

the people that this article is going to give the Governor the power to interfere in the administration. Nothing of the sort is intended and such a result I am sure will not follow from the language of the article 147. All that the article does is to place the Governor in a position to enable him to perform what I say not functions because he has none, but the duties which every good Governor ought to discharge. (*Cheers.*)

Shri H. V. Kamath : May I ask Dr. Ambedkar some questions?

Mr. President : What is the use of asking questions now? You had your chance.

Shri H. V. Kamath : Dr. Ambedkar said that I could put questions at the end of his speech.

Mr. President : I do not like this practice of putting questions at the end of the discussions. All questions have been answered. I will now put the article to vote as there is no amendment to this.

Mr. President : The question is :

“That article 147 stand part of the Constitution.”

The motion was adopted.

Article 147 was added to the Constitution.

New Article 147-A

Mr. President : There is another article proposed to be added—147-A by Prof. Shah.

Prof. K. T. Shah : I do not wish to move it.

Article 150

Mr. President : Articles 148 and 149 have been passed. We go to article 150.

Shri L. Krishnaswami Bharathi (Madras: General): May I suggest that this article be held over?

Mr. President : Is it the wish of the House that the consideration of this article be held over.

Honourable Members : Yes.

Article 151

Mr. President : We go to 151.

(Amendment Nos. 2298 to 2304 were not moved.)

(No. 2305 was not moved.)

There is an amendment to this— 181 of Third List by Mr. Gupte but the original amendment is not moved.

Shri Brajeshwar Prasad (Bihar: General): Sir, I will move 2305.

I beg to move:

“That in clause (1) of article 151, The words ‘and the expiration of the said period of five years shall operate as a dissolution of the Assembly’ be deleted.”

Shri B. M. Gupte : Sir, I move:

“That with reference to amendment No. 2304 of the List of Amendments, after clause (1) of article 151, the following proviso be inserted:

“Provided that the said period may by law, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.”

Prof. Shibban Lal Saksena : On a point of Order. This amendment No. 2304 has not been moved.

Mr. President : I am afraid it is my mistake. This has reference to 2304 and not to 2305.

The Honourable Shri Ghanshyam Singh Gupta (C. P. & Berar: General): I am moving 2304. Sir, I beg to move:

“That in clause (1) of article 151, after the words ‘its first meeting’ the words ‘and no longer’ be inserted.”

Shri B. M. Gupte : Sir, before I proceed I request permission to rectify a mistake which has occurred owing to inadvertence or oversight. I want to say ‘Parliament by law for a period’ instead of ‘Parliament for a period’ in my amendment.

Mr. President : Yes, you have permission to do that.

Shri B. M. Gupte : This provision is exactly similar to the one which we have already adopted for the Central Parliament— article 68. Here it is less objectionable. There the Parliament is allowed to extend its own life. Here I have given authority to Parliament to extend the life of the State Legislature. Some persons might argue that in view of article 227 it is not necessary to give this power to Parliament because in an emergency the Parliament is given the right to legislate on all State matters and therefore it may not be necessary to extend the life of the State Legislature. But that will not be proper, because an emergency does not necessarily mean that all the machinery of the provincial responsible Governments should be scrapped. On the contrary in order to enlist better co-operation in war effort or in an emergency effort, it is necessary to keep that machinery going; and if this provision is not made and if the time of the State legislature expires during that emergency then our object could not be achieved. Automatically the Legislature would be dissolved and the whole machinery would be suspended. Therefore I submit that there should be this power for the Parliament to extend the period if it so desires and if it is necessary in the public interest at that time. I therefore move this amendment.

Mr. President : Nos. 2306 and 2307 are of a drafting nature. 2308—Dr. Ambedkar.

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

“That in clause (2) of article 151, for the words ‘third year’ the words ‘second year’ be substituted.”

(Amendment No. 2309 was not moved.)

Mr. President : Now the amendments are moved. Does any one want to say anything about this article or the amendments?

Prof. Shibban Lal Saksena : Sir, before I proceed I would like to know whether this article can be taken up before article 150 has been passed,

because this article lays down that one-third of the Members shall retire after three years. Unless we know the composition of the Council how can we decide whether they should retire after two years or three years?

Mr. President : Whatever the composition of the Council may be, half of the Members will retire at the end the second year, or if it is so decided, one third may retire. That will not in any way depend on the composition of the Council.

Prof. Shibban Lal Saksena : If that is your ruling, Sir, I bow to it.

The Honourable Dr. B. R. Ambedkar : The article has been passed that the Second Chamber shall be there. This article deals only with how the Members will re-elect themselves.

Prof. Shibban Lal Saksena : We have to decide whether a particular Council should live for nine years or six years, and that will depend upon the composition of the Council. The composition will determine the period at the end of which one-third of the members should retire.

Mr. President : That does not depend on the composition of the Council. Whatever may be the life of the House, the composition will be according to the decision we may take on article 150.

Prof. Shibban Lal Saksena : Well Sir, I bow to your ruling.

I have only to say that the amendment of Mr. Gupte, which gives to the Parliament the power to increase the life of the Legislatures by one year at a time until an emergency is over, is almost wholly undemocratic. The result may be that sometimes the Legislative Assemblies in the Provinces may continue for even ten or twelve years. Suppose there is a war and the war lasts long. Then every year, the life of the Assemblies will be extended. I say that Mr. Gupte's amendment which wants to give to the Parliament the power to increase the life of the provincial Legislature by a year at a time is something which is wholly undemocratic. I know we have allowed such a provision in the case of the Parliament, and I opposed it then also. I am sorry the Prime Minister is not here; I wish he were here and he had given us his views upon this subject. So far as I know he is opposed to this provision. It has been said that when a war is on, an election is difficult. But I say it is in war that people's tempers are so altered that there must be an election to know the views of the people. I, therefore think that this power of increasing the life of the provincial Legislature year by year indefinitely is something which besides being wholly undemocratic will be very harmful. In fact we know that in the United States of America, the Presidential election was held at the height of the war and President Roosevelt was re-elected, and I think that raised the prestige of the United States very high. I think it is only proper that the elections to Legislatures should be held after the fixed period of five years, irrespective of the fact whether there is war or no war. The people have the right to demand fresh elections every fifth year. It is a right which should not be taken away from the people on the pretext of any emergency. If this power is given to Parliament, it may be abused and the people may be deprived of the right of removing an unwanted government and of choosing the government of their choice. I am therefore opposed to this amendment of Mr. Gupte.

Then it has been said that one-third of the Council will retire every third year. I am glad Dr. Ambedkar has now proposed that the period will now be two years, instead of three. That will make the life of the Council only six years which is almost equal to the life of the Assembly. It also ensures greater freshness to the Council. I therefore, support the amendment of Dr. Ambedkar.

Mr. President : Dr. Ambedkar, do you wish to say anything?

The Honourable Dr. B. R. Ambedkar : I accept Mr. Gupte's amendment.

Mr. President : Now I shall put Mr. Gupte's amendment which has been accepted by Dr. Ambedkar, to vote. It becomes the original amendment.

The question is:

"That with reference to amendment No. 2304 of the List of Amendments, after clause (1) of article 151, the following proviso be inserted:

'Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.' "

The amendment was adopted.

Mr. President : Mr. Brajeshwar Prasad's amendment.

Shri Brajeshwar Prasad : Sir, I would like to withdraw my amendment.

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

Mr. President : Then I put Dr. Ambedkar's amendment No. 2308.

The question is:

"That in clause (2) of article 151, for the words 'third year' the words 'second year' be substituted."

The amendment was adopted.

Mr. President : Then I put article 151, as amended by these two amendments to the House.

The question is:

"That article 151, as amended, stand part of the Constitution."

The amendment was adopted.

Article 151, as amended, was added to the Constitution.

Article 152

Mr. President : Then we come to article 152. To this article, there is the amendment of Dr. Ambedkar, No. 2311, to which there are several amendments, one of which is amendment no. 38 of the First List.

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

"That for article 152, the following be substituted:—

'152. *Qualification for membership of the State Legislature.*—A person shall not be qualified to be chosen to fill a seat in the legislature of a State unless he—

- (a) is a citizen of India;
- (b) is, in the case of a seat in a Legislative Assembly, not less than twenty five years of age and, in the case of a seat in the Legislative Council, not less than thirty-five years of age; and
- (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by the Legislature of the State.' "

Mr. President : As I said, there are several amendments to this.