

- (10) In clause (3) of article 177—
- (a) for sub-clause (a), the following sub-clause shall be substituted, namely :—
“(a) the allowances of the Rajpramukh and other expenditure relating to his office as determined by the President by general or special order;”
 - (b) after sub-clause (c), the following sub-clause shall be inserted, namely :—
“(ce) in the case of the State of Travancore-Cochin, a sum of fifty-one lakhs of rupees required to be paid annually to the Devaswom fund under the covenant entered into before the commencement of this Constitution by the Rulers of the Indian States of Travancore and Cochin for the formation of the United States of Travancore and Cochin;”
- (11) In article 183, for clause (2), the following clause shall be substituted, namely:—
- “(2) Until rules are made under clause (1) of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the State or, where no House of the Legislature for the State existed, the rules of procedure and standing orders in force immediately before such commencement with respect to the Legislative Assembly of such Province, as may be specified in this behalf by the Rajpramukh of the State, shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be.”
- (12) In clause (2) of article 191, for the word “Province” the words “Indian State” shall be substituted.
- (13) For article 197, the following article shall be substituted, namely:—
- “197. The judges of each High Court shall be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by the President after consultation with the Rajpramukh:
- ‘Salaries, etc., of Judges. in respect of leave of absence and pension as may from time to time be determined by the President after consultation with the Rajpramukh:
- Provided that neither the salary of a judge nor his rights in respect of leave, of absence or pension shall be varied to his disadvantage after his appointment.

I think I will move the other amendments afterwards.

As will be seen, the underlying idea of this Part is that Part VI of this Constitution which deals with the Constitution of the States will now automatically apply under the provisions of article 21-A to States in Part III. But it is realized that in applying Part VI to the Indian States which will be in Part II there are special circumstances for which it is necessary to make some provision and the purpose of this particular amendment 217 is to indicate those particular articles in which these amendments are necessary to be made in order to deal with the special circumstances of the States in Part III. Otherwise the States in Part III so far as their internal constitution is concerned will be on a par with the States in Part I.

Mr. President : Shall we have the amendments ?

Shri K. M. Munshi (Bombay : General) : May I read the Statement . . .

Mr. President : After the amendments are moved. Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : Mr. President, I will move Nos. 237 and 238, but a consequential amendment in the body of the Constitution would be necessary and I have suggested that in amendment No. 254. I beg to move :

“That in amendment No. 217 of List VII (Second Week), in the proposed new article 211-A. for the word ‘modifications’ the words ‘adaptations, modifications’ be substituted.”

I also move:

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

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

[Mr. Naziruddin Ahmad]

I also move 254 as consequential amendment to the acceptance of Part II of amendment 238. I move :

“That in clause (1) of article 135, the words ‘for the time being specified in the First Schedule’ be deleted.”

Sir, with regard to the scheme of article 21 I-A, I submit that the Drafting Committee has resorted to a kind of short-cut. They have merely adapted the articles applying to the Provinces so as to suit them to the purposes of the Indian States. Instead of this process they should have re-written the articles absolutely anew. There are many provisions which are similar to the Provinces and the Centre. If the process of adaptation was carried on like this, many provincial articles might have been adapted by a single section like this. In this process, there is a danger of overlooking a large number of anomalies and it is difficult to say what anomaly remains even after the adaptation. I submit that if possible these articles as adapted should be re-written as different independent Part altogether. That is a suggestion which I hope the Drafting Committee will consider.

My first amendment relates to the body of article 211-A. It says that Part III of the First Schedule, *viz.*, the provisions of Part VI shall be accepted subject to the following “modifications and omissions”. I wanted to make it read ‘adaptations, modifications and omissions’. The word ‘adaptation’ seems to me to be very appropriate. What we are doing is to adapt provisions applying to the Provinces to make them suitable for the Indian States. So these are really not mere modifications and omissions but really and essentially they are adaptations. That is why the word “adaptation” is particularly suitable in the context and should be accepted.

Then, Sir, as to the next amendment, it is also of a drafting nature. I shall merely indicate it and leave it to the Drafting Committee to consider the matter. It is in item 3. It is said that “articles 131, 132 and 134 shall be omitted”. Instead of that it would be better to say that these articles “shall not apply to this Part”. That is to say, articles 131, 132 and 134 shall not apply to Part VI-A which is under consideration. This is of a drafting nature and I should leave it to the Drafting Committee to consider.

The next amendment, to my mind, is a matter of some importance. It relates to the adaptations of article 131, clause (1). It, I mean the original article, says that the Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State for the time being specified in the First Schedule. We want to adapt it to apply to the Rajpramukhs. As so adapted, it would read that the Rajpramukh shall not be a member of either House of Parliament or a House of the Legislature of the State for the time being specified in the First Schedule. I submit that as the time when this original article was drafted, the picture of the Indian States was rather vague, and therefore, we concentrated ourselves on phraseology applicable to the Provinces, namely, “the States for the time being in the First Schedule”. I submit that the Rajpramukh should not only be not a member of either House of Parliament or of the States for the time being specified in the First Schedule, but also not a member of the legislature of any State for the time being specified in the Third Schedule. What I mean to say is that the working should be such that.....

The Honourable Shri K. Santhanam (Madras : General) : The honourable Member is confusing the Part I of the First Schedule with the First Schedule. The First Schedule includes all the States.

Mr. President : Specified in the First Schedule, and not Part I of the Schedule.

Mr. Naziruddin Ahmad : I am grateful to Mr. Santhanam for pointing it out. In that case, this amendment and amendment No. 254 would also be unnecessary.

Sir, these articles are coming in in absolutely huge numbers every morning and we have to consider them on the day they are received. With regard to the other amendments, they might be considered by the Drafting Committee.

(Amendment No. 239, List VIII, Second Week was not moved.)

Mr. President : Amendment No. 240—Mr. Sidhwa.

Shri R. K. Sidhwa : Sir, I move :

“That in amendment No. 217 of List VII (Second Week), in item (4) of the proposed article 211 A, in paragraph (b), the words ‘and such allowance shall be a charge on the revenues of the State’ be added at the end of the proposed clause (3).”

And there is a similar amendment, No. 241.

Sir, I move:

“That in amendment No. 217 of List VII (Second Week), in item 10 of the proposed article 211A, in paragraph (a) the words ‘and such expenditure shall be a charge on the revenues of the State’ be added at the end of the proposed sub-clause (a).”

The Honourable Shri K. Santhanam : Para. (10) is a charging section. If you read it with article 177, it will be seen that these allowances will be a charge. That is what Mr. Sidhwa wants.

Shri R.K. Sidhwa : My point is that it should not be a charge on the Union. As the Privy Purse is chargeable to the Union, I want to know whether the allowances are to be charged to the Union or the State. If it is charged to the State, then my amendment is not necessary.

The Honourable Shri K. Santhanam : Article 177 refers only to the Rajpramukhs.

Shri K.M. Munshi : It is only chargeable on the States.

Mr. President : If you refer to paragraph (1) it is covered by that. It says—

“In clause (3) of article 177 for sub-clause (a), the following sub-clause shall be substituted, namely:—

‘(a) the allowances of the Rajpramukh and other expenditure relating to his office as determined by the President by general or special order :’ ”

Shri R. K. Sidhwa : It does not indicate that it will be chargeable to the State.

The Honourable Shri K. Santhanam : The whole article 177 deals with it.

Shri R. K. Sidhwa : If it is now clear, I have no objection. If it is chargeable to the State, that is what I want.

Mr. President : Article 177 clause (3) covers it.

The Honourable Dr. B. R. Ambedkar : My amendment No. 10 covers it.

Shri R. K. Sidhwa : I see it now. Then there is another amendment No. 246, relating to the new article 235A. Will that come up later on ?

Mr. President : Yes. We now come to amendment No. 242—Shri Brajeshwar Prasad.

Shri Brajeshwar Prasad : Sir, I beg to move:

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

Sir, I am opposed to the statutory obligation on the part of the President to consult the Rajpramukh. I know, in practice, the President will always consult the Rajpramukh. But if there is any statutory obligation, it means that the sphere of action of the President would be circumscribed. It will not be easily possible for any man to go counter to the advice tendered by the Rajpramukh. Therefore, Sir, I am in favour of the proposition that the authority of the President in this sphere should be unrestricted and unhampered. Sir, there is another reason why I am against the Rajpramukh. I want that all powers, as far as possible, should be vested in the hands of the President, which means in the hands of the Government of India. Being fundamentally opposed to federalism and provincial autonomy and being an advocate of a unitary State, I feel that powers should be vested, as far as this topic is concerned, in the hands of the President and the President alone.

Mr. President : There are two more amendments, notice of one of which has been given by Kaka Bhagwant Roy.

Kaka Bhagwant Roy : (Patiala and East Punjab States Union) Mr. President, Sir, I move :

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

‘(b) for clause (3), the following clause be substituted; namely—

- (3) The Rajpramukh shall be entitled, without payment of rent to the use of his residences, and there shall be paid to the Rajpramukh such allowances as the President may, on consideration of the recommendation made by the Legislature of the State, by general or special order, determine.’ ”

Sir, the big allowances of the Rajpramukhs are to be a direct charge on the State revenues, and the State revenues are paid by the States people. So, the representatives of the people—I mean the State Legislatures—should have the right to discuss the allowances which are to be paid to the Rajpramukhs. You remember, Sir, that when we were discussing Schedule VII, I put up a similar kind of amendment and I was assured by Dr. Ambedkar that, when we took up the States Chapter, we shall surely consider over it. I think Dr. Ambedkar would be kind enough to consider over this amendment and accept it.

Prof. Shibban Lal Saksena : Mr. President, Sir, I beg to move:

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

Mr. President : The copy that I have, reads—

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

Prof. Shibban Lal Saksena : The amendment that I am moving is 288 of List XII.

Mr. President : I have just received it. You can move it.

Shri T. T. Krishnamachari : But that has not been moved.

The Honourable Dr. B. R. Ambedkar : How can you move it?

Prof. Shibban Lal Saksena : I am not moving the amendment which the President read out. I am moving No. 288 of List XII.

The Honourable Shri K. Santhanam : Before that there are amendments Nos. 276, 277 and 278 in List X.

Mr. President : We have not yet come to that. He may move that and then we shall take them up.

Prof. Shibban Lal Saksena : Here we are making provisions for allowances to be paid to the Rajpramukhs and we have said that these allowances shall be determined by the President by general or special order. Now, in the original article, the salary of the Governors is to be determined by Parliament, and I do not know why the allowances of the Rajpramukhs should not be determined by Parliament. In fact, the allowances should be fixed once for all and should not be varying. Therefore, I think that these allowances should be determined by Parliament and not by the President. They should not be liable to variation with every change of President. This is my amendment No. 288.

The Honourable Shri K. Santhanam : Mr. President, Sir, I move:

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

‘(b) for clause (3), the following clause shall be substituted, namely—

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

The point of this amendment is that in the clause as originally drafted, the provision is that the Rajpramukh shall be entitled without payment of rent to the use of his residences; if there are his residences, certainly we need not make a constitutional provision that he is entitled to use them. It is only when he has to use some residence which is not his by right, the question of payment of rent arises. That is why I want to make the provision that only when a Rajpramukh has not got his own residence in his Capital, he should be entitled to the use of an official residence without payment of rent, and my amendment has been tabled accordingly. Sir, I beg to move :

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

‘Salaries, etc. of Judges. 197. (1) There shall be paid to the judges of each High Court Such salaries as may be determined by the President after consultation with the Rajpramukh.

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

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

Sir, our attempt has been to bring the States as far into line with the provinces as possible. So far as salaries are concerned, it has been found necessary that the salaries of the High Court Judges in the States should differ at least for the present from those of the High Courts in the provinces. Therefore the President has been given the right under article 193 (7). The Parliament has been given power to fix the other allowances, and rights in respect of leave of absence and pensions. There is no justification why Parliament or Parliamentary legislation should not apply to the judges in the States High Courts as well. Therefore so far as clause (2) and the proviso are concerned, I have adopted the same language as in article 197 with the difference that to start with the allowances may be fixed by the President. In clause (1) I have given

[Shri K. Santhanam]

the President the right to fix the salaries of judges so that the new article 197 will follow the old article 197 as closely as it is possible and necessary to do so—

Shri H. V. Kamath : On a point of clarification, may I ask my honourable Friend Mr. Santhanam whether, in view of the fact that Rajpramukhs have been specifically exempted from payment of rent for their official residence, the article relating to the Governors also will be suitably amended ? That article does not exempt them specifically.

Mr. President : That question does not arise at this stage.

Shri H. V. Kamath : Governors and Rajpramukhs are on a par with each other.

Mr. President : That may be, but we are not dealing with Governors here.

The Honourable Shri K. Santhanam : I may add that the Rajpramukhs have generally their own residences in the capital and therefore no question of rent will arise.

Shri A. Thanu Pillai (Travancore & Cochin Union) : May I know from my honourable Friend, Mr. Santhanam, why he makes a distinction between salaries and allowances of High Court judges ?

Honourable Shri K. Santhanam : Because article 197 has made the distinction. It has fixed salaries in the Schedule II and made it unalterable by Parliament. But clause (2) of 197 makes the all owances and other rights in respect of leave, pension, etc., subject to parliamentary legislation. Because under 197 we have made the distinction. I am only trying to preserve the same distinction with respect to the States.

Shri H. R. Guruv Reddy (Mysore State): Mr. President, Sir, I move :

“That in amendment No. 217 of List VII (second week), in item (1) of the proposed article 211A, for the word ‘Rajpramukh’ the words ‘Maharaja, Nizam’ or the ‘Rajpramukh’ be substituted.”

Sir, it may be said that this matter would be explained elsewhere in the Constitution. But I feel that it is necessary.....

Shri T. T. Krishnamachari (Madras : General): May I point out that it is the intention of the Drafting Committee that this definition should be included in the definition clause 303 to which we propose to make amendments and if the honourable Member would wait, he will probably get an opportunity of putting these words as he wants them as an amendment to our proposal.

Shri H. R. Guruv Reddy : In that case, I will have it postponed. I shall move 287, I move:

“That in amendment No. 217 of List VII (Second Week), in paragraph (b) of item (4) of the proposed article 211A, in the proposed clause (3), for the words ‘payment of rent’ the words ‘any obligation’ be substituted.”

The use of the word “rent” looks as though it is belittling the rulers of the States. Therefore, I suggest the word “obligation” be introduced. Nothing else.

Prof. Shibban Lal Saksena : Mr. President. Sir, I beg to move:

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

Amendment No. 278 was moved by my Friend, Mr. Santhanam. My object in moving this amendment is this. Already my honourable Friend from Travancore has raised the question, which Mr. Santhanam also answered. He said that