

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”.

[Mr. Naziruddin Ahmad]

I submit that the word 'article' need not be repeated as it is done in clause (1) and, in fact in many places in this Draft Constitution.

Then I move:

"That in clause (1) of article 4, for the words and figures 'article 2 or article 3', the word and figure 'article 3' be substituted."

I move next:

"That in clause (1) of article 4, for the words 'shall contain such provisions for', the words 'shall also provide for' be substituted."

This is a very simple amendment.

I now move my last amendment to this article:

"That in clause (2) of article 4, for the words 'for the purposes of', the words 'within the meaning of' be substituted."

This is only a verbal amendment.

Mr. Vice-President : The subsequent amendments may now be moved one after the other. Amendment No. 182 in the name of Prof. Shibbanlal Saksena is the next in order. Though it is for the deletion of clause (2) and hence cannot be allowed, I would give him an opportunity to speak on this Article.

Discussion will henceforth be on the concerned Article as a whole.

Prof. Shibban Lal Saksena : I am not moving 182 for the omission of clause (2).

Mahboob Ali Baig Sahib Bahadur (Madras: Muslim): Sir, I move amendment No. 184:

"That in clause (2) of article 4, for the words 'for the purposes of article 304', the words 'under article 304' be substituted."

The retention of the existing words will lead to some sort of complication. Therefore we should substitute the words 'under article 304.'

Shri H. V. Kamath : Mr. Vice-President, by your leave, I shall make a very brief observation on amendment No. 177 of my Honourable friend Mr. Naziruddin Ahmad. Before you call upon Dr. Ambedkar to reply, may I request him, in case he holds that amendment No. 177 should be rejected, to give us some reasons for his opposition and not merely repeat the trite formula 'I oppose this amendment'? Because, apart from the arguments advanced by my friend the mover of the amendment and the instances quoted by him, I have gone through the constitutions of the Commonwealth of Australia, the Union of South Africa, the Swiss Confederation and the German Reich which have all been supplied to us in a booklet of the Assembly Secretariat, called Constitutional Precedents—Second Series. I have gone through them all very closely and I find that this sort of repetition of the phrase "of this Constitution" does not find a place in anyone of them.

After all, to my mind, brevity is the soul or essence of a Constitution, and we should try to avoid overburdening the Constitution with redundant and unnecessary words or phrases or expressions. I find in our draft Constitution this expression 'of this Constitution' repeated *ad nauseam*. I think the amendment is a reasonable and harmless one. We should pay some attention to the language of the articles of the Constitution. In conclusion I repeat my request to Dr. Ambedkar not to merely repeat the formula 'I oppose', but give reasons as to why he does so.

Shri Rohini Kumar Chaudhari : I have come to the rostrum to honour my friend Mr. Naziruddin Ahmad by opposing this amendment. (*Laughter*). I regret that he has wasted some of our time and I curse myself that I cannot resist the temptation to oppose him and waste some time of the House also by doing so. I would be failing in my duty if I do not record here the appreciation

which we must give to that noble band of thieves which operates in the East Indian Railways between Howrah and Delhi. We must give our thanks to this noble gang that is responsible for stealing only the brief-bag containing various other answers of our friend Mr. Naziruddin and, but for that fortunate fact, there would have thousands more of amendments of the kind we are dealing with now. I would warn my friend Prof. Shah that this noble gang may be operating between Bombay and Delhi as well.

Mr. Vice-President : I am afraid this has no bearing upon the matter on hand.

Shri Rohini Kumar Chaudhari : The point is that if there had been no theft of his brief from his compartment when he was coming this time to attend the Assembly there would have been more such amendments which could be easily left to the draftsmen and not brought before the House. I will also say, Sir, that in dealing with amendments from Mr. Naziruddin Ahmad, although some of them are very good ones, because they are tabled in his name, they are often opposed without any comment. Therefore I would request my honourable Friend, if he comes forward with very serious amendments, to table an amendment to change his name also, so that his amendments may be seriously considered.

Prof. Shibban Lal Saksena : Sir, I gave notice of an amendment that clause (2) of article 4 be omitted but you have ruled it out of order. I think that an amendment for the deletion of a clause can be moved, but your ruling is there and I bow to it. I feel that we must bear in mind one particular aspect of Article 4 to which I would especially wish to draw the attention of Dr. Ambedkar. In this article Dr. Ambedkar has provided an easy method for changing boundaries because in clause (2) he says that “no such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 304.” In article 304 it is laid down that any change in the Constitution must be passed by a two-thirds majority, whereas here it is provided that so far as any law referred to in article 2 or 3 of the Constitution is concerned, it shall not be deemed to be an amendment of the Constitution. Sir, I personally feel that changes in boundaries of States are matters of much consequence and they should not be allowed to be carried out by a mere majority, because the boundaries of a State should be stable and it should not be possible for every majority in Parliament when it comes to power to alter boundaries which this clause (2) will enable them to do. I think this is a wrong provision, but still I think that in the first ten or twenty years it may probably be allowed. My honourable Friend, Dr. Pattabhi Sitaramayya and others have given notice of an amendment to that effect, but they are not moving it. I do not want to move any amendment but I do feel that it should not be made easy for boundaries of States to be changed by a mere majority. If we allow this clause to remain as at present, we should at least set a time limit. This should not be made a permanent part of the Constitution. I hope Dr. Ambedkar will say how he feels about this very important matter.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I did not think that this was a matter which required any speech from me, but as Mr. Kamath has expressed a desire that I must not merely negative the amendment but should offer an explanation as to why I was not prepared to accept the amendments suggested by my honourable Friend, Mr. Naziruddin Ahmad, I have come here to make my explanation. I think it will be agreed that in matters of this sort, which relate merely to phraseology and not to the substance of the article itself, it cannot be stated that it is a matter of principle at all. It is a mere matter of precedent how different Constitutions have used language in matters which are analogous. My submission is that in the language we have used we are absolutely covered by precedent with

[The Honourable Dr. B. R. Ambedkar]

regard to the question of repeating the phrase “of this constitution”. My friend, Mr. Kamath, stated that he has examined several constitutions such as that of Australia and of some other countries but did not find this phrase “of this Constitution” contained therein. I am sorry that he did not extend his researches to the Irish Constitution. If he had, he would have found that the phraseology used in the Draft Constitution is the same as is used in the Irish Constitution. For his reference, I would like to draw his attention to Article 19 of the Irish Constitution, article 27, sub-clause (4), article 32 and article 46, sub-clause (5) where he will find that, wherever the word “article” occurs, it followed by the phrase “of this Constitution”.

I may also point out to Mr. Kamath that in this respect we have also followed the phraseology contained in the Government of India Act, 1935. I am sorry I have not had the time to examine all the sections of the Government of India Act but I have just, fortunately for myself, found one section which is 142-A where similar phraseology has been used. So far therefore as the first part of the amendment moved by my honourable friend, Mr. Naziruddin, is concerned, my submission is that we have not acted in any eccentric manner but that whatever phraseology we have used is covered by the Constitutions of other countries as well.

With regard to his second amendment that we should not repeat the word “article” after the word “or” and that we should merely say, “article 2 or 3”, my submission is again the same. There again we have followed well-known Constitutions and if my friend will examine them, he will find that similar phraseology occurs elsewhere also. For his information, I would ask him to refer to section 69, sub-clause (3), of the Government of India Act. The word used there is “paragraph”. It says, “paragraph (d) or paragraph (e)”. It does not merely say, “paragraph (d) or (e)”. Therefore this can hardly be a matter of debate or a matter of difference of opinion so far as the principle is concerned. It is a mere matter of precedent and the question to be asked is: Have we done something which is not covered by precedent? And my submission is this, that whatever we have done in the matter of using phraseology is covered by precedent and therefore, there can be no objection to any clause as it stands in the draft.

Mr. Naziruddin Ahmad : Then what about clause (2) of Article 4? I think there should be a short notice amendment to use the words “of this Constitution” in clause (2) in order to make the draft clear.

Mr. Vice-President : We cannot create a bad precedent by admitting a short notice amendment.

The Honourable Dr. B. R. Ambedkar : I cannot accept it, Sir.

Mr. Vice-President : In that case, I shall put the amendments to vote one by one.

Mr. Vice-President : The question is:

“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 this Constitution’;”

The motion was negatived.

Mr. Vice-President : The question is:

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

The motion was negatived.

Mr. Vice-President : The question is:

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

The motion was negatived.

Mr. Vice-President : The question is:

“That in clause (1) of article 4, for the words ‘shall contain such provisions for’, the words ‘shall also provide for’ be substituted.”

The motion was negatived.

Mr. Vice-President : The question is:

“That in clause (2) of article 4, for the words ‘for the purposes of’, the words ‘within the meaning of’ be substituted.”

The motion was negatived.

Mr. Vice-President : The question is:

“That in clause (2) of article 4, for the words ‘for the purposes of article 304’, the words ‘under article 304’ be substituted.”

The motion was negatived.

Mr. Vice-President : The question is:

“That clause (1) of Article 4 stand part of the Constitution.”

The motion was adopted.

Mr. Vice-President : The question is:

“That clause (2) of Article 4 stand part of the Constitution.”

The motion was adopted.

Mr. Vice-President : That finishes Article 4. The next few amendments, No. 185 and the following are concerned with the national flag, national language, script and so on. I understand that there is an attempt made to arrive at some sort of understanding and I think that it would be to the interest of the House and it will save the time of the House, if we postpone their consideration for the present and pass on immediately to Part IV.

Seth Govind Das (C. P. & Berar: General): Mr. Vice-President, Sir, before you proceed to take up Part IV, I want to bring it to your notice that these new clauses deal with the national flag, the national language, script and the name of the country and so on. I have no objection if they are held over for future, but at the same time, I want your ruling on one point and that is that whenever these questions are taken up in future, suppose when the question of the language of Parliament comes in Article 99, then we should be allowed to raise the question of national language, national script and other matters also which are included in the various amendments which are not being moved now. Let it not be ruled out at that time because Article 99 deals only with the language of the Parliament and similar things these amendments cannot be moved then. Therefore, Sir, I want this to go on the record as a ruling that in future these questions can be raised and if certain things are decided by the House, then those articles may be inserted in the Constitution wherever it is thought proper to be inserted. (*Interruption*).

The Honourable Shri K. Santhanam (Madras: General): Mr. Vice President, Sir, on a point of procedure, I submit, it is for the Chair to regulate what sections will be taken and in what order. Therefore, I do not think there should be any debate on your ruling that Part IV should be taken up first. It is not for any honourable member to choose and say where and when an article is to be put in. However, you have asked that Part IV be taken up now and therefore, I suggest we ought to proceed with the articles of that part, without considering any other interpolation.

Mr. Vice-President : I am an unworthy occupier of this chair and I do not think that anybody here need have any apprehension about these amendments being ruled out. We are here so far as I understand it to arrive at common understanding and to pass a Constitution that will be to the benefit of us all. Here every opportunity, I think, should be given to every Member of the House to place his point of view before the rest of the members and I can assure Seth Govind Das that if I am here, I shall see that no injustice is done to any one.

Shri Damodar Swarup Seth (United Provinces : General): I wish to move amendment No. 187 which has nothing to do with the language controversy going on. My amendment reads like this. (The Honourable Member began to read his amendment).

Mr. Vice-President : I rule your amendment is inappropriate here. We pass on to Part IV.

Shri R. K. Sidhwa : Before you proceed to Part IV, I have got to offer my personal explanation. The Honourable Shri Purshottam Das Tandon levelled a charge against me when I mentioned that no important legislature has got a rule giving the right of reply to the mover of an amendment. I have got a ruling from the Bombay Provincial Legislative Assembly which reads:

“That mover of a motion, but not the mover of an amendment”

[Interruption].

Mr. Vice-President : We are not concerned with that just now and I must ask the honourable member to sit down.

Now, we go on to Part IV. I rule amendments 831 and 832 out of order. The first part of amendment No. 833, I rule out of order. Mr. Mahboob Ali Baig, if you like, you may move the second part.

Shri M. Ananthasayanam Ayyangar : Sir, I think this amendment is not in its proper place. This amendment reads: “or alternatively. That the following proviso be added to Article 35:— etc.” This should come in after amendment No. 835.

Mr. Vice-President : You can bring in your objection later on.

Mahboob Ali Baig Sahib Bahadur : Sir, I will move this after amendment No. 835. May I be allowed to speak generally on Part IV, Sir?

Mr. Vice-President : No, you can speak only with reference to this particular amendment.

Shri Lokanath Misra : Mr. Vice-President, Sir, we are not prepared to discuss part IV. From Part I to Part IV this is a big jump. We came prepared only for the discussion of Parts II and III. I think we should be given time and the discussion should be adjourned.

Shri M. Ananthasayanam Ayyangar : Sir, Part IV consists of Directive Principles. There are not very many amendments to this Part. Part II relates to Citizenship and Part III relates to Fundamental Rights which are of a justiciable nature. A number of amendments have been tabled to these two Parts. To bring about agreement as to which amendments have to be moved and which need not be moved, takes some time. So far as Part IV is concerned, it does not take much time. They are only Directive Principles, they have been already considered and we have spent long hours over them when we discussed these principles. In these circumstances, I feel nobody need complain of want of notice so far as Part IV is concerned.

Mr. Vice-President : Did you get the lists of amendments?

Honourable Members : Yes.

Shri Amiyo Kumar Ghosh (Bihar: General): Sir, the general practice is that discussion proceeds *seriatim* but instead we are now jumping from Part I to Part IV. We have several amendments to Parts II and III. We are prepared to move them but we are not prepared with the amendments to Part IV. We are taken aback and that is our difficulty. We have several amendments to Part IV.

Mr. Vice-President : You will agree that we should expedite the business of the House.

Shri Amiyo Kumar Ghosh : But there is a method, Sir.

Mr. Vice-President : You will also agree that it is in the interests of the House that before we come here those who have sent in amendments have an opportunity of discussing them with the members of the Drafting Committee and arriving at some kind of understanding. This is in the larger interests of the House and with the idea of saving the time of the House. These are the factors which have induced me to give further time for the consideration of Parts II and III. I believe, on the whole I have the support of the House.

Shri Amiyo Kumar Ghosh : May I request you, Sir, to adjourn the House now and again sit after the recess. It is about twelve o'clock; we may sit again at three o'clock.

Mr. Vice-President : I shall consider that.

Kazi Syed Karimuddin (C. P. & Berar: Muslim): Sir, that we are going to discuss Part IV should have been intimated to the members yesterday. We have not even brought the amendments to be moved to Part IV. We are taken unawares. It is very difficulty for us to move the amendments, because we are not prepared with the amendments. It would be unfair for those of us who are not ready, Sir.

Shri M. Ananthasayanam Ayyangar: Sir, it is strange that Mr. Karimuddin should have raised a complaint like this. Every member is generally ready with his amendments.

B. Pocker Sahib Bahadur (Madras: Muslim): Sir, it is very unfair on the part of Mr. Ananthasayanam Ayyangar to say that each and every member should be ready with his amendments to any of the 300 or 400 Articles of this Constitution. It is impossible for anybody to be so, Sir. I submit, Sir, it is unfair to pass over these important Parts and go to a Part which many of us did not expect at all would be taken up. It is only proper that we go in order, or this House should be adjourned till such time as is convenient. (*Interruptions*).

Shri Lokanath Misra : Sir, so much is happening behind the scenes that we are not only puzzled, we cannot even run the race. This is unworthy of us. On banded knees, I would ask you to save us from such situations and help us to undertake our task with regularity and proper direction. If such things are to happen and things go on behind us, kindly us to get out and then let things go on as they like. I would but request you, Sir, to give us time to prepare and think about these amendments. We should be in a position to do justice to our constituents, to the great goal and to ourselves and to this august House.

Shri Mahavir Tyagi (United Provinces: General): Sir, may I request the party leaders and the Whips of the majority party to be considerate and take a charitable view? I understand that it is rather unfortunate and unfair that for the failure of the Congress Party to decide issues among themselves, they should force the whole House to accommodate them in this manner. I feel that either the House should be adjourned or some such business be taken up as the members are prepared to discuss.

Mr. Vice-President : If the majority of members are unable to proceed with the business of the House, I am fully prepared to adjourn the House now. We may meet tomorrow at Ten of the Clock.

Honourable Members : Yes.

Mr. Vice-President : The House stands adjourned till 10 a.m. tomorrow.

B. Pocker Sahib Bahadur : May I know, Sir, what Part will be considered.

Mr. Vice-President : We shall deal with Part IV first tomorrow. If there is time, we will proceed further.

The Assembly then adjourned till Ten of the Clock on Friday, the 19th November 1948.
