

Mr. President : The question is:

“That article 290, as amended, stand part of the Constitution.”

The motion was adopted.

Article 290, as amended, was added to the Constitution.

Article 291

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

“That for article 291, the following article be substituted:—

<p>291. Subject to the provisions of this Constitution and in so far as provision in that behalf is not made</p> <p>Power of Legislature of a State to make provisions with respect to election to such Legislature.</p>	<p>by Parliament, the Legislature of a State may from time to time by law make provisions with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including matters necessary for securing the due constitution of such House or Houses.”</p>
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Sir, with your permission I move also amendment No. 211 of List VI. Fifth week.

The amendment runs thus:

“That with reference to amendment No. 128 of List I (Fifth Week), in the new article 291, after the word ‘including’ the words ‘the preparation of electoral rolls and all other’ be inserted.”

Mr. President : There are also other amendments. Amendment No. 129 is a negative one and so cannot be moved. Amendments Nos. 130 and 131 are not moved.

Does any Member wish to say anything on the amendment or the article?

Shri H. V. Kamath : Mr. President, this article 291, following as it does article 290 already adopted, is a corollary to it. Article 291 follows very closely article 290 except with regard to the last matter contained in article 290 relating to the delimitation of constituencies. The question here arises as to the powers which will be vested in Parliament and in the State Legislature. In article 290 it is stated that Parliament may from time to time by law make provisions with respect to all matters—the phrase used is “with respect to all matters”—relating to or in connection with elections, etc. Here again the same words are used, that is to say, article 291 lays down that the State Legislature may from time to time by law make provisions with respect to all matters relating to or in connection with elections, etc. That is to say, all matters relating to elections to either House of the State Legislature come within the purview of Parliament as well as the State Legislature. Are we going to define the limits of or demarcate the powers to be conferred on the Parliament and on the State Legislature? Are we going to have another Schedule? That is my question. Are we going to have a new Schedule to this Draft Constitution wherein we will define the powers of Parliament and the powers of the State Legislature to legislate with regard to matters relating to elections in the States? If we do not define, definitely allocate the functions, I am afraid it might lead to some sort of friction or tension between the Parliament and the State Legislature at some time or other. No doubt the saving clause is there in 291 “in so far as provision in

that behalf is not made by Parliament”. Sir, if the Parliament exhausts all matters relating to elections in the States—the power to do is there under 290; the Central Parliament has full power to make laws with respect to all matters relating to elections in the States including delimitation of constituencies which is taken away from the State—I do not quarrel with that—what will be left for the States? In regard to various other matters relating to elections, I do not think it wise to deprive the State Legislature of any jurisdiction in this regard. To my mind, it will be better and wiser to leave them some powers so as to promote greater harmony. We are here, I am afraid, aiming at over-centralisation of functions. Over-centralisation to my mind is not conducive to harmony between the Union and the Units. We certainly want strength, but strength along with harmony. Strength without harmony, without good-will between the Union and the Units, is no strength at all. It is mere rigidity. Therefore, Sir, I would personally prefer that certain matters relating to election in the States must be allowed to be dealt with by the State Legislature itself and Parliament should not be given entire authority to make, laws with respect to all matters relating to elections to either House of the State Legislature. Some definite powers to my mind should be given to the Legislature of the State also.

The Honourable Dr. B. R. Ambedkar : I think Mr. Kamath has not properly read or has not properly understood the two articles 290 and 291. While 290 gives power to Parliament, 291 says that if there is any matter which is not provided for by Parliament, then it shall be open to the State Legislature to provide for it. This is a sort of residue which Parliament may leave to the State Legislature. This is a residuary article. Beyond that, there is nothing.

Shri A. Thanu Pillai (Travancore State): When steps have to be taken according to the time schedule, is the local Legislature to wait and see what the Central Parliament does?

The Honourable Dr. B. R. Ambedkar : Primarily it shall be duty of the Parliament to make provision under 290. The obligation is squarely placed upon Parliament. It shall be the duty and the obligation of the Parliament to make provision by law for matters that are included in 290. In making provisions for matters which are specified in 290, if any matter has not been specifically and expressly provided for by Parliament, then 291 says that the State Legislature shall not be excluded from making any provision which Parliament has failed to make with regard to any matter included in 290.

Shri A. Thanu Pillai : May I know from Dr. Ambedkar whether it would not be better for either the Central Legislature or the Local Legislature to be charged with full responsibility in this matter so that elections may go on according to the time schedule?

The Honourable Dr. B. R. Ambedkar : I do not agree. There are matters which are essential and which Parliament might think should be provided for by itself. There are other matters which Parliament may think are of such local character and liable to variations from province to province that it would be better for Parliament to leave them to the Local Legislature. That is the reason for the distinction between 290 and 291.

Mr. President : The question is:

“That with reference to amendment No. 128 of List I, (Fifth Week), in the new article 291, after the word ‘including’ the words ‘the preparation of electoral rolls and all other’ be inserted.”

The amendment was adopted.

Mr. President : The question is:

“That for article 291, the following article be substituted:—

291. Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provisions with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.”

The motion was adopted.

Mr. President : The question is:

“That article 291, as amended, stand part of the Constitution.”

The motion was adopted.

Article 291, as amended, was added to the Constitution.”

Article 291-A

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

“That after article 291, the following new article be inserted:—

Bar to jurisdiction of courts in electoral matters. 291-A. Notwithstanding anything contained in the Constitution—

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 290 or article 291 of this Constitution shall not be called in question in any court;
- (b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature;
- (c) provision may be made by or under any law made by the appropriate Legislature for the finality of proceedings relating to or in connection with any such election at any stage of such election.”

Sir, I also move:

“That with reference to amendment No. 132 of List I (Fifth Week) in the new article 291-A, clause (c) be omitted.”

Mr. President : The question is :

“That with reference to amendment No. 132 of list I (Fifth Week) in the new article 291-A, clause (c) omitted.”

The amendment was adopted.

Mr. President : The question is:

“That after article 291, the following new article be inserted:—

Bar to jurisdiction of courts in electoral matters. 291-A. Notwithstanding anything contained in this Constitution—

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 290 or article 291 of this Constitution shall not be called in question in any court;
- (b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature;”

The amendment was adopted.

Mr. President : The question is:

“That article 291-A, as amended, stand part of the Constitution.”

The motion was adopted.

Article 291-A, as amended, was added to the Constitution.