

## CONSTITUENT ASSEMBLY OF INDIA

*Monday, the 29th August 1949*

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

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### DRAFT CONSTITUTION—(Contd.)

#### **Seventh Schedule**

**Mr. President :** We shall take up today the Seventh Schedule.

There is one question to which I have given some consideration and that is as regards the procedure to be followed in dealing with this schedule. We have got a large number of entries and there are notices of amendments to some of these entries. I take it that so far as those entries, in regard to which there are no amendments, are concerned there will be no speeches. I will of course put them to the vote of the House. But as regards those items as to which notice of amendments has been given, they will of course be moved, but I would ask honourable Members to confine their remarks to say five minutes or so on each item. We have a very large number of items and if longer time is given to speeches we will have to set apart a good many days to go through the lists. I hope this will suit honourable Members. If there be any particular item regarding which I find that more discussion is required I will certainly allow it but ordinarily I would confine each item to five minutes.

**Shri Mahavir Tyagi** (United Provinces : General): Even in the case of such items where there are no amendments will you be pleased to allow Members to put questions and ask for answers so as to remove their doubts?

**Mr. President :** If there are any doubts, they will of course be removed.

**Shri B. Das** (Orissa : General) : There are, Sir, 91 items in List I alone. There are of course some honourable Members who have given notice of amendments in regard to particular items. But if there is a general discussion concerning the principles involved in the Union, Concurrent and State Lists it will considerably clarify the position and will help us to understand the Lists much better. This is my submission, Sir.

**Mr. President :** I am afraid that will only duplicate the discussion. It will not have the advantage of curtailing discussion. Therefore, any question arising in regard to any particular item will be of course taken into consideration. But I do not think any useful purpose will be served by having a general discussion with regard to the division of the subjects in the Three Lists. As a matter of fact we have had some sort of discussion on that point when we were dealing with the articles in the Constitution.

**Sardar Hukum Singh** (East Punjab: Sikh): We bow to your decision that those items which have no amendments may be adopted without any speeches. We understand the spirit behind this ruling. The real difficulty is that these items have been substituted afresh and the notice has been so short that we could not go through them. For my part, either I was not very vigilant or I did not have sufficient time to go through the items that have been substituted.

[Sardar Hukum Singh]

Therefore the best thing to do is to pass over a number of items on the agenda. As I said, most of the items have been substituted and they are new ones and therefore it cannot be said that there are no amendments and therefore the Members may be taken to have accepted them. On the other hand, we find difficulty in going through them.

**Mr. President :** If my difficulty is pointed out by any particular Member I shall take that into consideration.

**Mr. Naziruddin Ahmad** (West Bengal: Muslim): Sir, I have a point to submit. Mr. President, I do not take pleasure in repeatedly coming to the rostrum to raise points of order. It is utterly against my own nature to do so, as it must be to many honourable Members present. But today we are faced with an unprecedented situation. Dr. Ambedkar has out-done his past achievements so far as these amendments are concerned.

Sir, you may be pleased to notice that some of the amendments tabled are entire re-drafts of the items in the draft Constitution. I say with considerable thought and care that I find some serious interpolations in them. As was done in the case of the Hindu Code Bill, a large number of serious interpolations have been made here also. But there has been an attempt to disguise these interpolations and therefore they have been put in the draft amendments of today in the shape of re-drafts. It will certainly be claimed by Dr. Ambedkar that the changes are of a drafting nature as it was claimed in the case of the amendments to the Hindu Code Bill. But I submit that here also there are serious interpolations. I got these amendments yesterday morning and it was by chance that I and Sardar Hukum Singh met and carefully considered the texts of the amendments. We then discovered serious changes or interpolations, but the time allowed for sending in amendments was till five of the clock yesterday. We had only a few hours to consider the amendments. Like Sardar Hukum Singh I confess that I have not been able to do our duty with regard to these amendments in the way in which our constituencies would like,

I submit that in regard to these items which are entire re-drafts we may postpone consideration. We have not been able to carefully consider them. I support the suggestion of Sardar Hukum Singh that though there are no amendments submitted to some of the items it should not be taken that they are free from objection. I find that only a few Members have submitted amendments to Two Lists. No other Member has submitted amendments. I believe they have not had time to go through the new re-draft. I asked Pandit Kunzru who said that he got the Lists only last night and had no time to consider them. In the face of this grave situation we must decide our procedure once for all. I accept your ruling with regard to the limitation of speeches to five minutes. Some Members may not require the full five minutes allowed. But I submit that these amendments which contain new ideas we should be given time to consider. We should settle our procedure in regard to them once for all now.

**Mr. President :** May I make a suggestion? If the Members promise that they will finish the Schedules tomorrow, we might rise now and sit for four hours tomorrow, instead of two hours today and two hours tomorrow.

**Pandit Hriday Nath Kunzru** (United Provinces: General): Nobody can give that undertaking, and even if we can, as a matter of principle, we should not. This is my feeling, Sir.

**Mr. Naziruddin Ahmad :** With regard to most Members, they will not be able to come to an understanding. I do not think I can come to such an

understanding. The difficulty is that we have not been able to fully consider the amendments. Most Members are in the happy position that they have not read the amendments and have not noted their significance. I am not in that happy position.

**Mr. President :** I do not think the Member has any justification for supposing that other Members do not study the amendments.

**Mr. Naziruddin Ahmad :** I have been assured by some very serious Members that they have not read the amendments. Therefore, in view of the serious nature of the amendments I say that the House should have time to consider them. If it is stated that some of the Members, who try to do their duty in a fashion which is not the general fashion in the House, have considered these amendments and that no useful purpose will be served by further discussion or consideration of those amendments, then we should leave the matter entirely to Dr. Ambedkar & Co. to do what they like.

**Mr. President :** If any question is raised with regard to any particular amendment or item and if Members want time, we shall consider that at that time. Let us now proceed item by item.

**The Honourable Dr. B. R. Ambedkar** (Bombay: General): I would like to say that these amendments were circulated on Saturday, day before yesterday.

**Mr. President :** Were they circulated on Saturday.

**Some Honourable Members :** Yes, Sir.

**The Honourable Dr. B. R. Ambedkar :** On Saturday evening, I think. So far as Mr. Naziruddin Ahmad is concerned, there are some forty amendments standing in his name.

**Mr. Naziruddin Ahmad :** Only twenty.

**The Honourable Dr. B. R. Ambedkar :** They cover the whole of List 1. Therefore my submission is that the complaint, so far as he is individually concerned, that he did not have time, must be regarded as absolutely unfounded.

#### UNION LIST

##### *Entry 1*

**Mr. President :** We shall proceed with the items now. Item No. 1 I do not find notice of any amendment to this item. A list has just been handed over to me of certain amendments by Dr. Deshmukh. I have received it today just now.

**Shri T. T. Krishnamachari** (Madras: General): There is no amendment to Entry 1.

**Mr. President :** In that list, there is an amendment to Entry 1.

**Dr. P. S. Deshmukh** (C.P. & Berar: General): That was the earliest I could do.

**Mr. President :** Very well, you can move your amendment.

**The Honourable Dr. B. R. Ambedkar :** At least we should have a copy of the amendment.

**Mr. President :** I myself have not got a copy. I have handed over the only copy to the Member.

**Dr. P. S. Deshmukh :** Sir, I beg to move my amendment which is to the following effect:

“Substitute for Entry 1 the following :—

‘defence of India and of every part thereof and generally for all purposes of defence including all such acts as may be necessary in times of war including, training, conscription, demobilisation, etc.’ ”

Sir, apart from the fact that my amendment is better expressive of the purpose of the Entry, there are one or two things which, I think, it is necessary to include specifically e.g. conscription and training. Demobilisation of course finds a place in the Entry as it stands, but there is no mention during times of war of training which is most essential for purposes of war. There is also no mention of conscription. We, are fighting more and more total wars these days and it may be necessary at any moment for the Union Government to declare and have conscription. It is not a matter which can be said to form part of the defence arrangements of the country. This is a special item which requires special enactment and Ordinances would be necessary, and in view of that, it would be advisable to have a specific provision for the Union Government to have recourse to conscription, whenever the necessity arises.

**Shri H. V. Kamath (C.P. & Berar: General):** Is not conscription comprised in “all such acts as may be conducive in times of war to its successful prosecution” ?

**Dr. P. S. Deshmukh :** I do not think so Sir. If it is necessary to mention demobilisation, which is a part and parcel of the consequences following a war, then I think there is every reason why conscription should be specially mentioned. Of course this is only a suggestion. My Friend, Mr. Kamath, appears to take a different view. If that is so he is welcome to have it. But so far as I am concerned, my view is that the Entry as it is worded is not so comprehensive as it should be. I think it is necessary to mention conscription as part of the defence arrangements. In the Entry as it stands there is no mention of all the purposes so far as defence or the preparation for war is concerned, and I would therefore recommend this re-draft of the Entry for the acceptance of the House.

**Mr. President :** You had not given notice of this amendment originally, not even in the first instance.

**The Honourable Dr. B. R. Ambedkar :** amendment.

**Mr. President :** This is altogether a new amendment.

**Dr. P. S. Deshmukh :** I am moving this amendment on the same principle as that on which Dr. Ambedkar has been moving his amendments so far as the articles are concerned.

**Mr. President :** There was previously no notice of an amendment to entry 1.

This is the first time we have an amendment to this entry.

**Dr. P. S. Deshmukh :** It is a fact, Sir. If Dr. Ambedkar feels that a re-wording of this Entry is necessary, he might perhaps accept it; otherwise I am prepared to withdraw it.

**The Honourable Dr. B. R. Ambedkar :** This is merely a paraphrase of Entry 1. You have ruled that we should not spend more than five minutes on an Entry and it is already more than five minutes

**Mr. President :** As Dr. Ambedkar has pointed out, this being merely a paraphrase of the Entry, we might leave it to him to consider. I do not think we should have much discussion on these matters, especially when they do not happen to be new ideas.

**Prof. Shibban Lal Saksena** (United Provinces : General): Sir, we should be allowed to have our say.

**Mr. President** : About the original Entry or the amendments ?

**Prof. Shibban Lal Saksena** : On both.

**Mr. President** : Is it necessary to say anything on the original Entry when there is no opposition ?

**Prof. Shibban Lal Saksena** : I want to say something on the Entry..

**Shri T. T. Krishnamachari** : May I point out, Sir, that in regard to these three lists, the main objection can only be that a particular Entry should not find a place in list I, but should find a place in list II or list III. This is how the arguments should proceed. So far as this particular Entry is concerned, it is a matter beyond dispute altogether. It must be in the Central List. Dr. Deshmukh's amendment is merely an amplification of the entry as it is. I think that there should be no discussion on a vital matter like this on which all persons are generally agreed, that the responsibility belongs to the Union.

**Mr. President** : In this amendment it is not suggested that this should be put in any other List. The only idea is that it should be amended so as to express the same ideas in a somewhat different form. Is much discussion necessary on that ? If the proposal was that it should be transferred from one List to another, then it would be a question of substance.

**Prof. Shibban Lal Saksena** : We are entitled to suggest improvements in the wording also.

**Mr. President** : I do not question your right of doing it. I am only suggesting whether it is at all, necessary in this case. You have not given notice of any amendment for that purpose.

**Prof. Shibban Lal Saksena** : But another honourable Member has given notice of an amendment.

**Mr. President** : But he is prepared to leave it to Dr. Ambedkar to improve the wording if he so feels.

**Prof. Shibban Lal Saksena** : Those Members who have given no amendments, can they not speak on the Entry ?

**Mr. President** : I do not question the rights of Members to speak on anything but I am only suggesting whether it is necessary when there is really no difference of opinion.

**Prof. Shibban Lal Saksena** : I would not have risen to speak if I did not feel it to be necessary.

**Mr. President** : If there is any question of substance.

**Prof. Shibban Lal Saksena** : I think it is a question of substance.

**Mr. President** : If I allowed in one case, I shall have to allow in many other cases and at every time there will be discussion and once discussion starts, I cannot stop one Member when I allow another Member. So it means an interminable discussion which might go on for weeks on these Lists.

**Shri Mahavir Tyagi** : Prof. Saksena himself would be able to carry on for the whole day, if you allow him to speak once.

**Shri H. V. Kamath** : There are at least some entries which are important, on which I hope you will be so good as not to shut out general discussion.

**Mr. President :** If I find that there is any question of substance raised, I shall certainly allow it, but if it is merely supporting the entry as it is or resting something in the nature of language, I think that might be left to Drafting Committee. As Prof. Saksena does not wish to say anything against the entry and simply wants to support Dr. Deshmukh's amendment, which Dr. Deshmukh himself has referred to the Drafting Committee, I do not see where a question of speaking arises in this case.

**Prof. Shibban Lal Saksena :** He has not accepted it.

**Mr. President :** It is not a question of accepting. It is a question of improving the language and he says he will leave it to the Drafting Committee.

**Prof. Shibban Lal Saksena :** At least I thought the word "conscriptio" should be there.

**Mr. President :** Well, if it is a new idea, then in that case other considerations come in, but I thought that it was not a new idea and that is why I told him like that.

**Shri T. T. Krishnamachari :** Generally all preparations for defence, that is the wording, Sir, and that includes everything, not merely conscription but also something beyond that.

**Prof. Shibban Lal Saksena :** I want it to be made explicit.

**Mr. President :** That is not necessary. The question is:

"That Entry 1 stand pan of the Union List."

The motion was adopted.

Entry 1 was added to the Union List.

#### *Entry 2*

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

"That for entry 2 of List I, the following entry be substituted:

'2. Central Bureau of Intelligence and Investigation.' "

The only words added are "and Investigation". Otherwise the entry is the same as it exists in the draft.

**Shri Mahavir Tyagi :** What is the significance of this addition ? Will you please throw light as to why you have added these words ?

**The Honourable Dr. B. R. Ambedkar :** The idea is this that at the Union office there should be a sort of Bureau which will collect all information with regard to any kind of crime that is being committed by people throughout the territory of India and also make an investigation as to whether the information that has been supplied to them is correct or not and thereby be able to inform the Provincial Governments as to what is going on in the different parts of India so that they might themselves be in a position to exercise their Police powers in a much better manner than they might be able to do otherwise and in the absence of such information.

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

"That in amendment No.1 for List I (Sixth Week) in the proposed entry 2 of List I, the words 'and investigation' be deleted."

Then I move my next amendment which is an alternative to the first:

"That in amendment No. 1 of List I (Sixth Week) in the proposed entry 2 of List I for the word 'investigation' the words 'Central Bureau of investigation' be substituted."

The original entry was “Central Intelligence Bureau”. The re-drafted entry is “Central Bureau of Intelligence and Investigation”. The words “and Investigation” seem to me to appear to give an ambiguous effect. I submit that the duty of the Union Government would be to maintain a Central Intelligence Bureau. That is all right. Then we have the words “and Investigation”, and we do not know what these words really imply. Do these words “and investigation” mean that the Bureau of Investigation was merely to carry out the investigation ? They will mean entirely different things. If it is to enlarge the scope of the Central Intelligence Bureau as well as the Bureau of Investigation, that would have been a different matter but Dr. Ambedkar in answer to a question put by Mr. Mahavir Tyagi has said that the Central Government may think it necessary to carry on investigation. Sir, I submit the effect of this amendment, if that is the kind of interpretation to be given to it, would be extremely difficult to accept. We know that investigation of crime is a provincial subject and we have, already conceded that. If we now allow the Central Government also to investigate, the result would be that for a single crime there must be two parallel investigations, one by the Union Government and other by the State Government. The result of this would be that there will be a clash and nobody will know whose charge-sheet or final report will be acceptable. The Union Government may submit a final report and the Provincial Government may submit a charge-sheet, and there may be a lot of conflict between these two concurrent authorities. If it is to carry on investigation, then it will not be easy to accept it. It was this suspicion that induced me to submit this amendment, though without any hope of being accepted, at least to explain to the House my misgivings and these misgivings are really substantiated by Dr. Ambedkar himself. I would, like to know whether it is possible at once to accept this implication, to give the Central Government power to investigate crimes. My first amendment is intended to remove the words “and investigation”. If you keep the investigation within this entry it should be the Central Bureau of Intelligence, as well as Bureau of Investigation. If there are two Bureaus only there, could be no difficulty and there will be no clash and let us have as many Bureaus as you like but if you want investigation, it will be inviting conflict. Rather it is another attempt to encroach on the provincial sphere. I find there is no limit to the hunger of the Central Government to take more and more powers to themselves and the more they eat, the greater is the hunger for taking more powers. I oppose the amendment of Dr. Ambedkar. I appeal to the House not to act on the spur of the moment; it is easy for them to accept it as it is easy for them to oppose it and the entry does not seem to be what it looks.

**Sardar Hukum Singh :** I do not move my amendment as it is already covered.

**Mr. President :** There is no other amendment.

**Shri Brajeshwar Prasad (Bihar: General):** I would like to speak a few words on this item.

**Mr. President :** I do not like to permit any one if I can help it.

**Shri Brajeshwar Prasad :** It is entirely in your hands.

**Mr. President :** We have already had an explanation given by Mr. Naziruddin Ahmad of his point of view. Dr. Ambedkar will explain his point of view and we can put the entry to vote.

**Dr. P. S. Deshmukh :** I have something very substantial and important to urge. I will be brief.

**Mr. President :** if, I allow you, I cannot disallow others.

**Prof. Shibban Lal Saksena :** Sir, you are taking away the right of the Members to speak. We will be brief. We should not be shut up.

**Shri Brajeshwar Prasad :** For certain reasons, it would be better if without moving the amendments we are permitted to speak on the items.

**Mr. President :** Dr. Ambedkar has spoken on the item and the mover of the amendment has also made his speech.

**Shri Brajeshwar Prasad.:** If discussion is not allowed the result would be that a large number of Members would be prevented from expressing their views. Probably, the amendments may not be moved at all.

**Mr. President :** I am only thinking of the number of entries. If I allow discussion even for ten minutes on each, it means a week.

**Dr. P. S. Deshmukh :** I want to make a suggestion to the Drafting Committee.

**Mr. President :** So far as this entry is concerned, I do not think there is much room for discussion.

**Shri Brajeshwar Prasad :** If I am permitted to speak only two lines, I would be content.

**Mr. President :** Dr. Ambedkar.

**The Honourable Dr. B. R. Ambedkar :** Sir, I am not in a position to accept any of the amendments moved by my Friend Mr. Naziruddin Ahmad. These amendments seem to be the result of a muddled head....

**Mr. President :** Dr. Ambedkar need not use strong language.

**The Honourable Dr. B. R. Ambedkar :** Amendment No. 146 seeks to remove the words 'and investigation'. The ground for removing the word 'investigation' as suggested by my Friend Mr. Naziruddin Ahmad, is that there would be conflict between the jurisdiction of the Centre and the Provinces. If that is how he understands the entry as I have moved it, I do not quite understand how he can consent to allow the word 'investigation' to remain in the two subsequent amendments which he has moved, numbers 147 and 148.

**Mr. President :** 147 only.

**The Honourable Dr. B. R. Ambedkar :** He has got another.

**Mr. President :** Amendment No. 148 has not been moved.

**The Honourable Dr. B. R. Ambedkar :** The point of the matter is, the word "investigation" here does not permit and will not permit the making of an investigation into a crime because that matter under the Criminal Procedure Code is left exclusively to a police officer. Police is exclusively a State subject; it has no place in the Union List. The word "investigation" therefore is intended to cover general enquiry for the purpose of finding out what is going on. This investigation is not investigation preparatory to the filing of a charge against an offender which only a police officer under the Criminal Procedure Code can do.

**Mr. Naziruddin Ahmad :** Then, why not use the word "enquiry" ? The word "investigation" has acquired a very definite meaning. Why use a word 'which has acquired another meaning'?

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

"That in amendment No. 1 for List I (Sixth Week) in the proposed entry 2 of List the words; 'and investigation' be deleted."



The amendment was negatived.

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

“That in amendment No. 1 of List I (Sixth Week) in the proposed entry 2 of List I, for the word ‘investigation’ the words ‘Central Bureau of investigation’ be substituted.”

The amendment was negatived.

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

“That for entry 2 of List I, the following entry be substituted.

‘2. Central Bureau of Intelligence and Investigation.’ ”

The amendment was adopted.

Entry 2, as amended was added to the Union List.

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### *Entry 3*

**Mr. President :** The motion is:

“That entry 3 form part of the Union List.”

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

“That for entry 3 of List I, the following entry be substituted:—

‘3. Preventive detention in the territory of India for reasons connected with defence, foreign affairs, or the security of India; persons subjected to such detention.’ ”

Comparing this entry with the original entry in the Draft Constitution, it will be noticed that there are only two changes : for the words ‘external affairs’ we have now used the words ‘foreign affairs’. “Persons subjected to such detention” is an addition; this did not exist in entry 3 as it stands. But, this, again has already been passed by the House in the amendment to the Government of India Act. Therefore, substantially, there is no change in the amendment that I am proposing.

**Mr. Naziruddin Ahmad :** Sir, in moving my next amendment, I take a great risk of disclosing a further muddled head. But, I should however state with great respect to Dr. Ambedkar that though I have a muddled head, I have not a guilty conscience. The expressions which Dr. Ambedkar has chosen to use in giving his explanation are considerably beneath the dignity of the House I, however, will not emulate his example and I shall rather confine myself to some of the difficulties which I have a right to address the House, not to Dr. Ambedkar, whose mind is locked, whose conscience is guilty and whose intelligence is prejudiced by preconceived ideas. I do not wish to move the rest of the amendments. It is useless. When an honourable Member takes an unusual course of describing another Member as having a muddled head, I was pained to see that a few Members to my left .....

**Mr. President :** I myself asked Dr. Ambedkar not to use strong language.

**Mr. Naziruddin Ahmad :** I was pained to see that it caused some amount of vulgar response from a certain section of the House. The object of my amendment is this. The wording has been changed to ‘foreign affairs’ from ‘external’ affairs’. We have been accustomed to use of the expression ‘external affairs’. What is wrong with ‘external affairs’? Is there, any difference? If there is any difference, the difference may be explained. I have come here only to raise a point so as to get clarification. As Mr. Mahavir Tyagi said that ha wants clarification, I also wants clarification, by my amendment No. 149, which reads :—

“That in amendment No. 2 of List I (Sixth Week) in the proposed entry 3 of List I, for the word ‘foreign’ the word ‘external’ be substituted.”

[Mr. Naziruddin Ahmad]

With regard to amendment No. 150, I submit "persons subjected to such detention" would be absolutely needless. The words "preventive detention" includes certainly "persons subjected to such detention. These are words added to the original entry without any purpose. Though I may disclose a muddled head, I only like a muddled head to be cleared not by unseemly expressions, but by reason. Reason would be appreciated more than hard expressions.

**Mr. President :** Your next amendment No. 150?

**Mr. Naziruddin Ahmad :** I do not move amendment No. 150; it is useless.

**Dr. P. S. Deshmukh :** I am not moving the amendment.

**Shri Brajeshwar Prasad :** I am not moving my amendment,, but I would like to speak.

**Shri H. V. Kamath :** It is a very important item. I shall only put two questions to the Drafting Committee. There are some lacunae in this and one or two aspects of the matter have been left untouched. I am not going to make a speech.

**Mr. President :** Put the questions from there.

**Shri Brajeshwar Prasad :** I would also like to put one question.

**Shri H. V. Kamath :** The first question that arises in my mind is, we have provided for preventive detention in this entry but can there not be a situation when Government may find it necessary to extern persons from the territory of India in connection with defence, foreign affairs or India's security? How will you provide for such externment of persons from Indian territory ?

The second question is : We have already adopted article 275 in the Draft Constitution in a slightly different form from what it was in the original draft. Article 275 as it originally stood provided for the President proclaiming an emergency when the security of the country is threatened but later on the House has changed it. The new article says that 'where the security of India or any part of the territory thereof is threatened'. Here this entry provides for detention only when the security of India is threatened. Should we not make it clear and say that 'where for reasons connected with defence, foreign affairs or the security of India or any part of any territory thereof' in consonance with 275 which we have already adopted?

As regards the point raised by Mr. Naziruddin Ahmad, I support him because the Ministry of Foreign Affairs is still called the Ministry of External Affairs and not Foreign Affairs and so I do not see any reason for changing the term.

**Dr. P. S. Deshmukh :** Sir, on reconsideration, I would like to move my amendment.

**Mr. President :** Yes.

**Dr. P. S. Deshmukh :** Sir, I thank you for permitting me to go back on my decision, but the amendment I have suggested is really of very vital importance. I move:

"That after the word reasons the words 'of State' be added to the item as has been re-drafted."

My first argument in favour of this amendment is that wherever you have such powers in the Government of India Act, the reasons are always mentioned

as reasons of State. If my friends were to retort and say that reasons connected with defence and external affairs are by themselves sufficient, I would plead that it is not so. All reasons on the strength of which we are going to give this power of preventive detention must have reference to the interests of the State as such, and therefore I hope the learned Doctor will accept this amendment. It is a small amendment but highly important. In the Government of India Act also we have these words "for reasons of State" Otherwise, any reason which may have the remotest connection with external affairs would also be a reason for preventive detention which would really be a bad thing in principle. The power which the British Government in India was not prepared to take in its hands by the Government of India Act we would be giving to the Union, which is absolutely unnecessary if not dangerous also. Preventive detention is being already resorted to in such a widespread manner that I think we ought to be cautious and not omit the words of State which are of vital importance so far as this item is concerned. This is an amendment of substance and I hope this will be accepted.

**Shri Brajeshwar Prasad :** I should like to seek clarification on one point only. I want to know whether the words 'reasons connected with defence' include "public safety or interest".

**Prof. Shibban Lal Saksena :** Sir, I want to oppose the amendment of Dr. Ambedkar. This is a very important entry in this list. I have throughout held and protested against the powers of the Executive to detain persons without trial and I opposed those provisions which enable the President to pass Ordinances and in consistency with my view I have come here to oppose this entry also. I do not think we should disfigure our Constitution by such denial of personal liberty. If we, have any suspicion against anybody then we must give him a chance to rebut the evidence against him in a proper trial I, therefore, think that this entry continues the same line that the British took to take away the civil liberties of the people. I know there may be cases where it might be necessary to detain some persons, and probably it might be in the interest of the, State also to do that, but what I am afraid of is that this power may be abused more than used in the interest of the country.

On balance I think it is better to take the risk of allowing personal liberty to the fullest extent than to fetter it by this provision. When we are framing a Constitution for free. India, we must not disfigure it with this entry. Uptill now if a person is interned in Assam the practice is that his relatives can go and see him; but once this power comes under the Centre, then that man could be transferred to Bombay or Coorg and thus his relatives will not be able even to see him. Therefore Dr. Ambedkar's amendment to the original entry makes it worse for then it will be possible that those persons who are detained shall be liable to be removed from their normal place of residence and removed to places which may be extremely difficult of approach by his relatives and friends. I therefore think this addition makes the article worse. I am totally opposed to the entry.

**The Honourable Dr. B. R. Ambedkar :** In answer to the question put to me by my Friend Mr. Kamath I should like to tell him that there can be no provision for the externment of a citizen. There can be detention and not externment. The externment law can be applied only to aliens, and there is an entry in our list dealing with aliens etc. According to that, the State will be able to deal with an alien if it wants to extern him.

**Shri H. V. Kamath :** Where is the entry in the list ?

**The Honourable Dr. B. R. Ambedkar :** Entry No. 19. Now, with regard to the question put to me by my Friend Dr. Deshmukh, he wants that the

[The Honourable Dr. B. R. Ambedkar]

words “for reasons connected with the State” should be substituted. In my judgment, that would be a limiting entry; and ours is a much better one as it specifies the subject-matter in connection with which the preventive detention may be ordered.

And then Mr. Brajeshwar Prasad wants public safety to be introduced.

**Shri Brajeshwar Prasad :** I did not want it. I only wanted to know whether the phrase “reasons connected with defence etc.” included “public safety or interest.”

**The Honourable Dr. B. R. Ambedkar :** Yes, “security of India” is a very wide term.

**Shri Brajeshwar Prasad :** I am not referring to “security of India” but to “public safety or interest”.

**Honourable Dr. B. R. Ambedkar :** Now, with regard to Mr. Naziruddin Ahmad’s question, he wants the words “persons subjected to such detention” to be deleted.

**Mr. President :** No, he has not moved that amendment. He only wants to substitute the word “external” for the word “foreign”.

**The Honourable Dr. B. R. Ambedkar :** We are hitherto using the word “foreign” throughout, and I think it is better we keep to the same word.

**Shri H. V. Kamath :** Is the security of India the, same as the security of any part of it? And is the present entry in consonance with article 275 ?

**The Honourable Dr. B. R. Ambedkar :** Yes, undoubtedly.

**Mr. President :** I shall put amendment No. 149 of Mr. Naziruddin Ahmad to vote. The question is :

“That in amendment No. 2 of List I (Sixth Week) in the proposed entry 3 of List I, for the word ‘foreign’ the word ‘external’ be substituted.”

The amendment was negatived.

**Mr. President :** Then I put Dr. Deshmukh’s amendment. The question is :

“That after the word ‘reasons’ the words ‘of State’ be added to the item as has been re-drafted.”

The amendment was negatived.

**Mr. President :** Then I put the entry as it was moved by Dr. Ambedkar.

The question is:

“That for entry 3 of List I, the following entry be substituted:—

‘3. Preventive detention in the territory of India for reasons connected with defence, foreign affairs, or the security of India; persons subjected to such detention.’ ”

The amendment was adopted.

Entry 3, as amended, was added to the Union List.

*Entry 4*

**Mr. President :** Then we come to entry 4.

**The Honourable Dr. B. R. Ambedkar :** I move :

“That for entry 4 of List I, the following entry be substituted

‘4. Naval, military and air forces; any other armed forces of the Union.’ ”

Honourable Members will see that this entry was a very large entry and it consisted of two parts. Part one of the entry related to the raising of the forces by the Union. Part two related to the forces of the States mentioned in Part III. In view of the fact that it has been decided to put the States in Part III on the same footing as the States in Part I, it is desirable to delete the second part of this entry. And so far as any States have today any forces, it would be provided for by a provision in the part dealing with the transitory provisions of this Constitution.

With regard to the first part of the entry, it is felt that it is a mouthful, and that many of the words are not necessary, and that the short phraseology now proposed—naval, military and air forces—would be quite sufficient to give the Union all the powers that are necessary for the purposes of maintaining an army, navy and air force.

**Mr. President :** There is an amendment to this, of Mr. Naziruddin Ahmad, No. 151. Yes, Sardar Hukum Singh, you may move it.

**Sardar Hukum Singh :** Mr. President, Sir, I beg to move:

“That in amendment No 4 of List I (Sixth Week), in the proposed entry 4 of List I, the words ‘any other armed forces of the Union’ be deleted.”

So far as I can see, there are only three armed forces—naval, military and air force—and they have specifically been mentioned here, and I think all the forces are covered even now. Just now we have heard the honourable Dr. Ambedkar say that all these three are covered, and I think there are no other forces that are not covered.

**Shri Brajeshwar Prasad :** Armed police is not covered.

**Sardar Hukum Singh :** Armed police is not a force of the Union, therefore, my friend is beside the point.

If we look at the original draft, we see that the “raising training, maintenance and control of the Naval, Military and Air Forces” are mentioned. And there, no other force has been mentioned. Entry 6 also has only “Naval, Military and Air Force Works.” The Drafting Committee has been at this work for a year or more, and if the Drafting Committee is getting wiser every day, and its brain is getting clearer there is no wonder that the brains of some Members might be getting muddled. But it is quite clear that there are no other forces and this addition now suggested would be a useless appendage here in this item.

**Mr. President :** Are you not moving the alternative ?

**Sardar Hukum Singh :** No, Sir.

**Shri H. V. Kamath :** May I ask Dr. Ambedkar whether semi-armed forces, such as the Prantiya Raksha Dal, or the Home Guards raised by the Provinces will be brought under the jurisdiction of the Union Government?

**Mr. President :** Dr. Deshmukh has got an amendment?

**Dr. P. S. Deshmukh :** I do not propose to move it.

**The Honourable Dr. B. R. Ambedkar :** It is necessary to retain the words “any other armed forces of the Union” because, besides the regular army, there are certain other forces which come under the armed forces and which are maintained by the Centre. For instance, there are what are called the “Assam Rifles” to guard the border. There are certain armed police forces maintained by the Centre with regard to the certain Indian States. In order, therefore, to give them a legal basis, it is desirable to include them in this entry 4. I might also mention that they were also recognised in entry I of the Government of India Act, 1935, as distinct from the naval, military and air forces.

**Mr. President :** I shall put Sardar Hukam Singh’s amendment to the House. The question is :—

“That in amendment No. 4 of List I (Sixth Week), in the proposed entry 4 of List I, the word ‘any other armed forces of the Union’ be deleted.”

The amendment was negatived.

**Mr. President :** Then I put the entry moved by Dr. Ambedkar. The question is:

“That for entry 4 of List I, the following entry be substituted:—

‘4. Naval, military and air forces; any other armed forces of the Union.’ ”

The amendment was adopted.

Entry 4, as amended, was added to the Union List.

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*Entry 5*

**Mr. President :** Then we take up entry 5. There is an amendment by Mr. Brajeshwar Prasad.

**Shri Brajeshwar Prasad :** I am not moving it.

**Mr. President :** Then there is no amendment to Entry 5. I shall put it to the vote now. Does anyone want to speak about it?

**Prof. Shibban Lal Saksena :** Sir, I want to say a few words, as I think this entry is much too sweeping.

**Mr. President :** Do you then oppose it? You can either oppose it or support it. There is no amendment.

**Prof. Shibban Lal Saksena :** We had no time to give amendments.

**Shri Mahavir Tyagi :** He wants to know if the D.T.S. is also included.

**Mr. President :** I think the entry is quite clear, but if you want to oppose, it you can do so.

**Prof. Shibban Lal Saksena :** Mr. President, Sir, this item is in my opinion far too sweeping and by virtue of it, the Parliament may by law bring in fact every industry under the purview of the Centre. It can say that every industry is remotely connected with the purpose of defence or the prosecution of war. There is no single industry which cannot be said to be necessary for the prosecution of war. Therefore, if Parliament is given this right, then it is quite possible that the Provinces will be denied all rights over all the industries. As I said, the entry is far too sweeping. There should be some limitation. If any industries are to be taken over from the Provinces by the Centre I suggest that it should be done by a Constitutional amendment with two-thirds majority.

**Shri Brajeshwar Prasad :** Mr. President, Sir, the meaning of this entry is that in respect of industries declared by Parliament to be necessary or expedient in the public interest or for the purpose of defence or for the prosecution of war Parliament will have the right to frame laws : it does not mean that such industries will be taken over by the Government of India.

secondly, I am not in favour of asking Parliament to make a declaration to that effect. This power should have very well been vested in the President himself. If the President declares these industries to be necessary, then the power of Parliament to frame the necessary law should come into operation.

**The Honourable Dr. B. R. Ambedkar :** Sir, entry No. 5 should be read along with entry No. 64. Entry 64 deals with the control of industries which Parliament has declared to be necessary in the interests of the public. Ibis, that is entry 5, relates to the taking over of industries for the purpose of defence, or for the prosecution of the war. That being the important difference, I think it would hamper war effort considerably if entry 5 was made analogous to entry 64. Declaration by Parliament will be necessary in both cases. But the scope of entry 5 is much wider than that of entry 64. Having regard to the, different ends and aims in view, it is sought to differentiate entry 5 from entry 64.

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

“That entry 5 stand part of the Union List.”

The motion was adopted.

Entry 5 was added to the Union List.

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*Entry 6*

Entry 6 was added to the Union List.

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*Entry 7*

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

“That for entry 7 of list I, the following entry be substituted:—

‘7. Delimitation of cantonment areas, local self- government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of House accommodation (including the control of rents) in such areas.’ ”

There is an amendment to this standing in the name of my honourable Friend Mr. T. T. Krishnamachari the effect of which is merely to omit the word “self” in the expression “local self-Government” so that it will read “local government”.

**Shri Mahavir Tyagi :** Mr. President, Sir, as the entry is rather controversial and pertains to the control of house rents and allotments as well I would suggest that you might please agree to hold it over and not decide it today, for we have not been able to table any amendments. I also submit that this Schedule is the basic provision by which we are distributing powers between the Centre and the States. It is very important from that point of view. But amendments could not be tabled for want of time. I do not want to interfere with every item but in this case my request is that you might please agree to hold it over so that the question may be decided as to whether the cantonment boards will decide and control house rents, allotments etc. or the local governments will control them.

**Shri T. T. Krishnamachari :** May I point out that Mr. Sidhwa has already tabled an amendment (Nos. 3515 and 3516) and actually the Drafting Committee's amendment follows the lines indicated by Mr. Sidhwa's amendment because we thought that there was something in it which could be incorporated, into the entry.

**Shri Mahavir Tyagi :** My friend has forgotten my name. I am not Mr. Sidhwa. I am Mahavir Tyagi.

**Shri R. K. Sidhwa (C.P. & Berar: General):** Sir, if you will kindly see the printed list I have tabled an amendment No. 3515. I am very much obliged to the Drafting Committee for having accepted my amendment. My Friend Mr. Tyagi is forgetting that the amendment that has, now been proposed covers rents and other things which may come hereafter. The, main point is that the cantonments were allowed, within the area where the troops are, to be administered by the Centre. We have now allowed the delimitation of the civil areas, that is, where the civilian population resides, and I am thankful to the Drafting Committee for having accepted my amendment.

The only important difference is that just now by his amendment Mr. T. T. Krishnamachari wants to delete the word "self" so that instead of "local self-government" it will become "local government". The idea underlying was that the, local body should be allowed and not the local government which means the Provincial Government. I do not know why that change is sought to be made. Otherwise it was a very sound and reasonable amendment which the Drafting Committee accepted. I would only request the honourable Dr. Ambedkar to allow the words "local self-government" to remain and not substitute them by putting in "local government".

**Shri Mahavir Tyagi :** Sir, in case you are not acceding to my request you might please agree to allow me to put in this amendment, namely :

"That the last words 'and the regulation of House accommodation (including the control of rents) in such areas' be deleted."

I want that I should have consultation with other friends also. It is a every vital point.

**The Honourable Dr. B. R. Ambedkar :** He might speak on it.

**Mr. President :** As a matter of fact that very idea is contained in Mr. Sidhwa's amendment. You could have moved an amendment to Mr. Sidhwa's amendment.

**Shri R. K. Sidhwa :** If these words are deleted it will spoil the whole structure. It will be a negation of the amendment that has been accepted.

**Shri Mahavir Tyagi :** I would like to understand what Mr. Sidhwa's amendment would mean. Would it leave powers in the hands of the States? In other words will the State law apply or the Central law apply in the case of regulation and control of rents?

**Mr. President :** "Regulation of house accommodation and relation between landlord and tenants", I take it, includes rent also.

**Shri Jagat Narain Lal (Bihar: General):** Now that Provincial Governments have become 'States', 'local government' is enough; 'local self-government' is not necessary.

**Dr. P. S. Deshmukh :** Sir, the amendment which has been moved by Dr. Ambedkar is more or less a paraphrase, as he is pleased to describe such thing, or a re-wording of the original item as it stood in the draft. My amendment also is somewhat in the nature of a paraphrase but it also includes



the point of view that has been urged by Mr. Tyagi. The amendment which I wish to move and the wording I want to propose for this item is as follows :

“Delimitation of and local self-government in Cantonment areas, constitution and powers of Cantonment authorities within such areas and regulation and requisition of accommodation in such areas.”

I think the wording I have proposed not only puts the whole item in a much better phraseology but it removes the necessity of having a reference to rent because rent is a part of the regulation and requisition of accommodation, and there is no necessity of specifically pointing out that the Union Government will have power of control of rents in any particular area.

Secondly, I think my Friend Mr. Sidhva was quite correct in asking that the word “self-government” should be retained and the word “government” should not be introduced. The words “local self-government” are very clearly understood; and although it is contended by certain friends that because there will be no local Governments hereafter there will be no confusion, I am certain that if we retain the words “local government”—unless we are prepared to define it somewhere in the Constitution—it would lead to much confusion. It is better therefore that Mr. T. T. Krishnamachari’s amendment is not accepted, the word “self-government” is retained and the wording I have proposed is approved.

**Shri Mahavir Tyagi :** Sir, may I suggest that the entry be held over?

**The Honourable Dr. B. R. Ambedkar :** Why? I do not understand. If you have any comments to make we are quite prepared to hear and give you a reply.

**Shri Mahavir Tyagi :** I feel that either we must be given a full chance of tabling our amendments and putting our case before the House, or such articles as are controversial may please be ordered to be held over.

**The Honourable Dr. B. R. Ambedkar :** This amendment standing in the name of Mr. Sidhva has been there from 26th January. My friend has now become awake to the situation. There was plenty of time for him to give an amendment and I am even now prepared to say that he can make out his case for such changes as he wants and I am prepared to satisfy him.

**Shri Mahavir Tyagi :** Sir, we have accepted Dr. Ambedkar’s speed—he is going very fast—we have taken no objection to that. But on items like these he might agree.....

**The Honourable Dr. B. R. Ambedkar :** Why don’t you say what you want to say?

**Shri Mahavir Tyagi :** My submission is that such items on which there are controversies or on which honourable Members say or feel that they want to table an important amendment, such items may please be held over. It will smooth the way, it will accelerate the work.

**Mr. President :** Then the House will adjourn till 9 o’clock tomorrow. We shall take all the amendments tomorrow as they come, but I shall not give any further time.

**The Honourable Dr. B. R. Ambedkar :** I am entirely in your hands, Sir, so far as this amendment is concerned. If I can know what objections my Friend Mr. Tyagi has, I am prepared to deal with his case now in the House.

**Shri Mahavir Tyagi :** Sir, if you give me a few minutes.....

**Mr. President :** No; we shall adjourn till tomorrow 9 o'clock. I shall not give any more time for amendments. All amendments must come in by 5 o'clock to-day and we shall take up the entries tomorrow morning.

The Assembly then adjourned till Nine of the Clock on Tuesday, the 30th August 1949.

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