(Paragraph 10)

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

"That in sub-paragraph *(2)* of paragraph 10, for the words 'Such regulations may' the words 'In particular and without prejudice to the generality of the foregoing power, such regulations may' be substituted."

It is merely a drafting change.

I also move:

"That after sub-paragraph *(2)* of paragraph 10, the following sub-paragraph be added :—

'*(3)* All regulations made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect'."

(The amendment was adopted)

* * * * *

†**The Honourable Dr. B. R. Ambedkar :** May I say a word or two with regard to matters about which my friend is terribly excited? There are three things provided by way of safeguards which my friend has not taken into consideration. The first provision to paragraph 10 says: "Provided that no such regulations may be made under this paragraph unless they are passed by a majority of not less than three-fourths of the total membership of the District Council:" This is one safeguard. The second safeguard is contained on page 184 of the Draft Constitution. It says: 'Provided further that it shall not be competent under any such regulations to refuse the grant of a licence to a money-lender or a trader who has been carrying on business within the district since before the time of the making of such regulations." Therefore, existing rights are not affected.

The third thing to which my friend has not cared to pay any attention is the amendment I have moved, viz., "All regulations made under this paragraph shall be submitted forthwith to the Governor, and until assented to by him shall have no effect."

These precautions are there.

As regards his remarks that what the Drafting Committee has done is a barbaric thing, not done even by the British Government. I may point out that he forgets the fact that this excluded area was entirely within the discretion of the Governor; it was his fault. We have altogether taken away that discretion of the Governor. He can now act only subject to the advice of the Ministry.

*CAD, Vol. IX, 6th September 1949, p. 1041.

†*Ibid.,* pp. 1041-1042.

I wonder now whether my Friend Shri Rohini Kumar Chaudhari is satisfied with the explanation, I have given ?

Honourable Members : Not at all.

The Honourable Dr. B. R. Ambedkar : I know you want something more than what I can give. You are like hungry David Coperfield asking for more gruel.

[Paragraph 10, as amended by Dr. Ambedkar's above mentioned amendment, was added to the Schedule.]

* * * * *

(Paragraph 12)

* * * * *

***The Honourable Dr. B. R. Ambedkar :** May I draw attention to my amendment No. 128 on the Order Paper? As that is going to be moved, this amendment of my friend will be quite unnecessary. Therein I am proposing the omission of the words objected to by him.

Shri Kuladhar Chaliha : I am glad that for once some kind of sense has dawned upon the Drafting Committee. It is fortunate that for the first time sense has dawned on the Drafting Committee.

The Honourable Dr. B. R. Ambedkar : That is because for the first time you have convinced me by your arguments.

Sir, I will now move my amendment No. 128 :

"That in clause *(b)* of paragraph 12, for the words 'with the approval of the District Council for such district or the Regional Council for such region specify in the notification, if a resolution recommending the issue of such direction is passed by such District Council or such Regional Council, as the case may be' the words 'specify in the notification' be substituted."

The Governor, by this amendment, is freed from the trammels of any resolution that may be passed by the District Council or the Regional Council. He can now act on the advice of the Ministry whether a particular law passed by Parliament or by the Legislature of Assam is to apply to that area or not.

[Amendment was adopted. Paragraph 12, as amended, was added to the Schedule.]

(Paragraph 13)

†Mr. President: Amendment No. 129.

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

"That in paragraph 13, after the words 'the State of Assam shall' the words 'be first placed before the District Council for discussion and then after such discussion' be inserted."

---

*CAD, Vol. IX, 6th September 1949, p. 1043.

†*Ibid.,* p. 1044.

* * * * *

Shri Rohini Kumar Chaudhuri : Mr. President, Sir, I move ?

"That is amendment No. 129 above, in paragraph 13, after the words 'and then after such discussion' (proposed to be inserted) the words 'and such separate statement pertaining to autonomous districts shall be subject to such modifications and alterations as the State Legislature may make' be inserted."

Mr. President : Would you like to say anything, Dr. Ambedkar, about Mr. Rohini Kumar Chaudhuri's amendment?

The Honourable Dr. B. R. Ambedkar : I must complain that, although the words "Section 177" occur in the original draft, my Friend Mr. Rohini Kumar Chaudhuri has thought it fit to bring in this amendment No. 130. The effect of regarding it as a financial statement within the meaning of 177 means that it will be discussed by the Assam Legislature and, voted upon. Amendments may be moved and the appropriation law would apply. The only thing is that before the Assam Legislature deals with it, it is desirable to allow the District Councils to have their say as to how the money should be allocated. I hope he is now content.

(Paragraph 13, as amended, was added to the Schedule)

* * * * *

(Paragraph 14)

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Sir, I do not think that this amendment is necessary. So far as ...

Mr. President : You have yourself certain amendments to move first.

The Honourable Dr. B. R. Ambedkar : Yes, Sir, I will move them first. Sir, I move:

"That in sub-paragraph *(1)* of paragraph 14, after the words 'autonomous districts in the State' the words, brackets, letters and figures 'including matters specified in clauses *(b), (c), (d)* and *(e)* of sub-paragraph *(3)* of paragraph 1 of this Schedule' be inserted."

"That in sub-paragraph *(1)* of paragraph 14, after the words 'autonomous districts' in the two places where they occur, the words 'and autonomous regions' be inserted."

"That in clause *(a)* and *(b)* of sub-paragraph *(1)* of paragraph 14, after the words 'districts' in the two places where it occurs, the words 'and regions' be inserted."

"That in sub-paragraph *(3)* of paragraph 14, after the words 'autonomous districts' the words 'and autonomous regions' be inserted."

Some of these amendments are consequential. Others are purely verbal.

Shri Kuladhar Chaliha : Mr. President, Sir, I move :

"That with reference to amendment Nos. 3500 and 3501 of the List of Amendments (Vol. II), after clause *(c)* of sub-paragraph (1) of paragraph 14, the following new clause be added :—

*CAD, Vol. IX, 6th September 1949, pp. 1046-1048.

'*(d)* inclusion or exclusion of any tribal area from any district or Regional Council.' "

...I trust the Drafting Committee will reciprocate the kindness after all the unkindness they have shown and that they will accept this and include my amendment in *(d),* it will greatly improve the clause.

The Honourable Dr. B. R. Ambedkar : I should like to draw my honourable Friend's attention to the amendment which I moved to paragraph 1 of this schedule, in which the provisions of sub-paragraph *(3)* were altered in certain respects. This matter which he now wants to provide is to be regulated on the recommendation of the Commission. That paragraph has already been passed, and therefore, it is not necessary.

Shri Kuladhar Chaliha : Is it amendment No. 99 ?

The Honourable Dr. B. R. Ambedkar : Yes, it is 99.

Shri Kuladhar Chaliha : But yet you have limited the commission here in paragraph 14 to *(a), (b)* and *(c).* That is my difficulty.

The Honourable Dr. B. R. Ambedkar : That is what had been passed.

Shri Kuladhar Chaliha : It has already been passed, but all the same you have limited it in *(a), (b)* and *(c).*

The Honourable Dr. B. R. Ambedkar : If I may explain to my honourable Friend, the operation of sub-paragraph *(3)* which deals with the alterations in the tribal areas either by inclusion or exclusion, are divided into two categories. The first is this : Inclusion in any part of the said table which is *(a).* That the Governor can do, as the very start. For that no recommendation of Commission is necessary. But according to my amendment if action is to be taken under *(b), (c), (d)* and *(e),* then the Commission's recommendation is necessary and as I said that part has been passed by the House. It is not possible to re-open this now.

Shri Kuladhar Chalihar : You have limited it again with the consideration of the report of the Commission appointed under sub-paragraph *(1)* of paragraph 14 of this Schedule. You have provided amendment No. 99 but limited it again. I should like to hear what Dr. Ambedkar has to say about it.

The Honourable Dr. B. R. Ambedkar : It is not limited by paragraph 14.

Shri T.T. Krishnamachari : If the honourable Member will please look at amendment No. 134, which wants the inclusion of the words "including matters specified in clauses *(b), (c), (d)* and *(e)* of sub-paragraph *(3)* of paragraph 1 of this Schedule" after the words "autono-

mous districts in States" in sub-paragraph *(1)* of paragraph 14 then he will find the object that he has in mind has already been served by this amendment.

Shri Kuladhar Chaliha : Thank you, Sir.

Pandit Hirday Nath Kunzru (United Provinces : General): I have some difficulty in understanding this. The amendment moved by Mr. Chaliha is to the effect that the Commission that may be appointed by the Governor should consider not merely the inclusion of any new tribal area but also its exclusion. An area may be excluded from an existing tribal area without its being included in another tribal area and that thing has not been provided for here. All that the amendment No. 99 of Dr. Ambedkar provides is that an area may be taken out of one tribal area and united to another area but there is no power given to the Commission to inquire and to report about the desirability of excluding an area altogether. Only Parliament will have the power to exclude an area, from a tribal area, but without having the considered recommendations of the Commission before it because this Commission will not be empowered to deal with the matter.

The Honourable Dr. B. R. Ambedkar : If I may deal with my honourable Friend, Pandit Kunzru's difficulty, I think my honourable Friend has not clearly understood the purpose of Mr. Chaliha's amendment. Mr. Chaliha's amendment is "inclusion or exclusion of any tribal area from any District or Regional Council," that is to say, the diminution of the jurisdiction of the District or Regional Council. That is what Mr. Chaliha is speaking of. What my honourable Friend is speaking of is with the taking away altogether from an autonomous district any area and include it in the general territory of Assam. These are two quite different matters.

Pandit Hirday Nath Kunzru : Why should not the Commission be asked to report on that matter?

The Honourable Dr. B. R. Ambedkar: The Commission has got power to report. If my honourable Friend will read the provision, he will find the following : "The Government of Assam may at any time appoint a Commission to examine and report 'on any matter'. "Any matter" may include also the provisions contained in paragraph 1 and they are also specifically mentioned "specified by him relating to the administration of the autonomous districts in the State or may appoint a Commission to inquire into and report from time to time on the administration of Autonomous districts" includes matters specified, that is "any matters".

My amendment No. 134 I have moved in order to make it quite clear and not to lead to interpretation of the words "any matter". I have now specifically mentioned that these may "include matters specified in clauses *(b), (c), (d)* and *(e)* of sub-paragraph *(3)* of paragraph 1 of this Schedule," and these will be referred to the Commission. That is the purport of my amendment No. 134.

Pandit Hirday Nath Kunzru : I understand the purport of the amendment all right and I am well aware of the contents of clauses *(b), (c), (d)* and *(e)* of the paragraph but what I say is that the Commission that will be appointed to deal with any matter connected with the administration of the autonomous regions does not seem to me to have the power of reporting that an area already included in a tribal area may be excluded from it and amalgamated with an ordinary administered area.

The Honourable Dr. B. R. Ambedkar : My honourable Friend ought to refer to *(d)* of paragraph *(3)* of the said table.

Pandit Hirday Nath Kunzru : That has been removed by your own amendment.

The Honourable Dr. B. R. Ambedkar : That I think will have to be done by Parliament by law.

Pandit Hirday Nath Kunzru : Without having the considered recommendations of the Commission. Parliament should have before it the report of the Commission but now it will have to deal with the matter entirely on the strength of such knowledge as it may have.

The Honourable Dr. B. R. Ambedkar : This is a matter which is not within the competence of the Governor. As passed, the exclusion of any area from the tribal areas is a matter which is taken out of the purview of the Governor. It is left to Parliament to decide. This Commission is merely to guide the Governor to deal with matters which are mentioned in clauses *(b), (c), (d)* and *(e)* of sub-para. *(3).* Any matter which is outside it is a matter for Parliament. Parliament may appoint a Commission independently of this Commission and then legislate.

Prof. Shibban Lal Saksena : There is no provision for it.

The Honourable Dr. B. R. Ambedkar : No provision is necessary. Parliament may act upon the advice of the Assam Ministry. If Parliament thinks that that advice is not independent and that there should be independent evidence, Parliament is free to appoint a Commission and make an enquiry of its own.

* * * * *

***Shri Rohini Kumar Chaudhuri : ...**If the option of the members from the province of Assam counts for anything in regard to the discussion on this Sixth Schedule which relates primarily to Assam, I think the Honourable Dr. Ambedkar would agree to accept any amendment. I think we are fairly unanimous—I do not know about the two Ministers, but the rest of us are unanimous—on the need for accepting this amendment.

Prof. Shibban Lal Saksena : The Governor is free to appoint anybody to the Commission.

The Honourable Dr. B. R. Ambedkar : There are no limitations at all on the Governor.

Shri Rohini Kumar Chaudhuri : I say two members should be elected by the legislature.

The Honourable Dr. B. R. Ambedkar : He is not prevented from doing so.

Shri Rohini Kumar Chaudhuri : There is no harm in saying that. A man may live or die. Why do you say, die? I want to say live. Please accept my amendment.

The Honourable Dr. B. R. Ambedkar : The Governor will proceed to appoint a Commission on the advice of the Ministry. You think your Ministry will not appoint two members from the legislature.

Shri Rohini Kumar Chaudhuri : I want them to be elected by legislature. I attach certain importance to election by the Assembly. I think the Honourable Dr. Ambedkar also used to give such importance; but he may change his mind now.

Mr. President : There are certain other amendments proposed by Mr. Brajeshwar Prasad : 207,—"President" for "Governor" ; 208,— "President" for "Governor"; 209,—"Parliament" for "State legislature"; 210,— "Union" for "Assam"; 211,—"Union" for "State"; 212,—"President" for "Governor"; 213,—"in the State of Assam" for "in the State".

Shri Brajeshwar Prasad : I do not want to move these.

Mr. President : All the amendments to this paragraph have been moved. Would you like to say anything, Dr. Ambedkar?

The Honourable Dr. B. R. Ambedkar : No.

*CAD, Vol. IX, 6th September 1949, p. 1049.

Mr. President : I would put the amendments now.

[Following amendments were accepted.]

1. "That for amendment Nos. 3500, 3501, and 3502 of the List of Amendments (Vol. II), the following be substituted :—

   "That for paragraph 14 of the Sixth Schedule, the following be substituted :—

   "The Governor of Assam as the agent of the President may at any time appoint a Commission consisting of not less than seven members, of whom not less than three shall be members of the scheduled tribes and the rest shall be chosen from the ranks of eminent anthropologists, retired judges of the Supreme Court and of the High Courts and men of science and letters, to examine and report on any matter specified by him relating to the administration of the autonomous districts and autonomous regions in the State, or may appoint a similar commission to inquire into and report from time to time on the administration of autonomous districts and autonomous regions in the State generally and in particular on—

   (a) the provision of educational, cultural, medical economic and religious facilities and communications in such districts and regions;

   (b) the need for any new or special legislation in respect of such districts and regions;

   (c) the administration of the laws, regulations and rules made by the District and Regional Councils, and define the procedure to be followed by such Commission.'"

2. "That in sub-paragraph *(1)* of paragraph 14 after the words 'autonomous districts' in the State the words, brackets, letters and figures 'including matters specified in clauses *(b), (c), (d)* and *(e)* of sub-paragraph *(3)* off paragraph 1 of this schedule' be inserted."

3. "That in sub-paragraph *(1)* of paragraph 14 after the words 'autonomous districts', in the two places where they occur, the words 'and autonomous regions' be inserted."

4. "That in clause *(a)* and *(b)* of sub-paragraph *(1)* of paragraph 14, after the word 'districts 'in the two places where it occurts, the words 'and regions' be inserted."

5. "That in sub-paragraph *(3)* of paragraph 14, after the words 'autonomous districts' the words 'and autonomous regions' be inserted."

The amendment was adopted.

[Paragraph 14, as amended, was added to the Schedule.]

(Paragraph 15)

(Amendment No. 140 was not moved.)

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

"That sub-paragraph *(3)* of paragraph 15 be omitted."

That is because it gives discretion to the Governor which it is not proposed now to leave with him.

*CAD, Vol. IX, 6th September 1949, p. 1051.

Mr. President : Amendment No. 142 : we have dealt with the question of discretion so many times. Is it necessary to move it?

Shri Brajeshwar Prasad : As you direct me, Sir.

Mr. President : I do not think it is necessary. Amendment 214 : again "President" for "Governor"; Amendment 215: "Parliament" for "legislature of the State"; Amendment 216: that is the same as Dr. Ambedkar's. These are all the amendments. Dr. Ambedkar, would you like to say anything?

The Honourable Dr. B. R. Ambedkar : No. As I have said we are taking away the discretion from the Governor which we had originally laid with him and it is therefore necessary to delete this sub-para *(3)*.

(The amendment of Dr. Ambedkar was adopted.)

[Paragraph 15, as amended, was added to the Schedule.]

Shri Brajeshwar Prasad : Sir, I would suggest that we sit for a few minutes more and finish this schedule.

Mr. President : It will take time. We may not be able to finish. I was just going to remind the House that we are very much behind our scheduled time and something will have to be done to catch up the lost time.

Shri R. K. Sidhva (C. P. & Berar: General)**:** Today we have no other words and we may sit in the afternoon.

The Honourable Dr. B. R. Ambedkar : Tomorrow if you like we can sit. Today we have called a meeting of the Drafting Committee to take up some articles which have remained for consideration.

* * * * *

(Paragraph 16)

* * * * *

***Mr. President:** There are two other amendments which I rule out, because they are on the same lines as the other amendment of Shri Brajeshwar Prasad. Dr. Ambedkar, do you wish to say anything?

The Honourable Dr. B. R. Ambedkar : (Bombay: General): I should like to hear the Premier of Assam, if he has any views on this matter.

The Honourable Shri Gopinath Bardoloi (Assam : General)**:** Sir, with reference to the amendment moved by Srijut Chaliha just now for the deletion of the second proviso to paragraph 16, all that I have to say is that in every case where action of this kind is taken—the parties

*****CAD, Vol. IX, 7th September 1949, p. 1054.

affected thereby are given an opportunity of being heard I agree that in this proviso no machinery by which this could be done has been laid down. Therefore, if Srijut Chaliha would modify his amendment as follows, namely, that instead of the words "opportunity of being heard by the legislature" the words "an opportunity of placing the views of the Regional Council" may be substituted, then the purpose of his amendment would be served.

Shri Kuladhar Chaliha : I am prepared to do that.

The Honourable Dr. B. R. Ambedkar : I am prepared to accept the amendment of Mr. Bardoloi to the amendment of Mr. Chaliha, which he has accepted, the proviso will now read like this :

"Provided further that no action shall be taken under clause *(b)* of this paragraph without giving the District or the Regional Council as the case may be an opportunity of placing their views before the legislature of the State."

Mr. President : The question is :

"That for the second proviso to paragraph 16 of the Sixth Schedule, the following be substituted :

'Provided further that no action shall be taken under clause *(b)* of this paragraph without giving the District or the Regional Council as the case may be an opportunity of placing their views before the legislature of the State.' "

The amendment was adopted

[Paragraph 16, as amended, was added to the Sixth Schedule.]

(*New Paragraph 16-A*)

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

"That after paragraph 16, the following paragraph be inserted:—

'16A. *Exclusion of areas from autonomous districts in forming constituencies in such districts.*—For the purpose of elections to the Legislative Assembly of Assam the Governor may by order declare that any area within an autonomous district shall not form part of any constituency to fill a seat or seats in the Assembly reserved for any such districts but shall form part of a constituency to fill a seat or seats in the Assembly not so reserved to be specified in the order'."

The object of this is to give the people who are included in the autonomous districts but really who are not part and parcel of the people inhabiting the autonomous districts an opportunity to have a place in the Legislative Assembly by having their own constituencies marked out for them.

(Paragraph 16-A was added to the Sixth Schedule.)

* * * * *

(Paragraph 17)

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

"That after sub-paragraph *(2)* of paragraph 17 the following sub-paragraph be added :—

*CAD, Vol. IX, 7th September 1949, p. 1055.

'*(3)* In the discharge of his functions under sub-paragraph *(2)* of this paragraph as the agent of the President, the Governor shall act in his discretion.'"

* * * * *

***The Honourable Dr. B. R. Ambedkar :** I do not accept it, Sir.

Mr. President : Then I put Dr. Ambedkar's amendment first. The question is:

"That after sub-paragraph *(2)* of paragraph 17, the following sub-paragraph be added :—

"*(3)* In the discharge of his functions under sub-paragraph *(2)* of this paragraph as the agent of the President, the Governor shall act in his discretion."

(The amendment was adopted.)

(Amendment of Brajeshwar Prasad was rejected).

[Paragraph 17, as amended, was added to the Sixth Schedule.]

(Paragraph 18)

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

"That in paragraph 18, in line 22, the words 'in his discretion' be deleted."

"That clause *(c)* of paragraph 18 be deleted."

Mr. President: Amendment Nos. 148 and 149 are ruled out. Then we have amendments Nos. 223, 224, 225 and 226 which are more or less on the same lines. Would you like to move No. 226, Mr. Brajeshwar Prasad? The other three I have ruled out.

Shri Brajeshwar Prasad : I do not like to move any of my amendments, Sir.

Mr. President: Then, I put Dr. Ambedkar's amendments No. 146 and 147.

(The amendments were adopted.)

[Paragraph 18, as amended, was added to the Sixth Schedule.]

(Paragraph 19)

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

"That with reference to amendments No. 150 and 151 of List I (Seventh Week) for paragraph 19 and the Table appended to it the following paragraph and Table be substituted :—

"19. *Tribal areas.—(1)* The areas specified in Parts I and II of the Table below shall be the tribal areas within the State of Assam.

(2) The United Khasi-Jaintia Hills District shall comprise the territories which before the commencement of this Constitution were known as the Khasi States and the Khasi and Jaintia Hills District, excluding any areas for the time being comprised within the cantonment and municipality of Shillong, but including so much of the area comprised within the municipality of Shillong as formed part of the Khasi State of Mylliem :

*CAD, Vol. IX, 7th September 1949, p. 1056.

†*Ibid.,* pp. 1056-1057.

Provided that for the purposes of clauses *(e)* and *(f)* of sub-paragraph (*1*) of paragraph 3, paragraph 4 and paragraph 5 and sub-paragraph *(2),* clauses *(a), (b)* and *(d)* of sub-paragraph *(3)* and sub-paragraph *(4)* of paragraph 8 of this Schedule, no part of the area comprised within the municipality of Shillong shall be deemed to be within the District.

(3) Any reference in the Table below to any district (other than the United Khasi—Jaintia Hills District) or administrative area, shall be construed as a reference to that district or area on the date of commencement of this Constitution:

Provided that the tribal areas specified in Part II of the Table below shall not include any such areas in the Plains as may, with the previous approval of the President, be notified by the Governor of Assam in this behalf.

Table

PART—I

1. The United Khasi-Jaintia Hills District.
2. The Garo Hills District.
3. The Lushai Hills District.
4. The Naga Hills District.
5. The North Cachar Hills.
6. The Mikir Hills District.

PART—II

1. North East Frontier Tract including Balipara Frontier Track, Tirap Frontier Tract Abor Hills District, Misimi Hills District.
2. The Naga Tribal Area.'"

* * * * *

***Shri Rohinikumar Chaudhari :** ...But I would say that the amendment which he (Dr. Ambedkar) has moved this morning is merely a Camouflage.

The Honourable Dr. B. R. Ambedkar : Camouflage for what?

Shri Rohini Kumar Chaudhuri : Because Dr. Ambedkar seems to indicate by this amendment that he has altered his view in regard to the inclusion of any part of the Shillong Municipality in the autonomous district.

Dr. Honourable Dr. B. R. Ambedkar : I have not altered my view.

Shri Rohini Kumar Chaudhuri : Paragraph *(2)* of the amendment as it stands includes...

Shri T. T. Krishnamachari : May I point out, Sir, that we here are completely disinterested in this matter and there is no need for any comouflage at all.

Mr. President : There is no question of comouflage because the paragraph is perfectly clear that he wants to exclude, the Municipality of Shillong except that part of it which is comprised in the state of Mylliem.

*CAD, Vol. IX, 7th September 1949, pp. 1063-1064.

†*Ibid.,* p. 1064.

* * * * *

***The Honourable Dr. B. R. Ambedkar :** Sir, I did not think that my amendment No. 331 substituting a new text of paragraph 19 would cause any kind of difficulty such as the one which I now find. I did not, therefore, consider it necessary to spend much time in explaining the provisions contained in paragraph 19. But now that so much debate has taken place of an acrimonious sort I am bound to explain the provisions as contained in the new amended paragraph 19.

Now, the chief part of the controversy has centred round sub-paragraph *(2)* of paragraph 19. I should like to explain what this means. It means that so far as the United Khasi-Jaintia Hills District is concerned which is mentioned as entry 1 in Part I of the Table, that portion of the area comprised within the municipality of Shillong and which forms part of the Khasi State of Mylliem shall be part and parcel of the United Khasi-Jaintia Hills District. It means that the part of the Mylliem State which is included in Shillong will form part of the United Khasi-Jaintia Hills District. It is realised that this part of the Mylliem State is really subject now under the new provisions of paragraph 19 to two separate jurisdictions. It is subject to the jurisdiction of the Municipality of Shillong, because by this provision we are not altering the boundaries of the Shillong municipality. The boundaries of the Shillong municipality, as defined by the Municipal Act passed by the Assam legislature, remains intact. According to that Act this particular part of the Mylliem State is part of the municipality. It is recognised that this double jurisdiction, namely the United Khasi-Jaintia Hills District and the municipality might come in conflict. In order to overcome this conflict, I have added the proviso to sub-clause *(2)*. The effect of the proviso is this that for the purposes mentioned in the proviso the jurisdiction of the District Council of the United Khasi-Jaintia Hills District is ousted and to the extent that the jurisdiction of the municipality is restricted to this purpose mentioned in the proviso the jurisdiction of the District Council will continue over this area. The idea of the proviso is to avoid conflict of jurisdiction. Some people on the other side have said that the Mylliem State area should be completely excluded from the United Khasi-Jaintia Hills District and should be made exclusively part and parcel of the Shillong municipality.

Pandit Hirday Nath Kunzru : As it is now.

*****CAD, Vol. IX, 7th September 1949, pp. 1070-1074.

The Honourable Dr. B. R. Ambedkar : I do not know whether that is so. The point is this, that as some one from that side said—I think my Friend Shri Rohini Kumar Chaudhuri—three-fourths of the municipality is really covered by this area. There is not the slightest doubt about it that so far as marriage laws, inheritance laws and other customs and manners are concerned, the people living in this part of the Mylliem State share the same laws, the same customs, the same marriage laws and ceremonies of the whole district. Consequently what will happen is this. Supposing this area were completely excluded from the United Khasi-Jaintia Hills districts, the result will be that these people although they are fundamentally alike to their brethren in the rest of the part of the Mylliem State with regard to marriage laws, their customs, etc., etc., they will become at once subject to the general law of inheritance, general law of marriage, all general laws which the Parliament may make or which the Assam Legislature may make. I do not think that it is right that a part of the people who are homogenous in certain matters should be severed in this manner. A part will obtain autonomy so far as their tribal life is concerned and a part will be subject to the general law to which the rest of the population is subject. It is for this reason that the Drafting Committee felt that the provision contained in sub-clause *(2)* and the proviso which accompanies it was the proper solution of this problem, namely, that for the purpose of the municipality as defined in the proviso that part of the Mylliem State which is part of the municipality should remain subject to the municipality, while for purposes for which the district council is constituted that part should remain subject to the district council. There is no conflict and it helps to sub-serve the fundamental purpose, namely, that a homogeneous people should be subject to the same sort of laws and to the same sort of administrative system which all of them should have and have.

Now, there may be some controversy as to whether the proviso is sufficiently big enough to cover all matters that ought to be covered or whether it is too narrow. I am not prepared to express any opinion about it. The Drafting Committee has been guided in this matter by the two principal representatives, who must be credited with sufficient knowledge and information about this matter, namely, the Premier of Assam and his colleague, Rev. Nichols-Roy. If they in their wisdom think that some other matters ought to be included, the Drafting Committee will certainly not raise any objection because the Drafting Committee has nothing to do with this matter.

Shri Rohini Kumar Chaudhuri : Is it that the non-tribal people who live in Shillong have no voice in this matter?

The Honourable Dr. B. R. Ambedkar : In what matter?

Shri Rohini Kumar Chaudhuri : In whatever matter you are touching on now.

The Honourable Dr. B. R. Ambedkar : I cannot understand the point. What we have done is that the people living in this part have a double right. They have a right to elect their representatives under the Shillong Municipality and they will have a right to elect their representatives in the District Councils. Beyond that, the jurisdiction is quite separate. I do not think there is any other point so far as this new paragraph 19 is concerned.

Shri Rohini Kumar Chaudhuri : On a point of information, does the Member who is now speaking, mean to say that those people in Dimapur where there is not a single tribal person, and those people in Shillong, are to be guided entirely by the opinion of Rev. Nichols-Roy.

Mr. President : He has not said anything about Dimapur. He is dealing with the question by Mr. Bardoloi that paragraph 10, sub-clause *(d)* of sub-paragraph *(2)* might be included in the proviso.

The Honourable Dr. B. R. Ambedkar : I have no objection. We leave the matter to them. If they think that certain matters should be included, why should we object? We are acting upon their advice.

Pandit Hirday Nath Kunzru : May I ask Dr. Ambedkar for information on the point? Has the Drafting Committee or Mr. Bardoloi and the Rev. J. J. M. Nichols-Roy who signed the report of the Tribal Areas Committee of Assam received any representation asking for a change in regard to the position of the tribal people living within the limits of the Shillong municipality?

The Honourable Dr. B. R. Ambedkar : I have not questioned their credentials nor have I examined whether they have fortified themselves with any such representation.

Pandit Hirday Nath Kunzru : I put this question because my honourable Friend referred to the authority of the Prime Minister of Assam and Rev. Nichols-Roy. Both these gentlemen have signed the report of the Committee to which I have referred and that Committee says that the limits of the Shillong Municipality should be what they are now and does not suggest any change in the status of the people living in that area.

The Honourable Dr. B. R. Ambedkar : That they may have done but the report cannot act as an estoppel for further re-examination! I do not think we can carry the matter any further. As I said the Drafting Committee felt that this was such a local matter that they could not act without the authority or advice of the principal participants in this matter. We took their advice and we carried out the work. If they think...*

Shri Kuladhar Chaliha: In Dimapur people from all over India reside.

Mr. President: There is no use saying anything about Dimapur. He has said nothing about Dimapur.

The Honourable Dr. B. R. Ambedkar : I have so far said nothing about it; I am coming to it.

Now I come to the exclusion of certain areas from the autonomous districts.

In this connection I would like to remind the House of the new article 16-A which has just been passed. I would like you to refer to that. In framing article 16-A, two questions were raised. One question related to some two mouzas of what are called the Garo Hills. Along with that the question of the Dimapur area was also raised by my Friend Mr. Chaliha, and I think I am justified in saying that he was present at the Conference. There were three representatives of Assam who were also present at this Conference. Mr. Bardoloi, Rev. Nichols-Roy and Mr. Chaliha and it was considered whether these mouzas of the Garo Hills and the Dimapur area should be separated from the autonomous district. It was said that the conference that it was not desirable to separate them from the autonomous districts because the life of these mouzas—their economic life—was closely bound up with the life of the people in the autonomous districts. It was therefore said that it would be enough if these areas, that is to say, the three mouzas from the Garo Hills and the Dimapur area were separated purely for giving political representation to the inhabitants of this area in the Legislative Assembly. That was definitely stated by my Friend, Mr. Chaliha, who has now raised the question of the Dimapur area. It was therefore at their request and at the instance of these three representatives of Assam that paragraph 16-A was framed in the terms in which it has been framed. If at that time they agreed that there should be a complete separation, that this should not form part of the autonomous area, we would have had no objection to carrying out their wishes. Therefore, it is no use blaming the Drafting Committee: for doing some-

*Dots indicate interruption.

thing which it was not advised to do. That is my first submission. Paragraph 16-A embodies the concretes conclusions of the Drafting Committee and of the three representatives of Assam, including Mr. Chaliha, who for the first time raised the matter of the Dimapur area

Shri Kuladhar Chalihar : May I submit that I was asked to go there as an Adviser and to see. I never felt that I was a member of the Drafting Committee and you will not find my name there.

Mr. President: No one has suggested that you were a member of the Drafting Committee. He has said that you were present.

The Honourable Dr. B. R. Ambedkar : That is his opinion. There is a further point to be made, namely, under amendment 99 which gives power to the Governor to alter boundaries, to diminish areas and so on. It would be perfectly possible for the Governor to sever any area, exclude any area from the area now to be included in the autonomous area. If that is not clear, the Drafting Committee would be quite prepared to include an express clause to that effect. But I do like to say that it is very unfortunate, to put it in the very mildest terms possible, that representatives should come to a conference, agree to certain agreement, and then resile from that agreement, bring in amendments and make it a point to comment against the Drafting Committee and say that they have done something which is either contrary to the wishes of the representation...*

Shri Kuladhar Chaliha : No.

The Honourable Dr. B. R. Ambedkar : I am very sorry. All I can...*

Shri Kuladhar Chaliha : No, no.

The Honourable Dr. B. R. Ambedkar : I am very sorry. Therefore, so far as paragraph 16-A is concerned, it provides separation for the purpose of political requirements. If complete separation is wanted I submit it is already provided for in the paragraph we have passed. If it does not do that, I am prepared to add a clause to make that thing quite clear that the Governor will have power to exclude any area if he thinks fit. So far as my amendment contained in new paragraph 19 is concerned I believe that all points of controversy have been answered.

Now, Sir, I propose to deal with my honourable Friend Mr. Kunzru's amendment which is for the addition of another paragraph. It will be noticed that his amendment is nothing but a repetition of paragraph 5 of the Fifth Schedule which has already been passed and which deals with tribal areas or scheduled areas in States other than Assam. There is nothing more in his amendment than this. My submission as against his

*Dots indicate interruption as shown in the original.

amendment is this : so far as sub-clause *(1)* of his new paragraph is concerned, it is quite unnecessary. It is governed by paragraph *12(b)* of the Sixth Schedule which gives the Governor the power either to apply or not to apply or if apply, apply with modifications laws made by Parliament or laws made by the Legislature of Assam. Therefore, that provision is absolutely unnecessary, and is already contained in our Draft.

With regard to the second sub-clause *(2),* the position is this. It is quite true that so far as the Fifth Schedule is concerned, we do give the Governor the power to make regulations in respect of that area, but we do not propose to give that power to the Governor in the case of the Sixth Schedule. It is for this reason that in the case of the Fifth Schedule the tribes have no authority to make any regulations for themselves, but in the case of the Sixth Schedule, we have given the district council and the regional council the right to make laws in certain respects. It seems to me, therefore, that where the tribes have not been given the power to make regulations it is necessary to give the power to the Governor to make regulations. But, where the tribal councils themselves have been given power to make regulations it seems to me that conferring powers upon the Governor to make similar regulations is utterly superfluous. That is the reason why we do not propose to give the power to the Governor so far as the Sixth Schedule is concerned. I therefore submit that this amendment is quite unnecessary.

There is one other point which I would like to make quite clear. The power to make regulations which it is proposed to give to the District Council under the Sixth Schedule is not a new power at all. As a matter of fact there exists now in Assam certain regulations which give the tribes the same power of making regulations which we are giving by our Schedule. The Schedule therefore is not anything new it is merely continuing the existing position, namely, that the tribes have the power now to make regulations in certain matters. Therefore, for the reasons I have explained his amendment is quite unnecessary. I therefore oppose it.

Mr. President : I was going to suggest that there is really not as much difference in the view points expressed here as would appear from the discussion that we have had. As I have followed Dr. Ambedkar's statement, I believe that if two suggestion are accepted, probably much of the differences will disappear, I was going to suggest therefore that he should include clause *(d)* of sub-paragraph *(2)* of paragraph 10 in the proviso.

The Honourable Dr. B. R. Ambedkar : If we leave it to the Drafting Committee it will do that.

Mr. President : I was going to suggest that we add to clause *(d)* of sub-paragraph *(3)* in amendment No. 99, after the words "diminish the area of an autonomous district" the words "or exclude any are from an autonomous district." This would cover all the points.

The Honourable Dr. B. R. Ambedkar : That we are quite prepared to do.

Mr. President : I find this difficulty. Most of the Members of the House including myself are not acquainted with the local situation and are therefore not in a position to take any definite line of our own with regard to Assam. We have to be guided by friends from there. Since there is difference in some respects among them, our position becomes very difficult. I would therefore suggest that it would be best to leave the thing to be dealt with by the local Government. The suggestions which I have made will enable the local Government to deal with this matter. I understand that Dr. Ambedkar has no objection to the two suggestions I have made.

The Honourable Dr. B. R. Ambedkar : No, Sir. I am prepared to add 10*(2)(d)* to the proviso and also add, 'power to exclude' in the other case.

Mr. President : I think that will satisfy the Friends from Assam.

* * * * *

*Mr. **President :** The proposal is different under paragraph 19.

The Honourable Rev. J. J. M. Nichols-Roy : I do not see any reason why you should put under paragraph 19 a matter which is already covered by paragraph 10.

Mr. President : The idea is to put in "sub-clause *(d)* of sub-paragraph *(2)* of paragraph 10", not the whole of paragraph 10.

The Honourable Rev. J. J. M. Nichols-Roy : What is the use of putting it here in this proviso? It is already there under paragraph 10.

The Honourable Dr. B. R. Ambedkar : Sub-clause *(d)* of sub-paragraph *(2)* of paragraph 10 covers only trading, not money-lending. That is what is sought to be included.

Mr. President : As regards the question of exclusion, it was in the original draft.

The Honourable Dr. B. R. Ambedkar : Mr. Nichols-Roy, it is all right. I do not think you stand to lose anything.

The Honourable Rev. J. J. M. Nichols-Roy : I am asking you whether or not you are going to put in the text an amendment to the effect giving power to Governor to exclude any area of an autonomous district.

*CAD, Vol. IX, 7th September 1949, pp. 1075-1076.

The Honourable Dr. B. R. Ambedkar: "Exclude" also we are giving. To "diminish" means really "exclude".

Mr. President: "Diminish" means "exclude".

[Paragraph 19, as amended and the Table, Parts I and II were added to the Sixth Schedule.]

(*Paragraph 20*)

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

"That after paragraph 19, the following new paragraph be inserted :—

'20. *Amendment of the Schedule.—(1)* Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph *(1)* of this paragraph shall be deemed to be an amendment of this Constitution for purpose of article 304 thereof."

* * * * *

†**The Honourable Dr. B. R. Ambedkar :** I do not accept the amendment (to paragraph 20 of Sibban Lal Saksena).

[The motion of Dr. Ambedkar was adopted. Paragraph 20 was added to the Sixth Schedule. Schedule VI, as amended, was added to the Constitution.]

ARTICLE 281

‡**Mr. President:** Then we go to Article 281.

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

"That for article 281 the following be substituted :—

Interpretation

'281. In this Part, unless the context otherwise requires, the expression 'State' means a State for the time being specified in Part I or Part III of the First Schedule.' "

(Article 281 was added to the Constitution.)

ARTICLE 282 TO 282-C

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

"That with reference to amendment No. 3034 of the List of Amendments (Volume II), for article 282, the following articles be substituted :—

'Recruitment and conditions of service of persons serving the Union or a State.'

282. Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment and conditions of service of persons appointed to public services, and to posts in connection with the affairs of the Union or of any State.

*CAD, Vol. IX, 7th September 1949, p. 1079.

†*Ibid.,* pp. 1081-1082.

‡*Ibid.,* p. 1082.