

[Shri T. T. Krishnamachari]

which deals with election to the House of the People on the basis of adult franchise is not being omitted in any lighthearted manner. I would like to ask the House to refer to article 289-B which reads thus:—

“The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult franchise; that is to say, every citizen, who is not less than twenty one years of age on such date as may be fixed in this behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled, to be registered as a voter at any such election.”

Substantially the whole of clause (6) of article 67 has been produced in 289-B which the Drafting Committee felt was the proper place for putting in the qualifications of voters. Therefore, Sir, clause (6) of article 67 is no longer necessary and that is the provocation for my moving this amendment.

(Prof. Shibban Lal Saksena did not move his amendment.)

Mr. President : The question is :

“That clause (6) of article 67 be omitted.”

The amendment was adopted.

Shri T. T. Krishnamachari : Sir, I move :

“That for clause (7) of article 67, the following clause be substituted:—

‘(7) The representation in the House of the People of the territories comprised within the territory of India but not included within any State shall be such as Parliament may by law provide’.”

Sir, the original clause (7) reads thus:

“Parliament may, by law, provide for the representation in the House of the People of territories other than States.”

The House will remember that we passed yesterday a new article 67-A which is more or less an enabling article. It does not wholly take away the need for a clause like clause (7) and it was felt that this clause must be amplified in the manner suggested in my amendment.

Mr. President : There is no amendment to this. The question is:

“That for clause (7) of article 67, the following clause be substituted :—

‘(7) The representation in the House of the People of the territories comprised within the territory of India but not included within any State shall be such as Parliament may by law provide’.”

The amendment was adopted.

Shri T. T. Krishnamachari : Mr. President, I move

“That for the proviso to article 109 the following proviso be substituted:—

‘Provided that the said jurisdiction shall not extend to—

- (i) a dispute to which a State for the time being specified in Part III of the First Schedule is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the date of commencement of this Constitution and has, or has been, continued in operation after that date,

- (ii) a dispute to which any State is a party, if the dispute arises out of any provision of treaty, agreement, covenant, engagement, *sanad*, or other similar instrument which provides that the said jurisdiction shall not extend to such dispute’.”

I would request honourable Members to refer to, the Draft Constitution before this article was passed by the House. They will find these two provisos reproduced there word for word. It was felt at the time we moved this Draft Article 109 that in the circumstances in which we were then placed we could not ask the House to pass a proviso like proviso (1) and hence there is no proviso in the article as accepted by the House covering the case of States in para III as we had for its omission and only the incorporation of proviso (2) in the terms in which it has been then accepted by the House. But now circumstances have, changed and we find that a proviso similar to proviso (1) of the original draft has to find a place and therefore I have moved this amendment. I hope the House will accept it.

Mr. President : The question is:

“That for the proviso to article 109 the following proviso be substituted :

‘Provided that the said jurisdiction shall not extend to—

- (i) a dispute to which a State for the time being specified in Part III of the First Schedule is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the date of commencement of this Constitution and has, or has been, continued in operation after that date;
- (ii) a dispute to which any State is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad*, or other similar instrument, which provides that the said jurisdiction shall not extend to such dispute’.”

The amendment was adopted.

Article 112

Shri T. T. Krishnamachari : May I request you to hold over this article till tomorrow ? There are certain Members in this House who have represented that they would like to examine this article a little further, and if it is not inconvenient, I would request the chair to hold it over till tomorrow.

Mr. President : It is held over. We will take up amendment No. 365, Article 119.

Shri T. T. Krishnamachari : In moving amendment No. 365, I would like you to permit me to incorporate in this amendment, amendment No. 388 which I have tabled today. Sir, I move :

“That article 119 be renumbered as clause (1) of article 119, and to the said article as so renumbered the following clause be added :—

- (2) The President may, notwithstanding anything contained in clause (1) of proviso to article 109 of this Constitution, refer a dispute of the kind mentioned in the said clause to the Supreme Court for opinion and the Supreme Court may, after such hearing as it thinks fit, report to the President its opinion thereon.”

This again happens to be part of article 119 as it originally appeared in the Draft Constitution. Practically word for word, except for the minor variations, I have introduced in my subsequent amendment with regard to the last three lines of this amendment, it appeared in the original article 119. We have now felt that it ought to be restored, though it was not originally put in 119 as it