

- (b) the expression 'tribal areas' means the areas specified in Parts I and II of the Table appended to paragraph 19 of the Sixth Schedule subject to any order made under sub-paragraph (3) of paragraph 1 or clause (b) of sub-paragraph (1) of paragraph 17 of that Schedule.

215 B. (1) The provisions of the Fifth Schedule shall apply to the administration and control of the Administration of scheduled areas and scheduled tribes in any State for the time being specified in Part I or Part III of the First Schedule other than the State of Assam.

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the State of Assam."

Sir, my amendment merely replaces the original articles 189 and 190. The only thing we are doing is that we are transferring the provisions contained in articles 189 and 190 to another and a separate part. It is because of the transposition that it has become necessary to re-number them in order to secure the necessary logical sequence of the new part. Barring minor changes, there are no changes of substance at all, in the new articles proposed by me—article 215 A and article 215 B.

**Mr. Vice-President :** There is an amendment at page 253 of the printed volume I No. 2553, by Mr. Naziruddin Ahmad. Does he propose to move it?

**Mr. Naziruddin Ahmad :** The whole basis of that amendment is taken away come new amendments moved, making the whole thing impracticable.

**Mr. Vice-President :** Then you do not move it. The same remarks apply to amendments Nos. 2554 and 2557. I presume amendment No. 2555 is not moved. Does any Member wish to speak on the motion ?

**Shri Brajeshwar Prasad :** Sir, I rise to support the articles 215 A and 215 B as moved by Dr. Ambedkar. But I would like to add the following words "Until Parliament by law otherwise provides...." It is not safe, it is not proper to define and lay down the constitution and the government of the tribal areas which cannot be changed without an amendment of the Constitution. Everything in the tribal areas is in a flux. Therefore it will be wise on the part of the Drafting Committee to add these words in articles 215 A and 215 B.

**Shri Yudhisthir Mishra (Orissa: General):** Mr. Vice-President, Sir. The Committee which was set up under clause 20 of the Cabinet Mission's Statement of 16th May, 1946 was required to report to the Constituent Assembly upon the scheme for the administration of the tribal and excluded areas and to advise whether these rights should be incorporated in the Constitution : and I think, in accordance with the Cabinet Mission's plan, the Tribal Advisory Committee was set up to report about the administration of the tribal areas and the provisions to be incorporated in the Draft Constitution. The Advisory Committee has submitted its report and the present provisions have been incorporated in the Draft Constitution according to that report. Now, Sir, the Tribal Advisory Committee did not then enquire into the conditions of the tribal people in the Indian States as it was not within its scope. In the meantime, however, a large number of Indian States have been integrated into the neighbouring provinces and they will now be administered as parts of those provinces. It is therefore meet and proper that the tribal people of these small States should also get the benefit of the present provisions. In the original draft, the States were excluded from the operation of these provisions regarding the scheduled tribes but they have been included in the amendment just moved by Dr. Ambedkar. When the backward tribal people of the provinces will have the benefit of the provisions of the Fifth Schedule, there is no reason why the aboriginal tribes of the States under the same administration should be excluded. There is a large aboriginal population in Saraikella and Kharswan in Bihar and Orissa and the C.P. States, in

[Shri Yudhisthir Mishra]

Orissa they form one-third of the population in the States. But I regret to say that none of the tribal areas in these States have been specified as Scheduled areas in parts V to VII of the table appended to paragraph 18 of the Fifth Schedule of the Draft Constitution. The reason probably for omitting the tribal areas from the category of Scheduled areas is that the Advisory Committee on Tribes has not been able to go into the whole question, as it was not within its scope. I would request the Drafting Committee to specify the scheduled areas from the States in the Fifth Schedule, when that particular Schedule is taken into consideration in this House. The President of the Indian Republic under the new Constitution will, of course have sufficient authority to specify any new area in any State as a Scheduled area under sub-para (2) of paragraph 18 of the Fifth Schedule. If it is not possible for the Drafting Committee at this stage to specify the scheduled areas from the States in the Constitution, I would submit that as soon as the Constitution is passed, the President of the Indian Republic should set up a Commission to enquire into the conditions of the tribal people of these States and to report whether any of the areas would be specified as scheduled areas. I cannot but strongly press for the protection of these tribal people of Orissa and the C.P. States by bringing the tribal areas under the scope of the Fifth Schedule as has been done in the case of the provinces.

The tribal areas according to the proposed Constitution will no longer be treated like excluded or partially excluded areas in the present Constitution, and as they have been done in the 1935 Act. The scheduled areas specified in the Fifth Schedule will not be excluded from the jurisdiction of the Legislature or executive but according to the provisions of the Draft Constitution, the Tribal Advisory Committee as has been provided for in the Fifth Schedule, will only work as a sort of check on the executive power of the provinces as far as tribal matters are concerned. I submit that the tribal people of these States are as backward as, their kinsmen in the provinces. Therefore, whilst supporting the amendment of Dr. Ambedkar, I request him to take steps to incorporate the scheduled areas of Orissa and the C.P. States in the Fifth Schedule when that question comes up for consideration before this House.

**Shri H. V. Kamath :** Sir, I rise to support the suggestion made by my honourable Friend, Shri Brajeshwar Prasad, with regard to the future administration of these tribal areas. It will be agreed on all hands that we do not contemplate the continuance of these various tribal scheduled areas in the same condition as they are today. I am sure that all of us visualise the day when they will be brought up to the level of the adjoining neighbouring provinces and will be integrated with the Provinces and States that lie contiguous to them. We do not contemplate a permanently different type of administration for them, from what is obtaining or might obtain or will obtain in the rest of India. In the light of these considerations the suggestion made by my Friend, Shri Brajeshwar Prasad is quite sound and I suggest that we should adopt the article as proposed by Dr. Ambedkar today, subject to the condition "until Parliament by law otherwise provides". We have just now adopted an article where we have vested power in Parliament to alter such a fundamental thing as the composition of the Second Chamber. I do not see any reason why, as regards the constitution of these tribal councils, and in general the administration of the tribal areas, Parliament should not be vested with the power to alter, at any subsequent date, this Constitution by an ordinary vote of Parliament.

**Pandit Thakur Das Bhargava** (East Punjab: General): According to Mr. Brajeshwar Prasad the whole thing is in a state of flux. Therefore it is a good ground that Parliament should be given the power.

**Shri Brajeshwar Prasad :** That is exactly what he is saying!

**Pandit Thakur Das Bhargva:** The very ground given by Mr. Brajeshwar Prasad constitutes a good reason why Parliament should be empowered and the proposed provision is justifiable.

**Shri H. V. Kamath:** On the contrary, Parliament should also have the power to declare other than otherwise, later on. It can change later on. I do not know what Pandit Bhargava has in his mind. I hope he will make it clear later on. But it is clear to me that it should not be left to an amendment of the Constitution : as it is, it will be so rigid that the Constitution will have to be amended if we wish to change the constitution and administration of the tribal areas. But if we leave it to Parliament to change it, it will be easier : otherwise it will involve an amendment of the Constitution, which I do not like in this particular context. I therefore suggest that Parliament should be invested with the power to make any suitable alterations in this regard and therefore the suggestion made by Shri Brajeshwar Prasad may be embodied suitably in the final draft of the article before it is brought before the House.

**The Honourable Dr. B. R. Ambedkar:** I do not think there is any necessity to offer any remarks in reply.

**Mr. Vice-President :** The question is:

“That after Part VIII, the following- new Part be inserted:—

#### PART VIII-A

##### THE SCHEDULED AND TRIBAL AREAS

215A. In this Constitution—

(a) the expression ‘scheduled areas’ means the areas specified in Parts I to VII of the Table appended to paragraph 18 of the Fifth Schedule in relation to the States to which those Parts respectively relate subject to any order made under sub-paragraph (2) of that paragraph;

(b) the expression ‘tribal areas’ means the areas specified in Parts I and II of the Table appended to paragraph 19 of the Sixth Schedule subject to any order made under sub-paragraph (3) of paragraph 1 or clause (b) of sub-paragraph (1) of paragraph 17 of that Schedule.

215 B. (1) The provisions of the Fifth Schedule shall apply to the administration and control of the Administration of scheduled areas and scheduled tribes in any State for the time being specified in Part I or Part III of the First Schedule other than the State of Assam.

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the State of Assam.

The motion was adopted.

Part VIII A and articles 215 A and 215 B were added to the Constitution.

**Mr. Vice-President :** The question is:

“That article 189 be deleted.”

The motion was adopted.

Article 189 was deleted from the Constitution.

**Mr. Vice-President :** The question is:

“That article 190 be deleted.”

The motion was adopted.

Article 190 was deleted from the Constitution.