

Mr. Vice-President : The second part has been accepted by Dr. Ambedkar and therefore need not be voted on. Then we come to the third part. But that is also covered by Dr. Ambedkar's amendment.

But he has a further amendment to the effect.

The question is:

"That the word 'permanently' in the last line of sub-para. (4) be deleted."

The amendment was negatived.

Mr. Vice-President : Now, I put the Resolution, as amendment by Dr. Ambedkar's amendments, to vote. Does the House want me to read it out?

Honourable Members : No, no.

Mr. Vice-President : So the question is:

"That the *Resolution, as amended, be accepted."

The motion, as amended, was adopted.

DRAFT CONSTITUTION—(*Contd.*)

Article 149—(*Contd.*)

Mr. Vice-President : Now we come to article 149. I think there has been sufficient discussion on this article and Dr. Ambedkar will now reply.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, in reply to the debate on article 149, I wish, first of all, to make clear my position with regard to my own amendment which was No. 2255. I want the permission of the House to withdraw this amendment; and in lieu of that I accept amendment No. 2249, as amended by amendment No. 48 of List II by Mr. Naziruddin Ahmad.

I also accept amendments Nos. 62 and 66 of List IV by Sri T. T. Krishnamachari, amendment No. 2252 as modified by the amendment of Mr. Bhargava and amendment No. 2263 as modified by amendment No. 67 of Shri Shibban Lal Saxena.

Now, Sir, so far as the general debate on the article is concerned, it seems to me that there are only two points that call for reply. The first point is with regard to the census figures to be adopted for the purpose of the new elections. A great deal of argument was concentrated by many speakers on the fact that the census in certain provinces is not accurate and does not represent the true state of affairs so far as the relative proportions of the different communities are

*Resolved that instructions be issued forth with to the authorities concerned for the preparation of electoral rolls and for taking all necessary steps so that elections to the Legislatures under the new Constitution may be held as early as possible in the year 1950.

Resolved further that the State electoral rolls be prepared on the basis of the provisions of the new Constitution agreed to by this Assembly and in accordance with the principles herein after mentioned, namely:—

- (1) That no person shall be included in the electoral roll of any area if he is of unsound mind and stands so declared by a competent court.
- (2) That 1st January 1949 shall be the date with reference to which the age of the electors is to be determined.
- (3) That a person shall not be qualified to be included in the electoral roll for any area unless he has resided in that area for a period of not less than 180 days in the year ending on the 31st March 1948. For the purposes of this paragraph, a person shall be deemed to be resident in any area if he ordinarily resides in that area or has a permanent place of residence therein.
- (4) That, notwithstanding anything in paragraph (3) above a person who has migrated into a Province or Acceding State on account of disturbances or fear of disturbances in his former place of residence shall be entitled to be included in the electoral roll of an area if he files or makes a declaration of his intention to reside permanently in that area.

[The Honourable Dr. B. R. Ambedkar]

concerned. I think there is a great deal of force in such arguments and, if I may say so, there is enough testimony which one can collect from the Census Commissioners' Reports themselves to justify that criticism. I had intended to refer to the statements made by the Census Commissioners on this issue. But, as there is no time, I think I had better not refer to them. Further, the large majority of the members who have spoken on this subject know the facts better than I do. I only want to add one thing and that is that if any people have suffered most in the matter of these manipulations of census calculations by reason of political factors, they are the Scheduled Castes (*Hear, hear*). In Punjab for instance, the other communities are trying to eat up the Scheduled Castes in order to augment their strength and to acquire larger representation in the legislature for themselves. These poor people who have been living mostly as landless labourers in villages scattered here and there, with no economic independence, with no support from the authorities,—the police or the magistracy,—have been, by certain powerful communities, either compelled to return themselves as members of that particular community or not to enumerate at the elections at all. The same thing has happened to a large extent, I know, in Bengal. For some reason which I have not been able to understand, a large majority of the Scheduled Castes there refused to return themselves as Scheduled Castes. That fact has been noted by the Census Commissioners themselves. I therefore completely appreciate the points that have been made by various members who spoke on the subject that it would not be fair to take the figures of that census.

An Honourable Member : What about Assam?

The Honourable Dr. B. R. Ambedkar : It may be true of Assam also. I am not very well acquainted with it. As I said I fully appreciate the point that to take those census figures and to delimit constituencies or allocate seats between the different constituencies and between the majority and minority communities would not be fair. Something will have to be done in order to see that the next election is a proper election, related properly to the population figures of the provinces as well as of the communities. All that I can do at this stage is to give an assurance that I shall communicate these sentiments to those who will be in charge of this matter and I have not the least doubt about it that the matter will be properly attended to.

Sir, if the Members who are interested in it are not satisfied with the assurance that I am giving now, they can at some stage—it is not possible to do it now—move an amendment to article 149 permitting the President to have an interim census, if he deems it necessary, taken, for the purpose of removing the grievances to which they have referred. In fact, I have with me a draft which might be considered at a later date. Some such draft like this may be considered: "Provided further that the initial representation of the several territorial constituencies of the legislative assembly of any State may be determined in such other manner as the President may by order direct." That would be general enough and would deal with the difficulty which has been pointed out.

An Honourable Member: Why do you not move it now?

The Honourable Dr. B. R. Ambedkar : There is no time for it now. If Members are not prepared to rely upon the assurance given by me some such motion may be moved at the appropriate stage.

With regard to the point raised by my honourable Friend Prof. Saksena in amendment No. 64, I may say that I whole heartedly support it. I think the proviso he has sought to introduce is a very necessary one. The House will

remember that it deals with weightage in representation. We have, in this Constitution, eliminated all sorts of weightages. Weightage to all minorities we have eliminated. Weightage to territories in the representation in the Central Legislature we have eliminated. Weightage between representatives in British India and representatives of Indian States we have eliminated. I think therefore that it is only right that the same principle should apply to representation in legislatures. I therefore accept that amendment.

Sir, I do not think there is any other point worthy of consideration or calling for reply. I therefore recommend to the House the acceptance of article 149, as amended.

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

The question is:

“That the following new clauses be added after clause (2):—

‘(2-a) No person shall be entitled to be a candidate or offer himself for election to either House of a State Legislature, if Bicameral, or to the Legislative Assembly of the State, who is duly certified to be of unsound mind, or suffering from any other physical or mental incapacity, duly certified, or is less than 25 years of age at the time of offering himself for election, or has been proved guilty of any offence against the safety, security or integrity of the Union, or of bribery and corruption, or of any malpractice at election, or is illiterate.’

‘No one who is unable to read or write or speak the principal language spoken in the State for a seat in whose Legislature he offers himself for election, or after a period of ten years from the date of the coming into operation of this Constitution, is unable to read or write or speak the National Language of India, shall be entitled to be a candidate for or offer himself to be elected to a seat in the State Legislature, or either House thereof.’

‘(2-b) The election shall be on the basis of proportional representation with a Single Transferable Preference Vote. For the purpose of election, every State shall be deemed to be a single constituency, and every member shall be deemed to have been elected in the order of Preference as recorded by the electors; and this arrangement shall hold good in the case of a General Election, as well as at a by-election, if and when one become necessary:

Provided that where there is a second chamber in any State, the voters may be grouped, for electing members to the Legislative Council, on the basis of trade, profession, occupation or interest recognised for the purpose by an Act of the State Legislature, each trade, profession, occupation or interest voting as single constituency for the entire State’.”

The amendment was negatived.

Mr. Vice-President : Amendment No. 2248. The question is:

“That clause (3) of article 149, be deleted and the following be substituted:—

‘The representation in the State Legislature shall be on the basis of one representative for every lakh of population:

Provided that the total number of members in the Legislative Assembly of a State shall in no case be less than sixty’.”

The amendment was negatived.

Mr. Vice-President : There is a short notice amendment to amendment No. 2249 by Pandit Thakur Dass Bhargava.

Pandit Thakur Dass Bhargava : I would like to withdraw it, Sir.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Vice-President : Amendment No. 48 of List II. The question is:

“That for amendment No. 2249 of the List of Amendments, the following be substituted:—

‘That in clause (3) of article 149, for the words “last preceding census”, the words “last preceding census of which the relevant figures have been published” be substituted’.”

The amendment was adopted.

Mr. Vice-President : Amendment No. 62 of List IV. The question is:

“That with reference to Amendment Nos. 2249 and 2250 of the List of Amendments in clause (3) of article 149, for the words ‘every lakh’ the words ‘every seventy-five thousand’ be substituted.”

The amendment was adopted.

Mr. Vice-President : Then we come to Amendment No. 2252 as amended by a short notice amendment of Mr. Bardoloi which reads :

“With reference to amendment No. 2252 of the List of Amendments, after the words ‘autonomous districts of Assam’ the words ‘and the constituency comprising the cantonment and municipality of Shillong’ be added.”

The amendment was adopted.

Mr. Vice-President : Amendment No. 66 of List IV. The question is:

“That with reference to Amendment Nos. 2256, 2257 and 2258 of the List of Amendments, in the proviso to clause (3) of article 149, for the words ‘three hundred’ the words ‘five hundred’ be substituted.”

The amendment was adopted.

Mr. Vice-President : Dr. Ambedkar wanted the leave of the House to withdraw his Amendment No. 2255. Is that permission given?

Honourable Members : Yes.

The amendment was, by leave of the assembly withdrawn.

Mr. Vice-President : Amendment No. 49 of List II. It is blocked.

Then we come to Amendment No. 2256. The question is:

“That in the proviso to clause (3) of article 149, for the words ‘three hundred’ the words ‘four hundred and fifty’ be substituted.”

The amendment was negatived.

Mr. Vice-President : Amendment No. 35 of List I.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Vice-President : Amendment No. 67 of List IV. The question is:

“That after clause (3) of article 149, the following new clause be inserted:—

‘(3-a) The ratio between the number of members to be allotted to each territorial constituency in a State and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as practicable, be the same throughout the State’.”

The amendment was adopted.

Mr. Vice-President : There is an amendment to Amendment No. 67 but it is blocked.

Prof. Shibban Lal, do you want me to put your Amendment No. 2263 to the vote? It has been amended by No. 67.

Prof. Shibban Lal Saksena : It is not necessary to put it to vote now.

Mr. Vice-President : I shall now put the article in its present form to vote. The question is:

“That article 149, as amended, stand part of the Constitution.”

The motion was adopted.

Article 149, as amended, was added to the Constitution.

Mr. Vice-President : There is one announcement which has got to be made. I have received definite information and instructions from our President that he would like to have the next session of the Constituent Assembly on Monday.

the 16th May. Under rule 19 of the Rules of Procedure, the President enjoys the power of fixing the date but he cannot adjourn the House for more than three days. I therefore seek the permission of the House to make this announcement formally.

Pandit Lakshmi Kanta Maitra : But why does he want to fix the date before hand?

Mr. Vice-President : I am sorry I cannot give you the reason.

The Honourable Shri K. Santhanam : The date may be fixed by a motion put before the House and carried.

The Honourable Shri Satyanarayan Sinha : Sir, I move that the House do adjourn to the 16th May next.

The motion was adopted.

Mr. Vice-President : The House stands adjourned to Monday, the 16th May. The Assembly then adjourned till Monday, the 16th May 1949.