

Mr. Vice-President : Then the question before the House is that Article 2 form part of the Constitution.

The motion was adopted.

Article 2, was added to the Constitution.

Article 3

Mr. Vice-President : Now we come to Article 3.

Amendment No. 139 is a negative amendment and is out of order.

Then we come to Amendment No. 140. Not moved.

The Honourable Shri K. Santhanam (Madras : General): Sir, I move:

“That in clause (a) of article 3, the following words be added at the end:

‘or by addition of other territories to States or parts of States’.”

I need not take up the time of the House. It only makes clause (a) logically perfect, because a new State can be formed by having a part of one of the acceding States and adding to it other territories which may be acquired by India.

Shri M. Ananthasayanam Ayyangar : I request the House to accept the amendment because by this addition alone will the article become complete.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I am agreeable to the principle of the amendment moved by my friend Mr. Santhanam. The only point is that I like slightly to alter the language to read “or by uniting any territory to a part of any State”.

The Honourable Shri K. Santhanam : I am agreeable to the change.

Mr. Vice-President : the question is:

“That in clause (a) of article 3, the following words be added at the end:

‘for by uniting any territory to a part of any State’.”

The motion was adopted.

Prof. K. T. Shah: Mr. Vice-President, Sir, I beg to move:

“That the following new proviso be added after clause (e) of article 3:

‘Provided that every proposal for legislation which increase or diminishes the area of an existing State, or alters its name or boundaries, shall originate in the Legislature of the State concerned or affected, in such form as the rules of procedure in the Legislature concerned consider appropriate’.”

Sir, here is a proposal to consult first the Legislature of the State, whose name or boundaries are proposed to be altered, or whose areas are proposed to be increased or diminished. We are all aware that the existing Units which make up this Federation are not equal *inter se* are not logical, are not happily constructed so as to minister to the development of the country or even of the areas themselves. It is necessary, and it will soon perhaps have to be implemented in some form or another, that these areas be reconstructed. That would mean that their boundaries, perhaps even their name, and their territories, may be altered, upwards or downwards. If that becomes necessary, then I submit the proper course would be to consult the people themselves who are affected, if not by a direct Referendum to the people affected, at least by a consultation of the Legislature, rather than that the change be imposed from above, as in my opinion the clause as it stands requires. The parties primarily affected are the people themselves of the areas whose boundaries or name is to be altered, or whose position has in any way to be reconstructed. And it is but a simple proposition—a mere matter of fundamental principle I submit—that you should in a democratic regime consult the peoples affected, and not merely lay it down from above. I recognize that the article as it stands provides that in any such event you should have either a representation from the representatives of the people in the Central Parliament to suggest such an alteration, or alternatively the President should have received some such

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representation from the people concerned. But it will be the act of the Central authority, and not of the people primarily affected to suggest this variation. I submit that that is in principle a wrong approach.

I am afraid that the general trend of the Draft Constitution, as I view it, seems excessively and unnecessarily to place power and authority in the Centre, to the serious prejudice not only of the Units, but even of the very idea of democracy as we flatter ourselves we are embodying in this Constitution. If it is a democratic Constitution, if we desire that the people should govern themselves, or that, even if they are not prepared today to do so, they should learn necessarily by mistakes, to be fit for and practice self-government, then I think it is of the utmost importance that a provision like this should be insisted upon.

Any question which relates to the alteration of the present units, their territories, boundaries or name, should begin with the people primarily affected, and should not come from the authority or power at the Centre. The authority at the Centre obviously is not familiar with local conditions; or they may have other outlook, may have other considerations, other reasons, for not accepting or agreeing to such a course. The authority at the Centre, even if moved by the representatives of the areas concerned by some resolution or other procedure, may be guided by the very few persons which, under any scheme of election, will constitute the representatives of those areas in the Central Parliament; and not really consult the entire population, the adult voters of the areas concerned, which I submit is the first requirement of any such readjustment.

Lest I should be misunderstood, I would at once add that I am certainly not in love with the present position, or the continuance of the alignment of the provinces and States as they stand today. They need to be altered, they must be altered. But they must be altered only as and how the people primarily affected desire them to be altered, and not in accordance with the preconception, the nation, of such adjustment that those at the Centre may have, even if some of those at the Centre are the representatives of the people concerned.

I make it imperative, therefore, that the first proposition, the initiation of the movement either to integrate or to separate, either to readjust the boundaries or to bring about any new form of configuration, must commence with the people themselves. There is another consideration in the matter, which also should not be ignored, namely that in any such readjustment, it will not be one single group that will be affected or concerned; there may be at least two or more which are likely to be affected; and as such the representatives of those two groups, or those more than two groups in the Centre, may not be quite competent to reflect the views of the people as a whole. I admit that in democracy majority rule should prevail. But the majority has not the monopoly of being always right and still less to be always just. If that is so—and I strongly believe it is so—then I submit that the only cure, if you wish to retain democracy, is to secure the assent in advance, to make the initiation, from the beginning, from or by the people concerned in suggesting such readjustment.

The actual readjustment of boundaries, the actual formation of new units, may be left to competent Boundary Commission, or to any other body or authority that may be set up, either *ad hoc* for the particular purpose, or in general terms as a kind of a statutory, constitutional authority, semi-judicial in character, that may decide upon and settle these matters. But in the absence of any such provision, and apart altogether from such mechanism that may be set up hereafter, I think the principle must never be lost sight of that the matter should originate, and should originate alone, with the peoples concerned. I personally would advocate a direct Referendum rather than merely

a vote of the Legislature, but lest the suggestion of a referendum sound too revolutionary to be entertained by a respectable House like this, I suggest—and I have put in the amendment—the idea only of the Legislature being consulted, and not necessarily the people as a whole. I trust this evidence of my intense, ingrained moderation would commend itself to the House, and allow the amendment—not merely to be opposed by a simple formal “I oppose”, but by some sort of a reasoned answer rather than a flat. Sir, I commend this proposition to the House.

Rai Bahadur Syamanandan Sahaya (Bihar : General): Sir, may I make a submission. I think that if Dr. Ambedkar moves his next amendment things will be clarified and such of us as have amendments in our names will be able to decide whether we should move them or not.

Mr. Vice-President : I agree with you fully. Dr. Ambedkar may move his amendment.

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

“That for the existing proviso to article 3, the following proviso be substituted:

‘Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless—

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

Mr. Vice-President, if one were to compare the amended proviso with the original proviso as it was set out in the Draft Constitution, the Members will see that the new amendment introduces two changes. One is this : in the original draft the power to introduce the Bill was given exclusively to the Government of India. No Private Member of Parliament had the power, under the original draft, to propose any legislation of this sort. Attention of the Drafting Committee was drawn to the fact that this was a somewhat severe and unnecessary curtailment of the right of the members of Parliament to move any motion they liked and in which they felt concerned. Consequently we deleted this provision giving the power exclusively to the Government of India, and gave it to the President and stated that any such Bill whether it was brought by the Government of India or by any private Member should have the recommendation of the President. That is one change.

The second change is this : under the original Article 3, the power of the Government of India to introduce legislation was restricted by two conditions which are mentioned in (a) (i) and (ii). The conditions were that there must be, before the initiation of any action, representation made to the President by a majority of the representatives of the territory in the Legislature of the State, or a resolution in that behalf passed by the Legislature of any State—whose boundaries or name will be affected by the proposal contained in the Bill. Here again, it was represented that there might be a small minority which felt very strongly that its position will not be safeguarded unless the boundary of the State were changed and that particular minority was permitted to join their brothers in the other State, and consequently if these brothers remained there, action would be completely paralysed. Consequently, we propose now in the amended draft, to delete (i) and (ii) of (a) and also (b) of the original draft. These have been split up into two parts, (a) and (b). (a) deals with reorganisation of territory in so far as it affects the States in Part I, that is to say, Provinces and, (b) of the new amendment relates to what are now called Indian States. The main difference between the new sub-clauses (a) and (b) of my

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amendment is this : In the case of (a), that is to say, reorganisation of territories of States falling in Part I, all that is necessary is consultation. Consent is not required. All that the President is called upon to do is to be satisfied, before making the recommendation, that their wishes have been consulted.

With regard to (b), the provision is that there shall be consent. The distinction, as I said, is based upon the fact that, so far as we are at present concerned, the position of the provinces is different from the position of the States. The States are sovereign States and the provinces are not sovereign States. Consequently, the Government need not be bound to require the consent of the provinces to change their boundaries; while in the case of the Indian States it is appropriate, in view of the fact that sovereignty remains with them, that their consent should be obtained.

As regards the amendment moved by Prof. Shah, I do not see much difference between my amendment as contained in sub-clause (a) of the new proviso and his. He says that the discussion shall be initiated in the States. My sub-clause (a) of the proviso also provides that the States shall be consulted. I have not the least doubt about it that the method of consulting, which the President will adopt, will be to ask either the Prime Minister or the Governor to table a resolution which may be discussed in the particular State legislature which may be affected, so that ultimately the initiation will be the local legislature and not by the Parliament at all. I therefore submit that the amendment of Professor Shah is really unnecessary.

The Honourable Shri K. Santhanam: Mr. Vice-President, I wonder whether Professor Shah fully realises the implications of his amendment. If his amendment is adopted, it would mean that no minority in any State can ask for separation of territory, either for forming a new province or for joining an adjacent State unless it can get a majority in that State legislature. I cannot understand what he means by 'originating'. Take the case of the Madras Province for instance. The Andhras want separation. They bring up a resolution in the Madras legislature. It is defeated by a majority. There ends the matter. The way of the Andhras is blocked altogether. They cannot take any further step to constitute an Andhra province. On the other hand, as re-drafted by the honourable Dr. Ambedkar, if the Andhras fail to get a majority in the legislature, they can go straight to the President and represent to him what the majority did in their case and ask for further action removing the block in the way of a province for them. If they are able to convince the President, he may recommend it and either the Government of India may themselves sponsor legislation for the purpose or any private Member or a group in the Central legislature can take up the question. Therefore, by Mr. Shah's amendment instead of democracy we will have absolute autocracy of the majority in every province and State. That is certainly not what Professor Shah wants. But, unfortunately, in his enthusiasm for what he calls the principle, he has tabled an amendment which altogether defeats his object. I therefore suggest that the amendment shall be rejected and the proposition moved by Dr. Ambedkar should be accepted.

Mr. Vice-President : Mr. Sidhwa.

Shri R. K. Sidhwa: Mr. Vice-President.

Shri H. V. Kamath: Sir, are we considering amendments 149 and 150 together? There are two amendments to amendment 150.

Mr. Vice-President : Let us hear what Mr. Sidhwa has to say. We will certainly take up the amendments to which Mr. Kamath has drawn attention.

Shri R. K. Sidhwa: I do not accept the arguments advanced by Mr. Santhanam against the amendment moved by Professor Shah. He stated that if in the Madras legislature a motion for the separation of the Andhra is lost by a majority, the Members affected will have the right to represent their case to the President at the Centre, under the proposition moved by Dr. Ambedkar. If, Sir, that is the effect of the proposition, I do not welcome it. It will be unfair to seek the aid of the President against the expressed wish of the majority under democracy. If the majority say that they do not want separation of the Andhras, the minority should not have the right to go to the President by the back door and urge separation.

But Sir, I do not share the views of Professor Shah in this matter. Dr. Ambedkar's amendment is very clear and comprehensive. It states that if anybody wants a change of name or separation, he can move for that in the local legislature. This is what Prof. Shah wants too. But I do feel that Dr. Ambedkar's official amendment is more comprehensive and should be supported. Though Professor Shah says that he has in mind referendum on matters of this kind, the amendment does not mention it. If a referendum is to be taken, the legislature has the necessary power to ask that it be done. The arguments advanced by Mr. Santhanam do not appeal to me. But, as I said, Professor Shah's amendment restricts the utility of the Provision. I therefore commend the amendment of Dr. Ambedkar to the House.

Mr. Vice-President : Mr. Naziruddin Ahmad may move his amendment.

(The amendment was not moved.)

Mr. Vice-President : Pandit Hirday Nath Kunzru.

Pandit Hirday Nath Kunzru (United Provinces : General): Mr. Vice-President, I beg to move:

“that in the amendment of Dr. Ambedkar as just moved, for the words ‘the previous consent’ the words ‘the views’ and for the words ‘has been’ the words ‘have been’ be substituted respectively.”

Sir, the object of my amendment, as honourable members will clearly see, is to place the States specified in Part III of the First Schedule on the same footing as the States specified in Part I of the Schedule so far as the reorganisation of the territory of any State is concerned. Dr. Ambedkar has told us why the amendment that he has proposed deals differently with the States mentioned in Part I and the States mentioned in Part III of the Schedule. He has expressed the opinion that the States mentioned in Part III of the Schedule are sovereign States and that they therefore enjoy a higher status than the provinces. Consequently, while the consent of the provinces is not necessary to a reorganisation of their territory, the consent of the States in Part III of the Schedule is required if their boundaries are to be altered in any way.

Now, I submit, Sir, that there are several provisions in the Draft Constitution that do not proceed on theory just now outlined by Dr. Ambedkar. Take Article 226 for instance. This Article lays down that, when the Council of States has declared by the prescribed majority that it is necessary or expedient in the national interests that Parliament should make laws with respect to any matter enumerated in the State List specified in the Resolution, “it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter”. It is clear from this provision that notwithstanding the sovereignty of the States mentioned in Part III of the Schedule, the Dominion Parliament can in certain circumstances legislate on subjects in regard to which legislative power has not been made over by these States to the Dominion Parliament in their Instruments of Accession. I know that this clause has been amended by the Drafting Committee. It has been provided that the declaration made by the Council of States in regard to the necessity or desirability of legislation of the kind mentioned in Article 226

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should be limited to three years at a time, but it can be renewed from time to time. But whatever the duration of the power that the Dominion Legislature will acquire under Article 226 may be, it is clear that notwithstanding any difference between the provinces and the Indian States, the Dominion Parliament will in a certain eventuality be able to legislate in regard to a subject in connection with which the Indian States have not parted with their own legislative power. I see no reason therefore why, proceeding on the principle on which Article 226 of the Draft proceeds, we should not provide that in the case of the reorganisation of territories too, the provinces and the Indian States should be placed on the same footing.

Article 226 does not provide the only instance in which the States and the provinces will be dealt with in the same manner, whatever the Instruments of Accession may say. For another illustration, I would ask the House to refer to Article 230 which deals with the implementation of international treaties, agreements and conventions. This article lays down that Parliament has power to make any law for any State or part thereof for implementing any treaty, agreement or convention with any other country or countries. Now, I could have understood, if Dr. Ambedkar's theory was to be acted upon consistently, the exclusion of the States specified in Part III of the Schedule from the operation of Article 230; but as a matter of fact this Article, if accepted by the House, will affect not merely the provinces or the States mentioned in Part I of the First Schedule but also the Indian States, *i.e.*, the States mentioned in Part III of the Schedule. Whatever the Instruments of Accession may say, the Dominion Parliament will have the power to carry out international treaties, agreements and conventions, even though they may relate to subjects specified in the State List.

Sir, there is yet another example that may be given to show that the draft Constitution has, in an important matter, given power to Government to direct the States to act in a particular manner. I refer to Article 294 of the new Draft. Article 294 as previously drafted provided for minority representation in the Legislative Assemblies of the States specified in Part I of the First Schedule. The article as drafted now compels the Assemblies of the States specified in Part III of the First Schedule also to reserve seats for the minority communities mentioned therein in the Legislative Assemblies of the States. This is another illustration of the manner in which the draft Constitution has imposed liabilities or responsibilities on the States mentioned in Part III of the first Schedule, notwithstanding what Dr. Ambedkar has said about their sovereign status.

Now it may be said, Sir, that the examples that I have given from the draft Constitution do not indicate that the Dominion Legislature will be able to exercise any power in regard to the States mentioned in Part III of the Schedule, notwithstanding anything to the contrary in the Instruments of Accession. It may be contended that the Instrument of Accession will be accepted only when the States accept the responsibilities mentioned in Articles 226, 230 and 294. If that is so, why cannot Government go further and require the States to agree to a reorganisation of their boundaries in such manner as might be considered desirable by the President in consultation with them? I am not asking that the States should have no voice in connection with matters relating to their territorial limits. All that I am asking for is that the consent of the States should not be necessary for a re-organisation of their territories. Consultation with them should be quite enough. Normally their legislatures should be consulted, but as we are not certain that every State has or will soon have a legislature, I was unable to table an amendment requiring that in the case of the States, too, the opinions of the legislatures concerned should be

obtained, before any action is taken. I do not see, why the previous consent of the States should be required in connection with Article 3 and more than it is required in connection with matters dealt with in Articles 226, 227 and 294. If Government desire to be consistent, it is incumbent on them, in my opinion, to accept the amendment that I have placed before the House. They cannot in conformity with the position taken up by them in the draft Constitution raise any objection on principle to the amendment that I have moved.

Sir, if my amendment is as I think free from all theoretical objections, can any practical grounds be urged for dealing with the States differently from the provinces? I do not think that there is any reason whatsoever why the States specified in Part III of the Schedule should have the permanent right to veto their territorial re-organisation, however necessary or desirable it may be in the public interest. There are unions, Sir, that are very small; their revenues are too limited to enable them to fulfil the duties that Governments have to shoulder in modern times. Is it desirable that these States should in utter disregard of the interests of their citizens always rule out all proposals relating to the re-organisation of their territories? If Government bear in mind the interests of the people, not merely in the States specified in Part I of the First Schedule but also of the States specified in Part III of the First Schedule, it is necessary for them to take power in their own hands to deal with the question of territorial re-organisation, whether it concerns the provinces or the Indian States, in any manner they like. If they fail to do so, they may justly be accused by the inhabitants of the States specified in Part III of the First Schedule of treating them in a step-motherly manner and leaving them to carve out their future as they best may with their own unaided resources. The whole principle on which the Draft Constitution is based is that in certain essential matters, the Central Government should have adequate powers to arrive at decisions and to execute them in the interests of the entire territory of India. My amendment, Sir, proceeds on the same basis and I submit that it would be inconsistent and unjust on the part of the Government if they were to reject my proposal merely on the ground that the States, though they will be compelled to bow to the wishes of the Indian Legislature in certain matters, should not be compelled to fall in line with the provinces in regard to the re-organisation of their territories, however urgent the matter may be.

Rai Bahadur Syamanandan Sahaya: Mr. Vice-President, Sir, the desire for the formation of provinces and the re-distribution of boundaries of existing provinces and States is, in my opinion, assuming the proportions of an epidemic, I feel that the two words “linguistic” and “cultural” have never been more misused than in recent times. In framing a legislation, and particularly a legislation of the type we are considering, it is necessary for us to decide what type of tendencies we should encourage and what types of tendencies we should not encourage. It is from this angle that I am making a few submissions in connection with this Article and the amendments before us.

I have no doubt that the amendment proposed by Dr. Ambedkar to his own draft has been guided by some such consideration that I have just placed before you and the House. The Draft as it stands only lays down that a Bill for re-distribution of boundaries or for re-naming a State would be introduced if the majority of the representatives of the territory expressed a desire to that effect. Of course, the language of the Draft as it stands is, in my opinion, ambiguous. Because, representatives of the territory, as it stands in the Draft, may mean the territory of the whole province, and the representatives of the entire province under the existing Draft may be required to give their opinion before legislation of the type could come into Parliament. Since then, Dr. Ambedkar has moved an amendment which makes a distinction between the manner of ascertaining the views of the Provinces, and the States specified

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in Part III of the First Schedule. Although I agree with one observation which has recently been made by Pandit Kunzru that there is no reason for this differentiation, I do not agree with the amendment which he has proposed. I feel that in both the cases of the Provinces and the Indian States, the words 'previous consent' should occur. In part (a) of the Proviso as suggested by Dr. Ambedkar, the words are: "where the proposal contained in the Bill affects the boundaries of any State or States for the time being specified in Part I of the First Schedule, the views of the Legislature of the State or as the case may be of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President." This is, Sir, relating to the Provinces. When he comes to part (b) of this Proviso, concerning the States referred to in Part III of the First Schedule, (ii) the Indian States he says; "the previous consent of the State or as the case may be, of each of the States to the proposal has been obtained." Now, Sir, there is a difficulty which I envisage in this amendment. Supposing the re-distribution of boundaries concerns one State referred to in Part I of the First Schedule and another State referred to in Part III of the First Schedule, the result would be that in the case of the State referred to in Part I of the First Schedule the views of the Assembly will be ascertained and in the other case, the consent of the State will be required so that, if the State referred to in Part III of the First Schedule does not give consent, even though the province may agree, the re-distribution will not take place. I, therefore, feel with Pandit Kunzru that there should be no distinction between the two provisions; but instead of leaving the door very wide open in the provinces, I would submit that Dr. Ambedkar should consider if it would not be proper that the word 'consent' used in the case of States referred to Part I of the First Schedule also. I had an amendment in my name, being number 161 on the list. But, I feel that this amendment of Dr. Ambedkar will receive a great deal of support in this House and the amendment suggested by me in the Draft as it stands will have no chance. I therefore make a request that even at this late stage, if the mover has no objection, you may kindly accept an amendment to use the word "consent" for the word "views" in part (a) of the proviso as moved by Dr. Ambedkar.

Pandit Thakur Dass Bhargava (East Punjab : General): *[Mr. Vice-President, I have come here to express my views on this amendment and on the amendment moved by Prof. K.T. Shah. The amendment moved by Dr. Ambedkar on this Bill is more stringent than the original one.

The first point which I would like to submit is that every part of India should be given this facility, that, should it decide to secede from one part and to accede to another, then there should be no impediment in its way. India of ours, which was under the domination of the British, is sub-divided into unhomogeneous parts which have grown in haphazard manner. Not only there are districts, which want to secede from one province and to accede to another, but there are even Tahsils and parts comprising ten to twenty villages who want to secede from one part and to accede to other parts. This Article is sufficient to throttle them. For example, I would like to mention that Hariyana, which is at present included in East Punjab, has been trying for the last forty years to get itself attached to areas whose language, customs and traditions are similar to its own and to get constituted into a separate province. But it could not succeed. The reason was that when this was discussed with U. P. leaders they at once stated that this was a device to parcel out U. P. They did not even consider whether it was a right thing to do or not. Provincialism and other ideas have become so ingrained in us that nobody is

* [] Translation of Hindustani speech.

prepared to judge a thing on its own merits. I would like to know why in a part of Natural Area where there is not a single Sikh, teaching of Gurmukhi has been ordered. Today, in 1948, orders have been passed to teach Gurmukhi in an area where not a single Sikh resides and the result will be that children of that area will be forced to learn Gurmukhi. This Article, now sought to be moved, will make impossible the position of those leaderless areas, who wish to find a way out of this confusion. There will no attractive life to them, because according to this Article the right which should vest in every Member of Parliament is being given to the President. I would like to submit most respectfully that today, there are several provisions in the Government of India Act which debar a member from introducing a bill of a particular nature. Whenever I had wanted to introduce a Bill regarding joint Hindu family with the object of exempting the family from taxation, I found that it could not be done without prior sanction. Whenever I applied for sanction, that was refused. I am aware that the method of work of all the Governments is the same. The sanction of the President implies that Member, having the right to introduce a Bill, will not get the requisite sanction. Dr. Ambedkar has just said that this point was raised before him and that is why he has made the change that instead of Government introducing the Bills, Members also should be able to do so. But he has made the law more stringent than heretofore. If Government takes the responsibility for the bill, then it could get it passed. But since the giving of sanction will entirely depend on its recommendation, no moral influence will be there. If the President and the Cabinet do not want it and do not recommend it, then Parliament, not to talk of the individual, can do nothing. Recommendation means that the power of originating such a bill has been taken away from the Members. Therefore I submit that this provision is most undemocratic. Similarly, I would like to state that under article 34, which gives the discretion to Parliament to delegate any of its powers to the President or to any one else, Parliament will not be competent to bring any legislation for changing the boundaries of provinces unless the President's recommendations is there. This is a right of a Member and it will be taken away by this provision. Since the war we have been hearing that everyone has got the right of self-determination. This provision takes away that right. If the people of an area want separation, then the right of self-determination should be given to them. Prof. K. T. Shah while elaborating his amendment has stated that he is afraid of referendum, but the proposal put forth by him strikes at the very root of self-determination. For example, if any part of a big province wants to break away then the only course before it is to bring the matter before the Members. But by doing so the very purpose would be defeated because the majority would always reject such a proposal. The principle, underlying the amendment of the learned Professor, is right but his suggestion is wrong. In my opinion a provision should be evolved whereby separation maybe effected by holding a referendum of the people of the area desiring to separate. I know the result will be that many areas would like to go out and the provincial legislature would never agree to that. Therefore, there would be no use in taking the vote of the whole House as small areas will not get a vote. In the old Government of India Act a similar provision existed. In 1946, I had tabled a resolution in the Assembly for the appointment of a Commission for redistribution, but unfortunately it could not be taken up. A proposal was also put before the Cabinet Mission for appointing a Commission for the redistribution of the provinces. Now a linguistic commission has been appointed. I hear attempts are being made to shelve its activities. I would like the Congress Government to respect the wishes of the areas, which desire to separate from any province and that no hurdles are paced in their way; on the other hand, all legal aid should be given for the formation of a new province. But so long this Section exists areas comprising even two or for districts, will not be heard at all. The previous condition that only the vote of the representatives of the territory, which wants

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separation, should be taken, has now been deleted. Now it is proposed that the vote of the legislature should be taken. No provincial legislature would agree to the separation of a part, and the representatives of the affected area will be so influenced that they would not be able to give free expression to their views. Therefore, holding of a referendum is necessary. Parliament, and not the President, should have the right to determine the matter after taking into account the opinion of the people of the area concerned and of the vote of the provincial legislature. It is therefore necessary that every Member of the Parliament should have the right to give notice of such a bill. Views of the provincial legislature may be taken but the changes should be effected in accordance with the wishes of the people of the area, who want separation. If this is not done then the principle of self-determination would be nowhere. We used to hear that after the attainment of Swaraj the right of self-determination would be given to all. This Section will put an end to that right, and no justice would be done to the people. I belong to a small district, Hissar. It is an epitome of India. Boundaries of many provinces meet in Hissar, e.g., Jind. Jind State having 88 per cent Hindu population, and only 12 per cent Sikhs has been included in the Eastern Punjab States. Formerly, Delhi was a part of U.P. Six districts of Ambala Division were also included in it. In 1857, Lawrence, who had annexed this area, was made Governor of the Punjab and so this territory was included in the Punjab Province. For a very long time we tried that Delhi and Ambala Division be separated from the Punjab, because this territory had nothing in common with the Panjab, but our efforts bore no fruit. Now, after the partition it remains to be seen as to what would happen to this area; with whom will Delhi and Ambala Division be tagged and whether Punjabi or Hindi would be its language. Now, we hear that we are to be included in a Punjabi speaking province. Our children, who have nothing to do with Punjabi language, will have perforce to read Punjabi. Nothing could be more cruel than this. This provision gives no freedom. The Constitution is being forged to enable people of every part of the country to live in peace, and to evolve an organic life for themselves. But under Article 3 and this amendment, each and every part would not be able to attain freedom for itself. Therefore, I say that the provision is undemocratic, and that it restricts the rights of the Parliament. Views of the legislatures may be invited, and may be taken into consideration; but the determining factor should be the vote of the people of the area, which wants to separate. For this, there is no provision under the present law. With these words, I would like to emphasise that it should be so amended that even the smallest areas in the country may be able to achieve full freedom.

Shri Rohini Kumar Chaudhari (Assam : General): Sir, it is my misfortune to have to oppose the amendments moved by the two stalwart Members of this House, namely, Prof. Shah and Pandit Kunzru. I oppose them not because I like them less, but because I like Dr. Ambedkar's amendment more, as it meets the present situation very well. Sir, I do not object to Prof. Shah's amendment on the ground of its wording or its unsatisfactory character or to the word 'originate'. I entirely agree with him that no such motion should be considered in any House if the State which is affected is not at all in favour of it. I say that if there is not a single Member of the legislature in a State who countenances the idea of separation, it is unthinkable that the Central Legislature would take up that matter. To that extent, I agree with Prof. Shah. But I am opposed to his amendment on the ground that it is very restrictive. It does not allow a motion to be moved by any other authority or by a private Member other than the Government of India itself. On that point I consider that this amendment should be opposed.

Then coming to the amendment of Pandit Kunzru, I consider that his amendment lays down a rather dangerous principle, dangerous at this stage. It

smacks of a repetition of Dalhousie's annexation policy. It gives to the Central Legislature the power to alter name of a State, to change, increase or diminish the boundaries of a State, without any previous consent of that State. We have thus far proceeded very contiously in the matter of the States — thanks to Sardar Patel. We have not asked for any merger or accession without the consent of the State itself, except probably in the case of the police action in Hyderabad — and we do not know how it will end after all. So, what I say is, if at this stage we give the idea to the States that it will be open to the majority of the Central Legislature at any moment they think fit to take one part of a State and tag it on to another province or to saddle it with an unprofitable part of a province, that will be a most unwise thing and that will put the States on their guard, and that will end the amity with which they are now coming in and joining us. Certainly, I agree that some powers of interference have been reserved in our Constitution by articles 226 and 230. But they also show how cautiously we are proceeding in this matter. After all, you must not ask your host to give up his bed for you, merely because he has allowed you shelter. Merely because the States now are showing their inclination to come and join us in all matters, we must not ask them to agree to a proposition whereby you will be able to alter their name, diminish their area, or change their boundary or do anything of that kind, without their consent.

With these words, I support the amendment moved by the honourable Dr. Ambedkar. I would only ask him, or anyone in the House to tell me whether the word 'President' means that the recommendation of the President would be given with the consent of the Government, or whether the President can independently act in exercise of his discretion. The word 'discretion' is not used, of course, but I would like to know if he can exercise his discretion in allowing a motion of that kind. I consider that it will be more reasonable to allow the President to exercise his discretion, rather than that he should be guided by the opinion of his Government in this matter. There are other provisions in the Draft Constitution where the President undoubtedly uses his discretion, without consulting the Government or the Central Legislature, though the word 'discretion' has not been used. For instance, in the matter of remission of sentences, the President will never be called on to take the consent of his Ministry in remitting a sentence or refusing to remit a sentence. All the same, that Article is there, without the addition of the word 'discretion'. Therefore, I consider that the interpretation which Dr. Ambedkar puts is correct, and when the word 'President' stands alone, it means he will be able to exercise discretion in such matters.

Shri Gopikrishna Vijayavargiya [United State of Gwalior — Indore — Malwa (Madhya Pradesh)]: Mr. Vice-President, Sir, I am not going to speak against or for any of these motions. I have only to make certain observations, as I come from an Indian State and want to give expression to the feelings of the people of the States in this matter. I think, Sir, that the people of the States do not want any discrimination in the matter of consent or no consent (*Hear, hear*). In fact, our wish is that the States must be put on the same level as the Provinces (*Hear, hear*), and therefore, there is no question of taking the consent of the States. In fact, I would be very glad if this article could have been amended in some such way, at least, to the effect that the States Legislatures might be consulted. I think, mere consultation would be sufficient in the matter of the States also as it is in connection with the Provinces. I think, Sir, the question of the sovereignty of the Rulers or of the States should not be brought up. I think, Sir Stafford Cripps when he came to India also gave a definition of the States and thought that the Rulers are the States, and now some such anomaly may be created again. I say the wish of the States' people is that there should not be any discrimination in favour of the

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States, and consent is not necessary. You might put the States on the same level as the Provinces. The people of the States have always contested the sovereignty of the rulers — they do not accept the sovereignty of the rulers. Most of the States have been tiny; now they have merged with some of the Units but the question would crop up again if sovereignty were given to the rulers. The people of the States are fully the kith and kin of the people of the Provinces — they are the same as those in the Provinces. We do not like to further fragment our country on the same old lines. The distinction of the Indian States and the Provinces is still being maintained, but now we think that this distinction must go. The House must consider any thing that may help in the States being brought on a par with the Provinces, would have liked if this whole Assembly had been delayed for some time, or postponed, so as to bring the States on a par in all affairs with the Provinces. I think the States Ministry ought to have done that a little earlier. This is really worth while doing, because we are making a Constitution and it will be very difficult to change it afterwards. I therefore think that this discrimination must go. I request Dr. Ambedkar to find out some way for this. In this matter I voice the feelings of the people of the States. I am not speaking on any particular amendment.

Shri M. Ananthasayanam Ayyangar: Sir, the question may now be put.

Mr. Vice-President : What is the feeling of the House?

Shri H. V. Kamath: No, no. This is a very important matter.

Mr. Vice-President : Prof. Shibbanlal Saksena.

Prof. Shibban Lal Saksena: Mr. Vice-President, Sir, this is a fundamental matter, and the amendment tabled by Dr. Ambedkar is a very important one. In his explanation he has said that his amendment enables any Member to give notice of private Bills for changing boundaries, and on receipt of that Bill the President will take certain steps to ascertain the opinion of the Legislature concerned, and then on the advice of the Prime Minister recommend that the Bill be brought up. My friend Shri Thakur Dass Bhargava just now said that this amendment is really far more stringent than the original clause. I do not agree with that view. Under the original clause, only the Government of India could have brought such a Bill, whereas under this amendment, on the recommendation of the President any Member can bring it. The only condition is this, namely, that the President after he receives notice of such a motion from any Member will try to take the opinion of the area concerned and then, of course after consulting his Ministry, give his recommendation for moving the Bill or otherwise. But if the original clause had continued, no private Bill could have come; under the new amendment a private Bill can come, with the limitation I have already described. I personally think this is a much better form than the original clause. Probably Shri Thakur Dass Bhargava wants to go much further. He wants that any private Member should have liberty to bring in the House a Bill asking for the change of boundaries. Change of boundaries is a very vital matter and it should not be made so easy that everyday any Member shall bring forward motions for changing the boundaries and the Legislature should discuss that question. It will create unnecessary heat and create friction which I think should be avoided. I think that so far as the language of the amendment is concerned it meets the wishes of Shri Thakur Dass Bhargava. Of course the Member will have to secure the recommendation of the President, and probably if the President feels that the people of an area — the majority of them — are of the opinion that they would be happier if they go to some other State or Province, he would advise the Prime Minister, and probably the Prime

Minister also will agree with him that the motion should be allowed and that Parliament should be allowed to discuss the question. I think that gives full liberty and opportunity to every area which desires a change of boundaries.

There is one aspect of this amendment which is really a very unfortunate aspect, to which Dr. Ambedkar had given vent in his lucid address in the beginning when he said that in this Constitution we have been forced to treat the Indian States on a separate footing from the Provinces. In the First Schedule, the Indian States have been put in Part III while the Provinces have been put in Part I. And here in this Article 3, Part I and Part III are separately treated. Whereas in respect of the States under Part I their Legislatures will only be *consulted*, in respect of the States under Part III their consent will be *required*. Sir, I had given notice of amendments which really sought to do away with this distinction, and I am sure that our learned Dr. Ambedkar also wishes the same thing from the bottom of his heart. There should be no difference between a Province and a State and we all wish that this distinction should disappear. My honourable friend Pandit Kunzru has also argued that there should be no differentiation at least in this matter namely about *consent* and *consultation*. He wants that the States should only be consulted just like the Provinces. He has also pointed out Sections in the Draft Constitution where the States have been asked to fall in line with the Provinces, and I think he has made out a very good case. I am very much in agreement with all that he said. But I personally feel that in this matter our leader, the States Minister, Sardar Patel, feels that it will be a breach of faith if we made provisions in the Constitution without securing the prior agreement of the Indian States also. He has promised us that he will make his efforts to get their consent and before the Bill goes into third reading he will try to have this. We all very much wish him success in his efforts.

Shri H. V. Kamath: On a point of order. Sardar Patel has made no statement on this issue and I do not know if my friend is in order in referring to any statement made by him in private.

Prof. Shibban Lal Saksena: I am only expressing his wish — he has made no statement like that — I only say that he will make his efforts and that before the Bill comes up for third reading he would be able to secure their consent. If he does not, then of course we will have to fall back on our own resources. But by making a provision like this in the Constitution we are making it very difficult for any change afterwards. When it becomes part of the Constitution, a two-third majority will be required for making any change and it will be very difficult. I suggest that some way should be found out for this. If before the third reading is passed this consent is not achieved, then this Article should at least be changeable not by a two-third majority but by a simple majority. Or if the learned Doctor can make the amendment that this part will not be treated as a change in the Constitution, I think our difficulty may be met. The honourable Member who preceded me also said that the people of the States do want that the States should fall in line with the Provinces. It is a matter of fundamental importance that the States should not remain something separate, having separate sovereignty. There should be only one sovereignty and that should be the sovereignty of the Republic; and the States should be part of the one single Sovereign Republic. I therefore hope that the Princes themselves will agree to this patriotic consummation and if they do not, I hope there will be a provision that when the Indian States people come into their own, they will be able to make the required changes. But I hope that the Constitution will not lay down the two-thirds majority. I do hope that if a simple majority is laid down for a change in this clause, when the Indian States people come into power in their Legislatures they will set

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that they are governed on the same lines as the Provinces; but so long as that is not done, we will not be wise in making a breach of faith with those Indian States with whom we have made agreements. Sir, I support the amendment.

Shri L. Krishnaswami Bharathi (Madras : General): Mr. Vice-President, Sir, I fully support Dr. Ambedkar's amendment and the principle underlying it. He said that in the case of Provinces, that is Part I States, mere consultation is enough, in the case of Indian States previous consent is necessary. But the reason that he gave for this distinction is unacceptable and I have no doubt that the House will entirely repudiate that. If I heard him a right, Sir, he said that the States are sovereign. This is a very dangerous doctrine at this time of the day to lay down; two States particularly, Travancore at one stage, and Hyderabad, till recently, claimed that they were Sovereign, and we have all along been repudiating that position and declaring that the States are not at all sovereign in any accepted sense of the word, and that was the fundamental issue at the United Nations Organisation Council at Paris.

Sir, I think it may be his personal view. If we accept his amendment it is not because of that argument. I entirely agree that it is very necessary to make this distinction. We want to go slow, and the States are governed by the Instruments of Accession. We shall certainly get the consent of the people when it is necessary. But to say that the States are sovereign is laying down a dangerous doctrine and if this House accepts this amendment, it is not because of the reason that he advocates but because of other weighty considerations.

Shri Raj Bahadur (United State of Matsya): Mr. Vice-President, Sir, I stand here to voice what I think to be the universal feeling of those of us who happen to come from that part of India which hitherto has been called as the Indian States. When we read this amendment which has been proposed to the Draft Constitution by the Drafting Committee, two points emerge. Firstly, that the necessity is there for a provision in the Constitution under which the re-distribution, readjustment or re-alignment of the boundaries of the various units of the Union, may be made whenever needed. Secondly, that in this matter there is some distinction provided in this provision between the Indian States of the present day on the one hand and the Provinces on the other. I may respectfully submit that the distinction in the wordings of the provision contained in provisos (a) and (b) of the amendment has not made us who come from the States any whit happy. On the other hand, we feel a little smaller and we feel as if full justice has not been done. We know that this word "State" has been outrageously interpreted ever since the day of the first Round Table Conference. We have seen that from the days of the Round Table Conference to the declaration of August 8 by Lord Linlithgow in 1940, again from that date to the Cripps Proposals and from the Cripps Proposals to the Cabinet Mission, and even after that during the deliberations of the Negotiating Committee, there has always been the tendency, I should say the definiteness, to interpret the word "State" as NOT the people of the State but "the Ruler" of the State. I am sure that when I voice my protest against this interpretation, I voice the universal feeling of the people of the States. May be that our sacrifices in the struggle for independence have been considered by some to be somewhat smaller in magnitude but that is no reason why we should be deprived of equal rights and opportunities and of the feeling that we are one with the country, that we are not any whit different from the rest of the people of the country. That is why I say we are not happy over this distinction.

It has been argued before us — it is always, so to say, used as a militant argument against us — that because of the Covenants that have been signed

between the Indian Princes and the States Ministry, and also because duly constituted Legislatures are not yet existing in many of the States or States Unions, this distinction in the proviso cannot be avoided. But I think that things are now different. Time was when sovereignty vested in the Princes, but it is a hard fact today that that sovereignty has been transferred to the people in all cases, I should rather say invariably. There might still be an exception or two but that exception too will soon disappear and if that is not going to disappear willingly it shall have to take a lesson from what has happened in Hyderabad. The united will and action of the people of the Indian Union will bring round the recalcitrant elements, if any, as also those who are not going to fall in line with the tendencies of the rest of the country. I repeat that sovereignty today vests in the people and so it vests in this Constituent Assembly. The sovereignty of the Constituent Assembly is unqualified, and undiluted in respect of any and every part of the Indian Union. If there be anyone who objects to that sovereignty or who casts any doubt about that sovereignty, the people of the States are as much behind this august Assembly as the people of the rest of the country for the defence and support of — and are prepared for any sacrifices also if they be needed for the sake of — the sovereignty of the Assembly. There should, therefore, be no difference whatsoever. I suggest that it would have been better that this amendment also might have been allowed to stand over because the matter is of urgent importance, or shall I say, of utmost importance to the people of the Indian States. Even if it be supposed that this amendment has got to be taken up, my suggestion is that it should be taken up at the time when all other controversial points are decided by this Assembly. In case my suggestion does not find favour and the amendment is pursued, then it will be accepted by the representatives of the States in this Assembly with the mental reservations which I have just referred to.

I may conclude by saying that so far as this Assembly is concerned, we have been committed to two definite principles: the principle of unification and of democratization of the entire Union and as such it cannot be contemplated by any provision of the Draft Constitution that there can be some sort of a different treatment between the Provinces and the States. The word “State” has been defined in Article 7 of the Draft Constitution as under:

“In this Part, unless the context otherwise requires, ‘the State’ includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India.”

The word that has been used is “includes” that means there might be something more which may come within the purview of the word “State”. I think the word “Ruler” may be contemplated there. That is why we are not happy over the use of the word “State” in proviso (b) to the amendment proposed by the Drafting Committee itself.

Sir, I respectfully submit that my suggestions and remarks will be taken in the light they are made and will be considered.

Chaudhari Ranbir Singh: (East Punjab : General): *[Mr. President, while supporting Dr. Ambedkar’s amendment I cannot help remarking that the amendment undoubtedly provides some freedom to the members of the Central Legislative to move private bills as also some freedom and opportunity to the minorities, based on religion or caste, to have their say in the matter of the formation of any province of their choice. But I want to submit in this connection that the aim of our country being the establishment of a secular State our non-religious Government should follow the rule that all such reservations

* [] Translation of Hindustani speech.

[Chaudhari Ranbir Singh]

based on religion or community should be abolished. On the other hand I fear that if this suggestion is accepted, a community which is in a majority in a territory but is in minority in a State will have neither the same weight nor the same opportunities as it had under the previous provisions.]

Shri H. R. Guruv Reddi (Mysore): May I suggest, Sir, that further discussion may be continued tomorrow?

Mr. Vice-President : The House stands adjourned till 10 A. M. on Thursday the 18th November 1948.

The Assembly then adjourned till Ten of the Clock on Thursday, the 18th November 1948.
