

CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 8th December, 1948

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock Mr. Vice-President (Dr. H. C. Mookherjee) in the Chair.

TAKING THE PLEDGE AND SIGNING THE REGISTER

The following Members took the Pledge and signed the Register:—

Shri Manikya Lal Verma (United State of Rajasthan)

Shri Gokal Lal Aawa (United State of Rajasthan)

DRAFT CONSTITUTION—(*Contd.*)

Article 23—(*Contd.*)

Mr. Vice-President (Dr. H. C. Mookherjee): We shall now resume discussion of article 23 to which two amendments have been moved. Amendment No. 677 relates to national language and script and is therefore postponed. Amendment Nos. 678, 679, 680 and 681 (1st part) are to be considered together as they are of similar import. I can allow No. 678 to be moved.

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

“That in clause (1) of article 23, for the words “script and culture” the words “script or culture” be substituted.”

The only change is from ‘and’ to ‘or’ and the necessity of the change is so obvious that I do not think it is necessary for me to say anything regarding the same.

Mr. Vice-President : There is an amendment to this amendment—No. 25 of List No. I in the name of Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad (West Bengal : Muslim) : Mr. Vice-President, Sir, I beg to move—

“That with reference to amendment No. 678 of the List of Amendments, in clause (1) of article 23, for the words “residing in the territory of India or any part thereof” the words “residing in any part of the territory of India” be substituted.”

Sir, the text says: ‘a section of the citizens residing in the territory of India or any part thereof’. The expression ‘or any part thereof’ implies, if the passage is fully written out ‘a section of the citizens residing in the *whole* of the territory of India or *any part* thereof.’ I submit that no part of the citizens can reside in the ‘whole’ of the territory of India. It must necessarily reside in a part of India. So the words ‘in the territory of India or any part thereof’ would be in appropriate implying a false suggestion. I submit that if we say—‘residing in any part of the territory of India’, that would be quite enough. Perhaps the phraseology used in the context was due to an oversight. It gives an illogical appearance or a false suggestion that a people or a group of citizens can possibly reside in the whole of India. The further conditions of a part of India having a ‘distinct language, script or culture’ in the article really limit the purpose to any part of India.

Mr. Vice-President : Amendment No. 679.

Shri H. V. Kamath (C. P. & Berar : General): I have been forestalled by Dr. Ambedkar. So, I do not move No. 679.

Mr. Vice-President : Do you wish to press No. 680?

Mohamed Ismail Sahib (Madras: Muslim) : Yes.

Mr. Vice-President : Do you wish that 681 first part should be put to vote?

Prof. K. T. Shah (Bihar : General) : First part is covered by Dr. Ambedkar’s amendment. But I would like to move the second part.

Mr. Vice-President : The second part of amendment No. 681 may now be moved.

Prof. K. T. Shah: Sir, I beg to move part (2) of my amendment which says—

“That in clause (1) of article 23, after the word “conserve” the word “develop” be added.”

The amendment portion would then be that—

“Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve and develop the same.”

Sir, I look upon culture of mankind, and the culture of every section of mankind, as not merely a static phenomenon but as a progressive and developing fact. To my mind, therefore, even more important than conserving it at some stage to which it has risen, is the need to develop it. And the culture of a country or a community is much wider and larger and deeper, than its script or language, as I shall show below, and hence this amendment.

Speaking of the languages of the various sections of the country, they have, in recent years, especially during the last two or three generations, been developed and cultivated up to a point at which many of them have become suitable, in my judgment, to become the vehicles for the imparting of any state of instruction, right up to the University standard. Nevertheless, there can be further development; and they ought to be further studied and promoted and developed and expanded, so as to be suitable means of expression, intercourse, and instruction or education to a much wider scale than is the case today. I, therefore, think that if you grant the right to its conservation you must also grant the right for its development, its progressive improvement and expansion.

Speaking of culture, I think that is not a single item, either of area, language or script. It is a vast ocean, including all the entirety of the heritage of the past of any community in the material as well as spiritual domain. Whether we think of the arts, the learning, the sciences, the religion or philosophy, Culture includes them all, and much else besides. As such, it is progressive, and should be regarded as being capable of constant growth as any living organism. If, therefore, you include in the Fundamental Rights this section, *i.e.*, the right to “conserve” the same, whether or not there is any attack or danger for the mere preservation of it, I see no reason why you should not couple with the right to conserve the right to develop. That is why the suggestion that I am putting forward, namely, the right to develop. Side by side with the right to conserve there must also be the right to develop the culture of any community.

You cannot hit at this amendment, you cannot negative it, without at the same time annulling the remaining portion of the clause, namely, conservation of a static position. But development is more progressive, more dynamic; and as such should commend itself to those who have the drafting and piloting of the Constitution in their hands.

Mr. Vice-President : Then comes No. 682 which stands in the name of Seth Govind Das; but I think it should stand over seeing that it relates to national language and script.

Then we come to amendment No. 683.

(Amendment No. 683 was not moved.)

As amendment No. 683 was not moved, amendment No. 52 of List III is disallowed. Then comes amendment No. 684 in the name of the Maharaja of Parlakimedi. He is absent.

(Amendment No. 684 was not moved.)

Amendment No. 685 standing in the name of Shri Algu Rai Shastri.

Shri Algu Rai Shastri (United Provinces : General) : Sir, my amendment relates to the property clause, article 24, and I shall move it when that article is taken up. It does not belong to this article and it is by a misprint that it happens to be here.

Mr. Vice-President : Then shall I take it that you want it to stand over?

Shri Algu Rai Shastri : It can be taken up at the proper place.

Mr. Vice-President : No. 686 also in the name of Shri Algu Rai Shastri.

Shri Algu Rai Shastri : I am not moving it, but I want to make a few observations on it.

Mr. Vice-President : You can do that during the general discussion. Then I come to amendment No. 687, standing in the names of Prof. N. G. Ranga and Shri Ananthasayanam Ayyangar. And then there is the first part of No. 688 of Shri Jaspat Roy Kapoor, and No. 705 also in the name of Shri Jaspat Roy Kapoor. These are to be considered together as they are of similar import. I can allow No. 687 to be moved.

Shri M. Ananthasayanam Ayyangar (Madras : General) : Sir, I beg to move:—

“That in clause (2) of article 23 for the words ‘No minority’ the words ‘No citizen or minority’ be substituted.”

I want that all citizens should have the right to enter any public educational institution. This ought not to be confined to minorities. That is the object with which I have moved this amendment.

Mr. Vice-President : As regards the first part of amendment No. 680, I want to know whether Mr. Kapoor wants it to be voted.

Pandit Thakur Dass Bhargava (East Punjab : General) : But Sir, there is my amendment No. 26 to amendment No. 687.

Mr. Vice-President : Yes, I stand corrected. There are certain amendments to these amendments which I shall take up one after the other. One is No. 26 in List I in the names of Shri T. T. Krishnamachari and Pandit Thakur Dass Bhargava. Do you move it Mr. Bhargava?

Pandit Thakur Dass Bhargava : Sir, I beg to move.

That for amendment No. 687 of the List of amendments, the following be substituted:

“That for clause (2) of article 23, the following be substituted:—

“(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.”

and sub-clauses (a) and (b) of clause (3) of article 23 be renumbered as new article 23-A.

Sir, I find there are three points of difference between this amendment and the provisions of the section which it seeks to amend. The first is to put in the words ‘no citizen’ for the words ‘no minority’. Secondly that not only the institutions which are maintained by the State will be included in it, but also such institutions as are receiving aid out of state funds. Thirdly, we have, instead of the words “religion, community or language”, the words, “religion, race, caste, language or any of them”.

Now, Sir, it so happens that the words “no minority” seek to differentiate the minority from the majority, whereas you would be pleased to see that in the Chapter the words of the heading are “cultural and educational rights”, so that the minority rights as such should not find any place under this section. Now if we read Clause (2) it would appear as if the minority had been given certain definite rights in this clause, whereas the national interests require that

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no majority also should be discriminated against in this matter. Unfortunately, there is in some matters a tendency that the minorities as such possess and are given certain special rights which are denied to the majority. It was the habit of our English masters that they wanted to create discriminations of this sort between the minority and the majority. Sometimes the minority said they were discriminated against and on other occasions the majority felt the same thing. This amendment brings the majority and the minority on an equal status.

In educational matters, I cannot understand, from the national point of view, how any discrimination can be justified in favour of a minority or a majority. Therefore, what this amendment seeks to do is that the majority and the minority are brought on the same level. There will be no discrimination between any member of the minority or majority in so far as admission to educational institutions are concerned. So I should say that this is a charter of the liberties for the student-world of the minority and the majority communities equally.

The second change which this amendment seeks to make is in regard to the institutions which will be governed by this provision of law. Previously only the educational institutions maintained by the State were included. This amendment seeks to include such other institutions as are aided by State funds. There are a very large number of such institutions, and in future, by this amendment the rights of the minority have been broadened and the rights of the majority have been secured. So this is a very healthy amendment and it is a kind of nation-building amendment.

Now, Sir, the word "community" is sought to be removed from this provision because "community" has no meaning. If it is a fact that the existence of a community is determined by some common characteristic and all communities are covered by the words religion or language, then "community" as such has no basis. So the word "community" is meaningless and the words substituted are "race or caste". So this provision is so broadened that on the score of caste, race, language, or religion no discrimination can be allowed.

My submission is that considering the matter from all these standpoints, this amendment is one which should be accepted unanimously by this House.

Mr. Vice-President : There are two other amendments standing in the name of the honourable Member, namely, Nos. 27 and 28.

Pandit Thakur Dass Bhargava : I do not propose to move either of them. I want to move No. 31.

Mr. Vice-President : That comes in another category. So the honourable Member is not moving Nos. 27 and 28.

[Amendments Nos. 705, 691 and 688 (second part) were not moved.]

Maulana Hasrat Mohani (United Provinces : Muslim) : I had an amendment to this amendment of the Honourable Dr. B. R. Ambedkar because I thought he was sure to move it. Now that he has withdrawn it, where am I to go?

Mr. Vice-President : You can only take your seat. Such things happen in political life.

So all the amendments to amendment 691 fall through.

We now come to No. 692.

Pandit Thakur Dass Bhargava : What happens to amendment No. 690?

Mr. Vice-President : That will come later on. These are being taken together as being of similar import. I am trying to ascertain whether these are to be put to vote or not.

I am afraid I cannot allow amendment 692 to be moved because it is covered by the amendment to amendment No. 687.

Mr. Vice-President : Amendment No. 689: this is a verbal amendment and therefore it is disallowed.

(Amendments Nos. 693, 694, 696, 697 (first part) and 698 were not moved.)

We now come to Amendment No. 690 which is in the name of Pandit Thakur Dass Bhargava.

Pandit Thakur Dass Bhargava : I propose to move an amendment to this. Sir, I move:

“That for amendment 690 of the list of amendments, the following be substituted:

That in clause (3) of article 23, the word ‘community’ wherever it occurs be deleted.”

This is an amendment to amendment No. 690. There is not much to be said. The word “community” as I said before has no meaning. No common characteristic can differentiate one community from another which is not covered by the words “religion or language”. These words sufficiently cover the field that is sought to be covered by the word “community”. Therefore the word “community” has no meaning in that provision and therefore it should be deleted.

Mr. Vice-President : Amendment No. 695: this is a verbal amendment and therefore it is disallowed.

[Amendments Nos. 697 (second part) and 699 were not moved.]

Amendment No. 700 is disallowed as it is covered by another amendment regarding the Directive Principles.

Amendments Nos. 701 and 702 are to be considered together as they are of similar import.

(Amendments Nos. 701, 702 and 703 were not moved.)

Amendment No. 704 is more comprehensive and may be moved.

Shri Damodar Swarup Seth (United Provinces : General) : Sir, I beg to move:

That for sub-clause (a) of clause (3) of article 23 the following be substituted:—

“(a) Linguistic minorities shall have the right to establish, manage and control educational institutions for the promotion of the study and knowledge of their language and literature, as well as for imparting general education to their children at primary and pre-primary stage through the medium of their own languages.”

While in sub-clause (a) of clause (3) of article 23, obviously minorities based on religion and community have been recognised, my amendment recognises only minorities based on language. I feel, Sir, that in a secular State minorities based on religion or community should not be recognised. If they are given recognition then I submit that we cannot claim that ours is a secular state. Recognition of minorities based on religion or community is the very negation of secularism. Besides Sir, if these minorities are recognised and granted the right to establish and administer educational institutions of their own, it will not only block the way of national unity, so essential for a country of different faiths, as India is, but will also promote communalism, and narrow anti national outlook as was the case hitherto, with disastrous results. I therefore submit that only minorities based on language should be recognised and be granted the right to establish and administer educational institutions and that too for the purpose of promotion of their language and literature and for imparting primary and pre-primary education in their own language. Higher studies are to be conducted in the national language of the

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state. I therefore submit, Sir, that this amendment is most harmless and innocent and hope that it will be accepted by the House quite unreservedly.

(Amendment No. 706 was not moved.)

Prof. K. T. Shah : Sir, I beg to move:

That the following proviso be added to sub-clause (a) of clause (3) of article 23:—

“Provided that no part of the expenditure in connection with such institutions shall fall upon or be defrayed from the public purse; and provided further that no such institution, nor the education and training given therein shall be recognised, unless it complies with the courses of instruction, standards of attainment, methods of education and training, equipment and other conditions laid down in the national system of education.”

Substantially speaking, it seems to be the same amendment or similar to the one I moved yesterday or the day before, viz., amendment No. 664. Only, there it was in a more positive form and here it is in a negative form, making it more clear that whatever be the foundation or endowment, in the first instance, of any such national institutions, no part of the expenditure should fall upon the public purse—neither partly nor wholly.—This I consider is necessary to provide specifically in view of the possibility of any party taking advantage of the positive provision made above. I should not like to waste the time of the House beyond just pointing out that this in reality is not identical, but that in substance it is the same. I am afraid I have not much hope of making the House change its viewpoint within 48 hours, and therefore I do not wish to take any more time of the House by speaking on it.

(Amendment No. 713 was not moved.)

Mr. Z. H. Lari (United Provinces: Muslim): Sir, I beg to move:

That after clause (3) of article 23, the following new clause be inserted:—

“(4) Any section of the citizens residing in the territory of India or any part thereof having a distinct language and script shall be entitled to have primary education imparted to its children through the medium of that language and script.”

A notice of an amendment to this amendment has been given by Mr. Karimuddin. I would gladly accept it when it is moved. That amendment is for the addition of the words ‘in case of substantial number of such students being available.’

The first question that arises in this connection is whether it is necessary, either in the interests of a minority or of society, that primary education should be imparted through the medium of one’s mother tongue. It is a very legitimate question to ask and I propose to give an answer to it. Only recently, the Government of India accepted a Resolution and published it in the Gazette of August 14, 1948. In the course of that Resolution they say:

“The principle that a child should be instructed in the early stages of its education through the medium of the mother tongue has been accepted by the Government. All educationists agree that any departure from the principle is bound to be harmful to the child and therefore to the interests of society.”

That resolution further goes on to say, ‘Conditions like these make it impossible for any State or Province to adopt any single language as the medium of instruction. An attempt to adopt one language in a Province where groups of people speaking different languages reside and to impose it on all is bound to lead to discontentment and bitterness. It will affect inter-provincial relations and set up vicious circles of retaliation.’

And, towards the end they say:

“The Government of India is of opinion that in the larger interests of the country, it is desirable that the policy enunciated above should be followed by all provincial and State Governments”.

Therefore, according to this very Resolution it is accepted that it is essential in the interests of society as well as of the minority that its children should be imparted primary education through the medium of the mother tongue.

I would refer this House, at this stage, to a reply given by the Honourable Maulana Abul Kalam Azad, the Education Minister in the Dominion Parliament at its session held in September last.

The Honourable Shri K. Santhanam (Madras: General): May I point out to the honourable Member that his amendment implies that every child has got the right to primary education immediately? Without that right this right cannot be sought. Therefore we have given a Directive....

Mr. Z. H. Lari : That is a different question. I will deal with it afterwards. I am here drawing the attention of the House to a reply given by the Education Minister to a question put in the Dominion Parliament.

Mr. Vice-President : I suggest that Mr. Lari keeps in mind the point of view put forward by Mr. Santhanam.

Mr. Z. H. Lari : I would. But here is the report of the interpellation. Replying to Shri S. V. Krishnamurti Rao, Maulana Abul Kalam Azad, the Education Minister said that the mother tongue of the child would be the medium of instruction in primary schools, *i.e.*, up to junior basic stage from the age of six to eleven as stated in the Resolution of the Government on the subject and added: "The Central Advisory Board of Education in their report on postwar educational development in India, published in 1944, recommended that the medium of instruction in the secondary stage should be the mother tongue of the pupils."

Therefore, so far as the necessity of such a provision is concerned, it cannot be denied.

The next question is, does this right partake of a fundamental character so as to find a place in this Chapter. The first Constitution of a Free India that was framed was the Nehru Report under the able guidance of that prince among patriots, Pandit Motilal Nehru. One of the Fundamental rights suggested therein ran as follows:

"Adequate provision shall be made by the State for imparting public instruction in primary schools to the children of members of minorities through the medium of their own language and in such script as is in vogue among them". The nature and the fundamental character of this right has been accepted by that very Resolution of the Government of India to which I referred earlier. Therein they say:

"All provincial languages are Indian languages and there is little reason why any province in India should seek to deprive the children inhabiting that province of their fundamental right to receive education through the medium of the mother tongue."

Therefore even the nature and character of this right has been fully accepted by the present Government of India as well as by those seven leaders who framed the Nehru Report.

Now the third question arises. It is also very relevant. Is it necessary to put in this Chapter, after the clear acceptance of such a policy by the Government of India for the time being? I have personal experience of my province, which shows that it is absolutely necessary. I would give an instance in this regard. The House will note that the United Provinces is a bilingual province. Therein two languages, namely, Hindi and Urdu have been used and widely read by members belonging to different communities. If I only give you the figures of students appearing at the two examinations, *viz.*, high school and middle school, you will find that at least one third of the

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students offered Urdu as their language. In 1944 the students who took Hindi numbered 11,617 while those who offered Urdu numbered 7,167;

In 1945	do.	12,423	do.	7,426;
1946	do.	14,222	do.	8,244;
1947	do.	18,302	do.	13,080.

Therefore you will see that two-thirds of the students who appeared at the high school examinations offered Hindi and one-third offered Urdu.

But, now what happens? All of a sudden in May last, a curriculum was published the result of which, according to my reading, was absolute elimination of Urdu. I was assured that was a misapprehension. But when the classes opened in July 1948, I find that my reading was correct. My child of six, came and said: "Today my master asked me that I should do all the sums in Hindi and Hindi only." He was further told not to bring Urdu Book. I was surprised. On enquiry I found the same condition in all schools. I wrote letters to all concerned and I was assured again that a G. O. was being issued to the effect that wherever there was a demand by students for being taught in Urdu, this should be done. Subsequently I wrote a letter to the Principal of the College to make arrangements for teaching Urdu. I received a reply in the negative. He said no such arrangement can be made. Ultimately, when I forwarded that letter to the Minister for Education, the reply came in October to the effect that arrangements can be made only when the majority of the guardians want that education in Urdu should also be imparted. The Resolution of the Government of India and all the answers given were intended for the facility of a minority which is less than 50 percent, but that facility was denied and made dependent on will of the majority. The result is that in a Province wherein to use the words of that noble soul, our own Prime Minister, began the process which was to continue for several centuries for the development of a mixed culture in North India; Delhi and what are known now as the United Provinces became the Centre of this just as they had been and still continue to be the Centre of Old Aryan culture. They are the seat of the old Hindu culture as well as of the "Persian culture", teaching of Urdu, the moinspring of Muslim culture has been banned. In Lucknow and in Allahabad, where Urdu knowing public is of sufficient strength in fact in most places, so far as primary education is concerned, no arrangement has been made for teaching through the medium of one's own mother tongue. I know of Allahabad positively and of Lucknow too which is considered to be the centre of Urdu, so far as primary education is concerned, in those two places no arrangement exists whatsoever for teaching the children of the minorities through their mother tongue. Therefore this experience of mine in my own province shows that there is necessity for such a provision, and that such a provision should find a place in the Constitution. But I am conscious of one difficulty, rather two difficulties. One difficulty is, supposing the numbers of students who want to have a particular language as the medium of instruction were few in number. That difficulty has been obviated by the amendment which has been given notice of by Kazi Syed Karimuddin.

There is another difficulty which has been pointed out. I have said here, "any section of the citizens". It may be that people of one province, very few in number, residing in another province may claim that their children should be given instruction through the medium of their own language. But that objection can be met by substituting the word 'minority' for the words "section of the citizens". I think Begum Aizaz Rasul has given notice of that amendment.

After these two amendments, the clause will read—

“Any minority residing in the territory of India or any part thereof having a distinct language and script shall be entitled to have primary education imparted to its children through the medium of that language and script in case of substantial number of such students being available.”

Now to take up the objection of Mr. Santhanam. In the Directive Principles we say that the State shall endeavour to provide education up to the age of fourteen and so on and so forth. You remember, Sir, that that clause as it originally stood was—

“Every citizen is entitled to free primary education and the State shall endeavour to provide.....” etc.

The words “Every citizen is entitled to free primary education” were deleted and the speaker, when moving that deletion, said that this was of a fundamental character and therefore such a clause could hardly find a place in that chapter. That is why I have given notice of another amendment which says that there should be an article in the fundamental rights that every citizen is entitled to receive primary education. So far as the clause in the Directive Principles is concerned, it does not relate to primary education only but relates to secondary education as well. Anyhow, we are dealing with the cultural and educational rights of the minorities here, (and the educational right that I want to have inserted here is that primary education should be imparted through the medium of the mother tongue. It does not say that they must be given primary education but if there is any arrangement for primary education, then that primary education should be imparted through the medium of one’s mother tongue. There is thus no legal obstacle.) With these words, Sir, I move my amendment.

Mr. Vice-President : Amendment No. 58 of List III standing in the name of Kazi Syed Karimuddin.

Kazi Syed Karimuddin (C. P. & Berar: Muslim): Mr. Vice-President, Sir, it is unnecessary for me to explain the scope of the amendment moved by Mr. Lari. I have an amendment to move to the amendment of Mr. Lari which runs like this:

“That in amendment No. 714 of the List of Amendments, in the proposed clause (4) of article 23, the following words be added at the end:—

‘in case of substantial number of such students being available’.”

Sir, according to the fundamental rights, freedom of movement and freedom of trade and commerce have been granted and it is just possible that people may be moving freely from one part of the country to another and settling in other provinces. Moreover, there would always be Government servants who would be transferred from one province to another. Take for example the case of the city of Delhi. There are Madrasis; there are Bengalees; there are Muslims; there are Telugu people also in Delhi. If no provision is made for their education in the primary schools, it would be very difficult for their children to be educated in their own mother tongue at least in the primary stage of schooling. Therefore my submission is that Mr. Lari’s amendment is not only important from the Muslim point of view, from the minorities’ point of view, but also from the point of view of those who come from Bengal and Madras or other provinces. Therefore the amendment of Mr. Lari with my amendment should be accepted.

Mr. Vice-President : There is a short notice amendment standing in the name of Begum Aizaz Rasul.

Begum Aizaz Rasul : (United Provinces : Muslim): Sir, I beg to move—

“That in the amendment moved by Mr. Lari for the words ‘section of the citizens’ the word ‘minority’ be substituted.”

[Begum Aizaz Rasul]

The clause will then read—

“Any minority residing in the territory of India or any part thereof having a distinct language and script shall be entitled to have primary education imparted to its children through the medium of that language and script.”

Sir, my amendment speaks for itself, and after hearing Mr. Lari, I do not think it is very necessary for me to go into details about this. The word “minority” has been defined in the Draft Constitution. I think that it is necessary that minorities who have a distinct language and script should have this right guaranteed to them by the State, that the children of these minorities will have all facilities provided to them to have primary education imparted to them in their mother tongue. Sir, It is an accepted principle all over the world that a child in the primary stages of education should have that education imparted to it in its mother tongue. I do not think that there can be any difference of opinion regarding this matter. It is impossible for a child who belongs to a section of the people whose language and script is different to that of the State to receive education in another language, because that militates against the very principle of learning. You cannot burden the mind of the child by forcing him to receive his primary education in an alien tongue and script. Sir, the object of this amendment is in no way meant to debar the children of minorities from learning the language of the State. It is in the interests of the children of the minorities themselves that they should learn the language of the State, whatever that language may be, as their economic future as well as entry in services, etc., depends that they should be well conversant with the language of the State. Therefore it should not be taken that I am in any way opposing the idea of the children of minorities learning the language of the State—but mine is a fundamental point because on good foundations of learning can education be effective. Sir, I do not think that it would have been necessary to have moved this amendment at this stage, but there are practical difficulties which we have experienced and therefore it is necessary that in the fundamental rights some provision should be made which would make the position clear and which would guarantee to the children of the minorities living in the territory of India the right to be given instruction in their own mother tongue in the primary stages. With these words, Sir, I move this amendment and hope that it will be accepted.

(Amendment No. 715 was not moved)

Mr. Vice-President : The article is open for general discussion.

Shri Mihir Lal Chattopadhyay (West Bengal : General) : Mr. Vice-President, Sir, this particular article 23 of the Draft Constitution is a definite guarantee to the minorities that their language, culture and script will be protected in every way. There are different kinds of minorities in this country and all these minorities based on language, script and culture will really find a great protection in this article. It is true that in different provinces of this country there are minorities living who have languages different from the language of the majority and it is a fact that in many provinces in India the minorities based on language are subjected to various types of disabilities and as a result, for some time past, there is a subdued voice in the country about the tyranny and imperialism of language. The other day, Mr. T. T. Krishnamachari made a reference about the Imperialism of language. I have no quarrel with him on this matter but I do not know how long it will take for a citizen of this country to accept joyfully a national language that is the language of this country, but it must be acknowledged that a minority having a definite and distinct language of its own, but residing in a province, where the provincial language is different, ardently seeks to maintain its language and its culture without being interfered in any way. It is true that this country is divided into different provinces and each and every

province has got a provincial language of its own, but unfortunately, in the matter of demarcating the provinces, the British Government did not take much care about demarcating on the basis of language and for that matter in almost every province there are minorities and there has really arisen some danger of the language and culture of the minorities in the different provinces being put under numerous disabilities.

This article 23 gives an assurance to the minorities that their languages will be guarded, the minorities will be able to conserve their own languages and not only conserve, but a definite development also can be made by them. The minorities also will find no discrimination made in the matter of Government aid for the protection and development of their languages. This article 23, is, therefore in every way a great charter of right for the different linguistic minorities in the different provinces of India. It is necessary that the minorities living in a province should not all the time feel themselves isolated and consider themselves as something definite and distinct from the nationals of that province in civic life. The minorities have also to adopt themselves to the language and the culture of the provinces they live into a large extent. No minority should live in a province as a foreigner as the British people or their half-brothers in India have lived all these years; but the majority also should have maximum consideration for the minorities in the provinces so far as their language and culture are concerned. In fact a new example has been set by the Congress the other day when the Congress directed some of the Provincial Congress Committees that the minority having a language different from the language of the province, will be allowed to carry on correspondence with the provincial Congress Committees in the language of that minority.

The demand which is being heard from various quarters about realignment of provinces or rather redistribution of provinces on linguistic basis, will be satisfied to a large extent by the provisions of this article in the Draft Constitution. The minorities are mightily afraid of their languages being put out of existence by the aggression of the majorities, who might be very unsympathetic towards the minorities in these matters. The minorities are zealous about guarding their own language and culture, and quite naturally they should be so. The majority must have some sympathetic understanding about the feeling and outlook of the minorities. By that alone, in the different provinces, the cry that has arisen about the redistribution of territories on a linguistic basis will stop to a large extent. We all know that soon after the partition of India into two parts, the question of redistribution of provinces on linguistic basis is be set with many difficulties. It is a problem that will take a long time to settle. But, it is to be remembered that if minorities are subjected to tyranny and oppression and aggression by the majority in the matter of language and culture, there will be trouble in this country and the Governments in the provinces will be faced with difficulties. Therefore, this article 23 is a clear direction to the majority in the different provinces to look after the interests of the minorities so far as language and culture are concerned. If the majority in dealing with the minorities tries to understand their view point and tries to safeguard their interests so far as language and culture is concerned. I think the voice that has risen in India about the immediate redistribution of provinces on linguistic basis will be consoled to a large extent.

I wholeheartedly support this article.

Shri R. K. Sidhwa : (C. P. & Berar : General) : Sir, regarding this article on education based on religion or otherwise, I would have certainly preferred a very clear and unambiguous provision. Sir, some of the provisions of this

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article are contradictory. While the Constitution has recognised that all communities have a right to give education on religion, article 22 states that where State aid is given, there shall be no religious education provided. Again, there is a proviso that communities which do not expect any State aid shall have a right to give education on religion according to their choice and custom. Personally, Sir, I feel that as far as religious education is concerned, it should have been mentioned in unambiguous terms that wherever an educational institution receives State aid, there shall be no religious education taught in those institutions. My objection is not because I am averse to religion. I believe in religion, Sir, I believe in the existence of God. But, I do feel today that the religious books of the various communities are translated by various authors in a manner which has really brought disgrace to several religions. The authors have translated some of the very beautiful original phrases in their own language to suit their own political ends, with the result that today on religious grounds we know the country has broken into various pieces. I therefore desire, Sir, that in the matter of education, which is the fundamental basis of our future, it should have been clearly stated that under the existing circumstances, there shall be no religious education provided in any institution which receives State aid.

As I have stated, Sir, while the State has not recognised any religion, they have allowed those institutions which do not receive State aid to impart religious education in their institutions. I do not want to go into the various phases of the religious scriptures which are being taught in the various schools. I know of instances where in the name of religion communal hatred has been taught. I do not know whether in this new era when we will be functioning under this Constitution, the same type of religious education would be taught. There is no restriction regarding that kind of religious instructions that are being given in various schools. I can quote them; but I do not want to create any kind of ill-feeling between community and community. I only wish that in this matter the Constitution should have made it clear as to what education means as far as religious education is concerned. On that matter, this chapter is silent; not only silent, but I apprehend that in the name of religion, there will be the same type of religious education taught in the institutions. I have been reading and re-reading these two chapters and I feel that there is no kind of control over such kind of schools and colleges. On the contrary, it will be stated that the Constitution has given them freedom to teach religion in any manner they like. Knowing fully well, as we do, what religion in this country means to various communities, this chapter, I feel, Sir, should have been more clear.

As far as the suggestions and amendments that where various communities and minorities reside, education should be in their language. I find clause (b) is clear, although I would certainly have preferred the amendment of Damodar Swarup Seth, which is very clear. I do not think the State denies this even in this Constitution. Here, the minorities must not be misunderstood to mean religious minorities; minorities mean various classes of people. For instance, in Bombay, there are eighteen classes of people. Just now four lakhs of Sindhis are in Bombay. The Corporation have recognised the Sindhi language. Although they have not recognised the Sindhi language, they have opened schools for them. I do feel there is provision in this Constitution wherever there are such classes or linguistic communities or sub-communities, the State shall provide all facilities to them. If the State were to deny that, that State will not be discharging their duty. I am quite clear that the Constitution has made provision to that effect. In the Directive principles also we have stated that every child, no matter to whatever class he

belongs, shall be imparted education compulsorily by the State. There is no fear as far as this is concerned, that all children, whether they belong to any small minority or linguistic minority, would be provided education in their own mother tongue. Mr. Lari's amendment therefore is out of place. I am clear that the Constitution has provided for this and if such education is not provided, I would state that the State and the provinces and the provincial Governments would be failing in their duty and not discharging their duty by providing that kind of education which it is their duty to provide.

Shri Jaipal Singh (Bihar : General): Mr. Vice-President, Sir, I have great pleasure in welcoming this article, more so as it has been suitably amended by Dr. Ambedkar, and I hope his amendment will be accepted by the House. Sir, to me this article seems to open a new era for India. Recently there has been such a lot heard about linguistic provinces, and, my friend from West Bengal has already hinted that this particular article opened a way for a realignment of provincial boundaries, for the creation of fresh provinces. Sir, I do not look upon this article in that light. I do not believe that provinces should be carved out purely on a linguistic basis. There are other factors also that must be considered. There is the administrative convenience; there may be the geographical argument; there may be the economic demand and various other factors which must be taken into account before the linguistic argument can be given the emphasis that is demanded of people who feel aggrieved that they are a linguistic minority in any particular province. I do hope that once this article is passed by this Assembly, all the Governments of the provinces will see to it that its spirit is implemented immediately. They need not wait till the Constitution as a whole is brought into existence. Already in my part of the world there is a tremendous—a very unhealthy—linguistic warfare going on. It is assuming dangerous proportions, in my own case, in Chota-Nagpur hitherto—on the ground of language, attempts are being made to snatch a bit to the east, snatch a bit to the south, snatch a bit to the west. No consideration whatever is given to the fact that there are other grounds also which have to be taken into consideration, *e.g.*, the question whether administratively this or that portion should be taken out of a particular area. I urge, and I have urged this before elsewhere also, that language by itself is no argument for the creation of new provinces or for realignment of boundaries. I do hope in my part of the world—particularly the Provinces of Bihar, Orissa and West Bengal will now see a new way of approaching this linguistic problem. In Bihar, for example, the Bengali-speaking people have always made the grievance that they were being victimised by the Hindi-speaking majority of the province. Sir, much has happened in the past—it is an ugly chapter—but I do hope now that this particular article will be in the Constitution that even the linguistic minorities may look forward to a confident future where they will have opportunities of conserving and developing their own particular languages. Sir, when we talk of languages, we generally think of languages that have a highly developed literature, that have a script and so forth. I would like to urge that languages that have not a script also deserve to be conserved and, to use Prof. Shah's amendment,—‘developed’. I have been trying to look through the figures in the language census that has been provided us and I find that the languages of this country have been divided into five main divisions and in this division I find that the aboriginal languages have been classified separately. Now take the language which is known as the Mundari group of languages. According to the census I find there are very nearly 5 million people who speak the Mundari language. How many members are there in this House really who know that Mundari is a very rich language, that there is the Mundari Encyclopaedia—14 volumes of it? Yet, can it be said that in Mundari speaking areas that language is being encouraged? Is it not the practice that

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every ruling class tries to drown whatever language there is in the country? We have had instances where a ruler has been an Oriya, he has forced Oriya upon the people of his State. The British came and they tried to thrust English down our throats. May be in Bengali-speaking areas, Bengali is insisted upon. Sir, I accept that, whatever be the provincial language, every person must learn that language. We have yet to decide what the rashtrabhasha will be—what shall be our national language. Everyone of us must learn that language. I want to urge that the languages must be conserved and developed. I realize that, in many instances, particularly of the aboriginal people, it would mean their learning three languages, viz., their own, the provincial language and also the rashtrabhasha or the national language. But I do not think it would be too much of a strain. After all the mother tongue is such that it does not exact the speaker much, but the main thing is this that all the provinces wherever there are linguistic minorities—I hate to use the word ‘minority’ in that sense—wherever there are linguistic minorities, the provinces should take a positive step in encouraging, in conserving, in developing all the languages that are capable of being conserved and developed. There are certain languages that will go under. I do not think there is much point in trying to keep alive a language that has not enough vitality in itself, that could not on its own momentum compete against other languages. I am not trying to defend those languages that have come and gone but I am thinking of languages that have survived through thousands and thousands of years and, if they are developed, they are capable of teaching us much about the past. I may give an instance. Now we know very little about ancient Indian history. That is largely because the most ancient stock of people who lived in this country, their languages have not been studied by the new-comers. It is a sad fact today that most of the aboriginal languages have been studied by foreigners. I doubt if there is a single Prime Minister of any province who can speak the aboriginal language of the majority of the aboriginals in his province. I doubt if there is a single minister in this country today who can speak any aboriginal language. If we are to develop these pre-Aryan languages, we shall find revelations from the ‘Asurs’ for example, we shall know more of the early days of the incoming of the Arya-speaking people. There are many things yet to be learnt about the ancient past, not only of the people but of the country as a whole. I look at article 23 from various angles. Sir, I have great pleasure in welcoming this article and I do hope that the Provincial Governments will act according to the spirit of this article long before the Constitution actually comes into existence so that the bitterness that there is in the provinces on account of this linguistic warfare may gradually disappear and all linguistic minorities may feel that their languages will not be victimised, that they may develop their languages as they like and that their language has a rightful place in the country.

The Honourable Shri K. Santhanam : Mr. Vice-President, Sir, this article deals with one of the most difficult problems which free India will have to face. The problems of religious minorities and of scheduled castes are legacies of the past and I expect that in the near future they will simply lapse owing to the lapse of time and owing to circumstances. But the question of the linguistic minorities will be a problem for many decades to come and I am afraid, it is going to cause the country a great deal of trouble.

Sir, I have great sympathy with Mr. Lari and others who plead that more categorical assurances should be given by the Constitution for the linguistic minorities. But I am afraid it is not possible to go further than what the article tries to do. It protects them in three different ways. Clause (1) of article 23 gives the right to every minority to conserve its own culture.

Maulana Hasrat Mohani: This is no right. What is it?

The Honourable Shri K. Santhanam : Sir, you will remember that throughout Europe, after the first World War, all that the minorities wanted was the right to have their own schools, and to conserve their own cultures which the Fascist and the Nazis refused them. In fact, they did not want even the State schools. They did not want State aid, or State assistance. They simply wanted that they should be allowed to pursue their own customs and to follow their own cultures and to establish and conduct their own schools. Therefore I do not think it is right on the part of any minority to depreciate the rights given in article 23(1).

Sir, in clause (2) of article 23 they are protected against discrimination. It is just possible that there may be many provinces based on language and therefore the Government, the ministry and the legislature will be composed dominantly by members of the majority language. This right of non-discrimination will then become fundamental and valuable.

And then in clause (3) of this article, it is provided that when the State gives aid to education, it shall not discriminate against any educational institution, on the ground that it is under the management of a minority, whether based on community or on language, and this will be particularly applicable to the linguistic minorities. In every province, there are islands of these linguistic minorities. For instance, in my own province of Tamil Nadu there are islands, in almost every district, of villages where a large number of Telugu-speaking people reside. In this connection we have to hold the balance even between two different trends. First of all, we have to give to large linguistic minorities their right to be educated—especially in the primary stages—in their own language. At the same time, we should not interfere with the historical process of assimilation. We ought not to think that for hundreds and thousands of years to come these linguistic minorities will perpetuate themselves as they are. The historical processes should be allowed free play. These minorities should be helped to become assimilated with the people of the locality. They should gradually absorb the language of the locality and become merged with the people there. Otherwise they will be aliens, as it were, in those provinces. Therefore, we should not have rigid provisions by which every child is automatically protected in what may be called his mother-tongue. On the other hand, this process should not be sudden, it should not be forced. Wherever there are large numbers of children, they should be given education—primary education—in their own mother-tongue. At the same time, they should be encouraged and assisted to go to the ordinary schools of the provinces and to imbibe the local tongue and get assimilated with the people. I feel this clause does provide for these contingencies in the most practicable fashion.

Sir, Mr. Lari wanted an amendment which seeks to provide that every child, rather than every section of the citizens, shall be entitled to have primary education imparted to its children through the medium of the language of that section. I suppose what he means is that wherever primary education is imparted at the expense of the State, such provisions should be made. But this, I think, would give the minority or section of people speaking a language the complete and absolute right to have primary education which the people of this country do not have today. In the directives we have provided that in fifteen years' time there should be universal primary education. But no one knows whether the financial and other conditions in the country would permit of universal primary education to be established even then. Today no one in India can ask for primary education as a right as only ten per cent. of the population get primary education. Therefore, it is not possible to accept Mr. Lari's amendment, because that would lead to all kinds of difficulties. If it were passed,

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then anyone can go to the Supreme Court and say that his child must get education in a particular language. That is not practicable, and I do not think even his intention is at all that.

At the same time, I think, what he has pleaded for must be kept in mind as a general policy. It should be the direction of the Central and the Provincial Governments to see that wherever there are congregations of boys and girls having a distinct mother tongue, schools should be provided in that language. I hope that will be the policy adopted all over the country, especially as, if there is going to be new linguistic revisions of the boundaries, all the border areas will be full of this problem. I hope the report of the linguistic Provinces Commission will contain some wise provisions to be adopted in this behalf. There should be no difficulty or hardship whatsoever in provinces when they are rearranged on a linguistic basis. For instance, if a Telugu goes to one area or the other, he should not have any hardship. As I said, this is a most difficult and complicated problem and it cannot be dealt with in detail in the fundamental rights. This article 23 provides as much security as can be done in the Constitution. Other securities will have to be provided for both by Parliamentary and provincial legislation, and I hope it will be done in due course.

Mr. Z. H. Lari : May I know what machinery he would suggest for the enforcement of those general principles he has just enunciated?

The Honourable Shri K. Santhanam : I have got my own ideas, but it is not for the Constitution to incorporate them. When we meet in Parliament, I shall be glad to put forward my proposals in this direction. For instance, there can be a special linguistic commission to look after these linguistic minorities, to be appointed by Parliament and this commission can tour round the country and look into grievances wherever they may be felt and make suggestions.

Mr. Z. H. Lari : But let me remind that according to the Minister for Education, U.P., it is a provincial subject and he cannot be guided by a resolution of the Government of India.

The Honourable Shri K. Santhanam : I may remind Mr. Lari that wherever people are self-governing, you have to persuade them, even when they are in the wrong; otherwise there is no machinery or commission which can be imposed from outside, either on the provincial ministry or on the central ministry.

Mr. Vice-President : I cannot allow arguments inside the House. Mr. Santhanam, you had better go to your seat. Mr. Biswanath Das.

Shri Biswanath Das (Orissa : General): Sir, I wish I were able to congratulate our Honourable colleagues—the members of the Drafting Committee, but I am sorry I cannot do anything except disapproving portions of this article.

Sir, we have been accustomed to the notion of having two cultures, namely the oriental and the occidental cultures. But our honourable, friends the wise men of the Drafting Committee, have not only given us idea of multicultures but also perpetuated cultural zones; they have not only given scope to perpetuate these cultural zones, but they have also given scope for various kinds of linguistic and script difficulties, not only in India, but also in the Provinces to come in. Thanks to Pakistan it has created a refugee problem for India, a refugee problem where friends migrating not in thousands and lakhs, but in millions are to be distributed all over India. I would appeal to you, to visualise the difficulties of provinces, wherein people from different linguistic areas like Sind, Frontier and East Bengal are to be distributed in various provinces and States in India. Are you going to give them a right to perpetuate their script and their language irrespective of the fact how small or how few they may be?

I should appeal to you to consider this question coolly and seriously. Are your finances so very extensive as to provide for anything that is called upon to be done, even for a small percentage of people? For myself, personally, I have no objection because I yield to none in my anxiety to give all necessary

facilities in India to linguistic minorities and groups. But are you going to give this latitude as called upon here?

It was probably in the year 1938, the Honourable Prime Minister of Madras, who now adorns the gaddi of our mighty ancestors, Indraprastha, I mean His Excellency Rajagopalachariar, told a deputation of Oriya gentlemen at Berhampore railway station that "Well, the time will come when you and your people living in Madras will have to learn in the language of the province. Each minority population distributed in a province has to learn the language of the province."

A different principle has been enunciated altogether in this article. Those who know say there are Oriyas in Andhra and Andhras in Orissa who know the language of the place in which they are staying. So also is the case with people living in Gujarat, the U. P., in Bengal and such like places. Are you, gentlemen, going again to revive the whole thing in all its freshness? This is a serious question and I want you to think seriously over this.

I thank my friend, Mr. Jaipal Singh, for having given a full picture of what his demand is going to be. I want you also to consider that aspect of the question. These are not easy things taken away by snap words. I would therefore appeal to you to consider the whole question in its entirety with all the repercussions it might bring on the future of India.

Shri T. T. Krishnamachari (Madras : General): On a point of order: is the honourable Member addressing the Chair or a public meeting?

Shri Biswanath Das : I know this more than my honourable Friend, having had a longer period of legislative experience. My own misfortune is that I am not able to face you however much I would like. Therefore from the nature of things I am called upon to address my friends however much the rules desire that I should address you. There need therefore be no attempt at coaching in this respect.

Mr. Vice-President : Will you please go back to your own work?

Shri Biswanath Das : Thank you very much. He should save himself and me from advising. The British Government had given us religious minorities. What are those religious minorities? I claim that my Muslim brothers are blood of my blood and bone of my bone. They are mine and I belong to them and they belong to me. There is absolutely no difference so far as their culture is concerned. The culture is ours. It is oriental culture, I do not again see any reason why any trouble would come in on the score of language. So far as my Muslim brethren are concerned, I may say that no less a person than the ex-Prime Minister of Bengal had told me during his visit to Orissa that he was surprised to see that some Muslims in Orissa could talk better Hindi than he himself could do. That is the position of Muslim friends in our country. Go to the South, and you find Muslims in Andhara, Tamilnad and the rest talking Telugu and Tamil and not Urdu. Therefore, their language and culture are one. I would therefore appeal to the honourable Members of this House to look at that aspect of the question.

Having said so much on (1) and (2), I come to (3)(b) which states that the State shall not in granting aid to educational institutions discriminate against any educational institution on the ground that it is under the management of a minority whether based on religion, community or language. Therefore, hereafter be it clearly understood that every minority, living in the remotest village, will claim a special aid for an institution in his language, and that has to be conceded: otherwise both the High Courts and the Supreme Court are his places of refuge. That is a serious thing and I appeal to you to consider this very seriously.

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Having stated so much about this, I come to the question of linguistic provinces, which has been referred to by my friend. It took my breath away to hear Mr. Jaipal Singh giving out his dicta on the question of linguistic division of provinces. Orissa was first in the field to begin this agitation for linguistic provinces.

Mr. Vice-President : I cannot permit you to take up the time of the House with the question of linguistic provinces.

Shri Biswanath Das : I am not. But this was stated and I am replying to it. Orissa first began agitation for linguistic provinces. Others followed us. Therefore the people and the Government of India had to think about this question and the result was that the Government of India in their despatches of 1911 enunciated accepting the principle which was subsequently adopted by Congress in 1921, namely, the linguistic division of provinces and the Federation of India above them. That was the principle that was accepted not only by an alien Government, who never had sympathy for our aspirations but also by all the thinking minds of India, belonging to all schools of thought, including Muslims, Christians and other religious denominations. Therefore, it comes too late in the day in the mouth of my honourable Friend, Mr. Jaipal Singh now to decry this position. If you want an Adibasi-stan, by all means demand it and those who want to concede it let them say so openly. I am not here to side-track issues. The difficulties such as those pointed out should be borne in mind and I appeal to my friends to take a serious view of the difficulties that I have placed before them and the finances that are required to put into operation article 23 in this regard. Though I bow down to the joint wisdom of the House and my party, I must clearly state before the honourable Members of this House that I do protest against some of these provisions and I have already stated my arguments.

Shri O. V. Alagesan (Madras : General): Sir, this clause seeks to conserve the scripts and languages of sections of citizens. It is very necessary, in view of the fact that the various provincial scripts are now being threatened with extinction, if I may say so.

There is a point of view put forward that the Devanagiri script should be substituted for all the provincial scripts. The All India University Teachers Convention which recently met in Delhi under the chairmanship of a well known political leader has passed a resolution that there should be a common script for all the Indian languages. When it is recognised that the various provincial languages of India are more ancient, more developed and richer in content and expression than the common language, Hindi, it will be realised that this step will cause great dissatisfaction and heart-burning. It is said that there is no organic unity between the script and the language. I do not know. It is for eminent educationists to offer their opinion on the matter. All I can say is that there are certain special sounds in every language which can be expressed only by the ancient script with which the language has been associated. It is not possible otherwise.

This idea was even mooted by Mahatma Gandhi once but he at once saw the inherent contradiction in the position that obtained in the country. We have got for one and the same language two scripts. For Hindi or Hindustani there are two scripts, namely the Arabic or Persian and the Devanagiri scripts. So he gave up the idea and began himself learning the various provincial scripts.

In this matter of scripts and languages I say that the Government of the Union should follow an enlightened policy, similar to that being followed in the U.S.S.R. There they did not countenance the idea of imposing the Russian language or script on the other linguistic minorities. They called such imposition by the name of Russian Chauvinism. I do not want Devanagiri

Chauvinism to be countenanced in this country also. In the U.S.S.R. there were languages without scripts. They went out of the way to provide scripts for them. They did not provide the Russian script but they provided the Latin script. Similarly in India there are languages without scripts. The Konkani language which is spoken by the honourable Father De'Souza, an eminent member of the House, is without a script. Tulu is another spoken language without a script and I think many of the Adivasi languages are without scripts and for each of these languages the Government should provide the alphabet. This clause should be interpreted rather liberally and we should provide scripts for languages without scripts, in which case I have no objection if the Devanagri script is provided for such languages. But to say that we will provide Tamil, for instance, with the Devanagri script is something understandable and inconceivable; and what is the object with which such a proposition is propounded? The object is to achieve inter-provincial unity. Instead of achieving inter-provincial unity I know such a step will hamper it. So it is necessary, when we are going to evolve or decide upon a common All-India language for governmental and administrative purposes, we should not aggravate the situation by saying anything about the script or by speaking of the abolition of the various provincial scripts. By trying to preserve and conserve and advance the provincial scripts and languages we will, I think, evolve greater national solidarity and unification. Sir, I commend this clause for the acceptance of the House.

The Honourable Pandit Govind Ballabh Pant (United Provinces : General): Sir, I am sorry that I have to intervene in this debate. I had no such intention. I had imposed a self-denying ordinance upon myself and have as a rule refrained from encroaching upon the time of the House. I want the time that we have at our disposal to be economised and the Constitution to be adopted as speedily as may be possible. But for the remarks made by one of the Speakers I would not have come to the microphone today. The observations made by Mr. Lari have compelled me to make a few remarks which I think will remove any misunderstanding that his speech might otherwise have created.

So far as this clause is concerned I fully support it. Luckily Mr. Lari has not said that anything has been done in my province against the letter or spirit of this clause. So far as that goes he has not made any assertion or insinuation.....

Mr. Z. H. Lari : I was speaking on the amendment, and had to confine myself to that.

The Honourable Pandit Govind Ballabh Pant : So you admit that so far as this particular clause that has been accepted by the Union Powers Committee and the Drafting Committee is concerned there is nothing that is being done which can be said even by Mr. Lari as being against the letter or spirit of this clause. He thinks that it is not adequate enough for his purpose and therefore he wants it to be amended.

Mr. Z. H. Lari : No, I could say a lot but had no occasion.

The Honourable Pandit Govind Ballabh Pant : So far as his amendment goes, I think many speakers have commented on it and have controverted the arguments advanced by him. I do not consider it necessary to add to the weight of the arguments that have been put forward by them. I should, however, like to mention some facts and some principles which have to be borne in mind. We in this Union of India owe a duty to all citizens who live in this land and we have to do things in such a way as would enable us to make the maximum use of the resources that are available today or that may be available tomorrow. Mr. Lari cannot expect us to feed the fad of anybody at the expense of the tax-payer. In our country, vast numbers are illiterate and they have to be given the benefit of at least primary education. Primary education, in order that it may be made even universal, will cost millions and millions. Now, how are

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our schools to be established and how are our schools to be run? If every school should have two or three sets of teachers, one knowing Nagari and the other knowing Urdu, indiscriminately regardless of the number of students interested in either are we capable of providing for that financially? If such a policy were followed, then we would not be able to introduce universal primary education,—not to talk of compulsory primary education,—till Doomsday. Obviously, you have to examine the situation in every place and then provide such machinery as would yield maximum results.

Sir, so far as my own province is concerned, I do not think there is any linguistic division based on religion. (Honourable Members: 'Nowhere'.) whether it be Hindi, or Hindustani or Urdu, there are many among Hindus who can speak in what is called Urdu and who can write Urdu and some who perhaps can write Urdu alone. There are many Muslims, especially in the villages, who use only Devanagari character and speak in Hindi only and know nothing else.

Maulana Hasrat Mohani : In the villages nobody speaks Hindi.

Mr. Vice-President : That is an interruption of a privileged individual. Do not mind that.

The Honourable Pandit Govind Ballabh Pant : He may rest assured that after the assurance that I have received from the Chair, I will not take notice of his remarks (*Laughter*). As I was saying, once you bear in mind that there is no particular language attached to the followers of any particular religion, then the question of language with reference to or *vis-a-vis* any minority, does not arise at all. No language is the language of the Hindus and no language is the language of Muslims. (Honourable members: '*hear, hear*'.) Especially so far as primary education is concerned and primary classes are concerned, where education of an elementary type is given, there can be no room for any difference of opinion regarding the principle that I have just enunciated. For, in those schools only elementary ideas are propounded and they are propounded in a form which is ordinarily intelligible to everyone. So, there is no question of anything being done that might be prejudicial to any minority as such.

There are men who know Hindi and whose children may be learning Urdu. There are Hindus who know Urdu and there are Muslims who, as I said, know Hindi and Nagari character, and Nagari character and Hindi alone. So, to present it as a communal problem or as a minority problem, while the question of Fundamental Rights is being discussed, is to give it a wrong colour. I submit that the question does not arise in this connection at all.

Then Mr. Lari made some astounding remarks. He said that in Lucknow and in Allahabad, there was no place where Muslims could receive education of a primary character in Urdu. There are Islamia Schools and there are Madrassas and also Government schools and there are Muslim schools and Muslim colleges in both the places and therein hundreds of Muslim boys are receiving education. I cannot understand how Mr. Lari could have made himself responsible for such an inaccurate statement.

Mr. Z. H. Lari : I have got before me the letter from the Principal of the Basic College itself. No arrangement exists in any Government or Municipal school.

The Honourable Pandit Govind Ballabh Pant: I am coming to that. Have a little patience. So far as I am aware there has been no reduction in the number of Muslim students in our schools and colleges in the province during this year. I may also state that there has been no general complaint about any inconvenience having been caused to any class of boys by the system that is in force today. Mr. Lari had some controversy with our Minister for

Education and certain communications were published in the press. The view of Mr. Lari was controverted by some respected Muslims of my province and some Members of the legislature disagreed with him and gave expression to their views in the columns of newspapers. He is probably aware of that Mr. Ismail Ahmed's note was probably seen by him. He says no. It is not right to notice only what suits one. (*Laughter*). From that one can see what is his method of examination of public questions and of forming opinions thereon.

Now, the boys are taught in primary schools in their mother-tongue, and the mother-tongue of Hindus and Muslims and all boys is more or less the same. There is no difference whatsoever. Those who, in the olden days, were obsessed by the idea of separatism have not been able to shed it off even now, (Honourable Members: '*Hear, hear*') and the ghost of '*Two nations*' seems to be lingering somewhere, even within the precincts of this very august Chamber. Otherwise, I think, such a bogey would not have been raised here.

I had received a letter from Mr. Lari in this connection and I consulted our Deputy Secretary and Deputy Director Mr. Ibadur Rahman Khan. I gathered from the latter that the arrangements that had been made were quite satisfactory. In the circumstances I think I am entitled to rely on the advice and information of those who know more about every school in the Province than Mr. Lari.

I may also inform honourable Members that we are still giving considerable sums by way of grants for the Islamia schools and the Madrasahs to which only Muslim boys have access. So, to insinuate here that any discrimination was being made against Muslim students is hardly fair, much less can it be said to be charitable.

Coming now to the specific case of Mr. Lari's son, I tried to find out the facts and was told that there are very few boys in that class who wanted to have Urdu as their script. They were mostly, excepting perhaps a few—perhaps Mr. Lari's son was the solitary exception—satisfied with the arrangements. Mr. Lari can say how many boys were therein that class who shared his view or whose guardians shared his view and wanted.....

Mr. Z. H. Lari : All shared my view, but the principal said: 'Nothing of the sort'. "No option was permissible".

The Honourable Pandit Govind Ballabh Pant : So far as I am aware his boy is the only one in the class who desired this separate arrangement (*Laughter*). Now, there are no doubt schools in Allahabad where Devanagari character which has been accepted as the National script of the Province is in use.

He could however have sent his boy to one of the other Islamia schools and to other schools where the Urdu script is adopted and training in the form and in the manner which would have suited Mr. Lari is given. Does he expect the House to accept that where there is one boy, where there are ten boys, there should be two sets of teachers, one for nine hundred or a thousand boys and the other for ten? If so, how is the cost to be met? How are we to explain this to the taxpayer? Then, one has to take into account also the fact that there are not only men who want this script or what they regard as high-flown Urdu to be adopted in the schools but we have also certain cosmopolitan cities where we have fair numbers of Maharashtrians, Gujaratis and others. Should we then have, because there are five or ten Bengali boys or because there are five or ten Gujarathi boys, different sets of teachers who will give instruction in Bengali or in Marathi or in Gujarathi or in Telugu for the benefit of the few boys that are there? Nobody can accept that and they have never asked for it. They have accepted the position and

[The Honourable Pandit Govind Ballabh Pant]

they have always been contented with the arrangements that have been made. Now, if anyone presses here for an arrangement under which anyone wishing to give preference to Urdu should be provided with a new set of teachers in every school to give training in that script and in that language. I am afraid the government will not be able to meet his wishes. It is not possible for any Government to do that, and Mr. Lari has himself accepted the amendment, so far as I understand, that was moved here that such arrangements should be made only where there are substantial numbers. I think that amendment was moved by Kazi Syed Karimuddin.

“in case of substantial number of such students being available.”

Now, these are exactly our instructions that where substantial numbers of such students are available, arrangements should be made; where the numbers are not substantial, then we cannot incur such expenditure. Can anything be more equitable, can anything be more generous? The fundamental article that we are adopting here does not require us to make any provision like that at all. It only gives freedom to the followers of a language which is different from the national language, from the State language, to preserve their language. It does not require the government to make any special provision for them. But we have gone much beyond that, and we have given special privileges. We have made necessary arrangements for them. There are thousands and thousands of such boys who are receiving instruction today and we are spending large amounts on their education. We want to encourage education among them, to attract even large numbers, to make things as easy as may be possible, but there is a limit beyond which no government can go, and I sometimes find myself in a very difficult position and feel a little distressed, if not dismayed, by the charges that are glibly made in utter disregard of attempts sincerely and earnestly made by us to accommodate every section of the people and to give every possible facility to every single individual in the province. We hope that such statements of an irresponsible character will not be made and more than that, that nobody here will allow himself to be misled by the sort of remarks which are neither based on facts, nor are correct, and which ignore the duty of the State to the general body of citizens and the obligations that the State owes to the vast majority of people living under its protection. In a case like this, to raise a linguistic problem in a manner like this as though it was a communal problem is most unfortunate. Instead of helping the cause which I would like to assist to the best of capacity, it will create difficulties and hurdles. I hope greater care will be taken in dealing with such questions in future.

An Honourable Member : The question be now put.

Mr. Vice-President : Motion for closure has been moved and I would call upon Dr. Ambedkar to speak. Or do you want to prolong the discussion?

Honourable Members : No.

Maulana Hasrat Mohani : Sir, an exception should be made in my case and I will be glad if will give me some time to speak. I gave notice of an amendment but I was cheated by Dr. Ambedkar. Please allow me to have me say.

Mr. Vice-President : All right, please come to the mike.

Maulana Hasrat Mohani : *[Sir, my intention was simply to move an amendment to amendment No. 691 here which sought to amend the amendment to be moved by Dr. Ambedkar. But later on when other amendments were also moved, one of these amendments, No. 676 was moved by Mr. Lari. I whole-heartedly support it. The reason is, as Mr. Lari stated, that the Sub-committee which was appointed by this House to deal with the Fundamental Rights had unanimously laid down the following principle:—

“Minorities in every Unit shall be protected in respect of their script and culture and no laws regulating them may be enacted”.

This is a comprehensive principle. I fail to understand how Dr. Ambedkar could frame a new principle and introduce an altogether different proposal in the Draft. Mr. Lari had raised serious objections to it. I, too, seriously protest against it. He should not have done so. It was passed by the Committee in May 1947, and was adopted by the House.

Now, I would like to say something about the amendment which I had moved in this connection. As certain events have occurred and Mr. Pant, the Premier of my province and Mr. Santhanam have said something about this, I would like to reply to them briefly. It is this: Mr. Santhanam has said that the amendment of Mr. Lari, namely, amendment No. 676, would certainly give us protection. He also stated that language and script are included in it and when after fifteen years, this question will be settled, then we shall consider it. Then again, when Mr. Lari raised the point as to what would be done in our province; the reply was: “The decision of the Central Government is not binding as Education is a provincial subject.” That is why the Advisory Committee has not accepted it. It is not going to accept it. The reply given was: “you will have to flatter the majority of your province. They will decide.” I say: What is the idea of fixing a time limit of fifteen years? I would like to mention what the attitude of the Government has been in the United Provinces upto now. Wherever Englishmen came, they introduced English, but it was only higher education which was imparted through the medium of English. Justice demands that we should ‘give the devil its due’. I will praise them to this extent that they had fixed English only for the purpose of higher education. So far as secondary and primary education was concerned, they had introduced the same system which is in vogue in our province up till now. There was separate vernacular educational institution for Vernacular Middle Education. There were high schools for imparting education through the medium of English. That is to say, for those who wanted to accept English as medium of instruction in higher education, the high school medium of instruction used to be English. For those who did not want it, there were Vernacular schools everywhere in the districts. Mr. Pant asked how it was possible to bear double and triple expenses. How have we been doing it up till now? Was not Vernacular in use up till now? Was not this arrangement made in every town, in every village and in every district? And is it not a fact that those whose mother tongue was Urdu, if they wanted to use Urdu script up to secondary stage, were allowed to do so up to the Middle Standard? This was adopted even by those who claimed Hindi as their mother tongue and in fact they used to speak in Hindi. Those who wanted to go up to Intermediate and B.A. Classes for learning English, they used to get themselves admitted in high schools. The least that I would demand of my provincial government is this: Leave the question of fixing a common language to the Union. I have absolutely no concern with that. You may decide to have Hindustani or Hindi or Sanskrit as your interprovincial language. Do whatever you like, but the question of medium of instruction and language to be followed in each province should

* [] Translation of Hindustani Speech.

[Maulana Hasrat Mohani]

be distinct. If you want to accept Hindi for the United Provinces I have no objection. But so far as medium of instruction is concerned, as long as Urdu is our mother tongue, it is ours by right and forms part of the Fundamental Rights. Today, if it is demanded of the Government to provide education for the people through the medium of their mother tongue and their script, arrangements shall have to be made in Government Schools and if you will not do it—then.....]

An Honourable Member : You may go to Pakistan.

Maulana Hasrat Mohani : *[You may go to Hindukush and settle there from where you have come. Why we should go? We have come from Central Asia.]

Mr. Vice-President : It is cruel on the part of honourable Members to bait an old gentleman.

Maulana Hasrat Mohani: *[If it is so, then in reply I would tell both Mr. Pant and Mr. Santhanam, as they too have asked where the money is to come from and how it would be possible to make duplicate arrangements, in case there is only one student, I say that the assertion just made that the Muslims residing in villages speak Hindi language is totally wrong. I challenge Pandit Pant or anyone else, who so desires, to accompany me to any village and talk to a Muslim on any subject in Hindi. He will get the reply in Urdu. They speak cent per cent Urdu. It is another thing that we say 'Khushi' while they may pronounce it as 'Khusi'. We say 'Hafiz' while they may pronounce it as 'Hafij'. We say 'Gharib', and they may say 'garib'. We say 'Naqd', and they may say 'Nagad'. Beyond that, there is no other difference. I will accept your contention that Hindi is the mother tongue of the village people only when you go to any village and ask this question to a villager: "Kya 'Barsat' shuru ho gai?" His reply would be, "Barkha shuru ho gai". But that is pure Urdu. I shall accept your assertion if he replies that 'Barkha arambh ho gai hai'. If he uses the word 'arambh' I will agree that Hindi is his mother tongue. If he uses the word 'shuru' then that would be Urdu. My claim is that cent per cent people of U. P. speak Urdu. Those who say that the language spoken by the U.P. Muslim is Hindi, are totally in the wrong. I challenge you to hold a referendum on this issue. If you cannot do that, then look to the language used in the villagers' programmes by the A.I.R. It would reveal to you that they pronounce 'Khushi' as 'Khusi'. Seldom a Sanskrit word is used in their language. If that is so, how can you say that the language of the rural areas is Hindi? Therefore, I challenge you on the point. You have no right to say that Hindi is the language of U. P. villages. So much about the amendment of Mr. Lari.

I would appeal to Honourable Dr. Ambedkar to accept, as being the decision of the House, and of our Fundamental rights Committee, amendment No. 676 which has been moved by Mr. Lari. You may accept or reject it. It depends on your sweet will. You have a majority with you which consists mainly of one party.

I oppose the amendment; put it to the vote. Where is the use of having the farce of this Constituent Assembly?]

Mr. Vice-President : I cannot allow you to use this expression (*Interruption*): Kindly take your seat. I am quite able to maintain order in the House without your assistance. Maulana Saheb, you have already taken ten minutes; I will give you only two minutes more.

Maulana Hasrat Mohani : *[I want only five minutes. I will finish within five minutes.]

Mr. Vice-President : All right.

* [] Translation of Hindustani Speech.

Maulana Hasrat Mohani : *[Now I want to say a few words about my amendment, which is an amendment to the amendment, not yet moved by Dr. Ambedkar. As my amendment has been declared out of order, I want to say something about it.]

After great deliberation I submitted my amendment to Dr. Ambedkar's amendment No. 691 because it so happens that an amendment or any other thing put forth by him is generally accepted and so along with that mine too might have been accepted and Honourable Vice-President too, who has been vested with discretionary powers to allow or disallow a motion, selected No. 691 out of so many others, viz., out of 691, 692, 693, 694, 696, 697 and 698, which are all of similar import, to be moved in the House. Is it justice not to allow me to move it now? Why does not Dr. Ambedkar move his amendment? I think it has not been moved because thereby the minorities would have got their right in full.

It is made clear that every important minority shall have the right to receive education in its own mother tongue and script.]

Pandit Thakur Dass Bhargava : *[Maulana Sahib! May I tell you that article 23 (2) has nothing to do with language or script. It is regarding the right of admission into the educational institutions.]

Mr. Vice-President: Pandit Thakur Dass Bhargava, you should address the Chair. I am sorry I should have to point this out to you.

Maulana Sahib, I have given you another five minutes.

Maulana Hasrat Mohani : *[Only two or three sentences, Sir. I am finishing. Therefore I want to state that the Advisory Board too have decided that every one has the right to receive education in his own mother tongue. In relation to University Education also it has been decided that medium of the mother tongue would be retained. Hence, you have got no right to avoid it.]

The question of language and script is of very great importance. The fall of Turkish Empire was because it attempted to force their language upon others. As their rule has come to an end, similarly you will also not be able to rule.]

Shri Satyanarayan Sinha (Bihar : General) : The question be now put, Sir.

Mr. Vice-President : Two more requests have been made. I do not think I can allow this discussion to continue. Dr. Ambedkar.

Pandit Hirday Nath Kunzru (United Provinces : General): Sir, this subject is an important one. Will you be so indulgent as to allow me to speak?

Mr. Vice-President : We are always prepared to hear you. Our only regret is you do not speak very often.

Pandit Hirday Nath Kunzru: Mr. Vice-President. Sir, the subject that we are discussing today is one of fundamental importance. We are dealing with Fundamental Rights. We have tried to approach this subject in such a way as to ensure the people of India in general and the members of various classes and communities in particular that their basic rights will be fully safeguarded by the State. One of the most important rights that any community can claim relates to language and culture. I am not surprised therefore that clause 23 has led to a prolonged discussion. The article as it is gives such minorities as have a distinct language, script and culture, the right to conserve them. But it is not clear whether in the primary schools started by Government the languages and scripts of the minorities will be taught in case the parents of a substantial number of the pupils demand that their children should be given instruction in their own languages.

* [] Translation of Hindustani Speech.

[Pandit Hirday Nath Kunzru]

Sir, this is a subject of the utmost importance. Anyone acquainted with the history of Eastern Europe knows what conflicts the denial of the claims of the minorities on this subject have led to. One of the most important questions that engaged the attention of the League of Nations was the protection not merely of the general civil rights of the minorities but also of their right to use their own language in areas where they formed a substantial proportion of the population. The amendment moved by my friend Mr. Lari as amended by Mr. Karimuddin's amendment seems to be one that deserves the serious and sympathetic consideration of the House. Though put forward in the interests of the Muslim community it will afford protection to all minority communities. India is not the only country where there is a diversity of language. There are other countries too where people speak more than one languages. The most notable case is that of Russia. There is one language that serves as the *Lingua Franca* of the territories ruled over by the Russian Government and that is Russian. But at the same time the development of the local languages is encouraged and every effort is being made to raise the culture of the local communities to a high pitch. Russia has gone so far in this direction as to give a script even to those communities under its rule that possessed none before. It has thus assured all the communities subject to it that it proposes to grant them complete protection in regard to all those distinctive things that they value, to all those things that enable them to take pride in their own history and achievement, in all those things that make them feel that they have not merely received benefits from other communities but have also been in a position to place something of value before them. If our Muslim friends today, actuated by a similar feeling, demand that their children should be given instruction in primary schools through their own language and script, where a sufficient number of them asks for this, the demand cannot be considered as extravagant. It is a demand which we should, if we are actuated by justice, be ready to grant.

Pandit Thakur Dass Bhargava : Who is opposing this demand?

Pandit Hirday Nath Kunzru: In view of the heated discussion that has taken place and my inability to understand whether the amendment was going to be accepted or not, I have thought it necessary to place my own views before the House. If my Friend Pandit Thakur Dass Bhargava has guessed the feeling of the House accurately no one will be happier than myself.

Pandit Thakur Dass Bhargava : The Honourable Pandit Govind Ballabh Pant has accepted the principle in his speech.

Pandit Hirday Nath Kunzru: I was not in the House when Pandit Govind Ballabh Pant spoke but my information is that the amendment moved by Mr. Lari as amended by Kazi Karimuddin has not been accepted by Pandit Pant, or Dr. Ambedkar.

Pandit Thakur Dass Bhargava : It has not been accepted because it is not justiciable as the right to primary education itself is not justiciable at present.

Pandit Hirday Nath Kunzru : Sir, now my honourable Friend Pandit Thakur Dass Bhargava shifted his ground. He says that the amendment has not been accepted because the right is not justiciable. Does this mean that he too is going to oppose the amendment of article 23 in the sense demanded by Mr. Lari? If he is, then what was the point of his question? How did he get up and ask, who was opposing the amendment?

Mr. Vice-President : I am sorry I permitted the first interruption. It is leading to endless trouble.

Pandit Hirday Nath Kunzru : Sir, I am grateful to you for permitting it, for it has enabled me to clarify my position and to understand where my honourable Friend Pandit Thakur Dass Bhargava stands. If the only objection of the House to the insertion of Mr. Lari's amendment to article 23 is that

it is not justiciable, will Government give an undertaking that this amendment will form part of the Chapter containing the Directive Principles of State Policy?

An Honourable Member : There is no Government here.

Pandit Hirday Nath Kunzru : After all Dr. Ambedkar who is the Chairman of the Drafting Committee is the Law Minister of the Government of India.

Mr. Vice-President : That is accidental.

Pandit Hirday Nath Kunzru : If he is prepared to say that the principle underlying the amendment will be included in Part IV, I for one shall be perfectly satisfied. But an Honourable Member says that he is not prepared to accept it. It should be obvious now to my friend Pandit Thakur Dass Bhargava that it is necessary for one who is for full tolerance in the matter of language, script and culture, to stand before this House and place his convictions before it. I am very sorry, indeed, to find from the interruptions of a number of my friends that the general feeling in the House is against Mr. Lari's amendment. Frankly, Sir, I cannot understand members standing up for full rights for the minorities objecting to the claim put forward on behalf of the Muslim community, by Mr. Lari. The amendment put forward by him might have seemed to be too wide, for if it were accepted, it would enable the Muslim community to claim that Urdu should be taught even when there was one boy in a school who wanted to learn it. But the amendment of Mr. Karimuddin has completely removed that fear, and Mr. Lari, I understand, has accepted that amendment.

Mr. Z. H. Lari : Yes.

Pandit Hirday Nath Kunzru : It is therefore, clear that the Muslim community will be able to exercise the right asked for by Mr. Lari only where a substantial number of Muslim students are available to profit by instruction in Urdu. I ask the House whether on any ground of justice and tolerance, they can deny such a reasonable claim. It does not interfere in the least with the establishment of a *lingua franca* for the whole of India. (Honourable Member: it does, it does.) It does not, in the least. If my honourable Friend reads the history of Eastern Europe and of Russia with a dispassionate mind (Honourable Members : Why not Indian history?), he will find that his fears are completely groundless. The dissatisfaction of the minorities has risen to a dangerous pitch only in those countries where their just claims in respect of the preservation and promotion of their culture have been denied. But those countries that have treated the minorities justly in this respect have received their full support in the political sphere. I ask my countrymen to profit by these examples and take a warning from the history of Eastern Europe. Comparative peace was restored in Eastern Europe only when the League of Nations was able to intervene as far as was practicable in the circumstances to protect the language and culture of the minorities. Do we want, in utter disregard of this history, to pursue the dangerous path of fanatical nationalism as the majorities in Eastern Europe did for a number of years? An honourable Member asks me what led to the second world war. I have never claimed that there has been only one cause of conflict throughout the world. Many causes have led to wars in the past, and are still keeping the nations of the world estranged from one another. But does that mean that we may thoughtlessly add to these causes and deny elementary justice to the minorities, because we have it in our power to pass any measures that we like? The mere fact that that power is in our hands should make us pause, and go out of our way to treat the minorities generously. My friends, I request you with all the earnestness at my command, I request you as a humble servant of the

[Pandit Hirday Nath Kunzru]

mother-land, I request you as one of your sincere well-wishers to think seriously before you reject Mr. Lari's reasonable amendment. It does not go beyond the necessities of the case; and we shall be putting ourselves hopelessly in the wrong if we use our majority tyrannically to turn it down. I hope that the House, notwithstanding the feeling that the discussion has excited, will consider the matter dispassionately and in a spirit of justice, toleration and generosity accept Mr. Lari's amendment.

Mr. Vice-President : Dr. Ambedkar.

Prof. Shibban Lal Saksena (United Provinces : General) : Sir, I have to say something, and.....

Mr. Vice-President : I cannot allow the discussion to be prolonged any longer, and my decision is final in this matter.

Prof. Shibban Lal Saksena : To allow some people and not to allow others is not proper.

Mr. Vice-President : I know it is considered improper. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, of the amendments which have been moved to article 23, I can accept amendment No. 26 to amendment No. 687 by Pandit Thakur Dass Bhargava. I am also prepared to accept amendment No. 31 to amendment No. 690, also moved by Pandit Thakur Dass Bhargava. Of the other amendments which have been moved I think there are only two that I need reply to, they are, No. 676 by Mr. Lari and amendment No. 714 also by Mr. Lari. I think it would be desirable, if in the course of my reply I separate the questions which have arisen out of these two amendments.

Amendment No. 676 deals with cultural rights of the minorities, while the other amendment No. 714, raises the question whether a minority should not have the Fundamental Right embodied in the Constitution for receiving education in the primary stage in the mother tongue.

With regard to the first question, my Friend, Mr. Lari, as well as my Friend, Maulana Hasrat Mohani, both of them, charged the Drafting Committee for having altered the original proposition contained in the Fundamental Right as was passed by this House. It is quite true that the language of paragraph 18 of the Fundamental Rights Committee has been altered by the Drafting Committee, but I have no hesitation in saying that the Drafting Committee in altering the language had sufficient justification.

The first point that I would like to submit to the House as to why the Drafting Committee thought it necessary to alter the language of paragraph 18 of the Fundamental rights is this. On reading the paragraph contained in the original Fundamental Rights, it will be noticed that the term "minority" was used therein not in the technical sense of the word "minority" as we have been accustomed to use it for the purposes of certain political safeguards, such as representation in the Legislature, representation in the services and so on. The word is used not merely to indicate the minority in the technical sense of the word, it is also used to cover minorities which are not minorities in the technical sense, but which are nonetheless minorities in the cultural and linguistic sense. For instance, for the purposes of this article 23, if a certain number of people from Madras came and settled in Bombay for certain purposes, they would be, although not a minority in the technical sense, cultural minorities. Similarly, if a certain number of Maharashtrians went from Maharashtra and settled in Bengal, although they may not be minorities in the technical sense, they would be cultural and linguistic minorities in Bengal. The article intends to give protection in the matter of culture, language and script not only to a minority technically, but also to a minority in the wider sense of the terms as I have explained just now. That

is the reason why we dropped the word “minority” because we felt that the word might be interpreted in the narrow sense of the term, when the intention of this House, when it passed article 18, was to use the word “minority” in a much wider sense, so as to give cultural protection to those who were technically not minorities but minorities nonetheless. It was felt that this protection was necessary for the simple reason that people who go from one province to another and settle there, do not settle there permanently. They do not uproot themselves from the province from which they have migrated, but they keep their connections. They go back to their province for the purpose of marriage. They go back to their province for various other purposes, and if this protection was not given to them when they were subject to the local Legislature and the local Legislature were to deny them the opportunity of conserving their culture, it would be very difficult for these cultural minorities to go back to their province and to get themselves assimilated to the original population to which they belonged. In order to meet the situation of migration from one province to another, we felt it was desirable that such a provision should be incorporated in the Constitution.

I think another thing which has to be borne in mind in reading article 23 is that it does not impose any obligation or burden upon the State. It does not say that, when for instance the Madras people come to Bombay, the Bombay Government shall be required by law to finance any project of giving education either in Tamil language or in Andhra language or any other language. There is no burden cast upon the State. The only limitation that is imposed by article 23 is that if there is a cultural minority which wants to preserve its language, its script and its culture, the State shall not by law impose upon it any other culture which may be either local or otherwise. Therefore this article really is to be read in a much wider sense and does not apply only to what I call the technical minorities as we use it in our Constitution. That is the reason why we eliminated the word “minority” from the original clause.

But while omitting this word “minority” I think my Friend, Mr. Lari forgot to see that we have very greatly improved upon the protection such as was given in the original article as it stood in the Fundamental Rights. The original article as it stood in the Fundamental Rights only cast a sort of duty upon the State that the State shall protect their culture, their script and their language. The original article had not given any Fundamental Right to these various communities. It only imposed the duty and added a clause that while the State may have the right to impose limitations upon these rights of language, culture and script, the State shall not make any law which may be called oppressive, not that the State had no right to make a law affecting these matters, but that the law shall not be oppressive. Now, I am sure about it that the protection granted in the original article was very insecure. It depended upon the goodwill of the State. The present situation as you find it stated in article 23 is that we have converted that into a Fundamental Right, so that if a State made any law which was inconsistent with the provisions of this article, then that much of the law would be invalid by virtue of article 8 which we have already passed.

My Friend, Mr. Lari and the Maulana will therefore see that there has been from their point of view a greater improvement than what was found in the original article. Certainly there has been no deterioration in the position at all as a result of the change made by the Drafting Committee.

Coming to the other question, namely, whether this Constitution should not embody expressly in so many terms, that the right to receive education in the mother tongue is a Fundamental Right: Let me say one thing and that is

[The Honourable Dr. B. R. Ambedkar]

that I do not think that there can be any dispute between reasonably-minded people that if primary education is to be of any service and is to be a reality it will have to be given in the mother tongue of the child. Otherwise primary education would be valueless and meaningless. There is no dispute, I am sure, about it and in saying that I do not think it necessary for me to obtain the authority of the Government to which I belong. It is such a universally accepted proposition and it is so reasonable that there cannot be any dispute on the principle of it at all. The question is whether we should incorporate it in the law or in the Constitution. I must frankly say that I find some difficulty in putting this matter into a specific article of the Constitution. It is true, as my honourable Friend Pandit Kunzru observed, that the difficulty that might be felt in administering such a Fundamental Right is to some extent mitigated or obviated by the amendment moved by my Friend Mr. Karimuddin *viz.*, that such a principle should become operate in the case a substantial number of such students were available. I would like to draw the attention of my friend Mr. Karimuddin that his amendment does not really solve the difficulty, which stands in the way of his accepting the principle. First, who is to determine what is a substantial number? Let me give an illustration. Supposing the matter is to be left to the Executive, as it must be, and the Executive made a regulation that unless there were 49 per cent of such children seeking education in a primary school then and then only it will be regarded as a substantial number. Will that satisfy him if such an authority was left with the Executive? Then supposing you make this matter a justiciable matter, as it undoubtedly would be when you are introducing it as a Fundamental Right and no Fundamental Right is fundamental unless it is justiciable, is it proper, is it desirable that the question whether in any particular school a substantial number was available or not should be dragged into a court of law, to be determined by the court? I cannot see any other way out of the difficulty. Either you must leave the interpretation of the word "substantial" to the Executive or to the judiciary and in my judgment neither of the methods would be a safe method to enable the minority to achieve its object. Therefore my submission is that we should be satisfied with the fact that it is such a universal principle that no provincial government can justifiably abrogate it without damage to a considerable part of the population in the matter of its educational rights. Therefore I submit that the article as amended should be accepted by the House.

Mr. Vice-President : The question is:

That for article 23, the following article be substituted:—

"23. Without detriment to the spiritual heritage and the cultural unity of the country, which the State shall recognise, protect and nourish, any section of the citizens residing in the territory of India or any part thereof, claiming to have a distinct language, script and culture shall be free to conserve the same."

The motion was negatived.

Mr. Vice-President : The question is:

That for article 23, the following article be substituted:—

"(1) Minorities in every Unit shall be protected in respect of their language, script and culture, and no laws or regulations may be enacted that may operate oppressively or prejudicially in this respect."

The motion was negatived.

Mr. Vice-President : The question is:

That in clause (1) of article 23, for the words "script and culture" the words "script or culture" be substituted.

The motion was adopted.

Mr. Vice-President : The question is:

That with reference to amendment No. 678 of the List of Amendments

in clause (1) of article 23, for the words “residing in the territory of India or any part thereof” the words “residing in any part of the territory of India” be substituted.

The motion was negatived.

Mr. Vice-President : The question is:

That in clause (1) of article 23, after the word “conserve” the word “develop” be added.

The motion was negatived.

Mr. Vice-President : The question is:

That in clause (3) of article 23, the word “community” wherever it occurs be deleted.

The motion was adopted.

Mr. Vice-President : The question is:

That for clause (2) of article 23, the following be substituted:—

“No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them; and sub-clauses (a) and (b) of clause (3) of article 23 be renumbered as new article 23-A.”

The motion was adopted.

Mr. Vice-President : The question is:

That for sub-clause (a) of clause (3) of article 23, the following be substituted:—

“(a) Linguistic minorities shall have the right to establish, manage and control educational institutions for the promotion of the study and knowledge of their knowledge and literature, as well as for imparting general education to their children at primary and pre-primary stage through the medium of their own languages.”

The motion was negatived.

Mr. Vice-President : The question is:

That the following proviso be added to sub-clause (a) of clause (3) of article 23:—

“Provided that no part of the expenditure in connection with such institutions shall fall upon or be defrayed from the public purse; and provided further that no such institution, nor the education and training given therein shall be recognised, unless it complies with the courses of instruction standards of attainment, methods of education and training, equipment and other conditions laid down in the national system of education.”

The motion was negatived.

Mr. Vice-President : Does the Honourable Member, Mr. Lari accept amendment No. 53 on List III standing in the name of Kazi Karimuddin?

Mr. Z. H. Lari : Yes, Sir, I do.

Mr. Vice-President : Does he also accept the amendment of Begum Aizaz Rasul?

Mr. Z. H. Lari: I do not.

Mr. Vice-President : Then I shall put to the House amendment No. 714 as amended by amendment No. 53 on List III standing in the name of Kazi Karimuddin.

Shri Rohini Kumar Chaudhari (Assam : General): On a point of order, Sir, I would ask whether in the absence of the Member who has moved the amendment; his amendment could be put to vote.

Mr. Vice-President : Is Mr. Chaudhari certain that the absence of Kazi Syed Karimuddin from the House would automatically close his amendment from being voted upon?

Shri Rohini Kumar Chaudhari : No, because it is acceptable to Mr. Lari who is in the House and whose amendment is being voted upon.

Mr. Vice-President : I am going to put the question now.

Pandit Thakur Dass Bhargava : Before you put the question, I want to raise a point of order. In my humble opinion, the subject matter of this amendment No. 714 cannot be justiciable because we have not made primary education itself justiciable. Therefore this amendment is itself out of order. When the primary right to primary education is not justiciable or capable of being enforced in a court of law, this ancillary right cannot be made justiciable and hence this amendment cannot be put to the House. It is out of order, and no Fundamental Right can be based upon it.

Shri L. Krishnaswami Bharathi (Madras: General): It is now too late to raise this point of order.

Mr. Vice-President : That is what I was going to say. It is too late now to raise this objection.

Pandit Thakur Dass Bhargava : I raised this objection earlier, when Pandit Kunzru was speaking.

Mr. Vice-President : I am going to put the amendment to vote.

The question is:

That after clause (3) of article 23, the following new clause be inserted:—

“(4). Any section of the citizens residing in the territory of India or any part thereof having a distinct language and script shall be entitled to have primary education imparted to its children through the medium of that language and script in case of substantial number of such students being available.”

The motion was negatived.

Maulana Hasrat Mohani : I call for a Division.

Mr. Vice-President : I cannot allow a Division because the voices are quite decisive. I want honourable Members not to do anything by which the time of the House would be wasted. I am very sorry and regret that my request—a very reasonable one—was not accepted.

Mehboob Ali Baig Sahib Bahadur (Madras : Muslim): May I speak at this stage, Sir?

Mr. Vice-President : It is too late now.

Now, before putting the amendment of Begum Aizaz Rasul to vote, as it was not circulated to Members, I shall read it out:

In the amendment of Mr. Lari, No. 714, for the words “section of the citizens” after the word ‘Any’, substitute the word ‘minority’.

The question is:

That the amendment be adopted.

The motion was negatived.

Mr. Vice-President : Now I shall put the article, as amended, to vote.

Pandit Hirday Nath Kunzru: I am sorry to interrupt the proceedings. But if some Members of the House want a Division on this question with a view to finding out how many are for and how many are against the motion of Mr. Lari, I do not think the time of the House will be wasted if you grant their request. Just by a show of hands the number of those who vote either way could be known.

Mr. Vice-President : It can be done if there is a sufficiently large demand for it. Still, I would impress upon you one fact and that is it is good to preserve the goodwill of the House. And this is not the way to do it. I would request you to consider my proposal once again. Wherever possible, I have given every possible facility to every minority and so much time that the majority has sometimes been deliberately reduced to a minority by me. I expect

sincerely that the minorities will accept what I say. This is one of the ways in which I would request them to co-operate with me. If not, I am prepared to accede to their request. What is your decision?

Honourable Members : Yes.

Mr. Vice-President : Now I shall put the article, as amended, to vote.

The question is:

That article 23, as amended, stand part of the Constitution.

The motion was adopted.

Article 23, as amended, was added to the Constitution.

Mr. Vice-President : Thank you, Gentlemen. The House stands adjourned to Ten of the Clock on Thursday, the 9th December 1948.

The Assembly then adjourned till Ten of the Clock on Thursday, the 9th December 1948.