

COMPOSITION OF UPPER CHAMBERS IN STATES OF THE UNION

Constituent Assembly Agrees To Dr. Ambedkar's Amendment

NEW DELHI, August 19.

THE Constituent Assembly today resolved the controversy regarding the composition of Upper Chambers in the States of the Indian Union, by agreeing to a compromise amendment moved by Dr. B. R. Ambedkar, Chairman of the Drafting Committee.

Until Parliament decides otherwise, one-third of the members of the Upper Houses in the States will be elected by local bodies, one-third by members of the Lower Houses, one-twelfth by graduates, one-twelfth by teachers and the rest by the Governor.

Moving the article Dr. Ambedkar pointed out that the Article in a different form was before the House a few days ago. The Article as it then stood merely stated that the composition of the Upper Chamber should be as might be prescribed by law made by Parliament. The House thought that it was not the proper way of dealing with an important part of the constitutional structure of a Provincial Legislature.

It was felt that there ought to be something concrete and specific in the matter of the Constitution of the Upper Chamber and the President of the Constituent Assembly shared the feeling of the members of the House in this respect. It was suggested that the Drafting Committee might make an attempt to present a draft article which would be more acceptable to the members of the House. The draft which was presented today, said Dr. Ambedkar, was a compromise between two viewpoints. It set out in concrete terms the composition of the Upper Chamber in different provinces. It also provided that Parliament might by law alter at any time the composition laid down in the new Article. He hoped that this compromise would be acceptable to the House.

Dr. Monomohan Das moved an amendment suggesting the deletion of the qualification of three years standing for a graduate before he could be entitled to vote.

Mr. V. I. Muniswamy Pillai, in an amendment, sought to provide for the representation of scheduled castes in the Upper Chamber. He said that a proviso should be included in sub-clause (D) of Clause 3, stating that one-third "including seats reserved for Scheduled Castes" should be elected by the members of the Assembly.

RESERVATION OF SEATS

Three Amendments

Mr. S. Nagappa moved three amendments suggesting that the minimum strength should be prescribed as 45 on arithmetical considerations for 40 is not divisible by one-twelfth and one-third. He suggested that instead of one-twelfth, one-fifteenth should be prescribed. He also, strongly, pleaded for representation of labour in the Upper Chamber and said that one-fifteenth of the seats should be reserved for representatives of agricultural labour.

Mr. H. V. Kamath moved four amendments. He wanted special representation in the Upper Chambers for men of religion and philosophy. It was wholly unnecessary, he said, to specify the co-operative movement, which could come under the head "Special Services". Mr. Kamath saw no reason why a minimum membership of 40 should be specified for States whose population membership was less than ten million. He was opposed to the idea of vesting in Parliament the power to alter the composition of the Upper Chambers in States. If any change was needed, it could be effected by an amendment to the constitution, Mr. Kamath added.

Mr. Brajeshwar Prasad, opposing Dr. Ambedkar's amendment, reiterated his view that adult franchise might release forces of violence and disorder on an unprecedented scale.

COMPOSITION OF HOUSE

Dr. Panjabrao Deshmukh (C.P.) said that under the provisions of the proposed Article the composition of the Upper Chamber would not be different from that of the Lower House. He thought, therefore, that there was no need to have an Upper Chamber.

Prof. K. T. Shah said that the Upper Chamber as would be constituted would be both "superfluous and dangerous", and the combination of elective and nominated principles would lead to a composition of a "hotch potch body" representing various interests and authorities.

The House then passed a closure motion. Sir V. T. Krishnamachari, who was in the chair, called upon Dr. Ambedkar to reply to the debate.

Dr. Ambedkar said that he would accept only the amendment of Mr. Sarwate. It was not the intention of the House to take away from graduates, residing in a State where there was no university, the right to participate in the election to the Upper Chamber of the State.

Messrs. Nagappa, Muniswami Pillai and Dr. Monomohan Das withdrew their amendments while the House accepted Mr. Sarwate's amendment. All other amendments were rejected, before the House adopted the amended article.

AMENDMENTS TO ARTICLE 150

Article 150 as passed by the Constituent Assembly with a minor amendment of Mr. Sarwate reads as follows: (1) The total number of members in the Legislative Council of a State having such a Council shall not exceed one-fourth of the total number of members in the Assembly of that State provided that the total number of members in the Legislative Council of a State shall in no case be fewer than 40. (2) until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in Clause (3) of this Article. (3) of the total number of members in the Legislative Council of a State. (a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities as Parliament may by law specify; (b) as nearly as may be one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India and persons possessing for at least three years qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university. (c) as nearly as may, one-twelfth shall be elected by electorates consisting of persons who

have been for at least three years engaged in teaching in such educational institutions within the State not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament. (d) as nearly as may one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly. (e) The remainder shall be nominated by the Governor in the manner provided in Clause (5) of this Article. (4) The members to be elected under sub-clauses (A), (B), and (C) of Clause (3) of this article shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clauses (D) of the said clause shall be in accordance with the system of proportional representation by means of the single transferable vote.

The members to be nominated by the Governor under sub-clause (E) of clause (3) of this Article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely: literature, science, art, co-operative movement and social services.

SUBSTITUTE ARTICLES

The House accepted Dr. Ambedkar's appeal to delete Articles 189 and 190 and transfer the following substitute Articles to a separate part: "215(A) in this constitution, (A) the expression "Scheduled Areas" means the areas specified in Parts I to VII of the Table appended to paragraph (18) of the Fifth Schedule in relation to the States to which those parts respectively relate subject to any order made under sub-paragraph (2) of that paragraph.

(B) "the expression 'tribal areas' means the areas in Parts I and II of the Table appended to Paragraph (19) of the Sixth schedule subject to any order made under sub-paragraph (3) of paragraph (1) or Clause (B) of sub-paragraph (1) of Paragraph (17) of that Schedule: "215B. (1) The provisions of the Fifth Schedule shall apply to the administration and control of the scheduled areas and scheduled tribes in any State for the time being specified in Part I or Part III of the First Schedule other than the State of Assam. (2) The provisions of the Sixth Schedule shall apply to the administration of the Tribal Areas in the State of Assam."

TAXES LEVIED BY UNION

Mr. R. K Sidhwa's Plea

The House next took up Article 250 (taxes levied and collected by the Union but assigned to the States) discussion on which had been held over.

Mr. R. K. Sidhwa, concluding his speech, renewed his appeal for allotment of sufficient funds to local bodies. He was glad that Dr. Ambedkar had since the last debate accepted his suggestion to include goods carried by sea within the scope of the terminal tax. This category was excluded from the terminal tax by the British, he said, in order to prevent Provincial Governments from levying a tax on petrol imported into this country by foreign companies.

Dr. Ambedkar moved an amendment for the inclusion of the word "sea" Sub-Clause (C) now reads, "terminal taxes on goods or passengers carried by railway, sea or air."

While Mr. Sarwate and Mr. Brajeshwar Prasad opposed Mr. Sidhwa's amendment, Prof. Shibbanlal Saksena supported it holding that it was the legitimate right of the local bodies to get a share of the proceeds of the terminal tax. Mr. Ananthasayanam Ayyangar held that the prin-

ciple underlying Mr. Sidhwa's amendment was dangerous, as it would mean interference with provincial autonomy.

The House rejected Mr. Sidhwa's amendment and adopted the Article which reads: 250 (1) The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in Clause (2) of this Article namely: (A) Duties in respect of succession to property other than agricultural land; (B) Estate duty in respect of property other than agricultural land. (C) Terminal taxes on goods or passengers carried by railways, sea or air. (D) Taxes on railway fares and freights.

PERIOD OF EMERGENCY

The House then took up Article 277 dealing with application of provisions relating to the distribution of revenues during the period of the proclamation of emergency if in operation.

It states "the President may while a proclamation of emergency is in operation, by order direct that all or any of the provisions of Articles 249 to 259 of this constitution shall for such period, not extending in any case beyond the expiration of the financial year in which such proclamation ceases to operate as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit."

Dr. Ambedkar moved an amendment stating that every order made under the Article shall, as soon as may be after it is made, be laid before each House of Parliament."

FINANCIAL PLANS IN EMERGENCY

New Clause Added

Dr. Ambedkar explained that the Article was a consequential one stating what should be the financial consequences of the issue of an emergency proclamation by the President. It was provided that provisions relating to the financial arrangements between the Provinces and the Centre might be modified by the President by an order during the period of emergency. It was felt that it was not proper to give the President this absolute and unrestricted power to modify the financial arrangements between the provinces and the states and that Parliament should also have a say in the matter. Consequently it was proposed to add clause (2) to the Article, whereby, it was provided that any order made by the President varying the arrangements should be laid before the Houses of Parliament. It followed that after the matter was placed before it, the Parliament might take such action as it deemed proper which the President was bound to carry out.

FINANCIAL ARRANGEMENTS

Pandit Kunzru moved an amendment for substituting a new Article designed to restrict the power of the President to modify the financial arrangements already entered into, even during times of emergency. He wanted that the moneys assigned to the States out of the divisible proceeds of income-tax should not be varied by the President during the emergency and should be automatically made over to the provinces once an allotment was prescribed. The effect of his amendment, he said, would be that there might be a delay in the transfer of the provincial share to the provinces but nothing that had already been granted to the provinces could be taken back from them. Pandit Kunzru pointed out that certain provinces, after financial settlements had been arrived at, might have increased their expenditure and undertaken obligations like the extension of education, and medical services to the people and it was unfair on the part of the Centre to modify the arrangements.

Prof. Shibbanlal Saksena said that he had throughout protested against arming the President with almost autocratic powers in financial matter.

Mrs. Ranuka Ray (West Bengal), supporting Pandit Kunzru, said that the powers sought to be given to the President were very drastic.

The debate had not concluded when the House adjourned till tomorrow.—P.T.I.