

ARTICLE 215

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***The Honourable Dr. B. R. Ambedkar :** I have nothing to say, Sir.

Sardar Hukam Singh : Sir, I have no amendment to move. I have one objection to clause (2) of this article, to which I want to draw the attention of the President of the Drafting Committee. The phraseology looks to me as derogatory to the sovereignty of the Parliament and I would request him, if possible to change the words :

... I only want to bring this to the notice of the Chairman of the Drafting Committee.

Mr. President : Sardar Hukam Singh has made certain suggestions with regard to paragraph 2. He says that it is derogatory to the authority of Parliament to say that the President will repeal or amend any law made by Parliament and that the words should be so modified as to indicate that the power of Parliament is not in any way subordinated.

The Honourable Dr. B. R. Ambedkar : That is so. It is a kind of adaptation. In regard to the autonomous districts of Assam the Governor of Assam has similar power to adapt the laws made by Parliament when he thinks fit so to do. The whole law made by Parliament cannot be applied to certain peculiarly constituted territories unless they are adapted.

Sardar Hukam Singh : Is that a sufficient answer, Sir ? My suggestion was that it is derogatory to the sovereignty of Parliament to say that the President would repeal an Act passed by Parliament.

Mr. President : The suggestion is about a word and not about the power ?

The Honourable Dr. B. R. Ambedkar : The President is part of Parliament. There is no difficulty at all.

Mr. President : I will now put the amendment of Shri Brajeshwar Prasad to vote.

[Amendment was negatived. Article 215 was added to the constitution.]

ARTICLE 303

†Mr. President : Article 303. We can now take up the definition article 303.

The Honourable Dr. B. R. Ambedkar : Mr. President, I move :

“That sub-clause (c) of clause (1) of article 303 be omitted.”

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The motion was adopted.

*CAD, Vol. IX, 16th September 1949, pp. 1581-1582.

† *Ibid.*, p. 1583.

***The Honourable Dr. B. R. Ambedkar :** As regards (b), I would just like to make one point. We are proposing to drop from the Constitution two Parts which we had originally proposed in which certain communities had been enumerated as Scheduled Castes and certain communities as Scheduled Tribes. We thought that was cumbering the Constitution too much and that this could be left to be done by the President by order. That is our present proposal. It seems to me that, in that event, it will be necessary to transfer the definition clauses of the Scheduled Castes and the Scheduled Tribes to some other part of the Constitution and make provision for them in a specific article itself, saying that the President shall define who are the Scheduled Castes and who are the Scheduled Tribes. Now it seems to me that the question has been raised with regard to article 296 and 299 which have been held over. It may be that the definition of 'Anglo-Indian' and 'Indian Christian' which is referred to in (b) and (c) may have to be reconsidered along with that proposition. I request you to hold them over for the present.

Shri V. I. Muniswami Pillai (Madras : General) : The whole thing regarding the Scheduled Castes, etc. may be held over.

Mr. President : I take it that the House agrees to hold over the consideration of items (b) and (c).

[Sub-clauses (b) and (c) were held over.]

Mr. President : There are no amendments to item (d).

The question is :

"That sub-clause (d) be adopted."

The motion was adopted.

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

"That sub-clause (e) of clause (1) of article 303 be deleted."

Mr. President : There is no Chief Judge now. There used to be subordinate High Courts which were called Chief Courts and they used to have Chief Judges.

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The amendment was adopted.

Sub-clause (e) of clause (1) was deleted from article 303.

(Amendment No. 3219 was not moved.)

Mr. President : Then (f). There is no amendment to this. The question is :

"That sub-clause (f) of clause (1) stand part of article 303."

The motion was adopted.

*CAD, Vol. IX, 16th September 1949, pp. 1583.-1584.

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

“That for sub-clauses (g) of clause (1) of article 303 the following sub-clause be substituted, namely :—

‘(g) ‘corresponding Province’, ‘corresponding Indian State’ or ‘corresponding State’ means in cases of doubt such Province, Indian State or State as may be determined by the President to be the corresponding Province, the corresponding Indian State or the corresponding State, as the case may be, for the particular purpose in question;’”

We have only included Indian States.

Shri H. V. Kamath : Are we still going to retain the distinction between ‘State’ and ‘Indian State’?

The Honourable Dr. B. R. Ambedkar : The distinction in this : A State now means a constituent part of the Union. An Indian State means a State which is outside the Union but under the paramountcy or control of the Union.

Shri R. K. Sidhva : Is the Cutch State which is now administered by the Centre an ‘Indian State’? So also Bhopal?

The Honourable Dr. B. R. Ambedkar : An Indian State is defined at a later stage.

Mr. President : There is a definition of an Indian State given later on in amendment No. 140.

Shri T. T. Krishnamachari : There seems to be some confusion in the minds of Members. The terms “corresponding province” and “corresponding Indian State” these are terms pertaining to the period before the commencement of the Constitution. The term “corresponding State” comes into existence after the commencement of the Constitution. The difference between the two is only this. I hope there will now be no confusion on this matter.

[Amendment of Dr. Ambedkar was adopted. Sub-clause (g), of clause (1), as amended was added to article 303.]

Mr. President : Then (h). There is no amendment to this.

[Sub-clause (h) of clause (1) was added to article 303.]

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

“That in sub-clause (i) of clause (1) of article 303, the words ‘but does not include any Act of Parliament of the United Kingdom or any Order in Council made under any such Act’ be omitted.”

Such Acts as the Merchant Shipping Act might have to be retained until Parliament otherwise provides.

Shri H. V. Kamath : With regard to this (i), there is evidently a slight lacuna. It speaks of laws and bye-laws. But only ‘rule’ is mentioned. Why not ‘bye-rule’ as well ?

The Honourable Shri K. Santhanam : I have got an amendment to this...

The Honourable Dr. B. R. Ambedkar : Whether a law is in force or not would depend upon various considerations. First of all, the merger itself may have provided that certain laws shall not be in operation. It may

be that the Bombay Government after that territory has been merged, may retain the laws for that particular territory known as Baroda, or its own legislation might abrogate it. Therefore any existing law means the law that is in force at the date of commencement of the Constitution.

The Honourable Shri K. Santhanam : I do not press my amendment.

[Above amendment of Dr. Ambedkar was adopted. Sub-clause (i) of clause (1), as amended, was added to article 303.]

Mr. President : Then (j). There is no amendment to this. The question is :

“That sub-clause (j) of clause (1), stand part of article 303.”

(The motion was adopted)

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

“That after sub-clause (j) of clause (1) of article 303, the following sub-clause be inserted : —

‘(jj) ‘foreign State’ means any State other than India but does not include a State notified in this behalf by the President.’ ”

The Honourable Shri K. Santhanam : Would Dr. Ambedkar kindly explain what is meant by the latter portion of this sub-clause (jj)? Will he give an illustration of that ?

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***The Honourable Dr. B. R. Ambedkar :** Sir, the position is this : If one were to stop with the word “India”, it means what a Foreign State ordinarily means. Every State is foreign to another State. That is quite clear from the first part of the definition. Therefore, there can be no quarrel with that part of the definition. In fact that definition may not be necessary even, but in view of the fact that we have used the words “Foreign State” in some part of our Constitution and in view of the fact that it may be necessary for certain purposes to declare that a Foreign State, although it is a Foreign State in the terminological sense of the word, is not a Foreign State for certain purposes, it is necessary to have this definition and to give the power to the President to declare that for certain purposes a State of that kind will not be a Foreign State. The case of Malaya, I understand, is very much in point. Therefore, it really means that for certain purposes the President may declare that although a State is a Foreign State in the sense that it is outside India, for certain purposes will not be treated as a Foreign State. It is for that purpose that this definition is sought to be introduced.

The Honourable Shri K. Santhanam : This sub-clause does not authorize the President to notify for certain purposes. It gives a definition.

The Honourable Dr. B. R. Ambedkar : That will, of course be remembered duly by the President when he issues the notification.

[The amendment of Dr. Ambedkar as shown above was adopted.]

SECTION SEVEN

17th September 1949 to 16th November 1949.

ABOLITION OF PRIVY COUNCIL JURISDICTION BILL

***Mr. President :** The first item is the Bill. Dr. Ambedkar.

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

“That the Bill to abolish the jurisdiction of His Majesty in Council in respect of Indian appeals and petitions introduced on the 14th September 1949, be taken into consideration by the Assembly.”

I would like to say just one or two words and inform the House as to why this Bill has become a necessity and what the Bill proposed to do in substance. The necessity for the Bill arises because of two circumstances. One is the provision contained in clause (3) of the proposed Article 308. This article 308 is to be found in the midst of what are called transitional provisions. Clause (3) of article 308 provides that :

“On and from the date of commencement of this Constitution the jurisdiction of His Majesty in Council to entertain and dispose of appeals and petitions from or in respect of any decree or order of any court within the territory of India, including the jurisdiction in respect of criminal matters exercisable by His Majesty by virtue of His Majesty’s prerogative, shall cease, and all appeals and other proceedings pending before His Majesty in Council on the said date shall be transferred to and disposed of, by the Supreme Court,”

which means that on the date on which the Constitution comes into operation, the jurisdiction of the Privy Council will completely vanish.

The second circumstance which has necessitated the Bill is that it is proposed that this Constitution should come into operation sometime about the 26th January 1950. The effect of these two circumstances is that the Privy Council will have no jurisdiction to entertain any appeal or petition after the 26th January 1950, assuming that that becomes the date of the commencement of the Constitution. But what is more important is this that the Privy Council will not even have jurisdiction to deal with and

*CAD, Vol. IX, 17th September 1949, pp. 1589-1590.

dispose of appeals and petitions which may be pending before it on the 26th January, 1950. Now taking stock of the situation as it will be on the 26th January 1950 the position is this. There are at present seventy civil appeals and ten criminal appeals pending before the Privy Council. The Calendar of cases which is prepared for the next sitting of the Privy Council has set down twenty appeals for hearing and disposal. It is also a fact that that is probably the only sitting which the Privy Council will hold for the purposes of disposing of the Indian appeals before the date on which the Constitution comes into operation.

According to the information which we have, this list of cases which is prepared for hearing at the next session of the Privy Council contains about twenty appeals, which means that on the 26th January, 1950, sixty appeals will remain pending undisposed of; and the question really that we are called upon to consider is this. What is to be done with regard to these sixty appeals which are likely to remain pending before the Privy Council on the 26th January, 1950?

There are, of course, two ways of dealing with this matter. One way was to continue the jurisdiction of the Privy Council and dispose of all the appeals that are now pending before it. That was the procedure that was adopted in the Irish Constitution by article 37 whereby it was stated that nothing in their Constitution would affect the jurisdiction of the Privy Council to deal with matters that may be pending before them on the date of the Constitution. But as I pointed out, in the proposed article 308 clause (3), we do not propose to leave any jurisdiction to the Privy Council. We propose to terminate the jurisdiction of the Privy Council on the 26th January, 1950. The only way out, therefore, is to provide that the jurisdiction of the Privy Council shall terminate, that their jurisdiction shall be conferred on the Federal Court and that they shall transfer all the cases which are pending before them on the 10th October, except the twenty cases to which I made a reference earlier to the jurisdiction of the Federal Court. This is what the Bill does.

Now, Sir, coming to the specific provisions of the Bill, it will be noticed that clause 2 abolishes the jurisdiction of the Privy Council over all courts in the territory of India. Clause 3 abolishes the jurisdiction of the Privy Council over the Federal Court, and clause 5 is the converse of clauses 2 and 3, because it proposes to confer the Privy Council jurisdiction on the Federal Court. Clause 4 deals with the matters that are pending before the Privy Council. Although clause 5 confers the Privy Council's jurisdiction on the Federal Court, clause 4 is a saving clause and saves the jurisdiction of the Privy Council in certain appeals and petitions which are

pending before it. They may be classified under four heads : (1) Appeals and petitions in which judgement has been delivered, but Order in Council has not been made before the 10th October, (2) appeals entered in the Cause List for Michaelmas sitting which begins on the 12th October, (3) petitions which are already lodged and may be lodged before the 10th October, and (4) appeals and petitions on which judgement has been reserved by the Privy Council although the hearing has been completed. In clause 6, all those matters which do not come under clause 4 stand automatically transferred to the Federal Court even though they may be pending before the Privy Council. Clauses 7 and 8 are mere matters of construction.

While curtailing the jurisdiction of Privy Council, it is felt that it is desirable to repeal and amend certain sections of the Government of India Act, 1935 which are necessary as a matter of consequence and which are also necessary to remove some of the anomalies in the Government of India Act with regard to the jurisdiction and powers of the Federal Court. As I have said, clause 3 repeals Sections 208 and 218 of the Government of India Act which deal with the Privy Council and appeals from the Federal Court, and appeals from a court outside India. Both these changes are consequential.

It is proposed to amend Section 205 which deals with the appellate jurisdiction of the Federal Court, and Section 209 which deals with the form of judgement and the drawing up of decrees, 210 which deals with jurisdiction of the Federal Court over other courts and Section 214 which deals with jurisdiction of the Federal Court over courts outside India.

It is proposed, therefore, by these consequential and other necessary amendments to make the jurisdiction of the Federal Court complete and independent. This measure, undoubtedly, is an interim measure, because these powers will last only upto the 26th January 1950 when the Constitution comes into operation. On the 26th January 1950, the powers of the Federal Court will be those that are set out in the Constitution.

Sir, I move.

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Clause 2

***The Honourable Dr. B. R. Ambedkar :** Sir, it is contained in clause 3 if my friend will read it. ‘Federal Court’ is provided for in sub-clause (2) of clause 3. That is why the words “(other than the Federal Court)” are there in clause 2.

*CAD, Vol. IX, 17th September 1949, p. 1597.

Pandit Thakur Das Bhargava : In this list it is in clause 2 and my amendment applies to it only.

Mr. President : You can leave it out for the present.

The Honourable Dr. B. R. Ambedkar : I do not accept the amendment. It is quite unnecessary.

Shri B. Das (Orissa : General) : I beg to move :

“That is sub-clause (1) of Clause 2, the words ‘or otherwise’ be deleted.”

Sir, it is very humiliating to me...

***The Honourable Dr. B. R. Ambedkar :** Sir, I do not think this amendment is very necessary, because the jurisdiction of the Privy Council may be derived also from the prerogative conferred by Statute. Therefore the words ‘or otherwise’ are quite necessary. We want to put an end completely to the jurisdiction not merely arising from the prerogative but from other sources also.

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

[All amendments were rejected, clause 2 was added to the Bill.]

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Clause 3

†**Shri T. T. Krishnamachari (Madras : General) :** My friend’s remarks can be cut short if I explain there are really no appeals pending before the Privy Council from the Federal Court.

The Honourable Dr. B. R. Ambedkar : There is no pending appeal.

Pandit Thakur Das Bhargava : I heard from Dr. Ambedkar and Dr. Bakhshi Tek Chand that there is no appeal pending, but there may be other proceedings. My submission is that if there are proceedings whereby remedy is possible to be given the persons concerned should not be deprived of their rights, merely because we are doing away with the jurisdiction of the Privy Council.

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‡**The Honourable Dr. B. R. Ambedkar :** I do not think it is necessary to accept the amendment moved by my Friend. Pandit Thakur Das Bhargava. As my Friend, Mr. Krishnamachari, has stated, there are really no appeals pending before the Privy Council from the Federal Court, and consequently it is quite unnecessary to make any saving as proposed by my Friend, Pandit Thakur Das Bhargava, because nobody is really adversely affected, there being no pending cases.

*CAD, Vol. IX, 17th September 1949, p. 1597.

†*Ibid.*, p. 1598.

‡ *Ibid.*, p. 1599.

With regard to the amendment moved by my Friend, Mr. Naziruddin Ahmad, I cannot understand why we should depart from the principle which has been laid down that any criminal matter which is lodged before the Privy Council before the appointed day may be heard by them for purposes of admission but they would be returned to the Federal Court for final disposal. He wants to make a departure from it but I have not been able to see that the reasons he has advanced warrant it. Therefore I cannot accept his amendment.

[Amendment of Pandit Thakur Das Bhargava was rejected and that of Naziruddin Ahmed was withdrawn. Clause 3 was added to the Bill.]

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Clause 4

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

“That for sub-clause (b) of clause 4, the following sub-clauses be substituted : —

(b) any Indian appeal or petition on which the Judicial Committee has, after hearing the parties, reserved judgment or order; or

(c) any Indian appeal which has been entered before the appointed day in the list of business of the Judicial Committee for the Michaelmas sittings of the year 1949 and which after that day is not directed to be removed therefrom by or under the authority of the Judicial Committee; or; and sub-clause (c) be re-lettered as sub-clause (d).”

What probably requires some explanation is sub-clause (c). Although we have stated in the main clause that business or cases entered upon the calendar for the Michaelmas term may be left with the Privy Council for disposal, it is not quite certain how many of them may remain undisposed of. Therefore, we propose to give permission to the Privy Council at the outset to say that, although a matter or a case is entered upon the cause list for the Michaelmas term, they will not be able to hear some of the matters, so that there may be no balance of pending cases left. In that event, those cases which the Privy Council directs that they will not be able to hear would also become automatically transferred to the Federal Court. It is to provide for that sort of contingency that I am adding this sub-clause (c) in terms of the amendment.

Pandit Thakur Das Bhargava : Sir, I move :

“That sub-clause (c) of clause 4 be deleted.”

...The Honourable Dr. B. R. Ambedkar : Sir, I do not accept the amendment of Pandit Thakur Das Bhargava.

[Amendment of Pandit Bhargava was rejected. Dr. Ambedkar's amendment was adopted. Clause 4 was added to the bill.]

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Clause 5

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

“That in sub-clause (3) of Clause 5, for the brackets, letters and word ‘(b) or (c), the brackets, letters and word ‘(b), (c) or (d)’ be substituted.”

It is purely consequential.

[The amendment was adopted and clause 5, was added to the bill.]

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Clause 7

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†Mr. Naziruddin Ahmad : Sir, I beg to move :

“That is Clause 7, the comma after the word ‘effect’ be deleted.”...

Mr. President : I do not think this need be put to vote, this question of ‘comma’.

The Honourable Dr. B. R. Ambedkar : This will be looked into. This need not be put to vote.

[Clause 7 was added to the Bill.]

Clause 8

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‡The Honourable Dr. B. R. Ambedkar : I do not accept the amendment.

[The amendment of Mr. B. Das was negatived. Clause 8 was added to the Bill.]

Clause 9

#The Honourable Dr. B. R. Ambedkar : Sir, with your permission, I would like to move the amendment which have been put in a somewhat different form because I thought that the amendments as tabled rather create a confusion. If you will allow me, I have put all these in a consolidated form. There is no substantial change at all. It is just a matter of form and I thought that the House would be in a better position to get at the idea of what we are doing in clause 9.

*CAD, Vol. IX, 17th September 1949, pp. 1601.

† *Ibid.*, p. 1602.

‡ *Ibid.*, p. 1604.

Ibid., pp. 1604-1605.

Mr. President : Yes.

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

For clause 9, the following clause be substituted : —

“9. (1) In section 205 of the Government of India Act, 1935 (hereinafter Amendments of the referred to as the said Act), for sub-section (2) Government of India the following sub-section shall be substituted, Act, 1935. namely:—

“(2) Where such certificate is given, any party in a case may appeal to the Federal Court on the ground that any question us aforesaid has been wrongly decided and, with the leave of the Federal Court, on any other ground.”

(2) In section 209 of the said Act, for sub-sections (1) and (2) the following sub-sections shall be substituted, namely : —

“(1) The Federal Court in the exercise of its appellate jurisdiction may pass such Act V of 1908 decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, including an order for the payment of costs, and any decree so passed or order so made shall be enforceable throughout the territory of India”.

I should like to add one or two words to be interpolated, which have been omitted :

“In the manner provided in that behalf in the Code of Civil Procedure, 1908, or in such other manner as may be prescribed by or under a law of the Dominion Legislature, or subject to the provisions of any such law, in the manner prescribed by rules made by the Federal Court.”

“(3) In clause (a) of sub-section (3) of Section 210 of the said Act, for the word, brackets and figure “sub-section (2)”, the word, brackets and figure “sub-section (1)” shall be substituted.”

“(4) In section 214 of the said Act, after sub-section (1) the following sub-section shall be inserted, namely : —”

I should like to add a few words at the beginning.

“(1A) Subject to the provisions of the Code of Civil Procedure, 1908, or any law Act V of 1908. made by the Dominion Legislature, the Federal Court may also from time to time, with the approval of the Governor-General, make rules of court for regulating the manner in which any decree passed or order made by it in the exercise of its appellate jurisdiction may be enforced.”

The object of clause 9 is to make the Federal Court a complete and independent Court. There were certain limitations under the existing Government of India Act, 1935 which prevented the Federal Court from drawing up its own decrees. It had to send the matter to the Trial Court. All these limitations it is necessary to withdraw because the Federal Court is going to take the place of the Privy Council.

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***The Honourable Dr. B. R. Ambedkar :** That amendment, I submit, is outside the scope of the Bill. The Bill deals merely with the transfer of jurisdiction.

Pandit Thakur Das Bhargava : It is not a question of transfer of jurisdiction. I only give what is contained in clause 5 and am defining what jurisdiction shall be conferred, not leaving it to investigation as to what the prerogative of His Majesty was, I am only making these powers in a concrete form from what it is in the abstract...

The Honourable Dr. B. R. Ambedkar : This Bill does not propose to give any direction to the Federal Court as to the manner in which they should exercise the jurisdiction with which they become vested under the present Bill.

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Clause 11

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***The Honourable Dr. B. R. Ambedkar :** Sir, I do not accept that amendment, it is quite unnecessary.

[The amendment of Mr. Naziruddin Ahmad was negatived.]

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Clause 1

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†Mr. President : Do you wish to say anything about this ?

The Honourable Dr. B. R. Ambedkar : The emphasis is on the abolition of the jurisdiction of the Privy Council, and obviously that emphasis could not be realised if the words “abolition of jurisdiction” were put in brackets.

Mr. President : Do you wish to say anything about the 7th amendment ?

The Honourable Dr. B. R. Ambedkar : Sir, the acceding States were never subject to the jurisdiction of the Privy Council. But as a measure of extreme caution, it will be seen that in sub-clause (2) the words used are “within the territory of India”. Therefore, it is unnecessary to make any mention of the acceding States.

Mr. President : I shall now put the amendments to vote.

[All amendments were rejected. Clause 1 was added to the Bill.]

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

“That the Bill, as amended, be passed”.

[The motion was adopted.]

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*CAD, Vol. IX, 17th September 1949, p. 1612.

†*Ibid.*, p. 1613.

ARTICLE 303—(*contd.*)

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

“That after sub-clause (1) of clause (1) of article 303, the following sub-clauses be inserted, namely :—

(II) “High Court” means any court which is deemed for the purposes of this Constitution to be a High Court for any State and includes—

- (i) any court in the territory of India constituted or re-constituted under this Constitution as a High Court and
- (ii) any other court in the territory of India which may be declared by Parliament by law to be a High Court for all or any of the purposes of this Constitution.

(III) “Indian State” means—

- (i) as respects the period before the commencement of this Constitution, any territory which the Government of the dominion of India recognised as such a State; and
- (ii) as respects any period after the commencement of this Constitution, any territory not being part of the territory of India which the President recognises as being such a State.’ ”

Mr. President : There is no amendment to this. As no one wishes to speak on this I will put it to vote.

[The motion was adopted.]

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

“That after sub-clause (n) of clause (1) of article 303, the following sub-clause be inserted, namely : —

“(nn) ‘Ruler’ in relation to a State for the time being specified in Part III of the First Schedule means the person who for the time being is recognised by the President as the Ruler of the State and includes any person for the time being recognised by the President as exercising the powers of the Ruler of the State, and in relation to an Indian State means the Prime, Chief or other person recognised by the Government of the Dominion of India or the President as the Ruler of the State’.”

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Mr. President : There is no amendment to this. I will put it to vote.

[The amendment was adopted.]

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

*CAD, Vol. IX, 17th September 1949, p. 1633.

† *Ibid.*, p. 1633.

‡ *Ibid.*, pp. 1636-1637.

‘(w) ‘Scheduled Castes’ means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 300A of this Constitution to be Scheduled Castes for the purposes of this Constitution.’”

“That with reference to amendment No. 148 of list IV (Eighth Week), for sub-clause (x) of clause (1) of article 303, the following sub-clause be substituted : —

‘(x) ‘Scheduled tribes’ means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 300B of this Constitution to be scheduled tribes for the purposes of this Constitution:”

Mr. President : Yes.

NEW ARTICLE 300A AND 300B

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

“That after article 300, the following articles be inserted : —

300A. (1) The President may, after consultation with the Governor or Ruler of a State, by public notification specify the castes, races or tribes or parts of or groups within castes, races or tribes, which shall for purposes of this Constitution be deemed to be Scheduled Castes in relation to that State.

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued by the President under clause (1) of this article any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

300B. (1) The President may after consultation with the Governor or Ruler of a State, by public notification specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for purposes of this Constitution be deemed to be scheduled tribes in relation to that State.

(2) Parliament may by law include in or exclude from the list of scheduled tribes specified in a notification issued by the President under clause (1) of this article any Tribe or Tribal community or part of or group within any Tribe or Tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.”

The object of these two articles, as I stated, was to eliminate the necessity of burdening the Constitution with long lists of Scheduled Castes and Scheduled Tribes. It is now proposed that

the President, in consultation with the Governor or Ruler of a State should have the power to issue a general notification in the Gazette specifying all the Castes and Tribes or groups thereof deemed to be Scheduled Castes and Scheduled Tribes for the purposes of the privileges which have been defined for them in the Constitution. The only limitation that has been imposed is this : that once a notification has been issued by the President, which, undoubtedly, he will be issuing in consultation with and on the advice of the Government of each State, thereafter, if any elimination was to be made from the List so notified or any addition was to be made, that must be made by Parliament and not by the President. The object is to eliminate any kind of political factors having a play in the matter of the disturbance in the Schedule so published by the President.

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***Mr. President :** Does anyone else wish to speak ? Do you wish to say anything Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar : I do not accept the amendment of Pandit Thakur Das Bhargava.

Mr. President : Then I put the amendments

[Both the above amendments of Dr. Ambedkar were adopted. Following amendment of Pandit Bhargava was negatived.]

* * * * *

“That in amendment No. 201 of list V (Eighth Week), in clause (2) of the proposed new article 300A, the following be added at the end : —

‘for a period of ten years from the commencement of this Constitution.’”

* * * * *

†Mr. President : Then I put Mr. Krishnamachari’s amendment which has really been accepted by Dr. Ambedkar—218A. The question is :

“That in amendment No. 201 of List V (Eighth Week), in the proposed new article 300B—

(a) in clause (1), for the word ‘communities’ in the two places where it occurs, the words ‘tribal communities’ be substituted;

(b) in clause (2) for the word ‘community’, in the two places where it occurs, the words ‘tribal community’ be substituted.”

(The amendment was adopted.)

*CAD, Vol. IX, 17th September 1949, p. 1639.

†*Ibid.*, p. 1640.