

CONSTITUENT ASSEMBLY OF INDIA

Friday, the 14th October 1949

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

DRAFT CONSTITUTION—(Contd.)

Article 296

Mr. President : We shall now take up article 296 ; amendment No. 15. We have got a large number of amendments. Some of the amendments are amendments to the amendment to be moved on behalf of the Drafting Committee. Some are amendments to other amendments which are to be moved by other Members. Many of them overlap. Therefore, I think Members will themselves exercise a certain amount of discretion in not insisting upon amendments which are only overlapping and which are covered by other amendments.

Shri H. V. Kamath (C.P. & Berar : General) : We shall abide by your ruling, Sir.

Mr. President : I do not want to give any ruling if I can help it.

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

“That with reference to amendment No. 3163 of the List of amendments for article 296 the following article be substituted:—

‘296. The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the union or of a State.,’

Sardar Bhopinder Singh Man (East Punjab : Sikh): On a point of order, Sir...

Mr. Naziruddin Ahmad (West Bengal : Muslim) : I had a point of order. I raised a point of order on this article. If you ask me

Mr. President : I shall hear both of you.

Sardar Bhopinder Singh Man : I submit, Mr. President, that unless a special resolution is moved, the present House is not competent to go back upon its own decisions. This very article has already been agreed to by this House.

Mr. President : This article 296?

Sardar Bhopinder Singh Man : The principle underlying this, the main principle on which this is based has been agreed to in very clear and emphatic terms. I shall make it clear. In the report submitted by the Honourable Sardar Patel as Chairman of the Advisory Committee on Minorities, Fundamental Rights, etc., presented to this House on 27th August 1947, clearly the minorities were defined on the one hand; and secondly, four points were discussed one by one distinctly, separately and quite clearly. The four points were : first, representation in the legislatures, joint versus separate electorate secondly, reservation of seats for the minorities in the Cabinet; third, reservation for the minorities in the public services; and fourth administrative machinery to ensure the protection of minority rights.

[Sardar Bhopinder Singh Man]

This report was submitted to the House and was later agreed to by this House. In this appendix, as adopted by the Constituent Assembly during the August 1947 session, it was agreed in regard to representation of minorities in the Cabinet as well as recruitment to the services—it is paragraph 9—it is said that due share will be given to the minorities in the all India services and provincial services and the claims of the minorities shall be kept in view in making appointments to these services, consistently with the efficiency of administration. Not only that. They make it further clear in emphatic and clear terms. They say, appropriate provision shall be embodied in the Constitution or a schedule thereto to this effect.

Having agreed to that, actually the Drafting Committee moved a special article 299 in which the rights of all the minorities were granted. Not only that. A later report was submitted to this House by the Advisory Committee on the subject of political safeguards to minorities on May 11, 1949. In this report the earlier decisions were reiterated and confirmed and not denied. Only in so far as the first item was concerned, that is safeguards in the legislatures were concerned, they were abrogated. So far as the other rights were concerned, they were allowed to remain intact. What had been conceded or passed by this House is now being taken away. I submit Sir, that this is a substantial change and unless a special resolution is brought in this House, this House cannot go back upon its earlier decisions.

Shri R. K. Sidhwa (C. P. & Berar : General) : Mr. President, Sir, I have not been able to follow the point of order raised by my honourable Friend, . . .

Mr. President : Will you please allow Mr. Naziruddin Ahmad also to state his point?

Mr. Naziruddin Ahmed : Mr. President, Sir, I raised this point of order some time ago when this clause was moved by Dr. Ambedkar. The point of order is this. I refer to the proceedings of this House dated 28th May last. It appears that there was a Minorities Advisory Committee which appointed a Special Sub-Committee to consider the question of the Minorities. I find that the members of the Special Sub-Committee were :

The Honourable Shri Jawaharlal Nehru,
The Honourable Dr. Rajendra Prasad,
Shri K. M. Munshi, and
The Honourable Dr. B. R. Ambedkar.

This Sub-Committee reported, amongst others, that there should be reservation of seats in the Legislatures for the minorities and also that so far as all-India and provincial services were concerned, there should be no reservation but the claims of all minorities shall be kept in view in making appointments to the services consistently with the considerations of efficiency and administration.

Now this was accepted by the House in its August Session 1947. This was later on partly reopened on the strength of a letter by Honourable Sardar Patel dated 11th May 1949 to reopen, not the consideration for the minorities about the services, but only the reservations in the Legislatures. I submit that Sardar Patel sent a report that the system of reservations for the minorities, other than Scheduled Castes, in the Legislatures be abolished. This Resolution was accepted by this House on the 26th May 1949 at the instance of Sardar Patel. That is also to the same effect. It is absolutely clear on a perusal of the original report, the letter of Sardar Patel, the Resolution moved by him and the speeches in the House—that they all attempted reconsideration only of the reservations for the minorities in the Legislatures. I may add that this was done with the fullest concurrence of the Muslim members of this

House. I was one of those who thought that the reservation in the Legislatures would not be good for the minorities themselves ; but with regard to the consideration of their cases in making appointments, subject to efficiency, that was not reopened. On the last occasion when I mentioned this, Dr. Ambedkar and a few others thought that I had completely misunderstood the situation. Mr. T. T. Krishnamachari went so far as to say (referring to me) that “if you cannot understand this thing in two days, you will never understand even in two months”. This is the elevated style in which I was addressed. But I submit and I assert again that, whoever may be mistaken. I am not mistaken as to what was then done.

I respectfully ask you, Sir, being one of the distinguished members of the Sub-Committee and being present in the House when this Resolution was accepted just to tell us whether this was one of the matters which was reopened Sardar Patel with his genius for constitutionalism said in paragraph 8 of his letter that the Committee are fully alive to the fact that “decisions once taken should not be changed lightly”. So a strong-minded man like him reopened the matter with considerable amount of caution and cogent reasoning. I therefore submit that with regard to the consideration of services and the appointment of Special Officer, they were embodied in articles 296 and 299.

Shri L. Krishnaswami Bharathi (Madras : General) : Is the honourable Member raising a point of order or making a speech?

Mr. President : He is raising a point of order and explaining it.

Mr. Naziruddin Ahmad : If it is not apparent to any Member, the point of order is this, that we have in accordance with the decisions of the Minorities Committee come to certain decisions. Those decisions were only partially modified at the instance of Sardar Patel. This modification did not in the least affect the paragraph relating to consideration in the services for the minorities. As the matter was partly reopened with so much formality, it follows that the rest remains without any amendment or change. I ask the House and specially you, Sir, to consider whether this matter can be so summarily reopened in this manner. The decision remains and I do not know how to get rid of that Resolution. That is my point of order.

Mr. President : We have to keep two things apart—the question of the point of order and the merits of the question. For the moment, I am concerned only with the point of order and the point that has been made by the two honourable Members comes to this. This House on a previous occasion took certain decisions which are sought to be reversed by the proposition which is now going to be moved. The only rule which deals with reopening of decisions is Rule No. 32 of our Rules, and that lays down that no question which has once been decided by the Assembly shall be reopened except with the consent of at least one-fourth of the Members present and voting. So the only restriction on reopening the decision which has once been taken is that at least one-fourth of the Members present and voting should vote in favour of reopening the decision. I think I had better put that question to the House and then if one-fourth of the members present and voting are in favour of reopening, the reopening will be perfectly in order.

As regards the merits of the case I do not think I should express any opinion at this stage or at any stage. It is for the House to decide. We are concerned at the moment only with the point of order, and my ruling is if one-fourth of the Members present and voting are in favour of reopening, the question can be reopened.

Shri R. K. Sidhwa : My Point was articles 299 and 296 were never passed in the House.

Mr. President : He is referring to previous decisions—not to 299 and 296. There was a previous decision once taken by the House on the Report of the Advisory Committee on Minorities.

Sardar Bhopinder Singh Man : Sir, I wanted your ruling on whether the present resolution means the reversal of the old decision.

Mr. President : If the House agrees to reverse the old decision, it will be a reversal; otherwise, the old decision will stand; but for the present I am concerned only with the question of whether we can take into consideration the question of reversing the old decision.

The Honourable Shri K. Santhanam (Madras: General) : Sir, the clause of a Bill is quite different from a Resolution.

Mr. President : You need not argue the point. I would like to know from the House what its opinion is. The question is

“Is the House in favour of reopening the question ?”

Honourable Members : Yes.

The motion was adopted.

Mr. President : So there is no bar to the reopening of the whole question. Now this can be discussed on its merits. Dr. Ambedkar has moved it and there are several Amendments to this proposition. I shall take them one by one. No. 16—Sardar Hukum Singh.

Sardar Hukum Singh (East Punjab : Sikh) : Mr. President Sir, I beg to move :

“That with reference to amendment No. 3163 of the List of amendments, (Vol. II), for article 296, the following be substituted :—

‘296. Subject to the provisions of the next succeeding article the claims of all minority communities shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State for the time being specified in Parts I & III of the First Schedule.

Explanation.—Among others Muslims, Christians, Sikhs, Anglo-Indians and Parsees shall be recognized as minority communities.’

And then there is the alternative amendment as well, but I do not propose to move it. I leave it here.

Sir, as has already been pointed out, the original draft that was put before this House was different, and radically different I would say, from the one that is being proposed now. It read like this:

“296. Subject to the provisions of the next succeeding article the claims of all minority communities shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State for the time being specified in Part I of the First Schedule.”

My object is very clear. What I want is to restore the original proposal that had already been accepted by this House. I cannot understand why the Drafting Committee has thought it fit to bring about this change. So far as that article stood in its original form, it was considered as a safeguard for the minorities, and I must say that it was only a solemn affirmation of bona fides, on behalf of the majority, and a mental satisfaction to the minority. Otherwise it had not very much value. That right was not justiciable in any court of law and it could not be enforced anywhere else as well. It had no binding force. But in spite of that, it is being taken away now. I must, at the same time, make myself clear that so far as I can think out, it was no blot on our secularism and it did not soil our nationalism as well. The minorities have always been advised to repose full confidence in the majority. Article 296

as originally framed, in my opinion, was that complete reposal of confidence by the minorities in the majority and nothing beyond that. The only thing that the members of the minority could do at any time, in cases of violation was that the attention of the majority could be drawn to the fact, that there was some pledge or an undertaking; and that is also being removed.

Sir, before I proceed further, I must make an appeal to the honourable Members on two points here. It is very unfortunate that the Sikhs for the present cannot persuade themselves to have implicit faith in the party in power. They have reasons for that, for they think that the past is a record of repudiated promises and broken pledges. Suppose, for the sake of argument, that I am wrong, that this is incorrect, and that the present leaders can be trusted to do justice to everybody; then is there any guarantee that the present leaders will continue for all time to come? Are there not indications, even now apparent, that men with different ideals and aims might come to power very soon? This House should take a detached view and not consider the fears of the minorities as necessarily a disparagement of the present party or of its leaders.

Then my second point is that the honourable Members should place themselves in the position of the minorities, and then try to appreciate those fears that they have expressed from time to time.

Sir, I might be accused of communalism when I sound this discordant note. But I hold that this nationalism is an argument for vested interests. Even the aggressiveness of the majority would pass off as nationalism, while the helplessness of the minority might be dubbed as communalism. It is very easy for the majority to preach nationalism to the minorities; but it is very difficult to act up to it. The original draft of articles 296 ad 299 was a result of the recommendations of the Minorities Committee, dated the 8th August 1947, as accepted by the Constituent Assembly on 27/28th August of that year, and there were four definite provisions, four definite clauses for those safeguards. The first was joint electorates with reservation of seats. This was embodied in 292. Then as regards Cabinet it was provided that there would be no reservation, but a Schedule would be provided as Instrument of instruction, that was schedule 4; and then the claims of minorities to be kept in view in appointments to services, that was section 296; and then a Commission for minorities, that was embodied in article 299.

As for the Sikhs, Sir, I must make a special mention, because I think they are very unfortunate in this respect. When the question of safeguards for minorities was decided in 1947, the question as regards the Sikhs was kept, pending as it was said that the result of the partition was not known very clearly then. I may say that before that date, the "Award" had been given. The Sikhs were leaving the West Punjab under circumstances which are well known to everybody here. They had willingly suffered themselves to be vivisected and they elected to remain with India. They were marching on foot,, leaving behind everything that they loved. They were not coming alone. They had saved and brought seven districts to the Indian Dominion. The full significance of leaving open the question of Sikh minority on 28th August cannot fully be understood when we look at those events. If the Sikhs were not to be treated in some special way, where was the need for postponing the consideration of that question then? If the Sikhs were to be given reservation on population basis, just as any other minority had been given, what was to be awaited after August? What numbers migrated to India was not material at all. But it was considered that might be too great a blow at that time to bear for this unfortunate community. So the question was kept pending and the Sikhs thought that they would get special consideration on account of their sufferings.

[Sardar Hukum Singh]

Then came the next stage for the Minorities Sub-Committee to make a report and that is dated 23rd November 1948. That time was considered opportune for telling them that nothing special could be done for them, perhaps because more than a year had elapsed since that calamity came. But even then there was one satisfaction offered to the Sikhs. Though special safeguards were denied, pious platitudes were offered instead. The Sub-Committee observed:

“It seems scarcely necessary for us to say that in dealing with this problem we are acutely aware of the tragic sufferings which the Sikh community suffered both before and after the Partition of the Punjab. The holocaust in West Punjab has deprived them of many valuable lives and great material wealth. Moreover while in this respect the Hindus suffered equally with the Sikhs, the special tragedy of the Sikhs was that they had to abandon many places particularly sacred to their religion. But while we fully understand the emotional and physical strain to which they have been subjected, we are clear in our mind that the question remitted to us for consideration must be settled on different grounds.”

Then comes the third stage. The report is placed before the Minorities Committee and the resolution adopted is that the system of reservation for minorities other than Scheduled Castes in Legislatures be abolished.

I have to apologies to the members of the other minorities. They had their reservation. But, as soon as the Sikhs came in, they had to give up that as well. The Committee recommended that statutory reservation of seats should be abolished. I want to place more emphasis on that, because it is clearly the recommendation of the Sub-Committee as well as the resolution of Minorities Committee that the statutory reservation of seats in Legislatures should be abolished. There is nothing beyond it. This recommendation was accepted on 26th May 1949.

Now, the position was that there was reservation in legislatures under article 292. That has gone now. Article 292 stands amended in that sense.

Then there was the Fourth Schedule of Instrument of Instructions. That has also gone, as decided by us on 11th October. But the remaining two clauses embodied in articles 296 and 299 which we have just decided to reopen, reflect the decision of the Constituent Assembly. So far as I can see there is absolutely no reasons for that change that is intended to be brought about now.

The second point is that the Minorities Committee never recommended any ,change in these two articles. My third point is that the minorities themselves never agreed to give up these safeguards at any time. It was given out now and then that the safeguards would only be taken back if the minorities themselves thought and were convinced that it is to their own interests. But I submit here that so far as these two articles 296 and 299 are concerned the minorities themselves never agreed to give up these safeguards at any time. The Minorities Committee observed in their report that the Committee are fully alive to the fact that decisions once reached should not be changed lightly. Then I ask, why is this change being brought about so lightly and so casually? So my prayer is that these amendments that have now been brought forward by Dr. Ambedkar must be rejected and my amendment may be accepted and the original safeguards restored.

There is one very important factor that has gained currency during the last three or four days. It concerns the Sikhs alone. It has been given out that the Sikh representatives on the Minorities Committee gave an undertaking in writing that they would not put forward any further demands for any safeguard in the Constitution if,—that was a very big if—their backward classes the Mazhabis, Ramdasis, Kabirpanthis and Sikligars were recognised and calculated as Scheduled Castes. That may be true. In May last, as I have said, the position was that these two articles 296 and 299 had been accepted by the

Constituent Assembly. The reservation was there also, but they agreed on that date that they would give it up. The Instrument of Instructions is gone. So far as I have been able to ascertain from the proceedings of the Minorities Sub-Committee, I do not find any mention anywhere that 296 and 299 were referred to or that the minorities were asked to give up this as a whole. The Minorities Committee decided to abolish reservation only in the legislature. I must point out here that there is no reservation in articles 296 and 299. The Minorities Committee did not discuss anything else. Clauses (3) and (4) of the safeguards contained in articles 296 and 299 were never discussed. They had already been passed.

Now, Sir, I appeal to you to see how the representatives of the Sikhs know that they would be altered at the last moment ? If I do desire to retain those decisions, I am not asking for any further safeguards for the Sikh community. I am only raising my voice against those safeguards being taken away from us, safeguards which had already been given. And, if any body is going back on the undertaking or on his word, then it is the Drafting Committee or the party in power and not the Sikhs.

Then there is another point that is also very relevant so far as this question is concerned. Supposing for the sake of argument we grant that the Sikh representatives agreed to forego every safeguard, is it to be understood that they did so because they were very keen to have their backward classes included in the Scheduled Castes ? Is then their anxiety for that to be exploited and the opportunity utilised to get them to give up all other safeguards ? I do not believe it. But suppose that was also true, I do realise this also that there was much opposition from the Scheduled Castes against such inclusion and Sardar Patel had to secure this to the Sikhs with great difficulty. The Sikhs are thankful to him. But what has happened to that concession secured at the sacrifice of all other demands, as is alleged ? In the first places restriction was placed that this concession was confined to East Punjab only. It was not extended to the Patiala Union. How strange! Was there any justification for this discrimination on the basis of religion ? If reservation was denied to religious minorities, and the Scheduled Castes were to get it for their backwardness then is there any jurisdiction to deny this concession to similar backward sections suffering from identical disabilities simply because they profess the Sikh religion ? Would this be secularism ? This much-coveted demand secured at such a heavy price and given so grudgingly and reservedly has become uncertain. Schedule X which was to enumerate the Scheduled Castes is deleted and article 300A empowers the President after consultation with the Governor or the Ruler to specify the or races to be Scheduled Castes. Sir, it will be realised that again the Sikhs shall have to strive and strive hard to persuade the Governor to advise the President to include these castes in the list of Scheduled Castes. My anxiety is that the Sikhs are left with nothing now. They have no further safeguards. What shall they offer to the Governor to advise the President to secure these safeguards? So, my submission is that even if there was any undertaking, that should be 'no consideration' because what was secured in lieu of that has already gone.

The Sikhs are told, when they remind the congress of their past pledges in 1929, 1946 and again in 1947 that circumstances have changed. The Sikhs were recognised as one of the three main communities in the Cabinet Mission Plan of which this Constituent Assembly is the creature. The only changed circumstances is that the Muslims have got Pakistan. Does it stand to reason that because the Muslims have secured Pakistan, therefore the Sikhs have ceased to be a minority? Is this a logical conclusion ? I will be failing in my duty if I do not point out what our feelings are. Pakistan resorted to crude and positive violence to eliminate their minorities. We are using a subtle, indirect and peaceful way of resolving the same question. True to our traditions, we are of course non-violent. I appeal to the House to go slow. I

[Sardar Hukum Singh]

request the majority to win the confidence of the minorities by positive actions and not by mere slogans. This change in article 296 has caused consternation in the minds of the minorities affected thereby. I request that the whole draft be allowed to remain as in my amendment.

It has also been given out that our leaders consider that our original draft of 296 would disfigure the whole Constitution. Sir, I fail to understand that. If the mention of Anglo-Indian and Scheduled Castes or Schedule Tribes does not disfigure this Constitution to any extent, the mention of Sikhs surely would not further disfigure it. But if in spite of my appeals, this House is not inclined to accept any amendments for restoring the old draft, then my last appeal is for the acceptance of another amendment, which is No. 256.

“That with reference to amendment No. 23 of List II (Second Week), the following clauses added to article 296 :—

- ‘(2) Nothing in this article or in article 10 of the Constitution shall prevent the State from making any provision for the reservation of appointments or posts in favour of any minority community which, in the opinion of the State, is not adequately represented in the services under the State’.”

The Centre may be aware of every detail of everything occurring in the States; yet some liberty shall have to be left to the man on the spot. If for the smooth working of the administration and for creating cordial relations between the different communities, the State decides on some adjustment in the services, then there should be no bar under the Constitution. Some dignitaries think that there is no such bar at present, but my fears are that article 10 would be a bar for any option or adjustment—when it says that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to office under the State. I might have understood that it would not bar such an option if such clause (3) of article 10 had not specifically provided that:—

“Nothing in this article shall prevent the State from making any provision for reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the State, are not adequately represented in the services under the State.”

My amendment No. 256 runs on the same lines as this clause (3). Why I did not move it at the time that article 10 was being considered here is that because 296 was already there, there was no need then, but now because 296 is going to be altered, therefore I feel that this option must be left and it should be made clear that if a State wants to make any adjustments so far as the different communities are concerned, it will be free to make that.

I have seen certain reports in the Press that the East Punjab Government have been advised by the legal advisers of the Government of India that they cannot consider the claims of any section in the services, and that has increased my fears, and I am now convinced that unless we leave some option or choice to the States, it would not be possible for them to make any adjustment even if they wanted to do. I make my appeal to the House again. I am not asking for any reservations in this Constitution. I am not disfiguring it. I claim only for an indication of the goodwill of the majority. If that is also denied, it may prove the last straw on the camel's back so far as the confidence of the minorities is concerned.

Mr. President : There are seven or eight amendments which purport to substitute their own proposals for this article. I would first take up those amendments which propose to make substitutions and then we can take up the other amendments. The next amendment which purports to substitute is No. 23 which stands in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I do not propose to move it.

Mr. President : Then No. 24.

The Honourable Dr. B. R. Ambedkar : Not being moved.

Mr. President : Then No. 25 by Sardar Bhopinder Singh Man.

Sardar Bhopinder Singh Man : It is in relation to No. 23. Since 23 is not moved, I cannot move it.

Mr. President : It is practically the same with some slight change, allow it if you want to move it.

Sardar Bhopinder Singh Man : I am not moving it, Sir.

(Amendments Nos. 26 and 27 were not moved.)

Mr. President : No. 183 by Mr. Brajeshwar Prasad.

Shri R. K. Sidhwa : What about the other amendments?

Mr. President : I will take them up later on.

Shri Brajeshwar Prasad (Bihar : General): Sir, I move :

“That in amendment No. 15 (with your permission, sir, I want to say No. 15 in stead of No. 23) of List II (Second Week), for the proposed article 296, the following be substituted:—

- ‘296. (1) The maintenance of efficiency of administration shall be the only consideration in the making of appointment to services and posts in connection with the affairs of the Union or of a State.
- (2) Parliament may by law prescribe the conditions under which the President may, if he deems necessary appoint members of the Scheduled Tribes and Scheduled Castes to services and posts in connection with the affairs of the Union or of a State.
- (3) The provisions of clause (2) of this article shall apply in relation to such other Backward Classes as the President may on receipt of the report of a Commission appointed under clause (1) of article 301 of this Constitution by order specify as they apply in relation to members of the Scheduled Castes and the Scheduled Tribes.
- (4) Parliament shall have the power to repeal, extend or modify any or all of the provisions of this article from time to time.’ ”

The Honourable Shri K. Santhanam : (2) and (3) are inconsistent with (1).

Shri Brajeshwar Prasad : No. Let me explain how it is not inconsistent. If it is inconsistent, the Chair will give its ruling.

Mr. President : He has raised the point. I have to consider it.

Shri Brajeshwar Prasad : Let me first explain. If he has raised a point of Order, I will explain whether it is consistent or not. Clause (1) says that there shall be only one consideration before the Public Service Commission, namely, the efficiency of administration and the merit of the individual candidate. The Public Service Commission shall not take into consideration the claims of the minority communities. The Public Service Commission shall not be swayed by any other consideration at the time of making appointments. As a matter of political expediency, I have vested powers into the hands of the President and the President alone to appoints persons of the Scheduled Tribes and the Scheduled Castes. The Public Service Commission must be free from political entanglements. I do not know how (2) and (3) are inconsistent with (1). I await your ruling before I proceed with my speech.

Mr. President : The way in which it has been put is making it inconsistent. You can make it consistent by putting in the word “provided”.

Shri Brajeshwar Prasad : Or course, I am not a draftsman, Sir, nor am I an able lawyer like Mr. Santhanam.

Mr. President : However, I would not overrule your amendment.

Shri Brajeshwar Prasad : As far as clause (4) is concerned, the purpose is to make the whole article very flexible, so that with the growth of education and with the economic improvement in the standard of living, Parliament shall have the power to do away with this article at any time it likes. I am opposed to amendment No. 15 as it has been moved by the Drafting Committee, because I do not want that any other extraneous considerations should be brought in at the time of making appointments. I am afraid that if the claims of all these communities are taken into consideration, the whole fabric of the State will be jeopardized.

I am quite clear in my own mind that there are no minorities in this country, therefore the claims of no minorities can be taken into consideration. There are backward communities. There are people who have been suppressed and oppressed for centuries. It is their claims and their claims alone that, shall be taken into consideration. The, burden of making such appointments must fall upon the shoulders of the President and the President alone, I feel that if we introduce, 'the provision that the claims of the communities like, tribals and Scheduled Castes should be taken into consideration, we shall be burdening the shoulders of the members of the Public Service Commission with a task for which they are not equal. What are the claims of the minority communities? What are the claims of the Scheduled Castes and Scheduled Tribes? Can any man endowed with ordinary intelligence and common sense reconcile the irreconcilable claims of these communities? The claim has been made that we demand parity. Another section demands that we should have representation in the services in proportion to our population. A third demand has also been made on the floor of this House that because we have been suppressed and oppressed for centuries, therefore the members of the Castes Hindu community must be made to make penance. If we are going to make penance for the sins that we have done against these people, then we shall have to hand over the entire machinery of the State into the hands of the Tribals and the Scheduled Castes. Are these claims going to be considered by the Public Service Commission ? I think that it is wrong to blame any community for a historical wrong History alone is responsible for all the wrongs that have been inflicted upon the Scheduled Castes and the Tribals. It is the Age—the Time spirit which alone can be held responsible.

Shri H. V. Kamath : Who makes history?

Shri Brajeshwar Prasad : Let me explain. History is made by the wrongdoer and the oppressed. It was wrong on the part of the wronged to submit to oppression. If objection is raised that they were not in a position to organise, we also will say that it was due to lack of political consciousness, due to lack of social sense that these things were perpetrated. It was the institution, it was society itself that was responsible. It was the time spirit and the time spirit alone that was responsible for the wrong done to the Scheduled Castes and the Tribals. The Caste Hindus are not responsible for any wrong. We have also suffered, because Caste Hindus have also been exploited by people living in this country and wrong have been committed and perpetrated upon us. For centuries, India was under foreign subjection. It, was subject to foreign intervention and foreign oppressions from times immemorial, The Caste Hindus have never flourished. It is wrongs, it is atrocious to throw all blame and responsibility on the Caste Hindus, they have been victims of circumstances. I cannot accept the proposition that the Caste Hindus have perpetrated any wrong on anybody.

I would like also to emphasise that this article ought to have been placed in the Directive Principles of the State Policy. It is merely a pious declaration. If it is merely a pious declaration, it should have been placed in the Chapter relating to Directive Principles of the State Policy.

I think there is another reason why I oppose this article. It is that we have done the utmost that we could do for raising the economic, moral and the material condition of these people. We have passed the Chapter relating to Fundamental Rights. We have passed article 110. We have made provision for reservation of seats in the Central and Provincial legislatures. We have laid down provision for adult franchise. We have made the basis of a secular State. What more do you want? Do you want to disintegrate the State?

I am quite clear in my own mind that if we do not take a bold stand at this moment and clearly lay down the principle that the basis of a secular State shall not be allowed to be corrupted by any other consideration, the future of this country is dark. I hold the opinion that those persons who are clamouring for these seats, for reservation, for consideration, represent a handful of people, constituting the cream of the Harijan society. They constitute the politically powerful group among the Tribals and the Scheduled Castes. I do not think that these claims and demands touch the broad classes of people within the Scheduled Castes and Tribals. Job-hunting does not affect the problems that confront us as far as the question of Scheduled Castes and Tribes is concerned. It is by as simulating ourselves and by integrating all the communities in one nation that there can be any peace and progress in this country. I do not want that the politics of the Muslim League should be re-enacted again on the political arena. The whole purpose of my amendment is to strengthen the foundations of the State. It has been the central theme of the speeches that have delivered here in this Assembly. I have moved my amendment so that the interests of the State may be protected.

(Amendments Nos. 280 and 309 were not moved.)

Mr. President : These are the amendments which seek to substitute the proposition moved by Dr. Ambedkar. I would like to dispose of these amendments first. One will be accepted and I will take the amendments on that and leave the rest out. As a matter of fact, only two have been moved—amendments Nos. 16 and 183. I will take Sardar Hukum Singh's amendment 256 separately.

Shri Krishna Chandra Sharma (United Provinces: General): Will there be any general discussion on the clauses ?

Mr. President : I will have it, but I am clearing the ground for the amendment so that we may not get confused. There are a large number of amendment as a substitution to this article. I will put Sardar Hukam Singh's amendment No. 16 first to the House.

The question is:

"That with reference to amendment No. 3163 of the List of Amendments, (Volume II), for article 296, the following be substituted :—

<p>'296. Subject to the provisions of the next succeeding article the claims of all minority communities shall be taken into consideration consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of the State for the time being specified in Part I & III of the First Schedule.'</p>	<p>Claims of minority communities to services and posts.</p>
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Explanation.—Among other Muslims, Christians, Sikhs, Anglo-Indians and Parsees shall be recognised as minority communities."

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 23 of List II (Second Week), for the proposed article 296, the following be substituted:—

- ‘296. (1) The maintenance of efficiency of administration shall be the only consideration in the making of appointment to services and posts in connection with the affairs of the Union or of a State.
- (2) Parliament may by law prescribe the conditions under which the President may, if he deems necessary, appoint members of the Scheduled Tribes and the Scheduled Castes to services and posts in connection with the affairs of the Union or of a State.
- (3) The provisions of clause (2) of this article shall apply in relation to such other backward classes as the President may on receipt of the report of a Commission appointed under clause (1) of article 301 of this Constitution by order specify as they apply in relation to members of the Scheduled Castes and the Scheduled Tribes.
- (4) Parliament shall have the power to repeal, extend or modify any or all of the provisions of this article from time to time.”

The amendment was negatived.

Mr. President : We have now only amendment No. 15 and I will take the amendments to that amendment.

Shri Guptanath Singh : (Bihar : General): Sir, I move:

“That in amendment No. 15 above, in the proposed article 296, for the words ‘The claims of the members of the Scheduled Castes and the Scheduled Tribes’ the words ‘The claims of the members of the Scheduled Castes, the Scheduled Tribes and such other castes who are educationally and socially backward’ be substituted.”

Before making my observations on the amendment, I should like to make it clear at the very outset that I am dead against all sorts of mischievous methods of communalism, casteism and such other “isms”.

Shri R.K. Sidhwa : And yet you move an amendment for the backward classes?

Shri Guptanath Singh : Yes Mr. Sidhwa. But have patience. This communalism has proved to be a curse to the country. It has become a national nuisance. We have reaped the cruel consequences of this kind of thing. Still, we are going to continue such things. I want that this demon of distinction and differentiation between man and man should not be allowed to flourish further in free India. But the present structure of society is such that we have been forced and our leaders have been forced to accept the principle of protection and reservation. I know we have done it in no happy mood. We desire that these things should be abolished for ever. But some of the sections of Indian society—our Harijan friends, our Adibasi brethren—have been oppressed for centuries and they have been tyrannised for ages that is why they are demanding these reservations. That is well and good. They should get the reservations and as much reservation as may be possible to make them equal to other sections of society and bring them on the same level. Then and then alone these distinctions and differentiations between man and man can be demolished.

But there are other sections in the country, whose conditions are not better than the conditions of these friends, the Harijans and the Adibasis. In some parts of the country their conditions are worse than some of our Harijan and Adibasi Friends. I wish to bring to your notice that even among the Brahmins, who claim to belong to the highest rank of humanity, there are untouchables. You will be surprised to know that even among Brahmins there are untouchables and they are regarded inferior even to other non-Brahmins castes. What in the meaning of this? This is utter nonsense. Some men are regarded as

superior and some are regarded to be inferior! In human society such distinction and discriminations should not be maintained. But our society is maintaining them. It is a matter of misfortune for our society. Therefore, some of these friends demand reservation, protection, safeguards and securities.

I know, Sir, and you also know that protection and control are sources of corruption. I will cite you two instances. The Central Government were pleased to award some scholarships to persons belonging to the Scheduled Castes and Scheduled Tribes as well as to socially and educationally backward people, and among those backward people one caste is called 'Kisans'. You see, the general meaning of the word 'kisan' is farmer, and a farmer may be any man, whether he is a Brahmin or a Kayasth or somebody else. But this term has been used in the United Provinces in a restricted sense. A man belonging to a farming class and who is very backward is called a kisan. You will be surprised to know, Sir, that some of the students belonging to very advanced classes applied for scholarships on the ground that their forefathers were kisans and even today they are cultivators, and therefore they think they should. get the scholarships.

Similarly, once some Brahmins applied to the Harijan fund for scholarship claiming themselves to be Harijans. Thus controls and reservations beget corruption and should not be encouraged. But as society is bigoted we must reap the consequences. The present structure of our society begets or creates these things and a kind of distrust, doubt and fear has been created in the minds of the oppressed classes. They fear that they will not get their share in the administrative services and therefore they are demanding it. Though they have been assured their rights in the Fundamental Rights and in the general directive principles, they are still persisting in demanding reservation.

I want to bring to your notice how the words "educationally and socially backward" came into the Constitution. Article 10, sub-clause (3) reads:

"Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the State, are not adequately represented in tile services under the State."

So though we have granted them every thing, there is still distrust in the minds of the people.

I want to cite an instance. In a neighbouring province of Bihar a very brilliant student personally known to me, who had passed M. Com. from the Benares Hindu University, applied for a post. He appeared before the Public Service Commission in his province recently perhaps the members of the Public Service Commission did not know that the wretched fellow belonged to a very backward class. He had stood first throughout his career. A month after his appointment a letter came from the government of that province informing him that his services had been terminated. He wrote to the Government and his department to know the case and suggesting that if he was guilty he should be prosecuted and tried Government refused to give any information regarding his case. This should be a matter of shame for the Government of that province.

Similarly during the British regime in our glorious Bihar one gentleman belonging to a very backward farming or cultivating class was rejected as a deputy collector. Simply because he belonged to a very backward community.... (Interruption). Have patience and hear me Mr. Sidhwa. You had your chance to speak. You will be glad to know that this gentleman is the principal of a first class degree college in Bihar. The selection committee rejected him as a deputy collector but he is a brilliant scholar and efficient educational administrator.

I want to bring to your notice one more instance

Mr. President : Is it any use giving instances of this kind ? They must be occurring all over.

Shri Guptanath Singh : All right Sir, I would not give. I want Sir, that those classes who are the backbone of Indian society agricultural, pastoral or artisan classes—though they are not counted as Scheduled Castes or Tribes should be given some opportunities to serve in government services. You have already accepted the proposal to appoint a commission to study and investigate their conditions. If you insert words to the effect that those wretched people will be given some chance it would be better for the country. They will prove to be most honest and efficient national servants.

When I tabled this amendment one day it was accepted by the drafting committee some days after—Dr. Ambedkar was pleased to include my suggested words in his own amendment No. 23. He realised the lacuna and accepted my amendment substantially. After that Mr. Munshi also accepted the principle contained in my amendment. But I do not know why they kept mum today when you asked them to move their subsequent amendments. They are masters and they can do as they please. I would appeal to them to consider the appropriateness of these words. They should include these words also in this article.

I hope they will consider the points I have raised and prove to the agricultural and pastoral classes, whose condition is worse than that of the Harijans and Adibasis, that they are going to do something for them and assure them that they would get their opportunities to serve the country. I hope, the caravan of communalism will now be stopped, the cobra of casteism will be killed and immediate steps will be taken to make this glorious land of free India heaven for the humanity suffering from inequality for several centuries.

(Amendments Nos. 18 to 22, 28, 29, 30, 31 and 32 were not moved).

Shri H. V. Kamath : Mr. President, Sir, I move :—

“That in amendment No. 23 above, in the proposed article 296, for the words ‘shall be taken into consideration, consistently with the maintenance of efficiency of administration,’ the words ‘shall, consistently with the maintenance of efficiency of administration, be taken into consideration’ be substituted.”

Sir, as you observed this is a purely formal amendment but I think that it is a more correct construction of the proposed sentence in the article and I would recommend it earnestly to the Drafting Committee for what it is worth. But, Sir, may I by your leave make some observations on the amendment moved today by Dr. Ambedkar ?

Mr. President : Yes.

Shri H. V. Kamath : Today, Sir, we have taken another step forward in the building of our common Indian nationhood. Over two years ago this Assembly resolved that so far as the legislatures of this country were concerned, the minority communities should have reservation so far as their seats in these bodies were concerned, but in view of the fact that great events, perhaps tragic in some respects but events fraught with destiny occurred soon thereafter. Sardar Vallabhabhai Patel, a little over two months ago moved in this House, and this House accepted his proposition, that so far as the Muslims and Sikhs were concerned, reservation in legislatures for them should go. That was a wise decision taking us one step forward in our march to nationhood. Today again we are taking another decision which marks another stride in our onward march, and that is that we propose to abolish reservation for the minority communities, the Muslims and Sikhs so far as reservation for them in the services of the State is concerned. The only exception that we made on that day, two months ago when Sardar Patel moved his proposition in the House

is again the only exception that we make today, that is, with regard to the Scheduled Castes and Tribes. Members and even friends outside may disputer the wisdom of this course, but practical politics and statesmanship is guided not always by absolute ideal considerations; our policy and our course are often guided by expediency and the exigencies of the prevailing situation. The situation today dictates to us this course.

My honourable Friend, Mr. Brajeshwar Prasad referred to the plight of the Scheduled Castes and Tribes and remarked in passing that history alone is responsible for the condition of the Harijans today, and that the Caste Hindus cannot be held responsible I for one do not propose to go into this intricate question as to who is responsible and who is not responsible. I do not want of apportion blame. After all if Mr. Brajeshwar Prasad says that history is responsible and later on said after examining further causes that the time spirit was responsible, I venture to suggest that the divine force or whatever supreme force operates in this universe was responsible; the clan vital or the evolutionary force as you may call it, is responsible for what is happening in the world. He said that Caste Hindus were oppressed by foreign exploiters, but we see that these foreign exploiters have been vanquished by another force and that force has been attacked by another third or fourth force. As some English cynic has said : "In this world there is one flea which is preyed upon by another bigger flea and that bigger flea is again preyed upon by a third flea". One is never quite sure about what is going on in this universe. Some grand process is unravelling itself and I do not propose to go into the vexed question of who oppressed whom and how it all came about.

I only wish to say this much, Sir, that with the passing of this article today the only class of people of this country who might be lightly, apprehensive will be as my honourable Friend Mr. Guptanath Singh observed, those who are called the backward class of citizens. I do not wish to say who is backward and who is not backward, who are pastoral classes and who are agricultural classes or which other class is backward, but we have used that very term in the Constitution—backward classes, socially and educationally backward classes. They perhaps will be somewhat apprehensive about their future, as to what their share will be as regards the services in the State, but I wish to dispel their misapprehension by referring to the Fundamental Rights in article 10 in Chapter 3 of the Constitution Clause (3) of article 10 provides :

"Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the State, are not adequately represented in the services under the State."

This is not a more directive principle of state policy; this is in Chapter III, on Fundamental Rights. When this is guaranteed to them, no backward class of citizens need be apprehensive. If there is no representation for them in the services they can take the Government to task on that account. I think this would be an adequate safeguard for them so far as their share in the services is concerned. I hope that this article 10 guarantees that right to them, and so they need have no dispute or quarrel with the article before the House today.

Before I close. I only wish to express the hope that, before ten years have expired from the commencement of the Constitution, in this country of ours which has had an ancient history, this country of ours which is ancient, but ever young, there will be not merely no backward classes, socially and educationally backward classes left, but that all the classes will come up to a decent normal human level, and also that we shall do away with this stigma of any caste being scheduled. This was a creation of the British regime which happily has passed away. We have taken many strides forward in removing or doing away with the numerous evils that were associated with the British regime This is one of the few that still remain. I hope, Sir, that were

[Shri H. V. Kamath]

long, this stigma too will disappear from our body politic, and we shall all stand before the world as one single Indian community.

(Amendments 184, 255 and 257 were not moved.)

Mr. President : There is no other amendment that I can see.

Shri R.K. Sidhwa : There is amendment No. 36.

Mr. President : That is for the deletion of clause (2). There is no clause (2) in this article at all.

Shri R.K. Sidhwa : Mr. Guptanath Singh has in his amendment referred to backward classes.

Mr. President : In the proposition which is now before the House, there is no clause (2). Therefore this does not arise. Amendment No. 24 has not been moved.

Shri R.K. Sidhwa : Amendment No. 24 has not been moved. But, Mr. Guptanath Singh has moved amendment No. 28.

Mr. President : This does not fit in with Mr. Guptanath's amendment.

Shri R.K. Sidhwa : I have only to change the number from 24 to 28.

Mr. President : Where is clause (2) here?

Shri R.K. Sidhwa : The Drafting Committee has abruptly this morning brought in a new amendment. I am glad that the clause (2) has been dropped. When an amendment has been brought in for bringing in the word 'backward classes', this should be allowed.

Mr. President : This amendment has been there from long before. If you want to speak on the article I shall give you an opportunity.

Shri R.K. Sidhwa : May I say a few words, Sir ?

Mr. President : Yes, I shall first see if there is any other amendment. I do not think there is any other amendment. The amendments and the original proposition are now open to discussion.

Shri R.K. Sidhwa : Sir, I am very glad that the Honourable Dr. Ambedkar has moved amendment No. 15 and the other amendments relating to backward classes have been dropped. My amendment, as just now stated, related to the deletion of the clause relating to backward classes.

Sir, I have been trying to understand what is the definition of backward classes. In article 301, we have stated that those who are socially and educationally backward would be known as backward classes. Today, in this country, 88 per cent. of the people are illiterate. They do not know even the A B C or the alphabet of their own mother tongue. Only 12 per cent. of the people are literate in this country. Socially also they are backward. Am I to understand that 88 per cent. of the people are backward ? Article 301, definitely states that those who are socially and educationally backward will come under that article. How can we then say that the whole country, 88 per cent. of the people are to be known as backward classes ? My honourable Friend, Mr. Guptanath Singh, went to the length of saying that the peasant belongs to the backward class. He mentioned the illustration of the Brahmin as backward class. I know of an illustration and I shall give it, This was all created for the purpose of getting position and power and nothing else. Some ten years ago, a person wanted to get into the services as a Subordinate judge. He belonged to Pushkar Brahmin community. He set up a theory that the Pushkar Brahmins belonged to the backward classes. He had merely

to take the signatures of 500 persons and present it to the chief Judge. The Judge was guided by the signatures and as there was no Pushkar Brahmin in the service as Judge, he appointed him.

I may also tell the House that thirty years ago, the Parsees were considered as a backward class by the Bombay Government. You know Sir, that we are a far advanced community. Thirty years ago, 80 per cent. of us were educated; today 99 per cent. are educated. Still, thirty years ago, the Bombay Government declared that the Parsees were a backward class. It is only those people, who want to get into the services that use their influence and class themselves as a backward class. This is what was happening in the British regime. Some people who wanted to get into the services used their influence and classified themselves as backward classes, whereas really the masses of the people who are really the backbone of the country, they are not given any representation in the services. (*Interruption*).

Shri Guptanath Singh : You talk much but do not know the masses; I know the minds of the masses.

Shri R.K. Sidhwa : I do not want to argue with you. What I was saying was that there has been injustice done to a small section of our own people. I know there has been favouritism going on and let me tell you favouritism will go on for ever unless a real Ram Rajya comes into being. Some sort of favouritism will prevail even in the best of Government. So far as the Scheduled Classes are concerned, I have never conceded that the Scheduled Castes are a community. I have considered them as a class of people whom really great injustice has been done in the past by the Hindu community. Therefore, we want to do something to see that they come up to standard of their own brethren. If they were to classify themselves into a separate community, I would oppose it. I do not consider them as separate. So far as the Scheduled Tribes are concerned, they are not untouchables. For instance, there are the Bhils; they are not untouchable. They are only backward. They have also been brought under Scheduled Tribes. These people require attention at the hands of the special officer that is to be appointed.

I do feel that our article 301 is a real stigma on our Constitution. I wish article 301 should go: I do not want backward classes at all to be mentioned in our Constitution. It is a slur upon our intelligence. For those who are educationally backward, we have provided in the Directive policy that within ten years every man, woman or child should be made literate. When educationally every person is advanced, who will call them backward ? There will be no backward classes. Socially, they become advanced. If a man is educated, I have seen he improves his position in society and social affairs. Therefore, the fundamental thing is education and we have provided for that in the Directive Policy. I would have wished it to have come in the Fundamental Rights. Within ten years, there shall not be a single person who shall be illiterate. Of course, there are certain difficulties in the way. I am sure our present Government are going to see that every man is made literate within a period of ten years, and we shall be proud that every person can read in his own mother tongue.

I therefore, oppose the amendment proposed by Mr. Guptanath Singh. It has no meaning. It has meaning only when we want to favour some body and therefore we want to classify them as backward classes. The article as moved by Dr. Ambedkar is sufficient for our purposes. When a time limit is not mentioned, I am quite sure that within a short period these Scheduled Classes will go and they will come up to the level of the other people and we shall see that there is no mention of these Scheduled Classes in our Constitution hereafter. With these words, I strongly support the proposition

[Shri R. K. Sidhwa]

and I oppose any kind of reservation or even the mention to reserve posts in services in the Constitution. We have done away with reservation in the legislatures. With what face shall we say that there should be reservation in the services ?

It looks so awkward. Our leader, Sardar Patel, made it very clear the other day when he brought the question of representation in the Legislatures, and today my Friend Sardar Hukam Singh has put in Parsees also that they want special rights. Sir, my community has never asked for special rights in any Legislature or in the services. They have come by merits and I can assure you whatever number they are in the Government of India—there are some Parsees in services of the Government of India—they have come by merit and not by favour. The majority community realise it and we leave it to them. We know they can appreciate it. Merit alone should count in our future Constitution and nothing else. I place great stress upon this. This method has been started by the British Government of favouring one community or the other. Sir, we have given our President the power to classify who are the backward classes. Mushroom association in the name of backward class will be formed and the President will be put in an awkward position, many communities will try to influence them. I am sorry that this clause is there but I only expect that article 301 will remain a dead article in this Constitution and shall never be operated upon. With these words I strongly support the original proposition and oppose all amendments.

The Honourable Sardar Vallabhbhai J. Patel (Bombay : General) : Sir I had no intention to speak on this article, but when I heard that a definite insinuation was made in this House that because the Congress Party has a majority in this House, therefore it does not care for the promises given to the Sikhs and they are breaking the promises given them I have to speak. I am very sorry to hear this charge from the Sikhs or a representative of the Sikhs. Sardar Hukam Singh made this point. At another place on another occasion I had made it clear to him and yet he seems to have raised the same question. Now I wish only to answer that charge for the other things I do not think I need go into discussion or say anything about it. But when it is alleged that Congress is breaking its promises given to the Sikhs, one after another, I wish to understand the position.

We are—he allege—breaking the promises—broke the promise given in 1929, one in 1946 and another in 1947. I do not know what promises he refers to. If he refers to 1929 and then again to the Partition of India and Pakistan, I wish to point out to him that there was not a single Sikh voice against the Partition; on the other hand they are probably in the forefront in demanding partition of the Punjab. After the butchery and the bloodshed that took place in Rawalpindi and Multan, the Sikhs were terribly upset and naturally distressed and they had considerable sympathy from the Congress. At that time there were other tragedies happening in other parts of the country and then came the conflagration in Lahore, Amritsar and other parts of the Punjab. It was at that time with the concurrence of the Sikhs,—unanimously, with one voice they agreed,—we agreed to the Partition of India. Now to turn round and charge us with a breach of faith is a charge which I cannot understand and it is not right for the Sikh community—a brave community like the Sikhs—to fling these charges at us. Who were we to agree to the Partition of India and partition of the Punjab if the Sikhs were opposed? We could never have done that. Because they also said that it was best in the interest of India that we should agree to partition on condition that the Punjab was partitioned—that we agreed to it. Now that is about 1929 promise.

Then again he says about 1946. If he refers to the Minorities Committee recommendations, I can understand it. I propose to explain it in detail as to what has taken place. But I do not know what he means by 1946 promise. If I can have any concrete expression of a promise given by Congress Leaders, I might, and if so I do not think there is any one Congressman who will go against that promise. I have not however understood the psychology of the Sikh leaders—some of them—who often charge everybody with breach of faith, and always complain of minorities being ill-treated.

Look at the army. Are they not very heavily over-weighted ? What have we done ? We are under their protection and we trust them and not a single army officer is disloyal to us. Why do you create this feeling for nothing? I What is it that you want ?

When the Minorities Committee in the Advisory Committee passed its first decisions, I was appointed Chairman and I took all the minorities with me and the decisions of the Minorities Committee and the Advisory Committee were almost unanimous. This House appreciated the work of these Committees and congratulated me on that. Time went on and the minorities themselves began to feel that we should reconsider our decision and, headed by the great patriotic Christian leader, they brought in a Resolution that they want to give up the reservations. And what reservations?—Not this Petty reservation of minorities in the services—but the big reservations in the Assemblies, both in the Centre and in the provinces.

They agreed to have joint electorates and to have nothing to do with this communal separatism. When they desired that, I called a meeting of the minorities Committee and the Advisory Committee. At their instance decisions were taken. The Sikh stand has always been that “if all minorities agreed, we are also agreeable. We do not want any special arrangement. We do not want any advantage. We are able to stand on our own legs”. That was their stand throughout, in the Congress and outside the Congress.

When this resolution was brought, and this question was about to be considered, the Sikh representatives of the Punjab came to me and they said that so far as the Scheduled Caste Sikhs are concerned, they should be treated separately and given the same advantage that was being given to the Hindu Scheduled Castes. The Scheduled Castes objected to a man that these are not Scheduled Castes, and if they are Scheduled Castes, then they are not Sikhs. Therefore, they said, “you cannot give them separate treatment. There are forcible conversions being made from the Scheduled Castes to the Sikhs for this purpose”. That was their grievance. On the other side, the Sikhs said that they had converted so many and it was not by force. “They have come to our fold”, they said, “and if you do not recognise these concessions, then they will all go back to the Scheduled Caste Hindus and we will lose”.

Now, it was against our conviction to recognise a separate Sikh caste as untouchables or Scheduled Castes, because untouchability is not recognised in the Sikh religion. A Scheduled Caste Sikh community has never been in the past recognised. But as the Sikhs began to make a grievance continuously against the Congress and against us, I persuaded the Scheduled Caste people with great difficulty to agree to this for the sake of peace. I persuaded the other members of the Advisory Committee on the condition, which is in writing by the representatives of the Sikhs, that they will raise no other question hereafter.

Then in the Advisory Committee, when this question came, Sardar Ujjal Singh raised the question, “What about the Services”? I said, “Your representatives have given in writing that no other question hereafter is to be raised”

[The Honourable Sardar Vallabhbhai J. Patel]

Giani Kartar Singh was also in the Advisory Committee, and he got up and said, "No, we will settle it in the Provinces. It is not to be raised here."

What is the use of charging the Congress with having broken promises ? Do not break the promises that you have given, and do not charge others with breach of promises. If you now say, as Sardar Hukam Singh says, that these people were anxious to serve an advantage for the Scheduled Caste Sikhs and they may have agreed to this, but it is a mistake, then if it is a mistake, reconsider your position, and I shall reconsider mine. Take away that concession and remove it, and you get your pound of flesh, if you want it.

What is it that you get in the Services? Even at present, what do the Sikhs do ? What do other communities do ? So far as the Services are concerned, for all major posts or all posts which go by competitive examinations there is no reservation on communal grounds. They go to the Public Service Commission. You are quarrelling or asking for the minor posts—Chaprasis and clerks. Is it the Sikh position now that we have not got enough Sikh Chaprasis and clerks ? Are you going to raise the community in that manner? If that is so, tell me, and if you leave what you have got for the Scheduled Castes, I shall persuade the Constituent Assembly to give you what you want, but you will repent afterwards.

You say, in PEPSU it is not the arrangement. But this is not the House to hear that complaint. If there is any such complaint, send it to us. We shall consider about it. But do not go behind, your pledged words and charge other people with breach of promises or pledges. We are not the people to break pledges. Every sympathy and every consideration will be shown to the Sikh community because it is located in a particular area; it is a small community, and yet it is brave, virile and it can stand on its own against anybody. Do not break that spirit by continuously saying, "We are injured, we are helpless, we are in a minority, we are hopeless, we cannot do anything."

That kind of psychology will injure the community itself and not others, and injuring the community means injuring the nation. It is not as a representative of the majority community that I give this advice, but as a well wisher of the Sikh community, I advise you not to create this atmosphere by saying continually, "we are badly treated, badly treated". If you do, then it is the Sikh community that will be hurt.

When the Advisory Committee took this decision to give up reservation, we clearly understood the position and all communities clearly understood it. When the decision of the Advisory Committee came before this House for its acceptance, I made it clear that this Constitution of India, of free India, of a secular State will not hereafter be disfigured by any provision on a communal basis. It was accepted with acclamation.

It is said that if you make any arrangements in the Provinces, then the provisions of the Constituent Assembly with regard to fundamental rights will come in the way. Let me tell you, nothing comes in the way where arrangements are made by mutual agreement, and without mental reservations. That provision in the fundamental rights is provided for an individual who is injured. But if you make domestic arrangements in the Punjab between community and community for the small posts, then who is going to question that ? But first create an atmosphere for adjustment of such things in your Province. It is the continued atmosphere of quarrel between two communities that has created distrust among them, and that creates difficulties. You will have our support and sympathy continuously in that Province because that Province has suffered most. It is injured and the wounds have not yet healed. It is for us all, and

for you particularly, to help us in healing the wounds. Therefore, let us make a united effort to raise the morale of that Province, the strength of that Province, which really is at the top of India, where the border is. Then you will have no complaint at all.

After all, what is the Sikh community backward in ? Is it backward in trade ? Is it backward in industry, or commerce or in anything ? Why do you consider yourselves to be backward ? Therefore, forget that psychology. If there is any injustice done, then come to us, we will see that no injustice is done.

Sardar Hukam Singh said, "We trust the present leaders. What about the future ?" I say, you must have the courage to trust the future and not the present leaders. What will happen when the present leaders are gone ? Will Sardar Hukam Singh be living here ? Why raise this issue ? We must trust that if the present leaders go, we will have better leaders in the future. If we have trust in the future of our country, we may trust that in the future our country will produce leaders who will make a name in the history of the world. We have shown it today. We will do it in the future. That is India. India produced a Mahatma in a State where slavery was rampant. He went to a country where people would not walk on the foot-path, where people could not travel even in the III class with safety, where we were all treated as untouchables even now we are treated as untouchables there. There he made a name and fame all over the world, and presented a new weapon to the world. Then he came here. Here he raised the Sikhs, the Muslims, the Hindus, Scheduled Castes, everybody. He gave us freedom. Do you think that we are going to raise the morale of our country or the reputation of our country or the fame of our country by breaking promises ? No. We have all agreed that we must trust each other.

I know that the atmosphere so far as the Muslims are concerned is not quite as happy as it should be. But there are reasons for that. The Congress is not responsible for this. If there had been no Partition, perhaps we would have been able to settle our differences. But there was Partition. This Partition by agreement brought about subsequent events. But, since Partition, whatever is being done on the other side is having a reaction here for which we have to struggle day and night.

You do not know the immense difficulties of a secular State being governed peacefully in such conditions. Now, the world is in such a condition that we cannot take any independent action of our own accord. Even though there is injustice done, we have to wait, pause, ponder and consider, because there is an Organisation known as the U.N.O., who day and night watch the situation all the world over and try to see how peace could be maintained. I do not wish to say anything about the work of the U.N.O., because I know nothing about it. But the other part of the country known as Pakistan misses no opportunity of defaming and blackmailing us all over the world, whether there is occasion for it or no occasion for it. So we have to be specially careful. They break promises and charge us with breach of faith and yet we cannot solve it without reference to the other countries or without any regard for its reaction in other countries.

Therefore we have to be very careful. Do not add to our difficulties by creating internal difficulties in which there will be disputes between the communities. Help us and it will be to your advantage and it will be to the advantage of the whole country. You will have no cause for regret if you drop the claims for minor provisions for small minorities in regard mainly to service questions. Fight over issues beneficial to the whole country. Let us do that. Let us prepare the ground for that. You have big interests involved in two

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provinces. Though the problems in Bengal are different, as in the Punjab they have also certain problems. These problems can be settled not by the Centre, but by the provinces themselves. So, for God's sake,, those who are interested in the well-being of the country should create a different atmosphere and not an atmosphere of distrust and discord.

My only point in coming to reply here was to meet the charge that has been levelled against the Congress. I am sorry to hear it. Neither I nor any congressman has done anything here in the Centre to give cause to the Sikh Community to distrust us. We shall never give cause for that in spite of what you may do. Therefore for the last time in this Constituent Assembly, as responsible members of Parliament, I appeal to you. By all means ask for what you want or what you like. But do not blame other people for your own faults, I desire now to give you this undertaking that if you still feel that the advantage that was taken from us is not worth it you throw it away and, if you think this is better, I will give it to you. You consider the matter amongst yourselves, amongst the Sikh community and decide. But do not try to have it both ways. One section first comes and gets certain advantages and gives promises to a certain section of the community and thereafter another section comes and charges us with not having given it certain other advantages which it is anxious to have. That is not the way to do things. You may unite and decide what you want. It is not our fault if you have not done, so. After all, what is it that you want ? You want an insignificant thing, but granting it would mean putting a blot on the Constitution. We agreed about certain things on that day and everybody was pleased with it. Therefore be satisfied with what you have done and there will be no cause for regret. (*Applause*).

Mr. President : Is it necessary to continue the discussion ?

Honourable Members : No, no.

Shri H. V. Pataskar (Bombay : General) : I move that the question be now put.

Sardar Hukum Singh : I want to submit to you most respectfully that I do not find anywhere in the Constitution anything that we have secured at so high a price.

Shri Mahavir Tyagi (United Provinces : General) : Sir, may I appeal to you that this general discussion on this important article has not been full. It is for you to see whether you should accept the closure motion or not.

Mr. President : I see that and I am prepared to accept it.

The Honourable Dr. B. R. Ambedkar : I have nothing to add to what has already been said.

Mr. President : I will now put amendment No. 17 of Shri Guptanath Singh to vote.

Shri Guptanath Singh : I beg leave to withdraw it. The amendment was, by leave of the Assembly, withdrawn.

Mr. President : Then we come to the amendment of Mr. Kamath.

Shri H. V. Kamath : Sir, I leave it to the good sense of the Drafting Committee.

Mr. President : It is a verbal amendment and it can be left to the Drafting Committee. Now I will put amendment No. 256 of Sardar Hukam Singh to vote.

The question is :

“That with reference to amendment No. 23 of List II (Second Week), the following clause be added to article 296 :—

- (2) Nothing in this article or in article 10 of the Constitution shall prevent the State from making any provision for the reservation of appointments or posts in favour of any minority community which, in the opinion of the State, is not adequately represented in the services under the State’.”

The amendment was negatived.

Mr. President : The question is :

“That with reference to amendment No. 3163 of the List of Amendments, for article 296 the following article be substituted :—

‘296. The Claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union or of a State’.”

The amendment was adopted.

Mr. President : The question is :

“That article 296, as amended, stand part of the Constitution.”

The motion was adopted.

Article 296, as amended, was added to the Constitution.

Article 299

Shri K. M. Munshi (Bombay : General) : Sir, I move—

“That with reference to amendment No. 63 above, for article 299, the following be substituted :—

‘299. (1) There shall be a Special Officer for the Scheduled Castes and the Scheduled Tribes to be appointed by the President.
Special Officer for Scheduled Castes Scheduled Tribes, etc.

- (2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution and report to the President upon the working of those safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.

- (3) In this article, the reference to the Scheduled Castes and Scheduled Tribes shall be construed as including the reference to such other backward classes as the President may on receipt of the report of a Commission appointed under clause (1) of article 301 of this Constitution by order specify and also to the Anglo-Indian community’.”

I need not say anything more on this amendment. The Special Officer is intended to look after the political safeguards that have already been given by other articles in the Constitution. I therefore, move the amendment.

Mr. President : I will first take up the amendments to this particular amendment which has been moved by Mr. Munshi.

(Amendment No. 78 was not moved.)

Shri R. K. Sidhwa : Sir, I move :

“That in amendment No. 64 above, in clause, (3) of the proposed article 299 the words ‘to such other backward classes. . . .’