

Tuesday, 6th September, 1949

Volume IX

30-7-1949
to
18-9-1949



CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

REPRINTED BY LOK SABHA SECRETARIAT, NEW DELHI
SIXTH REPRINT 2014

Printed at JAINCO ART INDIA, NEW DELHI.

THE CONSTITUENT ASSEMBLY OF INDIA

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Marshal:

SUBEDAR MAJOR HARBANS LAL JAIDKA.

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CONSTITUENT ASSEMBLY OF INDIA

Tuesday, the 6th 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.)

Sixth Schedule—(Contd.)

Paragraph 2

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

“That in sub-paragraph (1) of paragraph 2, for the words ‘not less than twenty and not more than forty members’ the words ‘not more than twenty-four members’ be substituted.”

This amendment is introduced because it was felt that the original number forty might be too large.

Sir, I move :

“That sub-paragraph (2) of paragraph 2 be deleted.”

The reason why the deletion is made is because we propose to leave the delimitation of constituencies to rules rather than provide it in the Constitution itself.

Sir, I move:

“That after clause (d) of sub-paragraph (7) of paragraph 2, the following clause be added :—

‘(dd) the term of office of members of such Councils;’ ”

This was omitted from the rule-making powers.

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

“That with reference to amendment No. 3487 of the List of Amendments (Vol. II), at the end of sub-paragraph (5) of paragraph 2, the following be added :—

‘subject to such directions as may be given by the Governor or by the Legislature of the State.’ ”

Para 2 sub-para (5) reads :

“Subject to the provisions of this Schedule the administration of an autonomous district shall, in so far as it is not vested under this Schedule in any Regional Council within such district, be vested in the district council for such district and the administration of an autonomous region shall be vested in the Regional Council for such region.”

If you allow this sub-para as it is there will be injustice done to us, unless this proviso is there, *viz.*, “subject to such directions as may be given by the Governor or by the Legislature of the State.”

The Nagas are a very primitive and simple people and they have not forgotten their old ways of doing summary justice when they have a grievance against anyone. If you allow them to rule us or run the administration it will be a negation of justice or administration and it will be something like anarchy.

[Shri Kuladhar Chaliha]

If you see, the background of this Schedule you will find that the British mind is still there. There is the old separatist tendency and you want to keep them away from us. You will thus be creating a Tribalstan just as you have created a Pakistan. The ultimate result will be that you will create a Communistan, and hence it is that I am suggesting this amendment "subject to such directions as may be given by the Governor or by the Legislature of the State."

There are so many people of our country, so many Assamese, Punjabis and Sikhs—all people of the country. You cannot consign them to mis-rule, to a primitive rule, it is impossible that they should remain such. It is said that they are very democratic people, democratic in the way of taking revenge; democratic in the way that they first take the law into their own hands. And it is threatened by some that they are so democratic that they will chop off our heads. They have not been able to chop off our heads for the last three thousand years and till 1948 they have not been able to do anything, and we are not afraid that they will chop off our head if they are not given independence of administration. It is a threat which is useless and worthless. We should not be frightened by these threats of some people who say that they will come down on us. This is intended to be imposed on us by the threats of some people, and we should be aware of these interested persons. There is no need to keep any Tribalstan away from us so that in times of trouble they will be helpful to our enemies.

In the subsequent provisions of this Schedule you will find that an Act of Parliament cannot be imposed on them unless they consent to it. Have you ever heard that an Act of Parliament cannot be applicable to any people unless they agree to it? Such a thing is impossible and therefore I say that this Schedule has been conceived in a way the background of which is to keep them away from us and to create a Tribalstan. And the result will be that there will be a Communistan there. The Communists will come and they will have a free hand, as in Manipur one of the Ministers was already a Communist. Your Governor will not be able to act, your Parliament will not be able to act. If you go on like this we will have no government there. The whole Schedule is conceived in a way which is a negation of government. As such I commend this to the consideration of the Drafting Committee. I commend this to Dr. Ambedkar who should think over again and not conceive it in the way they have conceived this schedule.

Mr. President : You may move No. 257 also.

Shri Kuladhar Chaliha : Sir, I move:

"That in amendment No. 105 of List I (.Seventh Week). in sub-paragraph (1) of paragraph 2, for the words 'not more than twenty-four members' (proposed to be substituted), the word 'not more than fifteen members' be substituted."

The Naga Hills contain only a lakh and seventy thousand people and it contains about ten tribes. If you give them for every district twenty-four members it will be too much. They will quarrel among themselves. The less the number the better. Therefore I have suggested in my amendment fifteen for twenty-four and one-third will be nominated by the Governor. In order to make a proper proportion ten will be elected and five will be selected by the Governor. Therefore I commend this amendment to the House. It is no one having twenty-four. It is much too many. There are ten tribes having a population of about 1,70,000 and the villages or tribes will be about from 1,000 to 2,000 per ten tribes. They ought not to have so many members. It will be only giving cause for trouble. As such the number should be less. I should

say that the number should even have been five. It should not be so much, as it will lead only to interminable quarrels and trouble to the Governor and trouble to us.

(Amendment No. 3493 was not moved.)

Mr. President : Nos. 109, 110, 111 and 112 are based upon 3493. They do not therefore arise now.

Shri Brajeshwar Prasad (Bihar: General): This can very well fit in as an independent amendment as well. I will move only 110 and make a few general observations.

Sir, I beg to move

“That in amendment No. 3493 of the List of Amendments (Volume II) for the proposed new sub-paragraph (7-A) of paragraph 2, the following be substituted :-

‘The functions of the Governor under subparagraph (7) shall be exercised by him as the agent of the President.’ ”

I am thoroughly opposed to paragraph 2. I am opposed to the division of India into Provinces. I can never be a party to dividing Assam into a large number of sub-Provinces. This is exactly what sub-paragraph (4) of paragraph 2 does. I am opposed to the District Councils and Regional Councils because they will lead to the establishment of another Pakistan in this country. I stand second to none in my enthusiasm for social, educational and cultural advancement in the tribal areas of Assam. For it is on the achievement of these objectives that the security of the State can be guaranteed. But the step that we have taken is neither in accord with the general well-being of the tribals nor with the interests of the people of India as a whole.

The responsibilities of parliamentary life can be shouldered by those who are competent, wise, just and literate. To vest wide political powers into the hands of tribals; is the surest method of inviting chaos, anarchy and disorder throughout the length and breadth of this country.

I may be confronted with the question “What will you say to the tribals if they come and tell you that they want political autonomy and all the powers that have been vested in the District and Regional Councils ?” I will never concede this demand. I am not in favour of the principle of self-determination. I believe in the principle of the greatest good of the greatest number. I will not jeopardise the interest of India at the altar of the tribals. The principle of self-determination has worked havoc in Europe. It has been responsible for two world wars in my life-time. It led to the vivisection of India, arson, loot, murder and the worst crimes upon women and children. It led to the assassination of Mahatma Gandhi. I do not find myself equal to the task of supporting the formation of these District and Regional Councils on the ground that the principle of self-determination must be supported by all. Let those who believe in political shibboleths support the provisions of paragraphs 2. I am strongly opposed to it.

The argument may be raised that we are doing nothing new in vesting powers into the District and Regional Councils.

Democratic institutions exist in the tribal areas. Paragraph 2 only gives constitutional recognition to the existing state of affairs. Sir, I am not impressed by these arguments. If there is an evil it must be suppressed, however old it may be.

[Shri Brajeshwar Prasad]

Another argument may be advanced that the Scheduled areas and the reforms that have been incorporated are based upon the report of the Tribal Committee of which Shri Thakkar Bapa was the Chairman and that it had the support of the Premier of Assam. I hold the view that the political implications of that report have not been grasped. We are doing a great disservice to the people of this country as a whole. Frankly stated, my own view is that you should be appealed to direct the Drafting Committee to reconsider this Schedule. We are jeopardising the interests of the whole country. This is not a question in which the people of Assam only are concerned. This is a question which affects the whole of India. This question affects the defence of the country as a whole. I hope my friends from Assam will rise to the occasion and treat the question in that light. I request you, Sir, to send back this Schedule to the Committee for re-consideration. This should be re-drafted on the lines of the Fifth Schedule. The existing Schedule Six bristles with difficulties and it may lead to anarchy and chaos later on unless it is suitably amended now.

Mr. President : Amendment No .192 standing in the name of Mr. Naziruddin Ahmad need not be moved. These are all the amendments to be moved.

The Honourable Shri Gopinath Bardoloi (Assam: General): Mr. President, Sir, I did not want to participate in this debate. But it seems to me that many Members are not fully cognizant of the tribal situation in Assam, and what is more, many have not been able to appreciate the background of the recommendations of the Advisory Sub-Committee set up by the Constituent Assembly for the purpose of enquiring into the tribal situation in Assam.

I wish to state, Sir, that there are three categories of tribals in Assam. There are the plains tribals— men who were the original inhabitants and who have a culture and civilization of their own. They were gradually absorbed into the folds and the culture of other plains people, to put more appropriately the Aryan culture. These people have now been classed with the minorities, just as the Scheduled classes and they have been granted the same rights as the other minority community.

Then there are the hill tribes proper. These again can be divided into two clear categories. One such class of hill tribes is administered by the Governor as, the Agent of, the Governor-General of India and the other class, coming under the Sixth Schedule, is proposed to be administered as autonomous groups. We are not concerned with the first category in the Sixth Schedule except to extent of the provision contained in paragraph 17 which says that any area now administered by the Governor as the Agent of the Governor-General, can be brought under the category of autonomous districts in his discretion only under certain circumstances. For that purpose the Governor has been given power as mentioned by me under paragraph 17.

Now I would like to give this information to the House that in the Agency area these tribes have no self-governing institutions of their own at the present moment. The draft Constitution provides that these areas should be administered directly by the Governor without any restriction whatsoever, But the time may come when they may become fit to govern themselves. The proposal is that at that time they may be brought under the category of autonomous districts. These areas lie on the northern banks of the Brahmaputra on the foothills of the Himalayas. The others who come under the category of autonomous districts are those who inhabit the southern bank of the river bordering Burma and Pakistan. There are some six different types of tribes among them and the autonomous districts are envisaged for them.

Now I want to place before you the background in which this draft had to be formulated. It is not unknown to you that the rule of the British Government and the activities of the foreign Missions always went together. These areas were formerly entirely excluded areas in the sense that none from the plains could go there and contact them. That was the position till 15th August 1947, when India became independent. The foreign rulers till then had in these areas power to send out of the place anyone they desired within 24 hours. Again, Sir, some of these areas were war zones. During the war, the then rulers and officers developed in the minds of these tribal people a sense of separation and isolation and gave them assurances that at the end of the war they will be independent States managing their affairs in their own way. They were led to believe that the entire hill areas would be constituted into a province and put under some irresponsible Governor. You might possibly have read in the papers that plans were hatched in England in which the ex-Governors of Assam evidently took part, to create a sort of a Kingdom over there.

Now, with this background, Sir, our investigation began early in 1946. People of this area were already fully suffused with these ideas of isolation and separation. The most important fact that presented itself before this Committee was whether for the purpose of integration the methods of force the methods of the use of the Assam Rifles and the military forces, should be used, or a method should be used in which the willing co-operation of these people could be obtained for the purpose of governing these areas.

Sir, it is necessary to mention here that there are certain institutions among these hill tribals which, in my opinion, are so good that, if we wanted to destroy them, I considered it to be very wrong. One of the things which I felt was very creditable to these tribals was the manner in which they settle their disputes. Cases which would go in the name of murder according to our Penal Code were settled by these people by the barest method of Panchayats decision and by payment only of compensation. Then, the democracy which prevails there—though limited in the sense it is confined only to the tribals of a clan or region—will rouse the admiration of any disinterested student. And again take the instance of their village administration. The district authorities have indeed very little to concern themselves with the way things go on there. Take again the case of Ao Nagas who distributed the entire functions of the society through certain age groups of people in their society. The boys would perform certain simple functions, leaving the sturdier functions of the State to the adults, while the elders would give their judgments in cases of disputes and order distribution of lands for jhuming and things of that kind. In other words, they are exercising a certain amount of autonomy which, I thought, and the members of the Tribal Sub-Committee thought, should be preserved rather than destroyed. What is necessary for good government is already there.

It is true that some of these tribal people sometimes indulge in head hunting, but it should be clearly understood that this is only when there is enmity of one clan against another. These people nurtured a spirit of collective hatred in them for generations. The point therefore that presented itself to us was whether we should raise in their a spirit of enmity and hatred by application of force or whether we should bring them up under the broad principle of government by good will and love. The Advisory Committee thought that the latter course was the course that should be adopted. I myself am a firm believer in Gandhian principles. If therefore Gandhian methods are to be followed, there is no alternative but to adopt the course which we have thought was the best method. Now, with that background the draft was prepared and was placed before you. In the meantime, great changes have come in the

[The Honourable Shri Gopinath Bardoloi]

structure of the Government of India. More powers are being vested in the Centre today than it was contemplated then. Therefore those powers at present have to be put in the appropriate place. The trend of criticism on the amendments that have been submitted seems to indicate that we gave more powers to these autonomous Councils, perhaps very much beyond what the State Legislature of Assam could. I do not agree with this view. As a matter of fact, most of these provisions are nothing more than translating something which already prevails in the tribal societies, and therefore we are not giving too much as has been pointed out by some of my friends.

Then coming to the amendments which have been moved by Mr. Chaliha, excepting for what he was objecting to that a particular place Dimapur, has been included in the Naga Hills, the rest have all been accepted by the Drafting Committee. It is true that the area was included in the Naga Hills only for administrative convenience. The Drafting Committee have however provided for two things. First, that any area as a whole could be excluded from the autonomous district. Secondly it has also been provided that the men who are living there or similar area shall have the right of exercising their vote in a neighbouring general constituency.

I submit, therefore, that nothing has been proposed here which is not in line with the pattern and the structure of the Constitution which we are framing for the whole of India, and that wherever there was any anomaly, that anomaly has been removed. That is all that I have to say. I therefore request that the Movers of these amendments take into consideration the background of the draft and also the peculiar conditions which prevailed in the hills before.

Shri Rohini Kumar Chaudhury (Assam: General): May I ask the honourable Member to refer to that provision of the new Constitution whereby the people—non-tribal people—living in a tribal area can exercise their choice in areas not included in the tribal area? In the first place the tribal areas as it now stand, are not final. The Governor is given the power of fixing the boundaries. Again 16 (a) reads as follows :—

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

That is the amendment we shall be moving. It would be seen that we have done nothing wrong to anybody of the plains : but have recognized the autonomy of these areas to the extent that the tribes are capable of exercising them.

I hope, Sir, in the circumstances the amendments that had been given notice of are moved in an appreciative way and not in a spirit of destructive criticism.

Prof. Shibban Lal Saksena (United Provinces: General): Mr. President, Sir, I have very carefully listened to the speech of the Honourable Mr. Gopinath Bardoloi. I do admit that we are not very much conversant with the conditions in the autonomous districts and therefore, I accept what he has said and I also want to assure him that the House will give him full opportunity to have the government of the area in the way in which he wants it. I do feel, however, that there must be some method by which these autonomous districts should at some later date at least be absorbed in and become part of the normal population of the whole province.

The Honourable Dr. B. R. Ambedkar : If you like, Sir, I would make a few observations at this stage and then probably many people may not find it necessary to speak and all these doubts, I think, would have been dispelled.

Prof. Shibban Lal Saksena : I only wanted to say that if this scheme of thing, is going to be put in a permanent Constitution that will mean that some areas of Assam shall remain beyond the control of Parliament for ever. I want that for ten years, fifteen years. or for a fixed period or time, this may be provided for together with whatever else you want for their welfare, but let us conceive of some time after which these people should become absorbed in and become part of the normal population of the province and it should not be necessary to have a separate province for them. I tried to study the whole Schedule, and I did not find any such provision in the amendments which are to be moved. Dr. Ambedkar has moved article 20 by which Parliament can amend the Schedule, but no method is indicated to bring in those areas into greater affinity with the rest of Assam. This separation will take a permanent character and it may lead to the division of the province itself. The honourable Mr. Gopinath Bardoloi has given us the background under which this has been done, but I do want that with that background, we must foresee the future and should try to amend this Schedule in such a way that after some considerable time, say ten or fifteen years, these Scheduled areas may not be necessary and that they may become part of the whole province of Assam.

Mr. President : Power is given to the Parliament under the paragraph 20 to repeal the whole of the Schedule, if it thinks necessary. What more do you want ?

Prof. Shibban Lal Saksena : Sir, I have referred to this fact in my speech.

Mr. President : Does Dr. Ambedkar like to say anything at this stage?

The Honourable Dr. B. R. Ambedkar : If you like, Sir, now that Honourable Members want to speak, let them speak.

***Shri Rohini Kumar Chaudhury :** Mr. President, Sir, I have listened with great attention to the speech which has been delivered on the floor of this House on the question of protection of the interests of the tribal people. After having heard the opinion of the tribal Members themselves, after having seen the attitude which has been taken by the non-tribal Members of this House, who have very little information about the conditions obtaining in the tribal areas, the only reaction which has come to my mind is this : India, independent India, we were. It is on account of differences amongst ourselves that India was lost to the Mughals and Pathans. It is on account of a policy of appeasement that we had ultimately to lose some prosperous areas of this India to be lost entirely and to be converted into Pakistan. I want this House and through this House, the people of India to know that on account of the wrong information which the persons in authority have and on account of the want of information of among the persons not in authority, India is going to lose a great deal, and is going to lose entirely the whole of the tribal areas. In truth, Sir I say I have no information worth the name about the tribal areas and at the same time, I shall say that none of my honourable Friends here, not even the Honourable the Premier of Assam, has much of in information about the tribal areas in India. (*Hear, hear*). The reason is not clue to the negligence or indifference of the Honourable the Premier but is due to the state of things which existed before the independence of this country. The Honourable Premier when he was the Honourable Premier before Independence came to India had not the right to visit the tribal areas; he did not have free access to these areas and he could have gone there only with the Permission of the Governor and not otherwise. That was the position. The Honourable Rev.

*Speech not corrected by the Honourable Member.

[Shri Rohini Kumar Chaudhury]

Nichols Roy who was also one of the Ministers—he too could not have gone to any other tribal areas, except perhaps to Khasi Hills. As a matter of fact he never went anywhere except perhaps to Naga Hills on business. I do not know, but absolutely there was no means of knowledge either by himself or by anybody in the public or by anybody in the Ministry to know about these tribal areas. Sir, these tribal areas were kept as a close preserve by the British people. When the I.C.S. officers came to India, their first concern was to find out territories in the Province of Assam where there were no mosquitoes, there were not lawyers and where there were no public men. That was the first aim of the officers there, and whatever rules they framed for the administration of justice in these hill areas, whatever rules they framed for the conduct of business, these rules were framed in order to keep these tribal areas exclusively as a different country from the rest of India, where Europeans could live as Europeans, enjoying the same climate., enjoying the same authority and enjoying whatever it pleases them to get in India. That was the whole object. That was the object. Therefore, none but the Christian missionaries, and missionaries of no other religion, were allowed to visit those areas. There was no provision in the rules and regulations that a man should be defended by a lawyer or any one of that kind, even in a most serious criminal case, because he had no right to be defended. He can get special permission to be defended; but he had no right to be defended; not to speak of civil courts. No lawyers were allowed to remain in these hills and practise there. No other people were allowed to migrate to these areas except with the permission of the authorities. The British wanted to keep the people of these areas as primitive as possible. I tell you, and the House will be surprised to learn that in the Naga Hills,—Naga means naked,—people used to go about naked in the past. There was a Deputy Commissioner who used to flog any Naga who was dressed in Dhoti. The British wanted the Nagas to remain as they were, they should not clothe themselves properly; they should not live like civilised men. That was the position, I may tell you.

Shri Kuladhar Chaliha : Dhooties were not allowed to be worn by the Nagas, That was the order of the Deputy Commissioner all the time.

Shri Rohini Kumar Chaudhury : What is more, Sir, you will be surprised to learn that before the advent of the British, these Nagas were friendly with the Assamese. They had adopted the Assamese language. This was so till about ten years ago when the Roman Script was introduced forcibly by the British officers. Even up to that date Assamese used to be the court language of the Nagas. During the last ten years, they have tried to substitute the ordinary Bengali by the Roman script. The same sort of rules apply to the Ballipara Frontier tract, the Sadiya frontier tract and all the Hill areas, including the Garo hills. In the Garo hills there are a large number of non-tribal people. Even in the Garo Hills, Asamese and Bengali used to be the court language before in the early days of the British occupation. The British gradually substituted these scripts and language and introduced English. That is how they were doing. I do most regretfully observe that what Dr. Ambedkar is doing in regard to this Schedule VI is that he is closely, absolutely closely, following, except in some cases, the British method. He is wanting to Perpetuate the British method so far as the tribal areas are concerned. This action on his part is due more to ignorance than to intention. I would therefore respectfully submit to this House not to be impatient, to reconsider the whole question in its proper perspective. Let this Constitution about the tribal areas be worked out by persons who have a direct and intimate knowledge of the affairs in the tribal areas. None of these persons. I assert with all the emphasis that I can command, neither my honorable Friend Mr. Munshi, neither

Dr. Ambedkar, nor my honourable Friend the Premier of Assam, have any intimate knowledge of the affairs going on in the tribal areas. There are good reasons for this; I do not find fault with them. But, after the attainment of independence, they can acquire that knowledge, they can go about and find out. Let a small committee of this House composed of people of tribals and non-tribals go round the areas, see the condition of things themselves and let them revise the whole Constitution, in this Schedule. That is the only course open now. Unless you wish to lose the entire tribal people, unless you wish to lose control over the tribal areas, the only course which is left open to this House would be to have a small committee consisting of persons in whom we can have confidence. Let them go, round the tribal areas and let them revise the whole Constitution. That would be proper method.

We want to assimilate the tribal people. We were not given that opportunity so far. The tribal people, however much they liked, had not the opportunity of assimilation. So much so, that I living in Shillong cannot purchase property from any Khasi except with the permission of the Chief of the State or with the permission of the Deputy Commissioner. I have no right to purchase any property in the tribal areas. An Indian has no right to purchase lands in those areas without the permission of the Deputy Commissioner or the Chief of the State. That ridge is still continued. If this Constitution is adopted, those disabilities still continue. I am not allowed to associate with the tribal people; the tribals are not allowed to associate with me. Here comes our Friend Mr. Nichols Roy pleading for autonomous districts. Why do you want autonomous districts? My honourable Friend Mr. Bardoloi says that he wants autonomous districts in order to educate the tribal people in the art of self-Government. Why not give them local self-government itself? (Interruption) You will be surprised to learn that in none of these hills there is it municipality except in the Shillong administered areas. This Municipalities Act of Assam is not in force in any of the tribal areas. The Local Self Government Act by virtue of which District Boards and Local Boards are formed is not in force in the tribal areas. If you really want to educate the people of the tribal areas in the art of self-governments why do not you introduce this Act in those areas? Why do you want autonomous districts for these Municipal purposes. Why not introduce the Municipalities Act? Then, they will themselves know the art of self-government. Why do you want to dissociate them from us by creating these autonomous districts which will remain autonomous? Do you want an assimilation of the tribal and non-tribal people, or do you want to keep them separate,? If you want to keep them separate they will combine with Tibet, they will combine with Burma, they will never combine with the rest of India, you may take it from me.

Shri Jaipal Singh (Bihar : General) : Question.

Shri Kuladhar Chaliha : Mr. Jaipal Singh attends the British Club in Shillong.

Shri Rohini Kumar Chaudhury : This autonomous district is a weapon whereby steps are taken to keep the tribal people perpetually away from the non tribals and the bond of friendship which we expect to come into being after the attainment of independence would be torn as under. During the British days, we were not allowed to introduce our culture among those people. Even after the British have gone, we find the same conditions in the new Constitution of Dr. Ambedkar.

Shri A.V. Thakkar (Saurashtra) : May I ask, my Honourable Friend if this cannot be changed by a change in the Constitution by a good majority, say a two third majority?

Shri Rohini Kumar Chaudhury : It can be changed. Therefore, I most respectfully request the Members of the House who do not belong to Assam to take more interest in this province of Assam. It is important that the honourable Members do so and agree to the formation of a Committee, an intelligent committee, to let them go round those areas and see things for themselves, speak to them and gain personal knowledge. You will find that this hatred on the part of the tribals is a thing invented by interested persons. Formerly, there were inter-marriages between the tribals and non-tribals. This hatred is being continued by interested persons.

Shri Lakshminarayan Sahu (Orissa : General): *[Mr. President, I would like to make a few observations with regard to this question. I had gone to Assam in 1938, not for travel but in connection with relief work. In that year, there had been devastating floods in Assam, I went there for flood relief work and toured every district, but could not go to the Naga Hills. The reason for my not going there would have been clear to you from the speeches so far delivered by other speakers. What was the cause? I would only like to say that the Nagas are headhunters; we could not therefore get an opportunity to work among them. Certainly we have to be careful in enacting laws for these people. The regional councils we propose to set up for them, will, in my view, neither benefit these people nor us; for these people have got an Organisation for each tribe, which is like our *panchayat*. They hold their Panchayat in every village. Their customs differ from village to village. The regional councils set up there would make uniform laws and these are likely to cause any number difficulties among the various villages. In view of this, I would say that the powers vested in us, the Centre and the States should be kept intact. For a moment let us consider the likely consequences if we delegated these powers to these councils. The result would be that these people would develop on their own lines without in any way being connected with us. It is quite on the cards that after they have developed in this splendid isolation for a period of, say ten years, their ideas would be of an altogether different character, and under the stress of their different ideas they would begin to fight amongst themselves, and with us asserting that they are absolutely free. It is therefore, absolutely necessary that we proceed in this matter with the greatest caution and circumspection.

I am working among Kanh people of Orissa, among whom there is a system of human sacrifice. That system has been abolished by law. These people also have considerably changed in this respect. But even these we have often to overlook cases of such sacrifice, because even now there are cases of human sacrifice. Human sacrifice is done in great secrecy. Even if we come to know of such a case, we do not arrest them. This is the right course to follow. But the people like Kanh tribe who still perform human sacrifice have been included by us in the Constitution. Then why should we free the Nagas at once? I understand that we cannot bring them very much under the provisions of law; still we should see that we are trying to unite India into a common bond and as such we should not keep them aloof, out of fear. I therefore, wish that we should think over this and not hurry in the matter, for we can be strong only by doing so.

I would like to make one further observation. Mr. Rohini Kumar Chaudhuri has stated that he cannot purchase land in Khasi Hills, even though he lives in Shillong. We have got a similar law in Orissa and we wish that none should be able to take away land from the aboriginals since they do not understand their own economic interest. There should be an independent Act for the lands and we have therefore provided for it. We wish to make the law stricter

*[Translation of Hindustani speech begins.

so that any outsider, who is not an aboriginal, should not be able to purchase land. Shri Rohini Babu has complained that he cannot purchase land. But this must be the case, because till those people acquire some capacity for judgment, we should protect them by law. I would therefore like that, despite these Acts, we should confer such powers on this Council, that it may have a beneficial effect on their customs and traditions. By doing so we would be able to bring Naga Hills in line with the rest of India, because we regard them as a part of us and we should try strongly to bring them into our fold; we should not leave them aloof, for after ten years some difference may be created between them and us. We should therefore take this into consideration and make some modifications, and the differences of opinion between Premier Bardaloi and Rohini Babu and Shri Kuladhar Chaliha, should be taken into consideration though our respects are due to them.]*

Shri Jaipal Singh : Mr. President Sir, I must confess that I have been shocked by the amount of venom that has been poured forth this morning by some of the Members against what they imagine the tribal people of Assam are going to do, if this or that is passed by this House. I wish that some of these Members were present when the Tribal Committee met when the Honourable Sardar Patel explained why he also had accepted the recommendations of the Tribal Sub-Committee for Assam. May I simply repeat what he said ? It was after considerable difficulty and negotiations that the tribal people of Assam were persuaded to agree to the recommendations. There was a definite understanding on the part of the rest of India that those agreements, those understandings would be, honoured. It was definitely on that understanding that the tribal people agreed to do away with the agitation that had been inspired by the departing rulers. I wish people would talk with knowledge. The learned Ambassador in Moscow; the day he left, gave us two solutions for dealing with situations. One was the power solution, the other was the knowledge solution. The vehement language of some of our Members inclines towards power solutions. They want to force the tribal people of Assam to do things against their wishes and expressed will. I suggest that is no solution at all. If you do that you are certainly going to bring about what you fear. You are not going to obviate, but you are going to bring about a further disintegration of India. It is useless now to blackguard the British for what they did and what their motives were in doing things in a certain way. What purpose does that black guarding serve ? Now, the whole matter is in our hands. Let us be statesmen like in handling these problems. It does no one any good to suspect the intentions of the tribal people of Assam. Do my friends believe that the Naga is not a man of his word? Do they mean that the people of the Lushai Hills are trying to deceive us? What do they mean? There is the definite understanding between the leaders and the Tribal Sub-Committee that went round the place. Then why this doubt? I know there were difficulties in some of their trips. The Sub-Committee were prevented from going to some places, I know that. But all these obstructive tactics were inspired, we have got concrete evidence of that. And now the British are gone and it is for us to handle the situation. The idea of subjugating the tracts by requisitioning the Assam Frontier Rifles and so forth will not work. We must inspire confidence in our fellow citizens, in the hearts of the tribals of those hills. Let us do that, and let us do it genuinely and sincerely, and not try to run them down and think of them as though they were hostile to the Indian Union. They are not. My friends complain that they have not been into these tracts. That is exactly the reason why they should be a bit chary of talking about these tribes.

I wish the country, as a whole, would appreciate the difficulty of my friend, the Honourable Shri Gopinath Bardoloi, the difficulties that he and his colleagues have ahead of them in coming into the picture for the first time, as far as the

] * English Translation of Hindustani speech ends.

[Shri Jaipal Singh]

fully excluded areas of Assam are concerned. I do not think it is quite correct to say that it was altogether impossible for non-tribals to get into those tracts. Certainly, the so-called agitators were precluded, and were prevented from entering those areas. That is perfectly true. But I do not think it can ever be said that social workers were also equally prevented. I do not think that can be said. Assam is a very difficult province. The inter-group hostilities are not confined to the hill tracts only. What about the hostilities that exist, shall we say, between the hills and the plain people? What about the hostilities that exist, say between the plains tribals and the hill tribals, I could go on. But it will be out of place now to harp on this sort of thing. But the hill people have agreed.....

Shri Kuladhar Chaliha : May I know from the honourable Member if he can mention any instance of hostility between the plain tribals and the hill tribals ? Can he give one instance ? There is no use making generalisations, unless he can give us instances.

Shri Jaipal Singh : I do not think, Sir, it is necessary for me to go into details. I do not think it is necessary. If the House wants to accept my statement, it is there for it to accept. But I do maintain that there are various kinds of hostilities. Fortunately, in the new set-up we have an opportunity to forget the past and to make a happy beginning, in the beginning of which the hill people have given us their assurance, and I am very glad that the Tribals Sub-Committee have gone as far as they can, to accommodate the wishes of those hill tribes. And the tribal people themselves, the hill tribal people themselves also have climbed down, if I may say so, to meet the wishes of the leaders of the Province. There is no question of keeping the hill tracts permanently in water-tight compartments. It is not good for them. It is not good for Assam, nor for the rest of India. That will not happen. The world is getting smaller and smaller every day whether you like it or not. India cannot isolate itself from the rest of the world, nor can the hill tribes. And more so after all these hill tracts have been occupied by the various warring forces in the last global war. They are no longer inaccessible. New ideas have penetrated the tracts, these mountainous tracts that were previously inaccessible. The position has completely changed. There is a new outlook. It is no good trying to think of the Naga as the eternal head-hunter. I wish people would read Haimendorf's *The Naked Nagas* and try to understand these people even if they have not been to the Naga Hills. Let them understand what are the ideas that work behind the mind of the Naga. There are several books on these people. I know some of my friends think that just because these books happen to be written by non-Indians, they are worthless. That is a kind of attitude for which I have absolutely no use. There have been scientists, there have been anthropologists and various others who have written books on the Assam hill tribes, and I would only wish that some of my friends had read some of them; and then they would have realised that the problems that my friend Shri Bardoloi and his colleagues have to tackle in the future are really immense, and I am indeed very glad that he has taken courage in his hands and he is confident the pattern of government, the pattern of administration that the sub-committee has recommended, while it may not be exactly all that he would like it to be, certainly gives him an opportunity to unite Assam, which in the past has been kept more or less in water-tight compartments. I would appeal to Members to be generous in what they say about the tribal people, to be generous to them and not think as if they were enemies of India. That seems to be the idea lurking in the minds of some here. They seem to think that they are going to get out of India and join Burma or join the communists or something like that. I am not so pessimistic. Indeed, I am very optimistic about the future of

Assam, particularly if the Sixth Schedule, even with all its shortcomings, is operated in the spirit in which it should be operated, in a spirit of accommodation and in the real desire to serve the hill people of Assam, as our compatriots, and as people whom we want to come into our fold, as people whom we will not let go out of our fold and for whom we will make any amount of sacrifice so that they may remain with us.

Shri A. V. Thakkar : Mr. President, Sir, I consider it my duty to speak on this subject, as I happen to be one of the members of the committee appointed to enquire into the tribal matters of Assam. Unfortunately, I was laid up for some of the time when the Committee was on tour, and therefore I could not visit all the parts that the Committee visited. But I can say that I have good knowledge, and I have visited the Lushai Hills, though not the Naga Hills. But the Naga Hills were visited by me as early as the year 1926. I visited Kohima with the kind permission of our Friend Mr. Muhammad Sa'adulla who was one of the ministers then, and I was able to see Kohima, the headquarters, the capital of the Naga Hills. At that time I could see that the Nagas, were really naked Nagas, though perhaps now we may not be able to see them naked. But I am very much ashamed at the ignorance we are all showing about the knowledge of the tribals, in Assam especially. (*Hear, hear*). Even of my Friend Shri Rohini Kumar Chaudhury, I would say that.

First I will try to answer my Friend Mr. Lakshminarayan Sahu. He was talking about Orissa, but not of the current century, but of the last century, of the year 1846 when one Mr. Mac Donald suppressed *maria* or human sacrifice ceremony. But why does he talk of things which existed one hundred years ago now in the year 1949 ? He was right in saying that at the present moment we do hear of complaints about human sacrifice being made even at the present day. But do not murders take place nowadays? Do not dacoities take place nowadays ? Do not firings take place nowadays ? Similarly, *maria* sacrifice that existed in the year 1850 does exist in the year 1949 or even 1950. Why compare that old state of things with the present state of things ?

Talking of Mr. Rohini Kumar Chaudhury's remarks, I am afraid he has brought Assam politics into this Constituent Assembly. Let me ask him, Sir, with your permission as to why he did not offer evidence before the Tribal Committee that was touring in Assam. It was open to him to do it, it was open to him to give all his views about autonomous districts or about regional councils or anything else that was contemplated. Not that he was not in the know of it—he could have easily known it from all the Members of the Committee who were friends of his and who were colleagues of his. He could have done that, but he did not care to do so.

Talking of Nagas, I was the other day talking with my Honourable Friend the Rev. Nichols Roy. He reminded me of the fact that there were seven subdivisions amongst the Nagas each having a different dialect of its own. I had read this many years ago but had forgotten it, he reminded me of the same. And who does not know even at the present time of the system of head-hunting that prevails among the Nagas ? They are so ill-developed, they are so much behind in civilization that they go and fight with their neighbouring villagers—not to speak about the fight with the plains tribes about whom our friend Mr. Jaipal Singh was speaking—but of one tribe of Nagas killing another tribe of Nagas, Ao Nagas and Sema Nagas, and cutting off their heads and putting them on the door tops as a memento of their victory. Even last year when a friend of mine visited the Naga hills, he said there were 150 cases being conducted in the court of law wherein 150 people were charged with head-hunting or taking part in it at the present day. Now, what do you say of such a thing as that ? Why take no notice of such a state of things existing at the present

[Shri A. V. Thakkar]

day ? The Committee, with its own difficulties, tried to inquire into the state of affairs not only of the Nagas but of all the tribal area people and came to this particular conclusion on which is based Schedule No. VI. The Nagas are a very difficult race to deal with, I know. We had a Naga member on the Committee, Mr. Imti was his name. He was a graduate of the Calcutta University. Somehow or other he worked with the Committee for some time but afterwards withdrew because he was persuaded by his other Naga friends not to work with the Committee, not to give his helping hand and not to be one of us. That was an unfortunate thing.

Shri Kuladhar Chaliha : Mr. Imti is a man of Golaghat, is a Christian and was brought up at Golaghat itself.

Shri A. V. Thakkar : Is he not a Naga ?

Shri Kuladhar Chaliha : He is not. He was born and bred in Golaghat.

Shri A. V. Thakkar : But he is a tribal man, there is no doubt about that. I am sorry, my information is that he is a Naga—that is what he himself told me.

Shri Jaipal Singh : He is a Naga.

Shri A. V. Thakkar : He is a Christian, but what does it matter? He is an Ao Naga, that is what my other friends told me. If you like I will ask him by a special letter whether he is a Naga or a Mihir. But that does not change the question.

The Committee tried its best and put forward the proposal which was acceptable not only to the Committee but also to the various tribes themselves,—I mean this system of autonomous districts. When I heard first of the proposal of these autonomous districts, I myself too was surprised, let me tell you, because I had never heard of autonomous districts in any part of India elsewhere. But I came to know afterwards by the persuasion of friends that this is the only possible way there and that therefore the system of autonomous districts should be kept there for future modifications when the proper time comes for the same. There is no reason why we should fear this autonomous districts business and should not make the most of it, as if it were giving away or making States within States for or permanent period. It is not for a permanent period. All constitutions are changeable, all laws are changeable, and we can change the law, change the constitution, when you think the time is ripe for it. In the meantime let us all study the question of the tribals as best as we can.

The Honourable Rev. J. J. M. Nichols Roy. (Assam: General): Mr. President, Sir, some of the aspersions that have been made here are really very unfortunate and they are based on a lack of knowledge of the conditions of the hills people in Assam. I wish that those honourable gentlemen, my friends who come from Assam, had visited these places, had mixed with the people and had known the feelings of these people, had known the desire of these people as expressed in meetings in Committees and before the Sub-Committee also of which I was a member. Sir, the first principle for bringing about a feeling of reconciliation between people who are estranged from one another is that one must place himself in the place of another. I wish some of my friends who had spoken would place themselves in the place of these tribal people, place themselves in their conditions, study their views realise what their ambitions and their aspirations are, and whether if they were in that place they would like those feelings and aspirations to be crushed to

pieces and themselves just cowed down by the sword, or whether they would like to be won by love and by association and by the gradual understanding of one another. The attitude manifested in the way that speeches have been delivered by some friends of mine here perhaps due to lack of knowledge, if kept up, would actually upset the good association between the hills people and the gentlemen who have spoken; but I thank God for a leader like the Honourable Mr. Gopinath Bardoloi who is known to be very kind and sympathetic to all these hills people and who has been respected by these hill tribes wherever he had been, and who has studied, very closely the position of these hill tribes.

I myself being a hill man, know what I feel. Being a Christian, I want universal brotherhood everywhere. I want this in the whole of India and in the fold of the tribal people also. Therefore, when I speak in this House, I speak with the knowledge of the feelings of hill tribes. I speak also with a sense of universality and brotherhood of mankind. I speak keeping in view the high ideal of raising all people to the same level.

It is said by one honourable gentleman that the hill tribes, have to be brought to the culture which he said "Our culture" meaning the culture of the plains men. But what is Culture? Does it mean dress or eating and drinking. If it means eating and drinking or ways of living, the hill tribes can claim that they have a better system than some of the people of the plains. I think the latter must rise up to their standard. Among the tribesmen there is no difference between class and class. Even the Rajas and Chiefs work in the fields together with their labourers. They eat together. Is that practised in the plains? The whole of India has not reached that level of equality. Do you want to abolish that system? Do you want to crush them and their culture must be swallowed by the culture which says one man is lower and another higher. You say "I am educated and you are uneducated and because of that you must sit at my feet." That is not the principle among the hill tribes. When they come together they all sit together whether educated, or uneducated, high or low. There is that feeling of equality among the hill tribes in Assam which you do not find among the plains people.

Let me read some of the statements made by the Assam Government regarding the hill areas :

"The tribes are of Mongoloid stock found nowhere else in India and differing from most Indians than the latter do from Europeans except for a few non-tribal shopkeepers and officials the population in any area is homogeneous. Thus a traveller in the Naga Hills would see no one but Nagas, in the Lushai Hills no one but Lushais and so on."

These people have come there from outside. They have never been under a Hindu or Muslim rule. They had their own rule, their own language, court and culture. To say that the culture of these people must be swallowed by another culture, unless it is a better culture, and unless it be by a process of gradual evolution, is rather very surprising to anyone who wants to build up India as a nation and bring all people together.

Then it is said here :

"The manifold languages belong to the Tibeto-Burman linguistic family with the exception of Khasi, which belongs to the Mon-Khmer family. None of these languages is spoken elsewhere in India."

"None of the tribes professes the Hindu religion or Islam, except a section of Kacharis in the North Cachar Hills. who practise a form of Hinduism Tibetan Buddhism has been introduced in the Northern Hills and Burman Buddhism in the Tirap Frontier Tract. A considerable number of the tribesmen are Christians particularly among the Nagas, Lushais and Khasis. The rest of the tribesmen are Animist. There is no communal feeling between animists and others."

[The Honourable Rev. J. J. M. Nichols Roy]

The Hindus do not eat beef but the tribesmen do. The Muslims do not eat pork but the Tribal people do. Therefore these people cannot be either Hindus or Muslims. The Government report is that the people of the hills have their own culture which is sharply differentiated from that of the plains. The social Organisation is that of the village, the clan and the tribe and the outlook and structure are generally strongly democratic. There is no system of caste or purdah and child marriage is not practised.

So that is the culture of the hill tribes. India should rise to that feeling or idea of equality and real democracy which the tribal people have. They should not for a second think that these people should give up their democracy and equality and be swallowed up by another culture which is quite different from what they have been used to, and which is considered by them not at all suitable to their Society.

To say that these tribesmen will be inimical or they would raid Assam or go over to Tibet if this Sixth Schedule is introduced in these areas is rather surprising. This idea is based on wrong understanding of facts and a wrong psychological approach to the problem of bringing the hill folks and the plains people together. This schedule has given a certain measure of self-government to these hill areas but the laws and regulations to be made by the District Councils are subject to the control and assent of the Governor of Assam. What is more unifying than that? The sub-committee for the tribal areas in Assam recommended that these districts mentioned in this Sixth Schedule should have a sort of self-government, to rule themselves according to their culture and genius. The Congress principle has been to allow each group to grow according to their own genius and culture. If that be so, the sub-committee did the right thing by recommending this kind of local self-government for these hill areas but they will be subject to the control of the Governor of Assam. Even the laws and regulations which will be made by these district councils will be subject to the assent of the Governor. The Governor may withhold his assent. Where there is the Pakistanising influence there mentioned by certain speaker. The provisions of the Sixth Schedule satisfy these people to a certain extent and at the same time joins them to the rest of the province.

There is another point which must be considered in this connection. To keep the frontier areas safe these people must be kept in a satisfied condition. You cannot use force upon them. Human nature is such that when you use force to make a people do something they run to somebody else. If you want to win them over for the good of India you will have to create a feeling of friendliness and unity among them so that they may feel that their culture and ways of living have not been abolished and another kind of culture thrust upon them by force. That is why the sub-committee thought that the best way to satisfy these people is to give them a certain measure of self-government so that they may develop themselves according to their own genius and culture. That will satisfy them and they will feel that India is their home and they will not think of joining Tibet or Burma. But if you were to follow some of the ideas advanced by one or two honourable Members of this House, it will not be a unifying influence but an influence which will divide these hill tribes from India and that will be very unfortunate indeed. I was somewhat surprised at the statement made by one of my honourable Friends from Assam that even the Premier of Assam did not know the conditions of these people. I think that the honourable Friend did not visit these areas and does not know their conditions. The Premier of Assam visited these areas and knows their conditions. I know their conditions. I know their feelings. "We have, met them in big meetings. We have met them in Committees and on several occasions. We have visited them, heard them, and many of them were

associates of our Sub-Committee which went round to find out the conditions of these hill tribes. And many people came to give evidence there and they expressed their feelings. The provisions of the Sixth Schedule are based on the recommendations of the sub-committee after considering the evidence given by these hill people, a few of whom were members of our sub-committee.

Someone spoke as if he is very much interested in the advancement of the hill tribes. I think that gentleman whoever he may be, for his good motive in desiring the advancement of the hill tribes But advancement cannot come by force. Advancement comes by a process of assimilation of a higher culture, higher mode of thinking and not by force. Advancement will be accepted by the people when you allow them to see something better than what they have. The hill men realise that their own village councils, or what may be called village panchayats, are much better and more suitable to them than the regular courts and the High Court of Assam. To some of them, it is too expensive to go to the High Court. They have no money for that. Therefore among some of the hill tribes village courts are more suitable to them. The Assam Government is trying to introduce village panchayats even in the plains of Assam. Of course that will take away a very large number of law suits from some of the regular courts, but it will be better for the people themselves. The village councils in the autonomous districts and the District Councils will enable the hills 'people to rule themselves in their own way and to develop themselves according to their own methods. Why should you deprive the people of the thing which they consider to be good and which does not hurt anybody on earth? It does not hurt India. Why do you not want them to develop themselves in their own way? The Gandhian principle is to encourage village panchayats in the whole of India. Why then should any one object to the establishment of the district councils demanded by the hills people ? This measure of self-government will make them feel that the whole of India is sympathetic with them and India is not going to force upon them anything which will destroy their feeling and their culture. I therefore think that unnecessary storm has been raised in this House, and it is not at all palatable, but I hope that a better study will be made of these problems.

I would like very much if Parliament will appoint a committee to see these tribal areas. Perhaps they will see that in some places they are so far advanced that the whole of India must follow their example. In those areas there is no difference between man and woman : the woman does work, goes to the bazaars and does all kinds of trade. And she is free. In the plains the woman is just beginning to be free now, and is not free yet. But in some of the hills districts the woman is the head of the family; she holds the purse in her hand, and she goes to the fields along with the man. Women and men are not ashamed of any kind of labour there. In the plains of Assam there are some people who feel ashamed to dig earth. But the hill man is not so. Will you want that kind of culture to be imposed upon the hill man and ruin the feeling of equality and the dignity of labour which is existing among them? Why talk of culture? There is some kind of culture in the hill areas which is far better than what is obtaining in the plains. Therefore the Sub-Committee on the tribes of Assam has decided that this would be the best method of allowing these people to grow according to their culture and according to their genius and at the same time to become unified with the whole of India.

Shri Rohini Kumar Chaudhury : Why do you make propaganda against our people? Do not we dig earth in our villages and raise houses ? Why do you vilify our people?

The Honourable Rev. J. J. M. Nichols Roy : Many of them do not. I am not vilifying anybody. I am telling facts. The whole of Assam knows that some people in Assam would not dig earth.

Shri Kuladhar Chaliha : Please withdraw your remarks.

Mr. President : The honourable Member has not said anything which requires withdrawal. He is perfectly justified in saying what he has said.

The Honourable Rev. J. J. M. Nichols Roy : I am not vilifying anybody. Some people would not dig earth because of their feeling of superiority. But in the hill areas you do not find anything of that kind. That is a fact which is known throughout Assam. In my own Department—the Public Works Department—we have road earth works and we have to teach some of the local people to do it, and labourers have to be brought from Bihar and Noakhali in order to carry earth and make roads in Assam. That is a fact I am telling.

Shri Rohini Kumar Chaudhury : Yes, the Honourable Minister has discharged the Hindu workers there and employed Muslims from Noakhali. He is under the impression that we are not able to dig earth.

The Honourable Rev. J. J. M. Nichols Roy : That is a wrong statement altogether.

When I am talking about culture what I mean is this. Labour is an honour to these hills people. No one of them consider that it is beneath their dignity to work. And men and women work together. Even the people who are in big positions in life like Rajahs and Mantris work in the same way as other people, whereas that principle is not found everywhere in India. And India must rise to that place where they feel that there is dignity in labour. When there is such a culture among the hills people why not allow them to develop that and be a little model for all the others—to the good of all India?

Finally, Sir, I support the amendment moved by Dr. Ambedkar. At the same time I must say before I sit down that these hills people feel that even this Sixth Schedule has controlled them too much and that they have not got enough what they would like to have. I think many of us realise that. Even Mr. Bardoloi the honourable Premier of Assam realises that. But under the circumstances we have agreed in order to have a compromise and in order to bring peace between all parties. Therefore, do not think that the hill areas have been given too much. They have not been given enough according to their ideas. But at the same time they have been brought under the control of the Governor of Assam. And that is the process by which they will be unified.

Shri H. V. Kamath (C.P. & Berar: General): May I Sir, suggest that, in view of the widely divergent views expressed regarding this Schedule, the finalisation of it may be postponed to a more propitious day ?

Mr. President : I will call upon Dr. Ambedkar to reply. I think we had better finish this now. We have had enough discussion.

The Honourable Dr. B. R. Ambedkar : We have debated this question for two hours and I think the debate was mostly on points that are really not concerned with the Schedule. It is time that we attended to the Schedule itself, unless any particular Member has something very new to say, we need not continue the debate.

Mr. President : I have already called upon you to reply.

The Honourable Dr. B. R. Ambedkar : I am very much obliged to you. Sir, we have two amendments before us and I propose to deal with them before I reply to the general debate.

The first amendment is No. 100 moved by Mr. Chaliha. With regard to this, I do not see how it is appropriate in sub-paragraph (5) of paragraph 2. Sub-para (5) merely deals with the jurisdiction of the Regional and District Councils.

it has nothing to do with any directions that may be given by the Governor or the legislature of the State. We are simply creating a District Council and a Regional Council. If the honourable Member wanted to move any such amendment he ought to do to the appropriate provision. This Schedule deals with the subject matter with which the District Council and the Regional Council will be concerned. So I fail to understand altogether the appropriateness of the amendment at this particular place.

With regard to amendment No. 257 whereby the honourable Member seeks to limit the number on the Council to fifteen, it seems to me, again, quite unnecessary, because my own amendment says, 'not more than twenty-four'. Twenty-four is the maximum. Consequently, if it was necessary to have a Council of less than fifteen, even then my amendment should suffice. I therefore say that amendment number 257 is quite unnecessary.

Now, having disposed of these amendments, I will turn to the general debate on the question whether there should be Regional and District Councils for the purpose of the tribals living in Assam. Sir, in dealing with this matter, I am sorry to say, many Members who took part in the debate, did not properly study the provisions contained in this Sixth Schedule. I am sure about it that if they had properly studied the provisions of this Schedule, they would not have raised the point which they raised that by creating these Regional and District Councils we were creating a kind of segregated population. It does nothing of the kind.

Now, the position of the tribals in Assam stands on a somewhat different footing from the position of the tribals in other parts of India.

Shri A. V. Thakkar : Hill tribals please.

The Honourable Dr. B. R. Ambedkar : I am not concerned with the terminology. I am speaking of Assam and other areas for the moment. The difference seems to be this. The tribal people in areas other than Assam are more or less Hinduised, more or less assimilated with the civilization and culture of the majority of the people in whose midst they live. with regard to the tribals in Assam that is not the case. Their roots are still in their own civilization and their own culture. They have not adopted, mainly or in a large part, either the modes or the manners of the Hindus who surround them. Their laws of inheritance, their laws of marriage, customs and so on are quite different from that of the Hindus. I think that is the main distinction which influenced us to have a different sort of scheme for Assam from the one we have provided for other territories. In other words, the position of the tribals of Assam, whatever may be the reason for it, is somewhat analogous to the position of the Red Indians in the United States as against the white emigrants there. Now, what did the United States do with regard to the Red Indians? So far as I am aware, what they did was to create what are called Reservations, or Boundaries within which the Red Indians lived. They are a republic by themselves. No doubt, by the law of the United States they are citizens of the United States. But that is only a nominal allegiance to the Constitution of the United States. Factually they are a separate, independent people. It was felt by the United States that their laws and modes of living, their habits and manners of life were so distinct that it would be dangerous to bring them at one shot, so to say, within the range of the laws made by the white people for white persons and for the purpose of the white civilization.

I agree that we have been creating Regional and District Councils to some extent on the lines which were adopted by the United States for the purpose of the Red Indians. But my point is that those who have based their criticism of this Schedule on this fact, namely that we are creating Regional and District Councils, have altogether failed to understand the binding factors which we

[The Honourable Dr. B. R. Ambedkar]

have introduced in this Constitution. I should therefore like to refer to some of the provisions which nullify this segregation, so to say.

The first thing that we have done is this : That we have provided that the executive authority of the Government of Assam shall extend not merely to non-tribal areas in Assam, but also to the tribal areas, that is to say, the executive authority of the Assam Government will be exercised even in those areas which are covered by the autonomous districts. This, as will be seen, is a great improvement over the provisions contained in the Government of India Act, 1935. In the provisions contained in that Act, the executive was divided into two categories, one was called the Government of the province and the other executive was called the Governor in his discretion, so far as the tribal areas were concerned. This applied not only to the tribal areas in Assam, but also to completely excluded areas in other areas. The executive authority which operated upon those areas was not the executive of the province, but the Governor in his discretion. We have abolished that distinction so that the whole of the tribal area including those in the autonomous districts is now under the authority of the provincial Government. The thing which is a binding thing, to which honourable Members have paid no attention is this. That, barring such functions as law-making in certain specified fields such as money lending land and so on, and barring certain judicial functions which are to be exercised in the village panchayats or the Regional Councils or the District Councils, the authority of Parliament as well as the authority of the Assam Legislature extends over the Regional Councils and the District Councils. They are not immune from the authority of Parliament in the matter of law-making, nor are they immune—and that is the aim of the new amendment—from the jurisdiction of the High Court or the Supreme Court. This, I submit, is one binding influence.

The other binding influence is this : that the laws made by Parliament and the laws made by the Legislature of Assam will automatically apply to these Regional Councils and to the District Councils unless the Governor thinks that they ought not to apply. In other words, the burden is thrown upon the Governor to show why the law which is made by the Legislature of Assam or by the Parliament should not apply. Generally, the laws made by the local Legislature and the laws made by Parliament will also be applicable to these areas. I say that this is another unifying influence. Yet another unifying influence to which I must make reference is this. We are not saying that the political authority or power we have given to the tribal people through the constitution of the Regional Councils or the District Councils is all the sphere of influence to which they will be entitled. On the other hand, we have provided that the tribal people who will have Regional Councils and District Councils will have enough representation in the Legislature of Assam itself, as well as in Parliament, so that they will play their part in making laws for Assam and also in making laws for the whole of India. Now, if these cycles of participation, if I may say so, to which I have referred, *viz.*, representation in the legislature of Assam and representation in Parliament, the application of the laws made by Parliament and the application of the laws made by the Assam legislature, are not binding forces, I would like to know what greater binding forces we can provide for the purpose of unifying the Regional Councils and the District Councils with the political life of the province as a whole.

I do not therefore agree that in creating the Regional Councils and the District Councils, we have cut up the population of Assam into two water-tight compartments, *viz.*, tribals and non-tribals. On the other hand, we have

provided, as I have stated, many cycles of participation in which both can politically come together, influence each other, associate themselves with each other, and learn something from one another. I am sure about it that the argument which has been urged against the provision of Regional Councils and District Councils is entirely based upon a misunderstanding and inadequate reading of the other provisions contained in this Schedule.

Sir, I was rather surprised at the attitude taken by my Friend, Mr. Chaliha, in moving his amendment, also at the attitude of my Friend, Mr. Rohini Kumar Chaudhuri. I feel that they are not now a happy and united family. What is the cause of it I do not understand, but I can say that, when these amendments were made, they were made with the consent of Mr. Chaliha, they were made with the consent of the Premier of Assam, and also with the consent of my Friend, Mr. Nichols Roy, who is a principal party concerned in this. I see they are now indulging in criticising each other because of factors which lie outside this Schedule. I cannot find any other reason for this dissension, for this open dissension and hostility which has been exhibited by one against the other, and I do not wish therefore to enter into what I regard is a purely domestic quarrel.

Shri Rohini Kumar Chaudhury : Is the Honourable Dr. Ambedkar entitled to make insinuations against us ?

The Honourable Dr. B. R. Ambedkar : I am not making any insinuations; I was only saying, Sir, that it was a domestic quarrel into which I would not enter. My own view is that we have made the best provision.....

Shri Kuladhar Chaliha : I object to Dr. Ambedkar imputing motives for honest opinion expressed.

The Honourable Dr. B. R. Ambedkar : I am not imputing any motives. Mr. Chaliha was a party to every change that has been made in this Schedule. I would like him to deny that fact. Can he deny it ?

Shri Kuladhar Chaliha : Yes, I deny. I told Mr. Bardoloi that I did not agree with some things.

The Honourable Dr. B. R. Ambedkar : He might have whispered in the cars or Mr. Bardoloi. He did not say a single word against these changes in the Drafting Committee. I did not get his signature as I did in certain other cases, because I do not want any Member to go back upon his word. However, what I was saying was that the Regional Councils and the District Councils have been given certain autonomy for certain purposes and at the same time they have been bound together in the life of the province and in the life of the country as a whole. If these circumstances which are of a unifying character, do not bind, do not bring the tribal people with the rest of the plains people in Assam and in the country, then the cause for such an unfortunate event must be found in something else. My friend, Mr. Rohini Kumar Chaudhuri, stated that if you create the Regional Councils, the tribal areas will go the way of Tibet and go the way of some other area. I do not know that that prophecy could be confined only to the tribal areas. I fear that Assam itself might go. For that we cannot make any provision in the Constitution. I am sure about it.

Shri B. Das (Orissa: General) : May I ask Dr. Ambedkar if he is aware that British agents are still working on the Assam-Burma border and that they have been responsible for the troubles between the Karens and the Burmans, and whether those same British agents are not still working in the tribal areas of Assam ? After hearing the speech of my Friend, Rev. Nichols Roy, I think that he wants the tribal areas to be a separate entity so that British influence

[Shri B. Das]

could permeate these tribal areas. As a Member of the Government, Dr. Ambedkar knows well—and I have known something—about these tribal areas.

The Honourable Dr. B. R. Ambedkar : All I can say is that it is perfectly possible to devise some means by which we can eliminate this foreign influence altogether.

Shri B. Das : The Drafting Committee . . .

The Honourable Dr. B. R. Ambedkar : The Drafting Committee has nothing to do with eliminating this foreign influence. It is the function of some other body but I can assure my friend that it would not be difficult to get rid of this foreign influence.

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

The question is:

“That in sub-paragraph (1) of paragraph 2, for the words ‘not less than twenty and not more than forty members’ the words ‘not more than ‘twenty-four members’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That in amendment No. 105 of List I (Seventh Week), in sub-paragraph (1) of Paragraph 2. for the words ‘not more than twenty-four members, (proposed to be substituted), the words ‘not more than fifteen members’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That sub-paragraph (2) of paragraph 2 be deleted.”

The amendment was adopted.

Mr. President : The question is:

“That after clause (d) of sub-paragraph (7) of paragraph 2, the following clause be added :—

‘(dd) the term of office of members of such Councils.’ ”

The amendment was adopted.

Mr. President : The question is :

“That with reference to amendment No. 3487 of the List of Amendments (Volume II), at the end of sub-paragraph (5) of paragraph 2, the following be added :—

‘subject to such directions as may be given by the Governor or by the Legislature of the State.’ ”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 3493 of the List of Amendments (Volume II), for the proposed new sub-paragraph (7-A) of paragraph 2, the following be substituted :—

‘The functions of the Governor under sub-paragraph 7 shall be exercised by him as the agent of the President.’ ”

The amendment was negatived.

Mr. President : I think these are all the amendments. The question is:

“That paragraph 2, as amended, stand part of the Sixth Schedule.”

The motion was adopted.

Paragraph 2, as amended, was added to the Schedule.

Paragraph 3

Shri Kuladhar Chaliha : Mr. President, Sir, I beg to move:

“That with reference to amendment No. 3494 of the List of Amendments (Vol. II), for paragraph 3, the following be substituted :—

‘3 The Governor shall make laws and regulations and entrust the District Council and Regional Councils with such powers as the State Legislature may approve.’”

Sir, you would find in paragraph 3 that regional and district councils have been given such powers as can hardly be imagined. It says that they shall have power to make laws with respect to the management of any forest not being a reserved forest, the use of any canal or water-course for the purpose of agriculture. If it is so desired they can prevent you from using the water. Then it says with respect “to the regulation of the practice of jhum or other forms of shifting cultivation”. Supposing some people live in the hills and have property; they have their marriage and social customs as well. The Regional Councils will be entitled to change Hindu Laws of marriage and inheritance. So instead of the existing clause, I have substituted the following :—

“The Governor shall make laws and regulations and entrust the District Council and Regional Councils with such powers as the State Legislature may approve.”

These are very consistent and very wholesome and it gives the power to the Governor. Of course, it has been mellowed down by amendment No. 114 which at the end says : “All laws made under this paragraph shall be submitted forthwith to the Governor, and until assented to by him shall have no effect”. At the same time it gives the power to the Regional Councils to make regulations, of course, at the end. This is nothing but mellowing down only. If they thought it wise to add this, why make this camouflage ? The Drafting Committee could have gracefully accepted my amendment. Why do not they say plainly that the Governor shall have the right to do so. Instead of doing it plainly and saying that the Governor shall have the right, you allow the power and then you say “All laws made under this paragraph shall be submitted forthwith to the Governor, and until assented to by him shall have no effect.” In fact this amendment is the same, as mine and therefore Dr. Ambedkar should have accepted mine than by adding like this and watering down and making a fuss of making laws. It is better to accept by amendment No. 113 than the amendment of the Drafting Committee.

The Honourable Dr. B. R. Ambedkar : The honourable Member has already moved it for me. If you will take it as if moved by me, it will save time.

Mr. President : I take it that he has moved.

The Honourable Dr. B. R. Ambedkar : Shall I move it formally?

Mr. President : Yes.

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

“That after sub-paragraph (2) of Paragraph 3, the following sub-paragraph be added:—

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

(Amendment No. 258 was not moved.)

Shri Rohini Kumar Chaudhury : Mr. President, Sir, I beg to move:

“That in amendment No. 114 of List I (Seventh Week), for the proposed sub-paragraph (3) of paragraph 3, the following be substituted :—

‘(3) All laws made under this paragraph shall be submitted to the Governor who shall forthwith place them before the legislature of the State and until agreed to by the Legislature and assented to by the Governor such laws shall have no effect.’”

[Shri Rohini Kumar Chaudhury]

Sir, the object of my amendment is that it should not merely be sufficient if the laws have the assent of the Governor, but the Governor should place all those laws before the Legislature as early as possible and unless the Legislature has agreed or until the Governor has assented to such law, this law shall not come into force. I submit, Sir, that there should not be any nervousness over this change. In the Legislature there are the members who represent the tribal areas and on the support of a large number of the tribal members and the House the Government will function, and therefore unless this and the assent of the leading majority party of the Government is obtained, it should not be enforced as law. Although the law may have a particular bearing on the people of the areas, the District Council of which has passed the law, although it may have a greater bearing on the people of that area, certainly it may have some bearing on the people of the other areas in the neighbourhood, it should be placed before the whole Provincial Legislature and not the District Council. Therefore, whatever law is passed by the District Council or Regional Council ought to go to the main legislature of the province and if it is agreed to by the legislature of the province, then only the question of sending it to the Governor should arise and if the Governor gives his assent, the law comes into force I hope this amendment would be acceptable to Dr. Ambedkar.

Mr. President : Amendment No. 260 given notice of by Mr. Kuladhar Chaliha is the same as amendment No. 259; that need not be moved.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Amendment No. 195. This is a drafting amendment. I have explained the purport of this amendment in connection with the Fifth Schedule. I would only like that it should be considered by the Drafting Committee.

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

“That in amendment No. 114 of List I (Seventh Week), in the proposed new sub-paragraph (3) of paragraph 3, for the word ‘Governor’ the word ‘President’ be substituted.”

Sir, I am of opinion that if the Governor is vested with the power of scrutiny, the power of vetoing laws passed by the District Councils, then, there will be conflict. This will create bitterness and ill-will between the provincial Government and the District and Regional Councils. It will impinge upon provincial autonomy. Therefore, in order to protect the provincial Governments, in order to strengthen the hands of the provincial authorities, it is necessary that this power should be vested in the hands of the President. I really want that in the Centre there should be a separate portfolio in charge of the tribal areas in Assam, both parts I and II of the Table appended to paragraph 19 of the Schedule. I am of opinion that it is such a vital matter that it should not be placed in the hands of the Governor. It is risky to do so. If the Governor fails to discharge his functions under this paragraph, due to any reason, the interests of the whole country will be jeopardised. The intention is to veto legislation which is of a fissiparous character. I also apprehend that the Governor may not be able to perform his functions properly because parliamentary democracy and narrow considerations of provincialism may stand in the way.

There is another argument I am opposed to this power being vested in the hands of the Governor. I am one of those who is in a minority in the House. I am in the minority of one. I believe in the doctrine of political centralisation. I am of opinion, I am convinced in my mind that decentralisation is a symptom of the classless society. It is capable of being achieved only in a classless society, where political violence has been liquidated and where the State itself has withered away. I strongly repudiate the suggestion made yesterday on the floor of this House that due to the pre-occupation of the Government of India in the sphere of our Foreign relations with other powers due

to pre-occupation of the Government of India with the problem of the Native States, the Centre is not in a position to shoulder a wider responsibility, We accepted this plan of political decentralisation in order to accommodate the Muslim Leaguers, in order to accommodate the Princes. It was an act of absentmindedness, it was an act of gross negligence on our part not to switch over to that type of Government to which we were wedded to, to that type of Government which had been the common basis of all Governments in India since time immemorial. I mean the unitary type of Government. I strongly commend my amendment for the consideration of the House.

Mr. President : Dr. Ambedkar, do you wish to say anything? I do not think there is anything in this to discuss.

The Honourable Dr. B. R. Ambedkar : Sir, with regard to my Friend Mr. Chaliha's amendment No. 113, I really do not understand what it means. It says : "The Governor shall make laws and regulations and entrust the District Council and Regional Councils with such powers as the State legislature may approve." I cannot understand what it means. I am therefore unable to say that I accept it.

With regard to my amendment and the amendment moved by my honourable Friend Mr. Rohini Kumar Chaudhury, there is hardly any difference except a failure to understand on the part of my honourable Friend as to what the word 'Governor' means. He says that the laws shall be approved by the legislature of Assam. According to my amendment, the laws will be approved by the Governor as advised by the Ministry of Assam, because in all this scheme, we are dropping the words 'in his discretion? Wherever the word Governor occurs, it means Governor acting on the advice of the Ministry. I should like to ask him whether he really thinks there is very serious difference between a law being approved by the Governor acting on the advice of the Ministry and a law being approved by the legislature of Assam itself. I think my scheme is much more consistent with the originals of the scheme, namely, that the tribal people themselves should have a certain inherent right given by the Constitution to make laws in certain respects. That being so, my paragraph (3) is much more consistent with the scheme and gives the Assam Ministry some power to advise the Governor as to whether he should accept or not accept any law. The intervention of the legislature, is quite unnecessary.

Shri Rohini Kumar Chaudhury : If I have understood the Honourable Dr. Ambedkar a right, I would be prepared to withdraw my amendment. I mean, if the Governor is to be advised by the Ministry and the Ministry takes the opinion of the legislature, then, I have no objection. If the advice of the Ministry means that the Ministry will take no such action until the House has had an opportunity of discussing it, then, I think it is the same thing which I want and which Dr. Ambedkar wants. In that case, I shall withdraw.

The Honourable Dr. B. R. Ambedkar : I think he is understanding more than what I have said. I am not prepared to give him that assurance at all.

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

"That with reference to amendment No. 3494 of the List of Amendments (Vol. II), for paragraph 3, the following be substituted :—

'3. The Governor shall make laws and regulations and entrust the District Council and Regional Councils with such powers as the State legislature may approve.'

The amendment was negatived.

Mr. President : The question is:

"That in amendment No. 114 of List I (Seventh Week), for the proposed sub-paragraph (3) of paragraph 3, the following be substituted:—

[Mr. President]

‘(3) All laws made under this paragraph shall be submitted to the Governor who shall forthwith place them before the legislature of the State and until agreed to by the legislature and assented to by the Governor such laws shall have no effect.’”

The amendment was negatived.

Mr. President : The question is:

‘That in amendment No. 114 of List I (Seventh Week), in the proposed new sub-paragraph (3) of paragraph 3, for the word ‘Governor’ the word ‘President’ be substituted.’”

The amendment was negatived.

Mr. President : The question is:

“That after sub-paragraph (2) of paragraph 3, the following sub-paragraph be added:—

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

The amendment was adopted.

Mr. President : The question is:

“That paragraph 3, as amended, stand part of the Schedule.”

The motion was adopted.

Paragraph 3, as amended, was added to the Schedule.

Paragraph 4

Shri Kuladhar Chaliha : Mr. President, I beg to move:

“That for paragraph 4, the following be substituted:—

‘4. The Governor shall constitute courts with such powers as he may deem proper and in making appointments and conferring judicial powers he shall follow as nearly as Possible the criminal and Civil Procedure Codes of India, and the High Court of Assam shall exercise all the appropriate powers conferred on it by law.’”

Sir, Paragraph 4 has given the Regional Council for autonomous regions powers as follows:—

(1) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of areas within the district other than those which are under the authority of the Regional Councils, if any, within the district may constitute village councils or courts for the trial of suits and cases other than those to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply or those arising out of any law made under paragraph 3 of this Schedule, to the exclusion of any court in the State, and may appoint suitable persons of such courts, and may also appoint such officers as may be necessary for the administration of the laws made under paragraph 3 of this Schedule.

(2) Notwithstanding anything in this Constitution the Regional Council for an autonomous region or any Court constituted in this behalf by the Regional Council or, if in respect of any area within an autonomous district there is no Regional Council, the District Council for such district or any court constituted in this behalf by the District Council, shall exercise the power of a court of Appeal in respect of all suits and cases between the parties all of whom belong to scheduled tribes within such region or area, as the case may be, other than those to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, and no other Court in the State shall have appellate jurisdiction over such suits or cases and the decision of such Regional or District Council or Court shall be final.”

Do you see the impossibility of this provision that even the High Court or District Court shall have no jurisdiction over the decisions of the District Councils and Regional Councils? Therefore I have tabled my amendment. I find in this Constitution they have mellowed down again in a mind form in 119 and 120 the same thing. In 119 they have said ‘except the High Court and the Supreme Court shall have jurisdiction over such suits or cases’. In 120 they have said—

“The High Court of Assam shall have and exercise such jurisdiction over the suits and to which the provisions of Sub-Para (2) of this para apply as the Governor may from to time by order specify.”

But here the District Court has been deprived of the natural jurisdiction which it should have. So in spite of the amendments of Dr. Ambedkar it does not improve much. It deprives the ordinary Courts of their legitimate jurisdiction. You have omitted that. You have referred to High Court and Supreme Court only and the District Court has been cut out. Probably the judgments may be very elementary and without reason and yet it will go to High Court. Why not the District Court? The District Court will be sufficiently acquainted with the laws of the country and I think the District Courts should have been referred. As such my amendment is much better than the amendment of the Drafting Committee. Perhaps they are in a hurry and are rushing through with these schedules. If you run through the whole schedule you will find that you have neglected the Assamese people. You have never thought of them and you have neglected the district judge’s court existing there and you pass over to High Court and Supreme Court. As such, I commend my amendment for the acceptance of the House.

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

“That in sub-paragraph (1) of paragraph 4, the words and figures ‘or those arising out of any law made under paragraph 3 of this Schedule’ be deleted.”

They are unnecessary.

Sir, I also move:

“That in sub-paragraph (2) of paragraph 4, for the words ‘shall have appellate jurisdiction over such suits or cases and the decision of such Regional or District Council or Court shall be final’ the words ‘except the High Court and the Supreme Court shall have jurisdiction over such suits or cases’ be substituted.”

Sir, I also move :

“That after sub-paragraph (2) of paragraph 4 the following sub-paragraph be added:—

‘(3) The High Court of Assam shall have and exercise such jurisdiction over the suits and cases to which the provisions of sub-paragraph (2) of this paragraph apply, as the Governor may from time to time by order specify.’”

This amendment makes an important change. Originally under sub-para. (2) of para. 4 the decision of the District Court was final. Now we have provided that they shall be subject to appellate jurisdiction of the High Court and the Supreme Court which was a necessary provision.

Shri Rohini Kumar Chaudhury : Mr. President, Sir, I beg to move:

“That in amendment No. 3496 of the List of Amendments (Vol. II) in the proposed proviso to sub-paragraph (2) of paragraph 4 of the Sixth Schedule. . . ”

Mr. President : But, Mr. Chaudhury, amendment No. 3496 was for adding a proviso and that amendment has not been moved and that proviso therefore does not come in. Therefore your amendment No. 118 has no place. It is an amendment to an amendment which has not been moved.

Shri Rohini Kumar Chaudhury : But such amendments have been moved before.

Mr. President : But where will you put it now? Independently?

Shri Rohini Kumar Chaudhury : Then may I speak generally on this?

Mr. President : Yes, you can do that after I finish the amendments. There is No. 197 of Mr. Naziruddin Ahmad. But that is a drafting amendment. Then there is the one in the name of Shri Brajeshwar Prasad, No. 198.

Shri Brajeshwar Prasad : Sir I move this amendment without any comment. Sir, I move :

“That in amendment No. 120 of List I (Seventh Week), for the proposed new sub-paragraph (3) of paragraph 4, the following be substituted :—

‘(3) The High Court of Assam shall have and exercise such jurisdiction over the suits and cases to which the provisions of sub-paragraph (2) of this paragraph apply as the President may by order from time to time declare and prescribe.’”

Mr. President : I think these are all the amendments. No, there is one more, No. 261, of Mr. Sahu.

Shri Lakshminarayan Sahu : Sir, I move: That . . .

Mr. President : But your amendment does not come now after the amendment No. 119 moved by Dr. Ambedkar where it is said for the words “shall have appellate jurisdiction over such suits etc. etc.” the words “except the High Court and the Supreme Court shall have jurisdiction over such suits or cases” be substituted.

Shri Lakshminarayan Sahu : Then I do not move my amendment.

Mr. President : Then you can speak now, Mr. Chaudhuri.

Shri Rohini Kumar Chaudhury : Sir, the present position with regard to the administration of justice in the hills is this. In civil suits the final appellate authority was formerly the Governor. The Deputy Commissioner and the Assistant Deputy Commissioner had jurisdiction to try civil suits up to any value. So far as criminal suits are concerned, the Deputy Commissioner and the Assistant Deputy Commissioner could inflict any sentence they liked, subject, of course to the power of revision of the High Court. But so far as the States are concerned, the High Court of the Province has absolutely no jurisdiction to interfere.

Now I want to raise one point with regard to the amendment which has been moved by Dr. Ambedkar. Whenever there is a civil suit between a non-tribal and a tribal over which the District Court has jurisdiction, whether the courts will have full jurisdiction or whether there will be some other procedure prescribed for it. Sub-para. (2) of para. 4 says—

“Notwithstanding anything in this Constitution the Regional Council for an autonomous region or any court constituted in this behalf by the Regional Council or, if in respect of any area within an autonomous district there is no Regional Council, the District Council for such district, or any court constituted in this behalf by the District Council, shall exercise the powers of a Court of Appeal in respect of all suits and cases between the parties all of whom belong to scheduled tribes within such region of area, as the case may be, other than those to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, and no other Court in the State.”

The subsequent portion has been sought to be amended. But I want to lay stress on the words—“between parties all of whom belong to scheduled tribes”. Suppose there is a case in which one of the parties is a non-tribal, then what is the provision made in paragraph 4 and under the amendment of Dr. Ambedkar? That is what I want to know. Unfortunately I cannot get the attention of Dr. Ambedkar at the present moment, but I should like to have some answer to this question. When there is a dispute between a tribal and a non-tribal, which is going to be the appellate court? Whether the court of the District Council will have full jurisdiction or whether the case is liable to be transferred to some other court under the jurisdiction of the High Court? Under the present arrangement, whenever there is a dispute between a tribal and a non-tribal, if the defendant or the accused happens to be a non-tribal, he has the right to be defended by a lawyer and the ordinary procedure applies to him. But I want

to clarify this point, whether in Courts in an autonomous district and according to the contemplation of the Drafting Committee in the autonomous districts there will be a large number of non-tribals as for instance in the Garo hills, in the Naga Hills—and in the Khasi Hills—will the non-tribal people there be regulated by the provisions of the Code of Civil Procedure and the Code of Criminal Procedure, or whether they will be subjected to the ordinary laws, to the primary laws or the primitive laws which are meant only for the tribal people? That is question number one.

Question number two is this. Whether these people will have the right to be represented, to be defended in the civil court by a lawyer or not. And thirdly, whether any appeals arising out of those cases, whether the appeals shall lie to the High Court or the District Court, because sub-para. (2) while discussing appeals particularly mentions only about scheduled tribes. Is justice in the Naga Hills and the Garo Hills going to be administered in the same half-barbaric way in which it was administered before, or is there going to be any change in favour of the tribals or in favour of the non-tribals resident in the tribal areas? There are particular rules now for administration of justice in the Hills where it is not obligatory on the part of the court to allow a pleader to appear, where pleaders are only allowed to appear where non-tribal people are either defendants or accused; in this case only pleaders are allowed to appear now. The appeals, under Dr. Ambedkar's amendment, will go to High Courts and will have some sort of revision power. I want to know whether non-tribal people in these Hills shall have a right of appeal either to the High Court or to the District Court, because in the amendment only the tribes are mentioned.

The Honourable Dr. B. R. Ambedkar : Sir, I must say that I was somewhat surprised by my honourable Friend's putting me these questions. I think he could have answered them himself. But I will now answer them as he has put them to me.

With regard to the first question of whether lawyers will be allowed to appear in courts established in the tribal area, the answer is very simple. In the first place, the Provincial Government will have the power, under the entry in List III dealing with professions, to make any law with regard to the legal profession; and if under that law they provide that lawyers shall be entitled to appear in the courts, in the districts which are known as autonomous districts, then that law will apply unless the Governor thinks that that law should not apply. Therefore, that matter is quite clear.

With regard to the question of appeals from the decisions of the tribunals which are created under this paragraph, the answer again is quite simple. The paragraph first provides that a court of appeal may be constituted there. Now the Governor or the Provincial Ministry may either constitute a new court of appeal in which case appeals will go to that court, or may declare the District Judge's Court as a court of appeal which will hear appeals from decisions made by the village panchayats and other courts. Therefore, there again there is a provision for appeal. According to my amendment now, there may be a further appeal from the District Court of appeal either to the High Court or to the Supreme Court.

Shri Rohini Kumar Chaudhury : I particularly read out these lines of sub-paragraph (2) :—

“ . . . the Regional Council for an autonomous region or any court constituted in this behalf by the Regional Council or, if in respect of any area within an autonomous district there is no Regional Council the District Council for such district or any court constituted in this behalf by the District Council shall exercise the Powers of a Court of Appeal in respect of all suits and cases between the parties all of whom belong to scheduled tribes. . . . ”

[Shri Rohini Kumar Chaudhury]

What would happen when one of the parties is not a member, of a scheduled tribe ?

The Honourable Dr. B. R. Ambedkar : If the parties are such that one is a tribal and the other a non-tribal, then the ordinary law will apply.

Shri Rohini Kumar Chaudhury : Where have you provided it?

The Honourable Dr. B. R. Ambedkar : It follows from it. Even now it says, "where the parties are. . . .". I do not think there is any difficulty and I hope my friend has understood it.

Shri Rohini Kumar Chaudhury : There is no provision made anywhere, Sir.

The Honourable Dr. B. R. Ambedkar : The jurisdiction of the ordinary court is ousted only to the extent provided for in paragraph 4. Otherwise the jurisdiction of the ordinary courts continues. These will not be the only courts in this area; there will be other courts established by the Provincial Government for the purpose of administration of the general law of the Province.

Mr. President : I will now put the amendments.

The question is:

"That for paragraph 4, the following be substituted :—

'4. The Governor shall constitute courts with such powers as he may deem proper and in making appointments and conferring judicial powers he shall follow as nearly as possible the Criminal and Civil Procedure Codes of India, and the High Court of Assam shall exercise all the appropriate powers conferred on it by law.'

The amendment was negatived.

Mr. President : The question is:

"That in sub-paragraph (1) of paragraph 4, the words and figure 'or those arising out of any law made under paragraph 3 of this Schedule' be deleted."

The amendment was adopted.

Mr. President : Amendment No. 118.

The Honourable Dr. B. R. Ambedkar : It was not moved.

Mr. President : Yes, then amendment No. 119.

The question is:

"That in sub-paragraph (2) of paragraph 4, for the words 'shall have appellate jurisdiction over such suits or cases and the decision of such Regional or District Council or Court shall be final' the words 'except the High Court and the Supreme Court shall have jurisdiction over such suits or cases be substituted.'"

The amendment was adopted.

Mr. President : The question is:

"That after sub-paragraph (2) of paragraph 4, the following subparagraph be added:—

'(3) The High Court of Assam shall have and exercise such jurisdiction over the suits and case to which the provisions of sub-paragraph (2) of this paragraph apply as the Governor may from time to time by order specify.'"

The amendment was adopted.

Mr. President : Then there is amendment No. 198 moved by Mr. Brajeshwar Prasad.

The question is :

“That in amendment No. 120 of list I. for the proposed now sub-paragraph (3) of paragraph 4, the following be substituted:—

‘(3) The High Court of Assam shall have and exercise such jurisdiction over the suits and cases to which the provisions of sub-paragraph (2) of this paragraph apply as the President may by order from time to time declare and prescribe.’”

The amendment was negatived.

Mr. President : I will put the whole paragraph to vote.

The question is:

“That paragraph 4. as amended, stand part of Sixth Schedule.”

The motion was adopted.

Paragraph 4, as amended, was added to the Schedule.

Paragraph 5

Mr. President : Then paragraph 5. There are two amendments to this. First is No. 199.

Shri Brajeshwar Prasad : Sir, I beg to move:

“That in sub-paragraphs (1) and (2) of paragraph 5, for the word ‘Governor’ wherever it occurs, the word ‘President’ be substituted.”

Mr. President : Then amendment No. 262 and 263. Mr. Sahu.

Shri Lakshminarayan Sahu : *[Mr. President, my amendment reads as follows :—

“That for the heading to paragraph 5. the following be, substituted :—

‘Conferment of Powers’.”

I also move:

“That after sub-paragraph (3) of paragraph 5, the following new sub-paragraph be added :—

‘(4) Notwithstanding anything contained in sub-paragraph (1) of Paragraph 5 in a trial between a tribal and non-tribal. The proceedings shall be in accordance with the Civil Procedure Code, 1908 and Criminal Procedure Code. 1890.’”

My intention in moving it is to specifically provide that any dispute between the tribal and the non-tribal should be adjudicated according to the Criminal Procedure Code, and the Civil Procedure Code until it is specifically provided. It may well be that the hill people might not know as to how a dispute between the tribal and non-tribal people was to be adjudicated.

If the Nagas were to try the matter, it is quite possible that they may order beheading of a non-tribal person. Such things are common in the Eastern and Western tribal areas. I know the case of a friend of mine who was fined Rs. Twenty thousand according to the Law of the North Western Frontier tribes. He was to be beheaded if the fine was not paid; so in the circumstances he had to pay the amount. He came here and appealed to the Government of India and filed a suit, and though he had to spend Rs. 10,000, he got the refund of Rs. 20,000. He later on took a job in the Mycology Department of the Government of Bihar where he is at present employed.

So I know in the aboriginal areas, there are any number of disputes. In our region, there are such disputes in which a person is given heavy punishment for theft. For small thefts, they apply a live charcoal to his cheek. If the theft committed is bigger, he is fined and a red hot piece of gold is put in his mouth.

*[Translation of Hindustani speech begins.

[Shri Lakshminarayan Sahu]

Such bad things occur in all tribal and non-tribal areas. Hence I wish that this provision should be made here.]*

Shri T. T. Krishnamachari (Madras: General): Sir, I am afraid Dr. Ambedkar has already answered the question raised by amendment No. 263 in dealing with the previous paragraph.

Mr. President : The question is:

“That for the heading to paragraph 5 of the following be substituted ‘Conferment of powers’.”

The amendment was negatived.

Mr. President : I shall now put Mr. Brajeshwar Prasad’s amendment to the House.

Shri T. T. Krishnamachari : Is it necessary to put it to vote, because the principle has been negatived on previous amendments, where the House has not agreed to substitute the word “President” for “Governor”?

Mr. President : I shall however put it to the House.

The question is:

“That in sub-paragraph (1) and (2) of paragraph 5, for the word ‘Governor’ wherever it occurs, the word ‘President’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That after sub-paragraph (3) of paragraph 5, the following new sub-paragraph be added :—

‘(4) Notwithstanding anything contained in sub-paragraph (1) of paragraph 5, in a trial between a tribal and non-tribal, the proceedings shall be in accordance with the Civil Procedure Code, 1908, and Criminal Procedure Code, 1890.’”

The amendment was negatived.

Mr. President : The question is:

‘That paragraph 5 stand part of the Sixth Schedule.

The motion was adopted.

Paragraph 5 was added to the Schedule.

—————
Paragraph 6

Paragraph 6 was added to the Schedule.

—————
Paragraph 7

Paragraph 7 was added to the Schedule.

—————
Paragraph 8

Shri Kuladhar Chaliha : Sir, I move :

“That for paragraph 8, the following be substituted :—

‘8. The Governor shall lay down rules to assess collect land revenue and impose taxes for the District Councils and Regional Councils and place them before the State Legislature.’

If you will look at para 8 you will find that powers have been given in excess of what has been given to the district boards of Assam. The power of collection

]* English Translation of Hindustani speech ends.

of land revenue is in the hands of the Government and I do not see any reason why these elementary, primitive regional and district councils should be allowed to tax professions, trades, callings, animals, vehicles and also collect land revenue. In Assam the land revenue is collected by the land revenue staff of the Government of Assam and the same procedure still exists even in the Naga hills. This is an anomalous and retrograde provision. It has been made without a consideration of the land laws of the country and it is a negation of every thing. As I said before, the Drafting Committee seems to have been in a huff and did not know what to do and whatever was dictated to them by somebody without a knowledge of the country and its laws was put in there. Why should the ordinary laws of the province be rescinded and new laws like this should be incorporated in this paragraph. My suggestion is very simple and should be accepted by the Drafting Committee. It says :

The Governor shall lay down rules to assess, collect land revenue and impose taxes for the District Councils and Regional Councils and place them before the State Legislature.

The legislature should have a voice in it. The district or regional council might tax anything: it might impose a tax on anyone with a head, which is a thing unthinkable. Therefore we should try to bring the laws of a primitive people in line with civilised standards, I have suggested my amendment and I trust that people are there to advocate these laws; and therefore, in order to bring them in line with civilised standards, I have suggested my amendment and I trust that the Drafting Committee will accept it. In fact the Nagas will have a voice to speak in the legislature, for when such questions come before the legislature they will be there to say what is wrong with them and point out what is there which should not be there. Therefore this small amendment has been put forward before you to accept it. The Drafting Committee should accept it and not have this retrograde and primitive paragraph 8 incorporated in the schedule. It is a primitive law and a primitive rule. Somebody has put into their head that this is a good law. I think it is one of the most retrograde laws that has ever been imposed on the people.

Mr. President : Then there is amendment No. 201 by Mr. Brajeshwar Prasad which is in line with the other amendments giving power to the President in all matters, and I do not think I should allow that. The question is:

“That for paragraph 8, the following be substituted :—

‘8. The Governor shall lay down rules to assess, collect land revenue and impose taxes for the District Councils and Regional Councils and place them before the State Legislature.’”

The amendment was negatived.

Mr. President : I shall put paragraph 8 to vote.

The question is :

“That paragraph 8 stand part of the Sixth Schedule.”

The motion was adopted.

Paragraph 8 was added to the Schedule.

Paragraph 9

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

“That sub-paragraph (1) of paragraph 9 be deleted.”

That paragraph refers to licence or lease granted by the Government of Assam for the prospecting for or the extraction of minerals. That matter now is with the Central Government and therefore it is unnecessary to have this sub-paragraph here.

Mr. President : The question is:

“That sub-paragraph (1) of paragraph 9 be deleted.”

The motion was adopted.

Mr. President : The question is :

“That paragraph 9, as amended, stand part of the Sixth Schedule.”

The motion was adopted.

Paragraph 9, as amended, was added to the Schedule.

Paragraph 10

Shri Kuladhar Chaliha : Sir, I move :

“That for paragraph 10, the following be substituted:—

‘10. The Governor shall make regulations to control money lending and trading in the tribal areas.’”

I find in paragraph 10 that power is given to the District Council to make regulations for the control of money-lending and trading by non-tribals. Under sub-paragraph (2) such regulations may “(a) prescribe that no one except the holder of a licence issued in that behalf shall carry on the business of money lending; (b) prescribe the maximum rate of interest which may be charged or be recovered by a money-lender; (c) provide for the maintenance of accounts by money-lenders and for the inspection of such accounts by officers appointed in this behalf by the District Council; and (d) prescribe that no person who is not a member of the Scheduled tribes resident in the district shall carry on wholesale or retail business in any commodity except under a licence issued in that behalf by the District Council”. Look at this last provision. Under these regulations will it be possible for any Assamese, Marwari, Sindhi, Punjabi, or Sikh from the plains or from Bombay to carry on business in the Naga Hills if we have a rule like (d)? To say the least, this is an impossible provision. These provisions are so bad that the only way out, I trust, is to accept my amendment. I have given a very mild amendment to the effect that “the Governor shall make regulations to control money-lending and trading in the tribal areas”. During the British days the British were believed. Do you think we shall not be believed? The British induced the belief that they were their greatest friend and the Hindus and men of the plains were their enemies. That was the belief they created. I think we are insisting on that and inducing that belief again. And we are not allowing our business men to go there and do business. My amendment is a permissive law. The Governor has power to make rules and regulations and if he thinks that a certain man is objectionable or is not a desirable man he can rule such men out. I, therefore, submitted that this amendment should be accepted.

The provisions as drafted by the Drafting Committee are such that no civilised government can make them. I strongly resent these rules being made in such a hasty manner without considering the entire background and without considering what will be the effect of these things. They will be able to prescribe rules “providing for the maintenance of accounts by money-lenders and for the inspection of such accounts by officers appointed in this behalf by the District Council”. Are they acquainted with accounts? Have, they got sufficient number of literate people? Have you ever considered these things? It is an impossible thing. You have not understood these things. You have never cared to understand the problem from all-India point of view and you believe people telling you something which is not correct.

With these words, Sir, I commend my amendment to the acceptance of this House.

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

“That in sub-paragraph (2) of paragraph 10, for the words ‘Such regulations may’ the words ‘In particular and without prejudice to the generality of the foregoing Power, such regulations may’ be substituted.”

It is merely a drafting change.

I also move:

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

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

Mr. President : There are two amendments by Mr. Naziruddin Ahmad which are of a drafting nature and another by Mr. Brajeshwar Prasad substituting the word “President” for “Governor” which need not be moved.

Shri Rohini Kumar Chaudhury : Mr. President, Sir, we have been hearing the replies which the honourable Dr. Ambedkar has been giving to the various amendments moved by Mr. Chaliha, myself and others. Each time he has quoted the Premier of Assam and some other persons in his support. I would ask him whether there is anybody who had gone to him and said that this provision should remain in the new Constitution—the provision that no person who is not a member of the Scheduled Tribes resident in the district shall carry on wholesale or retail business in any commodity except under a licence issued in that behalf by the District Council? Is there anybody in this House who will support this discriminatory treatment between tribal and non-tribal people, in a place where they have been moving together for a very long time? Even the British would have been put to shame by such a provision. Take Shillong where there is a large number of non-tribal people who are carrying on retail business. Do you mean to say that the tribals living in the town of Shillong will require no licence but non-tribals will require a licence? Is there anybody who favours such a discriminatory treatment, I wonder? If there is anybody who supports discrimination between tribals and non-tribals I would say that it is useless to argue with him.

Mr. President : The first amendment to be put to vote is the one moved by Mr. Chaliha, No. 123. The question is :

“That for paragraph 10, the following be substituted:—

‘10. The Governor shall make regulations to control money lending and trading in the tribal areas.’”

The amendment was negatived.

The Honourable Dr. B. R. Ambedkar : May I say a word or two with regard to matters about which my friend is terribly excited ? There are three things provided by way of safeguards which my friend has not taken into consideration. The first provision to paragraph 10 says : “Provided that no such regulations may be made under this paragraph unless they are passed by a majority of not less than three-fourths of the total membership of the District Council :” This is one safeguard. The, second safeguard is contained on page 184 of the Draft Constitution. It says : ‘Provided further that it shall not be competent under any such regulations to refuse the grant of a licence to a money-lender or a trader who has been carrying on business within the district since before the time of the making of such regulations.’ Therefore, existing rights are not affected.

[The Honourable Dr. B. R. Ambedkar]

The third thing to which my friend has not cared to pay any attention is the amendment I have moved, *viz.*, "All regulations made under this paragraph shall be submitted forthwith to the Governor, and until assented to by him shall have no effect."

Those precautions are there.

As regards his remark that what the Drafting Committee has done is a barbaric thing, not done even by the British Government. I may point out that he forgets the fact that this excluded area was entirely within the discretion of the Governor; it was his fault. We have altogether taken away that discretion of the Governor. He can now act only subject to the advice of the Ministry.

I wonder now whether my Friend Shri Rohini Kumar Chaudhury is satisfied with the explanation I have given?

Honourable Members : Not at all.

The Honourable Dr. B. R. Ambedkar : I know you want something more than what I can give. You are like hungry David Coperfield asking for more gruel.

Mr. President : I will now put amendment No. 124 to vote.

The question is :

"That in sub-paragraph (2) of paragraph 10, for the words 'Such regulations may' the words 'in particular and without prejudice to the generality of the foregoing power, such regulations may' be substituted."

The amendment was adopted.

Mr. President : Now I will put amendment No. 125.

The question is:

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

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

The amendment was adopted.

Mr. President : The question is:

"That paragraph 10, as amended, stand part of the Sixth Schedule."

The motion was adopted.

Paragraph 10, as amended, was added to the Schedule.

Paragraph 11

Shri Kuladhar Chaliha : I am not moving amendment No. 126.

Mr. President : Amendment No. 204 of Shri Brajeshwar Prasad is to the same effect as 126.

Shri Brajeshwar Prasad : Sir, my object is to have the notification published in the official Gazette of India. I will not move it if you so wish.

Mr. President : It is not a question of my not wanting or wanting it.

Shri Brajeshwar Prasad : If you permit me I shall move it.

Mr. President : You want it to be published in the official Gazette of India?

Shri Brajeshwar Prasad : Yes, Sir.

Mr. President : But the question concerns only Assam?

Shri Brajeshwar Prasad : It is part of the amendments which I moved.

Mr. President : That is why I said it is out of place when the principle you advocated has been rejected more than once by the House.

I will now put paragraph 11 to vote.

The question is:

“That paragraph 11 stand part of the Sixth Schedule.”

The motion was adopted.

Paragraph 11 was added to the Schedule.

Paragraph 12

Mr. President : Paragraph 12. Amendment No. 127.

Shri Kuladhar Chaliha : Sir, I move:

“That clause (b) of paragraph 12 of the Sixth Schedule be deleted.”

Sir, fact is stranger than fiction. Even Parliament will have no power over the autonomous district unless the regional or district council agrees. The clause reads thus :

“The Governor may, by public notification, direct that any Act of Parliament or of the Legislature of the State to which the provisions of clause (a) of this paragraph do not apply shall not apply to an autonomous district or an autonomous region, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may with the approval of the District Council for such district or the Regional Council for such region specify in the notification, if a resolution recommending the issue of such direction is passed by such District Council or such Regional Council, as the case may be.”

The Governor has no power and the Parliament has no power unless the Regional Council or the District Council by a resolution recommends a particular course.

The Honourable Dr. B. R. Ambedkar : May I draw attention to my amendment No. 128 on the Order Paper? As that is going to be moved, this amendment of my friend will be quite unnecessary. Therein I am proposing the omission of the words objected to by him.

Shri Kuladhar Chaliha : I am glad that for once some kind of sense has dawned upon the Drafting Committee. It is fortunate that for the first time sense has dawned on the Drafting Committee.

The Honourable Dr. B. R. Ambedkar : That is because for the first time you have convinced me by your arguments.

Sir, I will now move my amendment No. 128:

“That in clause (b) of paragraph 12, for the words ‘with the approval of the District Council for such district or the Regional Council for such region specify in the notification, if a resolution recommending the issue of such direction is passed by such District Council or such Regional Council, as the case may be’ the words specify in the notification be substituted.”

The Governor, by this amendment, is freed from the trammels of any resolution that may be passed by the District Council or the Regional Council. He can now act on the advice of the Ministry whether a particular law passed by Parliament or by the Legislature of Assam is to apply to that area or not.

Mr. President : There are two amendments to this paragraph. Nos. 205 and 206 standing in the name of Shri Brajeshwar Prasad. We have discussed more than once and rejected the principles contained in them. I do not think therefore that we should take them up. The question is :

“That in clause (b) of paragraph 12, for the words ‘with the approval of the District Council for such district or the Regional Council for such region specify in the notification. If a resolution recommending the issue of such direction is passed by such District Council or such Regional Council, as the case may be’ the words ‘specify in the notification’ be substituted.”

The amendment was adopted.

Mr. President : The question is :

“That paragraph 12, as amended, stand part of the Sixth Schedule.”

The motion was adopted.

Paragraph 12, as amended, was added to the Schedule.

Paragraph 13

Mr. President : Amendment No. 129.

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

“That in paragraph 13, after the words ‘the State of Assam shall’ the words ‘be first placed before the District Council for discussion and then after such discussion’ be inserted.”

Mr. President : Amendment No. 130 by Mr. Rohini Kumar Chaudhury. It is more or less the same as No. 129. Do you wish to move it ?

Shri Rohini Kumar Chaudhury : Mr. President, Sir, I move ?

“That in amendment No. 129 above. In paragraph 13, after the words ‘and then after such discussion’ (proposed to be inserted) the words ‘and such separate statement pertaining to autonomous districts shall be subject to such modifications and alterations as the State Legislature may make’ be inserted.”

This is only a formal amendment. I think it is the intention of the Drafting Committee that the estimated receipts and expenditure pertaining to an autonomous district should be subject to such alterations or modifications as the State Legislature may make. This is evidently an omission, and the addition of these words will make the meaning perfectly clear. Otherwise it will be meaningless to place the Statement before the House, unless it is subject to modifications and alterations.

Shri Brajeshwar Prasad : I am not moving either of the two amendments 131 and 132.

Mr. President : Would you like to say anything, Dr. Ambedkar, about Mr. Rohini Kumar Chaudhury’s amendment?

The Honourable Dr. B. R. Ambedkar : I must complain that, although the words “Section 177” occur in the original draft, my Friend Mr. Rohini Kumar Chaudhury has thought it fit to bring in this amendment No. 130. The effect of regarding it as a financial statement within the meaning of 177 means that. it will be discussed by the Assam Legislature and. voted upon. Amendments may be moved and the appropriation law would apply. The only thing is that before the Assam Legislature deals with it, it is desirable to allow that District Councils to have their say as to how the money should be allocated.’ I hope he is now content.

Mr. President : The question is:

“ That in paragraph 13, after the words ‘the State of Assam shall’ the words ‘be first placed before the District Council for discussion and then after such ‘discussion’ be inserted.”

The amendment was adopted.

Mr. President : The question is:

“That in amendment No. 129 above, in paragraph 13, after the words ‘and then after such discussion’ (proposed to be inserted) the words ‘and such separate statement pertaining to autonomous districts shall be subject to such modifications and alterations as the State Legislature may make’ be inserted.”

The amendment was negatived.

Mr. President : The- question is:

“That paragraph 13 as amended, stand part of the Sixth Schedule.

The motion was adopted.

Paragraph 13, as amended, was added to the Schedule.

Paragraph 14

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

“That for amendment Nos. 3500, 3501 and 3502 of the List of Amendments (Vol. II). following be substituted :—

“That for paragraph 14 of the Sixth Schedule the following be substituted:—

The Governor of Assam as the agent of the President”—

the words “(or alternatively the Governor of Assam) in his discretion” I am not moving, Sir.

“May at any time appoint a Commission consisting of not less than seven members. of whom not less than three shall be members of the scheduled tribes and the rest shall be chosen from the ranks of eminent anthropologists, retired judges of the Supreme Court and of the High Courts and men of science and letters. To examine and report on any matter specified by him relating to the administration of the autonomous districts and autonomous regions in the State, or may appoint a similar commission to inquire into and from time to time on the administration of autonomous districts and autonomous regions in the State generally and in particular on—

- (a) the provision of educational, cultural, medical, economic and religious facilities and communications in such districts and regions;
- (b) the need for any new or special legislation in respect of such districts and regions; and
- (c) the administration of the laws, regulations and rules made by the District and Regional Councils and define the Procedure to be followed by such Commission.”

I have only two points to make. I have enlarged the scope of this Commission. I have said that it is to inquire into the provision for educational, cultural, medical, economic and religious facilities. These words do not find a place in the original paragraph.

Mr. President : Educational and medical facilities are there.

Shri Brajeshwar Prasad : But not cultural and religious facilities. My amendment enlarges therefore the scope and functions of the Commission. Secondly, Sir, I have also circumscribed the sphere of choice of the Governor in appointing the members of the Commission. He is not free to choose all whom he likes. He has to choose from among the categories of persons that I have enumerated in my amendment Beyond this, I have nothing more to say.

The Honourable Dr. B. R. Ambedkar : Sir, I do not think that this amendment is necessary. So far as

Mr. President : You have yourself certain amendments to move first.

The Honourable Dr. B. R. Ambedkar : Yes, Sir, I will move them first. Sir, I move:

“That in sub-paragraph (1) of paragraph 14, after the words ‘autonomous districts’ in the ‘State’ the words, brackets, letters and figures including matters specified in clauses (b), (c), (d) and (e) of sub-paragraph (3) of paragraph 1 of this Schedule’ be inserted.”

“That in sub-paragraph (1) of paragraph 14, after the words ‘autonomous districts’, in the two places where they occur, the words ‘and autonomous regions’ be inserted.”

“That in clauses (a) and (b) of sub-paragraph (1) of paragraph 14, after the word ‘districts’ in the two places where it occurs, the words ‘and regions’ be inserted.”

“That in subparagraph (3) of paragraph 14, after the words ‘autonomous districts, the words ‘and autonomous regions’ be inserted.”

Some of these amendments are consequential. Others are purely verbal.

Shri Kuladhar Chaliha : Mr. President, Sir, I move:

“That with reference to amendment Nos. 3500 and 3501 of the List of Amendments (Vol. II), after clause (c) of sub-paragraph (1) of paragraph 14, the following new clause be added:—

‘(d) inclusion or exclusion of any tribal area from any district or Regional Council.’ ”

Sub-paragraph (1) of paragraph 14 provides for the appointment of a Commission to inquire into and report on the administration of the autonomous districts. Somehow or other they have omitted to include a provision for the inclusion or exclusion of any tribal area from the District or Regional Councils. They say that the Commission will report on—

- “(a) the provision of educational and medical facilities and the communications in such districts;
- (b) the need for any new or special legislation in respect of such districts; and
- (c) the administration of the laws, regulations and rule made by the District and Regional Councils.”

I understand that the Commission will have power to include or exclude any tribal area, but I find that no provision has been made for the Commission to enquire into that question. It may be that some of the plains area have been included in the tribal areas and if he wanted to get rid of them, the Commissioner should have the power to go into them. Sir, I have tabled a very modest amendment, namely, “inclusion or exclusion any tribal area from any district or Regional Council.” I trust the Drafting Committee will reciprocate the kindness after all the unkindness they have shown and that they will accept this and include my amendment in (d), it will greatly improve the clause.

The Honourable Dr. B. R. Ambedkar : I should like to draw my honourable Friend’s attention to the amendment which I moved to paragraph I of this Schedule, in which the provisions of sub-paragraph (3) were altered in certain respects. This matter which he now wants to provide is to be regulated on the recommendation of the Commission. That paragraph has already been passed, and therefore, it is not necessary.

Shri Kuladhar Chaliha : Is it amendment No. 99?

The Honourable Dr. B. R. Ambedkar : Yes, it is 99.

Shri Kuladhar Chaliha : But yet you have limited the commission here in paragraphs 14 to (a), (b) and (c). That is my difficulty.

The Honourable Dr. B. R. Ambedkar : That is what had been passed.

Shri Kuladhar Chaliha : It has already been passed, but all the same you have limited it in (a), (b) and (c).

The Honourable Dr. B. R. Ambedkar : If I may explain to my honourable Friend, the operation of sub-paragraph (3) which deals with the alterations in the tribal areas either by inclusion or exclusion, are divided into two categories. The first is this : Inclusion in any part of the said table which is (a). That the Governor can do, at the very start. For that no recommendation of the Commission is necessary. But according to my amendment if action is to be taken under (b), (c), (d) and (e), then the Commission's recommendation is necessary and as I said that part has been passed by the House. It is not possible to re-open this now.

Shri Kuladhar Chaliha : You have limited it again with the consideration of the report of the Commission appointed under sub-paragraph (1) of paragraph 14 of this Schedule. You have provided amendment No. 99 but limited it again. I should like to hear what Dr. Ambedkar has to say about it.

The Honourable Dr. B. R. Ambedkar : It is not limited- by paragraph 14.

Shri T. T. Krishnamachari : If the honourable Member will please look at amendment No. 134, which wants the inclusion of the words "including matters specified in clauses (b), (c), (d) and (e) of sub-paragraph (3) of paragraph I of this Schedule" after the words "autonomous districts in the State" in sub-paragraph (1) of paragraph 14 then he will find the object that he has in mind has already been served by this amendment.

Shri Kuladhar Chaliha : Thank you, Sir.

Pandit Hirday Nath Kunzru (United Provinces: General): I have some difficulty in understanding this. The amendment moved by Mr. Chaliha is to the effect that the Commission that may be appointed by the Governor should consider not merely the inclusion of any new tribal area but also its exclusion. An area may be excluded from an existing tribal area without its being included in another tribal area and that thing has not been provided for here. All that the amendment No. 99 of Dr. Ambedkar provides is that an area may be taken out of one tribal area and united to another area but there is no power given to the Commission to inquire and to report about the desirability of excluding an area altogether. Only Parliament will have the power to exclude an area. Parliament will have the power to exclude an area from a tribal area, but without having the considered recommendations of the Commission before it because this Commission will not be empowered to deal with the matter.

The Honourable Dr. B. R. Ambedkar : If I may deal with my honourable Friend, Pandit Kunzru's difficulty, I think my honourable Friend has not clearly understood the purpose of Mr. Chaliha's amendment. Mr. Chaliha's amendment is "inclusion or exclusion of any tribal area from any District or Regional Council," that is to say, the diminution of the jurisdiction of the District or Regional Council. That is what Mr. Chaliha is speaking of. What my honourable Friend is speaking of is with the taking away altogether from an autonomous district any area and include it in the general territory of Assam. These are two quite different matters.

Pandit Hirday Nath Kunzru : Why should not the Commission be asked to report on that matter?

The Honourable Dr. B. R. Ambedkar : The Commission has got power to report. If my honourable Friend will read the provision, he will find the following : "The Government of Assam may at any time appoint a Commission

[The Honourable Dr. B. R. Ambedkar]

to examine and report "on any matter" "Any matter" may include also the provisions contained in paragraph 1 and they are also specifically mentioned "specified" by him relating to the administration of the autonomous districts in the State or may appoint a Commission to inquire into and report from time to time on the administration of Autonomous districts" includes matters specified, that is "any matters". My amendment No. 134 I have moved in order to make it quite clear and not to lead to interpretation of the words "any matter". I have now specifically mentioned that these may "include matters specified in clauses (b), (c), (d) and (e) of sub-paragraph (3) of paragraph 1 of this Schedule," and these will be referred to the Commission. That is the, purport of my amendment No. 134.

Pandit Hirday Nath Kunzru : I understand the purport of the amendment all right and I am well aware of the contents of clauses (b), (c), (d) and (e) of the paragraph but what I say is that the Commission that will be appointed to deal with any matter connected with the administration of the autonomous regions does not seem to me to have the power of reporting that an area already included in a tribal area may be excluded from it and amalgamated with an ordinary administered area.

The Honourable Dr. B. R. Ambedkar : My honourable Friend ought to refer to (d) of paragraph (3) of the said table.

Pandit Hirday Nath Kunzru : That has been removed by your own amendment.

The Honourable Dr. B. R. Ambedkar : That I think will have to be done by Parliament by law.

Pandit Hirday Nath Kunzru : Without having the considered recommendations of the Commission. Parliament should have before it the, report of the Commission but now it will have to deal with the matter entirely on the strength of such knowledge as it may have.

The Honourable Dr. B. R. Ambedkar : This is a matter which is not within the competence of the Governor. As passed, the exclusion of any area from the tribal areas is a matter which is taken out of the purview of the Governor. It is left to Parliament to decide. This Commission is merely to guide the Governor to deal with matters which are mentioned in clauses (b), (c), (d) and (e) of sub-para (3). Any matter which is outside it is a matter for Parliament. Parliament may appoint Commission independently of this Commission and then legislate.

Prof. Shibban Lal Saksena : There is no provision for it.

The Honourable Dr. B. R. Ambedkar : No provision is necessary. Parliament may act upon the advice of the Assam Ministry. If Parliament thinks that that advice is not independent and that there should be independent evidence, Parliament is free to appoint a Commission and make an enquiry of its own.

***Shri Rohini Kumar Chaudhury :** Sir, I beg to move:

"That with reference to amendment No. 135 above, the following proviso be added after sub-paragraph (1) of paragraph 14 of the Sixth Schedule :—

'Provided that the State Legislature shall be represented by two members elected to the Assam Legislative Assembly.'

I would like to draw the attention of the House to paragraph 3 as amended and passed by the House which says that all laws passed by the District Councils

*Uncorrected.

shall be placed before the legislature and that the Governor shall give his assent on the advice of the Ministry. That is to say, that the legislature has a voice through their Ministers in the matter of laws passed by the District Councils and Regional Councils. One of the objects for which this Commission will be appointed is the need, under sub-clause (b), for any new or special legislation in respect of such districts. The Commission will be expected to report on the need for any new or special legislation in respect of such districts. Furthermore, sub-paragraph (2) of paragraph 14 lays down that the report of every such Commission with the recommendations of the Governor with respect thereto shall be laid before the legislature of the State by the Minister concerned together with an explanatory memorandum regarding the action proposed to be taken thereon by the Government of Assam. It follows from this sub-paragraph that the whole report will be discussed by the legislature. I therefore think that when the Commission is expected to report on the need for any new special legislation, and when the report of the Commission will be placed before the State legislature for discussion, it is only in the fitness of things that two members of the provincial legislature should be represented in the Commission. These two members who will be with the Commission at the time of collecting materials for the report, will be able to give their important advice in the House itself. If the opinion of the members from the province of Assam counts for anything in regard to the discussion on this Sixth Schedule which relates primarily to Assam, I think the Honourable Dr. Ambedkar would agree to accept my amendment. I think we are fairly unanimous—I do not know about the two Ministers, but the rest of us are unanimous—on the need for accepting this amendment.

Prof. Shibban Lal Saksena : The Governor is free to appoint anybody to the Commission.

The Honourable Dr. B. R. Ambedkar : There are no limitations at all on the Governor.

Shri Rohini Kumar Chaudhury : I say two members should be elected by the legislature.

The Honourable Dr. B. R. Ambedkar : He is not prevented from doing so.

Shri Rohini Kumar Chaudhuri : There is no harm in saying that. A man may live or die. Why do you say, die ? I want to say live. Please accept my amendment.

The Honourable Dr. B. R. Ambedkar : The Governor will proceed to appoint a Commission on the advice of the Ministry. You think your Ministry will not appoint two members from the legislature.

Shri Rohini Kumar Chaudhury : I want them to be elected by the legislature. I attach certain importance to election by the Assembly. I think the Honourable Dr. Ambedkar also used to give such importance; but he may change his mind now.

Mr. President : There are certain other amendments proposed by Mr. Brajeshwar Prasad : 207,—“President” for “Governor”; 208,— “President” for “Governor”; 209,— “Parliament” for “State legislature”; 210,—“Union” for “Assam”; 211,—“Union” for “State”; 212,—“President” for “Governor” 213,—“in the State of Assam” for “in the State”.

Shri Brajeshwar Prasad : I do not want to move these.

Mr. President : All the amendments to this paragraph have been moved. Would you like to say anything, Dr. Ambedkar?

The Honourable Dr. B. R. Ambedkar : No.

Mr. President : I would put the amendments now.

The question is:

“That for amendment Nos. 3500, 3501, and 3502 of the List of Amendments (Vol. II), the following be substituted :—

“That for paragraph 14 of the Sixth Schedule, the following be substituted :—

“The Governor of Assam as the agent of the President may at any time appoint a Commission consisting of not less than seven members, of whom not less than three shall be members of the scheduled tribes and the rest shall be chosen from the ranks of eminent anthropologists, retired judges of the Supreme Court and of the High Courts and men of science and letters, to examine and report on any matter specified by him relating to the administration of the autonomous districts and autonomous regions in the State, or may appoint a similar commission to inquire into and report from time to time on the administration of autonomous districts and autonomous regions in the State generally and in Particular on—

- (a) the provision of educational, cultural, medical, economic and religious facilities and communications in such districts and regions;
- (b) the need for any new or special legislation in respect of such districts and regions ; and
- (c) the administration of the laws, regulations and rules made by the District and Regional Councils, and define the procedure to be followed by such Commission.’ ”

The amendment was adopted.

Mr. President : The question is:

“That in sub-paragraph (1) of paragraph 14 after the words ‘autonomous districts’, in the State the words, brackets, letters and figures ‘including matters specified in clauses (b) (c), (d) and (e) of sub-paragraph (3) of Paragraph 1 of this schedule be inserted.”

The amendment was adopted.

Mr. President : The question is:

“That in sub-paragraph (1) of paragraph 14 after the words ‘autonomous districts’, in the two places where they occur, the words ‘and autonomous regions’ be inserted.”

The amendment was adopted.

Mr. President : The question is:

“That in clauses (a) and (b) of sub-paragraph (1) of Paragraph 14, after the word ‘districts’ in the two places where it occurs, the words ‘and regions’ be inserted.”

The amendment was adopted.

Mr. President : The question is :

“That in sub-paragraph (3) of paragraph 14, after the words ‘autonomous districts’ the words ‘and autonomous regions’ be inserted.”

The amendment was adopted.

Mr. President : The question is :

“That with reference to amendment Nos. 3500, 3501 of the List of Amendments (volume II), after clause (c) of sub-paragraph (1) of paragraph 14. the following new clause be added:-

‘(d) inclusion or exclusion of any tribal area from any district or Regional Council.’ ”

The amendment was negatived.

Mr. President : The question is :

“That with reference to amendment No. 135 above the following proviso be added after sub-paragraph (1) of paragraph 14 of the Sixth Schedule :—

'Provided that the State legislature shall be represented by two members elected by the Assam Legislative Assembly.' "

The amendment was negatived.

Mr. President : The question is:

"That Paragraph 14, as amended, stand part of the Sixth Schedule."

The motion was adopted.

Paragraph 14, as amended, was added to the Schedule.

Paragraph 15

(Amendment No. 140 was not moved.)

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

"That sub-paragraph (3) of Paragraph 15 be omitted."

That is because it gives discretion to the Governor which it is not proposed now to leave with him.

Mr. President : Amendment No. 142: we have dealt with the question of discretion so many times. Is it necessary to move it ?

Shri Brajeshwar Prasad : As you direct me, Sir.

Mr. President : I do not think it is necessary. Amendment 214 : again "President" for "Governor"; Amendment 215, "Parliament" for "legislature of the State"; Amendment 216 : that is the same as Dr. Ambedkar's. These are all the amendments. Dr. Ambedkar, would you like to say anything ?

The Honourable Dr. B. R. Ambedkar : No. As I have said we are taking away the discretion from the Governor which we had originally laid with him and it is therefore necessary to delete this sub-para (3).

Mr. President : The question is:

"That sub-paragraph (3) of paragraph 15 be omitted."

The amendment was adopted.

Mr. President : The question is :

"That paragraph 15, as amended, stand part of the Sixth Schedule."

The motion was adopted.

Paragraph 15, as amended, was added to the Schedule.

Shri Brajeshwar Prasad : Sir, I would suggest that we sit for a few minutes more and finish this schedule.

Mr. President : It will take time. We may not be able to finish. I was just going to remind the House that we are very much behind our scheduled time and something will have to be done to catch up the lost time.

Shri R. K. Sidhwa (C. P. & Berar: General): Today we have no other words and we may sit in the afternoon.

The Honourable Dr. B. R. Ambedkar : Tomorrow if you like we can sit. Today we have called a meeting of the Drafting Committee to take up some articles which have remained for consideration.

Mr. President : Very well, we shall consider that tomorrow. The House stands adjourned till 9 o'clock tomorrow.

The Assembly then adjourned till Wednesday, the 7th September 1949 at 9 A.M.
