

The Assembly re-assembled after Lunch at Four of the Clock, Mr. President (the Honourable Dr. Rajendra Prasad) in the Chair.

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ARTICLE 3 (*reopened*)

**Mr. President :** We shall now take up those consequential amendments No. 226 etc.

**The Honourable Dr. B. R. Ambedkar :** I would ask Mr. T. T. Krishnamachari to move the amendments on my behalf.

**Shri T. T. Krishnamachari :** Mr. President, Sir, I think it has to be formally put to the House whether they would give permission to re-open all these articles covered by these amendments.

**Mr. President :** These are consequential amendments which arise out of the amendments which we have accepted today, but as these relate to articles which have already been passed, the sanction of the House is required for reopening those articles. Do I take it that the House gives leave to do so?

**Honourable Members :** Yes.

**Shri T. T. Krishnamachari :** Mr. President, Sir, I move the following consequential amendments to certain provisions of the Draft Constitution already agreed to by the Constituent Assembly, I move:

“That for clauses (a) and (b) of the proviso to article 3, the following be substituted:—

‘where the proposal contained in the Bill affects the boundaries of any State or States for the time being specified in Part I or Part III of the First Schedule, or the name or names of any such State or States, the views of the Legislature of the State or, as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President.’.”

Amendment No. 227.

**Mr. President :** Shall we not take them one by one? There are three amendments to it.

(Amendment No. 253 was not moved)

**Shri H. R. Guruv Reddy :** In view of the statement already made by the Honourable Sardar Patel, I do not move amendment No. 290.

**Mr. President :** Mr. Pataskar amendment No. 291.

**Shri H. V. Pataskar** (Bombay: General): Sir, I would like to make it clear in the beginning that the amendment which I propose to move does not relate exactly to the matter which has been just now proposed to be introduced by the amendment just now moved. It is with respect to the whole article as it has been re-opened. I hope, as the article has been re-opened, this amendment may be taken to be in order.

**The Honourable Shri K. Santhanam :** On a point of order, Sir, I think this is inconsistent with the provisions which we have made. A law will be passed by a majority of the House. There is no procedure for taking the votes of a small section of the House. This amendment is out of order.

**Shri H. V. Pataskar :** I do not admit it is out of order on that ground, because it is open to us to make a provision of the nature which I propose to make. The only point which struck me was that it is certainly beyond the scope of the official amendment which has been introduced just now. It will be open to the House to amend the provision in the Article as it has been re-opened. It cannot be said to be out of order on that ground. As the whole article is re-opened, I would be entitled to put forward my amendment.

**The Honourable Shri K. Santhanam :** Some States may be clubbed together for representation in the House of the People. We may not be able to identify which member is representing which State. It would not be possible to operate this clause even if it is passed.

**Shri H. V. Pataskar :** That I would explain while moving my amendment, and give my reasons for it. I have made a provision that the subject matter of the Bill shall be decided by a majority of the votes of the persons representing those areas in the House of the People that are affected by the provision of the Bill. There is no objection on that ground.

**Mr. President :** Would, it not be a very novel thing?

**Shri H. V. Pataskar :** Novel it would be.

**Mr. President :** Any kind of provision we can make in the Constitution to say that a particular question will be decided . . . .

**Shri H. V. Pataskar :** I would like to make my submissions before I move my amendment. I think that is necessary.

**Mr. President :** You will state your case.

**Shri H. V. Pataskar :** So far as the amendment of the honourable Member just introduced is concerned, it is good so far as it goes. As article 3 originally stood, it was to be with the consent of the States in Part III of the First Schedule. That is omitted. We had made provision in article 3 that no Bill was to be introduced in either House of Parliament except on the recommendation of the President and unless previously thereto the President has ascertained the views of the legislatures of the States in Part I, and obtained the consent of the States in Part III if any of those States were to be affected. Now by the proposed official amendment we dispense with the consent of States in Part III and bring them on a level with States in Part I and in both cases only the views of these States are to be ascertained by the President. Now, Sir, this is good as far as it goes. But, my fear is that so far as the actual wording of the article and its object being successfully carried out is concerned, it is likely to be a dead letter more or less in the Constitution. That is the view that I take. It is for this reason that I have proposed this amendment.

If we look to the history of a provision of this nature, you will first turn to the Government of India Act of 1919. There, for the first time, even a foreign Government realised that it was necessary to make certain adjustments in the boundaries of the Provinces and to regrant them and therefore a similar provision was made in the Act of 1919 for the purpose. Even then it was found that no action was taken between 1919 and 1935 for the simple reason that all these readjustments require some sort of interference with the day-to-day administration of Government which no Government of the day likes. Therefore, though there was this provision from 1919 to 1935 and there were not as many difficulties in the way of re-grouping as there would be now, and hereafter still more, they did not take any action because naturally the administration for the time being was engrossed with the day-to-day administration and they did not want to take this additional burden. Because, even if in a district some places were to be transferred from one district to another, there is always an amount of commotion and nobody

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in charge of the administration wants that there should be even this little interference with the day-to-day administration. It was for this reason that though there was such a provision in the Act of 1919, nothing was done.

Then came the Act of 1935. Probably realising that the same difficulties will arise even if a provision of this nature is merely made in the constitution when they wanted to remove the anomalies of Sind being linked with Bombay and Orissa being linked with Bihar, they naturally introduced two sections for the purpose in the Government of India Act 1935, and made provision for their being framed prior to the introduction of the Government of India Act of 1935. This is clear enough to my mind, that even hereafter merely by making a provision of this nature, nothing is going to happen. The present section lays down that Parliament may by law make such a change. It is only a minor portion of the whole country which is going to be affected by taking action as is contemplated in paragraph (1) of article 3. The rest will be represented by the majority of the representatives who are not likely to be interested in the matter. Therefore, unless the Government of the day, in spite of the fact that it would increase the problems of day-to-day administration, think it necessary that this should be done, this article would be a dead letter and no action will ever be taken. Because only after crossing the hurdles mentioned in article 3 namely, ascertaining the views of the States concerned etc., and getting the permission of the President, the Bill has to be introduced in the Parliament and even then there will be difficulties. Suppose there is a question regarding a small area in the south with respect to which the boundaries are to be changed. The members representing other areas are not likely to be keen about this, and if the government of the day is not interested in doing this, I am sure that the majority of members will be more inclined to go with the Government and say nothing should be done at present and no action is necessary and the Bill will not be passed. The article therefore will continue to be a dead letter hereafter, as it has continued ever since 1919.

I therefore propose this amendment. I do not want that it should be decided only by a particular group. Suppose one province is to be separated from another or one area is to be taken out from one province and added to another. I want the matter to be decided not with the votes of persons representing one of them but with the votes of all persons who are going to be affected by the change. I insist that the matter should be decided with the votes of all of them. If you leave to votes of all the members of the House who are not affected by the changes and leave the article as wide as it stands now, I am sure that this article 3 will be a dead letter for all time to come, and no action will ever be taken under this provision which is similar to the provision contained in the old Act of 1919 and in the Act of 1935. If I may say so, there will be more difficulties under the new Constitution and the provisions of article 3.

**Mr. President :** Well, Mr. Pataskar, it is conceivable that a case may arise where the members representing the State or States affected by the proposed law or opposed to the change, but the rest of the House wants it to be passed.

**Shri H. V. Pataskar :** That is not likely.

**Mr. President :** Likely or unlikely, I am putting it to you as a hypothetical question. Suppose a case arises, would you like the few members representing that particular State to defeat the rest of the House?

**Shri H. V. Pataskar :** In the very nature of things it is unlikely. What I expect is that the others are not likely to be much interested. Supposing they are interested, the matter should better be left to those who are concerned with the matter. Only the other day I learnt from the honourable Member Mr. Chaliha that there is a place called Dimapur in Assam and its inclusion in a particular area has started controversy; even for that there is such a terrible sort of agitation. Under such circumstances no administration is likely to make any change. So the hypothetical contingency is not likely to arise. In the next place even if such a contingency arises, it would be better that the matter should be decided with the votes of those that are going to be affected rather than otherwise.

**Mr. President :** The contingency is not very remote. Supposing that a proposal is that a certain portion be transferred to another and there is no question of creating separate linguistic provinces—that possibility is not remote. It is a possibility that should be considered.

**Shri H. V. Pataskar :** According to my amendment that should be decided by votes of both the States. However that is the object of my amendment and therefore I hope it is not out of order. Therefore my amendment is:

“That in amendment No. 226 of List VII (Second Week), after the proposed words in the proviso to article 3 the following Explanation be added :—

*‘Explanation.—Any such law shall be deemed to have been passed if a majority of the members of the House of the People representing the State or States affected by the provision of such a Bill support the same.’*”

Honourable Mr. Santhanam raised the difficulty of ascertaining the representatives whose votes are to decide the matter. My submission is there will be no difficulty as I have confined this matter to the votes of the members in the House of the People alone and not to Parliament generally or to the votes of the Upper House.

**Mr. President :** I think I will rule this out of order for various reasons. The first is that it is not germane to the amendment which has been moved and it does not fit in with that. The second reason is that the contingency that is contemplated raises very many questions and points which impinge upon many other articles of the Constitution which we have already passed. For example, the amendment wants that the vote of a majority of the Members of the House of Peoples representing the State or States affected by the provision of such a Bill shall prevail. In the first place, it takes away the right of the other House to consider that question. In the second place, the difficulty will be experienced when instead of voting for the law, the majority of members mentioned here are opposed to the law and the majority of the House wants the law to be opposed. So, for these various reasons I think this is out of order.

Then there is no other amendment to this. Anybody wishes to speak?

**Shri Brajeshwar Prasad :** Sir, I rise to oppose this amendment. We gave our permission to reopen this article on the understanding that these are consequential amendments. This is not a consequential amendment to any article which has been passed. We are reopening the whole question once again. The whole attempt seems to me to water down the power of the Parliament. It will make the article practically null and void.

**Mr. President :** I thought it was increasing the power of the Parliament.

**Shri. Brajeshwar Prasad :** If the Parliament is to function according to this article and if any such step is taken only after the views of the Legislatures of the State or of each of the States with respect to the proposal to introduce the Bill

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are received, the article will never come into operation, it would make it utterly impossible. It was on the definite understanding that this is a consequential amendment that we gave permission to reopen this.

**Mr. President** : In provision (b) as it stands which has been accepted, the consent is required. Here it is only the consultation that is required. Consent is much more than consultation. It enhances the power of the Parliament. It does not reduce it.

**Shri Brajeshwar Prasad** : I agree with this interpretation of this Constitution, but I feel that we should not sail under false colours. Why should we say that we are reopening this because this is a consequential amendment?

**Shri T. T. Krishnamachari** : This is substantially the same as provision (a) in the original article.

**Shri Brajeshwar Prasad** : May be, but why did you say that this is a consequential amendment? The House gave the permission on the understanding that this is a consequential amendment.

**Shri B. Das** : Sir, the amendment moved by my Friend Mr. Pataskar and the objection made by my Friend Brajeshwar Prasad indicate that some of us are not satisfied with the old article 3 or the present draft article 3. It is not a new thing that my Friend Mr. Pataskar points out that it repeats the old Government of India Act provisions. Mr. Pataskar wanted that the areas affected which are to be transferred to another State should have their views preponderate over the view of the whole Assembly of that State. I had some experience in the establishment of the province of Orissa. We followed the old 1920 Government of India Act. We were then in Bihar and Orissa. The Bihar and Orissa Legislative Council unanimously passed that Orissa province should be separated. Then there was a similar resolution in the Assembly of Madras and the great leader of Bihar, Shri Sachchidananda Sinha moved a Resolution on the floor of the former Indian Legislative Assembly that Orissa should be made into a separate province. It is not the creation of a new State that agitates the feelings of the Members of this House or the public at large. It is the adjustment of boundaries that is the issue and that crops up here and there, whether it be Bengal and Bihar or Maharashtra and Gujarat or Andhra and Orissa. It always crops up. The leaders make responsible or irresponsible statements and the public at large get agitated. For my self, I am not very happy with this new article 3 or with Schedule-I that is coming, whereby two of my ancient Orissa States, namely Sareikella and Kharsuan once merged with Orissa and then re-merged into Bihar. We feel those Oriya people will lose their race identity. The whole of Midnapore, three-fourths of which are Oriyas, does not have an Oriya school. Now the people there pass off as Bengalees. Bengalees have raised similar trouble in Purulia District. These are problems and I am touching on the psychological aspect of those fears and apprehensions. Whatever our Drafting Committee legislates or lays down is not the issue. The hearts of the people speaking different languages, or having ancient ties with one another, are seriously affected and touched in this matter. I am not very happy at my Friend Prof. Ranga laying claim almost to the area in which my village stands. So, Sir, these responsible or irresponsible utterances of responsible leaders or irresponsible political agitators create such state of things, and I do not very much appreciate article 3 which does not give any chance to any people to be amalgamated with their own race by adjustment of boundaries. It will not give my friend Mr. Chaliha any chance to readjust certain boundaries. It will not give anybody any chance. I am only voicing the psychological fear, knowing the conditions, that many of us live in; but we do not know how to rectify it by the provisions of article 3.

**Shri Kuladhar Chaliha** (Assam : General) : Mr. President, Sir, I am neither satisfied with the amendment, nor with the article enacted. In fact, if you know the history of the present position of the Eastern frontiers you would not pass an article like this. I should like the President to have absolute power to determine, to increase or decrease any State if he likes to do so. At present the Eastern boundary of Assam, for instance the Mac Mahon Line is quite nebulous. You do not know where the boundary is. You can push it further and further, and nobody knows where it will end. If the permission of Parliament is to be got and on its recommendation the President is to act, that will take a long time. He has to fix the boundary immediately. Now, we do not know where the boundary lies, either in the Eastern or Northern frontier. There was RIMA, which was said to be the last port of the British territory, but the Chinese took away the flag and a British column had to be sent to put the flag there again. That is said to be our boundary, but nobody knows if the boundary was ever fixed. Now, there should be some power or some provision which would empower the President to fix the boundary is. Now, there is the Balipara frontier and nobody knows where its boundary exactly is. Nobody knows the Naga boundary and where the Burmese territory begins. As such, the article as it is, and also the amendment suggested, I am not satisfied with. The President must have some power to fix the boundaries and if possible, the Drafting Committee should make the necessary provisions whereby the boundaries could be fixed wherever they are nebulous, where you do not know the boundary, where the Mac Mahon line ends, where General Hertz's fort or HERTZ line is, and so on.

**Mr. President** : I may point out that this article has nothing to do with boundaries of foreign States. It relates to boundaries within India. Why bring in the Chinese and all that?

**Shri Kuladhar Chaliha** : All right, Sir.

**Mr. President** : Mr. Brajeshwar Prasad, there is no question of sailing under false colours. The whole substance of the amendment adopted this morning is that the States should be brought in line with the Provinces. Here there is one point where the Indian States in Part-III are treated separately from the States in Part-I and the amendment is to put them all together. So it is really in pursuance of that, and not a case of sailing under false colours.

**Shri Brajeshwar Prasad** : I am sorry, Sir, I had not understood the implication.

**Mr. President** : Does anyone wish to say anything?

**Shri T. T. Krishnamachari** : Not after your explanation.

**Mr. President** : Then I put 226 to vote.

The question is:

“That for clauses (a) and (b) of the proviso to article 3, the following be substituted:—

‘where the proposal contained in the Bill affects the boundaries of any State or State for the time being specified in Part-I or Part-III of the First Schedule, or the name or names of any such State or States the views of the Legislature of the State or, as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President’.”

The amendment was adopted.