

## CONSTITUENT ASSEMBLY OF INDIA

*Thursday, the 18th November, 1948*

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. Vice-President (Dr. H. C. Mookherjee) in the Chair.

### **Taking the Pledge and Signing the Register**

The following Members took the Pledge and signed the Register:

1. Dr. Jivraj Narayan Mehta (Baroda);
2. Shri Chimanlal Chakkubhai Shah, United States of Kathiawar (Saurashtra).

### DRAFT CONSTITUTION—(*contd.*)

#### **Article 3—(*contd.*)**

**Shri Lokanath Misra** (Orissa : General): Sir, before we resume the discussion, I would like to raise a fundamental point of order. It refers to the rights and privileges of Members of this House. With all respect to you, may I beg to submit that by your not allowing me to move my amendment yesterday, I feel that I have been deprived of my rights in moving that amendment which, as a member, I always have. I have consulted the Rules and I see that there is no provision anywhere which can disentitle me from moving that amendment. You had been pleased to disallow that amendment on the ground that my amendment was the same as the amendment moved by Professor K. T. Shah. I do not see how these two amendments can be the same. Professor Shah's amendment is economic while my amendment is political. He anticipates 10 years ahead, my proposition has immediate application, valid and enforceable here now. He wants to break up the 'States', I want to keep the States, describe them completely. Mine is based on the sovereignty of the people which is inherent in them, and not a proviso. Again these two amendments are so very different in the sense that....

**Mr. Vice-President** (Dr. H. C. Mookherjee): Is it necessary for you to go into all those arguments?

**Shri Lokanath Misra** : The number of my amendment is 85, while the number of Professor Shah's amendment is 129.

**Mr. Vice-President** : This point of order was raised and a decision was given. It is unfortunate that my position compels me to arrive at certain decisions. That particular decision was given and I am not prepared to revise it.

**Shri Lokanath Misra** : The point is what is the remedy in such cases?

**Honourable Members:** Order, order.

**Mr. Vice-President** : Kindly take your seat and oblige me.

**Chaudhari Ranbir Singh** (East Punjab : General): \*[Mr. Vice-President, I pointed out yesterday that according to his amendment a minority, whether based on religion or caste, which is not in majority in any State or any area thereof might undoubtedly secure such alteration in the boundaries of a State as it chooses through the President or the Government of India. But I am afraid the amendment would reduce the chance of success of any community which is in majority in any area but happens to be in minority in that State and

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\* [ ] Translation of Hindustani speech.

[Chaudhari Ranbir Singh]

I am afraid it would also reduce the importance of their demand and narrow the opportunity of their having a say in the matter. I hold so because, according to this amendment, the matter would be referred to the State Legislature for consideration and as the people of that area would be in minority in the State although they may be in majority in their own area, it would naturally be recorded that only a few members of the State Legislature desired a change in the boundary of the State. The provision as it stands in the draft lays down that if the majority of the people in any area demand that their area be joined to any other State or to a new State, their demand can be taken into consideration but under this amendment, I am afraid their demand would lose some of its weight, and particularly this would be the case of the people of such areas as have no leader of their own, no press of their own and no other means to make their voice heard. We may take U. P. as a case in instance. When in the last session, the constitution was being discussed, it became quite clear from the discussion held in the Party that U.P. people realise that their province is rather too big. At that time the U. P. people had expressed a fear that their Legislature would be unmanageable as it would have 600 members, if like other provinces, each lakh of the population sent one member to it. While legal and administrative difficulties of this nature are recognised, even then it is said that no area should be given to the province of Delhi or Haryana. Though the people of this area wanted that their region should be joined to Delhi or Haryana yet nothing happened as they had no leader of their own nor any Press of their own. The loyalty of those people of U. P. who had made this demand, was doubted and their voice was stifled to an extent beyond description. A ban was laid on them by the Provincial Congress Committee not to make such a demand, and they were asked not to raise any voice for any alteration in the boundaries of the province.

Therefore, I am afraid, Sir, this amendment will prevent any action for achieving their union on the part of those people and areas that have the same culture, the same language and the same way of life, and whose union is advantageous to the country from legal, administrative and other points of view. I may repeat, Sir, what Shri Thakurdas Bhargava stated yesterday that when a demand was made for forming Haryana into a Province the loyalty of some of those who made this demand was suspected and it was alleged against them that they wanted to form a separate province of Jats. But the truth is that if Haryana had been formed into a Province — and I may point in this connection that under the British regime, when the Round Table Conference was being held, there was the Corbett Scheme for the formation of a new province of Haryana which fell through for want of a spokesman of Haryana while today its formation is being opposed on the alleged ground that the Jats are seeking to have a separate Province of their own — so as I was going to say, the fact would have been that the Jats would be a minority there and even if each community was taken singly into account the Jat community would not be in majority in comparison to the others. If there be any community which has a large population it is that of Harijans — Chamars. So if this province is to be formed at all it would be a province of Chamars. But since they have no Press of their own, they cannot give voice to their demand.

I no doubt support the amendment but at the same time I want that it should be changed so as to include without any doubt the provision that when the Centre consults the provincial legislature the opinion of the majority of the representatives of the territory, which wants to separate itself and join another province, should also be on record and that their recorded opinion should appear before the Central Assembly so that it may know what that particular territory desires.]

**Shri H. V. Kamath** (C.P. and Berar : General) : Mr. Vice-President, Sir, I hope that the former Indian States will not derive undue encouragement from the doctrine of sovereignty which my honourable friend, Dr. Ambedkar, propounded yesterday. I do not know whether he meant that their status is something like *Imperium in Imperio*. I think it is a dangerous doctrine to propound at this time of the day. If we turn to Part III of the First Schedule, we will find there are two divisions in this Part, Division A and Division B. Many of these States have already merged themselves in the adjacent Indian Provinces. Some have integrated among themselves and formed bigger unions and some are still single States. In terms of the amendment moved by my honourable friend, Dr. Ambedkar, sub-clause (b) of the proposed amendment lays down that where such a proposal affects the boundaries or the name of any State or States for the time being specified in Part III of the First Schedule, it means to say that it refers to all States mentioned in Part III of the First Schedule whether they are single States, whether they are integrated States or whether they are merged States. I wonder whether for little principalities which have merged themselves in the provinces, whether for these States too this doctrine of sovereignty will be extended and whether for the unions of these States the consent of each of the States will have to be obtained. Apart from that, whether the single States should be regarded as sovereign in this regard is to be considered. I can understand if Dr. Ambedkar says that in terms of the Instrument of Accession of these States to the Union of India, so far as this matter is concerned, you will have to obtain their consent, but I trust, Sir, that within the next two or three months at the end of which we will adopt this Constitution, by that time, the hope that Dr. Ambedkar expressed in his speech on the motion for the consideration of the Draft Constitution, that the States will fall in line with the provinces in all respects, will be realized; and I have no doubt that the strenuous efforts of Sardar Patel in this regard will bear fruit, and that by the time we adopt this Constitution, there will be no distinction left between the States and the provinces. In view of this consideration, the amendment of my honourable friend, Pandit Kunzru has come force. If this equal status of the various provinces and States does not come about by the time the Constitution is adopted, then we have got to think why we should attach undue importance to the so-called sovereignty of the States; if at all, it is a nominal sovereignty that the rulers of the States have got in this regard. I am inclined to agree, therefore, with Pandit Kunzru's argument that if the States do become equal in status to the provinces, even then we should not go beyond obtaining the views of the rulers of the States or the legislatures of the States, whatever the case may be. It is understood when we obtain the views of the rulers of the States, or the Rajpramukhs or the legislatures of the States, if their views are in conflict, with the proposal, then that proposal will not come up. So also if the provinces are consulted and if their views are against such a proposal, then that proposal will not be made in the Union Parliament. So, I do not understand why this distinction should be made at all. If you consult a certain authority or a certain Government, it means that if that Government is opposed to the proposal, that proposal will not be made in the Union Parliament. Therefore, it is desirable, that at this time, when Sardar Patel has been telling us for the last so many months that we will abolish all distinctions between the provinces and States and that the provinces shall be brought into line with the States, if you want merely to consult the provinces, just consult the States also, and if you want to get the consent of the States, certainly get the consent of the Provincial Governments also.

Lastly, Sir I would request Dr. Ambedkar to consider this matter from this aspect, namely, in view of the hope expressed in his first speech in the Assembly that the States should be brought into line with the provinces at the earliest possible date and considering the several articles in the Constitution which Pandit Kunzru pointed out yesterday, seeking to abolish such distinctions,

[Shri H. V. Kamath]

whether in this regard also this distinction should not be abolished. I hope, Sir, that at a very early date, we shall administer the *coup de grace*, put an end to the doctrine of sovereignty which has been propounded for the States, so far as this matter is concerned.

**Shri R. K. Sidhwa** (C.P. & Berar : General): Mr. Vice-President, Sir, several members have stated that this amendment deprives the right of a member to move a Bill to the effect mentioned in this amendment. I am rather surprised at the argument advanced by certain members to this effect. Sir, I yield to none in my desire to protect the privileges and rights of members to move motions or Bills in a legislature. But, while the amendment of Dr. Ambedkar says that the consent of the President should be obtained, it should not be understood that it deprives the member of any right. By way of an illustration, I would say, that every citizen has a right to walk on the highway. Any person can walk as he likes. But, when he walks, he has to be governed by certain elementary rules, so that he may not cause obstruction in the road, or cause accidents or death to others. If a man has to drive a motor car or a vehicle, he has to obtain a license. He is governed by certain elementary rules; if the elementary rules are not followed, there will be chaos. To state that the rights of members have been deprived by this motion of Dr. Ambedkar is incorrect. On the contrary, nowhere is it stated that no member can bring forward a Bill. This is a very important measure and therefore it has been stated that the President should be consulted and his recommendation taken. This is to the benefit and advantage of those who get the opinion of the President, which would mean, the Government of India. They would be armed with very great strength behind them in moving such a proposition.

It has been argued by my honourable friend Mr. Bhargava, yesterday that some of the minor provinces which would like to cut off from the major provinces, would have no right to do so under this amendment. I said yesterday and I repeat today that if a majority does not want a particular territory to be divided, it would be unfair for a minority to encroach upon the rights of the majority. If you want the majority to be ruled over by the minority, then it is autocracy; democracy means rule of the majority. I therefore contend that the amendment that has been proposed is very salutary. It does not deprive any member of his right; on the contrary, I feel that when the recommendation of the President is taken on an important measure like this, his case is greatly strengthened.

Sir, only one point about Pandit Kunzru's amendment. I am really unable to understand why a difference has been made between the States in Part I of the First Schedule, that is provinces, and the States in Part III of the First Schedule. In one case it is stated that the views of the legislature should be obtained and in the other case, *i.e.*, the States, he has stated that the previous consent should be obtained. View means "observations", consent means "unanimity and decision on a matter". You are aware, Sir, that this Constitution was sent to various provinces and the various provinces discussed them in their legislatures and their views have been sent to this House and we have been supplied with copies. That is the right course. No decision has been taken in any legislature. The legislatures in Bihar, Bengal, Bombay, all have discussed the matter and copies of the printed proceedings have been supplied to us. But, consent means consent of the State. I do not agree with those who say that consent means the consent of the Ruler. Consent means consent of the legislature of the State. State does not mean the Ruler. Just as the President does not mean himself personally, but the Government of India, if the Ruler gives consent, he has to take the consent of the legislature of the State. I want to know why in the case of the States, it is stated that consent should be obtained, and I would

like Dr. Ambedkar to enlighten the House as to why this difference has been made between States and Provinces. I feel that in the case of the States, it is very necessary that their views should be obtained rather than consent. I therefore, think, that unless there are valid reasons,— the valid reasons, may be that the Ruler has to be consulted, the States having come into the Union by compromise — no impediment could exist or no compromise question arises. The rights of the people of the States are identical with the rights of the people of the provinces. The zeal of the people of the States is so great that they want to come into the Union straightaway and merge with the various provinces. As we are told that without consent or compromise it is not desirable, we yield to that. But, we expect that on the question of obtaining their opinion, a similar procedure should prevail as in the case of the provinces.

With these observations, I support the amendment strongly and I hope Dr. Ambedkar will clear the point why a differentiation has been made in the case of the States, why he has stated that the views of the legislature should be ascertained in the case of the provinces, whereas in the case of the States he has stated that their previous consent should be obtained.

**Mr. Vice-President :** Dr. Ambedkar.

**An Honourable Member :** The question be now put, Sir.

**Maulana Hasrat Mohani** (United Provinces : Muslim) : Sir, I rise to a point of order. Dr. Ambedkar has only moved an amendment and therefore, I submit, he has not got any right of reply. I have got a ruling of this House in which it is said definitely.....

**Shri R. K. Sidhwa :** I understand the whole article is under discussion. If the article is under discussion, Dr. Ambedkar has a right of reply.

**Maulana Hasrat Mohani :** Dr. Ambedkar has already spoken; he has no right to make any further speech.

**Mr. Vice-President :** Please address the Chair.

**Maulana Hasrat Mohani :** Sir, I beg to point out that the Ruling says—I am quoting from the printed proceedings of this House — the mover of an amendment has no right of reply. He cannot make a second speech.

**Mr. Vice-President :** I hold that the Article as well as the amendment are under discussion. Dr. Ambedkar.

**The Honourable Shri Ghanshyam Singh Gupta** (C.P. & Berar : General) : Sir, the mover has a right of reply.

**Mr. Vice-President :** That makes my position stronger.

**The Honourable Shri Ghanshyam Singh Gupta :** What I mean to say, Sir, is this. There are two sets of rules, one, rules of procedure on the legislative side and the second, rules of procedure on the constitutional side. The rules of procedure on the legislative side do say that the mover of an amendment shall have no right to reply. That rule has been purposely omitted in the rules of procedure on our constitutional side. Therefore, I submit that every mover of an amendment has got a right of reply.

**Mr. Vice-President :** You do not object to Dr. Ambedkar replying?

**The Honourable Shri Ghanshyam Singh Gupta :** Not only do I not object, but I want to establish this practice that the mover of an amendment has a right of reply, because our rules differ widely from the rules that have been framed for the legislative side.

**Mr. Vice-President :** We shall decide that later on after Dr. Ambedkar has made his reply.

**Shri Lakshminarayan Sahu** (Orissa : General) : Sir, there is an amendment in my name.

**Mr. Vice-President :** Kindly take your seat, Mr. Sahu, Dr. Ambedkar.

**The Honourable Dr. B. R. Ambedkar** (Bombay : General) : The amendment moved by my friend Mr. Kunzru is an amendment which carries a great deal of my sympathy but unfortunately in the circumstances in which we stand, I am not in a position to accept the same. The arguments urged by my friend in supporting his amendment was that when I had stated originally in moving my amendment was inconsistent with some of the other clauses or articles contained in the Constitution. He said that the plea I had urged in justification of the distinction between the provinces and the States in the matter of the provisions contained in Article 3 was inconsistent with Articles 226, 230 and 294. Now my submission is this that there is no inconsistency whatever in the plea I have urged in supporting a distinction between the provinces and the States and the various articles to which he has made reference.

With regard to Article 226 which gives power to the Central Legislature to pass legislation on matters included in Provincial list, my submission is this that that authority will be exercised by Parliament by virtue of a Resolution passed by two-third majority of the Upper Legislature. He will realize that the Upper House or Council of States will include representatives of the States as much as the representatives of the Provinces. They will undoubtedly participate in the proceedings of that particular Resolution which seeks to confer power upon Parliament to legislate on the matters included in that Resolution. Consequently it is hardly fair to say that Article 226 automatically usurps the sovereignty of the Indian States. It is really a measure which confers sovereignty by a special resolution passed by the Upper Chamber in which the States are fully represented. That is therefore no illustration of inconsistency at all.

With regard to Article 230, my submission is also the same. My learned friend will remember that the Indian States apart from what they do after the Constitution is passed have at any rate for the present, acceded on the basis of three subjects and one of the subjects is Foreign Affairs. Obviously implementation of the treaty is nothing but an exercise of the power conferred upon the Central Parliament for implementation of the treaty which is the subject matter covered by Foreign Affairs. Therefore that again cannot be said to be an usurpation of their sovereignty rights.

With regard to Article 294 which deals with the extension of the provisions of the protection of minorities in Indian States, that undoubtedly may appear for the moment to be a sort of encroachment of their sovereignty but it is nothing of the kind. It is merely one of the proposals which we shall be making to the Indian States that when they seek admission to the Indian Union they will have to accept Article 294. I might say that this extension was made by the Drafting Committee because the Drafting Committee heard that the Constituent Assemblies of some of the Indian States were making provisions in this regard so diverse and so alarming that the Drafting Committee thought it best to lay down what sort of arrangements for minority protection the Union Government will accept and what it will not accept.

Now, Sir, with regard to this question of differentiation between the Indian States and the Provinces of British India a great lot has been said, and I quite realise that the House is terribly excited over the distinction that the Constitution seeks to make but I should like to tell the House two things. One is this that we are at the present moment bound by the terms of agreement arrived at between the two Negotiating Committees, one appointed by the Indian Constituent Assembly representing the British provinces and the other of representatives nominated by the Indian States for the purpose of arriving at

certain basis for drafting a common constitution which would cover both parts. Now I do not wish to go into the details of the reports made by the Negotiating Committees but if my honourable Friend Pandit Kunzru would refresh his mind by going over the report of that Committee, he will find that here is a distinct provision that nothing in the Negotiating Committee report will be understood to permit the Indian Union to encroach upon the territories of the Indian States. My submission is, if that is an understanding—I do not mean to say a contract or agreement—arrived at between the two parties, at this stage we would do well in respecting that understanding. I would like to point out another thing,—another article in the Constitution to which I am sorry to say my friend Mr. Kunzru has made no reference—that is Article 212 which is a very important article, and I should like to explain what exactly are the possibilities provided by the Indian Draft Constitution with regard to the Indian States. Honourable members must have seen that Article 3 provides for the admission of the Indian States on the basis of such Instrument of Accession as may be executed by the Indian States in favour of the Indian Union. When a State as such is coming into the Indian Union, its position *vis-a-vis* the Central Government and *vis-a-vis* the provinces would and must be regulated by the terms contained in the Instrument of Accession but the Instrument of Accession is not the only method of bringing the Indian States into the Indian Constitution. There is another and a very important article in the Constitution which is 212. 212 provides that any Ruler of an Indian State may transfer the whole of his sovereignty to the Indian Union with respect to his particular State. When the whole of the sovereignty is transferred under the provisions of 212, the territory of that particular ruler becomes so to say the territory of India, with complete sovereignty vested in the Indian Union. Power is then given under Article 212 so that that particular territory the sovereignty over which has been fully transferred by the ruler to the Indian Union can then be governed as a province of India in which case Part II of the Constitution which defines the Constitution of the Indian provinces will automatically apply to that Indian State or it may be administered as a Centrally Administered area; so that the President and the Central Parliament will have the fullest authority to devise any form of administration for that particular territory. Consequently my submission to the House is that there is no necessity—if I may use an expression—to be hysterical over this subject. If we have a little patience I have not the least doubt about it that our Minister for the Indian States, who has done so much to reduce the chaos that existed before we started on the making of our Constitution, will exercise the *de facto* of paramountcy which the Union Government has obtained and reduce the chaos further and bring about an order either by inducing the Indian States to accept the same provisions which we have applied to Indian States or to follow the provision of section 212 and surrender to us complete sovereignty so that the Indian Union may be able to deal with the Indian States in the same way in which it is able to deal with the provinces.

For the present I submit we shall be acting wisely by respecting the agreement which has been arrived at by the two Negotiating Committees and following it up until by further agreement we are in a position to change the basis rather with goodwill, peace and honour to both sides Sir, I oppose the amendment. (*Cheers*).

**Mr. Vice-President :** I shall now put Amendment No. 150, as modified by the amendment of Pandit H. N. Kunzru to vote. (*Interruptions*). Kindly permit me to conduct the proceedings in the manner I wish it to be conducted.

**The Honourable Pandit Govind Ballabh Pant** (United Provinces: General) : Sir, I do not know how you are putting the amendment as modified by the amendment of Pandit Kunzru to the vote of the House. I think, first of all you might put the amendment proposed by Pandit Kunzru to vote, and then take the other amendment; to take it up at the outset and combine the two will not be quite in the proper order.

**Mr. Vice-President :** Please come to the mike.

**The Honourable Pandit Govind Ballabh Pant :** My submission is this. This amendment of Dr. Ambedkar as modified by the amendment of Dr. Kunzru is being put to vote, and that is exactly what I wish you not to do. I suggest that you might be pleased to put to vote first the amendment of Dr. Kunzru. If it is accepted, then you have to put the modified amendment to vote. If it is rejected, then you have to put the original amendment of Dr. Ambedkar to vote. To combine the two together will be to create some confusion.

**Shri H. V. Kamath :** What about amendment No. 149 of Prof. K. T. Shah?

**Mr. Vice-President :** If the amendment of Dr. Ambedkar is carried that will automatically rule out the amendment of Prof. K. T. Shah. That is why I am taking Dr. Ambedkar's amendment, that being the easier course No. 149 seeks for complete substitution.

We shall then first of all vote on the amendment of Pandit Kunzru.

**The Honourable Shri Ghanshyam Singh Gupta :** Sir, I should like to submit an important point. I think the Honourable Pandit Kunzru has got the right to reply. The ordinary rule is that one who initiates a debate has the right to reply, if it is not curtailed. The Rules of Procedure and Conduct of Business of this House on the legislative side, Rule 111 says that.....

**Mr. Vice-President :** Does that rule apply here?

**The Honourable Shri Ghanshyam Singh Gupta :** No, because we have not got any corresponding rule, and the reason is obvious. Here we are dealing with a very important matter in which the mover of an amendment who really brings a substantial proposition before the House may have to say much, after he hears the debate in the House. Therefore, the very fact that in our Rules of Procedure there is no rule corresponding to Rule No. 111 shows very clearly that the mover of the amendment to the Constitution has the right to reply. And that is but natural, because the matter being of very vital importance, the ordinary rules of debate must govern our procedure also. That is my submission.

**Shri R. K. Sidhwa :** Sir, I feel that the Honourable Pandit Kunzru has no right of reply in connection with his amendment. My reason is that the rule which has been pointed out by my friend Shri Ghanshyam Singh Gupta says that the mover of an amendment has no right of reply. He argues that in our Assembly there is no rule, and so we have to say that the mover has the right to reply. On the contrary, I have not heard in any important legislature or assembly such a right given. When there is no rule for this Assembly, then the rules of the Constituent Assembly (Legislative) should prevail, that being the highest body in our country for legislative purposes. We in this Assembly have no rules to this effect. Therefore, the second highest, *i.e.*, the Legislative Assembly rules should prevail. I feel that this is a very important matter. We must be governed by certain rules. I have not heard of any important legislature or other body or even local bodies where the mover of an amendment has been given the right to reply. I submit, therefore, that the contention and the argument advanced by Mr. Gupta, do not hold water, for the simple reason that we are governed by another and a parallel body which says the mover has no right of reply.

**The Honourable Shri Purushottam Das Tandon** (United Provinces: General) : Sir, my friend Mr. Sidhwa has been too bold. He has touched a subject of which, you will permit me to say, he has not full knowledge. He has said he does not know of any important legislature which gives the



mover of an amendment the right to reply. I submit, Sir, the United Provinces is a sufficiently important province in the country, and I can tell you, that the Legislative Assembly of the United Provinces has a definite and specific rule to the effect that the mover of an amendment has the right of reply. (Here, hear). This is in regard to bills. The mover of an amendment to a clause in a Bill has the right to reply. Of course, the Minister in charge of the Bill has always the last word. But that is a different matter. The point is that the mover of an amendment to a clause in a bill has been given the right to reply.

I submit here we are dealing with an important matter, as a friend has rightly pointed out. I feel that it would be very proper that the mover of an amendment be given the right to reply to the animadversions that are made on a matter that he has brought before the House. If you choose, you can permit the Minister in charge to have the last word. But I do submit that the mover of the amendment may be permitted to reply to the criticisms that are made against the views that he puts forward.

**Shri R. K. Sidhwa :** How many provincial legislatures have such a rule?

**Pandit Hirday Nath Kunzru** (United Provinces : General) : Mr. Vice-President, may I make my point a little clearer so that there may be no misunderstanding about it. The Draft Constitution was placed in our hands some time ago. There is a provision in it relating to the redistribution of the territories of States of various kinds. Dr. Ambedkar did not place before the House the provision contained in the Draft Constitution. The proposition to which he invited our attention was an amendment of the original provision, and in moving his proposition he spoke not merely on the merits of his proposal but also on the original proposition contained in the Draft Constitution. It cannot therefore be said that in speaking for the second time he was dealing with something that he had not spoken on originally. He had, it seemed to me, exhausted his right to speak. Nevertheless, he was allowed to reply to the observations made by the other members. I was personally very glad to hear him though I do not agree with all that he said or with much of what he said. But this raises an important question regarding the rights of the members who move amendments, and it is this point that I would like to be cleared up. If a Minister who moves an amendment has the right to reply, may not another member of the House have the same right in similar circumstances?

**Shri Ghanshyam Singh Gupta :** On a point of order....

**Mr. Vice-President :** I am going to give my ruling. Under the Rules of the House I am not aware that there is any thing which gives a right to the mover of an amendment to give a reply. If I asked Dr. Ambedkar to give a reply it was because he was asked certain questions and I thought it right and proper and fair that he should be given an opportunity of explaining his position. That is my ruling.

Now I shall put Pandit Kunzru's amendment to the vote.

The question is:

"That in amendment No. 150 of the List of Amendments, in clause (b) of the proviso to article 3, for the words 'the previous consent' the words 'the views' and for the words 'has been' the words 'have been' be substituted respectively."

The motion was negatived.

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

"That for the existing proviso to article 3, the following proviso be substituted:—

'Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless—

[Mr. Vice-President]

- (a) where the proposal contained in the Bill affects the boundaries or name of any State or States for the time being specified in Part I of the First Schedule, 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; and
- (b) where such proposal affects the boundaries or name of any State or States for the time being specified in Part III of the First Schedule, the previous consent of the State, or as the case may be, of each of the States to the proposal has been obtained.' "

The motion was adopted.

**Mr. Vice-President :** It seems to me that the amendment of Prof. K. T. Shah, as well as the next set of amendments up to No. 175 fall through after the acceptance of Dr. Ambedkar's amendment. Then we may pass on to No. 176.

**Shri Lakshminarayan Sahu:** I would like to move amendment No. 154 which is in my name.

**Mr. Vice-President :** That is an amendment for substitution to an article which has been dropped altogether. Therefore it cannot be discussed here.

(Amendment No. 176 was not moved.)

We have here an amendment No. 176 (a) from Begum Aizaz Rasul. That is concerned with the National Language. Like others it may be postponed to the proper place.

That finishes Article 3. Is there anyone who wishes to discuss the Article as a whole?

**Pandit Lakshmi Kanta Maitra** (West Bengal: General): What will be the position if the honourable member is allowed to speak on the Article as a whole? Will Dr. Ambedkar be called upon to reply to that again?

**Mr. Vice-President :** Most certainly not.

**Pandit Lakshmi Kanta Maitra :** That whole article has not yet been disposed of and Dr. Ambedkar has so far replied only to the amendment and not to the whole article.

**Mr. Vice-President :** We shall listen to the honourable member and if he traverses old ground, we shall ask him to desist.

**Pandit Lakshmi Kanta Maitra :** Therefore Dr. Ambedkar is not entitled to reply as a right?

**Mr. Vice-President :** No.

**Shri M. Ananthasayanam Ayyangar** (Madras : General) : That is hypothetical. It does not arise.

**Shri Brajeshwar Prasad** (Bihar : General) : The Article is designed to serve the following three purposes...

**Prof. Shibban Lal Saksena** (United Provinces : General) : An important question of procedure is involved. To this Article there have been tabled a number of amendments but you allowed two of them or three of them to be moved and then you took votes upon two of them. There was no chance of moving the other amendments. I think all the amendments should have been allowed to be moved and then votes should have been taken. Otherwise other members will have no occasion to assess them. If they were moved in the House, the House might accepted some of them.

**Mr. Vice-President :** What are the amendments which have not been moved?

**Prof. Shibban Lal Saksena :** All the amendments up to No. 174.

**Mr. Vice-President :** They do not arise. They have been practically rejected on account of the acceptance of Dr. Ambedkar's amendment.

**Prof. Shibban Lal Saksena :** But they should have been allowed to be moved.

**Mr. Vice-President :** Why did you not point this out at the proper time?

**Prof. Shibban Lal Saksena :** It may be kept in view in future.

**Mr. Vice-President :** That point will be kept in mind.

**Shri Brajeshwar Prasad :** The Article is designed to serve the following three purposes:

- (a) To wipe out the existence of any Province or State;
- (b) To strengthen the hands of Sardar Patel;
- (c) To create new provinces.

The Article is silent on two fundamental points: viz., (1) the constitutional powers of the new States formed under the provisions of this Article. It has been left to the majority party in the future Parliament of India to determine by the most convenient process of simple majority whether the new State thus formed will be placed in Part I, II, or III of the First Schedule. (2) the conditions under which the Parliament can function under the provisions of this Article. The Parliament has the legal power to unite or break up States without any rhyme or reason. Its hands have not been fettered by any conditions under the provisions of this Article.

Let me illustrate my point. If the majority party in power at the Centre takes into its head to wipe out the Province of Bihar it can easily do so in either of the following two ways open to it under the provisions of this Article, namely:

1. Bihar can be divided into parts and the whole territory placed under the direct jurisdiction and administrative of the Government of India. The plain meaning of the Article is that the Government of India has got the wide power of placing a State, put in either Part I or Part III, in Part II of the First Schedule.
2. Bihar can be merged with Orissa and the new State thus created can be brought entirely under the direct governance of the Central power.

The Government of India must have the power to take over the administration of a State into its own hand, if it does not govern well or in accord with the spirit of the Constitution. Similarly it must have the authority to punish a recalcitrant State which under the stress of centrifugal forces tends to drift away from the Centre.

As stated above the second purpose for which the Article has been incorporated is to strengthen the hands of Sardar Patel. The constitutional position of the Native States is still in the melting pot.

**Pandit Hirday Nath Kunzru :** Indian States and not Native States.

**Shri Brajeshwar Prasad :** It would be far better to call them Native States than Indian States. The native states have always been the weakest link in the chain of Indian Nationalism. Special care and attention must be bestowed in tackling these problems. The present craze for constituent assemblies in the native states must be checked. State armies must be wiped out. The native states must be brought under the direction, supervision and control of the Ministry of States and the Government of India. It will be desirable to place them in Part II of the First Schedule. The line of least resistance was adopted in amalgamating a large number of States into unions. The formation of these unions will encourage fissiparous tendencies.

[Shri Brajeshwar Prasad]

It lies within the power of Sardar Patel to bring all these territories under the direct government of the central authority. To obviate the danger of any misconception in the minds of the State people that we are tending towards absolutism and despotism I suggest the appointment of a Deputy Minister of States from the ranks of those who are representing the States people in this Constituent Assembly.

The third purpose for which this Article has been conceived is to make some room for those who are the great champions of Linguistic Provinces. I am opposed to this Article to the extent it tends to serve this purpose.

A great fuss is being made that it is undemocratic to oppose the cherished ambitions, hopes and aspirations of a considerable section of the community. But a thing must be intrinsically sound to carry weight. No standard of sound democracy can justify the great wrong that has been done to this country by the tragic partition of August 15, 1947.....

**Mr. Vice-President :** This has nothing to do with the Article under consideration. The Honourable Member is getting into stride and five minutes have already gone.

**Shri Brajeshwar Prasad :** Sir, I said at the beginning that I wanted ten minutes and I have taken only five minutes so far. I am however entirely in your hands.

**Mr. Vice-President :** I am equally in your hands.

**Shri Brajeshwar Prasad :** Nationalism is more dear to me than Democracy. It is a very poor conception of democracy to say that it is very necessary to secure approval and obtain consent at all levels of administration. Such a notion will only lead to utter chaos and anarchy.....

**Shri Rohini Kumar Chaudhari (Assam: General) :** On a point of order, Sir, I do not know under what provision you have allowed this sort of speech being made after the amendments have been carried in the House. I have seen no precedent where an amended resolution or amended provision of a Bill can be allowed to come up before the House and discussion allowed. If everybody here is allowed to write a criticism of the debate on this clause and inflict that speech on the House there will be no end to it. There is no procedure which allows a speech like this after the amendments have been carried out.

**Mr. Vice-President :** I may point out that there is a precedent for it when Mr. Kamath spoke at the end of the second Article and there was no objection at that time from any quarter.

**Shri Brajeshwar Prasad:** The essence of democracy is that people must aspire after higher goals of political life. Any demand of the people which does not fulfil this essential pre-requisite is not democratic.

**Mr. Vice-President :** This is wasting the time of the House.

The question is:

“That Article 3, as amended, form part of the Constitution.”

**Sardar Hukum Singh (East Punjab : Sikh):** The Article cannot be put to the House unless those amendments that have been held over are decided upon.

**Mr. Vice-President :** They have been left, as they are not in order after the acceptance by the House of the amendment of Dr. Ambedkar.

**Shri Raj Bahadur (United State of Matsya):** Sir, I invite your attention to the fact that the Honourable Member Mr. Brajeshwar Prasad has used the words “Native State” in respect of the Indian States. I seriously object to the use of the word “Native” and would request you to rule out such words.

**An Honourable Member :** They should be expunged from the proceedings.

**Mr. Vice-President :** That question does not arise.

The question is:

“That Article 3, as amended, form part of the Constitution.”

The motion was adopted.

#### Article 4

**Shri M. Ananthasayanam Ayyangar :** Sir, may I suggest a point of procedure just to avoid unnecessary waste of time. You have called out article No. 4 and you have asked Mr. Naziruddin Ahmad to move his amendment. All members who wish to take part in the discussion may be allowed to speak on the article also along with the amendments, so that there need not be a repetition once again when you put the article as a whole. If all the amendments are exhausted there may not be any speeches again. It is open to you and there is nothing to prevent you from giving such a ruling as this.

**Mr. Vice-President :** I accept your suggestion.

**Mr. Naziruddin Ahmad (Bengal: Muslim):** Sir, I beg to move:

“That the words ‘of this Constitution’ be deleted in clause (1) of article 4 and throughout the Draft Constitution wherever the said words occur in the same context; and a new definition (bb) be inserted in clause (1) of article 303:—

‘(bb) “article” means article of the Constitution’.”

In the ordinary legislation of this country whenever we refer to a section we never repeat the word “section” of this Act. So far as this Constitution is concerned we have used the word ‘article’ instead of ‘section’, and the wording of the Act is due to the fact that it is implied under the General Clauses Act. I submit that we should apply a similar device in this Constitution by the adoption of a new definition (bb). I have suggested in the amendment that the words are absolutely unnecessary. Whenever we refer to an article it is obvious that an article of this Constitution is always meant. I would point out respectfully that in this draft Constitution, in many places, the Article number has been given without the addition of the words ‘of this Constitution’. Even in this very Article in one place we have these words ‘of this Constitution’ and in another place, these words are not there. We may uniformly omit these words in all places.

**Mr. Vice-President :** The Honourable Member may move all his amendments to Article 4, one after the other, up to amendment No. 181 on the Order Paper, and be as brief as possible.

**Mr. Naziruddin Ahmad :** I shall be brief, Sir. But it must be noted that this amendment of mine will dispose of no less than 68 amendments. With reference to the Schedule we have omitted the repetition of the words ‘of this Constitution’. Whenever you refer to the Schedule you refer to the Schedule Number and do not say, such and such Schedule ‘of this Constitution’. This is because of a special definition which has been provided in the Draft Constitution itself. I draw the attention of the House to Article 303, clause (1), item (v): “‘Schedule’ means a Schedule to this Constitution”. This is a very necessary provision. On this analogy, ‘Article’ should also mean an Article of this Constitution. I submit that the amendment I have suggested is similar to item (v) of 303 (1).

Now I shall move the other amendments, 178 to 181.

I move:

“That in clause (1) of Article 4, for the words ‘article 2 or article 3’, the words and figures ‘article 2 or 3’ be substituted”.