfair to comment on the work of the Drafting Committee. With these words, Sir, I would beg of you to control the debate and try to finish as early as possible.

Shri Brajeshwar Prasad : I would like to say a few words, Sir.

Mr. President : Not necessary; I do not want any discussion on this point. I shall be able to conduct the proceedings of the House if the House cooperates with me. My appeal to the Members is, in the first place, to cut the tendency of giving notice of amendments. It involves the office in very hard work because they have to print a number of pages till late at night and distribute them. Then, many of these amendments, I find, are sometimes not moved, sometimes not pressed, sometimes they are withdrawn and most of them are defeated. So, I would ask honourable Members in the first instance to consider whether the amendments which they are thinking of giving notice of are really amendments which deserve the consideration of the House. Of course, it is difficult for me as President to rule out the amendments which are within the rules. I cannot rule them out. But, my appeal to the members is to consider the amendments and if they find that they are really essential then alone they should give notice of them. In the second place my appeal to them is to curtail the speeches. If we could do this, I think we should complete the work within the scheduled time. But, if we go on giving notice of amendments from day to day and delivering speeches on every amendment, well, I do not know when we shall be able to finish.

So far as this evening's Session is concerned, there is a suggestion that we should sit from 5-30 to 7-30. Is that the wish of the House?

Several honourable Members : Yes.

Several honourable Members : No.

Mr. Naziruddin Ahmad : We shall cut down our amendments and our speeches rather than be forced to sit twice a day. Not that we are unwilling to work: some work should be done at home and some work here.

Mr. President : When the House is divided in a matter of this kind, I should not force any section of the House to sit more than it desires to sit. We shall not sit this evening.

Shri Jaspat Roy Kapoor : May I submit, Sir, (*Interruption*) if we have a complete programme of the work you would like to be finished by 17th we may be able to finish the work by that. Most of us are sincerely anxious to finish the programme before the 17th.

Mr. President : I shall do that. The House stands adjourned till Nine of the clock tomorrow.

The Assembly then adjourned till Nine of the Clock on Thursday, the 8th September 1949.
