

Thursday, 13th October, 1949

Volume X



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6-10-1949
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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

President:

THE HONOURABLE DR. RAJENDRA PRASAD.

Vice-President:

DR. H.C. MOOKHERJEE.

Constitutional Adviser:

SIR B.N. RAU, C.I.E.

Secretary:

SHRI H.V.R. IENGAR, C.I.E., I.C.S.

Joint Secretary:

MR. S.N. MUKHERJEE.

Deputy Secretary:

SHRI JUGAL KISHORE KHANNA.

Marshal:

SUBEDAR MAJOR HARBANS LAL JAIDKA.

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CONSTITUENT ASSEMBLY OF INDIA

Thursday, the 13th October, 1949

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

DRAFT CONSTITUTION—(Contd.)

Part VI-A—(Contd.)

Mr. President : I think it would be better to take the other articles which are sought to be amended in connection with the States and take all the amendments, and then have the general discussion. I do not think it is necessary for Dr. Ambedkar to read the whole thing.

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

“That article 224 be omitted.”

“That article 225 be omitted.”

“That after article 235, the following now article be inserted, namely:—

‘235 A. (1) Notwithstanding anything contained in this Constitution, a State for the time being specified in Part III of the First Schedule having any armed force immediately before the commencement of this Constitution may, until Parliament by law otherwise provides, continue to maintain the said force after such commencement subject to such general or special orders as the President may from time to time issue in this behalf.

Armed forces in States in Part III of the First Schedule.

(2) Any such armed force as is referred to in clause (1) of this article shall form part of the forces of the Union.’ ”

“That for article 236, the following article be substituted, namely:—

236. The Government of India may by agreement with the Government of any territory not being part of the territory of India undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such ‘agreement shall be subject to and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.’ ”

Power of the Union to undertake executive, legislative or judicial functions in relation to any territory not being part of the territory of India.

“That article 237 be omitted.”

“That after article 274 D, the following new articles be inserted, namely:—

‘274 DD. Notwithstanding anything contained in the foregoing provisions of this Part the President may enter into an agreement with a State for the time being specified in Part III of the First Schedule with respect to the levy and collection of any tax or duty leviable by the State on Goods imported into the State from other States or on goods exported from the State to other States, and any agreement entered into under this article shall continue in force for such period not exceeding ten years from the commencement of this Constitution as may be specified in the agreement :

Power of certain State in Part III of the First Schedule to impose restrictions on trade and commence by the levy of certain taxes and duties on goods imported into or exported from such State.

[The Honourable Dr. B. R. Ambedkar]

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission constituted under article 260 of this Constitution he thinks it necessary to do so.

‘274 DDD. Nothing in articles 274 A and 274 C of this Constitution shall affect the provisions of any existing law except in so far as the President may by order otherwise provide.’ ”
Effect of article 274A and 274C on existing laws.

“That after article 302. the following new article be inserted, namely :—

‘302A. In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in article 267A* of this Constitution with respect to the personal rights, privileges and dignities of the Ruler of an Indian State.’ ”
Rights and privileges of Rulers of Indian States.

“That after article 306, the following new articles be inserted :

‘306B. Notwithstanding anything contained in this Constitution, during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State. the Government of every State for the time being specified in Part III of the First Schedule shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by the President, and any failure to comply with such directions shall be deemed to be a failure to carry out the Government of the State in accordance with the provisions of this Constitution:

‘Provided that the President may by order direct that the provisions of this article shall not apply to any State specified in the order.’ ”

“That for clause (1) of article 258, the following clause be substituted :-

‘(1) Notwithstanding anything contained in this Chapter, the Government of India may, subject to the provisions of clause (2) of this article, enter into an agreement with the Government of a State for the time being specified in Part III of the First Schedule with respect to-

- (a) the levy and collection of any tax or duty leviable by the Government of India in such State and for the distribution of the proceeds thereof otherwise than in accordance with the provisions of this Chapter;
- (b) the grant of any financial assistance by the Government of India to such State in consequence of the loss of any revenue which that State used to derive from any tax or duty leviable under this constitution by the Government of India or from any other sources;
- (c) the contribution by such State in respect of any payment made by the Government of India under clause (1) of article 267A of this Constitution,

and when an agreement is so entered into, the provisions of this Chapter shall in relation to such State have effect subject to the terms of such agreement.’ ”

“That in Chapter I of Part IX, after article 267, the following new article shall be inserted, namely :—

‘267A. (1) Where under any covenant or agreement entered into by the Ruler of any Indian State before the commencement of this Constitution, the payment of any sums, free of tax, has been guaranteed or assured by the Government of the Dominion of India to any Ruler of such State as Privy Purse—

Privy purse sums of Rulers.

- (a) such sums shall be charged on, and paid out of, the Consolidated Fund of India; and
- (b) the sums so paid to any Ruler shall be exempt from all taxes on income.

(2) Where the territories of any such Indian State as aforesaid are comprised within a State specified in Part I or Part III of the First Schedule there shall be charged on, and paid out of, the Consolidated Fund of that State such contribution, if any, in respect of the payments made by the Government of India

*To be circulated later.

under clause (1) of this article and for such period as may, subject to any agreement entered into in that behalf under clause (1) of article 258 of this Constitution, be determined by order of the President.”

“That after article 270, the following new article be inserted :-

‘270A. (1) As from the commencement of this Constitution—

(a) All assets relating to any of the matters enumerated in the Union List vested immediately before such commencement, in any Indian State corresponding to any State for the time being specified in Part III of the First Schedule shall be vested in the Government of India, and

Succession to property
assets, liabilities and
obligations of Indian States.

(b) all liabilities relating to any of the said matters of the Government of any Indian State corresponding to any State for the time being specified in Part III of the First Schedule shall be the liabilities of the Government of India.

subject to any agreement entered into in that behalf by the Government of India with the Government of that State.

(2) As from the commencement of this Constitution the Government of each State for the time being specified in Part III of the first Schedule shall be the successor of the Government of the corresponding Indian State as regards all property, assets, liabilities in obligations other than the assets and liabilities referred to in (1) of this article.”

Shri Brajeshwar Prasad (Bihar: General) : Sir, I would like to suggest that these two amendments No. 218 and 219 relating to articles 224 and 225 should be disposed of first, or the amendments standing in the name of honourable Members to these articles will also have to be moved.

Mr. President : They have to be deleted. It dispose of them.

The question is:

“That article 224 be omitted.”

The motion was adopted.

Article 224 was deleted from the Constitution.

Mr. President : The question is;

“That article 225 be omitted.”

The motion was adopted.

Article 225 was deleted from the Constitution.

Mr. President : Then we shall take up amendments to 220.

Shri Brajeshwar Prasad : Sir, I move :

“That in amendment No. 220 of List VII (Second Week), in clause (1), of the proposed new article 235A, for the words ‘ until Parliament by law otherwise provides’ the words until the President by order otherwise provides’ be substituted.”

I am opposed to these words, because I hold that these works are inappropriate. There must be a clear distinction between executive orders and legislative authority. This is a subject which is purely of an executive character. The question as to when the armed forces of the State should be fully integrated with the Indian Army is not a legislative matter. It is a matter which can be decided by the executive authority. There should be no confusion between the executive and the legislative functions. Here no vital principle is involved. We have already accepted that the Stated Army is also a part of the Indian

[Shri Brajeshwar Prasad]

army. Even in the transitional period they are recognised as part and parcel of the Indian Army. Therefore, I want that these words should be deleted and substituted by the words that I have suggested in my amendment.

Sir, there is another reason why I am in favour of the President exercising this function in preference to the Parliament. If we want that the pace of integration should be accelerated, then the power must be vested in the hands of the President and not of the Parliament. Parliamentary action means delay.

Sir, I would like to move another amendment standing in my name, I refer to amendment No. 251. I move :

“That in amendment No. 225 of List VII (Second Week), in the proposed new article 306 B,—

- (i) the words ‘during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State’, be deleted; and
- (ii) the words ‘for the time being specified in Part III of the First Schedule’ be deleted.”

This power of general control and supervision for a period of ten years is not adequate to meet the needs of the hour. I am quite convinced in my own mind that all the problems that confront the Indian States will not be solved within this short time. Sir, the maladies that have confronted us for the last two centuries cannot be solved by any stratagem within such a short time. Federalism tends towards unitary state. Whether we make this provision or not, the power of central supervision, direction and control will automatically apply one way or the other. Therefore, I feel that this power should not be a temporary power. This power should be vested for an indefinite period.

There is one other point to which I would like to draw your attention. Yesterday in the speech of the Deputy Prime Minister (which was read out by Mr. Munshi) the words used, as far as I can remember, were that “these provisions shall continue for such period as may be necessary”. Now, here, the words used are that they shall not continue for a period longer than ten years. I would be quite satisfied if these words are taken out. I feel that this is a very unrealistic provision. It has got no meaning. We cannot arbitrarily lay down a period within which all problems in the native States must be solved because in the Constitution we have made a provision that our power shall not continue beyond a period of ten years.

There is another part of the amendment to which I would like to draw the attention of the House. I do not understand why this step-motherly treatment is being meted out to the provinces. We also want to benefit by the mature experience of the Centre. Why make this invidious distinction? I am dissatisfied—I am not talking here of any province in particular; let there be no illusion in the minds of anyone that I am dissatisfied with the administration of this province or that. I am talking here in general terms—I am dissatisfied with the system of provincial autonomy.

Mr. President : I do not think we need discuss that question once again here. We are concerned here with the States. The other question we have discussed *ad nauseam*.

Shri Brajeshwar Prasad : I am referring to the amendment wherein I want that the words “for the time being specified in Part III of the First Schedule” should be deleted. It means that this provision should be applicable to all the provinces as a whole. Probably I have not been able to explain the implications of this amendment.

Mr. President : Then it is out of order. As a matter of fact I have noted my paper that it is out of order. It is out of order because we are not discussing the question of the Provinces here, but we are discussing the question of the States. So far as the provinces are concerned, we have dealt with the question already and finished with it.

Shri Brajeshwar Prasad : Sir, I bow down to your ruling.

Shri R. K. Sidhwa (C. P. & Berar : General) : Mr. President, Sir, I beg to move :

“That in amendment No. 220 of List VII (Second Week), in clause (1) of the proposed new article 235 A, for the words ‘may until Parliament by law otherwise-provides, continue to maintain the said force after such commencement subject to such general or special orders as the President may from time to time issue in this behalf’ the word, ‘shall merge into the armed forces of the Union and shall form part of the forces of the Union’ be substituted.”

Sir, with your permission I shall move amendment No. 252 also which reads thus (I am deleting the first part of the amendment relating to ten years and am moving only the second part) :

“That in amendment No. 225 of List VII (Second Week), in the proposed new article 306 B, the following be inserted at the end of the article but before the proviso :—

‘During the period of ten years as stated therein all States shall introduce immediately laws for full-fledged elected local bodies within one year from the commencement of this Constitution.’ ”

As far as the first amendment is concerned, I find that the armed forces which at present exist in the States are to be under the control of the Commander-in-Chief of India: that is to say, they will be under the control of the Forces of India. But I do not understand why a special distinction should be made in the case of armed forces being retained in the States. We have in the provinces no armed forces. All the provinces today have got their police forces and there are also armed police forces, but there are no military armed forces in any province. There were none in the previous regime and there are none even now. Of course under the old regime the Indian States maintained armed forces for reasons which we know. But now when they have merged with provinces or have formed into separate units why should they have separate armed forces within the States? I wish, therefore, that all the armed forces should be removed from the States and be merged with the armed forces of India. Then they will be under the control of the Indian Union. I see no reason why the States should be given the special privilege of keeping separate armed forces. It might create many conflicts.. The armed forces in India will be under the supervision of the Commander-in-Chief. If these separate armed forces are allowed to be kept in the States without any specific reasons, for what purpose will they be maintained ? After all the police force is there. If any necessity arises, the armed forces will be available from the Indian Union. I therefore hope that the amendment moved by me would be considered by the Drafting Committee, that the armed forces of the States should be merged with those of the Indian Union and they should be under the control of the Commander-in-Chief of India.

As regards the second amendment I entirely agree with what was stated yesterday in the statement of the Honourable Sardar Vallabhbhai Patel, which was read out by Mr. Munshi. The conditions in Indian States in regard to political matters are not parallel to what exist in the provinces. We all know that very well. I do not come from the States, but I have extensively toured in the Indian States and Congress workers have taken me many times to Indian States for propaganda work. From what little I know of several Indian States, their condition is most miserable. There is no local body existing there. When I went to Cutch I did not find a printing press there and when

[Shri R. K. Sidhwa]

I was addressing a meeting and was referring to the ballot box and the advantage of votes the public did not know what was the ballot box and what was secret voting. From this you can understand how the people of the States have been kept in darkness by the rulers in these States. In Cutch no printing press even was allowed. That is the condition in many of the States as I had occasion to visit.

I do not say that all the States are in this condition. As was stated yesterday by the Honourable the Deputy Prime Minister there are progressive States like Travancore, Mysore and Cochin and others for which of course we have admiration. They have worked very well even during the British regime and they have been really progressive. We do not bring them into the picture here. But there are really most retrograde States—a large number of them and I therefore feel that it is perfectly correct to control their administration from the Centre for ten years. And what is the control? It is a preventive measure. They will be allowed to function as usual, but if extraordinary circumstances arise in their administration the Centre will certainly have a say in the matter. It is perfectly correct. We must admit that some of the States are in such a miserable state—I will use the word—and a good number of States. There are no administrations there, let me tell you. Excuse me if I have to say these things, but there is no municipality, there is no local body there. In a State where the public do not know what is a local body, what is a municipality and what are the powers of a municipality, you can understand how they can function and administer the State politically successfully. Therefore, we had achieved most marvelously in Bringing one-third of our population in the Indian States into the Indian Union. We ought to be proud today that 10 crores of the population of the Indian States have been made free, who were actually slaves. When we took charge from the British Government they told us that there would be 10 crores of people in States for whom the question of freedom need not arise. The British Government thought they might bring peace or they may create disturbances; but our Deputy Prime Minister has shown like a magic lantern that he shall so see I hat all these feudal states be brought on a par with other parts of the country. When I was a boy, I had seen a drama of Alladin and his wonderful lamp; but what we have seen today is real Alladin magic lamp and we are all proud of it. Not only is the Deputy Prime Minister proud; he is, of course indeed proud, but we ought to be proud too and it is very unfair that the people sometimes while maligning the Government forget the greatest achievement that we have achieved of releasing 10 crores of people who were actually under subjugation and slavery. It is matter of pride for any nation that within a period of one and a half years we have liberated these people who were slaves. The British people when they went away did not consider what will happen to them and really like magic a change has been brought about and today they are free.

With all this when that first stage has been finished the second stage is a very important part and that is we have to administer these States efficiently. Personally my view is that some of the States which are on the border should be merged with the adjoining provinces; by merging into the adjoining provinces they will certainly come into the progressive parts of the provinces. This has been done in some cases, but not in many cases Eventually that should be the best course, but there are certain States which have to remain independent, as for as for instance Rajasthan. Rajasthan, as you know, is a scattered Rajputna State and I do feel that the Centre must keep their hold. I am myself proud to see Rajasthan become the biggest Rajasthan. but I am very sorry to say that the administration there is not quite good and when I was appointed as a member to investigate the wishes of the people of Bharatpur and Dholpur a member to investigate the wishes of the people of Bharatpur and Dholpur of course, my personal view is different—they wanted to join the Rajasthan

and the State Ministry resolved that they should be merged with Rajasthan. I do not find fault with the State of Rajasthan, because there are no proper people available for the administration of the States and it is not their fault. They were not trained. You can very well understand Sir, we in the provinces, those who have been in the local bodies, in the municipalities, had a good training. They knew the municipalities are the first training for a citizen to take charge of the basic administration and therefore, Sir, I have made a suggestion in my amendment that while the control shall be there, the "control" in the sense that has been explained by the Honourable Sardar Patel yesterday will, be only when the necessity arises. During that period, I desire that the local body should be immediately formed, a full-fledged local body should be immediately formed, laws should be passed and they should be put into operation within one year from the commencement of the Act, so that people may know really what is an administration, what are the franchise, what are the powers, what are the rights and what are the privileges in a small sphere, in their own town, in their own villages. When they come to know that really a local body is a thing where also a small city or a small town has to be governed by themselves, they will create for themselves good administrators for administering their own State. At the same time we shall have very good ministers to take charge of the administration and bring these States into life with the provinces. I hope my friends from the States will not misunderstand me when I support the proposition for control for 10 years. After all it does not look nice that they should be under the existing conditions when we are all free and when we want absolute control, there should be some control from the Centre. I do not share the view that there should not be any control on any free local bodies. Today all local bodies, municipalities, corporations are all governed by certain Acts and I can tell you, Sir, that even in a corporation like those in Bombay, Calcutta, Madras, the Provincial Governments have a control. At any time if they feel that the administration of the corporation is going wrong, they have the power to intervene. The whole position, therefore, is for the purpose of this Act to intervene in case of necessity just as in the Calcutta Corporation. The Calcutta Corporation's business was very Wrong and therefore, there was a provision in the Act that the Government can intervene in the event of the administration not functioning properly and the Government of Bengal took charge of the Calcutta Corporation, one of the biggest corporations. As you may know, Mr. President, the administration of Calcutta Corporation has been taken under the control of the Government. There is nothing wrong in it. After all it is our Government now. There was the stigma in pre-independence days and I myself was fighting when such a control was under the British Government. I said then that our opportunity should be given when they do not function properly, an opportunity should be given them a second time to improve. I do hold that view that even before the suppression of any local body opportunity should be given by the Government to improve. When they continuously go wrong, then the control should be taken by the Centre. Similarly, I am sure, Sir, that when an occasion arises when anything is going wrong in the States the Centre should give a warning to that State and if the State does not improve and continues in that condition, then the Centre will certainly have the right to intervene and in the interests of the whole country—not only in the interest of the State alone,—the Centre will be justified in taking possession of that State. I therefore say that those States which are very backward in those States municipal laws should be passed immediately so that they may have a first- class training. If they have three or five years term of office, they can very well advance (*Interruption*).

Therefore I contend Sir, what I have stated in amendment No. 252 the Drafting Committee will kindly consider in view of the control that has to be taken by the Centre in the event of any inefficiency in the State that may

[Shri R. K. Sidhwa]

exist. With these words, Sir, I commend both the amendments Nos. 246 and 252 for the acceptance of the House.

Prof. Shibban Lal Saksena (United Provinces : General) : Sir, I beg to move :

“That in amendment No. 220 of List VII (Second Week), in clause (2) of the proposed new article 235A, the words ‘and the Union shall bear the expenses thereof’ be added at the end.”

This amendment No. 220 says :

“Notwithstanding anything contained in this Constitution, a State for the time being specified in Part III of the First Schedule having any armed force immediately before the commencement of this Constitution may, until Parliament by law otherwise provides, continue to maintain the said force after such commencement subject to such general or special orders as the President may from time to time issue in this behalf.

(2) Any such armed force as is referred to in clause (1) of this article shall form part of the forces of the Union.”

The question arises, who shall bear the costs ? In the first part it is said that until Parliament otherwise decides, the armed force shall be maintained by the State itself. In part 2 it is said that armed force shall form part of the forces of the Union. There is some discrepancy between the two. I personally feel, Sir, that what is intended is that very soon we shall have all the forces under the control of the Union and until Parliament passes a law to that effect, they continue to remain as they are. I think as they become part of the forces of the Union, the expenses should be borne by the Union and they should be under the control and discipline of the Union as is intended by clause (2). In fact, many of the States may not be able to provide for the maintenance of these forces. I, therefore, think that even though it may take some time for the Parliament to pass a law taking over all these forces, still *de facto* the forces must come to the Union and the expenses thereof must also be borne by the Union.

I have also given notice of amendments 303, 304 and 305. Amendment No. 303 refers to article 274 DD and says :

“That in amendment No. 223 of List VII (Second Week), in the proposed new article 274 DD, after the words ‘the President’ where they occur for the first time, the words subject to the approval of the Parliament be inserted.”

Article 274 DD says : “Notwithstanding anything contained in the foregoing provisions of this part the President may enter into an agreement with a State..... etc.” What I want is that this power which is being given to the President to enter into financial agreements with the States, especially when agreements must be subject to the approval of Parliament. Therefore, I want to introduce these words.

Then Sir, article 274 DDD says : “Nothing in articles 274A and 274 C of this Constitution shall affect the provisions of any existing law except in so far as the President may by order otherwise provide.” To this, my amendment is :

“That in amendment No. 223 of List VII (Second Week), in the proposed new article 274 DDD, for the words ‘President may by order’ the words ‘Parliament may by law’ be substituted.”

What I want is that here also for the words “the President may by order provide”, the words “Parliament may by law provide”, be substituted. My only argument is that I do not want that this power should be given to the President Which means the Cabinet, but it should be given to Parliament especially in matters of such importance.

Then, Sir, there is an amendment to article 306 B which has been commented upon so much and about which the Honourable Sardar Patel has made a statement. After his exposition, I think much of the criticism goes. But, still I think that Mr. Thanu Pillai's suggestion was a better one. We should have divided the States into Schedules and some of the States should be excluded from the operation of this article. I hope States like Mysore and Travancore will not be subject to this provision, and that the President will from the beginning pass an order to that effect. My amendment in article 306A is :

"That in amendment No. 225 of List VII (Second Week) in the proviso to the proposed new article 306 B, for the words 'President may by order' the words 'Parliament may by law' be substituted."

The proviso reads that the President may by order direct that the provisions of this article shall not apply to any State specified in the order. That means that when a State has to be taken out of this guardianship the President may issue an order. I want that Parliament alone should be able to do it by law. It is quite possible that some of the States may think that they are fit to be excluded from the operation of this article and they should be able to approach the Parliament and Parliament should be able to do it by law. Otherwise, they may have to hang on the President, and to be in his good books to get out of his control. I think if Parliament has that power, they will not have to be subservient to the States Ministry of the Government of India. This amendment will give Parliament the paramount power and I think this is desirable.

While I have given notice of amendments to this Chapter, I do want to join in the chorus of praise which has been showered on our leader, the Honourable Sardar Vallabhbhai Patel on this historic occasion. I think this is the biggest task that has been accomplished by our Government in the past two years. This one single achievement of Sardar Patel will entitle him to an immortal place among the builders of modern India. The British had created five hundred and odd States and he tried to divide our country into so many Pakistans. By the genius of the Honourable Sardar Patel and by the work of the officials of the States Ministry, we have been able to accomplish this great achievement. I join the House in congratulating Sardar Patel on this great achievement. Friends here have compared him to Bismarck. I consider Sardar Patel's achievement to be greater than that of Bismarck. For Sardar Patel accomplished this revolution without shedding a drop of blood. I pray to God that he may be spared long, and be soon restored to his normal health and vigour, so that he may lead the Nation to greater victories in the future.

(Amendments Nos. 247, 297 and 298 were not moved.)

Mr. President : Amendment No. 222 Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I have already moved that.

Shri S. V. Krishnamoorthi Rao (Mysore State) : In view of the Statement made by the Honourable Sardar Patel yesterday and the assurance given by him so far the Mysore State is concerned, I am not moving this amendment. (No. 249). I would like to participate in the debate.

(Amendment No. 250 was not moved.)

Mr. President : Amendment No. 279 : Sarangadhar Das.

Shri Sarangadhar Das (Orissa State) : Mr. President Sir.....

Mr. President : This amendment is only for deletion. It need not be moved. You can speak about it later.

Shri H. R. Guruv Reddy (Mysore State) : I do not wish to move amendment 289 in view of the assurance given by Sardar Patel.

Mr. President : Prof. Shibban Lal Saksena, you have given notice of some amendments this morning.

Prof. Shibban Lal Saksena : Mr. President, Sir, notice has been given of amendments to the new articles 258, 267-A, 270-A and 264-A.

Mr. President : 264-A has not been moved.

Prof. Shibban Lal Saksena : I beg to move :

“That in amendment No. 299 of List XIII (Second Week), at the end of the proposed clause (1) of article 258 the following words be added :—

‘after that agreement has been approved by Parliament.’ ”

My second amendment is :

“That in amendment No.299 of List XIII (Second Week), sub-clause (a), (b) and (c) of the proposed clause (1) of article 259 be re-lettered as sub-clauses (b), (c) and (d) of that clause and the following be inserted as sub-clause (a) :-

- (a) questions arising from or connected with the resting in the Union of assets and liabilities of such states related to any of the matters enumerated in the Union List.”

This second amendment is really an improvement on amendment 300 of Mr. Krishnamachari. Regarding the first amendment, I feel that when important agreements about financial matters are made with the States, it must be the Parliament which must be the final authority. Therefore I want to add “after that agreement has been approved by Parliament.”

My amendment to article 267A is :

“That in amendment No. 301 of List XIII (Second Week), sub-clause (b) of clause (1) of the proposed new article 267A be deleted.”

When the agreement provides for an allowance free of income- tax, there is no need for this clause. My next amendment to article 267A is—

“That in amendment No. 301 of List XIII (Second Week), in clause (2) of the proposed new article 267A, for the words ‘by order of the President’ the ‘words by Parliament by law’ be substituted.”

Here also it should be the Parliament that should finally sanction the expenditure. Therefore, I have suggested this change.

Then my amendment to new article 270A is :

“That in amendment No. 302 of List XIII (Second Week), in clause (1) of the proposed new article 270A, the words ‘and approved by Parliament’ be added at the end.”

This relates to the properties. Clause (1) says :—

“As from the commencement of this Constitution all assets relating to any of the matters enumerated in the Union List vested immediately before such commencement in any Indian State corresponding to any State for the time being specified in Part III of the First Schedule shall be vested in the Government of India.”

To this I want to add at the end ‘and approved by Parliament.’

I only desire by all these amendments to assert and maintain the final authority of Parliament and I hope these amendments will be accepted.

Mr. President : The article and the amendments are open for discussion. Mr. Sarangadhar Das.

Shri B. Das (Orissa : General) : Sir, I have tabled two amendments to article 267A. I move :

“That in amendment No.301 of List XIII (Second Week), after clause (2) of the proposed new article 267A the following new clause be added :—

- (3) When any sums are guaranteed or assured to any Ruler's family members or relations such sums be treated as part of privy purse and as free of tax."

Another amendment I have tabled is to the following effect :—

"That in amendment No. 301 of list XIII (Second Week), in clause (1) of the proposed new article 267A. after the words 'to any Ruler' the words 'or his family relations, be inserted."

It is understood from article 267A that the money granted to any ruler should be free of taxes. When negotiations were going on, most of us understood that Ruler's mother and other family members and widows of former rulers who receive grants by those negotiations will not be taxed income-tax or any other tax. I was surprised last night to receive a visit from the Dowagar Maharani of Mayurbhanj who had been granted Rs. 3,000 p.m. as her allowance when negotiations took place. For April and May she received Rs. 3,000 per month and for these two months she was paid fully. Thereafter Rs. 707 p.m. is being deducted from April last as income-tax on the same. She is the wife of a Maharaja who is no more and the daughter of a Maharaja. How could she pay income-tax when income-tax did not exist in many States? It means that many of these relatives of rulers, such as the ruler's mother, his sister-in-law as in the case I cited and others, they will all be taxed, income-tax. Yesterday our revered leader, Sardar Vallabhbhai Patel, made an excellent speech whereby he guaranteed peace and tranquility for the citizens of the States. I think such peace and tranquility is guaranteed to the relatives of the rulers also. According to the draft article 267-A, the privy purse is to be free of income-tax. There are many States in India which never paid any income-tax. Particularly when we come to the lady members of the ruler's family—the ex-Raja's family—it is very hard on them they cannot understand why any income-tax should be deducted and in such large proportion as Rs. 707 out of Rs. 3,000 per month! It includes super-tax and other taxes also. Perhaps that State had no income-tax at all, and even if it had, it was not on such a high level as is prevalent in our provinces. Till last night I had not understood that the relations of the Princes and the Maharanis—the mother of the ex-Ruler, or wife of the late Ruler will be subjected to such deduction of income-tax. I think privy purse means money that is sanctioned to a ruler and his family members. Therefore, they must be exempt from any tax. If the ruler with a huge sum of Rs. 20 lakhs or 25 lakhs as allowances is not subjected to income-tax why should the relations of the rulers be taxed income-tax and that too at the maximum rates of income-tax assessment that is prevalent in India, and that has never been understood in the States? Sir, this is a lacuna that has been left over and it must be corrected. It is no use harassing people who were enjoying great privileges in those States. If the rulers or the descendants of the rulers are to enjoy such privileges in the future. I do not understand why the ruler's mother and the near cognate Maharani of the State should be taxed income-tax. I hope this wrong will be corrected and righted.

Mr. President : The whole thing is now for discussion. Mr. Sarangadhar Das.

Shri Sarangadhar Das : Mr. President, I had given an amendment to delete article 306 B, but as deletion is not being moved, I want to say a few words about this article.

First of all, I want to say that I am second to none in recognising and praising the work that the Honourable Sardar Vallabhbhai Patel has done in reducing the number of States from five hundred and odd to seven. I happened in 1947, as a Member of the All-India States Peoples Conference, to know what the dangers were and what a gigantic task it was. I personally at that time did not believe that it could be done in such a short time. But it has been done, and for the consummation of this monumental work the whole credit must go to Sardar Vallabhbhai Patel and the States Ministry. I am also aware that

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when we had objected to the distinction made between the Provinces and the States in the new constitution, in certain fundamental matters last winter, he had given us an assurance that he was trying to bring the States on a par with the Provinces, and that he has done now.

But my objection now to article 306 B is for this reason that we are trying to have democratic institutions all over; we have destroyed autocracy and introduced democracy; but in having this article 306 B whereby the States Ministry, I mean the Government of India, will have control over these States Unions. It makes a distinction between the Provinces and the States, and to my mind it strikes at the root of democratic institutions. I am in a minority of one here. Because I know very well that many of the States Members who happen to be Ministers in their States Unions or States do not like this article, do not like this subordination to the Government of India, in respect of their day-to-day administration, and yet they, because of a certain mandate, cannot speak and they will not speak. My objection to the article is particularly on this ground that by having control and by sending directions from the Centre to the States, bureaucratic rule will completely prevail. There will be no real representative Government.

I can also say from my experience of the last one and a half years with regard to the Indian States that have been merged into the Provinces, that the officials who have been sent by the Provincial Governments as administrators into these States have acted in such a way that they are the successors of the Rajas, they are the successors of the rulers in their whimsical rule, and the general people in those States have that impression. Whatever nominated representatives there used to be last year in Orissa and C. P. States, they had no voice and the people soon found out that the so-called representatives who were nominated as Councillors by the Provincial Governments had no voice in the matter of administration. They were nobodies, and consequently the officials are ruling now as they were ruling in the Raja's regime. And it is very unfortunate that our officials from the Provinces who were trained in a certain administrative machinery in the provinces, when they come to there States where there is no democracy, where there is no voice of the people, they have acted as if they were the rulers themselves. Probably they think they have an opportunity to be the rajas for some time and they have done so.

I also know that in many of the big Unions that have been formed during the last year there are officials, the subordinate officials and the high ones, who act in that manner and the people have no say, no opportunity of airing their grievances. Consequently, when the States Ministry, or I should say the Government of India will give directions for the day-today administration, it will assure those officials that although the States Unions will have their legislatures and there will be representatives elected by the people, even those elected people might take some decisions which may be contrary to the decisions of the Government of India, and that the decision of the Government will have to be carried out by those officials, and that the representatives will have no other say but to keep quiet, and let the machine go on according to the desire of the Government of India. Everyone concerned will realize the supremacy of the officials. I quite appreciate, as some of the speakers have already stated, and Sardar Vallabhbhai himself has stated in his statement, that in the States the people do not have democratic traditions, there was no local board, no municipality. I know there were States where even a library could not be established, because the Raja and his Dewan were afraid that people by reading books would become rebels.

I appreciate that, out now that we are introducing democracy. I strongly protest that there should be one treatment for the provinces, where the ministries

will be autonomous without any interference from outside and another treatment for States and that those States Unions or States like Mysore will have to take orders from the Central Government. I know that some of them will be exempted and they deserve that exemption. Even then, when Mysore gets the distinction of being fully autonomous, and Rajasthan becomes a subordinate body, I believe this House will realise what the feeling of the representatives of Rajasthan will be. My contention is that when the article takes any of these States or States Unions under a period of tutelage, it may be for ten years or Parliament might decide on a period of fifteen or twenty years, it deprives the administration of its representative character.

Now, it seems that exactly as the British Government wanted during the last fifty or sixty years to train us in democratic forms of Government, so also our own Government, our own leaders, who were condemning the policies of the British Government, are now introducing the same technique in the case of the States people, and I have a feeling that the Government at the Centre and also most of the Members from the provinces here have a step-motherly feeling towards the people of the States. This will be evident from what has happened about the merged States. Last January we passed here an amendment to the Government of India Act for completely merging some States into the provinces of Bombay, Madras, C.P. and Orissa. At that time we had hoped and we had some assurance from some quarters that there would be election under the restricted franchise of the 1935 Act, but there has been no election and I know definitely that in two of the provinces at least, members have been nominated by the provincial government through official machinery. It is an interesting thing to know that the nominations were not even made by Congress Committees. One would presume that Government being run by Congress, it would listen to the Congress Committees. In one province the recommendations of the Congress Committees were thrown out. In another the Congress Committees were not consulted at all. One would take it that as the government is run by the Congress Party it would consult its own machinery, but it was not done. In most cases officials have nominated the members. They are called people's representatives. To my mind it is an insult to the people of the States that some people who were unknown in public life or used to side with the Raja, have been nominated. From this I want the House to understand that now that autocracy has been destroyed and we have democracy all over India and the whole country is integrated into one whole, there is a tendency on the part of the Government at the Centre to keep the people of the States under tutelage.

Now, when it comes to the intelligence of the people of the States as voters, I would say—and I am very well acquainted with my province—that there is no difference between the intelligence, the awareness of the general electorate in the provinces and in the States. If you consider that the electorate's ignorance results in this kind of nominations and directions from the Centre, then I would say it was a mistake on our part to introduce adult franchise in our Constitution I would say that if we do not have any belief in the people, then let us have adult franchise gradually. Of course, personally I do not share that view. I say that as an argument only. I believe that once democracy is introduced, if people make any mistakes, they will immediately learn from those mistakes, and that is the way democracy can grow and that is why, speaking from my experience not only in my own province and in the States of Orissa but also in Rajasthan and parts of Madhya Bharat, this is a retrograde measure, this article 306 B Sardar Vallabhbhai has accomplished the integration of the whole country into one whole and has got rid of autocracy in such a short time. This retrograde article 306 B will detract a great deal from the good that he and the States Ministry have done.

I said at the beginning that I am in a minority of one because I do not belong to the party that dominates this Assembly. I was in the party, I have come

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out lately; that is why I am speaking, I am free to speak. But I wish to give you this warning, to honourable Members of this House, and to the Government, that unless this step-motherly attitude towards the people of the States is removed and they are allowed to function just the same as the people of the provinces are functioning or will function under the new Constitution in the future, unless the States people are given the same rights as the people in the Provinces are, I do not think this democracy will grow. Anything may happen in future. There may be troubles in these States Union Ministries, there may be a blow-up somewhere, at any rate democracy will not grow.

That is why I appeal to the Honourable Members of the House as well as to Sardar Vallabhbhai that if it is necessary to have this article 306 B, it should not be put into action in any of the States. I feel that if the Government of any State breaks down, provision has been made in articles 275, 276 and others which will be applied to the Provinces and these might as well be applied to the States Unions. That is why I think 306 B is not necessary and if it is passed, as have no doubt, it will be passed, my appeal to Sardar Vallabhbhai and the Government of India is that it should not be put into action. If there is anything wrong in any of the Union Governments it should be set right by persuasion.

Shri K. Chengalaraya Reddy (Mysore State) : Mr. President, Sir, it gives me great pleasure to make a few general observations in connection with the proposal that has now been placed before the House. The proposal is that Part VI of the Constitution which applies to the States enumerated in Part I of the First Schedule should also be made applicable to the States to be mentioned in Part III of that Schedule with such modifications and omissions as may be called for in the circumstances in which the States are placed. It is a matter of supreme gratification to me that towards the concluding stages of the work of this august Assembly this decision is being taken.

When this Assembly started its work it was a matter of grave doubt whether a common Constitution would at all be possible for all the units comprised in the Dominion of India. It was assumed and admitted that so far as the Indian States are concerned the Constitution for those States should be framed by the respective Constituent Assemblies of those States. It was in pursuance of that decision that Constituent Assemblies came into existence in some of the States and those Constituent Assemblies started their task of framing constitutions which were necessary for their particular States. But let me here recall the attempts made by the representatives of the Mysore State as also the representatives of some other States to bring about a procedure by means of which a common Constitution could be adopted for these States also.

As early as August 1947 when the representatives of some of these States came to this august House as Members, a serious attempt was made to set up a Committee of this House to evolve a model constitution which would be applicable to the Indian States with a view to incorporate such a constitution in the body of the Indian Constitution itself. But at that time it was not found either feasible or practicable and we were called upon in our respective States to frame our own constitutions. Even then when we started our work, we were conscious of the supreme necessity that such separate constitutions should be in consonance with the Indian Constitution and should be in accordance with the Aims and Objectives Resolution of the Indian Constituent Assembly. Even, when we had been given the opportunity and freedom to frame our own constitutions that was the stand that we had taken. And it is because of that background that I say now that it is a matter for supreme gratification for the people of the Indian States—at any rate I can speak authoritatively for the people of Mysore that this decision is about to be taken august House.

Well, Sir, we are face to face with a situation which all the statesmanship that the country can muster in order to make the freedom that we have won secure and stable beyond any risk whatsoever. It has always been felt that any variegated patterns of constitutions in several units would bring about disunity and some amount of working in different, diverse directions. It has been conceded now that the constitution for the Indian States also should be more or less uniform and be on the same lines as the constitution for the Provinces. In this connection I want to pay my humble tribute and congratulations to the Ministry of States and to Sardar in particular for the dexterous way in which this complicated problem of the Indian States has been tackled ever since August 15, 1947. The situation with which we were faced at that time was one full of potentialities for mischief, full of opportunities for the disintegration of India, full of possibilities for making the freedom that had been won being diverted into wrong channels. But for the statesmanlike handing of this problem I am afraid the opportunities that had been given for fissiparous tendencies to manifest themselves would have stricken a mortal blow at India in its very infancy of freedom. So, I join in the chorus of tributes and congratulations that have been extended to the Ministry of States and to the Sardar in particular from all over the world at the magnificent way in which this problem has been handled. It has been rightly claimed that what we have achieved today is a bloodless revolution, an achievement unparalleled in the history of any country at any time. Today we are proud of the fact that we are hammering out a Constitution which ensures for the first time in the history of India a united democratic and virile nation. Towards, this consummation as has already been pointed out the co-operative enterprise of the people of the States as well as of the people of the Provinces has been responsible, and for the first time in the history of India a people's polity based on the sovereignty of the people is coming into existence. So, I think there will be no difference of opinion anywhere in this country, in any State whatsoever, difference of opinion regarding the propriety or the desirability of having a common Constitution for all parts of this Union.

Having said that, Sir, I would like to refer to some details regarding the proposals that have been placed before this House. In the main, I am in agreement with the proposals that have been placed and most of the draft amendments that have been now put before the House should not be difficult of acceptance by all the representatives in this House, including the representatives of the Indian States. The general position is that so far as the various rights, powers and responsibilities that have been given to various authorities in Part VI of the Constitution are concerned, the same powers are to be given to the corresponding authorities in the Indian States. There are some differences however, for which provision had to be made. It was never in doubt that so far as Fundamental Rights and citizenship rights are concerned, there would be no difference between unit and unit. But so far as the internal constitution is concerned it has become necessary to make some modifications. I would like to briefly touch upon them in order to clarify the position, because it has been asked by some honourable Members: "if you are for a common constitution, why do you want these modifications? Why do you want Part VIA at all?" it is lot difficult for me to answer that question. But the lucid and comprehensive statement that has been made by Sardar Patel yesterday with regard to this matter is a convincing answer to such questions.

First, Sir, the one modification that has been found necessary is with relation to the constitutional head of the States concerned. In the provinces the constitutional head is to be the Government of that State. But, so far as the Indian States are concerned this cannot be the position, because the facts of history, the inexorable existing circumstances, necessitated a different arrangement to be made. It is because of that certain other provision had been made and a modification, an amendment, is placed before this House so far as

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the Indian States are concerned, it will be the Rajpramukh that will be the constitutional head of those particular States. It should be clearly understood that so far as the powers of this Constitutional Head are concerned—by whatever name you may call him—they are absolutely identical with the powers that are conferred on the Governors in relation to the provinces. So, though a Rajpramukh is recognised as the constitutional head, the powers that he will be exercising will not be a bit more or a bit less than the powers that the Governor will exercise.

Regarding the definition of the word there is some difference of opinion. It has been urged that since the word 'Rajpramukh' means that he is a Pramukh amongst several other Rajas it may not be quite appropriate with regard to such States where there is only one ruler. This is sought to be got over by the definition of the word "Rajpramukh" which will be duly placed before the House. The definition recognises the differences existing in various States and says that so far as Hyderabad is concerned "Rajpramukh" will mean the Nizam of Hyderabad. So far as Jammu and Kashmir and Mysore are concerned, it will mean the Maharaja, subject to the stipulation that they should be recognised as such by the President of the Union. There is nothing surprising in this. There was a stipulation of recognition even under the old set-up when the British Paramount power was here and there is nothing of a very different nature that is proposed now. So, though a more appropriate word could have been found for the constitutional head of the States, in view of what has been embodied in the covenants that have been already entered into, where the word "Rajpramukh" has already been used, it is proposed to retain that word.

So far as legislative powers are concerned, there is no differentiation whatsoever. The field of legislation so far as the provinces and Indian States are concerned, will be exactly identical and uniform and I need not advert to that aspect at any length.

Regarding the financial arrangements, Sir, I would like to say only one word. There also, the basis on which we are proceeding is that the relationship between the provinces and the Centre and the relationship between the Indian States and the Centre should be identical. When this principle is to be implemented, it will naturally mean certain dislocation in the finances of the Indian States. During the last few months attempts have been made in order to bring about some arrangement which will secure the implementation of the principle of uniformity and at the same time provide for the non-dislocation of the finances of the Indian States. The Federal Finance Integration Committee, presided over by Sir V. T. Krishnamachari, has gone into this question fully and almost all the States have provisionally signed the agreements in this behalf. In this connection, I want to urge one aspect. The arrangement that will be entered into by the States with the Centre is proposed for a period of ten years only. I want strongly to urge that this period of ten years may well be extended to a period of fifteen years in order to enable the Indian States to tide over the difficult situation that they will be faced with as a result of the Federal financial agreement. This proposal has already been mooted in the concerned quarters and I hope this suggestion of ours will receive the very earnest and sympathetic consideration of the authorities.

Then, Sir, regarding the redistribution of boundaries of States there has been some difference of opinion. Originally clause (3), as it was passed by this august House, provided for the ascertainment of the views of the Legislature so far as the provinces in Part I were concerned and the consent of the States in so far as the States in Part III were concerned. The Mysore Constituent Assembly was of the view that in so far as the Indian States are concerned, the previous consent of the States may be obtained before any redistribution

of boundaries. I need not go into the reasons which actuated the Mysore Constituent Assembly to come to this decision and to make that recommendation. In view of the fact that so far as provinces are concerned the ascertainment of views only was sufficient, it has been put before us that even so far as States are concerned, such a procedure would be satisfactory and there need be no differentiation regarding this particular matter as between the provinces in Part I and the States in Part III. I do not want to pursue this point further, excepting to invite the attention of the House to the Statement made by Sardar Patel yesterday. He has definitely stated that whether it be the consent of the Legislature of the State or the views of the Legislature of the province, the wishes of the people will not be ignored whenever any redistribution of the territories has to come about. He has also stated that the wishes of the Legislature of a particular State will not be ignored either by the Government of India or by the Parliament. In view of that assurance I do not want to pursue this point any further.

I want to refer to one more important aspect before I conclude. The whole object of the proposal that is now placed before us is to secure uniformity in relation to the Provinces mentioned in Part I and States in Part III. It is against this background, Sir, that the Sardar has said that there has naturally been some misgiving in relation to the proposed draft article 306 B. Different opinions have already been expressed on the floor of this House by honourable Members. I must respectfully submit that *prima facie*, this article 306 B provides for a differentiation as between Provinces and States. So naturally one is tempted to put the question "why this differentiation?" If the object is to treat the Provinces and States alike then why subject these States in Part III of the Schedule to the general control envisaged in article 306 B, I will be failing in my duty if I did not point out that so far as the Mysore Constituent Assembly is concerned, it was of the unanimous opinion that so far at any rate as Mysore was concerned this article should not be made applicable to it.

Well, Sir, we the people of the States have always been urging and agitating for a common Constitution on the assumption that there would be no differentiation between the Provinces and the States. Now, seemingly this article 306 B brings about a differentiation. At the same time, I want to say this namely, that in our approach to this problem we have always been actuated by the dominating desire that the security and stability of India should not be jeopardised to the smallest extent. We want to consider every proposal that may be placed before us from that fundamental point of view. If the Ministry of States feels that under the present circumstances some such power is necessary in order to stabilise the position, in order to make democracy firm, and in order to place it on a firm footing in any of the States, then I would not like to question the wisdom of the Ministry of States in that respect. But it has to be borne in mind that this clause cannot be made uniformity applicable to all the States enumerated in Part III.

I am speaking only for Mysore on this occasion. Mysore has been known to have an ordered administration since the last so many decades. Mysore is known to have a permanent service of which not only Mysore but even India may be proud. Mysore was the first among Indian States—and may I say among the Provinces as well—to have a democratic House so early as in 1881. In 1907 another House called the Legislative Council was ushered into existence. So through all these decades the people of Mysore have been used to the working of democratic institutions. It is a fact that so far as the executive is concerned, there was a Diwan and the Diwan was the sole executive authority. But it can not be gain said that Mysore during all these decades has had experience of democratic institutions.

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In view of that it would not be proper and desirable to bring a State like Mysore under the provisions of article 306 B The Sardar has been pleased to say in the statement that he made to the House yesterday that it is obvious that so far as Mysore, Travancore and Cochin are concerned, where democratic institutions have been in existence since a long time and where Ministers have been owing responsibility to the legislature they have to be treated on a different footing. It is my fervent hope that even in relation to the other States mentioned in part III of the Schedule it would not be necessary to invoke the aid of the powers that are vested in the Centre by article 306 B. Sagacity and statesmanship on the part of our leaders as also the willing co-operation of the people of the Indian States have brought us to a stage when we can be proud of the achievements that we have secured so far. I hope that even in the future, though this article 306 B may go into the Constitution, it will not be necessary for the Centre to invoke the aid of this article either *suo motu* or because, of other considerations. I hope that this article will be more or less a dead letter in the Constitution. In any case I expect that 306 B will not be applied to the State of Mysore.

I do not want to take more time of this House. It has been said yesterday that the co-operative enterprise of both the people of the States and the Provinces has been responsible for this consummation. We are all proud of that; we all share in the joy of that. And I have already paid my humble tribute and congratulation to the States Ministry for this achievement. But a greater task still lies ahead of us. This co-operative enterprise has to be sustained in order to usher in what I may call Swarajya. Social and economic democracy has yet to be achieved and the political freedom that we have won and the Constitution that we are framing should be worked out in such a manner as would redound to the honour of India, and I have every confidence that the same enterprise, the same co-operation and the same steadfastness will be forthcoming in abundance in the future also in order to make this Constitution a great success in its actual implementation.

With these few observations I commend in general the amendments that have been placed before this House by the Drafting Committee and I would also appeal to the concerned authorities to be pleased always to consider the special conditions that may be existing in any State when applying the provisions of this Constitution as they are going to be passed very shortly in this House.

SHRI JAINARAIN VYAS (United State of Rajasthan) Mr. President, Sir, we heard the masterly statement of Sardar Vallabhbhai Patel that was read out to us yesterday. We also heard the brilliant speech of Dr. Pattabhi Sitaramayya, our Congress President, supporting the statement and Praising Sardar Patel for what he has done for the people of the Indian States. We have also heard some speeches from honourable Members of this House including that of Mr. Sidhwa who characterized the people of the States as a backward class.

Shri R. K. Sidhwa : I did not say that all States were backward class.

Shri Jainarain Vyas : I am very glad that he did not think us like that. We may be backward, but I may assure you Sir, and through you the Government of India, and specially the State Ministry, That we are grateful people also, and we are grateful to the Honourable Deputy Prime Minister, Sardar Vallabhbhai Patel for the changes he has brought in the country by diminishing, the number of states from 562 to seven.

I do not want to say much about the amendments, but I will restrict my remarks to article 306 B. On the face of it, as everybody has remarked, this article seems to be obnoxious and it looks as if it has been designed to put the

people of the States—that is, the administration of the States—under surveillance for ten years. But after hearing the statement of Sardar Vallabhbhai Patel we have to desist from opposing it. He has referred to so many factors and I as one who has got some experience of the working of the States, and working for a short time in the administration of a State, know that inexperience on the part of administrators has played some part in the framing of this article. Then, there may be some faults, real or imaginary on the part of the administrators, but there are other factors also that have contributed to the framing of this action. In the States as Mr. Sidhva and others perhaps do not know, there are intrigues. We may not be able administrators but in the State there are intrigues such as those not seen in the provinces, intriguing, carrying on whispering campaigns and playing all dirty tactics. These people are there and if the Government of India safeguard the interest of the administration as a whole against those intrigues, well, I cannot blame them for that.

Then there is one thing which I want to refer to, and it is that the unification of the States has been brought about, so early that so many details have not yet been worked out. There ought to have been pre-planning but there was no time for pre-planning and as such the States are in the process of being formed they have not been totally formed in from that point of view also some supervision seems to be necessary. I was one of those, Sir, who agreed that this supervision should last in those States which have not got legislatures and should last till such period as the legislatures are formed and after the formation of the legislatures these restrictions or supervision or control of the Centre should go but the period has been extended to ten years. But as Mr. Reddy has just pointed out. I hope this period would not be utilised for controlling the State administration. As a matter of fact, we ourselves, who are in the States would see that this restriction, control or supervision is not applied to us.

The difficulty with the States was that the people of the States were not given an opportunity. One of the speakers pointed out that there were restrictions on opening libraries in the States. It is a fact, Sir, I go a step further and say that there were restrictions in opening schools, even boarding-houses; and for a people who have got restrictions to open schools, libraries, boarding-houses, to read and conduct newspapers, it is very difficult to understand the ways of the world; but in spite of that, I may tell you that ever since, the States Peoples Conference was created in 1927, there is a great deal of awakening in the Indian States and the people are not as they used to be before 1927. Given an opportunity, I can assure you Sir, the people would not lag behind the people of the provinces on the contrary, I am afraid after ten years or even before ten years, a time may come when the people of the States may say that some of the provinces are very backward and some restrictions may be imposed upon them and not upon us? That time may also come, Sir.

When people refer to general backwardness of the States, well, I feel a bit pained, There are States which may be backward and there are States which have become backward on account of certain reasons, but then there are States which are more forward than even the provinces. Take for example the State of Mysore, the State of Travancore and Cochin. I do not want to name the provinces near about or on the East or on the North or the South or the West but some of the States are better administered. If you see from a cultural point of view some of the States have better seats of culture, better buildings, better accommodation, better facilities for the people. In my own State, Sir, no I am very sorry, in my own division, which is a part of the Rajasthan now, there were famines and famines and famines. We did not allow Jodhpur to be made Bengal. We saved the people; we spent a lot of money on them, not only thousands and lakhs, but crores and those who think we may not be very forward from a

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democratic point of view will realize that from a humanitarian point of view the States were far ahead of many provinces and I can assure you that given an opportunity we will retain that culture and that humanity which we retained when the provinces perhaps forgot these things.

There are one or two things which I want to point out and that is that in the States we have got feudal elements. In the Division in which I live now, 90 per cent. of land is under feudal landlords and some of them personally are very good people; but taken as a whole the feudalism in Rajputana may play a very nasty part in the future of the nation. I would request Sardar Patel to take note of this fact and while controlling or supervising the administration of the States, he will see that these feudal elements are kept under proper control.

Another point which I want to refer to, Sir, is that the princes have been now given the right of citizenship and the right of rulership has perhaps been taken away from them in a way. This right of citizenship may also react against the people in some cases. I do not say that they should be refused human rights, but as restrictions have been placed upon the administration for ten years, I think restrictions should be placed upon the right of citizenship of the princes as well; otherwise given an opportunity to have a free play, they will use all the means at their disposal, all the weapons at their disposal to monopolise the administration of the States through other means. I hope, Sir, this point would also be taken into proper consideration when controlling and supervising the administrations.

I do not agree with Mr. Sidhva when he says that the States cannot find administrators. (Interruption.) Not in all States, I am glad to be told, but in some of the States. The difficulty as I pointed out was that the States could not have the legislatures and could not have the democratic traditions which the provinces had. Given that opportunity, I can assure Mr. Sidhva that the States, will give better administrators than the provinces have given to you. Can you forget Mahatma Gandhi? He was born in a State, mind that. We cannot forget Sheikh Abdullah. When the country was in difficulty and when the enemy was four miles away from Srinagar and when the army had gone away from Srinagar, he saved Srinagar, he saved the Hindus and he made a name. We cannot forget Sir S. Viswesvarayya, that famous administrator to whom a part of efficiency in the administration of Mysore is due. Well, the opportunity has not been given and we want that opportunity to be given. (Interruption). It be given because it is we Who Could take the opportunity. One thing which we have done is this: We have finished with the sovereignty of the rulers, and the second thing is that the rulers would not directly claim their salaries and their allowances also from the States now. Let them settle their accounts with the Centre. So the rulers have no power to interfere in the administration of the States, in the finances of the States, and that thirty has been achieved. I also feel like others that we need a certain amount of control which has not been imposed upon the princes. I am sure when we create legislatures in our States, we will give you administrators and legislators and we would not give an opportunity to Sardar Patel to control or supervise in the way that article 306 B is supposed to control us.

With these words, I generally support the amendments put forward and I offer my grateful thanks to the Honourable Sardar Patel for the statement which he made and which was, as I said, masterly and which leaves scope for the people of the States to improve their lot even before ten years. I thank once again the States' Ministry and I thank you, Sir, for giving me this opportunity for expressing my views.

Kanwar Jaswant Singh (United State of Rajasthan) : Mr. President, Sir, I am grateful to you for this opportunity that you have given me to express my views on Part VI-A. After the statement of the Honourable Sardar Patel yesterday, there is not much for the representatives of the States to say. Therefore, I will confine my remarks to the few essential things.

First of all, in article 211 A. clause (4) sub-clause (b), it is stated that the Rajpramukh shall be entitled without payment of rent to the use of his residences. In regard to this, I would submit, Sir, that practically in all the States the Rajpramukhs have got their own residences and therefore the question of the payment of rent does not arise. This point may therefore kindly be taken into consideration by the Drafting Committee when they finalise the thing.

In regard to clause 10(b), provision has been made in the case of the Sate of Travancore Cochin for a sum of Rs. 51 lakhs to be paid to the Devasom Fund as entered in the covenant from the exchequer of the union. There are other States also where such sums are spent on the Devasthan Department. I know for instance that in the Union of Rajashtan, a collateral letter has been sent to the Maharana of Udaipur where a large sum has been guaranteed for being spent on the Devasthan Department. This provision should, in my opinion, be included here when it has been done in the case of one State.

Then Sir coming to article 302A and article 267A about guarantee of Rights and privileges and Privy Purse Sums of Ruler of Indian States, this is a matter of great satisfaction. In view of the services of the Rulers and the patriotic manner in which they have accepted the advice of our venerable leader Sardar Patel their position should receive due recognition. They have parted with their power and kingdoms so gracefully and it is only in the fitness of things that these rights and privileges and privy purse without payment of Income-Tax should have been guaranteed in the Constitution.

Then comes the question of article 306 B With regard to this, Sir, though coming from a State, I welcome this provision. It is a very wholesome provision, so far as some of the States Unions are concerned. It may be that for advanced States like Travancore and Mysore, such a provision may not be called for. So far as my province is concerned, that is Rajasthan, I feel that without such a provision, the security of the country may some time or other be jeopardised. The reason why I consider that so far as Rajasthan is concerned such a provision is essential is that, in the first instance, it is a border State on the border of Pakistan; and in view of the strained relations between the two Dominions, it is essential that there should be vigilance on the border and Central control is very necessary. Secondly, in view of the fact that a new Ministry has been installed there, who, though belonging to a political party, have very little experience and political background, and as stated by Sardar Patel in his statement yesterday, in view of the varying degrees of development of the political organisations in States, it is necessary that there should be such control.

Further, Sir, we have seen the working of the Ministry in Rajasthan for the last six months, and that is all the more reason why we feel that such a provision is absolutely called for. The Prime Minister and the other Ministers have been visiting the different places which were formerly the States. What they have been doing is this. They arrive and address public meetings; they abuse the rulers and abuse the jagirdars and do propaganda work. Beyond this, they do not do any substantial work. This is just in contrast of what our revered leader Sardar Patel does. He has missed no occasion to shower praises on the Rulers for the

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patriotic manner in which they have divested themselves so gracefully of their power and their kingdoms. But unfortunately, because of lack of experience and political wisdom, and large-heartedness our local leaders do not recognise the willing sacrifices of the Princes. They feel that the past bad relations should continue. They have false notion of their position. They feel that as in the case of Rulers in the past, they should also display pomp and power. They feel that by doing so they will be able to enhance their prestige and strengthen their position among the people.

My predecessor who came here, Pt. Jainaram Vyas, referred to the question of jagirdars. I assure the House that the jagirdars are, first and foremost, Indians. Unfortunately or fortunately, I happen to be one of the jagirdars. I may assure you if our question is tackled tactfully by some eminent leader as Sardar Patel, when the complicated question of the Princes could be solved so satisfactorily, the question of the jagirdars in Rajasthan or anywhere else could more easily be settled and there should be no difficulty whatsoever. The Princes and we who have been so closely associated with the Princes are as much loyal Indians as anybody in this country, and yield to none in our patriotism and if our patriotism is put to the test in case of need, we will not be found wanting in any way.

With these words, I resume my seat.

Shri P. Govinda Menon (United State of Travancore & Cochin) : Mr. President, Sir, I rise to support the motion for incorporating Part VI-A in the Constitution, dealing with the Indian States and in doing so, I wish to express before this House certain thoughts which come uppermost in my mind on this occasion.

I would, first of all, like to say this, that regarding the provisions in Part VI-A, regarding certain amendments that might be required in the provisions proposed to be included with respect to the States, much has been said on the floor of this House yesterday and today. But, before walking into that field, I wish to point out to this House the big step that has been taken by this House in deciding to incorporate a provision like this. When this motion made by Dr. Ambedkar is accepted by this House, I submit, Sir, the House would have recorded and registered one of the most phenomenal events which have taken place in the political history of India in recent years. The House can be proud of the work it has done hitherto; but I request the House to consider what this Constitution would have been, had there been no part like Part VI-A.

When power was transferred to India, when this Constituent Assembly was called to assemble, there was in existence a Constitution for the provinces of India—the 1935 Act. We have mostly adapted the provisions of this Act for the future Constitution of India with certain additions regarding Fundamental Rights, Directive Principles, abolition of separate electorates, etc. But I do submit that the decision to incorporate Part VI-A is registering the most important event that took place, viz., the complete integration of Indian States with the rest of India. Under the 1935 Act, a sort of hybrid Federation was thought of for India and protracted negotiations were carried on by the Crown Representative with the Princes in order to bring them into the Centre. These negotiations were finally dropped with the commencement of hostilities in 1939 and thereafter the old regime continued. In 1946 the Cabinet Mission came and later the Independence Act was enacted and that left the Indian States in a sort of Independence.

It was in this context that this Constituent Assembly met late in 1946, and I wish to recall the fact that when the Constituent Assembly met for the first time the representatives of the Indian States did not find a place in this Assembly.

A Negotiating Committee was appointed by this Assembly. That was one of the first acts done by this Assembly. They negotiated with representatives of the Indian Princes to persuade the Indian Princes to send their representatives to the Constituent Assembly and while those negotiations were going on, parallel attempts were being made in certain quarters to sabotage the Constituent Assembly plan. But thanks to the vision of our leaders, thanks to the vision of certain statesmen in the Indian States, thanks to the aspirations of the Indian people to co-operate with India in the formation of an Indian Constitution for the whole of India, we found that a dozen members representing the Indian States sat in the Constituent Assembly in April 1947.

When that happened the situation with respect to Indian States was not defined. It was in a fluid state. Those of us who have got the printed text of the Indian Draft Constitution prepared for us would note, if we glance through the various articles there, that at that time it was thought that the Indian States will stand apart. You find so many references in the original draft Constitution to States in Part III, to States in Part V, various agreements under which alone States in Part III could join the Indian Union. That was the position in 1947. At that time, as was referred to by Shri K. C. Reddi Constituent Assemblies were brought into existence in several Indian States and the procedure which was followed in this Assembly was attempted to be repeated in the various Constituent Assemblies in the Indian States. Objectives Resolutions were passed, Minorities Committees were appointed and Drafting Committee were appointed, etc., etc.

But then with the grant of freedom to India or rather with the attainment of freedom by India, the situation that developed in India was a dynamic one—it was not a static one and the Indian leaders were really wise in not crystallising conditions as they obtained on the date of transfer of power in India. It was at this stage that a Committee was appointed—the Rau Committee—popularly known as the Model Constitution Committee. That Committee was appointed to suggest what shall be the form of Constitution for Indian States and in the membership of that Committee a majority was from the Indian States. The Report of that Committee was that the Constitution for Indian States should be as far as possible on a par with that for the provinces and it was further stated that the best way to effectuate this proposal will be to have a Chapter in the Indian Constitution showing the modification which must apply to the Chapter regarding provinces. It was in view of this suggestion that we are now proposing to incorporate Part VI-A in the Indian Constitution.

I must at this stage try to disabuse a notion which I find exists in the minds of certain people—not alone in the Indian States, but also in what are called the provinces. The notion is that this attempt or this idea to incorporate a part in the Indian Constitution to govern the Indian States has come from above, that it is an imposition from the Ministry of States, and that the people of the States are taking unwillingly what has been imposed upon them. I wish to declare here and now that that idea is wrong. The people of the Indian States have from the beginning of the struggle for Indian Independence joined hands with the people of the provinces and it is on account of the fact that the statements made by the Cabinet Mission in 1946 and the Indian Independence Act and the Constituent Assembly as planned by the Cabinet Mission did lay down a different procedure for the Indian States that Constituent Assemblies came into existence in the Indian States. I recall at this juncture a meeting which took place in Mysore in 1946 during the days of the Cabinet Mission, which was attended by representatives of Indian States People's movements in Travancore, Cochin, Pudukkottah and Mysore. In that meeting a unanimous Resolution was passed by the representatives of the people that the Constituent Assembly for India should frame the

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Constitution for Indian States as well. That is to say, long before this plan was thought of by the Ministry of States the representatives of the people of the South Indian States assembled in Mysore in May 1946 and decided that it is the Indian Constituent Assembly which should frame a constitution for the Indian States. Thereafter as I submitted earlier, the Rau Committee also, which consisted of a majority of representatives from the Indian States, reported that it is this Constituent Assembly, representing as it does the will of the people of India including Indian States, that should frame the Constitution for India.

I will at this stage refer to the Resolution passed by the Legislative Assembly of the Travancore-Cochin State—a Resolution which that body, elected on adult franchise, thought it fit to pass at this stage. The Resolution reads as follows :—

“This Legislative Assembly of the United State of Travancore and Cochin, by virtue of its constituent powers hereby resolves:

- (1) that Travancore-Cochin State shall be one of the States in the Union of States, India, that is Bharat;
- (2) that a separate constitution for the Travancore-Cochin State is inconsistent with the aspirations of the people of the State and the status of the State as a Unit of the Indian Union;
- (3) that the provisions of the constitution for the governance of the State shall as far as possible be the same as those for the Units known as Provinces; and that the constitution of India framed by the Constituent Assembly of India shall be the Constitution which will apply to this State.”

After all this, it will be idle to think that the desire of the people of the Indian States is anything other than this, that the Constituent Assembly of India should frame a common Constitution for Indian States and the Provinces as well. The desire of the people of Indian States has always been that India should be united, that the Government of India should be the government for the Indian States and the Provinces.

Once this fundamental proposition is accepted, when once it is known that this is the desire of the Indian people, then all that has been done by the Ministry of States during the last two or three years will be found to flow logically from that decision. The decision that the legislative and executive field of the Centre shall extend to Indian States, the decision that there shall be Federal financial integration, and the decision that the Constituent Assembly of India should frame the constitution for the States, all of them, logically follow out of this idea. But even in spite of that, I must inform this House that among certain people, not alone in the Indian States, but also in the Provinces, there is some misapprehension about this idea. They look upon the Government of India with memories—with bitter memories which have been there in the minds of the Indian people regarding the exercise of paramountcy. I wish to make it clear that the paramountcy of the Government of India during the days of the British is different from the paramountcy of the Union Government which it must have if it is to be a Union Government. The Government of India before the 15th August, 1947, so far as the Indian State were concerned, was a foreign government which represented the sovereignty of the British. Therefore, whatever the Government of India did during those days was really an interference from outside. But once this Constitution is passed, the nature of the Government of India changes. The people from the Provinces should not think that it is a government of theirs only, and the people from the Indian States should not think that it is a government of somebody else. Whenever in the Constitution, and wherever in the Constitution, the words “Parliament”, “President” and “the Government of India” are used, it must be

remembered that these institutions denote or represent the sovereignty of the people of India, including the people of the Indian State. In other words, the Indian States and the Provinces are going to pool their sovereignty and to have a single undivided sovereignty in India.

By what happened on the 15th August 1947, every Indian States has got sovereignty and the Princes of the Indian States became Independent. By the result of the operations of the Ministry of States during the last two or three years, the sovereignty and the independence which the rulers of the Indian States got from the British have been transferred to the Indian people, to the people of the Indian States. That central fact must not be forgotten, and when during this debate one Member after another spoke about this defect and that defect in the programme of the Ministry of States, we forget that the Ministry of State has done a very important task during the last two and odd years, that is to say, to get transfer of power from the Rulers of the Indian States to the people of the Indian States.

I think, Sir, there is much in the contention that the benefit of the transfer of power should not be taken, without the conditions under which that transfer of power has been effected. Sardar Patel in his Statement yesterday, requested us to look at the picture as a whole, the scheme for the Indian States as a whole, and I think no reasonable man can take objection to that point of view. The people of Travancore have all along, and the people of other States have all along been advocating the sovereignty of the people of India, including the people of the Indian States.

Therefore, I feel extremely happy today. I enjoy the happiness of a man who has fulfilled a dream of his life, to note that by the introduction of this provision in the Constitution, we are going to have a united India where there will be practically no difference between the Indian States and the Provinces. There are differences in one or two respects, and they are well-known. Where we have Governors in the Provinces, we have got Rajpramukhs in the Indian States. There is some difference regarding their method of appointment. There is some difference regarding their emoluments. But beyond that, I for one do not see any difference between the Provinces and the Indian States under the scheme that has been placed before us.

Having stated so much about the general position, I would like to add one more point about my own State-Travancore- Cochin. Regarding some of the proposed amendments to be moved here, I endorse every one of the statements made by Sri K.C. Reddy, and I do not attempt to add anything, because I cannot do it better than he has done. Sardar Patel in his statement of yesterday did make a reference to Mysore, and Travancore-Cochin States and said that it is not intended that article 306 B should apply to States which have got a degree of progress like the Travancore-Cochin State and the Mysore State. I am thankful to the Sardar for having made that statement. May I add, at this stage, that Travancore-Cochin have had representative institutions from very early times? If I am not wrong, even from, 1860, there have been representative bodies in Travancore and from 1937 responsible government of a sort has been in existence in Cochin. Before any other State in India or any other province in India could introduce adult franchise, adult franchise was introduced in these two States, and exactly a year back election based on adult franchise took place in Cochin and about six months earlier an election took place in Travancore. I think I am right when I say that it is in Travancore and in Cochin that the Indian National Congress or its corresponding bodies had to face the electorate on adult franchise for the first time, and both Travancore and Cochin did bring credit to the Indian National Congress by securing huge majorities in the legislatures even when the elections were held on the basis of adult franchise.

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It was a due recognition of the progress made by those States, when Sardar stated yesterday that a provision like article 306 B is not intended to apply in the same degree to all the Indian States. That statement encourages me to hug the feeling or the consolation that, if all the Indian States in Part III of the Schedule were in the same degree of advancement, were in the same degree of progress; as Mysore and Travancore and Cochin, probably there would have been no city to incorporate a provision like 306 B

I wish to add this and then I will have done. Conflicting emotions are there in the minds of the people from the Indian States with respect to article 306 E. Coming from Travancore and Cochin States, we thought that it was unnecessary and in the Legislative Assembly we passed a resolution to that effect, but we are in possession of the conditions in Travancore and Cochin States only, while Sardar Patel and the Ministry of States have got in their possession the conditions in all the States and the provinces, and they think that a provision like this is necessary. If we accept what has been stated here, it is because that when opinions conflict, the man with the greater information and the longer experience should have the final say. As I said, at the same time we are grateful, indeed very grateful, that this difference in conditions in certain States has been recognised by the Minister in charge of the States. With these few words, Sir, I wholeheartedly support the amendments that have been tabled before the House. Thank you, Sir.

Shri Himmat Singh K. Maheshwari (Sikkim & Cooch-Bihar States) : Mr President, Sir, with your permission I shall take only two or three minutes of the time of the House, and I shall confine my remarks only to the amendment moved by my honourable Friend, Mr. Das, regarding the liability of certain allowances to income-tax. The proposals before the House guarantee the Continuance of Rulers' privy purses and their exemption from all taxes. The same immunity however is not extended to other allowances. The persons mainly affected by this are Rajmatas, widows of former rulers, who will enjoy their allowances for their life-time only. They will be hit very hard when they have their allowances reduced on account of deductions for income-tax and Super-tax. In the case of Maharanis and Ranis whose husbands are happily alive, the allowances will be exempt from income-tax as part and parcel of the Rulers' privy purses but should any of these ladies unfortunately become widows, their position, I believe, will still continue to be the same, *viz.*, that they will get their allowances from their sons and those allowances will be exempt from income-tax as part and parcel of the privy purses of the rulers. Therefore, there will be some sort of discrimination between the allowances enjoyed by Maharanis and Ranis whose husbands are alive, and the Maharanis and Ranis who lost their husbands before the present Covenants were entered into. In my opinion, Sir, the allowances of these royal ladies are not comparable to salaries. These are maintenance allowances. These ladies have lived in luxury and comfort in the past. They will now find their allowances reduced very radically on account of deductions of income-tax. The House is aware that even the allowances of the President, and the Governors and certain their dignitaries are going to be exempt from tax. Only their salaries are liable to tax, not the allowances.

I therefore wish to appeal to the Honourable the Deputy Prime Minister and to the House to take a chivalrous and generous view of this matter and not to make the limes of these few unfortunate ladies miserable for such short periods as are still left to them before they pass away. In some of the States, Sir, the position of these unfortunate ladies is already very unhappy. Their relations with their sons are strained. If their allowances are reduced substantially, they cannot expect any help from the present rulers. Their lot therefore will be extremely hard. I hope the House will take this into consideration in granting exemption at least to the widows in respect of income-tax and other taxes.

Mr. President : Mr. Gokul Lal Asawa.

Shri T. T. Krishnamachari : (Madras : (General) : The question may now be put.

Mr. President : I have already called him.

Shri Gokul Lal Asawa (United State of Rajasthan) : Mr. President, Sir, I wish to make one or two observations on this historic occasion destined to open a new chapter in the history of the people of the Indian States. After the frank, lucid and comprehensive statement of Sardar Saheb, I do not think there need be any difficulty or hesitation on our part in accepting the amendments put forward, particularly article 306 B I must confess here that I was one of those who opposed the incorporation of such a provision being made in the Covenant of the United State of Rajasthan, but today looking to the ways—and should I say irresponsible ways, to put it mildly in which the Governments of some of the Unions are behaving or working, finding that we are passing through a critical transitional period, realising that we are still not out of the woods—who can say definitely that there are no troublous times ahead? And above all keeping in mind the observations of Sardar Saheb with regard to the meaning and purpose of article 306 B, I see no justification for us to oppose the introduction of such a provision in the Constitution. Further, while the provision in the Covenant requires that both the Rajpramukh and his Council of Ministers shall, in the exercise of their functions, be under the general control of the Government of India, here under the present article we find that only the Governments of the States are to remain under general control. Now, this to my mind marks an improvement in the position.

One observation more and I have done. If I understand a right the feelings of some of us inside this House or outside, I may be allowed to say that what worried us most in the past and what worries us today somewhat is not so much the introduction of this principle of general control but rather its application, the working thereof: the mechanism and the technique for the exercise of general control, I mean the method, the manner and the range thereof. I hope those responsible for the exercise of general control, etc., will bear this important fact in mind.

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

Mr. President : I do not think there is any other speaker. Mr. Munshi, will you reply?

Shri K. M. Munshi (Bombay : General) : Mr. President, Sir, after the exhaustive and brilliant survey of the whole question by Sardar there is no need for any detailed reply. I would only mention one or two matters. In the first instance, I shall beg the permission of the House to keep back 274 DD Some technical flaw is suggested and the Drafting Committee would like to re-examine it. Then, as regards the amendments, I am quite prepared to accept the two amendments moved by my honourable Friend Mr. Santhanam, Nos. 276 and 278. Except these two amendmens I oppose the other amendments that have been moved. Explanations have been given about them and there is no need for this House to entertain those amendments.

There are one or two matters which I should like to mention. As Professor Asawa said just now, article 306 B is a very useful measure and I am sure even those Members of the House who may have any compunctions about it will have been satisfied. The policy with regard to 306 B has been authoritatively laid down in the statement of Sardar and I do not think that anything more need be said. It has already been stated in the statement and I am free to submit my personal opinion that so far as Mysore and the Union of Travancore-Cochin are concerned, whose affairs I know personally, I see no reason why they should

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attract article 306 B, unless they fall from that steady and stable administration which they have inherited from the Dewans of the past, and I am glad to say that the present set-up there promises to maintain the tradition.

Only two remarks from my Friend Mr. Jainarain Vyas, I should like to refer to. One of his points was that feudalism in the States should be controlled. It cannot be controlled by mere authority. It cannot be controlled by rooting them out either by law or by force. So far as their power and prestige are concerned, they have shrunk on account of the democratic set-up that has been introduced in those States but you cannot eliminate those elements—people must learn to make them—the feudal elements—stable elements in the society. Before this change there was some point in saying, “Oh, the feudal elements should be eliminated”, but those elements which have survived this revolution are as much citizens of the Republic as anybody else and it must be the duty of the other people, and particularly of the administration, to enforce the rule of law in such a manner that all the vestiges of feudalism disappear. It cannot be done at a stroke any attempt to do so will only recoil upon the infant democracies in those States.

A second point which he made was that the Princes should be denied the right of citizenship. We must realise once for all that every person born in India is a citizen of India. In making what Sardar called the ‘bloodless revolution’, we did not propose to produce outlaws. In view of what the Princes have done in the past and what they did in bringing about the bloodless revolution, this kind of attitude will, I am afraid, come in the way of a satisfactory solution rather than accelerate it. The set-up in the Indian States now has been completely changed and the masses on the one side and those who have been rulers in the past have to adjust themselves in the new atmosphere. It is only in that way that we can make this revolution a complete success.

Sir, I agree with my Friend Mr. Govinda Menon that this is an historic occasion and it makes me as happy as it makes him. I remember the early days in 1947 when my Friend Mr. Govinda Menon was the only man representing the States in this House who was insistent that the whole thing should go and the States should be integrated. I can easily realise the joy that he feels in seeing that what he aimed at is now attained successfully.

This is no doubt a historic occasion. Thanks to the genius of Sardar and his statesmanship we have integrated the whole of India. (Hear, hear). We have now an India which, even without Pakistan, is as large and much more integrated and harmonious and unified than ever before in history, and it is now for us, particularly the future Parliament and the future Government of India, so to consolidate all the different parts of the country that India may emerge a strong and compact nation. I feel happy also that the nightmare of the Indian States which have been a survival from Moghul and the British days is all gone and the sovereign people of India can now march forward from strength to strength and attain the cherished ideals which they have placed before the country in the Preamble to our Constitution.

Shri R. K. Sidhwa : Sir, may I know what Mr. Munshi has to say about my amendment No. 246 about the armed forces to be merged in the Union?

Mr. President : Do you accept that amendment?

Shri K. M. Munshi : I do not accept that amendment. I said I would not accept any amendment other than those two moved by Mr. Santhanam.

Shri R. K. Sidhwa : Cannot the armed forces of the States be merged in the Union Forces?

Shri K. M. Munshi : The section itself makes it clear that whatever forces are left in the States are part of the Union Forces. If honourable Members will see the Union List of the old Government of India Act of 1935, they will find that there was a separate heading called "The Armed Forces of the State" That entry has been omitted. There can only be one army now in India and that is the Army of the Union. By this article 246 these few contingents which are left in the States become integrated as part of the Union Army. But it will take some time to absorb them completely for organisational and other purposes. Till that time the whole thing has to be regulated by the President. At the same time, the article gives power to the Parliament to complete this process as early as Parliament thinks proper. Under the present conditions they could not be absorbed all at once and it must take time before they could be harmonised in every respect. That is the reason why article 246 has been drafted in this particular manner.

Mr. President : I will now put the various amendments that have been moved. The procedure which I propose to follow is this: I will take each amendment which has been moved by Dr. Ambedkar, take the vote on each separately and dispose it of. Then I shall put the whole part together.

Now, as regards amendment 217 article 211 A—there are several amendments. The first two are No. 237 and No. 238. These are the two amendments moved by Mr. Naziruddin Ahmed. They are more or less of a drafting nature, I wonder whether he wishes to have them put to vote. He is not here, so I will put them to vote.

Mr. President : The question is:

"That in amendment No. 217 of List VII (Second Week), in the proposed Now article 211 A, for the word 'modifications' the words 'adaptations, modifications' be substituted".

The amendment was negatived.

Mr. President : The question is :

"That in amendment No. 217 of List VII (Second Week),—

- (i) in item (3) of the proposed article 211A, for the words 'shall be omitted' the words shall not apply to this part' be substituted;
- (ii) in item (4) of the proposed article 211A. in paragraph (a), after the words 'in clause (1)' the words 'for the time being specified in the First Schedule' be omitted and be inserted."

The amendment was negatived.

The Honourable Shri K. Santhanam (Madras : General) : In regard to my amendment No. 276 it has been suggested to me, Sir, that the words "Principal seat of Government" would be preferable to "Capital".

Shri K. M. Munshi : It is a verbal amendment which I am prepared to accept.

Mr. President : There is one slight change which has now been suggested that in place of the word "capital" we should use the word "principal seat of Government". I do not suppose there can be any objection to that. It is merely a verbal change. No. 276 has been accepted by Mr. Munshi.

The question is :

"That in amendment No. 217 of List VII (Second Week), in item (4) of the proposed article 211 A for paragraph (b) the following be substituted:—

- (b) for clause (3) following clause shall be substituted, namely:—

[Mr. President]

- ‘(3) Unless he has his own residence in the principal seat of Government of his State the Rajpramukh shall be entitled to the use of an official residence without payment of rent and there shall be paid to the Rajparamukh such allowances as the President may, by general or special order, determine.’

The amendment was adopted.

Mr. President : We now come to the amendment No. 287 moved by Mr Guruv Reddy.

Shri H. R. Guruv Reddy : I do not want to press it, Sir. The amendment was by leave of the Assembly, withdrawn.

Mr. President : We now come to No. 292.

Kaka Bhagwant Roy (Patiala & East Punjab States Union) : I would like to withdraw that amendment of mine, Sir.

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

Mr. President : The question is:

“That in amendment No. 217 of List VII (second Week), in paragraph (a) of item (10) of the proposed article 211A, for the words ‘the President by general or special order’, the words ‘Parliament by law’ be substituted.”

The amendment was negatived.

Mr. President : In regard to amendment No. 278 there is an amendment No. 293) moved by Professor Saksena. I shall first put that to vote.

The question is:

“That in amendment No. 278 of List X (Second Week), in clause (1) of the proposed article 197, for the words ‘President after Consultation with the Rajpramukh the words Parliament by law be substituted.’

The amendment was negatived.

Mr. President : No. 278 has been accepted by Mr. Munshi.

The question is:

“That in amendment No. 217 of List VII (Second Week), in item (13) of the proposed article 211 A, for article 197, the following be substituted:—

197. (1) there shall be paid to the judges of each High Court such salaries as may be determined by the “Salaries,” etc., of judges. President after consultation with the rajpramukh:

- (2) Every judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as may be determined by the President in consultation with the Rajpramukh :

Provided that neither the allowances of a judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment’.”

The amendment was adopted.

Mr. President : The question is :

“That in amendment No. 220 of List VII (Second Week), in clause (1) of the proposed new article 235A, for the Words ‘until Parliament by law otherwise provides’, the the words “until the President by order otherwise provides’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 217 of List VII (Second Week), in item (13) of the proposed article 211 A. the words ‘after consultation with the Rajpramukh’ be deleted from article 197”.

The amendment was negatived.

Shri R. K. Sidhwa : I beg to withdraw my amendment No. 246.

The amendment was by leave of the Assembly, withdrawn.

Mr. President : The question is:

“That in amendment No. 220 of List VII (Second Week), in clause (2) of the proposed new article 235A, the words ‘and the Union shall bear the expenses thereof’ be added at the end.”

The amendment was negatived.

Mr. President : The question is:

“That article 237 be deleted.”

The motion was adopted.

Article 237 was deleted from the Constitution.

Mr. President : The question is:

“That in amendment No. 223 of List VII (Second Week), in the proviso to the proposed new article 274 DDD, for the words ‘President may by order’ the words Parliament may by law’ be substituted.”

The amendment was negatived.

Shri T. T. Krishnamachari : Article 274 DD may be held over, Sir, to a subsequent day.

Mr. President : I shall put now article 302A to vote. The question is:

“That after article 302, the following new article be inserted, namely :

<p>‘302A. In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in article 267A of this Constitution with respect to the personal rights, privileges and dignities of the Ruler of an Indian State.’”</p>	<p>Rights and privileges of Rulers of Indian States.</p>
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The motion was adopted.

Article 302A was added to the Constitution.

Mr. President : I shall now put the amendments to article 306-B. Part (ii) of No. 251 is disallowed as being out of order.

The question is:

“That in amendment No. 225 of List VII (Second Week), in the proposed now article 306 B,—

the words “during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State”, be deleted.

The amendment was negatived.

Shri R. K. Sidhwa : I would like to withdraw my amendment No. 252.

The amendment was by leave of the Assembly, withdrawn.

Mr. President : The question is:

“That in amendment No. 225 of List VII (Second Week), in the proviso to the proposed new article 306 B, for the words ‘President may by order’ the words ‘Parliament may by law’ be substituted.”

The amendment was negatived.

Mr. President : There are some amendments to amendment No. 299. I shall put the first amendment by Prof. Shibban Lal Saksena.

The question is:

“That in amendment No. 299 of List XIII (Second Week), at the end of the proposed clause (1) of article 258, the following words be added :—

‘after that agreement has been approved by Parliament.’”

The amendment was negatived.

Mr. President : I shall put the second amendment of Prof. Shibban Lal Saksena, which, I think, is the same as amendment No. 300 by Shri V. T. Krishnamachari.

The question is:

“That in amendment No. 299 of List XIII (Second Week), sub-clause 3 (a), (b) and (c) of the proposed clause (1) of article 258, be relettered as sub-clause 3 (b), (c) and (d) of that clause and the following be inserted as sub-clause (a) :—

‘(a) questions arising from or connected with the vesting in the Union of assets and liabilities of such States related to any of the matters enumerated in the Union List.’”

The amendment was negatived.

Mr. President : There are two amendments by Prof. Shibban Lal Saksena to the proposed new article 267-A. I shall put the first one to vote—it is really not an amendment but a deletion.

The question is:

“That in amendment No. 301 of List XIII (Second Week), sub-clause (b) of clause (1) of the proposed now article 267A be deleted.”

The amendment was negatived.

Mr. President : I shall put the second one.

The question is:

“That in amendment No. 301 of List XIII (Second Week), in clause (2) of the proposed now article 267A, for the words ‘by order of the President’ the words ‘by Parliament by law’ be substituted.”

The amendment was negatived.

Mr. President : I shall now put the amendments of Mr. B. Das.

The question is:

“That in amendment No. 301 of List XIII (Second Week), after clause (2) of the proposed now article 267A, the following new clause be added:—

(3) Where any sums are guaranteed or assured to any Ruler’s family members or relations, such sums be treated as part of privy purse and as free of tax.’”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 301 of List XIII (Second Week), in clause (1) of the proposed new article 267A, after the words ‘to any Ruler’ the words ‘or his family relations’ be inserted.”

The amendment was negatived.

Mr. President : I shall now put the amendment of Prof. Shibban Lal Saksena to the proposed new article 270-A.

The question is:

“That in amendment No. 302 of List XIII (Second Week), in clause (1) of the proposed new article 270A, the words ‘and approved by Parliament’ be added at the end.”

The amendment was negatived.

Mr. President : I shall now put Part VI A as amended by the two amendments which have been accepted, namely Nos. 276 and 278.

The question is:

“That proposed Part VIA, as amended, stand part of the Constitution.”

The motion was adopted.

Part VIA, as amended, was added to the Constitution.

Mr. President : I will put new article 235-A to vote.

The question is:

“That after article 235, the following new article be inserted, namely:—

<p>235A. (1) Notwithstanding anything contained in this Constitution, a State for the time being specified in Part III of the First Schedule having any armed force immediately before the commencement of this Constitution may, until Parliament by law otherwise provides, continue to maintain the said force after such commencement subject to such general or special orders as the President may from time to time issue in this behalf.</p>	<p>Armed forces in State in Part III of the First Schedule.</p>
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(2) Any such armed force as is referred to in clause (1) of this article shall form part of the forces of the Union’.”

The motion was adopted.

Article 235-A was added to the Constitution.

Mr. President : The question is:

“That article 236, as amended, stand part of the Constitution.”

The motion was adopted.

Article 236, as amended was added to the Constitution.

Mr. President : The question is:

“That new article 274 DDD stand part of the Constitution.”

The motion was adopted.

Article 274 DDD was added to the Constitution.

Mr. President : I shall now put article 360-B.

The question is:

“That after article 306, the following new article be inserted:—

<p>306 B Notwithstanding anything contained in this Constitution, during it period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State, the Government of every State for the time being specified in Part III of the First Schedule shall be under the general control of, and comply with such particular directions, if any, as may from</p>	<p>Temporary provisions with respect to States in Part III of the First Schedule.</p>
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[Mr. President]

time to time be given by the President, and any failure to comply with such directions shall be deemed to be a failure to carry out the Government of the State in accordance with the provisions of this Constitution:

Provided that the President may by order direct that the provisions of this article shall not apply to any State specified in the order.’”

The motion was adopted.

Article 306-B was added to the Constitution.

Mr. President : I shall put article 258 to vote.

The question is:

“That for clause (1) or article 258, the following clause be substituted:—

- (1) Notwithstanding anything contained in this Chapter, the Government of India may, subject to the provisions of clause (2) of this article, enter into an agreement with the Government of a State for the time being specified in Part III of the First Schedule with the respect to—
 - (a) the levy and collection of any tax or duty leviable by the Government of India in such State and for the distribution of the proceeds thereof otherwise than in accordance with the provisions of this Chapter;
 - (b) the grant of any financial assistance by the Government of India to such State in consequence of the loss of any revenue which that State used to derive from any tax or duty leviable under this Constitution by the Government of India or from any other sources;
 - (c) The contribution by such State in respect of any payment made by the Government of India under clause (1) of article 267-A of this Constitution,

and, when an agreement is so entered into, the provisions of this Chapter shall in relation to such State have effect subject to the terms of such agreement”.

The motion was adopted.

Mr. President : I shall put article 267-A.

The question is:

“That in Chapter I of Part IX, after article 267, the following new article shall be inserted, namely:—

- ‘267A. (1) Where under any covenant or agreement entered into by the Ruler of any Indian State before the commencement of this Constitution, the payment of any sums, free of tax, has been guaranteed or assured by the Government of the Dominion of India to any Ruler of such State as Privy Purse—
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| Privy Purse sums of Rulers. | |
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- (a) such sums shall be charged on, and paid out of, the Consolidated Fund of India; and
 - (b) the sums so paid to any Ruler shall be exempt for all taxes on income.
- (2) Where the territories of any such Indian States as aforesaid are comprised within a State specified in Part I or Part III of the First Schedule there shall be charged on, and paid out of, the Consolidated Fund of that State such contribution, if any in respect of the payments made by the Government of India under clause (1) of this article and for such period as may, subject to any agreement entered into in that behalf under clause (1) of article 258 of this Constitution, be determined by order of the President.’”

The motion was adopted.

Article 267-A was added to the Constitution.

Mr. President : I shall put article 270-A.

The question is:

“That after article 270, the following new article be inserted:—

‘270A. (1) As from the commencement of this Constitution—

- Succession to property, assets liabilities and obligations of Indian States.
- (a) all assets relating to any of the matters enumerated in the Union List vested immediately before such commencement in any Indian State corresponding to any State for the time being specified in Part III of the First Schedule shall be vested in the Government of India, and
 - (b) all liabilities relating to any of the said matters of the Government of any Indian State corresponding to any State for the time being specified in Part III of the First Schedule shall be the liabilities of the Government of India,

subject to any agreement entered into in that behalf by the Government of India with the Government of that State.

- (2) As from the commencement of this Constitution the Government of each State for the time being specified in Part III of the First Schedule shall be the successor of the Government of the corresponding Indian State as regards all property, assets, liabilities and obligations other than the assets and liabilities referred to in clause (1) of this article.’”

The motion was adopted.

Article 270-A was added to the Constitution.

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

The Assembly re-assembled after Lunch at Four of the Clock, Mr. President (the Honourable Dr. Rajendra Prasad) in the Chair.

ARTICLE 3 (*reopened*)

Mr. President : We shall now take up those consequential amendments No. 226 etc.

The Honourable Dr. B. R. Ambedkar : I would ask Mr. T. T. Krishnamachari to move the amendments on my behalf.

Shri T. T. Krishnamachari : Mr. President, Sir, I think it has to be formally put to the House whether they would give permission to re-open all these articles covered by these amendments.

Mr. President : These are consequential amendments which arise out of the amendments which we have accepted today, but as these relate to articles which have already been passed, the sanction of the House is required for reopening those articles. Do I take it that the House gives leave to do so?

Honourable Members : Yes.

Shri T. T. Krishnamachari : Mr. President, Sir, I move the following consequential amendments to certain provisions of the Draft Constitution already agreed to by the Constituent Assembly, I move:

“That for clauses (a) and (b) of the proviso to article 3, the following be substituted:—

‘where the proposal contained in the Bill affects the boundaries of any State or States for the time being specified in Part I or Part III of the First Schedule, or the name or names of any such State or States, the views of the Legislature of the State or, as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President.’”

Amendment No. 227.

Mr. President : Shall we not take them one by one? There are three amendments to it.

(Amendment No. 253 was not moved)

Shri H. R. Guruv Reddy : In view of the statement already made by the Honourable Sardar Patel, I do not move amendment No. 290.

Mr. President : Mr. Pataskar amendment No. 291.

Shri H. V. Pataskar (Bombay: General): Sir, I would like to make it clear in the beginning that the amendment which I propose to move does not relate exactly to the matter which has been just now proposed to be introduced by the amendment just now moved. It is with respect to the whole article as it has been re-opened. I hope, as the article has been re-opened, this amendment may be taken to be in order.

The Honourable Shri K. Santhanam : On a point of order, Sir, I think this is inconsistent with the provisions which we have made. A law will be passed by a majority of the House. There is no procedure for taking the votes of a small section of the House. This amendment is out of order.

Shri H. V. Pataskar : I do not admit it is out of order on that ground, because it is open to us to make a provision of the nature which I propose to make. The only point which struck me was that it is certainly beyond the scope of the official amendment which has been introduced just now. It will be open to the House to amend the provision in the Article as it has been re-opened. It cannot be said to be out of order on that ground. As the whole article is re-opened, I would be entitled to put forward my amendment.

The Honourable Shri K. Santhanam : Some States may be clubbed together for representation in the House of the People. We may not be able to identify which member is representing which State. It would not be possible to operate this clause even if it is passed.

Shri H. V. Pataskar : That I would explain while moving my amendment, and give my reasons for it. I have made a provision that the subject matter of the Bill shall be decided by a majority of the votes of the persons representing those areas in the House of the People that are affected by the provision of the Bill. There is no objection on that ground.

Mr. President : Would, it not be a very novel thing?

Shri H. V. Pataskar : Novel it would be.

Mr. President : Any kind of provision we can make in the Constitution to say that a particular question will be decided

Shri H. V. Pataskar : I would like to make my submissions before I move my amendment. I think that is necessary.

Mr. President : You will state your case.

Shri H. V. Pataskar : So far as the amendment of the honourable Member just introduced is concerned, it is good so far as it goes. As article 3 originally stood, it was to be with the consent of the States in Part III of the First Schedule. That is omitted. We had made provision in article 3 that no Bill was to be introduced in either House of Parliament except on the recommendation of the President and unless previously thereto the President has ascertained the views of the legislatures of the States in Part I, and obtained the consent of the States in Part III if any of those States were to be affected. Now by the proposed official amendment we dispense with the consent of States in Part III and bring them on a level with States in Part I and in both cases only the views of these States are to be ascertained by the President. Now, Sir, this is good as far as it goes. But, my fear is that so far as the actual wording of the article and its object being successfully carried out is concerned, it is likely to be a dead letter more or less in the Constitution. That is the view that I take. It is for this reason that I have proposed this amendment.

If we look to the history of a provision of this nature, you will first turn to the Government of India Act of 1919. There, for the first time, even a foreign Government realised that it was necessary to make certain adjustments in the boundaries of the Provinces and to regrant them and therefore a similar provision was made in the Act of 1919 for the purpose. Even then it was found that no action was taken between 1919 and 1935 for the simple reason that all these readjustments require some sort of interference with the day-to-day administration of Government which no Government of the day likes. Therefore, though there was this provision from 1919 to 1935 and there were not as many difficulties in the way of re-grouping as there would be now, and hereafter still more, they did not take any action because naturally the administration for the time being was engrossed with the day-to-day administration and they did not want to take this additional burden. Because, even if in a district some places were to be transferred from one district to another, there is always an amount of commotion and nobody

[Shri H. V. Pataskar]

in charge of the administration wants that there should be even this little interference with the day-to-day administration. It was for this reason that though there was such a provision in the Act of 1919, nothing was done.

Then came the Act of 1935. Probably realising that the same difficulties will arise even if a provision of this nature is merely made in the constitution when they wanted to remove the anomalies of Sind being linked with Bombay and Orissa being linked with Bihar, they naturally introduced two sections for the purpose in the Government of India Act 1935, and made provision for their being framed prior to the introduction of the Government of India Act of 1935. This is clear enough to my mind, that even hereafter merely by making a provision of this nature, nothing is going to happen. The present section lays down that Parliament may by law make such a change. It is only a minor portion of the whole country which is going to be affected by taking action as is contemplated in paragraph (1) of article 3. The rest will be represented by the majority of the representatives who are not likely to be interested in the matter. Therefore, unless the Government of the day, in spite of the fact that it would increase the problems of day-to-day administration, think it necessary that this should be done, this article would be a dead letter and no action will ever be taken. Because only after crossing the hurdles mentioned in article 3 namely, ascertaining the views of the States concerned etc., and getting the permission of the President, the Bill has to be introduced in the Parliament and even then there will be difficulties. Suppose there is a question regarding a small area in the south with respect to which the boundaries are to be changed. The members representing other areas are not likely to be keen about this, and if the government of the day is not interested in doing this, I am sure that the majority of members will be more inclined to go with the Government and say nothing should be done at present and no action is necessary and the Bill will not be passed. The article therefore will continue to be a dead letter hereafter, as it has continued ever since 1919.

I therefore propose this amendment. I do not want that it should be decided only by a particular group. Suppose one province is to be separated from another or one area is to be taken out from one province and added to another. I want the matter to be decided not with the votes of persons representing one of them but with the votes of all persons who are going to be affected by the change. I insist that the matter should be decided with the votes of all of them. If you leave to votes of all the members of the House who are not affected by the changes and leave the article as wide as it stands now, I am sure that this article 3 will be a dead letter for all time to come, and no action will ever be taken under this provision which is similar to the provision contained in the old Act of 1919 and in the Act of 1935. If I may say so, there will be more difficulties under the new Constitution and the provisions of article 3.

Mr. President : Well, Mr. Pataskar, it is conceivable that a case may arise where the members representing the State or States affected by the proposed law or opposed to the change, but the rest of the House wants it to be passed.

Shri H. V. Pataskar : That is not likely.

Mr. President : Likely or unlikely, I am putting it to you as a hypothetical question. Suppose a case arises, would you like the few members representing that particular State to defeat the rest of the House?

Shri H. V. Pataskar : In the very nature of things it is unlikely. What I expect is that the others are not likely to be much interested. Supposing they are interested, the matter should better be left to those who are concerned with the matter. Only the other day I learnt from the honourable Member Mr. Chaliha that there is a place called Dimapur in Assam and its inclusion in a particular area has started controversy; even for that there is such a terrible sort of agitation. Under such circumstances no administration is likely to make any change. So the hypothetical contingency is not likely to arise. In the next place even if such a contingency arises, it would be better that the matter should be decided with the votes of those that are going to be affected rather than otherwise.

Mr. President : The contingency is not very remote. Supposing that a proposal is that a certain portion be transferred to another and there is no question of creating separate linguistic provinces—that possibility is not remote. It is a possibility that should be considered.

Shri H. V. Pataskar : According to my amendment that should be decided by votes of both the States. However that is the object of my amendment and therefore I hope it is not out of order. Therefore my amendment is:

“That in amendment No. 226 of List VII (Second Week), after the proposed words in the proviso to article 3 the following Explanation be added :—

‘Explanation.—Any such law shall be deemed to have been passed if a majority of the members of the House of the People representing the State or States affected by the provision of such a Bill support the same.’”

Honourable Mr. Santhanam raised the difficulty of ascertaining the representatives whose votes are to decide the matter. My submission is there will be no difficulty as I have confined this matter to the votes of the members in the House of the People alone and not to Parliament generally or to the votes of the Upper House.

Mr. President : I think I will rule this out of order for various reasons. The first is that it is not germane to the amendment which has been moved and it does not fit in with that. The second reason is that the contingency that is contemplated raises very many questions and points which impinge upon many other articles of the Constitution which we have already passed. For example, the amendment wants that the vote of a majority of the Members of the House of Peoples representing the State or States affected by the provision of such a Bill shall prevail. In the first place, it takes away the right of the other House to consider that question. In the second place, the difficulty will be experienced when instead of voting for the law, the majority of members mentioned here are opposed to the law and the majority of the House wants the law to be opposed. So, for these various reasons I think this is out of order.

Then there is no other amendment to this. Anybody wishes to speak?

Shri Brajeshwar Prasad : Sir, I rise to oppose this amendment. We gave our permission to reopen this article on the understanding that these are consequential amendments. This is not a consequential amendment to any article which has been passed. We are reopening the whole question once again. The whole attempt seems to me to water down the power of the Parliament. It will make the article practically null and void.

Mr. President : I thought it was increasing the power of the Parliament.

Shri. Brajeshwar Prasad : If the Parliament is to function according to this article and if any such step is taken only after the views of the Legislatures of the State or of each of the States with respect to the proposal to introduce the Bill

[Shri Brajeshwar Prasad]

are received, the article will never come into operation, it would make it utterly impossible. It was on the definite understanding that this is a consequential amendment that we gave permission to reopen this.

Mr. President : In provision (b) as it stands which has been accepted, the consent is required. Here it is only the consultation that is required. Consent is much more than consultation. It enhances the power of the Parliament. It does not reduce it.

Shri Brajeshwar Prasad : I agree with this interpretation of this Constitution, but I feel that we should not sail under false colours. Why should we say that we are reopening this because this is a consequential amendment?

Shri T. T. Krishnamachari : This is substantially the same as provision (a) in the original article.

Shri Brajeshwar Prasad : May be, but why did you say that this is a consequential amendment? The House gave the permission on the understanding that this is a consequential amendment.

Shri B. Das : Sir, the amendment moved by my Friend Mr. Pataskar and the objection made by my Friend Brajeshwar Prasad indicate that some of us are not satisfied with the old article 3 or the present draft article 3. It is not a new thing that my Friend Mr. Pataskar points out that it repeats the old Government of India Act provisions. Mr. Pataskar wanted that the areas affected which are to be transferred to another State should have their views preponderate over the view of the whole Assembly of that State. I had some experience in the establishment of the province of Orissa. We followed the old 1920 Government of India Act. We were then in Bihar and Orissa. The Bihar and Orissa Legislative Council unanimously passed that Orissa province should be separated. Then there was a similar resolution in the Assembly of Madras and the great leader of Bihar, Shri Sachchidananda Sinha moved a Resolution on the floor of the former Indian Legislative Assembly that Orissa should be made into a separate province. It is not the creation of a new State that agitates the feelings of the Members of this House or the public at large. It is the adjustment of boundaries that is the issue and that crops up here and there, whether it be Bengal and Bihar or Maharashtra and Gujarat or Andhra and Orissa. It always crops up. The leaders make responsible or irresponsible statements and the public at large get agitated. For my self, I am not very happy with this new article 3 or with Schedule-I that is coming, whereby two of my ancient Orissa States, namely Sareikella and Kharsuan once merged with Orissa and then re-merged into Bihar. We feel those Oriya people will lose their race identity. The whole of Midnapore, three-fourths of which are Oriyas, does not have an Oriya school. Now the people there pass off as Bengalees. Bengalees have raised similar trouble in Purulia District. These are problems and I am touching on the psychological aspect of those fears and apprehensions. Whatever our Drafting Committee legislates or lays down is not the issue. The hearts of the people speaking different languages, or having ancient ties with one another, are seriously affected and touched in this matter. I am not very happy at my Friend Prof. Ranga laying claim almost to the area in which my village stands. So, Sir, these responsible or irresponsible utterances of responsible leaders or irresponsible political agitators create such state of things, and I do not very much appreciate article 3 which does not give any chance to any people to be amalgamated with their own race by adjustment of boundaries. It will not give my friend Mr. Chaliha any chance to readjust certain boundaries. It will not give anybody any chance. I am only voicing the psychological fear, knowing the conditions, that many of us live in; but we do not know how to rectify it by the provisions of article 3.

Shri Kuladhar Chaliha (Assam : General) : Mr. President, Sir, I am neither satisfied with the amendment, nor with the article enacted. In fact, if you know the history of the present position of the Eastern frontiers you would not pass an article like this. I should like the President to have absolute power to determine, to increase or decrease any State if he likes to do so. At present the Eastern boundary of Assam, for instance the Mac Mahon Line is quite nebulous. You do not know where the boundary is. You can push it further and further, and nobody knows where it will end. If the permission of Parliament is to be got and on its recommendation the President is to act, that will take a long time. He has to fix the boundary immediately. Now, we do not know where the boundary lies, either in the Eastern or Northern frontier. There was RIMA, which was said to be the last port of the British territory, but the Chinese took away the flag and a British column had to be sent to put the flag there again. That is said to be our boundary, but nobody knows if the boundary was ever fixed. Now, there should be some power or some provision which would empower the President to fix the boundary is. Now, there is the Balipara frontier and nobody knows where its boundary exactly is. Nobody knows the Naga boundary and where the Burmese territory begins. As such, the article as it is, and also the amendment suggested, I am not satisfied with. The President must have some power to fix the boundaries and if possible, the Drafting Committee should make the necessary provisions whereby the boundaries could be fixed wherever they are nebulous, where you do not know the boundary, where the Mac Mahon line ends, where General Hertz's fort or HERTZ line is, and so on.

Mr. President : I may point out that this article has nothing to do with boundaries of foreign States. It relates to boundaries within India. Why bring in the Chinese and all that?

Shri Kuladhar Chaliha : All right, Sir.

Mr. President : Mr. Brajeshwar Prasad, there is no question of sailing under false colours. The whole substance of the amendment adopted this morning is that the States should be brought in line with the Provinces. Here there is one point where the Indian States in Part-III are treated separately from the States in Part-I and the amendment is to put them all together. So it is really in pursuance of that, and not a case of sailing under false colours.

Shri Brajeshwar Prasad : I am sorry, Sir, I had not understood the implication.

Mr. President : Does anyone wish to say anything?

Shri T. T. Krishnamachari : Not after your explanation.

Mr. President : Then I put 226 to vote.

The question is:

“That for clauses (a) and (b) of the proviso to article 3, the following be substituted:—

‘where the proposal contained in the Bill affects the boundaries of any State or State for the time being specified in Part-I or Part-III of the First Schedule, or the name or names of any such State or States the views of the Legislature of the State or, as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President.’”

The amendment was adopted.

ARTICLE 47 (*reopened*)

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

“That for the Explanation to clause (2) of article 47, the following Explanation be substituted :—

Explanation.—For the purposes of this clause, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor or Rajpramukh or Uprajpramukh of any State or is a Minister either for the Union or for any State’.”

Sir, this is a purely consequential amendment and the words introduced here are the words ‘Rajpramukh’ and ‘Uprajpramukh’. I hope there will be no difficulty in passing this.

Shri K. Chengalaraya Reddy : I may point out that “Uprajpramukh” has not been defined yet.

Shri T. T. Krishnamachari : We have not yet tabled our definition of Rajpramukh yet. We will take the hint given by my friend and include the definition of Uprajpramukh.

Mr. President : Then I put it to vote.

The question is:

“That for the Explanation to clause (2) of article 47, the following Explanation be substituted:—

Explanation.—For the purposes of this clause, a person shall not be deemed, to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor or Rajpramukh or Uprajpramukh of any State or is a Minister either for the Union or for any State’.”

The amendment was adopted.

ARTICLE 55 (*reopened*)

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

“That for the Explanation to clause (4) of article 55, the following Explanation be substituted:—

Explanation.—For the purposes of this clause, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor or Rajpramukh or Uprajpramukh of any State or is a Minister either for the Union or for any State’.”

Mr. President : Does anyone wish to say anything about it?

The Honourable Shri K. Santhanam : I think the word “President” may be left out, because you cannot expect the President to contest for the Vice Presidentship.

Mr. President : Mr. Krishnamachari?

Shri T. T. Krishnamachari : Sir, I do not know. We will examine the matter.

Shri A. Thanu Pillai (United State of Travancore & Cochin) : A President in office can stand for re-election and therefore the term ‘President’ should be in the article.

Shri T. T. Krishnamachari : Sir, we will examine it. It can be put to vote now.

Mr. President : The question is:

“That for the Explanation to clause (1) of article 55, the following Explanation be substituted :—

Explanation.—For the purposes of this clause, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice President of the Union or the Governor or Rajpramukh or Uprajpramukh of any State or is a Minister either for the Union or for any State’.”

The amendment was adopted.

ARTICLE 67 (*reopened*)

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

“That clause (9) of article 67 be omitted.”

This clause (9) reads as follows:—

“When States for the time being specified in Part-III of the First Schedule are grouped together for the purpose of returning representatives to the Council of States, the entire group shall be deemed to be a single State for the purposes of this article.”

Sir, this will no longer be necessary and a contingency like this will be adequately provided for in article 3-B because I think there will be no necessity for providing for small States in the present state of the States, which are in Part-III. So clause (9) of article 67 may be omitted.

Mr. President : Does anyone wish to say anything about it?

The question is:

“That clause (9) of article 67 be omitted.”

The amendment was adopted.

ARTICLE 83 (*reopened*)

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

“That for sub-clauses (a) and (b) of clause (2) of article 83, the following be substituted:—

‘he is a Minister either for the Union or for such State’.”

Actually these sub-clauses (a) and (b) are fairly lengthy and this amendment, it is considered would serve the purpose.

Mr. President : Does anyone wish to say anything about it?

The question is:

“That for sub-clauses (a) and (b) of clause (2) of article 83, the following be substituted:—

‘he is a Minister either for the Union or for such State’.”

The amendment was adopted.

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

“That in paragraph (iii) of sub-clause (d) of clause (3) of article 92, for the words ‘exercises or immediately the words ‘exercises jurisdiction within any area included in the territory of India or which at any time’ be substituted.”

Sir, this refers to article 92 which incidentally deals with the subject of the annual financial statement and here it is a matter which deals with pensions payable to judges and this amendment is considered necessary in view of the present circumstances. Therefore, Sir, I move.

Mr. President : The question is:

“That in paragraph (iii) of sub-clauses (d) of clause (3) of article 92, for the words ‘exercises or immediately’ the words exercises jurisdiction within any area included in the territory of India or which at any time’ be substituted.”

The amendment was adopted.

ARTICLE 100 (*reopened*)

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

“That clause (2) of article 100 be omitted.”

Sir, article 100 deals with restrictions on discussion in Parliament and this particular clause (2) reads thus:

“In this article the reference to a High Court shall be construed as including a reference to any court in a State for the time being specified in Part-III of the First Schedule which is a High Court for any of the purposes of Chapter IV of this Part.”

This is no longer necessary in view of the action taken by this House this morning. Sir, I move.

Mr. President : The question is:

“That clause (2) of article 100 be omitted.”

The amendment was adopted,

ARTICLE 248B (*reopened*)

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

“That in clause (2) of article 248B, after the word ‘Governor’ the words ‘or Rajpramukh of the State’ be inserted.”

An explanation for this is hardly necessary.

Mr. President : The question is:

“That in clause (2) of article 248B, after the word ‘Governor’ the words ‘or Rajpramukh of the State’ be inserted.”

The amendment was adopted.

ARTICLE 263 (*reopened*)

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

“That in clause (2) of article 263, after the word ‘Governor’ the words ‘or Rajpramukh’ be inserted.”

This clause deals with the custody of the Consolidated Fund of the States, and this change is necessary in view of the House having passed Part VI-A.

Mr. President : The question is:

“That in clause (2) of article 263, after the word ‘Governor’ the words ‘or Rajpramukh be inserted.”

The amendment was adopted.

SEVENTH SCHEDULE (*reopened*)

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

“That in List I of the Seventh Schedule, after entry 43, the following entry be inserted:—

‘43 A. Courts of wards for the estates of Rulers of Indian States’.”

Sir, in the present set-up of the States, and in view of the fact that there are a number of Rulers, who are no longer Rulers in the real sense but have only estates, imposes a particular liability on the Central Government in regard to the administration of those estates, should that be necessary by virtue of the minority of those who own the estates or some incapacity for one reason or another of such persons, and the provision that is now being put in, is analogous to entry 25 of List II by which the provinces hitherto have been exercising jurisdiction over estates of zamindars and owners of other big estates where minority or other factors had supervened. The same provision is now sought to be put in with regard to the estates of Indian Rulers. This power has necessarily to be exercised by the Government of India and it cannot be entrusted for various reasons to the Governments of the States concerned.

Mr. President : The question is:

“That in List I of the Seventh Schedule, after entry 43, the following entry be inserted:—

43 A. Courts of Wards for the estates of Rulers of Indian States’.”

The amendment was adopted.

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

“That in List II of the Seventh Schedule, to entry 25 the following words and figures be added:—

‘subject to the provisions of entry 43 A. of List I.’”

This is consequential as a result of the House accepting my previous amendment. This is necessary as it indicates precisely the powers of the States in regard to entry 25. Sir, I move.

Mr. President : The question is:

“That in List II of the Seventh Schedule, to entry 25 the following words and figures be add:—

‘subject to the provisions of entry 43 A. of List I.’”

The amendment was adopted.

ARTICLE 270 (*reopened*)

Shri T. T. Krishnamachari : Sir, there are two other articles. One is 270 for which, I hope, the permission of the House will be given to reopen that article., ‘There is another article of a non-controversial nature 67-A. I suggest that these two articles be taken up.

Mr. President : Let us take up 270 now.

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

“That for article 270, the following article be substituted:—

270. (a) All property and assets vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets vested in His Majesty For the purposes of the Government of each Governor’s Province shall, as from the commencement of this Constitution, vest respectively in the Government of India and the Government of each corresponding State, and

Succession to property, assets, liabilities and obligations.

(b) all liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor’s province shall, as from the commencement of this Constitution, be the liabilities and obligations, respectively, of the Government of India and the Government of each corresponding State,

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the provinces of West Bengal, East Bengal, West Punjab and East Punjab.”

Mr. President : I think this is also an independent article which you wish to move.

Shri T. T. Krishnamachari : It forms part of the Chapter. I said that permission may be given for redrafting this also.

Mr. President : I had better ask for that permission. It is sought to amend article 270 which was adopted at a previous session of the Assembly. Do the Members give permission to amend that article”

Honourable Members : Yes.

Mr. President : It has been moved. You can proceed.

Shri T. T. Krishnamachari : The reason why this amendment is sought to be moved is merely because our legal advisers have told us that the article as it has been approved by the House originally is defective in character. Sir, the original article, if the House would permit me for purposes of clarification, reads thus:—

“As from the commencement of this Constitution the Government of India and the Government of each State for the time being specified in Part I of the First Schedule shall respectively be the successors of the Government of the Dominion of India and of the corresponding Governors’ Provinces, as regards all property, assets, liabilities and obligations subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.”

[Shri T. T. Krishnamachari]

The reason for the suggested change is this : The technical term that was used in the past was that all properties and assets were vested in His Majesty both in regard to properties that were administered by the Government of India and by the Governments of the provinces. But in respect of the liabilities and obligations of the Governments concerned the language used is slightly different. It has been found that so far as this position is concerned it must be clarified. I should like to tell Honourable Members of this House, who I know react rather adversely to any reference to His Majesty, that it is a matter in which we have no escape. If formerly the legal phraseology was that all assets and property of the Governments, whether of the Centre or of the Provinces, were vested in His Majesty, we have to use the same words in order to re-vest those properties and assets in the Government of India to be and the Governments of the States that are to be created by reason of this Constitution. Honourable Members will therefore understand that this is a matter in which our legal advisers have been categorical and we have no other option except to amend the article in the manner suggested by me. I hope the honourable Members of the House will find no difficulty in accepting the article as amended by me as it will make the position crystal clear and above any legal defect which it was stated the original article 270 did suffer from.

Mr. President : Does any Member wish to say anything on this? Then I will put this new article 270 to vote.

The question is:

“That for article 270, the following article be substituted:—

‘270 (a) All property and assets vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets vested in His Majesty for the purposes of the Government of each Governor’s Province shall, as from the commencement of this Constitution, vest respectively in the Government of India and the Government of each corresponding State, and

Succession to property, assets, liabilities and obligations.

(b) all liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor’s Province shall, as from the commencement of this Constitution, be the liabilities and obligations, respectively, of the Government of India and the Government of each corresponding State,

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab’.”

The motion was adopted.

Article 270 was added to the Constitution.

NEW ARTICLE 67 A.

Shri T. T. Krishnamachari : May I move article 67 A, Sir,

Mr. President : Yes.

Shri T. T. Krishnamachari : I move:

“That after article 67, the following article be inserted:—

67A. Notwithstanding anything contained in clause (5) of article 67 of this Constitution, Parliament may by law provide for the representation in the House of the People of any State for the time being specified in Part II of the First Schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause’.”

Special representation to State in part II and territories other than States.

I would ask honourable Members to look at the wording of clause (5) of article 67, sub-clauses (b) and (c), which imposes certain limits within which representation could be given in respect of territorial constituencies from which Members of the House of the People are to be elected. There is, however, a clause in article 67 clause (7), which reads thus:—

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

Though it would not mean that while Parliament may by law provide for representation of these areas, it would certainly not mean that Parliament can depart from the scheme outlined in clause (5), sub-clauses (b) and (c).

The reason for proposing this amendment is that while Parliament might have to provide for representation in the House of the People of territories other than the States, it is also likely that in the case of Part II States some of them may not satisfy the conditions laid down by sub-clauses (b) and (c) of clause (5) of article 67. It may be argued that these areas coming under Part II of First Schedule could be grouped together for purposes of providing representation in the House of the People, but it may not be always possible. I have no desire to go into the details of the provocation for this amendment, but we do visualise that a contingency might occur where we might have to provide special representation for certain areas which might be either in Part II of First Schedule or be territories other than States, and the present set-up of article 67 would provide difficulties in the way of our providing these areas with representation in the House of the People. I therefore ask the House to accept—though it is a tall order—my word for it and accept the necessity for an amendment of this sort. I might anticipate some of the amendments that are sought to be moved, namely, that this concession should be extended to representation in the Council of States. I do not think that clause (4) which is the operative clause in article 67 bars entirely the liberty of Parliament in respect of provision of representation in the Council of States. I think that the matter is now being examined in the light of the set-up of Schedule 3 B which we propose to introduce in which the arithmetical proportions will be calculated and seats would be mentioned according to the various States as precisely as possible, that there will be some lee-way left therein for additional representation, should Parliament so decide. I therefore suggest to my honourable Friends in this House who want to bring in the Council of States to leave it at that. We are examining the position and if it is necessary we shall introduce a suitable amendment, but I do not think that it is necessary at this Stage. For that matter most of those areas, particularly those that are covered by Part II, have a greater desire to be adequately represented in the House of the People than in the Council of States, and I think that for the time being the contingencies which we envisage at the moment would be amply covered by a provision of the nature that I have now moved rather than any extension of this particular provision to the Council of States as well. I, therefore, request honourable Members not to press their amendments which seek to include the Council of States within the scope of the suggested article that is before the House.

Sir, I move.

Prof Shibban Lal Saksena : I beg to move:

“That in amendment No. 306 of List XIII (Second Week), in the proposed new article 67 A, after the words ‘House of the People’ the words ‘and the Council of States’ be inserted.”

Sir, the article as modified by my amendment would read thus:—

“Notwithstanding anything contained in clause (5) of article 67 of this Constitution, Parliament may by law provide for the representation in the House of the People and the Council of States

[Prof. Shibban Lal Saksena]

of any State for the time being specified in Part II of the First Schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause.”

Sir, my Friend Mr. Krishnamachari has explained the purpose of this clause. In fact the House will remember when we were dealing with the question of Delhi Province, the Honourable the Prime Minister suggested that Delhi might, if it does not have a separate Legislature, be given additional representation in the Houses of Parliament. I think that it is only proper, if that pledge is to be honoured, then representation has to be provided not only in the House of the People but also in the Upper House. Besides Delhi, there are so many other Centrally administered areas. We are taking in more and more of the States under Central administration. Chandranagore will soon come into the Union; similarly we have got Tipperah and the other States on the Eastern border of India which are likely to integrate with the Union. If the idea is to give representation to those areas in the House of the People, there is no reason why they should not be represented in the Council of States. I would have much appreciated and it would have been much simpler if we had provided for at least one seat for each of the Centrally Administered areas in the Upper House as well.

Shri Brajeshwar Prasad : Mr. President, Sir, I rise to support the article as has been moved by my honourable Friend Shri T. T. Krishnamachari. My honourable Friend Professor Shibban Lal Saksena has perhaps completely mis understood the meaning of representation in the Upper Chamber. Representation in the Upper Chamber is provided for a constituent unit—for those States which combine in order to form a federation. Here we are providing for representation for States in Part II which are not, technically speaking, constituent units. Constituent units are those States which are mentioned in Parts I and III of the Schedule. Article 67A provides for representations of those territories which have been placed in Part II territories like Andaman and Nicobar Islands, territories like Ajmer Merwara, Coorg and Panth Piploda. We cannot confer upon these territories the status of constituent units. Therefore there can be no meaning in providing representation for these territories in the Upper Chamber of the Federal Parliament.

The Honourable Shri K. Santhanam : Mr. President, Sir, this matter was considered at the time of the Constitution of the House of the People and the omission of Part II was deliberate. We did not want to create small pocket constituencies for the House of the People.

So far as the Council of the States is concerned, article 67(4) provides that the representatives of the States for the time being specified in Part II of the First Schedule in the Council of States shall be chosen in such manner as Parliament may by law prescribe. Therefore, while provision was made for the representation of States in Part II in the Council of States, they were left out in the representation in the House of the People for the reason that either they have got enough population or not. If they have got enough population, they will get representation on their rights. But where they have not enough population, it was intended that they should be grouped in the near-by constituencies. There is no difficulty in grouping Ajmer-Merwara or Coorg with the neighbouring constituencies so that those people also will take part in the election of the House of the People. Though, for the sake of convenience, each State in Part I and Part III may be taken roughly for demarcation in the constituencies of the House of the People, ‘there is no statutory obligation that every State should be dividend into exclusive territorial constituencies for the House of the People. There may be border areas of two States in Part I and Part III grouped together in the constituencies of the people.

Therefore, we are unnecessarily marring the Constitution by bringing in an article by which representation will be given to small areas, It is possible that in the course of integration or for other reasons, we may have to create a large number of Centrally Administered areas. Suppose in the reconstitution of the linguistic provinces many areas have to be left out as Centrally Administered areas, if we are to create a constituency for each of these areas, then we will be creating large number of pocket constituencies for the House of the people. So, I think it is a wholly unnecessary provision. The purpose can be achieved constitutionally by other means and I do not think representation in the House of the People which is based on a scientific basis should be marred by a provision like this. I do not say that will be misused, but in a Constitution the test is whether a provision can be misused, not whether it will be misused and this is a provision which can be misused. So, I suggest it may be dropped.

Shri T. T. Krishnamachari : Mr. President, Sir, I quite agree with Mr. Santhanam that article 67 was very carefully worded and it was intended at that time that there should be no mitigation of the conditions which are covered by clause 5, sub-clause (b) and (c). I did tell honourable Members of this House that we had a specific purpose in view in bringing this amendment and it would be very wise for me to go beyond telling them that the Drafting Committee and the Ministries concerned were fully satisfied that an amendment of this nature was necessary Therefore, I would ask my honourable Friend to withdraw his objection. At the same time I dare say that he is in a better position to realise than myself that since the initiative in any matter like this would ordinarily come from Government, it is unlikely that the wishes of this august House in regard to fixing representation in the House of the People would not be rigidly adhered to and that Parliament would agree to needless mitigation of the stringent conditions imposed by article 67. Beyond that I am not able to tell my honourable Friend of the purpose of this amendment. I could give him this assurance that this matter has been very carefully considered and it is after that that we have decided to bring this additional article. I do hope that the House will have no objection to accepting the motion moved by me.

Mr. President : The question is:

“That in amendment No. 306 of List XIII (Second Week), in the proposed new article 67A, after the word ‘House of the people’ the words land the Council of States’ be inserted.”

The amendment was negatived.

Mr. President : I shall now put article 67A. The question is:

“That after article 67, the following article be inserted :—

67A. Notwithstanding anything contained in clause (5) of article 67 of this Constitution, Parliament may	by law provide for the representation in the House of the People of any State
Special representation to States in Part II and territories other than States.	for the time being specified in Part II of the First Schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause.”

The motion was adopted.

Article 67-A was added to the Constitution

PROGRAMME *re* THIRD READING

Shri T. T. Krishnamachari : May I suggest that article 264A and, 296 and 299 be taken up tomorrow ?

Mr. President : Those are controversial matters and we may better take them up tomorrow.. We cannot take up any other article. So we shall rise now.

Mr. Naziruddin Ahmad (West Bengal : Muslim) : With regard to the amendments which have been passed today, I confess with many others that we have not been able to follow the debate at all. These amendments were sent to us at half past ten last night. I had to be awakened from my sleep. And from morning we are working here with the result we have had no time to consider these amendments. I do not object to the procedure because some short-cut must be arrived at. I am only suggesting that the Drafting Committee should again consider them, and if there are any further changes to be made consequent upon the discovery of any irregularities I think those amendments should again come up.

Mr. President : Which amendments are you referring to ?

Mr. Naziruddin Ahmad : The amendments which have been accepted. We have had no time to consider them.

Mr. President : But we have accepted so many amendments.

Mr. Naziruddin Ahmad : Yes. And I am suggesting that they may again be reconsidered by the Drafting Committee, and if there are further irregularities or inconsistencies they should be brought up at a later stage. We are being fed with amendments to satiety. It is impossible to proceed with them for anyone who would like to follow them and consider them.

Then with regard tomorrow's business we do not know what things are coming up. At nine or ten P.M. today we shall be given some new drafts and we will be expected to consider them tomorrow morning. I do not know what to do with such amendments. I therefore respectfully ask you, Sir, to consider this and give us some idea as to whether new drafts are coming on and, if so, what time we would be given to send amendments to the new Drafts.

Mr. President : So far as tomorrow is concerned, I think there are these three articles, namely articles 264A, 296 and 299, which have been before the House-two of them for a long time and the third one also for a little while. Tomorrow if there is anything fresh coming, that will come after these three articles.

Shri T. T. Krishnamachari May I mention that the Drafting Committee is engaged in going through the lacunae in the articles already passed and the consequential amendments that may have to be made, and it is likely that we might have to table some amendments tomorrow. My honourable Friend is so fully posted with all the details regarding the articles of the Constitution that he would not find it impossible to readjust himself and see that these amendments that we are likely to table tonight are necessary. They will be only consequential amendments. I would only offer my apology on behalf of the Drafting Committee for giving honourable Members such short notice, the only reason being that we are hard pressed for time and we would like this Union to close as early as possible.

Mr. President : Tomorrow we are going to take up these three articles first.

Shri T. T. Krishnamachari : And then other articles.

Mr. President : So far as I know, there are only one or two matters now which we have to consider. There is first the Preamble which has not been dealt with I am just mentioning the things which I have noted that have to be considered then we have Schedule I which defines the States, then these three articles which have just been mentioned. There is also another article, I understand, which

is going to be brought up—article 280A relating to financial emergency. And there is a third article which may come up relating to States, particularly relating to Kashmir article 306A. Then we have Schedule III-B which deals with the allocation of seats for the Council of States. Apart from these I think there may be consequently amendments. Are there any more?

Shri T. T. Krishnamachari : As I said before, there are some consequential amendments.

Mr. President : The others may be consequential which will arise out of amendments we have already accepted.

Shri R. K. Sidhwa : May I know whether Schedule I and the Preamble will be taken up in this session ? There was some complication about it. So I want to know whether Schedule I will be taken up before some formalities are observed.

Mr. President : They have to come up during this session because we have to complete the Second Reading. If necessary we can amend it—in the Third Reading, if there is any change in the Schedule.

Shri R. K. Sidhwa : Schedule I is very important and it may take one or two days, Therefore, unless the Drafting Committee is ready in pursuance of the Working Committee's resolution, there is no use our wasting time now and gain spending time at the time of the Third Reading.

Mr. President : But then we cannot complete the Second Reading without having all the articles and Schedules.

Shri H. V. Kamath (C. P. & Berar : General) : Why not meet for the First two days during the next session and complete the Second Reading, and after an interval of one day start the Third Reading?

Mr. President : I might just mention to honourable Members that we were considering the procedure to be followed at the time of the Third Reading, and some amendments to the rules will be coming up before the House on Saturday. It has been said that apart from merely verbal amendments and renumbering and replacements of articles, it may be discovered in the course of the examination which is going to take place of each article, that some changes are required, and we shall have to amend particular articles to that extent. If we hold up the second reading for that purpose, then there will be difficulty in having the Third Reading in the next session—and we must have the Third Reading then. Therefore we are suggesting that such amendments as are more or less of a consequential nature but which are not merely verbal may be taken up at the Third Reading stage and, under certain restricted conditions, amendments to these amendments. When these amendments have been disposed of, we proceed to a general discussion of the Constitution as a whole and we pass it at the Third Reading. So we are taking powers under the rules to deal with such consequential changes which may be found to be necessary. It may be that we do not find any consequential changes necessary. That would be a very happy state of affairs. But it is possible that we may and therefore we are taking precaution in that way.

Shri H. V. Kamath : Are Members of the House, as distinct from the Members of the Drafting Committee, at liberty to send amendments at the time of the Third Reading?

Mr. President : No.

Mr. Naziruddin Ahmad : Our rules provide for that. If the Drafting Committee has got such enormous powers to make changes

Mr. President : They cannot make any changes unless they are accepted by the House.

Mr. Naziruddin Ahmad : Some formal changes may be necessary. It is definitely provided in the rules.

Mr. President : I do not think it will be possible to open the door very wide. If there are any suggestions which honourable Members have to make and which really affect the substance of the provisions, I have no doubt that the Drafting Committee will give due thought to those things and that they will be considered.

Mr. Naziruddin Ahmad : I am only suggesting that the final draft of the Drafting Committee should be circulated to us well in time for a thorough consideration.

Mr. President : I was thinking of the time table also. I do not think it would be possible to get the constitution, as it is now passed- at the Second Reading, ready for the press before the 31st of this month. The whole thing has to be very carefully considered. Every article-every word-has to be scrutinised. It takes time. And so the Drafting Committee will not be in a position to get the thing ready, say, before the 31st of this month. Then it will take about a week to print. We shall try to circulate as soon as possible, say by the 4th or 5th but it would not be possible, earlier, we are trying to cut down the time as much as possible, but there are physical difficulties.

Shri H. V. Kamath : When do you propose to summon the next session Sir?

Mr. President : I propose to summon the Assembly from the 14th of November to 25th or 26th, because the session of the Legislative Assembly begins on the 28th November and that has already been summoned. So we have to finish this Third Reading before that and it is proposed to give two or three days for consideration of all such matters and consequential amendments that may be found necessary. I hope it will not be necessary to give two days but we are keeping even three days for that purpose and we shall have eight or nine days for general discussion. These eight days, I propose to devote to the general discussion and the last day will be taken up in the formality of actually passing the whole thing. It is suggested that the Constitution that is finally passed should be signed by every Member of this House,

Honourable Members : Yes, Sir.

Mr. President : That will be a historical document and it is desirable that every Member who has been associated with the making of this Constitution puts down his name on the copy which would be kept on record and that might take a day. So I am reserving one day for that Purpose and the remaining six or seven days will be available for general discussion.

Prof. Shibban Lal Saksena : What about the Constitution in Hindi ?

Mr. President : The Constituent Assembly has passed a provision that all Bills not only in the Centre but also in the provinces must be passed in the English language for the next fifteen years and so we shall pass this and you have already as Hindi is concerned, you have put upon me the responsibility of certifying to its correctness; and as regards the translations in other major languages, they will also be prepared. I am taking steps already to get these translations ready. Hindi I propose to publish before the Commencement of the constitution and the others also, but I am not so sure about the others.

Shri H. V. Kamath : Are we going to have a formal ceremony on the midnight of the 25th-26th of January ?

Mr. President : I have not thought of any formal ceremony at midnight or midday. But it has been suggested that we should all sign the copy of the Constitution. That is all that we have so far been thinking of.

Shri H. V. Kamath : January 26, I am thinking of that day, Sir.

Mr. President : We shall decide at the time when we meet next. There is one other matter which has not been discussed up to now, but I do not know, probably the Members may feel interested in that and that is the question of the National Anthem. The National Flag was adopted by the Constituent Assembly; it was not part of the Constitution but it was adopted by the Constituent Assembly. Similarly probably the National Anthem, also will have to be adopted by the Constitution Assembly, but by a Resolution; but we have not yet taken steps in that direction. The Government have already adopted a particular song as the National Anthem, but the Constituent Assembly has not yet accepted that. So we have not taken any steps in that direction yet I do not know what to do, but we may have to consider that point also.

Shri H. V. Kamath : We may take that up in the Third Reading in the next session.

Mr. President : I do not know if the House as a whole will be able to fix upon the National Anthem. If all of us joined in singing here it will not be an Anthem (six); it will be something very different; any way, that has to be done by some expert committee and I have not yet decided what to do about it, but if the House so desires, we may think of a Committee for that purpose.

An honourable Member : Compose a new National Anthem

Shri Suresh Chandra Majumdar (West Bengal : General) : Formerly it was agreed in one of the meetings of the Steering Committee that it would not form part of the Constitution but will be passed in the form of a Resolution just after the Third Reading.

Mr. President : This is what I said.

Shri Suresh Chandra Majumdar : Now you are thinking of referring it to a Committee or something like a committee for the purpose of selecting what will be the National Anthem, and this House will consider the report of that Committee and adopt any of the two songs as the National Anthem; and that would be during the life-time of the Constituent Assembly, I suppose?

Mr. President : During the Third Reading period, that is my idea.

Shri B. Das : Some of us do not like Jana Gana Mana. We would very much like that *Vande Mataram* should be the national song which has inspired us all for the last fifty or sixty years. In any case when the matter comes, we would like to express our views.

Mr. President : That is of course your opinion. I have said that I am thinking of having a Committee for the purpose of selecting the best song.

An honourable Member: Will the Committee propose a new song ?

Mr. President : The Committee will be free to compose even a new one.

Prof. Shibben Lal Saksena : Is the Committee to be appointed quickly:

Mr. President : It will have to be done now and as I said, I have not thought about it in concrete terms. Therefore, I am not in a position to make any announcement now.

The Honourable Shri K. Santhanam : Mr. President, Sir, my impression is that in other countries they generally do not adopt the National Anthem as part of the Constitution and they call upon expert musicians to create it and even offer prize. Now that we have a provisional National Anthem. I wonder whether it will be wise or expedient to come to a definite decision now. I think it would be well if we leave it to Parliament to enact by law after taking the necessary steps.

Mr. President : That is also one point of view. As I have said, I have not thought over the matter in concrete terms yet.

Shri Sita Ram S. Jajoo (Madhyabharat):- Will the Members from Vindhya Pradesh and Bhopal be present for, the Third Reading ?

Mr. President : I hope so and we are trying to get them ; and if they do not come, we cannot help it.

We shall adjourn,till tomorrow ten o'clock.

The Assembly then adjourned till Ten of the Clock on Friday, the 14th October 1949.
