

authority. Executive power is co-extensive with legislative power. Therefore it is not mere copying of the United Kingdom practice, but independently also we have to come to the same conclusion. Therefore it is necessary that the word 'President' should be retained. Otherwise, there will be a lacuna.

I submit, Sir, for the consideration of the House that the article as it stands may be accepted and that all the amendments should be rejected.

The Honourable Dr. B. R. Ambedkar (Bombay : General): I do not accept any of the amendments nor do I think that any reply is called for.

Mr. Vice-President : I shall now put the amendments one by one to vote. Amendment No. 1358. The question is:

"That in article 66, the words 'and two Houses to be known respectively as the Council of States' be deleted."

The amendment was negatived.

Mr. Vice-President : Amendment No. 1356. The question is:

"That in article 66 for the words 'There shall be a Parliament for the Union which' the words 'The Legislature of the Union shall be called the Indian National Congress and' be substituted."

The amendment was negatived.

Mr. Vice-President : Amendment No. 1357. The question is:

"That in article 66, the words 'The President and' be deleted."

The amendment was negatived.

Mr. Vice-President : The question is:

"That article 66 stand part of the Constitution."

The motion was adopted.

Article 66 was added to the Constitution.

Article 67

Mr. Vice-President : We next come to article 67. The motion is:

"That article 67 form part of the Constitution."

Shri L. Krishnaswami Bharathi (Madras : General): Mr. Vice-President, I have an humble suggestion to make in the matter of producer when we deal with this article. You will be pleased to see that this article relates to the composition of the Houses of Parliament, the two Houses, namely, the Council of States and the House of the People. It contains nine clauses, and I would suggest that in the interest of clarity of discussion, this article may be split up into three parts: one relating to the composition of the Council of States—clauses (1) to (4); clauses (5) to (7) relate to the composition of the House of the People: clauses (8) and (9) are consequential, relating to both the Houses, regarding the census and the effect on the enumeration of the census.

I talked this matter over with Dr. Ambedkar and he himself said that he had marked it like that in his book, and that he proposed to make certain changes of transposition during the third reading. It may not be therefore quite possible straight way to split it at present, but I would request you to have all the amendments to the Council of States, clauses (1) to (4), taken together and discussions may be concentrated regarding them first, and the article may be kept open for amendments. After the discussion is over, you may put the whole clause together. All this I suggest in the interest of clarity so that when honourable Members deal with the Council of States they may confine their discussion on it and

[Shri L. Krishnaswami Bharathi]

later on they may concentrate their discussion on the part of the article relating to the House of the People.

Mr. Vice-President : Have you anything to say, Dr. Ambedkar, regarding this matter, namely, the suggestion of Mr. Bharathi?

The Honourable Dr. B. R. Ambedkar : I am quite agreeable to the suggestion for the purpose of facilitating discussion.

Mr. Vice-President : Then we can take up the amendments in their particular order.

The first amendment is No. 1365. It is negative and is therefore disallowed.

Amendments Nos. 1366, 1367, 1379 and 1408 may be considered together.

Amendment No. 1366 may now be moved. It is in the name of Shri Mohan Lal Gautam.

Since he is not in the House, we pass over it.

The next amendment is No. 1367, in the name of Shri Lokanath Misra.

Shri Lokanath Misra : Since we have passed over amendment No. 1366, I do not want to move my amendment. It does not fit in now.

Shri M. Ananthasayanam Ayyangar : The question does not arise!

Mr. Vice-President : The next amendment is in the name of Prof. K. T. Shah—No. 1379.

Prof. K. T. Shah : Sir, I beg to move:

“That clause (2) of article 67 be deleted.”

Clause (2) reads as follows:

“The members to be nominated by the President under sub-clause (a) of clause (1) of this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:—

- (a) literature, art, science and education;
- (b) agriculture, fisheries and allied subjects;
- (c) engineering and architecture;
- (d) public administration and social services.”

As the clause stands, Sir, it offends in my eye for two reasons. First of all, the element of nomination introduced here, however small, militates against the symmetry of the Constitution of our Legislative bodies. And it fundamentally mars the principle of election. I hold that with regard to both these chambers, in the way we are making this Constitution, the Legislative organ should be wholly elected and so the element of nomination should be completely excluded, however small it may be. Its being brought in, in this way, only affects, as I have said, the internal symmetry of the Legislative bodies. It must therefore, be avoided and excluded.

The second reason why I should not like this clause as it stands to be there in the Constitution is: that the various interests or elements selected by nomination are arranged in a somewhat mixed manner. It is not quite consistent intrinsically, logical or scientific.

For instance, “art” is mentioned separately and “science” is distinct—which it may very well be: “Engineering” and “architecture” are mentioned separately in another sub-clause. Now it is generally agreed that “architecture” is one of the fine Arts; and if that is so, I, for one, fail to see the reason of its separate mention, after you have mentioned the generic term “Art”.

Moreover, “science, literature and education”—are mentioned each separately by name. These are, once more not logically divided one from another. There, again, I really fail to understand what should be the purpose of this separate enumeration. For, consider this. If by “education” it is intended to include both “Art and Science”, through, let us say, such institutions as the Universities, I do not see why they should not be mentioned by their names as universities, and why they should be specifically stated, each apart from the other as Arts, Sciences, or Literature.

Literature again is usually included, at least in the University terminology, in the Fine Arts or in the Faculty of Arts. Accordingly to mention Literature, Science and Arts separately seems to be utterly incongruous, illogical and overlapping.....

Shri L. Krishnaswami Bharathi : May I submit that there is an amendment to be moved by Dr. Ambedkar? It is No. 1380. It deletes all these portions, and includes only Arts and Sciences with Social Service. If the honourable Member bears in mind that it is likely to be accepted, the discussion need not be concentrated on this matter. He may be pleased to see amendment No. 1380, wherein Dr. Ambedkar is to move the deletion of the whole clause and substitute only the four categories. So I may request you to ask the honourable Member to cut short the discussion.

Mr. Vice-President : Have you been able to understand the honourable Member?

Prof. K. T. Shah : I have quite understood the honourable Member’s suggestion, but have certain points to advance, which I may, if I am allowed to, though I do not insist on it. I have seen Dr. Ambedkar’s amendment; and I not only think that it is probably going to be accepted, but I know that it is certain to be accepted. Still I feel that there are points of view which this House might be freely allowed to hear, without such impatient attempts to smother discussion. But if you do not wish it, I will not press my view.

Mr. Vice-President : Please go on.

Prof. K. T. Shah : Thank you, Sir. Take “Engineering”. It is much more “Technology” or what used to be called in the United States Technocracy, which might be mentioned instead of Engineering. It would include much more than “Engineering”. As it stands, it creates a needless anomaly.

Take yet another illustration, Social Services, which do not include public utilities presumably: and then again “Public administration”. I for one do not understand what is meant by “Public Administration,” in this connection of composing a legislative body. Is it intended to bring in the Civil Service? By common consent it is thought best to keep the Civil Service out of politics. Is it intended by “Public Administration” to bring in heads of departments, or their nominees? The old Indian Constitution gave a place to secretaries; but I think there is no room for them in the legislature now. Or does “Social Service” mean something different from “Education”, because Education has been separately mentioned already? One would have thought that social service, among the most important of which is Education, would be represented through all the categories in the ordinary system of election, and would not need a special mention by itself. But if you must make special mention of it, then I do not see why you single out only Education. You use a general word like “Social Service”; and yet include only that, presumably because you mention it separately, and leave out “Health” which may also be mentioned separately.

Accordingly it seems to me that this classification is not quite logical. It also offends against the principle, at least in my eyes, of the symmetry of the

[Prof. K. T. Shah]

legislative body, by including in it the element of nomination. For these two main reasons I think the whole clause should be deleted, and substituted by something different which Dr. Ambedkar's amendment no doubt provides for to some extent; but does not provide for in the manner that I would have wished it to. As I would not have any right to speak on this amendment again, or take part in the general debate, I think it is just as well that the House should be put in possession of my point of view on the matter.

Mr. Vice-President : You may also move amendment No. 1408.

Prof. K. T. Shah : Sir, I beg to move:

"That Clause (4) of Article 67 be deleted."

Clause (4) of article 67 reads "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".

Here, again, I take my ground on the principle of equality amongst the constituent States. Whatever may be the variety or the differences amongst themselves, in regard to area, population, resources, or whatever other criterion you select for judging of the importance of the several States, so far, at any rate, as you accept the principle of a Federal Union, you ought to make the States equal *inter se*.

On that basis I do not quite subscribe to the view propounded in clause (4) of the article, whereby it is left to Parliament to distribute the seats amongst the States, and not provided for in the Constitution itself. I have tabled another amendment which would suggest that the states should be represented equally in the Council of States, that is by the same number of delegates that any other State may have. On that ground also this clause seems to be superfluous, and I move that it be deleted.

(Amendments Nos. 1368 and 1372 were not moved.)

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

"That for clause (1) of article 67, the following be substituted:

- '(1) The Council of States shall consist of not more than two hundred and fifty members of whom—
- (a) twelve members shall be nominated by the President in the manner provided in clause (2) of this article; and
- (b) the remainder shall be representatives of the States.' "

The only important thing is that the number fifteen has been brought down to twelve.

Mr. Vice-President : There are six amendments to this amendment which I am calling out one by one. The first is amendment No. 2 on list No. 1 (Sixth Week) in the name of Mr. L. N. Misra.

Shri Lokanath Misra: Sir, I beg to move:

"That in amendment No. 1369 of the List of Amendments, in the proposed Clause (1) of article 67, for the word 'two' the word 'one' be substituted."

It comes to this that the council of States shall consist of not more than one hundred and fifty Members. In moving this amendment reducing the number to one hundred and fifty I have only one intention and it is this, that from our actual experience we find that such a huge number of people either in the House of the People or in the Council of States does not serve any very useful purpose. And we know that there is real difficulty in finding out so many Members who will be qualified and quite interested in such law-making. We see from the proceedings of this very House which consists of more than

three hundred Members that so few of us take real part in and are really useful to constitution making.

Mr. Vice-President : That is a reflection I can not allow.

Shri Lokanath Misra : I am sorry, Sir. It is no reflection. I therefore submit that instead of having two hundred and fifty Members it will serve the purpose of the second Chamber if we have one hundred and fifty Members. In that case there will be a saving of money and time. I therefore submit again that the number two hundred and fifty may be reduced to one hundred and fifty.

Mr. Vice-President : Amendment No. 3 of List I, standing in the name of Mr. L. N. Sahu may be moved.

Shri Lakshminarayan Sahu (Orissa : General) : (Began to speak in Hindi).

Mr. Vice-President: I wish only to make a request to the honourable Member. Many of our Members coming from South India do not know Hindi. Probably if he wants to convince them it would be better if he speaks in English. But he is at perfect liberty to speak in any language he wants.

Shri Lakshminarayan Sahu : No, Sir. I will speak in Hindi.

*[Mr. Vice-President I rise to speak a few words in support of the amendment which stands in my name and is now before the House. It is:

“That in amendment No. 1369 of the List of Amendments, sub-clause (a) of clause (1) of article 67 be deleted.”

My reason for moving it is that we do not favour the system of nomination. The truth is that under no condition and in no place do we approve of it. Therefore, when we are framing our Constitution afresh we must consider very seriously whether we should do away with this system or not. My submission is that nomination in whatever place or form it may be—and I may add that indirect election is also a form of nomination—should be abolished.

I submit that we should consider with all earnestness the grounds, if any, which justify the original provision for fifteen nominated members of as amended now, for twelve nominated members. We should think why this provision for nominated members is made. Is it because they are so highly talented as to make us desire their presence as members in the said House? If that be so we can get such people from Universities—through election. I fail to understand what prevents this being done. My submission is that we should make some provision for the election of such talented persons who fail to get elected to the Legislature from the general constituencies. Unless we keep this in view, the Constitution that we are framing would not be to the liking of the majority. If we authorise the President to nominate these twelve members, he will always be accused of favouritism by quite a good number of people. People will complain that instead of nominating the right and able persons the President has nominated his own favourites. I am afraid that the danger of the President being subjected to unfair criticism would always be there. It is evident that it is the most undesirable thing that the Leader of our Nation, the Supreme Head of our Republic should thus be an object of unfair criticism. I would, therefore, submit Sir, that the provision for nomination be deleted and in its place Functional Representation be provided. It is said by some people that Functional Representation has been tried and found seriously defective in Ireland. But I submit, Sir, that it is bound to succeed if it is tried along with Panel System. I do not think that I need say much against the system of nominations, but in this connection I may draw your attention to the fact that till recently, we members of the Assemblies and Councils in India used to go to one person—Mahatma Gandhi—for advice and used to manage our affairs in the light of his advice. Even if there be any person who is as really great as Mahatma Gandhi

*[] Translation of Hindustani speech.

[Shri Lakshminarayan Sahu]

was, and for bringing in whom this system of nomination is being provided for and who is not willing to come in through elections, well we can go to him and have his advice. If there be any person of great learning or scholarship who may be unwilling to contest election, well, for myself I can say that I would feel no hesitation in going to him for seeking his advice. We used to go to Mahatma Gandhi for his advice. Similarly, if any able and competent person does not seek election, we may go to him and have his advice. We may constitute a board of such meritorious and learned persons to aid and advise us. The system of advisory board does exist in Russia. We may constitute an advisory board for every minister. Instead of doing what I have already suggested, if we authorise the President to nominate twelve persons, bitter allegations of favouritism and nepotism will be levelled against him and that would not be desirable. Therefore, I propose, Sir, that the provision of nomination should be totally deleted. With these words I resume my seat]

Mr. Naziruddin Ahmad (West Bengal : Muslim) : I do not wish to move Amendment No. 5 of List I (Sixth week), because it is merely verbal. I therefore, confine myself to Amendment No. 4.

Sir, I beg to move:

“That in amendment No. 1369 of the List of Amendments, in sub-clause (a) of the proposed clause (1) of article 67, for the words ‘twelve members’ the words ‘not more than 6 per cent of the total number of members of the House’ be substituted.”

Shri S. V. Krishnamurthi Rao (Mysore): I suggest that this may be ruled out of order as the number originally fixed is 15 and the total number is 250. Six per cent will be again 15.

Mr. Naziruddin Ahmad : It would not be fifteen. I submit, Sir, that the original clause of article 67 was to the effect that the Council of States shall consist of 250 members. By the amendment moved by Dr. Ambedkar it now stands as *not more than* 250 members.

Mr. Vice-President : He says he seeks to fix the maximum; therefore, it is slightly different. You need not labour the point. He may go on.

Mr. Naziruddin Ahmad : In the new clause you make the House one of not more than 250 members. Therefore, by Dr. Ambedkar’s amendment, the number of members in the Council of States would fluctuate. It may be less; it will never exceed 250. The number of nominated members should bear a proportion to the actual number of members in the House. This number should also fluctuate in proportion. I have, therefore, suggested 6 per cent which would be 15 only if the maximum number of members in the House is taken. Otherwise, if the number of members is less, the number of nominated members would also be less. They should, I submit, bear some relation to each other. In fact if the number be reduced to twelve, an arbitrary figure, that would bear no relation to the actual number. The actual number in the House may be considerably less. So, I think, Sir, a proportion of 6 per cent of the total membership of the House would be more convenient and more logical.

[Amendment No. 6 in List I (Sixth Week) was not moved].

Pandit Hriday Nath Kunzru (United Provinces : General) : Mr. Vice-President, Sir, it has just been suggested to me that it would be better if instead of moving my amendment now, I move it as an amendment to Amendment No. 1378, which is to be moved by Dr. Ambedkar. It is all the same to me, Sir, when I move this amendment. If you agree to the view that I have expressed, I can move this amendment a little later.

Mr. Vice-President : Yes; I agree.

I have admitted a short notice amendment standing in the name of Sardar Hukum Singh. It may be moved now.

Sardar Hukum Singh (East Punjab : Sikh) : Mr. Vice-President, Sir, I beg to move:

“That in amendment No. 1369 of the List of Amendments, in sub-clause (a) of the proposed clause (1) of article 67, for the words ‘in the manner provided’, the words ‘from amongst the categories of persons illustrated’ be substituted”.

Sir, it might be thought that this is a very small affair; but I have to submit and I request that some attention might be paid to this, because I think there is some force in my amendment.

Amendment No. 1369 says that twelve members shall be nominated by the President in the manner provided in clause (2) of this article. According to this amendment, we should expect that some manner, which means method or mode of doing things, will be laid down in clause (2) of this article. But, when we look to this clause, there is no method or mode provided; no manner is provided there. What we find is that the members to be nominated by the President under sub-clause (a) of clause (1) of this article shall consist of persons having special knowledge or practical experience in such matters as the following. Therefore, no manner or method is provided by this clause (2). Rather, there is a class of persons or categories of citizens and these categories or classes are illustrative, they are not exhaustive. They are described here as the categories from amongst whom the President shall nominate twelve members that are proposed to be selected under clause (1). My objection is that instead of putting in these words that these twelve shall be nominated by the President in the manner, it ought to be, from amongst the categories of persons illustrated in clause (2). This is the only amendment and I request that some attention might be paid to this.

(Amendment No. 1370 was not moved.)

Mr. Vice-President : There are three amendments which may be considered together, amendments numbers 1371, 1373 and 1374. Of these, the first seems to be the most comprehensive and may be moved.

(Amendments Nos. 1371, 1373 and 1374 were not moved.)

Amendments Nos. 1375 and 1376. Amendment No. 1375 may be moved. Amendment No. 1376 is identical with amendment No. 1375. So, I am not going to put it to vote. Amendment No. 1375, Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-president, Sir, I beg to move:

“That the proviso to clause (1) of article 67 be deleted.”

With your permission, Sir, may I also move amendment No. 1378? It is in substitution of this proviso.

Mr. Vice-President : Yes.

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

“That the following new clause be added after clause (1) of article 67 :

‘(1a) The allocation of seats to representatives of the States in the Council of States shall be in accordance with the provisions in that behalf contained in Schedule III-B.’ ”

Mr. Vice-President : The amendment of Pandit Kunzru may now be taken up. It is amendment No. 7.

Pandit Hirday Nath Kunzru : Mr. Vice-President, Sir, I beg to move:

“That to clause (1a) of article 67 as now moved, the following words be added:

‘Provided that the ratio of the total number of representatives of the States for the time being specified in Part III of the First Schedule to their total population shall not exceed the ratio of the total number of representatives of the States for the time being specified in Parts I and II of that Schedule to the total population of such States.’ ”

Sir, the proviso to clause (1) of article 67, the deletion of which has been moved by Dr. Ambedkar, runs as follows:

“Provided that the total number of representatives of the States for the time being specified in Part III of the first Schedule shall not exceed forty per cent of this remainder.”

that is, forty per cent of the elected members of the Council of States. It has now been proposed by Dr. Ambedkar that as many seats in the Council of States should be allocated to the States specified in Part III of the First Schedule as may be laid down in Schedule III-B. We have not got this Schedule before us. We do not therefore know what proportion the representatives of the States mentioned in Part III of the First Schedule will bear to the representatives of the States included in Part I of the first Schedule.

Sir, during the Round Table Conference, the Rulers of the States insisted that they should be given greater representation both in the Assembly and in the Council of States than their population warranted. In other words, they asked for weightage in both the Houses of the Central legislature and it was therefore laid down in the Government of India Act, 1935, that the representatives of the States shall be forty per cent of the total representatives in the Council of States whether elected or nominated and that in the Assembly, the number of representatives of the States should be one-third of the total number of elected representatives. The Union Powers Committee recommended that the proportion of the representatives of the States mentioned in Part III of the First Schedule should be 40 percent of the total number of elected representatives in the Council of States. In other words, in this respect it approved of the provision contained in the Government of India Act, 1935, but it departed from that Act in regard to the representation of the States in the Legislative Assembly. The Draft Constitution follows the recommendations of the Union Powers Committee which were accepted by the House last year. Dr. Ambedkar has now moved that no percentage should be fixed for the representatives of the States specified in Part III of the First Schedule but that the seats allocated to the States should be as laid down in a schedule to be attached to the Draft Constitution. Now, Sir, when the Government of India Act, 1935, was passed by the British Parliament, the situation was very different from what it is now. The States were then not prepared to join the Federation except at a price. Apart from this, it suited the British Government to give weightage to the States. In the new order, however, the position of the States formerly known as the Indian States, has completely changed. Their representatives in this House themselves want that their position should be assimilated to that of the provinces. There is no reason therefore why the weightage given to the States in the Government of India Act, 1935, should be continued any longer.

Sir, I have already said that the Draft Constitution, so far as the representation of the States in the House of the People goes, has not adopted the provision relating to this matter in the Government of India Act, 1935. If honourable Members will turn to clause (5) of article 67, they will find that the proviso to sub-clause (b) of this clause lays down that the ratio of the total number of representatives of the States for the time being specified in Part III of the First Schedule to their total population shall not be in excess of the ratio of the total number of representatives of the States for the time being specified in Parts I and II of that Schedule to the total population of such

States. The Draft Constitution insists that the States shall be represented in the House of the People in accordance with their population. What I want is that in the Council of States the representation of the States specified in Part III of the First Schedule should also be fixed in accordance with the same principle. Sir, I may be told that as the Upper Chamber will be known as the Council of States, it means that the number of the representatives of the States specified in Parts III and Parts I and II cannot be fixed in accordance with their total population. If such an objection were put forward, I should regard it as purely superficial. Had I said that in the proviso to sub-clause (b) of clause (1) of article 67 for the word 40, the figure 25 or 30 should be substituted, no such objection could have been brought forward. I seek however to achieve the same purpose in a different way. My amendment cannot really therefore be objected to, on the ground that it would go against the principle that seems to underlie the composition of the Council of States.

Again, Sir, if honourable Members turn to clause (8) of article 67, they will find that it has been laid down there that “upon the completion of each census the representation of the several States in the Council of States and of the several territorial constituencies in the House of the People shall, subject to the provisions of article 289 of this Constitution, be readjusted by such authority, in such manner and with effect from such date as Parliament may, by law, determine.” This shows that population is to be taken into account in determining representation not merely in the House of the People but also in the Council of States. My amendment is thus in complete accord with the provisions of Clause (8).

Sir, I have moved this amendment because notwithstanding the new proposal made by Dr. Ambedkar it is not clear that the representatives allotted to the States specified in Part III of the First Schedule will not be 40 per cent of the total number of elected members of the Council of States or in excess of what their population entitles them to. It is true that it is not going to be laid down in so many words in the Constitution that the representatives of the States in Part III of the First Schedule should bear a fixed proportion to the total number of elected members in the Council of States but the allocation of the seats may be such as to bring this about in practice. I want to prevent this and to ensure that as between the States specified in Parts III and Parts I and II of the First Schedule, seats should be divided in accordance with their population. We have already done away not merely with separate representation in this Draft Constitution but also with weightage. If we have done away with weightage in the case of the various communities, there is no reason why we should retain it in connection with the representation of the States mentioned in Part III of the First Schedule.

For these reasons, Sir, I hope that my amendment will commend itself to my honourable Friend Dr. Ambedkar and therefore to the whole House.

Mr. Vice-President : Amendment No. 9 in List I, standing in the name of Prof. Saksena.

Prof. Shibban Lal Saksena (United Provinces : General) : Sir, I beg to move my amendment which is:

“That in amendment No. 1378 of the List of Amendments, for the proposed clause (1a) of article 67, the following be substituted :

- ‘(1a) The allocation of seats to representatives of the States in the Council of States shall be based on the following principles:
 - (i) one representative for every million population up to the first seven million population in each State in Schedule I, provided that no State shall have less than one representative in the Council of States,
 - (ii) one representative for every two million population after the first seven millions.’ ”

[Prof. Shibban Lal Saksena]

Sir, I had, along with this amendment, given a chart showing the numbers of seats to be given to each of the States, and I do not know why it is missing here. In fact, when we were discussing the Report of the Constitution Committee, we had laid down that the maximum number of representatives from any province shall be twenty, and we laid down the numbers for each Province. The system then envisaged was not scientific or logical. I think that the numbers should be laid down on the basis of population up to a limit and that is why I have laid down the limit of one representative for every million up to seven millions, and after that, one representative for every two millions of the population. In this way, we can see to it that the bigger States have lesser numbers of representatives and the smaller States shall get a little weightage which we want to give them. That will be more scientific. Otherwise, it may be that the U. P. will have twenty seats, and Bihar also twenty. If the chart I referred to, and had been here, it would have made the position clearer, by showing what is the number of seats I would allot for each State. Sir, I submit the method I suggest is the proper method of distributing the seats and I request that it may be accepted by the House.

Mr. Vice-President : Amendment No. 10 of List I, standing in the name of Shri Phool Singh.

(Amendment No. 10 of List I was not moved.)

Amendment No. 11 of List I, standing in the name of Shri Lokanath Misra.

Shri Lokanath Misra : Sir, I beg to move :

“That in amendment No. 1378 of the List of amendments, in the proposed clause (1a) of article 67, for the words ‘in accordance with the provisions in that behalf contained in Schedule III-B’ the words ‘on the basis of equal representation to each of the component States, the number of which representation shall in no case be more than *three*’ be substituted.”

Sir, the idea I have in my mind, when I move this amendment to the amendment moved by Dr. Ambedkar is this. Since the Council of States is going to represent the States, it is but fair to the States units that these units should be dealt with as units and every unit is equally represented. Otherwise, there is no sense in saying that the States shall be represented in the Council of States. In fact, in the United States of America and in other countries where there are second chambers, representing the interests of the States, the representation given to these units is always the same. We also know that the elected members of our Council of States will be returned by the Lower House of the State Assemblies, and if we say that the election will be in some other form, either in proportion to their population or on some other basis and yet people with the same qualification, the Council of States will serve no real purpose, except a purpose of unnecessary duplication of the House of the People. In fact, the House of the People itself will be representative of the people of the States themselves, because the States will be sending in either representatives to the House of the People on almost the same basis. Therefore, if we do not accept this principle, that of taking every State as an equal unit, and sending in their representatives to safeguard or protect their special interests, there is no sense or meaning in having a Second Chamber to represent the States. Though we have Schedule III-B, the position, I feel, should be made clearer that the Council of States will be representative of the State interests, and therefore the States, as States, and as autonomous units, must be equally represented. On this ground, I suggest that the allocation of seats to the representatives of the State in the Council of States should be on the basis of equal representation to each of the component States, the number of which representation shall in no case be more than three. Why I fix upon the figure three is this. I feel that if three members come from every State,

that will be sufficient to safeguard the special interests of the States, and their problems. After all, this is to be a sobering House, a reviewing House, a House standing for quality and the members will be exercising their right to be heard on the merits of what they say, for their sobriety and knowledge of special problems; quantity, that is, their number, is not of much moment, and I think three is just sufficient for the purpose.

Mr. Vice-President : Amendment No. 12 in List I, standing in the name of Shri Lakshminarayan Sahu.

***[Shri Lakshminarayan Sahu :** Mr. Vice-President, my amendment runs thus:

“That in amendment No. 1378 of the List of Amendments after the proposed clause (1a) of article 67, the following new clause (1b) be inserted:

‘(1b) Steps should be taken to see that, as far as possible, men from different units are represented.’ ”

The reason why I move this amendment is that in view of my previous proposal to delete clause 1(a) of article 67 it is necessary that a proviso be made that every member of the Council of States should come there only as a representative of some State. It is because of this that by this amendment I have sought to include a proviso so that representatives from each unit may be able to get into the Council of States. No mention has been made there of the number of representatives from each province and each unit and therefore, we do not have any idea as to the composition of the Council of States, I, therefore, entirely endorse the amendment moved by Pandit Hirday Nath Kunzru. The amendment moved by Shri Shibban Lal Saksena is, as I understand it, also intended to secure representatives in the Council of States for every State. But I find that there are three categories of States. It would be better if we could put all of them in a uniform pattern. It is quite possible that the small States which are neglected now-a-days and are unrepresented may later on desire to have representation in the Council of States. But there are many such small States as will have no opportunity of securing any seat in the Council of States in the ordinary course of things. It is for this reason that I am moving this amendment. I need not add anything further.]

Prof. K. T. Shah : Sir, I beg to move:

“That the proviso to clause (1) of article 67 be deleted and the following new clause be added after clause (1):

‘(1a) Parliament may by law establish a Consultative Council of Representatives of Agriculture (25), Industry (15), Commerce (10), Mining, Forestry and Engineering (10), Public Utilities (5), Social Services (5), Economists (5), to advise Parliament and the Council of Ministers on all matters of policy affecting Agriculture, Industry, Commerce, Mining, Forestry, Engineering, Public Utilities and Social Services; and prepare or scrutinise proposals for legislation concerning any of these items.

Explanation.—The number given in the brackets after each group is the total number of representatives from each section.

Members of this Council shall have, individually or collectively no administrative or executive duties, functions or responsibilities. Every member of this Council shall be paid such salaries, emoluments or allowances as Parliament may from time to time provide.’ ”

Sir, this is an innovation, not borrowed, I can assure the honourable Chairman of the Drafting Committee, from any of the present Constitutions. Some thing similar to this was to be found in the now defunct Weimar Constitution of Germany; but even that precedent has been radically modified.

The suggestion here is three-fold : It is an advisory Council, consisting of certain special interests elected by organisations in those interests, like agriculture, forestry, mining, engineering, trade, industry, social services and so on.

Dr. Jivraj N. Mehta (Baroda) : May I know why Members of the Medical profession have been left out of the amendment?

*[] Translation of Hindustani speech.

Prof. K. T. Shah : I would be very willing to accept an amendment to that effect provided you choose to move it. It is an oversight on my part, for which I personally apologise to you. My amendment, however, does not mention either the learned profession of law or the members of the Clerical Order. If the House desires to rectify the omission I have no objection. But I would like to make it clear that it is not so much any profession that is sought to be represented, as the various interests, or the various items in which the country as a whole is interested, and not the exclusive interest, in an economic sense, of those bodies.

Sir, this will be an advisory council which will have no executive or administrative functions according to the amendment I have tabled. It would advise in all matters on legislative proposals that may be coming up before Parliament, or which Parliament may direct them to scrutinise.

Sir, legislation is now-a-days becoming so extremely complex, so varied, and so numerous,—if I may speak individually or severally of the Acts passed by Legislatures now-a-days, that an average member of Parliament would find it extremely difficult to make up his mind, or even to understand the special provisions couched in technical language that grow up or that have to be sanctioned by Parliament.

It is becoming more and more a fine art, not merely in drafting the legislative proposals, which by itself is an extremely complicated task; but also in laying out the various items and satisfying the various interests that have to be provided for. It is even now a convention generally established and commonly followed, whereby the various interests not directly represented in Parliament can put forward their case before the Departments and make their own alternative proposal. Whether it is Insurance Legislation or Labour Legislation or Banking, or Shipping, or Trade marks legislation, those concerned see to it that their case is placed before the authorities. The Minister in charge of such legislation generally hears them before the final draft is made. If the Minister concerned does not so consult the interests concerned, then the Select Committee on the Bill sometimes hears representatives or representations from the interests concerned, before the legislation is passed by Parliament.

On this basis, I think it would be of the utmost benefit to have this consultation, not only to the interests concerned, but also to the proper co-ordination of the particular pieces of legislation with the rest of the social economic framework under which the country is to live. It does happen that, when individual items of legislation come up, only those concerned or interested specially, directly or personally, take any intelligent interest in the various clauses as well as in the general principle underlying; while the rest of the House,—by far the large majority,—remains relatively indifferent. Whether by the guidance of the Party organization, or by personal loyalties, votes are cast not so much by the provisions and their implications understood properly, but by influences of the kind I have just mentioned.

It is, therefore, not in the interests of proper legislation that we should have a body of laymen—and popular representatives are bound to be laymen only in the majority of cases in law-making that come up before Parliament—who should be passing laws, without any advice or guidance from recognised experts upon the complicated pieces of legislation which almost every year come before Parliament. They should have a non-interested, or dis-interested, and impartial body of advisers who are competent to advise by their study, training and experience in all such matters, who would have no executive or administrative function, who would not be law-makers themselves, and who would be sufficiently respected outside to influence the decisions in the best interests of the country. Sir, the practice is growing in many countries whereby Parliament passes organic laws, of great social importance, but allows more and more powers

to departments to make bye-laws, or rules under such laws, which enables the bureaucracy—I am not using the term in any objectionable sense, call it the permanent services,—to make elaborate codes under these laws. These codes are not enacted by Parliament. These codes are, no doubt, sometimes laid on the table of the House, in the presumption that members if they have any objections to the rules, will point them out. But as a matter of fact, these codes are scarcely ever scrutinised by members when once they are enacted under the authority of the law by the departments concerned and so they become laws by fiat of the bureaucracy without any proper understanding by members of Parliament.

This, Sir, is a practice which has led an eminent jurist, Lord Hewett, Chief Justice of the King's Bench Division in England, to describe it as The New Despotism. It really amounts to arming the civil services, arming the permanent officials, with a vast margin of power and discretion that practically amounts to a denial of civil liberties, or at any rate the ordinary freedoms of the citizen.

This, Sir, I submit, is not in the interests of the free institutions which we are planning for. I, therefore, suggest that it would be in the interests of the freedom of the people, and also the interests of sound legislation, that we should have a body of disinterested advisers chosen with an eye only to their experience training and qualification, and not burdened with any other duties as our Ministers are, not charged with any other administrative or executive functions and remunerated sufficiently to be beyond any influence other than the interests of the country, and so able to devote their entire time to the particular subjects that come up for legislation. I hope this amendment will be accepted.

Mr. Vice-President : Amendment No. 1380 standing in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I move :

“That for clause (2) of article 67, the following be substituted :

‘(2) The members to be nominated by the President under sub-clause (a) of clause (1) of this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely :

Letters, art, science and social services.’ ”

Mr. Vice-President : There are some amendments to this amendment which I am calling out one after the other. No. 13 in the name of Mr. Kamath.

(The amendment was not moved.)

No. 14 standing in the name of Mr. Lokanath Misra.

Shri Lokanath Misra: Mr. Vice-President, Sir, I beg to move:

“That in amendment No. 1380 of the List of amendments, in the proposed clause (2) of article 67, for the words ‘special knowledge or practical experience’ the words ‘real knowledge of or actual devotion for’, and for the words ‘Letters, art, science and social services’ the words ‘History of ancient Indian philosophy and culture, art and science and social services towards reconstruction of Introspective India’ be substituted.”

Sir, I am really thankful to Dr. Ambedkar for introducing this amendment and for placing the words “Letters, arts, science and social services” much better than the original. In fact, in my humble opinion as I have conceived this Council of States, to me it represents our past, as the House of the People represents our present. Our future no doubt is in the hands of God. I say that we can have that sobering influence we need, only if we can build our mind and our ideas on our past. I suggest that India to be India must know her lofty past, and the members of the Council of States nominated by the President should be people who know our past, our history, our philosophy and our culture. Therefore, instead of having letters, let us say history, philosophy and culture. All our efforts should be towards one direction and that direction can only be an ideal

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which will bring up India to her past, *i.e.*, to her own. The nominated members by the President should represent these four things, and to bring home a justification of this point, I need not make a speech of my own. I will only quote some lines from an essay "India and the Western World" by Captain Anthony M. Ludovici (England). He says :

"We are credibly informed by anthropologists that often all that is needed for the ultimate extinction of a particular race is, not violence, disease, or some vicious habit introduced by the European, but merely the despondency generated by the imposition of new forms of behaviour and belief—a state of mind which by diminishing their zest and *joie de vivre*, undermines their will to survive.

Now, when we grasp how deep attachment to native culture-forms may be, even among the random bred stocks of Europe, need we be surprised to learn that among people whose capacity for change and for suffering change has a tempo different from our own, the impact of new and powerful culture, sometimes imposed rapidly with every artifice of proselytization, force and example has resulted in a complete renunciation of every hope, belief and desire.

* * * * *

He (the European) was in a position to coerce recalcitrants and by means of the importunities of his proselytizing and commercial agents, to provoke acts of hostility which often provided the excuse for retaliatory military measures. If, therefore, certain races survived the impact, not only as a united people, but also, above all, as a community still observing their traditional culture-forms, including the worship of the gods of their fathers the phenomenon partook of the nature of a feat so stupendous in recuperative power and stamina as to amount almost to a miracle—a miracle of resistance, faith and loyalty.

Well, we now know that, up to a point, India performed that miracle. Thanks to the relatively high evolution and intricacy of her own culture, her large population as compared with the numbers of her invaders, and above all, of the high intellectual level of her leaders, and their steadfastness as custodians of the people's cherished habits of mind and body, India should, in the millenniums to come, stand as a proverb and example among nations, as a country....."

Mr. Vice-President : How long do you propose to read this? It seems to have little connection with your amendment.

Shri Lokanath Misra : I will be short, Sir, it is relevant, as a foreign appreciation of what we are:

"as a country which, against forces almost everywhere else triumphant, contrived for centuries—in fact until the eve of the ultimate recovery of her freedom—to uphold and continue, without irretrievable loss, her own life and her own way of life."

Sir, I beg to submit, that in drafting this Constitution we dare not forget our own. The Council of States should represent our past and that could be done only by the President nominating only those who represent our great past of great intellectual fervour, high morals, deep and lofty flights of the spirit.

Mr. Vice-President : Amendment No. 15 standing in the name of Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : Mr. Vice-President, Sir, I beg to move:

"That in amendment No. 1380 of the List of Amendments, in the proposed clause (2) of article 67 after the word 'science' the words 'philosophy, religion, law' be inserted."

Mr. Vice-President : Why not move amendment No. 17 also? That too stands in your name.

Mr. Naziruddin Ahmad : I also beg to move:

"That in amendment No 1380 of the List of Amendments, at the end of the proposed clause (2) of article 67, the words commencing 'Letters, art, etc.' be numbered as sub-clause (a) of that clause and the following new sub-clause be added thereafter :

'(b) journalism, commerce, industries, law.' "

Sir, I beg to submit that the original clause (2) of article 67 contains a number of categories, representing different intellectual spheres from which members could be nominated by the President. In fact there is a number of

such items, namely, (a) literature, art, science and education: (b) agriculture, fisheries and allied subjects: (c) engineering and architecture: (d) public administration and social services. Of this long list, only three have been accepted in Dr. Ambedkar's amendment, namely, "art, science and social services" and a new item has been added, namely, "letters". I submit, Sir, that there is a danger in restricting the choice of the President in the matter of nomination to only four classes and rejecting the others. There is no reason why the choice should not be rather wide than restricted. However, my amendment (the first amendment which I have moved) wants to introduce Philosophy, Religion and Law. Sir, I submit that Philosophy is peculiarly Asiatic in origin. So is Religion. All the great Philosophies and all the great Religions emanated from the East. There is no reason why we should give up the Philosophers or the men who are the leaders of Religion. It is only the other day that at the instance of Mr. Kamath we introduced the name of Almighty in the constitution. In fact the President is to take the oath of office in the name of God. Having agreed to give the Almighty a place in the Constitution, I think that Religion which follows from God should also have some recognition in this Constitution. It is often hinted that Religion is a very bad thing and that it leads to quarrels. I submit, Sir, that Religion never leads to quarrels. It is communalism that leads to quarrels and not Religion. All the great Religions are really good and supply a fundamental moral basis for humanity to act. Therefore, Religion should not be discarded; so also with Philosophy. A philosophical attitude is particularly useful for a House like this; particularly when a Member finds that his amendments are not listened to or his speeches are not listened to by the Honourable the Chairman of the Drafting Committee, he cannot but be Philosophical. So for God's sake, do not discard Philosophy too.

Then comes the matter of Law. I submit, Sir, Law should also be represented. The legal talent of the Upper House should particularly be strengthened, because the Upper House will rather be a revising chamber and Law should be particularly represented. Men like Sir Tej Bahadur Sapru, Shri Alladi Krishnaswami Ayyar.....

Shri L. Krishnaswami Bharathi : Sir B. N. Rau.

Mr. Naziruddin Ahmad : Yes, Sir, B. N. Rau too. I am thankful for the suggestion. These are very useful names. I think their names should not be shut out from the choice of the President. It may be that at any future election we may lose Dr. Ambedkar himself, and there should be some means of bringing him in by a presidential nomination. Then there is the Rt. Honourable Mr. Jayakar. These are really great men of the Law and their addition, or rather the choice of the President in their selection should be very useful. In these circumstances they should also have some place.

Then with regard to the second amendment: I have also tried to introduce Journalism, Commerce, Industry and Law, Law has already been suggested in my previous amendment. With regard to Journalism, journalists have also a great duty to perform. In fact, they are a kind of go-betweens between the Legislature and the people and between the People and the Legislature. Ideas which are expressed in the legislature are disseminated by the journalists, and ideas which prevail among the people are also brought to the notice of the legislators by journalists. A democracy is run by the three States—the Executive, the Legislature and the Judiciary. To these must be added the newspapers which have been described as the Fourth State. They also play a very important part in the role of freedom of a country. Journalism should also be one of the categories from which the President could make his selections.

Then we come to Commerce. We want to associate those great commercial magnates who are really the wealth producers in the country and they

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should also be represented and their advice and counsel would be of great help. So also with Industry.

These are the different categories from which the selection should be made.

I submit that the introduction of these classes will not in the least compel the President to select or nominate anyone from any of them. The choice would be reasonably wide and I submit that this amendment should be accepted by this House.

In making the suggestion about Journalism, Commerce, Industry and Law, I took them from a suggestion made by a few learned lawyers who considered the Draft Constitution in the "Indian Law Review" of Calcutta. It is a quarterly journal. It is in volume 2 at page 9 onwards. There, with regard to this very clause of this article, they have suggested that Journalism, Commerce, Industry and Law should also be represented. They said that there is no reason why these important professions and callings should not be included as well. The great point which I wish to suggest to the House is that the choice should not be restricted, but should be widened. It would be an advantage to have different professions and callings in the list so as to make the choice of the President easier and better.

Mr. Vice-President : The next amendment in our list is amendment No. 16 in List No. 1 standing in the name of Mr. Sidhwa.

Shri R. K. Sidhwa (C.P. & Berar : General): I am not moving my amendment.

Mr. Vice-President : The next amendment is No. 18 in List No. 1 standing in the name of Shri B. Das.

Since Shri B. Das is not in the House we pass it over.

The next amendment is No. 1381. I find this is of similar import to 1383, 1384, 1385 and right up to 1392. All these amendments may therefore be considered together.

Amendment No. 1381 standing in the name of Shri Prabhudayal Himatsingka may be moved.

Shri Prabhudayal Himatsingka (West Bengal : General): I am not moving my amendment.

(Amendment Nos. 1381 to 1394 were not moved)

Prof. K. T. Shah : Mr. Vice-President, Sir, I beg to move:

"That for clause (3) of article 67, the following be substituted :

'(3) All members of the Council of States shall be elected. Each constituent State shall elect 5 members by votes of adult citizens.' "

Sir, this is in consonance with the general principle I am advocating, namely, that the Legislature shall be constituted only by elected representatives election being by whatever method you may agree to.

Secondly, that, in the Council of States, all constituent parts of the Union—call them States. Units or what you like—shall be equally represented. Whereas in the lower House, or the House of the People you may have representation in accordance with number, in the Upper House or the Council of States the representation is more of the territory of the Unit, of the special interests of the Unit or region, than of the people pure and simple.

And these, also, I would suggest should be elected rather than nominated, co-opted, or chosen by any other method. The whole body should be elected; and none but elected representatives should come there.

Next, the representatives, so far as they are representatives of the Units, should be equal in number amongst themselves—that is to say, for each State the same number be returned,—so that it will bring some sense of a real Federation working, rather than of discrimination or differentiation as between the Units. On these grounds I commend my proposition to the House.

Mr. Vice-President : Amendment No. 1396 is formal and is therefore disallowed.
(Amendment No. 1397 was not moved.)

Mr. Vice-President : The first part of amendment No. 1398, and amendment No. 1402 are identical. I can allow the first part of amendment No. 1398 to be moved.

Mr. Mohd. Tahir (Bihar: Muslim): What about the second part?

Mr. Vice-President : That will come at the proper place.

Mr. Mohd. Tahir : Sir, I beg to move:

“That in sub-clause (a) of clause (3) of article 67, the word ‘elected’ where it occurs for the second time be deleted.”

I have moved this amendment because I think that there should not be any distinction between the elected members and the nominated members so far as the election of the representatives in the Council of States is concerned. Nominated Members, as soon as they become Members of the House, should enjoy all the rights and privileges of a Member as such.

I had moved a similar amendment in respect of the election of the President of India, but in that respect the House adopted that only the elected members should be allowed to vote for the President of India. In that case there was some meaning to it, because if a President who nominates certain members to Parliament again stands for the Presidentship election, there would have been some difficulty for the members nominated by the said President in exercising their votes. But so far as the election of the representatives of the Council of States is concerned, I do not think that there is any reason why the nominated Members of the Legislature as such should be debarred from voting in the election of their representatives in the Council of States. I hope that taking all these facts into consideration the House will accept my amendment.

Mr. Vice-President : Now you may move the second part of the amendment. They will be voted upon separately. Do you want amendment No. 1402, which is identical, also to be put to vote?

Mr. Mohd. Tahir : Yes.

Mr. Vice-President : You may move the second part of amendment No. 1398.

Mr. Mohd. Tahir : Sir, I beg to move:

“That in sub-clause (a) of clause (3) of article 67 the words ‘Legislative Assembly’ be substituted for the words ‘Lower House’.”

In this connection I would require the special attention of my honourable Friend Dr. Ambedkar. I have moved this amendment because in article 148 of the Draft Constitution the Legislative of the States has been defined as the Legislative Assembly and the Legislative Council; and there is no such term as has been suggested in article 67, that is to say, the ‘Lower House’. In this connection I think my Friend Dr. Ambedkar was more conscious than myself because while we were discussing article 43 he introduced an explanation, namely, that “in this and the next succeeding article the expression ‘the Legislature of the States’ means, where the Legislature is bicameral the Lower House of the Legislature.” This explanation, Sir, he had to add while we were discussing article 43, which means that this explanation is meant for article 43 and article 44 only. Therefore, Sir, in order to clear the position in

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the article under discussion, I think there is no other alternative but to accept my amendment; or I would request my Friend, Dr. Ambedkar to introduce an explanation as he has done in article 43, because unless it is done, the meaning of the article will not be clear, and I hope, Sir, this would be duly considered and accepted by the House.

Mahboob Ali Baig Sahib Bahadur (Madras : Muslim): Mr. Vice-President Sir, I beg to move:

“That in sub-clause (a) of clause (3) of article 67, for the words ‘Lower House’, the words ‘two Houses’ be substituted.”

The sub-clause as proposed to be amended by this amendment reads like this:

“67 (3) (a) where the Legislature of the State has two Houses, be elected by the elected members of both the Houses.”

I do not see any reason, Sir, why, when there are two Houses in the Provincial Legislature, the elected members of the Upper House should be excluded from taking part in the election. I am not thinking of those who may be nominated to the Upper House. I am urging that those members of the Upper House who have been elected may be allowed to take part in the election. On principle, there is no reason at all why the elected members of the Upper House should be excluded. That is the reason why I move this amendment.

I have got one other amendment. No. 1407, Sir. I may be allowed to move that also.

Mr. Vice-President : There are three amendments of similar import. One is amendment No. 1400, the other is No. 1403 and the last is No. 1407. Amendment No. 1407 seems to me to be the most comprehensive. Mr. Baig can move that amendment.

Mahboob Ali Baig Sahib Bahadur : The other amendment that stands in my name is Amendment No. 1407.

Sir, I beg to move:

“That in clause (3) of article 67, the following new sub-clause (d) be added:—

‘(d) The election under sub-clause (a) and (b) shall be in accordance with the system of proportional representation by means of the single transferable vote.’ ”

Shri Mahavir Tyagi (United Provinces : General): On a Point of order, there is a similar amendment standing in my name just before that of Mr. Baig. I have not been allowed to move that amendment.

Mr. Vice-President : Because the three amendments have been moved together, namely, Nos. 1400, 1043 and 1047, as the honourable Member will find by reference to papers already circulated and in my view, Amendment No. 1407 seems to be the most comprehensive. The honourable Member will have his chance later on.

Mahboob Ali Baig Sahib Bahadur : I am glad that some Members are of the same opinion as I am with regard to the method of election, particularly my honourable friend, Mr. Mahavir Tyagi, and I am glad when we come to this part of the Constitution Mr. Mahavir Tyagi has changed his mind. I remember quite well when I moved for the election of the President in the earlier part of the Constitution, Mr. Mahavir Tyagi was, I should say uncharitable.

Shri Mahavir Tyagi : That was the President’s election this is of the Council of States.

Mr. Vice-President : I think it would be better to substitute the word “emphatic”.

Mahboob Ali Baig Sahib Bahadur : Perhaps he did not understand. But now he finds that the method of election by a system of proportional representation by means of the single transferable vote is not injurious for the solidarity of the country. I remember at that time.

Mr. Vice-President : May I suggest that instead of making remarks on the past attitude of Mr. Mahavir Tyagi, another honourable Member of this House, the honourable Member may proceed with his own amendment. Probably that would save the time of the House.

Mahboob Ali Baig Sahib Bahadur : Now, Sir, this House has already accepted the system of election under article 55, that is, in regard to the election of the President.

“The Vice-President shall be elected by the members of both Houses of Parliament assembled at a joint meeting in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.”

Therefore, Sir, there is nothing new or extraordinary in my proposing this method of election.

Further, Sir, may I refer to the opinions of certain authorities who are competent to speak on this matter which are referred to in the Constitutional Precedents, supplied to the Members of this House by the Constitutional Adviser? The opinions of persons who are competent to speak on this method of proportional representation are these:

“One of the best safeguards for minority rights and interests is the system of election by proportional representation with the single transferable vote (P.R.) which has already been adopted in a large number of countries; Switzerland is a conspicuous example:

‘In the past there were bitter differences, religious and cantonal. But for a long period of years now, government has been stable. The responsibility for forming a government rests upon Parliament; its first duty is to elect an Executive. The Swiss Parliament is elected by proportional representation.’ ”

The late Lord Howard of Penrith, who was Britain’s representative at Berne, Stockholm, Madrid and Washington, and who made a study of the working of governments, wrote as follows:

“Two fundamental requirements of democracy, first that Government should be an expression of the people’s will and secondly that it should work both smoothly and stably and not be subject to frequent crises, seem to have been met more successfully by the Swiss system than by any other in the world.”

Another authority has stated like this:

“Sir Samuel Hoare addressing his constituents in Chelsea expressed the view that representative Government might function more satisfactorily in Europe if the Swiss rather than the British form of Government was adopted. The New York review Free World organised an unofficial round table discussion on the future of Italy. In this discussion Colonel Raudolfo Pacciardi, an active member of the Left, said : ‘The frequent crises of the Latin democracies, which have so greatly discredited representative democracy, can be avoided by a constitutional form like that which has been developed in Switzerland.’ ”

This was issued by the Proportional Representation Society in June 1945.

Therefore, this method of election represents the expression of the people’s will and it will be more stable as well as responsible. My submission is that all the fears that some people might entertain that this method of election would involve the country in sections and it will go against the solidarity of the country are false. Some people who are really communally minded smell a rat in anything in regard to this kind of representation; that is unjustifiable. This is the most scientific and most democratic method of representing the people of a country in a democratic system of Government. I, therefore, commend these two amendments, firstly that the elected members of the

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Upper House also should be allowed to take part in the election and secondly that the method of election should be by this system, that is proportional representation by means of the single transferable vote. Sir, I move.

Mr. Vice-President : The other two amendments which have been dealt with together are amendment Nos. 1400 and 1403.

Shri Mahavir Tyagi: Sir, these are my amendments and I beg to submit that I may be allowed to move these amendments separately so that the House may decide on the issues separately.

Mr. Vice-President: Come to the mike please.

Shri Mahavir Tyagi: Sir, I beg to move:

“That at the end of sub-clause (a) of clause (3) of article 67, the following words be added:

‘in accordance with the system of proportional representation by means of the single transferable vote.’ ”

Sir, while moving this amendment.

Mr. Vice-President : I am afraid I have not given the honourable Member permission to move his amendments. I want to know the reason why he wants to move them. They are of similar import as amendment No. 1407.

Shri Mahavir Tyagi: That is perfectly true. My reason is the House can decide the issue in one case in one way and in the other, in another way. Therefore, I want to give the fullest opportunity to the House.

Mr. Vice-President : I can give the honourable Member an opportunity of making his point in the general discussion; but I cannot depart from the convention which has already been established. His two amendments will be put to vote one after the other.

Shri Mahavir Tyagi: Shall I have my say now, Sir?

Mr. Vice-President : I shall certainly give the honourable Member an opportunity in the general discussion.

Mr. Vice-President: Amendment No. 1401, Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : Mr. Vice-President, Sir, I beg to move:

“That at the end of sub-clause (a) of clause (3) of article 67 the word ‘and’ be added and the word ‘and’ at the end of sub-clause (b) be omitted.”

I also beg to move amendment No. 1404:

“That sub-clause (c) of clause (3) of article 67 be omitted.”

Sir, so far as this sub-clause is concerned, it introduces some anomalies. Clause (3) where this sub-clause occurs relates to the representation of the States. Sub-clause (a) deals with the representation of States having a legislature with two Houses. Sub-clause (b) deals with representation of States having a legislature with one House.

Mr. Vice-President : Mr. Naziruddin Ahmad, you might move amendment No. 1404 also.

Mr. Naziruddin Ahmad : Yes, Sir. That is the amendment which I have also moved.

Mr. Vice-President: And one speech.

Mr. Naziruddin Ahmad : Sub-clause (c) deals with representation of States having no legislature. States here comprise the Provinces, the Chief Commissioner’s Provinces and the Indian States. All the Provinces, however, have legislatures and they will have legislatures too in the future constitution. Sub-clause (c) therefore really affects the States which are now called Indian States and the Chief Commissioner’s Provinces. Where there is no legislature,

power is being given to the Parliament to prescribe or determine the manner of choosing their representatives. I submit this would be an encroachment on the rights of those States—specially the Indian States. These States having no legislature have a distinct identity, a modified kind of sovereignty. Dr. Ambedkar conceded the other day that they have some kind of sovereign rights, though not full sovereign rights. The mere fact that they have no legislature is no ground why their representation should be left to be determined by the Parliament. If they have no legislature for the time being there must be a President, or a Raj Pramukh or some authority who or which would function in the State. If the business of the State, its administration its executive and the judiciary and other matters could be carried on by some authority, that authority should also deal with the prescribe how the representatives of that States should come to the House. Therefore, this sub-clause is anomalous. Parliament may perhaps come in when there is a gap when there is really a constitutional vacuum in the State. The only void that is contemplated is the absence of any House of Legislature. There is not a political vacuum. But, still the State may have an organised Government without a legislature and their representation should really be a matter for them. It really is a question of the terms of the Accession. In fact, if a State having no legislature has acceded on certain terms, then sub-clause (c), to be valid, must come within those terms. As I see it, sub-clause (c) goes beyond the terms of Accession, and is an encroachment upon the sovereign or semi-sovereign rights of these States. I therefore submit that Parliament would not be entitled to deal with their representation. I would be beyond its competence. The States should be left to decide their own representation. In fact, it is due to them that they should decide their own representation. A legislature is desirable but by no means a constitutional necessity. The fact that they have no Legislature does not debar their expressing themselves as to how they will be represented.

In these circumstances, I submit that sub-clause (c) should be deleted. But I also feel that some appropriate provision recognizing the right of States themselves having no legislatures to determine their own representation may be substituted. In the shortness of time at my disposal I could not submit an alternative proposition but the question is one of principle. If the principle is acceptable to the House, a suitable substitute may easily be introduced. As at present advised, I submit that Parliament would not be a legal and constitutional substitute for the authority of the States whatever be the form of Government or the nature of the authority which really functions.

With these few words, I submit that my amendment should be accepted.

(Amendment No. 1405 was not moved.)

Mr. Vice-President : No. 1406 disallowed as verbal.

(Amendment No. 1409 was not moved.)

No. 1410 is disallowed.

I would like to put one suggestion before the House, before the general discussion begin. It is this. I have broken many of the Rules of Procedure, some through ignorance others deliberately. I am going to break a convention already established deliberately, but I think I ought to get the permission of the House. This article falls under two separate board divisions. The first four clauses deal with representation in the council of States and the last few provisions deal with representation in the House of the People. My suggestion is that first of all we discuss the first part, *i.e.*, the first four clauses dealing with representation in the Council of States. The amendments relating to these clauses have been moved one after another. Now I want to give an opportunity to honourable Members to take part in the general discussion on these four clauses. After that I intend to call upon Dr. Ambedkar to

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reply and after that only these amendments will be put to vote. Then we shall take up the amendments concerned with the clauses (5) onwards. Then the amendments will be moved, and then again a similar procedure will be followed. But this procedure is only for this clause. Have I the permission of the House?

Honourable Members : Yes.

Mr. Vice-President : Now these four clauses are open for general discussion. I call upon Mr. Rohini Kumar Chaudhari.

Shri Rohini Kumar Chaudhari: (Assam : General): Mr. Vice-President, Sir, I wish to say a few words on this article. My honourable Friend Moulvi Mohammad Tahir has moved an amendment objecting to the use of the word 'Lower House'. Practically speaking as is known to everybody, the lower House means really the Upper House. That is the House which has a more important voice and has the upper hand in the administration of the Province. Similarly the House of Commons is the House of the Commoners and the House of Lords is the House of the Lords. All the same the House of Commons exercises more powers than the House of Lords and nobody for a moment suggests that the name should be changed for that purpose only. Further more the use of the word 'Lower House' connotes that there must be an Upper House in the same province. Now so far as the Upper House is concerned, its members have been denied many privileges—for instance, one would have normally expected that in selecting or in electing members of the Council of States, their compeers, the member of the Upper House should certainly have a voice. Because after all the birds of the same feather flock together and there is a sort of sympathy between members of the Upper House in a province and the members of the Council of States in the Centre but, Sir, when you are not giving them the privilege which is exercised by the ordinary members of the Lower House or the Assembly, you must console them by calling them members of the Upper House. Therefore from that point of view also the words 'Lower House' should be allowed to remain where they are firstly because the lower House does not mean a House of Lower dignity but it has to be used for purposes of expediency; and secondly, Sir so long as we think that we must have a second legislature in a Province, there should be one which is called 'Upper House' because as a matter of courtesy we should call them Upper House because we are not giving them many privileges.

Then I also want to say a few words on the amendments of Prof. Shah. It is certainly democratic to expect that members of any House should be elected but there is one difficulty in the way. If you leave the representation entirely to election in a Council of States the class of people whom we want to nominate by this article, *i.e.*, the class of people who must have some special knowledge in agriculture, fishery, administration and social services, these people generally fight shy of election and will never be able to come to the House and therefore it is necessary in the exigencies of circumstances that some provision should be left for nomination so that the House may get the advantage of people who would normally not like to enter into a contest of election and at the same time whose services to the Legislature would be very useful.

With these words, Sir, I support the first part of the article.

Shri R. K. Sidhwa : Mr. Vice-President, Sir, this article so far as it relates to the Council of States contains two parts, one is clause 1(a) which has been amended by Dr. Ambedkar by reducing fifteen members which he had originally suggested for nomination to twelve members and in clause (2) where the Drafting Committee had suggested about 14 categories under which the

nomination had to be made, he has moved an amendment of 4 categories. Now this is the most contentious clause in this article, which ought to require the serious attention and consideration of the House. There is an election and also nomination in the clause. I have stood all along my whole life for election in all legislatures and public bodies and local bodies.

Not that I do not realise that conditions have changed today, but I do feel that even under the changed conditions, the power that is vested in the President may be misused, I mean the power of nomination. This, Sir, is a matter in which we cannot challenge the action of the President, because it is a matter which is absolutely within his discretion. A certain person 'A' may be more desirable to be nominated, but according to the President, another person, 'B' may be considered more suitable and he may nominate 'B'. The House cannot, and no one can challenge that choice or nomination of the President. No one can say that the President can be impeached because he has done something in bad faith or anything of that kind. I am afraid, Sir, that there will be a good deal of bickerings, that while able persons are available, some favourites, or some persons who are in the good books of the President or some persons who are always around the President, are nominated. Human nature being what it is, such a thing is quite possible. I am not stating something new, for persons above these things are exceptional. The President has to take into consideration so many factors when making his selection and at that time, qualifications or merit or service or sacrifices may be set aside or ignored. Therefore, I do feel that even these nominations should not be there, because they will lead to bickerings and out of them bickerings will accrue. The very fact that while the Drafting Committee had laid down something like fourteen categories, the Chairman of the Drafting Committee has now come forward with an amendment seeking to change the number to four, and also the number of amendments moved to this particular article show the degree of difference of views. One view is that experts will be required only for a few subjects such as law etc. which are rather technical. But it was asked, why have you left out health? Sir, I do not attach much importance to Law. There are many lawyers in this House, and some quite as competent as Dr. Ambedkar, if I may be permitted to say so. I am only saying that natural temptations will arise, and they are arising, as is shown by the various amendments that have been moved. Therefore, I feel, Sir, that these nominations, in the present juncture, should be done away with.

Coming to Prof. K. T. Shah's amendment I would certainly advocate the suggestion or rather the amendment moved by him proposing the appointment of advisory committees. I do not subscribe to his view completely. For instance, I do not agree with the various numbers and various other experts he has suggested, such as 25 for agriculture and so on. I do not subscribe to so many categories coming in. But certainly, I feel that there is scope for advisory committee of experts. For instance, we may require experts in civic life and also experts in Social life. We cannot ignore the civic service amongst the villages and local bodies. But I do not think such an advisory body should be provided for in the Constitution. In case nomination is to be there then as an alternative we may have these advisory committees on some two or three selected subjects. But that can be done by Parliament by enacting an Act. These persons need not be given undue prominence by making a provision in the Constitution for these advisory committees. According to the conditions that may be prevailing at an election, the Parliament may decide to have certain experts to be attached to particular ministries. But let the House itself be given an opportunity to find out from its own Members whether certain members with expert knowledge on particular subjects are available. If that is not possible, then Parliament can make a law to have Advisory Committees appointed. Sir, today you know we had to seek the advice

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of economic experts in view of the serious economic conditions in the country. But such an outside body would not be quite desirable, if we are to get a completely unbiased opinion or advice. But if they are in the service of the State, as suggested, they can be trusted to give unbiased opinions.

I would, however, like to make it quite clear that I am opposed to nominations, and the above suggestion is only made as an alternative. We cannot take it, that because we have all been elected, therefore, nomination will be harmless. As I have stated, we cannot expect everybody to be of sterling character, though we wish all of us were of sterling character, and that when we decide upon a person, we do so without any favouritism or any other such considerations, and select the really best man for the place.

With this reservation, Sir, I support the article.

Mr. Vice-President : Shri Mahavir Tyagi.

Shri Mahavir Tyagi : Sir, I must thank you for giving me an opportunity to express my views on this article. I wanted to move an amendment, but you were pleased to rule that it has been already covered by an amendment.

Mr. Vice-President : Yes, your amendment Nos. 1400 and 1403.

Shri Mahavir Tyagi : Yes, Sir. I wanted to say that "in accordance with the system of proportional representation by means of the single transferable vote" may be added at the end of sub-clause (a) of clause (3) of article 67, and in the same manner, similar modifications may be made to sub-clause (b). But I have not much to say now. My Friend Mr. Mahboob Ali Baig has already moved an amendment which I think has the same purpose. But I think the words he has suggested will not fit in properly with the existing words, and I am afraid Dr. Ambedkar will have to take the trouble of setting right the whole sentence. Mr. Baig has suggested that a new sub-clause (d) may be added. Now, sub-clauses (a), (b) and (c) all form part of one big sentence. The sentence begins like this :

"The representatives of each State for the time being specified in Part I or Part III of the First Schedule in the Council of States shall.. etc., etc."

and then come sub-clauses (a), (b) and (c). If another sub-clause (d) is added, as suggested by my Friend Mr. Mahboob Ali Baig, it will read:

"(d) The election of the representatives of each State.... shall be in accordance with the system of proportional representation, etc., etc."

That will create a construction which is neither here nor there. I feel that my amendment is much more simple and does not lead to any such difficulties. I hope my suggestion will be considered by the House, because if it is accepted, then Dr. Ambedkar will not have to trouble himself about re-adjusting the wording of the article.

Sir, the Council of States will be represented by those members who are sent into the Council by the respective States, by general election, by majority voting, which means that the representatives of the States will not have any member belonging to the minority party of the respective States. It means that, if in the States the election is not by means of the single transferable vote, the minorities will have no representation at all in the Council of States. Sir, I do not agree with the type of democracy in vogue in Europe. This is the biggest fraud which the politicians of the world are unconsciously practising on the masses. Under the existing system of elections the masses do not get any real representation at all. All democracies based on party basis are the monopoly of the chosen few, the literates and the intelligentsia. They form parties and the elections are run on party lines. This being the case, the seats are held by the same set of people who are borne on the crest of the wave of emotion of the masses. The emotion of the masses is excited,

fanned and inflamed by the politicians. So much so, that when people go to the booth, they go swayed by the emotion created by the head of the election campaign. When an elector goes to the polling station, he is not his normal self. His emotions are excited and he forgets his individuality. Mass mind is a separate entity. When the elector votes under his emotions, he does not exercise his individual judgment. He is swayed by the election propaganda. Under the circumstances even the representatives of the majority party are not really representatives of the normal mind of the masses. It is only those members of the minority who are either defeated at the elections or have won that represent the real spirit of the masses to some extent. They are the only bold ones who have withstood the attacks, hits, and pushes of the majority party and who have kept their heads cool and aloof amidst waves of mass emotion created by election propaganda and stuck to their principles. So, those who belong to the minorities should be always cared for and looked upon as people who hold to their own opinions staunchly. Therefore, although democracy as practised in the western countries is a hoax and a fiction, it has survived so long because of the opposition. It is the opposition that reflects the true voice of the people. It is the opposition that sustains democracy. Were it not for this, democracy would have long ago crashed and fallen down. I believe in the democracy....

Mr. Vice-President : The honourable Member's time is up.

Shri Mahavir Tyagi : Please give me one more minute, Sir. I assure you I shall be giving useful suggestions.

Mr. Vice-President : But the honourable Members is taking away the democratic right of others to speak.

Shri Mahavir Tyagi : According to Mahatma Gandhi real democracy is Ram Raj where everyone puts himself and all his power and possession under the supreme control of the general will. Each in fact becomes an indivisible part of the whole body, and indivisible member of the body. Although he acts according to the total will of the people as a whole, even so he obeys himself alone and maintains his freedom. Under such a democracy an attack on the individual is a hit on the total body of the people and a hurt on the total body is a hurt on each individual. We have, however, adopted the western model of democracy which I cannot help. There must therefore be parties in our body politics. Let us therefore give seats in the Council of States to some Members holding the views of the opposition also. Such members can get elected only if my amendments are accepted. Only then Members who are opposed to the party in power in the States can come in. Whenever high State policy is under discussion we can have the advantage of the views of the other side only if they are allowed to come in by this method. The Democracy of the western type is based on free play of the opposition. Without good opposition the democracy will become one legged, it would limp and tumbledown. With these words I hope that my amendments will be accepted.

Mr. Mohamed Ismail Sahib (Madras : Muslim): Mr. Vice-President, I want to say only a few words and will not take more than one or two minutes.

Under clause (2) of article 67, the different classes from amongst whom the President is to nominate members to the Council of States have been given. In the reason for omitting trade and commerce and industry, the Drafting Committee says that these people can as well come through the general election in view of adult suffrage. Sir, for the same reason you could have omitted to give representation by nomination also to the classes of the people enumerated in sub-clauses (a) to (d). They can also come through general elections under adult suffrage.

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Sir, I do not know that the importance of commerce is in any way less than the importance of the other classes of people enumerated in this clause. Therefore I think it is very reasonable and fair that trade and commerce also should be included.

Sir, now coming to clause (3), in the various sub-clauses, nominated members are being sought to be excluded from having anything to do with the election or the choice of representatives to the Council of States from the States. Sir, if no nomination is provided for at all, that is another thing and I would have no quarrel at all. But you think that nomination is necessary and are providing for the nomination of certain people. Then, when you have recognised the importance of nominating people and when you have actually nominated them to the Council of States, it will not do to discriminate against them. It will not be at all fair to place them at a disadvantage and give them an inferior status. When you have recognised their importance and nominated them, they must also be treated equally, after they have been nominated, with the other members who have been elected and who form part of the various bodies. Therefore I am not able to see the reason why these people should be eliminated from having anything to do with these elections.

Then, Sir, a word with regard to the system of proportional representation proposed in more than one amendment to this article. It is said that this system of election will lead to fissures and divisions amongst the People. But, in reality, it would not be leading to that result or effect at all, because people know that under this system of election every group of people has got an effective say in the election. Therefore every group will be drawn towards the other group. When it is a question of election they will be made to work with each other. They will be compelled to seek the franchise of every group. Therefore it will really bring the people together instead of disintegrating them. It will make each group seek the franchise of other people. Therefore it would really work for unity rather than for disunity. Sir, I think that the Chairman of the Drafting Committee would see the reasonableness of this proposal and would recommend to House the acceptance of this system.

Mr. Vice-President : Dr. Ambedkar.

(Pandit Hirday Nath Kunzru rose to speak.)

Mr. Vice-President : What is it that you want to say, Pandit Kunzru?

Pandit Hirday Nath Kunzru : I would like to say something about this question of proportional representation before Dr. Ambedkar rises to reply.

Shri L. Krishnaswami Bharathi : In the general discussion only two people have spoken so far, Sir.

Mr. Vice-President : On the whole four people have spoken. But I would allow you to speak, Pandit Kunzru, but please confine yourself to the question of proportional representation only.

Pandit Hirday Nath Kunzru : Mr. Vice-President, as it has been proposed that the members of the Council of States should be elected by the Lower Houses of the provincial legislatures, it is necessary that a system should be laid down for the election of the members as would be fair to men holding different views. It has accordingly been suggested that in their election the system of proportional representation by means of the single transferable vote should be used. Honourable Members may be afraid that, if this system is accepted, it would mean the introduction of communal electorates by the backdoor. We know the evils of communal electorates. We know that the partition of India is the direct result of such electorates.

We have therefore to be on our guard against any system of election that would lead to the maintenance of the old evil in a new form, but let us consider whether the acceptance of the suggestion that has been made would in practice amount to the election of the members of the Council of States by people belonging to separate communities. In order to clarify our minds, it is necessary for us to consider how the members of the provincial legislative assemblies will be elected. They will not be elected on the basis of communal electorates. The electorates will be mixed. They will have consist of men of all communities, and the men returned by mixed electorates are not likely to be imbued with communal virulence. It should not be supposed that the representatives of any community would be able to get in merely by the votes of the members of that community. They will have to seek the suffrages of mixed electorates and it may therefore be supposed—we may take it for granted—that if they want to maintain their position, if they want to be re-elected, they will have to follow a policy that is not based on religious or communal divisions. Now if we get such members in the Lower Houses of the provincial legislatures, is there any reason to fear that if the system of proportional representation by means of the single transferable vote were introduced for the election of the members of the Council of States, the evils of communal electorates would be maintained or intensified? Sir, we ought not to consider this question entirely from the point of view of the representation of different communities. We ought also to consider the need for the representation of persons holding views that are not popular, and the method of proportional representation would enable fair representation to be given to minorities holding views different from those of the majority. Unless the system of proportional representation is introduced, the views that are unpopular would never be represented. Take, Sir, the election of members to the Constituent Assembly. There are some members of this House who do not belong to the Congress and have yet been able to get elected. They have been able to secure their election because of the existence of the method of proportional representation with the single transferable vote for the election of the members of the Constituent Assembly. But for this system no one who was not a Congressman could have been here.

Maulana Hasrat Mohani (United Provinces : Muslim): Hear, hear.

Pandit Hirday Nath Kunzru : I think therefore that it is desirable that we should adopt the system of proportional representation by means of the single transferable vote in connection with the election of the members of the Council of States. I need not repeat that these members will be elected by provincial representatives who have not been returned on a communal ticket so to say. They will be elected by men who will owe their election to an electorate that will consist to an overwhelming extent of members of the majority community. There need be no reasonable fear therefore that the election of members of the Council of States by means of proportional representation would mean the reintroduction of communal electorates with all the evils that they involve. On the contrary, I think that in the changed circumstances this method would enable a fair representation of the views of sections that would otherwise be overwhelmed and would not be able to make their voice heard, to be secured.

Mr. Vice-President : Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I am agreeable to amendment Nos. 1369, 1375, 1378, 1380, 1400 and 1403. With regard to the last two amendments (Nos. 1400 and 1403) those are also covered by an amendment moved by Mr. Mahboob Ali Baig. It is amendment No. 1407. I would have been glad to accept that amendment but unfortunately, no examining the text of that amendment, I find that it does not fit in with the generality of the language used in clause (3) of article 67. That is the only

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reason why I prefer to accept amendment No. 1403, because the language fits in properly with the language of the article.

With regard to the other amendments, I think there are only three which call for special consideration. One is an amendment by Mr. Kunhiraman. The aim and object.....

Mr. Vice-President : It was not moved.

The Honourable Dr. B. R. Ambedkar : Then I do not think I need say anything about it. There remain only two—one is the amendment of Mr. Kunzru. He was very naturally considerably agitated over the proviso which stood in the Draft Constitution and which provided for the 40 per cent representation to representatives of the States. I think it is desirable that I should clear the ground and explain what exactly was the reason why this proviso was introduced and what is the present position. It is quite true that in the Government of India Act, it was provided that although the States population formed one-quarter of the total population of India as it then stood in the Lower House, the States got representation which was one-third of the total and in the Council of States they got two-fifths representation which was 40 per cent. That is not the origin as to why this proviso was introduced in the Draft Constitution. I should therefore like to go back and give the history of this clause.

Members of the House will remember that this House had appointed a Committee known as the Union Powers Committee. That Committee recommended a general rule of representation, both for people in British India as well as people in the Indian States and the rule was this: That there should be one seat for every million up to five millions, plus one seat for every additional two millions. As I said, this was to be a rule to be applicable both to the provinces as well as the States. But when the report of the Union Powers Committee came before the Constituent Assembly for consideration, it was found that the representatives of the States had moved a large number of amendments to this part of the report of the Union Powers Committee. Great many negotiations took place between the representatives of the Indian provinces and the representatives of the Indian States. Consequently, if honourable Members will refer to the debates of the Constituent Assembly for 31st July 1947, my friend and colleague, Mr. Gopalaswami Ayyangar, who moved the adoption of the Report of the Union Powers Committee, moved an amendment that the States representation shall not exceed 40 per cent. Now that rule had to be adopted or introduced in the Draft Constitution. So far as I have been able to examine the proceedings, I believe that this proviso of granting the States 40 per cent representation was introduced not so much with the aim of giving them weightage but because the number of States was so many that it would not have been possible to give representation to every State who wanted to enter the Union unless the total of the representation granted to the State had been enormously increased. It is in order to bring them within the Union that this proviso was introduced. We find now that the situation has completely changed. Some States have merged among themselves and formed a larger Union. Some States have been integrated in British Indian provinces, and a few States only have remained in their single individual character. On account of this change, it has not become as necessary as it was in the original state of affairs to enlarge the representation granted to the States, because those areas which are now being integrated in the British Indian provinces do not need separate representation. They will be represented through the provinces. Similarly, the States which have merged would not need separate representation each for itself. The totality of representation granted to the merged

States would be the representation which would be shared by every single unit which originally stood aloof. Consequently, in the amendment which I have introduced, and which speaks of Schedule 3-A, which unfortunately is not before the House, but will be introduced as an amendment when we come to the schedules, what is proposed to be done is this:

We have removed this 40 per cent ratio granted to the States and there will be equality of representation in the Upper Chamber, both to the Indian States as well as to the Provinces, and I am in a position to give some figures, which, although they are not exact for the moment, are sufficient to give a picture of what is likely to be the contents of Schedule 3-A.

According to Schedule 3-A, the provinces will have 141 seats. The Chief Commissioners' provinces will have two and the States will have seventy altogether. Consequently, the total of elected members to the Upper Chamber will be 213. Add to that twelve nominated seats. That would bring the total to 225. Our clause, as amended, says that the total strength of the Council of States shall not exceed 250. You will thus see that the allocation of seats which it is proposed to make in Schedule 3-A satisfies two conditions, in the first place it removes weightage and secondly, it brings the total of the House within the maximum that has been prescribed by the amendment that I have made. I think the House will find that this is a very satisfactory position.

Pandit Hirday Nath Kunzru : May I ask my honourable Friend whether the States in Part III of the first Schedule have been represented in accordance with their population?

The Honourable Dr. B. R. Ambedkar : Yes, everybody will now get population ratio.

Then I come to the second amendment—No. 1377 by Prof. K. T. Shah. Prof. K. T. Shah proposes that there should be a council of the representatives of agriculture, industry, commerce and other special interests created by statute. It will be a permanent body of people. The States shall be required to give them salaries, allowances, and the duty of this council, as proposed by Prof. K. T. Shah, is that it shall have the statutory duty of giving advice to Government, and the Government will have the statutory obligation of consulting this body, and it shall not be permissible for the Government, I take it, to introduce any measure which on the face of it does not bear the endorsement that the statutory body has been consulted with regard to the contents of that Bill. I believe that is the purpose of Prof. K. T. Shah's amendment.

There are various objections to this. In the first place anyone who has held any portfolio in the Government of India or in the Provincial Governments will know that this is the normal method which the Government of India and the Provincial Governments adopt before they finalise their legislative measures: there is no proposal brought forth by the Government of India in which the Government of India has not taken sufficient steps to consult organised opinion dealing with that particular matter. It seems to me that this provision which is a matter of common course is hardly necessary to be put in the Constitution. I therefore think that from that point of view it is unnecessary.

Then I should like to tell the House that it is proposed that at a later stage I should bring in an amendment which would permit the President to nominate three persons either to the Council of States or to the House of the People who shall be experts with regard to any matter which is being dealt with by any measure introduced by Government. If it is a matter of commerce, some person who has knowledge and information and who is an expert in that particular branch of the subject dealt with by the Bill, will be appointed

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by the President either to the Council of States or to the Lower House. He shall continue to be a member of the legislature until the Bill is disposed of; he shall have the right to address the House, but he shall not have the right to vote. It is through that amendment that the Drafting Committee proposes to introduce into the House such expert knowledge as the Legislature at any particular moment may require. That justifies, as I said, the rejection of Prof. K. T. Shah's amendment; and also the other amendments which insisted that the other clauses of this article requiring that agriculture, industry and so on be also represented, become unnecessary. Because, whenever any such expert assistance is necessary, this provision will be found amply sufficient to carry out that particular purpose. Honourable Members might remember that in the 1919 Act when Diarchy was introduced in the Provinces a similar provision was introduced in the then Government of India Act which permitted provincial Governors to nominate experts to the House to deal with particular measures. Sir, I suppose and I believe that this particular proposal which I shall table before the House through an amendment will be sufficient to meet the requirements of the case.

Shri R. K. Sidhwa : Will the nomination clause remain?

The Honourable Dr. B. R. Ambedkar : Yes.

Mr. Vice-President : I shall now put amendment No. 1379 to vote. The question is:

"That clause (2) of article 67 be deleted."

The amendment was negatived.

Mr. Vice-President : The question is:

"That clause (4) of article 67 be deleted."

The amendment was negatived.

Mr. Vice-President : The question is:

"That in amendment No. 1369 of the List of Amendments, in the proposed clause (1) of article 67, for the word 'two' the word 'one' be substituted."

The amendment was negatived.

Mr. Vice-President : The question is:

"That in amendment No. 1369 of the List of Amendments, sub-clause (a) of clause (1) of article 67 be deleted."

The amendment was negatived.

Mr. Vice-President : The question is:

"That in amendment No. 1369 of the List of Amendments, in sub-clause (a) of the proposed clause (1) of article 67, for the words 'twelve members' the words 'not more than 6 per cent, of the total number of members of the House' be substituted."

The amendment was negatived.

Mr. Vice-President : I shall put the short notice amendment of Sardar Hukam Singh to vote. The question is:

"That in amendment No. 1369 of the List of Amendments, in sub-clause (a) of the proposed clause (1) of article 67, for the words, 'in the manner provided' the words 'from amongst the categories of persons illustrated' be substituted."

The amendment was negatived.

Mr. Vice-President : The question is:

"That for clause (1) of article 67, the following be substituted:

'(1) The Council of States shall consist of not more than two hundred and fifty members of whom—

- (a) twelve members shall be nominated by the President in the manner provided in clause (2) of this article; and
- (b) the remainder shall be representative of the States'."

The amendment was adopted.

Mr. Vice-President : I shall put amendment No. 1375, standing in the name of Dr. Ambedkar, to vote.

It reads:

“That the proviso to clause (1) of article 67 be deleted.”

Shri L. Krishnaswami Bharathi : On a point of Order, Sir. Amendment No. 1375 is out of order in view of the fact that we have already adopted amendment No. 1369 which is a substitution of the clause including the proviso. The proviso has been omitted now by the acceptance of the new clause. There is no point in having an amendment about something which is not in existence.

Mr. Vice-President : Then I shall not put it to vote.

Mr. Vice-President : The question is:

“That to clause (1-a) of article 67 as now moved, the following words be added:

‘Provided that the ratio of the total number of representatives of the States for the time being specified in Part III of the First Schedule to their total population shall not exceed the ratio of the total number of representatives of the States for the time being specified in Parts I and II of that Schedule to the total population of such States’.”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in amendment No. 1378 of the List of Amendments for the proposed clause (1-a) of article 67, the following be substituted:

- ‘(1-a) The allocation of seats to representatives of the States in the Council of States shall be based on the following principles:
 - (i) one representative for every million population up to the first seven million population in each State in Schedule I, provided that no State shall have less than one representative in the Council of States;
 - (ii) one representative for every two million population after the first seven million’.”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in amendment No. 1378 of the List of Amendments, for the proposed clause (1-a) of article 67, for the words ‘in accordance with the provisions in that behalf contained in Schedule III-B’ the words ‘on the basis of equal representation to each of the component States, the number of which representation shall in no case be more than *three*’ be substituted.”

The amendment was negatived.

Mr. Vice-President : The question is :

“That in amendment No. 1378 of the List of Amendments, after the proposed clause (1-a) of article 67, the following new clause (1-b) be inserted :

‘(1-b) Steps should be taken to see that, as far as possible, men from different units are represented.’ ”

The amendment was negatived.

Mr. Vice-President : The question is :

“That the following new clause be added after clause (1) of article 67 :

‘(1-a) The allocation of seats to representatives of the States in the Council of States shall be in accordance with the provisions in that behalf contained in Schedule III-B’.”

The amendment was adopted.

Mr. Vice-President : The question is:

“That the proviso to clause (1) of article 67 be deleted and the following new clause be added after clause(1):

‘(1-a) Parliament may by law establish a Consultative Council of Representatives of Agriculture (25), Industry (15), Commerce (10), Mining, Forestry and Engineering (10), Public Utilities (5), Social Services (5), Economists (5), to advise Parliament and the Council of Ministers on all matters of policy affecting Agriculture, Industry, Commerce, Mining, Forestry, Engineering, Public Utilities and Social Services; and prepare or scrutinise proposals for legislation concerning any of these items.

Explanation.—The number given in the brackets after each group is the total number of representatives from each section.

Members of this Council shall have, individually or collectively, no administrative or executive duties, functions, or responsibilities. Every member of this Council shall be paid such salaries, emoluments, or allowances as Parliament may from time to time provide.”

The amendment was negatived.

Mr. Vice-President : The question is :

“That in amendment No. 1380 of the List of Amendments, in the proposed clause (2) of article 67, for the words ‘special knowledge or practical experience’ the words ‘real knowledge of or actual devotion for’, and for the words ‘Letters, art, science and social services’ the words ‘History of ancient Indian Philosophy and Culture, art and science and social services towards reconstruction of “Introspective India” ’ be substituted respectively.”

The amendment was negatived.

Mr. Vice-President : The question is :

“That in amendment No. 1380 of the List of Amendments, in the proposed clause (2) of article 67, after the word ‘science’ the words ‘philosophy, religion, law’ be inserted.”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in amendment No. 1380 of the List of Amendments, at the end of the proposed clause (2) of article 67, the words commencing ‘Letters, art, etc.’ be numbered as sub-clause (a) of that clause and the following new sub-clause be added thereafter:

‘(b) journalism, commerce, industries, law.’ ”

The amendment was negatived.

Mr. Vice-President : The question is :

“That for clause (2) of article 67, the following be substituted :

‘(2) The members to be nominated by the President under sub-clause (a) of Clause (1) of this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely :

Letters, art, science and social services.’ ”

The amendment was adopted.

Mr. Vice-President : The question is:

“That for clause (3) of article 67, the following be substituted :

‘(3) All members of the Council of States shall be elected. Each constituent State shall elect 5 members by votes of adult citizens.’ ”

The amendment was negatived.

Mr. Vice-President : The question is :

“That in sub-clause (a) of clause (3) of article 67, the word ‘elected’ where it occurs for the second time be deleted.”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in sub-clause (a) of clause (3) of article 67, the word ‘elected’ where it occurs for one second time be deleted.”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in sub-clause (a) of clause (3) of article 67, the words ‘Legislative Assembly’ be substituted for the words ‘Lower House.’ ”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in sub-clause (a) of clause (3) of article 67, for the words ‘Lower House’ the words ‘two Houses’ be substituted.”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in clause (3) of article 67, the following new sub-clause (d) be added:

‘(d) The election under sub-clauses (a) and (b) shall be in accordance with the system of proportional representation by means of the single transferable vote.’ ”

The amendment was negatived.

Mr. Vice-President : The question is:

“That at the end of sub-clause (a) of clause (3) of article 67, the following words be added:

‘in accordance with the system of proportional representation by means of the single transferable vote.’ ”

The amendment was adopted.

Mr. Vice-President : The question is:

“That in sub-clause (b) of clause (3) of article 67, after the words ‘of that House’ the words ‘in accordance with the system of proportional representation by means of the single transferable vote’ be inserted.”

The amendment was adopted.

Mr. Vice-President : The question is:

“That at the end of sub-clause (a) of clause (3) of article 67, the word ‘and’ be added and the word ‘and’ at the end of sub-clause (b) be omitted.”

The amendment was negatived.

Mr. Vice-President : The question is :

“That sub-clause (c) of clause (3) of article 67 be omitted.”

The amendment was negatived.

Mr. Vice-President : It thus appears that there are altogether 5 amendments which have been carried, namely Nos. 1369, 1378, 1380, 1400 and 1403.

I am now in a position to make a formal announcement to the House that we definitely adjourn from the 8th of this month, but we do sit on the 8th Saturday. The House now stands adjourned to 10 A.M. tomorrow.

The Assembly then adjourned till Ten of the Clock on Tuesday, the 4th January 1949.