

Governments, to find out their difficulties, to find out their points of view and their proposals and to arrive at some common *via, media* which might be put into law. Therefore, in putting forth this proposal I think we are not making any very serious departure from the principles we have already adopted and as my honourable Friend, Mr. T. T. Krishnamachari said, taking all these into consideration, there is nothing for the Drafting Committee to apologize but to recommend the proposal to the House.

Mr. President : I confess to a sense of disappointment at the Drafting Committee not being able to find a solution for this question. (Some honourable Members : Hear, hear). It is an important matter in the Constitution that the composition of the Chambers of the legislature should be laid down definitely and I should have thought that it would be possible to come to some conclusions which would be acceptable to the House as a whole, but unfortunately that has not happened. I do not blame the Drafting Committee for it. As Dr. Ambedkar has pointed out, there has been such a jumble of amendments suggested so many view-points put forward, that they find it impossible to reconcile all these and they take the line of least resistance of putting it off till the Legislative Assembly meets and decides the question. If it is at all possible, I would at this late stage suggest that the question might be referred back to the Drafting Committee. (Many honourable Members : Hear, hear). The Drafting Committee could make another attempt to solve this question and bring before this House a resolution of this problem; but it is, of course for the House to decide. I leave it to the House to decide.

Pandit Govind Malaviya (United Provinces: General) : I move, Sir, that the consideration of this article be held over.

Shri Brajeshwar Prasad : I beg to second this proposal,

The Honourable Dr. B. R. Ambedkar : I have no objection. We can have another go at it.

Mr. President : Then I take it that Members are agreed that this article should be held over.

Honourable Members: Yes.

New Article 163-A

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

“That in amendment No. 12 of List I (First Week) of Amendments to Amendments for the proposed new article 163-A, the following be substituted:—

‘163-A. (1) The House or each House of the Legislature of a State shall have a secretarial staff of State Legislatures separate secretarial staff :

Provided that nothing in this clause shall, in the case of the Legislature of a State having a Legislative Council, be construed as preventing the creation of posts common to both House of such Legislature.

(2) The Legislature of a State may by law regulate the recruitment and the conditions of service of persons appointed to the secretarial staff of the House or House of the Legislature of the State.

(3) Until provision is made by the Legislature of the State under clause (2) of this article, the Governor may after consultation with the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, make rules, regulating the recruitment and the conditions of service of persons appointed to the secretarial staff of the Assembly or the Council, and any rules so made shall have effect subject to the provisions of any law made under the said clause.’ ”

This article is merely a counterpart of article 79-A which we considered this morning.

Shri Brajeshwar Prasad : I am not in a position to move any of the amendments standing in my name.

Shri H. V. Kamath : Mr. President, Sir, I do not propose to speak on the amendments which I am formally moving before this House. I would only like to remark in passing that I have noticed today an unfortunate tendency on the part of Dr. Ambedkar not to reply to points of substance raised in the course of the debate. Of course, he is free to act as he likes. I would only request him, in fairness to Members who raise points of substance, that he might at least attempt to answer them. Whether he would answer them satisfactorily or convincingly is another matter; but the House is entitled to this much from him. Honourable Members who raise points of substance that he might at least know the point of view of the Drafting Committee. In articles 79-A and 148-A, points of substance were made out by various amendments by my honourable Friend, Prof. Shibban Lal Saksena and myself. But when his turn came, Dr. Ambedkar was good enough, wise enough just to say that he did not wish to say anything.

The Honourable Dr. B. R. Ambedkar : I said no reply was called for.

Shri H. V. Kamath : That is left to his judgment. But, when certain substantial points are raised, they call for some sort of reply. Of course, he is buttressed, fortified by the fore-knowledge of the fact that when he says, 'yes' he will carry the House with him. It is of course up to him to decide what he will reply to and what he will not. But, the House is entitled to hear his view. If he is too, tired, too fatigued, he may ask one of his wise colleagues.....

The Honourable Dr. B. R. Ambedkar : Who is to determine whether the points are points of substance ? If the President gave a ruling that the point is one of substance, I should certainly reply, I cannot leave the matter to be determined by Mr. Kamath himself.

Shri H. V. Kamath : You, Sir, are following the wise ruling laid down by you that the amendments which did not raise points of substance would not be allowed by you.

Mr. President : Are you moving the amendments ? What are you discussing now ?

Shri H. V. Kamath : I am moving them. Before doing so, I would like to say that when an amendment is allowed to be moved by you, it means under the rules we have made recently, that it has a point of substance. Any way, I move amendments numbers 92, 94, 96, 97, 98, 99 and 100 of List III (First Week). I do not think I should take the time of the House in reading the amendments. If you want, I shall read them.

Mr. President : Not necessary.

Shri H. V. Kamath : They are more or less on a par with the amendments that I moved earlier today, I formally move these amendments and commend them for the careful consideration of the House.

I move.

"That in amendment No. 48 of List II (First Week) of Amendments to Amendments in the proviso to clause (1) of, the proposed: new; article 163 A, for the words 'be construed as preventing the word 'prevent' be substituted.

That in amendment No. 48 of List II (First Week) of, Amendments to amendments, in clause (2) of the proposed new article 163-A for the words recruitment, and the, conditions. of service of persons appointed to' the words 'recruitment to, the salaries and allowances, and the conditions of service of be substituted.

That in amendment No. 48 of List II (First Week) of Amendments to Amendments, in clause (3) of the proposed new article 163-A for the word 'or' occurring in line, 4 thereof, the words 'and, where necessary,' be substituted.

That in amendment No. 48 of List II (First Week) of Amendments to amendments, in clause (3) of the proposed new article 163-A, the words 'as the case may be' be deleted.

That in amendment No. 48 of List II (First Week) of Amendments to Amendments, in clause (3) of the proposed new article 163-A, for the words 'recruitment, and the conditions of service of persons appointed to, the words 'recruitment to the salaries and allowances. and the conditions of service of' be substituted.

That in amendment No. 48 of List II (First Week) of Amendments to Amendments, in clause (3) of the proposed new article 163-A, for the words 'the Assembly or the Council' the words 'the House or each House of the Legislature of the State' be substituted.

That in amendment No. 48 of List II (First Week) of Amendments to Amendments, in clause (3) of the proposed new article 163-A, all the words occurring after the words 'or the Council' be deleted."

Shri Lakshminarayan Sahu : (Orissa: General) : *[Mr. President, Sir, I move :]

"That in amendment No. 149 of the Printed Consolidated List of Amendments to Amendments dated 10-7-1949, the following proviso be added to clause (2) of the proposed new article 163-A :—

'Provided that the Governor may, in consultation with the speaker or the Chairman, as the case may be, by rule require that in such cases as may be specified in the rule no person not already attached to the House of the Legislature shall be or to either House appointed to any office connected with the House, or any of the Houses of Legislature, save after consultations with the State Public Service Commission.' "

Mr. President : How does this amendment fit in with the article as it has been now moved?

Shri Lakshminarayan Sahu : I want the following proviso to be added to clause (2) of the proposed article 163-A. Clause (2) says : "The legislature of a State may by law regulate the recruitment and the conditions of service of persons appointed to the Secretarial staff of the House or Houses of the Legislature of the State."

*[I wish the following proviso to be added :—

"Provided that the Governor may, in consultation with the, Speaker or the Chairman. as the case may be, by rule require that in such cases as may be specified in the rule, no person not already attached to the House or to either House of the Legislature shall be appointed to any office connected with the House or any of the House of Legislature save after consultation with the State Public Service Commission."

In this connection I want to say that we have made a provision for, the Public Service Commission in order that fairness may be observed in regard to the services. We should ask for advice of the Public Service Commission in the matters relating to all the services. It would not be proper to entrust other people with this work. The Public Service Commission has not yet gained in our country the same status as it has in other countries, where there are democratic institutions. In the Dominion Parliament we do not accept the suggestions of the Public Service Commission as much as we ought to. It only recommends whether we can employ a candidate or not. But in countries like Canada and South Africa, Where the democratic form of government is prevalent, the Public Service Commission has great powers. Therefore I want that whatever action is taken in this respect, it should be on the recommendation of the Public Service Commission. Appointments should be made after consulting them. So long as we do not do this in a clean way, there will always be the doubt that there has been something wrong with the appointments. It is heard from all quarters that the recommendations of the Public Service Commission are turned down and different appointments are made. Therefore I think that this healthy proviso will

[Shri Lakshminarayan Sahu]

help to improve matters. I have, nothing more to add in this connection but I would like to point out that I seek to insert this proviso in this place while it is given as No. 149 in the printed List of Amendments.]

Mr. President : Does any Member wish to say anything?

(No Member rose to speak.)

Would Dr. Ambedkar like to say anything ?

The Honourable Dr. B. R. Ambedkar : No.

Mr. President : I will then put the amendments to vote. The question is :

“That in amendment No. 48 of List II (First Week) of Amendments to Amendments in the proviso to clause (1) of the proposed new article 163-A, for the words ‘be construed as preventing’ the words ‘prevent’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 48 of List II (First Week) of Amendments to Amendments, in clause (2) of the proposed new article 163-A, for the words ‘recruitment and the conditions of service of persons appointed to’ the words ‘recruitment to, the salaries and allowances, and the conditions of service of’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 149 of the Printed Consolidated List of Amendments to Amendments dated 10-7-1949, the following proviso be added to clause (2) of the proposed new article 163-A:—

‘Provided that the Governor may, in consultation with the speaker or the Chairman as the case may be, by rule that in such cases as may be specified in the rule, no person not already attached to the House-or to either House of the Legislature shall be appointed to any office connected with the House or any of the Houses of Legislature, save after consultation with the State Public Service Commission.’ ”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 48 of List II (First Week) of Amendments to Amendments, in clause (3) of the proposed new Article 163-A, for the word ‘or’ occurring in line 4 thereof, the words ‘and where necessary,’ be substituted.”

The amendment was negatived.

Mr. President : The question is

“That in amendment No. 48 of List II (First Week) of Amendments to Amendments, in clause (3) of the proposed new article 163-A, the words as the case, may be deleted.”

The amendment was negatived.

Mr. President : The question is

“That in amendment No. 48 of List II (First Week) of Amendments to Amendments, in clause (3) of the proposed new article 163-A, for the words ‘recruitment and the conditions of service of persons appointed to’ the words ‘recruitment to, the salaries and allowances, and the conditions of service of be ‘substituted.’”

The amendment was negatived.

Mr. President: The question is:

“That in amendment No. 48 of List II (First Week) of Amendments to Amendments, in clause (3) of the Proposed new while 163-A, for the words ‘the Assembly or the Council’ the words ‘the House or each House of the Legislature of the State’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 48 of List II (First Week) of Amendments in clause (3) of the proposed new article 163-A, all the words occurring after the words ‘or the Council’ be deleted.”

The amendment was negatived.

Mr. President : I put the article 163-A as moved by Dr. Ambedkar to vote.

The question is:

“That New Article 163-A, do form part of the Constitution.”

The motion was adopted.

New Article 163-A was added to the Constitution.

Article 175

Mr. President : Shall we take up 172 now ?

The Honourable Dr. B. R. Ambedkar : We shall keep it back for the moment.

Mr. President : Shall we take up No. 175 ?

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

Shri H. V. Kamath : What about 127-A ?

Mr. President : That will come up along with 210.

Let us take up now 175. There are some amendments to it.

(Amendments Nos. 16 and 17 were not moved.)

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

“That for the proviso to article 175 the following proviso be substituted :—

‘Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom.’ ”

Sir, this is in substitution of the old proviso. The old proviso contained three important provisions. The first was that it conferred power on the Governor to return a Bill before assent to the Legislature and recommend certain specific points for consideration. The proviso as it stood left the matter of returning the Bill to the discretion of himself. Secondly, the right of return the Bill with the recommendation was applicable to all Bills including money Bills. Thirdly the right was given to the Governor to return the Bill only in those cases where the Legislature of a province was unicameral. It was felt then that in a responsible government there can be no room for the Governor acting on discretion. Therefore the new proviso deletes the word ‘In his discretion’. Similarly it is felt that this right to return the Bill should not be