

[Mr. President]

- (6) Notwithstanding anything in these rules, all the amendments recommended by the Drafting Committee, after the Constitution was referred to them under sub-rule (1), shall be deemed to have been moved, and it shall not be necessary for the President to put each of those amendments separately to vote.
 - (7) The provisions of sub-rules (2) and (3) of rule 38-P shall apply to every amendment of which notice has been given under sub-rule (5), and notwithstanding anything in these rules it shall be in the discretion of the President to disallow any amendment of which notice has been so given.
 - (8) The President shall allot not more than two days for the consideration by the Assembly of all amendments after the motion referred to in sub-rule (2), has been carried and shall, at the time appointed by him for the close of the sitting of the Assembly on the last of the allotted days, forthwith put every question necessary to dispose of all the outstanding matters in connection with those amendments, and in the case of amendments recommended by the Drafting Committee as such, he shall put only the question that the amendments so recommended be made or that the amendments so recommended as modified by any amendment or amendments adopted by the Assembly be made as the case may be.
 - (9) For the purpose of bringing to a conclusion any proceedings relating to such amendments on the last of the allotted days, the President shall have power to select the amendments to be proposed.
- 38-RR. (1) When the amendments to the Constitution referred to the Drafting Committee under sub-rule (1) of rule 38-R have been considered, any member may move that the Constitution as settled by the Assembly be passed, and to a motion so made no further amendment shall be allowed to be moved.
- (2) The President may fix a time-limit for speeches during the debate on a motion made under sub-rule (1).
 - (3) The President may in relation to any proceedings in connection with the passing of the Constitution under rule 38-R or this rule relax or suspend any of these

The motion was adopted.

DRAFT CONSTITUTION (*Contd.*)

First Schedule.—(Contd.)

Mr. President : We shall now take up the First Schedule. With regard to the First Schedule, there are a large number of amendments of which notice has been given. Some of those amendments relate to the Schedule as it was in the original draft; some others relate to the proposition as it was moved by Dr. Ambedkar yesterday. I find in respect to several of these amendments one difficulty—both in regard to the amendments relating to the original draft as also, some of the amendments relating to the proposition moved yesterday. The difficulty is that they do not actually represent facts as they are today: For example, the effect of some of these amendments is today down names of provinces which are not in existence today and about which we do not know whether they will come into existence at all. We shall experience, in fact, insuperable difficulties if this Constitution is passed containing names of provinces which are not in existence and omitting names of provinces which are in existence today. I do not know how the Constitution will work after it comes into force with names of provinces which are not in existence and omitting names of provinces which are in existence today. The whole structure of the constitution as it is framed, will be difficult of operation. For example, we do not know what the Assembly will be :whether it will be the Assembly of Madras, or whether it will be the Assembly of Andhradesha or of Tamilnadu. Similar difficulties will arise with regard to numerous other provinces in the Constitution.

I would therefore suggest to honourable Members that at this stage when the question with regard to, the creation of new provinces has not actually

been decided it may not be wise to include in the Constitution names of Provinces which we hope or propose to create. but which have not been created. Similarly, there may be other difficulties also arising in connection with those other Provinces which are in existence and with regard to which some changes are sought to be introduced by some other amendments.

There are some amendments relating to the transfer of certain areas from one Province to which they are attached today to another province. If we pass the Constitution as it is, the transfer of those areas does not automatically take place and similar difficulties will be experienced if we include in the territories given in the Constitution areas which are not included in the territories of the provinces which are named.

I would, therefore, suggest to honourable Members not to bring any amendments at this stage, which will create difficulties in the actual operation of the Constitution when it is passed. I have no doubt that there are certain Members, in fact there are many Members in this House who are keen on certain matters with regard to the creation of new Provinces or even with regard to the change of the boundaries of Provinces, but those things should be first brought about before they can be incorporated in the Constitution; and I would therefore, suggest to those honourable Members who have given notice of such amendments to bring about the change which they want in the actual situation and then ask the Constituent Assembly to incorporate these changes in the Constitution. We have made provision in the rules which we have just passed in the form of rules for introducing amendments which will conform to facts as they will exist at the time when the Third Reading takes place and if any changes are brought about within this time the Drafting Committee will certainly take note of these changes and it will certainly bring them up before the House. I hope that this statement of mine will enable honourable Members to consider the question from this point of view and if they agree, we might also incidentally save some time of the House by not having to consider those amendments, and ultimately it may be that many of them may not be accepted.

Shri H. V. Kamath : As regards the re-naming of existing provinces, I would request you to see to it that in every case the matter of re-naming of the province is left to the Provincial Government, the legislature, the P.C.C. and the representatives of that province in this House.

Mr. President : So far as this is concerned, I think there is change in the name of only one province, I believe. There is no other.

Shri H. V. Kamath : There is C. P. and Berar.

Shri Mahavir Tyagi : There are amendments to change the name of U.P. also.

Mr. President : There are amendments for the change of the name from Orissa to Utkal.

Shri T. T. Krishnamachari : So far as the adoption of any change in the name of a State is concerned, in the draft that is before the House, we have been following one principle, namely, if there is a substantial number of Members wanting a change and that change has been approved by the Premier of the province, we have put it in one amended schedule and that is the reason why the name, so far as C. P. is concerned has been changed. We have received a representation from a number of Members belonging to Orissa and the matter will have to be referred back to the Premier of the Orissa Province and if he agrees and if you, Sir, and the House permit, we might probably introduce an appropriate change in the revised fair-copy to be taken into consideration at the next session, changing the name from Orissa to Utkal; but that is the principle that we have followed in accepting an amendment for a change where they have been more or less approved or ratified by the Premiers of the Provinces concerned

Shri R. K. Sidhwa : I take strong exception to the suggestion made by my honourable Friend, Mr. T. T. Krishnamachari.....

Mr. President : He has only explained the position.

Shri R. K. Sidhwa : We had experience on the question of the Second Chamber being left to the Members of this House and there has been subsequently clamour that nobody was consulted in the province and many of the people in the province felt that it was improper to have retained the Second House without consulting them. Therefore on matter of greater importance than that, i.e., changing the name of the province, as I suggested earlier not only the Premier but the whole Cabinet of that province and also the members of the Legislative Assembly may be given an opportunity to express their point. This matter is not a small one and anybody can make a suggestion in this House or even the Premier. With due respect to the Premier, it is just possible....

Mr. President : May I suggest one way out of this difficulty. On behalf of the Constituent Assembly. I propose to send, to the various provinces whose names are sought to be changed, to the Governments of those provinces to express their opinion on them and when we have got their opinion. if necessary, we may introduce the changes even at the Third Reading stage.

Honourable Members : All right, Sir.

Shri H. J. Khandekar (C.P. & Berar : General) : I am very glad that you are giving instructions to the Provincial Governments suggesting the names of the provinces. I also suggest.....

Mr. President : You have misunderstood me, I am not giving instructions. If any proposals have come here, I will send those proposals to the Provincial Governments for their opinion.

Shri H. J. Khandekar : I suggest, Sir, that the opinion of the Members of the province should be taken into consideration as they have been done in the case of the Upper House, I mean the M.C.As.

Mr. President : The Members are present here.

Shri H. J. Khandekar : I mean the same, Sir, that the opinion of the Members of the Constituent Assembly of the Province the name of which is to be changed.

Mr. President : They will be present here and they will be able to express their views.

Shri H. J. Khandekar : Thank you Sir.

Shri H. V. Kamath : Do you want specific proposals, Sir, in this regard ?

Mr. President : No. There are so many amendments and I will take note of those amendments which have already come.

Shri Kuladhar Chaliha : (Assam : General) : I have an amendment and I want to change the spelling of the word Assam only because it is anglicised. Instead of the word "Assam" I want the word "Asom".

Mr. President : In that also I shall consult the Provincial Government. What shall we do now ? Shall I now take up the amendments ?

Honourable Member : Yes, Sir.

Shri Gokulbhai Bhatt (Rajasthan) : *[Mr. President, on a point of clarification, Sir, the schedule which has been placed before us excludes a part of India, about which nothing has been decided as yet and that part is Sirohi. It would be better if any member of the Drafting Committee clarifies it.]

* [] Translation of Hindustani speech.

Mr. President : There is an amendment with regard to that; but I do not know the exact position myself.

Shri K. M. Munshi : May I say, Sir, with regard to what my honourable Friend Mr. Gokulbhai Bhatt said, I ascertained the position from the Deputy Prime Minister. So far as Sirohi is concerned, it has not yet been finally settled as regards the province in which it is to be placed. At present, it is being administered by the Government of Bombay under the Extra-Provincial Jurisdiction Act.

Shri Jainarain Vyas (Rajasthan) : Mr. President, I want to draw the attention of the House to the note under Part I where the province of Bombay has been defined. The last four lines of that note state : “any territory which immediately before such commencement was being administered by the Government of that province under the provisions of the Extra-Provincial Jurisdiction Act, 1947.” This note makes it clear that the territory which was administered by that particular province before the commencement of the Constitution would be included in the province of Bombay. This means that Sirohi would go to Bombay even without a covenant being signed by the Boy Ruler of Sirohi or the mother of the Ruler, or the Ruler whose case is pending in Bombay. In that case, I would request Mr. Munshi to see that these lines which say “which immediately before such commencement were being administered by the Government of that province under the provisions of the Extra Provincial Jurisdiction Act, 1947” are deleted so that there may be no apprehension in the minds of the people of Sirohi that Sirohi has merged.

Mr. President : This does not apply only to Sirohi. It applies to other areas also.

Shri Jainarain Vyas : That would apply to Sirohi also and Sirohi would be considered to have merged even without a covenant being signed. That I want to point out.

Mr. President : We can make an exception in that case.

Shri K. M. Munshi : My honourable Friend Mr. Vyas must realise that the whole of this Schedule has been drafted on the basis of what is existing today. We do not want to disturb the existing conditions. Nor is it suggested that no changes should be introduced in this matter. As has already been pointed by the Honourable the President, if circumstances change hereafter, when we come to the Third Reading, those changes will be duly incorporated. At the present moment what is stated in the schedule is quite clear and therefore the reference to Sirohi is irrelevant at the present moment.

Shri H. V. Pataskar : (Bombay : General) : There is one question which I would like to ask. So far as Sirohi is concerned is it part of Bombay or is it a separate State?

Shri K. M. Munshi : I do not know, I am not in a position to make any authoritative statement on that question. So far as I know, it has been transferred to the Centre and the Centre has given it to the Bombay Government for purposes of administration under the Act. I speak subject to correction. That is my impression.

Shri Shankarrao Deo (Bombay : General) : Is it not necessary, Sir, that the House should know the exact position? Some Members are interested in the matter and want to know whether Sirohi forms part of Bombay or has been transferred to Bombay for administration. Will you please request the States Ministry to make a statement on this ?

Shri K. M. Munshi : Yes, I will.

The Honourable Shri K. Santhanam (Madras : General) : Up to the 26th of January, is it not open to the States Ministry to make adjustments ?

Shri K. M. Munshi : Mr. Santhanam is correct. Up to the 26th of January, it is perfectly open to the Government of India to transfer any part of a State to any Province. That is the position in law. So far as the present Schedule is concerned, it applies on and after the 26th of January. Whatever portion of a State on that date, has been transferred to Bombay under the Extra-provincial Jurisdiction Act will be in Bombay. What has been transferred to some other province will be in that province. Mr. Shankarrao Deo asked what is the present position of Sirohi. That is how I have understood it.

Shri Shankarrao Deo : I Would like to know what will be the status after the 26th of January.

Shri K. M. Munshi : That will be decided on or about the 26th of January.

Shri Shankarrao Deo : We would request you to convey the desire of some Members here to the States Ministry that they would like to know what is exactly their mind and scheme for Sirohi.

Shri K. M. Munshi : I shall convey the request to the proper quarters.

Shri Sarangdhar Das (Orissa States): Sir, I have got a certain amendment which does not come in the category of amendments that you have said should not be moved. I wish to move them when an opportunity is given to me.

Mr. President : I am going to call every amendment and every Member is free to move whichever amendment he likes. The first amendment is No. 404, Mr. Kuladhar Chaliha—Do You want to move this ?

Shri Kuladhar Chaliha : Yes, Sir,

Mr. President : It was suggested that these may be referred to the provincial Governments.

Shri H. V. Kamath : They may be formally moved and then referred to the Provincial Governments.

Shri R. K. Sidhwa : You may take the sense of the House on this question, Sir,

Mr. President : I have only made a suggestion. But, if Members insist on moving their amendments, I cannot prevent it.

Shri Kuladhar Chaliha : Sir, I move:

“That in amendment No. 380 of List XV (Second Week), for item I of Part I, the following be substituted:—

“1. Asom.”

Mr. President : If it is once moved I shall have to dispose it of in some way. It will have to be put to the vote.

Shri M. Thirumala Rao (Madras: General): The proper spelling of Assam is Assam. He has given his remedy to spell it Asom. ‘Asom’ can be pronounced as ‘Asom’ if he likes.

Mr. President : Amendment No. 405.

The Honourable Shri K. Santhanam : Each amendment may be disposed of separately and may be put to the vote.

Mr. President : I shall take each amendment separately. Mr. Chaliha if you want to move your amendment, then I shall have to put it to the vote

Shri Kuladhar Chaliha : I only want it to be referred to the Government, Sir.

Mr. President : Amendment No. 405. Mr. Brajeshwar Prasad do you want to move it ?

Shri Brajeshwar Prasad (Bihar : General) : Yes, Sir.

Shri R. K. Sidhwa : Once it is moved, it becomes the property of the House.

Shri Brajeshwar Prasad : Yes, Sir, I know. You may reject it. I know you will reject it.

Mr. President : If you want, you may reject it. He takes the risk.

Shri Brajeshwar Prasad : There are seven amendments standing in my name so far as the first Schedule is concerned. I refer to amendments 335, 340, 348, 356, 357, 358 in List XIV Second Week. In List XVII, there are two amendments 405 and 411. With your permission, Sir, I move amendment No. 358. There is a technical difficulty.

Mr. President : As I have said if your amendment is carried, it will create a situation in which it will be impossible to work the Constitution. It means lumping together all the Hindi speaking areas. How will they be described in the Constitution and what will be the Legislature and who will be the Governor ? There are five Governors in the 5 States and provinces now. Which will be the Legislature that will function in that State which you wish to create by this amendment of yours ? That is the difficulty which I have been pointing out.

Shri Brajeshwar Prasad : I thought your observations referred to linguistic provinces only.

Mr. President : No, I have made this suggestions out of courtesy to the Members of this House, I am entitled to rule them out of order.

Shri Brajeshwar Prasad : I will bow down to your observations.

Shri H. V. Kamath : May I know whether all these amendments with regard to renaming of provinces will be referred by your Secretariat to the provinces concerned ?

Mr. President : Yes, all amendments relating to names.

Shri Mahavir Tyagi : Have all these been ruled out of order ?

Mr. President : Yes. All those amendments which want to create new provinces either by lumping together provinces or carving out parts of one province and by mixing together areas of one province with other provinces, are ruled out of order. Wherever any amendment impinges the boundary of one particular province today is ruled out, because it does not correspond with existing facts.

Pandit Balkrishna Sharma (United Provinces : General) : There was an amendment from a Member from Madhya Bharat. It was said at that time that Dr. Ambedkar was prepared to accept that.

Mr. President : Let that change be made in fact; then we shall take it.

Prof. Shibban Lal Saksena : May I move 406 proposing that the U.P. be, named Brahmavart, Aryavart, Hind or Brij Sakait ?

Mr. President : All amendments relating to names will be referred to Provincial Governments for their opinion. So it is not necessary to move your amendment. I do not think there is any other amendment now which remains with

[Mr. President]

regard to this after all these amendments altering the territories have been disposed of.

Shri Sarangdhar Das : May I have your ruling, Sir, about, my amendment ?

Mr. President : I have ruled it out of order because it seeks to transfer certain territories from one province to another.

Shri Sarangdhar Das : It is not transfer, Sir. It provides for determining the wishes of the people and according to such wishes a certain area may go from one province to another or may not. I will give you my argument for it.

Mr. President : This cannot be a part of a Constitution. This is a Resolution for the Assembly. You can move that in the Assembly, and if you succeed there and you get this change made, it will become part of the Constitution.

Shri A. Thanu Pillai (United State of Travancore & Cochin) : Article 3 provides for such cases.

Mr. President : Yes, I am grateful to you for pointing that out.

Shri Yudhisthir Misra (Orissa States) : Some of the amendments which have been given notice of contemplate the change of boundaries of different provinces; but so far as the States are concerned, I think you will remember that last January we had amended the Government of India Act, 1935, and passed a new Section 290 A and it is according to that provision that these States have been given to certain neighbouring provinces for the sake of administration. I submit they do not legally form part of those provinces but they have been given to those provinces for administration. Therefore my amendment No. 390 cannot be ruled out.

Mr. President : My ruling is based upon one thing, viz., that we cannot by any amendment of the Schedule introduce any change in the existing state of affairs and in the Constitution we are providing only for those things which are today in existence and not for what we wish or what may come into existence later. Therefore, I say that these amendments which contemplate changes are ruled out.

Shri Sarangdhar Das : What about Seraikella ?

Mr. President : It is open to them to have a change in the decision before 26th January.

Shri Sarangdhar Das : Mr. Munshi in reply to the problem of Sirohi, as posed by Mr. Jainarayan Vyas, stated what the Deputy Prime Minister intended to do. So, I wish that there should be some statement on my amendment, because I maintain that these two States had been integrated into Bihar against the wishes of the people as well as the Rulers. It goes against the Preamble of the Agreement that the Rulers entered into with the Government of India. Also when they were integrated into Bihar last May, the Ruler of Seraikella replied to the Officer appointed by the States Ministry, that Seraikella was integrated temporarily for purposes of administration; but that before the Constitution is finally adopted the wishes of the people and the rulers have to be ascertained. That is why I introduced this provision, and if the States Ministry would make a statement as to whether these States have been merged permanently in Bihar or the matter will be considered by a Boundary Commission or some other way will be found to determine the wishes of the people. I would be satisfied and withdraw my amendment,

Mr. President : I believe the State Ministry issued a communique the other day saying that they stick to the decision which they have taken previously. I think they have issued such a communique and it was published the other day.

Shri Yudhisthir Misra : So far as we the representatives of the merged States are concerned, we are here to represent their case in the Constituent Assembly. Now you are going to make certain provisions in the Constitution, so far as the merged States are concerned, and if we, the representatives of the merged States, are not to have our say here, then what are we here for? I submit it would not proper to shut out discussion of this question.

Mr. President : I do not think, I can go back upon the ruling which I have given.

Prof. Shibban Lal Saksena : Sir, I have to say something about Part III.

Mr. President : What about Part III.

Prof. Shibban Lal Saksena : Sir, here we have defined the territories Rajasthan and Saurashtra and said that Saurashtra shall comprise the territories which immediately before the commencement of this Constitution were comprised in United State of Kathiawar and the territories 'which immediately before such commencement were being administered by the Government of that State under the provisions of the Extra-Provincial Jurisdiction, Act, 1947. And in the Names of States, we have put in Jammu and Kashmir, also. I want to clarify the position. I want it to be stated here that the State of Jammu and Kashmir shall comprise the territory as it was immediately before the 15th August, 1947 and which were being administered by the Maharaja of Jammu and Kashmir on that date. This, Sir, is necessary, because at present, as we all know there is the Cease-fire Line and part of the area is in the possession of the raiders.

Mr. President : It is a purely political question and we cannot decide it by a resolution of this House.

Prof. Shibban Lal Saksena : Then what will be the position of Jammu Kashmir ? What will be its area ?

Mr. President : Well, whatever we have, got now we have got, and if we' get more, we shall have more.

I think there is no other amendment. If any Member wishes to say any thing about the amendments he can do so.

The Honourable Shri N. V. Gadgil (Bombay : General) : Sir, I thought some of us belonging to Maharashtra have a duty on this occasion to make, at any rate, our position clear. The recent resolution of the Working Committee, although very helpful, does not give sufficient lead, because at this time, when the Federal Constitution is being, framed, certain principles which should govern the delimitation of the constituent units should have been laid down. At the same time, I realise that this is not a very propitious time. As I have always expressed, this is a question which can and must be solved with understanding, with agreement and in an atmosphere of goodwill. I also realise this. non-speaking before the committee that was appointed by you, I pleaded that this question should be postponed for a period of five years. It is not that I am stating this for the first time. I am cognisant of the difficulties and therefore, I am repeating it, not merely in connection with the formation of Samyukt Maharashtra, but in connection with other provinces also; and I am encouraged because I find that the present clause (3) as amended has really facilitated matters. As it stood originally it was a very laborious and long winding process, but now a Bill can be brought in for the delimitation of any province, and such a Bill will not be considered as a Bill amending the Constitution. Now the position as it has developed in this, that we have a machinery in the Constitution itself, and therefore, all questions about the formation: of provinces need not be raked up now, and the Schedule, as suggested by Dr. Ambedkar should be accepted. That is the point I wanted to make out.

[The Honourable Shri N. V. Gadgil

There is one little suggestion I want to make. If you want to have the Hindi Karan of the names, do not confine it merely to a few, such as Koshal Vidarbh etc. You can call Bombay "Paschim Bharat....." and Madras..... "Dakshin Desh", etc. If you want to do it, do it completely, but not by parts. This suggestion of mine may please be kept in mind by the Drafting Committee. Otherwise all sorts of implications are likely to come out and instead of doing any good, such a thing is bound to do more mischief than is contemplated by those who have inserted these exceptions alone. I would, therefore urge upon the Members of the Drafting Committee that this may be kept in mind.

I think any discussion with respect to delimitation or correction of boundaries would be more properly and more successfully taken up when the new Constitution comes into operation, and when the electorate gives, I should say, a mandate, and those who are today of the view that a particular solution is the only feasible solution, well, they have got to be persuaded and they have got to be convinced that an alternative solution, and a much better one in the larger interests of the country is available. So taking, all these factors into consideration. I state that the whole question should be postponed and that the Schedule as proposed, with the suggestion that I have made, about the change of the names, may be accepted.

Shri Jainarain Vyas : Mr. President, Sir, I bow to your decision, but I want to make two simple submissions regarding Sirohi. One is that at present Sirohi is constitutionally a "no man's land". It is a territory not covered by Part I of Scheduled One, or Part II or Part III. and I understand that my learned Friend Mr. Munshi is going to request the State Ministry to make a declaration on this point. I hope that that declaration will be forthcoming. The Second submission is that in the amendment which has been officially put up by Dr. Ambedkar, Bombay Presidency has been defined in a way to incorporate Sirohi. The application of the Extra Provincial Jurisdiction Act, 1947, to Bombay means no territory except Sirohi. So while making that declaration, I hope the States Ministry will clarify this position in regard to the definition of Bombay. Otherwise the people in Sirohi as well as in Rajaputana and in the country as a whole, will have every right to apprehend that Sirohi is silently being merged into Bombay without proper formalities being performed.

This is all that I wanted to say.

Shri Yudhisthir Misra : Sir according to the amendment moved by Dr. Ambedkar, the States the rulers of which have ceded their jurisdiction and powers over the same, to the Central Government, have been included in the provinces. In January last, the Government of India Act of 1935 was amended and power was vested with the Central Government to hand over those States to any province for the sake of administration. According to the provisions of 290 A, therefore, although there has been an administrative merger, still by legal fiction, the constitutional entities of the States have been maintained. Therefore I want a clarification of the point from the Drafting Committee whether the same position has been maintained in this draft or not.

Sir, when Sardar Patel visited Cuttack on 14th December 1948 and, the rulers of the Orissa States entered into an agreement with the Government of India, these rulers had specifically mentioned in the preamble of that agreement that their States should be handed over to the provinces of Orissa for administration. I will read the relevant portion of that agreement by the Raja, of Seraikella "whereas in the immediate interests of the State and its people the Raja of Seraikella is desirous that the Administration of the State should be integrated as early as possible with that of the province of Orissa in such manner as the Government of the Dominion of India may think fit...." Now by provid-

ing for the amendment which has been moved by the Drafting Committee, the agreement has been violated. I would request the Drafting Committee to consider this point.

Sir, I represent the Orissa States along with Shri Sarangdhar Das and have therefore a special responsibility in this matter. As far as these two States of Seraikella and Kharswan are concerned, they have elected us as their representatives. I think it is but proper that their wishes should be Placed before this House as briefly as possible. From time immemorial the people of these two States have social and cultural contact and relationship with the people of the Orissa province and they have linguistic and racial affinity with them. These two States were and are still under the Utkal University having its headquarters at Cuttack. Oriya is the court language of these two States and in the primary schools there till recently, education was being imparted through Oriya. For administrative political purposes also these two States were included in the Orissa group of States previous to 1948. It is unnecessary for me to relate that the movement for the integration of the Orissa States including Seraikella and Kharswan started in Orissa under the leadership of the leaders from Orissa.

Shri Brajeshwar Prasad : This matter has been finally disposed of by the States Ministry and according to the circular which has been issued, re-distribution of provinces has been made. Now to take off one' territory and add on to another could not be done. I think the honourable Member is going beyond his jurisdiction.

Shri Yudhisthir Misra : As far as this House is concerned, it has nothing to do with the States Ministry. It has nothing to do with any order passed by the States Ministry. Therefore I am entitled to express my views in this House. If you, Sir, say that I have no right, I will resume my seat.

Mr. President : I wish to point out that these views of yours expressed here will have no effect anywhere. This House cannot change the boundaries of Orissa.

Shri Yudhisthir Misra : Let me at least have the satisfaction that I have placed the views of the people, as their representative, before this House. It is for this purpose that I took your permission to participate in this debate. Sir, it was in the Orissa States that the question of merger of the small States with the provinces was first mooted and it was there that the ideal of the merger of States with the provinces took its real shape. When the Honourable Sardar Patel was in Cuttack, he took the step of entering into an agreement with the rulers of the States as a result of the wishes of the people expressed to him through the All India States People's Conference, through the regional council and also through the various Praja Mandals. As you are aware, these two States in January 1948 were handed over to the province of Orissa; but, owing to certain unfortunate incidents, there was firing and these two States, in consequence were handed over to Bihar. There was a great tussle before that between Orissa and Bihar over this question and the Government of India announced the, appointment of a Judicial Tribunal presided over by an eminent' judge of the Bombay High Court to ascertain the 'wishes of the people regarding the language and culture and the administrative convenience as far as these two States are concerned. There was expectation of a fair and impartial solution of the problem through this Judicial Tribunal. But, to the great surprise of the people of the States, they were placed under the Government of Bihar and thus debarred from exercising their right of self-determination. It was then understood that the Raja of Seraikella wanted temporarily that his State should be placed under the Bihar Government for administration till a new Constitution was framed and adopted.

Sir, to a question of mine in 1948 in the Constituent Assembly (Legislative). . . .

Shri Brajeshwar Prasad : I will have no time to reply to the honourable Member. I have met the Maharaja of Seraikella and he told me that he wants the merger of Seraikella with Bihar.

Shri Yudhisthir Misra : Let the honourable Member go through the representation that the Maharaja of Seraikella has made recently to the States Ministry. In 1948, Sardar Patel was pleased to give me the reply that the handing over of Seraikella and for Kharswan administration to Bihar was only a temporary affair. I find, Sir, that in last August these States were transferred permanently to Bihar under section 290 A of the Government of India Act. The wishes of the people of the States were not consulted.

Shri Brajeshwar Prasad : Wrong statement.

Shri Yudhisthir Misra : As far as the people were concerned, they were left out of the picture completely. If it is wrong, as is suggested by my Friend, Mr. Brajeshwar Prasad, then I challenge him to accept a referendum to ascertain

the wishes of the people of these States. If he accepts it, I will not press for what I am submitting in this House.

Shri Brajeshwar Prasad : Let the honourable Member write to Sardar Patel and ask him to reopen this question.

Shri Yudhisthir Misra : My Friend is side-tracking the question.

Mr. President : I do not want challenges thrown and accepted here.

Shri Yudhisthir Misra : The only ground which was put forward by the States Ministry as to why these States were transferred to Bihar was that if these States were transferred to Orissa, there would be certain administrative in convenience. Now, Sir, when the State of Mayurbhanj was merged with Orissa that difficulty was removed, and the only ground that was put forward by the States Ministry for handing over these States to Bihar falls to the ground.

I want to resume my seat with a few more remarks. The steps that have been taken in regard to these two States are not proper, or just or legal or valid. I want a change in their position by a change in the First Schedule. I submit that these observations of mine should be taken into consideration and the future fate of these two States should be decided in accordance with the wishes of the people.

(Shri Jadubans Sahay rose to speak)

Shri H. V. Pataskar : I will finish within a few minutes. I am going away tomorrow.

Mr. President : Are we sitting tomorrow ?

The Honourable Shri Satyanarayan Sinha (Bihar : General) : Not in the afternoon today anyhow, Sir.

Mr. President : (To Shri Jadubans Sahay)-Do not take much time.

Shri Jadubans Sahay (Bihar : General) : Sir, I would not have taken part in the general discussion but for the remarks made by the honourable Friend from Orissa just now. I would not go into details, but I would only tell my Orissa friends and other friends that the matter has been already settled finally. There ought to be some finality in everything. If the Orissa and Bihar friends go on wrangling over this issue which has been finally decided by the Minister for States and which has been taken for granted, then there will be no end to the ill-will prevailing between the two provinces. We in Bihar expect that this matter having been finally settled would restore the goodwill and good feeling and mutual understanding which exist between these two provinces and ought to exist not only in the general interests of these two provinces but in the general interests of the country a whole. I therefore, Sir, this question which

has been sought to be raised in this House by the observations made by Mr. Yudhisthir Misra should not have been raised.

The whole question is whether the merger of Seraikella and Kharswan with Bihar should be reopened again. The Honourable Sardar Patel went to Cuttack, he saw everything, he appointed the officer, he looked into the Covenant entered into by the Raja of Seraikella and after considering all these things, the States Ministry under the able guidance of Sardar Patel has given out that the final decision is that these two States of Seraikella and Kharswan should remain finally merged with Bihar. Where is the question of reopening the question now ? Because the reopening of this question will not do any good to either of these two provinces. I would simply appeal to my Orissa friends that this will not redound to the credit of these two provinces.

Apart from this, under the encouragement of Orissa, the Maharaja of Seraikella who is a disgruntled man, for reasons not within the control of the Government of Bihar, has distributed a pamphlet among the Members of the Constituent Assembly, but we thought that saner elements in Orissa would prevail; but instead of that, if the statesman of Orissa lend a hand to such agitation, then, Sir, it would not do good either to the province of Orissa or to Bihar, Let them give us time to do some constructive work-to ameliorate the conditions of the aboriginals and the non-aboriginals who are living in the States of Seraikella and Kharswan. The Bihar Government is doing its best to raise the economic condition and the educational condition of the people of these two States. If this wrangling goes on, it will prove a very bad thing so far as these States of Seraikella and Kharswan are concerned. I will therefore not try to reply to Mr. Yudhisthir Misra, but I will simply appeal again to the friends from Orissa to help us in restoring goodwill between the two provinces and not try to rake up this matter which has been finally decided by the Minister for States.

Shri H. V. Pataskar : Mr. President, Sir I had a number of amendments standing in my name to this Schedule, but I thought and thought rightly that no purpose would be served by moving them. I have also a amendment No. 324 for the insertion of article 3A for the formation of a new State of Maharashtra, but for practical considerations I did not move it also, because I knew there was no chance for it. What I want to make quite clear is that we have postponed consideration of this question because of a resolution of the Working Committee by which it will be possible to form some of the provinces in respect of which an enquiry was ordered by you, Sir, some time ago by the appointment of a Commission.

So far as Maharashtra was concerned, that resolution of the Working Committee says, that subject to the conditions mentioned in the report of the three man committee known as the J V P Committee, the State of Maharashtra should be formed. That report lays down that under no circumstances will Bombay city be included in the State of Maharashtra. I do not want to create any discussion or controversy at this stage. I would only like to make it clear that so far as Maharashtra is concerned a State of Maharashtra without the city of Bombay will never be acceptable to them. It is from that practical point of view that I refrained from moving my amendment No. 324. We would prefer to wait for the time being when those who are at present inclined for various reasons and out of distrust and suspicion to take Bombay out of Maharashtra will by mutual agreement and co-operation, be willing to concede the natural thing *i.e.*, allow Bombay to remain where it is that is in Maharashtra. We do not want Maharashtra in the interests of the Maharashtrians alone; but we want it in the interests of the nation as a whole. There is absolutely no idea of any provincialism in it. Therefore so far as the question of Maharashtra is concerned, I would like to make it quite clear that I do not move my amendment

[Shri H. V. Pataskar]

No. 324 for the very simple reason that I find that in the present circumstance is not possible to have any province of Maharashtra.

The Honourable Shri Satyanaryan Sinha : Sir, the question may now be put.

Mr. President : The question is

“That the question be now put.”

The motion was adopted.

Mr. President : Would Dr. Ambedkar like to speak ?

The Honourable Dr. B. R. Ambedkar (Bombay : General) : I have nothing to say.

Mr. President : Then I will put the whole schedule to vote as there is no amendment later on.

Shri H. V. Kamath : Subject to the names of provinces being amended.

Mr. President : There is no question of it being “subject to.” As I have the matter will be referred to the Provinces and if we get any reply which necessitates any change we shall consider that at the time of the Third Reading.

The question is :

“That the First Schedule stand part of the Constitution.”

The motion was adopted.

The First Schedule was added to the Constitution.

Mr. President : Before we rise, we have to fix the time table. It was suggested in the morning by some Members that we should meet tomorrow. (*Cries of “No”, and “Yes”*).

Shrimati Annie Mascarene : Sir, are we to be impose upon by the tyranny of the majority party ?

Mr. President : I do not think the Honourable Member is justified in saying that. There is no question of tyranny by any majority. The only question is that of fixing a time-table and surely the time-table for going to the church can be adjusted to the time-table of the House. There is no difficulty in that. If the Members do not want to sit on a Sunday then it is a different matter.

Shri R. K. Sidhwa : If we are to finish the business in one day then I do not we why we should not sit tomorrow, Sunday.

Mr. President : We are not likely to finish in one day. Even if we sit tomorrow we may have to sit on Monday; and if we do not sit tomorrow, we may have to sit on Tuesday. Therefore, if the Members wish we can sit tomorrow. (*some Honourable Members : “No, no”*). Then I shall take a vote on this.

The question is :

“That the Assembly do meet tomorrow, Sunday.”

The Assembly divided by show of hands : Ayes : 41, Noes : 35.

The motion was adopted.

Mr. President : So we shall sit tomorrow.

The Assembly then adjourned till Ten of the Clock on Sunday, the 16th October 1949.