

the removal of Public Service Commission, wherever there is a case of misbehaviour.

With regard to automatic disqualifications, I do not think that there could be any manner of dispute because it is obvious that if a member of the Public Service Commission has become insolvent, his integrity could not be altogether relied upon and therefore it must act as a sort of automatic disqualification. Similarly, if a member of the Public Service Commission who is undoubtedly a whole-time officer of the State, instead of discharging his duties to the fullest extent possible and devoting all his time, were to devote a part of his time in some other employment, that again should be a ground for automatic disqualification. Similarly the third disqualification, namely, that he has become infirm in body and mind may also be regarded, without any kind of dispute, as a fit case for automatic disqualification. Members of the House will also remember that while reading article 285-A, there is a provision made for suspension of a member of the Public Services Commission during an enquiry made by the Supreme Court. That provision is, I think, necessary. If the President thinks that a member is guilty of misbehaviour, it is not desirable that the member should continue to function as a member of the Public Services Commission unless his character has been cleared up by a report in his favour by the Supreme Court.

Now, I come to the other important matter relating to the employment or eligibility for employment of the members of the Public Services Commission both—the Union and State Public Services Commissions. Members will see that according to article 285, clause (3), we have made both the Chairman and the Members of the Central Public Services Commission as well as the Chairman of the State Commission, and the members of the State Commission ineligible for reappointment to the same posts: that is to say, once a term of office of a Chairman and Member is over, whether he is a Chairman of the Union Commission or the Chairman of a State Commission, we have said that he shall not be reappointed. I think that is a very salutary provision, because any hope that might be held out for reappointment, or continuation in the same appointment, may act as a sort of temptation which may induce the Member not to act with the same impartiality that he is expected to act in discharging his duties. Therefore, that is a fundamental bar which has been provided in the draft article.

Then the second thing is that according to article 285-C, there is also a provision that neither of these shall be eligible for employment in any

other posts. There is therefore a double disqualification. There is no permission to continue them in their office, nor is there provision for their appointment in any other posts. Now, the only exceptions, that is to say, cases where they could be appointed are these :

The Chairman of a State Public Services Commission is permitted to be a Chairman or a Member of the Union Commission, or a Chairman of any other State Commission.

Secondly, the Members of the Union Commission can become Chairman of the Union Commission or any other State Commission.

Thirdly, the Members of the State Commission can become a Chairman or a member of the Union Commission, or the Chairman of a State Commission.

In other words, the exceptions are : namely, that one man, who is a Member of the Union Public Services Commission, may become a Chairman of the State Public Services Commission can become a Chairman of the Union Public Services Commission, or become a Member of the Union Public Services Commission. The principal point to be noted is this, that neither the Chairman nor the Member of a State Commission can have employment under the same State. He can be appointed by another State as a Chairman or he can be appointed by the Central Government as the Chairman of the Union Public Services Commission or a Member of the Union Public Services Commission., the object being not to permit the State to exercise any patronage in the matter either of giving continued employment in the same post, or in any other post, so that it is hoped that with these provisions the Members of the Commission will be as independent as they are expected to be.

I do not think there is any other point which calls for explanation.

Shri Lakshminarayan Sahu : What about Members of Joint Commissions ?

The Honourable Dr. B. R. Ambedkar : A Joint Commission is the State Commission. That is defined in clause (4) of article 284.

Dr. Monomohan Das (West Bengal : General) : I would like to be clear on some points about 285-A. If the Supreme Court as being referred by the President reports that the Chairman or some other Member of the Public Service Commission should be removed, then will it be obligatory on the part of the President to remove him ?

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

Mr. Naziruddin Ahmad : You have asked the honourable Member to explain to the House the difference between the new draft and the original. That would have been helpful for a proper appreciation of the real changes.

Mr. Naziruddin Ahmad : I do not know whether to oppose or not to oppose.

The Honourable Dr. B. R. Ambedkar : You must have read both drafts. The only thing you might not have read are the commas and semicolons.

Mr. President : I will now take up the amendments.

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***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, there are just a few points on which I would like to say a word or two in reply to the criticism made on the articles which I have submitted to the House.

The first criticism is with regard to the composition of the Public Service Commission. The reservation made there that at least one-half of the members of the Public Service Commission should have been servants of the Crown has been objected to on the ground that this is really a paradise prepared for the I.C.S. people. I am sorry to say that those who have made this criticism do not seem to have understood the purpose, the significance and the functions of the Public Service Commission. The function of the Public Service Commission is to choose people who are fit for Public Service. The judgment required to come to a conclusion on the question of fitness presupposes a certain amount of experience on the part of the person who is asked to judge. Obviously nobody can be a better judge in this matter than a person who has already been in the service of the Crown. The reason therefore why a certain proportion is reserved to persons in service is not because there is any desire to oblige persons who are already in the service of the Crown but the desire is to secure persons with the necessary experience who would be able to perform their duties in the best manner possible. However, I am prepared to accept an amendment if my Friend Mr. Kapoor is prepared for it. I am prepared to say—

“Provided that as nearly as may be one-half” instead of saying

“Provided that at least one-half”

Shri H. V. Kamath : Why not say “not more than one-half”?

The Honourable Dr. B. R. Ambedkar : No, I have done my best.

With regard to the second question, that persons who have been in the Public Service Commission should be permitted to accept an honorary office under the State, personally I am not now inclined to accept that suggestion. Our whole object is to make the members of the Public Service Commission independent of the executive. One way of making

*CAD, Vol. IX, 22nd August 1949, pp. 592-593.

them independent of the executive is to deprive them of any office with which the executive might tempt them to depart from their duty. It is quite true that an office which is not an office of profit but an honorary office does not involve pay. But as every body knows pay is not the only thing which a person obtains by reason of his post. There is such a thing as “pay, pickings and pilferings”. But even if it is not so, there is a certain amount of influence which an office gives to a person. And I think it is desirable to exclude even the possibility of such a person being placed in a post where, although he may not get a salary, he may obtain certain degree of influence.

Now, I come to the amendment of my Friend Mr. Kunzru. I quite agree with him that there is obviously a distinction made between the services to be employed under the Public Service Commission and the services to be employed under the High Court, the Supreme Court and the Auditor-General. I would like to explain why we have made this distinction. With regard to the staff of the High Court and the Supreme Court, at any rate those who are occupying the highest places are required to exercise a certain amount of judicial discretion. Consequently we felt that not only their salaries and pensions should be determined by the Chief Justice with the approval of the President but the conditions of their service also should be left to be determined by the Chief Justice. In the case of the Public Service Commission much of the staff—in fact the whole of the staff—will be merely concerned with what we call “ministerial duties” where there is no authority and no discretion is left. That is the reason why we have made this distinction. But I quite see that my argument is probably not as sound as it might appear. All the same I would suggest to my honourable Friend Pandit Kunzru to allow this article to go through on the promise that at a later stage if I find that there is a necessity to make a change I will come before the House with the necessary amendment.

Sir, my attention is drawn to the fact in the cyclostyled copy of my amendment to article 285-A in sub-clause (3)(b) the words ought to be ‘in any paid employment’. They have been typed wrongly as ‘in any body’s employment.’ I hope the correction will be made.

As I said to Pandit Kunzru, the Drafting Committee will look into the matter and if it feels that there are grounds to make any alteration they will, with the permission of the House come forward with an amendment so that the position may be rectified.

Mr. President : I will now put the amendments to vote first.

The question is :—

“That in amendment No. 3 above, in the proviso to clause (1) of the proposed article 285, for the word ‘one-half’ the word ‘one third’ be substituted.”

Mr. President : Then I shall put that to vote. The question is :

[The amendment was adopted. Article 285, as amended, was added to the Constitution.]

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***Mr. President :** We shall now proceed with the consideration of article 286 and the subsequent articles.

Mr. President : Yes, I agree.

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

“That for article 286, the following article be substituted :—

286 (1) It shall be the duty of the Union and the State Public Service Commissions
 Functions of Public to *conduct* examinations for appointments to the
 Service Commission services of the Union und the services of the State
 respectively.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted—

- (a) on all matters relating to methods of recruitment to civil services and for civil posts ;
- (b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointment, promotions or transfers;
- (c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;
- (d) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be

*CAD, Vol. IX, 23nd August 1949, pp. 597-598.

paid out of the Consolidated Fund of India or, as the case may be, of the State;

- (e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in a civil capacity, and any question as to the amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President or, as the case may be, the Governor or Ruler of the State may refer to them :

Provided that the President as respects the All India Services and also as respects other services and posts in connection with the affairs of the Union, and the Governor or Ruler, as the case may be, as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

(4) Nothing in clause (3) of this article shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts are to be reserved in favour of any backward class citizens in the Union or a State.

(5) All regulations made under the proviso to clause (3) of this article by the President or the Governor or Ruler of a State shall be laid for non less than fourteen days before each House of Parliament or the Houses or each House of the Legislature of the State, as the case may be, as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament or the House or both Houses of the Legislature of the State may make during the session in which they are so laid."

"That for article 287, the following be substituted :—

287. An Act made by Parliament or, as the case may be, the Legislature of a State	
Power to extend	may provide for the exercise of additional functions
functions of Public	by the Union Public Service Commission or the State
Service Commission	Public Service Commission as respects the services of
	the Union or the State and also of any local authority

or other body corporate constituted by law or public institution."

"That for article 288, the following be substituted :—

288. The expenses of the Union or a State Public service Commission, including	
Expenses of Public	any salaries, allowances and pensions payable to or
service Commissions	in respect of the members or staff of the Commission,
	shall be charged on the Consolidated Fund of India or,
	as the case may be, the State."

"That for amendment No. 3075 of the List of Amendments the following be substituted :—

"That after article 288, the following new article be added :—

288-A. (1) It shall be the duty of the Union Commission to present annually to the	
Reports of the Public	President a report as to the work done by the Commission
Service Commissions	and on receipt of such report the President shall cause a
	copy thereof together with a memorandum explaining,

as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before each House of Parliament.

(2) It shall be the duty of a State Commission to present annually to the Governor or Ruler of the State a report as to the work done by the Commission, and it shall be the duty of a Joint Commission to present annually to the Governor or Ruler or each of the States the needs of which are served by the Joint Commission a report as to the work done by the Commission in relation to that State, and in either case the Governor or Ruler, as the case may be, shall, on receipt of such report, cause a copy thereof together with a memorandum explaining as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State.”

The articles are self-explanatory and I do not think that at this stage it is necessary for me to make any comments to bring out any of the points, because the points are all very plain. I would therefore reserve my remarks towards the end when after the debate probably it may be necessary for me to offer some explanation of some of the points raised.

Sir, I move.

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

The Honourable Dr. B. R. Ambedkar: Mr. President, Sir, after the speeches that have been made by my Friend Mr. Ananthasayanam Ayyangar and my Friend Mr. Kunzru, there is very little that is left for me to say in reply to the various points that have been made. Mr. Jaspat Roy Kapoor said that clause (2) was unnecessary. I do not agree with him because clause (2) deals with a matter which is quite different from the one dealt with in the original article 284. I think it is necessary, therefore, to retain both the clauses.

The only point that remains for me to say anything about is the question that is raised about the Scheduled Castes and the Backward Classes. I think I might say that enough provision has been made, both in article 296 which we have to consider at a later stage and in article 10, for safeguarding the interests of what are called the Scheduled Castes, the Scheduled Tribes and the Backward Classes. I do not think that any purpose will be served by making a provision whereby it would be obligatory upon the President to appoint a member of what might be called either a Scheduled Caste, or Scheduled Tribe or a member belonging to the backward classes.

Shri A. V. Thakkar (Saurashtra): Other backward classes.

The Honourable Dr. B. R. Ambedkar: The function of a member of the Public Service Commission is a general one. He cannot be there to protect the interests of any particular class. He shall have to apply his mind to the general question of finding out who is the best and the most

*CAD, Vol. IX, 23rd August 1949, pp. 629-630.

efficient candidate for an appointment. The real protection, the real method of protection is one that has been adopted, namely, to permit the Legislature to fix a certain quota to be filled by these classes. I am also asked to define what are backward classes. Well, I think the words "backward classes" so far as this country is concerned is almost elementary. I do not think that I can use a simpler word than the word "Backward Classes". Everybody in the province knows who are the backward classes, and I think it is, therefore, better to leave the matter as has been done in this Constitution, to the Commission which is to be appointed which will investigate into the conditions of the state of society, and to ascertain which are to be regarded as backward classes in this country.

Shri A. V. Thakkar : May I ask whether it will not take several years before that is done ?

The Honourable Dr. B. R. Ambedkar : Yes, but in the meantime, there is no prohibition on any provincial government to make provisions for what are called the backward classes. They are left quite free, by article 10. Therefore, my submission is that there is no fear that the interests of the backward classes or the Scheduled Castes will be overlooked in the recruitment to the services. As my Friend Pandit Kunzru has said, the articles I have presented to the House are certainly a very great improvement upon what the articles were before in the Draft Constitution. We have, if I may say so for myself, studied a great deal the provisions in the Canadian law and the provisions in the Australian law, and we have succeeded, if I may say so, in finding out a *via media* which I hope the House will not find any difficulty in accepting.

[Article 286, as proposed by Dr. Ambedkar not adopted and added to the Constitution.]

ARTICLE 292

***The Honourable Dr. B. R. Ambedkar :** I move that for article 292, the following be substituted :

"292 (1) Seats shall be reserved in the House of the People for—

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|---|--|
| | (a) the Scheduled Castes; |
| Reservation of seats for Scheduled castes and Scheduled Tribes in the House of the people | (b) the scheduled tribes except the scheduled tribes in the tribal areas of Assam; |
| | (c) the scheduled tribes in the autonomous districts of Assam. |

(2) The number of seats reserved in any State for the Scheduled Castes or the Scheduled Tribes under clause (1) of this article shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that state in the House of the

People as the population of the Scheduled Castes in that State or of the Scheduled Tribes in that State or part of that State as the case may be, in respect of which seats are so reserved bears to the total population of that State.”

This article 292 is an exact reproduction of the decisions of the Advisory Committee in this matter and I do not think any explanation is necessary.

Mr. President : This represents the decision which was taken at another session of this House when we considered the Advisory Committee’s report. This puts in form the decision then taken....

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***The Honourable Dr. B. R. Ambedkar** (Bombay : General): I was going to suggest, with regard to the amendment which stands in the name of Rev. Nichols Roy, that this is more relevant to the interpretation clause where the Scheduled Castes and the tribal people will be defined. If my friend is keen on moving this amendment, I think it should properly stand over until we come to that part of the Constitution—article 303.

Mr. President : Have you followed Dr. Ambedkar ?

The Honourable Rev. J. J. M. Nichols-Roy (Assam : General): Yes, I have. My amendment was based on the amendment which was going to be moved by Mr. Thakkar, No. 3108, and I now find that the amendment (No. 28) which he is now going to move is in a different form. However, if Mr. Thakkar is not going to move this amendment, I also will not move my amendment now. But I reserve the right that I shall move my amendment at the time when this matter will be discussed under article 303.

The Honourable Dr. B. R. Ambedkar : I also suggest that the amendments which stand in the name of Mr. Thakkar should stand over and be taken at the same time when we are dealing with article 303.

The Honourable Rev. J. J. M. Nichols-Roy : If Mr. Thakkar agrees. I will agree.

Shri A. V. Thakkar (Saurashtra) : I completely agree.

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†Sardar Bhopinder Singh Man (East Punjab : Sikh) : As a number of amendments have been moved, it seems to me that some time be given to oppose those amendments.

Mr. President : As I said we have discussed this very proposition for two full days in this House, and every section of the House had full

*CAD, Vol. IX, 24nd August 1949, pp.643-644.

†*Ibid.*, pp. 657-658:

opportunity of expressing itself on the general principles. Now it is those very principles which are sought to be embodied in the resolution which has been placed before the House by Dr. Ambedkar. I do not think any further discussion will help the Members. I therefore call upon Dr. Ambedkar to speak.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, a great many of the points which were raised in the course of the debate on this article and the various amendments are, in my judgment, quite irrelevant to the subject matter of this article. They might well be raised when we will come to the discussion of the electoral laws and the framing of the constituencies. I, therefore, do not propose to deal with them at this stage.

There are just three points which, I think, call for a reply. One point is the one which is raised by Mr. Laskar by his amendment. His amendment is to introduce the words “save in the case of the Scheduled Castes in Assam”. I have completely failed to understand what he intends to do by the introduction of these words. If these words were introduced it would mean that the Scheduled Castes in Assam will not be entitled to get the representation which the article proposes to give them in the Lower House of the Central Parliament, because if the words stand as they are, “save in the case of the Scheduled Castes in Assam” unaccompanied by any other provision, I cannot see what other effect it would have except to deprive the Scheduled Castes of Assam of the right to representation which has been given to them. If I understand him correctly, I think the matter, which he has raised, legitimately refers to article 67B of the Constitution which has already been passed. In that article it has been provided that the ratio of representation in the Legislature should have a definite relation to certain population figures. It has been laid down that the representation in the Lower House at the Centre shall be not less than one representative for every 7,50,000 people, or not more than one representative for a population of 5,00,000. According to what he was saying—and I must confess that it was utterly impossible for me to hear anything that he was saying— but if I gathered the purport of it, he seems to be under the impression that on account of the division of Sylhet district the population of the Scheduled Castes in Assam has been considerably reduced and that there may not be any such figure as we have laid down, namely 7,50,000 or 5,00,000, with the result that he feels that the Scheduled Castes of Assam will not get any representation. But I should like to tell him that the provision in article 61(5)(b) does not apply to the Scheduled Castes.

It applies to the constituency. What it means is that if a constituency consists of 7,50,000 people, that constituency will have one seat. It may be that within that constituency the population of the Scheduled Castes is much smaller, but that would not prevent either the Delimitation Committee or Parliament from allotting a seat for the Scheduled Castes in that particular area. His fear, therefore, in my judgment, is utterly groundless.

Then I come to the amendment moved by Sardar Hukam Singh in which he suggests that provision ought to be made whereby the Scheduled Castes and the Scheduled Tribes would be entitled to contest seats which are generally not reserved for the Scheduled Castes or the Scheduled Tribes. He said that the Drafting Committee has made a deliberate omission. I do not think that is correct. It is accepted that, the Scheduled Castes and the Scheduled Tribes shall be entitled to contest seats which are not reserved seats, which are unreserved seats. That is contained in the report of the Advisory Committee which has already been accepted by the House. The reason why that particular provision has not been introduced in article 292 is because it is not germane at this place. This proposition will find its place in the law relating to election with which this Assembly or the Assembly in its legislative capacity will have to deal with. He therefore need have no tear on that ground.

With regard to the point raised by my Friend Mr. Pillai that the population according to which seats are to be reserved should be estimated by a fresh census, that matter has been agitated in this House on very many occasions. I then said that it was quite impossible for the Government to commit itself to taking a fresh census but the Government has kept its mind open. If it is feasible the government may take a fresh census in order to estimate the population of the Scheduled Castes or the Scheduled Tribes in order to calculate the total representation that they would be entitled to in accordance with the provisions of article 292. The Government is also suggesting that if in any case it is not possible to have a fresh census, they will estimate the population of these communities on the basis of the voters' strength which may be calculated from them, in which case we might be able to arrive at what might be called a rough and ready estimate of the population. I do not think it is possible for me to go beyond that.

All the other amendments I oppose.

[Article 292, as amended by Dr. Ambedkar's motion was added to the Constitution.]

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ARTICLE 293

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

The Honourable Dr. B. R. Ambedkar : I do not think it is necessary to say anything.

[Article 293 was added to the constitution without any amendment.]

ARTICLE 294

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

“That for article 294, the following be substituted :—

<p>294. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the tribal areas of the Assam in the Legislative Assembly of every State for the time being specified in Part I or Part III of the First Schedule.</p>	<p>Reservation of seats for minorities in Legislative Assemblies of the States</p>
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(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative assembly of any State under clause (1) of this article shall bear, as nearly as may be, the same proportion to the total number of seats in the assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved bears to the total population of the State.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of the State of Assam shall not comprise any area outside that district except in the case of the constituency comprising the cantonment and the Municipality of Shillong.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district except from the constituency comprising the cantonment and municipality of Shilong.’ ”

This article is exactly the same as the original article as it stood in the Draft Constitution. The only amendment is that the provision for the reservation of seats for the Muslims and the Christians has been omitted from clause (1) of article 294. That is in accordance with the decision taken by this Assembly on that matter.

ARTICLE 295-A

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

*CAD, Vol. IX, 24nd August 1949, pp. 662.

†*Ibid.*, p. 663.

‡*Ibid.*, p. 674.

“That after article 295, the following new article be inserted :—

‘295-A. Notwithstanding anything contained in the foregoing provisions of this Reservation of seats for Scheduled Castes and Scheduled Tribes to cease to be in force after the expiration of ten years from the commencement of this constitution	Part, the provisions of this Constitution relating to the reservation of seats for the Scheduled Castes and the Scheduled Tribes either in the House of the People or in the Legislative Assembly of a State shall cease to have effect on the expiration of a period of ten years from the commencement of this Constitution.”
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This is also in accordance with the decision of the House. I do not think any explanation is necessary.

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

The Honourable Dr. B. R. Ambedkar (Bombay : General): Mr. President, Sir, there are just four amendments about which I would like to say a few words. I will first take the amendment of my Friend Mr. Bhargava, and say that I am prepared to accept his amendment, because I find that although in the general body of the report that was made to this House, no mention as to time-limit was made to the proposal for allowing representation to Anglo-Indians by nomination, I find that in the subsequent debate which took place on that report, there is an amendment moved by my friend Pandit Bhargava which is very much in the same terms as the amendment which he has now moved, and I find that that amendment of his was accepted by the House. I, therefore, am bound to accept the amendment that he has moved now.

Next, with regard to the question raised by Mr. Naziruddin Ahmad, one part of it has been, I think, met by the amendment moved by my Friend Mr. Krishnamachari which I also accept. I am not at all clear in my own mind at the present stage whether the words in the clause mean that the time-limit should begin to operate from the commencement of the Constitution or whether from the date of the first election to the new Parliament. But all I can say at this stage is that that is a matter which the Drafting Committee will consider and if it is necessary, they will bring about some amendment to carry out the intention that the period should be from the date of first meeting of the first Parliament.

With regard to the other arguments which have been used by my friends Mr. Muniswami Pillai and Mr. Monomohan Das, I am sorry it is not possible to accept that amendment. Their proposal is that while they are prepared to leave the clause as it is, they propose to vest Parliament with the power to alter this clause by further extension of the period of ten years. Now first of all we have as I said, introduced this matter in the

*CAD, Vol. IX, 25th August 1949, pp. 696-697.

Constitution itself, and I do not think that we should permit any change to be made in this, except by the amendment of the Constitution itself.

I would like to say one or two words on the remarks of Members of the Scheduled Castes who have spoken in somewhat passionate and vehement terms on the limitation imposed by this article. I have to say that they have really no cause for complaint, because the decision to limit the thing to ten years was really a decision which has been arrived at with their consent. I personally was prepared to press for a larger time, because I do feel that so far as the Scheduled Castes are concerned, they are not treated on the same footing as the other minorities. For instance, so far as I know the special reservation for the Mussalmans started in the year 1892; so to say, the beginning was made then. Therefore, the Muslims had practically enjoyed these privileges for more or less sixty years. The Christians got this privilege under the Constitution of 1920 and they have enjoyed it for 28 years. The Scheduled Castes got this only in the Constitution of 1935. The commencement of this benefit of special reservation practically began in the year 1937 when that Act came into operation. Unfortunately for them, they had the benefit of this only for two years, for from 1939 practically up to the present moment, or up to 1946, the Constitution was suspended and the Scheduled Castes were not in a position to enjoy the benefits of the privileges which were given to them in the 1935 Act, and it would have been quite proper I think, and generous on the part of this House to have given the Scheduled Castes a longer term with regard to these reservations. But as I said, it was all accepted by the House. It was accepted by Mr. Nagappa and Mr. Muniswamy Pillai and all these Members, if I may say so—I am not making any complaint—were acting on the other side, and I think it is not right now to go back on these provisions. If at the end of the ten years, the Scheduled Castes find that their position has not improved or that they want further extension of this period, it will not be beyond their capacity or their intelligence to invent new ways of getting the same protection which they are promised here.

Shri A. V. Thakkar (Saurashtra) : What about the Scheduled Tribes who are lower down in the scale ?

The Honourable Dr. B. R. Ambedkar : For the Scheduled Tribes I am prepared to give far longer time. But all those who have spoken about the reservations to the Scheduled Castes or to the Scheduled Tribes have been so meticulous that the thing should end by ten years. All I want to

say to them, in the words of Edmund Burke, is “Large Empires and small minds go ill together”.

Mr. President : I shall now take up the amendments one by one....

Shri Yudhisthir Mishra (Orissa States): Sir, I would like to withdraw my amendment.

(The amendment was, by leave of the Assembly, withdrawn.)

Mr. President : Amendment No. 40 (List I—Fifth Week)

Shri S. Nagappa : In view of the explanation given by Dr. Ambedkar I do not wish to press my amendment.

(The amendment was, by leave of the Assembly, withdrawn.)

Mr. President : Amendment No. 99 (List III—Fifth Week).

Shri V. I. Muniswamy Pillay : I was not present in the House on the 25th May when the Second Report of the Minorities Committee was considered. However, in view of what Dr. Ambedkar has said I would like to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

***Mr. Naziruddin Ahmad :** The principle of my amendment has been substantially accepted by Mr. T. T. Krishnamachari’s amendment. Therefore, I wish to withdraw my amendment.

[The amendment was, by leave of the Assembly, withdrawn.]

Mr. President : The next amendment is No. 113 by Pandit Thakur Das Bhargava. This has been accepted by Dr. Ambedkar. The question is :

“That in amendment No. 38 of List 1 (Fifth Week) of Amendments to Amendments, in the proposed new article 295-A, after the word ‘Constitution’ the brackets and letter ‘(a)’ be inserted and after the word ‘State’, the following be inserted :—

‘(b) relating to the representation of the Anglo-Indian community either in the House of the people or in the “Legislative Assemblies of the States through nomination.’ ”

(The amendment was adopted.)

Mr. President : The next amendment is Drafting Committee’s amendment No. 114. The question is :

“That in amendment No. 38 of List I (Fifth Week) of Amendments to Amendments, to the proposed article 295-A, the following proviso be added :—

‘Provided that nothing in this article shall affect the representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or the Assembly, as the case may be.’ ”

[The amendment was adopted. Article 295-A, as amended, was added to the Constitution.]

ARTICLE 296

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***Mr. Naziruddin Ahmad :**My point is that the amendment should be rejected on technical as well as substantial grounds

Shri T.T. Krishnamachari (Madras : General) : May I submit, Sir, that my honourable Friend is wholly out of order in raising this point of Order, because this matter was accepted by the House. The honourable Member had two clear days' notice of it and if he is not able to understand the significance of the amendment in two days, I am sure he cannot understand it in two months.

Mr. President : Is it suggested that when the question was reopened last time with regard to reservation of seats this also was one of the points considered and on this point also a decision was taken then ?

Shri T. T. Krishnamachari : My suggestion is that since Muslims and Indian Christians are no longer to be treated as minorities this point does not arise.

Mr. Naziruddin Ahmad : Not at all. I submit that what was considered was the question of representation of minorities in the legislature. But this new article relates to a different matter, *viz.*, the protection of the minorities in getting minor jobs in the secretariats and districts etc. On the matter of representation in the legislature Sardar Patel was kind enough to consult as and we agreed not to have any reservation in the legislature.

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Sir, the position is this. The report of the Minorities Committee provided that all minorities should have two benefits or privileges, namely, representation in the legislatures and representation in the services. Paragraph 9 of the report which was accepted by this House contained this :

“In the all-India and provincial services the claims of all minorities shall be kept in view in making appointments to these services consistently with the consideration of efficiency in the administration.”

That was the original proposition passed by this House. Subsequently the Advisory Committee came to the conclusion on the consent of the two minorities—Muslims and Christians—that they were not to be treated as minorities. When the House has now accepted that the only minorities to be provided for in this manner are the Scheduled Castes and the Scheduled Tribes obviously the Drafting Committee is bound by the decision of the House and to alter the article in terms of such decision.

Mr. President : The point of Order taken is that what was decided at the time of reconsideration of the articles relating to minorities referred only to reservation of seats and that the question of services was not taken into consideration and that point was not decided.

The Honourable Dr. B. R. Ambedkar : As I understand it, the decision was that they were not minorities and therefore they are not to have either of the two privileges.

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ARTICLE 299

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

“That for article 299, the following article be substituted :—

‘299. (1) There shall be a Special Officer for minorities to be appointed by Special Officer for minorities the Special Officer, President.

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

The original article provided that there should be a minority officer both in the Centre and in each of the provinces. It is now felt that, as the number of minorities has been considerably reduced, it is not desirable to have a cumbrous provision like that for having an officer in each province. The purpose of the original article will be carried out if the Centre appoints an officer and makes him report to the President.

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THIRD SCHEDULE

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

“That in the Third Schedule, in Form I of the Declarations, for the words and brackets solemnly affirm (or swear)’, the following be substituted :—

‘solemnly affirm
—————
swear in the name of God.’ ”

Sir, I also move :

“That in the Third Schedule, in Form II of the Declarations, for the words and brackets solemnly affirm (or swear)’, the following be substituted :—

‘solemnly affirm
—————
swear in the name of God.’ ”

“That in the Third Schedule, in Form III of the Declarations,—

(a) for the word ‘declaration’ the words ‘affirmation or oath’ be substituted;

“CAD, Vol. IX, 26th August 1949, p. 703.

† *Ibid.* pp. 706-707.

- (b) for the words 'solemnly and sincerely promise and declare' the following be substituted :—

‘solemnly affirm
swear in the name of God.’ ”

“That is the Third Schedule, in Form IV of the Declarations,—

- (a) for the word ‘declaration’ the words ‘affirmation or oath’ be substituted;
(b) for the words ‘solemnly and sincerely promise and declare’ the following be substituted :—

‘solemnly affirm
swear in the name of God.’ ”

“That in the Third Schedule, in Form V of the Declarations,—

- (a) the words and figure ‘for the time being specified in Part I of the First Schedule be omitted;
(b) for the words and brackets ‘solemnly affirm (or swear)’, the following be substituted :—

‘solemnly affirm
swear in the name of God.’ ”

“That in the Third Schedule, in Form VI of the Declarations,—

- (a) the words and figure ‘for the time being specified in Part I of the First Schedule be omitted ;
(b) for the words and brackets ‘solemnly affirm (or swear)’ the following be substituted :—

‘solemnly affirm
swear in the name of God.’ ”

“That in the Third Schedule, in Form VII of the Declarations,—

- (a) for the word ‘declaration’ the words ‘affirmation or oath’ be substituted;
(b) the words and figure ‘for the time being specified in Part I of the First Schedule’ be omitted;
(c) for the words ‘solemnly and sincerely promise and declare’ the following be substituted :—

‘solemnly affirm
swear in the name of God.’ ”

“That in the Third Schedule, in Form VIII of the Declarations,—

- (a) for the word ‘declaration’ the words ‘affirmation or oath’ be substituted;
(b) for the words ‘solemnly and sincerely promise and declare’ the following be substituted :—

‘solemnly affirm
swear in the name of God.’ ”

Sir, I also move :

“That in the Third Schedule for the heading ‘Forms of Declarations’ the heading ‘Forms of affirmations or Oaths’ be substituted.”

Mr. President : I take it that there is no objection to the heading being changed.

Mr. Naziruddin Ahmad : There is no objection, Sir.

Mr. President : Then the heading is changed....

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

“That in Form VI of the Forms of Declarations in the third Schedule, the words ‘or as may be specially permitted by the Governor in the case of any matter pertaining to the functions to be exercised by him in his discretion’ be omitted.”

These are unnecessary because we do not propose to leave any discretion in the Governor at all.

Shri H. V. Kamath : May I remind Dr. Ambedkar that 143 has not yet been amended ?

The Honourable Dr. B. R. Ambedkar : Yes, I remember that.

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Mr. President : We have abolished all discretion.

Mr. Naziruddin Ahmad : The difficulty arises in connection with the phraseology occurring at the end of Form VI.

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Mr. President : That is why Dr. Ambedkar has moved for its deletion.

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†**The Honourable Dr. B. R. Ambedkar :** In proposing this amendment, I have not the slightest desire to offend the sentiments of some of the Members who have spoken against the draft on the ground that God has been placed below the line. Sir, in this matter I must admit that we have really no consistent policy which we have followed, for instance, in article 49, which has been passed. God has been, I think, placed above the line and affirmation below the line. In article 81, we have placed affirmation first and the oath afterwards. In this article, to which we have moved amendments, we have merely followed the wording of the principal clause, which runs : “Affirm or Swear”. That being the language of the principal clause, the logical sequence was that the affirmation was placed above the line and the oath was placed below. It is a purely logical thing. Now, the reason why we have thought it desirable to place affirmation first and oath afterwards, was because in this country, at any rate, the Hindu, when he is called upon in any Court of Law to give evidence, generally begins by an affirmation. It is only Christians, Anglo-Indians and Muslims who swear. The Hindus do not like to utter the name of God. I therefore thought that in a matter of this sort, we ought to respect the sentiments and practice of the majority community, and consequently we have introduced this particular method by stating the position as to affirmation and oath. As I said, I have neither one view nor the other. I am perfectly prepared to carry out the wishes of the House. If the House is of the opinion that Mr. Kamath’s amendment should be accepted—and

*CAD, Vol. IX, 26th August 1949, pp. 711-712.

†*Ibid.*, pp. 714-715.

I submit that that would be contrary to the practice prevalent in this country so far as the Hindus are concerned—then what I would suggest is this, that my amendments would be allowed at this stage, with the liberty that the Drafting Committee will take into consideration all the other articles which have been incorporated in the Constitution so far as to bring the whole matter in line. It will not be proper to make a change here and to leave the other articles as they stand.

Shri Mahavir Tyagi : Let grammer not stand in the way of God !

Shri H. V. Kamath : With regard to article 81, there was no amendment before the House, It was stated that every Member in each House of Parliament should make an affirmation and an oath according to the Third Schedule. But what the House has already adopted is the oath or affirmation for the President and the Governors, and that is in the form set out by me in my amendment today.

Mr. President : It is not necessary to have a discussion over this matter. You had better vote on it. It is not a question on which there is room for much discussion. As Dr. Ambedkar has said, he has no particular feeling in the matter, and if the House decides one way, he will ask for the liberty to put all the articles in mat form. So I shall put the amendment to the vote.

Mr. Naziruddin Ahmed : My amendments have not been touched by Dr. Ambedkar at all.

Mr. President : That is different.

The Honourable Dr. B. R. Ambedkar : Alter the word “sincerely”? After “sincerely” I would like to add something more. It would not be enough.

Mr. President : He wants the omission of the word “affection”.

(after a pause)

Well, I will take up the amendment.

(Following amendment was adopted)

“That in Amendment Nos. 56 to 63 of List I (Fifth Week) of Amendments to Amendments, in the form of the oath or affirmation in the Third Schedule, for the words

‘solemnly affirm
swear in the name of God.’ ”

(Proposed to be substituted), the following be substituted :—

‘solemnly affirm
swear in the name of God.’ ”

(The amendment was adopted.)

Mr. President : I take it that the House gives leave to Dr. Ambedkar to put the other articles, wherever such similar expressions occur in the same order.

Honourable Member : Yes.

Shri Jaspat Roy Kapoor : May I suggest that in all the places where we have the words “affirmation or oath” we may have the ‘oath’ first and ‘affirmation’ afterwards. It should be so in the substantive clause also.

Mr. President: That is so. It should be put in the same order wherever the expression occurs.

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Mr. President : The question is :

“That with reference to amendment No. 56 of List I (Fifth Week) of Amendments to Amendments, in the Third Schedule, in Form I of the Declarations, for the words ‘ all manner of people ‘ the words ‘ all people ‘ be substituted.”

Mr. Naziruddin Ahmad: This may be left to the Drafting Committee.

Mr. President : It is not pressed. So I take it that it is dropped.

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Mr. President : The question is :

“That in Form VI of the Forms of Declarations in the Third Schedule, the words ‘or as may be specially permitted by the Governor in the case of any matter pertaining to the functions to be exercised by him in his discretion’ be omitted.”

(The amendment was adopted.)

Mr. President : I do not think it is necessary to put the other amendments to vote, because the voting will be the same as with regard to the other amendments.

Mr. Naziruddin Ahmad : They may be formally put and rejected by the House.

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***Mr. President :** Then I put the proposition moved by Dr. Ambedkar, as amended by Mr. Kamath’s amendment and Dr. Ambedkar’s own amendment, with regard to all these forms. I do not think it is necessary to read them separately.

(The motion was adopted.)

Mr. President : The question is :

“That the Third Schedule, as amended, stand part of the Constitution.”

The motion was adopted.

The Third Schedule as amended, was added to the Constitution.

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

Mr. Naziruddin Ahmad : I have been assured by some very serious Members that they have not read the amendments. Therefore, in view of

*CAD, Vol. IX, 26th August 1949, p. 717.

†*Ibid.*, 29th August 1949, p. 721.

the serious nature of the amendments I say that the house should have time to consider them....

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

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

Mr. President : Were they circulated on Saturday ?

Some Honourable Members : Yes, Sir.

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

Mr. Naziruddin Ahmad : Only twenty.

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

UNION LIST

ENTRY 1

***Mr. President :** You (Dr. P. S. Deshmukh) had not given notice of this amendment originally, not even in the first instance.

The Honourable Dr. B. R. Ambedkar : This is not an amendment to an amendment.

Mr. President : This is altogether a new amendment.

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

Mr. President : There was previously no notice of an amendment to entry 1. This is the first time we have an amendment to this entry.

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

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

Mr. President : As Dr. Ambedkar has pointed out, this being merely a paraphrase of the Entry, we might leave it to him to consider. I do not

think we should have much discussion on these matters, especially when they do not happen to be new ideas.

[Entry 1 was added to the Union List.]

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ENTRY 2

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

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

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

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

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

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

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†**Mr. President :** Dr. Ambedkar.

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

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

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

*CAD, Vol. IX, 29th August 1949, p. 724.

†*Ibid.*, p. 726.

Mr. President : 147 only.

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

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

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

[Entry 2, as amended by Dr. Ambedkar’s amendment, was added to the Union List.]

ENTRY 3

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

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

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

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

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

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

*CAD, Vol. IX, 29th August 1949, p. 727.

†*Ibid.*, 729-730.