

Monday, 22nd August, 1949

Volume IX

**30-7-1949
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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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THE HONOURABLE DR. RAJENDRA PRASAD.

Vice-President:

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Marshal:

SUBEDAR MAJOR HARBANS LAL JAIDKA.

CONTENTS

Volume IX—30th July to 18th September 1949

	PAGES		PAGES
Saturday, 30th July 1949—		Thursday, 11th August 1949—	
Taking the Pledge & Signing the Register	1	Draft Constitution—(<i>contd.</i>)	351—391
Draft Constitution—(<i>contd.</i>)	2—42	[Articles 5 and 6 considered].	
[Articles 79-A, 104, 148-A, 150, 163-A and 175 considered].		Friday, 12th August 1949—	
Monday, 1st August 1949—		Draft Constitution—(<i>contd.</i>)	393—431
Draft Constitution—(<i>contd.</i>)	43—83	[Articles 5 and 6 considered].	
[Articles 175, 172, 176, 83, 127, 210, 211, 197, 212, 214 and 213 considered].		Thursday, 18th August 1949—	
Tuesday, 2nd August 1949—		Government of India Act, 1935 (Amendment) Bill	433—472
Taking the Pledge and Signing the Register	85	Friday, 19th August 1949—	
Draft Constitution—(<i>contd.</i>)	85—127	Draft Constitution—(<i>contd.</i>)	473—511
[Articles 213, 213-A, 214 and 275 considered].		[Articles 150, 215-A, 189, 190, 250 and 277 considered].	
Wednesday, 3rd August 1949—		Saturday, 20th August 1949—	
Draft Constitution—(<i>contd.</i>)	129—163	Draft Constitution—(<i>contd.</i>)	513—554
[Articles 276, 188, 277-A, 278 and 278-A considered].		[Articles 277, 279-A and 280 considered].	
Thursday, 4th August 1949—		Monday, 22nd August 1949—	
Draft Constitution—(<i>contd.</i>)	165—204	Draft Constitution—(<i>contd.</i>)	555—595
[Articles 188, 277-A, 278, 279, 280, 247, 248, 248-B and 249 considered].		[Articles 284, 285, 285-A, 285-B and 285-C considered].	
Friday, 5th August 1949—		Tuesday, 23rd August 1949—	
Draft Constitution—(<i>contd.</i>)	205—240	Draft Constitution—(<i>contd.</i>)	597—635
[Articles 249 to 253 considered].		[Articles 286 to 288-A and 292 considered].	
Monday, 8th August 1949—		Wednesday, 24th August 1949—	
Draft Constitution—(<i>contd.</i>)	241—274	Draft Constitution—(<i>contd.</i>)	637—676
[Articles 253, 254, 254-A and 255 considered].		[Articles 292 to 295 and 295-A considered].	
Tuesday, 9th August 1949—		Thursday, 25th August 1949—	
Draft Constitution—(<i>contd.</i>)	275—311	Draft Constitution—(<i>contd.</i>)	677—699
[Articles 255 to 260 considered].		[New Article 295-A considered].	
Wednesday, 10th August 1949—		Friday, 26th August 1949—	
Draft Constitution—(<i>contd.</i>)	313—349	Draft Constitution—(<i>contd.</i>)	701—717
[Articles 260 to 263, 267 to 269 and 5 & 6 considered]		[Articles 296, 299 and Third Schedule considered].	
		Monday, 29th August 1949—	
		Draft Constitution—(<i>contd.</i>)	719—736
		[Seventh Schedule : List I : Entries 1 to 7 considered].	

PAGES	PAGES
Tuesday, 30th August 1949—	Monday, 5th September 1949—
Draft Constitution—(<i>contd.</i>) 737—782	Draft Constitution—(<i>contd.</i>) 967—1008
[Seventh Schedule—(<i>contd.</i>): List I : Entries 7 to 12, 9-A, 13 to 15, 15-A, 16 to 26, 26-A, 27 to 40, 40-A and B and 41 to 52 considered.]	[Fifth Schedule : Paragraphs: to 6; Sixth Schedule: Paragraph 1 considered].
Wednesday, 31st August 1949—	Tuesday, 6th September 1949—
Draft Constitution (<i>contd.</i>) 783—828	Draft Constitution—(<i>contd.</i>) 1009—1054
[Seventh Schedule—(<i>contd.</i>): List I : Entries 53 to 57, 57A, 58, 58-A, 59 to 61, 61-A, 62 to 64, New Entry 64-A, 65 to 70, 70-A, 71 to 73 and 73-A considered].	[Sixth Schedule : Paragraph 2 to 15 considered].
Thursday, 1st September 1949—	Wednesday, 7th September 1949—
Statement <i>re</i> : Vindhya Pradesh Representation in the Assembly 829—830	Draft Constitution—(<i>contd.</i>) 1055—1099
Draft Constitution—(<i>contd.</i>) 830—875	[Sixth Schedule : Paragraphs 16 to 18, and 1 and 20; Articles 281 to 282- considered].
[Seventh Schedule—(<i>contd.</i>): List I : Entries 74 to 91: List II : Entries 1—15 considered].	Thursday, 8th September 1949—
Friday, 2nd September 1949—	Draft Constitution—(<i>contd.</i>) 1101—1147
Condolence on the death of Shri Gopinath Srivastava 877	[Articles 282-B, 282-C, 283 and 274-A to 274-E of Part X-A considered].
Draft Constitution—(<i>contd.</i>) 877—928	Friday, 9th September 1949—
[Seventh Schedule—(<i>contd.</i>): List II : Entries 15 to 67; List III : Entries 1, 2 and 2-A considered].	Draft Constitution—(<i>contd.</i>) 1149—1192
Saturday, 3rd September 1949—	[Articles 264 to 266, 296 and 299; Seventh Schedule and articles 250, 202, 234-A, New article 242-A, 248-A, 263 and 263-A considered].
Draft Constitution—(<i>contd.</i>) 929—965	Saturday, 10th September 1949—
[Seventh Schedule—(<i>contd.</i>): List III : Entries 2-A, 3 to 25, 25-A, 26, 26-A, 27, 28, 28-A, 29 to 31, 31-A, 32, 33, 33-A, and B, 34, 34-A, 35, 35-A, 36 and New Entry 88-A considered].	Draft Constitution—(<i>contd.</i>) 1193—1266
	[Articles 24 considered].
	Monday, 12th September 1949—
	Draft Constitution—(<i>contd.</i>) 1267—1348
	[Article 24 and part XIV-A- Language considered].
	Tuesday, 13th September 1949—
	Draft Constitution—(<i>contd.</i>) 1349—1426
	[New Part XIV-A (Language) considered].
	Wednesday, 14th September 1949—
	Abolition of Privy Council Jurisdiction Bill 1427
	Draft Constitution—(<i>contd.</i>) 1427—1493
	[New Part XIV-A (Language) considered].

PAGES	PAGES
Thursday, 15th September 1949—	Draft Constitution—(<i>contd.</i>) 1621—1673
Draft Constitution—(<i>contd.</i>) 1495—1541	Motion <i>re</i> Translation of the Constitution.
[New Articles 112-B and 15-A considered].	[Articles 303 and 300-A and B considered].
Friday, 16th September 1949—	[Eighth Schedule and Articles 303, 304, 99, 305 and 1 considered].
Draft Constitution—(<i>contd.</i>) 1543—1590	Sunday, 18th September 1949—
[Articles 15-A, 209-A to E, 315 and 303 considered].	Motion <i>re</i> October meeting of 1675
Saturday, 17th September 1949—	Assembly.
Abolition of Privy Council 1591—1620	Draft Constitution—(<i>contd.</i>) 1676—1693
Jurisdiction Bill	[Article 1 considered].

CONSTITUENT ASSEMBLY OF INDIA

Monday, the 22nd August 1949

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

DRAFT CONSTITUTION—(*Contd.*)

Article 284

Mr. President : I think we have to begin with article 284 today. The motion is:

“That article 284 form part of the Constitution.”

The Honourable Dr. B. R. Ambedkar (Bombay: General) : Sir, I move:

“That for article 284 the following article be substituted:—

284. (1) Subject to the provisions of this article, there shall be a Public Service Commission for the Union and a Public Service Commission for each State.

(2) Two or more States may agree that there shall be one Public Service Commission for that group of States, and if a resolution to the effect. is passed by the House or, where there are two Houses, by each House of the Legislature of each of those States Parliament may by law provide for the appointment of a Joint Public Service Commission (referred to in this Chapter as Joint Commission) to serve the needs of those States.

(2a) Any such law as aforesaid may contain such incidental and consequential provisions as may appear necessary or desirable for giving effect to the purposes of clause (2) of this article.

(3) The Public Service Commission for the Union, if requested so to do by the Governor or Ruler of a State, may, with the approval of the President agree to serve all or any of the needs of the State.

(4) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Union or, as the case may be, State as respects the particular matter in question.

The article is self-explanatory and I do not think that any observations are necessary to clear up any point in this article. I will therefore reserve my remarks to the stage when I may be called upon to reply to any criticism that may be made.

Shri Lakshminarayan Sahu (Orissa: General) : May I know, Sir, why the provision as to any such law by Parliament is introduced and also why mention has been made of Ruler in these provisions ?

The Honourable Dr. B. R. Ambedkar : If I understand my Friend Mr. Sahu correctly, he wants to know why we have introduced the provision for Parliament to make law. He will understand that the basic principle is that each State should have its own Public Service Commission. But, if, for administrative purposes or for financial purposes it is not possible for each State to have a Public Service Commission of its own, power is left open for two States by a resolution to confer power upon the Centre to make provision for a joint Regional Commission to serve the needs of two such States which, as I have said, either for administrative or for financial reasons are not in a position to

[The Honourable Dr. B. R. Ambedkar]

have a separate independent Commission for themselves. Obviously, when such a power is conferred upon the Centre, it must be that the power so conferred must be regulated by law made by Parliament and it should not be open to the President either to constitute a Joint Commission for two States by purely executive order. It is for that purpose that power is given to Parliament to regulate the composition of ally Commission which is to serve two States.

Shri Lakshminarayan Sahu : The other point as to why the 'Ruler' has been mentioned ?

The Honourable Dr. B. R. Ambedkar : Because it may be that even a State in Part III may find it unnecessary to have an independent Public Service Commission for itself. Consequently, the door again there should not be closed to a State in Part III if that State were to agree to any State in Part I jointly to make a request to the President that a Joint Commission may be appointed. That is the reason why 'Ruler' is included in the provisions of this article.

Shri R. K. Sidhwa (C. P. & Berar: General) : I want one clarification. In cause (3) it is stated "with the approval of the President, agree to serve all or any of the needs of the State." May I know if any local body wants to utilise the service of the Service Commission, will that be allowed?

The Honourable Dr. B. R. Ambedkar : Yes. There is a separate article for that, making provision that if a local authority wants its needs to be served by the Public Service Commission, it will be possible for Parliament to confer such authority upon the Public Service Commission also to serve the needs of such local authority.

(Amendment No. 2 was not moved.)

Mr. President : I take it that the other amendments relating to the original article now do not arise. Does anyone wish to move any other amendment?

Mr. Naziruddin Ahmad (West Bengal : Muslim): I have three amendments to move to this clause. Regarding the first amendment I find that if this amendment is accepted, it will lead to some drafting anomaly. So I would ask your permission to move it in another form. I am quite certain that my amendment, whether my amendment is reasonable or not, will never be accepted by the House. I therefore crave your permission to move it in a more proper form though there is no hope of it being accepted by the House. So if you permit me to move it in a slightly altered form I think the amendment will read better. I could not correct it before in time because these amendments came all of a sudden like so many air raids and it is impossible to be ready in time.

Mr. President : They were circulated a week ago.

Mr. Naziruddin Ahmad : Though these amendments were circulated last week, still there are a variety of bewildering things coming before the House in large numbers and it is difficult to keep pace with them. When the Drafting Committee takes months together to make up their minds, it is difficult to expect us to be ready instantly to meet the onrush of new amendments. I am guilty of being a little late. I therefore ask Your special Permission.

Mr. President : Very well, you may move it.

Mr. Naziruddin Ahmad : Sir, I beg to move:

“That in amendment No. 1 of List I (First Week) in the proposed new article 284 for clause (2) the following clause be substituted:

- ‘(2) Two or more States may by Resolution in their Legislative Assemblies or where there are two Houses, in both the Houses, agree that there shall be one Public Service Commission for that group of States.’”

I wanted to delete the latter part of this clause but that would have left the drafting in a state of unhappy condition. So I have moved it in this form. In essence there is no difference between the amendment already tabled and the amendment now moved.

Sir, I also move :

“That in amendment No. 1 of List I (Fifth Week) of Amendments to Amendments, In clause (2a) of the proposed article 284, for the word ‘law’ the word ‘agreement’ be substituted.”

I also move:

“That in amendment No. 1 of List I (Fifth Week). of Amendments to Amendments. in clause (3) of the proposed article 284, the words ‘or Ruler’ be deleted.”

The purpose of my first amendment is this that in the original article as it was in the Draft Constitution the essence of that clause was that two or more States may decide to have a common Public Service Commission by agreement. Now the basis of agreement has been taken away. In fact power is being given to Parliament to set up a Joint Public Service Commission for two or more States with their agreement expressed by Resolutions in their Legislative chambers. This is another instance of interference with Provincial affairs. This is absolutely needless. My amendment would restore the position with slight changes as it existed in the original draft article with the proviso that the agreement of the States will be based upon resolutions in their Legislative chambers. The object of my amendment is that the States in Part I should be enabled to adjust their own affairs so far as the appointment of Joint Public Service Commission is concerned. It would be entirely a matter between two States and it will be entirely a matter contractual between the parties. There is no reason for Parliament to interfere in this business. All that we should do is to allow the Provinces to function automatically and consider the mutual advantage or disadvantage and then to agree to appoint a Joint Public Service Commission and they will have the power under clause 2 (a) to agree upon incidental matters, viz., pay, leave and various other small matters. I should think that this is an attempt want only to take away or deprive the Provinces of their legitimate powers which were conceded to them in the Draft Constitution. If I may, I would draw the attention of the House to another article, the new article 287. This article is printed on page 9 of the printed list. In this new article the proviso which appears in the original article has been entirely omitted. The proviso was to this effect :

“Provided that where the Act is made by the Legislature of a State, it shall be a term of such Act that the functions concerned by it shall not be exercisable in relation to any person who is not a member of one of the services of the State except with the consent of the President.”

Sir, this proviso to the original article 287 empowered the State Legislatures to legislate in the matter of Public Services Commissions. That power has been taken away in the proposed new article 287.

Then again, to keep up this policy, there has been introduced in the new article under consideration, i.e., article 284—power for Parliament to supersede

[Mr. Naziruddin Ahmad]

the discretionary power of the States to pass a law. The provision for Parliamentary law in clause (2) of the present article and the deletion of the proviso in the old article 287 would show that there is a set policy of interfering with Provincial matters as much as possible. The effect of this interference at every stage would be to reduce the Provinces into a state of importance. The result would be that inefficiency, corruption and dissatisfaction which reign supreme in some of the Provinces would show no sign of abating. On the other hand, I submit these would be aggravated. It is giving the Provinces responsibility without power. The responsibility for good-administration of the Provinces lies with the Provinces; but the powers, financial, legal, legislative and others, are to pass on to the Centre. As to money powers, we know the situation. The effect of these will be to create more and more dissatisfaction in the Provinces, leading to more and more irresponsibility and more and more inefficiency. I do not wish to say anything more on this subject, beyond the fact that I enter my humble protest against this.

Then with regard to my amendment No. 65, it says that in clause (2a) of the proposed article 284, for the word "law" the word "agreement" be substituted. It is a corollary to the first amendment of mine. I desire to revert to the original scheme of the old article, that the whole matter should be settled, by agreement and not Parliamentary law, though it may be by Provincial law. So in clause 2(a) the word "law" which clearly refers to Parliamentary law must be changed into one of "agreement". This is consequential to my first amendment and it is in keeping with the scheme of the original article.

Then I come to my amendment No. 66. This I submit, raises some important questions of principle and also some serious questions of drafting. This amendment says that in clause (3) of the proposed article 284, the words "or ruler" be, deleted. These two words "or Ruler" have been introduced in the proposed new article 284. It is said that the Public Service Commission for the Union, if requested to do so, by the Governor, or Ruler of a State, may agree to serve the needs of the. State. Sir, I submit that the introduction of these two innocent-looking words "or Ruler" would altogether change the entire situation. By the introduction of these two words, the, Indian States will all come in; or it is attempted to bring them in. But I think this will only lead to confusion and also lead to unnecessary complications. This article appears in Part XII of the Draft Constitution. In article 281 we have defined the word "State" and said that in this Part, unless the context otherwise requires, the expression "State" means a State for, the time being specified in Part I of the First Schedule, that is to say, the Provinces. I submit that on a careful consideration of Part XII, it will be clear that this Part provided only for the purpose of the Provinces. The conception of the Rulers being included in this Part is absolutely foreign to the article. I submit that if we introduce the words "or Ruler" it will lead to confusion. The word, "State" clearly means "Province", not the Indian States. Even the introduction of the saving clause—"..... unless the context otherwise requires" will not improve the situation. These are ordinary words of precaution. They do not extend the idea of the article. if we are to include the Rulers also, the entire structure of the article will have to be changed. This also shows the danger of the tendency to improve matters day by day, by introducing new things into the scheme. If we introduce the' conception of an Indian State here, then it will be extremely difficult to find out whether the word "State" occurring in other places in this Part has been used as including the Indian States. It will be difficult for even trained lawyers or experienced Judges to say whether in every case the word "State" also includes a State in Part III

of the Schedule. The words “or Ruler” have been introduced only in a few stray articles. The question would be whether the word “State” throughout Part XII also includes the Indian States. That difficulty cannot be solved in this way, and as I said, it will lead to a great deal of confusion. If the Indian States are to be included in the scheme of things, then the whole Chapter should be re-drafted so as to serve that purpose. It cannot be achieved by stray interpolations of the words “or Ruler” into the body of only some of the articles.

Apart from the technical difficulty and the danger of creating confusion there is another objection to the inclusion of the Indian States into the scheme of things. I understand that the Indian States are going to frame their own Constitution, and it is already known that there is an attempt on their part to induce the Constituent Assembly to undertake this drafting for them. If that is so, there is then a prospect of the entire subject of the States being dealt with by adequate legislation by this House, itself. So, if it is necessary to admit the Indian States into the scheme of things, then the proper place would be in their Draft Constitution and not by stray, half hearted and hasty introduction of words only here and there. This very attempt shows a change of mind and confusion. Words have been introduced here and there which must lead to a great deal of trouble. I submit, therefore, that we should not touch the States, except by thoroughly recasting the entire provisions here. We should rather leave this to the States, or to the Constituent Assembly acting on their behalf when it frames a Constitution for these States. In these circumstances, the best thing would be to leave out the words “or Ruler” which will clarify the situation and leave the matter to be dealt with by the Constituent Assembly on its own merits. However, I do not mean that there should be no law to govern the Rulers, or that there should be no provision for the appointment of a Joint Public Services Commission between an Indian State and a Province. But I should think that this half-hearted attempt to improve matters by the introduction of the words “or ruler” would dislocate the arrangement of the articles and would complicate matters. If it is necessary at the time of considering the Indian States constitution that an article of this nature is essential, that can be introduced by the Constituent Assembly at a suitable stage when we have an overall picture of the Constitution of the Indian States. At present, I think these words should be deleted and the question of the States being concerned in the matter should not be prejudiced. Sir, I feel that these constant changes of these clauses create a considerable amount of difficulty in the House. It is not my humble self atone that has been feeling is difficulty, but there are many honourable Members who are serious workers, who are also unable, to follow the amendments or the changes or their implications.

I submit that the House is entitled to be treated in a more humane fashion than this.

Mr. President : I have received a notice of two amendments today at about 9-15 in the morning. I do not know if they are in order. They are certainly out of time. But as they want only deletion—of certain clause of clause (2) and clause (2a) of the proposition moved by Dr. Ambedkar—they do not really amount to amendments. If the Members so desire I might Put those two articles separately to vote and if they wish they might vote against each of them. Does any other Member wish to move any of the printed amendments ?

Shri G. S. Guha (Tripura, Manipur and Khasi States): I had an amendment No. 3052.

Mr. President : Do you wish to move it?

Shri G. S. Guha : No, Sir, as it is generally covered by the new Draft articles.

Shri Brajeshwar Prasad (Bihar: General) : Sir, I rise to accord my general approval to article 284. While doing so I would like to draw the attention of the House to some features of this article with which I am not in agreement.

Clause (1) says that there shall be a Public Services Commission for the Union and a Public Services Commission for each State. Sir, I am not in agreement with the latter part of clause (1). I want that there should be administrative unification of the country. I am not in favour of the existence of provincial Civil Servants. I want that all officers in the services must be the servants of the Government of India and of the Government of India alone, so that the mischief of provincial autonomy may remain circumscribed within very narrow limits. Sir, our experience has been that the members of the provincial Public Services Commissions have not been able to prevent corruption, inefficiency and nepotism in the Provincial Governments. Therefore I am strongly opposed to the second part of clause (1), wherein provision has been made for Public Services Commissions for each State. I am opposed to State Commissions.

In Clause (2), the procedure that has been adopted for the establishment of a Joint Commission is also not agreeable to me. I do not see any reason why a resolution by the Provincial Legislature should be necessary and why Parliament should be asked to frame a law or the establishment of a Joint Commission. The procedure prescribed in clause (2) is entirely different from the procedure prescribed in clause (3). If for the establishment of a Public Services Commission, which shall function for all the States it has not been felt necessary to seek the approval of the Provincial Legislature, if for the liquidation of the State Commissions it is not felt necessary to seek the approval of Parliament, I do not see any reason why a different procedure should be adopted for the establishment of a Joint Commission. The matter of a Joint Commission is not so important as the establishment of one Public Services Commission for the whole country. If a Governor and the President can, or if all the Governors and the President acting together, can liquidate all the State Commissions, I do not see any reason why Provincial Legislatures and Parliament should be asked to dabble in the establishment of Joint Commissions. If you ask the Provincial Legislature to express its opinion, it will hesitate, because it will feel that some of its powers will be taken away by the establishment of a Joint Commission. Everybody likes to keep power in its own hands. No one likes to transfer it to others.

As far as clause (3) is concerned, I would have very much preferred if the power would have been invested in the Governor in his discretion and in the Ruler, in his discretion, because provincial Ministers will never agree to the liquidation of the State Commissions. But if the matter is left in the hands of the Governor in his discretion and the Ruler in his discretion, then probably in consonance with the needs of the time, they will take a broader view of things and be in favour of the establishment of a Joint Public Services Commission in the country.

Dr. P. S. Deshmukh (C. P. & Berar: General) : We are this morning starting to debate and approve of articles dealing with Public Services Commissions. Sir, these Commissions are said to be a necessity of a modern State. These Commissions are primarily meant to keep appointments away from day to day politics, party preferences and influences and the attempt is made, by having recourse to these Commissions, that the appointments shall be as far as possible on merit and there shall be no interference in their choice or

in their selection from day to day by the executive authorities of the States. On the whole, Sir, I am prepared to say that the Commissions in India, have not worked too badly; but there are devices by which the recommendations of the Commissions are, often procured or set at naught. There have been complaints so far as the working of our Public Services Commissions are concerned in this respect. Not so much that they have been partial, or that there is any other allegation to that effect, but that the whole procedure is so circumvented, or some short cuts devised, by which the choice of the Public Services Commissions becomes more or less an automatic approval of the appointments already made. That is one kind of complaint and it arises out of the following method that is resorted to. Very often appointments are made by Ministers and Heads of Departments to temporary vacancies and since it is one of the rules that the head of the department, where the vacancy occurs should also sit as a member of the Commission and since no other member knows anything about the qualifications or the capacity of the particular candidate already holding the post, the word of the head of the department is bound to weigh and as a rule weighs with the rest of the Commission. In very many cases it is his recommendation that is automatically accepted. This evil has gone to such an extent that some people contend that vacancies are made for persons and persons are not sought for vacancies, although the provisions with regard to Public Services Commissions are complied with.

I have however a different point of view to urge. In all this paraphernalia of Commissions and our attempt to be very fair and impartial and give recognition only to sheer merit, I must point out that the rural communities of India have suffered tremendously. They have had no representation whatsoever. It is the advanced people who are going ahead and serving their self interest and no attention is paid to these other communities. There are small minorities which organise themselves and make the life of the Government impossible by propaganda and otherwise because they can make their demands effective and respected. But so far as the huge majority communities are concerned, lakhs and crores of the population, where the percentage of education is hopelessly lower than in many cases some of the Scheduled Castes even, they have been left behind. In spite of the fact that there is an independent Government of India in power no attempt whatever is being made to give any representation to these communities in the public services. If we do not pay timely heed to this, I am sure it will be one of the factors leading to a revolution in India. It is a square fact which stares everybody in the face that sooner or later there is going to be a revolution in India. Whether it is going to be bloody or not will depend upon our present rulers. If today we neglect to end the persecution and exploitation of the rural communities, if we are not prepared to pay any attention to their demands, if they want to depend only upon Public Security Acts and their guns utilized increasingly for shooting people down when they agitate for their demands, there is no escape from a bloody revolution. We have to pay timely attention to their demands, for they get no education, they suffer from so many handicaps and yet they are made to compete with those persons who have high schools and colleges and everything else almost next door. In passing these provisions regarding the Commission I shall be grateful if the House pays a little more attention to this fact and does not commit the country to too many rigid clauses in which it will be very difficult for the provincial governments or legislatures or even the future Parliament to bring about any radical but desirable changes. There is a provision by which a member of the Commission will hold appointment for six years. The choice of these persons will be made by persons who are now in office and their successors would be precluded from effecting any change for a long time. So far as this item is concerned I am prepared to go to the extent of saying

[Dr. P. S. Deshmukh]

that people have very little confidence in the impartiality or their being just and fair to the claims of these large communities who live in the rural areas, whose chances of higher education are very very remote. In making these provisions I would submit that we should not tie the hands of the future parliaments. The whole structure of appointments is going to be entirely different when there is going to be adult franchise. There are millions of people whose claims are not recognised today and it may not be possible to resist then hereafter. Today you are treating them with contempt. You think that it is only the first class B. As., Hons., or M.As., who are the only competent persons who must be considered. While giving every opportunity to merit you have to consider the claims of those persons who for no fault of their own have been left behind and have had no opportunities of coming forward. This is a vital question. People will think—that these are matters of fishes and loaves. I beg to differ from it. It is not a question of fishes and loaves; it is a question of the administration of the country, not under the aegis of the British people but under your own people. Why should there be any hesitation that instead of A or B there is X or Y from your own kith and kin, a citizen of this country, who has been suffering from certain handicaps which other communities do not suffer? If you are not prepared to pay any attention to this, my submission is that you will be repenting it one of these days.

My submission is that so far as the provisions relating to the Commission are concerned they should not be too rigid. It should be possible for the future Parliaments to scrap it if they want, if they think that it is not fair and just and does not answer to the demands and claims of various communities and people of India. When we are embarking upon passing these provisions I would like my honourable Friend to have this side of the question in mind and not bind the hands of the provincial legislature : I for one would like to abolish the provincial legislatures but so long as they are there you must not tie their hands in such a way that they will be tempted to tear the Constitution to pieces. That is the reason why such a matter ought to be left to the future people.

Some of my Friends are afraid when they consider the character of the future Parliament. My Friend Mr. Brajeshwar Prasad is already nervous. If we want that our Constitution should exist and continue and should not be materially altered, try and place as little obstacles as possible in the way of amending it by future parliaments. If you make it rigid, then along with the bad parts even the good ones will go. Even if you try and give extraordinary powers to the President to preserve your interests and those of the governing classes you will not be able to do so, because the whole Constitution will be torn to pieces because of these clauses, I do not want to say more except this much by way of preliminary remarks so far as the subject of the Public Service Commissions is concerned.

Shri Lakshminarayan Sahu : *[Mr. President, I stand to support the new article which is going to replace article 284 of the Draft Constitution. But while lending my support to it I must say that the Government should not have the power to reject the candidate selected by the Public Service Commission. At present it is found that a candidate selected by the Public Service Commission is sometimes rejected by the Government. I want that the provision should be made so rigid that the Government may not have the power to overrule the decisions of the Commission and reject the candidate selected by it.

*Translation of Hindustani Speech.

My second point is that the personnel of the Public Service Commission would always look up to the Government unless they are secured with regard to the tenure of their services. I would, therefore, suggest that the tenure of their service which is at present kept as six years should be increased. They must have security of tenure so that they may be independent and make selections properly. The members of the Public Service Commission will always follow the dictates of the Government unless they are provided with security of tenure. I, therefore, submit that the tenure of the service of the members of the Public Service Commission should be increased. Moreover, I would also like that the members of the subordinate services too should be selected by the Public Service Commission. If the members of the subordinate services are taken through the Public Service Commission, nobody can complain of nepotism. But if the appointments to subordinate services are kept out of the scope of the Public Service Commission, there would always be complaint against one minister or the other of being guilty of nepotism in the appointments made by them. With a view to avoid such criticisms I want that the subordinate services may also be selected by the Public Service Commission.

I do not agree with the view just now expressed by Dr. Deshmukh that the Public Service Commission should not be made so rigid that it may not be changed in future. On the contrary I want that, right from now since we have been assembling in this Constituent Assembly House, we should begin to build the Public Service Commission in such a manner that it may act smoothly in future. As the article stands at present it provides that the members of the Commission may be removed. But such a removal would be after due enquiry and consequently this need not cause any apprehension in the mind of anyone.

One thing more I would like to submit here is about the mention of the rulers made in this article. The question of Hyderabad yet remains undecided. Thought must be given to the question as to what will be the future set-up of the State. Some rulers have been nominated as Rajpramukhs, but I do not agree with this. In future, when complete democracy obtains in the States, whether nominated rulers will remain in their offices or others will come in their places is a matter which should be considered. When real democracy will obtain in the States the offices of the Rajpramukhs, that are, held by the rulers now, will be held by persons selected by the people. I would therefore, like that the Drafting Committee should consider this matter and if possible make some changes in the articles in the light of what I have said.]

Sardar Hukum Singh (East Punjab: Sikh) : Mr. President, Sir, apparently there is much clamour for the ideal recruitment on merit alone, and in independent and impartial Commission will be the only security against any favouritism or nepotism. But there is another aspect of the picture as well which should not be ignored. India is a vast country and all regions are not equally developed so far as education is concerned. Then there are sections of the nation that are more backward than the others. It is no fault of theirs that they had not equal opportunities so far as development in that respect is concerned.

I want to draw the attention of the House particularly to the Punjab. This province started in the race of education seventy years after the others had begun. The first private institution, Hindu College, in Calcutta was started in 1817 while in Bombay the first institution was started in 1827. But so far as the Punjab is concerned, our first private institution opened only in 1887. Similar was the case of universities. Under these circumstances, naturally the Punjab was left behind in this race and cannot be expected to compete with other provinces if regional considerations are ignored altogether.

[Sardar Hukum Singh]

Then there is another peculiarity or a mishap to which I want to draw the attention of this House. The recent partition has retarded the pace considerably. The East Punjab was economically much backward. An ordinary cultivator there has got only one acre or even less than that. That holding is not economical and that cultivator cannot afford to provide higher education to his children. About seventy per cent. of the students in the United Punjab used to come from West Punjab which is now included in Pakistan. With this partition those schools and colleges have been lost. Parents and guardians have been rendered destitute and they cannot afford to provide education for their wards now. You must have seen that the children of school going age are hawking in the bazars and in the streets with arched gram or cigarettes on their heads. Their education has been arrested and in spite of the best intentions nothing has been done to rehabilitate them. The young and the old are struggling for their bare subsistence. With such handicaps is it possible for these Punjabis to compare favourably in any open competition with candidates from other provinces which are more advanced and which had a considerably early start? What would be the result then? Already the Central Secretariat is full of Menons, Swamis and Ayyangars. And in a few years we will see the provinces would be flooded with ambitious young men who would not be so familiar with the local usages or customs. Local problems would not be appreciated. The sons of the soil would be squeezed out and there would be fresh prejudices. In backward areas such as the Punjab growth will be stunted, and development arrested. There would not be harmonious progress of each component part of the country.

Another point I might submit. Before partition the Punjab representation in the Centre was mostly of the Muslims. With the partition that personnel has migrated to Pakistan. There is very meagre representation now. And if there is open competition for the whole country there is no likelihood of any improvement in this representation. If no impetus is given to regional recruitment, the backward—I mean educationally and economically—areas would become colonies for these educationally advanced regions of the country.

I appeal to this House therefore to consider this question dispassionately and make a special provision for the Punjab at least, because this refugee problem is not to be ignored. I press it again that it is not possible for these uprooted people, with the conditions under which they are living, to provide their wards with suitable education which can equip them for the competition that you require and for the recruitment on merit alone. Therefore my submission is that some consideration for regional recruitment must be provided so that backward areas also have opportunities to develop side by side till a stage comes when their young men also can stand in competition with other provinces.

Chaudhri Ranbir Singh (East Punjab: General) : * [Mr. President, I cannot help agreeing with the views expressed by Dr. Punjab Rao Deshmukh in support of this article. I do feel what open competition under the circumstances, can mean. A child born in the city listens to the Radio from his very childhood, he gets a newspaper daily at his place, and has got many a facility; the school is also at a distance of a few yards from his house. When that child attains the age of three or four years, he can learn many things in the school, in the bazar, which a country boy who has passed the eighth class cannot learn. When competition is held by the Public Service Commission, the same type of questions are asked, and the decision is made on the criteria whether he is able to reply to those questions or not. This country is a land of villages and is dominated by the rural population; but none can deny on the basis of facts

*Translation of Hindustani Speech.

that the townsmen have developed with greater speed and they are much more advanced than the people of the countryside, and if in these circumstances a man from rural areas is made to compete with a person of urban area and similar types of questions are asked of them, there cannot be any doubt that the former cannot compete with the latter successfully or on equal terms.

There are only two ways of setting this right; one method is that in the public services a certain proportion should be reserved for the candidates from the countryside and they should be allotted the reserved number of posts in the services, and for those posts only persons from among the rural population should be allowed to compete.

The other method is that while appointing the members of the Public Service Commission, it should be particularly kept in view that at least 60 to 70 per cent. of the members should be such as may sympathise with the rural people and understand their difficulties. I wish to give you a general illustration. Now a rule has been enforced in the matter of recruitment to our forces that the preliminary competition will be held through the Public Service Commission. You can imagine that a boy who may be very good at study may not necessarily be a success in the fighting line, for fighting can be done, only by the person who is well built and has a strong heart. Through the Public Services Commission you will only be able to recruit good English-knowing people, but if such people are sent to the army, you may rest assured, that the army will never be successful in its job. The army's job is entirely of a different nature. In the case of a person who becomes a military officer we have to see how much sense of a sacrifice he has got, how much courage he possesses and how much physical strain he can bear. But if the recruitment to the army is made through a preliminary competition there is no doubt that the rural people will soon be left out even in the field of Military recruitment. There is no doubt that the persons formerly known as martial races belonged to the countryside; those people still join the army as soldiers. But the military officers are mostly urban people. The need of the hour is that the backward people of the countryside should be helped to advance forward, and for the present they should be given their due place as, military officers on the basis of their population.

Nowadays there are so many villages, where there is not even a primary school. First of all, a villager's spending capacity is so little that he cannot send his children to the secondary or the higher schools in the city. Apart from this, you can just imagine how many villages are provided with facilities for primary education.

In these circumstances, if you want to act just like a machine, I have no doubt the fears expressed by Dr. Deshmukh will definitely come true. If the country is to progress on the basis of non-violence, we will have to take this into consideration according to the circumstances. As we have reserved a few seats for the backward classes or the schedule classes, we can perhaps adopt the same method in respect of the rural people. This method can be introduced either in respect of the Public Service Commission or in respect of the public services. It would be better if a certain percentage of posts is reserved and those posts are open only to the villagers for competition.

This is one thing more. Many of our people, who have been born and educated in the cities and can speak English well, are selected by the Public Service Commission in the competition; but most of those selected people are ignorant of the rural life and cannot put up with the difficulties of the rural life. There are no roads, there are no facilities that are available in the urban areas, it is not an easy task to go there. Hence those officers shirk going, to the countryside and leave everything to their subordinates; in this way the

[Chaudhri Ranbir Singh]

villagers are deprived of proper justice. I therefore think that the suggestions made by Dr. Deshmukh should be kept in view while appointing the Public Service Commission.

I do not agree with Shri Sahu that the tenure of the Public Service Commission should be prolonged. Our ex-President of the National Congress, Acharya Kripalani, had declared that the Government is, not successful. One of the reasons for this is that the Government is not cooperating with the Public Service Commission, and one of the main causes is that the Public Service Commission was recruited according to the needs of the old order, and the old regime had recruited them in accordance with their own views.

It is therefore essential that the services should undergo a change with the change in the Government. The Government should have an open hand in the matter so that it can remove the Public Service Commission whenever it is, deemed necessary. I, therefore, support Dr. Deshmukh strongly.

So far as nepotism is concerned it will continue even in future, it is not so easy to check it as you imagine. There are numerous considerations before members of the Public Service Commission; I think we, need not be too apprehensive of the evil. Nepotism can be checked only if their conscience becomes strong, their ideas change. Till the present ideas and minds of the Public Services Commission change, you cannot check it by prolonging the life of any Public Service Commission.]

Mr. President : I would like to remind honourable Members, that the speeches which have so far been made on these articles have, very little, to do with the, articles themselves. There have been speeches on the character of our public services, on the method of recruitment, who should be recruited and go forth. I will not allow any further digression, I would request Members who wish to speak to confine themselves to the articles under consideration.

Shri B. N. Munavalli (Bombay States): Mr. President, Sir, we are now discussing a subject of very great importance, viz., that the Civil Services. "The Government of Great Britain is in fact carried on, not by the Cabinet, not even individual Ministers, but by the Civil Services." So, the, importance, of the Civil Services cannot be gainsaid. That is why the introduction of a Public Service Commission in our Constitution. The candidates are to be appointed on merits according to these articles. Even in other countries, nowadays, they have come to the conclusion that it is the, merit system alone which can successfully, be worked. Before that, in Great Britain, they tried the system of patronage. The relatives and friends and supporters of Ministers used to get jobs in the Government, and even in America people used to distribute the spoils amongst their friends and supporters and it is said that Andrew Jackson is the father of the spoils, system. This Spoil system continued for about fifty years or so since 1828 when Andrew Jackson became the President of the United States of America, but thereafter they found that it was very difficult to continue with the spoils system. So, they appointed a Commission of three members who were to hold examinations to fill up the posts that were vacant. The systems of examination in America and Great Britain are very different. In America, importance is given to practical side, but in Great Britain importance is given to general education. About seventeen hundred types of examinations are being held in America according to the various positions in different departments. The merit system came into existence in England since 1835 by law. So also in Japan it came into existence in 1888.

So, if we look to the various Constitutions, we, will find that the Civil Services are established on merit by examinations. Here in India also, the same system is sought to be followed and accordingly article 284 has come into

existence which seeks to establish Public Service Commissions both in the Union and in the States. But the circumstances in India are quite different. We have to take into account many factors. If we recruit solely on merit and on merit alone, as has been rightly said by my honourable 'Friend, Dr. Deshmukh, the majority communities will be left with no representation in the government services, but there are certain things which will go a long way in removing such grievances. In filling up posts in government service, formerly there were three classes, viz., advanced classes, intermediate classes and backward classes, so that there may be fair and equitable distribution. If tests are held for each category of classes and candidates are selected on merit from each category of classes, I do not think there will be much heart burning amongst the people. But now what we find in the various provinces after the Congress came into power is that the microscopic communities which are very advanced are sweeping the overwhelming majority of the Posts in Government service, and so there has been a great dissatisfaction in the country so much so that, if timely remedies are not adopted, there is a great apprehension of a bloody or bloodless revolution.

So I think that the Public Service Commissions which will be appointed hereafter will take into consideration the various factors, to see that not only the advanced classes get proper representation but also the intermediate and backward classes also are getting representations according to their own merit and according to their own standard.

Shri Kuladhar Chaliha (Assam: General) : Sir, I shall be short if possible sweet and I must obey the directions of the President who wanted us to be brief. I give my general support to this subsidiary article and I think it is one of the best that can be evolved under the present circumstances. I have enough faith that we have a good many people amongst us who will be fair not only to the more advanced section of the people but also to those who are down-trodden and oppressed. The more suspicion that they will be forgotten is a charge which ought, to be repudiated; we have some character and we have brains to use. The very fact that we have been suspecting all men in this way has led us to believe that we are a sort of people who cannot be just to others, to our neighbours or to our brethren, and this sort of charge ought to be repudiated on the floor of the House. I think this is one of the best articles that can be evolved out of the many suggestions that have come.

Shri Brajeshwar Prasad has very kindly stated that we should not have two Commissions, one Commission in the Centre and one Commission in the State, but that we should have one All-India Commission. It is a very healthy object and first of all we should see that it would come up to that ideal. He himself charged that all Provincial Commissions are corrupt and so forth and much has been brought up in this House and in that way we have reduced the Provincial Governments to almost a nullity by all these unfounded charges and it has produced a bad effect. I trust that none of us should level charges on the floor of the House against the Provincial Cabinet or against the Prime Minister; that is very bad and it has been causing a great deal of hum in the provinces, and elsewhere and in the public. I trust that these charges will not be made without proper scrutiny and in future men like Mr. Brajeshwar Prasad, responsible men, balanced men and men of great integrity will not do that and I trust that he will allow in others the same sort of integrity as he will to himself.

Sir, I feel that some suspicion is felt by Sardar Hukam Singh that Menons and Ayyangars are flooding the country. Yes, intelligence has always a certain advantage, but I also find that if I go to Army Headquarters the forbidding bearded Sikh or the sleek, fat Punjabi is there in large numbers; courage and fitness will always tell and because they are fit for all these services, they

[Shri Kuladhar Chaliha]

are holding these jobs. Yet I feel that the All-India Public Service Commission will be just and fair to all sections in the provinces.

Sir, what I dislike in this article—and in this I fully agree with Mr. Naziruddin Ahmad—is there is an under-current flowing through all Dr. Ambedkar's amendments which wants to take as much power out of the provinces as possible and bring it to the Centre. Here in the Draft Constitution we had not left any initiative to the provinces. Now I find that even the little that was there has been taken out. If two or more States want a Joint Public Service Commission and if a resolution to that effect is approved by the Parliament and a law enacted, that will have to be made by agreement and even that is taken away. We have left no initiative to the provinces. Even if a few States can agree and do something in common, jointly, even that has been taken out of the statute. It is indeed unfortunate that somehow or other we are reducing our provinces to mere automations; we have not left to the provinces any leadership or any initiative. Dr. Ambedkar's amendments clearly indicate that greater and greater power should be given to the Centre. I therefore feel like supporting Mr. Naziruddin Ahmad who has submitted two amendments and if they are accepted it will give more power to the Provinces and many States can have a Joint Public Service Commission and they can make rules by agreement. The new subsidiary article takes away these little powers.

Generally I think the article is very well conceived and as the President has said, we must not be irrelevant. I therefore support this subsidiary article with these remarks.

Shri Raj Bahadur (United States of Matsya) : Mr. President, Sir, I find from certain speeches delivered in the House on this article today that the very basis and the principles on which the creation of the Public Service Commission proceeds, have been attacked. My honourable Friends, Dr. Deshmukh and Shri Ranbir Singh have come, forth with the suggestion that a sort of class distinction or discrimination should be recognized as between the urban people and the rural people, in the matter of recruitment to Government Services. While I stand here as no advocate of the urban people or of the rural people, I beg to express my emphatic opposition to all sorts of discriminations or class distinctions between the people of India.

Dr. P. S. Deshmukh : I did not suggest or make any class distinction. I wanted that the provision should not be too rigid.

Shri Raj Bahadur : I am glad if you did not. I think that you suggested that some sort of preference should be given to the rural communities because they are backward educationally and that the principle of selection on the basis of merit should be modified to that extent. It was a sort of distinction and discrimination which was not permitted even by our Constitution. It runs counter to some of the articles relating to Fundamental Rights which we have, already adopted. We know that in article 9 we have specifically laid down that "the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them". Similarly so far as employments are concerned, in article 10 that we have already adopted it is provided that "there shall be equality of opportunity for all citizens in matters relating to employment or appointment to office under the State". As such I plead, Sir, and if we go down deep to probe into the very basis and the principles on which the Public Service Commissions are created, we would find that the necessity to create, these commissions was felt mainly on three grounds : firstly, that favouritism and nepotism was rampant when there were no such commissions and individuals likes or dislikes whims and fancies came

into play; secondly, merit was not recognized, and instead of merit, birth, descent or other such things were recognized, as the basis of selection for Government jobs and lastly, canvassing was free. In order to eliminate all such defects, in order to secure the very best and the most deserving men for all the jobs in the State, we recognized the necessity of creating Public Service Commissions and thus they came into being. I feel, Sir, that merit and merit alone should be the sole criterion for selection for all appointments under the State. If we sacrifice the principle of merit and seek to modify it, it will turn out to be a dangerous precedent and a very dangerous principle. I at once recognize and I am in whole-hearted sympathy and agreement with the views of my Friend Dr. Deshmukh so far as the handicaps and the backwardness of the rural population in this country is concerned.

Mr. President : May I point out, that the honourable Member is going beyond the article ? We are not discussing appointments for particular classes or groups; we are discussing only the Public Service Commission.

Shri Raj Bahadur : I bow to the ruling of the Chair. I was simply mentioning that while discussing this article, the very basis and the necessity for the creation of the Public Service Commission was attacked. I want to defend that basis; I think article 284 is necessary. In a way, Dr. Deshmukh expressed himself opposed to the creation of Public Service Commission. Hence, the justification for me to make certain remarks in this connection. What I mean to say is that we must for the purpose of selecting men for the services recognise the principle of merit, and we must recognise the necessity of creating a Public Service Commission.

I perfectly recognise that there are serious complaints about the way in which in recent years Public Service Commissions have functioned. It is a general complaint that jobs are filled up already and the selection, and interviews are only a formal business in order to keep up the show. I do not know how far that complaint is correct: but the complaint is there. To that extent, Dr. Deshmukh's remarks are justified. What I mean to suggest is that there should be no emphasis on sectionalism or class distinctions. That is my principal objection to the views expressed by Dr. Deshmukh; and this is the only justification for my taking a few minutes of the valuable time of this House.

I would like to remind my honourable Friends who were very eloquent about the small percentage of the people from rural areas in the public services that this small percentage of the rural people and the preponderance of the urban people in the services is due to certain psychological conditions and certain traditions also in our country, we have had an adage

*“Uttam Kheti madhyam banijya,
Nikhad chakari, bhikh nidhan.*

Agriculture is the highest, trade is mediocre, service is the lowest and beggary penury amongst professions.

These were the principles and the attitude which we had all through adopted in the choice of our avocations in life and this is one of the reasons why we do not find many rural people in the services. The glamour that has now come to be attached to services and jobs under the Government is only of recent origin. This is why the Father of our nation always emphasised the necessity and desirability of adopting the healthy principle of “return to the villages”. As a matter of fact, he always advocated that the glamour which has been attached to Government service must be eliminated and the attraction that we feel for urban life should be resisted. The centre of gravity must shift from the urban areas to rural areas. That is the only way in which we can solve the problem. If instead of this we give preference to certain sections of the people, we would be simply playing the game which the late foreign rulers of this country wanted us to play for their sake and their purpose. I

[Shri Raj Bahadur]

therefore submit in all humility that the only principle which should guide them Public Service Commission, which forms the basis of the creation of the Public Service Commission should be merit and merit alone.

I may add here a word about one of the amendments which has been moved by Mr. Naziruddin Ahmad. He has taken objection to the word 'Ruler' that has been used in sub-clause (3) of this article and in order to justify his remarks, he has referred to article 281 wherein the definition of the expression "State" is given. He says that the definition includes only those States as have been specified in Part I of the First Schedule. I submit we have not yet considered articles 281 and 282. It is therefore quite natural and necessary that when we come to consider these articles, the States mentioned in Part III may also be included and as such the remarks that he has made about his amendment do not hold good.

With these few words, I conclude.

Shri V. I. Muniswamy Pillay (Madras: General) : Mr. President, I stand before you today to support the motion moved by my honourable Friend Dr. Ambedkar.

It is admitted on all hands that there ought to be a Public Service Commission both in the Union and in the States. But, I feel that it must be the duty of this august Assembly to express in unequivocal terms whether the Public Service Commissions are to continue in the same manner as they have done in the past or they should have a better outlook in the future. So far as we know, the functions of the Public Service Commissions have not been performed' so satisfactorily in so far as the, unrepresented communities and the minorities are concerned. The recent recruitment to the Indian Administrative Service and the Indian Police 'Service is outstanding before us as proof that justice has not been done to these unfortunate communities. In the provinces, though there may be Ministers here and there, they are helpless in the matter of the services. As has been rightly pointed out, service is the soul of administration. We are all agreed that the best men must be got; but what happens in the functioning of the Public Service Commission is this. Though a Schedule Caste man might have passed all the examinations required, there comes the fact that the Service Commission says that he is not suitable for the post. According to the communal Government Order, that particular man is left out and the next community is called to take the post. This has been happening not only in the province where I live, but even in the Federal Public Service Commission I know as a matter of fact that members of the Harijan community, though they had obtained very good marks, and they had the required academic qualifications, still on some pretext or another, they were not given the chance. It is my humble opinion that the future outlook of this Commission must be far better. Due to communal distinctions in this country, some of these communities, though they may be intelligent and competent to hold any post, have not been given their due chance. For the several departments of the Government panels of candidates are created to choose from. Though the Commission may select the people, they say something as to the suitability or otherwise of the man thus banning the best man from service, it is this kind of thing that has greatly disappointed the young men of these unfortunate communities. As a matter of fact, I know Dr. Ambedkar was able to get a certain percentage for the Scheduled Castes in the various services. But, if we take stock of the present position, the number of Scheduled Castes people that are occupying posts both in the Centre and in the provinces is very negligible. it is to give a better outlook to the future Public Service Commissions that I plead before this House that proper directions must be given.

Mr. President : Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I do not think there is anything that I need say.

Mr. President : I would put the amendments to vote. The first amendment is amendment No. 64, moved by Mr. Naziruddin Ahmad. He has substituted that by another amendment which I will read to you now.

“That in amendment No. 1 of List I (Fourth Week) in the proposed now article 284, for clause (2) the following clause be substituted :

(2) Two or more States may by resolution in their Legislative Assemblies or when there are two Houses, in both the Houses, agree that there shall be one Public Service Commission for that group of States.”

The amendment was negatived.

Mr. President : Then, amendment No. 65.

Mr. Naziruddin Ahmed : That does not arise in view of this.

Mr. President : Then, I put amendment No. 66.

The question is :

“That in amendment No. 1 of List I (Fifth Week) of Amendments to Amendments clause (3) of the proposed article 284, the words ‘or Ruler be deleted.’”

The amendment was negatived.

Mr. President : Then, I would put the proposition as moved by Dr. Ambedkar. Would Messrs Chaliha and Lakshminarayan Sahu like me to put the two paragraphs separately ?

Shri Kuladhar Chaliha : No, Sir.

Mr. President : The question is

“That for article 284 the following article be substituted :—

284. (1) Subject to the provisions of this article, there shall be a Public Service Commission Public Service Commission for the Union and a Public Service Commission for each for the Union and for the State.
States.

(2) Two or more States may agree that there shall be one Public Service Commission for that group of States, and if a resolution to that effect is passed by the House or, where there are two houses, by each House of the Legislature of each of those States, Parliament may by law provide for the appointment of a Joint Public Service Commission (referred to in this Chapter as Joint Commission) to serve the needs of those States.

(2a) Any such law as aforesaid may contain such incidental and consequential provisions as may appear necessary or desirable for giving effect to the purposes of clause (2) of this article.

(3) The Public Service Commission for the Union, if requested so to do by the Governor or Ruler of a State, may, with the approval of the President agree to serve all or any of the needs of the State.

(4) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Union or, as the case may be, the State as respects the particular matter in question.”

The motion was adopted.

Article 284, as amended, was added to the Constitution.

Article 285

Mr. President : Article 285—Dr. Ambedkar.

Mr. Naziruddin Ahmad : Sir, I rise on a point of order. Mr. President you will be pleased to find that this is an amendment to the Constitution itself,

[Mr. Naziruddin Ahmad]

not my amendment to amendment and therefore under the rules it should not be allowed. We have certainly made some exceptions in special cases but these exceptions are now showing a tendency of becoming the rule. I submit therefore that this amendment should be ruled out on technical grounds alone. There is again a question of convenience. I think in form this amendment is most objectionable. The clauses of article 285 of the Draft Constitution have merely been repeated here with additions and alterations of a variety of sorts. The amendments however should have come as amendments to the original article. Instead the whole article is written with new ideas incorporated or interpolated and the old clauses and amendments have been presented as a new article. It takes a long time to find out what are the changes made.

Dr. P. S. Deshmukh : As in the Hindu Code Bill.

Mr. Naziruddin Ahmad : As Dr. Deshmukh aptly points out—like the Hindu Code Bill. Old clauses and new ideas have been blended together and presented as new with necessary interpolations here and there. It is extremely difficult to sort out what are the real changes made. Clause (2) has been changed in many places. Then there is article 285-A which is entirely new. Then article 285-B is composed of parts of old article 285 and the proviso of this article is entirely new. It purports to be a reproduction of 285(3) but it is now made a new article with entirely new features. Clause (d) of this article is entirely new. I think it is difficult for anyone to try to follow these changes. I therefore object not only on the ground of their being in breach of the rules but also on the ground they are in a form not readily intelligible and the should have been expressed as amendments to the Constitution itself. That would have made it easier for honourable Members to follow the changes.

The Honourable Dr. B. R. Ambedkar : This is not the first time when my Friend has raised a point of Order. You have been good enough to allow the Drafting Committee to depart from the technicalities of the Rules of Procedure and I therefore submit that in this case also you will be pleased to allow us to proceed.

Dr. P. S. Deshmukh : Sir, I rise to protest against this attitude of Dr. Ambedkar. You have allowed him some privilege and he is misusing that, Sir. He can and must show how he wishes to alter the original draft articles concretely and specifically and not proceed in the way he did with the Hindu Code Bill and substitute anything in any place without specifying how it compares with the original.

Shri M. Anathasayanam Ayyanagar (Madras: General) : My Friends who raised the point of order should know that the whole scheme of Public Service Commission has been altered and these are consequential changes. Therefore if others had not been altered, possibly this would not have required any alteration. Under those circumstances, these objections are not valid.

Dr. P. S. Deshmukh : I beg to submit that every amendment must be related to the original draft that was circulated.

Mr. President : So far as the Drafting Committee is concerned I have allowed a certain amount of latitude because many of the difficult articles about which there was likely to be difference of opinion or which required consideration were left over for the purpose of reconsideration and if as a result of reconsideration the Drafting Committee proposes new article, I do not think I should all any technicalities to stand in the way of the new articles being placed before us. I therefore allow these articles to be moved.

Mr. Naziruddin Ahmad : There are a number of articles and these articles should be put separately.

Mr. President : That is a different matter and we can discuss them separately. Dr. Ambedkar may explain how the separate articles came into being. You move them together and we may take them separately at the time of voting.

The Honourable Dr. B. R. Ambedkar : Yes, they may be put separately.

Sir I move :

“That for article 285, the following articles be substituted :—

285. (1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President, and in the case of a State Commission, by the Governor or Ruler of the State :
Appointment and term of office of members.

Provided that at least one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown shall be included.

(2) A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains, in the case of the Union Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission, the age of sixty years, whichever is earlier:

Provided that—

(a) a member of a Public Service Commission may by writing under his hand addressed, in the case of the Union Commission or a Joint Commission, to the President and in the case of a State Commission, to the Governor or Ruler of the State, resign his office;

(b) a member of a Public Service Commission may be removed from his office in the manner provided in clause (1) or clause (3) of article 285-A of this Constitution.

(3) A person who holds office as a member of a Public Service Commission shall on the expiration of his term of office, be ineligible for re-appointment to that office.

285-A. (1) Subject to the provisions of clause (3) of this article, the Chairman or any other member of a Public Service Commission shall only be removed from office by order of the President on the ground of misbehaviour after the Supreme Court on a reference being made to it by the President has, on inquiry held in accordance with the procedure prescribed in that behalf under article 121 of this Constitution, reported that the Chairman or such other member, as the case may be, ought on any such ground be removed.
Removal and suspension of a member of a Public Service Commission.

(2) The President in the case of the Union Commission or a Joint Commission and the Governor or Ruler in the case of a State Commission may suspend from office the Chairman or any other member of the Commission in respect of whom a reference has been made to the Supreme Court under clause (1) of this article until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in clause (1) of this article, the President may, by order, remove from office the Chairman or any other member of a Public Service Commission if the Chairman or, such other member as the case may be,

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office.”

And here I want to add a third one, as (c):

(c) is in the opinion of the President unfit to continue in office by reason of infirmity of mind or body.

[The Honourable Dr. B. R. Ambedkar]

(4) For the purpose of clause (1) of this article, the Chairman or any other member of a Public Service Commission may be deemed to be guilty of misbehaviour if he is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit from emoluments arising therefrom otherwise than as a member and in common with the other members of any incorporated company.

285-B. In the case of the Union Commission or a Joint Commission, the President and in the case of a State Commission, the Governor or Ruler of the State, may by regulation—

- Power to make regulations as to conditions of service of members and staff of the Commission.
- (a) determine the number of members of the Commission, and their conditions of service; and
 - (b) make provision with respect to the number of members of the staff of the Commission and their conditions of service :

Provided that the conditions of service of a member of a Public Service Commission shall not be altered to his disadvantage after his appointment.

285-C. On ceasing to hold office—

- Bar to the holding of office by Members of Commissions on ceasing to be such members.
- (a) the Chairman of the Union Public Service Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;
 - (b) the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission but not for any other employment either under the Government of India or under the Government of a State;
 - (c) a member other than the Chairman of the Union Public Service Commission shall be eligible for appointment as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission but not for any other employment either under the Government of India or under the Government of a State;
 - (d) a member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either Under the Government of India or under the Government of a State.

Sir, these are the clauses which deal with the Public Services Commissions, their tenure of office and qualifications and disqualifications and their removal and suspension. I should very briefly like to explain to the House the matters embodied here, the principal matters that are embodied in these articles.

The first point is with regard to the tenure of the Public Service Commission. That is dealt with in article 285. According to the provisions contained in that article, the term of office of a member of the Public Service Commission is fixed at six years or in the case of the Union Commission, until he reaches the age of 65 and in the case of a State Commission until he reaches the age of 60. That is with regard to the term of office.

Then I come to the removal of the members of the Public Service Commission. That matter is dealt with in article 285-A. Under the provisions of that article, a member of the Public Service Commission is liable to be removed by the President on proof of misbehaviour. He is also liable to be removed by reason of automatic disqualification. This automatic disqualification can result in three cases. One is insolvency. The second is engaging in any other employment, and the third is that he becomes infirm in mind or body. With regard to misbehaviour the provision is somewhat peculiar. The Honourable House will remember that in the case of the removal of High Court Judges or the Judges of the Supreme Court, it has been provided in the articles we have already passed, that they hold their posts during good behaviour, and they shall not be liable to be removed until a resolution in that behalf is passed by both Chambers of Parliament. It is felt that it is unnecessary to provide such a

stiff and severe provision for the removal of members of the Public Service Commission. Consequently it has been provided in this article that the provisions contained in the Government of India Act for the removal of the Judges of the High Court would be sufficient to give as much security and as much protection to the members of the Public Service Commission. I think the House will remember that in the provisions contained in the Government of India Act, what is necessary for the removal of a Federal Court Judge or a High Court Judge is an enquiry made by the Federal Court in the case of the High Court Judges or by the Privy Council in the case of the Federal Court Judges, and on a report being made that there has been a case of misbehaviour, it is open to the Governor-General to remove either the Federal Court Judge or the Judge of the High Court. We have adopted the same provision with regard to the removal of Public Service Commission, wherever there is a case of misbehaviour.

With regard to automatic disqualifications, I do not think that there could be any manner of dispute, because it is obvious that if a member of the Public Service Commission has become insolvent, his integrity could not be altogether relied upon and therefore it must act as a sort of automatic disqualification. Similarly, if a member of the Public Service Commission who is undoubtedly a whole time officer of the State, instead of discharging his duties to the fullest extent possible and devoting all his time, were to devote a part of his time in some other employment, that again should be a ground for automatic disqualification. Similarly the third disqualification, namely, that he has become infirm in body and mind may also be regarded, without any kind of dispute, as a fit case for automatic disqualification. Members of the House will also remember that while reading article 285-A, there is a provision made for suspension of a member of the Public Services Commission during an enquiry made by the Supreme Court. That provision is, I think, necessary. If the President thinks that a Member is guilty of misbehaviour, it is not desirable that the member should continue to function as a member of the, Public Services Commission unless his character has been cleared up by a report in his favour by the Supreme Court.

Now I come to the other important matter relating to the employment or eligibility for employment of the members of the Public Services Commission—both the Union and State Public Services Commissions. Members will see that according to article 285, clause (3), we have made both the Chairman and the Members of the Central Public Services Commission as well as the Chairman of the State Commission, and the members of the State Commission ineligible for reappointment to the same posts: that is to say, once a term of office of a Chairman and Member is over, whether he is a Chairman of the Union Commission or the Chairman of a State Commission, we have said that he shall not be reappointed. I think that is a very salutary provision, because any hope that might be held out for reappointment, or continuation in the same appointment may act as a sort of temptation which may induce the Member not to act with the same impartiality that he is expected to act in discharging his duties. Therefore, that is a fundamental bar which has been provided in the draft article.

Then the second thing is that according to article 285-C, there is also a provision that neither of these shall be eligible for employment in any other posts. There is therefore a double disqualification. There is no permission to continue them in their office, nor is there provision for their appointment in any other posts. Now, the only exceptions, that is to say, cases where they could be appointed are these :

The Chairman of a State Public Services Commission is permitted to be a chairman or a Member of the Union Commission, or a Chairman of any other State Commission.

[The Honourable Dr. B. R. Ambedkar]

Secondly, the Members of the Union Commission can become Chairman of the Union Commission or any other State Commission.

Thirdly, the Members of the State Commission can become a Chairman or a member of the Union Commission, or the Chairman of a State Commission.

In other words, the exceptions are : namely, that one man, who is a Member of the Union Public Services Commission, may become a Chairman of the State Public Services Commission : or a Member of the State Public Services Commission can become a Chairman of the Union Public Services Commission, or become a Member of the Union Public Services Commission. The principal point to be noted is this, that neither the Chairman nor the Member of a State Commission can have employment under the same State. He can be appointed by another State as a Chairman or he can be appointed by the Central Government as the Chairman of the Union Public Services Commission or a Member of the Union Public Services Commission, the object being not to permit the State to exercise any patronage in the matter either of giving continued employment in the same post, or in any other post, so that it is hoped that with these provisions the Members of the Commission will be as independent as they are expected to be.

I do not think there is any other point which calls for explanation.

Shri Lakshminarayan Sahu : What about Members of Joint Commissions?

The Honourable Dr. B. R. Ambedkar : A Joint Commission is the State Commission. That is defined in clause (4) of article 284.

Dr. Manmohan Das (West Bengal: General): I would like to be clear on some points about 285-A. If the Supreme Court as being referred by the President reports that the Chairman or some other Member of the Public Service Commission should be removed, then will it be obligatory on the part of the President to remove him ?

The Honourable Dr. B. R. Ambedkar : Certainly.

Mr. Naziruddin Ahmad : You have asked the honourable Member to explain to the House the difference between the new draft and the original. That would have been helpful for a proper appreciation of the real changes.

The Honourable Dr. B. R. Ambedkar : If any point is raised in the course of the debate, I will explain it in the course of my reply.

Mr. Naziruddin Ahmad : I do not know whether to oppose or not to oppose.

The Honourable Dr. B. R. Ambedkar : You must have read both drafts. The only thing you might not have read are the commas and semi-colons.

Mr. President : I will now take up the amendments.

Shri Jaspat Roy Kapoor (United Provinces: General) : Sir, I beg to move:

“That in the proviso to clause (1) of the proposed article 285, for the word ‘one-half’ the word ‘one-third’ be substituted.”

The question of the formation and the personnel of the Public Services Commissions is of considerable importance. In fact, it is impossible to over-emphasize its importance. Entrusted with the task of selecting candidates to fill various posts under the Central and the Provincial Governments, the formation of both the Central and the State Public Services Commissions becomes of very great importance. On its proper formation and on the proper selection

of the Members of such Commissions depends the proper selection of persons who will be called upon to discharge the responsible and, onerous duties of the Government in the various Departments. That being so, I think it is worthwhile that we should consider the various articles relating to this subject in detail and with very great care and caution.

The proviso to which I have just moved my amendment lays down that one-half of the members of every Public Services Commission shall be persons who at the dates of their respective appointments have held office for at least ten years, either under the Government of India or under the Government of a State, and so on. This means, Sir, that in actual practice, the official members shall almost always be in a majority in the Public Services Commissions. Ordinarily, the total strength of a Public Services Commission is either three or five, so that if there are three Members, half of them at least—which would mean two at least—would be Government servants.

Only one place is left to be filled by one who has not been in government service for ten years. Similarly, if there are five members, three at least shall always be government servants and only two can be recruited from outside that sphere. This I consider to be rather giving government servants undue representation on the Public Service Commission. The government servants views should not be so overwhelmingly represented on the Public Service Commissions. While it is necessary that we must have the advantage of the experience of government servants of ten years' standing, at the same time I think that their views should not be the determining factor in the selection of all candidates and that the views of the non-officials and representatives of other interests should also be properly represented on the Commissions. But it would not be so if by a statutory provision the majority of the members of all the Commissions shall always be persons of ten years' standing in government service.

The longer the period a person has been in government service the more conservative he becomes and develops the whims, caprices and even the idiosyncracies of that class. They get out of touch with public opinion and the changing needs of the society. I think, therefore, it would not be safe and in the public interest to give government servants a permanent majority on both the Central and States Commissions. The freshness of the outlook of non-officials must also be brought to bear upon the selection of candidates in a fair measure.

My honourable Friend Dr. Ambedkar is not present here. (An honourable Member : He is here), if he is here, he does not care to hear anything that is said with regard to the articles he has moved, because he feels safe that it is not possible for any Member to carry the vote of this House against any one of his proposals. However, I hope that this House on this occasion would seriously consider whether it should not compel Dr. Ambedkar to accept some of the amendments which I will move. I have already moved one and some more I will move hereafter. It seems Dr. Ambedkar has developed a great deal of regard and affection for government servants. Perhaps it is due to the fact that he has been so long associated with the government and the cabinet. I do not grudge the government servants the affection and regard they have been able to win from Dr. Ambedkar. But I do think that Dr. Ambedkar has allowed himself to be rather unduly influenced by the views of government servants so far as this article is concerned, for we find that he has absolutely ignored the views and opinions of the Chairman of the present Federal Public Service Commission, the unanimous view of the Members of the F.P.S.C. as also the views of the Chairmen of the different provincial Public Service Commissions.

Let us see what their views on this subject are. There was a conference held last year in New Delhi, a conference of the Chairman and members of the

[Shri Jaspat Roy Kapoor]

F.P.S.C. and the Chairman of the different provincial Public Service Commissions. This is how they expressed themselves on this point. I am reading from the pamphlet which has been circulated to us by the Constituent Assembly Office containing comments on the draft provisions from various bodies.

“The proviso to clause 285(1) of the Draft Constitution provides that at least one half of the members of every Public Service Commission shall be persons who at the date of their respective appointments have held office for at least ten years in the Government of India or under the Government of a State. The Conference is of opinion that in order to provide for the representation of the interests involved this proviso should now be amended so as to provide one-third in place of one-half occurring in the first line of the provision.”

This wholesome advice based on long experience of such responsible person as the Chairman of the F.P.S.C., unanimously supported by the other members of the conference has been absolutely ignored, and the views of the permanent officials of the Home Ministry have been allowed to prevail. How conservative the views of the officials of the Home Ministry are can be easily found if we refer to what they have suggested in their memorandum :

“The only further comments that we would like to offer are with reference to the recommendations made by the conference of Chairmen of the Public Service Commissions forwarded to the Constituent Assembly with the Federal Public Service Commission’s letter, No..... dated.....

In paragraph 4 of that letter, it has been suggested that the provision for service personnel in article 285(1) should be altered from one-half to one-third. This Ministry is inclined to the view that from the point of view of public service (not from the point of view of the country as a whole but of course from the point of view of the existing public servants) the services be even more strongly represented on the Commission.”

So if they had their way they would probably make, the Public Service Commissions an absolute monopoly of the government servants and a close preserve for them. What we now find is that the Drafting Committee headed by Dr. Ambedkar has simply accepted the recommendations of the official members of the Home Ministry in absolute disregard of the saner counsel of the F.P.S.C. and the Chairman of other provincial Public Service Commissions. This I consider to be a highly unsatisfactory state of affairs.

Not only this. I would draw your attention to one more point with regard to this article. In this proviso what is wanted is not only that one-half of the members of such Commissions shall have ten years experience of government service, but in their case it is also necessary that at the time of their appointment they must be government servants, which means that if a person has retired from government service only a few months before a particular date he is not eligible for appointment as a member of the Public Service Commission. That is, he should not have had an opportunity of associating himself freely even for a month or so after retirement from government service. I do not understand the reason or the logic behind it. Let us take the case of a retired High Court Judge retiring at the age of sixty. After that retirement, along with his retirement he can be appointed to the Union Public Service Commission, but if unfortunately he has been out of office for even a month or two he shall not be eligible for such appointment. I submit that there is no sense in it, there is no logic in it. I would therefore submit that in order that interests other than government servants are properly and duly represented on Public Service Commissions, in the place of ‘one-half’ in the proviso we should have the word ‘one-third’.

While discussing the previous article my honourable Friend Chaudhri Ranbir Singh was making out a strong case for the appointment of rural-minded persons on the Public Service Commissions. If we retain the word ‘one-half’

there will not be a reasonable opportunity either for the appointment of a rural-minded member or an urban-minded member. I think honourable Members will agree that in the Public Service Commissions we should, if possible; have always a good educationist, a good public man and so on. But if we retain the word 'one-half' here it will be impossible to have a suitably formed Public Service Commission either at the Centre or in the provinces.

The next amendment that stands in my name is this which I beg to move.

"That in clause (2) of the proposed article 285, the words 'in the case of the Union, Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission' be deleted."

So that, after the deletion of these words, clause (2) would read thus:

"A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains the age of sixty years, whichever is earlier."

The object of this amendment is that the age of retirement should be uniformly at the age of sixty both in the case of the Union Public Service Commission as also in the case of State Public Service Commissions. I see no reason why there should be this difference between the ages of retirement in the two cases. If a person becomes unfit to continue to work as a member of a State Public Service Commission at the age of sixty, surely he does not become more qualified to discharge the more onerous and more responsible duties of a member of the Union Public Service Commission. If he is unfit at the age of sixty to act in one place, surely he is unfit to act as a member on the superior body. I think, therefore, that at least for the sake of consistency if not for any other reason it is necessary that the age of retirement in both the cases should be sixty.

My third amendment is:

"That clause (3) of the proposed article 285 be deleted."

Clause (3) runs thus:

"A person who holds office as a member of a Public Service Commission shall, on the expiration of his term of office, be ineligible for re-appointment to that office."

I desire its deletion not because I am opposed to the contents of this clause but because it is absolutely redundant and unnecessary in view of article 285-C which has been moved by Dr. Ambedkar which forms part of article 285. Under article 285-C it is specifically laid down as to what particular employment could be held by retiring members of any Public Service Commission. Under its various clauses—which I need not read here as they are quite clear—it is not possible for a retiring member of a Public Service Commission to be reappointed to that particular post. He can of course be employed to other posts in the different Public Service Commissions, but he cannot be re-employed to the very post which he has vacated. Clause (3) of this article, therefore, is absolutely unnecessary and the Constitution may not be burdened with the retention of this unnecessary clause.

The next amendment that stands in my name is No. 10 (List I, Fifth Week).

Mr. President : What about No. 8 ?

Shri Jaspat Roy Kapoor : I am not moving No. 8 because it refers to the original article as it had been proposed, but has now been given up and, therefore, it will have no place now.

[Shri Jaspat Roy Kapoor]

I move my amendment (No. 10) and it is this:

“That in clause (b) of the proposed new article 285-B, the following words be inserted at the beginning:—

‘in consultation with the Chairman of the Public Service Commission concerned’.”

So that clause (b) of article 285-B would read thus:

“In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor or Ruler of the State, may by regulations—

(b) in consultation with the Chairman of the Public Service Commission concerned make provision with respect to the number of members of the staff of the commission and their conditions of service.”

I think that this amendment of mine should be readily accepted because all that it seeks is that in making appointments of members of the staff of the Commission and in determining their salaries and conditions of service, etc., out of courtesy, if for nothing else the Chairman of the Public Service Commission concerned should be consulted by the President or the Governor or the Ruler as the case may be. It may be done not only out of courtesy, but I think it will serve a very useful purpose. The Chairman of these Commissions are the best persons to know what the requirements of the Commission are, what sort of persons they want on their staff, what should be the strength, salary and other conditions of service of the staff. It has been provided in the case of the appointment of the staff of the High Court, the staff of the Auditor-General and in other cases that while the appointment is to be made either by the President or by the Governor, the head of the office should be consulted. That is a necessary and useful provision and I think we must have it here in article 285-B.

Sir, my next amendment is No. 11. It runs thus:

“That in the proposed new article 285-C—

- (i) for the word ‘employment’ wherever it occurs the words ‘office of profit’ be substituted; and
- (ii) in clause (d), after the words ‘State Public Service Commission’ where they occur for the second time, the words ‘or as a member of any other State Public Service Commission’ be inserted.”

I will take these two amendments one by one. In article 285 we have the word ‘employment’ throughout. It is intended thereby that a member of the Public Service Commission, after retirement, shall not be employed by the Central or provincial Commissions in any capacity whatsoever except in the capacities mentioned in the article itself. This is a very salutary provision and I am entirely in agreement with it. I wish that its scope had been extended to which point I will later refer when I move another amendment. But I do not see why it should not be open to the Central or Provincial Governments to utilise the services of retiring members of the Public Service Commissions in an honorary capacity. I take it that the word “employment” would cover all employment, whether paid or honorary. Even if ordinarily the word ‘employment’ is understood to carry certain salary, I think to make the position clear it would be advisable to substitute it with the words ‘office of profit’. I hold strong views on the subject that persons who have been in Government service for long on handsome salaries and may be in receipt of handsome pensions also should be expected to render honorary service to the State and to society. I therefore think that it is necessary to accept this amendment of mine.

The next amendment I have moved is:

“That in clause (d), after the words ‘State Public Service Commission’ where they occur for the second time, the words ‘or as a member of any other State Public Service Commission’ be inserted.”

This clause will then read: “A member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission or as a member of any other State Public Service Commission.....” The implication of this amendment is that a member of a State Public Service Commission, on ceasing to hold office as such, may be eligible for appointment as a member of any other State Public Service Commission. In clause (d) we find that the Chairman of a State Public Service Commission shall be eligible for appointment as Chairman of any other State Public Service Commission. It means that he shall be eligible for appointment to a parallel post. On the same analogy I think a retiring member of a State Public Service Commission should be eligible for appointment to another parallel post in another State Public Service Commission. I see no reason for making this distinction between the Chairman of a State Public Service Commission and a member thereof.

Now, Sir, my last amendment is this: Honourable Members may not have copies of it, because it was submitted by me this morning just before the session began. It reads thus :

“That at the end of the proposed new article 285-C, the following proviso be added:—

‘Provided that a member’s total period of employment in the different Public Service Commissions shall not exceed twelve years’.”

This amendment is more important than my other amendments. I was confirmed in this view from what I heard Dr. Ambedkar say this morning in moving his own amendment. He said, while explaining article 285 that a person shall not hold office as a member of a Public Service Commission for more than six years. That of course is partially provided in clause (3) of article 285. But that clause refers only to the re-employment of a person to that particular post. So far as the other posts are concerned, that clause does not apply. So, according to article 285-C a member of a Public Service Commission can continue to be a member of one or other of the Public Service Commissions for any number of years. I say ‘any number of years’ because, because for six years one can be a member of a State Public Service Commission. Thereafter, for another six years, he can be the Chairman of a State Public Service Commission. It comes to twelve years. Thereafter again he can be the Chairman of another Public Service Commission for a third term of six years, thus putting in a total eighteen years’ service. He can next be a member of the Union Service Commission for six years, making his total service twenty-four years. If fortune favours him again for the next six years he can be the Chairman of the Union Service Commission. Thus for thirty years he could be in service or till he reaches 65 years of age. I submit this is not a satisfactory state of affairs. I hope it is not even the intention of the Drafting Committee, much less of the Honourable Dr. Ambedkar, that it should be open to the Government to go on conferring its favours on a particular member of a Public Service Commission who acts according to the wishes and inclinations of the Government.

This article 285-C of course makes a show of putting bar with regard to the employment of retiring members of the Public Service Commissions, but then we analyse it carefully, we find that only a show is made so far as the substance is concerned, we find that the Government can go on retaining a person in the service of a Public Service Commission, of course in different Public Service Commissions, for any length of time. I consider this article as it stands at

[Shri Jaspat Roy Kapoor]

present to be more obnoxious than if there was a provision that members of the Public Service Commission shall be permanent servants until they attain the age of sixty five.

Shri Brajeshwar Prasad : Until they die.

Shri Jaspat Roy Kapoor : If they were permanent, they would not be looking up to the President or the Governor for their future employment, the President and the Governors would in their turn be only acting on the advice of their Cabinets. If the members of the Public Service Commission were permanent, they would not have to look to the favours of the Government of the day concerned for their future, and they would act absolutely independently. They would neither be after the smiles of the Government nor would be afraid of their frowns. As it is, when the period of six years would be nearing completion, they would be looking to the Government of the day concerned for being reappointed to some other Public Service Commission, and it cannot therefore be expected that they would act in an absolutely independent and impartial manner, as I hope Dr. Ambedkar would certainly like them to work. It is necessary, therefore, that this temptation of being reappointed after every six years should not be put before the members of the Public Service Commission. If it is really the intention of Dr. Ambedkar that the term of service should be not more than six years, I would very much prefer to have the words "six years" rather than "twelve years" in my amendment, but if it is not the intention, I think it is necessary to accept the amendment I have moved limiting their term of service only to a period of twelve years and no further.

These are the various amendments, Sir, which I have moved and I hope Dr. Ambedkar would be good enough to give his serious consideration to them and accept them, if not all, at least the more important ones.

Pandit Hirday Nath Kunzru (United Provinces: General): Mr. President, Sir, I move :

"That in amendment No. 3 above, for the proposed new article 285-B, the following article be substituted :—

285-B.— (1) In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor or Ruler of the State may, by regulations, determine the number of members of the Commission and their conditions of service and the number of members of the staff of the Commission.	Conditions of service of members and staff of the Commission.
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Provided that the conditions of service of a member of a Public Service Commission shall not be altered to his disadvantage after his appointment.

(2) Appointments of the members of the staff of a Public Service Commission shall be made, and the conditions of service of those members shall be such as may be prescribed, by the Chairman of the Commission or such other member of the Commission as the Chairman may direct :

Provided that the conditions of service prescribed under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval, in the case of the Union Commission or a Joint Commission of the President and in the case of a State Commission, of the Governor or Ruler of the State."

Sir, the purpose of my amendment is very simple. Article 285-B as moved by Dr. Ambedkar does not state how the members of the staff of a Public Service Commission should be appointed. My amendment fills up this gap. It lays down that the members of the staff of the Public Service Commission shall be appointed either by the Chairman of the Commission or by such other member of the Commission as he might authorise in this behalf. The House will remember that the Supreme Court and the High Courts have been given the right to appoint members of their staff. In the case of the Supreme Court they are to be appointed either by the Chief Justice or by such other Judge

as might be authorised by him in this connection. A similar provision has been made in connection with the appointment of members of the staff of the High Courts. As the Public Service Commissions will be very important bodies, it is desirable that they should be given the same freedom as will be possessed by the Supreme Court and the High Courts in connection with the appointment of the members of their staff.

The importance of the Public Service Commissions is manifest. They will deal with the recruitment of persons to posts under the State. The efficiency of the administration of the State will consequently depend on the manner in which recruitment is made. It is therefore of the utmost importance that the body making the recruitment should possess within limits as much independence as possible. I propose therefore that the staff of a Public Service Commission should be appointed by the Chairman of that Commission or by any other member authorised by him to make appointments.

The second point where my amendment differs from article 285-B moved by Dr. Ambedkar is the determination of the conditions of service of the staff of a Public Service Commission. The article, moved by Dr. Ambedkar leaves full powers in this respect to the President in the case of the Union and Joint Commissions and to the Governor and rulers of States in the case of State Public Service Commissions. The Supreme Court and the High Courts have been allowed to determine the conditions of service with the approval of the President and the Governor of the States concerned. There is no reason why the same procedure should not be followed here. It may be said that the President or the Governor, whoever may have to deal with the subject, will if he is a reasonable man, if he wants that the staff of the Public Service Commission should be competent and contented, consult the Public Service Commission concerned. The same argument might have been used in the case of the Supreme Court or the High Courts, but these bodies have been allowed the power to determine the conditions of service of the members of their staff with the approval of the President or the Governor or ruler of a State as the case may be. There is no reason why any distinction should be made in this respect between the Public Service Commission and these bodies. I propose, therefore, that the Public Service Commission should have the power to determine the conditions of members of their staff but should secure the approval of the President or the Governor or ruler of a State in so far as the conditions of service, relate to salaries, allowances, leave or pensions. My honourable Friend, Mr. Jaspat Roy Kapoor has also moved an amendment on this subject. His object is to require the President and the Governors and rulers of States to consult their Public Service Commissions in respect of these matters before taking decisions. I go a step further and say that the power should be initially in the hands of the Public Service Commissions but that they should be required to fix the salaries, allowances and leave and pensions, with the approval of the President, the Governors or Rulers of States, as the case may be. I think that if for nothing else at any rate, in order to secure uniformity and to show that the Constituent Assembly does not want that there should be any difference between the status of the Public Service Commission and the status of a High Court, it is desirable to accept my amendment which is preferable to Mr. Jaspat Roy Kapoor's. I hope, therefore, that the House will find no difficulty in accepting my amendment.

Sir, I should now like to say a word or two about two of the provisions laid before us by Dr. Ambedkar. The article as proposed by him requires that no member of a Public Service Commission should hold office in that Commission to which he belongs for more than six years. He has proposed that a member of a Public Service Commission on completing his tenure of office should be ineligible for further employment in that capacity. This position has been

[Pandit Hirday Nath Kunzru]

criticised. I am, however, entirely in favour of it. A Public Service Commission must be an independent body. Its members should not be able to look up to the executive for any favour. If the provision proposed by Dr. Ambedkar is retained then there will be no fear that a member of a Public Service Commission will be subservient to the wishes of the executive because he cannot secure an extension of his term of office; he can therefore be expected to discharge his duties independently and fearlessly. But if the term of office of a member of a Commission is allowed to be extended, or if, he is allowed to be re-appointed as a member then there is every fear that members of the Public Service Commissions in order to secure their re-appointment will try to curry favour with the executive. I am not, therefore, in favour of any change in the provisions suggested by Dr. Ambedkar.

The next point that I should like to refer to is the eligibility of the Chairman and members of Public Service Commissions for further employment under the State. The provisions of article 285 (c) have been criticised as being too wide or in some respects too narrow. My honourable Friend, Mr. Jaspat Roy Kapoor has proposed that a member or Chairman of a Public Service Commission should not be debarred from serving the State in an honorary capacity. I confess that I had not thought of the subject before, but as I thought about it when he was speaking, it seemed to me that he was putting forward a reasonable suggestion. In one or two cases in the United Provinces it was wished that the Chairman of the Public Service Commission on his retirement might be usefully employed in an honorary capacity. The man was competent and it was thought that the community should not be wholly deprived of his services. I, therefore, agree with the view expressed by Mr. Kapoor on this point.

I part company with him, however, when he goes on to suggest other changes in article-285 (c) . I think this article is a great improvement on the corresponding article contained in the Draft Constitution. It allows a member of a Commission to accept the Chairmanship of another Commission, whether it is a State Commission or the Union Commission. The fear was expressed that if this was done, the members of the Public Service Commissions might try to win the favour of the Executive and secure their appointment as Chairman of one Public Service Commission after another. What has to be borne in mind in this connection is this. The Chairmanship of a Public Service Commission is a position requiring great experience and ability and if it is felt that a man had discharged his duties either as a member of a Commission or as Chairman of a Commission so well as to justify his appointment as the Chairman of another Commission, I do not see why this should be objected to. It is to the advantage of the country that it should be able to use proved capacity in its service without thereby curtailing the independence of a member of a Commission. The proposal that a member of a Commission might for two terms be a member of the same Commission stands on a different footing, because this provision will certainly interfere with the independence of the member. But if the Chairman of a Public Service Commission in a province is appointed Chairman of the Public Service Commission of another province, there can hardly be any fear that his re-appointment will be due to the recommendation of the Premier or the Governor of the State to which the first Commission belonged. I do not think therefore that the provision that has been criticised requires any change.

I think that the articles as they are deserve to be accepted by the House except in respect of the change suggested by Mr. Kapoor. I hope that Dr. Ambedkar will see his way to accept the suggestion made by Mr. Kapoor that retired members of a Public Service Commission should not be debarred from serving the country in an Honourable capacity.

Shri Jaspal Roy Kapoor : May I know what the honourable Member, Pandit Kunzru thinks with regard to my suggestion that the period of employment should be limited to twelve years ?

Pandit Hirday Nath Kunzru : I have already dealt with that. A member of a Public Service Commission can remain in employment for eighteen years only if he has the good luck of being appointed as the Chairman of two Commissions successively. Had appointment to the Chairmanship of the Commissions been under the Central Government, then, my honourable Friend Mr. Kapoor's objection would have been valid. In the case of the Chairmanship of the State Commissions, however, the appointing authority will not be the same. There will be a different appointing authority for each Commission. Consequently, there need be no fear that a Chairman of a Public Service Commission in order to be appointed as Chairman of another Commission after completion of his tenure of office will be liable to be subject to any improper influence on the part of the executive or will not discharge his duties with perfect independence.

Mr. Naziruddin Ahmad : Mr. President, Sir, I have a lot of amendments; but I wish to move only one. I should rather desire that I should move it now and then take part in the general discussion at the end. That would be very convenient. In fact, there are a variety of sections and a variety of amendments most of which may not be moved. It would be convenient if you give me this permission.

Mr. President : Which amendment do you want to move?

Mr. Naziruddin Ahmad : I would move only amendment No. 69. it is very nearly a drafting amendment; but it seems to me to be important. I beg to move

"That in amendment No. 3 of List I (Fifth Week), of Amendments to Amendments, in clause (1) of the proposed new article 285-A, for the words 'shall only be removed from office by order of the President on the ground of misbehaviour' the words 'may be removed from office by order of the President only on the ground of misbehaviour' be substituted."

May I have your permission to defer the general comments when all the amendments are moved?

Mr. President : Very well.

Shri H. V. Kamath (C.P. & Berar. General): Mr. President, the House is dealing with an important chapter of our Constitution today. Ever since we became free two years ago, unfortunately to the accompaniment of partition, we have found that the Public Services, many of them, at any rate, have been depleted considerably, and this question of the purity of the services and their administrative efficiency has come to the fore more pointedly than ever. Therefore, I feel that the more attention we bestow upon the consideration of this chapter the better it would be for the future of our country.

I have given notice of four amendments which now, by your leave, I shall move before the House. I crave your pardon as well as the pardon of the House for having sent them in only this morning, as a result of which my colleagues have not been supplied with copies of my amendments. I am entirely to blame for that; I would appeal to my honourable Friends to follow the amendments as I read them before the House.

The first amendment is to the effect.

"That in amendment No. 3 of List I (Fifth Week), in the proviso to clause (1) of the proposed article 285, for the words 'at least one half' the words 'not more than one-half' be substituted."

[Shri H. V. Kamath]

The second amendment is:

“That in amendment No. 3 of List I (Fifth Week), in clause (1) of the proposed article 285-A, for the words ‘misbehaviour or of infirmity of mind or body’ the words ‘misdemeanour or incapacity’ be substituted.”

The third amendment has two alternatives. If the first be unacceptable to the House, I would urge that the second alternative be accepted. The first one is to the effect :

“That in, amendment No. 3 of List I (Fifth Week), sub-clause (b) of clause (3) of the proposed article 285-A be deleted.”

Or if this be not acceptable to the House, alternatively:—

“That in the same clause 3 (b) of the proposed Article 285-A for the words ‘engages during his term of office in anybody’s employment’ the, words ‘take up during his term of office any other employment’ be substituted.”

My fourth amendment is :

“In article 285-B for the words ‘the President the Governor or Ruler of the State’ the words ‘Parliament and State Legislature’ be substituted, respectively.”

If this were accepted 285 (B) would read as follows :—

“In the case of the Union Commission or a Joint Commission, Parliament and in the case of a State the Legislature may by regulation etc.”

These are the four amendments to the article moved by Dr. Ambedkar before the House.

It is agreed on all hands that the permanent services play an important role in the administration of any country. With the independence of our country the responsibilities of the services have become more onerous. They may make or mar the efficiency of the machinery of administration—call it steel frame or what you will,—a machinery which is so vital for the peace and progress of the country. A country without an efficient Civil Service cannot make progress in spite of the earnestness of those people at the helm of affairs in the country. Wherever democratic institutions exist experience has shown that it is essential to protect the Public Service as far as possible from political or personal influence and to give it that position of stability and security which is vital to its successful working as an impartial and efficient instrument by which Government—of whatever political complexion—may give effect to their policies. It is imperative that whichever Government comes into Power, the permanent services must carry out the policy laid down by the Government for the time being in office. In countries where this principle has been neglected, and where instead the spoils system has taken its place, inefficient and disorganised Civil Service has been the inevitable result and corruption has become rampant with all its attendant consequences. It is therefore of the utmost importance that the Public Service Commissions that we contemplate under these articles should be completely independent of the Government of the day whether at the Centre or in the States. Otherwise I am afraid the Civil Services will apprehend that amenability to Ministerial pressure and a correct attitude towards questions in which a little coterie or the group for the time being in power, is interested, will secure them promotions rather than merit or efficiency. I have often known that a Secretary to a Minister if he volunteers an opinion which is not palatable to the Minister in Office, the Minister puts him on the blacklist and he is not considered favourably for future promotions. Of course once a policy is laid down the public servants have to carry them out. But I know of instance where Ministers have looked upon with disfavour Secretaries or other servants, whose opinion was invited

criticising their policies : this is a very undesirable state of affairs and I am sure that sorts of thing should not be encouraged. Therefore I hold that where there is any apprehension on the part of Civil Servants that, if they are amenable to Ministerial pressure, they are likely to be promoted, and that merit and efficiency count less, if that mentality seizes public servants, there is likely to be demoralisation throughout the ranks of the services.

It is, with that in view that I have proposed the first amendment. The draft is to the effect that at least one-half of the members of every Commission shall be persons who have been in the service either in the Government of India or the Government of a State, Mr. Kapoor moved an amendment seeking to reduce this to one-third. Mine seeks to make this minimum the maximum. It always happens that the minimum goes on increasing till it swallows or comprises the whole and if this article is passed there is no bar to an the members of the Commission being appointed from those persons who have held offices under the Government of India or of a State. Therefore I want that this minimum should be the maximum and in no case should this maximum be exceeded. That will at least be a safeguard against weightage of these Service Commissions by persons who have been in Government service and who have come—I will not say from the umbra but the penumbra of this Governmental influence, who have moved in a particular rut and who are likely to be always influenced by particular attitude of mind towards the Government in power. Therefore to preserve the impartiality and independence of the Public Service Commissions I have moved this amendment, the effect of which would be that the minimum of one-half would be the maximum and in no case would that one-half be exceeded, so far as the number of those who have held office under Government, is concerned.

As regards the point made out by my Friend Mr. Kapoor, that the age of 65 should be reduced to 60, for both the Union and State Commissions, I am of a different view. I feel that the figure must be 65 for both, that the age limit of 65 should be laid down both for the Union Commission and for the State Commissions. We know that the age-limit of 55 for superannuation which was fixed by the British, has now been increased by the recommendation of the Pay Commission to 58; and the general trend in India—and perhaps in the rest of the world also—is towards an increase in the expectation of life and in the prolongation of youth. That is to say, in the twentieth century, the trend is towards the prolongation of youth though I would not venture an opinion whether we are going “back to METHUSELAH” of Bernard Shaw. But all the world over, longevity is tending to increase because of a modern methods of medicine and dietetics.

Dr. P. S. Deshmukh : Dietary but not diet.

Shri H. V. Kamath : Yes, Sir, who would say that our leaders today, you, Sir, including, who are over sixty, who dare say that any one of them who are leading us to day cannot grace the highest office in the land with credit and glory to the country ? If that be so, then I think there is no reason why the Chairmanship or membership of the Public Service Commissions should be confined to the age-limit of 60, that the Chairman or the members should be asked to retire at the fairly early age of 60. I for one would like this age limit to be uniform for both the Commissions and be raised to 65.

Then my second amendment is more or less verbal in that it seeks to substitute the words “Misdemeanour and incapacity” for “misbehaviour and infirmity of mind or body”. Taking the second first, “incapacity”. I would invite the attention of the House to the article which, we have already passed

[Shri H. V. Kamath]

regarding the removal of the Vice-President of India. The word used there is “Incapacity” and that word refers to both mind and body. The word “infirmly” I feel is rather a medical or scientific term and not, if I may say so, a constitutional term. Incapacity would be the more appropriate word.

As regards the word “misbehaviour” that word has a sort of conversational or colloquial ring about it. But the House is familiar, in law and constitutional law with the expression “grave misdemeanour” of officers or of high dignatories and so on. I therefore, feel that the word “misdemeanour” would express the sense intended here in this article, far better than the word “misbehaviour”. I would however leave it to the far wiser men who are busy drafting the Constitution, and I would only request them to consider this matter with the consideration which I believe it deserves.

My third amendment deals with sub-clause (3) (b) of article 285-A. Firstly, it deals with the deletion of the sub-clause, because in my humble judgment, this will be comprised in the term “misdemeanour”. A person who, while holding the office of Chairman or member of a Public Service Commission takes up any other employment can certainly be, charged with misdemeanour. If this view be not acceptable to the experts of the Drafting Committee, I would only plead with them, and I am sure they will realise that these words, “any body” are so very vague, clumsy and ugly. I do not know how Dr. Ambedkar in spite of his profound knowledge of the English language tripped and stumbled and fell in this manner. I have never come across this sort of ugly and clumsy words as “anybody’s employment” in any constitutional treatise. I feel the idea would be much better expressed by “any other employment.” Further, depending on my meagre knowledge of the English language, I may say that “engaging in an employment” is not quite correct. You may take up an employment—I am however, not quite happy about my own amendment in this regard but you generally engage in the work or service; but to say “engaging in an employment” is not King’s English, or constitutional English. I hope this will also receive the attention of the wise men of the Drafting Committee and that they will clothe their idea in better language when it comes in its final form before the House.

Then my last amendment, No. 4, is an amendment of substance. Its effect would be that instead of the President or the Governor or Ruler of a State having the power, this power to make regulations as to conditions of service of the members and staff of the Commissions will be vested in the Central Parliament and the State Legislatures. I would request the House to turn for a moment to the original draft of the article 285 as it stood in the Draft Constitution. I invite the House to look for a moment at clause (2) of this original article 285. That provides that matters affecting not merely the number of Members of the Commission but their tenure of office, their conditions of service and the number of members of the staff of the Commission shall be vested in the President or the Governor. The House will see the difference between the draft as it has come before us today and the draft as it originally stood. The tenure of office has been taken out of the purview of the President and the Governors. In article. 285 we have provided for the tenure of office of members on the three Commissions—Union, State or Joint. Clause (2) of article 285 deals with that matter. That means to say that the Drafting Committee has felt the need for bringing this matter, namely the tenure of office, before the Constituent Assembly. I desire that matters relating to the number of Members of the Commission, their conditions of service and the number of members of the Commission and their conditions of service—regulations in

regard to these matters—must be left to either Parliament or the State Legislatures. I do not for one moment dispute or question the proposition, that so far as appointment is concerned, it should be made by the Governor or the President in consultation, if necessary, with the Chairmen of the various Public Service Commissions. But so far as these matters are concerned, *viz.*, how many members there should be on the Commission, the conditions of service of these Members and of their staff—of course Parliament cannot certainly appoint these persons—must be left to Parliament or the Legislatures to deliberate upon and to decide. After Parliament has framed the rules in this regard, the Governor, Governors or the President would be asked to make appointments accordingly. I feel that unless the Members of these Commissions are absolutely sure that their conditions of service will be secured throughout their tenure and entirely independent of the executive, they will not put their heart into the work and they will not bring to bear that deep interest in those problems that confront them from day to day, which is so necessary for the efficient discharge of their public functions.

I am glad to find that article 285-C is an improvement on the original draft. The original draft was comprised in clause (3) of article 285. That provided for certain exemptions by the President and the State Governors in so far as the bar to the appointment of Members of the Commissions on ceasing to hold office was concerned. It is very salutary, nay, essential that Members of these Commissions must not be eligible to any office in the Government of India or the Government of a State. The old Government of India Act did provide that the Governor-General could make exemptions where he deemed it necessary or fit. But I think it was a very wise move not to exercise this power through the Governor-General in cases where it was absolutely uncalled for. About a month ago, some of us were agitated on learning of an appointment of a Member of the Bombay Public Services Commission to an ambassadorial post. I do not wish to mention the name. He was appointed to this post even before he had resigned his office. After he was appointed, he resigned his office naturally. But this sort of irregularity, to say the least, which might smack of nepotism and personal favouritism, must not be countenanced if you wish to make the services strong and efficient. If a Member of the Public Services Commission is under the impression that by serving and kowtowing to those in power he could get an office of profit under the Government of India or in the Government of a State, then I am sure he would not be able to discharge his functions impartially or with integrity. This appointment which was made recently was a bad one in principle, and I am sure though the Governor-General must have given his approval, is no reason why that particular person was deemed so necessary that the very salutary rule with regard to the bar to the appointment of Public Services Commission members was set at naught. I am glad, however, that the present draft of the article makes no such exemptions and the Members or the Chairman of the Public Services Commission will not be eligible to any appointment under the Government of India or the Government of any State after they cease to hold office.

Lastly, I would like to observe that most of the democratic countries in the world have set up Public Services Commissions to free the matter of appointments from nepotism or favouritism and the exercise of Political patronage, and in order to protect Ministers against the charge—it may be unfounded or ill founded—of using their positions to promote family or group interests. The public here have sometimes been made to feel that family or group interests have been promoted at the expense of the national; and to protect the Ministers against such a charge, it is necessary that the Public Service commissions must be kept completely independent of the executive and further that the

[Shri H. V. Kamath]

recommendations made by these Commissions in the matter of appointments must normally be given effect to, and in every case when Government or a Minister, makes an appointment contrary to the recommendations of the Public Services Commission, he must give adequate reasons in writing as to why he disregarded the recommendations of the Commission.

Instances have, happened during the last two years, and Ministers were asked questions in the Legislature as to why certain persons were appointed contrary to the recommendations of the Federal Public Services Commission. The answers were to my mind unsatisfactory and created grave doubts in the minds of many honest people as to why Ministers should go out of their way to make appointments without any regard to the recommendations made by the F.P.S.C. I hope under the new set-up that is coming in our country this sort of thing will not prevail, that we will have a better and purer dispensation and that the Public Service Commissions both in the Union Centre and in the States will function in such a manner that firstly, the members of these Commissions will discharge their duties absolutely independently of the governments of the day, with impartiality, integrity and with wisdom and, secondly, the Services will be manned by such persons as will not be amenable to ministerial pressure or ministerial patronage at the cost of efficiency and the administrative purity of the State.

(Shri Kuladhar Chaliha did not move his amendment.)

Dr. P. S. Deshmukh : Sir, I move:

“That in amendment No. 3 of List I (Fifth Week), of amendments to amendments, in sub-clause (b) of clause (3) of the proposed new article 285-A, the word ‘body’s’ be deleted.”

The amendment is somewhat on the lines of the amendment that has been moved by my Friend Mr. Kamath. He has correctly characterised the wording as very unhappy, and if there is to be an improvement which can be acceptable to Dr. Ambedkar I think the dropping of the word “body’s” would be a great improvement. But if Dr. Ambedkar agrees I would not mind accepting my Friend Mr. Kamath’s amendment.

So far as the whole article is concerned I would very strongly like to support the amendment moved by Mr. Jaspat Roy Kapoor, especially the first one which refers to curtailing the number of government servants on the Commissions to one-third instead of one-half. I wish it were possible for you to give me permission to move for the deletion of the whole provision. It is a pity that nobody has taken into account what this proviso means. I do not expect that you, Sir, would condescend to be the Chairman of any of these Commissions even of the Union Commission. But if by any chance you were, even persons like you, Sir, who have taken any part in the liberation of the country will not be eligible to be appointed on the Commission so far as half the portion of it is concerned.

Appointments are going to be confined only to government servants who have ten years’ standing. This means that the choice would have to be confined to only old servants and all those who have been appointed by the present independent Government of India will have to wait till 1957 before any of them will be eligible for appointment in this preserved half. It puts a definite premium on those who, contrary to the interests of the country, served the British Government and enslaved the country in the interest of the British if we are going to preserve half of the commission for them in those terms. It is an abnoxious provision and I do not think any Congressman would like it to remain so as to exclude all patriots from half of that body.

Even those who had refused government services on patriotic grounds alone will be debarred from entering the Commission to the extent of this half. The least possible thing that should be done is to accept Mr. Kapoor's amendment although I think the House will agree with me that the Whole proviso should go.

It is a pity that the present rulers of India are in such great love with the permanent services. The ambassadorial posts ought really to go to non-official workers and leaders who have sacrificed themselves in the interests of the country. None of them are considered fit. We might have different ideas and ideals of administration. But it is totally wrong that such posts should go more and more to persons who have not had the country's interests at heart when the time came and I consider that there is every reason to urge that this policy ought to be altered as also the ideals with which our present rulers are actuated. The House ought to be more careful in passing articles without sufficient consideration. This provision is a shadow of our slavish past which ought to be wiped out from this article.

Shri B. Das (Orissa: General) : Sir, the Draft Constitution has provided three instruments by which the integrity of our administration would be maintained. The first is the Supreme Court and the Chief Justice of India, the second is the Auditor-General, who will maintain the purity of our finances, expenditure and the collection of taxes; and the third is the Federal Public Service Commission which will maintain the purity and integrity of our services. It has already been observed by other Members that in the past as a reward for their loyalty people had become members of the Public Service Commissions. It has not on merit but on loyalty to those who ruled the country in the past. The provisions of article 285 and the duties specified in article 286 remove favouritism from the Home Ministry and even the Home Minister.

There is one thing which I do not like. A government servant with ten years' standing can be a member of the F.P.S.C. It means that if he joined the service in his 25th year he will remain for 30 years. He might get rusty and the onus of proving his uselessness will be left to the members of Parliament to move a resolution in the House for dismissal of that member of the F.P.S.C. . So far as I can see the Draft Constitution is enamoured of the age of thirty-five. Whether it is the Governor or the Governor-General or the High Court Judges or the Judges of the Supreme Court or Members of the Federal Public Service Commission the age should be thirty-five.

If I have my inclination I would support the idea of my honourable Friend Mr. Jaspat Roy Kapoor that only one-third of the members of the Federal Public Service Commission should be officials. The rule is there that fifty per cent of the members should be officials, but today as far as I can gather most of the members of the Federal Public Service Commission are officials. My Friend Dr. Deshmukh said that they will continue for another six years. I do hope that steps will be taken simultaneously with the promulgation of this Constitution that only 33 per cent or 50 per cent of the members of the Federal Public Service Commission will be allowed to be filled by the appointment of officials and the rest left for others who are not officials. At the same time a High Court Judge or a very high official or even the President or the Governor-General should examine how these people have come to the Federal Public Service Commission, whether they have come by favouritism or whether they do satisfy under the rules and conditions of recruitment of high officials under the Draft Constitution to continue as members of the Federal Public Service Commission for the next five or six years.

The evil tradition is there. It is a very bad tradition—a tradition of nepotism. The Home Department in the past have thrown away the recommendations of the Federal Public Service Commission. As far as I am aware,

[Shri B. Das]

the Home Ministry has made new Rules of recruitment by which the recommendations of the Federal Public Service Commission will have to be accepted. It is for the Governor-General and the President to see that the recommendations of the Federal Public Service Commission as such are accepted. We know today the Government of India contains people who are the wife's brother or sister-in-law's cousin or something like that of all people. All such nepotism should go. And to maintain the integrity of the administration and the security of the Government of India only those shall be recruited that will be recommended by the Federal Public Service Commission—not as it exists today but as it will be reorganised after 26th January 1950.

I do hope that in spite of article 285 or 286 it will be possible for us to examine the question of the continuity of some of the old fossils—retired gentlemen—who have entered the Federal Public Service Commission not by merit but through loyalty in other spheres of life, on communal basis of life, etc. It should be done away with. Without that the Constitution will prove a failure.

Mr. Naziruddin Ahmad : I want to speak. You said that you will permit me.

Mr. President : I want to close the discussion and the voting on this today. There is hardly any time now as there are only five minutes to one. There are some other articles dealing with the Public Service Commission and you will have an opportunity in the next article.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, there are just a few points on which I would like to say a word or two in reply to the criticism made on the articles, which I have submitted to the House.

The first criticism is with regard to the composition of the Public Service Commission. The reservation made there that at least one-half of the members of the Public Service Commission should have been servants of the Crown has been objected to on the ground that this is really a paradise prepared for the I.C.S. people. I am sorry to say that those who have made this criticism do not seem to have understood the purpose, the significance and the functions of the Public Service Commission. The function of the Public Service Commission is to choose people who are fit for Public Service. The judgment required to come to a conclusion on the question of fitness presupposes a certain amount of experience on the part of the person who is asked to judge. Obviously nobody can be a better judge in this matter than a person who has already been in the service of the Crown. The reason therefore why a certain proportion is reserved to persons in service is not because there is any desire to oblige persons who are already in the service of the Crown but the desire is to secure persons with the necessary experience who would be able to perform their duties in the best manner possible. However, I am prepared to accept an amendment if my Friend Mr. Kapoor is prepared for it. I am prepared to say "Provided that as nearly as may be one-half" instead of saying "Provided that at least one-half."

Shri H. V. Kamath: Why not say "not more than one-half"?

The Honourable Dr. B. R. Ambedkar : No, I have done my best.

With regard to the second question, that persons who have been in the Public Service Commission should be permitted to accept an honorary office under the State, personally I am not now inclined to accept that suggestion. Our whole object is to make the members of the Public Service Commission independent of the

executive is to deprive them of any office with which the executive might tempt them to depart from their duty. It is quite true that an office which is not an office of profit but an honorary office does not involve pay. But as everybody knows pay is not the only thing which a person obtains by reason of his post. There is such a thing as “pay, pickings and pilferings”. But even if it is not so, there is a certain amount of influence which an office gives to ‘a person’. And I think it is desirable to exclude even the possibility of such a person being placed in a post where, although he may not get a salary, he may obtain certain degree of influence.

Now I come to the amendment of my Friend Mr. Kunzru. I quite agree with him that there is obviously a distinction made between the services to be employed under the Public Service Commission and the services to be employed under the High Court, the Supreme Court and the Auditor-General. I would like to explain why we have made this distinction. With regard to the staff of the High Court and the Supreme Court, at any rate those who are occupying the highest places are required to exercise a certain amount of judicial discretion. Consequently we felt that not only their salaries and pensions should be determined by the Chief Justice with the approval of the President but the conditions of their service also should be left to be determined by the Chief Justice. In the case of the Public Service Commission much of the staff—in fact the whole of the staff—will be merely concerned with what we call “ministerial duties” where there is no authority and no discretion is left. That is the reason why we have made this distinction. But I quite see that my argument is probably not as sound as it might appear. All the same I would suggest to my honourable Friend Pandit Kunzru to allow this article to go through on the promise that at a later stage if I find that there is a necessity to make a change I will come before the House with the necessary amendment.

Sir, my attention is drawn to the fact in the cyclostyled copy of my amendment to article 285-A in sub-clause (3) (b) the words ought to be ‘in any paid employment’. They have been typed wrongly as ‘in any body’s employment.’ I hope the correction will be made.

As I said to Pandit Kunzru, the Drafting Committee will look into the matter and if it feels that there are grounds to make any alteration they will, with the permission of the House come forward with an amendment so that the position may be rectified.

Mr. President : I will now put the amendments to vote first.

The question is:

“That in amendment No. 3 above, in the proviso to clause (1) of the proposed article 285 for the word ‘one-half’ the word ‘one-third’ be substituted.”

Shri Jaspat Roy Kapoor : In the place of this I accept the suggestion made by Dr. Ambedkar to have ‘as nearly as may be one-half’.

Mr. President : Then I shall put that to vote. The question is:

“That in amendment No. 3 above, in the proviso to clause (1) of the proposed article 285, for the words ‘at least one-half’ the words ‘as nearly as may be one-half’ be substituted.”

The amendment was adopted.

Shri Jaspat Roy Kapoor : I beg leave of the House to withdraw amendment No. 5.

The amendment was, by leave of the Assembly, withdrawn.

Shri Jaspat Roy Kapoor : I beg leave of the House to withdraw amendment No. 6.

The amendment was, by leave of the Assembly withdrawn.

Shri Jaspat Roy Kapoor : I also took permission to withdraw my amendments Nos. 10 and 11 and also the one given notice of this morning.

Mr. President : They refer to article 285-B to which we have not yet come. Amendment No. 1 of Mr. Kamath falls to the ground since an amendment to add 'as nearly as may be one-half' has been accented.

Shri H. V. Kamath: If you hold it falls through, I have nothing to say.

Mr. President : There is no other amendment to article 285.

The question is:

"That proposed article 285, as amended, stand part of the Constitution."

The motion was adopted.

Article 285, as amended, was added to the Constitution.

Mr. President : Now we come to article 285-A. The first amendment is, that Mr. Naziruddin Ahmad, No. 69.

The question is :

That in amendment No. 3 of List I (Fifth Week), of Amendments to Amendments, in clause (1) of the proposed new article 285-A, for the words "shall only be removed from office by order of the President on the ground of misbehaviour" the words "may be removed from office by order of the President only on ground of misbehaviour" be substituted.

The amendment was negatived.

Mr. President : Amendment No. 2 of Mr. Kamath. The question is:

"That in amendment No. 3 of List I (Fifth Week) in clause (1) of the proposed article 285-A, for the words 'misbehaviour of infirmity of mind or body', the words 'misdemeanour or incapacity' be substituted."

The amendment was negatived.

Mr. President : Amendment No. 3 of Mr. Kamath. The question is:

"That in amendment No. 3 of List I (Fifth Week), sub-clause (b) of clause (3) of the proposed article 285-A be deleted."

The amendment was negatived.

Mr. President : The next amendment of Mr. Kamath. The question is:

"That in amendment No. 3 of List I (Fifth Week), in sub-clause (b) of the proposed article 285-A, for the words 'engages during his term of office in anybody's employment' the words 'takes up during his term of office any other employment', be substituted."

The amendment was negatived.

Mr. President : The next one is the amendment of Dr. Deshmukh. It does not arise now, because those words are, not there.

Now I will put article 285-A to vote. Members will remember that in subclause 3 (b) there is a misprint 'in any body's employment' for 'a paid employment'. The question is

"That proposed article 285-A stand part of the Constitution."

The motion was adopted.

Article 285-A was added to the Constitution.

Mr. President : Now we come to article 285-B. I will put amendment No. 9 to vote.

Pandit Hirday Nath Kunzru : Sir, in view of the assurance given by Dr. Ambedkar I do not want my amendment to be put to the vote.

The amendment was, by leave of the Assembly, withdrawn.

Shri Jaspat Roy Kapoor : Sir, I beg leave of the House to withdraw my amendment No. 10.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : Then I will put amendment No. 4 of Mr. Kamath.

The question is :

“That in amendment No. 3 in the proposed new article 285-B. for the words ‘the President and in the case of a State Commission, the Governor or Ruler of the Slate’ the words ‘Parliament and the State Legislature’ be substituted respectively.”

The amendment was negatived.

Mr. President : The question is :

“That proposed article 285-B stand part of the Constitution.”

The, motion was adopted.

Article 285-B was added to the Constitution.

Mr. President : Then we come to 285-C. Amendment No. 11.

Shri Jaspat Roy Kapoor : I beg leave of the House to withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : There is another amendment by Mr. Jaspat Roy Kapoor.

Shri Jaspat Roy Kapoor : I beg leave of House to withdraw that amendment also.

The amendment was, by leave of the Assembly withdrawn.

Mr. President : The question is:

“That proposed article 285-C stand part of the Constitution.”

The motion was adopted.

Article 285-C was added to the Constitution.

Mr. President : The House will now adjourn till nine o’clock tomorrow morning.

The Assembly then adjourned till nine of the Clock on Tuesday, the 23rd August 1949.
