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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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CONTENTS

Volume IX—30th July to 18th September 1949

| | PAGES | | PAGES |
|--|---------|--|---------|
| Saturday, 30th July 1949— | | Thursday, 11th August 1949— | |
| Taking the Pledge & Signing the Register | 1 | Draft Constitution—(contd.) | 351—391 |
| Draft Constitution—(contd.) | 2—42 | [Articles 5 and 6 considered]. | |
| [Articles 79-A, 104, 148-A, 150, 163-A and 175 considered]. | | Friday, 12th August 1949— | |
| Monday, 1st August 1949— | | Draft Constitution—(contd.) | 393—431 |
| Draft Constitution—(contd.) | 43—83 | [Articles 5 and 6 considered]. | |
| [Articles 175, 172, 176, 83, 127, 210, 211, 197, 212, 214 and 213 considered]. | | Thursday, 18th August 1949— | |
| Tuesday, 2nd August 1949— | | Government of India Act, 1935 (Amendment) Bill | 433—472 |
| Taking the Pledge and Signing the Register | 85 | Friday, 19th August 1949— | |
| Draft Constitution—(contd.) | 85—127 | Draft Constitution—(contd.) | 473—511 |
| [Articles 213, 213-A, 214 and 275 considered]. | | [Articles 150, 215-A, 189, 190, 250 and 277 considered]. | |
| Wednesday, 3rd August 1949— | | Saturday, 20th August 1949— | |
| Draft Constitution—(contd.) | 129—163 | Draft Constitution—(contd.) | 513—554 |
| [Articles 276, 188, 277-A, 278 and 278-A considered]. | | [Articles 277, 279-A and 280 considered]. | |
| Thursday, 4th August 1949— | | Monday, 22nd August 1949— | |
| Draft Constitution—(contd.) | 165—204 | Draft Constitution—(contd.) | 555—595 |
| [Articles 188, 277-A, 278, 279, 280, 247, 248, 248-B and 249 considered]. | | [Articles 284, 285, 285-A, 285-B and 285-C considered]. | |
| Friday, 5th August 1949— | | Tuesday, 23rd August 1949— | |
| Draft Constitution—(contd.) | 205—240 | Draft Constitution—(contd.) | 597—635 |
| [Articles 249 to 253 considered]. | | [Articles 286 to 288-A and 292 considered]. | |
| Monday, 8th August 1949— | | Wednesday, 24th August 1949— | |
| Draft Constitution—(contd.) | 241—274 | Draft Constitution—(contd.) | 637—676 |
| [Articles 253, 254, 254-A and 255 considered]. | | [Articles 292 to 295 and 295-A considered]. | |
| Tuesday, 9th August 1949— | | Thursday, 25th August 1949— | |
| Draft Constitution—(contd.) | 275—311 | Draft Constitution—(contd.) | 677—699 |
| [Articles 255 to 260 considered]. | | [New Article 295-A considered]. | |
| Wednesday, 10th August 1949— | | Friday, 26th August 1949— | |
| Draft Constitution—(contd.) | 313—349 | Draft Constitution—(contd.) | 701—717 |
| [Articles 260 to 263, 267 to 269 and 5 & 6 considered] | | [Articles 296, 299 and Third Schedule considered]. | |
| | | Monday, 29th August 1949— | |
| | | Draft Constitution—(contd.) | 719—736 |
| | | [Seventh Schedule : List I : Entries 1 to 7 considered]. | |

| PAGES | PAGES |
|---|-----------|
| Tuesday, 30th August 1949— | |
| Draft Constitution—(contd.) | 737—782 |
| [Seventh Schedule—(contd.): List I : Entries 7 to 12, 9-A, 13 to 15, 15-A, 16 to 26, 26-A, 27 to 40, 40-A and B and 41 to 52 considered.] | |
| Wednesday, 31st August 1949— | |
| Draft Constitution (contd.) | 783—828 |
| [Seventh Schedule—(contd.): List I : Entries 53 to 57, 57A, 58, 58-A, 59 to 61, 61-A, 62 to 64, New Entry 64-A, 65 to 70, 70-A, 71 to 73 and 73-A considered]. | |
| Thursday, 1st September 1949— | |
| Statement <i>re</i> : Vindhya Pradesh Representation in the Assembly | 829—830 |
| Draft Constitution—(contd.) | 830—875 |
| [Seventh Schedule—(contd.): List I : Entries 74 to 91: List II : Entries 1—15 considered]. | |
| Friday, 2nd September 1949— | |
| Condolence on the death of Shri Gopinath Srivastava | 877 |
| Draft Constitution—(contd.) | 877—928 |
| [Seventh Schedule—(contd.): List II : Entries 15 to 67; List III : Entries 1, 2 and 2-A considered]. | |
| Saturday, 3rd September 1949— | |
| Draft Constitution—(contd.) | 929—965 |
| [Seventh Schedule—(contd.) List III : Entries 2-A, 3 to 25, 25-A, 26, 26-A, 27, 28, 28-A, 29 to 31, 31-A, 32, 33, 33-A, and B, 34, 34-A, 35, 35-A, 36 and New Entry 88-A considered]. | |
| Monday, 5th September 1949— | |
| Draft Constitution—(contd.) | 967—1008 |
| [Fifth Schedule : Paragraphs: to 6; Sixth Schedule: Paragraph 1 considered]. | |
| Tuesday, 6th September 1949— | |
| Draft Constitution—(contd.) | 1009—1054 |
| [Sixth Schedule : Paragraph 2 to 15 considered]. | |
| Wednesday, 7th September 1949— | |
| Draft Constitution—(contd.) | 1055—1099 |
| [Sixth Schedule : Paragraphs 16 to 18, and 1 and 20; Articles 281 to 282- considered]. | |
| Thursday, 8th September 1949— | |
| Draft Constitution—(contd.) | 1101—1147 |
| [Articles 282-B, 282-C, 283 and 274-A to 274-E of Part X-A considered]. | |
| Friday, 9th September 1949— | |
| Draft Constitution—(contd.) | 1149—1192 |
| [Articles 264 to 266, 296 and 299; Seventh Schedule and articles 250, 202, 234-A, New article 242-A, 248-A, 263 and 263-A considered]. | |
| Saturday, 10th September 1949— | |
| Draft Constitution—(contd.) | 1193—1266 |
| [Articles 24 considered]. | |
| Monday, 12th September 1949— | |
| Draft Constitution—(contd.) | 1267—1348 |
| [Article 24 and part XIV-A- Language considered]. | |
| Tuesday, 13th September 1949— | |
| Draft Constitution—(contd.) | 1349—1426 |
| [New Part XIV-A (Language) considered]. | |
| Wednesday, 14th September 1949— | |
| Abolition of Privy Council Jurisdiction Bill | 1427 |
| Draft Constitution—(contd.) | 1427—1493 |
| [New Part XIV-A (Language) considered]. | |

| PAGES | PAGES |
|---|---|
| Thursday, 15th September 1949— | Draft Constitution—(<i>contd.</i>) 1621—1673 |
| Draft Constitution—(<i>contd.</i>) 1495—1541 | Motion <i>re</i> Translation of the Constitution. |
| [New Articles 112-B and 15-A considered]. | [Articles 303 and 300-A and B considered]. |
| Friday, 16th September 1949— | [Eighth Schedule and Articles 303, 304, 99, 305 and 1 considered]. |
| Draft Constitution—(<i>contd.</i>) 1543—1590 | Sunday, 18th September 1949— |
| [Articles 15-A, 209-A to E, 315 and 303 considered]. | Motion <i>re</i> October meeting of 1675 Assembly. |
| Saturday, 17th September 1949— | Draft Constitution—(<i>contd.</i>) 1676—1693 [Article 1 considered]. |
| Abolition of Privy Council 1591—1620 Jurisdiction Bill | |

CONSTITUENT ASSEMBLY OF INDIA

Monday, the 5th September, 1949

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

DRAFT CONSTITUTION—(Contd.)

Fifth Schedule

Mr. President : We will take up the Fifth Schedule.

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

That for the Fifth Schedule, the following Schedule be substituted:—

“FIFTH SCHEDULE

[Articles 215-A (a) and 215- B (1)]

PROVISIONS AS TO THE ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES

Part I

GENERAL

1. *Interpretation.*—In this Schedule, unless the context otherwise requires, the expression “State means a State for the time being specified in Part I or Part III of the First Schedule.

2. *Executive power of a State in scheduled areas.*—Subject to the provisions of this Schedule, the executive power of a State extends to the scheduled areas therein.

3. *Report by the Governor or Ruler to the Government of India regarding the administration of the scheduled areas.*—The Governor or Ruler of each State having scheduled areas therein shall annually, or whenever so required by the Government of India, make a report to that Government regarding the administration of the scheduled areas in that State and the executive power of the Union, shall extend to the giving of directions to the State as to the administration of the said areas.

Part II

ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES

4. *Tribes Advisory Council.*—(1) There shall be established in each State having scheduled areas therein and, if the President so directs, also in any State having scheduled tribes but not scheduled areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom as nearly as may be, three-fourths shall be the representatives of the scheduled tribes in the Legislative Assembly of the State :

‘Provided that if the number of representatives of the scheduled tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.

(2) it shall be the duty of the Tribes Advisory Council to advise on Such matters pertaining to the welfare and advancement of the scheduled tribes in the State as may be refer to them by the Governor or Ruler, as the case may be.

(3) The Governor or Ruler may make rules prescribing or regulating as the case may be—

- (a) the number of-members of the Council, the mode of their appointment and the appointment of its Chairman and of the officers and servants thereof;
- (b) the conduct of its meetings and its procedure in general; and
- (c) all other incidental matters.

5. *Law Applicable to scheduled areas.*—(1) Notwithstanding anything contained in this Constitution the Governor or Ruler, as the case may be, may by Public notification direct

[The Honourable Dr. B.R. Ambedkar]

that any particular Act of Parliament of the legislature of the State shall not apply to a scheduled area or any part thereof in the State or shall apply to a scheduled area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification.

(2) The Governor or Ruler, as the case may be, may make regulations for the peace and good government of any area in a State which is for the time being a scheduled area.

In particular and without prejudice to the generality of the foregoing power, such regulations may—

- (a) prohibit or restrict the transfer of land by or among members of the scheduled tribes in any such area;
- (b) regulate the allotment of land to members of the scheduled tribes in such areas;
- (c) regulate the carrying on of business as money-lender by persons who lend money to members of the scheduled tribes in such areas.

(3) In making any regulation as is referred to in sub-paragraph (2) of this paragraph, the Governor or Ruler may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.

(4) All regulation made under this paragraph shall be submitted forthwith to the President and until assented to by him shall have no effect.

(5) No regulation shall be made under this paragraph unless the Governor or the Ruler making the regulation has in the case where there is a Tribes Advisory Council for the State, consulted such Council.

Part III

SCHEDULED AREAS

6. *Scheduled Areas*:—(1) In this Constitution, the expression “scheduled areas” means such areas as the President may by order declare to be scheduled areas.

(2) The President may at any time by order—

- (a) direct that the whole or any specified part of a scheduled area shall cease to be a scheduled area or a part of such an area;
- (b) alter, but only by way of rectification of boundaries any scheduled area;
- (c) on any alteration of the boundaries of a State or on the admission into the Union or the establishment of a new State, declare any territory not previously included in any State to be, or to form part of a scheduled area, and any such order may contain such incidental and consequential provisions as appear to the President to be necessary and proper, but save as aforesaid, the order made under sub-paragraph (1) of this paragraph shall not be varied by any subsequent order.

Part IV

AMENDMENT OF THE SCHEDULE

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

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

I would like very briefly to explain the principal changes which have been made in the Fifth Schedule as amended and put forward before ‘the House. The first important change is in paragraph 4 which deals with the creation of the Tribes Advisory Council. As the paragraph originally stood in the Draft Constitution, it was obligatory to have a Tribes Advisory Council in every State where there were scheduled areas or scheduled tribes. It was felt that there was no necessity by the Constitution to create an Advisory Council for a State where there were some members of the scheduled tribes living in some part of the State but which had no scheduled area. It was felt that if there was a necessity for creating an Advisory Council for the purposes of the Scheduled tribes who are not living in a scheduled area, it would be better to leave that

matter to the President whether or not to create an Advisory Council. Consequently the words “and, if the President so directs, also in any State having scheduled tribes but not scheduled areas therein, a Tribes Advisory Council” In the case of schedule areas there is an obligation to create an Advisory Council. In the case of scheduled tribes it is not obligatory by the Constitution to create an Advisory Council but it is left to the discretion of the President.

The other paragraph which has undergone an important change is paragraph 5. Paragraph 5 deals with the applicability of the laws made by Parliament and by the local Legislature to the scheduled areas. Paragraph 5, as it originally stood, required that if the Tribes Advisory Council directed that the law made by Parliament or made by the local Legislature should be made applicable to the scheduled areas in a modified form, then the Governor was bound to carry out the order or the decision of the Tribes Advisory Council. It was felt that it would be much better to let the Governor have the discretion in the matter of the application of the laws made by Parliament or by the local Legislature to the scheduled areas and that his discretion should not be controlled absolutely, as it was proposed to be done by the original provision contained in paragraph 5.

The other important thing to which I should like to call the attention of honourable Members is to paragraph 6. Paragraph 6, as originally drafted, set out a schedule of what are to be scheduled areas. This provision has become necessary particularly because it is not possible at this stage to know what are going to be the scheduled areas in States in Part III. It is felt that both for meeting the difficulty to which I have referred as well as to make the provisions elastic, it would be much better to leave the power with the President rather than to have a definite part dealing with the scheduled areas.

Another important amendment to which I should like to draw attention is paragraph 7 which is included in Part IV and which deals with the Amendment of the Fifth Schedule. Originally, as the paragraph stood, there was no provision for the amendment of the Fifth Schedule. It is now provided that Parliament may amend this Schedule and I think it is desirable that Parliament should have the power to amend this Schedule. It is no use of creating a sort of a State within a State and it is not desirable that this kind of special provision under which certain tribes would be excluded from the general operation of the law made by the legislature as well as Parliament and the provision contained in sub-paragraph (2) of paragraph 5, where, so to say, ‘the Governor is constituted a law-making body for making regulations of certain character which are mentioned in (a), (b) and (c) and which are to have overriding powers in so far as they relate to these matters over any law made by Parliament or by the legislature, should not be stereotyped for all times and that it should be open to Parliament to make such changes as time and circumstances may require. Consequently, it has been provided in the new Paragraph 7 of Part IV that Parliament shall have such power to make such amendments as it finds necessary and any such amendment of the Schedule shall not be deemed to be an amendment of the Constitution, but shall be made by the ordinary process of law.

I may mention that the Drafting Committee in putting forth this new Schedule had discussed the matter with the representatives of the provinces who are concerned ,with this particular matter namely of scheduled area and scheduled tribes. We had also taken into consideration the opinion of my honourable Friend, Mr Thakkar, who knows a great deal about this matter and I may say without contradiction that this new Schedule has the approval of all the parties who are concerned in this matter, and I hope that the House will have no difficulty in accepting the new Schedule in place of the old one.

Mr. President : I have got a large number of amendments to the original Schedule and there are some amendments to the new Schedule also. I think it is no use taking up the amendments to the old Schedule, because the old Schedule has not been moved at all. So we shall take up only the amendments to the new Schedule as proposed by Dr. Ambedkar now. I will take them one by one.

Shri R. K. Sidhwa (C.P. & Berar: General) : May I say that in view of the fact that Dr. Ambedkar had said that all the parties are agreed on this matter, only those amendments which have some principal change should be taken up ?

Mr. President : We shall see to that as we go on with the amendments.

Mr. Naziruddin Ahmad (West Bengal: Muslim) : Mr. President, Sir, I wish to move amendment No. 154 after omitting the first part. That change is only of a drafting nature. May I have your permission to do that ?

Mr. President : You may do that.

Mr. Naziruddin Ahmad : Sir, I beg to move my amendment No. 154.

“That in amendment No. 20 of List I (Seventh Week), for paragraph 2 of the proposed Fifth Schedule, the following be substituted:—

‘2. The executive power of a State shall extend to the Scheduled Areas within the State subject to the provisions of this Schedule.’”

I also move my next amendment in this connection. Here also I omit the first part. Sir I move :

“That in amendment No. 20 of List I (Seventh Week), in paragraph 2 of the proposed Fifth Schedule—

(a) for the word ‘extends’ the words ‘shall extend’ be substituted;

(b) for the word ‘therein’ the words ‘within the State’ be substituted.”

Sir, I submit that these amendments are of a drafting nature and I draw the attention of the Drafting Committee to the changes suggested. In paragraph 2 I think the better words to be “shall extend” because this is the manner in which it is expressed in paragraph 3 of the original amendment. There it is said “the executive power of the Union shall extend”. In paragraph 2 in question the wording is that, “the executive power of the State extends”. Instead of the word “extends” it should be “shall extend.”

(Amendment Nos. 156 and 157 were not moved.)

Mr. President : As the amendments moved by Mr. Naziruddin Ahmad are of a drafting nature and as he proposes to leave them to the Drafting Committee, I do not suppose it is necessary to put them to vote. The Drafting Committee will take them into consideration. We now pass to para 3.

(Amendment Nos. 158, 159 and 160 were not moved.)

Paragraph I

Mr. Naziruddin Ahmad : May I suggest, Sir, that the paragraphs may be put and adopted one by one.

Mr. President : Yes. I shall put paragraph 1.

Shri A. V. Thakkar (Saurashtra) : Sir, I want to make a few general observations with regard to the whole Schedule. When shall I make them ?

Mr. President : I shall give an opportunity in connection with one of the amendments; you may make your general observations and you may cover the whole thing.

Prof. Shibban Lal Saksena (United Provinces : General) : May he not be allowed to make his general observations? We may have a general discussion.

Mr. President : It will take two hours and we shall be going over the same ground. I do not want to take that much time of the House.

Shri Amiyo Kumar Ghosh (Bihar: General) : May I suggest that all the amendments be moved first, then have a general discussion and thereafter the amendments be put to vote one by one ?

Mr. President : The amendments will be put one by one. The question is:

“That Paragraph 1 of the Fifth Schedule stand part of the Schedule.”

The motion was adopted.

Paragraph 1 was added to the Fifth Schedule.

Paragraph 2

Mr. President : I do not put the amendments moved by Mr. Naziruddin Ahmad to paragraph 2 as they are of a drafting nature. The question is:

“That paragraph 2 stand part of the Schedule.”

The motion was adopted.

Paragraph 2 was added to the Fifth Schedule.

Paragraph 3

Mr. President : Amendment 161 is also of a drafting nature.

Pandit Hirday Nath Kunzru (United Provinces : General) : May I ask you, Sir, what is the procedure that you are following? Are you going to allow the Members to discuss the provisions generally or not ?

Mr. President : I will allow that.

Pandit Hirday Nath Kunzru : It each paragraph is put to the vote and carried, will there be an opportunity for a general discussion ?

Mr. President : If there is any amendment which lends itself to a general discussion, in that connection I will allow the whole thing to be discussed.

Pandit Hirday Nath Kunzru : So far, the procedure that you have adopted has been to allow a discussion on the article generally after all the amendments have been moved. Is that procedure being departed from now ?

Mr. President : I am not preventing any discussion. If there is no amendment to an article, there is nothing to be said. If any Member wishes to speak about any article, I will permit him.

Shri T. T. Krishnamachari (Madras: General) : May I suggest, Sir, that we may take up one paragraph for purposes of general discussion. I suggest para. 4 may be taken. There are some amendments. It, really, is the crux of the whole problem, you may allow the House to discuss that.

Mr. President : We shall take up general discussion in connection with paragraphs 4 and 5.

Babu Ramnarayan Singh (Bihar: General): Even if there is no amendment to any paragraph, that paragraph may require some observations.

Mr. President : I am not preventing that. If any Member wishes to speak about any paragraph, I will permit that.

Babu Ramnarayan Singh : Observations may be allowed to be made on the Schedule as a whole.

Mr. President : That may be done in connection with paragraph 4.

Prof. Shibban Lal Saksena : I suggest, Sir, that all the amendments may be moved first and then there may be a general discussion allowed.

Mr. President : I will call every paragraph. If any Member wishes to speak, he may do so.

Pandit Hirday Nath Kunzru : May I venture to make a suggestion, Sir ? If you permit, as has been suggested by Professor Shibban Lal Saksena, all the amendments to be moved, you will still have the right to put each paragraph to the vote separately. This procedure will give such Members as wish to make general observations not merely on one paragraph, but on two or three, an opportunity to express their opinion. No additional time will be taken by such a procedure.

Mr. President : Do you suggest that all the amendments be moved and then paragraph by paragraph be put to vote ?

Pandit Hirday Nath Kunzru : Yes.

Mr. President : Very well; I can do that.

Pandit Hirday Nath Kunzru : Before they are put to the vote, I take it that such Members as wish to make general observations will have an opportunity of doing so.

Mr. President : I will allow that, I have already put paragraph 2. We will take up paragraph 3.

Mr. Naziruddin Ahmad : This will lead to a great deal of complication and the House may be confused. It is far better to allow discussion of a general nature within reasonable limits, and then dispose of the amendments paragraph by paragraph. Otherwise, the amendments will get confused.

Mr. President : May I know how many Members wish to take part in the general discussion ?

(About twelve Members rose in their places.)

Mr. President : It is at least three hours programme. Twelve Members; it means three hours. I was thinking of economising time. If the Members do not wish to finish the second reading before the Dusserah, I can allow that. At this rate, we may not be able to finish before the Dusserah. The whole programme may be upset later on.

I think I had better allow all the amendments to be moved and then we can have a general discussion.

The Honourable Shri Binodanand Jha (Bihar: General) : That procedure will be more welcome.

Mr. Naziruddin Ahmad : Mr. President: I beg to move:

“That in amendment No. 20 of List I (Seventh Week), in paragraph 3 of the proposed Fifth Schedule, for the words ‘the executive power of the Union shall extend to the giving of directions’, the words ‘the Union Government may give directions’ be substituted.”

The expression in the context is roundabout. There would be economy of words if this amendment is accepted.

Sir, I beg to move :

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (1) of paragraph 4 of the proposed Fifth Schedule, for the words ‘There shall be established’ the words ‘The Governor or the Ruler, as the can may be, shall establish’ be substituted.”

Sir, I also move :

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (1) of paragraph 4 of the proposed Fifth Schedule, for the words ‘twenty members.’

(a) the words ‘twenty members appointed by him’ be substituted”

I do not move part (b).

I also move :

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (2) of paragraph 4 of the proposed Fifth Schedule, for the words ‘advise on such matters’, the words ‘advise of the Governor or Ruler on such matters’, be substituted.”

Sir, I also move:

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (2) of Paragraph 4 of the proposed Fifth Schedule, for the words ‘by the Governor or Ruler, as the case may be,’ the words ‘by him’ be substituted.”

That exhausts my amendments as to paragraph 4. With regard to paragraph 4, there are a few points to which I wish to draw the attention of the House, specially of the Drafting Committee. The para, begins with the expression, “There shall be established in each State having scheduled areas therein and....., a Tribes Advisory Council”. Instead of saying “there shall be established”, we should say that “the Governor or Ruler shall establish..... etc. I want to say that the ‘Governor or Ruler shall establish’. That would place the matter beyond any doubt instead of saying ‘there shall be established’. Then instead of the expression ‘twenty members and so forth’ I wish to make it ‘twenty members appointed by him.’ It would be far better to make it quite clear here that the ‘Governor or Ruler will appoint or establish etc... Then with regard to another amendment to para. 2 there is the proviso ‘that the Tribes Advisory Committee to advise’. I submit that it should be ‘to advise the Governor or Ruler’. That would make it complete. Then the last amendment is that instead of ‘by the Governor or Ruler, as the case may be’ the words ‘by him’ be substituted. In sub-para. (3) there is a drafting amendment. In sub-para. 3 (a) there is the expression ‘Members of the Council’. In every case where the Council is mentioned, the full expression Tribes Advisory Council is used. Nowhere the contraction “the Council” has been used. In order to keep to the general trend of the draftsmanship the expression ‘Tribes Advisory Council’ should be written in full.

With regard to amendment 162, I ask the Drafting Committee to consider the matter or Dr. Ambedkar to reply or it may be—if you so think fit—left over to the Drafting Committee.

Shri Brajeshwar Prasad : (Bihar: General): I would like to make a few general observations on para. 4. If I am given that opportunity, I will not move any amendment.

Mr. President : You will get the opportunity.

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

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (3) of paragraph 4 of the proposed Fifth Schedule, after the words ‘Governor or Ruler’ the words as the case may be’ be inserted.”

This is purely drafting.

[Mr. Naziruddin Ahmad]

Sir, I beg to move :

“That in amendment No. 20 of List I (Seventh Week), in clause (a) of sub-paragraph (3) of paragraph 4 of the proposed Fifth Schedule, for the word ‘Council’ the words ‘the Tribes Advisory Council’ be substituted.”

I beg to move :

“That in amendment No. 20 of List I (Seventh Week), in clause (b) of sub-paragraph (3) of paragraph 4 of the proposed Fifth Schedule, for the words ‘its procedure’ the words ‘the procedure to be followed’ be substituted.”

Sir, with regard to the last amendment 170 I wish to point out that the original para, as moved by Dr. Ambedkar requires some improvement. I think the wording I have suggested would be more fitting in the context.

Sir, I then move :

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (1) of paragraph 5 of the proposed Fifth Schedule, for the words ‘any particular Act Parliament or of the Legislature of the State’ the words ‘any particular existing law or any law that may be passed by the Parliament or by the Legislature of the State’ be substituted.”

This is more important.

Prof. Shibban Lal Saksena : Sir, I have an amendment to paragraph 4.

Mr. President : I will take them up later.

Mr. Naziruddin Ahmad : Regarding 172 I may say that in para. 5 sub-para. (1) it is stated that the “Governor or Ruler may by public notification direct that any Particular act of Parliament or of the Legislature of the State shall not apply to a scheduled area or any part thereof etc.” I submit that I would rather leave amendment 20 for consideration of the Drafting Committee.

I then move:

“That in amendment No. 20 of List I (Seventh Week), in paragraph 5 of the proposed Fifth Schedule :—

- (a) ‘in sub-paragraph (2), for the words ‘may make’ the words ‘may, after previous consultation with the Tribes Advisory Council, make’ be substituted;’
- (b) sub-paragraph (5) be deleted.”

This is necessitated by consideration of the text. I then move :

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (2) of paragraph 5 of the proposed Fifth Schedule for the words ‘any area in a State which is for the time being a scheduled area’ the words ‘any scheduled area’ be substituted.”

In this connection we have defined the expression ‘scheduled area’ and I submit that the use of the expression ‘scheduled area’ would be sufficient.

I then move :

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (2) of paragraph 5 of the proposed Fifth Schedule, the brackets and figure ‘(3)’ be inserted before the sentence beginning with the words ‘in particular and without prejudice etc.’ and the remaining sub-paragraphs be renumbered accordingly.”

Now the original amendment has been worded in a roundabout fashion. I put it in a more simple form but the point is this that in para. 5 sub-para. (2) there is another sub-para. ‘in particular and without prejudice and so on’. All that I desire is that this should be separately numbered and should not be left as part of sub-para. (2). It is an independent sub-para and the object of

my amendment is to number it independently and to renumber the other sub-para. accordingly. Similar clauses or propositions in all other places are numbered separately and there is no reason why this should not be given a distinctive number.

Sir, I then move:

“That in amendment No. 20 of List I (Seventh Week), in clause (c) of sub-paragraph (2) of paragraph 5 of the proposed Fifth Schedule, for the words ‘carrying on of business as money-lender by persons who lend money’ the words ‘business of lending money’ be substituted.”

The expression in the context is extremely roundabout. It says “carrying on the business of money-lender by persons who lend money”. I fail to see how a man can be a money-lender unless he is a man who lends money. So ‘carry on the business of money-lender by persons who lend money’ would be rather too long and the expression ‘business of lending money’ would be quite enough and should be acceptable.

Then I move my amendment No. 178 and I may submit that I have made a slight verbal alteration here and there which I shall notify to the office; they are, however, of an immaterial nature. Sir, I move:

“That in amendment No. 20 of List I (Seventh Week), for sub-paragraph (3) of Paragraph 5 of the proposed Fifth Schedule, the following new sub-paragraph be substituted :—

‘(3) The Governor or Ruler, by regulation made under sub-paragraph (2) of this paragraph, may, notwithstanding anything contained in any other part of this Constitution, direct that any existing law or any law that may be passed by the Parliament or by the Legislature of the State shall not apply, or shall apply with such modifications and changes, to any scheduled area or part thereof.’”

I think I should explain the reason why I have moved this amendment. Coming to sub-paragraph (3) of paragraph 5, it says:

“In making any regulation as is referred to in sub-paragraph (2) of this paragraph the Governor or Ruler may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.”

The principal object of my amendment is to avoid the words “repeal or amend any Act of Parliament or of the legislature”. What is intended by the sub-paragraph is not to allow the Governor to repeal or amend any Act of Parliament or of the local legislature and what power is being given to the Governor is to make such changes and adaptations as would bring them really applicable to the tribal areas. Therefore, I submit that the expression “repeal or amend” any Parliamentary Act or any Act of the State would be rather improper. In fact, he does not repeal any Act. That he cannot do. Repeal of an Act has a technical meaning. The Governor of a State does not repeal any Act. All that he does is to see that a Parliamentary Act or law does not really apply to the tribal area, or that he so modifies it and applies that Parliamentary law in a modified form. So I think the power to repeal or amend, would be inapplicable to the circumstances of the case. He can modify or say that the law does not apply. So I think the amendment should be acceptable to the House.

Then, I move my amendment No. 179.

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (3) of paragraph 5 of the proposed Fifth Schedule—

- (a) for the word ‘regulation’ the word ‘regulations’ be substituted.
- (b) for the words ‘as is referred to’ the word ‘under’ be substituted.
- (c) for the words ‘repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question’ the words ‘direct that any existing law or any law that may be passed by the Parliament or by the Legislature of the State, shall apply with such modifications and changes as he thinks fit’ be substituted”.

[Mr. Naziruddin Ahmad]

Sir, this is in a way an analysis of amendment No. 178, and even if No. 178 is not acceptable, the different parts in this amendment No. 179 may be accepted separately.

Sir, then I move my amendment No. 182.

“That in amendment No. 20 of List I (Seventh Week), a sub-paragraph (2) of paragraph 5 of the proposed Fifth Schedule, for the words ‘shall be submitted forthwith to the President and until assented to by him shall have no effect’ the words ‘shall be valid on receiving the assent of the President’ be substituted.”

With regard to this amendment, I have to say that the text of sub-paragraph (4) as modified by Dr. Ambedkar’s amendment says, that as soon as regulations are made, they shall be submitted forthwith to the President. But I fail to see the real purpose of or the import of the word “forthwith” here. And then it says, “until assented to by him, shall have no effect”. All that is indicated is presumably the normal procedure, that the regulation will have effect if assented to by the President. The condition that it shall be submitted to him forthwith is absolutely pointless. The regulation may be submitted to the President in due course. There is no hurry about it. If there is any urgency, the Governor will certainly submit it forthwith. But to lay it down as a condition that he must submit the regulation to the President forthwith is absolutely unnecessary, and it is totally unwanted. All that is intended is, as in the ordinary case of a Bill, the assent of the President makes it law. If we say that it shall be valid on receiving the assent of the President, instead of unless assented to, it is not valid, it is quite enough.

Sir, then I move my amendment No. 185.

“That in amendment No. 20 of List I (Seventh Week), in the heading of Part III of the proposed Fifth Schedule, for the word ‘Areas’ the word ‘Area’ be substituted.”

I also move No. 186:

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (1) of paragraph 6 of the proposed Fifth Schedule, for the word ‘areas’ whenever it occurs, the word ‘area’ be substituted.”

Sir, with regard to this series of amendments, I find that in sub-paragraph (1) the word “areas” is defined in the plural. But in sub-para. (2) it is in the singular. I think only one form—plural or singular—should be used throughout. I think the singular word would be proper and it includes the plural also.

Then I move my amendment No. 187:

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (2) of paragraph 6 of the proposed Fifth Schedule for the words ‘as appear’ the word ‘as’ may appear be substituted.”

That exhausts my amendments. I fully concede that most of these amendments are of a drafting nature and they are intended to draw the attention of the Drafting Committee to these points.

And then, Sir, may I with your kind permission refer to a still smaller matter, namely, that the expressions “Scheduled Castes”, “Scheduled Tribes” and “Scheduled Areas” whether they should be capitalised or should begin with the small letter. This may be very insignificant looking, but to people of my way of thinking, they are important. We have capitalised the word in the case of “Scheduled Castes”, but in the case of “scheduled tribes” we have tried to make them insignificant. There is no doubt that while it represents a community or class of people, the expression should be capitalised. But when referring to the “scheduled areas” also, there is the importance. and I think the expression should be capitalised there also. They refer to definite tracts of the country or the States. We

described the “Non-regulated provinces” with capital letters. In order to give them due importance and grammatical symmetry, I think the expression “Scheduled Areas” should also be capitalised by the Drafting Committee before the Third Reading.

Shri Jaipal Singh (Bihar: General) : Mr. President, I beg to move:

“That in amendment No. 20 above, in paragraph 3 of the proposed Fifth Schedule, after the words ‘scheduled areas’ wherever they occur, the words ‘and scheduled tribes’ be inserted; and the words ‘or whenever so required by the Government of India’ be deleted.”

General observations I would rather reserve to the general discussion, but in moving my amendments, I would like to state briefly why I am moving them. I find that the heading of Part I is as follows :

“PROVISIONS AS TO THE ADMINISTRATION AND CONTROL OF
SCHEDULED AREAS AND SCHEDULED TRIBES”

but, in III, I find that “scheduled tribes” has been left out. I do not understand why exactly that has been done. Surely, the report of the Governor or Ruler to the Government of India should comprehend all the scheduled tribes, whether they are within the scheduled areas of the future or outside them. If the report is to apply only to those tribes who are in the scheduled areas, it would simply mean that the Government of India would know very little about scheduled tribes as a whole and, there would be literally millions of them outside the scheduled areas. Without knowing how the scheduled areas are going to be demarcated, it is almost futile to argue whether or not the report will include all the scheduled tribes of a particular list. We do not know whether the whole of Bihar will be scheduled or not. Supposing, for the sake of argument, we were to say that the whole province of Bihar were to be declared as scheduled area, then, Mr. President, my amendment is not necessary. But, we do not know yet what the result of the Commission, which I suppose the President is bound to appoint to go into the demarcation of scheduled areas in the new setup, would be. Till that is done, I am bound to insist that, at this stage, there must be a definite and certain provision whereby the Governor will be constrained to report on what has been done for all the scheduled tribes and, for the matter of that, of the backward people in each State. I hope Dr. Ambedkar will accept this amendment and, if he does so, the paragraph will read as follows:

“The Governor or Ruler of each State having scheduled areas and scheduled tribes therein shall annually make a report to the Government of India regarding the administration of the scheduled areas and scheduled tribes in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas and scheduled tribes of the State.”

Now, the second part of my amendment is for the deletion of the words “or whenever so required by the Government of India” This again, to me seems necessary; it should become statutory that an annual report should be submitted. I do not know how long the Schedule is going to last. Till I know that. I am bound to insist that the work of bettering the conditions of scheduled tribes be accelerated and that will not happen if the country is blind to what is being done or not done at all. Therefore, it is, I think, necessary that the emphasis should be on the word “annually”. I certainly confess that I am not very particular about the second part of my amendment, because I do not see why I should be suspicious of the Government that it will sleep over it for ten years or whatever it is and, perhaps, ask for a report once in twenty years. I have no reason to be suspicious. I am not very particular about the second part of my amendment, but I would definitely insist that the scheduled tribes be included as a whole.

I shall move 33 also. I beg to move:

“That in amendment No. 20 above, for sub-paragraph (2) of paragraph 4 of the proposed Fifth Schedule, the following be substituted :

[Shri Jaipal Singh]

“(2) It shall be the duty of the Tribes Advisory Council generally to advise the Governor or Ruler of the State on all matters pertaining to the administration, advancement and welfare of the Scheduled Tribes of the State.”

I think my amendment is quite clear. This amendment favours the original draft and I hope Dr. Ambedkar will accept it.

Then, I shall move 47 also. I beg to move:

“That in amendment No. 20 above, in sub-paragraph (1) of paragraph 5 of the proposed Fifth Schedule, after the words ‘as the case may be’ the words ‘if so advised by the Tribes Advisory Council’ be inserted.”

I find that this new proposed Fifth Schedule has, somehow or other, perhaps without meaning it, emasculated the Tribes Advisory Council. The whole pattern of the original draft was to bring the Tribes Advisory Council into action. It could initiate, originate things, but, somehow or other, the tables have now been turned. The initiative is placed in the hands of the Governor or Ruler of the State. I regret that that is a situation I cannot accept, and, while I say this, Mr. President, I would like to state it is a matter of regret I have to tell the House that, for the last days secret talks and conferences have been going on among certain people. I have not been consulted. It cannot be said that all parties were consulted. I certainly was not brought to any of those conferences. Suddenly a bomb-shell is thrown by way of the new proposed Fifth Schedule. I do not grumble about the Fifth Schedule. But what I say is there is plenty of scope for improving the Fifth Schedule. I as an Adivasi had and must have the first claim to be consulted in the proposed change.

Then my last amendment is No. 50. I beg to move:

“That in amendment No. 20 above, in sub-paragraph (2) of paragraph 5 of the proposed Fifth Schedule, the words ‘in any such area’ be deleted.”

The idea behind this amendment is similar to what I have already said before and it is that any benefits we might want to confer on the scheduled tribes should not be limited or circumscribed by the areas, that they should extend to the entire State or wherever the scheduled tribes may be.

Then there is one more amendment, No. 52.

I beg to move :

“That in amendment No. 20 above, in sub-paragraph (5) of paragraph 5 of the proposed Fifth Schedule, for the word ‘consulted’ the words ‘been so advised by’ be substituted.”

Here again I want that the Tribes Advisory Council should be effective and have a real say in what is being done. I would not, for one moment, deny the Governor or the Ruler his powers in initiating things, but, at the same time, I do feel that the word “consulted” is not the right word there. If my amendment is accepted, it will read: “No regulation shall be made under this paragraph unless the Governor or the Ruler making the regulation has, in the case where there is a Tribes Advisory Council for the State, been so advised by such Council”.

As I have already stated, there are only two principles involved in my five amendments : first, that the Scheduled Tribes, all of them, should be benefited by the provisions of the Fifth Schedule and, secondly, that the Tribes Advisory Council should be a reality and not a farce. Let us not give it a big name, without any powers to do things.

Shri Yudhisthir Mishra (Orissa States): Sir, I move:

“That in amendment No. 20 above, in sub-paragraph (1) of paragraph 4 of the proposed Fifth Schedule, the words ‘if the President so directs’ be deleted.”

I have just heard the Honourable Dr. Ambedkar and he told us that where there are Scheduled areas in any State it is obligatory on the part of the President to constitute a Tribes Advisory Committee, but where there is no Scheduled area in any State it is left to his discretion as to whether he would think it proper to set up a Tribes Advisory Council.

Now, Sir, the purpose of the amendment which I have just moved is to do away with these discretionary powers and also to do away with the distinction which has been sought to be introduced into the proposed Fifth Schedule Sir, the Scheduled tribes are backward and therefore deserve the special attention and care of the Government both in the Centre and the provinces and I think it is for this reason that some areas are specified as Scheduled areas and some tribes have been described as Scheduled tribes. If we are going to set up a Tribes Advisory Council in a state where there is a Scheduled area, should we not also for the same reason provide a Council for the tribes where there is no scheduled area ? If it is left to the discretion of the President, he will have to depend upon the advice of the executive authority of the Centre and the provinces and it may so happen that the Provincial Governments may not like the existence of such a Council. I, therefore, submit that for the benefit of the tribal people it should be made incumbent on an Government to set up a Tribes Advisory Council even in the States where there is no Scheduled area.

Then I move amendment No. 32.

“That in amendment No. 20 above, for sub-paragraph (2) of paragraph 4 of the proposed Fifth Schedule, the following be substituted :—

‘(2) It shall be the duty of the Tribes Advisory Council to advise the Government of the State on all matters pertaining to the administration of the scheduled areas and the welfare, and advancement of the scheduled tribes in the State.’”

Now, the proposed Fifth Schedule in sub-paragraph (2) of paragraph 4, provides that the Tribes Advisory Council should advise the Government of a State on matters relating to the welfare and advancement of the Scheduled tribes as may be referred to them by the Governor or Ruler, of a State as the case may be. In this amendment, I propose to provide, firstly, that the Tribes Advisory Council should, instead of advising only for the welfare and the advancement of the scheduled tribes, also advise for the administration of the scheduled areas and secondly that the advisory power of the Council should not be limited by the whims and fancies of the executive authority. If the Advisory Council is to advise only on those matters which will be referred to it, then the very purpose of the Fifth Schedule will be defeated. Sir, it may happen that a particular matter may affect the tribal people, but still the Government may not refer the matter to the Advisory Council, and therefore in those matters the Advisory Council will be powerless and will not be in a position to have any say. Sir, we have already provided in article 215-B that the provision of Fifth Schedule shall apply to the administration and control of the scheduled areas and the tribes. But according to the proposed Fifth Schedule the Advisory Council will have no power to advise in the administration of the scheduled areas. The Advisory Council is for all practical purposes only an advisory body. The Governor is not bound to accept the advice tendered by the Council. We will thus be making the Council a nonentity.

Then, Sir, I move amendment No. 46:

“That in amendment No. 20 above, in sub-paragraph, (1) of paragraph 5 of the proposed Fifth Schedule, after the words ‘as the can may the words ‘on the advice of the Tribes Advisory Council’ be inserted.

[Shri Yudhisthir Mishra]

If the above amendment is not acceptable to the House, my amendment No. 51 may be taken into consideration. Sir, I move :

“That in amendment No. 20 above in sub-paragraph (5) of paragraph 5 of the proposed Fifth Schedule, after the word ‘No’ the words ‘notification or’ be inserted.”

Now, Sir, the purpose of both the amendments is that if a notification is to be issued under the sub-paragraph (1) of paragraph 5, then, the Tribal Advisory Council should be consulted. Now, a distinction has been made between a notification to be issued and a regulation to be promulgated by the Governor or Ruler of a State. In the case of a notification, the Tribes Advisory Council may not be consulted but it has been provided in sub-paragraph (5) of para 5 that no regulation can be made under this paragraph unless the Governor or Ruler, as the case may be, has consulted it. Therefore I would submit that even in the case of issuing notifications, the Tribes Advisory Council should be consulted. It may find a place either in sub-para 1 or sub-para 5. Sir, I move:

“That in amendment No. 20 above, in sub-paragraph (1) of paragraph 5 of the proposed Fifth Schedule, after the words ‘scheduled area’, the words ‘and also the scheduled tribes’ be inserted.”

An amendment to that effect has been moved by Mr. Jaipal Singh, and in moving this amendment I submit that it is the duty of the Government to issue a notification or regulation for the advancement and welfare of the scheduled areas and also for the welfare of the tribes. If it is proposed to retain para 5 of the Fifth Schedule, then the Governor is not bound to direct that any particular Act of Parliament or of the Legislature of the State shall not apply to that particular tribe.

The special purpose for moving this amendment is that there are areas in Orissa and the C.P. States which may not be specified as scheduled areas but there are certain Scheduled tribes among which certain kinds of land laws are prevalent. For example, in C.P. and Orissa States, it is not permissible on the part of a non-aboriginal to acquire the lands of an aboriginal without the sanction of the Government. Now, Sir, in that case, supposing according to paragraph 5, the Governor or the Ruler of a State does not make any regulation and retains the same provisions applicable to non-aboriginals with respect to the transfer of lands; then I shall submit that there will be no use in saying that the Government is prepared to safeguard the interests of the tribal people.

Sir, I move

Mr. President : Are you moving amendment No. 49 ?

Shri Yudhisthir Mishra : Sir, I move:

“That in amendment No. 20 above, in sub-paragraph (2) of paragraph 5 of the proposed Fifth Schedule, after the words ‘for the time being a Scheduled area’ the words ‘and also for the welfare and advancement of the scheduled tribes’ be inserted.”

It carries the same meaning as amendment No. 48.

Mr. President : So far as I can see, there is no other amendment to the Fifth Schedule as now proposed.

Prof. Shibban Lal Saksena : I have some amendments.

Mr. President : Coming at the last moment, these amendments have not been circulated to Members. They came in at 8.58 this morning.

The Honourable Dr. B. R. Ambedkar : I have no idea about them. These should not be allowed.

Mr. President : If you have any amendments, you may make your observations. I may tell the House that I have a set of new amendments sent in by Prof. Shibban Lal Saksena and Dr. Deshmukh.

The Honourable Dr. B. R. Ambedkar : We have no copies. We do not know what they are talking about.

Mr. President : Dr. Deshmukh's amendment came in at 9.20 in the morning. Prof. Saksena's came in at 8.58 in the morning. Technically you are just before the commencement of the session but I think it is very inconvenient to the other Members.

Dr. P. S. Deshmukh (C.P. & Berar: General) : My amendments are of a drafting nature.

Mr. President : Very well, they will be handed over to the Drafting Committee. I do not think there is any substance in any of your amendments, Prof. Saksena ?

Prof. Shibban Lal Saksena : Yes, they are essential.

Mr. President : Under the rules Members are entitled to give notice of amendments before the commencement of the session, and it is just before the commencement of the session that Prof. Saksena's amendments came in.

Prof. Shibban Lal Saksena : I thank you very much for allowing me to move my amendments. I may say that these amendments are conceived with one purpose. Sir, the existence of the scheduled tribes and the Scheduled areas are a stigma on our nation just as the existence of untouchability is a stigma on the Hindu religion. That these brethren of ours are stiff in such a sub-human state of existence is something, for which we should be ashamed. Of course, all these years this country was a slave of the British, but still we cannot be free from blame. I therefore think Sir, that these scheduled tribes and areas must as soon as possible become a thing of the past. They must come up to the level of the rest of the population and must be developed to the fullest extent. I only want that these scheduled tribes and scheduled areas should be developed so quickly that they may become indistinguishable from the rest of the Indian population and that this responsibility should be thrown on the Union Government and on the Parliament. Of course the States' Governors and Rajpramukhs will have to do their work but I want that the responsibility for their welfare, and their advancement must be laid on the Central Government only. Therefore my amendments only pertain to putting the President of the Parliament in place of the Governor/Ruler wherever these words occur. I move :

"That in amendment No. 20 of List I (Seventh Week), in subparagraph (3) of Paragraph 4, and in subparagraph 5 of the proposed Fifth Schedule, for the words 'Governor or Ruler' the words 'President in consultation with the Governor or Ruler' be substituted."

As it stands, "the Governor or Ruler" may make rules prescribing or regulating as the case may be (a) the number of members of the Advisory Council, etc. This Council is a very important body. This will administer the areas and will advise about their advancement. Its constitution, the number of members in it and other things connected with it are made the responsibility of the Governor. I want it to be the responsibility of the President in consultation with the Governor or Ruler. I also want it in paragraph 5 too. There it is said :

"Notwithstanding anything contained in this Constitution the Governor or Ruler as the case may be, may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a scheduled area or any part thereof in the State or shall apply to a scheduled area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification."

[Shri Shibban Lal Saksena]

Now, here you will find that under 5(1) 'Notwithstanding anything contained in this Constitution the Governor or Ruler may by public notification' abrogate an Act of Parliament in regard to a scheduled area. All that I am proposing is that for the words "Governor or Ruler" we should substitute "President in consultation with the Governor or Ruler." Such a substitution will be democratic and proper. It should not be possible for the Governor or the Ruler to abrogate an Act of Parliament.

Sir, my second amendment is this

"That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (4) of paragraph 5 of the proposed Fifth Schedule, after the word 'All', the words 'notifications and' be inserted."

This is necessary because in sub-paragraph (1), we are empowering the authorities to direct this or that 'by public notification'. I want that these notifications also should be issued with the consent of the President.

Again, Sir, in sub-paragraph (5) of paragraph 5, I propose—

"That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (5) of paragraph 5 of the proposed Fifth Schedule, after the word 'No' the words 'notifications or' be inserted."

My intention is to see that all notifications are issued only after consultation with the Advisory Council.

My amendment in respect of paragraph 6(1) is.

"That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (1) of paragraph 6 of the proposed Fifth Schedule, for the words 'President may by order' the words 'Parliament may by law' be substituted."

It is not proper to leave these things to the President. Parliament should have the power by law to declare an area 'a scheduled area'.

Sir, the rest of my amendments to this paragraph are consequential to the above amendments.

The first of these is:

"That in amendment No. 20 of List I (Seventh Week), in sub-paragraph 6 of the proposed Fifth Schedule (2) for the words 'such order may' the words 'such law may' be substituted."

In view of the fact that 'such order' concerns the rectification of boundaries of 'scheduled areas', it is important that this should be done by law made by Parliament, and not by a President's order. I am next proposing that :

"(b) for the words 'to the President' the words 'to the Parliament' be substituted."

This is merely consequential upon the earlier amendments.

Then I come to the last important amendment of which I have given notice. It reads :

"(c) the words 'but save as aforesaid, the order made under sub-paragraph (1) of this paragraph shall not be varied by any subsequent order' be deleted, and the words 'any such law may contain such provisions as are considered by Parliament to be necessary' be added."

My object in moving this is that the existence of a huge population in sub-human conditions is a stigma on our country. By the end of ten years they should be no more a separate sub-human group. I want Parliament to have this stigma removed and enable these people to become assimilated with and part of the general population of the country.

Mr. President : Now all the amendments have been moved.

An Honourable Member : I have an amendment to move.

Mr. President : That refers to the old Schedule. I am not allowing amendments to the old Schedule to be moved. The whole of it has been changed.

Now that all the amendments have been moved, we, can discuss the Schedule as well as the amendments together.

Shri Kuladhar Chaliha : (Assam: General) : I was not able to send notice of any amendment to this Schedule because the List reached me only at 10 p. m. last night.

Mr. President : There can be no amendments to amendments.

Shri Kuladhar Chaliha : These amendments reached me only at ten last night.

Mr. President : They were distributed on Saturday. The Fifth Schedule was distributed on Friday. The List that was circulated last night, was the consolidated list of all the amendments.

Shri Kuladhar Chaliha : The Sixth Schedule was distributed last night.

Mr. President : The Sixth Schedule was distributed on Saturday.

Shri Brajeshwar Prasad : Sir, I rise to support the schedule as moved by Dr. Ambedkar. While doing so, however, I would like to point out that I am not in full accord with some of the provisions included therein. I had a few days ago advocated on the floor of this House that the best form of Government for the tribal people would be to make all the tribal areas Centrally administered areas.

Mr. President : May I suggest to the honourable Member that it is no use saying : 'I rise to support the Schedule proposed' and in the sentence following it adding I am not in agreement with the provisions'. There must be some consistency in the speech at least.

Shri Brajeshwar Prasad : Sir, I was saying that I have accepted the Schedule because it has been agreed to. After all, in a democratic Organisation one has to abide by the decision of the majority of the people whatever may be his own individual opinion about that decision. It was in that light that I made that Observation. I accept the observation that it is not logical and proper and it does not look well to make a statement which sounds contradictory.

Sir, the 'Statesman' in its editorial dated 4th September 1949, Delhi Edition, made the following observations:

"Recently the House agreed to reservation of seats for aboriginals in the Federal and State Lower Houses for ten years. With that decision few will quarrel; but its value will depend on the mode of choosing these representatives, whether as trusted spokesmen of their tribes or because of party allegiance. The evils of political strife among peoples ill-fitted for it by temperament and intellect have perhaps been too little appreciated in the provinces."

Sir, it proceeds to say:

"In Delhi, however, some observers have discerned a new awareness of danger. Recent aboriginal outbreaks and evidence of reversion to old barbaric practices have caused disquiet. Re-examination of the entire aboriginal problem is desired. In this may lie assurance that, though they will follow with sympathetic interest the democratic experiment in the scheduled areas, Republican India's President and State Governors will continue to regard themselves as the especial custodian of the tribes constitutionally entrusted to their care. If they endeavour to bring to this duty the tact and understanding shown by the late Sir Akbar Hydari in Assam not much can go wrong."

[Shri Brajeshwar Prasad]

I have no other comments to make in this direction. I am not in favour of the Tribes Advisory Council. This is merely side tracking the issue. What the tribals want is not a Council but a guarantee by the Constitution that means of livelihood, free education and free medical facilities shall be provided for all tribals. This is not an impossible demand which I am making. I am not making this demand for all the citizens of this country but for only twenty five million people. The provinces being weak in economic resources are not in a position to shoulder this responsibility. Hence I plead that the Centre should take command of the tribal areas. The Government of India has no right to exist if it cannot undertake to guarantee means of livelihood and free educational and medical facilities even for such a small number of people. The Centre can do all these things without divesting in any way the authority of the provincial governments in other spheres of administration. Of course the ideal form of government would be to bring all tribal areas under the sole jurisdiction of the Centre. There is only one obstacle in the way of the achievement of this goal. It is the lust for territorial aggrandisement that stands as a stumbling block to economic prosperity and cultural advancement of the tribal people.

The people of India will not stand to lose in any way if tribal areas becomes Centrally administered areas. If there is any interest of any province which is not in accord with the interest of India as a whole, I for one will stand with India and not with the province. The interests of India can never be opposed to the interests of its component parts. If there is any interest which seems to be in conflict with the interests of India as a whole, that interest must be opposed and liquidated. It is absurd to talk of any provincial interest which can ever come into conflict with the interests of India.

There is one other point with regard to this paragraph 4 to which I would like to draw the attention of the House. The Tribes Advisory Council should consist of all the members representing the tribes in the Legislative Assembly of the State. The largest number of tribal members will be in Bihar, where they will be about fifty-five in number. Surely this number is not too large. The Tribes Advisory Council has got only advisory powers. It is not vested with any executive and legislative powers. If it would have been otherwise, then it would not have been desirable to provide representation for fifty or fifty five members. There ought not to be any objection in providing seats for all these fifty persons in the Tribes Advisory Council, since it is purely an advisory body having no legislative or executive functions.

Then in regard to paragraph 5, two things ought to have been provided for in this paragraph. The passing away of lands from the hands of the tribals to non-tribals ought to have been prohibited by the Constitution itself. I demand this on humanitarian grounds. Failure to do this will also lead to political consequences of which we do not seem to have a proper appreciation. It will embitter the relation between the tribals and the non-tribals. It will promote the growth of fissiparous tendencies in tribal regions.

I want, Sir, that no land in the scheduled areas belonging to an Adivasi should be allowed to be sold or mortgaged even to tribals without the permission of the Deputy Commissioner. Such a provision exists in Santhal Pargana. I am not at all in favour of dispossessing those non-tribals who have got lands or property in the scheduled areas, but no further lands should be given to non-tribals. This protection is needed in the interests of the tribals. It is also in consonance with the demands of the tribal leaders. This concession will generate a feeling of loyalty in the hearts of the tribal peoples. Loyalty is the product of social circumstances. Unlike the Divine soul it is not inborn. If it would have been a part and parcel of our existence, the question of disloyalty would not have arisen at all. Instead of delivering sermons to the minorities to be loyal and

faithful to the country, we must remove those conditions which breed a feeling of disloyalty and of extra-territorial sympathies. Sir, there was an apprehension in our minds that a small section of the tribal people would fall in line with the Muslim League on the issue of the creation of a separate Islamic State. Happily that danger is over now. If we want that such a contingency should never confront us in the future, we must go even out of our way to allay the apprehensions of the tribal people. A discontented minority is a source of grave danger to the stability of the State. The minorities have shattered Europe to bits. At the critical moments when the nation is confronted with some catastrophe, the minorities can tilt the balance one way or the other. It is absolutely necessary that the Nation should stand solidly behind the State if it is confronted by enemies abroad. If at such a critical juncture the discontented minorities choose to light the fire of rebellion, no State can survive the onslaught. I plead once again that the power should not be vested in the hands of the Governor to prohibit or restrict the transfer of land. The Constitution itself should prohibit the transfer of land into the hands of the non-tribals.

Secondly, I demand that no moneylender should be allowed to carry on his nefarious trade in these regions. It is wrong to permit an institution which flourishes on the exploitation of the poor and the illiterate tribals. It ought to be the duty of the State to perform the functions of a moneylender in the tribal zone. The expulsion of the moneylender must be guaranteed by the Constitution itself.

Shri Lakshminarayan Sahu (Orissa: General) : * [Mr. President, I have worked among the aboriginals and as such I would like to make some observations regarding the provisions that are going to be included in the Draft Constitution in respect of the Adivasis.

I would like to point out that it has not been clearly stated as to who are to be included in the terms 'Scheduled tribes'. We should duly consider which tribes should be included in this term. We have used the term 'scheduled areas' and in respect of this term also we should duly consider as to what areas should be included in it. Under the proposed article the President will have the powers to declare as to what areas are covered by the term 'Scheduled areas.' It will not be proper to vest this power in the President. As has been suggested by my Friend Mr. Shibban Lal Saksena, this power should belong to the Parliament. If this power is not vested in the Parliament, there may arise strong agitation when the areas are re-distributed. Therefore, I submit that this power should be vested, not in the President, but in the Parliament.

I would like to submit one thing with regard to the Tribal Advisory Council. It is true we are going to constitute a Tribal Advisory Council consisting of 20 members, three-fourths of whom will be taken from the tribal people, but there is no mention as to who will be taken in for the remaining one-fourth of the places. I want that this one-fourth should consist of representatives of the organisations that are working in these areas. Almost all the Governors will be aware of the requirements of the Tribal people. Some may argue that some of the organisations that are working in these areas belong, some to Christians and some to Hindus, and that it may lead to evil consequences. In my opinion there need not be any fear of this. The organisations that are working in these areas have done and are still doing much good work for the welfare of the aboriginals. And moreover the final authority is going to be vested in the Governor. In view of all these considerations, representatives of the organisations that are working in these areas should be taken in the Advisory Council for the remaining one-fourth of the places.

Some problems may arise in future in regard to the Scheduled Tribes and I may point out in this connection that many of the tribes that have been

* [Translation of Hindustani Speech begins.

[Shri Lakshminarayan Sahu]

recorded as scheduled tribes are politically very advanced. For example, in Orissa there are two tribes named 'Dambi' and 'Pani' who are politically quite advanced. They have been included in scheduled tribes. When we take up the question of that area, we should exclude them from the scheduled tribes. Otherwise the scheduled tribes or the 'Adibasis' will not be able to benefit from the provisions that we are including in the Constitution for their welfare. Therefore, I suggest that the 'Dambi' and 'Pani' tribes of Orissa, should be excluded in due course from the scheduled tribes. We cannot get any indication from the provisions of this schedule as to what would be the character of the rules framed for the administrations of these areas and tribes. This creates some misgivings in my mind. I would suggest that it should be made clear by Dr. Ambedkar by an amendment that, as provided in a previous article which states that "provided that where such Acts relates to any of the following subjects, that is to say marriage, inheritance of property and social customs of the tribes etc., etc." the rules also would not be making any change in regard to marriage, inheritance of property and social customs.

Lastly, I submit that their life is gradually changing. There is a tribe in Orissa known as "Shabar Tribes"; formerly they were Adibasis, but now they have adopted the Hindu way of life and have become Hindus. Some of the customs of the aboriginals have crept into Hinduism and some of the useful customs of the Hindus have found place in the life of aboriginals. This interchange is gradually going on among Hindu and aboriginals. If a few non-aboriginals are not included in the Advisory Council, it may develop a belief among the Adibasis that they are separate from us and in course of time, it may be develop separatist tendencies among them. Perhaps this amendment, that the provisions will operate only for ten years, has been moved in view of these considerations. I think we should not bother about the period, whether it be ten years or twenty years, for the Adibasis are so backward that the period of ten years prescribed here may be safely extended to twenty years. We need not worry about this. The main thing that we should be anxious about is that we do not forcibly bring them into our fold. Some of us advocate that we should force them to come into our fold. It is very improper. It is only by a gradual process of creating closer relations that they should be absorbed amongst us.

With these words I conclude my observations.]*

Babu Ramnarayan Singh (Bihar: General) : Mr. President, Sir, I shall not take much time of the House, because I am keeping generally silent these days. My honourable Friend Babu Brajeshwar Prasad is very fond of Central administration' I ask him to study the situation obtaining in centrally administered areas and for that he will not have to go far....

Mr. President : That remark need not taken seriously because he has not moved any of his amendments of which he has given notice.

Babu Ramnarayan Singh : Thank you, Sir. I think he should study the situation here in Delhi Where there is a Central Government and where he himself lives and he should go and see how the administration is going on here in Delhi itself. Sir, I have come only to remind you, the Honourable House and the whole country as regards this subject, of our previous commitments, acts and advocacy; it is under the instruction of our Indian National Congress that we have all along advocated in the Central Legislature that there should be no discriminatory administration in any part of our country. We wanted that there ought to be one and one administration only in every part of the country. We were ashamed of such things as backward tract or excluded area or partially areas. Now, Sir, it pains me and I think it must be paining everybody in this country to find that we have begun to do things now

]* Translation of Hindustani Speech ends.

against which we have, protested so long during the British rule. During the British rule, we did not want that there should be such a thing as backward tracts or excluded areas, but now we are going to have such a thing as a Scheduled area. There will be administration different from that in other parts of the country. During the period of British rule here they kept the area separate from other areas so far as administration went, but they did nothing for the real benefit of the people. I thank the Missionaries, the Christian Missionaries who have done a lot of improvement to the people.

Here, I must say one thing; I should not be misunderstood as speaking against anything that the people of the backward areas may require, may demand. I wish they should have all they demand. I know and everybody knows that there are backward people in every part of the country, in every village, in every town, even in the city of Delhi. The remedy does not lie in separating one part or area and doing something here and there. I know that the Government will not be able to do much by separating any part of the country as a scheduled area or anything like that. As it was said during the days of the British rule, there are certain people in the country, as honourable Members know, who require special treatment. Let the Government bind themselves to do three or four things. Let the Government educate all the children of the aboriginal people and other backward people in this country entirely at the cost of the Government. This education should also include military training. After having imparted education, let these people be given preference in Government appointments. Next, I suggest let the Government give every aboriginal man and every backward people some land. Having done all these things, then, I feel there will be no distinction in social status, the people will have their own way and the general level of the well-being of the people will be one, and there will be no such thing as backward people or aboriginal people.

Then, Sir, there is one thing. What is our aspiration for the future ? Our aspiration is this. Unfortunately, the country has been divided into so many classes and communities. We should proceed in such a way that all the different communities may vanish and we may have one nation, the Indian nation. If we proceed as the British did, with this class and that class, with this area and that, we shall fail in the future. I am glad that this amendment of Dr. Ambedkar is less pernicious. I have not much to say against this or the original provisions. But, I feel that such a thing should not have come up for discussion in this House.

Shri Jadubans Sahay (Bihar: General) : Mr. President, Sir, I have taken my stand here in order to congratulate Dr. Ambedkar and those associated with him for having brought about this redrafted Schedule V. I congratulate them because Schedule V as originally drafted was too rigid as has been observed by Dr. Ambedkar.

The problem, or rather the treatment of the problem of the tribal people is a very difficult and delicate one, and hence in dealing with these problems we have got to see that we should not tie down the hands of those who want to do good to them. It is true, and we are all, each one of us, here and outside, determined and agreed that this problem of the tribals is not of recent making. Their exploitation, their poverty, their economic backwardness, their social backwardness, all the things deserve the special attention not only of the provincial Governments, but also of the Central Government. But, in this, as has been right' pointed out by Babu Ramnarayan Singh, we have got to depend upon the State legislature and the provincial Governments. We should have faith in the provincial Governments as also in those non-official institutions who are working in order to ameliorate the conditions of the tribal areas. Here, I cannot withhold not only my thanks, but the thanks of all those

[Shri Jadubans Sahay]

workers who are working among the aboriginals, to Shri Thakkar Bapa. We know even in this old age, he has been touring those areas. I need not say here that if we go by his advice, and if he is given to us for another ten years, we shall be able to do not only something concrete to show to this House or to Parliament, but also which will bring real happiness, and economic, educational, social advancement to the tribal people.

I wish to make one observation so far as Mr. Jaipal Singh's amendment is concerned. His first amendment is that not only with regard to the tribals living in the Scheduled areas, but also of all the tribal people, living in the province, the report of the Governor should be submitted to the President. I think Dr. Ambedkar will consider over this matter. Because, it is none of our wish nor his that a report on only the scheduled tribes in the Scheduled areas should be submitted to the President. We know that the tribals living outside the proposed Scheduled areas are more backward, less organised and there are very few people to care for them. Therefore, if it be possible, this amendment of Mr. Jaipal Singh may be accepted.

There is another matter to which I wish to draw your attention. It has been said that so far as the Advisory Council is concerned, they should be invested with more powers powers of trying cases and all those things. But, I submit, Sir, that this Advisory Council should be entrusted, as has rightly been done, with the work of welfare and advancement of the tribals. If we tie down this Advisory Council with work of a political nature, then, what would happen to the councils formed by the tribal people ? Even our village Panchayats in some places, as you may know, have become a ground for political rivalry and political bitterness. If we really want the advancement of the tribal people, this Advisory Council should not be, as has been rightly done in the new draft, rather burdened with the task of trying cases and all those things regarding land, etc. So far as land is concerned, it is not our intention nor of the provincial Governments where the tribals live—provincial Governments have made laws to see that land should not pass out of the hands of the tribal people; in our province, the Chota Nagpur Tenancy Act was modified and altered long long before 1937 in order to see that no land should pass out of the hands of the tribal people. But, there were various difficulties in the original schedule; that land should not be settled by the Government to any one except the tribal people. In the Scheduled areas, there are not only the tribal people; there are Harijans also; there are other castes also who are equality back-ward, if not otherwise, at least economically, as the tribal people. Is it, then, Sir, our wish that in those areas where the Harijans and other backward people remain, land should not be settled by the Government to them also ? Of course, the tribal people should have the preference as well as the Harijans living in those areas. If these things are made elastic, we should have nothing to say on this point. But, the Government should see and in the future we also should see that preference is given to the tribal people and if they have no land, the landless tribal people should have the first priority.

Then, Sir, regarding the other provisions it is not here for us to debate I have come here to congratulate the Drafting Committee. I think Sir, in the future, when the question of scheduled areas comes up, the Provincial Governments will give a correct advice to the President to whom has been entrusted the formation of the Scheduled areas. At present, among the Scheduled areas, there are various areas which should not have been kept there. Take the case of Latehar Sub division from which I have been returned. There are a large number of tribals no doubt, but the non-scheduled tribals are in a majority but these things are not to be taken up here. I will only say that by leaving all these for the full consultation of the Provincial Government and other leaders of the country who are entrusted with the work of the tribals and also of tribal leaders, nothing will be lost.

Shri A. V. Thakkar : Mr. President, Sir, It gives me very great pleasure to support Dr. Ambedkar's revised Schedule No. 5, because of two reasons. One is that it is very very abridged. Abridgment does not take away anything from that except one or two small points, but it widens it in respect of inclusion of the tribals of the Indian States which have formed themselves into Unions as well as those that have merged in the provinces. Those tribals that existed that live at present in the wilds of Rajasthan, in the Central India, States of Madhyabharat, also in the Vindhya Mountains, also in the Himachal, also in the Western Ghats of Travancore and Cochin—they were all neglected upto now and now they come into the picture for the first time in this revised Schedule. They were not included in the original Schedule. That is a great improvement which will affect not only lakhs but millions of tribals residing in the Indian States.

The other thing is that the Tribal Advisory Councils come into the picture for the first time in the history of India. Even with the Scheduled classes and the movement of Gandhiji for the amelioration of the Scheduled Castes, the Scheduled Caste Committees about administration were never formed. They are now being formed for the tribal areas for the first time and that is a very great advance. Not only that, but the Tribal Advisory Committee will consist of three-fourth of tribal members. They can if they like, take the greatest advantage of it in all ameliorative measures as well as in the conduct of everyday affairs of the Scheduled tribes, as well as Scheduled areas, but I am afraid our tribal friends are too shy yet. They have to be brought out not only from the plains of the country but also from the hills and hilltops, from the distant Himachal, from the distant Vindhya, from the Hills of Chota Nagpur, from the hills of Travancore and Cochin. Even there are places on the hills where even the Christian Missionaries have not yet reached, and I am glad to say that some of our new social workers are reaching them even in the hills of Travancore and Cochin. Let me say that this question is very little known to all of us. I will give you only one instance of that. When I went with the Assam Tribal Committee to tour in the areas of Assam with the Chairman Mr. Gopinath Bardolai and the prominent Minister Rev. Nichols Roy all the members of the Committee, one and all, went for the first time to the Lushai Hills and Naga Hills in the year 1947. Even the Premier of Assam had never visited the Lushai Hills and Naga Hills, much less a man like me. Therefore the more we are able to know of these tribes the better it is for the country as a whole and to assimilate those tribal people as fast as we can in the whole society of the nation as we are now.

The other day my honourable Friend Dr. Kunzru was telling me "Thakkar, why don't you arrange a tour for me to go into the outside areas of Assam 'where tribals live those in Balpara areas and Sadia areas and Tirip areas.'" I say in reply to this House that if the Government can arrange a trip of 40 or 50 members of this Assembly to tour in all the tribal areas of the country it will be a very great knowledge gained and it will solve the problem a good deal. Even my friend Mr. Jaipal Singh does not know anything about the tribals outside Bihar—his own province. He does very little touring in other parts. I would wish him to do that. I would see that he is provided with money to tour everywhere, wherever he likes to go in the tribal areas or other parts of the country than Bihar. Bihar is not India. There are so many Bihars in India and let him take care—if he likes—of all the remaining provinces where there is great necessity, more necessity of doing tribal welfare work than in Bihar. The tribes of Bihar as a whole are much advanced, comparatively speaking. I will give only one instance. There are Oraons and Mundas. These are the main tribes of Ranchi District which is the centre of Bihar tribals. Take the nearest State of what was called the Sarguja District of C. P. The Oraons

[Shri A. V. Thakkar]

of Surguja are twenty times more Jungly than the Oraons of Ranchi District. I have been reading recent papers obtained from those places from friends and coworkers and from the staff of the C.P. Government who are engaged in the welfare work, and I find that the Oraons of Sarguja District will not come down, for anything that you will give them, from the hills to the plains. Such is the difference between Oraons of one province and Oraons of the adjacent district of Sarguja. Another thing is people have very little idea of what progress we have made in the matter of amelioration of the condition of the tribals during the last two years only. I would say two years, only from 1947 to 1949, the Governments of Bombay, C.P., Bihar etc. have made wonderful progress. I am using the word purposely. Very few people have any idea. I am not giving you a secret if I say that Dr. Ambedkar was asking me a week ago 'Has any Government been doing practical work for the amelioration of the tribal?' I said 'Yes, Dr. Ambedkar, you are not aware of the things that are going on in the provinces'. I am running to those places occasionally and also giving some guidance to the social workers there. The Bombay Government has recently introduced a system of backward class inspectors in 11 or 12 districts where the tribals predominate. The Government of C.P. has done the same thing on a much larger scale. Let me say that as the C.P. is said generally to be a backward province compared to Madras or Bombay. There a large number of States have been merged in the Province and the States contain a much larger proportion of tribals than the Province proper. There even they are spending money like water—if I may say so. Have you ever heard of—one Department working for the welfare of tribals in one Province been given a sum of fifty lakhs per year. That the C.P. Government is doing today. I do not know whether my friend the Honourable Premier Shri Ravi Shankar Shuklaji is here or not but it is really so, and it is a thing on which the C.P. Government may be congratulated. One word more, Sir, the President has already ruled that this suggestion of Shri Brajeshwar Prasad for making the tribal areas centrally administered, need not be taken seriously. But be said that all the tribal areas should be maintained by the Centre as Centrally Administered areas. But has not the Centre any other work? Has the Centre too little work? Is not the Centre saddled with so many new responsibilities so that they should be given additional burden of so many centrally administered areas? Already many States are being centrally administered. Then why this additional charge on them? Tripura, Cooch Bihar, Manipur and Bhopal and other States are being centrally administered. So, why throw this additional burden on the Centre?

And moreover, this is the work of the Provinces really, if I may say so. Of course, the directive must come from the Centre, as well as money; a good part of the money must come from the Centre. But this is work which can only be done by the Provinces and not by the Centre. The Centre has already enough responsibilities, such as the international- field, the question of war and peace as well as directing the provinces. Therefore it will be a sin to saddle the Centre with more responsibility. It is often complained that the Centre is taking all powers to itself, by this Constitution that we are making, and so many people find fault with it. Then why ask the Centre to take up this additional responsibility, especially when it is a responsibility which cannot be undertaken by the Centre. It is a work for which so many agencies are required. And it has to be done in the course of ten short years. After ten years, the whole system of reservation of seats will be abolished. Of course, with it the department of welfare will not be abolished, I am sure of that. But the, reserved representation of the tribals that we have promised them today, on adult franchise system, will be abolished ten years after, and therefore, they

will not come in as large number as they will now. Therefore this small period of ten years has to be utilised to the utmost and that must be done by several agencies, and not by the Centre or by the Government of the Union alone.

Sir, I have very great pleasure in saying that I support amendment No. 20 of Dr. Ambedkar that has been put forward. Not only has it been abridged, but it has widened the scope of its application. The total population is two and a half crores, all the tribal people in the Provinces as well as in the States. If we had not gone in for the States being included in this Schedule Five, then about more than one third of their population would have been neglected, especially those tribals of the States, coming for the first time into human knowledge, if I may say so. Nobody cared for them; nobody was allowed to go into them. Therefore, this is a very great improvement, and I hope the Government of India will vote ample funds for this work. That is the, crux of the Whole thing. I know the financial tightness under which the Centre is at present suffering. But that is a thing which will pass off in a year or two. After that the Centre should give not less than a crore of rupees per year as help to the Provincial Governments, not only provincial, but also to the States, I would say, and more is needed for the Indian States than for the Provinces.

Shri Muniswamy Pillay (Madras: General) : Mr. President, Sir, at the outset. I must say that great credit is due to the Tribal Committee which went round the country and saw for themselves the great disabilities under which these tribal people are living. I think great credit is also due to the Drafting Committee for so ably bringing forward this Fifth Schedule which goes a long way to improve the conditions of the tribal people. Sir, coming as I do from a province and region which is inhabited by many varieties of tribes and aborigines, I feel that this is opening up a new chapter in the history of the elevation of the depressed and oppressed communities of this great land. I feel proud that in the new set-up the people who have been neglected for centuries, find a place and chance for progress.

Sir, I do not want to take the time of the House. But I would like to refer to one or two points in the Schedule. My friend Mr. Jaipal Singh has brought in an amendment to item 3 whereby he wants the Schedule Tribes to be added along with the Scheduled Areas. Sir, there are several tribes in the provinces who are scattered in many places and the population there do not count for representation of these communities in the Legislatures. According to adult franchise, one seat will go to every 75,000 of the people. But as these people are scattered, I do not think these people will be able to find enough place in the Assemblies. I know, as a matter of fact, in the Madras Legislature there is only one man representing the tribes, out of 215 members. Now, this Part II envisages to have Advisory Council or Committee, the composition of which will be three-fourth of the members from the Assembly. Unless a scheme is adumbrated whereby special representation for the scattered tribes is made, it will not be possible for these tribes to come in large numbers to take part in the Legislative Assemblies and also, to take part in the Tribes Advisory Committee. So I think some way must be devised whereby it will be possible for these tribes to get into the Advisory Council.

A second suggestion has been made whereby if it is not possible to get members of the Assembly for this Advisory Council, members could be co-opted to the Council. I only say that care must be taken that only persons who have sympathy for the tribals and also people who have been working in the field of elevation of the tribals must find a place in this Tribes Advisory Council.

I know, in the south there are many tribes, such as the Todas, the Puliyaas who are already dwindling in population. Recently Prince Peter of Greece who happened to be in the Nilgiris went into the question of the Toda uplift and

[Shri Muniswamy Pillay]

he has made certain suggestions to the Government of Madras designed to better their lot. My Friend Thakkar Bapa has said that it is not the Government alone who should work in this field, but all who feel for the elevation of the depressed and oppressed communities must take a keen interest in suggesting ways and means for their elevation.

Sir, it is said that the Tribes Advisory Council will be only advisory. I feel that some provision must be made that whatever recommendations are made by this Council, must be mandatory, and the Government, without overriding the recommendations of the Advisory Committee, must give effect to them. If this is done, I think the new set-up for the elevation of the tribes will go a long way.

Sir, it has been argued that reservation for the Scheduled tribes also must be for ten years. I am not in agreement with Thakkar Bapa who has great credit for having worked for the Adibasis and aborigines and other tribes. Their condition is so bad that it will be impossible for any Government or people to, uplift them in the course of ten years. So I think that period of ten years, for everything must disappear from our minds.

With these remarks, Sir, I strongly support the Fifth Schedule that has been brought by the Drafting Committee.

Shri Jaipal Singh : Mr. President, Sir: At the outset, it is rather unfortunate that I should have to talk about myself and my travels for the edification of my venerable Friend Mr. Thakkar. Only a few minutes ago, he said that I knew my Bihar and little outside. He hinted that I did not travel about much, that he would enable me by his own personal courtesy, as also perhaps with powerful financiers that are behind him, to go all over India, to the outposts of North East India and elsewhere, so that I may become the wiser by those travels. I thought he knew me well enough. It seems he does not. Let me tell him that I have lived for several years in the C.P. and there is not a single State there that I have not visited. Let me also tell him that I lived in Bengal for about five years and it was part of my job to go to the most inaccessible parts of, even Eastern Bengal. Western Bengal, where there is a large Adibasi population, is almost next door to my own home district. For seven years, I lived in Jamshedpur, which attracts a good many Adibasis from Western Bengal and elsewhere. Assam—Mr. Thakkar went with the Sub-Committee only two years ago. May I enlighten him that have been to every tribal tract in Assam not only once, but a dozen times? Madras is not unknown to me. Nor is Bombay. I am not one who advertises my itinerary as he or somebody else does. I go about quietly moving about among my own folk, and I try to understand them and I do not come to hasty conclusions. I have for the last eleven years tried my best to educate non-tribal people to appreciate the self-respect, the imponderables of Adibasi culture. For a couple of years, it was my privilege to under-study some foreign anthropologists. I do not know how many Adibasi languages Mr. Thakkar actually knows.

Shri A. V. Thakkar : None.

Shri Jaipal Singh : I am glad he is honest enough to admit he knows not a single Adibasi language.

Shri A. V. Thakkar : Except of Gujarat.

Shri Jaipal Singh : Even in the evening of his life, I would venture to suggest that if his workers were to learn the language of the people—be they Adibasis or any other backward groups like the Scheduled Castes—their work could be more valuable. If, for example, his team who are in Southern Bihar and the

Chota Nagpur Plateau were to learn Santali, Uraon of Mundari—all of which I can speak—they would be treated with less suspicion than they are now. Adivasis are very suspicious of non-tribals. Quite rightly, because the role of non-tribals has in the past been one of Dikus. That word 'Diku' is not something I have coined, as some Ministers in Bihar are so fond of alleging. Diku has been in the record of rights for the last eighty years, long before I was born. The non-Adibasi has played a very damaging role in the past. The generality of non-Adibasis have.

I will be the first one to acknowledge the sterling services a few of them, like my honourable Friend Mr. Thakkar, have rendered amongst these helpless people. I am not here to sing my own praises, but I would only like the House to know that I am not as untravelled in India or elsewhere as my honourable Friend. I do not know how many times Mr. Thakkar has been round the world. I have gone round twice at least. I have lived in Africa for five years. I have seen the aborigines of Polynesia. I have been elsewhere also. I have tried to understand the Adivasi problem as it confronts us today and, as it confronted the previous alien regime, from a scientific angle, not through the eyes of the politician as a great many of the people in this country are inclined to do. It is much better that we should try and probe into it, try to get behind the mind of the Adibasi as to how we can make do the work which we intend should be done for him. We cannot obviously carry 24.9 million Adivasis in our laps. Surely, that cannot be done. There, again, Mr. President, I have to correct my venerable friend that the figure is not $2\frac{1}{2}$ crores. It is 24.8 million. It is more than $2\frac{1}{2}$ crores. I do not want to argue about it.

Mr. President : 24.8 million is actually less than 21 crores!

Shri Jaipal Singh : Never mind. There is a silver lining in the speech of my Honourable Friend. I am particularly gratified that he has risen above party politics and tried to present a case that should be worthy of him and his antecedents. I have been much worried by some of the amendments he had tabled against the original draft. Fortunately for him, he has dropped all of them and has forgotten all about them. This has required courage in him and I do admire his statesmanship.

It is quite true that the revised form of the Fifth Schedule is more comprehensive than the original draft. That is as it should be and it is to that end that I have tabled all my amendments and I hope Dr. Ambedkar and his Drafting Committee will produce their own mantar and, somehow or other, incorporate the ideas I have tried to put forward in my five amendments. There has been a tremendous change in the whole scene. Not only freedom, but the merger of the States has brought about a change in the entire aspect of the aboriginal problem. Numerically the aboriginals need not be so helpless everywhere. Orissa will perhaps, have the most difficult problem not, because the problem is difficult, but because there are things which cannot be tackled unless the wherewithal is forthcoming. With the best of intentions in the world, Orissa will not be able to do much for its backward people Adivasis and the other depressed classes, unless specific funds, ad hoc funds, are placed at its disposal by the Central Government. So is the case in regard to Assam. I am very glad that my Friend the Honourable Pandit Ravi Shankar Shukla has started in a humble way. To my mind Rs. 50 lakhs is not such a colossal figure that one can enthuse over it. Anyway he has made a beginning and I am very glad about it. But if he can add one mom zero at the end of the amount, that he has set apart, then I can, congratulate him. Funds will be needed and that is why I am somewhat cynical about the time limit some people have indicated. I would much rather that no date were

[Shri Jaipal Singh]

specified at the end of which these provisions should come to an end. Would it not be very much better that during these ten years, or twenty years, we should be on trial and at the end of that, the President should see to it that a Commission was appointed to investigate as to the extent to which the ameliorative measures had succeeded and as to whether a further period was necessary. I think some review is necessary. Let us not live in a fool's paradise and think that we will be able to work wonders within ten years. It will take much longer than that. It will take ten years to persuade the Adibasis to come out into the open to co-operate with us. The atmosphere of suspicion which exists at present has to be removed. Let us, therefore, be realists. For that reason, Mr. President, I would rather that the position were reviewed, say, at the end of ten years and we ourselves and the rest of the country will be in a position to know what we have been able to do. Then we can decide as to whether or not provision has to be made for a further period of another ten or fifteen years. I am strongly opposed to any idea of fixing a limit say of, ten years, at the end of which these safeguards should come to an end.

Sir, if my Madras friends will permit me, I would like to say a few words in Hindi, the Hindi that I have learnt in Bihar.

*[Mr. President, Sir, I heartily congratulate the Drafting Committee as they have accepted the new provisions and the new schedule. I would only request that your translation Committee should not translate Scheduled tribes as "Banjati". The word 'Adibasi' has not been used in any of the translations made by the several Committees. How is it? I ask you why, it has not been done. Why has the word 'Adibasi' not been used and the word 'Banjati' has been used? Most of the members of our tribes do not live in jungles. You may go to Western Bengal. You will find that there are no jungles, near about the places where these members of these tribes live, nay not even is there any trace of trees. How can they be appropriately, termed as Banjati or forest tribes-tribes which live in forests? I wish that you should issue instruction to your translation Committee that the translation of Scheduled tribes should be 'Adibasi'. The word Adibasi has grace. I do not understand why this old abusive epithet of Banjati is being used in regard to them for till recently it meant an uncivilised barbarian. This is the first point I would like to lay emphasis upon.

Another matter to which I would like to draw your attention is this. There are many Members of this House who like the world to believe that their hearts are full of sympathy for the Adibasis. They ask us to forget the past. They tell us that for the future they are determined to risk even their lives in order to promote the interests of the Adibasis. At election time, manifestoes full of such pledges are issued.]*

The Honourable Shri Ghanshyam Singh Gupta (C.P. & Berar: General) May I interrupt the Honourable Member for a minute? Now we are not using that word at all. We have discarded it.

Shri Jaipal Singh : Which word?

The Honourable Shri Ghanshyam Singh Gupta : The word to which you were just now referring "vanajati." Our difficulty is that we are translating and not improving.

Shri Jaipal Singh : I am very glad that you have become wiser.

Sardar Bhopinder Singh Man (East Punjab: Sikh) : What is the new word?

*[Translation of Hindustani Speech begins.

] * Translation of Hindustani Speech ends.

The Honourable Shri Ghanshyam Singh Gupta : We are using the word “janajati.”

Mr. President : There is another expression which is being used in connection with an organisation which is working in Bihar; that is “adimjati”.

Shri Jaipal Singh : *[Whatever that may be, you have heard my views. In my opinion, it should be Adibasi. If you go towards C. P. and Bombay you will find many places where “Adibasi Seva Mandals” have been working. This word has been in use for a long time. All Adibasis understand it. I can never accept therefore that the use of this is likely to create any misconceptions. In my opinion it should be Adibasi I am an Adibasi, I call myself an. Adibasi. I cannot understand why you wish to give us another name. The fact is that the name ‘Adibasi’ would be most welcome to us.

Sir, I was speaking of the zeal which several people of this House profess to have for promoting the interests of Adibasis. I would like to tell all such friends in the House or those outside it that they should talk less and work more. I would like to emphasise that such friends should bear in mind that unless they have a genuine respect for the people whom they propose to serve, they would not have earned the right or acquired the capacity to serve. If, however, your mission of amelioration of the lot of the Adibasi’s is of the kind that the British professed to have, coming to India over all this distance of six thousand miles, I would ask you mercifully to leave us alone, and quit the Adibasi regions. I would remind such people of the adage “Physician, heal ‘thysself’”. Please put your house in order before you think of reforming others. Mr. President, there are a few other matters.....]*

Mr. President : *[But why are you continuing your speech in Hindi? I thought that you wish to say in Hindi something particular to some Madrasi friends here.]*

Shri Jaipal Singh : Sir, I would like to say a few words in Madrasi also.

Mr. President : *[Not necessary. They would admit that you know a number of languages.]*

Shri Jaipal Singh : I was going to end my speech with a few words in my own, the most ancient-language of this country. The country belongs to my most ancient group and we are very glad to have Mr. Munshi. I am very sorry to disappoint him that, in supporting the Fifth Schedule, I did not dress in my bows and arrows, the loin cloth, feathers, earrings, my drum and my flute. I have disappointed him I know. But I shall be very glad to educate the organization, of which he is the prime mover, next cold weather. He has invited me to take a group of dancers to Western India and then I will. show him what it is that Adibasis can teach the rest of the country.

Shri Biswanath Das (Orissa : General) : May I know whether the Honourable Member has ever put on clothes like that ?

Shri Jaipal Singh : What makes Mr. Das think I never wear the clothes that my people wear ? There has to be reciprocal co-operation. That distrust, that fear that existed before must be made to vanish from- both sides. The non-Adibasi must go to the Adibasi as his friend, and, similarly, the Adibasi in his turn should take his proper place, the role of honour that is accorded hereafter in the national life of this country. I know Adibasis will respond.

*[Translation of Hindustani Speech begins.

] * Translation of Hindustani Speech ends.

[Shri Jaipal Singh]

As you said during the last general election campaign at Chakradharpore, Mr. President, if I may remind you, you said that for the last six thousand years Adibasis had been struggling stubbornly for their izzat and for their self respect. For eternity hereafter they will see to it that the honour of India does not in any way get impaired. I have great pleasure in supporting the amendments to the Fifth Schedule.

Mr. President : Do we require many speeches?

Shri Biswanath Das : I contested the election of 1937 after signing the Congress pledge to break the Constitution of the 1935 Act. After the elections we were called upon to play the role of iconoclasts. The second stage am when we came into the Provincial Ministries with the object of breaking the Constitution framed under the Act of 1935. It is a painful surprise to me to see that today we are too much wedded to that Act. Nay, as if all that was not enough, we are happy to have the partially excluded areas that we had under the 1935 Act. Therefore, this comes to me as a very unhappy brooding whether the step we had taken was unwise. The present step, with repetitions of vast portions of the 1935 Act, I shall leave to future generations for judgment. I must frankly state that I am not at all happy for the way in which we have been proceeding, copying in most cases important portions of the Act of 1935. With the greatest difficulty, after a fight of forty years, we have been able to remove the communal virus introduced into the body politic of India, officially and statutorily after the Act of 1909, known as the Morley-Minto Reforms as also of the Acts of 1919 and 1935. We had to fight against that but not without difficulty and not without serious loss to India and ourselves. That was the partition of India into Pakistan and India.

What are we doing now ? We are creating another virus, a racial virus, by bringing, in Tribes Councils, Scheduled areas and the rest. Sir, whom does this benefit? We have tried our best to meet the situation as far as possible. We have tried to stand for our ideals to the best of our capacity. The Congress has been said to be the greatest anti-imperialist institution in the world. It is the greatest institution that is fighting against the colour bar in the world.

The Negroes in America, after more than a hundred years of fighting have not yet been fully enfranchised to the extent that a citizen in America is today, what to speak of other States wherein they are undergoing immense sufferings We have declared at the top of our voice that every person in India, be he male or female, irrespective of class, creed or community or race, shall be equal and shall have equal citizenship rights. Not being satisfied with what we have done, we have enfranchised quickly millions nay crores of people who never thought that they would be enfranchised. Sir, we have conferred franchise on all the tribes and peoples of India by a system of universal suffrage. We have not only done this but have also proceeded further in safeguarding the minimum rights and privileges, essential and necessary for human beings in the Constitution by what is known as Fundamental Rights. After having done all this, are we, I appeal to you, justified in creating cleavage and gaps with partially excluded areas and Tribes Councils and the rest? Though it has been thought wisdom for over a hundred years or more by British Imperialists to keep these tribal people and these Scheduled are as as museums for purposes of demonstration and exhibition before the world to justify their existence in India, what is the purpose today,—to perpetuate this evil ? There is absolutely no purpose. We are committed to a programme of social regeneration. We are committed to a programme of civilising and uplifting and raising up the standard of life of all people, including

the tribes. Where then is the justification for these tribal areas, Tribes Councils and the rest? I plead for reason.

My honourable Friend, Mr. Jaipal Singh, has spoken of conferences behind his back. There has been nothing of the kind. I appeal to him to shed this attitude of distrust of, people who least deserve to be distrusted. Sir, they were trying their best how to satisfy all interests concerned, and, at the same time they will have something which would be acceptable to one and all in this House and that explains why today my honourable Friend congratulates the Drafting Committee as well as Thakkar Bapa than whom I cannot find a more devoted man to the cause of the tribal people. Comparisons are odious, but no option is left. I would not compare my Friend Mr. Jaipal Singh with Shri Thakkar Bapa. It would be ridiculous for me, and for the matter of that for anyone, to be taken anyone, howsoever great he may be, as the sole representative of the hill tribes. A person, from his residence in the second or third floor of the Hotel Imperial, ill compares himself with a person like Thakkar Bapa.

Mr. President : I would ask the Honourable Member not to refer to personalities.

Shri Biswanath Das : I know and I will not do so. But I must record my sense of resentment decrying Thakkar Bapa.

Sir, I may say that I would not very much congratulate the Drafting Committee for all that they have placed before us. But I must also recognise the serious difficulties, inconveniences and the hardships to which the Members of the Committee had been put to when they had to approach and satisfy persons, interests and classes from dawn to dusk and dance attendance on them and find agreements agreeable to them.

Sir, I am not satisfied that we are doing materially enough for the tribals under these Schedules. More benefits should be available to these people. I recollect the happenings in Orissa, in 1940, the fituri which was caused by the differences between the Savaras and the Panas who are recognised here as Adibasis. This trouble led to a loss of hundreds of lives at a time when we were, all clapped in jail and the Government of Orissa was carried on under section 93 of the Government of India Act. The result was that the converted classes (Panas) and the tribal people (Savaras) fought among themselves. The latter believed that the converted people were their exploiters who deprived them of their belongings, lands and wealth. This fight ultimately led to the imprisonment of thousands of Savaras. Are you going to confer benefits on all these people indiscriminately? The provision, that you have made, makes it very convenient for all sorts of people to claim themselves as Adibasis. A few days back a gentleman from Bihar approached me with a complaint against the registering (election) officer of his areas saying that he did not record him as an Adibasi.

Shri Brajeshwar Prasad: May I know the name of this Harijan friend of my honourable Friend?

Mr. President : It is not necessary.

Shri Biswanath Das : From this instance the House can see how the bait is thrown. The way is left open for such claims by non-Adibasis to be enrolled as Adibasis. My friend need not worry himself. What I am submitting, is that the provision made here makes it possible for others than Adibasis to prefer claims to be treated as Adibasis.

My Honourable Friend Mr. Jaipal Singh referred to history six thousand years ago. I have not come here to discuss history with him. But is it far wrong to suggest, knowing as we do also history and Puranas that he talks of theories long exploded. But we should not leave this question of Adibasis and

[Shri Biswanath Das]

non-Adibasis for exploitation of politicians. Sir, there are a class of Brahmins in Orissa who call themselves Aranyas, meaning jungle Brahmans. Are you going to treat them as Adibasis or as non Adibasis ? Sir, why not save the country from the troubles arising from the distinctions between Adibasis and non-Adibasis ? I have pleaded with Shri Thakkar Bapa, to save the country from this unfortunate expression 'Adibasis'. As long as you recognise such terms you keep on fanning differences and find very many people like the Aranyas or Jungle Brahmans seeking to come under this category. I am therefore plead with Mr. Jaipal Singh and Shri Thakkar Bapa not to perpetuate these distinctions tending to encourage separatist tendencies in our land. It is this curse that has kept India divided so long.

Sir, myself I claim to be an Adibasi and an original inhabitant of the country as Mr. Jaipal Singh. If you want lands, by all means have them. Ask for it. Let those who want lands have them. If you want development schemes, have money from the Government of India. I would appeal to the Government to sanction any sum that is required for the development of the depressed and oppressed classes. That is no reason why, we should go on harping upon oppression, past or present, and at the same time perpetuate this separateness. I would appeal to Mr. Jaipal Singh and all those who think with him to utilise their influence for the good of the count and save her from this separatist tendency.

One point more, Sir. Having said so much in support of the provisions contained in the Schedule, I now come to offer a few comments an it. We have today got not only Governors nominated by the Centre, but also Rajpramukhs, hereditary and irremovable governors or heads of States. By virtue of their wealth and position, by virtue of their lifelong existence as irremovable rulers, they enjoy a prestige and influence which cannot be ignored. With these powerful agents you are leaving very important powers. You give them an opportunity to add to their influence by collaboration with the Adibasis. When I say this, I am not casting any aspersion on any Rajpramukh. I am only speaking from my own experience in my own province of Orissa. Some of them have tried to combine with the Adibasis and create a platform against the Government and the Congress, by exploiting the situation and by exploiting their racial and communal feelings. Therefore the powers which you give now to the Rajpramukhs are capable of immense mischief. You might say that there is the approval of the President; as such no harm can be expected on that score. Having secured the approval of the Tribal Council, it will be difficult, if not impossible, for the President to undo the recommendations. Under these circumstances I feel that it is not fair to leave such important weapons in the hands of the Rajpramukhs,

Sir, now I know in my own province, they have made the existing law very stringent for non-aboriginals with regard to the transfer of lands. That being so, *viz.*, the Ministers who are the representatives of the people having taken definite and important steps with regard not only the transfer of laid but also regarding the ownership of lands in the interests of the protection of the hill tribes, why provide in the body of the Constitution a clause to interfere even with the existing Acts? Why should you do it? I plead again with the Drafting Committee that this is unnecessary, undesirable and uncalled for. Under these circumstances, Sir, I have no other option but to oppose the motion. however much I may sympathise with certain portions.

Shri K. M. Munshi (Bombay: General) : Mr. President, Sir, I would not have intervened in this debate' but for a couple of remarks of my friend Mr. Jaipal Singh. He complained that when some of its who are interested in this problem met at a conference he was not consulted. He will agree that it is not a fair charge. Three times my friend. Mr. Jadubans Sahai from Bihar was sent to invite him. He said he was coming but did not come.

With regard to the other remark of his that I was disappointed that he did not appear with bows and arrows, in his Adibasi dress, I agree I was disappointed, though not for the reason that he did not appear in his Adibasi dress; I was disappointed because he could not give his unequivocal and wholehearted support to the new-draft of the Schedule which, I think is a considerable improvement on the old one. Several members of this House including Ministers of some provinces who are carrying on large-scale reforms as pointed out by Thakkar Bapa felt that the old draft was unsatisfactory It was therefore found necessary to revise the Schedule for two reasons. The first reason was that we had produced one uniform stereotyped code for the whole country, while the problem of the Scheduled tribes differs from one province to another it would have certainly been prejudicial to the interests of the tribes, whose problems differ from one province to another, sometimes even from district to district. The second reason was that the States in Part III are coming into the scheme. 'The old draft of the Schedule only related to the provinces. Therefore, it was necessary to have one kind of scheme for the whole country applying to all the scheduled tribes.

The policy behind this, as has already been pointed out, is the same which my friend, Mr. Jaipal Singh, has at heart, *viz.* that these Scheduled tribes in, course of time might be raised to the level of other Indians in the Provinces and might be absorbed in the national life of this country. With regard to that policy, we are all one, but I can realise why my friend, Mr. Jaipal Singh, was not pleased to attend the conference to which he was invited. The method by which he seeks to achieve the aim is absolutely different from the one which this House, and the Congress have adopted. My friend's attitude is based on two factors. The first is a question of fact on which there is complete disagreement between us. The second is difference in outlook. I will take the first factor.

He thinks that all these tribes, sometimes thirty to fifty in each province, which he called Adibasis collectively form part of a single community. Now, that is—I know something about my own province—an entirely incorrect statement of fact. Each province has many scheduled tribes of its own. Each of these tribes is different from the other ethnically as mellas from the point of view of language, from the point of view of social and religious customs. There is nothing in common between one tribe and another. In my own province there are five tribes, who are scheduled tribes under this Constitution. Dublas, Bhils, Kolis, Bardas and Gonds. I know something about them. They are completely different from one another. I am sure no one would agree with the view that the Santals of Bihar, the Gonds or Bhils of Bombay and the Nagas of Assam are members of the same ethnic, religious or social group. They belong to different types of civilisations and different geological periods and it is necessary that different considerations should be applied for bringing them up to the level of the rest of the country. To call them all Adibasis and group them together as one community will not only be an untruth in itself but would be absolutely ruinous, for the tribes themselves. Therefore it is necessary that in order to give them a proper place in society, different sets of activities would have to be adopted. This is the cardinal difference between the attitude of my friend Mr. Jaipal Singh the rest of us. The Adibasis are not one conscious corporate, collective whole in this country so

[Shri K. M. Munshi]

that somebody can speak in its name or can lead a movement combining them into a single unit. It would be fatal to the tribals themselves if such a policy is followed in this country.

The second point on which we differ cardinally is this: We want that the Scheduled tribes in the whole country should be protected from the destructive compact of races possessing a higher and more aggressive culture and should be encouraged to develop their own autonomous life; at the same time we want them to take a larger part in the life of the country adopted. They should not be isolated communities or little republics to be perpetuated for ever. The amendments which Mr. Jaipal Singh has moved will show that his object is to maintain them as little unconnected communities which might develop into different groups from the rest of the country. The result would be exactly to frustrate the common aim Mr. Jaipal Singh and ourselves have that these tribes should be absorbed in the national life of the country.

One of my honourable Friends amendments says (amendment No. 27) that after the words "Scheduled areas" wherever they occur the words "and Scheduled tribes" be inserted. That would mean that any member of any scheduled tribe, even if he comes to a city land has been more or less absorbed in the life of the city, must still be regarded as a different individual from the rest of the community and must have a tribal committee to look after him. This will destroy the whole object which he says he has in view.

In his next amendment No. 33 he wants to add in sub-paragraph (2) of paragraph 4 the, following words : "it shall be the duty of the Tribes' Advisory Council generally to advise the Governor or Ruler of the State, on all matters pertaining to the administration, advancement and welfare of the scheduled tribes of the State." Now the word "administration" has been purposely omitted for the reason that administration would include the appointment of a Collector and of some Inspector or Superintendent of Police it mean the administration of the forests; it means the administration of law and order. Surely on all these matters, it is not suggested that the Advisory Council should be consulted by the Governor. All that we are concerned with here is the welfare and advancement of the tribals only with regard to those matters the Tribes Advisory Council have to be consulted. If you add the word 'administration', as my honourable Friend wants to do by his amendment No. 33, the result will be that nothing could be done in a small scheduled area in a district without consulting the Advisory Committee. That position, I submit, is entirely unwarranted.

The third set of amendments which my honourable Friend, Mr. Jaipal Singh, has moved (amendments Nos. 47 and 52) and Mr. Yudhishtir Mishra's amendment No. 46, are to the effect that the Tribes Advisory Council should be miniature senates with power to aid and advise the Governor in all matters falling within the purview of this schedule; there should be a kind of responsible Government with regard to these matters under which the Governor should accept the advice of not of a ministry but an assembly. That is an utter absurdity. Take the first case; an Act of the Parliament or an Act of the State would straightaway apply to the Scheduled area, but if the Governor thinks that in the interests of the tribals, certain sections of such an Act should not apply. he should be free so to decide. Is it possible for each Tribal Advisory, Committee of a small' tribe to come to a common conclusion with regard to an elaborate Act, of Parliament as to what provisions of it should or should not apply. Under the draft as it stands all that the Governor has to do is that they 'should be consulted with regard to regulations. In regard to notifications when he thinks that certain provisions of the Central Act or

the Act of the State should not apply in the interests of the tribals, no previous consultation will be necessary because after all the sacred trust in respect of this step is placed on the Provincial Government. Further, with regard to the regulations of transfer of land and other things relating to the welfare of the tribes the tribal assembly will have to be consulted. Naturally their interests will be placed before the Government in the course of consultations. But to make the decision depend upon the advice of this assembly would in the end lead to disaster to the tribes themselves. It may be that after consultation the Governor may feel that their advice is not correct. Take for instance, money-lending. It is such difficult subject and I am sure some of the tribals on my side, would not be able to understand the implications of Money-lenders' Act, and if their advice is sought, I am sure, they would say that they do not understand a word of it. The word "consulted" therefore has been put in the place of "advice" purposely.

The last amendment of Prof. Shibban Lal Saksena leaves it to the Central Parliament to declare a scheduled area. I do not think it is right. The problem, as I said, varies not only from province to province but from district to district and it would be impossible for Parliament by law to do it. Therefore, I submit that the whole Schedule, as it is, in the interests of the tribals themselves and I hope the House will accept it.

Mr. President : I wish to close the discussion now. Does Dr. Ambedkar wish to say anything ?

The Honourable Dr. B. R. Ambedkar : Mr. Munshi has said everything that was needed to be said and I do not think I can usefully add anything.

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

Mr. Nazirudin Ahmad : My amendments need not be put to vote, but they could be considered, by the Drafting Committee.

Shri K. M. Munshi : Some of them are very valuable.

Mr. Naziruddin Ahmad : But they will be rejected by the House.

Mr. President : We have already passed the first two paragraphs. I come to paragraph 3. The first amendment is by Mr. Jaipal Singh, No. 27.

Mr. President : The question is:

That in amendment No. 20 above, in paragraph 3 of the proposed Fifth Schedule, after the words "scheduled areas" wherever they occur, the words "and scheduled tribes" be inserted; and the words "or whenever so required by the Government of India" be deleted.

The amendment was negatived.

Mr. President : The question is :

"That the proposed paragraph 3 stand part of the Fifth Schedule."

The motion was adopted.

Paragraph 3 was added to the Fifth Schedule.

Paragraph 4

Shri Yudhisthir Mishra : I beg leave to withdraw amendments Nos. 31 and 32.

Amendments Nos. 31 and 32, were by leave of the Assembly, withdrawn.

Shri Jaipal Singh : I accept Mr. Munshi's explanation and would like to withdraw amendment No. 33.

Amendment No. 33 was by leave of the Assembly, withdrawn.

Mr. President : The question is:

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (3) of paragraph 4 and in sub-paragraph (1) of paragraph 5 of the proposed Fifth Schedule, for the words ‘Governor or Ruler’ the words ‘President in consultation with the Governor or Ruler’ be substituted.”

The amendment was negatived.

Mr. President : All the other amendments are not put to vote. I think these are all the amendments relating to paragraph 4. The question is:

“That the proposed paragraph 4. stand part of the Fifth Schedule.”

The motion was adopted.

Paragraph 4 was added to the Fifth Schedule.

Paragraph 5

Shri Yudhisthir Mishra : I beg leave to withdraw amendment Nos. 46, 48 and 51 standing in my name.

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

Mr. President : The question is

“That in amendment No. 20 above, in sub-paragraph (1) of paragraph 5 of the proposed Fifth Schedule, after the words ‘as the case may be’ the words ‘if so advised by the Tribe Advisory Council’ be inserted.”

The amendment was negatived.

Mr. President : The question is

“That in amendment No. 20 above, in sub-paragraph (2) of paragraph 5 of the proposed Fifth Schedule, the words ‘in any such area’ be deleted.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 20 above, in sub-paragraph (5) of paragraph 5 of the proposed Fifth Schedule, for the word ‘consulted’ the words ‘been so advised by’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (4) of Paragraph 5 of the proposed Fifth Schedule, after the word ‘All’ the words ‘notifications and’ be inserted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 20 of List I (Seventh Week) in sub-paragraph (5) of para 5 of the proposed Fifth Schedule, after the word ‘No’ the words ‘notification or’ be inserted.”

The amendment was negatived.

Mr. President : The others are amendments moved by Mr. Naziruddin Ahmad. I think he does not want them to be put to vote. The question is:

“That the proposed Para 5 of the Fifth Schedule stand part of the Schedule.”

The motion was adopted.

Paragraph 5 was added to the Fifth Schedule.

Mr. President : Amendments 185, 186 and 187: I think Mr. Naziruddin Ahmad does not wish them to be put to vote. The question is :

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (1) of paragraph 6 of the proposed Fifth Schedule, for the words ‘President may by order’ the words ‘Parliament may by law’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 20 of List I (Seventh Week), in sub-paragraph (2) of paragraph (6) of the proposed Fifth Schedule.

- (a) for the words “such order may” the words “such law may” be substituted;
- (b) for the words “to the President” the words “to the Parliament” be substituted; and
- (c) the words “but save as aforesaid, the order made under sub-paragraph (1) of this paragraph shall not be varied by any subsequent order” be deleted.”

The amendment was negatived.

Mr. President : The question is:

“That the proposed Para 6 of the Fifth Schedule stand part of the Schedule.”

The motion was adopted.

Para 6 was added to the Fifth Schedule.

Paragraph 7

The proposed Para 7 was added to the Fifth Schedule.

Mr. President : The question is:

“That the Fifth Schedule as moved by Dr. Ambedkar stand part of the Constitution.”

The motion was adopted.

Fifth Schedule was added to the Constitution.

Sixth Schedule

Mr. President : We now go to the Sixth Schedule.

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

“That in sub-paragraph (1) of paragraph 1, before the words, ‘The tribal areas’ the words ‘Subject to the provisions of this paragraph’ be inserted.”

Originally, the draft merely said that the Tribal areas were those which were included in the table attached to this Schedule. There was no power given to define the boundaries of those areas included in the Table. It is felt that it is necessary to give the Governor the power to define the boundaries of those areas included in the Table. In order to provide for this power for the Governor, it is necessary to add the words which are contained in this amendment.

Mr. President : Amendment number 99 also relates to paragraph 1.

The Honourable Dr. B. R. Ambedkar : May I move that ?

Mr. President : Yes.

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

That for sub-paragraph (3) of paragraph 1, the following sub-paragraph be substituted :—

- “(3) The Governor may, by public notification—
 - (a) include any area in Part I of the said Table,

[The Honourable Dr. B. R. Ambedkar]

- (b) create a new autonomous district,
- (c) increase the area of any-autonomous district,
- (d) diminish the area of any autonomous district,
- (e) unite two or more autonomous districts or parts thereof so as to form one autonomous district.
- (f) define the boundaries of any autonomous district:

Provided that no order shall be made by the Governor under clauses (b), (c), (d) and (e) of this sub-paragraph except after consideration of the report of a commission appointed under sub-paragraph (1) of paragraph 14 of this Schedule."

In this amendment, the new things to which attention must be drawn are, included in sub-clauses (e) and (f) of sub-paragraph (3). That is necessary because it may be required, in any particular state of affairs, that two or more autonomous districts may be united together. The power contained in sub-clause (f) is also necessary because it may be desirable to define the boundaries in case there is any particular dispute between the different tribes.

The proviso introduces a change. By comparing the proviso with the original provisos, it will be seen that there were two provisos to sub-paragraph (3). In the first proviso, the Governor could act under clause (b) or clause (c) on the recommendation of a Commission. But, if he wanted to act under clauses (d) or (e) he was required to have a resolution of the District Councils of the Autonomous Districts concerned. It is felt that this distinction made by the two provisos for the different parts of sub-paragraph (3) is not necessary. It is better to make it uniform by requiring the Governor to act after consideration of the report of a Commission which is proposed to be appointed under sub-paragraph (1) of paragraph 14 of this Schedule.

Mr. President : As regards this Schedule, as the Schedule as a whole has not been changed but only certain amendments to some of the paragraphs have been suggested, I propose to take this paragraph by paragraph. Regarding the first para, these are the two amendments which have been moved on behalf of the Drafting Committee. I will now take the other amendments of which notice has been given. There are some printed in the second volume of the list of amendments.

(Amendments 3489, 3490 and 3491 were not moved.)

There is one amendment that paragraphs 1 to 16 be deleted. I do not know whether to take it.

The Honourable Dr. B. R. Ambedkar : That need not be taken.

Mr. President : Yes. The Member can vote against each paragraph. It is not necessary to take it now.

No. 101 Shri Brajeshwar Prasad.

Shri Kuladhar Chaliha : I have No. 100. Sir, I want both the provisos to be taken out but here one proviso has been taken out but the other remains in the next paragraph. If you look at para 14 you will find this :

"provision of educational and medical facilities and communications in such districts;
the need for any new or special legislation in respect of such districts; and
the administration of the laws, regulations and rules made by the District and Regional Councils."

But you do not find mention of these subjects in paragraph 3. It mentions something else. Unless para 14 is modified or amended, I do not think it would cover these subjects. As such my object is that we should delete this entirely so that there will be no necessity of having a Commission and the Governor may by public notification can do these.

Shri T. T. Krishnamachari : If he reads Amendment 134 tabled by the Drafting Committee, he will find the answer to his query. It covers these.

Shri Kuladhar Chaliha : I have read 134. It covers to a certain extent but I do not want that it should be done by a Commission. A Governor means of course the Cabinet. I do not want a Commission. The Governor would have the power in consultation with his Cabinet to discuss these things and if it is left to a Commission there will be obvious delay. You have also not decided as to the composition of the same and who will be members, whether the legislature will be represented in it or whether there will be only selected members from the autonomous districts. None of the plains areas which are somehow or other by fluke included in the Hills will ever be excluded. Unless it is definitely stated that the members of the Legislature will be represented, it will have no effect. As such I feel that para 14 as drafted will not satisfy. You should declare what will be the composition of this Commission. Unless that is decided properly, the defect remains there. As such I submit that this proviso should be deleted. I therefore move:

“That with reference to amendment No. 3487 of the List of Amendments (Volume II), the provisos to sub-paragraph (3) of paragraph 1 be deleted.”

Shri Brajeshwar Prasad : There are three amendments and I would like to know whether I should move also 188, 190 and 191.

Mr. President : You can move them. 101 and 102 are the same as Mr. Chaliha's.

Shri Brajeshwar Prasad : I will move 103. I move:

“That the following be added at the end of paragraph 1 :—

‘The functions of the Governor under this paragraph shall be exercised by him as the agent of the President.’ ”

or alternatively,

“The functions of the Governor under this paragraph shall be exercised by him in his discretion.”

There are other amendments. I move:

“That in sub-paragraph (3) of paragraph 1 for the word ‘Governor’ the word ‘President’ be substituted.”

I also move:

“That the two provisos to sub-paragraph (3) of paragraph 1, be deleted.”

Mr. President : It is the same as Mr. Chaliha's.

Shri Brajeshwar Prasad : Then it may not be taken as moved. The effect of these amendments, if approved by the House, will be to place the administration of the tribal areas in Assam under Central jurisdiction. I am very serious when I suggest that it is necessary in the interest of the country that these areas should form part of the Centre. I have tabled 49 amendments in this Schedule VI and I had similarly tabled 49 amendments in Schedule V. It was not due to any lack of seriousness on my part that I did not move those amendments.

Sir, it was in accordance with the wishes expressed on the floor of the House that the time at our disposal is short and that we wanted to finish this work before the commencement of the Dusserah vacation, that is why I did not move them. But, if the criterion of seriousness is the moving of amendments, I am prepared to move all these 49 amendments.

[Shri Brajeshwar Prasad]

Well, Sir, I am opposed to handing over the administration of the tribal areas into the hands of the provincial government, because Assam is on the border of five or six foreign States. I am referring to China, Tibet, Burma and Pakistan. Sir, in Assam, the conflicts between the Ahoms, and the Assamese, the Bengalees and the Muslims and the Mangoloid races have assumed proportions of which probably we the members of the House are not fully aware and so do not realise the gravity of the situation with which the Government of Assam is confronted. Sir, infiltration on a mass scale is going on from East Bengal and the Government of Assam has not been able to check it, and I understand that in spite of a request that the Government of Assam made to the Centre to provide facilities to enable it to check this, somehow or other, no facilities were given to the Government of Assam and the result has been mass infiltration of fifth columnists and subversive elements, not only from East Bengal but from all those States which I have mentioned a few minutes back. Sir, the conflict between the Bengalees and the Assamese. In Assam, the conflict between the Hindus and the Muslims and the conflict between the tribals and the non-tribals, these are the problems with which the Government of Assam is confronted. About 72 per cent. of the budget of the province is swallowed up in the form of salary bills.

Therefore Sir, is it right, is it safe, is it strategically desirable, is it militarily in the interests of the Government of India, is it politically advisable, that the administration of such a vast tract of land should be left in the hands of the provincial government, especially in a province where there is no element of political stability ? Sir, I love this country more than provincial autonomy. I know the problems in Assam are too complicated and are beyond the economic resources of the province to tackle, they are much too complicated and large to be tackled by the Provincial Government of Assam. Therefore these problems should be left into the hands of the experts, social workers, doctors, teachers, engineers, psychologists, professors, philosophers, and sociologists, and no politicians should be allowed to meddle in this affair.

Mr. President : Mr. Chaliha, then I take it that your amendment is also moved ?

Shri Kuladhar Chaliha : Yes, Sir.

Mr. President : I do not think there is any other amendment to this paragraph. Dr. Ambedkar, would you like to say anything?

The Honourable Dr. B. R. Ambedkar : Sir, there are just two points which have been raised in the course of the remarks made on these amendments which call for reply. The first question is the one, which was raised by Mr. Chaliha. I must say I was somewhat surprised at the amendment tabled by Mr. Chaliha, because like the Fifth Schedule the Sixth Schedule also has arisen, so to say, out of an agreement between the Drafting Committee and the Premier of Assam, my Friend Mr. Nichols Roy and at which conference Mr. Chaliha also was present, and he accepted the new schedule as amended by the Drafting Committee. However, it cannot take long to dispel the doubt he has in his mind as to who would constitute this Commission, who would be its members, and all matters relating to the Commission. I think if Mr. Chaliha had only read carefully the wording of the Sixth Schedule he would have been that in appointing the Commission the Governor is not going to act in his discretion. There is no discretion left in the Governor. That being so, it is quite obvious that in constituting the Commission, and defining its terms of reference, the Governor would be guided by the advice of the local ministers, and I do not think, therefore, there need be any fears such as the one that he has expressed.

Now, with regard to the amendment of my Friend Mr. Brajeshwar Prasad, this is the one amendment I think in which so far as I am concerned, I feel that he has urged some serious argument. He says that the whole of the tribal area should be lifted from the Province of Assam and should be made a Centrally administered area because there cannot be any other effect of the amendment which he has put forward except the one which I have suggested. It means practically constituting the area as a Centrally administered area. But he seems to have forgotten two things. The first is this. Although we have constituted autonomous districts for the purpose of the satisfaction of the tribals living in those areas that they will have, at any rate for the first ten years, autonomy in the matter of the government of their areas, we have nowhere provided that the autonomous districts shall not constitute part of the province of Assam. That being so, it is very difficult to leave part of the Province to be governed by the Governor of the province and part of the province to be administered as a Centrally administered area.

The second point he has forgotten is this. He has forgotten to take note of the fact that even in constituting the autonomous areas, the Drafting Committee has not forgotten that there are what are called certain "frontier areas", bordering on the autonomous districts. It has been provided in this Schedule that so far as the administration of these frontier areas of Assam is concerned, the Governor would be acting under the President. Consequently whatever strategic importance, the frontier areas may have, the Centre would certainly have ample jurisdiction to see that none of the disturbing factors to which he has made reference will find any place there. I therefore, think that all these amendments are unnecessary and out of place.

Shri Kuladhar Chaliha : Is amendment No. 139 accepted?

The Honourable Dr. B. R. Ambedkar : I cannot say off-hand now. I am only dealing with your amendment and the amendment of Mr. Brajeshwar Prasad, and I think they are unnecessary.

Mr. President : And amendment No. 139 has not been moved at all. It deals with paragraph 14.

The Honourable Dr. B. R. Ambedkar : We shall deal with it when we reach paragraph 14.

Shri Kuladhar Chaliha : But it is connected with this, practically.

Mr. President : We cannot take up paragraph 14 now. So now I put the amendments to vote. First I put No. 98 of Dr. Ambedkar—The question is:

"That in sub-paragraph (1) of paragraph 1, before the words 'The tribal areas' the words 'Subject to the provisions of this paragraph' be inserted."

The amendment was adopted.

Mr. President : Then I put amendment No. 99. The question is:

That for sub-paragraph (3) of paragraph 1, the following sub-paragraph be substituted:—

"(3) The Governor may, by public notification—

- (a) include any area in Part I of the said Table,
- (b) create a new autonomous district,
- (c) increase the area of any autonomous district,
- (d) diminish the area of any autonomous district,
- (e) unite two or more autonomous districts or parts thereof so as to form one autonomous district,
- (f) define the boundaries of any autonomous district:

[Mr. President]

Provided that no order shall be made by the Governor under clauses (b), (c), (d) and (e) of this sub-paragraph except after consideration of the report of a Commission appointed under sub-paragraph (1) of paragraph 14 of this Schedule.”

The amendment was adopted.

Mr. President : I think the other amendments, which relate to the deletion of the proviso, do not arise after this has been passed. There is only one amendment which now remains, the one moved by Mr. Brajeshwar Prasad. I put it to the House. The question is :

That the following be added at the end of paragraph 1:—

“The functions of the Governor under this paragraph shall be exercised by him as the agent of the President.”

The amendment was negatived.

Mr. President : Then there are two other amendments moved by Mr. Brajeshwar Prasad.

Mr. President : Amendment No. 188—

The question is:

“That in sub-paragraph (2) of paragraph 1, for the word ‘Governor’ the word ‘President’ be substituted.”

The amendment was negatived.

Mr. President : Amendment No. 190—

The question is :

“That in sub-paragraph (3) of paragraph 1, for the word ‘Governor’ the word ‘President’ be substituted.”

The amendment was negatived.

Mr. President : I now put paragraph 1 as amended by Dr. Ambedkar’s amendment.

The question is:

That paragraph 1, as amended, stand part of the Schedule.

The motion was adopted.

Paragraph 1, as amended, was added to the Sixth Schedule.

The Assembly then adjourned till Nine of the Clock on Tuesday, the 6th September 1949.
