

We have removed this 40 per cent ratio granted to the States and there will be equality of representation in the Upper Chamber, both to the Indian States as well as to the Provinces, and I am in a position to give some figures, which although they are not exact for the moment, are sufficient to give a picture of what is likely to be the contents of Schedule 3-A.

According to Schedule 3-A, the Provinces will have 141 seats. The Chief Commissioners' Provinces will have two and the States will have seventy altogether. Consequently, the total of elected members to the Upper Chamber will be 213. Add to that twelve nominated seats; That would bring the total to 225. Our clause, as amended, says that the total strength of the Council of States shall not exceed 250. You will thus see that the allocation of seats which it is proposed to make in Schedule 3-A satisfies two conditions, in the first place it removes? weightage and secondly, it brings the total of the House within the maximum that has been prescribed by the amendment that I have made, I think the House will find that this is a very satisfactory position.

Pandit Hirday Nath Kunzru : May I ask my honourable Friend whether the States in Part III of the first Schedule have been represented in accordance with their population?,

The Honourable Dr. B. R. Ambedkar: Yes, everybody will now get population ratio.

Then I come to the second amendment—No. 1377 by Prof. K.T. Shah. Prof. K. T. Shah proposes that there should be a council of the representatives of agriculture, industry, commerce and other special interests created by statute. It will be a permanent body of people. The States shall be required to give them salaries, allowances, and the duty of this council, as proposed by Prof. K. T. Shah, is that it shall have the statutory duty of giving advice to Government, and the Government will have the statutory obligation of consulting this body, and it shall not be permissible for the Government, I take it, to introduce any measure which, on the face of it, does not bear the endorsement that the statutory body has been consulted with regard to the contents of that Bill. I believe that is the purpose of Prof. K. T. Shah's amendment.

There are various objections to this. In the first place anyone who has held any portfolio in the Government of India or in the Provincial

Governments will know that this is the normal method which the Government of India and the Provincial Governments adopt before they finalise their legislative measures : there is no proposal brought forth by the Government of India in which the Government of India has not taken sufficient steps to consult organised opinion dealing with that particular matter. It seems to me that his provision which is a matter of common course is hardly necessary to be put in the Constitution. I therefore, think, that from that point of view it is unnecessary.

Then I should like to tell the House that it is proposed that at a later stage I should bring in an amendment which would permit the President to nominate three persons, either to the Council of States or to the House of the People, who shall be experts with regard to any matter which is being dealt with by any measure introduced by Government. If it is a matter of commerce, some person who has knowledge and information and who is an expert in that particular branch of the subject dealt with by the Bill, will be appointed by the President either to the Council of States or to the Lower House. He shall continue to be a member of the Legislature until the Bill is disposed of, he shall have the right to address the House, but he shall not have the right to vote. It is through that amendment that the Drafting Committee proposes to introduce into the House such expert knowledge as the Legislature at any particular moment may require. That justifies, as I said, the rejection of Prof. K. T. Shah's amendment; and also the other amendments which insisted that the other clauses of this article requiring that agriculture, industry and so on be also represented, become unnecessary. Because, whenever any such expert assistance is necessary, this provision will be found amply sufficient to carry out that particular purpose. Honourable members might remember that in the 1919 Act when Diarchy was introduced in the Provinces, a similar provision was introduced in the then Government of India Act, which permitted Provincial Governors to nominate experts to the House to deal with particular measures. Sir, I suppose and I believe that this particular proposal, which I shall table before the House through an amendment, will be sufficient to meet the requirements of the case.

Shri R. K. Sidhwa : Will the nomination clause remain ?

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

Mr. Vice-President : I shall now put amendment No. 1379 to vote.

“That for clause (1) of article 67, the following be substituted :

‘(1) The Council of States shall consist of not more than two hundred and fifty members of whom—

(a) twelve members shall be nominated by the President in the manner provided in clause (2) of this article; and

(b) the remainder shall be representative of the States.’

The amendment was adopted.

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***Mr. Vice-President :** I shall put amendment No. 1375, standing in the name of Dr. Ambedkar, to vote. It reads.

“That the proviso to clause (1) of article 67 be deleted.”

Shri L. Krishnaswami Bharathi: On a point of Order, Sir, Amendment No. 1375 is out of order in view of the fact that we have already adopted amendment No. 1369 which is a substitution of the clause including the proviso. The proviso has been omitted now by the acceptance of the new clause. There is no point in having an amendment about something which is not in existence.

Mr. Vice-President: Then I shall not put it to vote.

[Five amendments as shown below were adopted, 23 amendments were negatived.]

Amendment No. 1378 :

“That the following new clause be added after clause (1) of article 67 :

“(1-a) The allocation of seats to representatives of the States in the Council of States shall be in accordance with the provisions in that behalf contained in Schedule III-B.’ ”

The amendment was adopted.

Amendment No. 1380. (by Dr. B. R. Ambedkar)

“That for clause (2) of article 67, the following be substituted :

“(2) The members to be nominated by the President under sub-clause (a) of Clause (1) of this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely : ‘ Letters, art, science and social services.’ ”

The amendment was adopted.

Amendment No. 1400.

“That at the end of sub-clause (a) of clause (3) of article 67, the following words be added :

‘in accordance with the system of proportional representation by means of the single transferable vote.’ ”

The amendment was adopted.

* CAD, Vol. VII, 3rd January 1949, pp. 1229-31.

Amendment No. 1403.

“That in sub-clause (b) of clause (3) of article 67, after the words ‘of that House’ the words ‘in accordance with the system of proportional representation by means of the single transferable vote’ be inserted.”

The amendment was adopted.

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***Mr. Vice-President:** The first part of amendment No. 1425 and amendment No. 1426 standing in the name of Mr. Kamath are identical. I propose that amendment No. 1425 may be moved, the first as well as the second part. Mr. Kamath, do you want your amendment No. 1426 to be put to vote ?

Shri H. V. Kamath: I see that Dr. Ambedkar has stolen a march over me and so I do not propose to move my amendment.

Mr. Vice-President: Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) : I am not moving it.

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†**Pandit Thakur Dass Bhargava** : Signing the name can be learnt in two month.

Shri M. Ananthasayanam Ayyangar : With what effect ? It is idle to think that merely if a man is able to sign his name, he will immediately become such a literate and educated man as to exercise his vote properly; I should say such a qualification is unnecessary....

I support the formal amendments moved by my Friend Dr. Ambedkar and oppose the amendments moved by Mr. Karimuddin and Mr. Baig and also by Prof. Shah.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, sir, I accept the amendments Nos. 1417, 1426, 1431 of Prof. Shah, 1434 as amended by the mover of that amendment and as amended by the amendment No. 42 of List II and No. 43 of List II. Of the other amendments, on a careful examination, I find that there is only one amendment on which I need offer any reply. That is amendment No. 1415 of my friend Mr. Karimuddin. His amendment aims at prescribing that the election to the House of the People in the various States shall be in accordance with the propotional representation by single transferable vote. Now, I do not think it is possible to accept this amendment, because, so far as I am able to Judge the merits of the system of

*CAD, Vol. VII, 4th January 1949, p. 1239.

† *Ibid.*, pp. 1261-63.

proportional representation, in the light of the circumstances as they exist in this country, I think, that amendment cannot be accepted. My Friend Mr. Karimuddin will, I think, accept the proposition that proportional representation presupposes literacy on a large scale. In fact, it presupposes that every voter shall be literate, at least to the extent of being in a position to know the numerals, and to be in a position to mark them on a ballot paper. I think, having regard to the extent of literacy in this country, such a presupposition would be utterly extravagant. I have not the least doubt on that point. Our literacy is the smallest, I believe, in the world, and it would be quite impossible to impose upon an illiterate mass of voters a system of election which involves marking of ballot papers. That in itself, would, I think, exclude the system of proportional representation.

The second thing to which I like to draw the attention of the House is that at any rate, in my judgment, proportional representation is not suited to the form of Government which this constitution lays down. The form of Government which this constitution lays down is what is known as the parliamentary system of Government, by which we understand that a government shall continue to be in office not necessarily for the full term prescribed by law, namely, five years, but so long as the Government continues to have the confidence of the majority of the House. Obviously it means that in the House where there is the parliamentary system of government, you must necessarily have a party which is in majority and which is prepared to support the Government. Now, so far as I have been able to study the results of the systems of parliamentary or proportional representation. I think, it might be said that one of the disadvantages of proportional representation is the fragmentation of the legislature into a number of small groups. I think the House will know that although the British Parliament appointed a Royal Commission in the year 1910, for the purpose of considering whether their system of single-member constituency, with one man one vote, was better or whether the proportional representation system was better, it is, I think, a matter to be particularly noted that Parliament was not prepared to accept the recommendations of that Royal Commission. The reason which was given for not accepting it was, in my judgement, a very sound reason, that proportional representation would not permit a stable government to

remain in office, because Parliament would be so divided into so many small groups that every time anything happened which displeased certain groups in Parliament, they would, on that occasion, withdraw their support from the government, with the result that the Government losing the support of certain groups and units, would fall to pieces. Now, I have not the least doubt in my mind that whatever else the future government provides for, whether it relieves the people from the wants from which they are suffering now or not, our future government must do one thing, namely, it must maintain a stable Government and maintain law and order. (*Hear, hear*). I am therefore, very hesitant in accepting any system of election which would damage the stability of Government. I am therefore, on that account, not prepared to accept this arrangement.

There is a third consideration which I think, it is necessary to bear in mind. In this country, for a long number of years, the people have been divided into majorities and minorities. I am not going into the question whether this division of the people into majorities and minorities was natural, or whether it was an artificial thing, or something which was deliberately calculated and brought about by somebody who was not friendly to the progress of this country. Whatever that may be, the fact remains that there have been these majorities and minorities in our country; and also that, at the initial stage when this Constituent Assembly met for the discussion of the principles on which the future constitution of the country should be based, there was an agreement arrived at between the various minority communities and the majority community with regard to the system of representation. That agreement has been a matter of give and take. The minorities who, prior to that meeting of the Constituent Assembly, had been entrenched behind a system of separate electorates, were prepared, or became prepared to give up that system and the majority which believed that there ought to be no kind of special reservation to any particular community permitted, or rather agreed that while they could not agree to separate electorates, they would agree to a system of joint electorates with reservation of seats. This agreement provides for two things. It provides for a definite quota of representation to the various minorities, and it also provides that such a quota shall be returned through joint electorates. Now, my submission is this, that while it is still open to

this House to revise any part of the clauses contained in this draft constitution and while it is open to this House to revise any agreement that has been arrived at between the majority and the minority, this result ought not to be brought about either by surprise or by what I may call, a side-wind. It had better be done directly and it seems to me that the proper procedure for effecting a change in articles 292 and 293 would be to leave the matter to the wishes of the different minorities themselves. If any particular minority represented in this House said that it did not want any reservation, then it would be open to the House to remove the name of that particular minority from the provisions of article 292. If any particular minority preferred that although it did not get a cent per cent deal, namely, did not get a separate electorate, but that what it has got in the form of reservation of seats is better than having nothing, then I think it would be just and proper that the minority should be permitted to retain what the Constituent Assembly has already given to it.

Pandit Thakur Dass Bhargava : But there was no agreement about reservation of seats among the communities and a number of amendments were moved by several Members for separate electorates and so on, but they were all voted down. There was no agreement at all in regard to these matters.

The Honourable Dr. B.R. Ambedkar : I was only saying that it may be taken away, not by force, but by consent. That is my proposition, and therefore, I submit that this proportional representation is really taking away by the back-door what has already been granted to the minorities by this agreement, because proportional representation will not give to the minorities what they wanted, namely, a definite quota. It might give them a voice in the election of their representatives. Whether the minorities will be prepared to give up their quota system and prefer to have a mere voice in the election of their representatives, I submit, in fairness ought to be left to them. For these reasons, Sir, I am not prepared to accept the amendment of Mr. Karimuddin.

Mr. Vice-President: I shall now put the amendments, one by one, to the vote of the House.

Shri H. J. Khandekar : On a point of information, Sir, may I ask Dr. Ambedkar, what about the preceding census. He has not said anything when he amended article 35 the other day. About the preceding

census, is he prepared to amend it by saying 'the latest census'?

Mr. Vice-President: Mr. Khandekar may come to the rostrum and speak.

The Honourable Dr. B. R. Ambedkar: I have accepted the amendment of Mr. Naziruddin Ahmad as amended by him and as amended by Shri Bhargava.

[In all 8 amendments were negatived. Following amendments were adopted.]

¹ "That in sub-clause (a) of clause (5) of article 67, for the words 'representatives of the people of the territories of the states directly chosen by the voters', the words 'members directly elected by the voters in the States' be substituted."

² "That in sub-clause (b) of clause (5) of article 67, the words 'of India' be deleted."

³ "That the proviso to sub-clause (b) of clause (5) of article 67 be deleted."

⁴ "That with reference to amendment No. 1434 of the List of amendments, in sub-clause (c) of clause (5) of article 67, for the words 'members to be elected at any time for', the words 'representatives allotted to' be substituted."

⁵ "That in sub-clause (c) of clause (5) of article 67, for the words 'last preceding census' the words 'last preceding census of which the relevant figures have been published' be substituted."

⁶ "That in clause (7) of article 67, for the word 'may' the word 'shall', for the word 'territories' the words 'the territories' and for the words 'other than States' the words 'directly governed by the centre on the same basis as in the case of states which are constituent parts of the Union' be substituted respectively."

⁷ "That with reference to amendment No. 1450 of the List of amendments, after clause (8) of article 67, the following new proviso be inserted:—

'Provided that such readjustment shall not affect representation to the House of the People until the dissolution of the then existing House.'

⁸ "That to article 67, the following new clause (10) be added:—

'(10) The election to the House of the People shall be in accordance with the system of proportional representation by means of a single transferable vote.'

Article 67, as amended, was added to the Constitution.

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ARTICLE 147-A

***Mr. Vice-President :** Dr. Ambedkar will reply to the amendment.

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Sir, I oppose the amendment, and all that I need say is this, that the basic principle of the amendment is so fundamentally opposed to the basic principles on which the Draft Constitution is based, that I think it is almost impossible now to accept any such proposal.

Mr. Vice-President : I am now going to put the amendment to vote. The question is :

"That before article 14X, the following new article 147-A be added:—

'147-A. The legislature of every state shall be wholly separate from independent of Executive or the Judiciary in the State'.

[This amendment of Prof. K. T. Shah was negatived.]

* CAD, Vol. VII, 6th January 1949, p. 1304.

ARTICLE 148

Mr. Vice-President : There is an amendment to this amendment—No. 46 of List 11, standing in the name of Dr. Ambedkar. Is the Honourable Member going to move it ?

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

“That for amendment No. 2231 of the List of Amendments, the following be substituted:—

‘That in sub-clause(a) of clause (1) of article 148, after the words ‘in the states of’ the words ‘Madras, Bombay, West Bengal, the United Provinces, Bihar and East Punjab’ be inserted’.”

Sir, I should like to state to the House that the question of whether to have a second chamber in the provinces or not was discussed by the Provincial Constitution Committee, which was appointed by this House. The decision of that Committee was that this was a matter which should be left to the decision of each province concerned. If any particular province decided to have a second chamber it should be allowed to have a second chamber : and if any particular province did not want a second chamber, a second chamber should not be imposed upon it. In order to carry out this recommendation of the Provincial Constitution Committee it was decided that the Members in the Constituent Assembly, representing the different provinces should meet and come to a decision on this issue. The Members of the different provinces represented in this Assembly therefore met in groups of their own to decide this question and as a result of the deliberations carried on by the Members it was reported to the office that the provinces which are mentioned in my amendment agree to have a second chamber for their provinces. The only provinces which decided not to have a second chamber are the C. P. & Berar, Assam and Orissa. My amendment gives effect to the results of the deliberations of the representatives of the different provinces in accordance with the recommendation of the Provincial constitution committee.

Sir, I move:

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†**Mr. Vice-President:** Dr. Ambedkar.

Shri H. V. Kamath (C.P. & Berar: General) : Mr. Vice-President

Mr. Vice-President: Mr. Kamath comes from the C. P. which has no upper chamber. (*Laughter.*)

Shri H. V. Kamath : That is exactly. Sir, why I would like to speak.

*CAD, Vol. VII, 6th January 1949, p. 1309.

† *Ibid.*, pp. 1316-17.

Mr. Vice-President: I think the point has been sufficiently discussed. Some four more Honourable Members would probably like to speak, but we have already spent one and a half hours, and we have to make a definite progress every day. I offer my apologies to those gentlemen who have been disappointed; that is all I can offer in the present circumstances. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I regret I cannot accept any of the amendments that have been moved to this particular article. I find from the speeches that have been made that there is not the same amount of unanimity in favour of the principle of having a second chamber in the different provinces. I am not surprised at the views that have been expressed in this House against second chambers. Ever since the French Constituent Assembly met, there has been consistently a view which is opposed to second chambers. I do not think the view of those who are opposed to second chambers can be better put than in the words of Abbe Seiyès. His criticism was two-fold. He said that if the upper House agreed with the lower one, then it was superfluous. If it did not agree with the lower House, it was a mischievous body and we ought not to entertain it. (*Laughter*). The first part of the criticism of Abbe Seiyès is undoubtedly valid, because it is so obvious. But nobody has so far agreed with the second part of the criticism of Abbe Seiyès. Even the French nation has not accepted that view; they too have consistently maintained the principle of having a second chamber.

Now, speaking for myself, I cannot say that I am very strongly prepossessed in favour of a second Chamber. To me, it is like the Curate's egg-good only in parts. (*Laughter*.) All that we are doing by this Constitution is to introduce the second chamber purely as an experimental measure. We have not by the draft Constitution, given the second chamber a permanent place, we have not made it a permanent part of our Constitution. It is a purely experimental measure, as I said, and there is sufficient provision in the present article 304 for getting rid of the second chamber. If, when we come to discuss the merits of article 304 which deals with the abolition of the second chamber, Honourable Members think that some of the provisions contained in article 304 ought to be further relaxed so that the process of getting rid of the second chamber may be facilitated. Speaking for myself, I should raise no difficulty (*Hear, Hear*), and I therefore suggest to the House, as a sort of compromise, that this article may be allowed to be retained in the Constitution.

Mr. Vice-President: I am now going to put the amendments to vote, one by one. The question is—

“That for amendment No. 2231 of the List of Amendments, the following be substituted :—

“That in sub-clause (a) of clause (1) of article 148, after the words ‘in the State of’ the words ‘Madras, Bombay, West bengal, the United Provinces, Bihar and East Punjab’ be inserted.’ ”

[The amendment of Dr. Ambedkar was adopted. Two more amendments were negated.]

Article 148, as amended, was adopted and added to the constitution.

ARTICLE 149

***Mr. Vice-President:** Then we come to article 149. ...Amendment No. 2241 may be moved. It stands in the name of Dr. Ambedkar.

An Honourable Member: It is not being moved. (Voices: ‘member not in the House’ *(Laughter.)*)

Mr. Vice-President : (Seeing the Honourable Dr. Ambedkar coming into the Chamber) Honourable Members are at perfect liberty to go out to take a cup of coffee or have a smoke. They will kindly realise the difficulties of those who are accustomed to both these types of relaxation. Honourable Members will agree that Dr. Ambedkar is entitled to relaxation of that sort. The Chair has nothing to do but to listen to the debates, but Dr. Ambedkar has to listen to the debates and reply. *(Laughter.)*

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†**Mr. Vice-President :** ...Shall we now go on to amendment No. 2250, standing in the name of Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar: Not moving.

Mr. Vice-President: In that case amendment No. 59 in List III, falls through.

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

“That for the proviso to clause (3) of article 149, the following be substituted :—

‘Provided that where the total population of a state as ascertained at the last preceding census exceeds three hundred lakh s, the number of members in the Legislative Assembly of the State shall be on a scale of not more than one member for every lakh of the population of the State up to a population of three hundred

*CAD, Vol. VII, 6th January 1949, p. 1318.

†*Ibid.*, p. 1323.

‡*Ibid.*, p. 1324.

lakhs and not more than five members for every complete ten lakh; of the population of the state in excess of three hundred lakhs :

Provided further that the total number of members in the Legislative Assembly of a state shall in no case be more than four hundred and fifty or less than sixty’.”

***Mr. Vice-President :** So much goodwill has been shown to me by the House, so much kindness is bestowed on me that I suggest that I do not call upon Dr. Ambedkar to make his reply today but that we pass on the some other business, so that all the parties concerned may have an opportunity of putting their heads together and arriving at an agreed solution. After all, framing the Constitution is a co-operative effort and we must do all that we can to make it a success.

Some Honourable Members : Thank you. Sir.

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ARTICLE 63

Mr. Vice-President : There are number of amendments to that amendment.

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†**Shri Prabhudayal Himatsingka** (West Bengal : General): Sir, I beg to oppose the amendments moved by Mr. Naziruddin Ahmad and Prof. K. T. Shah. The article as it stands is what should be accepted by the House. There is certainly difference between the Advocate-General of a province and the Attorney-General of India. Sub-clause (4) provides that the Attorney-General shall hold office at the pleasure of the President and I think that should serve the purpose. If there is a change in the Ministry that necessarily need not mean the going out of office of the Attorney-General also, but in the provinces with the change of ministry the Advocate-General should be required to retire unless he is appointed again. Therefore, I oppose the amendments moved and I support the article as it stands.

Mr. Vice-President : Dr. Ambedkar.

Mr. Naziruddin Ahmad : He has not listened. He is getting his instructions. Sir.

Mr. Vice-President : That is hardly a charitable remark to make.

Mr. Naziruddin Ahmad : It is not. I am forced to make the remark, Sir.....

Mr. Vice-President : Will the Honourable Member kindly resume his seat ?

The Honourable Dr. B. R. Ambedkar (Bombay : General): Sir, I do not know whether any reply is necessary.

[All the amendments were negatived and Article 63 was added to the Constitution.]

*CAD. Vol. VII, 7th January 1949, p. 1349.

† *Ibid.*, p. 1347.

ARTICLE 64

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***Shri Raj Bahadur** (United State of Matsya): Mr. Vice-President, Sir, I come here to oppose the amendment that has been moved by Prof. K. T. Shah. From the various amendments that he has been moving from time to time, I am led to think that he is moving according to a set plan and that he wants the Presidential system of constitution instead of the Parliamentary system of democracy for the country. But, with all respect to his erudition and experience, I see that he has not been consistent even in that. When we discussed article 42, by which the entire executive power of the Union is vested in the President, he himself moved two amendments. Nos. 1040 and 1045 to that article and one of his amendment reads as follows :—

“The sovereign executive power and authority of the Union shall be vested in the President, *and shall be exercised by him* in accordance with the Constitution and in accordance with the laws made thereunder and in force for the time being.”

By implication it means obviously that all executive actions should be taken by and in the name of the President, which is exactly the import, meaning and the implication of article 64, under discussion. I therefore, fail to see any reason for Prof. K. T. Shah to go now behind the terms of his own amendment, which he moved to article 42. What we mean clearly enough is that the entire executive power of the Union vests in the President and all governmental orders, and instruments shall be made in the name of the President. It is no anomaly and no inconsistency under any known democratic principles to get the orders issued in the name of the President and as such, I submit, there is no reason for the house to accept the amendment which has been moved by Prof. Shah.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, sir, I do not think any reply is called for.

[Two amendments were negatived. None was adopted. Article 64 was adopted and added to the Constitution.]

ARTICLE 65

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†**Mr. Vice-President**: There is only one amendment now before the House and the clause is open for general discussion. Dr. Ambedkar, would you like to say anything ?

The Honourable Dr. B. R. Ambedkar : No, Sir, I do not accept Mr. Kamath’s amendment.

The amendment was negatived.

Article 65 was added to the Constitution.

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*CAD, Vol. VII, 7th January 1949, p. 1352.

† *Ibid.*, p. 1354.

MOTION *re* PREPARATION OF ELECTORAL ROLL

***Mr. Vice-President:** Dr. Ambedkar.

May I suggest that you read the resolution in the accepted form before you reply ?

The Honourable Dr. B. R. Ambedkar : Yes; I will indicate the changes that I am going to accept.

Shri Deshbandhu Gupta : May I know, Sir, before Dr. Ambedkar proceeds to reply whether you have given any ruling on the point of order raised by me. I had raised a point of order that, unless the word “already” goes, tills resolution will be of no use because article 149

Mr. Vice-President: I think the word “already” has already been omitted.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, with your permission, I propose to reply to the debate on behalf of the mover of the resolution was Mr. Vice-President. of this resolution.

Before I proceed to deal with the detailed amendments, I should like to propose myself certain amendments in the Resolution as was moved by the Mover.

The first amendment that I propose is, to delete the word “already” from paragraph 2.

My second amendment is to delete clause (a) from sub-clause (1), and delete also the letter and brackets “(b)” in the beginning of the second sub-clause, so that sub-clause (1) will read thus :

“That no person shall be included in the electoral roll of any constituency if he is of unsound mind and stands so declared by a competent court.”

Then, in paragraph (4), I propose to make the following amendments. For the words “subject to the law of the appropriate legislature” in line of that paragraph, my amendment would be “notwithstanding anything in paragraph (3) above”. In line 5 of that paragraph, for the words “a constituency”, substitute the words “an area”.

These are my amendments. I shall briefly explain my amendments. The amendment which I have moved to drop the word “already” meets the points of order that was raised by Shri Deshbandhu Gupta.

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The Honourable Dr. B. R. Ambedkar : Sir, as I said, it is quite true that the word “already” raises the complications which Mr. Deshbandhu Gupta mentioned and it is only right that his objection should be removed by the deletion of the word “already”.

With regard to the second amendment dropping clause (1), it seems to be quite unnecessary, because, the purport of that clause is embodied in paragraphs (3) and (4).

With regard to my next amendment to substitute the words “notwithstanding anything in paragraph (3) above” for the words “subject to the law of the appropriate legislature”, my submission is that the original words were really unnecessary and inappropriate in a clause of that sort. Sub-clause (4) is really an exception to clause (3). That matter has been cleared by my amendment.

With regard to the word “constituency” I have substituted the word “area” in order to meet the criticism that at the stage when the rolls are prepared, there are no constituencies and all that a man can indicate is an area, not a constituency, because, constituencies are not supposed to be in existence then.

My amendment for the addition of the words “or makes” meets the criticism that has been made that there are many people who are illiterate, who may not be in a position to sign an application and file it before a particular officer. The addition of the words “or makes” permits an oral declaration to be made either before a district Matistrate or before an officer who is preparing the electoral rolls. I think that objection is fairly met.

I will now take into consideration the other amendments which have been moved to this resolution.

Shri L. Krishnswami Bharathi : May I suggest one amendment to the Mover that his reason for amending ‘constituency’ in part, (4)

Mr. Vice-President : You cannot tell it to the House. You can tell it to Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : I am prepared to make the necessary consequential changes. As I said, I will turn to the other amendments and I take the amendment of my friend Mr. Tyagi. If I understood him correctly he had no objection to the resolution in its general terms. What he wanted was that the details should be deleted. It seems to me that the position taken by my Friend Mr. Tyagi indicates that he has confusion in his mind about what the objective or the aim of the Resolution is. The aim of the Resolution is merely to make a declaration that it is the intention of this Assembly that as far as possible, election may be held sometime in 1950 but the object of the Resolution is to convey some positive directions to the authorities in charge of preparing the electoral rolls which is the basis of all elections. It would be futile and purposeless merely to make a declaration that this

Constituent Assembly desires that the election should take place in the year 1950 without giving the directions to the authorities concerned in the matter of preparing the electoral roll. Because unless the electoral rolls are prepared in time sufficiently before the date of the election, no election can take place at all. The second part of the resolution contains directions to the various authorities and unless the directions are embodied in the resolution, the Resolution is merely a pious declaration which means nothing. It is setting out an objective without setting out the methods and the instruments by which that objective can be carried out and I think my friend Mr. Tyagi will understand that really speaking the part of the resolution which he wants to omit is more important than the part of the Resolution which he wants to retain. Now I come to the amendment of my friend Mr. Hanumanthaiya.

Shri Mahavir Tyagi : What is your view about the word 'already' ?

The Honourable Dr. B. R. Ambedkar : I have already said that I would delete it. Coming to the amendment of Mr. Hanumanthaiya, he wants to omit the words 'in the year 1950'. His argument has a good deal of sense behind it, because according to him if this constituent assembly were to make this declaration by this Resolution fixing 1950 as a target and if for some reason, either connected with the preparation of electoral rolls or some other circumstances, it becomes impossible to have elections in 1950, the assembly would be placed in a somewhat difficult position. The Assembly might be accused of treating this as a trifling matter when as a matter of fact it is of great substance. But at the same time in view of what the Mover of the Resolution said that there is a certain amount of feeling in the country that we are not going as fast as we ought to in the passing of this Constitution, that our procedure is more leisurely, more dilatory and that is due to our not being very serious in having an early election, it is to remove that sort of feeling in the country that it is necessary to fix some target date and it is from that point of view that the retention of the words 'in the year 1950' becomes necessary. Of course, if reasons justified the postponement of the date, it would but be necessary for the Assembly to postpone the date of elections; and I am sure about it that if the Assembly is in a position to place before the country grounds which are substantial and which are not mere excuses the country will no doubt understand the change and the postponement of the date.

Now my friend Mr. Saksena wants that instead of the 1st Jan. 1949 the date 1st January 1950 be substituted. Mr. Bhargava wants that for 31st March 1948, the date 31st March 1949 be substituted. Now having regard to what has already been done, it is not possible to accept either of these amendments. Mr. Saksena's amendment, if I understood him correctly, has the object that there ought not to be a considerable time lag between the date on which the electoral roll is prepared and the date on which election is held. In other words, the electoral roll must not be very stale and out-of-date. Now it seems to me that if our election is going to take place in 1950, the electoral roll which is prepared on the basis of the voter's qualification as his being an adult on 1st January 1949 cannot, by any stretch of imagination, be deemed to be a stale roll. My Friend Mr. Saksena must be aware of the fact that all electoral rolls generally lag behind the date of election by one year.

Prof. Shibban Lal Saksena: It will become two years old !

The Honourable Dr. B. R. Ambedkar : Therefore if persons who are entitled to be voters in the electoral rolls on the basis of their single solitary qualification which we have, viz., his being a man of 21 years of age on the 1st January 1949 and if the election takes place in the year 1950 on some date not possible to prescribe, I think it cannot be said that the electoral roll will be a stale roll.

Now I am coming to the amendment of Pandit Bhargava. He wants that the date of 31st March 1949 be substituted. It is not possible to accept that amendment because in the expectation of the election taking place in the year 1950, instructions were already issued to the various Provincial Governments on the 1st March 1948 to proceed to prepare the electoral rolls on the basis of adult suffrage. It seems to me that if we accept the amendment of Pandit Bhargava, we shall have to waste all the work that has already been done by Provincial Governments on that basis. I do not think there will be any waste of work already done, because all those who on the 1st January, 1948 would be adults, would be added on to the roll that has already been prepared.

The Honourable Shri K. Santhanam: Is it not necessary also to change the date 1st January 1949 to 31st March 1948, in sub-para. (2) ?

The Honourable Dr. B. R. Ambedkar : No. I do not think so.

Now, I come to the amendment of my friend Mr. Chaudhari. It seems to me that he is asking for something which is quite impossible, if

not ridiculous. He says that every person who is of unsound mind should be deprived of his vote. We all agree that unsound persons should not be included in the voters' list. But the question remains as to who is to determine whether a person is of unsound mind or not. It seems to me that unless the qualification which is introduced in this motion says that a person can be excluded from the electoral roll only when he has been adjudged to be of unsound mind by some impartial judicial authority, seems to be the soundest proposition. Otherwise, to give the authority to a village Patwari not to enter a certain person in the electoral roll because he thinks that he is of unsound mind is really to elevate a cabin boy to the position of the captain of a ship, and I think it is not possible to accept such an amendment.

My friend Mr. Kamath raised some question with regard to a clause that was passed the other day, in which in addition to unsoundness of mind, certain other disqualifications were mentioned, particularly those relating to crime.

Shri Deshbandhu Gupta : Will all the inmates of lunatic asylums be included in the electoral rolls, in the first instance ?

The Honourable Dr. B. R. Ambedkar : I do not know the case of other provinces, but so far as Bombay is concerned, unless the Chief Presidency Magistrate declares a person to be of unsound mind no lunatic asylum would admit him.

Mr. Vice-President: Yes, that is the case in Bengal.

The Honourable Dr. B. R. Ambedkar : And it seems to be the case in Bengal also. It is there in the Lunacy Act.

Now, with regard to the question of crime all that I need say is this that the Drafting Committee, in using the word 'crime' in that particular article was merely reproducing the provision contained in the Sixth Schedule of the Government of India Act, and I do not think that the Drafting Committee had anything more in mind than what is stated in that article. According to that article, the commission of a crime is not by itself any disqualification. The disqualification is only when a person is punished and detained in imprisonment. It is during the period of imprisonment that he loses the right to vote. That point can be further accommodated when we come to the additional disqualifications mentioned in the article to which Mr. Kamath referred.

Shri H. V. Kamath : Am I to understand that grounds of crimes, corrupt or illegal practices etc. of which a person may be convicted in the past will not act as a disqualification or bar to his registration as a voter ?

The Honourable Dr. B. R. Ambedkar : Yes, and those will be prescribed by Parliament.

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Mr. Vice-President: I know that schoolboys on the eve of the vacation behave not always wisely.

The next amendment is that of Pandit Thakur Dass Bhargava. The question is :

“That for the words ‘files a declaration’ substitute *the words* ‘expresses the intention’.”

But this is covered by what Dr. Ambedkar has accepted.

Then his other amendment is that in paragraph 3, for the words “31st March 1948” substitute the words of 31st March 1949.”

The amendment was negatived.

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Mr. Vice-President: Then we come to the amendment of Mr. Nagappa. But that is covered by Dr. Ambedkar’s amendment and so it will not be put to vote.

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Mr. Vice-President: The second part has been accepted by Dr. Ambedkar and therefore need not be voted on. Then we come to the third part. But that is also covered by Dr. Ambedkar’s amendment.

But he has a further amendment to the effect.

The question is :

“That the word ‘permanently’ in the last line of sub-para, (4) be deleted.”

The amendment was negatived.

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Mr. Vice-President: Now, I put the Resolution, as amendment by Dr. Ambedkar’s amendments to vote. Does the House want me to read it out ?

Honourable Members : No, no.

Mr. Vice-President: So the question is :

“That the Resolution as amended, be accepted.”

* Resolved that instructions be issued forthwith to the authorities concerned for the preparation of electoral rolls and for taking all necessary steps so that elections

to the Legislature under the new Constitution may be held as early as possible in the year 1950.

Resolved further that the State electoral rolls he prepared on the basis of the provisions of the new Constitution agreed to by this Assembly and in accordance with the principles hereinafter mentioned, namely :—

(1) That no person shall be included in the electoral roll of any area if he is of unsound mind and stands so declared by a competent court.

(2) That 1st January 1949 shall be the date with reference to which the age of the electors is to be determined.

(3) That a person shall not be qualified to be included in the electoral roll for any area unless he has resided in that area for a period of not less than 180 days in the year ending on the 31st March 1948. For the purposes of this paragraph, a person shall be deemed to be resident in any area if he ordinarily resides in that area or has a permanent place of residence therein.

(4) That, notwithstanding anything in paragraph (3) above, a person who has migrated into a Province or according State on account of disturbances or fear of disturbances in his former place of residence shall be entitled to be included in the electoral roll of an area if he files or makes a declaration of his intention to reside permanently in that area.

(Then motion, as amended was adopted.)

[The motion, as amended, was adopted 5 amendments were rejected.]

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ARTICLE 149 (*Contd.*)

***Mr. Vice-President:** Now we come to article 149. I think there has been sufficient discussion on this article and Dr. Ambedkar will now reply.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, Sir, in reply to the debate on article 149, I wish, first of all, to make clear my position with regard to my own amendment which was No. 2255. I want the permission of the House to withdraw this amendment; and in lieu of that I accept amendment No. 2249, as amended by amendment No. 48 of List II by Mr. Naziruddin Ahmad.

I also accept amendments Nos. 62 and 66 of List IV by Shri T.T. Krishnamachari, amendment No. 2252 as modified by the amendment of Mr. Bhargava and amendment No. 2263 as modified by amendment No. 67 of Shri Shibban Lal Saksena,

Now, Sir, so far as the general debate on the article is concerned, it seems to me that there are only two points that call for reply. The first point is with regard to the census figures to be adopted for the purpose of the new elections. A great deal of argument was concentrated

*CAD, Vol. VII, 8th January 1949, pp. 1387-89.

by many speakers on the fact that the census in certain provinces is not accurate and does not represent the true state of affairs so far as the relative proportions of the different communities are concerned. I think there is a great deal of force in such arguments and, if I may say so, there is enough testimony which one can collect from the Census Commissioners' reports themselves to justify that criticism. I had intended to refer to the statements made by the Census Commissioners on this issue. But, as there is no time, I think I had better not refer to them. Further, the large majority of the members who have spoken on this subject know the facts better than I do. I only want to add one thing and that is that if any people have suffered most in the matter of these manipulations of census calculations by reason of political factors, they are the Scheduled Castes (*Hear, Hear*). In Punjab for instance, the other communities are trying to eat up the Scheduled Castes in order to augment their strength and to acquire larger representation in the legislature for themselves. These poor people who have been living mostly as landless labourers in villages scattered here and there, with no economic independence, with no support from the authorities,—the police or the magistracy,—have been, by certain powerful communities, either compelled to return themselves as members of that particular community or not to enumerate at the elections at all. The same thing has happened to a large extent, I know, in Bengal. For some reason which I have not been able to understand, a large majority of the Scheduled Castes there refused to return themselves as Scheduled Castes. That fact has been noted by the Census Commissioners themselves. I therefore completely appreciate the points that have been made by various members who spoke on the subject that it would not be fair to take the figures of that census.

An Honourable Member: What about Assam ?

The Honourable Dr. B. R. Ambedkar : It may be true of Assam also. I am not very well acquainted with it. As I said I fully appreciate the point that to take those census figures and to delimit constituencies or allocate seats between the different constituencies and between the majority and minority communities would not be fair. Something will have to be done in order to see that the next election is a proper election, related properly to the population figures of the provinces as well as

of the communities. All that I can do at this stage is to give an assurance that I shall communicate these sentiments to those who will be in charge of this matter and I have not the least doubt about it that the matter will be properly attended to.

Sir, if the Members who are interested in it are not satisfied with the assurance that I am giving now, they can at some stage—it is not possible to do it now—move an amendment to article 149 permitting the President to have an interim census, if he deems it necessary taken for the purpose of removing the grievances to which they have referred. In fact, I have with me a draft which might be considered at a later date. Some such draft like this may be considered: “Provided further that the initial representation of the several territorial constituencies of the legislative assembly of any State may be determined in such other manner as the President may by order direct.” That would be general enough and would deal with the difficulty which has been pointed out.

An Honourable Member : Why do you not move it now ?

The Honourable Dr. B. R. Ambedkar : There is no time for it now. If Members are not prepared to rely upon the assurance given by me some such motion may be moved at the appropriate stage.

With regard to the point raised by my honourable friend Prof. Saksena in amendment No. 64, I may say that I whole heartedly support it. I think the proviso he has sought to introduce is a very necessary one. The House will remember that it deals with weightage in representation. We have, in this Constitution, eliminated all sorts of weightages. Weightage to all minorities we have eliminated. Weightage to territories in the representation in the Central Legislature we have eliminated. Weightage between representatives in British India and representatives of Indian States we have eliminated. I think therefore that it is only right that the same principle should apply to representation in legislatures. I therefore accept that amendment.

Sir, I do not think there is any other point worthy of consideration or calling for reply. I therefore recommend to the House the acceptance of article 149, as amended.

Mr. Vice-President : I am now going to put the amendments to vote one by one.

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Mr. Vice-President: Amendment No. 48 of List II. The question is :

“That for amendment No. 2249 of the List of Amendments, the following be substituted :—

“That in clause (3) of article 149, for the words “last preceding census” the words “last preceding census of which the relevant figures have been published “ be substituted’.”

Following amendments were adopted by the House :

(1) That with reference to amendments Nos. 2249 and 2250 of the list of amendments in clause (3) of article 149, for the words ‘every lakh’ the words ‘every seventy-live thousand’ be substituted.”

(2) “With reference to amendment No. 2252 of the list of Amendments, after the words ‘autonomous districts of Assam’ the words and the constituency comprising the cantonment and municipality of Shillong’ be added.

(3) “With reference to amendments Nos. 2256, 2257 and 2258 of List of Amendments, in the proviso to clause (3) of article 149, for the words ‘three hundred’ the words ‘five hundred’ be substituted.”

(4) “That after clause (3) of article 149, the following New Clause be inserted :—

‘(3-a) The ratio between the number of members to be allotted to each territorial constituency in a State and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as particable, be the same throughout the State’.”

The amendment was adopted.

(Article 149, as amended was added to the Constitution.)

[The assembly then adjourned till Monday the 16th May 1949.]

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