

Mr. President : Then I put article 300B as proposed by Dr. Ambedkar.
(Article 300B was adopted and added to the Constitution)

EIGHTH SCHEDULE

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

“That the Eighth Schedule be deleted.”

Mr. President : There are certain amendments to the Eighth Schedule. They would not arise now.

The Honourable Dr. B. R. Ambedkar : No. Sir, they would not arise.
(Schedule Eight was deleted from the Constitution).

ARTICLE 303—(contd.)

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

“That in clause (2) of article 303, the following words be added at the end : —
‘as it applies for the interpretation of an Act of the Legislature of the
Dominion of India.’ ”

The reference is to the General Clauses Act.

Shri Jaspal Roy Kapoor : I wonder whether there is any real necessity for making this. Even if it is, I do not know how far it would be correct if you have it like this “as it applies for the interpretation of an Act of the Legislature of the Dominion of India”. Because, hereafter when the Constitution has come into force, there shall be no law which has been made by ‘the Legislature of the Dominion of India’. The Dominion of India will cease then and all the Acts in force within the Dominion of India will automatically become Acts of the Union.

The Honourable Dr. B. R. Ambedkar : The point is this that the General Clauses Act applies to Acts, Regulations and Ordinances. It is therefore necessary to say to which class of these laws this will apply. That is the reason why this amendment is proposed.

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Shri Jaspat Roy Kapoor : What I mean to submit is that after the Constitution comes into force there shall be no law in existence which could be said to be a law of the ‘ Dominion of India’. So I think our purpose would be fully served if we say “ as it applies for the interpretation of any existing Act.”

*CAD, Vol. IX, 17th September 1949, p. 1640.

†*Ibid.*, p. 1641.

The Honourable Dr. B. R. Ambedkar : I am afraid you have not examined the General Clauses Act.

Shri Jaspat Roy Kapoor : It is no use introducing some provision without carefully scrutinising it.

The Honourable Dr. B. R. Ambedkar : It had better be left to the draftsmen as to what is necessary and what is not.

Shri Jaspat Roy Kapoor : I agree that any necessary corrections should be left to the Drafting Committee. But there is no harm in submitting a mistake if it is a mistake.

The Honourable Dr. B. R. Ambedkar : I refuse to accept, it is a mistake.

Shri Jaspat Roy Kapoor : I know it is not easy to convince you.

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***The Honourable Dr. B. R. Ambedkar :** Sir, I have said what I had to say and after having seen the General Clauses Act right here, I am quite convinced that the amendment I have moved is a very necessary amendment.

Mr. President : The question is :

“That in clause (2) of article 303, the following words be added at the end :—
‘as it applies for the interpretation of an Act of the Legislature of the Dominion of India.’ “

(The amendment was adopted)

Mr. President : Then clause (3). There is amendment No. 156.

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

“That in clause (3) of article 303—

- (i) after the word and figure ‘ Part I’ the words and Figures ‘ or Part III’ be inserted.
- (ii) for the words ‘as the case may be, to an Ordinance made by a Governor’ the words ‘to an Ordinance made by a Governor or Ruler, as the case may be’ be substituted.”

It is purely consequential.

The amendment was adopted.

[Article 303, as amended, was added to the Constitution.]

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ARTICLE 304

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

“That for article 304, the following be substituted :—

*CAD, Vol. IX, 17th September 1949, pp. 1641-1642.

†*Ibid.*, p. 1643.

‘304. An amendment of the Constitution may be initiated by the introduction of a Bill for the purpose in either House of Parliament and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

- (a) any of the Lists in the Seventh Schedule, or
- (b) the representation of States in Parliament, or
- (c) Chapter IV of Part V, Chapter VII of Part VI, and article 213A of this Constitution,

the amendment shall also require to be ratified by the Legislatures of not less than one half of the States for the time being specified in Parts I and III of the First Schedule.”

I will move my other amendment also, No. 207. I move:

“That in amendment No. 118 of List III (English Week), for the proviso to the proposed article 304 the following proviso be substituted :—

‘Provided that if such amendment seeks to make any change in—

- (a) article 43, article 44, article 60, article 142 or article 213A of this Constitution, or
- (b) Chapter IV of Part V, Chapter VII of Part VI, or Chapter I of Part IX of this Constitution, or
- (c) any of the Lists in the Seventh Schedule, or
- (d) the representation of States in Parliament, or
- (e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one half of the States for the time being specified in Parts I and III of the First Schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.”

Sir, I do not wish to say anything at this stage because I anticipate that there would be considerable debate on this article and I propose to reserve my remarks towards the end so that I may be in a position to explain the points that might be raised against this amendment.

Mr. Naziruddin Ahmad : It is far better to give the arguments in advance to avoid any unnecessary debate.

The Honourable Dr. B. R. Ambedkar: If my friend will guarantee to me that he will not take time, I will do it, but I know my friend will have his cake and eat it too.

Mr. Naziruddin Ahmad : Sir, Dr. Ambedkar will give no argument at the beginning, saying that he will await arguments and speak in reply. But in the end on hearing arguments, he will merely say “I oppose the amendments and reject the arguments”!

Mr. President : We shall take up the amendments. No. 119.

Shri T. T. Krishnamachari : Sir, I am not moving amendment No. 119 because it is incorporated in Dr. Ambedkar's amendment. It is covered by No. 207.

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***The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, of the many amendments that have been made and the speeches made thereon, it is not possible for me to pursue every amendment and to pursue every speaker. But I am going to take as a general alternative suggested by the various speakers that our Constitution should be made open for amendment by the future Parliament either by a simple majority or by a method which is much more facile than that embodied in article 304.

Sir, before I proceed to explain the provisions contained in article 304, I should like to remind the House of the provisions which are contained in other constitutions on the question of amending the Constitution. I should begin by telling the House that the Canadian Constitution does not contain any provision for the amendment of the Canadian Constitution. Although Canada today is a Dominion, is a sovereign State with all the attributes of sovereignty and the power to alter the Constitution, the Canadians have not thought it fit to introduce a clause even now permitting the Canadian Parliament to amend their Constitution. It has also to be remembered that the Canadian Constitution was forged as early as 1867 and there is not the slightest doubt about it in the mind of anybody who has read the different books on the Canadian Constitution that there has been a great deal of discontent over the various clauses in the Canadian Constitution and even on the interpretation given by the Privy Council on the provisions of the Canadian Constitution; nonetheless the Canadian people have not thought fit to employ to powers that have been given to them to introduce a clause relating to the amendment of the Constitution.

I come to the Irish Constitution. In the Irish Constitution there is a provision that both Houses by a simple majority may alter, or repeal any part of the Irish Constitution provided that the decision of the Houses to amend, repeal or alter the Constitution is submitted to the people in a referendum and approved by the people by a majority.

*CAD, Vol. IX, 17th September 1949, pp. 1659-1663.

Then let us take the Swiss Constitution. In that constitution too, the legislature may pass an amending Bill, but that amendment does not have any operative force unless two conditions are satisfied: one is that the majority of the cantons accept the amendment, and secondly—there is a referendum also—in the referendum the majority of the people accept the amendment. The mere passing of a Bill by the Legislature in Switzerland has no effect so far as changing the Constitution is concerned.

Let me now take the Australian Constitution. In that Constitution the provision is this : That the amendment must be passed by an absolute majority of the Australian Parliament. Then, after it has been so passed, it must be submitted to the approval of persons who are entitled to elect representatives to the Lower House of the Australian Parliament. Then again it has to be submitted to a referendum of the people or the electors. A further condition is this: that it must be accepted by a majority of the States and also by a majority of the electors.

In the United Constitution the provision is that an amendment must be accepted by two-thirds majority of both Houses subject to the fact that the decision of both Houses by two-thirds majority must be ratified by the decision of two-thirds majority of the States in favour of the amendment. I cite these facts in order to point out that in no country to which I have made reference it is provided that the Constitution should be amended by a simple majority.

Now let me turn to the provision of our Constitution. What is it that we propose to do with regard to amendment of our Constitution ? We propose to divide the various articles of the Constitution into three categories. In one category, we have placed certain articles which would be open to amendment by Parliament by a simple majority. That fact unfortunately has not been noticed by reason of the fact that mention of this matter has not been made in article 304, but in different other articles of the Constitution. Let me refer to some of them. Take for instance articles 2 and 3 which deal with the States. So far as the creation of new States is concerned or the re-constitution of existing States is concerned, this is a matter which can be done by Parliament by a simple majority. Similarly, take for example article 148-A which deals with the Upper Chambers in the provinces. Parliament has been given perfect freedom to either abolish the Upper Chamber or to create new Second Chambers in provinces which do not now have them by a simple majority. Now take article 213 which deals with the States in Part II. With regard to the constitution of the States, the draft Constitution also leaves the making of

constitution of States in Part II and their modification to Parliament to be decided by a simple majority.

Again take Schedule V and VI. They are also left to be amended by Parliament by a simple majority. I can cite innumerable articles in the Constitution, such as article 255, which deals with grants and financial provisions which leave the matter subject to law made by Parliament. The provisions are 'until Parliament otherwise provides'. Therefore in many matters—I have not had time to examine the whole of the draft Constitution and so I am only just illustrating my point—we have left things in our Constitution in a way which is capable of being amended by a simple majority. If my friends who have been persisting in the criticism that Parliament should have more extensive powers of amending or altering the Constitution by a simple majority had suggested to me a concrete case and referred to any definite article that that should also be put in that category, it would have been open to the Drafting Committee to consider the matter. Instead of that, to say that the whole of the Constitution should be left liable to be amended by Parliament by majority is, in my judgement, too extravagant and too tall an order to be accepted by people responsible for drafting the Constitution.

Therefore, the first point which I wanted to emphasise was that it is absolutely a misconception to say that there is no article in the constitution which could not be amended by Parliament by a simple majority. As I said, we have any number of articles in our Constitution which it would be open for Parliament to amend by a bare majority.

Now, what is it we do? We divide the articles of the Constitution under three categories. The first category is the one which consists of articles which can be amended by Parliament by a bare majority. The second set of articles are articles which require two-thirds majority. If the future Parliament wishes to amend any particular article which is not mentioned in Part III or article 304, all that is necessary for them is to have two-thirds majority. Then they can amend it.

Mr. President: Of Members present.

The Honourable Dr. B. R. Ambedkar: Yes. Now, we have no doubt put certain articles in a third category where for the purposes of amendment the mechanism is somewhat different or double. It requires two-thirds majority plus ratification by the States. I shall explain why we think that in the case of certain articles it is desirable to adopt this procedure. If Members of the House who are interested in this matter are to examine the articles that have been put under the proviso, they will find that they

refer not merely to the Centre but to the relations between the Centre and the Provinces. We cannot forget the fact that while we have in a large number of cases invaded provincial autonomy, we still intend and have as a matter of fact seen to it that the federal structure of the Constitution remains fundamentally unaltered. We have by our laws given certain rights to provinces, and reserved certain rights to the Centre. We have distributed legislative authority; we have distributed executive authority and we have distributed administrative authority. Obviously to say that even those articles of the Constitution which pertain to the administrative, legislative, financial and other powers, such as the executive powers of the provinces should be made liable to alteration by the Central Parliament by two-thirds majority, without permitting the provinces or the States to have any voice, is in my judgement altogether nullifying the fundamentals of the Constitution. If my honourable Friends were to refer to the articles which are included in the proviso they will see that we have selected very few. Article 43 deals with the election of the President; article 44 deals with the manner of election of the President. It was the view of the Drafting Committee that the President, while no doubt in charge of the affairs of the Centre, none the less was the head of the Union, and as such, the provinces were as much interested in his election and in the manner of his election as the Centre. Consequently we thought that this was a proper matter to be included in that category of articles which would require ratification by the provinces.

Take article 60 and article 142. Article 60 deals with the extent of the executive authority of the Union and article 142 deals with the extent of the executive authority of the State. We have laid down in our Constitution the fundamental proposition that executive authority shall be co-extensive with legislative authority. Supposing, for instance, the Parliament has the power to make an alteration in article 60 for extending the executive authority beyond the provisions or the limit contained in article 60, it would undoubtedly undermine or limit the executive authority of the States as defined in article 142 and we therefore thought that that also was a fundamental matter and ought to require the ratifications of the States.

Chapter IV, Part V, deals with the Supreme Court. There can be no doubt about it that the Supreme Court is a court in which both the Centre and the provinces or the units and every citizen of this country are interested, and it was therefore a matter which ought not to be left to be

decided merely by a two-thirds majority. The same about the High Courts, mentioned in Chapter VII of Part VI.

Chapter I of Part IX which is included in the third category, deals with the distribution of legislative power, and (a) deals with the lists of the Seventh Schedule. Nobody can deny that the provinces have a fundamental interest in this matter and that they should not be altered without their consent. Similarly the representation of the States in the Council of States which is dealt with in article 67.

I think honourable Members will see that the principles adopted by the Drafting Committee are unquestionable, except in the sight of those who think that the Constitution should be liable, should be open to be amended every article of that—by a simple majority. As I said, I am not prepared to accept that position. The Constitution is a fundamental document. It is a document which defines the position and power of the three organs of the State—the executive, the judiciary and the legislature. It also defines the powers of the executive and the powers of the legislature as against the citizens, as we have done in our Chapter dealing with Fundamental Rights. In fact, the purpose of a Constitution is not merely to create the organs of the State but to limit their authority, because if no limitation was imposed upon the authority of the organs, there will be complete tyranny and complete oppression. The legislature may be free to frame any law; the executive may be free to take any decision; and the Supreme Court may be free to give any interpretation of the law. It would result in utter chaos. Sir I have not been able to understand when it is said that the Constitution must be made open to amendment by a bare majority. I can, applying my mind to this particular feeling, conceive of only three reasons. One is that the Drafting Committee has prepared a draft which from the drafting point of view is very bad. I can quite understand that position. If that is the thing....*

Shri Mahavir Tyagi : It is not so.

The Honourable Dr. B. R. Ambedkar : It may not be so. If it is so, I as Chairman of the Drafting Committee and I think my other colleagues of the Drafting Committee would not at all object if this Constituent Assembly were to appoint another Drafting Committee or to import a Parliamentary draftsman submit this draft to him and ask him to suggest and find out what defects there are. That would be an honest procedure and I have no objection to it at all.

*Dots indicate interruption.

If that is not the ground on which the argument rests, then the other ground is that this Constitution proceeds on some wrong principles. Sir, so far as this matter is concerned, it seems to me that a modern constitution can proceed only on two bases : One base is to have a parliamentary system of government. The other base is to have a totalitarian or dictatorial form of government. If we agree that our Constitution must not be a dictatorship but must be a Constitution in which there is parliamentary democracy where government is all the time on the anvil, so to say, on its trial, responsible to the people, responsible to the judiciary, then I have no hesitation in saying that the principles embodied in this Constitution are as good as, if not better than, the principles embodied in any other parliamentary constitution.

The other argument which perhaps might have been urged—I was not able to hear every Member who spoke—is that this Assembly is not a representative assembly as it has not been elected on adult suffrage, that the large mass of the people are not represented in this Constitution. Consequently this Assembly in framing the Constitution has no right to say that this Constitution should have the finality which article 304 proposes to give it. Sir, it may be true that this Assembly is not a representative assembly in the sense that Members of this Assembly have not been elected on the basis of adult suffrage. I am prepared to accept that argument, but the further inference which is being drawn that if the Assembly had been elected on the basis of adult suffrage, it was then bound to possess greater wisdom and greater political knowledge is an inference which I utterly repudiate.

Mr. Naziruddin Ahmad : It would have been worse !

The Honourable Dr. B. R. Ambedkar : It might easily have been worse, says my Friend Mr. Naziruddin Ahmad, and I agree with him. Power and knowledge do not go together. Often times they are dissociated, and I am quite frank enough to say that this House, such as it is, has probably a greater modicum and quantum of knowledge and information than the future Parliament is likely to have. I therefore submit, Sir, that the article as proposed by the Drafting Committee is the best that could be conceived in the circumstances of the case.

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

[The amendments were negatived and those of Dr. Ambedkar, as mentioned earlier were adopted. Article 304, as amended, was added to the Constitution.]

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***Shri Brajeshwar Prasad :** Sir, now the time is seven o'clock.

Seth Govind Das : There is so much still to be done that I do not think that we shall be able to finish It. So, I propose that either we should sit at nine o'clock tonight and go on till twelve o'clock or we may sit tomorrow morning.

The Honourable Dr. B. R. Ambedkar: We have got only three articles.

Shri T. T. Krishnamachari: We have only three articles, two of which are of a formal nature.

Mr. President: I think it would be very inconvenient to adjourn now and come back again to the House. So we have to sit until we finish or we have to sit tomorrow.

The Honourable Dr. B. R. Ambedkar : We have got two or three articles and I am sure they are non-contentious and it would not take even half an hour.

Seth Govind Das : I do not think we can finish in one hour. There is the question of the name of the country in article I to be settled. I do not think we shall be able to finish all these.

Mr. President: The majority of the House seems to think that we shall continue. Am I correct ?

Many Honourable Members : Yes, Sir.

The Honourable Dr. B. R. Ambedkar : We can finish the thing.

Mr. Naziruddin Ahmad : It cannot be done. There is article 1 and unless the sweets are arranged by Dr. Ambedkar, the *namkaranam* ceremony cannot be done today.

ARTICLE 99

Mr. President: Then we shall take articles 99 and 184.

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

“That for article 99, the following article be substituted :—

<p>‘99. (1) Notwithstanding anything contained in Part XIVA of this Language to be used in Parliament.</p>	<p>constitution but subject to the provisions of article 301-F thereof, business in Parliament shall be translated in Hindi or in English.</p>
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Provided that the Chairman of the Council of States or Speaker of the House of the People or person acting as such, as the case may be, may permit any member, who cannot adequately express himself in either of the languages aforesaid to address the House in the mother tongue.

*CAD, Vol. IX, 17th September 1949, p. 1665.

†*Ibid.*, p. 1666.

(2) Unless Parliament by law otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words 'or in English' were omitted therefrom."

May I move the other one also. This is an analogous thing.

Mr. President: I suppose the argument will be the same in respect of both.

The Honourable Dr. B. R. Ambedkar: They are substantially the same.

Mr. President: I shall put them separately to vote.

The Honourable Dr. B. R. Ambedkar : We can have one discussion. So far as the discussion is concerned, the argument will be more or less the same. Sir, I move :

"That for article 184, the following article be substituted :—

'184. (1) Notwithstanding anything contained in Part XIVA of this Constitution but subject to the provisions of article 301-F thereof, business in the Legislature of a Language to be used in the legislatures of States State shall be transacted in the official language or languages of the State or in Hindi or in English.

Provided that the Speaker of the Legislative Assembly or Chairman of the Legislative Council or person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid to address the House in his mother tongue.

(2) Unless the Legislature of the State otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words 'or in English' were omitted therefrom'."

Sir, I think no observations are necessary. The articles are very clear in themselves.

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***Mr. Nazaruddin Ahmad :** ...If you do not allow the regional languages also to develop, their contribution towards the development of the official language will be very small.

Mr. President: Is that not given in the amendment as proposed now ?

Mr. Naziruddin Ahmad: I shall ask the Drafting Committee to consider that. This is only a suggestion; it should fit in somehow. I know this is only a pious sentiment on my part because it is not going to be accepted.

Pandit Lakshmi Kanta Maitra : Are you going to allow discussion on the language question ? The whole language question is coming before the House.

The Honourable Dr. B. R. Ambedkar : No, No. The whole question has been discussed and decided.

[Amendments of Dr. Ambedkar mentioned above were adopted Articles 99 and 184, as amended were added to the Constitution.]

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ARTICLE 1

***Mr. President:** There is one more article, article 1.

The Honourable Dr. B. R. Ambedkar : Sir, I propose to move amendment No. 130 and incorporate in it my amendment No. 197 which makes a little verbal change in sub-clause (2).

Sir, I move:

“That for clauses (1) and (2) of article 1, the following clauses be substituted :—

“(1) India, that is, Bharat shall be a Union of States.

(2) The States and the territories thereof shall be the States and their territories for the time being specified in Parts I, II and III of the First Schedule.”

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†Mr. President: If I adjourn at all, it will be for the next session. It will be best to adjourn till the next session.

The Honourable Dr. B. R. Ambedkar : Sir, this can be finished in a short time.

Mr. President: What can we do? It is open to any Member to obstruct. Eighty six Members are present and under our rules one-third of the total number of Members should constitute the quorum, and that is about 97. So now, there is no quorum. I have to adjourn the House, there is no help.

An Honourable Member : Let this article go to the next session.

Another Honourable Member : We can meet tomorrow.

Another Honourable Member: There is no guarantee of quorum even tomorrow.

The Honourable Dr. B. R. Ambedkar : We can bring some Members who may be outside. The bell may be rung.

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‡Shri H. V. Kamath : ...Some ascribe it (name of Bharat) to the son of Dushyant and Shakuntala who was also known as “Sarvadamana” or all conqueror and who established his suzerainty and kingdom in this ancient land. After him this land came to be known as Bharat. Another school of research scholars hold that Bharat dates back to Vedic...

*CAD, Vol. IX, 17th September 1949, p. 1669. .

†*Ibid.*, p. 1670.

‡*Ibid.*, 18th September 1949, p. 1674

The Honourable Dr. B. R. Ambedkar (Bombay : General): Is it necessary to trace all this ? I do not understand the purpose of it. It may be well interesting in some other place. My friend accepts the word “Bharat”. The only thing is that he has got an alternative. I am very sorry but there ought to be some sense of proportion, in view of the limited time before the House.

Shri H. V. Kamath : I hope it is not for Dr. Ambedkar to regulate the business of the House.

Mr. President: What amendment are you moving ?

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***Mr. President:** You can move one. I permitted you to move both of them, but I find that the two amendments are contradictory.

Shri H. V. Kamath: Are they contradictory, Sir ? If you say they are contradictory, I have nothing to say.

Mr. President: Yes, if one is accepted, the other is ruled out.

Shri H. V. Kamath : My object is that if one is not accepted, the other may be accepted.

The Honourable Dr. B. R. Ambedkar: Why all this eloquence over it ?

Shri Shankarrao Deo (Bombay : General): There should be no arguing with the Chair.

Shri H. V. Kamath : I know the rules, Mr. Shankarrao Deo.

Mr. President: You can move one.

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†**The Honourable Dr. B. R. Ambedkar:** It is proposed to alter the clause in article 3 dealing with the reorganisation of the provinces and States. States in both Parts I and III will be brought on the same level. There is an amendment to the article and that difference is going to be eliminated and it will disappear.

Shri B. M. Gupte: That is alright but as I was saying I am not against making the Centre strong. But at the same time we have given a glorified name to the units. We are taking away the powers of the States and bringing them in the Central or Concurrent list; and yet we have adopted the word State for the unit....

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*CAD, Vol. IX, 18th September 1949, p. 1675.

†*Ibid.*, p. 1685.

***The Honourable Dr. B. R. Ambedkar :** Sir, this matter was debated at great length last time. When this article came before the House, it was kept back practically at the end of a very long debate because at that time it was not possible to come to a decision as to whether the word “Bharat” should be used after the word “India” or some other word, but the whole of the article including the term “Union”—if I remember correctly— was debated at great length. We are merely now discussing whether the word “Bharat” should come after “India”. The rest of the substantive part of the article has been debated at great length.

Shri B. M. Gupte : I do not say that we should go back upon what we have done. I am merely pointing out the implications and the result of all this....

†Shri Kamalapati Tripathi: ...When we pronounce this word (Bharat) we are reminded of Shankaracharya, who gave a new vision to the world. When we pronounce this word, we are reminded of the mighty arms of Bhagwan Rama which by twanging the chord of the bow sent echoes through the Himalayas, the seas around this land and the heavens. When we pronounce this word, we are reminded of the wheel of Lord Krishna which destroyed the terrible Imperialism of Kshatriyas from India and relieved this land of its burden.

The Honourable Dr. B. R. Ambedkar : Is this all necessary, Sir?

Shri Kamalapati Tripathi: I am just telling you to hear relevant things, Sir.

The Honourable Dr. B. R. Ambedkar : There is a lot of work to be done.

Shri Kamalapati Tripathi: When we pronounces this word we are reminded of Bapu who gave a new message to humanity.

We are pleased to see that this word has been used and we congratulate Dr. Ambedkar on it. It would have been very proper, if he had accepted the amendment moved by Shri Kamath, which states “Bharat as is known in English language ‘India’” ... etc.

*CAD, Vol. IX., 18th September 1949, p. 1686.

†*Ibid.*, p. 1689.

ARTICLE 306

***Mr. President:** We shall now proceed with the consideration of the articles relating to transitory provisions. Article 306.

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

“That for clauses (a), (b) and (c) of article 306, the following clauses be substituted :—

- “(a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or *Kapas*), cotton seed, paper (including newsprint), foodstuffs (including edible oilseeds and oil), coal (including coke and derivatives of coal), iron steel and mica ;
- (b) offences against laws with respect to any of the matters mentioned in clause (a), jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court.”

The only changes which the amendment seeks to make in the original article 306 are these. From sub-clause (a), it is now proposed to omit petroleum and petroleum products and mechanically propelled vehicles. The reason why petroleum and petroleum products are sought to be omitted from sub-clause (a) is because that item is now included in List I of the Seventh Schedule. Mechanically propelled vehicles are omitted because they are at present de-controlled and they are placed in the Concurrent List. If the Centre wishes to legislate, it can legislate. Sub-clause (b) of the original article, relief and rehabilitation of displaced persons, is no longer necessary because that is also put in the Concurrent List. In regard to sub-clause (c), Inquiries and Statistics is also included in the Concurrent List and therefore this is also omitted. It is only a consequential thing. These are all the changes which this amendment seeks to make in the original article 306.

Mr. President : May I enquire of Dr. Ambedkar ? My impression is that cattle fodder including oil cakes and other concentrates was one of the things, adequate control over which was at one time felt necessary. The Government of India Act was sought to be amended; but it would not be amended at the time and considerable difficulty was being felt. I do not know whether you have considered that.

The Honourable Dr. B. R. Ambedkar : This article was re-drafted in consultation with the Industry and Supply Department. We have put in these matters which they thought were necessary to be controlled by the Centre, for a period of five years. If the House thinks that any particular addition may be made to the items included in sub-clause (a), I certainly have no objection.

Mr. President: I speak from my experience which is now rather out of date.

The Honourable Dr. B. R. Ambedkar : I think it is rather desirable to include that item.

Dr. P. S. Deshmukh (C.P. & Berar : General): That may be done in consultation with the Agriculture Department.

Mr. President : That is what I suggest.

The Honourable Dr. B. R. Ambedkar : I think we shall add that. I can put in, foodstuffs including cattle fodder.

Mr. President: Cattle fodder including oil cakes and other concentrates.

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***Mr. President :** Does anyone else wish to speak ? Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar : Sir, I have only to say this much. I am not able to accept the amendment moved by Shri Brajeshwar Prasad. With regard to the other amendment suggested by yourself and by my Friend Dr. Kunzru, I may say that I have an open mind and I am prepared to introduce the necessary amendments after consultation with the Ministry of Industry and Supply. Therefore my amendment may be put through now.

Mr. President : And the Ministry of Agriculture also. You may consult that Ministry also.

The Honourable Dr. B. R. Ambedkar : Yes, Sir, I will consult the Ministries concerned.

Mr. President: Subject to what Dr. Ambedkar has said, I will put the article to vote. I take up the amendments first. Amendment No. 2 of Dr. Deshmukh is more or less verbal and he may leave it to the Drafting Committee also No. 3. What about No. 4 ?

Dr. P. S. Deshmukh : I am not moving it.

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[Amendment of Dr. Ambedkar was adopted. Article 306, as amended was added to the constitution.]

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ARTICLE 309

†**Mr. President :** Then we take up article 309.

The Honourable Dr. B. R. Ambedkar : There is an amendment by Shri Brajeshwar Prasad adding a new article 307 A.

Mr. President : But shall we take it up now ?

The Honourable Dr. B. R. Ambedkar : It may be kept back.

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[Article 309 was adopted and added to the Constitution.]

*CAD, Vol. X, 7th October 1949, p. 6.

†*Ibid.*, p. 7.

ARTICLES 310-A AND 310-B

***Shri T. T. Krishnamachari :** The next article *viz.*, 310 is linked to article 308. These two may be considered together.

Mr. President : Consideration of article 310 is postponed. Then the House will take up consideration of the next articles 310-A and 310-B.

The Honourable Dr. B. R. Ambedkar : Sir, with your permission I move amendment No. 12 in a slightly amended form, thus :

“ That after article 310, the following new articles be inserted :—

‘310 A. The Auditor-General of India holding office immediately before the date of commencement of this Constitution shall, unless he has been elected otherwise, become on that date the Comptroller and Auditor-General of India and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave and pension as are provided for under clause (2) of article 124 of this Constitution in respect of the Comptroller and Auditor-General of India and shall be entitled to continue to hold office until the expiration of his term of office as determined under the provisions (?) which were applicable immediately before such commencement’.

310 B. (1) The members of the Public Service Commission for the Dominion of India holding Office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on that date the members of the Public Service Commission for the Union and shall, notwithstanding anything contained in clauses (1) and (2) of article 285 of this Constitution but subject to the proviso to clause (2) of that article continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

(2) The members of a Public Service Commission of a Province or of a Public Service Commission serving the needs of a group of Provinces holding office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on that date the members of the Public Service Commission for the corresponding State or the members of the Joint Public Service Commission serving the needs of the corresponding States, as the case may be, and shall, notwithstanding anything contained in clauses (1) and (2) of article 285 of this Constitution but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.”

Sir, these articles merely provide for the continuance of certain incumbents of the posts which are regulated by the Constitution such as the members of the Public Service Commission and the Auditor-General.

There is no matter of principle involved in these articles.

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†**The Honourable Dr. B. R. Ambedkar :** I do not propose to accept the amendment of Dr. Deshmukh. It is unnecessary.

*CAD, Vol. X, 7th October 1949, p. 8.

†*Ibid.*, p. 9.

Mr. President : I will first put the amendment of Dr. Deshmukh to vote.
The question is :

“That in amendment No. 12 of List I (First Week), in the proposed new article 310-B, after the words ‘commencement of this Constitution’ wherever they occur, the words ‘whose services have not, for any reason, been terminated be inserted.”

The amendment was negatived.

Mr. President: I will now put the articles contained in the amendment of Dr. Ambedkar one by one to vote.

[All amendments of Dr. Ambedkar were carried Articles 310-A and 310-B were added to the constitution.]

ARTICLE 311-A

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

“That after article 311, the following new article be inserted :

‘311A. (1) Such person as the Constituent Assembly of the Dominion of India shall have elected in this behalf shall be the Provisional President of India until a President has been elected in accordance with the provisions contained in

Chapter I of Part V of this Constitution and has entered upon his office.

(2) In the event of the occurrence of any vacancy in the office of the Provisional President by reason of his death, resignation, or removal, or otherwise, it shall be filled by a person elected in this behalf by the Provisional Parliament functioning under article 311 of this Constitution, and until a person is so elected, the Chief Justice of India shall act as the Provisional President’.”

Mr. President : There are two amendments to this. One is for the deletion of the word “provisional” before the word “President”.

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

“That in amendment No. 28 of List II (First Week), in clause (1) of the proposed article 311 A the word ‘Provisional’ be deletedd.”

“That in amendment No. 28 of List II (First Week), in clause (2) of the proposed article 311 A, for the words ‘provisional President’ in the first place where they occur, the words ‘President so elected by the Constituent Assembly of the Dominion of India’, be substituted.”

“That in amendment No. 28 of List II (First Week), in clause (2) of the proposed article 311 A, for the words ‘the provisional President’ in the second place where they occur, the word ‘President’ be substituted.”

Dr. P. S. Deshmukh : Since the principle underlying my amendment has been accepted, I do not see any reason for moving my amendment.

Mr. President : The article and the amendments are now open to discussion.

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†**Prof. Shibban Lal Saksena :** Mr. President, Sir, ...I hope Dr. Ambedkar will see the reasonableness of this suggestion and will omit the

*CAD, Vol. X, 7th October 1949, p. 9.

†Ibid., p. 10.

word “provisional” before the word “Parliament”, as he has done in the case of the President.

The Honourable Dr. B. R. Ambedkar: I do not think there can be any great objection to the retention of the words “provisional Parliament”. I do not propose to make any change in that. It would not be called the “Provisional Parliament” but for purposes of the language of this article I think it is necessary to say that it is the Provisional Parliament.

Shri R. K. Sidhva: But I thought that Dr. Ambedkar has agreed to omit the word “Provisional”.

Mr. President: No, this is with reference to the Parliament. Mr. Shibhan Lal Saksena wanted that the word “Provisional” should be omitted before the word “Parliament”.

Dr. P.S. Deshmukh: If that is so, I would like to move my amendment for the deletion of the word “Provisional” in the other place also.

Mr. President : Does your amendment refer to Parliament also ?

Dr. P. S. Deshmukh : Yes, Sir.

Mr. President : Mr. Shibhan Lal Saksena has moved it. That will be put to the vote. I will now put the various amendments to vote. The question is :

“That in amendment No. 23 of List II (First Week), in clause (1) of the proposed article 311-A the word ‘provisional’ be deleted.”

The amendment was adopted.

The Honourable Shri K. Santhanam (Madras : General) : Does it mean the word “Provisional” will be deleted before the word “Parliament” also ?

Mr. President : No ; that comes later on.

The question is—

“That in amendment No. 28 of List II (First Week), in clause (2) of the proposed article 311-A, for the words ‘provisional President’ in the first place where they occur, the words ‘President so elected by the Constituent Assembly of the Dominion of India’ be substituted.”

The amendment was adopted.

Mr. President : The question is :

“That in amendment No. 28 of List II (First Week), in clause (2) of the proposed article 311-A, for the words ‘the provisional President’ in the second place where they occur, the word ‘President’ be substituted.”

The amendment was adopted.

Mr. President: Then I take up the amendment which was sought to be moved by Dr. Deshmukh but which was actually moved by Mr. Shibban Lal Saksena.

The question is :

“That in clause (2) of the proposed new article 311-A, the word ‘provisional’ occurring before the word ‘Parliament’ be deleted.”

The amendment was negatived.

(Article 311-A, as amended, was added to the Constitution.)

ARTICLE 311-B

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

“That after article 311-A the following new article be inserted :

‘311-B. Such persons as the provisional President may appoint in this behalf
 Council of Ministers of the shall become members of the Council of Ministers of
 Provisional President. the provisional President under this Constitution,
 and until appointments are made, all persons
 holding office as Ministers for the Dominion of India
 immediately before the commencement of the Constitution shall become and shall
 continue to hold office as members of the Council of Ministers of the Provisional
 President under the Constitution.”

Dr. P. S. Deshmukh : Sir, I thank you for giving me this opportunity of moving this amendment of mine. I move :

“That in amendment No. 13 above, in the proposed new article 311-B, the word ‘provisional’ wherever it occurs, be deleted.”

May I add that since the Honourable Dr. Ambedkar has accepted the sense behind this amendment I do not wish to take up the time of the House any more. It becomes more or less a consequential amendment.

(Amendment No. 15 was not moved.)

Mr. President : I take it that Dr. Ambedkar accepts the amendment.

The Honourable Dr. B. R. Ambedkar : Yes, Sir, I do.

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†**The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, this article 311-B is merely a formal article permitting the President, so to say, to carry over the Ministry that may be existing immediately before the commencement of the Constitution. This article is analogous to the other article which we have already passed, relating to members of the Public Service Commission and to the Auditor-General. Consequently there is really no fundamental difference between those articles and this article. If those who have commented upon the provisions of this article 311-B contend that no Ministry ought to be appointed or function on the 26th of January, 1950, unless that Ministry has the confidence of the Parliament, I am quite prepared to accept that contention. But I do not quite understand how this article makes it impossible either for the Parliament or for the Ministry to obtain what might be called a vote of confidence. If the members of Parliament do not think that the existing Ministry is competent enough to

*CAD, Vol. X, 7th October 1949, p. 12.

†*Ibid.*, pp. 14-15.

discharge the functions which it has to perform, it is open to this House before the 26th of January to pass a vote of no confidence in the Ministry and thereby dismiss the Ministry. It would be equally open to the Prime Minister, before submitting the names of the members of the Cabinet to the provisional President, to obtain also a positive vote of confidence in himself and his Ministry from the House. If neither the Prime Minister nor the House desires to apply the test of no confidence or confidence before the 26th of January, 1950—assuming that to be the date for the operation of the Constitution—this article 311-B does not take away the power from the House after the 26th of January to table a no-confidence motion and to dismiss that Ministry. Nor is the Prime Minister prevented by this article from coming forward after the appointment of the Ministry to obtain a positive vote of confidence in himself and the Ministry.

Therefore it seems to me that those who have commented upon the provisions of article 311-B, probably under the impression that this is a surreptitious attempt on the part of the existing Ministry to smuggle themselves, so to say, under the new Constitution, have been labouring under a misapprehension. The doors are perfectly open at present, and even after the 26th of January, for the House to take such action as the House prefers and to dismiss the Ministry if they do not like it. Therefore, this article is merely, as I said, a formal article permitting the carrying over of the existing Ministry into the New Constitution.

Shri H. V. Kamath : The Honourable Dr. Ambedkar has not answered the points raised by me. What about the oath of office I referred to ?

The Honourable Dr. B. R. Ambedkar : That will be taken undoubtedly. “Appointment” means taking the oath of office. Otherwise there is no appointment.

Shri H. V. Kamath : On that very day ?

The Honourable Dr. B. R. Ambedkar : Yes, certainly. On that very day. “Appointment” includes oath of office.

Mr. President: I shall put Dr. Deshmukh’s amendment to vote—I take it that it has been accepted by the Mover.

[The amendment was adopted. Article 311-B, as amended, was added to the Constitution.]

ARTICLE 312

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

“That for article 312, the following article be substituted :—

‘312. (1) Until the House or Houses of the Legislature of each State for the time	being specified in part of the First Schedule has or
Provisions as to	have been duly constituted and summoned to meet
Provincial Legislature in	for the first session under the provisions of this Con-
each State.	

stitution, the House or Houses of the Legislature of the corresponding Province functioning immediately before the commencement of this Constitution shall exercise the powers and perform the duties conferred by the provisions of this Constitution on the House or Houses of the Legislature of such State.

(2) Notwithstanding anything contained in clause (1) of this article, where a general election to reconstitute the Legislative Assembly of a Province was ordered before the commencement of this Constitution, the election may be completed after such commencement as if this Constitution has not come into operation and the assembly so reconstituted shall be deemed to be the Legislative Assembly of that Province for the purposes of that clause.

(3) Any person holding office as Speaker of the Legislative Assembly or President of the Legislative Council of a Province immediately before the commencement of this Constitution shall after such commencement be the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be of the corresponding State for the time being specified in Part I of the First Schedule while such Assembly or Council functions under clause (1) of this article :

Provided that where a general election was ordered for the reconstitution of the Legislative Assembly of a Province before the commencement of this Constitution and the first meeting of the Assembly as so reconstituted is held after such commencement the provisions of this clause shall not apply and the Assembly as reconstituted shall elect a member of the Assembly as the Speaker thereof.”

The provisions are quite clear and I do not think that they require any explanation.

Mr. President : Are there any amendments to this ? I do not see any.

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***Shri M. Ananthasayanam Ayyangar :** It all depends how long the interim period lasts, if it is a short one, there may not be any need for the dissolution. But what if it is otherwise ? We know every sitting Member will be anxious to continue and every other person who has not had a chance may like to have the House dissolved. I am not casting any aspersions on any particular Member. I only say that in the circumstances I have mentioned, there must be some provision whereby, if necessary, an opportunity can be had of changing the Assembly and going to the electorate.

The Honourable Dr. B. R. Ambedkar : Sir, after what has fallen from you, I do not think it is necessary for me to pursue the matter any further. So far as the merits of the amended article are concerned, I do not think anything has been said which calls for a reply.

Shri H. V. Kamath : What about the clause concerning the Speaker ?

The Honourable Dr. B. R. Ambedkar : That was there in the original draft.

Mr. President : I will now put article 312 to vote. The question is :

“That the proposed article 312 stand part of the Constitution.”

The motion was adopted.

Article 312 was added to the Constitution.

ARTICLES 312-A TO 312-E, 312G AND 312-H

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

“That after article 312, the following new articles be inserted :—

312A. Any person holding office of Governor in any Province immediately before the commencement of this constitution shall after such commencement be the provisional Governor of the corresponding State for the time being specified in Part I of the First Schedule until a new Governor has been appointed in accordance with the provisions of chapter II of Part VI of this Constitution and has entered upon his office.

312B. Such persons as the provisional governor of a State may appoint in this behalf shall become members of the council of Ministers of the provisional Governor under this Constitution, and until appointments are so made, all persons holding office as Ministers for the corresponding State immediately before the commencement of this constitution shall become and shall continue to hold office as members of the Council of Ministers of the provisional Governor of the State under this Constitution.

312C. Until the House or Houses of the Legislature of a State for the time being specified in Part III of the First Schedule has or have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, the body or authority functioning immediately before such commencement as the Legislature of the corresponding Indian State shall exercise the powers and perform the duties conferred by the provisions of this Constitution on the House or Houses of the Legislature of the State so specified.

312D. Such persons as the Rajpramukh of a State for the time being specified in Part III of the First Schedule may appoint in this behalf shall become members of the council of Ministers of such Rajpramukh under this Constitution and until appointments are so made, all persons holding office as Ministers immediately before the commencement of this Constitution in the corresponding Indian State shall become and shall continue to hold office as members of the council of Ministers of such Rajpramukh under this Constitution.

For article 312E I propose amendment No. 21 :

“That in amendment No. 16 above, for the proposed new article 312E, the following substituted :—

“312E. For the purposes of elections held under any of the provisions of this Constitution during a period of three years from the commencement of this Constitution the population of India or any part thereof may, notwithstanding anything contained in this Constitution, be determined in such manner as the President may by order direct.”

“312G. A Bill which immediately before the commencement of this Constitution was pending in the Legislature of the Dominion of India or in the legislature of Province or Indian State may, subject to any provision to the contrary, which may be included in rules made by Parliament or the Legislature of the corresponding State under this Constitution, be continued in Parliament or the Legislature of the corresponding State, as the case may be, as if the proceedings taken with reference