

**The Honourable Dr. B. R. Ambedkar :** That is so. It is a kind of adaptation. In regard to the autonomous districts of Assam the Governor of Assam has similar power to adapt the laws made by Parliament when he thinks fit so to do. The whole law made by Parliament cannot be applied to certain peculiarly constituted territories unless they are adapted.

**Sardar Hukam Singh :** Is that a sufficient answer, Sir ? My suggestion was that it is derogatory to the sovereignty of Parliament to say that the President would repeal an Act passed by Parliament.

**Mr. President :** The suggestion is about a word and not about the power ?

**The Honourable Dr. B. R. Ambedkar :** The President is part of Parliament. There is no difficulty at all.

**Mr. President :** I will now put the amendment of Shri Brajeshwar Prasad to vote.

The question is

“That for amendments Nos. 2732 to 2737 of the List of Amendments, the following be substituted :—

‘That for article 215, the following be substituted’:—

“215. (1) Any territory specified in Part IV of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule shall be administered by the President in his discretion either directly or acting through a Chief Commissioner or other authority to be appointed by him.

(2) The Chief Commissioner or other authority to be appointed by the President in his discretion shall be the delegate of the President who shall have the power in his discretion to resume or modify such powers as he himself had conferred.

(3) The President shall have the power to take any part of the Union of India under his immediate authority and management by placing it in Part IV of the First Schedule.

(4) No Act of Parliament shall apply to any territory in Part IV of the First Schedule unless the President in his discretion by public notification so directs and the President in giving such a direction with respect to any Act may direct that the Act shall in its application to the territories in Part IV of the First Schedule, or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit.

(5) The President may in his discretion make regulations for the peace, order and good government of any such territory and any regulations so made may repeal or amend any Act of the Parliament or any existing law which is for the time being applicable to such territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament.” ’ ’

The amendment was negatived.

**Mr. President :** The question is:

“That article 215 stand part of the Constitution.”

The motion was adopted.

Article 215 was added to the Constitution.

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### Article 303

**Mr. President :** Article 303. We can now take up the definition of article 303.

**The Honourable Dr. B. R. Ambedkar :** Mr. President, I move:

“That sub-clause (c) of clause (1) of article 303 be omitted.”

**Mr. President :** I was just going to enquire whether we should not proceed with this article in the same way as we did with the Lists in Schedule VII and pass item by item.

I shall take the items as they appear in the draft. Amendment No. 3211 in the List of Amendments, Vol. II, may be moved.

**Shri H. V. Kamath :** It is verbal amendment. I leave it to the Drafting Committee.

(Amendments Nos. 3212 and 3213 were not moved.)

**Mr. President :** The question is :

“That sub-clause (a) of clause (1) stand part of article 303.”

The motion was adopted.

**The Honourable Dr. B. R. Ambedkar :** As regards (b), I would just like to make one point. We are proposing to drop from the Constitution two Parts which we had originally proposed in which certain communities had been enumerated as Scheduled Castes and certain communities as Scheduled Tribes. We thought that was cumbering the Constitution too much and that this could be left to be done by the President by order. That is our present proposal. It seems to me that, in that event, it will be necessary to transfer the definition clauses of the Scheduled Castes and the Scheduled Tribes to some other part of the Constitution and make provision for them in a specific article itself, saying that the President shall define who are the Scheduled Castes and who are the Scheduled Tribes. Now it seems to me that the question has been raised with regard to articles 296 and 299 which have been held over. It may be that the definition of ‘Anglo-Indian’ and ‘Indian Christian’ which is referred to in (b) and (c) may have to be reconsidered along with that proposition. I request you to hold them over for the present.

**Shri V. I. Muniswami Pillai** (Madras: General) : The whole thing regarding the Scheduled Castes, etc. may be held over.

**Mr. President :** I take it that the House agrees to hold over the consideration of items (b) and (c).

[Sub-clauses (b) and (c) were held over.]

**Mr. President :** There are no amendments to item (d).

The question is :

“That sub-clause (d) be adopted.”

The motion was adopted.

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

“That sub-clause (e) of clause (1) of article 303 be deleted.”

**Mr. President :** There is no Chief Judge now. There used to be subordinate High Courts which were called Chief Courts and they used to have Chief Judges. The question is:

“That sub-clause (e) of clause (1) of article 303 be deleted.”

The amendment was adopted.

Sub-clause (e) of clause (1) was deleted from article 303.

(Amendment No. 3219 was not moved.)

**Mr. President :** Then (f). There is no amendment to this. The question is :

“That sub-clause (f) of clause (1) stand part of article 303.”

The motion was adopted.

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

“ That for sub-clause (g) of clause (1) of article 303 the following sub-clause be substituted, namely:

‘(g) ‘corresponding Province’, ‘corresponding Indian State’ or ‘corresponding State’ means in cases of doubt such Province, Indian State or State as may be determined by the President to be the corresponding Province, the corresponding Indian State or the corresponding State, as the case may be, for the particular purpose in question;’ ”

We have only included Indian States.

**Shri H. V. Kamath :** Are we still going to retain the distinction between ‘State’ and ‘Indian State’ ?

**The Honourable Dr. B. R. Ambedkar :** The distinction is this. A State now means a constituent part of the Union. An Indian State means a State which is outside the Union but under the paramountcy or control of the Union.

**Shri R. K. Sidhwa :** Is the Cutch State which is now administered by the Centre an ‘Indian State’? So also Bhopal ?

**The Honourable Dr. B. R. Ambedkar :** An Indian State is defined at a later stage.

**Mr. President :** There is a definition of an Indian State given later on in amendment No. 140.

**Shri T. T. Krishnamachari :** There seems to be some confusion in the minds of Members. The terms “corresponding province” and “corresponding Indian State” these are terms pertaining to the period before the commencement of the Constitution. The term “corresponding State” comes into existence after the commencement of the Constitution. The difference between the two is only this. I hope there will now be no confusion on this matter.

**Mr. President :** The question is :

“That for sub-clause (g) of clause (1) of article 303 the following sub-clause be substituted, namely :—

‘(g) “corresponding Province”. “corresponding Indian State”, or “corresponding State” means in cases of doubt such Province, Indian State or State as may be determined by the President to be the corresponding Province, the corresponding Indian State or the corresponding State, as the case may be, for the particular purpose in question;’ ”

The amendment was adopted.

**Mr. President :** The question is :

“That sub-clause (g) of clause (1), as amended, stand part of article 303.”

The motion was adopted.

**Mr. President :** Then (h). There is no amendment to this. The question is:

That sub-clause (h) of clause (1) stand part of article 303.”

The motion was adopted.

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

“That in sub-clause (i) of clause (1) of article 303, the words ‘but does not include any Act of Parliament of the United Kingdom or any Order in Council made under any such Act’ be omitted.”

Such Acts as the Merchant Shipping Act might have to be retained until Parliament otherwise provides.

**Shri H. V. Kamath :** With regard to this (i), there is evidently a slight lacuna. It speaks of laws and bye-laws. But only ‘rule’ is mentioned. Why not ‘bye-rule’ as well ?

**The Honourable Shri K. Santhanam :** I have got an amendment to this. If it has been considered by the Drafting Committee and found to be unnecessary, I do not want to move it. The point that I want to bring to the notice of the Drafting Committee is that there are areas like Baroda which have been merged with other provinces. Now, in the case of Baroda, what will be the interpretation of the word “existing law” ? Will it mean only the laws which are in existence in the province of Bombay or will they include also the laws passed by the Baroda Government or Legislature before integration, because as things are, according to the present term, it might include the laws passed by the previous Baroda Legislature or Government, even though they may have been superseded by the present Bombay laws. If that point is made clear, I do not want to press my amendment. Otherwise, I would want my amendment to be considered by the Drafting Committee.

**The Honourable Dr. B. R. Ambedkar :** Whether a law is in force or not would depend upon various considerations. First of all, the merger itself may have provided that certain laws shall not be in operation. It may be that the Bombay Government after that territory has been merged, may retain the laws for that particular territory known as Baroda, or its own legislation might abrogate it. Therefore any existing law means the law that is in force at the date of the commencement of the Constitution.

**The Honourable Shri K. Santhanam :** I do not press my amendment.

**Mr. President :** The question is :

“That in sub-clause (i) of clause (1) of article 303, the words ‘but does not include any Act of Parliament of the United Kingdom or any Order in Council made under any such Act’ be omitted.”

The amendment was adopted.

**Mr. President :** The question is :

“That sub-clause (i) of clause (1), as amended, stand part of article 303.”

The motion was adopted.

**Mr. President:** Then (j). There is no amendment to this. The question is :

“That sub-clause (j) of clause (1) stand part of article 303.”

The motion was adopted.

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

“That after sub-clause (j) of clause (1) of article 303, the following sub-clause be inserted :—

‘(jj) ‘foreign State’ means any State other than India but does not include a State notified in this behalf by the President’.”

**The Honourable Shri K. Santhanam :** Would Dr. Ambedkar kindly explain what is meant by the latter portion of this sub-clause (jj) ? Will he give an illustration of that ?

**Shri T. T. Krishnamachari :** If it is so desired the President might exclude certain States from the category of foreign States. Although it might be premature to say so, it may be according to this scheme under which would be subjected any such arrangement that the new commonwealth relationship might entail. The idea is that the Indian Government of this future could exclude such States from the conception of the foreign State, the President will have the authority to do so. The honourable Member might be aware of the peculiar position of Eire *vis-a-vis* Britain and also *vis-a-vis* India. Actually though there is nothing really on the statute book or anything covered by a treaty, we do not treat Eire exactly as a foreign State.

**The Honourable Shri K. Santhanam :** Sir, the definitions that we are making have got legal significance. Either a State is a foreign State or it is not. If it is not a foreign State, it is governed by the provisions of this Constitution and the laws made under the provisions of this Constitution. The example given by my honourable Friend, Mr. T. T. Krishnamachari does not come in either. We cannot by saying that 'Britain is not a foreign State possibly bring it under this Constitution or the laws thereunder. It is a question of convention apart from legal definitions. Therefore, I do not think we should have the words "but does not include a State notified in this behalf by the President." We have already given power to Parliament to include other territories in the territories of India. It should not be left open to the President by some notification to say that some State which does not come under the territory of India by parliamentary legislation is part of India. Technically, the meaning of saying "by notification of the President" that it is not a foreign State, is that it will be part of the Indian State. Unless you give some definition for a State which is neither foreign nor within India, I think this may lead to all kinds of confusion, if not difficulty. I do not think it is very advisable to have this sub-clause (jj) at all. It is wholly unnecessary and we should not try to bring matters of convention into matters of definition. I do not think we are going to suffer at all by not having this (jj).

**The Honourable Dr. B. R. Ambedkar :** Sir, the position is this : If one were to stop with the word "India", it means what a Foreign State ordinarily means. Every State is foreign to another State. That is quite clear from the first part of the definition. Therefore, there can be no quarrel with that part of the definition. In fact that definition may not be necessary even, but in view of the fact that we have used the words "Foreign State" in some part of our Constitution and in view of the fact that it may be necessary for certain purposes to declare that a Foreign State, although it is a Foreign State in the terminological sense of the word is not a Foreign State for certain purposes, it is necessary to have this definition and to give the power to the President to declare that for certain purposes a State of that kind will not be a Foreign State. The case of Malaya, I understand, is very much in point. Therefore, it really means that for certain purposes the President may declare that although a State is a Foreign State in the sense that it is outside India, for certain purposes will not be treated as a Foreign State. It is for that purpose that this definition is sought to be introduced.

**The Honourable Shri K. Santhanam :** This sub-clause does not authorise the President to notify for certain purposes. It gives a definition.

**The Honourable Dr. B. R. Ambedkar :** That will, of course be remembered duly by the President when he issues the notification.

**Mr. President :** The question is :

“That after sub-clause (j) of clause (1) of article 303. the following sub-clause be inserted:—

‘(jj) ‘foreign State’ means any State other than India but does not include a State notified in this behalf by the President.”

The amendment was adopted.

**Many Honourable Members:** What about the, programme?

**Mr. President :** I might inform the House that there are certain provisions of the Constitution which have to be dealt with and as soon as we finish those, we have to deal with one Bill which has already been introduced. When all this work is finished, we shall adjourn and it depends upon the House how long it will take to finish the business. I can mention the articles if you like. Articles Nos. 99, 184, 303, 304, 305, Schedule VIII, Schedule IX, Article 1, New Schedule III A, Schedule IV, new article 264 A. Then there is a motion of which notice has been given by Mr. Munshi regarding the Hindi version of the Draft Constitution, and lastly there is Dr. Ambedkar’s Bill. This is what we have to get through in this session.

**Pandit Govind Malaviya** (United Provinces: General) : May I know, Sir, if it is settled that we are going to have another session of the Assembly in early October ?

**Mr. President :** We are going to have another session in October.

**Pandit Govind Malaviya:** When we are going to have another session so soon, could we not put all this off till then’?

**Mr. President :** I have found that there has been a tendency when approaching the close of this session to shove everything to the next session; till yesterday I thought we would be able to deal with all the transitory provisions, but I was informed that we could not take them and we should shove them off to the next session. Today I am told that we could not dispose of the preamble and we should shove it off. Now you propose that all the rest of the work should be shoved off. It will not be possible because.....

**Pandit Govind Malaviya:** Sir, I say so for this reason. Originally it was thought that this session would be a short session say, for a fortnight. We have now gone on for seven weeks! If we are going to meet early in October again, probably it will not matter very much if we put off these items till then. But, if you think that we must complete some of this work which you have mentioned, then may I suggest, Sir, that, possibly, we could have both morning and evening sessions today and tomorrow and finish by then whatever work we can, and then we may adjourn.

**Many Honourable Members:** Yes, Yes.

**Mr. President :** The difficulty is this that we have got certain holidays to take into consideration. We have to take the convenience of the Legislative Assembly, which is to meet in November, and we have to pass the remaining articles of the Constitution for the Second Reading and then the whole Constitution in the Third Reading, and in between the completion of the Second Reading and the Third Reading, the Drafting Committee will naturally require some time which cannot be less than, say, three weeks or so, for putting things in order and getting them ready for the Members for the Third Reading. Therefore, all this difficulty arises because we have some sort of a time limit on the other side and we have to fit in all these as far as possible. Therefore, I am trying to finish as much of the work as possible in this session so that in the October session we may not have more left than is absolutely necessary. Even as it is, what is left for the October session is this. We have