

CONSTITUENT ASSEMBLY OF INDIA

Tuesday, the 23rd August 1949

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

DRAFT CONSTITUTION—(Contd.)

Article 286 to 288-A—(Contd.)

Mr. President : We shall now proceed with the consideration of article 286 and the subsequent articles.

Honourable Dr. B. R. Ambedker : Sir, I move:

with your permission, move amendments Nos. 12, 16, 17 and 19 together? They all relate to the same subject. There may be a common debate and then you might put each amendment separately.

Mr. President : Yes, I agree.

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

“That for article 286, the following article be substituted:-

“286. (1) It shall be the duty of the Union and the State Public Service Commissions to Conduct examinations Function of Public for appointments to the services of the Union and the services of the State Service Commissions. respectively.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted—

- (a) on all matters relating to methods of recruitment to civil services and for civil posts;
- (b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointment, promotions or transfers;
- (c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;
- (d) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated Fund of India or, as the case may be, of the State;
- (e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in a civil capacity, and any question as to the amount of any such award.

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President or, as the case may be, the Governor or Ruler of the State may refer to them:

Provided that the President as respects the All India Services and also as respects other services and posts in connection with the affairs of the Union, and the Governor or Ruler, as the case may be, as respects other services and posts in connection with the affairs

[The Honourable Dr. B. R. Ambedkar]

of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

(4) Nothing in clause (3) of this article shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts are to be reserved in favour of any backward class citizens in the Union or a State.

(5) All regulations made under the proviso to clause (3) of this article by the President or the Governor or Ruler of a State shall be laid for not less than fourteen days before each House of Parliament or the Houses or each House of the Legislature of the State, as the case may be, as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament or the House or both Houses of the Legislature of the State may make during the session in which they are so laid."

"That for article 287, the following be substituted :—

287. An Act made by Parliament or, as the case may be, the Legislature of a State may provide for the	exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also of any local authority or other body corporate constituted by law or public institution."
Power to extend functions of Public Service Commission.	

"That for article 288, the following be substituted:—

288. The expenses of the Union or a State Public Service Commissions including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission.	shall be charged on the Consolidated Fund of India or, as the case may be, the State."
Expenses of Public Service Commission.	

"That for amendment No. 3075 of the List of Amendments the following be substituted :—

"That after article 288, the following new article be added:—

288-A. (1) It shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reason for such non-acceptance to be laid before each House of Parliament.	Reports of the Public Service Commission.
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(2) It shall be the duty of a State Commission to present annually to the Governor or Ruler of the State a report as to the work done by the Commission, and it shall be the duty of a Joint Commission to present annually to the Governor or Ruler or each of the States the needs of which are served by the Joint Commission a report as to the work done by the Commission in relation to that State, and in either case the Governor or Ruler, as the case may be, shall, on receipt of such report, cause a copy thereof together with a memorandum explaining as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State."

The article are self-explanatory and I do not think that at this stage it is necessary for me to make any comments to bring out any of the points, because the points are all very plain. I would therefore reserve my remarks towards the end when after the debate probably it may be necessary for me to offer some explanations of some of the points raised.

Sir, I move.

Shri Jaspat Roy Kapoor (United Provinces: General) : Mr. President, I beg to move :

"That in amendment No. 12 above, clause (2) of the proposed article 286 be deleted and the subsequent clauses be renumbered accordingly."

Clause (2) of article 286 reads thus :

"It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required."

I desire its deletion because, whatever is provided herein is already covered by clause (3) of article 284 which we have already adopted yesterday. Clause (3) of article 284 reads thus:

“The Public Service Commission for the Union, if requested so to do by the Governor or Ruler of a State may, with the approval of the President, agree to serve all or any of the needs of the State.”

Obviously, Sir, whatever is provided in clause (2) of article 286 is provided for in clause (3) of article 284. Clause (3) of article 284 is apparently of much wider import than clause (2) of article 286. Hence, obviously this clause (2) is unnecessary and redundant. The deletion of this clause (2) of article 286 will not in any way affect the unusual length of article 286, for, even after its deletion, it will continue to be pretty long enough and the Drafting Committee need not have any apprehension that the habit which it has got into of drafting long articles and providing in the Constitution every little detail will be materially affected. Of course, we know that the Drafting Committee has an inexhaustible store of words and phrases; but they need not pour out the whole of it in this Constitution by providing every little detail and making it a very cumbrous one. I think, therefore, that in order to remove an unnecessary and redundant thing, it is necessary that this clause (2) should be deleted. That is all I have to submit in this connection. I do not wish to move amendment No. 18 with reference to article 288.

(Amendments 14, 15, 74 and 75 were not moved.)

Sardar Hukum Singh (East Punjab: Sikh) : Mr. President, I beg to move:

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments, the proviso to clause (3) of the proposed article 286 be deleted.”

In my humble opinion, this proviso is not in consonance with the spirit of the other articles. We are prescribing a very vast field where the Public Service Commission has to be consulted, and we have included transfers, promotions, and other things as well. This is a very good ideal. If we are providing that the Public Service Commission should be consulted even in these matters, then, we should not leave this loophole, by which the majority party may find it easy to secure regulations from the President or the Governor that they need not consult the Public Service Commission. In my opinion, even though it is provided here that the Governor and the President shall have the power to frame regulations, they would be guided by the advice of their Ministers, and the Ministers would represent the majority party. These regulations will be changing from time to time and there is scope when, with the object of extending favouritism and nepotism, they might make such regulations as may suit their convenience. My objection is that because this is only a consultative body, it is not necessary that the advice of the Public Service Commission must be acted upon. There is a provision in article 288-A that the Public Service Commission shall present to the President annually a report and that the President shall cause a copy thereof together with a memo, explaining if in any cases the advice of the Commission was not accepted, the reasons for such non-acceptance, to be laid before Parliament. The reasons shall have to be given. Therefore that provided a good check and if this proviso is not there, we shall have very wholesome effect on the working of this article. In my opinion this proviso should be deleted.

Shri Lakshminarayan Sahu (Orissa: General) : Sir, I want to make a little change because the wording here is not properly done. I want to substitute the words ‘having a scale with a maximum of 250 or more’ for carrying a maximum of Rs. 250.

Mr. President : Yes.

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

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments, for clause (3) of the proposed article 285, the following be substituted :—

- (3) The Union Public Service Commission as respects the All-India Services and also as respects other Services and posts in connection with the affairs of the Union, and the State Public Service Commission as respects the State services and also as respects other services and posts in connection with the affairs of the State, shall be responsible for all appointments, carrying a maximum of Rs. 250 (Two Hundred and fifty rupees).”

The idea that has led me to move the amendment is that we are providing for the formation of a Public Service Commission solely with a view to ensure the smooth and efficient running of our Republican Government. If that is not the view, there is no need for creating a Public Service Commission. We ourselves can manage everything. But when a democratic form of Government is established many political parties dominate the field and they adopt undesirable methods for appointments in the services. We are going to form the Public Service Commission solely with a view that political parties may not be in a position to adopt such methods. A body must be created to decide about the appointments in Services, so that no one may be able to suggest that the Services are working under the influence of any political party.

In view of all this, we find that the creation of a Public Service Commission is essential; and when it is essential to create such a Commission, Our Constitution should contain some provision that the Commission should have complete control over the appointments to services. It is the opinion of some person, that when we are going to establish a Republic here, we must trust the Government. They contend that a democratic Government cannot function unless the people trust it. But I have heard that even in England and in the Dominions, where a democratic form of Government is obtaining, the Public Service Commission have a large measure of control over the appointment in services. I, therefore, think that this amendment should be accepted.]

Dr. P. S. Deshmukh (C. P. & Berar: General): Mr. President, I rise to move amendment No. 82 of List III Fifth week of Amendments to Amendments : “That in clause (3) of the proposed article 286, for the word ‘shall’ the word ‘may’ be substituted.” Yesterday when we were about to embark ,on the discussion of these articles dealing with the Public Service Commission. I had urged on the floor of the House that the provisions with regard to the Commissions may not be made as stringent as they were proposed to be and this amendment of mine is in the same line. I want that in this proposed article 286 where a very large number of things are going to be made obligatory and compulsory there should be a choice left with the Legislatures and the Parliament as to whether the Public Service Commission should be consulted compulsorily or should be left to deal exclusively with these matters or not. Now the various matters mentioned in clause (3) are very important and if all these are made compulsory, there would be very little latitude left for the Governments of the various States as well as the Parliament to vary the terms and conditions of recruitment to Public Services or to alter them in any way as it may be necessary according to the circumstances that may arise. The first clause says:

“The Union Public Service Commission or the State Public Service Commission shall be consulted—(a) on all matters relating to methods of recruitment to civil services and for civil posts;”

*[] Translation of Hindustani Speech.

This would mean that if the Public Service Commission say that new passing University or other Examination is the final criterion of merit, that will have to remain there irrespective of the fact that the State Legislature or Parliament thinks otherwise. I have always contended that these University qualifications have been made a fetish by the British Government because they wanted to reduce the Indian Nation to a clerkdom. There is no other criterion still thought of by our present Government. This is most unfortunate. People's capacities cannot be measured by mere passing of examinations or obtaining the highest possible marks. But those communities who have had the advantage of English education, because they were prepared to be more servile than the rest, think it is a preserve of theirs, and whenever any body gets up and speaks on behalf of the millions who have had no chances of education, they consider it as a threat to their monopoly on the part of the rest of the communities and accuse the advocates as communal and communally-minded. There is no communalism in this. Neither I nor anybody who speaks on their behalf want any particular community to dominate, where as those who oppose this move are interested only in particular communities. They want to preserve communalism while accusing us of communalism because they have had the advantage of education which they fear will be taken away. They think and urge that merit is or can be tested only by examinations. But so far as the masses of the country are concerned, the millions of our populations who have not had even the chance to get primary school education, they have no place so far as the public services are concerned, so long as the present system lasts.

Shri Mahavir Tyagi (United Provinces: General) : The illiterates have no place.

Dr. P. S. Deshmukh : We have got to take count of the fact that the stages of advancement of the various communities in India vary a great deal. Why have we proposed reservations in the case of the Scheduled Castes ? That is because we have been convinced that there have been insurmountable obstacles in their progress. Why have we proposed reservations for the tribal people ? That is also for the same reason. There are also, in the same manner as the tribal people and the Scheduled Castes, millions of people in our country whose handicaps and obstacles are in no way different from those of the tribal people and the Scheduled Castes; and I wish to leave room for such people to come in and inequalities resulting from the present systems rectified.

I say this because it is for the first time in the history of the country that the real representatives of the people are going to govern the country hereafter, and therefore their hands should not be fettered. It should be possible for the elected State legislatures and the elected Parliament—elected on the basis fixed by this very House, with its very limited franchise, for even here there are not many people who represent all that the masses of India think and feel—let these future State legislature, and Parliament have the power to make changes in the conditions for the recruitment of the services. It is no use copying the phraseology or imitating the ideology of the British. These will not suit as here in India. India has not become England, and it is no use copying England. There the whole, people has progressed together, similarly and simultaneously; not so in India. Even today more than 85 per cent. of the people of India are without the facilities for education as they live in the villages, and we are asking these people to compete with people who have there facilities near by. This is quite impossible. It is like having a one-mile race between two persons one of whom had already gone ahead half-a-mile, and another who had yet to start. That is quite unequal, unfair and unjust; and if you persist in this injustice and in this unfairness. then I am sure it is not going to be beneficial to us.

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These are all important matters that are provided for in article 286. They relate, firstly, to methods of recruitment; secondly, to principles to be followed in making appointments as well as promotions and transfers; thirdly, to all disciplinary matters affecting a person and including memorials and petitions; fourthly, to any claim by or in respect of a person who is serving or has served under the Government or the Government of State or under the Crown in a civil capacity; and lastly, to claim to pensions etc. It is clear that the whole field of recruitment and allied issues are to be determined by the Public Service Commission so as to preclude even if Parliament or the State legislatures want to change any of the above conditions, in any way. I do not say that it should be left altogether vague, but I only say that the Legislatures or the Parliament should be in a position to alter these various things whenever and wherever they want to do so.

It is apparent, Sir, that we want to clothe with every possible power the President of the Union. Here also in this proviso we find that the President is empowered to keep back any cases which he in his discretion thinks need not go to the Commission. I wish rather that we gave this power to the Parliament and to the State, Legislatures and not to an individual.

Sir, there is also another amendment which with your permission I wish to move, which is of course, more or less in the same strain and in furtherance of the same objective as the one I have already moved; but it proposes a particular and a specific provision in article 286.

Mr. President : No. 86 ?

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

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments, the end of clause (4) of the proposed article 286 the full-stop be substituted by a comma and thereafter the following be added:—

‘or for the purpose of bringing about a just and fair representation of all classes in Public Services of the Union or a State.’ ”

There is also an alternative amendment, *i.e.* No. 88 which I would like to move also:

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments after clause (4) of the proposed article 286, the ‘following new clause (5) be inserted and the existing clause (5) be renumbered as clause (6):—

‘(5) Nothing in clause (3) of this article shall require a Public Service Commission to be consulted as respects the manner in which appointments are made and posts reserved for purposes of giving representation to various classes according to their numbers in the Union or a State.’ ”

These two amendments, Nos. 86 and 88, are as I said alternatives, and if one is accepted, I would not press the other, although I personally would urge that No. 86 which is more specific would be preferable.

The purpose of this amendment is to secure a just and fair representation of all classes in the public services of the Union and the States, and not leave it to bare competition and according to the sweet choice of the Public Services Commissions themselves. Now, if we examine the systems of recruitment to the public services, we know that as a matter of fact certain provinces, because the public of those provinces were more alive to their rights, agitated that they were not having any share in the administration of their province and as a result of their agitation, the Governments of those provinces had to yield. This has happened particularly in that enlightened and advanced province of Madras where the various communities were grouped in various groups and each group was

given, according to the basis of its population, representation in the government services. This has worked very well, with the result that Madras has become one of the most advanced provinces in the whole of India. That is the reason why we find Delhi being crowded by Madras is, because their standard of education has gone up due to the fact that all the communities have advanced equally with the others and not disproportionately as elsewhere. There you do not have the disproportionate advancement which you find in other provinces where the suppressed communities have always been content with their lot, where they have not agitated to get more places in the government and where the advanced communities have never been charitable to consider their claims or to give them any help. This has happened particularly in the province of Central Provinces & Berar where we find that even today in the whole department of education there is hardly a person belonging to any other community except one particular community. There are departments after departments where ninety per cent and more of the incumbents come from a specific community.

Sir, if this is not communalism, what is communalism ? And these people who now fill every place in the department see to it that anybody else, who wants to come in, is effectively prevented from doing so. Is this not communalism ? A community which is only 3 to 5 per cent of the population, is it destined to govern the whole province so far as every department is concerned ? Would it not be charitable to give at least a few places to the other people who have never been given what they have been asking for ? Those Members of this House who are taken in by the sweet name of merit and efficiency, I can tell them that in efficiency neither Madras nor Bombay has suffered to that extent that it will be detrimental to the country. There might have been a slight falling-off of the standard, but that much we have always tolerated. When we were not able to compete with the British people we asked for places for Indians from the British. We wanted increased recruitment in the I.C.S. We struggled for it and we have passed resolutions to this effect even at the Sessions of the Indian National Congress. But when the same thing is done by other people we call it communalism. I submit there is ample room for doing justice to all. In Madras or Bombay where this principle has been practised, it has not led to any ruin of efficiency or to any very great danger or damage to the administration. If that is our experience, there is no reason why other provinces should not be wise also before the event and try and give sympathetic consideration to the other sections of the populations. The contention is on behalf of more than 85 per cent. of the population and so it cannot be called communal. If you do not want to name the communities, or castes, there are other devices by which you can do it. But I submit, this demand ought to be considered more sympathetically, and since we have adopted the basis of population for representation, the basis of population should also be followed so far as recruitment is concerned.

I have urged what I wished without specifying any community, without trying to go against any particular community. All that I want is that Parliament and the Legislatures should be free to see that there is a fair proportion of representation for all classes and communities in India. I had not specified that any single community should be given preference or priority—I want that there should be a fair distribution so that the unity and freedom of India will be real and genuine. It appears to me that the development in India has been lop-sided, one-sided. About 80 per cent. of the people take no part so far as, your cultural affairs are concerned, so far as, the civilized things of life are concerned. There is a black-out so far as they are concerned; an iron curtain between them and the rest; unless every community, especially the larger and more Popular communities advance equally and the advanced communities afford them opportunities for development, the advancement of India will be impossible. All that I demand is fairness and justice for the millions of people who are not in a position to come forward and compete with you, and in saying so I do not

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introduce any communalism, I do not introduce any discrimination. These things have, been tried, they worked well and there is no reason why they should not work well on a larger scale.

When my Friend Shri Lakshminarayan Sahu got up yesterday, there were evil forebodings in the shape of failure of electric lights. I think even Providence wants to give a warning against the passing of this article. The same thing happened when Dr. Ambedkar got up to speak. I hope that a little more care is taken, a little more wisdom expended on the final draft of these articles, and I hope my amendment—either No. 86 or 88 will be accepted. It will no harm to the structure of the Public Services Commission as envisaged by the .Drafting Committee. After all they had to say in clause 4:—

“(4) Nothing in clause (3) of this-article shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts are to be reserved in favour of any backward class of citizens in the Union or a State.”

All that I wish to add is because the “Backward classes” are likely to be defined in a very limited and restricted manner, it is not the claim of only the Scheduled Castes that they are backward, it is not the tribal people alone who should be considered backward; there are millions of others who are more backward than these and there is no rule nor any room so far as these classes are concerned. In those communities education is at a low ebb. In the whole of India there is 15 per cent. of literacy. If you analyse it you will find about half a dozen communities have got literacy to the extent of 90 per cent. and the others are illiterate to the extent of 98 per cent. There are communities whose populations may be millions but whose literacy standard may not go beyond 5 per cent.

There is no use trying to look at England or at America. I am surprised that my honourable Friend Shri Lakshminarayan Sahu, the great sponsor of the cause of the agriculturists, should come forward to propound a different view and not take these facts into consideration. (*An honourable Member : “Better fight for the education of the illiterates”*). The heavens are fighting for the education of illiterates. We know how precious little is being done so far as that is concerned. You cannot do that in a day. That method by itself would not do. You could have as well told that to the Scheduled Castes themselves that by and by they will be educated and by and by the advanced classes will come to their senses and untouchability will automatically disappear. So do not agitate do not demand anything. It will all come to you may be in a hundred years hence. “You need not ask for reservations.” I am afraid that advice cannot satisfy any one. We should know that the same demand, the same insistent demand is there and will be there whether you like it or not, and the more you want to prevent or suppress it the more insistent and irresistible it will become.

Sardar Hukum Singh : Sir, I am not moving my amendment No. 83.

Mr. Naziruddin Ahmad (West Bengal : Muslim): Sir, I beg to move:

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments, after the proviso to clause (3) of the proposed article 286, the following new proviso be added:—

‘Provided further that the Public Service Commission of the Union shall always be consulted where the service carries a maximum pay of Rs. 500/- per month and the State Public Service Commission shall always be consulted where the service carries a maximum pay of Rs. 250/-’ ”.

I also move the next amendment No. 85.

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments, clause (4) of the proposed article 285 be deleted.”

With regard to my first amendment for the addition of a new proviso to clause (3) of the proposed article 286, the first proviso to clause (3) provides that the President or the Governor or the Ruler as the case may be, may direct that on questions relating to certain classes of services “it shall not be necessary for the Public Service Commission to be consulted.” It gives the President, the Governor and the Ruler the discretion to decide what questions relating to particular kinds of services or what services shall be placed before the Public Service Commission and in such cases it would be optional on the part of these authorities to place these questions before the Public Service Commission.

My amendment tries to provide a limitation. The grant of unrestricted power by the first proviso to choose at the discretion—not of the President or the Governor or the Ruler, but at the discretion—of the Ministry for the time being in power, would be dangerous. The very object of a Public Service Commission is to provide the country with a competent and reliable machinery through examination and otherwise to select fit candidates without fear or favour. The very utility of the Public Service Commission is its independence, its aloofness from politics and its elevated status. It would be for the House to consider how far the President, Governor or Ruler should be allowed to exempt questions relating to particular services from being placed before the Public Service Commission.

There should, I submit, be some limitation. Had it merely been a question of the personal responsibility of the President or the Governor or the Ruler, things might have been different. A President or a Governor or a Ruler of a State will have no personal axe to grind and in that case things may have been left to his discretion. But the power which is attempted to be conferred upon these authorities by the existing proviso is to leave no discretion in them but to allow the Ministry functioning to use their sacred name to serve their own personal ends. We already know and it is freely given out that there is considerable amount of jobbery in giving appointments from the highest to the lowest quarters. Sometimes, the Public Service Commission is by-passed by giving anticipatory appointments—temporary appointments—and then there is an attempt to face the Service Commission with an accomplished fact saying that here was a candidate in an unhappy situation who had worked for some time and has obtained experience and so on and should on that account receive special consideration. There is a tendency—very natural tendency—on the part of Ministries both at the Centre and in the Provinces to by-pass even existing rules, and if we allow the Proviso to stand as it is, it will mean that a particular Ministry may think it necessary to exempt a particular class of Service from the jurisdiction of the Public Service Commission. That is, I submit, a sufficient justification for introducing some kind of Limitation. The qualification I seek to introduce through the new proviso is that where a service carries a maximum pay of Rs. 500 in the case of Union Services and a Service carrier a maximum pay of Rs. 250 in the case of State Services, it shall be compulsory on the part of the Central or the State authorities to submit the matter to the Public Service Commission.

I want to raise the question of limit as a principle and the limit which I have attempted to put of Rs. 500 and 250 is merely as a basis for a discussion. I am concerned first with the principle ; as to the actual limitation which may be accented by the House, I am not very much concerned. I have only suggested it as a starting point for the debate. I submit that the power to the President or the Governor or the Ruler to exempt some class of cases from the

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Jurisdiction of the Public Service Commission must be accepted on principle. The post of a peon or a petty clerk or a small post does not obviously require to be placed before the Public Service Commission.

So I have admitted two important principles—that there must be some cases where these authorities should have some discretion and that there must be some cases which must be taken out of the jurisdiction of these authorities from withholding them from the purview of the Public Service Commission. The principle which I want to establish by means of this new proviso would be that in certain classes of superior services, it would be compulsory on the part of these authorities to place these matters before the Public Service Commission. I invite a discussion as to the principle and then as to the actual pay or other limit to be laid down, that would be a matter for adjustment if the principle is accepted.

We hear of many scandals in the matter of appointments which show the need for extreme caution in this respect and for not allowing free scope to Ministries to restrict the scope of the Federal or State Public Service Commission. There has always been a tussle between the executive and the Public Service Commission. There has always been a desire to by-pass the Public Service Commission and the original proviso, if left untouched as it is, will increase the danger of the Public Service Commission being by-passed.

The next amendment which I have moved relates to clause (4) of article 286. This clause relates to appointments reserved for backward classes, in respect of which it says that the Public Service Commission need not be consulted. This again raises a very important question of principle. There is a doubt as to the exact import of clause (4). We are passing the Constitution in such a great hurry that it is impossible to give detailed and proper consideration, but I presume—as many honourable Members will do—that clause (4) seeks to take out of the jurisdiction of the Public Service Commission matters relating to appointments of the backward classes. I concede that backward classes require special treatment. No one would grudge that. The very fact that they are backward requires that their case should be treated with some amount of sympathy and statesmanship. In fact, the backward classes are backward educationally, morally, financially and in other respects.

Dr. P. S. Deshmukh : Morally they are better.

Mr. Naziruddin Ahmad : Yes. I stand corrected. Dr. Deshmukh's suggestion that they are morally better is certainly right. It was an unconscious error of mine which led to the statement. So I am thankful for the correction: Educationally and in other respects they are really backward. In this respect they require some amount of special treatment. The special treatment which I would suggest would be that with regard to those classes some minimum standard of efficiency should be laid down for a job, because we cannot demoralize the efficiency of the public services. Supposing there is a backward class candidate who has a minimum qualification needed for the job in hand and there is another class of candidate who has superior qualifications, in that case the backward class candidate may be accepted because he has to be protected and has the necessary minimum qualification. In this way the backward classes will have some protection.

But there is no reason why they should be totally excluded from the purview, of the Public Services Commission. The Commission may be given the choice of selecting backward class candidates from those possessing minimum qualifications to the exclusion of candidates of other classes possessing superior qualifications. In this way we can serve the backward classes and the Commission can ensure proper efficiency of candidates. So I suggest that their cases should go to the Commission for their recommendation but directions

should be given as to the sufficiency of certain qualifications for the service in question. So I see no justification for excluding these classes from the jurisdiction of the Commission.

Then, Sir, my honourable Friend Dr. Deshmukh's amendment seeking to replace "shall" by "may" will have serious consequences on the operation of article 286(3). In the context the word "shall" is very much better. For instance, clause (a) relates to methods of recruitment. This raises a question of principle and it is better that the executive must consult the Commission in deciding the method of recruitment though the executive may not be bound to accept their views. In this respect I think "shall" is a much better word.

Then, clause (b) refers to the principle to be followed in making appointments. This also is a question of principle on which the Commission should be consulted. Clause, (c) refers to disciplinary action. These cases, I submit, should be compulsorily placed before the Commission before taking any action. Sometimes clerks or officers incur the displeasure of higher officers and are sacked. These people will have their remedy in courts of law, for damages or reinstatement. But it is better that these cases should be compulsorily placed before the Commission, so that injustice may be redressed and it will also reduce the number of cases in court.

Sub-clauses (d) relates to the case where an officer sues or defends a suit relating to an act done or purporting to have been done in his official capacity and incurs costs. In such cases also the opinion of the Public Service Commission should be taken compulsorily. Then cases about pensions and other claims should also be compulsorily placed before the Commission. I therefore submit that we should have the word "shall" instead of "may" as that will ensure justice in all cases.

The other amendment of Dr. Deshmukh requiring fair representation of the different classes is one which deserves acceptance. In fact although distinctions between classes and communities have been done away with, there may be some remnants here and there and the decision of the Commission with regard to fair representation of different classes would be welcome and it would be above criticism. So this amendment, I submit, should be accepted.

With regard to article 288-A, unlike other hasty interpolations in the Constitution, this is very good. This provides for a report by the Public Service Commission to the President or the Governor or the Ruler about cases where their recommendation is not accepted or is disregarded. Cases are not rare where their recommendations are disregarded or appointments are made without reference to them. Parliament is unaware as to how things are shaping; and questions, if asked, are naturally disallowed on the ground that they go too much into administrative details. Article 286-A provides an automatic check upon action taken by the Government and appointments made without consultation with the Public Service Commission or in disregard of their recommendations. The report would be placed before Parliament for necessary action. I think this is a healthy step. Members of Parliament, as well as the public at large should judge in what cases the recommendations of the Commission were disregarded justly and in what cases unjustly and wantonly. I therefore support this new clause. With regard to the other articles we have to accept them because the Members have not the time or the opportunity of moving as fast as the Drafting Committee is moving.

With these few words I suggest that my amendment be fairly considered and not brushed aside with a remark by the Chairman of the Drafting Committee that he does not feel it necessary to reply. In the opening remarks the Chairman sometimes says that the articles are self-explanatory and in the end he says that he does not consider that any reply is called for. In the

[Mr. Naziruddin Ahmad]

midst of these remarks we do not know where we are. I ask the House to consider the amendments on their merits and reject those that are improper or unjust after full consideration.

With your permission, Sir, I shall move amendment No. 91 also, viz., “

That in amendment No. 16 of List I (Fifth Week) of Amendments to Amendments in the proposed article 287, for the words “or other body corporate” the words ‘or other body corporate not being a company within the meaning of the Indian Companies Act 1913, or banking companies within the meaning of the Banking Companies Act, 1949’ be substituted.”

Article 287 reads thus :

“An Act made by Parliament or, as the case may be, the Legislature of a State may provide for the exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also as respects the services of any local authority or other body corporate constituted by law or public institution.”

I submit that this article authorises a reference to a Public Service Commission of all matters of service relating to local authorities. It is a very necessary provision. The local authorities often appoint persons who are under qualified, for party or personal reasons. Reference of such cases to the Public Service Commission for their opinion would be very proper.

But I have objection to the inclusion of “other body corporate”. A body corporate is one like the Damodar Valley Corporation, or the Industrial Finance Corporation. They are semi-government authorities established by Government under the authorities of specific Acts. In such cases also, a reference to the Public Service Commission may be desirable. But there are other classes of body corporate such as public or private Limited Companies. They are private bodies though “bodies corporate”, and their affairs concern the shareholders. But, for the protection of the interests of the shareholders and the public at large some Government control is provided. With regard to the appointments that such concerns make for carrying on their affairs I think it would be improper to introduce the system of reference to the Public Service Commission. In business, efficiency is the sole test. It may be that a man who is not very literate may have high professional experience. I know of experts who work in coal mines and in steel and iron factories and other such undertakings who, by mere look can tell the quality of coal or the Percentage of iron or steel in a sample of iron ore. They are experts in their line and paid highly though not possessing the usual academic qualifications. If their cases are placed before the Public Service Commission they will be absolutely nowhere. They are not graduates of any university and, according to all accepted standards, they will be nowhere. In fact, the appointment of managers and managing agents or experts to look after the affairs of a business concern does not require any qualifications except experience and efficiency. They are known to their employees but cannot be ascertained or judged by the Public Service Commission. Reference of such cases to the Public Service Commission would create difficulties and deadlocks and lead to inefficiency and delay in the execution of the business of the company concerned. I should therefore think that ‘companies’ within the meaning of the Companies Act are corporate bodies, but I believe they are not intended to be governed by this article. I think their inclusion was not intended. But this will be the logical meaning of the words “or other body corporate” in the article. Public companies and banking companies would be certainly ‘body corporate’. But obviously they are not fit subjects to be brought within the jurisdiction of Public Service Commission. Therefore this limitation on the Commission would be desirable. If we introduce words which are needlessly comprehensive, without limiting their application, the result will be that in private business houses and concerns of that type State interference will be

intolerable and would lead to inefficiency. I therefore submit that this exception should be clearly provided in the Constitution.

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

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments at the end of the proposed article 286. The following new clause be added :—

- ‘(6) The Commission shall submit to the Legislature every year a report setting out all cases, the Government’s reasons in each case, and the Commission’s views thereon, where there is difference of opinion.’ ”

Sir, my amendment is very simple. Under the article as moved by my Friend, Dr. Ambedkar, it is not incumbent upon the President to consult the Commission on all matters. In certain matters, he has the prerogative to do what he likes, and then it is just possible that his views might run counter to the views of the Public Service Commission.

Mr. President : Mr. Sidhwa, does not 288-A cover your point ?

Shri R. K. Sidhwa : 285-A. simply says:

“It shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before each House of Parliament.”

This simply says that where the Government does not accept the recommendations of the Commission, it should be laid before Parliament. My amendment is that, in the event of the Commission not accepting the Government’s views, it should also be brought before Parliament, so that Parliament may have the view-points of both the Public Service Commission and the Government. What may happen is that sometimes the Government may feel that their views are correct and the Commission may not accept them. In other cases, the Commission might feel that the Government’s views are not correct. So there may be conflict. So I would like that the Houses of Parliament should be acquainted with the views of both sides, so that they may be in a position to judge whether the Government was in the right or the Commission was in the right.

Shri Raj Bahadur (United State of Matsya): Sir, the honourable Member is hardly intelligible to us, as he is literally facing the Chair.

Shri R. K. Sidhwa : I was saying that in some cases the Government might feel that they are in the right and the Commission might feel that they are in the right, and so it is but fair that Parliament should be acquainted with the views of both sides, so that Parliament may be in a position to know whether the Commission was right or the Government was right. Therefore the amendment that I have moved is an improvement on the amendment that has been moved by my honourable Friend, Dr. Ambedkar. We all certainly want the Commission to have a free hand in the matter of appointments and I would like to go further than what the article lays down. The proviso to clause (3) of article 286 says :

“Provided that the President as respects the All India Services and also as respect other services and posts in connection with the affairs of the Union, and the Governor or Ruler as the case may be as respects other services and posts in connection with the affairs of a ‘State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances. It shall not be necessary for a Public Service Commission to be consulted.”

Thus under this clause the President or the Ruler or the Governor may not consult the Public Service Commission in any matter and may frame rules which may be in conflict with the functions of the Public Service Commission.

[Shri R. K. Sidhwa]

While there is an article providing for that, it is very necessary that Parliament should know as to how the Public Service Commission is functioning, whether there has been any interference by the Government. At present, we hear of interference in the work of the Public Service Commission by the executive wherever they would like their favourites to be appointed. We know that now-a-days a member of the Ministry concerned sits with the Commission and some of the incumbents who are actually in service acting in their respective posts are being sent along with others who have applied through the public advertisement and are not selected. I do not say that they should not be preferred if they are competent and if they are better than those who have applied to the Public Service Commission through public advertisements. These are matters which we are experiencing today, and while I appreciate the improvement upon the present system brought about by these new articles. I do feel still that the Commission should not be fettered by any kind of administrative disability. The Commission should be free to decide what they think fit. But Parliament should be in a position to judge whether the Public Service Commission has decided matters independently, judiciously and impartially; and from that point of view there should not be any interference by the President the Ruler or the Governor which means the executive, since they have to act on advice tendered by their Ministries. Experience has shown that in this important matter of appointments, there has been favouritism in many cases. It is not anything new that I am saying. We must see to it that this favouritism does not continue and for that purpose we must see to it that rules are so framed that the least scope is allowed to the Commission to indulge in any kind of favouritism. That is why an improvement has been made in this article by the Drafting Committee, but I do feel that there is still some lacuna in this matter. Therefore my amendment seeks that, where the views of the Government and the Commission are at variance, the Parliament should hear both sides.

In view if the remarks made by me, I hope the Drafting Committee and particularly Dr. Ambedkar will consider my amendment favourably in the interests of the Parliament knowing both sides. I hope the Drafting Committee will accept my amendment.

Sardar Hukum Singh : Mr. President, Sir, I beg to move:

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments, after clause (4) of the proposed article 286, the following Explanation be added :—

‘Explanation.—Backward class of citizens would mean and include class or classes of citizens backward economically and educationally.’ ”

These words “backward classes” have been used in our Draft Constitution in the various articles that we have passed. Now, in clause (4) of this article 286, it is said that.

“Nothing in clause (3) of this article shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts are to be reserved in favour of any backward class of citizens in the Union or a State.”

I wholeheartedly support this clause. This is a very wholesome provision, but my difficulty is that the term “backward classes of citizens” is not defined anywhere in the whole Constitution. This phrase has been used in some places and, in my humble opinion, it does not convey any definite meaning. It is so loose and vague that it might be interpreted differently by different Governments or by different authorities. In article 10(3) it is stated :

“Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the State, are not adequately represented in the services under the State”.

The second phrase is found in article 37 and there the words used are different. It runs as follows :

“The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation.”

The Scheduled Castes and the scheduled tribes have been defined in the interpretation clause under article 303 but there is no definition of those backward classes. Here the words used are “weaker sections”. I feel some difficulty whether these weaker sections mean the same thing as backward classes, or these would have a different meaning so far as article 37 is concerned.

Then I wish to bring to the notice of the House the following:

“The State shall promote with special care the educational and economic interests of the weaker sections.”

Then we have passed another section namely article 301. There it is provided that :

“The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to.....”

Here also the Commission that is to be appointed shall investigate the conditions of socially and educationally backward classes. Here the word “economically” is absent. It is not provided as to who would decide who are the backward classes. I endorse the remarks of my honourable Friend, Dr. Deshmukh that there are regions in this vast country and there are classes of persons who are as backward as the Scheduled Castes and unless we provide for the, development of their interests and bring them forward along with the other sections, when they could compete with other sections of the community, they would remain backward and the country would not grow harmoniously. Therefore, I submitted yesterday. It is very essential that we should define here who would be the backward classes. This must be defined at some place at least. We can provide that the President shall have authority to appoint a Commission which would prepare a schedule, as there is one for the other Scheduled Castes and Scheduled tribes, or a special tribunal should be appointed or some officer deputed to go into the conditions of these citizens and then decide; otherwise if that is not done there would be difficulty and some persons might be suffering from Certain difficulties in a certain region; they might not be looked after as backward classes while persons in similar conditions might be given advantages and their development might be looked after in another region. Therefore, I have by this explanation only tried to give some kind of definition. It is not conclusive and it is not exhaustive; it does not say who the backward classes are but it only indicates that backward classes must include classes backward economically and educationally.

I have not included the word “socially” purposely because I thought perhaps most of the classes who were backward socially might be included in Scheduled Castes and scheduled tribes and even though some are left out, the object can be achieved by amendment of that schedule. Therefore, my purpose here is that it should be made clear that backward classes should mean and include all those persons and all those classes who are left behind and cannot keep pace with the other section of the community because they are economically and educationally backward in this respect. I request my honourable Friend, Dr. Ambedkar to remove this difficulty of mine whether a definition would be provided somewhere to define who would be the “backward classes” under this Constitution because this phrase has been used in so many places.

Shri Lakshminarayan Sahu : *[Mr. President, Sir, I beg to move:

“That in amendment No. 14 of List I (Fifth Week) of Amendments to Amendments for the proposed clause (3) of article 286. The following be substituted :—

‘(3) The Union Public Service Commission with regard to All India Service and also in regard to other services and posts in connection with the affairs of the Union, and the State Public Service Commission in regard to the State Services and also in regard to the services and posts in connection with affairs of the State shall be consulted in respect of all appointments, transfers and disciplinary, matter relating to these Services.’ ”

I have moved this amendment because so long as we do not make the Public Service Commission a very strong body we cannot run the administration of the province or of the country in a proper way. I know of a Director of Public Instruction who earned the displeasure of the Cabinet and the Prime Minister for transferring some Inspectors of Schools and he was pressed to call back those people. The D.P.I. was openly called but he said that they should not interfere in the matter. The result of it all was that the D.P.I. resigned and left his job.

I know of another case wherein efforts were made to remove a Civil Service man who was working efficiently in the province. The people made their own efforts and sent a telegram to the Governor to this effect that it would not be proper to transfer him. The transfer was stayed for two months but after that period he was removed.

Therefore in the circumstances, I can only plead for a very strong Public Service Commission so that such lapses may not occur. Dr. Deshmukh is a little displeased at this. He is in favour of such a provision as may not give great powers to the Public Service Commission. What more can be done ? I want that things should not find a place in the Constitution which can be done advantageously by means of rules. Therefore the real amendment should be moved. It includes the rules in an abridged form. I would like to say that so long as the Public Service Commission is not made a strong body there will always be something wrong, with the selection of candidates. We see what type of selection they have in the railways. Everywhere there is difficulty and everyone dislikes the system. I have nothing more to add in this connection. With these words I move this amendment.]

(Amendments 18 and 76 were not moved.)

Mr. President : I think these are all the amendments. The amendments and the articles are now open for discussion.

Shri H. V. Kamath (C.P. & Berar: General): Mr. President, I have noted with considerable satisfaction some of the changes that have been introduced in these various articles as compared with the draft as it originally stood. I should particularly like to point out the change which has been incorporated in clause (5) of article 286 as well as the change embodied in article 288-A.

However, certain thoughts arise in my mind in connection with these changes which have been introduced. Article 286, as it originally stood, provided,—I invite the attention of the House to clause (4) of the original article,—“Nothing in this article shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts are to be allocated as between the various communities in the Union or a State.” This has been suitably and wisely modified so as to refer only to the backward class of citizens and not to the various communities. In this view, I am sorry I am not able to agree with the proposition that has been adumbrated by my honourable Friend Dr. Deshmukh. Though it is difficult not to be in sympathy with the general view he has expressed, I feel, constitutionally there is a difficulty, in so far as the incorporation of that proposition in this article is concerned. The House

*[] Translation of Hindustani Speech.

will recollect, Dr. Deshmukh I am sure is well aware that this Assembly long ago adopted article 10 in the Chapter on Fundamental Rights, which provides, firstly, that there shall be equality of opportunity for all citizens in matters of employment under the State, secondly that no citizen shall on grounds only of religion, race-, caste, sex, descent, place of birth or any of them, be ineligible for any office-under the State. The only exception to this provision, is what we have already adopted, "Nothing in this article shall prevent the State....."

Dr. P. S. Deshmukh : What I have suggested would be the right fulfilment of these fundamental rights; it would be in no way contradictory.

Shri H. V. Kamath : I am sorry Dr. Deshmukh did not hear all I had to say and choose to interrupt before I concluded my say in the matter. I was pointing to clause (3) of article 10 which lays down that nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens, but not for *any community*. The class referred to explicitly in this Clause (3) of article 10 which is an exception to the general rule propounded, is any backward class of citizens. Now, if Dr. Deshmukh seeks to include not merely these backward classes of citizens—I for one hate this very term "backward class"; it connotes a stigma which I hope we, in this country, will do away with at the earliest possible opportunity; I hope that are long no class of citizens will be called backward in our country.

Dr. P. S. Deshmukh : It is only descriptive.

Shri H. V. Kamath : I do hope that all citizens will be equally backward or equally forward and there would not be any particular class of citizens to be dubbed as backward.

Chaudhri Ranbir Singh (East Punjab: General) This is not so today.

Shri H. V. Kamath : I say in the future. I hope Chaudhri Ranbir Singh listens to me patiently and makes his remarks when the time comes. I do not mind interruptions; but I hope he will hear me first and then make any interruption.

Now, Dr. Deshmukh suggests that we should incorporate in this article 286 amendment No. 86, adding "or for the purpose of bringing about a just and fair representation, of all classes in Public Services of the Union or a State," and his amendment No. 88, adding, "nothing in clause (3) of this article shall require a Public Service Commission to be consulted as respects the manner in which appointments are made and posts reserved for purpose of giving representation to various classes according to their numbers in the Union or a State. Unfortunately, this provision if accepted by the House, will militate against what the House has already adopted in article 10 providing for reservation only to backward classes. I wish article 10 had been adopted in a different manner, but article 10 having been adopted already in the form in which it was adopted, it is too late now, unless that is revised so to make a provision in this fashion, firstly to give representation to all classes as well as the second one; otherwise it will conflict with article 10 (1) (2) and (3) which we already adopted. I for one would not mind even weightage being given to those people who are really backward for the transitional period, but a constitutional provision of this nature in this article would militate against the article which we have already adopted. It can be safely left to be regulated by Parliament. I am sure the future Parliament in this country will deal fairly and squarely with all communities, and there should be no difficulty about leaving the matter of making provision in this, regard to the future Parliament.

I should however like to say that the draft of the articles that have been brought before the House by Dr. Ambedkar seems to my mind to be far too

[Shri H. V. Kamath]

ponderous, like the ponderous tomes of a law manual. A document dealing with a Constitution hardly uses so much padding and so much of verbiage. I have this morning received a copy of the Bonn Constitution, the latest Constitution, of Western Germany adopted in 1949 and this is a little pamphlet of 52 pages containing 146 articles. Compared to this our Constitution is three times as big—perhaps four times,—and packed and crammed with matter a good deal of which could have been easily left out. For instance, in 288 itself so much has been packed, God alone knows why. Could we not have said ‘All recommendations or proposals made by the Public Services Commission shall be given effect to except for reasons, stated by the President or Governor’? That one sentence would have been adequate to our purpose.

All this verbiage reflects the mind of lawyers who have spent most of their lives in arguing and bandying words with each other in Courts and does not reflect the spirit of a people, the fighting spirit of a people who have been through the fire and steel of the freedom struggle, and who have solemnly assembled to infuse our Constitution with life and light. Unfortunately our Drafting Committee has been weighted with men who have led a sheltered existence, who have been hardly touched by the effulgent light of a deathless ideal and who have spent most of their lives in the service of Government. Perhaps it is difficult for them to compose a document which should be, to my mind, not a law manual, but a sociopolitical document, a vibrating, pulsating and a life-giving document. But to our misfortune that was not to be, and we have been burdened with so much of words, words and words which could have been very easily eliminated.

There is one other point viz., that clause (5) requires,—correctly too,—that all regulations made by the President or Governor under clause (3) should be laid before Parliament. In this connection I may remind the House what the Drafting Committee failed to do in another connection; that was with regard to article, 280 in which it was provided that the regulations, rules, decrees made by the President would be laid before Parliament but the vital part of this clause (5) that they shall be subject to such modification whether by way of repeal or amendment as Parliament would deem necessary—that was completely omitted in the Draft of that article which was passed. That was a vital matter compared to this, affecting as it did the lives and liberties of millions of men and women in this country. This refers only to a few thousand persons in the services. It gives us an insight into the mind of the Drafting Committee, in that the lives and liberties of millions of men and women are a mere trifle compared to the rights of a few thousands of servants. That is the way in which this Constitution is being drafted. Regulations dealing with the Fundamental Rights of millions do not come before Parliament for repeal or alteration, but mere rules as regards public services do. I am sorry for this state of affairs.

Further, I feel that as for the subject matter in clause (4) of this article, the Public Service Commission might be consulted as regards the reservation of appointments and posts for backward citizens. When posts are reserved for a particular class, of course I am not sure whether there would be weightage in the services for these, classes—if there is, well and good—but if there is reservation on some basis either of population or some other, then the number is first fixed—so much for this class, so much for that etc.

Now, Sir, suppose the President takes it into his head that so many posts should be filled by nomination. There should be a certain proportion for nomination, as it used to be, for instance in the case of the I.C.S. in the olden

days, that so many posts will be filled by nomination and so many by open-competition. Here also the President will have to decide what proportion will be recruited by nomination and what proportion by open competition. 'Unless, this number is decided, it will be difficult for the, President to finally fix the relation between nomination and competition therefore in that connection he will have to consult the Public Service Commission, and there is nothing wrong, or derogatory to the dignity of the President, if he thus consults the Commission as to the number of posts which have to be reserved. Considering the importance that we have attached to the Commissions in our Constitution, it would have been better that the Commission should be consulted about this matter also, besides the matters mentioned in clause (3) of article 286.

Then, finally a few words about the point set forth in article 285-A. I hope Sir, that this article before us, although the Constitution has not yet come into force and I do not know when it will come into force, but I hope that this article, if it is passed by the House today, in future, even therefore the Constitution comes into force, even before the Constitution is enforced or given effect to in January or February next, that even during the interregnum also, I hope appointments will be made accordingly, that the recommendations of the federal services Commission here or the other Commission will be given that weight and that consideration by the Government which they deserve and that they will not be set at naught or disregarded or slighted without adequate reasons being given. My Friend, Mr. Sidhva or Mr. Naziruddin Ahmad, I think, has pointed out that on many occasions the recommendations, the proposals of the Federal Public Service Commission have been by-passed and disregarded. I am also aware and even high-placed officials have told me, officials of the Government of India have also told me, that because of this indifference to the recommendations, because of this sort of callousness on the part of the Government towards the recommendations made by the Commissions, these Commissions themselves are falling into disrepute. That is not the testimony of any non-official or a man in the street, but that is what I have heard from some of the highest officials under the Government of India. The Commissions make recommendations and the Ministers snap their fingers at them and make their own appointments. That is why I warn this House, that these Commissioners do not command the respect which they should. And another point is because of this, there is ministerial nepotism and favouritism. Some of the Ministers have become rank depots. This sort of thing must be put an end to. Otherwise this is bound to lead to demoralisation in the services, because the services will think, well, our ability and our integrity and our efficiency are of no avail. They do not matter, so long as we are not *persona grata*, so long we do not have the necessary pull with the Minister so long as we are not in the good books of the Ministers. Well, if that be the feeling, then woe betide this country when the services have this kind of mentality, when they are affected by this kind of mentality.

Finally, as I have said, the vision of the Drafting Committee has been clouded, and their judgment warped by mere legalistic considerations, but in spite of that, they have produced an article which though very wordy, I consider is sound. I hope that our government, and our State, will have regard for this article not merely in the letter, but also in the spirit which is so very sadly lacking today.

Shri Phool Singh : (United Provinces : General) : Mr. President, Sir, I rise to give my support my 'whole hearted support to the two amendments moved by Dr. Deshmukh. The other point of view expressed in this House is for giving greater powers to the Public- Service Commission, and the opponents hold that efficiency and merit should be the only tests in recruitments. It is not a fight for a few loaves and fishes for those who are ultimately to be appointed to these posts. Self-Government, means government of the people, and if the legislatures

[Shri Phool Singh]

are to be manned by the toiling masses, to make good laws, the execution of these good laws depends upon the services, and hence the importance of the services. Much has been made of merit in this case; but equal merit pre-supposes equal opportunity, and I think it goes without saying that the toiling masses are denied all those opportunities which a few literate people, living in big cities enjoy. To ask the people from the villages to compete with those city people is asking a man on bicycle to compete with another on a motorcycle, which in itself is absurd. Then again, merit should also have some reference to the task to be discharged. Mr. Tyagi interrupted Dr. Deshmukh by saying that it is a fight for the illiterates. I think, however sarcastic that remark may be, he was probably right. Self-Government means a government by the people, and if the people are illiterate, a few leaders, have no right to usurp all the power to themselves. This cry, this bogey of merit and fair-play is being raised by those who are in an advantageous position and who stand to suffer if others also come into the picture.

Sir, I can quote numerous instances where a mess has been made by those who claim to be efficient enough. To give an example. The U.P. Government legislated that petty proprietors should not transfer their land without the permission of the court. Now it depended upon the court. If the Magistrate happened to be a man who came from a poor family he was very conscientious and would not permit the transfer. But in the case of those who are either themselves money-lenders or big capitalists, or who had nothing to do with the masses, it only meant the expenditure of a few more rupees to be given to the Peshkar. I can give another instance. In the U.P. as late as last year, one very big official got the canal stopped at the time when the harvest was about to ripen. This resulted in the loss of many lakhs maunds of good rice. 'This is what happens if you appoint people who can compete in examinations, but who have nothing to do with the task in hand, who know nothing about the task that is going to be allotted to them. Sir, efficiency, I say should have something to do with the task that the man is called upon to discharge.

A few years back I complained that all the commodities that the grower had to sell are being controlled, whereas he is offered no facility whatsoever in the production of food grains. I quoted the example of cane-crushers. Cane crushers could be had at Rs. 20 before the war. During the war its hire went up to Rs. 250 though everything else was being controlled. My complaint went up to the Government and then to the Secretariat. It was, I may tell you, the month of October, and everybody in this House knows that the crushing season does not start before November. The Secretariat reported that all the canecrushers had already been let out. There were no cane-crushers left to be hired. This will always happen when you man the services with people who do not know their jobs.

It is not a question of competition. If you want to run the country, properly, if the administration is to be efficient as my friends want it to be, then you must have people in the job who know something about the job and who come from the masses. Otherwise the administration will lose touch with the masses. That is why in almost all the countries of the world fresh blood is being recruited to services constantly and a judge's son does not necessarily become a judge or the deputy collector's son does not necessarily become a deputy collector. The practice should be that those, who have been in the services for a long time-should be asked to go and settle in the village while men from the villages should be called to run the administration because they alone know the difficulties of the masses they alone can feel for the masses and they alone can interpret their sentiments.

If I may be permitted to refer to the clauses moved by Dr. Ambedkar, they give all the powers to the Public Services Commission and make the Government defunct to that extent. I do not know what is the difference in those, few persons who have been appointed by the highest Government, officials as compared to those few persons who have been elected by the whole country and who have a record of service behind them. If the Prime Minister can make mistakes, I think the Public Services Commission can commit greater mistakes. I can quote numerous instances in which the Public Services Commission has gone astray and in which the integrity of the Public Services Commission can be questioned. If the whole country cannot be trusted, if the whole record of service of a man is not enough to authorise him to make appointments, I am sure the appointments to the Public Services Commission of a few people will not serve the purpose. With these few words I support the amendments moved by Dr. Deshmukh.

Kaka Bhagwant Roy (Patiala and East Punjab States, Union) : *[Mr. President, Sir, I am here to support the amendment of my Friend Mr. Sahu, I fail to understand, when Public Service Commissions will operate in the States and Unions, why the vacancies to be filled should not be under their control. Often, it has been seen that the vacancies which are to be filled by nominations are not filled on the consideration of merit. I have had experience of Indian States. The vacancies are filled there either by the relatives or friends or by those who flatter the government. Hence I am afraid lest the same may happen hereafter as well. Recently it has been heard, and I suppose it is a matter of two or three months, that some vacancies of I.A.S. were to be filled. Though a board was constituted for the same still some of the vacancies were filled by those who did not come under its jurisdiction. For this the reason given was that since the vacancies were filled in a hurry hence it was unavoidable. But later on it was revealed that they were either relatives or friends of the officers, therefore, I want to emphasise that, since you are appointing Commissions and entrusting them with powers, such things should not happen there. The things that are happening these days bring a bad name to the Government and to the Congress. High Officers and responsible people are recruiting undeserving candidates who are not fit enough, with the result that the prestige of the Congress is suffering tremendously in the country and abroad. It is right that you are giving powers to Public Service Commission to fill the vacancies by deserving hands, but it will be ruinous for you to give this authority to anybody other than this. It is better for recruiting capable people, but it will not be better if you would like to give this authority to any body else besides this body. I would ask you to accept Mr. Sahu's suggestion that the limit of two hundred and fifty or five hundred rupees be placed; you would be at liberty to increase or decrease the figure. By doing so their hands will be bound and they would not be able to do what they desire.

So far as Mr. Naziruddin's amendment is concerned in article 287, I support it. If the Public Service Commission will meddle in the affairs of private firms and companies, then their working will be set at naught. I think that perhaps the Public Service Commissions will not be able to understand the difficulties of their business and their daily routine. Their interference will hinder their business and difficulties will arise in the business. Therefore I would request that this amendment should be accepted].

Shri Brajeshwar Prasad (Bihar : General) : Sir, I rise to support all the articles that have been moved by the Chairman of the Drafting Committee, while doing so. I would like to point out certain aspects of the provisions that are going to be incorporated with which I am not in full agreement.

The powers of the Public Services Commissions are going to be of an advisory character. They are going to be bodies which will recommend to the

*[] Translation of Hindustani Speech.

[Shri Brajeshwar Prasad]

Ministries concerned, Ministries of the Government of India and of the Provincial Governments. Their recommendations may be accepted or may not be accepted. I want that the powers of the Public Services Commissions must be of a mandatory character. All matters relating to appointment, promotion and transfer must be solely and exclusively vested in the hands of the Public Service Commissions. The Ministries should have nothing to do with these things. I am referring here not only to Provincial Ministers but also to the Central Ministers. In England powers have been vested in the hands of the Whitley Councils. I would like honourable Members of this House to know that half of the Members of the Whitley Commission are appointed by the Services themselves. In Canada, Australia and South Africa, in all the Dominions, appointments, promotions and transfers lie exclusively in the hands of the Public Service Commissions. I want that the same procedure should be incorporated in our Constitution.

I am not going to repeat the argument that there has been corruption, inefficiency and nepotism in the Provincial Governments regarding appointments, promotions and transfers. There is another reason why I am very keen about it. I want that the basic foundations of our Civil Service must be laid on a sound basis. It is not only a question which affects the life of a handful of persons as has been made out by Mr. Kamath. It is the backbone of the administration. If your Civil Services are not efficient, if they are not independent, then every thing will go down. I am of opinion that the future of India lies not in the hands of parliamentary politicians but in the hands of the civil services. I am of opinion that with a view to secure the independence of the Public Service Commission, the principle ought to be incorporated that a person belonging to any political party should not be recruited to the public services. I would have gone one step further and suggested that a person belonging to any political party should not be allowed to become a member of the Public Service Commission itself. But now those articles have been passed. Therefore, the only course left open to me is to suggest that a member of any political party should not be allowed to be recruited to the services.

Today the position is that the Public Service Commissions have got no control over the services after their appointment. They are not free or competent to protect them from political and other influences. I want that the future Public Service Commissions of India should be in apposition to protect civil servants not only from the influence of Ministers but from ,ill kind-, of political influences. An eminent writer has compared the Indian Civil Service with Plato's Philosopher Kings. I also want our civil services to be above board and enlightened. I feel that not only regarding appointment, promotion and transfer, but also regarding all matters concerning discipline power should remain in the hands of the Public Service Commission. I fail to see why, this procedure which bag not led to any conflict or confusion of authority in the Dominions and in England, should not be incorporated in our Constitution. When the ideal is easily within our grasp. I think it is not right or proper to choose the second best. The Drafting Committee ought to have laid before the House what they considered to be the right course on this question. It is for the House to make compromises. Political considerations ought not to have been allowed to enter into the drafting of these clauses.

With these observations, I support the articles.

Prof. Yashwant Rai (East Punjab : General) : *[Mr. President, Sir, I have come here to support the amendments moved by Dr. Deshmukh.

*[] Translation of Hindustani Speech.

After two thousand years the Harijans of this country had begun to entertain the hope that they too would get the same rights as others did. In spite of the fact that twelve to seventeen per cent. of posts have been reserved for us in the services, injustice is done even now.

It was as the result of Dr. Ambedkar's efforts that some students were sent to foreign countries and the Central Government spent a lot of money on them. Such examples as I am going to state prove that injustice is being done even now. A Harijan young man who has come back after obtaining the degree of M.A., M.Ed. was getting a salary of Rs. 180 per month before going abroad, but I regret to say that on his return no Public Service Commission selected him for any better job, and he is even now rotting on a salary of Rs. 220 per month only, although on this student alone the Central Government spent an amount of forty thousand rupees.

In the circumstances, I cannot believe that the Federal Public Service Commission or other Commissions will not do injustice in the case of Harijans. I believe that there will certainly be injustice in their case. We see that in the subordinate services the principle of providing friends and relatives alone is followed. Recommendations are made for relations. I have seen that even the Ministers speak to the Members on the phone in regard to their candidates and secure interviews for them. In the circumstances, I think that until some special provision is made under this clause, there will always be injustice in the case of Harijans and backward communities. I want to impress that there should be some representatives of the Harijans on the Federal Public Service Commission and the commissions which are formed in the States and provinces so that they may watch over the interests of the candidates who apply for different posts and who may prevent any injustice being done to Harijans.

After thousands of years the Harijans for the first time under the leadership of Mahatma Gandhi and thanks to Swami Dayanand felt encouraged to take to education and they began to hope that untouchability would be eradicated from society and that they would enjoy equal rights with others. If we want to achieve these objects and to form a classless society, we should include a provision to that effect in the Constitution. Mr. Kamath has said that in article 10 of the Fundamental Rights it has been stated that there shall be equality of opportunity for all irrespective of caste, creed and colour. We see that untouchability has been abolished under the clause regarding untouchability. But this has had no effect in the rural areas. You can find for yourselves that in the rural areas 85 per cent. of the people, who will have to follow this Constitution, are, uneducated.

Therefore, if you want to give equal status to those communities which are backward and depressed and on whom injustice has been perpetrated for thousands of years and if you want to establish Indian unity, so that the country may progress and so that many parties in the country may not mislead the poor, I would say that there should be a provision in the Constitution under which the educated Harijans may be provided with employment. I have examples of high caste matriculates holding the same posts as Harijan M.A.'s. Therefore in the circumstances as demand for the representatives of Harijans in the Public Service Commissions and for a special provision for them is not an unreasonable one.

Therefore, I support the amendments moved by Dr. Deshmukh.]

Shri S. Nagappa (Madras : General): Mr. President, I support article 286. In doing so, I just want to bring to the notice of the House certain points which

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are very important. Among the functions of the Public Service Commission there is also a clause : "To conduct examinations." When I think of these examinations, I wonder. The results are always topsy-turvy. For instance, if a First Class M.A. appears before a Service Commission, the First Class becomes Third Class and the Third Class man becomes First Class. At times the way, in which people are examined—anything that can be said will not be an exaggeration. The questions are so silly that I think sometimes even the questioner does not know what the answer is. For instance, they may ask : "what is the distance between sun and the moon ?"; "what is the number of stars in the sky ?"; "why is milk white" and such like questions. And another thing, Physical disqualifications. "Your nose seems to be very straight. Your fingers seem to be longer than what is expected." These are the grounds on which these people are disqualified. "Oh, you do not know how to tie a tie or wear a collar. You do not know how to put on boots". These are the things on which our candidates are examined. Sir, I would prefer to have a curriculum prescribed and text-books laid down for these people. There should not only be an oral examination, but some sort of written examination also.

As regards the Scheduled Caste candidates I cannot describe the miseries which they have to undergo at these examinations for selection. But after all these troubles and miseries do they get selected ? No, because the, intention is to by-pass them and give those places reserved for the Scheduled class people to the candidates belonging to the community next in the list. In order to favour their people they have their own methods, back-door or open door. The services form an essential part of the machinery of administration. Therefore the services are the bones of contention between different classes of people in the country. Everyone should therefore have equal opportunity. It is no use merely defining or adopting any article in the Constitution. We have to see that every letter and every word in the Constitution is translated in action in the true spirit with which it has been drafted. Only then all that we do here will be justified and will be equitable.

Injustice of this kind done constantly and continuously to these poor, downtrodden people, it not because people have no sympathy for these people, but unfortunately it is all lip-sympathy which they show to the fullest extent possible. It does not go to the material side of it. So, Sir, all this injustice is done. The main reason is that there is not a single member of the Scheduled classes in any of the Provincial Public Service Commissions or in the Federal Public Service Commission. May I ask why this injustice has been done ? Is it because candidates are not available from this community ? I can give you dozens and dozens of persons possessing higher qualifications and having higher status than the present Members of these Commissions. What is the character and what is the conduct of the existing members ? Ceaser's wife must be above suspicion, but I am sorry to say that the present Commissions are not above suspicion. They have their own back door methods. They have their own ways. Well, Sir, people holding Cabinet rank go to the extent of ringing up these Commission Members and, ascertaining who the candidates for a particular posts are, see that their own candidates are preferred, irrespective of whether the most suitable person is a Harijan or a non-Harijan. This is how things are taking place. Such thinkings were going on when we had foreign masters. But now everyone should realise and should feel that he is in a free country and that freedom is common to all, whether a Harijan or non-Harijan, whether he is rich man or a poor man. Only then will we deserve this independence.

Mr. President : I have heard many Members making complaints against the Ministers.....

Shri S. Nagappa : Now I will go to the next point, Sir.

Mr. President : I have heard many members making complaints against Ministers, against members of the Public Service Commissions and against other authorities who are not present in this House to defend themselves. I would only point out that it is not fair to make sweeping charges against persons charged with public duties. I hope honourable Members will bear this in mind. The public will of course take such statements as one-sided statements made by individual Members.

Shri S. Nagappa : Thank you very much. I bow to your ruling. I will not touch them even with a pair of tongs.

I will now give a description of the back door methods employed. If the executive want to make to some thirty or forty appointments, they say that there is an emergency and cannot wait for selection by the Public Service Commission, and then make the appointments. After an year or so they ask the Service Commission to advertise for these very posts. Now, along with the raw graduates from the colleges, these people who have one year's office experience also apply and naturally they get selected. This is the sort of back door method going on in every province. I cannot say about other provinces. But this is what is going on in my own province of Madras. Hundreds of appointments are made in this way.

Mr. President : This is exactly the thing to which I objected. I would ask the honourable Member to ventilate his grievances in this respect in the proper place. Here he has to confine himself to the article under discussion which relates to the Public Service Commission and not to appointments which have been made or are likely to be made by any Ministry.

Shri S. Nagappa : Now, Sir, as regards its functions I would request the House to make the Service Commission more efficient. They interview the candidates today and inform them about the results months hence. They must be more efficient. They must move quickly. They can have more staff if they want.

I am very much thankful to the Honourable Dr. Ambedkar and the Drafting Committee for bringing in this particular provision, *viz.*, "appointments and posts are to be reserved in favour of any backward class of citizens in the Union or a State". Now, as my Friend Mr. Kamath has pointed out, what is the basis of the reservation? Whether it is population or some other basis must be prescribed. I would prefer, in order to be just and equitable, that the reservation should be on population basis.

Another thing is that "backward classes" include so many classes. I would request Dr. Ambedkar to state clearly who all come under this category. I think he has in mind Scheduled Castes, Scheduled Tribes and other backward classes. If there are any others I would request him to explain now.

From this clause I see that certain categories of jobs are excluded. While it may be necessary from the point of view of the administration to so exclude them, the executive must bear in mind that in the clause there is reservation for the backward classes and that the spirit of this clause must be translated in action by the executive and a certain proportion of such posts also is given to the backward classes.

I am glad that there is another provision by which these things are to be brought before Parliament for scrutiny. But what is, the good of it ? These things will be coming before Parliament after the action has been taken. This

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is not a preventive method. Parliament will have an opportunity only to scrutinise what has taken place. I would request the Members of this House to support this clause as it is and I would request my honourable Friend, Dr. Ambedkar, to be good enough to explain as to what “backward classes” mean, who are the people who come under that category. I would request him to be good enough to explain this.

Shri Raj Bahadur : Mr. President Sir, the discussion on this article has brought into the forefront certain vital question of principle as well as of national policy. It appears to me that clause (4) of article 286 is only a painful reminder to us of the cancer from which our body-politic has suffered for such a long time—I mean to refer to the curse of caste system. The amendments Nos. 86 and 87 moved by my Friends, Dr. Deshmukh and Sardar Hukam Singh, are also pointers in the same direction. It has to be recognised without any hesitation that there has been injustice and inequity in the distribution of jobs and services amongst the different classes and castes in our country. As I submitted the other day, there has been a certain amount of favouritism and nepotism on the part of those who happened to be in power. But apart from that certain psychological conditions and traditions that have prevailed throughout our history are also responsible for this alleged injustice.

Nevertheless I would submit, Sir, that we should rather go to the root of the evil. The remedy for the evil does not lie in providing a few jobs or posts in services of the State to persons living in rural areas or to persons living in urban areas. The remedy perhaps lies elsewhere. We can, however, trace the cause of these injustices or inequities to the evil of caste system, the evil that was responsible for our prolonged slavery, the evil that has resulted in our degeneration morally and politically, the evil that has resulted in creating so many watertight compartments, the evil that has created other evils like untouchability etc. It is only a symptom of that evil that all communities are not represented in the services in an equitable or just manner. To ask for representation, however, on class or caste basis in the services is to remedy that disease only superficially. But we have got to cure the disease from its very roots.

I would submit, Sir, that if we want the best sort of Government in our country, then we must have the best men possible to man our services,—the best men available, the most deserving and the most honest men that we can lay our hands upon. We cannot gamble with our freedom. We cannot afford to gamble with the peace, progress and tranquility of our nation, by simply trying to provide jobs for a few persons belonging to certain classes either in the urban or in the rural areas.

My main objection to the amendment proposed by Dr. Deshmukh does not therefore, proceed from any lack of sympathy for the injustice—which I recognise from which certain classes of people have been suffering from. My objection is based on the ground that the proposed amendments obviously seek to perpetuate the evil from which we have been suffering and which we want to eradicate. The amendments clearly recognise representation on the basis of castes and classes in the services of the State. It is high time that we do away with such representations. It is high time that we recognise that our safety, the safety of our freedom, the safety of our country lies in our unification, in making our nation a homogeneous whole. I would submit that if, for the sake of argument, we recognise the principle that appointments should be made on the basis of castes and classes, let us think where it would lead us. It is obvious that in that case we would shift the centre and focus of our loyalty and allegiance. It would shift from that to the nation as a whole, to loyalty and allegiance to the interests of a group or a class or caste. Our allegiance to the nation would

become only secondary. Our primary allegiance would be to class or caste. This is an evil from which we have suffered so long, an evil that led to the partition of the country. This would also kill all incentive for progress. If you say that representation in the services should be on the basis of caste or class, then you remove all incentives to self-development. All incentive for efficiency will be lost.

Dr. P. S. Deshmukh : I did not say that representation should be on the basis of caste or class.

Shri Raj Bahadur : Your amendment says:

“or for the purpose of bringing about a just and fair representation of all classes in Public Services of the Union or a State.”

There you recognise the principle of representation in the services on the basis of class. If you do that, all incentive to progress, all incentive to efficiency, goes. When this incentive to progress and efficiency goes, the whole nation degenerates. In such a case we would also remain infected with the evil of separatism and with the evil of group or class prejudices.

I would submit, Sir, that this evil would go even further than that and would permeate into all aspects of our national life. Elections would then be fought not on the basis of loyalty or service to the nation, not on the basis of the will and capacity for sacrifice for the cause of the nation, but on the basis of class loyalty. Can we afford to do that ? I respectfully submit that we cannot. We have had enough of it, and it is time that we try to remove all class or caste distinctions. My honourable Friend Shri Phool Singh, while supporting Dr. Deshmukh's amendment, quoted instances where people got into jobs for which they were not fit. I submit that in quoting those instances he went against his own viewpoint. That only shows that people have been appointed on consideration other than merit. To say that the people of the urban areas alone are good or the people of the rural areas alone are good is not correct. We find good and bad people everywhere. We find efficient and inefficient people in all classes and in every walk of life. To brand one as entirely good and another as entirely bad is not wisdom. On the other hand it is sheer non-sense in my opinion. No man is entirely good or bad. One of our famous poets has said :

In man whom men condemn as ill,
I find so much of goodness still,
In man whom men proclaim divine,
I find so much of sin and blot,
That I hesitate to draw a line,
Between the two where God has not.

We are all mixtures of good and evil. We are all mixtures of efficiency and inefficiency, of perfection and imperfection. God alone is perfect. Hence we should better do away with all sorts of class prejudices and caste loyalties. That is the only way in which we can strengthen our nation.

We are responsible not only to the present generation but also to posterity, the coming generations. If we try to perpetuate class distinctions, the evil from which we have been suffering so long, I think we would not be acting faithfully to our posterity. As such I find myself in total disagreement with the principles underlying the amendments moved by my honourable Friend, Dr. Deshmukh.

[Shri Raj Bahadur]

I want to add one word more, Sir, about certain remarks that have fallen about the discriminations and handicaps which are being experienced by the rural communities and by the Scheduled Castes. I have already submitted, that we have got to recognize that these inequities do exist, but I submit that they are simply symptoms of the disease and if we want to do away with these inequities or injustices, we must not try or proceed to cure, those symptoms of the disease, we must try to get to the disease itself, we must try to go to the root of the evil and kill the evil itself, instead of simply fumbling our way here or there for superficial remedies. I would submit that these jobs, services, posts and seats in the Legislature have always served as “apples of discord” for our nation. We must beware of that apple of discord. We must try to make this country into one compact and strong unified nation. We must try to see that fissiparous tendencies and all sorts of causes which are responsible for our disunity must be eliminated. I would therefore request Dr. Deshmukh and Sardar Hukum Singh to withdraw their amendments.

So far as Sardar Hukum Singh’s amendment is concerned, I submit Sir, that to me it appears that this amendment defeats the very purpose with which it has been moved. His amendment reads : “Backward class of citizens would mean and include class or classes of citizens backward economically and educationally.” “Backward classes” may mean anything, backward educationally, economically, socially or otherwise. Why try to specify or restrict its meaning here ? I think in its present form it is a much wider term and should be left as it is. I submit that it is time that we should try to eliminate all sorts of class distinctions and class prejudices. The real remedy to my mind is that we should try to strike at the very root and at the very foundation of this caste system. We should try to exterminate it as early as practicable, by an effective pieces of legislation so that no class distinctions, discriminations, or caste or communities are recognised any further in any form, and further make it compulsory that a person born in One particular so-called caste shall not marry himself or his sons or daughters in that particular caste. It should be made penal for him to marry in his own so-called caste. For the present this appears to me to be the only remedy. By enacting a piece of legislation alone we can do away with this evil of caste system. The evil cannot be eradicated by superficial remedies.

Shri M. Ananthasayanam Ayyanagar (Madras: General): Sir, a healthy efficient and honest public service is the very backbone of a Government or it, administration. Therefore if we scan this clause a little carefully it will pay us very well.

I believe that whatever complaints have been placed before us regarding the administration of this service here and the manner in which Public Service Commissions have been acting, all those loop-holes are sought to be plugged by the various amendments that have been made in the present Section 266 of the Government of India Act. Mr. Nagappa said—I do not agree with him—that the President Public Service Commissions, whether at the Centre or in the Provinces, are so bad as would like to depict. No Public Service Commission or State Commission can do ample justice or absolute justice to one or two applicants. Whosoever’s application is not accepted, certainly he turns against the Public Service Commission, forgetting that he is one of many and that he could have stood the test prescribed by them. There may be hardships, may be some cases where hardship has really occurred, which the persons who undergo that hardship might not deserve. Therefore it is no good quarrelling with individuals. It is true that proper men should be selected even for these public services! provisions regarding the staff and other matters have already been made. We are now at this stage of laying down the functions, of seeing to it that those functions are discharged properly.

Now as regards the qualifications and the manner of appointment, it has been left to the President in the one case and the Governor or the Ruler of a State in the other case; but in all these cases they will act only on the advice of their Ministers. Popular Governments will be there, but once they appoint, they will have nothing more to do in the regulation or in the conduct of the members of the Public Service Commissions. They are absolutely free and their freedom cannot be interfered with by the executive from time to time. That is the guarantee. Even for their removal, we have got other procedure and they could not be arbitrarily interfered with. This will no doubt be prescribed by the President or Parliament in the earlier clauses that we have passed, steps havily been taken to ensure that great integrity and honesty prevails in the matter of administration of these Public Service Commissions.

Now, what are their functions ? Some of the complaints that have been laid before us by Mr. Nagappa are due to certain provisions in Section 266 of the Government of India Act. It is not as if every appointment that is to be made for public services under the present Government of India has to be done by the Public Service Commission. There are certain exceptions. Under the present Act the Governor-General can lay down rules and regulations withdrawing certain clauses of appointments from the purview of the Public Service Commission. It is also carried over and a similar provision is found in the draft article-286. But a safeguard has been put here which is wanting in the present Government of India Act. The safeguard is that wherever a particular appointment is taken away from the purview that is with respect to that appointment, the Public Service Commission need not be consulted unlike the provision in the earlier clause. Clause (3) of clause 286 says: "The Union Public Service Commission or the State, Public Service Commission, as the case may be, shall be consulted etc.", and then "Provided that the President as respects the All India Services and also as respects other services and posts in connection with the affairs of the Union, and the Governor or Ruler, as the case may be, as respects other services and posts in connection with the affairs of a State may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary, for a Public Service Commission to be consulted". A similar provision exists in the Government of India Act today, but it might have led to a number of abuses in the matter of selection by the Ministry without consulting the Public Service Commission. This is sought to be remedied in the provision in clause (5) which says : "All regulations made under the proviso to clause (3) of this article by the President or the Governor or Ruler of a State shall be laid before the Parliament or before the respective legislatures." There is that safeguard. It comes before the scrutiny of the legislature and amendments will be made from time to time.

The other objection that Mr. Nagappa raised was that appointments are made a year in advance and later on the appointments are advertised by the Public Service Commission and the departments try to push those people whom they have appointed without any examination on the score that they are experienced. Such things do occur. It is not exclusively the fault of the Minister concerned. I have heard the honourable Mr. Santhanam telling me that he wanted a selection to an appointment made by the Public Service Commission and they have not been able to find time to select and it has been there for nearly seven or eight months and he has to hold up the appointment for that purpose. There are certain cases where the Public Service Commission on account of want of staff of too many applications having been received, have not been able to find time. These are exceptional cases but these must in the very nature of things be exceptional. I hope in the years to come there will not be any ground for

[Shri M. Ananthasayanam Ayyanagar]

complaint of the nature that Mr. Nagappa made and the rules that we are now framing under clause (5) will avoid those inconveniences and with the best of intentions, I am sure, such things would not be repeated in the future.

Then, as regards the manner in which these Public Service Commissions are to work, the first requisite is that all appointments shall be made in the interests of public administration on merit and merit alone. But, having regard to the conditions of our country, there must be some provision in favour of those persons who are not even economically and socially advanced and may not be able to come up to the mark. There must be some limitation no doubt. With regard to appointments which require enormous skill and capacity, certainly, these rules cannot be relaxed, because public interests demand otherwise. Take, for instance, the case of an eminent surgeon; merely because he belongs to a particular community, he ought not to be taken for that job. There are other classes of jobs where such enormous technical skill and capacity may not be necessary, in which case there must be distribution. A hard and fast rule cannot be laid down in the Constitution. Therefore, some provision has been made in favour of the backward classes. There are some communities which have taken to trade; take, for instance, the Marwari community. They are rich; they have taken to trade. Is it open to them under the existing circumstances to say that they have not received proper representation in the services? In reality public service has no attraction for them. Two or three members of a family engage themselves in business and become millionaires. It is true not one of them is in the public service. To avoid giving representation to the richer classes, the term "backward classes" has been introduced instead of the word 'community'. Though the term "backward classes" has not been defined, I am sure a Commission appointed by the President will determine who are the backward classes. There are backward classes in every community. Therefore, greater attention has to be given to these backward classes. Whether or not a certain class of people are backward does not depend upon the caste, or community. There is one rich class; there is a poor class. Some classes have economic advantages; some classes have not. The term backward classes is sufficiently comprehensive. To find out who are the backward people, under article 301 a Commission will be appointed to go into this matter and I believe whosoever is found as such will come under this clause for whom special reservations are sought to be made. Under article 10 of the Fundamental Rights, it is said that no discrimination shall be made; but discrimination is allowed to afford special help in favour of the backward classes who will be hereafter found to be so or whose names will, after investigation by a Commission, be declared as such. I believe Dr. Deshmukh will be sufficiently satisfied; when the matter comes up before the Commission, it will be time enough to place the case of the various sub-communities and other classes before it so that justice may be done to all of them who are in need of special help.

There is another improvement made in this article on the existing state of things under Section 266 of the Government of India Act of 1935. If any addition to the subjects that have to be placed before the Public Service Commission for consultation is to be made, the Act of Parliament has first of all to get the sanction of the President or the Governor-General before introduction of the Bill. Under the new article, the sanction of the President is not necessary to introduce a Bill to clothe the Public Service Commission whether at the Centre or in the provinces with additional powers or subjects. It is open to an official or a non-official member to introduce a Bill wherever necessary, after some experience is gathered of the working of the Constitution, straightaway, enlist the opinion of this House and carry it through. This is another

improvement. After having experience of the working of the Government of India Act of 1935, all the defects that were noticed in practice have been sought to be removed by making special provision for the backward classes, by seeing that the rules and regulations exempting certain things from the scope and jurisdiction of the Public Service Commission have to be placed before Parliament for scrutiny from time to time, and by deleting the provision which required the sanction of the President for the introduction of a Bill to invest the Public Service Commission with more powers. In these respects, I submit to the House that these articles are an improvement. I hope with God's grace these provisions would work satisfactorily. If perchance, after working this Constitution, we find some more defects, there is inherent provision in article 286 by which we can amend these provisions. After all, the success of an institution depends not so much on the rules and regulations that are made, though of course, rules and regulations are necessary, but on the integrity, efficiency, honesty of purpose of those persons that work. Let us wish that all these defects will be removed in practice, that honest straightforward public minded men will be in charge of the administration of the Public Service Commissions and the reproach that has been there, either of nepotism or favouritism, will wholly disappear.

Pandit Hirday Nath Kunzru (United Provinces: General) : Mr. President, I think that the articles before us represent a great improvement on the provisions contained either in the Government of India Act, 1935; or in the Draft Constitution, with regard to Public Service Commission. My honourable, friend Mr. Ananthasayanam Ayyangar has pointed out one or two matters in which the new draft is better than the provisions contained in the Government of India Act, 1935 or in the Draft Constitution. I should like to point out other and more important features of the articles that we are considering which should be welcomed by anybody that understands the purpose of appointing public Service Commissions.

Its object, as has been stated by several speakers is to secure for the State efficient public servants who will serve all people equally and will always watch over the interests of all communities and the State as a whole. But, the provisions that are at present in force, leave a number of loop-holes for Executive interference. The Government of India Act, 1935, empowers the Governor—General to specify by regulation any matter in respect of which the Federal Public Service Commission need not be consulted. The regulations may be unnecessarily wide, or they may be changed in such a way from time to time as to enable the executive to exercise a considerable amount of undesirable patronage. Article 286 is now drafted provides a check, and a very good check, on the vagaries of the executive. The President or Governor will have the power to specify the matters in regard to which it will not be necessary to take the advice of the Public Service Commission; but, at the same time, it will be his duty to see that the regulations made by him are laid before the legislature and the legislature will have the power not merely to criticise these regulations, but to amend them in any manner that it likes. We can therefore feel sure that no regulations will be made by the President or Governor that are not likely to secure public approval. If he is tempted to deviate from the right path, he will hesitate to give in to the temptation for he will know that his regulations will have to be laid before the legislature.

Another very welcome feature of the articles that have been laid before us, is that the Public Services Commission have been required to submit annually reports of their work to the Executive, drawing its attention to those cases in which their advice has not been accepted by the Executive. The Executive is further required to place the reports of the Public Service Commissions before

[Pandit Hirday Nath Kunzru]

the appropriate Legislatures. This is very valuable provision. Its importance cannot be exaggerated. We come to know from time to time of cases in which we feel that the Governments concerned have been guilty of irregularities but there is no method provided in the Constitution by which we may know definitely the cases where Irregularities occur and the extent to which they occur. In the absence of facilities for obtaining accurate information on this point, members of the Legislature ask questions with regard to recruitment that sometimes do grave injustice either to the Ministers or to the Public Service Commissions. Article 288(a) will remove this danger and should the Executive be tempted unduly to disregard the advice of the Public Service Commissions, the representatives of the people will have an opportunity of criticising the action of the Executive and preventing it in future from disregarding the considered advice of the Commissions.

Sir, the point of view that I have placed before the House is not founded merely on theoretical considerations. The checks provided in the articles laid before us have been found to be necessary in practice at least in one case. The Calcutta High Court some time ago considered an application questioning the validity of an appointment made by the Local Government without consulting the Public Service Commission. The High Court expressed the opinion that the provisions contained in article 266 of the Government of India Act, 1935, with regard to matters in respect of which the Public Service Commission shall be consulted were not mandatory because it was not stated what would be the consequence of the disregard of those provisions. They were therefore held to be only directory. In other words, from the point of view of the public the obligation laid on the executive was not a fundamental right but only a directive, principle. If such a case occurs in future, the Public Service Commission concerned will be able to mention this in the report which will have to be laid before the Legislature. There is a reasonable certainty therefore that the Executive will be disposed to act with caution and not exercise its powers in an arbitrary fashion and act as if the Public Service Commissions did not exist.

Sir, one other provision that I would like to draw the attention of the House to is article 287. In the draft as it stood before, the Commissions had to be consulted only in regard to the Union or State Services generally speaking, but now even appointments connected with corporations or other public institutions created by law shall be dealt with by the Commissions. This again is an important safeguard. It is not unlikely at all that in the near future a number of corporations dealing with important matters may be created. The number of posts with which they will deal may be quite large and many of these posts may carry high salaries. As the draft stood it would not have been within the purview of the Public Service Commissions to make recruitment to these posts. But the amended draft that has been laid before us requires that posts under a Corporation or Public Institution created by law should be dealt with in the same manner as posts under the Union or a State.

Taking all these things together, it is clear that the articles have been placed before us deserve to be warmly welcomed. If the members of the Public Service Commissions are properly chosen and they act without fear or favour, then there is no doubt that recruitment to the public services will not merely be above reproach but also above suspicion. If, however, the personnel of the Commissions is not good or if the members, do not discharge their duty properly, then we have no remedy. The Constitution cannot either create competent men or compel the Executive to choose the officers required to discharge important functions with care and impartiality.

Sir, the articles that we are considering have been subjected to a certain amount of criticism. My honourable Friend Dr. Deshmukh finds that the articles do not protect the rights of all classes of the population. He is not satisfied with the provision in article 286 regarding the reservation of posts for any backward class of citizens without consultation with the Public Service Commissions. He wants that this principle should be extended and that it should apply to all classes. Indeed, he goes further than this and wants that the State should, without consulting the Public Service Commission, lay down that the various classes shall be represented in the Public Services according to their numbers in the Union or the State. This amendment has been dealt with so fully by a number of speakers that I do not think that I need dwell at length on it. But I should like to add my voice to that of those speakers who have opposed this amendment. We are all desirous that the public services should be recruited in such a manner as to give satisfaction to the public as a whole, but it would be.....

Dr. P. S. Deshmukh : That is all I want.

Pandit Hriday Nath Kunzru : I am glad to know that this is all that my Friend Dr. Deshmukh wants. But his amendment has been drafted in such a way as to create a very serious danger. I mean, that if it is acted upon, the public interests will suffer seriously. Steps can be taken to see that the interests of no community are ignored; but it will be most undesirable to require the executive to lay down that every class shall be represented in the public services according to its numerical strength. We all know that education is not widely spread in this country. There is, therefore, a large majority of people who are uneducated. Can we, seriously speaking, ask in this state of things, that all the classes should be represented in accordance with their population ? If it were a question of representation in the legislature, this argument would have force. But where important business of the State requiring knowledge and judgment has to be carried on from day to day, we should appoint people only on the ground of merit. We cannot appoint them merely on the ground that their appointment will give satisfaction to certain classes; for if that were done, the very classes that want an adequate share in the public services would be the first to suffer, for they have to gain more by the efficiency of the administration and the impartiality of the officers than the members of the more advanced classes I am, therefore, compelled to oppose Dr. Deshmukh's amendment. I have hardly any doubt that the House will not accept it.

Shri T. T. Krishnamachari (Madras: General) : Sir, I move that the question be now put.

Mr. President : The question is

“That the question be now put.”

The motion was adopted.

Mr. President : Dr, Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, after the speeches that have been made by my Friend Mr. Ananthasayanam Ayyangar and my Friend Mr. Kunzru, there is very little that is left for me to say in reply to the various points that have been made. Mr. Jaspat Roy Kapoor said that clause (2) was unnecessary. I do not agree with him because clause (2) deals with a matter which is quite different from the one dealt with in the original article 284. I think it is necessary, therefore, to retain both the clauses.

[The Honourable Dr. B. R. Ambedkar]

The only point that remains for me to say anything about is the question that is raised about the Scheduled Castes and the Backward Classes. I think I might say that enough provision has been made, both in article 296 which we have to consider at a later stage and in article 10, for safeguarding the interests of what are called the Scheduled Castes, the Scheduled Tribes and the Backward Classes. I do not think that any purpose will be served by making a provision whereby it would be obligatory upon the President to appoint member of what might be called either a Scheduled Caste, or Scheduled Tribe or a member belonging to the backward classes.

Shri A. V. Thakkar (Saurashtra) : Other backward classes.

The Honourable Dr. B. R. Ambedkar : The function of a member of the Public Service Commission is a general one. He cannot be there to protect the interests of any particular class. He shall have to apply his mind to the general question of finding out who is the best and the most efficient candidate for an appointment. The real protection, the real method of protection is one that has been adopted, namely, to permit the Legislature to fix a certain quota to be filled by these classes. I am also asked to define what are backward classes. Well, I think the words "backward classes" so far as this country is concerned is almost elementary. I do not think that I can use a simpler word than the word "Backward Classes". Everybody in the province knows who are the backward classes, and I think it is, therefore, better to leave the matter as has been done in this Constitution, to the Commission which is to be appointed which will investigate into the conditions of the state of society, and to ascertain which are to be regarded as backward classes in this country.

Shri A. V. Thakkar : May I ask whether it will not take several years before that is done ?

The Honourable Dr. B. R. Ambedkar : Yes, but in the meantime, there is no prohibition on any provincial government to make provisions for what are called the backward classes. They are left quite free, by article 10. Therefore, my submission is that there is no fear that the interests of the backward classes or the Scheduled Castes will be overlooked in the recruitment to the services. As my Friend Pandit Kunzru has said, the articles I have presented to the House are certainly a very great improvement upon what the articles were before in the Draft Constitution. We have, if I may say so for myself, studied a great deal the provisions in the Canadian law and the provisions in the Australian law, and we have succeeded, if I may say so, in finding out a *via media* which I hope the House will not find any difficulty in accepting.

Mr. President : I will now put the various amendments to vote. The first amendment to article 286 was No. 13 moved by Shri Jaspat Roy Kapoor. The question is :

"That in amendment No. 12 above, clause (2) of the proposed article 286 be deleted and the subsequent clauses be re-numbered accordingly."

The amendment was negatived

Mr. President : The question is:

"That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments the proviso to clause (3) of the proposed article 286 be deleted."

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments, for clause (3) of the proposed article 286, the following be substituted:—

- ‘(3) The Union Public Service Commission as respects the All India Service and also as respects other services and posts in connection with the affairs of the Union, and the State Public Service Commission as respects the State services also as respects other services and posts in connection with the affairs of the State, shall be responsible for all appointments, carrying a maximum of Rs. 250/- (Two hundred and fifty rupees).’”

The amendment was negatived.

Dr. P. S. Deshmukh : I beg leave to withdraw amendment No. 82 moved by me.

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

Mr. President : The next amendment is No. 84 moved by Mr. Naziruddin Ahmad. The question is :

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments, after the proviso to clause (3) of the proposed article 286, the following new proviso be added:

- ‘Provided further that the Public Service Commission of the Union shall always be consulted where the service carries a maximum pay of Rs. 500/- per month and the State Public Service Commission shall always be consulted where the service carries a maximum pay of Rs. 250/.’”

The amendment, was negatived.

Mr. President : The question is:

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments, claim (4) of the proposed article 286 be deleted.”

The amendment was negatived.

Dr. P. S. Deshmukh : Sir, I beg leave to withdraw amendment No. 86 moved by me.

The amendment was, by leave of the Assembly withdrawn.

Mr. President : Then amendment No. 87. The question is :

“That in amendment No. 12 of List I (Fifth Week) of Amendments to Amendments, after clause (4) of the proposed article 286, the following Explanation be added :—

Explanation.—Backward class of citizens would mean and include class or classes of citizens backward economically and educationally.”

The amendment was negatived.

Dr. P. S. Deshmukh : I beg leave to withdraw amendment No. 88 moved by me.

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

Mr. President : Amendment No. 89 by Shri R. K. Sidhva. The question is:

“That in amendment No. 14 of List I (Fifth Week) of Amendments to Amendment at the end of the proposed article 286, the following new clause be added :—

- ‘(6) The commission shall submit to the legislature every year a report setting out all cases the Government’s reasons in each case, and the Commission’s views thereon where there is difference of opinion.’ ”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 14 of List R (fifth Week) of Amendments to Amendments, for the proposed clause (3) of article 286, following be substituted:—

- ‘(3) The Union Public Service Commission with regard to All India Services and also in regard to other Services and posts in, connection with the affairs of the Union, and the State public Service Commission in regard to the State Services and also in regard to the services and posts in connection with affairs of the State shall be consulted in respect of all appointments, transfers and disciplinary matters relating to these Services.”

The amendment was negatived.

Mr. President : I will now put article 286 as proposed by Dr. Ambedkar to vote.

The question is:

That proposed article 286 stand part of the Constitution.”

The motion was adopted.

Article 286 was added to the Constitution.

Mr. President : I will now take up article 287, as proposed by Dr. Ambedkar. There is one amendment to it by Mr. Naziruddin Ahmad. The question is :

“That in amendment No.16 of List I (Fifth Week) of Amendments to Amendments, in the proposed article 287 for the words ‘or other body corporate’ the words ‘or other body, corporate got being a company within the meaning of the Indian Companies Act, 1913 or banking companies within the meaning of the Banking Companies Act, 1949 be substituted.”

The amendment was negatived

Mr. President : The question is :

“That proposed article 287 stand part of the Constitution.”

The motion was adopted.

Article 287 was added to the Constitution.

Mr. President : There is no amendment to article 288 so I will put it to vote. The question is :

“That proposed article 288 stand part of the Constitution.”

The motion was adopted.

Article 288 was added to the Constitution.

Mr. President : The question is.:

“That the new article 285-A stand part of the Constitution.”

The motion was adopted.

Article 285-A. was added to the Constitution.

Article 292

Mr. President : We shall now take up article 292.

Pandit Thakur Das Bhargava (East Punjab : General) : But there is a new article 285-A proposed by me which may be taken up.

Mr. President : I think it is covered by another article.

Pandit Thakur Das Bhargava : But mine is more comprehensive.