

[Prof. K. T. Shah]

a right one—that the judiciary in their interpretation of a written Constitution should not be influenced by anything that took place in the debates on a given piece of legislation. In a federal constitution, it is inevitable that questions may crop up time and again, not only of the interpretation of ordinary legislation, but also of the very constitutional aspect of a given legislation, or acts of the Executive under the Constitution. It is but right and proper that the legislature should be completely free from the influence or any chance of being influenced by the two other organs of the State. Further, the Judge themselves having pre-conceptions—so to say, of the nature or intention of the law—are likely to give an interpretation not necessarily in consonance with the true doctrine of interpretation, but rather, because of their pre-knowledge, so to say, of the intention, even if the meaning is not properly given in the wording as finally decided upon.

For these reasons, Sir, and for securing the purity, both of the Legislature and of the Judiciary, I commend this motion to the House, that the two should be completely separate.

Mr. Vice-President : Dr. Ambedkar will reply to the amendment.

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Sir, I oppose the amendment, and all that I need say is this, that the basic principle of the amendment is so fundamentally opposed to the basic principles on which the Draft Constitution is based, that I think it is almost impossible, now to accept any such proposal.

Mr. Vice-President : I am now going to put the amendment to vote.

The question is:

“That before article 148, the following new article 147-A be added :—

‘The Legislature of every State shall be wholly separate from and independent of the Executive or the Judiciary in the State’.”

The amendment was negatived.

Article 148

Mr. Vice-President : Now we come to article 148.

The motion before the House is:

“That article 148 form part of the Constitution.”

Amendments Nos. 2222, 2223, 2224, and 2225, and amendment No. 2227 are of similar import No. 2225 standing in the name of Prof. Shibban Lal Saksena may be moved.

(Amendments Nos. 2222 and 2225 were not moved.)

Amendment No. 2223 and No. 2224 may be moved; both are in the name of Shri Brajeshwar Prasad.

Shri Brajeshwar Prasad (Bihar : General): I am not moving them.

Mr. Vice-President : Then No. 2227, standing in the name of Shri Nand Lal may be moved.

Master Nand Lal (East Punjab : General): I am not moving it.

Mr. Vice-President : Then, in List II of Sixth Week, there is an amendment to amendment No. 2222. As it is not moved, Prof. Shah may move amendment No. 2226.

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

“That for the existing clause (1) of article 148, the following substituted:—

- ‘(1) For every State there shall be a Legislature which shall consist of such number of Houses, not exceeding two, as Parliament shall determine by law in each case; provided that it shall be open to the Legislature of any State to request the Parliament of the Union to change a bicameral into unicameral Legislature, and such request being duly made and received, Parliament shall pass the necessary legislation’.”

Sir, the original clause as it stands reads:

“For every State there shall be a Legislature which shall consist of the Governor; and

- (a) in the States of, two Houses,
(b) in other States, one House.”

I wish to put the States on a part and suggest that the Legislature of every State should be eventually determined by an Act of Parliament, and subsequently altered, if so desired, at the request of the State concerned.

Sir, I do not believe in a bicameral Legislature at least for the States. I think a Second Chamber is not only not representative of the people as such; but even if and where it is representative of the people, even if and where it has been made in such a way as to represent some aspect of the country other than the pure popular vote, even then it is there more as a dilatory engine rather than a help in reflecting popular opinion on crucial questions of legislation.

Apart from the classic example of the House of Lords, which is a hereditary reactionary and non-elected body, even where the Second Chambers are elected, they deflect the legislative machinery, for one thing; they involve considerable outlay from the public exchequer on account of the salaries and allowances of Members and incidental charges. They only aid party bosses to distribute more patronage, and only help in obstructing or delaying the necessary legislation which the people have given their votes for.

Those who like to defend the Second Chamber are, more often than not, champions of vested interests, which find a place in these bodies and as such find an occasion rather to defend their own special, sectarian or class interests than to help the popular cause.

On the question of Second Chambers, therefore, Sir, I think it is a clear division of political opinion, whether or not it is the will of the people alone which should prevail or some separate interest or special interest be also allowed a say. [It must also be admitted that in the course of centuries in the course of history, wherever there have been two chambers, means have been devised to make the popular will eventually prevail. The only result of the Second Chamber, therefore, is that wherever democracy is in working order as an effective machinery of Government the only use of the Second Chamber is to delay, or to obstruct legislation rather than to make it utterly impossible for the popular will eventually to prevail.]

In England, in America and elsewhere, the Second Chamber is ultimately made ineffective. If that is the experience of the world, I do not see why that experience should be neglected and in the States we should repeat a machinery of legislation which is bound to be only expensive and dilatory rather than useful.

The case of the Centre is different. It is so because the interests to be represented are more particularly those of the Units than of the country which is represented in the Lower House. Though a Second Chamber may therefore quite properly be provided for the Central Legislature, the arguments that may be advanced in defence of such arrangements at the Centre would not apply in my opinion to the Units. Accordingly I suggest that the place of the

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Second Chamber may be left entirely to the Units themselves. In the first instance Parliament may determine according to the size, the population, the area and perhaps also the presence of special interests, if any, and lay down a legislative composition as in its judgment the Central Parliament thinks proper. But eventually the Unit itself and the Legislature of the Unit must have the right to say what is most suited for its requirements; and if such a request is made it should be entitled to demand a revision of the original Act as a matter of course and provide for whatever single chamber form of legislation it desires, is necessary and proper for its case.

I have therefore suggested in my amendment that though in the first instance Parliament may lay down for each particular State a form of legislature that it thinks is suitable for given areas, in the ultimate analysis the people in the Units must be able to say whether they want a Second Chamber in their case. This is not therefore summarily a rejection of the Second Chamber here and now. This is not to say that by Constitution we shall make it impossible for local opinion to prevail in the matter. All that I am asking is that in the event of the people of any Unit so desiring, they should be at liberty and entitled to demand of the Central Parliament that, in their case at any rate, a Second Chamber is needless and therefore should be done away with, whereas for others there may be a Second Chamber if the people of that unit so desire. I therefore recommend the motion to the House.

Mr. Vice-President : The next amendments Nos. 2228 and 2229 standing in the name of Mr. Naziruddin Ahmad are disallowed as being merely verbal.

Mr. L. N. Sahu may move amendment No. 2230.

Shri Lakshmi Narayan Sahu (Orissa : General): *[Mr. Vice-President, the amendment that I am moving before the House is:

“That in sub-clause (a) of clause (1) of article 148 after the words ‘States of’ the word ‘Orissa’ be inserted.”

It implies that Orissa should have two Houses instead of one and that one of these two should be the Upper Chamber. My Friend Shri K. T. Shah observed a little while ago that a Second Chamber is not very essential and that it may only be constituted where the popular will demands it. There does not appear to be anything objectionable in this proposition. But the constitution, as now being framed, makes provision for a Second Chamber. What I demand is that this provision should continue for the future as well. Second Chambers are functioning even now in Assam, Madras and Bihar. It was not felt necessary to have Second Chambers for the other provinces. I think that a Second Chamber is not needed in Assam at present. But in my opinion it would not be proper for us to decide that a Second Chamber is not necessary for Orissa merely on the ground that the Members from Orissa do not desire to have one. My submission is that there should be at least this provision, that there can be a Second Chamber if it is demanded by the will of the people. It would then be possible for us to decide whether we need a Second Chamber or not. We have adopted the American Constitution as a model in drafting our Constitution. Under the American Constitution, however, bicameral legislatures exist in all the States. Besides, we want a bicameral legislature at the Centre in order that Provinces may be represented therein. Recently twenty-five States have been merged in Orissa. So far they were separate from Orissa. Recently they have been merged in Orissa. A Second Chamber, therefore, is very necessary there.

An objection raised by a few people is that dilatory tactics are adopted in the Second Chamber and therefore it is unnecessary. As for dilatory tactics, they

* [] Translation of Hindustani Speech.

can be adopted even where there is only a single Chamber. For instance the Hindu Code Bill is under consideration for the last four or five years. Many people fear that if a Second Chamber is constituted well-to-do-persons and big capitalists would be able to secure its membership quite easily. But this is what I would like to happen. Now that our country is free and until we establish a socialist State here, we should give every opportunity to men of outstanding ability and wealth to take their due share in the governance of the country. There is absolutely no justification for denying them this share. I may add that there cannot be any harm done if a few rich men are able easily to secure election to the Second Chamber. Besides, we exclude one important fact from our consideration when we criticize the proposal for a Second Chamber. It is that most probably elections are not going to be on the basis of proportional representation in the Provinces. It is, therefore, quite probable that minorities would fail to secure their due representation in the legislatures. Political parties are not yet properly formed in our country. So long as parties are not properly organised, it is possible for people of all shades of opinion to secure election only through the system of proportional representation. But there being no proportional representation, a Second Chamber appears to be essential, till parties come to be organised on a proper basis, for, then those Sections which fail to get representation in the Lower House would have a chance of getting representation in the Second Chamber.

We see that many people do not very much like a Second Chamber. But as I said a little before, Orissa has been newly formed. Twenty-five States have been merged in it recently. Therefore a Second Chamber should certainly be provided for Orissa. Besides, changes are taking place fast in our country as in the world. The creeds of Socialism, Communism and so many other isms are appearing, and are making big advances. In order to delay these changes to ponder over them and to control them, it is absolutely necessary to have a Second Chamber. Prof. Shah observed that the House of Lords in England is tradition-ridden. But this need not frighten us, for the Second Chamber we are going to constitute would not be of the type of the House of Lords. It will be altogether of a different kind. I may add that even the English people feel the necessity of a Second Chamber, for even there is a move to make it strong and effective. Further, ours is not a unitary type of government. It is federal, even though many powers of the Units have been taken over by the Central Government. I, therefore, submit that two Houses are absolutely necessary, for there is very great need of careful thought being given to all the problems that may arise. I may add that when the Centre would be so very powerful it is necessary that there should be two Chambers in the provinces. In any case a second Chamber must be provided for Orissa in the new Constitution that we are framing. I would like to add that this question of a Second Chamber may be left over to be decided by the will of the people of Orissa, and till the people take a decision in the matter we should take no decision but keep this question open.]

Shri L. Krishnaswami Bharathi (Madras : General): Sir, I move:

“That in sub-clause (a) of clause (1) of article 148, after the words ‘in the States of’ the word ‘Madras’ be inserted.”

Honourable Members will see that article 148(1) reads :

“For every State there shall be a Legislature which shall consist of the Governor; and
(a) in the States of”

(here there is a blank to be filled in later on.)

My amendment, if accepted, will fill up the blank to some extent, in the States of Madras : that is to say, in the States of Madras there shall be two Houses—one the Legislative Assembly and the other the Legislative Council.

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Sir, it was understood that Members representing the different provinces should meet together and come to a decision as to whether they would like to have a Second Chamber for their province. Accordingly, Members belonging to the different provinces met separately, and the representatives of Madras also met similarly under the presidency of Rashtrapati Dr. Pattabhi Sitaramayya, and after sufficient discussion it was decided that Madras shall have two Chambers. Recently this decision was come to, but last year.....

Shri Mahavir Tyagi (United Provinces : General): On a point of order, may I know if it is necessary that honourable Members from all the provinces that have decided to have two Chambers should come here and move separate amendments for their provinces: Cannot the decisions reached by those Members be included in one full list?

Mr. Vice-President : If the honourable Member will have patience for a few minutes longer, he will find the answer to this query given by the Chairman of the Drafting Committee.

Shri L. Krishnaswami Bharathi : I was saying that the Members representing Madras met together and decided sometime last year, when a similar decision was come to, and to regularise it we met recently and decided accordingly.

There is some opposition to this idea of a Second Chamber. I am inclined to think that it is born more out of prejudice of the present Second Chambers and the general view is, and I also agree with that view, that the idea of a second Chamber is to prevent or check hasty legislation. Experience has shown that so far as the proceedings of this Assembly are concerned, last year we decided many matters. In similar matters we have come to decisions and it was only submitted to the Drafting Committee to put them in order. But we find that we are revising many articles: even article 150, where we fixed a limit is undergoing constant changes. That shows that there is always need for some time to elapse.

In this connection, I might invite the attention of the House to an interesting incident reported in the life of George Washington. It appears that Thomas Jefferson was protesting very strongly against the idea of a Second Chamber, to Washington. Mr. Farrand reports this incident very interestingly: they were taking coffee at breakfast time. Suddenly George Washington asked: "Why, Mr. Jefferson, why are you pouring the coffee into your saucer?" Jefferson replied: "To cool it" Even so, we want to cool legislation by putting it into the saucer of the senatorial Chamber. That is a forceful way of expressing the idea and as we are going to be constituted, it is to check or prevent hasty legislation and not at all to impede progressive legislation. There shall be no mistake about it; the idea is not to check progressive legislation but to have some time so that cool, calm and deliberate conclusions may be arrived at.

Therefore, there is absolute need for a Second Chamber for some time, and as I understood Prof. K. T. Shah, I think he wanted that there must be some provision so that if we did not want a second Chamber later on, we must be able to do away with it, not necessarily by amending the Constitution, which is not an easy affair, but provision must be made in the Constitution itself. That is how I understood him.

If the Prof. turns to article 304, sub-clause (2), a provision therefore is therein made. That provision enables the Units or the Legislative Assemblies of the different States or Provinces, as the case may be, to initiate proceedings in a particular assembly with a view not to have the Second Chamber. That is a broad clause which enables a Provincial Legislative Assembly to

decide upon the number of Houses if they so desire. With your kind permission, I may be allowed to read that portion of article 304 (2)....

Shri S. Nagappa (Madras : General): Not necessary !

Shri L. Krishnaswami Bharathi : Why? It is not for Mr. Nagappa alone: I am reading it for the enlightenment of the House. I suppose, Sir, I have your permission. If Mr. Nagappa knows it, that does not mean that others need not be enlightened.

Article 304(2) reads:

“Notwithstanding anything in the last preceding clause, an amendment of the Constitution seeking to make any change in the provisions of this Constitution relating to the method of choosing a Governor or the number of Houses of the Legislature in any State for the time being specified in Part I of the First Schedule may be initiated by the introduction of a Bill for the purpose in the Legislative Assembly of the State or, where the State has a Legislative Council, in either House of the Legislature of the State, and when the Bill is passed by the Legislative Assembly or, where the State has a Legislative Council, by both Houses of the Legislature of the State, by a majority of the total membership of the Assembly or each House, as the case may be, it shall be submitted to Parliament for ratification, and when it is ratified by each House of Parliament by a majority of the total membership of that House it shall be presented to the President for assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill.”

So, provision has been made. As I was speaking, some honourable Members wanted to know whether there was a possibility of the Provincial Assembly scrapping it. I looked it up and I thought it my duty to invite the attention of the House to the provision made in this Constitution. I therefore hope that this amendment will be accepted.

Sir, I move:

Mr. Vice-President : There is an amendment to this amendment—No. 46 of List II, standing in the name of Dr. Ambedkar. Is the honourable Member going to move it?

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

“That for amendment No. 2231 of the List of Amendments, the following be substituted:—

“That in sub-clause (a) of clause (1) of article 148, after the words ‘in the States of’ the words ‘Madras, Bombay, West Bengal, the United Provinces, Bihar and East Punjab’ be inserted’.”

Sir, I should like to state to the House that the question of whether to have a second Chamber in the provinces or not was discussed by the Provincial Constitution Committee, which was appointed by this House. The decision of that Committee was that this was a matter which should be left to the decision of each province concerned. If any particular province decided to have a second Chamber it should be allowed to have a Second Chamber: and if any particular province did not want a second Chamber, a second Chamber should not be imposed upon it. In order to carry out this recommendation of the Provincial Constitution Committee it was decided that the Members in the Constituent Assembly, representing the different provinces should meet and come to a decision on this issue. The Members of the different provinces represented in this Assembly therefore met in groups of their own to decide this question and as a result of the deliberations carried on by the Members it was reported to the office that the provinces which are mentioned in my amendment agree to have a Second Chamber for their provinces. The only provinces which decided not to have a second Chamber are the C. P. & Berar, Assam and Orissa. My amendment gives effect to the results of the deliberations of the representatives of the different provinces in accordance with the recommendation of the Provincial Constitution Committee.

Sir, I move.

Mr. Vice-President : Then we come to amendment No. 2232 standing in the name of Shri Mohanlal Gautam. Amendment No. 2233 also is in his name. The honourable Member is not in the House, so these two amendments go out.

The article is open for general discussion.

Shri Kuladhar Chaliha (Assam : General): Mr. Vice-President, Sir, one of the most vexed questions of political science is the problem of a Second Chamber. In the 19th century in Europe, Second Chambers were necessary in order to check hasty legislation, but in modern days even if a second Chamber is allowed to exist we must restrict its powers so that it may not be a clog on our progressive ideas.

Almost all the important States had Second Chambers in olden days, but Turkey and Bulgaria have dispensed with them. The Second Chambers are regarded as an essential element of feudal constitutions. They are the exceptions to the rule of the Constituent units not to have any Second Chambers anywhere. In the U.S.S.R. and in the Union of South Africa the Constituent units are all unicameral. In the Dominion of Canada we find that out of eight Provinces only two have Second Chambers. In the case of Switzerland out of 18 Cantons, except two, all the other 16 are unicameral. In Weimar Germany half the States were unicameral.

The Second Chambers seem to have been created by force of tradition. It seems that the vested interests—men of dignity and nobility—want that they should adorn the benches where they can find some defence against the attack on their rights. It is said that wherever there are vested interests which require defence, the Second Chamber will always be claimed. In India we find that where there are *Zamindars* they want the Second Chamber. We find from the claims made by the different Provinces that are now claiming the Second Chamber, there are the vested interests, there are the Zamindars, and they want to be protected against the majority. But then in these progressive days legislation will be held up if we have a Second Chamber, and therefore we should not allow these Second Chambers to exist. Yet, we find that there is a certain amount of desire on the part of some of the Provinces. Assam has rightly said that they are not in want of it; Orissa has also said that they are not in want of it and C. P. has also said that. It is in the fitness of things that they have done so.

A Second Chamber is nothing but a clog in the way of progressive legislation. In our old Central Legislature, by delaying tactics, we have held up the Hindu code for about four or five years. It is very easy to obstruct progressive legislation as we have done in the case of the Hindu Code. But if we have another Second Chamber I think it will only be adding further trouble in the way of passing progressive legislation. It is really very surprising that some of our Provinces are claiming that there should be Second Chambers even today. They should think that this is rather a burden to them than adding to their progress; the Second Chamber in the past has clogged some very good pieces of legislation in Europe and other countries. I think as a modern people we should get rid of these ideas and we should march forward. Therefore, we should not have Second Chambers in our country.

Secondly, there is another thing. We do not find a sufficient number of leaders in our Provinces to man the Second Chamber. In the smaller and backward Provinces we feel the difficulty and we have rightly voted against the Second Chambers. Even in the bigger Provinces I think we have not been able to produce a sufficient number of leaders who can man it very well.

An Honourable Member : That may be the case in your Province!

Shri Kuladhar Chaliha : I see. There may be an exception but then it does not prove the case—it rather proves the other way.

You will only be clogging the progress of the country by having second Chambers in Bombay, Madras and other Provinces, so that there may not be any advance. That is how things will be done. These four Provinces will be a clog to us and they will be a drag on our progress. Therefore, the sooner they get rid of this idea and the sooner Dr. Ambedkar withdraws that amendment, the better it will be for the country. Before accepting the amendment, I trust the House will consider it properly and see whether they would like their progress to be clogged, as they want to do.

Shri K. Hanumanthaiya (Mysore): Mr. Vice-President, Sir, the Draft Constitution makes provision for either unicameral or bicameral legislature, as the case may be; it leaves the choice to the States concerned and some States have chosen to have bicameral legislatures. Three States—rather Provinces—have chosen to have unicameral legislature. We are very familiar with the arguments for and against a bicameral legislature. I merely want to draw the attention of the House to the practical aspect of the matter. The people who advocate a bicameral legislature usually say that it is a device against hasty legislation. My Friend Mr. Bharathi gave a very picturesque illustration.

I want my friends who are in favour of a bicameral legislature to remember that we are framing a Constitution for a responsible system of Government. That presupposes party system. Party system of Government works in a peculiar way and not in the way of unicameral or bicameral legislature as such. Every major decision is taken in the party meeting and not in the Upper House or in the Lower House. So the real legislature from the point of view of practical politics seems to me, Sir, to be the party meeting. Once the question is decided in the party meeting, it does not matter whether the question is brought up before the Lower House or the Upper House, or even if there are ten Houses; there is no question of preventing hasty legislation, once the party decision is taken on the subject. Hence when...

Shri O. V. Alagesan (Madras : General): Will not the members of the Upper House be the members of the party also?

Shri K. Hanumanthaiya : That is exactly what I was going to say. You are arguing for me. The party in power will certainly have under the Constitution we are framing a majority both in the Upper House and the Lower House, because it happens to be an elected legislature. Once the joint meeting of the Party Members of both the Upper House and the Lower House takes a decision, that decision goes through irrespective of the opposition or the arguments to the contrary. Such being the case, it is a costly formality to have two Chambers. My Honourable Friend Bharathi gave an illustration of a cup and saucer to show the utility of the Second Chamber. Whether it is the cup or the saucer into the which the coffee is poured, it is the pot that determines the temperature of the coffee. The pot here is the party meeting; it determines the way we have to vote. Therefore, I really do not see how the Second Chamber under the existing circumstances will be able to show us a better way or a sober way.

I have got another point, Sir. In a federation the legislative field is to a very great extent restricted so far as the legislatures of the unit are concerned. Much of the legislative field and administrative field is taken under the present Constitution by the Centre and what remains is very restricted. For that restricted field, to have two Houses, I fear, is really a very costly and unnecessary affair. Apart from the point of view of legislation, there is also the point of view of administration from which we have to examine this problem. The Ministers who are popular leaders have to devote much of their time to visitors. It is the experience of every Minister in India that much of his time is taken away by visitors and by people who come to see them for all sorts of purposes and very little time is left to them. If we have got two Houses, probably the Lower House will have to sit several months in the year and in addition to it

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the Ministers would have to spend necessarily much of their time in the Upper House also. I think practically they have to do talking all the time administrative work suffers in consequence. In fact, if I may claim to know a little of the working of the Ministries in India in the units and the States, they are usually charged with inefficiency. The speed with which administrative work used to be done in the olden days is not done now. That is the specific charge levelled against the various ministries in the units. I do not know how it is in the Centre. But the real reason is they have no time; they have to be talking all the time. It is better in the interests of efficiency and speed of the administration to do away with the Second Chamber.

Mr. Vice-President : Many speakers would like to speak on this subject.

Mr. K. Hanumanthaiya : Very well, Sir. I have done.

Shrimati Renuka Ray (West Bengal : General): Mr. Vice-President, I am one of those who hold the opinion that the bicameral legislature in the present context of things is unnecessary, if not retrograde. Sir, in India, particularly at the present moment, when we need to go through a good deal of legislation in the economic and social field, which has been long overdue during the years of foreign rule, I do feel that the Second Chamber, particularly in the provinces will be very dilatory. The only reason advanced for having a second Chamber is that we can thus prevent hasty or careless legislation. But, Sir, when there is a Governor, in the Province and a President at the Centre, who is empowered to send back to the legislature any Bills which may have been enacted carelessly, for revision, I do not think that this excuse obtains. However, Sir, the majority of provinces have decided to have a second chamber and therefore, in the present Constitution, we shall be embodying it. I want to point out only this, that even if we at the present moment do have to agree to have second chambers in the provinces, there should be some provision in the Constitution that the Second chambers can be got rid of as speedily as possible, not at the initiative or the votes of both Houses of Legislature in the provinces, but according to the desire of the Lower House alone. I do not think that it is right that whether a chamber shall continue to exist or not, should be left to that chamber to decide in any way. Although there is an article in the Draft Constitution regarding the manner in which the provinces may decide later not to have Second Chambers, if they do not wish to, that article prescribes that this can be done by both Houses of the Legislature. I hope, Sir, that when the time comes, at least the House and Dr. Ambedkar will agree that it should be the Lower House alone which shall decide whether the Second Chamber should continue or not. As I said before, I do not think that bringing in the Second Chamber is going to be helpful at the present moment. I do understand that the composition of the Second Chamber is going to be fundamentally different from the composition of the Upper Houses of the past. But all the same in the present context of things, as I have said, it will be very much better if we had just one Chamber. As we have seen during the past year or so, while this Constituent Assembly has been functioning as a Dominion Legislature and with an unicameral Chamber, even so the procedure by which legislation is enacted is slower than we desire. I do not see why it is necessary, particularly in the Provinces, that we should go in for a second Chamber, and if we do so, at least let us provide that the Lower Houses in the Provinces are in a position to rid themselves of this encumbrance as soon as possible.

Shri O. V. Alagesan : Mr. Vice-President, Sir, the Principle of a second Chamber directly comes before us only today. It was considered by the House when the Report of the Provincial Constitution Committee was submitted to the House not in a direct manner, but in a sort of a backdoor way, I should say.

Shri L. Krishnaswami Bharathi : How?

Shri O. V. Alagesan : Because, the Honourable Sardar Vallabhai Patel, who moved the Provincial Constitution Committee report for the consideration of the House said that the Committee generally agreed that there should be only one House of legislature; but, then, he went on to describe the procedure that the Honourable Dr. Ambedkar just now told the House. The choice was left to the Members of the Constituent Assembly from the various provinces; they were asked to decide whether they should have a Second Chamber or not for their province. This liberty was good in a sense; but that very same liberty prevented the House from going into the question in a deeper way and examining it on its merits. When the Honourable Sardar Patel moved the particular clause dealing with this matter, he expressed the hope that the small provinces may not elect to have a Second Chamber. But, actually it turned out that the six provinces enumerated by Dr. Ambedkar have elected to have a Second Chamber. They did not do it, I submit, on merits. What has been originally conceived as an exception has come to stay as a rule.

Shri L. Krishnaswami Bharathi : May I point out, Sir, that the honourable Member was not present on that occasion and that therefore he is not entitled to say this?

Shri O. V. Alagesan : That was because I was not well. That does not take away my right to express my opinion.

Mr. Vice-President : Please try to address the Chair; do not try to reply to Mr. L. Krishnaswami Bharathi.

Shri O. V. Alagesan : Yes, Sir. That particular procedure made the Members of the various provinces think, "Let us have this ornament of a second Chamber." On the other hand, if the question had been placed before the House in a direct and straightforward way, I think the House might have decided against a second Chamber. That was my submission. Since this is the first occasion when we are dealing with this question on merits, this House has got every right to say that we shall not have a second Chamber now.

Then, it was said that these six provinces happen to be big ones now. In some future date they may get split up. Then, what is the provision? They cannot easily get rid of this second Chamber. Already there is an objection to the formation of linguistic provinces on the ground of their financial instability. This will be an additional reason for that, because, the cost of the second Chamber will be an unnecessary burden on the small provinces when they are formed.

Several speakers before me showed how a second Chamber is an unnecessary anachronism. I will say that this is a sort of an old age pension device for the politicians. When we deal with the composition of the second Chamber, I think I shall be able to explain how it will be a demoralising influence and not a helpful influence in the politics of the State. My Friend, Mr. Krishnaswami Bharathi, gave us the cup and saucer example given by Washington. I beg to submit that we have far advanced several centuries from the days of Washington and enlightened constitutional opinion in America today is against a second Chamber. Several experts have prepared a model constitution for the United States of America. They have omitted this bicameral system and have recommended only a unicameral legislature for the States. Though, up till now, only one State has elected to have a unicameral system. I shall quote an American authority on this specific matter and it will be clear how this Second Chamber acts as a reactionary Chamber. The argument often advanced in favour of the second Chamber is that it will be a check on hasty

[Shri O. V. Alagesan]

legislation by the lower Chamber. He shows how it is only a myth. The learned author says:

“While this idea might seem reasonable and logical, the practice of the bicameral system has contributed little or no evidence in support of this theory. On the contrary, large numbers of instances indicate that politicians have played one House against the other to defeat proposals for which there was a wide public demand, and that they have in this way succeeded in avoiding personal responsibility for their action.”

In such unexceptionable words the bicameral system has been condemned by this author. So, I would like first of all that this principle of a second Chamber for the Provinces should be outright rejected by this House and if that is not possible, if the House does not propose to do that, I would request that there should be at least a provision by which the lower Chamber in any province will be able to do away with the second Chamber by a simple resolution. As it is, sub-clause (2) of article 304 was quoted. Even there, the procedure is rather complicated. When the majority in the Lower House is rather precarious, the Upper House, because it will naturally stand for its preservation, may defeat the purpose. Again, it has to be approved by Parliament to come into force. So, that provision should be altered so as to permit the lower Chamber to do away with the Upper Chamber by a simple resolution passed by a majority of the lower House.

Sir, I have done.

Shri T. T. Krishnamachari (Madras : General): Mr. Vice-President, Sir, I have listened with the attention that a discussion on a matter like this deserves, to the speakers that spoke before me. Speaking for myself, I am in sympathy with many of those who opposed the idea of the introduction of a second Chamber in the provinces. It is a matter that has been debated all over the world ever since the idea of constitutions came into being, whether second Chambers are necessary or not, and it admits of a wide room for difference of opinion. I am not, Sir, today concerned with examining whether it is right to have a second Chamber for the provinces or not. What I wish to point out to this honourable House is that this House on a former occasion has accepted certain fundamental principles which were intended to serve as a guide for the Drafting Committee to frame the Constitution. The question is whether these principles could be given the go-by means of the negation of an article, without the whole thing being overhauled or upset in the proper way, namely by a proper number of people wanting a complete change in a decision made by this honourable House on a previous occasion according to the rules made for that purpose.

Sir, it may be open to question what is a fundamental principle and what is not. For instance, if we had said that a President is not necessary for this Constitution, that would be going against a fundamental decision made by this House on the report of the Union Constitution Committee. Similarly, if we say that a Governor is not necessary for a State, that would, again, be going against a fundamental principle. It would not be, Sir, going against a fundamental principle based on a decision of the House if we say that the Governor is to be elected in such and such a manner or be nominated in such and such a manner or that the President is to be elected in such and such a manner. On the 18th of July 1947, this House accepted the broad outlines of the Provincial Constitution Committee's report, particularly in regard to Rule 19 which bears some relation to the article that is being discussed by the House.

The Honourable Sardar Vallabhbhai Patel moved—

“There shall for every province be a Provincial Legislature which will consist of the Governor and the legislative Assembly; in the following provinces, there shall, in addition, be a Legislative Council.”

Actually, the provision was fairly carefully framed so as to give the maximum amount of latitude to each province to decide whether or not to have a second Chamber. Some of my honourable Friends have referred to the manner in which this decision was arrived at. Sir, after the particular rule was passed by this House, at the appropriate time the Secretariat of the Constituent Assembly sent summons for Members representing each particular province to meet on a particular day and arrive at a decision whether or not to have a second Chamber. Sir, I think it is not disclosing any confidence or making any breach of confidence if I say that I was one of those who stoutly opposed the introduction of second Chamber so far as Madras province was concerned in the meeting of the representatives of that province and I was outvoted, but I do not think that merely because the decision of a large number of Members who represented my province ran counter to my own views that I could take advantage of the discussion on this clause to go against not merely the decision of the legislators of my province but also against the decision arrived at by this honourable House on the 18th July 1947. Sir, the proper course undoubtedly would be, for such of the Members as feel that this is not the proper thing to do, to take advantage of Rule 32 of the Rules of procedure of the House and have the whole question mooted once again by getting the requisite number of Members to sign a requisition for reopening this particular question. That is the proper way to go about this business and I do feel that, though the House can ordinarily reject this particular article 148 either in its entirety or a portion of it,—there is nothing to prevent a sovereign House from doing a thing which it wants to do,—I think in all decency we cannot go against a principle which has been accepted on the 18th July 1947, a principle which was further supported by meetings of the representatives of the various provinces meeting separately and deciding whether or not a particular province will have an Upper House. It is a different matter completely if this House should decide that the constitution of the Upper House should be different from what it was decided on the 18th July 1947, or what is mentioned in this Draft Constitution as drafted by the Drafting Committee. I shall have something to say about that at the appropriate time. But we are perfectly entitled to say that the Upper House shall be elected in entirety by the lower House, that the Upper House should be nominated in its entirety by the Governor, that the Upper House should be elected from all kinds of mushroom constituencies, that the Upper House should only represent labour and not vested interests or conversely that the Upper House should only represent vested interests and not labour, or that there should be equal representation of both, and it may or may not have representatives of functional interests in the Province—all these things are matters in which the House has got perfect liberty morally to go into and make appropriate changes if it so feels disposed. But I do feel that in view of the commitments that we have already entered into on 18th July 1947 and a further reinforcement of that commitment agreed to by the fact that representatives of provinces have to second Chambers in those particular provinces which have been enumerated by the amendment moved by my honourable Friend Dr. Ambedkar, I think it is not right for the House to go further into the original question as to whether or not a particular province should have an Upper House and the matter should therefore be left at that and the article should be accepted in the form in which it has been presented to the House.

Shri Biswanath Das (Orissa : General): I do not like to inflict on this House a review of the working of the Upper Chambers in various States in the world. That is a function beyond the possibility of the limitations in which I am here. Sir, enough to say that the sort of second Chamber that is called upon to be constituted in the provinces is in many ways different from the ones that you find in very many States today functioning in the World

[Shri Biswanath Das]

Enough we have got a second Chamber at the Centre. The Second Chamber in the Centre is also shorn of the usual prestige and responsibility which is attached to it in advanced States like U.S.A. Nowadays it need hardly be stated that the Chamber which has an indirect election, and much less a Chamber having a nomination, has the least prestige and influence in the country and much less to arrest the progress of any legislation, be it hasty or revolutionary. Under these circumstances, the system that is being devised and kept ready to be utilized for the Second Chamber in the provinces is not very helpful. We have in it a conglomeration of various things. You have in it an indirect election, you have in it a nomination, you have in it an admixture of election and panel again leaving to the will of the Ministries. Under these circumstances, the system that is devised for the second Chamber is not useful and I must say that is not going to be helpful. Therefore it cannot influence the decision of the Lower House of which it will be merely a reflection—a sad reflection. Sir, secondly, it can not check hasty legislation if the Lower House is going to make any hasty legislation because of the limitation under which it is to work. Sir, under these circumstances the second Chamber that is devised for the provinces is not helpful and, need I say, will be a costly show. So far as our province is concerned, I must thank the honourable Members of this House and more especially those who are responsible for the decision of leaving this to the provinces. It is in the fitness of things that the delegates from the provinces are called upon to decide this question. I do not see how much could be said or stated against the point as was mentioned by Mr. Krishnamachari. True it is that it was left to the provinces. My friend says the provinces have decided. I do not know when they decided. I come from the Province of Orissa. We delegates from Orissa were never called upon to discuss this question except once and that decision was against the constitution of the second Chamber.

Sir, I have thanked, and I again thank the Committee as also the honourable Members of this House, for leaving this question entirely to the Provinces. Speaking for ourselves, we have taken extraordinary precautions in coming to the conclusion that we did. We intimated the Ministers, and also the Premier of Orissa who happens to be a Member of this honourable House, though he was absent. We also had the views of the Ministry, and we had before us the views of the Premier, and also those of the Member delegates. And to make ourselves doubly sure, we also invited the representatives of all the States who had merged into Orissa and also those of the States who intended to merge into Orissa; all these were invited and they were allowed to take part in the deliberations. Therefore, as a result of the combined deliberation of all these persons, unanimously we came to the conclusion, with the single exception of one Member, Mr. Sahu. We came to the majority conclusion that we shall not have a second Chamber. Sir, second Chambers are not useful. They are not helpful. As I have already stated, they are only ornamental. But if they were merely ornamental, that would have been something, because ornaments have their value, they make even things attractive. But here it is so very expensive, it entails such a heavy burden on the provincial exchequer, with no useful purpose, that it makes me feel that it is absolutely unnecessary and that it is an appendage which it is better if it is thrown out.

Mr. Vice-President : Dr. Ambedkar.

Shri H. V. Kamath (C. P. & Berar : General): Mr. Vice-President,.....

Mr. Vice-President : Mr. Kamath comes from the C. P. which has no upper Chamber. *(Laughter.)*

Shri H. V. Kamath : That is exactly, Sir, why I would like to speak.

Mr. Vice-President : I think the point has been sufficiently discussed. Some four more honourable Members would probably like to speak, but we have already spent one and a half hours, and we have to make a definite progress every day. I offer my apologies to those gentlemen who have been disappointed; that is all I can offer in the present circumstances. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I regret I cannot accept any of the amendments that have been moved to this particular article. I find from the speeches that have been made that there is not the same amount of unanimity in favour of the principle of having a second Chamber in the different provinces. I am not surprised at the views that have been expressed in this House against second Chambers. Ever since the French Constituent Assembly met, there has been consistently a view which is opposed to second Chambers. I do not think the view of those who are opposed to second Chambers can be better put than in the words of Abbe Seiyès. His criticism was two-fold. He said that if the upper House agreed with the lower one, then it was superfluous. If it did not agree with the lower House, it was a mischievous body and we ought not to entertain it. (*Laughter*). The first part of the criticism of Abbe Seiyès is undoubtedly valid, because it is so obvious. But nobody has so far agreed with the second part of the criticism of Abbe Seiyès. Even the French nation has not accepted that view; they too have consistently maintained the principle of having a second Chamber.

Now, speaking for myself, I cannot say that I am very strongly prepossessed in favour of a second Chamber. To me, it is like the Curate's egg—good only in parts. (*Laughter*.) All that we are doing by this Constitution is to introduce the second Chamber purely as an experimental measure. We have not, by the Draft Constitution, given the Second Chamber a permanent place, we have not made it a permanent part of our Constitution. It is a purely experimental measure, as I said, and there is sufficient provision in the present article 304 for getting rid of the second Chamber. If, when we come to discuss the merits of article 304 which deals with the abolition of the second Chamber, honourable Members think that some of the provisions contained in article 304 ought to be further relaxed so that the process of getting rid of the second Chamber may be facilitated, speaking for myself, I should raise no difficulty (*hear; hear*), and I therefore suggest to the House, as a sort of compromise, that this article may be allowed to be retained in the Constitution.

Mr. Vice-President : I am now going to put the amendments to vote, one by one.

The question is—

“That for the existing clause (1) of article 148, the following be substituted:—

- ‘(1) For every State there shall be a Legislature which shall consist of such number of Houses, not exceeding two, as Parliament shall determine by law in each case; provided that it shall be open to the Legislature of any State to request the Parliament of the Union to change a bicameral into unicameral Legislature and such request being duly made and received, Parliament shall pass the necessary legislation’.”

The amendment was negatived.

Mr. Vice-President : The question is—

“That in sub-clause (a) of clause (1) of article 148 after the words ‘States of’ the word ‘Orissa’ be inserted.”

The amendment was negatived.

Mr. Vice-President : The question is—

“That for amendment No. 2231 of the List of Amendments, the following be substituted:—

‘That in sub-clause (a) of clause (1) of article 148, after the words ‘in the States of’ the words ‘Madras, Bombay, West Bengal, the United Provinces, Bihar and East Punjab’ be inserted’.”

The amendment was adopted.

Mr. Vice-President : No. 2231, standing in the name of Shri L. Krishnaswami Bharathi need not be put to vote.

Now, the question before the House is:

“That article 148, as amended, stand part of the Constitution.”

The motion was adopted.

Article 148, as amended, was added to the Constitution.

Article 149

Mr. Vice-President : Then we come to article 149.

The motion before the House is:

“That article 149 form part of the Constitution.”

Coming to the amendments, I find that amendment No. 2234, and the first part of amendment No. 2235 are identical. No. 2234 may be moved.

(Amendment No. 2234 was not moved.)

Amendment No. 2235 may be moved, standing in the name of Mr. Lari.

(Amendment No. 2235 was not moved.)

Amendment No. 2240. The Member who has given notice of it is not moving it.

Amendment No. 2236 of Mr. Naziruddin Ahmad is disallowed as being verbal.

Amendment Nos. 2237 and 2238 are of similar import. The latter being the more comprehensive one may be moved. The Member concerned, is not moving it. Therefore amendment No. 2237 may be moved. This is also not moved.

Then we come to Amendment No. 2239 standing in the name of Shri Damodar Swarup Seth. It may be moved. I understand that the Member is not in the House. It is not therefore moved.

Amendment Nos. 2241 and 2242 are identical. Amendment No. 2241 may be moved. It stands in the name of Dr. Ambedkar.

An Honourable Member : It is not being moved. (Voices: ‘Member not in the House’) (*Laughter.*)

Mr. Vice-President : (Seeing the Honourable Dr. Ambedkar coming into the Chamber) Honourable Members are at perfect liberty to go out to take a cup of coffee or have a smoke. They will kindly realise the difficulties of those who are accustomed to both these types of relaxation. Honourable Members will agree that Dr. Ambedkar is entitled to relaxation of that sort. The Chair has nothing to do but to listen to the debates, but Dr. Ambedkar has to listen to the debates and reply. (*Laughter.*)