

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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Deputy Secretary:

SHRI JUGAL KISHORE KHANNA.

Marshal:

SUBEDAR MAJOR HARBANS LAL JAIDKA.

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CONSTITUENT ASSEMBLY OF INDIA

Saturday, the 3rd September 1949

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Nine of the Clock. Mr. Vice-President (Shri T. T. Krishnamachari) in the Chair.

DRAFT CONSTITUTION—(Contd.)

Seventh Schedule—(Contd.)

List III (Concurrent List) Entry 2-A

Mr. Vice-President (Shri T. T. Krishnamachari) : We are now doing entry 2-A of the Concurrent List.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Mr. Vice-President, Sir, I would seek your permission to make a verbal change in my amendment No. 290. No. 289 has been moved by Mr. Kamath. I wish to move the next entry and I seek your permission to make a slight verbal alteration. I know that the amendment will never be accepted—that it will not even be considered. So there is no harm in making the amendment look better. May I have your permission to substitute for the words “overthrow of the Government by force” in my amendment, the words “security of the State”? The wording “security of the State” seems to be more proper and the change is only verbal.

Mr. Vice-President : Yes.

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

The Honourable Dr. B. R. Ambedkar (Bombay: General) : Sir, may I suggest to my Friend that if he is prepared to accept the wording as I suggest now, namely, “connected with the security of the State” instead of the words “connected with stability of the Government established by law” I shall be prepared to accept it, because I find that that is exactly the language we have used in amended entry 3 in List I—We have used the word “security of India” there. If my Friend is satisfied with the wording I have now suggested I shall be prepared to accept it.

Mr. Naziruddin Ahmad : I am grateful to Dr. Ambedkar, but this is exactly the change which I was asking to the Vice-President to permit me to make.

The Honourable Dr. B. R. Ambedkar : Your words were different.

Mr. Naziruddin Ahmad : I was going to move an amended amendment and that is exactly on the lines, word for word, as the one that Dr. Ambedkar now suggests.

The Honourable Dr. B. R. Ambedkar : Then there is nothing to speak about it. If my honourable Friend will move the amendment as I have suggested then I am prepared to accept it.

Mr. Naziruddin Ahmad : I must move my amendment.

Mr. Vice-President : As Dr. Ambedkar is accepting it, is it necessary for the Honourable Member to move the amendment and speak on it?

Mr. Naziruddin Ahmad : If my honourable Friend fails to recognize that I was going to move an amendment which is correct and exactly corresponds to his ideas, I cannot help it. But let me move my amendment.

[Mr. Naziruddin Ahmad]

Sir, I beg to move :

“That in amendment No. 124 of List I (Sixth Week), in the proposed new entry 2-A of List III, for the words ‘stability of the Government’ the words ‘security of the State’ be substituted.”

The expression “stability of the Government” is not proper....

The Honourable Dr. B. R. Ambedkar : I do not think any argument is needed as I am accepting the amendment.

Mr. Naziruddin Ahmad : I know. But there is the House. I will say only one or two words. The expression “stability of the Government” is rather vague in the context of the new entry proposed by Dr. B. R. Ambedkar, namely, “preventive detention for reasons connected with the stability of the Government”. “Government” and “State” are different things.

The Honourable Dr. B. R. Ambedkar : That is the reason why I have accepted it.

Mr. Naziruddin Ahmad : But, Sir, he has not made it clear as to why he has accepted it.

The Honourable Dr. B. R. Ambedkar : I have said that “security of the State” is the proper expression. So there is no necessity of an argument.

Mr. Vice-President : The amendment proposed by the honourable Member having been accepted, there is no need for elaborate arguments.

Mr. Naziruddin Ahmad : But the House should know. Why should there be so much nervousness about the exposure of bad drafting ? That is the point.

The Honourable Dr. B. R. Ambedkar : If my honourable Friend is satisfied with an admission on my part that I have made a mistake I am prepared to make it.

Mr. Naziruddin Ahmad : It should be appreciated not merely by the House but by the world at large. Drafted as it is, “stability of the Government” may mean insecurity of the Ministry for which they might imprison the opposition.

The Honourable Dr. B. R. Ambedkar : Very well, we have bungled. Is that enough ?

Mr. Vice- President : I do not think there is any other amendment.

Shri Brajeshwar Prasad (Bihar : General) : I want to speak on the amendment. Mr. Vice-President, I rise to offer a few remarks on this new entry which has been proposed by the Chairman of the Drafting Committee.

This entry vests power into the hands of the Government of India to detain persons for reasons connected with the security of the State established by law and the maintenance of public order and services or supplies essential to the life of the community.

The power vested in the hands of the Centre is of a very limited character. Over and above preventive detention, the Government of India has got no other power till the situation has deteriorated to such an extent that emergency provisions come into operation. The Government of India ought to have been vested with more powers to nip the mischief in the bud. If the Government of India feels that without its co-operation and assistance a State Government is not likely to deal effectively with outbreak of lawlessness, than it must have the power to step in and take command of the situation. It is sheer folly to

circumscribe the limits of its jurisdiction. Concurrent powers over maintenance of public order is necessary in order to strengthen the forces of law and order. If we want that emergency provisions should not come into operation at all, it is necessary to enlarge the scope of the Central jurisdiction. Where there is a conflict between the forces of law and order and the claims of provincial autonomy, there should be no hesitation in choosing the former as against the latter.

I regret I do not find myself in agreement with Mr. Kamath here as well. His political doctrines are a strange mixture of Individualism and Philosophical anarchism. Both these doctrines have no place in our life. The challenge of the forces of collectivism are so strong and insistent that no political being, unless he wants to live in the land of lotus-eaters, can afford to pay even lip homage to the memory of Mill and Bakunin in the torch-bearers of Individualism and Philosophical anarchism.

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

The question is :

“That in amendment No. 124 of List I (Sixth Week), in the proposed new entry 2-A. of List III, for the words ‘stability of the Government’ the words ‘security of the State’ be substituted.”

The amendment was negatived.

The Honourable Dr. B. R. Ambedkar : Sir, the amendment as amended has to be put and not as in the Notice Paper.

Mr. Vice-President : I will now put amendment No. 124 as revised by Dr. Ambedkar. The question is :

“That after entry 2 of List III, the following entry be inserted:—

‘ 2-A. Preventive-detention for reasons connected with the security of the State and the maintenance of public order and services or supplies essential to the life of the community; persons subjected to such detention.’ ”

The motion was adopted.

Entry 2-A, as amended, was added to the Concurrent List.

Entry 3

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

“That for entry 3 of List III, the following entry be substituted:—

‘3. Removal from one State to another State of prisoners, accused persons and persons subjected to preventive detention for reasons specified in entry 2-A. of this List.’ ”

Mr. Naziruddin Ahmad : I am not moving amendment No. 291.

Mr. Vice-President : Amendment No. 292. The Member is not present and the amendment is not therefore moved.

I will put Dr. Ambedkar’s amendment to vote. The question is:

“That for entry 3 of List III, the following entry be substituted:—

‘3. Removal from one State to another State of prisoners, accused persons and persons subjected to preventive detention for reasons specified in entry 2-A. of this List.’ ”

The amendment was adopted.

Entry 3, as amended, was added to the Concurrent List.

Entry 4

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

“That in entry 4 of List III, the words and figures ‘for the time being specified in Part I or Part II of the First Schedule’ be deleted.”

Mr. Vice-President : There are no other amendments to this entry.

I will put the amendment to vote. The question is :

“That in entry 4 of List III, the words and figures ‘for the time being specified in Part I or Part II of the First Schedule’ be deleted.”

The amendment was adopted.

Mr. Vice-President : The question is:

“That entry 4, as amended, stand part of List III.”

The motion was adopted.

Entry 4, as amended, was added to the Concurrent List.

Entry 5

Mr. Vice-President : Mr. Kamath is not in his place. The amendment standing in his name (No. 293) is not moved.

Entry 5 was added to the Concurrent List.

Entry 6

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

“That in entry, 6 of List III, after the word ‘infants’ the words ‘care and protection of destitute and abandoned children and youth’ be inserted.”

or, alternatively,

That in entry 6 of List III after the word ‘infants’ the words ‘protection of childhood and youth against exploitation and against moral and material abandonment’ be inserted.”

Sir, this is my second attempt to bring in the care of children and young ones who are likely to be exploited or abandoned either morally or materially. Last time I moved an amendment that this entry be included in the exclusive powers of the Union. It may be said that it was a subject which need not be in the exclusive jurisdiction of the Centre. But I am now moving to include it as an item in List III so that both the States as well as the Centre can have concurrent jurisdiction in regard to this. It is likely to be urged that the words “infants and minors” can be interpreted to include what I propose and that there would be sufficient scope to look after children and youthful persons under the entry as it is in the original draft as entry No. 6.

I had pointed out before and I beg to reiterate now that infants have a specific meaning and the word can by no means include all children. Again minors are persons who do not include all minor children *ipso facto*. “Minority” is something of a legal nature and it will therefore refer only to those persons who are minors under the law. Moreover, Sir, all these five words that you find in this entry “marriage and divorce; infants and minors adoption” refer to their legal status and do not refer in any way whatsoever to their being given any care and protection.

Secondly, it will be found that there are provisions and entries so far as assisting religious organisations or literary, scientific and cultural institutions is concerned. Some of my friends drew my attention to entries 42 and 43 in the State List. Those two entries will be confined to giving financial assistance to these institutions. What I wish the Centre and the States to take up, however, is direct responsibility for looking after the welfare of the destitute and abandoned children. For this there is no specific provision and it will be very wrong at the present moment and under the present circumstances not to have a specific provision to this effect. If we examine legislation in foreign countries, we will find that every care is taken of this subject. As late as 1946 and 1948 the British Parliament passed new legislation on this subject.

There are two aspects of this question. We have had legislation in the provinces so far as delinquent children are concerned, but so far as the responsibility either of the provinces or of the Centre in respect of the abandoned and

destitute children are concerned, there has been no legislation whatever. The wording of article 31 is exactly what I have put in my amendment, "that childhood and youth are protected against exploitation and against moral and material abandonment." It is said that the very fact that this is included in the Directive Principles of State Policy will give the Centre jurisdiction. I am not at all convinced of this argument and I feel convinced as a matter of fact of the inadmissibility of this argument. The mere inclusion of this in the Directive Principles of State Policy does not mean that power for legislation has been given, more especially because ours is going to be some sort of a Federation and it will always be arguable whether the responsibility for this is that of the Centre or the provinces; and since this ambiguity will be there, I think, Sir, that it is very necessary that there should be some provision for this in the Concurrent List so as to make the responsibility for this both that of the States as well as of the Centre.

I have already given notice of a Bill to be moved in the Legislative Assembly and I have taken my stand on the Directive Principles which have been embodied in the Constitution. If we do not have this entry, it may be urged that this is a thing which does not fall within the purview of the Centre; since Borstal institutions are subject-matters for the States, it is the States alone who are competent to deal with this and therefore legislation must emanate from the provinces. In order to avoid this ambiguity, in order to avoid this difficulty, in order to remove any obstacle in the way of looking after these children and youthful persons by the Centre also, I have urged that this entry should be there. If we examine legislation in other countries, we will find that they take care not only of children up to the age of 14 but that the age has been taken right up to 25. Their contention is that the State has now ceased to be a mere policeman and a judge and that it is becoming more and more of a social corporation and in a social corporation nothing can be more important than the care and protection of children and youthful persons.

From that point of view, it is absolutely necessary that this entry should be there. I hope that we will not have to waste time in bitter discussion over this matter as we did yesterday in trying to convince the sponsors and leaders of the Drafting Committee to accept the item with regard to the adulteration of food. This is more important, if I may say so, than even that entry and it will be a disgrace if for any technical reason or for any other reason this entry is opposed and is not accepted. I know that a large number of honourable Members of this House wish to support this entry and I hope therefore that without much discussion or debate it will be possible for the honourable Doctor to accept either of my two amendments. I would prefer the second to the first.

Shrimati G. Durgabai (Madras : General): Mr. Vice-President, Sir, I have great pleasure in supporting the amendment moved by my Friend, Dr. Punjabrao Deshmukh. I wish to say and also I appeal to the Drafting Committee and this House to realise the great importance of this subject *viz.* the protection of children from exploitation or abandonment, and accept the principle behind it; I appeal more especially to the Drafting Committee to find a suitable entry for this subject. Unless the State takes up a direct responsibility to pass legislation on this matter, I do not think there will be adequate attention given to this subject. I know that they have not neglected this matter and the Chairman of the Drafting Committee would come forward to say that there are a large number of entries to this effect in all the three Lists and that sufficient protection is being given to the protection of children and the destitutes and the abandoned. I know that they have accepted this principle under the Directive Principles. Article 31, clause (vi), lays down the principle in the terms of the amendment now moved. It is the protection of children and youth against exploitation and

[Shrimati G. Durgabai]

against moral and material abandonment. Sir, this is exactly the language of the amendment which is moved by Dr. Punjabrao.

No doubt this principle has been recognised under the Directive Principles. I should say that there is no use in simply recognising this principle under the Chapter on Directive Principles. It will remain a really pious declaration or intention on our part to do something in the matter of protection of children, but that is not sufficient. None of the entries has mentioned this subject. If you examine all the three Lists, you do not find a definite entry to this effect in anyone of these Lists. In the absence of a definite entry on this matter, really there will not be adequate protection given to children. It will leave this matter in great confusion. You do not know who will legislate on this matter, whether it will be the Centre or the State or both.

Therefore, Sir, I would appeal to the Drafting Committee to see its way to include this matter in this Concurrent List or any other List.

Unless the State undertakes a direct responsibility there will be no good. It is open to the State to come forward and make some subsidy or give some donation or some contribution to an Association either started by private enterprise or by a philanthropist for the protection of infants. We know how these associations are struggling for their daily existence and for lack of fund they are not able to get on well and in this manner these poor homes could no longer serve the cause of poor children. I do not know what kind of help they will get if the State does not take direct responsibility. This is not a matter which could be left to private enterprise, but the State must take direct responsibility. There is no good in our stating the Directive Principles, which will remain as pious declarations unless given effect to by the State.

It may be argued that there is penal law which deals with the matter. I know that the criminal law deals with this matter of abandonment. I also know, because I am conversant with it, how deep matters are going on. It is true that the person who is charged with the offence of abandoning is really punished and he or she is sentenced for that offence. But what happens to the child that is abandoned ? That is the question. Where, is it to go? How long is it going to wait in search of somebody to come forward and take it for protection ? Therefore, Sir, it is a very dangerous thing. If only we leave the children to themselves, they will take to beggary and also to many vices such as stealing and they would cultivate very bad habits. Therefore it is the duty of the State to come forward and help these children sufficiently in time to see that they are developed well, because these children are our future hope and the nation depends upon these children, their good-manners, their upbringing, their good health and their strong character.

Sir, I tell you that if the Drafting Committee could find its way to make an entry for the protection of wild birds, I do not know whether the children could not come under the classification of even wild birds. Therefore, if you see your way to give a particular place in the Constitution for wild birds, I appeal to you to see your way also to give protection to the children that are abandoned, by a suitable entry in the Constitution.

Shri Brajeshwar Prasad : Sir, I would like to speak before Dr. Ambedkar is allowed to reply on this entry.

Mr. Vice-President : Shrimati Durgabai, have you finished?

Shrimati G. Durgabai : I have finished. I have nothing further to say. I only wish that Dr. Ambedkar assures us that he will see his way to examine all the clauses in the Constitution for this purpose. Certainly he will find it easier to accept our proposition. He can include it in any list, we do not mind, but let us be assured that this entry finds its way into the Constitution and also there will be no further difficulty in accepting this principle. Sir, I appeal to the

Drafting Committee and to the House to give recognition to this matter, realizing the great importance of this subject.

Shri Brajeshwar Prasad : Sir, I rise to support the amendment moved by my honourable friend Dr. Deshmukh and supported by Shrimati Durgabai. If there is to be protection of childhood and youth against exploitation and against moral and material abandonment, the Government of India must be vested with the necessary powers. The Government of India must provide necessary facilities for birth-control, if we are to protect the future generation from exploitation both moral and material.

Secondly, Sir, I am definitely of the opinion that the profession of prostitution must be regulated on sound scientific lines. Sir, in 1938 I moved a resolution in the Gaya Municipality, when I was a member of that Municipal Board. The resolution was on the lines of amendment No. 252 standing in the name of Dr. P. S. Deshmukh. The resolution which I tabled in the Board was for the regulation and control of prostitution and maintenance of public houses. This resolution is on similar lines. But I am sorry to say that the resolution was disallowed by the President of the Municipal Board on the ground that it did not fall within the purview of the Municipal Board. Sir, I want that the Government of India and the Provincial Governments must take an interest in this matter regulate this profession so that the youth of the country may be protected from moral abandonment. There is another argument that I wish to place before this House. It is the duty of the State to nurse every child from the moment of its birth till he or she reaches the age of maturity. The State must provide education, medical facilities and means of livelihood to each and every citizen living within the ambit of the Indian Union. The institution of family is undergoing rapid transformation. I do not know what ultimate form it will assume. But I am quite clear in my own mind that today it is not in a position to protect childhood and youth against exploitation and against moral and material abandonment. It is incumbent therefore on the State to protect the youth of the country from all evil influences. Family, according to Plato, circumscribes the horizon of a man's love and affection. One nursed in the cradles of family life cannot but be an intellectual and moral dwarf. If man is to rise to the height of his being, he must be protected from the pernicious influences of family life. If he is to rise to grand heights and to develop all that is latent in him the institutions of private property and marriage, in conformity with the doctrines of Plato's Republic, will have to be wiped out. I support the amendment moved by Dr. P. S. Deshmukh.

The Honourable Dr. B. R. Ambedkar : Sir, there can be no doubt that the amendment of my honourable Friend, Dr. Deshmukh, in so far as it seeks to interpolate certain words dealing with the protection of children in entry 6 are out of place because entry 6 no doubt refers to infants and minors, but it has to be borne in mind that taking the entry as a whole, that entry deals with status. In so far as the status of infants and minors are concerned, these categories are included in entry 6, but "care and protection of destitute and abandoned children and youth" are not germane to their status.

Dr. P. S. Deshmukh : That was exactly why I had wanted to introduce an independent entry. There is an amendment already in my name which seeks to have an additional entry separately.

The Honourable Dr. B. R. Ambedkar : I was just going to deal with the amendment moved by him. These words could not be interpolated in this entry 6, without seriously damaging the structure of that entry No. 6. Therefore at this stage I certainly cannot accept the proposition of interpolating these words.

Now, Sir, I will deal with the general question of the protection of children. There can be no doubt about it that every Member in the House including

[The Honourable Dr. B. R. Ambedkar]

myself and the members of the Drafting Committee could ever take any exception to the protection of children being provided for by the State, and there can be no difference of opinion, but the only question is whether in the list as framed by the Drafting Committee that matter is not already covered. In framing these entries, what we have done is to mention and categorize subjects of legislation and not the objects or purposes of legislation.

Protection of children is a purpose which a legislature is entitled to achieve if in certain circumstances it thinks that it must do so. The question is whether under any of these entries, it would not be possible for the State to achieve that purpose, namely, the protection of children.

It seems to me that any one of these entries which are included in List I I could be employed by the State for the purpose of framing laws to protect children. For instance, under entry 2 of List II, administration of justice, it would be open for the State to establish juvenile courts for children.

Dr. P. S. Deshmukh : That is not what I meant. I never referred to juvenile Courts.

The Honourable Dr. B. R. Ambedkar : For instance, take prisons and formatory and Borstal institutions, they may be empowered to establish special kinds of prisons where there would be, not the principle of punishment, but the principle of reformation. 'Take the case of education.

Shrimati G. Durgabai : May I submit, Sir, the case of delinquent children stands absolutely on different footing and from destitute and abandoned children ?

The Honourable Dr. B. R. Ambedkar : As I was saying entry 18, which deals with education in List II, could be used by the State for the purpose of establishing special kinds of schools for children including even abandoned children. Under entry 42, dealing with the incorporation of societies and so on, it would be open to the State to register societies for the purpose of looking after children or they may themselves start some kind of corporation to do this.

Therefore, if my friends contend that the statement, which I am making in all sincerity, that there is every kind of provision which the State may make for the purpose of protecting children under the entries which are include in List II, I think there is no purpose in having a separate entry dealing with the protection of children. As I stated, protection of children cannot be a subject of legislation; it can be the object, purpose of legislation.

Dr. P. S. Deshmukh : You have made provision for the protection of wild birds, even!

The Honourable Dr. B. R. Ambedkar : I can quite see both of my Friends are very persistent in this matter. I would therefore request them to withdraw their amendment on the assurance that the Drafting Committee in the revising stage will go into the matter and if any such entry can be usefully put in any of the Lists, they will consider that matter and bring a proposal before the House. At this stage, I find it rather difficult to accept it because I have not had sufficient time to devote myself to a full consideration of the subject which is necessary before such an entry is introduced.

Mr. Vice-President : Does Dr. Deshmukh wish to press his amendment?

Dr. P. S. Deshmukh : I would like to request Dr. Ambedkar at least to say that by the time my next amendment for independent entry is reached, he will be able to say something more favourable than he has been able to say now.

The Honourable Dr. B. R. Ambedkar : I will consider the whole matter.

Dr. P. S. Deshmukh : I do not press this amendment here in view of the fact that I am moving the other amendment.

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

Mr. Vice-President : The question is

“That entry No. 6 stand part of List II.”

The motion was adopted.

Entry 6 was added to the Concurrent List

Entries 7 to 14

Entry 7 was added to the Concurrent List.

Entry 8 was added to the Concurrent List.

Entry 9 was added to the Concurrent List.

Entry 10 was added to the Concurrent List.

Entry 11 was added to the Concurrent List.

Entry 12 was added to the Concurrent List.

Entry 13 was added to the Concurrent List.

Entry 14 was added to the Concurrent List.

Entry 15

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

“That for entry 15 of List III, the following entry be substituted:—

‘15. Actionable wrongs.’”

The words which I seek to omit are really unnecessary.

Mr. Vice-President : The question is:

“That for entry 15 of List II, the following entry be substituted:—

‘15. Actionable wrongs’.”

The amendment was adopted.

Mr. Vice-President : The question is:

“That Entry No. 15, as amended, stand part of List III.”

The motion was adopted.

Entry 15, as amended, was added to the Concurrent List.

Entry 16

Entry No. 16 was added to the Concurrent List.

Entry 17

Shri R. V. Dhulekar (United Provinces: General) : Sir, I want to speak on the entry 17. Entry 17 deals with legal, medical and other professions. With your permission, Sir, I shall try to make some observations on the medical subject alone leaving the other portion of the entry to other gentlemen to deal with.

[Shri R. V. Dhulekar]

First of all, I wish to submit that the word “medical” that is being used in India for some time past has been laying too much stress on the medicinal side, of the health problem of this country. The word ‘medical’ is a misnomer. It simply means medication and therefore we have come to a position when we feel that the administration of the medical department could only be seen and looked at from the point of view of what medicines are useful in the country. I would submit, Sir, that having studied the medical question from different points of view, I have come to the conclusion that it is the duty of the State to see that every individual, every human being who possesses of body, must know something about the preservation, protection and prolongation of life. The word “medical” is a wrong word. I would submit that the word in India was Ayurveda, science of life.

Looked from that point of view, I feel, that this subject has not been given the importance which it deserves during the British regime and today also. I feel that the Government of India is not doing any thing towards imparting the knowledge of the science of life. The science of life, Ayurveda, is a basic science in the country and it has been taught for a long number of years, thousands of years. But the foreigners came and foreign education came and Ayurveda has been relegated to the background. It has been made out from Platforms and platforms by Health Ministers and other people that Ayurveda that was taught in India in ancient times and which is existing in India today and ministering to the needs of 85 per cent. of the people of this country, is not a science at all. I would say that this word “medical” is a word which should be eschewed from our vocabulary.

Lately some attempts are made to join the word ‘health’ with medical department. There are Health Departments in the provinces and there is Health Department in the Centre also. As this is a Concurrent List, I would say, that sufficient attention should be paid to the medical or I would say, the life problem of the country. I am not one of those who fix all responsibility for preservation of health of individuals on the State. I do not feel that, just like the Bhore Committee report, all emphasis should be laid only on the State. If we take into consideration the Bhore Committee report we find, crores on rupees, even if they are spent annually, will not solve the problem of the health of India. So I feel that the words as they are put—“profession of medical” etc. would not serve the purpose. The science of life cannot be a profession. I wish to draw the attention of the Assembly to the important fact that unless and until we take to the principle that every human being knows something about his life, something about his body and health and hygiene we cannot solve the problem.

Therefore, I say that where you put legal, medical and other professions I would say that you will lay more emphasis on the medical education that is to be imported to a human being than on the profession itself. What I am driving at is, if you want to control the medical profession, then it does not mean that registration of medical profession is the only thing you should do. Medical profession has become a profession of loot. It is not a profession of helping humanity; and therefore where you can call the medical profession, I would advise the Assembly to bear in mind, when the time comes, these observations of mine that the medical profession will be controlled not from the point of view of only allowing the people to fleece others but from the point of view of helping humanity.

Mr. Vice-President : The question is:

“That entry 17 stand part of List III.”

The motion was adopted.

Entry 17 was added to the Concurrent List

New Entry 17-A

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

“That after entry 17 of List III the following entry be inserted:—

“17-A, Vocational and technical training of labour’.”

Mr. Vice-President : Amendment 249 is not moved. The question is:

“That after entry 17 of List III, the following entry be inserted:—

‘17-A. Vocational and technical training of labour’.”

The motion was adopted.

Entry 17-A was added to the Concurrent List.

Entry 18

Entry 18 was added to the Concurrent List.

Entry 19

Entry 19 was added to the Concurrent List.

Entry 20

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

“That for entry 20, the following entry be substituted :

‘20. Drugs and poisons, subject to the provisions in entry 62 of List I with respect to opium’.”

(Mr. Kamath did not move his amendment.)

Mr. Vice-President : The question is:

“That for entry 20, the following entry be substituted:—

‘20. Drugs and poisons, subject to the provisions in entry 62 of List I with respect to opium’.”

The amendment was adopted.

Entry 20, as amended, was added to the Concurrent List.

Entry 21

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

“That for entry 21 of List III, the following entry be substituted:—

‘21. Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied’.”

Mr. Vice-President : ‘The question is:

“That for entry 21 of List III, the following entry be substituted:

‘21. Mechanically propelled vehicles including the Principles on which taxes on such vehicles are to be levied’.”

The amendment was adopted.

Entry 21, as amended, was added to the Concurrent List

Entries 22 to 25

Entry 22 was added to the Concurrent List.

Entry 23 was added to the Concurrent List.

Entry 24 was added to the Concurrent List.

Entry 25 was added to the Concurrent List.

New Entry 25-A

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

“That after entry 25 of List III, the following new entry be inserted:—

25-A Vital statistics including registration of births and deaths’.”

Mr. Vice-President : The question is:

“That after entry 25 of List III, the following new entry be inserted:—

25-A. Vital statistics including registration of births and deaths”

The motion was adopted.

Entry 25-A was added to the Concurrent List.

Entry 26

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

“That for entry 26 of List III the following entry be substituted:—

‘26. Welfare of labour including conditions of work, provident funds, employers liability, workmen’s compensation, invalidity and old age pensions and maternity benefits’.”

Mr. Vice-President : I now place amendment No. 132 before the House.

The question is:

“That for entry 26 of List III the following entry be substituted:—

‘26. Welfare of labour including conditions of work, provident funds, employers, liability, workmen’s compensation, invalidity and old age pensions and maternity benefits’.”

The amendment was adopted.

Entry 26, as amended, was added to the Concurrent List.

New Entry 26-A

Mr. Vice-President : Now Dr. Deshmukh may move his new item 26-A

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

“That in amendment No. 133 of List I (Sixth Week), after the proposed new entry 26-A of List III, the following new entry be added :—

“26-B. Welfare of peasants, farmers and agriculturists of all sorts’.”

Mr. Vice-President : I am sorry. I should have first requested Dr. Ambedkar to move his amendment regarding entry 26A—Aamendment No. 133. After that you may move your new entry.

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

“That after entry 26, of List III, the following entry be inserted:—

‘26-A. Social insurance and social security.’”

Mr. Vice-President : I do not think there is any amendment to this. I put it to the House. The question is :

“That after entry 26 of List III, the following entry be inserted:—

26-A Social insurance and social security’.”

The motion was adopted.

Entry 26 A was added to the Concurrent List.

New Entry 26-B.

Mr. Vice-President : Now Dr. Deshmukh may move his amendment No. 250.

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

“That in amendment No. 133 of List I (Sixth Week), after the proposed new entry 26 A. of List III, the following new entry be added—

‘26-B. Welfare of peasants, farmers and agriculturists of all sorts.’”

Sir, it is really unfortunate that it should be necessary to remind the House regarding the welfare of this section of our people and to bring forward an amendment to this effect. India is known to be and is still proclaimed to be the land of agriculturists, where the agriculturists predominate, not only by numbers, but also by the importance of the interest they serve. It is this class of persons who are the real and legitimate masters of India; and yet their welfare is the concern of nobody. There can be only two explanations for this. Either that it is a colossal responsibility, which no one is capable of looking after or, that it is so unimportant that there is no necessity for any specific provision, no need of any special effort nor any specific entry in our Constitution required.

Sir, I am really surprised and cannot suppress my sense of utter dissatisfaction of the way in which the Drafting Committee seems to have made up its mind on many matters of very vital importance and the attitude with which it looks at all of them. I think they are suffering from an obsession, and from a certain false conviction, as if these are the very people who are going to be perpetually in power, that there is going to be no other side to the question, and that these entries are not capable of being interpreted in more than one way. God forbid, but they may themselves have to rue the day and repent the power they are giving to the President and progressively reducing the sovereignty of Parliament every day. It may be that they do not continue in power for long, and when other people come and sit on judgment and exercise those very powers, these may be the very people probably, who will have to resort to black flag processions and protests and walk-outs in Parliament. I would not be surprised if this happens. At the present moment their attitude is so obstinate. I am sorry it is not one of compromise, not one of adjustment, but one of resisting each and every new suggestion and in this case the inclusion of any new entry. Even the suggestion to include an entry for the protection of children was so strongly resisted; one regrets to have to say, by having recourse to such farfetched arguments. Dr. Ambedkar flung the same arguments in my face which I had myself put forward before and which he then refused to accept. The interpretation of entry 6 which he has given now is exactly the same as I had advanced yesterday. Then he said infants and minors covered every thing. Now he says children cannot appropriately even be mentioned along with infants. That is very curious very disappointing, but I hope that so far as this amendment of mine is concerned.....

Mr. Vice-President : We are not dealing with entry 6, but with entry 26.

Dr. P. S. Deshmukh : I have come back to entry 26, Sir. I hope that so far as this amendment is concerned, the Honourable Doctor will take up a different attitude.

[Dr. P. S. Deshmukh]

It is very necessary to have this amendment, because it is a matter of concrete fact that the welfare of peasants and farmers seems to be the concern of none. But look at the case of labour. From the time we have had special labour representation, from the time we have had labour representatives and labour Ministers, the welfare of the labourers has been an integral part of the labour portfolio and of our administration. Labourers form only a small number compared to agriculturists, but still we are solicitous that there should be hospitals for them, air-conditioned factories for them, provision for their medical relief, sanitation and all these things. And this huge mass of humanity, the agriculturists, on whose sweat all of us prosper live and maintain ourselves, for these persons, not a single welfare officer has yet been appointed. I am sorry to say—and I am glad also, in a way—that I was the first, as a member of the Standing Committee for Agriculture at the Centre to press that the Ministry of Agriculture at the Centre also should include in it the welfare of agriculturists. That suggestion I learnt went to the Law Ministry—I do not know what the wonderful Law Ministry has to do with it—and they appear to have given an interpretation that it cannot form part of the Ministry of Agriculture of the Centre, because the subject ‘agriculture’ was a provincial subject.

These are the difficulties and as the Honourable Dr. Ambedkar knows them fully, I hope he will rather err on the side of having more entries than having less, I hope even now he will consider the matter with a sympathetic heart and be prepared to accept this amendment—although I have very little hope as I have seen him advance most wonderful arguments such as when he said that the welfare of children can be included in the Police list—the strangest and the most surprising argument that could be used. But he is in power and he has got the authority and the backing of the whole House and whatever he says is law. Even so, I would request him to concede a little and err on the side of having even a superfluous entry, since so many Members of the House feel so strongly about it, and not turn down the suggestion.

I hope he will look at this entry from that point of view. I have found that it is not included anywhere. Nowhere has it been considered or regarded as the duty of the agriculture Minister to look specifically to the welfare of the peasants and farmers. And nobody can gainsay the fact that the education of the labourers is better, their sanitation is better, that their welfare is better looked after than those of the innumerable peasants and farmers in our villages. That is simply because so much has been done for the former, but hardly anything has been done for the latter. It might be said that the whole Government after all, is directing its attention to them. But if you think that for a few million labourers, special welfare officers are necessary, why not have at least a few more of such officers for the farmers and peasants who will at least tell you from time to time what is necessary? The situation is tragic and I feel nothing will be lost by making a provision here by which the State and the Legislature will be made responsible for the welfare of the peasants and agriculturists in a special way. I am certain that if we had some officers of this nature, the condition of the agriculturists would not have remained what it is. We have appointed welfare officers even for Scheduled Castes. Why did we do it ? Because we know that they suffer from special and very serious handicaps.

Shri S. Nagappa (Madras: General): Sir, my honourable Friend says, “We have, appointed labour officers even for Scheduled Castes.” Only Scheduled Castes require those officers. Why should he use that word “even” ? I take objection to that word : he should withdraw it.

Dr. P. S. Deshmukh : These special officers are only for special classes of people.

Shri S. Nagappa : They, the Scheduled Castes, are the people who require them.

Dr. P. S. Deshmukh : If they are appointed only for the Scheduled Castes, these officers have certainly contributed to the welfare and progress of the Scheduled Castes. If they could help the Scheduled Castes

Mr. Vice-President : The honourable Member has already exceeded his time.

Dr. P. S. Deshmukh : All right, Sir. If the Scheduled Castes could be helped and their uplift secured, may be even in the smallest of measures by the appointment of these officers, why not the same be done so far as the peasants, the farmers and agriculturists are concerned? We know they too are handicapped for want of education, for want of sanitation and have innumerable other difficulties to face. If it was possible for these Ministries to take account of their condition and look after the welfare of the peasants, much more progress than what we find today would have been achieved.

Sir, I do not wish to take more time, but that does not mean that I have not other arguments by which to convince the somewhat unconvinced Dr. Ambedkar. But I hope that so far as this entry is concerned, he will be sympathetic and accept my amendment because as a matter of fact this is a thing which is not regarded as the legitimate duty by any of the Ministers for Agriculture and I have heard at least the Honourable Minister for Agriculture at the centre say that the provisions of the Government of India Act come in their way. That lack of provisions could have reference to nothing else except this Schedule. From that point of view, Sir, I think the entry is absolutely necessary.

Shri R. K. Sidhwa (C. P. & Berar-General) : Sir, I do not think the idea here is to redress the grievances of labour or of agriculture. I only want to know from Dr. Ambedkar whether—in entry 26, ‘Welfare of labour’—whether “labour” includes agriculturists and peasants or only industrial labours. As I have understood the term, ‘labour’ means industrial labour and not agricultural. If that is so, I wholeheartedly support Dr. Deshmukh’s amendment.

Sir, if you enact legislation for industrial labour, you cannot exclude agricultural labour. Therefore, peasants and farmers must be included either in entry 26 or in a separate entry as Dr. Deshmukh has suggested. The peasants are the backbone of the country. We cannot look after the welfare of only industrial labour which is vocal and whose grievances, could be heard and redressed by Government; we cannot certainly ignore the peasants who are not local and who are not well organised. I personally feel that this labour legislative should be in List I. I know that being in the Concurrent List, each Province will have its own legislation. At present Bombay has enacted legislation which is in conflict with that of U.P., and U.P.’s legislation is in conflict with that of Bengal. If there had been a central labour organisation, I am quite confident that the condition of labourers would have been different.

I, therefore, even go to the length of saying that labour legislation of all classes should be entered in List I : but if that is not possible, I certainly feel, Sir, that you cannot under any circumstances ignore that section of labour known as agricultural labour, the peasants, the farmers etc. You are particularly mentioning industrial labour and giving it a place in the Constitution. How will it be understood ? It will be understood that the House ignored

[Shri R. K. Sidhwa]

the peasants when they were giving a preference to industrial labour. Because labour can make tremendous noise and approach the Ministers and Government and get their grievances redressed, this has been done. It is most unfair. I therefore strongly support the amendment moved by Dr. Deshmukh, unless my friend Dr. Ambedkar is prepared to satisfy us that 'labour' includes agricultural labour also. If he by any means wants to convince the House that it does include agricultural labour, I am prepared to accept his wording, and oppose Dr. Deshmukh's, amendment.

Mr. Naziruddin Ahmad : Mr. Vice-President, I beg to support the amendment moved by Dr. Deshmukh. The cause of the peasants, farmers and agriculturists is going by default. So far as industrial labour is concerned, that is well cared for. In fact, they are the pampered children of the Government. But so far as agricultural labour are concerned and the peasants, farmers and agriculturists, they are being sacrificed at every step. There are the capitalists at the top, there is the labour at the bottom and the middle classes between the two are going to be squeezed out of existence. This entry, if accepted, will at least make it incumbent on the part of the Government to look into their case, to frame adequate legislation and to chalk out an administrative programme. I submit that this subject is highly important and an entry to this effect will cause no harm—it will draw attention of Government and of the Legislature to the need for focussing Government and public attention on this subject. So, from this point of view, this entry should be accepted.

Chaudhri Ranbir Singh : (East Punjab : General) : *[Mr. Vice-President, I support the amendment moved by Dr. Deshmukh. If you compare the present conditions of workers with those of the agriculturists you will find a glaring difference between the two. We are going to include in the Draft Constitution an exclusive clause relating to Labour, which lays down that if there be even twenty-five children having the same language, the State shall provide them with schooling facilities. But in contrast to this, no school or hospital facilities are provided for the children of millions of agriculturists. I have all sympathy for such brethren as have migrated from West Punjab or other regions. School and hospital amenities should be provided for them and their children. I am second to none here in supporting their cause. But it would be a pity if no facilities with regards to schools and hospitals are provided for the children of agriculturists. It is not a question of merely a single entry; rather, I say it is a question of life and death for the peasants. If this item is included in the list it will offer them some hope and consolation. Millions and millions of peasants of India are looking today to you. I mean, to the Members of this House with the expectation that the new Constitution would certainly contain some specific provision for their welfare and that when it comes into force they will be benefited. If you do not include in the Constitution any specific provision for their welfare, it will give them a very cruel disappointment, the extent of which, perhaps, you cannot imagine.

I, therefore, without taking any more time of the House, lend my wholehearted support to the amendment and hope that Members of the House who have to approach the electorates for the coming election will keep their future in view]*.

The Honourable Dr. B. R. Ambedkar : Sir, may I explain ? There seems to be a certain amount of confusion and misunderstanding about the entries in the List. With regard to my Friend Dr. Deshmukh's amendment, he wants welfare of peasants, farmers and agriculturists of all sorts. Well, I would like to have some kind of a clear conception of what these omnibus words, "agri-

*[Translation of Hindustani speech begins.

] * Translation of Hindustani speech ends.

culturists of all sorts” mean. Does he want that the State, should also undertake the welfare of zamindars who pay Rs. 5 lakhs as land revenue ?

Shri R. K. Sidhwa : You can drop those words.

The Honourable Dr. B. R. Ambedkar : It will also include malguzars. Before I accept any entry, I must have in my mind a clear and consistent idea as to what the words mean. The word “agriculturists” has no precise meaning. It may mean a track-renter. It may mean a person who is actually a cultivator. It may mean a person who has got two acres. It may also mean a person who has five thousand acres, or five lakhs acres.

Dr. P. S. Deshmukh : I am prepared to omit that particular expression.

The Honourable Dr. B. R. Ambedkar : That is one difficulty I find.

The second point is my Friend Dr. Deshmukh does not seem to pay much attention to the different entries and what they mean. So far as agriculture is concerned, we have got two specific entries in List II—No. 21 which is Agriculture and No. 24 which is Land. If he were to refer to these two entries he will find.

Dr. P. S. Deshmukh : What fallacious arguments are being advanced! For that matter, Labour welfare is a specific entry and yet you wanted separate provision for their vocational training ? Do not advance fallacious arguments.

The Honourable Dr. B. R. Ambedkar : It is not my business to answer questions relating to the faults of administrations. I am only explaining what the entries mean. As I said, we have already got two entries in List II. Entry 21 is there for Agriculture “including agricultural education and research, protection against pests and prevention of plant diseases”.

Dr. P. S. Deshmukh : Then why do you want “welfare of labour” ?

The Honourable Dr. B. R. Ambedkar : Why can’t you have some patience? I know my job. Do you mean to say I do not know my job ? I certainly know my job.

Dr. P. S. Deshmukh : I know your attitude also. Do not try to fool everybody!

The Honourable Dr. B. R. Ambedkar : There is already an entry which will empower any State to do any kind of welfare work not merely with regard to agriculture but with regard to agriculturists as well. In addition to that we have entry 24 where it is provided that laws may be made with regard to “rights in or over land, land tenures including the relation of landlord and tenant”. All the economic interests of the peasants can be dealt with under this entry. Therefore, so far as entries are concerned there is nothing that is wanting to enable the Provincial Governments to act in the matter of welfare of agricultural classes.

Then I come to the question raised by my Friend Mr. Sidhwa which, I think, is a very legitimate question. His question was what was the connotation of the word ‘labour’ and he asked me a very definite question whether ‘labour’ meant both industrial as well as agricultural labour. I think that was his question. My answer is emphatically that it includes both kinds of labour. The entry is not intended to limit itself to industrial labour. Any kind of welfare work relating to labour, whether the labour is industrial labour or agricultural labour, will be open to be undertaken either by the Centre or by the Province under entry 26.

Similarly, conditions of work, provident funds, employers’ liability workmen’s compensation, health insurance, including invalidity pensions—all these

[The Honourable Dr. B.R. Ambedkar]

matters—would be open to all sorts of labour, whether it is industrial labour or agricultural labour. Therefore, so far as this entry, No. 26, is concerned, it is in no sense limited to industrial labour and therefore the kind of amendment which has been proposed by my Friend Dr. Deshmukh is absolutely unnecessary, besides its being—what I might call—vague and indefinite, to which no legal connotation can be given.

Dr. P. S. Deshmukh : Is there no class of persons except agricultural labour in this country ? Has Dr. Ambedkar ever heard of a class called “farmers” and “peasants” ?

The Honourable Dr. B. R. Ambedkar : Their welfare will be attended to under entries 21 and 24 of the Provincial List, as I have already explained.

Mr. Vice-President : I now place amendment No. 250 (Dr. Deshmukh’s amendment) before the House.

The question is :

“That in amendment No. 133 of List I (Sixth Week), after the proposed new entry 26 A of List III, the following new entry be added:—

‘26-B. Welfare of peasants, farmers and agriculturists of all sorts.’ ”

The motion was negatived.

Dr. P. S. Deshmukh : Sir, I demand a division.

Mr. Vice-President : I shall ask Members to hold up their hands.

The Assembly divided by show of hands.

Ayes : 26

Noes : 42

The amendment was negatived.

Entry 27

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

“That for entry 27 of List III, the following entry be substituted:-

‘27. Employment and unemployment.’ ”

Mr. President : The question is:

“That for entry 27 of List III, the following entry be substituted :—

‘27. Employment and unemployment.’ ”

The amendment was adopted.

Entry 27, as amended, was added to the Concurrent List.

Entry 28

Mr. Vice-President : There are no amendments to entry 28.

Shri S. Nagappa : Before it is put to vote I want to say a few words.

Mr. Vice-President : The honourable Member will finish in three minutes.

Shri S. Nagappa : Mr. Vice-President, Sir, the term “trade union” denotes, as far as its currency goes, only those as regards industrial labour. The Honourable Dr. Ambedkar was kind enough to say that the word “labour” includes agricultural labour also. When this article was passed in this Constitution I gave an amendment that “labour” should mean also agricultural labour. He was kind enough to accept that and to say definitely that it would mean agricultural and other classes of workers.

Again, with regard to “labour disputes” there may be a dispute among the labourers themselves. My friends who have been good enough to vote for

agricultural labour now have misunderstood the position they do not draw a line or difference between agriculturist and agricultural labour. The agriculturist also does work hard. But for whom does he work? For himself. On the other hand agricultural labour labours for the sake of others. The agricultural labourer is a wage-earner, whereas the agriculturist labours for himself and acquires the property for himself. There is a difference between agriculturist and agricultural labourer which should be understood. Now, if my friends are reasonable and if they come forward and press this august Body to include a clause to defend that agricultural labour and to give it all sorts of privileges, I am one with them. Otherwise I cannot understand why the agriculturist should be given this sort of facility. After all agriculture, or land has been given by nature to all the children of the soil. But by their greediness and avocation somehow or other the agriculturists have grabbed it. Now they want still more facilities to be given to them. It is unjust and going out of the way to agree to it. I do not think the agriculturists require any such protection in this country. I do not think any agriculturist has a right over the land. "He has only the right to cultivate the land and pay land-revenue to the State.

Mr. Vice-President : I am afraid the honourable Member has exceeded the time-limit.

Shri S. Nagappa : This is an important thing. About 70 per cent of the population of this country are agricultural labourers.

Dr. P. S. Deshmukh : It has nothing to do with agricultural labour.

Shri S. Nagappa : It has everything to do with agricultural labour. If you organise them into a union they will get the right to claim Government support and the Government will be bound to give it. So far as the agricultural labourer is concerned, it is not easy to organise it. Almost all agricultural labourers are illiterate and ignorant people. I think it is the duty of the future Government to come forward and do what is necessary for these people. I hope the Government in future will be composed of these very people under the system of adult suffrage. They will be the right royal owners and wield power hereafter. But I think it will be the duty of every sane, just and benign Government to see that these people are given their just rights.

Mr. Vice-President : I will now put the question.

The Honourable Dr. B.R. Ambedkar : I want to say a word. The words "trade union" with regard to welfare of labour have a very wide connotation and may include trade unions not only of industrial organisations but may also include trade unions of agricultural labour. That being so, I am rather doubtful whether by introducing the word 'industrial' here, we are not trying to limit the scope and meaning of the term 'trade union'. But I am not moving any amendment. I would like to reserve an opportunity to the Drafting Committee to examine the term and to consider this. I want the entry to stand as it is now. I have expressed my doubt that in view of the wide connotation of 'trade union', a part of the entry may require amendment.

Mr. Vice-President : Subject to what Dr. Ambedkar says, I put entry 28 to vote. The question is :

"That entry 28 stand part of List III."

The motion was adopted.

Entry 28 was added to the Concurrent List.

New Entry 28-A

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

"That after entry 28 of List III, the following new entry be inserted:—

'28-A. Commercial and industrial monopolies, combines and trusts.'

Dr. P. S. Deshmukh : I am not moving my amendment.

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

‘That after entry 28 of List III, the following entry be inserted:—

‘28-A. Commercial and industrial monopolies, combines and trusts.’ ”

The motion was adopted.

Entry 8 A was added to the Concurrent List.

Entry 29

Mr. Vice-President : As there is no amendment to entry 29, I will put it to vote.

Entry 29 was added to the Concurrent List.

Dr. P. S. Deshmukh : Sir, a part of this amendment of mine was very kindly accepted yesterday. But; so far as the wording is concerned, we have yet to decide it. When we were discussing the State List, it was decided that we should transfer ‘adulteration of food’ to List III and therefore it would probably be relevant if we take up the wording of this entry at this stage. At the same time I would like that the first amendment of mine should also be accepted.

The Honourable Dr. B. R. Ambedkar : May I draw attention to the fact that the introduction of entry 29A has already been covered by entry 61A in List I which has been passed by the House in much wider terms ? The words used are “goods” which will include agricultural products, etc. Similarly 29B was accepted yesterday on the motion of Mr. Maitra and it is now entry 20A in List III.

Dr. P. S. Deshmukh : I accept the first part of my friend’s suggestion. I do not move for adding 29A. But I am not clear whether it is the mere transposition of the entry as it stood in List II that is proposed ?

The Honourable Dr. B. R. Ambedkar : It is transferred to Concurrent List as 20A. That was the motion passed by the House.

Dr. P. S. Deshmukh : Would it not be better to enlarge its scope ?

The Honourable Dr. B.R. Ambedkar : ‘Adulteration of food’ includes everything, I think.

Dr. P. S. Deshmukh : If that is so, I do not move this amendment.

Mr. Vice-President : Then I will put entries 30 and 31 to vote.

Entries 30 and 31 were added to the Concurrent List.

New Entry 31-A

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

“That after entry 31, the following new entry be inserted:—

‘31-A. Ports, subject to the provisions of List I with respect to major ports.’ ”

Mr. Vice-President : The question is:

“That after entry 31, the following new entry be inserted:—

‘31-A. Ports, subject to the provisions of List I with respect to major ports.’ ”

The motion was adopted.
Entry-31-A was added to the Concurrent List.

Entry 32

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

“That entry 32 of list III be deleted.”

This has been transferred to List I.

Mr. Vice-President : The question is:

“That entry 32 be deleted.”

The motion was adopted.
Entry 32 was deleted from the Concurrent List.

Entry 33

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

“That entry 33 of List III be deleted.”

As I said, this also has been transferred to List I.

Mr. Vice-President : The question is:

“That entry 33 be deleted.”

The motion was adopted.
Entry 33 was deleted from the Concurrent List.

Entries 33 A. and 33 B

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

“That after entry 33 of List III, the following new entries be inserted:—

‘33A. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee Property.

33B Relief and rehabilitation of persons displaced from their original place of, residence by reason of the setting up of the Dominions of India and Pakistan.”

(Amendment No. 296 was not moved.)

Mr. Vice-President : The question is:

“That after entry 33 of List III, the following new entries be inserted:—

‘ 33A. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.

33B Relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan’.”

The motion was adopted.
Entries 33 A. and 33 B. were added to the Concurrent List.

Entry 34

Shri Brajeshwar Prasad : There is an amendment to this. After that amendment is moved, I would like to speak on this entry, Sir.

Shrimati Purnima Banerjee (United Provinces: General) : Sir, I move:

“That for entry 34 of List III, the following be substituted :—

‘34- Economic, educational and social planning.’ ”

[Shrimati Purnima Banerjee]

The reason why I have added the word “educational” is that, I think, most Members of this House would agree with me that social planning is something quite separate from educational planning and does not include the connotation of educational planning. Social planning means Planning for society which may change the structure of society upon a completely different basis. It really relates to economic planning. I therefore hope that the Drafting Committee, particularly Dr. Ambedkar, will see the difficulty which I find. Under the Union List, the Centre has taken powers to lay down standards of education. By entry 40 it has taken upon itself the task of running important educational institutions. By entry 40 A. they are going to take over scientific and technical institutions. Under 88 A. they are taking over co-ordination and maintenance of educational standards in institutions for higher education. If all these the Union seeks to do, I am certain that the Union should also have powers for educational planning all over the provinces.

While discussing the Union List, some friends went to the extent of saying that university education should be entirely a Union subject. I do not agree with them to that extent, but I do think that the Centre should plan education for all the provinces, and because I feel that economic and social planning does not include educational planning specifically, I seek to move my amendment. I, therefore, suggest that either the word “educational” should be included in this entry, or educational planning should be provided for in a separate entry, whichever may be found convenient by Dr. Ambedkar. I hope Dr. Ambedkar will see our difficulty and tell us whether he does not agree that social and economic planning have got a particular meaning and actually educational planning does not form a major part of it even though it may be a minor part, of it, or whether he considers that under this entry the Union has got power to plan education throughout the country.

Shri Brajeshwar Prasad : Mr. Vice-President, Sir, I rise to support the amendment moved by my sister, Shrimati Purnima Banerjee. It is only in the sphere of higher education that the Centre has been vested with the power of planning. This amendment purports to vest the Government of India with the power of planning in the sphere of education without any restriction or reservation. This power must be vested in the hands of the Centre if our nation is to advance rapidly. It ought to be the duty of the Centre to see that wrong type of education is not instilled in the minds of the young in the primary and secondary stages of education. The impressions of this period of primary and secondary education are not likely to be erased from the minds of the young, whatever we may do in the university stage to wipe out the impressions of the wrong type of education imparted during the primary and secondary stages of education. There is a real danger that provincial governments imbued with the spirit of provincialism may be tempted to poison the minds of the young. If an all-India outlook is to be developed, educational planning must be placed in the Concurrent List so that the Centre may have the power to plan our education on a sound and secular basis.

Sir, there is another aspect of the question to which I would like to draw the attention of the House. Entry 34 reads thus:

“Economic and Social planning.”

What about political planning ?

Some Honourable Members : It will be too disastrous.

The Honourable Dr. B. R. Ambedkar : It can be done by way of amendment of the Constitution.

Shri Brajeshwar Prasad : Let me continue. There is need for political planning as well. Plato in his Republic advocated a rigid system of discipline

and training for philosopher Kings. We must also produce rulers and administrators. There is dearth of leadership in the country. An attempt was made in Nazi Germany to train rulers and administrators on a planned basis. A similar attempt should be made in this country also. Public Service Commission examinations are not enough.

An Honourable Member : Do you want Nazism here ?

Shri Brajeshwar Prasad : It is easy to label ideas. Ideas should not be labelled. Labels and Trade marks are meant for Post Offices and Government Departments.

There should be a similar attempt at planning in all the spheres of our political life. Our foreign policy must be planned. I am glad that my honourable Friend, Mr. Keshkar, is present here today. The distant and immediate, goals must be laid down in clear and explicit terms. There is need for the establishment of an Institute for the study of geopolitics in this country. The whole gamut of our political life must be systematically and scientifically planned. Political planning is as essential as economic and social planning. Every step taken in the political sphere must be on a planned basis.

Shri Rohini Kumar Chaudhury (Assam: General)* : Sir, it seems to me to be an age since I spoke last. It is not that my tongue does not reach so long, but I loathe to speak in this House lest I impede the progress of the work here, but today the heart-throbbing speech of my honourable Friend Shrimati Purnima Banerjee has aroused me from my slumbers. I come here not to appreciate the speech of my honourable Friend Shrimati Purnima Banerjee but to oppose it with all the might that I possess. Sir, we have come nearly to the end of these Lists, I, II and III and what do we find ? What we find is that the position of the States are no longer States or Provinces, but they have been reduced to the position of municipal and other local bodies. All the powers have been taken away either in List I or List No. 3. It reminds me of the words in the Upanishad:

पूर्णस्य पूर्णमादाय पूर्णमेवावशिष्यते ॥
Poornasya Poornamadaya Poornamevavashishyate

After having taken out everything the same fullness remains : it is as if it is a full Moon; We are taking slices of the full Moon and yet the full Moon still continues as before. That is the position to which we have arrived after going through all these lists. No power is left to the Provinces and the full Moon remains a full Moon as before.

Sir, I would draw the attention of the House to an amendment which was proposed or was tabled-by my honourable Friend, Mr. Santhanam, amendment No. 3668 in which he rightly tries to delete this entry 34 altogether. It would have been much better to have dropped this entry 34 altogether. What do you mean by economic and social planning? The economic and social planning of a province or State must be left entirely to the legislature itself. Whenever there is any conflict between List II and III, the legislation which is proposed by the Centre will prevail. In that case by admitting this entry, are you not exposing the State to an interference by legislation passed by the Centre in the ordinary normal working of the State in the matter of social and economic planning? What do you mean by social and economic Planning. All the subjects which have been mentioned in List II in one way or the other lead to economic planning and the result of having economic planning in List II and to have another entry here in order to give jurisdiction to the Centre to

*Speech not corrected by the Honourable Member.

[Shri Rohini Kumar Chaudhury]

interfere with such economic planning, is I think most unwise. And it is still more unwise on the part of my honourable Friend, Shrimati Purnima Banerjee to limit the powers of the State by adding the word “educational”. ‘Education’ has been rightly left in the hands of the State. Why should the Centre in any way interfere with educational facilities ? It should in the opinion of the States be given to the provinces. You want to put in “educational facilities” here, but why not put “health facilities” also ? Why do you want to lay stress on education ? If you agree to the amendment moved by Shrimati Purnima Banerjee, I ask, why not put health facilities also which is more important than education ? If the object of Shrimati Purnima Banerjee is to draw pointed attention of the House to educational facilities, then why should she not think of health before education ? After all, health is more important than education. Then another Member who is absolutely enamoured of artistic subjects might say that art facilities also might be put in. You can go on increasing one facility after another and take away as far as possible the powers which have been given to the State. That is the object of Shrimati Purnima Banerjee and that object should be strongly disapproved of by this House and I would submit if it is possible even at this late stage the House would do well to delete entry 34 altogether.

The Honourable Dr. B. R. Ambedkar : Sir, I am very sorry but I cannot accept this amendment moved by Shrimati Purnima Banerjee. The introduction of the word “education” seems to me to be, quite unnecessary. The word “social” is quite big enough to include anything that relates to society as a whole except, of course, religious planning, and a contradiction would be only between ‘social’ and ‘religious’. What the State would not be entitled to plan would be ‘religion’; everything else would be open to the State.

With regard to the observations of my honourable Friend Shri Rohini Kumar Chaudhuri, I think he will realize that this entry finds a place in the Concurrent List and the State also would have the freedom to do its own planning in its own way. It is only when the Centre begins to have a plan and if that plan conflicts with the plan prepared by the State that the plan prepared by the State will have to give way and this is in no sense an encroachment upon the planning power of the State and therefore, this entry, I submit, should stand in the language in which it stands now.

Mr. Vice-President : The question is :

“That for entry 34 of List III, the following be substituted:-

‘34. Economic, educational and social planning’.”

The amendment was negatived.

Mr. Vice-President : The question is:

“That entry 34 stand part of List, III.”

The motion was adopted.

Entry 34 was added to the Concurrent List.

Entry 34-A

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

“That after entry 34 of List III, the following new entry be inserted:—

‘34A. Archaeological sites and remains.’ ”

This would be Concurrent.

Mr. Vice-President : The question is:

“That after entry 34 of List III, the following new entry be inserted:—

‘34A. Archaeological sites and remains.’ ”

The motion was adopted.

Entry 34A. was added to the Concurrent List.

(At this stage Mr. Vice-President vacated the Chair which was taken by Mr. President.)

Entry 35

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

“That for entry 35 of List III, the following entry be substituted:—

‘35. The principles on which compensation for property acquired or requisitioned for the purposes of the Union or of a State or for any other public purpose is to be determined and the form and the manner in which such compensation is to be given.’ ”

Mr. President : There is no amendment to this.

The question is :

“That for entry 35 of List III, the following entry be substituted:

‘35. The principles on which compensation for property acquired or requisitioned for the purposes of the Union or of a State or for any other public purpose is to be determined and the form and the manner in which such compensation is to be given.’ ”

The amendment was adopted.

Entry 35, as amended was added to the concurrent List.

Entry 35-A

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

“That after entry 35 of List III, the following new entry be inserted:

‘35A. Trade and commerce in, and the production, supply and distribution of the products of industries where the control of such industries by the Union is declared by Parliament by law to be expedient in the public interest.’ ”

(Amendment No. 331 was not moved.)

Mr. President : The question is :

“That after entry 35 of List III, the following entry be inserted:

‘35 A. Trade and commerce in, and the production, supply and distribution of the products of industries where the control of such in’ ”

The motion was adopted.

Entry 35A. was added to the Concurrent List.

Entry 36

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

“That for entry 36 of List III, the following entry be substituted:—

‘36. Industries and statistics for the purposes of any of the matters specified in List or List III.’

Mr. President : There is no amendment.

[Mr. President]

The question is:

“That for entry 36 of List III, the following entry be substituted:—

‘36. Industries and statistics for the purposes of any of the matters specified in List II or List III.’ ”

The amendment was adopted.

Entry 36, as amended, was added to the Concurrent List.

New Entry

Mr. President : There is a new entry proposed by Pandit Govind Ballabh Pant.

(Amendment No. 144 was not moved.)

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

“That the following new entry be added in List III:—

“Protection of children and youth from exploitation and abandonment, *vide* article of (vi).’ ”

Sir, I had moved similar amendments on two occasions.....

The Honourable Dr. B. R. Ambedkar : This amendment was considered along with other amendments and I gave a reply telling my friend that this matter will be considered by the Drafting Committee. He was then agreeable.

Dr. P. S. Deshmukh : My only submission is that the wording may be altered as the Drafting Committee may decide but provisionally the entry may be accepted as proposed by me. It should not merely be left to be considered by the Drafting Committee. Any wording that may be suitable may be put in; but there should be an entry which refers to the protection of children and youth from exploitation and abandonment. I hope Dr. Ambedkar will kindly accept this.

The Honourable Dr. B. R. Ambedkar : I have told my friend that if I find that the purpose which he has in mind is not covered by any of the other entries, I will do my best to introduce some such entry. I have given him that assurance.

Dr. P. S. Deshmukh : This is a question to which I and at least some Members of the House attach very considerable importance. It is only a quarter past eleven now and we have got a lot of time. If the learned Doctor would take half an hour, there could even be a recess for half an hour and we can meet again, and he can say definitely whether there is need of such entry or not. We have been discussing various entries. We have an entry for labour welfare. Still we have put in an entry for vocational training for labour. If in this case, Dr. Ambedkar came to the conclusion that in spite of the entry “Labour Welfare” being there, it was necessary specifically to provide for the vocational and technical training, of the same class of persons by an independent entry. I cannot understand why he should resort to far-fetched interpretation so far as children’s care is concerned. I hope, Sir, no damage will be done if we have an entry like the one I have proposed in the case of children.

The Honourable Dr. B. R. Ambedkar : I will give my best consideration to the matter. I am in entire sympathy with its object. What more can I say?

Dr. P. S. Deshmukh : I must content myself with this assurance. I hope ultimately an entry to this effect will be introduced.

Mr. President : There are certain other amendments. Dr. Deshmukh. No. 252.

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

“That in List III, the following new entries be added:—

(i) Regulation, control and maintenance of public houses;

or alternatively

‘Regulation and control of prostitution and regulation, control and maintenance of public houses.’ ”

Either of these two may be accepted. I do not wish to take the time of the House.....

Shri R. K. Sidhwa : I might mention, Sir, that even the provincial Governments have the power to do these things.

Dr. P. S. Deshmukh : I would like to refer to the speech delivered by my honourable Friend Mr. Brajeshwar Prasad where it was pointed out that there was no specific power with the municipalities because the provinces have not enacted any law of this sort. For the sake of uniformity, and also if any State really wants to prohibit or abolish prostitution, that sort of question would not be covered by leaving it only to the interpretation of other entries. Therefore, I would suggest to Dr. Ambedkar to accept this for inclusion. If he does not, I would not like to press this too strongly.

But, the next amendment I want to press as I attach considerable importance to it.

“That in List III, the following new entry be added:—

‘Establishment, and maintenance of National Farms and Parks.’ ”

There is a mis-print here; it should be ‘parks’ instead of ‘farms’ where it occurs for the second time. It may be said here also that this is a sort of inherent power which can be utilised under this or that entry. I think we are coming to a stage where we attach more and more importance to nationalisation of various things. There is ample waste land which could be taken over and which could be utilised for co-operative farms, for national farms and parks. National parks are now regarded as a necessity, not only for the sake of providing some healthy place for recreation and for other purposes, but it has several agricultural utilities also. Not only so far as farms are concerned, but parks also where we can teach the general public and the agriculturists how to stop erosion and other things. All these things are necessities in our modern life. If we go to America or other civilised countries, we will find that there are extensive farms not only maintained by the State, but maintained by the Federal Government also and they are well looked after. I think a specific mention of this sort would not be in any way harmful and it would be desirable that this entry should be accepted.

Shri Mahavir Tyagi (United Provinces: General) : May I know if the honourable Member by controlling this wants to bring into existence some permit system?

Dr. P. S. Deshmukh : No, Sir.

Shri Mahavir Tyagi : He says control and regulation of prostitution. I have heard of food control and house control by permits. Is it the meaning of this that permits will be issued by the Government?

Dr. P. S. Deshmukh : Yes, Sir. That is the intention. There are licensed public houses where doctors periodically visit, by which alone the evil of venereal diseases can be controlled. This is not a novel thing; this has been done

[Dr. P. S. Deshmukh]

already in many countries. If prostitution has to be there, it is necessary that it should be under State control. There should be medical examination and there should be licensing of these houses so that the evil does not spread throughout the country and extend to almost every house or to every section of society. By controlling and licensing it is intended not to allow it to expand and spread to others. I think my friend had not had the opportunity of going to France, otherwise he would have been much wiser than he appears to be.

Shri Mahavir Tyagi : I must congratulate you for your experience!

Shri Brajeshwar Prasad : Mr. President, Sir, I feel that the gravity of the situation has not been realised. As one who had to do with books but having no practical experience of France or other countries, I am in a position to say that it is such a vital thing of national concern that the Government of India must do something in this matter if the youth of the country is to be protected from moral abandonment. My Friend Shri Deshmukh spoke in the vein that probably it can be abolished or abrogated altogether. I do not agree with him on that point. Prostitution is a very old institution—as old as the hills and it cannot be abolished. The roots of this institution lie deep in our human nature. The only thing that we can do is to regulate it. The idea that there should be licenses is a perfectly scientific one and if the youth of the country is to be protected, we cannot depend upon Provincial Governments alone. I had an occasion to table a resolution similar to what Shri Deshmukh has tabled today in this House, while I was a member of the Gaya Municipality in 1938. It was ruled out of order by the President of the Board on the ground that the matter did not lie within the jurisdiction of the Municipality, and that it was a matter which required specific law empowering the Municipality by the Provincial Government.

An Honourable Member : Does the honourable Member suggest that all licenses will be issued from Delhi?

Shri Brajeshwar Prasad : When we are placing this power in the Concurrent List, it means the Centre has power to plan, regulate and see that the Provincial Government act accordingly and if the Provincial Governments fail then the Centre steps in. The Provincial Governments have not done much in this direction. Therefore the Centre must take the responsibility on its shoulders.

Shri R. K. Sidhwa : Mr. President, I was rather surprised at the attitude of Shri Brajeshwar Prasad. He says this institution is centuries old and it cannot be abolished. Prostitution in India is a disgrace and shame to us and it is regrettable that Shri Brajeshwar Prasad should advocate its continuance. I am sorry that the Provincial Governments, despite the powers that are vested in them, have not yet abolished prostitution. I know in some Provincial Governments; they have enacted acts. If the other provinces have not done, it is their fault. To say that the prostitution should be allowed on licenses is also bad. Licences are issued even today but that is not the point. It is a disgrace and shame to society that this kind of thing should be allowed to continue, I would say that the Provincial Governments must take immediate steps and I support the amendment of Dr. Deshmukh. I, however, say there is no justification for this amendment because the powers are today vested with Provincial Governments; but if Dr. Ambedkar feels there is no power, then certainly I will support it because it is an entry which really goes to improve the morality of a class of people. It is not that that class wants it but under certain circumstances this institution has remained in existence and it is high time that this is abolished and should not be encouraged. I know some provincial Governments have taken steps and some class of prostitutes have come to Government saying that they had been living on this and have been deprived of their

livelihood. Even today I learnt that in Pakistan the Government are contemplating abolishing prostitution and I know under what conditions and in what places in the heart of the city this trade exists.

Shri Brajeshwar Prasad : Probably he is not aware of the scientific ideas on this subject. If you abolish, the whole thing will go underground.

Shri R. K. Sidhwa : My Friend may understand the scientific methods. He is welcome to it. I know what he talks—about venereal diseases etc. My point is that this thing should be stopped. It is a disgrace and shame. I, therefore, state that if the powers are not complete—if Dr. Ambedkar says that—then I support this amendment. Otherwise I know the Provincial Governments do possess this power as I know there are Acts actually enacted in some of the provinces.

Seth Govind Das : (C. P. & Berar: General) : *[Sir, the speech delivered by Shri Brajeshwar Prasad has been to me one of the most surprising events in my life. At a time when we are directing our efforts to raise the moral standard of society and want to create a new social order based on morality, I am surprised to find that there are even now persons amongst us who want to retain the institution of prostitutes. We, who have worked under the leadership of Mahatma Gandhi for the last thirty years, had formed new ideas about the standard of morality and had expected that under the new Constitution to be framed after independence, we would try to create a new moral order in which such institutions as prostitutes, bars and gambling would become extinct. But I am surprised to find that even today there are persons amongst us who favour the retention of these institutions. I would like to request Dr. Ambedkar to ensure that whatever items we pass here shall be such as are rooted in morality and therefore possess survival value. He should also see to it that the new social order which we are going to create may serve as a model not only to us but to the whole of the world.]*

Shri Brajeshwar Prasad : On a point of personal explanation.

Mr. President : It is not, necessary. We all understand what you said Everybody has put his own interpretation on that.

Mr. Naziruddin Ahmad : Sir, . . .

An Honourable Member : Closure.

Mr. President : I have already called Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : One speaker has just now given out that prostitution should be entirely prohibited. With regard to the point of sentiment behind it, not only my humble self but the whole House will agree; but the question is, is it practical and is it desirable ?

The Honourable Dr. B. R. Ambedkar : Is this a question which we need debate ? The only question is whether there is power with the State or with the Centre or should it be Concurrent. How the power is to be exercised whether to permit partially or prohibit completely is a matter for each Legislature, which we must leave to the legislature.

Mr. Naziruddin Ahmad : My submission is that it is relevant. The amendment provides for “regulation and control of prostitution.” One honourable Member says you must entirely stop prostitution and regulation and control are undesirable. I submit this is neither undesirable nor impracticable. You cannot stop prostitution. You can only regulate and control. You cannot prohibit and if you do it, you close a safety valve for society. The objection is

*[Translation of Hindustani Speech begins.

] * Translation of Hindustani Speech ends.

[Mr. Naziruddin Ahmad]

due to impractical idealism. I suggest that there is nothing inherently or practically wrong in the amendment. That was the reason why I spoke..

Shri V. I. Muniswamy Pillay (Madras: General) : I wish to speak, Sir.

Mr. President : Closure has been moved. The question is:

“That the question be now put.”

The motion was adopted.

The Honourable Dr. B. R. Ambedkar : Sir, there is enough power given to the State under these entries to regulate these matters, namely, either for dealing with public houses or having some large-scale farming. If my Friend, Dr. Deshmukh were to refer to List II, entry 1, which deals with public order, and entry 4 which deals with police and the Concurrent entry which deals with criminal law, he will find that there is more than enough power given to regulate these matters. If he were to refer to entry 24 dealing with land, entry 21 dealing with agriculture in the State List, he will find that there is more than enough power in the States to have State farms or whatever they like.

Therefore, the only question that remains is this, whether this subject relating to the creation of farms and the regulation of public houses should be in the Concurrent List. In my judgment, the criterion to decide whether this matter should be in the Concurrent List or in the State List is whether these matters are of all-India concern or of purely local concern. In my judgment prostitution, the regulation of public houses, and creation of farms are matters of local concern and it is therefore better to leave them to be dealt with by the States. They have got more than enough power for that. I do not know how the Centre can do the job. The Centre has not got any agricultural land. If the Centre wants to establish a farm, the Centre has to acquire the property from the farmers. The same thing could be done by the State. I do not see what purpose would be served by having these entries in the Concurrent List; and it must also be remembered that our States which we call States are far bigger than many States in Europe.

Shrimati G. Durgabai : Will Dr. Ambedkar make one point clear ? The entry speaks of regulation or prohibition of prostitution. I do not understand the meaning of “regulation” here, and I think it should be complete prohibition.

The Honourable Dr. B. R. Ambedkar : The States can regulate them and also prohibit them. The States can do it.

Mr. President : Then I put the amendments. The question is:

“That in List III, the following new entries be added :—

- (i) Regulation, control and maintenance of public houses.”

The amendment was negatived.

Mr. President : Then I put the second new entry—

- “(ii) Regulation and control of prostitution and regulation, control and maintenance of public houses.”

The amendment was negatived.

Mr. President : Then I put the third new entry—

- “(iii) Establishment, maintenance of National Park and Farms.”

The amendment was negatived.

Mr. President : Next is amendment No. 253 of Sardar Hukam Singh.

(Amendment Nos. 253 and 325 were not moved.)

These are all the new entries of which I have notice, and so we complete ‘the Third List.

New Entry 88-A

Mr. President : The House will remember that a question of order was raised with regard to an entry, and we had to pass over it, the other day. The question has been raised whether an entry in List I of Schedule VII to the following effect is in order, namely,

“88-A. Taxes on newspapers including advertisements published therein.”

It has been argued that this entry, being inconsistent with article 13 which lays down that all citizens shall have the right to freedom of speech and expression, is out of order. It is argued that the only limitation to this fundamental right is the one laid down in clause (2) of article 13 and the proposed entry not coming under that is out of order. Reliance has been placed in support of this view on a decision of the Supreme Court of the United States in *Alice Lee Grosjean V. American Press Company*, which laid down that an Act of the Legislature of Louisiana levying a licence tax of 2 per cent. of the gross receipts of revenues obtained by newspapers, magazines and periodical publications having a circulation of more than 20,000 copies per week was invalid as violating the Federal Constitution, and abridging the freedom of the press. The question which I have to decide is whether an entry in Schedule VII, List I or for that matter in any of the lists of the nature mentioned above is in order, I am not concerned with the question as to whether a particular legislation based on that entry is *ultra vires* as violating the rights given in section 13. That will be a matter for courts to decide. The entry proposed only gives the right to the Union Legislature to impose a tax on newspapers including advertisements published therein. Article 13 does not lay down anywhere that newspapers including advertisements published therein shall not be taxed. The entry therefore, appears to be not inconsistent with article 13. Provision for taxation has to be considered independently and on its own merit apart from the question of the fundamental right to speech and expression. Even the decision of the Supreme Court of the United States on which reliance has been placed does not exclude all taxation. It expressly lays down “It is not intended by anything we have, said to suggest that the owners of newspapers are immune from any of the ordinary forms of taxation for support of the Government. But this is not an ordinary form of tax but one single in kind with a long history of hostile misuse against the freedom of the press”. Further the judgment says—“The tax here involved is bad not because it takes money from the pockets of the appellants. If that were all a wholly different question would be presented. It is bad because in the light of its history and of its present setting, it is seen to be a deliberate and calculated device in the guise of a tax to limit the circulation of information to which the public is entitled in virtue of the constitutional guarantees”. The particular tax was levied on papers having a circulation of more than 20,000 copies per week. There was a competition between such papers and others having a smaller circulation, and the judges held that this discrimination against newspapers having circulation of more than 20,000 operated as restraint in a double sense. First its effect was to curtail the amount of revenue and second its direct tendency was to restrict circulation. It will be a question in any particular case, if it arises to be decided, whether a particular tax operates as a curtailment of the right of freedom of speech and expression and it cannot be laid down that there can be no tax on newspapers or advertisements published therein. The entry as proposed is therefore in order.

We shall take up that entry now.

Shri Deshbandhu Gupta (Delhi) : Sir, in view of the fact that the matter is now under the consideration of the Drafting Committee, I request it may taken up later.

The Honourable Dr. B. R. Ambedkar : I am prepared to accept the amendment moved by the 58 gentlemen.

Shri Mahavir Tyagi : May I inform you, Sir, that a large section of the House would like the deletion of the entry and so you might kindly agree to hold over the item for further consideration of the Drafting Committee?

The Honourable Dr. B. R. Ambedkar : Sir, if the mover of this amendment cares to move it, I am prepared to accept it.

Shri Ramnath Goenka (Madras: General) : Sir, the other day, you requested Dr. Ambedkar to be ready with his alternative proposal.

The Honourable Dr. B. R. Ambedkar : He did not say anything of that kind.

Shri Ramnath Goenka : This item will take some time, Sir.

The Honourable Dr. B. R. Ambedkar : Sir, the amendment is here.

Shri Ramnath Goenka : What I suggest is that we could got in touch with the Drafting Committee and come to a formula acceptable to all.

The Honourable Dr. B. R. Ambedkar : This is a formula which you have proposed.

Shri Ramnath Goenka : We will have the benefit of consultation with you.

The Honourable Dr. B. R. Ambedkar : Sir, I am prepared to accept entry 88-A if they move it.

Shri S. Nagappa : It has been moved.

The Honourable Dr. B. R. Ambedkar : It has not been moved yet. That was entry 88-A. in List I—not in the State List. Objection was taken that it was not in order and it was not moved. Therefore, if Mr. Goenka wishes to move it.....

Shri Deshbandhu Gupta : Sir, I formally move that the matter be held over.

The Honourable Dr. B. R. Ambedkar : Why ? We tried to finish the whole list. That is why we hurried up not allowing many Members to speak to the extent they used to. Now that we have got a clear-cut amendment signed by many people I do not see why it should be held over.

Shri Deshbandhu Gupta : It is not in a clear-cut form as Dr. Ambedkar himself saw something objectionable in the draft and was prepared to help us with a better draft.

Mr. President : As I understood Dr. Ambedkar the other day, the only question was whether it should be in List I or List II. He said the question of policy had to be decided.

The Honourable Dr. B. R. Ambedkar : If you want to put it in List I, I am prepared to accept it.

Mr. President : So far, as the particular place where this entry will go that is to be left to the Drafting Committee.

The Honourable Dr. B. R. Ambedkar : The whole trouble is this. This entry was originally in List II. Their objection was that it should not be in List II but it should be in this form in List I. I am prepared to accept that if they want it.

Shri V. I. Muniswamy Pillay : Sir, may I move the amendment? I beg to move:

“That with reference to amendments Nos. 3582 and 3588 of the List of Amendments after entry 88 of List I, the following new entry be inserted:—

88 A. Taxes on newspapers including advertisements published therein.”

I do not think many words are required from me on this amendment since my honourable Friend Mr. Goenka has made the whole position clear. Sir, I move.

Shri Deshbandhu Gupta.: Sir, on a point of information, may I inquire as to That will happen to entry No. 58 in the second List which was held over yesterday ?

Mr. President : It would go.

Shri Deshbandhu Gupta : It was held over yesterday because these two go together.

Mr. President : It was held over because there was an amendment which wanted to transfer this to List II. If it is passed in List I then that amendment will be out of order.

Shri Deshbandhu Gupta : There are two amendments. There is one that this may be transferred to List I and there is another defining the scope of entry 58. The amendment was held over yesterday because this matter was not before the House at that time. They must go together.

The Honourable Dr. B. R. Ambedkar : I am not bound to accept it. They do not go together. I refuse to accept that.

Mr. President : There was an amendment, No. 122, consideration of which was held over because of this amendment. If the amendment which has been just moved is accepted then in that case amendment No. 122 becomes out of order, and the only proposition before the House will be Dr. Ambedkar's proposition namely amendment No. 121.

Shri Ramnath Goenka : Will there not be a consequential amendment in List II ? In the State List certain powers are given to the State for taxes on sale as well as on advertisement. If this is transferred to List I, then the consequential amendment of which we have given notice....

Mr. President : The notice is that it be included in List I. If it is taken in List I then it goes out.

Shri Ramnath Goenka : But the exception will have to be provided for in List II in the entry; sale of goods excepting newspapers.

Mr. President : It is not necessary.

The Honourable Dr. B. R. Ambedkar : It is not a consequential amendment at all. Both the amendments are quite independent. One amendment is that the entry should be expanded by the addition of a new entry to be called 88-A. Then there is another amendment which is amendment to my amendment to entry 58 in List II dealing with sales tax. That amendment says that the word “goods” should be so qualified as to exclude newspapers. That will be dealt with on its own merits. The immediate question we have to deal with is whether List I is to be expanded by the addition of entry 88-A in terms as moved here.

Shri Ramnath Goenka : The position is this. We have proposed an entry in List I that taxes on newspapers including advertisements therein, should be transferred to List I and that the Provinces should not have the authority to levy any taxes on newspapers. Therefore the amendment No. 57 is a consequential amendment to the amendment No. 122 in entry 58 in List II. So

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both these amendments will have to be taken together. Yesterday when this question of entry 58 in List II came before us, you put it off until you gave a ruling and said a decision could be taken to other on these entries.

The Honourable Dr. B. R. Ambedkar : Take them one by one. Let both the amendments be put one after the other.

Shri Ramnath Goenka : May I suggest, Sir, that we put entry 58 in List II first and then 88-A ?

The Honourable Dr. B. R. Ambedkar : You can have it in any way you like, but I want to tell you that voting in a particular manner on the second amendment would be inconsistent with voting on the first in another manner. It will be open to the House to accept the one and reject the other.

Shri Ramnath Goenka : I would like to have your ruling on this matter. If you transfer the taxes on newspapers to List I then it cannot have any place in List II also. If it has a place in List I then it necessarily goes out from List II.

The Honourable Dr. B. R. Ambedkar : It will go out of List II only so far as taxes are concerned. But so far as the sale of goods is concerned it would remain. You want to get that out also ? Your object, if I understand, is twofold, namely, that the newspapers should not be liable to any duty and should not be liable to any tax under the Sales Tax Act also. I am not prepared to give you both the advantages, to be quite frank.

Shri Ramnath Goenka : May I request you, Sir, to hold this matter over till Monday morning so that we can put our heads together and come to you, because whatever the interpretation, what is said, is the object of our amendment. If that object is not carried we will have to put in other amendments. But that is our intention. We are only laymen and we will be guided by Dr. Ambedkar. The entire taxation should be taken away from the Provinces to the Centre. If that purpose is not being carried out I am afraid some other amendment will have to be moved which will have the effect of carrying out our intentions. These are our intentions.

Mr. President : Dr. Ambedkar, will you object if the matter is held over ?

The Honourable Dr. B. R. Ambedkar : I will be quite frank about it. I have a mandate to accept entry 88 A. I am prepared to follow that mandate and accept entry 88A. I have no such mandate with regard to the other thing (amendment No. 122). I am sure that it will be difficult to accept it. To have a complete exemption from any kind of taxation on newspapers is to me an impossible proposition.

Shri Ramnath Goenka : It is not so. I want taxation to be left to the Centre and not the Provinces. If I may tell Dr. Ambedkar, the mandate was that it should be taken away from the Provinces.

The Honourable Dr. B. R. Ambedkar : You are not to interpret the mandate for me. I know what it is. It is quite clear to me.

Shri Ramnath Goenka : As it is, I am interpreting it to you. (Interruption.)

Shri Deshbandhu Gupta : Since Dr. Ambedkar has referred to the mandate I may make it clear that when this question was taken up with the authority which gave the mandate, it was absolutely clear that the two amendments went together. We wanted this tax to remain a Central tax and not a Central as well as a provincial tax.

The Honourable Dr. B. R. Ambedkar : It is not right to refer here to matters discussed elsewhere. But, as I said, I am quite prepared to abide by that mandate. The other matter was brought in surreptitiously by our friends after

they heard what I said in another place as to what a mess they had made by bringing in this amendment.

Shri Ramnath Goenka : As Dr. Ambedkar suggests that we have made a mess we want a way out of the mess.

(Interruption.)

Mr. President : I find there is much feeling in the matter. So we had better take it up on some other day when the feelings are a bit cooler.

I was asked by some honourable Members in the morning to let them know, when we are likely to take up the question of language. Yesterday I give the programme up to Friday, the 9th September. And according to the provisional programme which we had made, articles dealing, with Property and' Language were allotted three days, 10th, 12th and 13th. It was only provisional. If Members have no objection to these dates we may stick to them.

Seth Govind Das : Sir, You have said just now that they are provisional dates. May I take it that if on these dates the question of Language is not taken up it will be taken up at least in this session and that people will be informed accordingly of the dates beforehand so that they may be present on those occasions ?

Mr. President : There is no question of the thing not being taken up. It is going to be taken up. Unless the House has any objection, as I said, I have fixed these dates. I said they are provisional only in the sense that I had fixed them and it is open to the House to ask me to fix some other dates. But if the House has no objection, I shall take these, items up on 10th, 12th and 13th.

Shri M. Ananthasayanam Ayyanagar (Madras: General) : May I ask you to have it on 12th, 13th and 14th instead of on the 10th, 12th and 13th ?

The Honourable Pandit Ravi Shankar Shukla (C. P. & Berar: General) : May I suggest that the discussion of articles 264-A, 265 and 266 be taken up either on the 10th or after the 13th, because most of the members and Premiers who are interested in this are not here and may not be able to come on the 6th when these articles are likely to be taken up. So I suggest that the discussion of these three articles may be taken up after the language question so that everybody will have notice and have time to be present here.

Mr. President : I have fixed the order of business with reference to the drafts which the Drafting Committee is preparing. The drafts of these particular articles are ready and therefore they have been allotted first. The drafts of the other articles are not ready. Then the members will begin to complain that they have not had time after the circulation of the draft proposals to give notice of amendments. As I have already said, this order has been fixed with reference to the drafts which are ready. And I should expect that Members should come back. There is still time. We announced it yesterday.

The Honourable Pandit Ravi Shankar Shukla : I want to know whether the draft is finally ready for discussion in the House.

Mr. President : I understand it is.

Shri K. M. Munshi (Bombay: General) : The drafts of these articles are ready and I suppose whatever discussions have to be carried on could be finished tomorrow and the matter brought up before the House. It is necessary that we should go on with the scheduled programme day after day. If we postpone any matter, it will lead to a great deal of difficulty in the future. These drafts are ready: only some Premiers want a revision of one or two provisions which

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could be done tomorrow. There is otherwise no work for Monday. Day after tomorrow there will be no work for the House if these drafts are kept back. We have a few articles left which, unless we go on from day to day, it will be very difficult to finish in time.

Mr. President : We have fixed Fifth and Sixth Schedules for Monday. I hope they will be finished that day and, if not, we shall go on to the next day.

The Honourable Pandit Ravi Shankar Shukla : Unless we have sufficient notice of the programme it will be inconvenient for some of us.

Mr. President : I announced yesterday that this will be taken up on Monday.

The Honourable Pandit Ravi Shankar Shukla : We are living in places far away from the Capital.

Mr. President : Now-a-days it is not difficult to reach any place in a few hours' time.

The Honourable Shri Purshottam Das Tandon (United Provinces: General) Mr. President, in regard to the language question, may I know what dates you propose to fix for discussion ?

Mr. President : I have just announced that we have fixed three days for the discussion of the property question and the language question. The dates are the 10th, 12th and 13th September.

The Honourable Shri Purshottam Das Tandon : May I take it that the language question will be taken up on those days after a decision has been reached on the question of property ?

Mr. President : Yes.

The Honourable Shri Purshottam Das Tandon : May I take the liberty of suggesting that you may, as 10th is a Saturday and 11th is Sunday, fix the 12th September for taking up the language question ?

Mr. President : I take it that the language question will really be begun on the 12th, because on the 10th we are going to discuss the property question.

The Honourable Shri Purshottam Das Tandon : The language question, instead of being left to chance, may be considered on the 12th—that is all I request.

Mr. President : Nothing will be lost if discussion of the language question is taken up on the date fixed, *viz.*, the 10th. If we finish the property article early on the 10th, we shall begin the discussion of the language question. But I do not anticipate that it will end on the 10th. It will be continued till the 12th.

Mr. Naziruddin Ahmad : I have one point to suggest. We are proceeding on the assumption that the drafts will be made available to us in time. Up to this time however no draft has been made available. Our programme must therefore be conditional upon the drafts being made available to Members in sufficient time to give notice of amendments. These questions relating to language and property are important and complicated ones.

Mr. President : So far as Monday is concerned, the two draft Schedules for consideration have been circulated.

Mr. Naziruddin Ahmad : Yes. They have been circulated already.

Mr. President : Then, for Tuesday's programme, article 263, etc. in draft form will reach honourable Members today.

Shri Brajeshwar Prasad : The draft of the 6th Schedule has not been distributed to us.

Mr. President : It will be distributed today.

Mr. Naziruddin Ahmad : I was speaking of the draft articles relating to property and language.

Mr. President : I do not know about the draft article on language.

Shri K. M. Munshi : I have already submitted the draft. Notice has been given about it and it will be circulated straightway.

Mr. President; We shall circulate it tonight.

Shri L. Krishnaswami Bharathi (Madras: General) : Sir, you have allowed only two days for the consideration of the article about language. I may submit that this is a most vital and important question affecting all of us. It is therefore likely that most of us would like to participate in the debate, and two days, in my view, are hardly sufficient. We may require four or five days, for its consideration.

Mr. President : If necessary we shall sit twice on both the days and thus make two into four.

Shri L. Krishnaswami Bharathi : More days are required. That is all my submission.

Mr. President : Everything will depend upon the progress of the discussion.

The House is adjourned till Nine of, the Clock on Monday, the 5th September.

The Assembly then adjourned till Nine of the Clock on Monday, the, 5th September, 1949.
