

Volume X



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**6-10-1949
to
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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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Marshal:

SUBEDAR MAJOR HARBANS LAL JAIDKA.

CONTENTS

Volume X—6th October to 17th October 1949

	PAGES		PAGES
Thursday, 6th October 1949—		New Article 67A considered	
Adjournment of the House	1	Programmes <i>re</i> Third Reading.	
Meeting time for the House	1—2	Friday, 14th October 1949—	
Friday, 7th October 1949—		Draft Constitution—(<i>Contd.</i>)	229—264 266—288
Taking the Pledge and Signing the Register	3	[Articles 296, 299, articles re-opened 48, 62, 67, 109, 112, 119, 135, 144, 149, 230, 303 and first schedule considered]	
Draft Constitution—(<i>Contd.</i>)	3—32	Statement <i>re</i> Report of Minorities Advisory Committee	265—266
[Articles 306, 309, 310-A and B, 311-A and B, 312, 312-A to E, 312-G and H and 313 considered]		Saturday, 15th October 1949—	
Monday, 10th October 1949—		Constituent Assembly Rules (Amendment)	289—312
Taking the Pledge and Signing the Register	33	Draft Constitution—(<i>Contd.</i>)	312—324
Draft Constitution—(<i>Contd.</i>)	33—84	[First Schedule considered]	
[New articles 283-A, articles 307, 308, 310 and 311 considered]		Sunday, 16th October 1949—	
Tuesday, 11th October, 1949—		Draft Constitution—(<i>Contd.</i>)	325—383
Draft Constitution—(<i>Contd.</i>)	84—118	[Articles 264A, 274DD and 302AA considered]	
[Articles 311, 312F, Schedules IIIA, IV and Second considered]		[Schedule III and Articles 13, 16, 27, 42, 280A, 85, 111, 112, 203, 122, 130, 169, 213A and 215A considered]	
Wednesday, 12th October 1949—		Monday, 17th October 1949—	
Draft Constitution—(<i>Contd.</i>)	119—174	Motion <i>re</i> Allowances of Members	385—388
[Second Schedule and Part VI-A-considered]		Draft Constitution—(<i>Contd.</i>)	388—457
Thursday, 13th October 1949—		[Articles 59, 62, 147, 175, 13, New Article 302AAA, Schedule IIIA, Part XVIII, 315, 306A and Preamble considered].	
Draft Constitution—(<i>Contd.</i>)	175—228		
[Part VI-A—Articles 235, 236, 274DD, 274DDD, 302A, 306B, 267, 270A, 197, 235A and 267A considered]			
[Articles (reopened)—3, 47, 55, 67, 83, 92, 100, 248B, 263, Seventh Schedule and Article 270 considered]			

CONSTITUENT ASSEMBLY OF INDIA

Saturday, the 15th October 1949

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

An Honourable Member : May I know when this session is expected to break?

Mr. President : I think there is at least work for one day more and so we shall have to sit on Monday or Sunday. We shall at the end of the day decide on which day the House should sit. All that I can now say is that we shall have to sit for one day more, It may be tomorrow or the day after just as the House likes.

Seth Govind Das (C.P. & Berar: General): I propose that we sit tomorrow and not on Monday.

Mr. President : I shall ascertain the wishes of the Members.

Shrimati Annie Mascarene (United State of Travancore & Cochin): We Christians desire to have Sunday free.

Mr. President : There is objection on the part of Christian Members to sitting on Sunday.

Honourable Members : We did sit on a Sunday once.

Mr. President : But that does not take away the right of Christian members to object to sitting on Sundays. I shall consult the wishes of the House at the end of the day in this matter.

Shri K. M. Munshi (Bombay: General): Sir, with regard to the First Schedule may I submit.....

Mr. President : First we shall dispose of the motion for the substitution of rule 38-R standing in the name of Shrimati G. Durgabai.

CONSTITUENT ASSEMBLY RULES (AMENDMENT)

New Rules 38-R and 38-RR

Shrimati G. Durgabai (Madras: General): Mr. President, Sir, I move:

“That for rule 38-R of the Constituent Assembly Rules, the following rules be substituted:—

‘38 R. (1) When a motion that the Constitution be taken into consideration has been carried and the amendments to the Constitution moved have been considered, the President shall refer the Constitution as amended to the Drafting Committee referred to in sub-rule (1) of rule 38-L with instructions to carry out such re-numbering of the clauses, such revision of punctuation and such revision and completion of the marginal notes thereof as may be necessary, and to recommend such formal or consequential or other necessary amendments to the Constitution as may be required.

Revision of the Constitution by the Drafting Committee and the consideration of the amendment recommended by them.

- (2) After the Constitution has been referred to the Drafting Committee, the report of the Committee shall be presented to the Assembly by the Chairman or any other member of the Drafting Committee and thereafter the Chairman or other member of the Committee may move that the amendments recommended by the Committee in the Constitution so referred to them be taken into consideration :

Provided that no such motion shall be made until after the report of the Drafting Committee together with the copies of the Constitution as revised by them has

[Shrimati G. Durgabai]

been made available for the use of members and that any member may object to any such motion being made unless the report and the copies of the Constitution as so revised have been made available three clear days before the date on which the motion is made, and such objection shall prevail unless the President in his discretion allows the motion to be made.

- (3) While making any motion referred to in sub-rule (2), the mover shall confine himself to an explanatory statement and at this stage there shall be no debate, and the President may, after such statement has been made, put the question.
- (4) After the motion referred to in sub-rule (2) has been carried, any member may move an amendment which is either formal or consequential upon an amendment recommended in any provision of the Constitution by the Drafting Committee after the Constitution was referred to them under sub-rule (1) but shall not be allowed to move any other amendment.
- (5) If notice of a proposed amendment has not been given two clear days before the day on which the motion referred to in sub-rule (2) is to be taken up for consideration, any member may object to the moving of the amendment, and such objection shall prevail unless the President in his discretion allows the amendment to be moved.
- (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."

Sir, with your permission, I will move 38-RR also.

"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, I 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 rules."

Mr. President : Sir, honourable Members are aware that we have happily come to a stage when we have very nearly completed the Second Reading of this Draft Constitution. Now, we will be soon passing to the stage when we have got to take up the Draft Constitution for the Third Reading, and it will be in all probability in the coming month. Therefore the necessity arises for laying down a procedure for completing the Third Reading of the Draft Constitution and passing the Constitution.

Sir, the main features of these rules, I expect Members would have noted, are that the procedure laid down in these rules enables the drafting Committee to make formal or consequential or necessary amendments to the draft at the time of the Third Reading. Another main feature of

these rules is that it would enable the Members of the House to make only formal or consequential amendment to the amendments proposed by the Drafting Committee at the Third Reading stage. Sir, it also gives powers to the President to allow any amendment at his discretion and also to fix a time limit for speeches and some such other powers,

Sir, I have seen a number of amendments, about fifteen to twenty, given notice of by honourable Members of this House. Sir, some of those amendments, when they will be moved, I would deal with them, but the object of those amendments is for the deletion of the clause which would enable the President to fix a time limit for speeches and also to waive the notice of two days and to substitute instead seven days or five days' notice. Sir, we are all aware that we have taken two full years and ten months to make this Constitution. We All know that it has been a great strain on the financial resources of this India and therefore we should not allow any more time to be taken in either making speeches or delaying the passing of this Constitution. With this object of expediting the passing of the Constitution, these rules have enabled the President to take certain powers.

Therefore, Sir, I would appeal to the Members to withdraw their amendments or not to press them, and allow the smooth working of our passing this Constitution. With these observations, I would commend my motion for the acceptance of this House. Sir, I move.

Mr. President : There are several amendments to this. Mr. Naziruddin Ahmed.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Mr. President, Sir, I have unfortunately some amendments to propose to these rules. I tried much to reduce the number of my amendments, but I failed to find any way of doing it. Sir, I beg to move:

“That in the proposed new Rules 38 R and 38 RR for the word Constitution wherever it occurs, the words ‘Draft Constitution’ be substituted.”

This is merely formal. I also move:—

“That in sub-rule (1) of the proposed rule 38 R,—

- (i) for the words ‘considered’ the words ‘considered and disposed of’ be substituted,-
- (ii) for the word ‘amended’ the words ‘amended by the Assembly’ be substituted;
- (iii) for the word ‘clauses’ the words ‘articles, clauses and sub-clauses’ be substituted; and
- (iv) for the words ‘to recommend’ the words ‘to submit a report recommending’ be substituted.”

“That after sub-rule (1) of the proposed rule 38 R, the following new sub-rule be inserted:—

‘(1a) The Draft Constitution as revised by the Drafting Committee under sub-rule (1). shall indicate by suitable typographical arrangements the changes and omissions made by the Committee.’

“That in sub-rule (2) of the proposed rule 38 R, for the words ‘After the Constitution has been referred to the Drafting Committee the report of the Committee’ the words ‘The report of the Drafting Committee’ be substituted”

“That in sub-rule (2) of the proposed rule 38 R for the words in the Constitution’ the words ‘to the Constitution’ be substituted”

“That in the proviso to sub-rule (2) of the proposed rule 38 R, for the words ‘three days’ the words ‘seven clear days’ be substitute.”

Sir, I would like to explain the object of my amendments. The first amendment, as I have already submitted, is merely formal. I think it should be accepted on drafting grounds.

With regard to the other amendments, the difficulty is that the official amendments were given to us yesterday. and our amendments had to be handed

[Mr. Naziruddin Ahmad]

over to the Office before 5 o'clock yesterday and they have been printed and circulated only this morning. I do not therefore think that either the members of the Drafting Committee or the honourable the Lady Member who has proposed these Rules had any real time to go through these amendments and see the object of them. However, I shall do my best to draw their attention to certain aspects of my amendments.

With regard to amendment No. 2, the purpose of the first part of it is to insert the words "and disposed of" after the word "considered". The passage, with my amendment, will read thus:—

" the amendments to the Constitution moved have been considered and disposed of."

In fact, we are concerned in sub-rule (1) with a stage when the amendments during the Second Reading have not only been considered but actually disposed of. Only after they are disposed of, the draft Constitution goes back to the Drafting Committee. So, this amendment is necessary.

The next amendment is to the effect that after the word "amended" the words "by the Assembly" be inserted. There are two authorities here between which there may be a confusion. The amendments made by the House and the amendments suggested by the Drafting Committee afterwards should be distinguished and that is the object of inserting these words so as to make the text read—

" the Constitution as amended *by the Assembly*"

in order to distinguish it from the amendments suggested by the Drafting Committee.

A little later on we are going to authorise the Drafting Committee to renumber the "clauses". I submit that the word "clauses," although it appears in the old Rule, would be inapplicable to this Constitution. We have not been describing our articles as clauses but we have been describing them as articles. The expression "clauses", so far as we have been using it, means clauses to the articles. But here the word "clauses" apparently refers to the articles. So I have suggested this amendment so as to make the text read:

" re-numbering of the articles, clauses and sub-clauses."

That would be grammatical and legally more accurate.

The next amendment—the fourth part of the second amendment—is to insert the words "to submit a report recommending," instead of the words "to recommended". This amendment is very necessary because we have used the word "report" at two places in sub-rule (2). That report is the final report to be made by the Drafting Committee but we have not provision in sub-rule (1) for the submission of any report. We have merely said :

" to recommend such formal or consequential or other necessary amendments"

I want to re-word it so as to read :

" *to submit a report recommending* such formal or consequential or other necessary amendments".

In fact the word "report" must occur here in order to give the full import of the word "report" in two places in sub-rule (2).

Then, Sir, my next amendment is for the insertion of another sub-rule 1(a) to the effect that:

"The Draft Constitution as revised by the Drafting Committee under sub-rule (1), shall indicate by suitable typographical arrangements the changes and omissions made by the Committees."

This seems to be very necessary. We are after all to consider the draft Constitution as revised by the Drafting Committee and then to suggest our own

amendments. In order to make up our minds as to what amendments are to be made, we should really know what amendments have actually been suggested by the Drafting Committee. We are familiar with the practice of the Drafting Committee in this House that instead of indicating the actual amendments to the draft Constitution they have been giving us entirely re-written text of article and it has been extremely difficult for Members to follow what exact changes are introduced. That involves the Members individually into an unnecessarily laborious and meticulous comparison of the articles proposed in the House with the articles in the draft Constitution. Therefore, it seems to me that the draft Constitution as prepared finally by the Drafting Committee should indicate the exact changes so as to enable the Members to reivet their attention on those changes and to suggest consequential or formal amendments, if any, thereto. It would make their task easier. It would be very easy to arrange it, namely the changes to be shown by' italics or by underlining-side-lining may not be helpful. An omission may be shown by asterisks. These things, will be very simple and will be very useful to Members who may easily see the changes and then submit amendments.

With regard to clause (2), the opening words seem to be absolutely unnecessary and also to a certain extent misleading. It says :

“ . . . After the Constitution has been referred to the Drafting Committee, the report of the Committee shall be presented to the Assembly.”

An important step is omitted here—after the Constitution has been referred to the Drafting Committee there is a report of the Drafting Committee. So we should make it clear that after the report of the Drafting Committee is received the report of the Committee should be presented to the Assembly. Therefore I have suggested the omission of the opening words. Then sub-rule (2) would read like this : “The report of the Drafting Committee shall be presented to the Assembly “ and so forth. I have already suggested that the word ‘report’ should be incorporated in sub-rule (1) in my amendment No.2 Part (iv).

Then, Sir, I come to the proviso. Here I have a serious complaint to make that the proviso attempts to provide that the Draft constitution as revised by the Drafting committee will be made available to the Members within three clear days’ before the date when the Constitution will be taken up for consideration. Sir, I feel that it will be utterly impracticable for any honourable Member to read the revised Draft Constitution and submit amendments within the extremely short time available. You will be pleased to consider, Sir, that only three clear days have been given within which the Draft Constitution will be made available to the Members, while sub-rule (5) provides that two clear days’ notice should be given for our amendments.

Supposing we begin the consideration, of the Constitution on the 14th of November. The Draft Constitution must be made available on the 10th of November with three clear days notice and we have to submit our amendments on the 11th of November, giving a margin of two clear days. It will thus be clear that we will have only one clear day to read the report prepare amendments and send the same to the Notice Office in course of a single day. This will lead to so many practical absurdities that I submit that this rule in this form cannot be accepted. You will be pleased to consider that for us to attend the Assembly on the 14th, we have to leave our places on the 10th of November and on the 10th of November it is proposed to circulate the Draft Constitution as redrafted by the Drafting Committee. On the 10th of November we will all be on our journey by rail, road or air towards New Delhi. I fail to see how on the 10th of November the copy of the Draft Constitution

[Mr. Naziruddin Ahmad]

as revised, will reach us. If they are sent to our home address, we would have left our home by that time and the Members and the revised Draft Constitution will cross each other. If it is to be delivered at our Delhi address on the 10th or 11th, it will be too late for us to prepare amendments and hand them over to the Notice Office with two clear days' notice to office to consider them.

While I sympathise with the Drafting Committee for the high pressure at which they are working, I must at the same time point out that there is a feeling in this House that the Committee is behind time table—hopelessly behind time table from beginning to end. All this congestion of work is due to frequent changes of mind by the Drafting Committee who may certainly have their own reasons to justify the delay. But I wish so submit that the victim of an these unfortunate circumstances should not be the Members. How, I ask the House and particularly you, Sir, is a member to receive copy of the finalised draft on the 10th and to submit their amendments on the 11th? I therefore suggest that seven days' time be given to us to study the revised Constitution and submit amendments. May I further suggest that along with the final draft of the constitution, we may beforehand be given a comparative list of amendments proposed to each article so that we can study them and get ready to consider them.

I also suggest that before the Draft Constitution is sent to the press, a cyclostyled copy may be prepared and sent to those Members who are anxious to have it. I believe there would be only half a dozen Members who would be interested in it. But I do not mean to say that the privilege need be confined only to those members only. The cyclostyled copies may be sent to all those Members who ask for it. If that is done, I think we can work according to schedule. Otherwise, it will be extremely difficult for Members to get ready and submit amendments within time. In fact, it seems to me absolutely impracticable to do all this within the scheduled time. The main question would be the place and time of delivery of the finalised Constitution, in order to enable Members to play their part in time. I submit that these things should be taken into consideration while accepting these rules.

A further difficulty has been placed by the Drafting Committee on the Members in that they have selected a lady Member to propose all these difficult rules.

Shri H. V. Kamath (C. P. & Berar: General): How is it relevant, Sir?

Mr. President : She was not particularly selected; she herself wanted to move them.

Mr. Naziruddin Ahmad : The difficulty is that we cannot be hard upon her. After all some kind of gracefulness is necessary in dealing with a lady Member. The fact is that the Drafting Committee have put forward a lady to fight their cause.

Shrimati G. Durgabai : The honourable Member should note that I have moved the motion on my own accord.

Mr. Naziruddin Ahmad : I am not prepared to enter into a controversy with the honourable Mover. The amendments are for the benefit of the Drafting Committee. The method followed by the Drafting Committee is like that of the Communists who fight with ladies at the front, so as to make it impossible for the other party to strike.

Shri H. V. Kamath: Mr. President, Sir, I am at one with my honourable Friend Shrimati Durgabai that the passage of this Constitution should be expedited. But I would like to join issue with her on one point and that is this.

She stated that this constitution-making has been a huge drain upon our financial resources. I know we have spent some money. The House will remember that the Legislative Assembly in 1946 or early in 1947 budgeted one crore of rupees for the Constituent Assembly. Some time during the last session it was suggested in this House or outside that over two crores of rupees had been spent. After I heard this statement, I worked out the figures myself and came to the conclusion that only about sixty to seventy lakhs had been spent so far by this Assembly in constitution-making. I am not referring to the legislative work at all. If you include the sessions of the Legislative Assembly as well then perhaps we have spent more; but that is not part of the budgeted amount for constitution-making; and it is wrong in my humble judgement to lay the blame at the door of the Members of this House, even if a large amount has been spent.

The House will recollect that during the two years from January 1947 to October 1948 this House met only for 35 or 40 days at the most. For some reason or other the Drafting Committee was not ready, and we could not meet at all for more than 40 days in 22 months; if we had worked longer and met at more frequent intervals, we could have seen the Constitution through much earlier. Any way, even today the way expedite the Constitution is not to apply the axe ruthlessly to debates in the House, but to apply it reasonably. The way is to work longer hours, if necessary. We have realised this only too late in the day. Had we worked longer hours in 1947 or 1948, we would by now have seen this Constitution through. I have always favoured a night session; if we work morning, noon and night, I am sure we can finish it in another week or so. It is too late to make this suggestion at the fag-end of the Constitution, when a few more days remain for the Third Reading. I wanted to suggest to my honourable Friend Shrimati Durgabai it was wrong on her part to suggest that this House has been guilty of a huge drain upon our financial resources. This House has not been guilty of it: there are various reasons and circumstances which conspired to bring about this financial expenditure. I would not call it a huge drain at all; we have not exceeded the budgeted amount for Constitution making.

Sir, now I come to the amendments that stand in my name. I have, Sir, six amendments to my credit. Sir, I move :

“That is sub-rule (4) of the proposed rule 38-R, for the words ‘which is either formal or consequential upon the word ‘to’ be substituted.”

If this amendment were accepted by the House, it would read as follows:

“After the motion referred to in sub-rule (2) has been carried, any member may move an amendment to an amendment recommended in any provision of the Constitution by the Drafting Committee after the Constitution was referred to them under sub-rule (1) but shall not be allowed to move any other amendment.”

The point in this amendment is this, that according to the scheme which has been presented to the House by Shrimati Durgabai, the Drafting Committee will take care of the Constitution after the Second Reading and will come before the House for the Third Reading, whenever it may be. I suppose three days is the minimum period so far as the interval between the time when the Draft Constitution would reach the Members and this motion here for the Third Reading is concerned. The Drafting Committee, I freely admit are a team of wisemen, experts in their own field and very knowledgeable experts at that, but certainly the House will agree that they are not able, and even they either due to want of time or pressure of other work, even they might overlook certain matters or certain clauses or articles in the Constitution. Therefore certain omissions may remain to be filled, and certain lacunae may remain to be made good; and if Members who concentrate on a particular chapter of the Constitution, if they after a very careful reading of the particular chapter or

[Shri H. V. Kamath]

sub-chapter have discovered some defect, some lacuna, some omission, is it not fair to give an opportunity to them to suggest or modify an amendment, whatever it may be, in the House ?

It may be argued by my honourable Friend Shrimati Durgabai that those Members are at liberty to contact the Drafting Committee before the latter brings up those amendments in the House for the Third Reading, but suppose they are not able to, suppose they arrive the previous day or in the morning of the day when the Constitution comes up in the Assembly for the Third Reading and they have no time to contact the Drafting Committee and to explain their point of view; it is no use sending it by post because one cannot always explain one's point of view on paper, unless one discusses the matter with the Drafting Committee personally. Supposing they were not able to do so, is their case to go by default ? That is why, Sir, I have moved this amendment before the House so as to afford an opportunity to Members who may have discovered, after a careful study, any errors or omissions in any part of the Constitution; and they must be at liberty to move their amendments in the House. You are always here, Sir, to disallow any vexatious or unnecessary amendment, and the House has got the fullest confidence in your judgment and if any Member tries to move an amendment which is not necessary, which is irrelevant, vexatious or frivolous, the Member will as the House knows, always abide by your ruling. There is no point in encroaching upon your rights, your prerogatives, your privileges or your powers. You, Sir, can always disallow any amendment in your discretion and in your judgment. Therefore, there is no need, no necessity for this sub-rule (4) to Rule 38-R.

The next amendment of mine is 8 in this list : I move:

“That in sub-rule (6) of the proposed rule 38-R the words ‘and it shall not be necessary, for the President to put each of those amendments separately to vote’ be deleted.”

This arises directly out of the amendment I have just now moved. The sub-rule, as moved by Shrimati Durgabai, provides that all the amendments moved by the Drafting Committee can be put before the House *en bloc* all together to the vote. Now, Sir, if as I have suggested in my first amendment Members are given the right to move their amendments and in the light of that amendment the House decides that a particular amendment recommended by the Drafting Committee must be modified, then a difficulty will arise: all the amendments, if they are not amended by the House, can be put *en bloc*, or *en masse* to the vote of the House. But suppose, certain amendments have been modified by the House. How is it possible, then, not to put them separately ? Some of the amendments might have been modified in the light of amendments moved by honourable Members and accepted by the House.

Shri T. T. Krishnamachari (Madras : General): May I explain the procedure to my honourable Friend ? The procedure will be like this: in the same way as a Select Committee's report is taken into consideration by the House. The report of the Select Committee will be kept intact and treated as a whole. If Members move an amendment and that amendment is carried, then that amendment will be incorporated. Otherwise, the Select Committee's report goes through intact. The procedure envisaged here is the same.

Shri H. V. Kamath: I fear this sub-rule does not provide for that contingency. If I have understood the sub-rule allright, it does not provide for that contingency which might arise out of Honourable Members' amendments being accepted by the House and in the light of that, the Drafting Committee's amendments being modified. Sub-rule (6) says that all the amendments recommended by the Drafting Committee 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. I do not know if my honourable Friend was in the House when I moved my first amendment and explained my point of view before the House. I therein suggested that every Members must be given the right to move amendments of whatever nature, consequential or formal or otherwise necessary to any of the recommendations of the Drafting Committee and if the Drafting Committee's amendments are modified in the light of the acceptance of honourable Members' amendments, then it will be impossible to put the Drafting Committee's amendments *en masse* or *en bloc* to vote. They will have to be taken up group by group, and certain amendments will have to be put separately to the vote those which have been modified by the House. That is the purport of amendment No. 8.

Coming to amendment No. 9, it reads as follows:

"That in sub-rule (8) of the proposed rule 38 R, the words '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' be deleted."

If this amendment were accepted by the House, this sub-rule will read as follows:

"The President shall, at the time appointed by him for the close of the sitting of the Assembly etc., etc.,"

I fear, Sir, I feel rather, that this sub-rule, the first part of it imposing a time limit for consideration by the Assembly of all amendments, is an undue, unwarranted encroachment upon your powers. I am wholeheartedly in favour of cutting short unnecessary discussion and debate arid expediting the passage of the Constitution, as I have already stated. But, is it not part of your inherent powers, Sir, and is the House or any part of the House going to usurp your power in this field ? It is your undisputed power to fix any time limit for any debate. Why then make a specific mention in this rule that the President shall allot not more than two days—by the way, 'may' would have been more graceful and dignified? Is not the President supreme so far as the conduct of the business of the House is concerned ? It is up to him to regulate and conduct the business of the House. Why fetter his judgment by saying that he shall not allot more than two days or three days? Leave it to his discretion. He call certainly allot, if he thinks necessary, more than three or four days. During the First Reading of the Constitution in November 1948, you will remember Sir, before you fell ill, that you original intended to allot only two days for the First Reading of the Constitution, for the discussion of the motion by Dr. Ambedkar. Later on, you found that the House was keen on considering it further, and so you were good enough to allot another two days for the consideration of that motion. It may be quite probable, the sense of the House might be to ask for some more time. Here you are, Sir, with all powers vested in you to regulate the business. Why make this rule. here and fetter your discretion and judgment and abrogate or at least reduce the powers inherent in the President ? That is so far as the third amendment is concerned. I want to leave the matter to the President as to how many days should be allotted for the consideration and disposal of the amendments. We need not curtail the powers of the President so far as this matter is concerned.

I come to amendment No. 10 which reads as follows :

"That sub-rule (2) of the proposed new rule 38RR be deleted."

That sub-rule relates to the time limit for speeches during the debate on a motion made under sub-rule (1), of Rule 38 RR. I would invite the attention of Mrs. Durgabai and the House to rule 34 of the Rules already adopted by the House. Rule 34 of the Rules of the Assembly reads as follows : "In all matters

[Shri H. V. Kamath]

relating to procedure or conduct of business of the Assembly, the decision of the Chairman shall be final" I ask, is this not adequate for our purposes ? Is it necessary to frame or pass another rule, sub-rule (2) here ? This rule 34 of our Rules of the Assembly vests sufficient power in the President to regulate the conduct of the business of the House in whatever way he may choose, and his decision in the matter is always final. Why bring in this minutiae in the rules, that he shall fix a time limit ? This is his inherent power. Why bring in this trifle ? It is mere piffle. That is part of the manner in which he conducts the business of the House. You, Sir, have done it on many occasions, and you will do it again in the interests of expeditious disposal of business. There is no need at all for this sub- rule (2). It has appeared, I fear, by force of habit of some Members of the Drafting Committee or others who want to introduce all sorts of minute details, who want to cumber our rules and our Constitution with all sorts of unnecessary details. I therefore feel that this sub-rule should be deleted.

Coming to amendment No. 11, it reads as follows :

"That sub-rule (3) of the proposed new rule 38RR be deleted."

This amendment has got two aspects. The first aspect I have already touched. This sub-rule, the House will see, reads as follows :

"The President may in relation to any proceedings in connection with the passing of the Constitution under Rule 38R of this rule relax or suspend any of these rules." This is a laughable, and a most unnecessary rule. I have already stated, Sir, that you have got inherent powers to conduct the business of the House, and you can certainly regulate this matter as well. The second aspect is this. We seek to provide for various matters, and then suddenly at the end we come to the last provision and say that notwithstanding any of these rules anything may happen. We have provided for various matters in 38 and 38 RR and at the very end we say that the President may relax or suspend any of these. Why frame these rules and then say the President may relax these ? Can the President not exercise his discretion ? It is absolutely unnecessary and should be deleted.

My amendment No. 12 is partly consequential upon the amendments I have just now moved-Nos. 10 and 11. I move :

"That sub-rule (1) of the proposed new rule 38RR be added to Rule 38R as sub-rule (1)."

Sub-rule (1) of 38RR refers to the Third Reading of the Constitution and Provides that 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. That is a formal provision and I do not think there is any necessity for embodying it in a new rule 38 RR It flows from the rules that have been embodied in rule 38 R and it does not merit or deserve a separate place or separate entity as rule 38 RR All these rules relate to the final passing of the Constitution, and one set of rules to cover all these matters is sufficient. There is no need for two sets of rules.

In the end I shall only say that nobody will dispute the assertion of Shrimati Durgabai that the Constitution must be expedited; but it is wholly wrong to foist the blame for the delay upon the Members of this House. The Members of this House have always been willing and very eager to work for the expeditious disposal of this Constitution. At no time have the members grugged extra hours that they may have been called upon to put in for the discussion of the Constitution. If there be any blame, if there be any guilt, it lies elsewhere and not upon the Members of this House. I do not want to say who the

guilty men are but certainly it is erroneous and unjustified to say that any members of this House have been guilty of any inordinate delay in the passage of the Constitution so as to result in a heavy drain upon our financial resources. We have all co-operated to the best of our ability for the speedy passage of this Constitution, and we shall all be happy when shortly we come to the end of our labours.

Mr. President : All the amendments have been moved.

Prof. Shibban Lal Saksena (United Provinces: General): I have given notice of an amendment.

Mr. President : I have not got any notice.

Prof. Shibban Lal Saksena : I gave it this morning.

Sir, I beg to move :

“In the proposed new Rule 38 R, in clause (1) the following words be added at the end:—

“But the President shall have power to allow any other amendments to be moved according to his discretion.”

In the first rule we have said :

“When a motion that the Constitution be taken into consideration has been carried and the amendments to the Constitution moved have been considered, the President shall refer the Constitution as amended to the Drafting Committee referred to in sub-rule (1) of rule 38-L with instructions to carry out such re-numbering of the clauses, such revision of punctuation and such revision and completion of the marginal notes thereof as may be necessary, and to recommend such formal or consequential or other necessary amendments to the Constitution as may be required.”

Sir, we are still leaving many things in Appendix I which might be completely changed by the time we meet in the Third Reading. It is quite possible that many of the provinces might become two or three provinces. Madras might become Andhra and Tamil Nad and there might also be Karnatak and other provinces and, if that is done, then it will be necessary for the Drafting Committee to move further amendments and Members also should have an opportunity to discuss them. Therefore, it is necessary that the President should have the power to allow any other amendments to be moved in his discretion. We have full confidence in you, Sir, that you will allow only those amendments which are considered necessary because of the changes made between now and the next session. I, therefore, consider that this is a very important amendment and unless it is there, it will not be possible for the President to allow Members even to discuss the redistribution of provinces which may be effected by that time. I, therefore, think that my sister Shrimati Durgabai will accept this amendment and let Members have a right to discuss the new provinces which will be created.

My second amendment is:

“In the proviso to sub-rule (2) of Rule 38R, for the words ‘three clear days’ the words ‘five clear days’ be substituted.”

My Friend Mr. Naziruddin suggested seven clear days. Three days seems to be almost absurd. You have said that at least two clear days notice should be given for any amendment. Now if we get the new Constitution only three days before the session, then there is only one day during which we have to go through it and table amendments. That is impossible. There must be at least three clear days. It would be much better if we have seven days, but I know the difficulty about time and so I do not want to press for seven days but I do want that at least five days should be given.

You have said, Sir, that the final draft Constitution will go for print by the end of the this month and will be ready in five or six days, so that by the 5th or 6th November the printed copies will be ready and these should be able to

[Prof. Shibban Lal Saksena]

reach Members in two or three days time. Probably if they are sent to our Delhi addresses they may come the same day but those who want it at their home address will get in three days. At least they will get three or four clear days. I therefore, think that five days should be mentioned here instead of three days.

I then move:

“In sub-rule (3) of the proposed rule 38R for the words beginning with ‘and at this stage’ to the end of the sub- rule, the following be substituted :—

‘and at this stage the debates shall be controlled by the President according to his discretion’.”

The present provision is most unfair. When the Drafting Committee move any amendment the Members should have a right to have a say in the matter. We have given the President the power to allow Members in his discretion to have their say. If there is some amendment of substance suggested by a member it should be permissible for the President to allow it to be moved. I hope Shrimati Durgabai will accept this amendment.

Then my next amendment is :

In sub-rule (b) of the proposed rule 38 R, the words ‘and it shall not be necessary for the president to put each of those amendments separately to vote’ be deleted.”

This has already been moved. I only wish to support it.

It is only proper that we should do so. It will not take much time.

And then I beg to move:

“That at the end of sub-rule (4) of the proposed Rule 38R, the following be added:—

‘except by the President according to his discretion’.”

As proposed, sub-rule (4) says:

“After the motion referred to in sub-rule (2) has been carried, any member may move an amendment which is either formal or consequential upon an amendment recommended in any provision of the Constitution by the Drafting Committee after the Constitution was referred to them under sub-rule (1) but shall not be allowed to move any other amendment.”

And I suggest the addition of the words—” except by the President according to his discretion.” This will allow amendments of substance also, but according to the President’s discretion. The amendments may be not only consequential and formal, but there may be amendments of substance also, and therefore the President should be given the power to admit them also. I am not giving the Members any right, but only arming the President with the power to exercise his discretion. I hope this amendment will not be objected to.

And then to the proposed rule 38 RR I have two amendments. It is proposed in sub-rule (2)-” The President may fix a time-limit for speeches during the debate on a motion made under sub-rule (1)”. That means when all the amendments are disposed of , then when the Third Reading comes a time limit will be imposed. I would very much have liked that no time limit is fixed, but that is not possible. Therefore I have in my amendment suggested:

“That in the proposed rule 38 RR, for sub-rule (2) the following be substituted:—

- ‘(2) Members desirous of participating in the debate on a motion made under sub-rule (1) shall notify their names to the President at least 36 hours before the motion is made and the President may fix a time ,limit on the duration of speeches on the motion after receiving all such names, but the time limit shall not be less than 40 minutes. The President shall have power to give longer time to any speaker in exceptional circumstances, and he may also order a speaker to cut short his speech according to his discretion’.”

Sir, I only want that members who want to participate in the debate should be able to have an opportunity to do so. They should be permitted to give their names 36 hours before the motion. You may then, Sir, know the names of the Members who want to participate, and I suggest a minimum time of 40 minutes should be given to each speaker, because he has to make remarks on the whole Constitution. You may, according to your discretion, increase this duration or decrease it, if you find that a particular Member is making an important point or is wasting the time of the House, but everyone who wants to participate in the debate, must be given an opportunity to do so, and if the suggestion that I have made is adopted, then nobody will have any grievance. You will know the number of speakers and you will allot time accordingly and we will have a fairly good debate.

And then I also say in clause (2a):

“The President shall have power to extend the duration of the daily sittings of the Assembly.”

Now, we are sitting only for three hours in the morning and two hours in the afternoon, because we have our party meetings and other meetings, but they will all be over by the time we come to the final Third Reading, and there is no reason why we should not sit for longer hours. The House of Commons, as we all know, Sir, sits for nine to ten hours and if we want to finish our Constitution in the time prescribed, then we should extend our sittings, if necessary to eight or even ten hours so that everyone who wants to speak may have an opportunity to do so. I want to arm you with this power to extend the duration of sittings. You will have the number of speakers and then you will be able to calculate the time required, and you may extend the sittings accordingly. I would have wished that the Legislative Assembly Session was held on the 14th and the final reading of the Constitution came up later so that we might have had more time to go through it carefully and seen to omissions and punctuations and other formalities But I hope the Drafting Committee will get busy and do the work for all of us.

Sir, I was not happy at the argument given by Shrimati Durgabai, that we have already wasted a lot of money on this. I think this Constitution is one of the biggest achievements of ours during the last three years. We have solved so many knotty problems, and the amount of time and money spent I think, is not disproportionate to the achievement. Mr. Kamath told us that we have spent about Rs. 60 to 70 lakhs over this Constitution, and that is not a big amount in three years. It is for the first time in the history of our country that we are giving a free democratic Constitution to ourselves and have integrated all the different parts of the country into one single whole. Therefore, I think the time and money spent on it is not time and money wasted. It is not as if all the work has been done in these sittings. A lot of work has been done in this committee sittings, behind the scenes, by the Drafting Committee. And I do not want that at the fag-end, we should hustle anything and be open to the charge by people who are opposed to us that we have hustled the Constitution through. So my amendments are necessary and I hope Shrimati Durgabai will accept them.

Dr. B. Pattabhi Sitaramayya (Madras : General): Mr. President Sir, we have come to the last stage of our journey. When the railway train goes along the well-laid track, its journey is well regulated. It goes at the maximum speed and then comes to a stop. When coming to the railway station, it is confronted with zig-zag lines, with lines on either side of the alignment, and every junction has to be carefully mapped out in the Station Superintendent's room so that he may be able to regulate the train from the cabin. It is thus that we have to pay particular attention to changes in the rules which may appear superfluous or unnecessary or formal, but at the same time deserve the attention of every Member of the House towards the last stage.

[Dr. B. Pattabhi Sitaramayya]

I this view, I have examined the wording, and coming to paragraph (1), that there is a little change necessary.

It says—

“ and such revision and completion of the marginal notes thereof as may be necessary, and to recommend such formal or consequential or other necessary amendments to the Constitution as may be required.”

The presence of both the words “other” and “necessary” gives me a little difficulty. The word “necessary” is deliberately put there. If it is meant to have a plenary meaning, then the word “other” attenuates that meaning. Therefore, I would suggest that if you mean “or necessary amendments”, then that necessity must be defined, because it may be ample or it may be circumscribed. If it is suggested that the necessity comprises *all those conditions which might have come into existence since the reference of the Draft to the Drafting Committee*, then, of course, it will have a plenary and ample meaning, and in that view, it is not merely formal or consequential; but the word “other” comes in the way of our giving this amplified meaning to the word “necessary”. Therefore, Sir, I would like the President or some Member with authority to explain to us what the word “necessary” means, and if the meaning that I have attached to it is the meaning, well and good; and if that is not the meaning that word is unnecessary; but if that is the meaning, then the word “other” may kindly be dropped.

Of course, I have not given notice of any formal amendment, but this being of a verbal nature, though it has got much significance, I trust that the good lady who has moved the rules will accept it.

Shri T. T. Krishnamachari : Mr. President, Sir, in supporting the motion made by my honourable Friend Shrimati Durgabai, I would like to answer one or two criticisms made by my honourable Friend. Mr. Naziruddin Ahmad, who I see is not in the House.

Sir, the idea of the Steering Committee in introducing this amendment to the rule is that the work of this House, in so far as the Third Reading stage is concerned, should be facilitated and expedited, without at the same time putting any unnecessary restriction on the freedom of the debate. Sir, time is a very important factor in the Third Reading stage. As we expect that you will ultimately decide, perhaps, that we meet again on 14th November, we have necessarily to finish by 26th November the third reading of the Constitution, because this House will have to meet elsewhere on 28th November. All these factors have been taken into consideration in trying to fix a programme for the Third Reading stage. The days therefore that are allowed for preliminary work in the nature of approving of formal amendments made by the Drafting Committee, which will be entrusted with the work of revising the Constitution and of making a fair copy of the same, have necessarily to be limited. That is the limitation that is sought to be imposed by the amendment to rule 38R.

I am afraid, in a matter like this, ultimately the decision must remain with you, even though we put it in the rules that only so many days should be allowed, and you have the final discretion in the matter, that discretion is only reinforced by the addition of rule 38RR and it is for you to decide whether the period will be limited to the extent mentioned in the rule or to extend it. There is no question of fettering your discretion. But I think we must work to a programme and a plan. The plan that at the moment suggests itself to us is that we should limit the number of days for discussion of the preliminary stage of changes suggested by the Drafting Committee in making a fair copy of the Constitution, and then proceed to what is perhaps very important in the opinion of many Members of the House, namely, the Third Reading speeches.

I have no doubt that this House will be fully represented in the Third Reading stage when this work, which is perhaps the work which I hope will remain permanent for many generations to come and on which those honourable Members who have been fortunate enough to be associated would like to say something, will be praised. No doubt we have ourselves bad in the course of our discussions pointed out the difficulties and have as it were blazed the trail for those who would work the Constitution in the future. Therefore it is very important that as many days as could possibly be provided for will have to be left for discussion at the Third Reading stage. If the number of days allotted for the preliminary stage is extended, it will to that extent impinge on the freedom of discussion at the Third Reading stage in which honourable Members would like to participate. So, my honourable Friends Mr. Kamath and Prof. Shibban Lal should remember this point when they want to extend the number of days for discussion of the preliminary stage.

One point made by Mr. Kamath, in spite of the fact that with your permission I intervened and explained when he was speaking, I am still unable to comprehend. As I told him, what we contemplate here is that, if you are good enough to commit the whole thing to the Drafting Committee to make a fair copy and make the necessary consequential amendments and also the other necessary amendments, we expect to bring out in book form the Constitution and the amendments and append to it a report which will seek to give an explanation, either in the body of the report or in the appendix, of all the changes made, minor or otherwise, so that the House could straightaway put its finger on the amendments made. If they feel that these amendments are such that they cannot accept them or some of them, they can move amendments, provided however that you feel that they are necessary, that they are not merely of a drafting nature or of an alternative nature, where the amendments suggested by the Drafting Committee would be enough for the purpose. It will be for you to allow the amendments to be moved.

But the procedure that we have envisaged is that the whole thing will be taken up together as a whole as the Draft Constitution has been taken up and Members will be perfectly entitled to move amendments subject to the exercise of your discretion. Then if those amendments are accepted or rejected, the consequences will follow. If no amendments are moved, the suggestion of the Drafting Committee will go through without any amendment. In such a case, if Members of this House consider that particular changes suggested by the Drafting Committee and incorporated in the fair copy of the Constitution should be accepted and do not move any amendment to the contrary, naturally there is no use multiplying the procedure by making every change made by the Drafting Committee the subject-matter of a vote and a decision by the House.

Sir, in regard to the matter mentioned by our respected leader Dr. Pattabhi Sitaramayya I must apologise to the House, as a Member who took part in the drafting of this particular amendment, that we have not fully examined the consequences of the word 'other'. I must say that I feel that the Doctor's interpretation is a correct interpretation. The idea that we had in mind in putting in the words 'necessary amendments' was to enable you to permit 'necessary amendments' should you consider them necessary in the fair copy that the Drafting Committee will be presenting to the House. I would earnestly suggest to you and to the House to accept the proposal made by my honourable Friend Dr. Pattabhi Sitaramayya and omit the word 'other' before the words 'necessary amendments' in clause (1) of Rule 38R.

So far as the other amendments moved are concerned, I do not propose to enter into their merits. I think they will be dealt with by my honourable Friend Shrimati Durgabai. But I may say that excepting so far as perhaps

[Shri T. T. Krishnamachari]

amendment No. 2 of Mr. Naziruddin Ahmad is concerned where my Friend has amplified the word 'clause' to mean articles, clauses and sub-clauses, nothing else need be accepted. This amendment does improve the wording. The other amendment suggested by Dr. Pattabhi Sitaramayya may also be accepted. There does not seem to be need for accepting the other amendments suggested by Mr. Naziruddin Ahmad, by Mr. Kamath and by Professor Saksena. But it is for the mover to accept or reject the suggestion I have made. I do feel that the House will recognise the necessity for providing a blue-print for getting through with our Third Reading stage in which we will have to provide for the maximum freedom possible for Members to suggest amendments necessary and also to make their own contribution to the debate in this House at the final stage so that the largest possible number of members could participate. The whole scheme of this rule has been framed with that view.

Now I would like to say a word in regard to certain implied powers which the President has and which we have categorically stated, particularly in rule 38RR. My honourable Friend Mr. Kamath objected to clauses (2) and (3) on the ground that the powers are implied and need not be categorically stated. If that is so, there is nothing wrong in stating them categorically. And the mere fact that the powers have been categorically stated would perhaps help us over the difficulties that arose on previous occasions, particularly during the last session. We had a little difficulty because of the inflexibility of the rules and the President did not want to take advantage of the very wide powers that are normally vested in him without any express sanction for that purpose. I feel, Sir that at the Third Reading stage it will be necessary to arm the President with specific and categorical powers of that nature.

Shri H. V. Kamath: What exactly is the confusion arising out of the word "other" which my honourable Friend, Dr. Pattabhi Sitaramayya asks to delete?

Shri T. T. Krishnamachari : The conclusion will be what was originally intended that there will be formal and consequential amendments. If any amendment of a different category becomes necessary in regard to what has happened between now and the 14th November perhaps, and the President considers they are necessary modifications—honourable Members should bear in mind that the authority to consider what is a necessary amendment happens to be the President—they will go through.

Shri H. V. Kamath: What about the word 'other'?

Shri T. T. Krishnamachari : Our revered Leader Dr. Pattabhi Sitaramayya felt that the word "other" qualifies the necessary amendments unduly and that it refers more to the words occurring prior to that word "formal or consequential" rather than to the word "necessary", and I agree with the interpretation of Dr. Pattabhi Sitaramayya. If the President agrees, he might put it to the House to decide on the matter.

Mr. Naziruddin Ahmad : The President has got full powers with regard to unnecessary and useless amendments.

Shri T. T. Krishnamachari : It has always been borne in mind. This Constituent Assembly, being a sovereign Body, the President has got absolute powers and that is not affected by mere rules. Nevertheless, we felt that it would be much better to precisely state why and how he would exercise those powers within the limits which is possible for us to envisage in our rules.

Mr. Naziruddin Ahmed : Supposing the Drafting Committee commits an obvious mistake indulges in a palpable error

Shri T. T. Krishnamachari : We depend upon Mr. Naziruddin Ahmad to fill up any lacuna.

Shri Kala Venkata Rao (Madras : General) : I would like to have this point answered. There is the question of linguistic provinces which have not been settled, and roughly the proposal seems to be to amend the Schedule if need be at the Third Reading stage. How will these rules affect that? How can we form new linguistic provinces through an amendment at the Third Reading stage and what is the provision in this blueprint of procedure which Shrimati Durgabai has presented before the House and which Mr. Krishnamachari has clarified? I want satisfaction on this point, Sir, whether it would be possible to move an amendment for the addition of certain States in Schedule. I would like to make consequential amendments in the whole Act. I would like that some provision should be clearly made under these rules to make that possible. That is my request.

Shri T. T. Krishnamachari : I do not want to anticipate the statement that the Honourable the President is likely to make with regard to Schedule I, but I would say that that and other factors that might arise would undoubtedly be covered by the words “necessary amendments”. It would be made clear if the House adopts the amendment suggested by Dr. Pattabhi Sitaramayya. Thereafter the amendments moved may be consequential or they may be necessary.

Shri R. K. Sidhwa (C. P. & Berar : General) : Does my honourable Friend know that under the rules of the Legislative Assembly there is no time limit for speeches on the First Reading and Third Reading stages ? If that is so, why should we deny to any Member the privilege of speaking at the Third Reading for any length of time?

Shri T. T. Krishnamachari : My Friend is ignorant on this point. The present rules of the Legislative Assembly do fix a time-limit even for a Bill like the Finance Bill.

Shri R. K. Sidhwa : I do not know whether any fresh rules have been made by the Speaker, but those rules have not been placed before the House. So far as I know, there is no time limit. No doubt the inherent right of the Speaker is always there for checking a member if he is going out of the way or repeating arguments or unnecessarily taking up the time of the House.

Mr. President : May I just say a few words before I put this to the vote. As has been explained by Mr. Krishnamachari, the whole situation has to be taken into consideration before we launch upon the Third Reading stage. We have two limits which it is not possible for us to cross. One is on this side and the other is on the other side. That is to say, it is not possible to begin before the 14th November and we cannot prolong our discussion beyond the 25th or the 26th at the latest, because the Constituent Assembly (Legislative) will meet from the 28th.

Shri R. K. Sidhwa : We can have night sittings even after that.

Mr. President : Within those 12 days if we sit on Saturdays also—or if you like to sit on Sundays 13 days—we shall have to complete the whole of the Third Reading stage. This is the time table envisaged by this amendment of the rules and these are the limitations which we have to observe. If we have more time on this side in connection with the amendments, we shall proportionately get less time for general discussion. If we allow more time to one speaker, we shall have proportionately to cut down the number of speakers. I was just considering how the thing will work in actual practice. If we give three days for the disposal of the amendments—two days are suggested but if one day more is

[Mr. President]

given in view of the importance of the amendments that will be coming up—then we shall have nine days left. The last day I want to keep for other formalities. So, we shall have eight days. At the rate of forty minutes we can give a chance to sixty speakers.

Shri H. V. Kamath : How many hours daily?

Mr. President : Five hours.

Shri R. K. Sidhwa : We can sit for ten hours.

Mr. President : Ten hours; that means 120 speakers.

Mr. Naziruddin Ahmad : We do not mind sitting for ten hours.

Mr. President : It will depend upon you. You may sit as long as you like I shall not object.

Shri H. V. Kamath : We may sit for eight hours.

Mr. President : At that time, we will see. I am not fixing the number of hours now. I am only making certain arithmetical calculations. It will be for the House to say for how many hours it will sit. I shall not stand in the way. That I will promise. There will of course be the question of quorum, (*Laughter*) and it will not be in my power to compel Members to attend.

Shri Mahavir Tyagi (United Provinces : General) : I just want a ruling from you on a particular point, either your ruling or a reply from the honourable the I mover of the motion. There are amendments coming for changing the name of U. P. I want to know if you will permit them to be considered in the 3rd leading?

Mr. President : I can say this, that if there is general agreement about the change of name, I shall not stand in the way. If it involves discussion and if there are different suggestions made, then I shall stick to the name which is given here.

Shri Mahavir Tyagi : If the House leaves it to the U.P. Members?

Mr. President : I do not mind, but I would not like to interfere with the name of U.P.

Shri R. K. Sidhwa : The question of altering the name is very important and I would suggest it is not proper to leave it to the Members of this House. It should be left open both to the Government of that Province and to the Legislature of that Province. We cannot change the name of a Province by discussing it here. This matter should not be treated lightly.

Mr. President : I think you are right. I said if there is general agreement by all parties concerned then I will not oppose its discussion.

Shri Mahavir Tyagi : The word of the Premier of the Province should be considered enough.

Mr. President But at this stage I do not think we should insist on any commitments from me or from any Member. We should take things as they arise and we shall decide them when the question arises.

Now, it was mentioned by Mr. Naziruddin Ahmad and I believe by some other Members also, that the time that is allowed for giving notice of amendments is very short. It is now only three days. I would suggest it would be good if Mr. Shibban Lal Saksena's amendment could be accepted extending it to five days. But it all depends upon the resources of the Press. So far as it is possible we shall try our best, but if you like and if the office thinks

we could give five days, I personally would not object to five days being given.

Shri H. V. Kamath : Sir, you were telling the House, when Mr. Tyagi cut you short, about the length of 'sittings, and I think there is something left unsaid.

Mr. President : It will depend upon the House as to how many hours it wishes to sit but we could not go beyond the 26th in any case; that is fixed.

Prof. Shibban Lal Saksena : Would you not accept my suggestion that all Members who want to participate should give their names beforehand ?

Mr. President : It is not necessary to introduce it in the Rules. Supposing a Member fails to send his name I do not know if you would like we to disallow him. Shrimati Durgabai will reply now.

Shrimati G. Durgabai : Mr. President, Sir, before dealing with the amendments moved by my honourable Friends, I would clear up two points made by some of the Movers of the amendments. I will be very brief in my reply and not take much of the time of this House.

I have heard one honourable Member making this charge against the Drafting Committee that they have set up some lady to move these Rules. I may straightaway tell the House that it is not the business of the Drafting Committee. These Rules came up before the Steering Committee, and 'were approved by them and I have now moved them in this House. Another Member has made a suggestion that a lady has been put up to defend the action of the Drafting Committee. Sir, I am very sorry to find some of the honourable Members of the House—male Members—still conscious of this sex business though the women Members have completely forgotten it. I very much wish that There should be no longer any talk of this question of men and women.

As regards the amendments moved, honourable Members are aware that some were moved by Mr. Naziruddin Ahmad. I may straightaway tell the House that I have pleasure in accepting his amendment 2 (iii) which reads thus :

"for the word 'clauses' the words 'articles, clauses and sub-clauses' be substituted."

Though it is strictly a matter for the Drafting Committee. I will have no hesitation in accepting this amendment.

I would also be willing to accept amendment No. 2 of the list of amendments moved by Mr. Shibban Lal Saksena. The Honourable the President also has suggested that five clear days' notice would be required and therefore this amendment would be accepted.

With regard to all the other amendments particularly those of Mr. Naziruddin Ahmad, I would say that they are all matters for the draftsmen to set right because they are either verbal or grammatical or relating to punctuation. So they might be safely left to the Drafting Committee or the draftsmen. His amendment No. 6 about the three clear days' notice has already been covered by accepting Mr. Saksena's amendment about five clear days' notice being substituted for three days.

With regard to Mr. Kamath's amendments, Mr. Kamath wants to move substantial amendments by deleting the words "which is either formal or consequential upon". Our experience has shown that some thousands or substantial amendments have already been moved during the second stage of the

[Shrimati G. Durgabai]

consideration of the Draft Constitution. Now the Honourable the President has got the power to suggest any substantial amendment to be moved by the Drafting Committee. Therefore, it will not be necessary to enable Members to make substantial amendments and independent amendments at that stage.

Mr. Kamath had also questioned the power of the President to fix a time limit to the speeches and also the power to relax or suspend the Rules.

Shri H. V. Kamath : I did not question his power, I said he had inherent powers.

Shrimati G. Durgabai : To that my submission would be that no doubt the President has got over-all power in all these matters. He has got power either for fixing the time-limit or for disallowing any amendment at his discretion. But I wanted these Rules that I have moved to day to be self-contained and independent, a complete procedure to be laid down for the Third Reading stage of this Draft Constitution and its passing. Therefore, there will be nothing objectionable in making a complete, self-contained procedure for this purpose.

Shri H. V. Kamath : No necessity, though there is no objection.

Shrimati G. Durgabai : Mr. Sidhwa raised an objection that in the Legislative Rules of Procedure there is no provision for time-limit, that the President could not fix a time-limit, but I would simply refer Mr. Sidhwa to Rule 46, sub- clause (iv) of the Legislative Assembly Rules.

Shri R. K. Sidhwa : They have not been passed by the House. They were not placed before the House.

Shrimati G. Durgabai : We are following those Rules in that House. Therefore, I would simply refer him to those Rules under which the President has got the power to fix a time-limit. We are all aware that the President most necessarily have these powers, unless we want still further to delay and are not anxious to expedite the passing of this Constitution. Some Members have taken objection to my saying that it is a financial drain on the revenues of the country. In the name of the common man about whom we are always speaking here and everywhere. I will appeal to my Friends in the House. I appeal in the name of the common man, who is not interested in these long procedural questions but who is only looking forward to the day of receiving the benefits accruing from this Constitution, to expedite this work. Let us enable the President to exercise more drastic powers to expedite the work of this Constitution.

Shri H. V. Kamath : In the name of the common man, who has been guilty of delay here ?

Shrimati G. Durgabai : With regard to the point raised by Dr. Pattabhi Sitaramayya, my Friend Mr. Krishnamachari has already clarified the position. I would unhesitatingly accept the suggestion made by him, that is, the deletion of the word "other" before the word "necessary".

He also, I think, asked for the clarification of the word "necessary" amendments. Necessary amendments are those which have become necessary due to the changes in the country, which the President may allow the Drafting Committee to move, if he considers them necessary. After the clarification of the different points raised here, I have no hesitation in saying that the House will accept the motion that I have made.

Mr. President : I will now put the amendments to vote. The question is:

"That in the proposed now Rules 38 R and 38 RR, for the word 'Constitution' wherever it occurs, the words 'Draft Constitution' be substituted."

The amendment was negatived.

Mr. President: The question is:

“That in sub-rule (1) of the proposed rule 38R,—

(i) for the word ‘considered’ the words ‘considered and disposed of’ be substituted,—

The amendment was negatived.

Mr. President : The question is:

“That in sub-rule (1) of the proposed rule 38 R,—

(it) for the word ‘amended’ the words ‘(amended by the Assembly)’ be substituted,—

The amendment was negatived.

Mr. President : Part (iii) has been accepted, I understand. The question is:

“That in sub-rule (1) of the proposed rule 38R,—

(iii) for the word ‘clauses’ the words ‘articles, clauses and sub-clauses’ be substituted;—

The amendment was adopted.

Mr. President : The question is:

“That in sub-rule (1) of the proposed rule 38R,—

(iv) for the words ‘to recommend’ the words ‘to submit a report recommending’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That after sub-rule (1) of the proposed rule 38R, the following new sub-rule be inserted:—

‘(1a) The Draft Constitution as revised by the Drafting Committee under sub-rule (1), shall indicate by suitable typographical arrangements the changes and omissions made by the Committee.”

The amendment was negatived.

Mr. President : The question is:

“That in sub-rule (2) of the proposed rule 38R, for the words ‘After the Constitution has been referred to the Drafting Committee, the report of the Committee, the words ‘The report of the Drafting Committee’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in sub-rule (2) of the proposed rule 38R, for the words ‘in the Constitution’ the words ‘to the Constitution’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in the proviso to sub-rule (2) of the proposed rule 38R, for the words ‘three clear days’ the words ‘seven clear days’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in sub-rule (4) of the proposed rule 38R, for the words ‘which is either formal or consequential upon’ the word ‘to’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in sub-rule (6) of the proposed rule 38R, the words ‘and it shall not be necessary for the President to put each of those amendments separately to vote’ be deleted.”

The amendment was negatived.

Mr. President : The question is :

“That in sub-rule (8) of the proposed rule 38R, the words ‘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’ be deleted”.

The amendment was negatived.

Mr. President : The question is :

“That sub-rule (2) of the proposed new rule 38RR be deleted.”

The amendment was negatived.

Mr. President : The question is :

“That sub-rule (3) of the proposed new rule 38RR be deleted.”

The amendment was negatived.

Shri T. T. Krishnamachari : No. 122 need not be put, Sir. It is only a consequential one.

Mr. President : Let me put that also. The question is:

“That sub-rule (1) of the proposed new rule 38RR be added to Rule 38R as sub-rule (10).”

The amendment was negatived.

Mr. President : I shall now take up Mr. Shibban Lal Saksena’s amendments. As they have not been circulated, I shall read them. The questions is:

“In the proposed new Rule 38R, in clause (1) the following words be added at the end :-

“But the President shall have power to allow any other amendments to be moved according to his discretion.”

The amendment was negatived.

Mr. President : The question is:

“In the proviso to sub-rule (2) of Rule 38R, for the words three clear days’ the words ‘five clear days’ be substituted.”

The amendment was adopted.

Mr. President : The question is :

“That in sub-rule (3) of the proposed rule 38R, for the words beginning with ‘and at this stage’ to the end of the sub-rule the following be substituted :—

“and at this stage the debates shall be controlled by the President according to his discretion’.”

The amendment was negatived.

Mr. President : The question is :

“That in sub-rule (6) of the proposed rule 38R, the words ‘and it shall not be necessary for the President to put each of those amendments separately to vote’ be deleted.”

The amendment was negatived.

Mr. President : The question is

“That at the end of sub-rule (4) of the proposed rule 38R, the following be added:—

“except by the President according to his discretion’.”

The amendment was negatived,

Mr. President : The question is:

“That in the proposed rule 38RR, for sub-rule (2), the following be inserted:—

- (2) Members desirous of participating in the debate on a motion made under sub-rule (1) shall notify their names to the President at least 36 hours before the motion is made and the President may fix a time limit on the duration of speeches on the motion after receiving all such names, but the time limit shall not be less than 30 minutes. The President shall have power to give longer time to any speaker in exceptional circumstances, and he may also order a speaker to cut short his speech according to his discretion.
- (2a) The President shall have power to extend the duration of the daily sittings of the Assembly.

The amendment was negatived.

Mr. President : There is an amendment suggested by Dr. Pattabhi Sitaramayya that ‘the word’ other, occurring in the last but one line be omitted. The question is :

“That the word ‘other’ occurring in the last but one line of article 38-R (1) be deleted.”

The amendment was adopted.

Mr. President : I shall now put the motion moved by Shrimati Durgabai., as amended, to vote. The question is :

“That for rule 38-R of the Constituent Assembly Rules, the following rules be substituted:—

‘38 R. (1) When a motion that the Constitution be taken into consideration has been carried and the amendments to the Constitution moved have been considered, the President shall refer the Constitution as amended to the Drafting Committee referred to in sub-rule (1) of rule 38-L with instructions to carry out such re-numbering of the articles, clauses and sub-clauses, such revision of punctuation and such revision and completion of the marginal notes thereof as may be necessary, and to recommend such formal or consequential or necessary amendments to the Constitution as may be required.

Revision of the Constitution by the Drafting Committee and the consideration of the amendments recommended by them.

- (2) After the Constitution has been referred to the Drafting Committee, the report of the Committee shall be presented to the Assembly by the Chairman or any other members of the Drafting Committee and thereafter the Chairman or other member of the Committee may move that the amendments recommended by the Committee in the Constitution so referred to them be taken into consideration.

Provided that no such motion shall be made until after the report of the Drafting Committee together with the copies of the Constitution as revised by them has been made available for the use of members and that any member may object to any such motion being made unless the report and the copies of the Constitution as so revised have been made available five clear days before the date on which the motion is made, and such objection shall prevail unless the President in his discretion allows the motion to be made.

- (3) While making any motion referred to in sub- rule (2), the mover shall confine himself to an explanatory statement and at this stage there shall be no debate, and the President may, after such statement has been made, put the question.
- (4) After the motion referred to in sub-rule (2) has been carried, any member may move an amendment which is either formal or consequential upon an amendment recommended in any provision of the Constitution by the Drafting Committee after the Constitution was referred to them under sub-rule (1) but shall not be allowed to move any other amendment.
- (5) If notice of a proposed amendment has not been given two clear days before the day on which the motion referred to in sub-rule (2) is to be taken up for consideration, any member may object to the moving of the amendment, and such objection shall prevail unless the President in his discretion allows the amendment to be moved.

[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.