

The question is :

“That after article 302A, the following article be inserted:—

‘302AA. (1) Notwithstanding anything contained in this Constitution and subject to the provisions of article 119 thereof, neither do Supreme Court nor any other court shall have jurisdiction in any dispute arising out of any provision of a treaty, agreement, covenant, engagement, sanad or other similar instrument which was entered into by any Ruler of an Indian State and to which the Government of the Dominion of India or any of its predecessor Governments was a party and which has or has been continued in operation after the date of commencement of this Constitution, or in any dispute in respect of any right accruing under any of the provisions of this Constitution relating to any such treaty, agreement, covenant, engagement, sanad or other similar instrument.

(2) In this article—

- (a) “Indian State” means any territory recognised by His Majesty or the Government of the Dominion of India as being such a State; and
- (b) “Ruler” includes the Prince, Chief or other person recognised by His Majesty or the Government of the Dominion of India as the Ruler of any Indian State.’ ”

The motion was adopted.

Article 302AA was added to the Constitution.

### Schedule III

**Mr. President :** We might take up the other articles and Schedule III. They are minor things.

**Shri T. T. Krishnamachari :** Schedule III and the other articles involve reopening of articles and schedule already passed. We have to take the permission of the House.

**Mr. President :** You will ask for leave reopen.

**Shri T. T. Krishnamachari :** Mr. President, in the Order Paper today, beginning from item 1, article 13 to the Third Schedule, with the exception of the items relating to article 264-A, 274DD, 302AA which have been passed and 280A which has been held over, all the other items are for re-opening the articles or Schedules that have been passed. I would therefore request that you put to the House the proposition whether they are willing to allow these articles to be re-opened.

**Mr. President :** I take it that the House gives leave to re-open these articles.

**The Honourable Members :** Yes.

**Mr. President :** We shall take up Schedule III.

**Shri H. V. Kamath (C. P. & Berar: General):** What about article Mr. President: Let us finish first this Schedule.

**Shri T. T. Krishnamachari :** Sir, I move amendments 401 and 402 together:

“That in item IV of the Form of Oath, in the Third Schedule, after the words ‘judges of the Supreme Court’ the, words ‘and the Comptroller and Auditor-General of India’ be inserted.”

“That in item IV of the Form of Oath, in the Third Schedule, after the words ‘Supreme Court of India’, the brackets and words ‘(or Comptroller and Auditor-General of India)’ be inserted.”

This is merely an omission which we seek now to rectify. The form of oath that has been prescribed for the Judges of the Supreme Court will be prescribed, if it is accepted by the House to the Comptroller and Auditor-General of India.

**Mr. President :** There is no amendment to this amendment to the Schedule III.

The question is:

“That in item IV of the Form of Oath, in the Third Schedule, after the words ‘judges of the Supreme Court’, the words ‘and the Comptroller and Auditor-General of India’ be inserted.”

“That in item IV of the Form of Oath, in the Third Schedule, after the words ‘Supreme Court of India’, the brackets and words ‘(or Comptroller and Auditor-General of India)’ be inserted.”

The amendments were adopted.

---

### Article 13

**Mr. President :** Let us take up article 13.

**Shri T. T. Krishnamachari :** May I request, Sir.....

**Shri H. V. Kamath:** With regard to this amendment, Sir.....

**Shri T. T. Krishnamachari :** May I request, Sir, that you take up the first item afterwards, at the end?

**Mr. President :** We shall take up item I later. Let us begin with article 16.

---

### Article 16

**Shri T. T. Krishnamachari :** Sir, I move amendment No. 393 Which reads thus:

“That article 16 be omitted.”

The reason is that we have taken article 16 from the Fundamental Rights Chapter and put it in Part XA, in the Chapter entitled Trade, Commerce and Intercourse within the territory of India. The article now finds place in a different form under article 274-A which reads thus:

“Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.”

The difference between this and the article as it appears in article 16 is only in the phraseology of the articles which says that subject to the powers of Parliament, trade, commerce and intercourse etc. shall be free. Having taken it over to Part X-A, there is no meaning in keeping article 16 in the Fundamental Rights, and that is why I have moved this amendment.

May I also explain, Sir, to the Members of this House, who, I believe, are aware of the substance of my explanation, that the original idea of putting the article which confers a very restricted right under fundamental rights has got a history behind it. That was because at the time when we framed the Fundamental Rights we felt that the picture of the Constitution would be different. Even so, the right that is conferred is limited by any law made by Parliament. The appropriate place, therefore, for an article of this nature, which is in reality not a fundamental right, in the sense that other, articles, are fundamental rights, is in the chapter relating to trade and commerce. I think the House will have no objection to deleting what is now more or less a surplus article in the articles on fundamental rights.

(Amendment No. 416 was not moved.)

**Pandit Thakur Das Bhargava** (East Punjab: General) : May I ask a question of Mr. T. T. Krishnamachari? According to him, article 274A now takes the place of article 16. May I just know if article 25 shall apply to article 274A?