

[The Honourable Dr. B. R. Ambedkar]

these articles while they state general rules, also make certain reservations with regard to the States in Part III of Schedule I. It is understood that the matter as to the position of the States in Part III is being reconsidered, so that the States in Part III will be brought on the same level and footing as the States in Part I. If that happens, then, there will be no necessity to introduce these reservations in these articles 109—114. I suggest these may be held over.

Mr. President : We will pass them over for the present.

Article 115

Mr. President : The motion is:

“That article 115 form part of the Constitution.”

The first amendment is No. 1937 of Mr. Kamath. That is negative and it is ruled out as an amendment. Amendment No. 1938. Dr. Bakshi Tek Chand, you have given notice of an amendment to this amendment. You move your amendment first?

Dr. Bakshi Tek Chand (East Punjab: General): Mr. President, Sir, the amendment which I am going to move is an amendment to amendment No. 1938 in the List of Amendment Vol. I. According to that amendment to amendment No. 1938...

Mr. President : You may first move the original amendment and then the amendment to the amendment.

Dr. Bakshi Tek Chand : Very well, Sir, I will first move amendment No. 1938 as printed at page 197:

“That in article 115, before the words ‘in the nature of’ the words ‘including those’ be inserted.”

To this amendment a verbal alteration is suggested, and that is:

“That in article 115, for the words ‘or orders in the nature of the writs’ the words ‘orders or writs, including writs in the nature’ be substituted”.

This amendment will bring the phraseology of article 115 in line with article 25 which has already been passed by this House in the last session. Article 115, as drafted by the Drafting Committee, reads as follows:

“Parliament may, by law, confer on the Supreme Court power to issue directions or orders *in the nature of the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari*, or any of them for any purposes other than those mentioned in clause (2) of article 25 (which relates to the enforcement of fundamental rights) of this Constitution.”

It will be seen that the article as drafted limits the power of Parliament to invest the Supreme Court with power to issue writs in the nature of those specifically mentioned and to none other. The amendment seeks to make the article more comprehensive so as to enable Parliament to enact laws empowering the Supreme Court to issue writs, directions, orders or writs including those mentioned in the drafted article 115. Hereafter it may be considered necessary to empower the Supreme Court to issue writs other than those which are mentioned in the article. The House will agree that it is not desirable to place such restrictions on the power of Parliament. Moreover as I have already said, in article

25, which deals with the power of the Supreme Court to issue writs, with regard to justiciable fundamental rights, this phraseology has already been adopted. Clause (2) of article 25, as passed by this House reads:

“The Supreme Court shall have power to issue directions or orders or writs including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate for the enforcement of any of the rights conferred by this Part.”

To bring the phraseology of article 115 in line with that of article 25, I move this amendment, and commend it for the acceptance of the House.

Mr. President : Amendment No. 1939, in the name of Dr. Ambedkar.

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

“That in article 115, the words and brackets ‘(which relates to the enforcement of fundamental rights)’ be deleted.”

The words are superfluous.

Mr. President : No. 1940 is the same as the one just now moved and so need not be moved. No. 1941 standing in the name of Mr. Naziruddin Ahmad is also of a drafting nature and need not be moved. No. 1942 is not moved.

I think these are the amendments that we have now.

Does any Member wish to say anything?

We shall now put the amendments.

I will first take Dr. Ambedkar’s amendment No. 1939.

The question is:

“That in article 115, the words and brackets ‘(which relates to the enforcement of fundamental rights)’ be deleted.”

The amendment was adopted.

Mr. President : Then I put Dr. Bakshi Tek Chand’s amendment to amendment No. 1938.

The question is:

“That in article 115, for the words ‘or orders in the nature of the writs’ the words ‘orders or writs, including writs in the nature’ be substituted.”

The amendment was adopted.

Mr. President : That becomes the original amendment now. I put the amendment as amended to the House.

The amendment, as amended, was adopted.

Mr. President : Then I put the article, as amended by the two amendments one of Dr. Ambedkar, and the other of Dr. Tek Chand to vote.

The question is:

“That article 115, as amended, stand part of the Constitution.”

The motion was adopted.

Article 115, as amended, was added to the Constitution.

Article 116

Mr. President : Now, we take up article 116. The first amendment is No. 1943, standing in the name of Mr. Kamath. It is ruled out, being a negative one.

No. 1944 is not even of a drafting nature, being only regarding punctuation.