

[Shri T. T. Krishnamachari]

The reason for the suggested change is this : The technical term that was used in the past was that all properties and assets Were vested in his Majesty both in regard to properties that were administered by the Government of India and by the Governments of the provinces. But in respect of the liabilities and obligations of the Governments concerned the language used is slightly different. It has been found that so far as this position is concerned it must be clarified. I should like to tell Honourable Members of this House, who I know react rather adversely to any reference to His Majesty, that it is a matter in which we have no escape. If formerly the legal phraseology was that all assets and property of the Governments, whether of the Centre or of the Provinces, were vested in His Majesty, we have to use the same words in order to re-vest those properties and assets in the Government of India to be and the Governments of the States that are to be created by reason of this Constitution. Honourable Members will therefore understand that this is a matter in which our legal advisers have been categorical and we have no other option except to amend the article in the manner suggested by me. I hope the honourable Members of the House will find no difficulty in accepting the article as amended by me as it will make the position crystal clear and above any legal defect which it was stated the original article 270 did suffer from.

Mr. President : Does any Member wish to say anything on this? Then I will put this new article 270 to vote.

The question is:

“That for article 270, the following article be substituted:—

‘270 (a) All property and assets vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets vested in His Majesty for the purposes of the Government of each Governor’s Province shall, as from the commencement of this Constitution, vest respectively in the Government of India and the Government of each corresponding State, and

(b) all liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor’s Province shall, as from the commencement of this Constitution, be the liabilities and obligations, respectively, of the Government of India and the Government of each corresponding State,

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab’.”

The motion was adopted.

Article 270 was added to the Constitution.

NEW ARTICLE 67 A.

Shri T. T. Krishnamachari : May I move article 67 A, Sir,

Mr. President : Yes.

Shri T. T. Krishnamachari : I move:

“That after article 67, the following article be inserted:—

67A. Notwithstanding anything contained in clause (5) of article 67 of this Constitution, Parliament may by law provide for the representation in the House of the People of any State for the time being specified in Part II of the First Schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause’.”

Special representation to State in part II and territories other than States.

I would ask honourable Members to look at the wording of clause (5) of article 67, sub-clauses (b) and (c), which imposes certain limits within which representation could be given in respect of territorial constituencies from which Members of the House of the People are to be elected. There is, however, a clause in article 67 clause (7), which reads thus:—

“Parliament may by law, provide for the representation in the House of the People of territories other than States.”

Though it would not mean that while Parliament may by law provide for representation of these areas, it would certainly not mean that Parliament can depart from the scheme outlined in clause (5), sub-clauses (b) and (c).

The reason for proposing this amendment is that while Parliament might have to provide for representation in the House of the People of territories other than the States, it is also likely that in the case of Part II States some of them may not satisfy the conditions laid down by sub-clauses (b) and (c) of clause (5) of article 67. It may be argued that these areas coming under Part II of First Schedule could be grouped together for purposes of providing representation in the House of the People, but it may not be always possible. I have no desire to go into the details of the provocation for this amendment, but we do visualise that a contingency might occur where we might have to provide special representation for certain areas which might be either in Part II of First Schedule or be territories other than States, and the present set-up of article 67 would provide difficulties in the way of our providing these areas with representation in the House of the People. I therefore ask the House to accept—though it is a tall order—my word for it and accept the necessity for an amendment of this sort. I might anticipate some of the amendments that are sought to be moved, namely, that this concession should be extended to representation in the Council of States. I do not think that clause (4) which is the operative clause in article 67 bars entirely the liberty of Parliament in respect of provision of representation in the Council of States. I think that the matter is now being examined in the light of the set-up of Schedule 3 B which we propose to introduce in which the arithmetical proportions will be calculated and seats would be mentioned according to the various States as precisely as possible, that there will be some lee-way left therein for additional representation, should Parliament so decide. I therefore suggest to my honourable Friends in this House who want to bring in the Council of States to leave it at that. We are examining the position and if it is necessary we shall introduce a suitable amendment, but I do not think that it is necessary at this Stage. For that matter most of those areas, particularly those that are covered by Part II, have a greater desire to be adequately represented in the House of the People than in the Council of States, and I think that for the time being the contingencies which we envisage at the moment would be amply covered by a provision of the nature that I have now moved rather than any extension of this particular provision to the Council of States as well. I, therefore, request honourable Members not to press their amendments which seek to include the Council of States within the scope of the suggested article that is before the House.

Sir, I move.

Prof Shibban Lal Saxena : I beg to move:

“That in amendment No. 306 of List XIII (Second Week), in the proposed new article 67 A, after the words ‘House of the People’ the words ‘and the Council of States’ be inserted.”

Sir, the article as modified by my amendment would read thus:—

“Notwithstanding anything contained in clause (5) of article 67 of this Constitution, Parliament may by law provide for the representation in the House of the People and the Council of States

[Prof. Shibban Lal Saksena]

of any State for the time being specified in Part II of the First Schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause.”

Sir, my Friend Mr. Krishnamachari has explained the purpose of this clause. In fact the House will remember when we were dealing with the question of Delhi Province, the Honourable the Prime Minister suggested that Delhi might, if it does not have a separate Legislature, be given additional representation in the Houses of Parliament. I think that it is only proper, if that pledge is to be honoured, then representation has to be provided not only in the House of the People but also in the Upper House. Besides Delhi, there are so many other Centrally administered areas. We are taking in more and more of the States under Central administration. Chandranagore will soon come into the Union; similarly we have got Tipperah and the other States on the Eastern border of India which are likely to integrate with the Union. If the idea is to give representation to those areas in the House of the People, there is no reason why they should not be represented in the Council of States. I would have much appreciated and it would have been much simpler if we had provided for at least one seat for each of the Centrally Administered areas in the Upper House as well.

Shri Brajeshwar Prasad : Mr. President, Sir, I rise to support the article as has been moved by my honourable Friend Shri T. T. Krishnamachari. My honourable Friend Professor Shibban Lal Saksena has perhaps completely mis understood the meaning of representation in the Upper Chamber. Representation in the Upper Chamber is provided for a constituent unit—for those States which combine in order to form a federation. Here we are providing for representation for States in Part II which are not, technically speaking, constituent units. Constituent units are those States which are mentioned in Parts I and III of the Schedule. Article 67A provides for representations of those territories which have been placed in Part II territories like Andaman and Nicobar Islands, territories like Ajmer Merwara, Coorg and Panth Piploda. We cannot confer upon these territories the status of constituent units. Therefore there can be no meaning in providing representation for these territories in the Upper Chamber of the Federal Parliament.

The Honourable Shri K. Santhanam : Mr. President, Sir, this matter was considered at the time of the Constitution of the House of the People and the omission of Part II was deliberate. We did not want to create small pocket constituencies for the House of the People.

So far as the Council of the States is concerned, article 67(4) provides that the representatives of the States for the time being specified in Part II of the First Schedule in the Council of States shall be chosen in such manner as Parliament may by law prescribe. Therefore, while provision was made for the representation of States in Part II in the Council of States, they were left out in the representation in the House of the People for the reason that either they have got enough population or not. If they have got enough population, they will get representation on their rights. But where they have not enough population, it was intended that they should be grouped in the near-by constituencies. There is no difficulty in grouping Ajmer-Merwara or Coorg with the neighbouring constituencies so that those people also will take part in the election of the House of the People. Though, for the sake of convenience, each State in Part I and Part III may be taken roughly for demarcation in the constituencies of the House of the People, ‘there is no statutory obligation that every State should be dividend into exclusive territorial constituencies for the House of the People. There may be border areas of two States in Part I and Part III grouped together in the constituencies of the people.

Therefore, we are unnecessarily marring the Constitution by bringing in an article by which representation will be given to small areas, It is possible that in the course of integration or for other reasons, we may have to create a large number of Centrally Administered areas. Suppose in the reconstitution of the linguistic provinces many areas have to be left out as Centrally Administered areas, if we are to create a constituency for each of these areas, then we will be creating large number of pocket constituencies for the House of the people. So, I think it is a wholly unnecessary provision. The purpose can be achieved constitutionally by other means and I do not think representation in the House of the People which is based on a scientific basis should be marred by a provision like this. I do not say that will be misused, but in a Constitution the test is whether a provision can be misused, not whether it will be misused and this is a provision which can be misused. So, I suggest it may be dropped.

Shri T. T. Krishnamachari : Mr. President, Sir, I quite agree with Mr. Santhanam that article 67 was very carefully worded and it was intended at that time that there should be no mitigation of the conditions which are covered by clause 5, sub-clause (b) and (c). I did tell honourable Members of this House that we had a specific purpose in view in bringing this amendment and it would be very wise for me to go beyond telling them that the Drafting Committee and the Ministries concerned were fully satisfied that an amendment of this nature was necessary. Therefore, I would ask my honourable Friend to withdraw his objection. At the same time I dare say that he is in a better position to realise than myself that since the initiative in any matter like this would ordinarily come from Government, it is unlikely that the wishes of this august House in regard to fixing representation in the House of the People would not be rigidly adhered to and that Parliament would agree to needless mitigation of the stringent conditions imposed by article 67. Beyond that I am not able to tell my honourable Friend of the purpose of this amendment. I could give him this assurance that this matter has been very carefully considered and it is after that that we have decided to bring this additional article. I do hope that the House will have no objection to accepting the motion moved by me.

Mr. President : The question is:

“That in amendment No. 306 of List XIII (Second Week), in the proposed new article 67A, after the word ‘House of the people’ the words ‘and the Council of States’ be inserted.”

The amendment was negatived.

Mr. President : I shall now put article 67A. The question is:

“That after article 67, the following article be inserted :—

67A. Notwithstanding anything contained in clause (5) of article 67 of this Constitution, Parliament may Special representation to States in Part II and territories other than States.	by law provide for the representation in the House of the People of any State for the time being specified in Part II of the First Schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause.”
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The motion was adopted.

Article 67-A was added to the Constitution

PROGRAMME *re* THIRD READING

Shri T. T. Krishnamachari : May I suggest that article 264A and, 296 and 299 be taken up tomorrow ?